Ministry of Housing,
Communities &
Local Government

Review into the risks of fraud and corruption in local government procurement

A commitment from the UK Anti-Corruption Strategy 2017-2022

Foreword from Simon Clarke MP, Minister for Regional Growth and Local Government

All of us in public life share a common duty to protect the taxpayer's interest.

Acknowledging and mitigating the risks of fraud and corruption are critical for sound financial management and key to ensuring that every pound spent by local government is used to support the communities they serve. As a commitment in the UK Anti-Corruption Strategy 2017-2022, this review is part of a wider agenda to strengthen the UK's response to the risks posed by corruption.

This review has highlighted the importance of continued vigilance across the whole procurement lifecycle and is particularly relevant at this time of heightened activity by Councils, working hard to deliver on the Government response to Covid-19.

Although there is no silver bullet for tackling the issue of fraud and corruption within procurement, this review draws together a range of activities which collectively help mitigate the risks faced by the local government sector. Activities to reduce local government's vulnerability to the risks of fraud and corruption, will also have the potential to improve efficiency and identify losses resulting from error.

I am pleased that this review serves to disseminate good practice already in place around the country, demonstrating local authorities' innovation, commitment and collaborative approach. The case studies covering both incidents of fraud and corruption and examples of best practice in prevention, illustrate how risks can materialise and what can be done to mitigate them. I encourage you all to take this opportunity to learn from the experiences of others to improve your resilience to the risks of fraud and corruption when procuring goods, works and services.

When reading the case studies, I note the importance of the human element – the behaviours and actions of individuals – highlighting that the culture and expectations of organisations play a crucial role in tackling these risks. We must all play our part in creating a culture hostile to the risks of fraud and corruption, clearly setting out the line between acceptable and unacceptable behaviour within our organisations.

The case studies illustrate too that the impact of fraud and corruption is wider than the loss of funds, setting out the consequences of fraud and corruption for citizens and councils. Public procurement can be attractive to organised criminals and, given the

services councils provide, this carries significant risk for both councils and their communities.

I believe that the effective management of fraud and corruption risks is a critical part of an effective, modern council, one that manages its resources efficiently to secure value for money outcomes.

I would like to thank John Penrose MP for his leadership in collaborating on this Review. I am also sincerely grateful to all councils who contributed, whether in the form of case studies, examples of best practice or by offering their valuable time and expertise. I commend those involved for their work and for their willingness to share good practice with others.

Foreword from John Penrose MP, the Prime Minister's Anti-Corruption Champion

I'm glad to be able to present the findings of our review into the risks of fraud and corruption in local government procurement. It has a been a significant effort, including input from local Councils, central government and the private sector. We're a little behind schedule (you may have noticed there have been a few other things going on…) but I think the picture which has emerged is important.

How important? It is estimated that fraud and error costs local government between £275 million and £2.75 billion, which is money that should be spent on public services. But we can't begin to fight it if we don't know where to find it. We need to improve the accuracy of this picture to save public money.

There are some great examples of excellent Anti-Corruption and Anti-Fraud work already underway across the country in councils from Wealden District to Birmingham City. But there isn't a silver bullet or one-size-fits-all answer; instead we will need a menu of different measures where local leaders can choose what's right for their area. The only constants are the need to bake in a counter fraud and corruption culture from top to bottom of every Council, so whistleblowers know they will be supported rather than victimised, and wrongdoers know there's a good chance they'll be caught and punished too.

The report's timing is important too, because the COVID-19 pandemic has increased opportunities for criminals to defraud taxpayers everywhere. Procuring medical supplies and equipment at high speed means that corners of well-established practices are more likely to be cut, weakening controls and making local Councils and their officials more vulnerable to fraud. Designing stronger controls into, and exploitable weaknesses out of, end-to-end procurement processes is more important than ever, and the risk tool that's attached to this report is a really useful and practical way to do just that.

This report succinctly highlights the challenges we face in fighting an enemy we can't always see. It's an essential and helpful first step, but now we've got to get on with implementing its findings. Success in tackling corruption, fraud and wider economic crime will not come overnight. But it is vital that we try.

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1. Executive Summary

Councils in England spend around £55 billion a year on goods, works and services[1]. There are no comprehensive up-to-date figures for losses caused by fraud and corruption in this area, but the Cabinet Office *Cross-Government Fraud Landscape Annual Report 2018* cites a range of between 0.5% and 5%[2] for estimated fraud and error, which would equate to between £275 million and £2.75 billion per year.

This report focusses on the risks of fraud and corruption when councils procure and commission goods, works and services. The effective management of risk in this area is part of ensuring a well-led and risk-aware council, that manages its resources efficiently to secure value for money outcomes. Public procurement can also be attractive to organised criminals. Given the services councils provide, often to the most vulnerable in our society, this carries significant risk for both councils and their communities. Managing fraud and corruption risks should therefore be viewed in the context of providing oversight and assurance that the council is well-run, risk-aware and uses its resources wisely.

The findings of this review have reinforced the message that there is no single solution for tackling the issue of fraud and corruption within procurement, but rather a range of measures that can be implemented to reduce the risks faced by the sector. This report highlights examples of good practice that councils already have in place and presents a series of anonymised case studies to demonstrate where councils have taken action against procurement fraud and corruption. These case studies are intended to enable councils to learn from one another and to guard against the risks that have materialised into cases elsewhere.

This report also includes a risk matrix, which highlights possible measures that councils could implement to strengthen their resilience to the risks of fraud and corruption. The case studies illustrate the importance of the behaviours and actions of individuals and how organisational culture and expectations play a crucial role in tackling these risks. Members and senior officers are responsible for ensuring that they create a culture hostile to the risks of fraud and corruption, clearly setting out the line between acceptable and unacceptable behaviour.

Efforts to combat fraud and corruption within procurement have often focused on the phase between invitation to tender and contract award, but an increased focus is needed on the phases before formal tendering begins and after contracts are let as well as on purchasing outside of the formal tendering process.

Councils face specific challenges, given the wide diversity of goods and services they procure, the range of suppliers they work with, financial pressures and the innovative

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[1] National Procurement Strategy for Local Government in England 2018, LGA, page 5
https://www.local.gov.uk/sites/default/files/documents/11.122%20-%20National%20Procurement%20Strategy%202018_main%20report_V7.pdf
[2] The Fraud Measurement and Assurance Oversight Board concluded that there is an upper and lower range of likely losses: 0.5% to 5%. See page 31,
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764832/Cross-GovernmentFraudLandscapeAnnualReport2018.pdf.

delivery models they use to achieve outcomes for communities. All these factors have the potential to increase the risks faced by councils in terms of fraud and corruption, and awareness of these risks is critical to prevent risks materialising into cases of fraud and corruption. The areas of Adult Social Care provision and construction were highlighted as areas of particular concern, given the high level of spend and complexity of the supply chains involved.

Fraud and corruption are by their nature hidden, and a low level of reported cases does not necessarily indicate a low level of fraudulent or corrupt activity. Activity by central government has demonstrated that detected fraud and corruption is only a proportion of the true scale of the problem[3]. Of the 86 councils responding to the survey as part of this review, 23% reported having experienced cases of fraud and corruption within procurement in the 2017-2018 financial year. The scale of fraud and corruption is often likened to an iceberg, with the visible portion above the waterline being a small fraction of the total scale of the problem[4], with the unknown majority of incidents hidden below the surface. The responses to the survey reflect only those elements above the waterline.

Activities to reduce local government's vulnerability to the risks of fraud and corruption, will also have the potential to improve efficiency and identify losses resulting from error, by highlighting weaker areas within systems and processes. A case that turns out to be fraud or corruption, may appear at first glance to be an error or lack of adherence to procurement process, for example.

1.1 Summary of findings

Culture: Organisational culture plays a fundamental role in preventing, detecting and responding to incidents of fraud and corruption, for cases related to procurement as with other types of fraud and corruption.

Challenges in identifying incidents: procurement is an area of high spend across local government and as such is an area of high-risk for fraud and corruption. More needs to be done at all levels to identify, detect and report cases, to enable a more comprehensive evidence-base to be established.

Capacity and capability: There is a lack of specialist experience and capability in preventing, detecting and investigating procurement fraud and corruption.

Contract management: is a key area of risk and needs strengthening. Efforts to combat fraud and corruption within procurement have often focused on the phase of the lifecycle between invitation to tender and contract award, but an increased focus is needed on the phases before the tendering process begins and after contract award. Weaknesses within contract management can leave councils open to the risks of fraud and corruption by staff and external parties, through overcharging, invoicing for work that is not carried out and falsification of performance reports.

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[3] See page 15, Cross-Government Fraud Landscape Annual Report 2018,
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764832/Cross-GovernmentFraudLandscapeAnnualReport2018.pdf
[4] Ibid.

Risks of commercialisation: Councils are increasingly finding innovative ways to operate, often with a focus on income generation, and are setting up companies, working in partnerships, or in consortia. These ways of working bring additional risks that need to be managed, particularly concerning conflicts of interest, where local authority directors may take on roles in local authority companies for example. A lack of commercial awareness by councils can also lead to outcomes that do not secure the best value for money. External Auditors need to be equipped to audit these innovative ways of working in the local government context.

Systems and processes: appropriate systems and processes and strong controls are key to preventing fraud and corruption. Examples include using e-tendering platforms, segregation of duties, adhering to contract procedure rules and strong management oversight.

Risk of organised crime and cartels: Councils raised concerns about how to recognise and prevent cartel activity by suppliers, as well as how to take action where such activity was suspected.

Working together and sharing data/information: increased collaborative working, within councils, between councils and also with law enforcement and other agencies is needed to combat the risks of fraud and corruption.

Data and technology: Increased use of technology to analyse data for investigative and preventative purposes, including conducting spend analysis.

Whistleblowing and tip-offs: are often the source of procurement related cases. More needs to be done to encourage individuals to come forward, including from the supplier side. Detection via other means, for example using data analytics across financial and procurement data, needs to be improved to reduce reliance on whistleblowing and tip-offs.

Challenges in successfully concluding investigations: Local authority powers do not allow access to all the material required for a successful prosecution in all cases of procurement fraud, and support is often required from law enforcement colleagues. A review of law enforcement resources to support this agenda would be welcomed. The impact of deterrence needs to be taken into account, as without the threat of punitive action, councils risk being perceived as a soft target.

Case numbers: There is no single repository for numbers of cases of fraud and corruption in local government and therefore little central visibility over the scale and types of detected cases. This reduces the sector's ability to tackle the problem as analysis cannot be done on common trends, and councils' opportunities to learn from the cases others have faced is reduced. The first step in tackling a problem, is acknowledging that the problem exists. There is also no central reporting location for corruption cases in general.

Measurement methodologies: Across the public sector, there is no single agreed methodology for measuring savings from preventative counter fraud work and no single agreed methodology for estimating the level of exposure to fraud and corruption in financial terms. The most recent government estimates focussing on local

government procurement were produced by the National Fraud Authority in 2013 and estimated that £876 million was lost to procurement fraud by local government[5]. The Annual Fraud Indicator[6] 2017 (AFI 2017) provides an alternative estimation of procurement fraud at 4.76% of expenditure. The AFI acknowledges a low level of confidence in the accuracy of this percentage figure. Agreed methodologies would allow savings to be quantified consistently and a case to be made for investment.

Definitions: There is a need for clarity in the definitions of procurement fraud and corruption within the arena of procurement, to ensure that cases are being recognised and reported consistently. Different working definitions are currently used. The intention is not to amend existing legislation but to standardise these working definitions.

1.2 Suggested next steps

This report sets out suggested next steps for the public sector as a whole, for councils and for MHCLG. Those for the public sector focus on putting in place standard definitions and measurement methodologies, ensuring there is a central place to record reports of fraud and corruption and strengthening whistleblowing arrangements.

MHCLG plays a key role in supporting a culture of strong governance and robust accountability within the local government sector and the Counter Fraud and Anti-Corruption agenda are important strands within this work. In addition to reinforcing sound financial management and the importance of internal and external audit, MHCLG has a role to play in championing the transparency and open data agenda and encouraging the use of data tools and technologies to prevent and detect fraud and corruption, including participation in the National Fraud Initiative[7]. MHCLG should also focus on encouraging the sector to build capacity and capability, working with the Local Government Association (LGA) to encourage councils to share learning and best practice.

At the level of individual councils, appropriate capacity is needed to prevent, detect and respond to incidents of fraud and corruption within the procurement lifecycle. This means having in place effective fraud and corruption risk management structures and risk assessments, effective due diligence and management of gifts and hospitality and conflicts of interest. There is an educational element to improve understanding of the risks of fraud and corruption in the procurement lifecycle, so staff know what to look out for and how to raise their concerns.

Capacity and capability within contract management and commercial activities have been identified as areas for improvement and all those involved in procurement must understand their roles and responsibilities, whenever commissioning, procuring or purchasing on behalf of their council. It should not be possible to access and use

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[5] Based on a 1% 'at risk' figure applied to expenditure. See page 49 of
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/206552/nfa-annual-fraud-indicator-2013.pdf
[6] Formerly run by the National Fraud Authority and now by Crowe UK LLP, Experian and the Centre for Counter Fraud Studies, University of Portsmouth
[7] https://www.gov.uk/government/collections/national-fraud-initiative

systems without the requisite training. Councils need to ensure that they focus on data quality and recordkeeping, not only to support effective decision-making but also to allow discrepancies to be identified and followed up on. Councils should consider how the risks of fraud and corruption are managed in their wider networks, including LA companies, Arms-Length Management Organisations (ALMOS) and other special purpose vehicles, all of whom are spending public money.

The overarching recommendation that underpins all others, is establishing a Counter Fraud and Anti-Corruption culture within organisations, that sets the right 'tone from the top', encourages a risk-aware and compliant culture and supports both collaborative working and whistleblowing.

The impacts of fraud and corruption reach far wider than only the loss of funds, as is demonstrated in the case studies attached to this report. For example, a team leader in the Independent Living Service purchased £117,000 of goods that were not required and resold these online. This money could have been used for the benefit of service users. In another instance, a council had engaged an unqualified trainer to deliver Asbestos training, which could have had serious repercussions if it had not been caught in time. Procurement is only one area where fraud and corruption risks are present for councils, but similar risks are present in other areas of council operations. Many of the recommendations in this report will support efforts to prevent, detect and successfully hold perpetrators to account across the board.

2. Introduction

As part of the UK Anti-Corruption Strategy 2017-2022[8], the Secretary of State at the time committed to conducting a review into the risks of fraud and corruption in local government procurement, working in collaboration with the Anti-Corruption Champion. This report sets out the findings of that review.

When discussing the risks within procurement, this report encompasses all elements of the process to provide goods, services or works for councils. Terminology varies across the sector, including commissioning, procurement, contract management and purchasing. This report deals with the whole lifecycle, from the beginnings of an idea that there is a 'need' to the conclusion of the contract.

The risks of fraud and corruption within the procurement lifecycle are recognised by PwC in their *Global Economic Crime Survey 2018*[9], the OECD in their *Public Procurement Toolbox*[10], the Cabinet Office's *Cross-Government Fraud Landscape Annual Report*[11] and also in CIPFA's *Fraud and Corruption Tracker 2018*[12]. The *PwC Global Economic Crime Survey 2018* places procurement fraud as one of the top five reported fraud types in the UK[13] for the period 2016-2018. The survey also reports a "28% increase in the number of organisations in the UK experiencing procurement fraud"[14]. The EY 15th Global Fraud Survey reported that 20% of those surveyed in developed countries believed that bribery/corrupt practices happened widely in business in their country[15] and the European Commission 2016 Annual Report *Protection of the European Union's Financial Interests – Fight Against Fraud* states "over the last five years, 20 % of all reported irregularities have been related to breaches of public procurement rules, accounting for 30 % of all reported irregular financial amounts"[16]. All these reports points towards the significance of procurement fraud.

In the local government sector, cases of fraud and corruption within procurement are not currently separately or centrally recorded. The scale of the problem is therefore less well-defined than in other areas of fraud and corruption risk.

As stated above, councils in England spend around £55 billion a year on goods, works and services[17]. There are no comprehensive up-to-date figures for the number of

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[8] https://www.gov.uk/government/publications/uk-anti-corruption-strategy-2017-to-2022

[9] https://www.pwc.com/gx/en/forensics/global-economic-crime-and-fraud-survey-2018.pdf
[10] http://www.oecd.org/governance/procurement/toolbox/principlestools/integrity/
[11] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764832/Cross-GovernmentFraudLandscapeAnnualReport2018.pdf
[12] https://www.cipfa.org/services/counter-fraud-centre/fraud-and-corruption-tracker
[13] Page 12, https://www.pwc.com/gx/en/forensics/global-economic-crime-and-fraud-survey-2018.pdf
[14] Page 12, https://www.pwc.com/gx/en/forensics/global-economic-crime-and-fraud-survey-2018.pdf
[15] 15th Global Fraud Survey, page 8, https://www.ey.com/Publication/vwLUAssets/ey-jbs-15th-global-fids-fraud-survey-eng/$FILE/ey-jbs-15th-global-fids-fraud-survey-eng.pdf
[16] Page 32, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017DC0383&from=en
[17] National Procurement Strategy for Local Government in England 2018, LGA, page 5 https://www.local.gov.uk/sites/default/files/documents/11.122%20-%20National%20Procurement%20Strategy%202018_main%20report_V7.pdf

procurement fraud and corruption cases reported by local government[18]. The survey conducted as part of this review indicated that 23% of respondents had suffered fraud and/or corruption within the procurement lifecycle in 2017/18, a total of 52 cases from the 86 respondents to the Counter Fraud aspects of the survey.

The Cabinet Office *Cross-Government Fraud Landscape Annual Report 2018* provides a range of between 0.5% and 5%[19] for estimated fraud and error, which would equate to between £275 million and £2.75 billion with reference to the £55 billion.

In addition to setting out the findings and recommendations of this review, this report also includes a set of case studies highlighting where fraud and corruption have occurred within procurement in a local government context, examples of best practice in prevention and detection drawn from local government and a risk tool to assist practitioners in identifying and preventing potential cases. The risk matrix builds on the earlier work of the LGA, in their 2015 document *Managing the Risks of Procurement Fraud,* as well as incorporating elements of the European Commission's Anti-Fraud Office (OLAF) report *Fraud in Public Procurement, a collection of red flags and best practices*[20], the OECD's *Public Procurement Toolbox*[21] , the Association of Certified Fraud Examiner's *2015 Fraud Examiner's Manual*[22] and learnings from practitioners across the public sector.

The review has focused on the risks and methods used for committing fraud and corruption, rather than the detail of each council's procurement and counter fraud operations, as these are managed differently, in line with the individual operational structures and risk management mechanisms.

Many of the risks facing councils in procurement are common to many areas within the public sector. Clearer definitions of procurement fraud and corruption within procurement are needed alongside stronger commitment from leaders across the board to champion this agenda. The correct 'tone from the top' and culture within an organisation is critical to building an environment that is hostile to fraud and corruption. All those working in the public sector have a duty to protect the public purse and therefore be alert to the risks of fraud and corruption, within procurement and across the board. This report seeks to highlight the 'red flags' or indicators of fraud and corruption in the procurement lifecycle and suggests actions to identify potential gaps and how they can be closed.

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[18] See *Protecting the Public Purse 2014* : Figures on the number of detected procurement fraud cases were last collated under the Audit Commission for the year 2013/14, numbering 127 with a value of £4.4 million and the highest total value reported under the Audit Commission was £15.3 million for the year 2010/11. The Annual Fraud Indicator published by the National Fraud Authority in 2012/13 estimated fraud losses within procurement at £876 million, which is significantly higher than the detected cases reported to the Audit Commission.

[19] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764832/Cross-GovernmentFraudLandscapeAnnualReport2018.pdf, see page 16.
[20] https://ec.europa.eu/sfc/sites/sfc2014/files/sfc-files/Fraud%20in%20Public%20Procurement_final%2020.12.2017%20ARES%282017%296254403.pdf
[21] https://www.oecd.org/governance/procurement/toolbox/search/indicators-procurement-risk.pdf

[22] https://www.acfe.com/2015USFEM.aspx

3. Definitions

There is no single definition of procurement fraud, but many definitions agree that this refers to the risk of fraud that may materialise at any point in the procurement cycle. For example, the Local Government Association states that procurement fraud can occur at any point in the "procurement cycle including the sourcing, letting of contracts and contract management phases of the cycle"[23] encompassing "any fraud relating to a company purchasing goods, services or commissioning construction projects from third parties"[24].

The UK Anti-Corruption Strategy 2017-2022 notes: "there is no universally accepted definition of corruption, but it is generally understood to involve the abuse of office and position to benefit a third party (an individual, business or other organisation), in return for payment or other reward"[25]. These features are captured in Transparency International's definition of corruption as: "the misuse of entrusted power for personal gain."[26]

The Fraud Act 2006 sets out the general offence of fraud and three ways of committing it: fraud by false representation; fraud by failing to disclose information; and fraud by abuse of position. The Bribery Act 2010 has four main provisions: offences of bribing another person; offences of being bribed; offences of bribing a foreign official and failure of commercial organisations to prevent bribery. This report does not seek to amend these statutory definitions but rather to agree a standard working definition across the public sector to ensure that cases are being recognised and reported consistently, whether they meet a criminal threshold or not.

Despite this legal framework, there are challenges around definitions of fraud and corruption where these are used in the context of procurement. Redefining these terms is beyond the scope of this report, but if Government were to agree standard definitions for public sector use, this would provide clarity when discussing the issue and enable more meaningful comparison across sectors.

Definition used here: This report refers to procurement fraud and corruption as any fraudulent or corrupt activity occurring within the entire procurement lifecycle, from decision to procure through to the conclusion of the contract and including all purchasing with a value below the level of a formal tender process. This will therefore include commissioning, contract management and purchasing, as well as the tendering process itself.

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[23] Page 2, Managing the Risks of Procurement Fraud, LGA, 2015 https://local.gov.uk/sites/default/files/documents/managing-risk-procurement-7fd.pdf
[24] https://www.actionfraud.police.uk/a-z-of-fraud/procurement-fraud
[25] Page 13, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/667221/6_3323_Anti-Corruption_Strategy_WEB.pdf
[26] Ibid.

4. Fraud and corruption risks within procurement

The procurement lifecycle is vulnerable to the risks of fraud and corruption at any stage in the process, including procurements that involve a formal tendering process and those that do not. There are risks both in high-value OJEU tendering processes and also in the use of a purchasing card or petty cash. The risks can stem from internal staff, external parties or collusion between the two.

Emphasis has often been placed on the risks of fraud and corruption in the central section of the process, from the invitation to tender to the award of the contract. There are however significant risks in the pre-tendering phase and the implementation and contract management phase of the process, as can be seen in the case studies attached at **Annex 4** to this report.

Fictious suppliers case study: The Council Housing Manager created fictitious suppliers in order to pay third parties money that they were not entitled to. He also created false documentation supporting the payments including fake letter heads, fake email accounts and forged letters of application for grant funding. In some cases, false company identities were created with genuine bank details. The total sum defrauded amounted to £307,401.

The individual was charged with three counts of fraud by abuse of position contrary to ss 1 and 4 of the Fraud Act 2006 and one count of attempted fraud by abuse of position contrary to s 1 of the Criminal Attempts Act 1981 amounting to £307,401 and was sentenced to 18 months' immediate imprisonment.

Kickbacks in exchange for contracts: A housing project manager took bribes from suppliers in relation to contracts they were awarded by the Council. He was given £125,000 by a contractor that was awarded a £2 million contract for works on council-owned properties. The estimated total lost to the council was £720,000, and the project manager is estimated to have personally gained £400,000. The project manager was also bribed with tickets to premiership football matches, meals and golf trips, which he knew he should have declared and did not. He was jailed for three and a half years.

Direct payments case study: A finance officer manipulated the council's finance system for social care direct payments. The payments of monies to adults was processed through an intermediary charity who held the money on behalf of the adult. Where adults accrued a credit balance as not all the money had been spent, these would be returned to the Council. The finance officer sought recovery of these credit balances from the intermediary back to the council to use for another adult, fabricating a story for the intermediary to explain that the money should instead be paid to another adult rather than the council directly. The account details provided were the Finance Officer's own private bank account details. In excess of £45,000 was paid to this account.

The Finance Officer was sentenced to 20 months immediate imprisonment and through the Proceeds of Crime Act all monies were then recovered, as well as the investigation costs, totalling £45,987.23.

5. The Risk Tool

The risk tool attached to this report at **Annex 6** highlights the risks at all stages within the procurement lifecycle, linking these to indicators or 'red flags' as well as to possible mitigation measures and includes example cases studies of when risks have materialised into cases.

The tool is not meant to be exhaustive and many councils will already have a number of the suggested mitigations in place, but it should enable additional risks to be identified and 'red flags' highlighted. Creation of the matrix has been supported by a procurement fraud and corruption working group involving the Home Office, the National Economic Crime Centre (NECC), Ministry of Defence, the Cabinet Office Centre of Expertise for Counter Fraud, NHS Counter Fraud Authority and HS2. The diagram below illustrates the pre-tendering phase of the procurement cycle as set out in the visualisation at **Annex 6**.

At the pre-tendering phase			
What you might see	**What it might mean**	**What can you do about it**	**How can you measure it**
Officer/member insisting on the need for goods/services	Officer/member keen to ensure that a specific supplier wins the contract.	Ensure no one individual solely responsible for procurement decisions	Survey usage of goods/services purchased
Atypical use of single sourcing	Either because: - linked to a specific supplier, either directly as a director or via family or friend Or:	Robust and transparent management of Conflict of Interest	Identify contracts where there was only one (or limited) bids. Assess market place to see whether this would be expected.
Unusual timing of procurement		Robust and transparent management of Gifts and Hospitality	
Procurement of goods/services not in procurement plans	- Officer/member receiving a bribe in exchange for contract money or other benefit Or:	Robust needs assessment process	Data analysis and testing of contracts where values lie just below relevant thresholds.
Tender requirements are overly specific or vague	- Officer/member receiving being coerced/forced into giving supplier work	Up-to-date and embedded contract procedure rules	Review single source contracts
Close relationship between officer/member and supplier		Scrutiny of single-sourcing justification	Data analysis on contracts to identify splitting
		Use standard templates for tender specifications	Review tenders within a short period/holiday period

6. Methodology

The review was designed to engage as fully as possible with the local government sector, to learn from the challenges faced in this area and to share potential solutions already in place between councils.

The information gathering phase of the review comprised the following:

1) A series of workshops across England involving representatives from local government
2) A survey sent to local government asking questions related to counter fraud and procurement capacity – 145 responses received (survey at **Annex 1 and aggregate responses at Annex 2**)
3) Literature review to identify relevant previous studies and guidance (**Annex 3** provides links to additional sources of information)
4) Call for evidence in the form of case studies and best practice in managing the risks of fraud and corruption within procurement (**Annexes 4 and 5** provide detailed case studies and best practice)
5) 1-2-1 discussions with other government departments' representatives, as well as the private sector, not-for-profit and academia
6) Identification of news articles relating to fraud and corruption in local government procurement
7) Established cross-departmental working group to inform the risk matrix tool for procurement fraud and corruption – resulting matrix tool at **Annex 6**.

7. Survey

The survey was sent to all County, District, London Borough, Metropolitan Borough and Unitary councils. Respondents were able to respond on an anonymous basis but had to provide details of the type of council in order to submit the response.

The questions included in the survey to local authorities are available at **Annex 1**. The survey had two sections, one focused on counter fraud and the other on procurement.

145 responses were received, including 92 named authorities, and were split as follows:

Combined response for several Councils	County Council	District Council	London Borough Council	Metropolitan Borough Council	Unitary Council	Total
2	21	53	15	26	28	145

Of the responses, 92 covered the procurement section and 86 the counter fraud section, therefore 33 councils provided answers for both elements.

The Survey results are set out in aggregated form at **Annex 2** and have been included at the relevant sections below.

8. Findings

8.1 Definitions

There is wide-spread lack of clarity over definitions of procurement fraud and corruption, and the difference between fraud and corruption more broadly. This makes it challenging to gauge the scale of the problem. This lack of clarity may contribute to underreporting of cases, as individuals do not recognize that fraud and corruption may be taking place or know how to report suspicions when they have them.

A standard set of definitions across the public sector would encourage reporting and provide consistency in recording of cases, as these may be categorized as employee fraud or external fraud for example with no mention of procurement. The Cabinet Office Centre of Expertise for Counter Fraud has a taxonomy for data collection via a quarterly 'Consolidated Data Request' (CDR), which could be a useful starting point for further work.

As stated above, this report does not seek to amend the statutory definitions set out in the Fraud Act 2006, or the Bribery Act 2010, but rather to agree a standard working definition across the public sector to ensure that cases are being recognised and reported consistently, whether they meet a criminal threshold or not.

8.2 Accurate figures for case numbers

Under the Local Government Transparency Code, councils are required to publish figures on the number of fraud cases investigated on an annual basis, but there is no separate category for procurement related cases. The Transparency Code takes its definition of fraud from the Audit Commission's *Protecting the Public Purse*[27] and does not cover the subject of corruption.

Figures on the number of detected procurement fraud cases were last collated under the Audit Commission for the year 2013/14, numbering 127 with a value of £4.4 million[28] and the highest total value reported under the Audit Commission was £15.3 million for the year 2010/11[29]. The Annual Fraud Indicator published by the National Fraud Authority in 2012/13 estimated fraud losses within procurement at £876 million

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[27] Fraud as an intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss. We include cases where management authorised action has been taken including, but not limited to, disciplinary action, civil action or criminal prosecution
[28] Protecting the Public Purse, 2014, Audit Commission, page 25.
https://webarchive.nationalarchives.gov.uk/20150406192100/http://www.audit-commission.gov.uk/2014/10/highest-value-of-fraud-detected-by-councils-since-audit-commission-turned-the-spotlight-on-25-years-ago/protecting-the-public-purse-2014-fighting-fraud-against-local-government-online/

[29] Ibid.

for local government[30], which is significantly higher than the detected cases reported to the Audit Commission. CIPFA now conducts an annual survey, the *Counter Fraud and Corruption Tracker* (CFacT)[31], building on the former Annual Fraud and Corruption Survey previously carried out by the Audit Commission.

Of the 86 respondents to the survey for this report, 23% reported experiencing fraud, bribery or corruption in the 2017/18 financial year relating to procurement, reporting 52 cases in that year[32]. 5% of the respondents reported cases of fraud or corruption relating to grants, totalling 12 cases.

Action Fraud is the UK's national reporting centre for fraud and cybercrime, run by the City of London Police working alongside the National Fraud Intelligence Bureau (NFIB). The NFIB are responsible for assessment of these reports and ensuring that fraud reports reach the right place. The current system used by the NFIB does not have a separate classification for local government, but does have a category for procurement, albeit with a narrower definition than those cited at section 3 of this report[33].

8.3 Measurement methodology

One of the challenges in investing in work to prevent and detect procurement fraud and corruption, is that there is no agreed methodology for measuring the value of savings from preventative work or methodology for estimating the monetary value of risks within the system. Only 6% of survey respondents reported using any measurement methodology to estimate the vulnerability of their procurement process to fraud and corruption. Agreed methodologies would allow savings to be quantified consistently and a case to be made for investment.

The Annual Fraud Indicator[34] 2017 (AFI 2017) provides an estimation of procurement fraud at 4.76% of expenditure. The AFI 2017 provides confidence levels in its estimations of gold, silver or bronze. The confidence level here is bronze, indicating limited confidence in this estimate.

Investigations often secure recoveries of funds and Counter Fraud Professionals in local government are demonstrating the value they add using an 'invest-to-save' model, whereby the costs of Counter Fraud staff are covered by the savings they make in returns to the council. Although not related specifically to the arena of procurement, the case studies below demonstrate how councils have saved money through investing in Counter Fraud teams.

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[30] Annual Fraud Indicator, June 2013
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/206552/nfa-annual-fraud-indicator-2013.pdf, page 49
[31] https://www.cipfa.org/services/counter-fraud-centre/fraud-and-corruption-tracker
[32] It is difficult to extrapolate from this figure as a benchmark for all Councils.
[33] NFIB8B Corporate Procurement Fraud: This offence is where excess goods are ordered and then sold on by the offender or goods of an inferior quality are delivered to those paid for with the offenders pocketing the difference.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/796319/count-fraud-apr-2019.pdf
[34] Formerly run by the National Fraud Authority and now by Crowe UK LLP, Experian and the Centre for Counter Fraud Studies, University of Portsmouth

Good practice case study: In 2015 **Wealden District Council** established a separate Counter Fraud Investigations Team, who focus on the investigation, detection and prevention of fraud, error and theft. In its first year of operation, the team was able to achieve savings and recoverable income of £342,445. This has grown over three years to a cumulative total of £1.37m. This will rise to over £1.75m by 31 March 2019; equivalent to over £500,000 per Investigator. These figures comprise actual savings or cash returns to the council and represent money and savings that would not have been recovered without the Investigations Team.

The Investigations Team follow an approach of Prevention, Investigations, Enforcement and Review (PIER) and have worked with service areas including housing tenancy, housing options, right to buy, planning, Human Resources (HR), Council Tax Reduction Scheme (CTRS) and non-domestic rates (NDR) to date. In the year 2019/20 the team will be extending their coverage specifically to address procurement fraud. This recognises the council's increased risks from commercial activity. The intention will be to review the control environment as well as identify ways in which additional checks can be introduced on prospective contractors as a means of preventing fraud.

Good practice case study: **City of Stoke-on-Trent**
In 2012 the Stoke-on-Trent City Council embarked upon a 12-month "Spot The Cheater" publicity campaign to tackle fraud. The business case presented to senior authority officials estimated that the campaign would cost £260,000, identify £1.2m worth of fraud and recover 20 properties lost through fraud. This represented a return on investment (ROI) of 2 : 9. Overall it identified £1.5m worth of fraud and recovered 62 properties at a cost of £105,000 (a ROI of 1:14). The award-winning campaign was a major success and is now ongoing. [34]

Good practice case study: **Lincolnshire County Council**
Councils in Lincolnshire have identified £1.3 million of public money from people who have continued to receive single person discount - either claiming it in error or fraudulently when they are not entitled.
Following a campaign in 2018/19 by the Lincolnshire Counter Fraud Partnership to encourage people to come forward if their circumstances had changed, a review was carried out of more than 75,000 households to see if people claiming the 25% single person discount were genuinely living on their own.
3,441 discounts were taken away and individuals have had to pay back any discount that they were not entitled to. Enforcement action has been taken against 500 people as they have either failed to respond or have provided mis-leading information.

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[35] This is taken from the Fraud Advisory Panel publication – Fraud Facts, Securing Board Level Support for Anti-Fraud measures, April 2014.

8.4 How do we find procurement fraud and corruption?

The risks of fraud and corruption within procurement are viewed as significant in many areas of local government, given the high value of spend involved. The case numbers reported, however, do not at face value support this level of concern. One contributing factor to the low level of reporting may result from the non-identification and recognition of potential cases, rather than indicating that they do not exist, which in turn may stem from a lack of expertise and resources in this area. Poor data quality may also make it challenging to identify concerns. These issues are covered in further detail below.

The case studies, best practice examples and risk toolkit that form part of this report, are intended to assist councils in identifying both the areas of risk and potential red flags that might indicate a cause for concern and require further investigation. Investigating areas of concern and red flags will often highlight potential improvements to operations, even if there is no fraud or corruption occurring.

To identify potential fraud and corruption incidents, individuals need to be aware of what to look out for and how to report any concerns they may have. Fraud Awareness Raising campaigns and mandatory training, including the topic of procurement fraud and corruption, will raise the profile of the risks in this area and improve understanding of the risks councils face.

A majority of respondents (55%) stated that fraud awareness training was not mandatory at their council, but 72% stated that the training included procurement fraud specifically and 77% bribery and corruption. Making such training mandatory for all officers and Members would underline the importance of these risks.

Resources shared by councils included at **Annex 5**:

- Fraud awareness training materials

The central government approach to deal with fraud risks has been to build and develop counter-fraud capability across government through getting counter-fraud recognised as a government function (in the same manner as Finance, Human Resources, Legal etc are recognised functions) underpinned by Functional Standards and supported by a new Government Counter-Fraud Profession. This drive to build capability across central government by the Centre of Expertise for Counter-Fraud within the Cabinet Office has at the same time seen significant increases in levels of fraud and error being detected and reported to the centre from across all areas of government as illustrated in the following table:

Central Government reported fraud and error: Trends over time	2014/15	2015/16	2016/17
Detected fraud	£31m	£74m	£119m
Detected error	£29m	£31m	£72m
Total Detected	**£60m**	**£105m**	**£191m**
Prevented	£28m	£33m	£45m
Recoveries	£27m	£20m	£52m

[Cross-Government Fraud Landscape Annual Report 2018]

8.5 Risks of organised crime and cartels

The risk of fraud and corruption within procurement may stem from inside the organisation, outside the organisation or from collusion between staff members and external parties, such as suppliers. From a purely external perspective, councils can be vulnerable to organised crime and cartel activities when undertaking procurement.

Serious and Organised Crime

In 2014 the Home Office sponsored a number of pilot projects where local police forces worked alongside councils on projects funded through the DCLG Counter Fraud Fund. These highlighted how attractive public procurement could be to organised criminals. Having appropriate measures in place to protect public resources was considered essential.

As a result of this work it was recommended that councils should consider completing a 'Serious and Organised Crime Checklist' which enables councils to assess the serious and organised crime risks within their organisation. This may be supplemented by undertaking a 'Serious and Organised Crime Audit' which enables councils' internal audit teams to scrutinise business operations to establish where there may be vulnerabilities and to improve their prevention activities. The survey respondents reported that the checklist has been used by 21 councils and the audit tool by 11. See the additional resources at **Annex 3** for further details of these tools.

Councils should also seek opportunities to work with their local police forces and through the Serious and Organised Crime (SOC) Partnership structures, which may take the form of a standalone SOC Partnership Board and/or be combined with Community Safety Partnership forums. Councils should be encouraged to consider the risks to their communities, especially vulnerable members of society and how, through joint working with the police, they can support disruption of criminal activity and protect their communities, as well as the public purse. Through joint working councils can play an important role in delivering the 2018 Serious and Organised Crime Strategy's objective of building the highest levels of defence and resilience in vulnerable people, communities, business and systems.[36]

Councils can engage with the Regional Organised Crime Units (ROCUs) via the Government Agency Intelligence Network (GAIN) Co-ordinator, who will act as the conduit for appropriate information sharing between agencies as well as facilitating disruption activity.

The Home Office is also running a Serious and Organised Crime Community Coordinator (SOC CC) project in eight areas across England and Wales - Bradford, Brighton, Newport, Sedgemoor, Halton/Speke, Grimsby/Immingham, Haringey/Enfield and Birmingham. Councils should be encouraged to contact their SOC Community Coordinator if applicable, however as a matter of course they should engage with the Regional Engagement and Delivery team responsible for their region. To keep up-to-date on best practice in this area, or to share an article, councils can register for the SOC Local Partnership Bulletin at the following address SCOC.localpartnerships@homeoffice.gov.uk.

Modern Slavery

Due diligence plays a fundamental role in understanding the supply chain and associated procurement risks. This due diligence is not only important to mitigate the risks of fraud and corruption but also for ensuring that the supply chains councils procure from are free from modern slavery.

Section 54 of the Modern Slavery Act 2015 requires certain commercial organisations with a turnover of £36m or more to publish an annual modern slavery statement, detailing the steps they are taking to prevent modern slavery in their organisation and supply chains. Councils are currently not covered by section 54 but the Home Office has launched a public consultation[37] seeking views on potential changes to the transparency legislation, including extending section 54 to the public sector.

Over 100 councils have already submitted modern slavery transparency statements on a voluntary basis. Many of the early adopters have embedded procurement due diligence practices into their efforts to mitigate modern slavery in their supply chain – including; initial desk-based research, conducting supplier assessments focussing on financial stability - covering insurance, compliance with various employment policies

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[36] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752850/SOC-2018-web.pdf

[37] https://www.gov.uk/government/consultations/transparency-in-supply-chains

and supplier visits and audits as part of their on-going contract management processes.

The Government has launched a range of resources to support councils and other public bodies address modern slavery risks, including the Modern Slavery Assessment Tool[38] which has been designed to support public bodies assess their own supply base for modern slavery risks and provide tailored recommendations to suppliers on how to improve their anti-slavery processes. In partnership with the Chartered Institute of Procurement & Supply (CIPS), the Home Office launched a refreshed online training course[39] on ethical procurement. The Cabinet Office has published a Policy Procurement Note[40] and a detailed guidance document for commercial and procurement staff, which sets out a risk-based approach to addressing modern slavery and specific measures to be adopted at each stage of the commercial lifecycle. The Local Government Association has played an active role in encouraging councils to incorporate modern slavery practices into councils' everyday policies and has produced guidance[41].

HMRC has published guidance[42] setting out how to protect an organisation from the financial and reputational risks that could arise from fraud within the labour supply chain. This is relevant for any organisation using a third party to provide labour – including councils - and could have links to modern slavery and other illegal practices.

Competition and cartel activity

The Competition and Markets Authority (CMA) is an independent non-ministerial government department that works to promote competition for the benefit of consumers. Their aim is to make markets work well for consumers, businesses and the economy across the UK. Its responsibilities cover both criminal and civil competition infringements; these include investigating individual businesses to determine whether they have breached competition law, bring proceedings against individuals who commit the criminal cartel offence or whose behaviour makes them unfit to be a director.

The CMA website provides several guides regarding cartel activity and how such activity can be reported to them – see 'Additional Resources' for details. Members of the CMA are also able to provide briefings and presentations to assist in raising

Case study: Similarities in two bids as part of a procurement exercise were identified by members of the council's procurement team. This was referred to the corporate Investigations Team who were able to confirm that the bids looked similar and a referral was made to the Competition and Markets Authority in relation to the suspected cartel activity. After carefully reviewing the bids they decided to issue formal warnings to the two companies involved.

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[38] https://supplierregistration.cabinetoffice.gov.uk/msat

[39] https://www.cips.org/learn/e-learning/ethical-procurement-and-supply/

[40] https://www.gov.uk/government/publications/procurement-policy-note-0519-tackling-modern-slavery-in-government-supply-chains

[41] https://www.local.gov.uk/modern-slavery-council-guide

[42] https://www.gov.uk/government/publications/use-of-labour-providers

awareness and understanding of cartels and the damage that this activity causes to consumers and the UK economy.

If anti-competitive or cartel activity is suspected, councils should contact the CMA in the first instance to seek advice on how to proceed.

Non-payment of taxes and duties

Councils should also be aware of the risks of working with suppliers that are not paying VAT correctly. If HMRC can establish that the council was aware the VAT was not being paid – i.e. the council failed to undertake due diligence and therefore 'knew or should have known' VAT was not paid – this could result in the council being liable for tax relating to these suppliers. HMRC has published guidance on how to conduct due diligence on the supply chain to protect your organisation from this type of fraud, see 'How to spot missing trader VAT fraud'[43].

Resources provided by councils included at **Annex 5**:

- Example non-canvassing clause for inclusion in invitation to tender, to require that bidders confirm in writing that they have not attempted to canvass council Members, Directors, employees or advisors in relation to the tender.
- Example non-collusion clause for inclusion in invitation to tender, requiring bidders to confirm they have not colluded with other bidders involved in the tender.

8.6 Capacity and capability

The review has identified a need to develop additional capacity and capability in the local government sector to support the identification and investigation of procurement fraud and corruption, as well as prevention. The areas identified below would benefit from additional support:

1) **Improve understanding of the risks of fraud, bribery and corruption,** including how to spot indicators across the procurement lifecycle and how to recognise and take action against cartel activity. Although a large number of councils (72% of respondents) do specifically cover procurement fraud in awareness training, the training is not mandatory in the majority of councils surveyed.

   MHCLG should work with the LGA to encourage councils to improve the understanding of the risks of fraud, bribery and corruption within their organisations, as well as encouraging councils to make such training mandatory for all staff and Members.

2) **Capability and capacity** in investigating, detecting and preventing fraud, bribery and corruption within procurement. From a prevention perspective this should include an overall fraud management strategy and guidance

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[43] https://www.gov.uk/government/publications/vat-missing-trader-fraud

documentation on conducting fraud risk assessments. From the point of view of detection, this should include spend analysis, contract reviews, monitoring, spot checks, and a clear role for internal audit.

33% of respondents reported that the risks of fraud and corruption in procurement appeared on the corporate risk register, with 65% stating that these risks featured on the fraud risk register and 49% confirming that a fraud risk assessment was conducted for the procurement process/function. The comments included with the survey highlighted that there was a need for greater clarity over how to conduct fraud risk assessments. Those responding to the procurement section of the survey stated that the risks of fraud and corruption featured on the procurement risk register in 40% of responses.

In response to the question regarding proactive activity to identify fraud and corruption within procurement, 58% of respondents confirmed that they did carry out work in this area. The type of work being undertaken was described as forming part of the annual internal audit cycle, regular spend analysis, sampling of invoices to verify compliance with procurement procedures and contract compliance reviews.

3) **Ensure staff understand their roles and responsibilities** in relation to procurement, so they are aware that procurement is not solely carried out by the procurement function. Responsibilities need to be clearly documented within councils for larger and more complex procurement exercises. Councils should ensure that their contract procedure rules are kept up-to-date.

Of the survey respondents, 78% confirmed carrying out some procurement training for staff outside the procurement function with a further 12% reporting carrying out training dependent on circumstances. The type of training delivered included e-learnings, guidance documentation and face-to-face training and the audience varies from ad-hoc training on a requested basis to delivering training to all new starters.

Councils need to ensure that all their staff are aware of their responsibilities in relation to the procurement of goods, works and services and that these are not understood to be the sole responsibility of those in a designated procurement function.

Councils provided examples of good practice in terms of conducting training for staff on the new contract procedure rules, during the market engagement stage of the procurement process and also for those on the tender evaluation panel.

Resources shared with this report at **Annex 5** include:

- Training slides for the evaluation panel
- Fraud awareness training materials
- Guidance documents for pre-market engagement and pre-bid meetings

Councils also reported some good practice in the arena of Fraud Risk Management, providing details of fraud risk assessments carried out and reported using the *Fighting*

Fraud and Corruption Locally Fraud Risk Assessment Checklist[44] and the *CIPFA Code of Practice on Managing the Risks of Fraud and Corruption*[45]. Other councils reported carrying out contract management audits and inclusion of fraud specifically in the terms of reference for internal audits, to ensure these risks were always in view.

Cabinet Office Centre of Expertise for Counter-Fraud approach

This report has focussed on the risks of fraud and corruption within the procurement lifecycle and specific risks that arise in this context. Despite this thematic approach, many of the findings and suggestions for improvement have broader application to the Anti-Corruption and Counter Fraud agenda.

By contrast, the direction taken by Central Government has been to focus on fraud risks across the piece and build capability by ensuring that individual departments know and understand what elements comprise an effective counter-fraud response. This has been achieved by recognising Counter Fraud as a function, in the same way that other areas such as Finance, Legal, Human Resources etc, are accepted as functions. The function is underpinned through Functional Standards which inform departments of the basic components expected to be in place in order to provide and maintain an effective counter-fraud capability.

The Counter Fraud function is supported by the new Government Counter Fraud Profession (GCFP)[46]. The GCFP provides subject matter expertise to practitioners who work within the public sector to help provide their organisations with Counter Fraud capabilities in accordance with the functional requirements.

This initiative to jointly support both government organisations through the Counter Fraud function and individual Counter Fraud practitioners through the GCFP is recognised as a currently unique and world leading approach. Within this framework, individual government bodies are supported to consider, quantify and manage the comprehensive number of fraud risks which they face.

Whilst the current intention is to open membership of the GCFP across the public sector as a whole, the functional standards are currently only applied within central government bodies.

8.7 Contract management

The contract management phase of procurement has been highlighted as a key area of risk by the majority of stakeholders. Efforts to combat fraud and corruption within procurement have often focused on the phase of the lifecycle between invitation to tender and contract award, but an increased focus is needed on the phases before the tendering process begins and after its conclusion. According to survey respondents, there were generally a greater number of staff employed to carry out procurement when compared to contract management.

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[44] https://www.cipfa.org/services/counter-fraud-centre/fighting-fraud-and-corruption-locally
[45] https://www.cipfa.org/services/networks/better-governance-forum/counter-fraud-documentation/code-of-practice-on-managing-the-risk-of-fraud-and-corruption
[46] https://www.gov.uk/government/groups/counter-fraud-standards-and-profession

A need to build contract management capacity has been recognized across government and Cabinet Office has recently launched a Contract Management Capability Program. The LGA has worked with the Cabinet Office team and MHCLG to make this program accessible to the local government sector. Councils have piloted the program and the LGA is facilitating council cohorts to participate in the Cabinet Office foundation level contract management training. The need for further development in this area is reflected in the responses received to the survey, as only 32 out of the 92 respondents carry out contract management training.

A lack of clarity in the roles and responsibilities of staff involved in managing contracts can leave gaps in the process. Both the management of the contract (terms, KPIs, rebates, reviews) and the management of the day-to-day delivery by the supplier must be carried out effectively. These two responsibilities can often be rolled into a single individual or teams' role, where it would be more effective for the two roles to be split. Management of the contract with one function and management of supplier delivery with another.

A lack of clarity over roles and responsibilities increases the risk that the system is exploited through fraud and corruption, as the case study below illustrates.

Case study: A bus operator was inflating claims for concessionary passes, which were reimbursed to the operator at a fixed amount. The operator had no smart card readers on the buses so was relying on manual recording by bus drivers. Reports submitted were then inflated, so rose exponentially over time. This was 'hidden' as the reports were provided in aggregate with other providers in the area. An estimate of the amount overcharged was £1.5 million over three years. This case highlighted the risk of not enforcing terms of the contract and conducting the required spot checks and audits.

The metrics used to monitor performance within contracts have a role to play in discouraging fraud and corruption, by incentivising desired behaviour and outcomes by suppliers. Careful consideration should be given to the indicators used to measure performance to ensure that they are not encouraging poor practice and enabling fraud or corruption to occur. The example below illustrates how revised KPIs can improve performance and mitigate the risks of fraud and corruption.

> **Good practice case study – Birmingham City Council**: Senior management engaged Internal Audit to provide independent continual assurance in relation to the management and delivery of externally sourced repairs and maintenance contracts. A specialist auditor was appointed whose role was to challenge management and help optimise the outcomes from these contracts.
>
> Learning from previous contracts has been applied including reduction in ad-hoc contract claims through fixed price works. Contractor behaviour has also been shaped through development of outcome focused KPIs including work target times and customer satisfaction. This is enhanced through contractor accountability at liaison boards.
>
> Audit are currently working with management to improve governance and accountability including minimising the risk of contract overclaims. This includes:
>
> - a clear and documented escalation process to identify and resolve contract queries;
> - risk assessed client job monitoring and checks, enhanced through data analytics;
> - compliance with standard operating procedures and joint process improvement initiatives with contactors;
> - workforce planning that matches resources and skills to contract risks; and
> - root cause analysis of complaints, other customer feedback and client inspection results.

Best practice examples provided to the review by councils include: the development of their own contract management training, including mandatory e-learning modules and in some cases face-to-face training. Other initiatives include the creation of an organisation-wide framework for contract management, that includes measures aimed at detecting and preventing fraud. The integrated commissioning team at Manchester City Council also produces a quarterly bulletin for commissioning and contract officers with content tailored to include relevant guidance or updates at that particular time.

Resources shared at **Annex 5** in relation to contract management include:

- Contract Management Flowchart, from contract management training
- Contract operations manual
- Contract management appraisal form showing elements to include in annual appraisal related to contract management
- Service Analysis Team – Terms of Reference. Key objective: to scrutinise delivery and performance and to support city council service areas to make informed decisions about services.

8.8 Risks arising from increased commercialisation

In times of growing financial pressures, councils are increasingly finding innovative ways to operate, often with a focus on income generation, and are setting up companies, working in partnerships, or in consortia. This additional layer of distance between the council and the supplier increases the risk of fraud and corruption, due to the arms-length nature of operations and reduced visibility. Councils may be relying on third party governance and management arrangements, that bring a different set of risks and costs to the organisation.

Working with different commercial structures can bring up previously-unfaced issues in terms of legal implications, tax and VAT risks and may therefore require the increased use of specialist expertise, which will either require use of external consultants or significant development and training in-house. Members need to have a clear understanding of the procurement decisions they are approving in these circumstances and the oversight that is required.

The risks can be especially pertinent in terms of local authority companies, where contracts are awarded directly and where council representatives also act as directors for these companies. To mitigate the risks in such situations, clear governance arrangements should be set out in advance and recorded and the conflicts of interest arising should be transparently and systematically managed. Best practice in this area should include documented terms of reference to help manage these risks. Councils should also consider how the risks of fraud and corruption are managed in their wider networks, including LA companies, ALMOs and other special purpose vehicles.

How LA companies can increase risks of conflicts of interest: Council Directors were also made directors of a local authority company, as part of their substantive roles with the council. They were not initially remunerated for these roles with the Company. However, two years after the Company was set up, a proposal was made and approved for remuneration of the Directors, including an additional element based on the Company's performance. There are no suggestions of fraud in this case, but insufficient attention was paid to the increased conflict of interest risk created by the proposal to pay the Directors, especially given the performance related element, where the council and schools were the main customers. There were failings in governance and the payments were not disclosed as related party transactions in the financial statements, meaning a lack of transparency. There is no suggestion that this was a case of fraud.

A lack of commercial awareness within local government has also been raised as part of the review, which can lead to decisions that do not secure best value for money for councils. This lack of commercial awareness can also leave councils vulnerable to exploitation by their own staff and external parties who may use these opportunities to commit fraud or undertake corrupt activity.

Suppliers are often relied upon to provide progress reports and data to support their delivery against KPIs, sometimes self-certifying that results have been achieved and payment is due. Without appropriate oversight and monitoring by councils, this can be abused. As a result of their apparent good

performance, suppliers may be perceived as low risk by officers and therefore monitored less closely. If supplier progress and reports look perfect and 'too good to be true' then It is worth asking questions. The case study below illustrates how fraud can arise in this area.

Case study: A provider of public health services in a stop smoking campaign overstated the success of the scheme by falsely amending the numbers of individuals who had successfully completed the programme. Payment was made on successful completion of the scheme and this resulted in the overpayment of £140,000 by the council.

The Company refunded the overpayment in full, blaming a rogue senior employee who was subsequently dismissed and reported to the police. The motive for the fraud is unclear, the police feeling it was simply to enhance their reputation as a well-respected academic lead in this field.

8.9 Culture

Organisational culture is crucial in preventing, detecting and responding to incidents of fraud and corruption, for cases related to procurement as with other types of fraud and corruption. Senior Managers and Members need to set the correct 'tone-from-the-top' to improve understanding of the risks posed by fraud and corruption and to encourage staff members to raise their concerns, to fully support a culture of 'zero tolerance' to fraud, bribery and corruption.

Code of ethics: In 2014 the College of Policing launched a new Code of Ethics for all forces across the UK. The nine principles build on the Nolan principles for public life and are Accountability, Integrity, Openness, Fairness, Leadership, Respect, Honesty, Objectivity, and Selflessness. Police forces were inspected on the implementation of the Code of Ethics by HMICFRS under the Police Integrity and Corruption inspections. This work reinforced the importance of clearly defining acceptable and unacceptable behaviour within the organisation.

Link: https://www.college.police.uk/What-we-do/Ethics/Pages/archive_DO_NOT_DELETE/Code-of-Ethics.aspx

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To support a Counter Fraud and Anti-Corruption culture internally it is good practice to have the following policies and procedures in place:

- Anti-fraud, bribery and corruption policy
- Fraud Response Plan
- Fraud Risk Management Strategy
- Whistleblowing policy supported by a whistleblowing mechanism
- Mandatory fraud awareness training, including bribery and corruption and procurement fraud/corruption specifically
- Conflict of Interest policies and procedures
- Gifts and Hospitality policies and procedures

These should be supported by up-to-date finance procedure rules and contract procedure rules.

Respondents to the survey provided the following information about Conflicts of Interest and Gifts and Hospitality registers:

	Conflicts of Interest Registers		Gifts and Hospitality Registers	
	Total	Percentage (of 145)	Total	Percentage (of 145)
There is a register in place for Members	125	86%	121	83%
The register of Members' interests is published	85	59%	57	39%
Not answered in relation to Members	20	14%	23	16%
There is a register in place for officers	112	77%	121	83%
The register of officers' interests is published	9	6%	15	10%
Not answered in relation to officers	30	21%	23	16%
There is no register in place for Members or officers	3	2%	1	1%

Having such registers in place is the first step, but these registers need to be actively used to highlight areas of risk, so that these can be effectively managed. Conflict of interest responses should be centrally collated, ideally using an electronic system and accessible as required. Conflicts of interest declarations should be collected from panel members in advance of each procurement exercise. 'Nil returns' should also be collected for conflicts of interest and gifts and hospitality registers, as this encourages individuals to consider their relationships and indicates they actively conceal a connection if they do not disclose it.

Members have a key role to play in providing oversight and challenge for procurement activities of the councils they represent. Audit Committees and Scrutiny Committees may have specific responsibility for considering the risks of fraud and corruption and ideally all Members should be aware of the potential risks councils may face and how to identify red flags.

Councils are also setting the tone with external parties too, through the use of procurement charters, supplier codes of conduct, the inclusion of non-collusion and non-canvassing clauses in invitations to tender and selection questionnaires and also reviewing the mechanisms that suppliers have in place internally to raise concerns and manage incidents of fraud, bribery and corruption. Other good practice includes publishing the council's policy on raising concerns in all tenders and supplier guidance and the adoption of the national Standard Selection Questionnaire, including the sections concerning mandatory and discretionary exclusions.

Furthermore, councils are requesting that suppliers provide details of conflicts of interest with council officers.

> **Case study:** In one instance suppliers bidding for school improvement services work declared conflicts of interested with staff members working in the education department and responsible for the tender. The staff members had not declared the conflicts.
>
> The whole tender was pulled due to the risk of legal challenge from other providers of these types of services who may have felt precluded at initial tendering stage if tender specification had been unfairly written.

Council resources shared with this report at **Annex 5**:
- Ethical Procurement Statement
- Statement on how procurement will work to combat fraud and corruption
- Procurement Charter
- Example non-canvassing clause
- Example non-collusion clause
- Declaration of interest form
- Selection Questionnaire – sections on mandatory and discretionary exclusions
- Tender Evaluation process – assessing bids and definitions of conflict of interest
- Supplier code of conduct

8.10 Systems and processes

To support a Counter Fraud and Anti-Corruption culture, councils must make sure their operating environments are hostile to fraud and corruption. Trust should not be a substitute for strong internal controls. Councils need to be aware of the risks that they face and also to encourage adherence to policies and procedures. Many elements of the procurement system have a function in terms of preventing fraud and corruption: the Public Contract Regulations, councils' contract procedure rules, 'no purchase order, no pay' policies and discouraging the use of waivers for procurement activity unless absolutely necessary. These policies and procedures should be regularly reviewed and kept up-to-date. Segregation of duties between staff involved in the different stages of payment-processing and approvals processes are fundamental in minimising the risks of fraud and corruption.

> **Case study:** A company was set up by a businessman in his wife's name and used to overcharge the council's highways department for a **large number of low value items**, such as cutting blades, black sacks and tool containers. A stores controller in the council's highways depot deliberately placed orders with the company. The store controller's wife was named as a Director of the company. The businessman was jailed for two years and the stores controller for three years, for defrauding the council out of £100,000. The two women received suspended sentences.

Strong governance is also key to ensuring that there is appropriate oversight for procurement decisions. Several councils reported having project boards or project gateway groups in place to provide strategic oversight and monitor progress.

Sunlight is often said to be the best disinfectant and transparency therefore an antidote to fraud and corruption. In line with transparency requirements councils are required to publish details of "any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000"[47]. 93% of respondents confirmed that they had a central contracts' register in place, with 34% confirming that variations and amendments were included in this register, a further 37% stating that the centralised register was sometimes updated to reflect variations.

Many councils use a centralised electronic system to manage the procurement process and mentioned e-procurement platforms. The use of such platforms helps to guard against the risks of fraud and corruption by supporting transparency in the procurement process. The tender opportunities are published through the platform, independent tender opening procedures can be built into the system and such systems allow for all communication with suppliers to be conducted and tracked via the system, reducing the opportunity for direct contact between officers and suppliers and meaning that any direct correspondence with a supplier is a behavioural red flag.

Case study: A council officer shared a competitor's bid information with another supplier by email to enable them to submit a lower bid and win the tender. As a result of this investigation the tender was pulled.

It was concluded that the officer had engaged in inappropriate business relationships which not only resulted in a contractor/supplier gaining an unfair advantage during the bidding process, an impression was created that a council officer could be improperly influenced, the matter was referred to the police.

Spending within councils should be undertaken in line with the contract procedure rules and the public contract regulations. In some cases, spend is undertaken without a valid contract. Visibility of this 'off-contract spend' is not automatic, as there is no contract to be registered on the contracts register. Motivations for spending without a contract can vary, but one motivation could be fraudulent or corrupt activity. In order to have visibility of all spend undertaken by the council this 'off-contract' spend needs to be monitored. Not only can this act as a detection and deterrence mechanism for fraud and corruption, but will potentially allow savings to be made by identifying areas for consolidating spending.

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[47] Local Government Transparency Code, page 13.

The majority of survey respondents reported using standard contract templates and including clauses relating to fraud, bribery and corruption in contracts. The next step is to ensure that suppliers are aware of their obligations. One approach is through targeted awareness training with suppliers.

Open-book accounting and 'right to audit' in contracts with suppliers are useful tools to obtain access to both performance information and also in the event that there is an irregularity to be investigated. Of the survey respondents, the majority reported including provisions for open book accounting in contracts with suppliers in some cases (14% stated that these were included in general) and in respect of the inclusion of the 'right to audit' clause in contracts, 35% stated that these were included and a further 40% that these were sometimes included.

Survey comments stated that using open book accounting could be challenging in practice and was only appropriate for certain contracts. The inclusion of such clauses in contracts is a first step but it is the enforcement and use of these that counts. Consideration needs to be given to whether councils have the requisite skills and resources to make effective use of such provisions. The Cabinet Office has published guidance on open book contract management[48].

> **Case study**: Catering equipment had been paid for but not supplied to schools on whose behalf it had supposedly been ordered. An employee had raised a number of purchase orders and made payments totalling in excess of £50,000 for catering equipment with a supplier, yet there was no evidence that the goods had been supplied. The employee was able to raise purchase orders and also approve invoices for payments (lack of segregation of duties) and there was no corporate contract in place.
>
> The employee resigned at the outset of the investigation and the supplier agreed to refund the payments which they had received.
>
> The council ceased all involvement with the supplier.

Supplier due diligence enables councils to verify that they are working with genuine and appropriately qualified suppliers. Councils reported using a number of third-party services to carry out initial due diligence and to continually monitor key suppliers, including using Companies House to see when companies or directors had been struck-off. Verification should also be conducted to check that suppliers are appropriately qualified.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/525283/obcm_guidance_final.pdf

Good practice in this area also includes conducting checks at the point of setting the supplier up on the finance system. Supplier bank account details should be checked against the bank account details of existing suppliers and also against those of staff members. Companies House records should also be verified in advance of approving a new supplier, as well as VAT registration details where applicable. It is also good practice to ensure that suppliers are automatically deleted from the system after a period of inactivity, to avoid the exploitation of dormant accounts.

Case study: School finance officer amended supplier bank account details to divert genuine payments to their own account. This was identified when the real supplier started chasing payment.

The total estimated fraud loss was £80,000.

Reference checks should be carried out on staff members, including contract staff, to ensure that they are appropriately qualified and have not been involved in misconduct with previous employers. Contract, interim and seconded staff carry additional levels of risk, as third-party reference checks are often relied upon and, once in post, contract staff may have authority to act on behalf of the council. These roles can also bring additional potential for conflicts of interest as temporary staff may be involved in procurement processes for which their own organisation may bid.

The case studies below highlight how this situation can be abused.

Case study: Supplier was not qualified to provide asbestos training and company they worked for not registered to deliver this training either. This was highlighted by an ad-hoc check carried out by the Audit and Assurance team.

The company itself was also not registered to provide the asbestos training as required by UK Law and had used another similar provider's details together with their VAT Registration Number when they were set up on the finance system as a new supplier.

Case study: An Interim Manager secured their role with fraudulent references and a fraudulent qualification document. A thorough reference check would have revealed the individual was a serial fraudster and was not appropriately qualified. This led to the council operating in breach of their goods vehicle operators licence. The reference checks were outsourced to the recruitment company that found the Interim Manager.

The individual went on to commit multiple frauds against the council amounting to some £75,000 in losses.

An investigation was led by the council's Audit Services department, who worked jointly with the police to take the matter to Birmingham Crown Court where the Interim Manager pleaded guilty to Fraud Act Offences on 29/4/19. He received a three-year custodial sentence on 17 July 2019.

Mandate fraud occurs "when someone gets you to change a direct debit, standing order or bank transfer mandate, by purporting to be an organisation you make regular payments to, for example a subscription or membership organisation or your business

supplier"[49]. In *Fraud. The Facts 2019* UK Finance[50] reported 3,280 cases of invoice or mandate fraud against businesses in 2018, with a value of £92.7 million. Given the diverse and large number of suppliers councils work with, they are vulnerable to these types of frauds, but can take steps to protect themselves, as the case study below illustrates.

Good practice case study – South Tyneside: Attempted mandate fraud from a fraudster pretending to be a local care home. This was prevented as a result of the procedures in place at the council to carry out an independent verification of the request to change bank account details.

Having robust supplier set up procedures and a clear process for actioning requests for bank account changes by suppliers will help councils to protect themselves. In relation to supplier set up and management, the following steps can help mitigate the risks:

- All requests to set up a new supplier are made via a supplier request form submitted to the appropriate team
- Companies House checks are undertaken prior to approving a new supplier
- VAT registration checks undertaken prior to approving a new supplier
- Ensure bank details and registered office are independently verified before supplier set up
- Suppliers are automatically deleted from the system if no payments are made in previous 12 months
- If a request to change bank account details is made, request that the supplier's Chief Finance Officer or Company Secretary complete and sign a bank detail amendment form
- If a request to change bank account details is made, contact the supplier independently using the contact details contained in the finance system, do not assume that the contact made is from a legitimate source

8.11 Working together

Councils have demonstrated the importance and value of working together to prevent and detect fraud cases, including in the arena of procurement. Information sharing between two councils allowed for the identification of the case of fraud by a supplier relating to the stop smoking service (as detailed above) and a number of Counter Fraud Shared Services were established using the funding provided by DCLG through the Counter Fraud Fund Pilots in 2014-2016. Further details of these pilots including good practice examples were published by the LGA[51].

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[49] https://www.actionfraud.police.uk/a-z-of-fraud/mandate-fraud
[50] https://www.ukfinance.org.uk/system/files/Fraud%20The%20Facts%202019%20-%20FINAL%20ONLINE.pdf
[51] https://www.local.gov.uk/our-support/efficiency-and-income-generation/counter-fraud-hub-outcomes-counter-fraud-fund-0

Establishing a shared service across a number of councils can be an effective way to invest in Counter Fraud capacity, allowing for investment in specialist expertise and greater resources than for an individual council acting alone. Furthermore, a shared service model can provide a greater degree of independence for the Counter Fraud function, enabling them to better challenge councils and hold them to account.

More could be done by councils to ensure that different departments within individual councils work together to manage the risks across the whole procurement cycle. Respondents to the procurement section of the survey stated that the procurement function was involved in the 'needs assessment' stage of a procurement, 26 stating that procurement function was involved and 44 that the involvement was dependent on the contract size. Some comments indicated that this was dependent on procurement being notified and the relationships that existed between the procurement officer and the services. In terms of procurement's involvement in the 'make or buy' decision, 40 respondents stated that it depended on contract size and 20 that procurement was involved in these decisions. Comments provided stated that the involvement of procurement would depend on the responsible officer seeking advice and that there was generally not an obligation to consult procurement functions.

> **Good practice case study**: As part of a council's multi-agency approach to tackling the risk of procurement fraud they have worked collaboratively with the Government Agency Intelligence Network (GAIN) as recommended in the Home Office Organised Crime Procurement Pilots. The data relating to a sample of higher risk contracts was checked against police Organised Crime Group data to provide assurance to the council that identified OCG criminals were not providing services to the local authority. This exercise will be repeated on a twice-yearly basis going forward and demonstrates a positive commitment from both organisations to work together to protect the public purse.

As well as working together internally and with others within the sector, councils also work with law enforcement and other government agencies, as well as with central government, on this agenda although relationships vary across England. Some councils reported having signed Memoranda of Understanding with HMRC for data transfer or are working with HMRC under the Digital Economy Act pilots[52]. Other councils are members of regional economic crime boards or working with local police forces to disrupt economic crime, as detailed above in section 8.5 on the risks of serious and organised crime. Further information is available in the LGA Guidance document *Tackling Serious and Organised Crime – a local response*[53] which is aimed at all those in local government who have a role in making communities safer and protecting the most vulnerable members of communities.

Survey responses showed that 31% of respondents had a structured working relationship with the police in relation to fraud, bribery and corruption and 35% had a

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[52] https://www.registers.service.gov.uk/registers/information-sharing-agreement-0001
[53] https://www.local.gov.uk/tackling-serious-and-organised-crime

structured working relationship with other agencies, such as HMRC. Workshop participants and other stakeholders asked for further guidance on how to build stronger partnerships with law enforcement and HMRC.

8.12 Sharing data and information

Working together successfully relies on the ability to share data and information. This may be between departments within a single council, between several councils or more broadly with law enforcement agencies. Data might be shared to prevent or detect cases, for example comparing the owners of potential suppliers with police databases records, or as part of an ongoing investigation.

> **Good practice case study**: council has a locally developed fraud hub and warehousing facility which is used by Fraud and Enforcement Functions in investigations, as well as to run reports across datasets to identify fraud and errors.

Of those responding to the survey, 27 reported sharing data with other councils to identify red flags and 48 to assist in investigations. Responses to the survey indicated that data was shared within 33 councils to assist in identifying red flags and in 52 councils to assist with investigations. In relation to other agencies, 23 respondents stated that data was shared to identify red flags and 52 to assist with investigations.

The level of data sharing that is taking place varies across councils, with some experiencing significant challenges in securing agreement to share data and others successfully setting up data sharing hubs.

A further challenge arises with data shared by law enforcement, as it may be difficult to use the information received to exclude a supplier from the process, either where the reason for exclusion does not meet one of the conditions for mandatory and discretionary exclusions under the Public Contract Regulations (PCR)[54] or where disclosing the reason for the exclusion may be detrimental to on-going law enforcement activity. As transparency is a key principle of the PCR, suppliers are informed of the reason for exclusion, which may be detrimental where there is an on-going police investigation, for example.

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[54] Public Contract Regulations 2015 R57(1), (2) and (3)

8.13 Technology and data analysis

Several software packages are used by councils in the payments process to either prevent duplicate payments from leaving the council or to detect them after the fact. Not all duplicates necessarily relate to fraud and corruption, but some may do. Software is also used by some councils to manage procurement, including contract management modules of e-tendering platforms mentioned above.

Fraud investigators also make use of analysis software to identify relationships and patterns in data. These are used on specific investigations, rather than to proactively identify areas of concern. The right skills would need to be developed in councils to use tools more proactively to identify potential 'red flags'.

Spend analysis is performed periodically by some councils to highlight significant supplier spend and to examine purchasing card spend. Of survey respondents, 24% reported always carrying out spend analysis and 54% reported sometimes conducting spend analysis. Councils reported carrying out spend analysis as part of core systems audits, carrying out monthly monitoring of 'off-contract' spend and carrying out routine analysis on 'top 50' contracts by value. Some councils reported that this was expected of contract managers, but that there was no central visibility of spend analysis.

Case study: A member of the housing department colluded with her husband, a supplier of cleaning services, to inflate costs charged to the council and to provide work to her husband's business. The supplier had initially been set up to carry out a one-off cleaning job in the sum of £900 but had been paid £126,000 over the year. A proactive fraud drive looked across all council spend in one year against the contracts register to ensure compliance with the procurement rules – i.e. contracts over £10,000 having a contract. One particular supplier was found where £126,000 had been spent over the year on 'cleaning services' but no contract was in place.

Analysis of the housing officer's email account identified communication with her husband about charging rates and increasing charging as the council 'will pay more from the budget.'

The officer was interviewed under caution and made a full admission and was suspended from the council pending a disciplinary hearing. The officer resigned the following day and left the council before the disciplinary hearing was held.

A search warrant was executed at the supplier's trading address to identify missing white goods and records for the work completed but no white goods were found.

The supplier was also interviewed under caution who gave no comment. The council ceased using the supplier and removed them from the contracts list. A full file was shared with HMRC on the trading activity for the company director.

As well as identifying duplicate spend, data analysis can be used to identify contracts that are overspending or have been extended beyond their original timeline. Software packages can be used to identify outliers, transactions spikes, frequent credit notes and average invoice values, as well as spending patterns outside of the norm and expenditure taking place without a contract. Spend analysis may also provide indicators that Contract Procedure Rules have been overlooked, whilst not necessarily an indicator of fraud and corruption, this would flag non-compliance and is worth further investigation.

> **Case study:** Fuel Card misuse - Employee retained a fuel card from a temporary replacement vehicle and then made purchases of fuel for his own vehicle and of others to the sum of around £4,000. Monitoring of the use of cards was not being carried out at the time.

Whilst these indicators may highlight a potential fraud, other explanations are possible and may bring potential benefits. For example, spend analysis may reveal that numerous small payments are being made to one supplier and there is a need for a contract to be put in place, which will likely save money for the council. Alternatively, an analysis of the suppliers where the council spends the most money may indicate gaps in recordkeeping and approvals not being made at the correct level.

Analysis of procurement card spend is also undertaken in many councils and has allowed cases of procurement fraud to be identified. As with spend analysis generally, this can also lead to potential savings for the council, by identifying opportunities to put a contract in place.

Councils submit data to the National Fraud Initiative (NFI) every two years. Two of the data-matches the NFI carries out can be linked to procurement; the analysis of trade creditors to identify duplicate invoices and the matching of payroll data to Companies' House data to identify potential conflicts of interest. Additional work from MHCLG, the NFI and councils has the potential to identify additional data-matches that could support identification of procurement fraud and corruption.

> **Case study**: A school finance officer used the school credit card to purchase personal items. This was possible due to a breakdown in controls such as separation of duties and management checks by the headteacher.
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> The former finance officer subsequently pleaded guilty to fraud by abuse of position as well as theft from an employer and was sentenced to 12 months imprisonment (suspended for 2 years), 200 hours unpaid work and a 3-month curfew order. In a subsequent hearing the former finance officer was ordered to repay the Council a total of £8,601.22.

As part of the survey, councils were asked whether they used software packages to analyse data either to identify red flags or to conduct investigations. The answer was positive for 41% of respondents, 19% using software for both investigations and to identify red flags, 9% for red flags only and 13% for investigations only.

8.14 Whistleblowing and tip-offs

The majority of cases of fraud and corruption relating to procurement come to light as a result of someone making a report or raising a concern. A few cases were reported as coming to light through a contract review or spend analysis, but the majority come through referrals by individuals.

More needs to be done across the board to encourage individuals to come forward and to protect them from harm afterwards. Concerns may be raised by staff members, suppliers, or other individuals. To encourage reporting by these individuals, the channels available need to be accessible and both confidential and perceived to be confidential. Increased visibility of reporting mechanisms in councils, regulators and other organisations would better signpost how concerns can be raised.

In addition to improving the protection of those raising concerns, there is also the need to invest in alternative means of detecting cases, such as the use of data analytics and increased monitoring and spot checks. Such alternatives could enable cases to be detected earlier and the scale of the loss to the council to be minimised by stopping the incident earlier on.

Of those responding to the survey, 99% confirmed that there was a whistleblowing policy in place, although responsibility and reporting mechanisms vary across councils. Some councils have a 24-hour hotline in place for raising concerns, others have webforms and email addresses and the ability to raise concerns in person to designated officers.

Over recent years the Government has made improvements to the whistleblowing framework to make it more robust and increase support for whistle blowers. The most recent change was a new legislative requirement for most prescribed persons[55] to produce an annual report on whistleblowing disclosures made to them. The list of prescribed persons is updated annually. The Government continues to listen to stakeholders and will review the recent reforms once there is sufficient evidence of their impact.

8.15 Accessing information during investigations

Local authority powers do not always allow for the information required to conduct a procurement fraud or corruption investigation to be obtained, for example bank account information relating to suppliers, or those of staff members. This can limit councils' abilities to successfully conclude fraud and corruption investigations within procurement. A number of councils employ trained Financial Investigators, which may allow them to access information pertinent to these investigations, but not all councils have access to such expertise.

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[55] Prescribed persons are "organisations and individuals that a worker may approach outside their workplace to report suspected or known wrongdoing" see page 3,
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604935/whistleblowing-prescribed-persons-guidance.pdf#targetText=Organisations%20and%20individuals%20that%20are,role%20in%20the%20whistleblowing%20process.

9. Conclusions and implications

This review has shown that there are a number of activities that could be undertaken to support improvement in the area of fraud and corruption within procurement. The findings highlight several areas for potential improvement that reach beyond the scope of the powers available to MHCLG and others that are best addressed by councils or groups of councils. These are suggested activities only, informed by the best practice and challenges identified over the course of the review. It is acknowledged that these suggestions will need to be considered alongside other existing commitments.

9.1 Cross-cutting activities for the public sector

Activities for MHCLG, the local government sector and councils focus on building capacity and capability, strengthening joined-up working, building a stronger Anti-Fraud and Corruption culture and improving systems and processes. These are set out in more detail below at sections 9.2 to 9.4.

These cross-cutting activities for the public sector as a whole reach beyond the remit of MHCLG and the local government sector, but developments in these areas would strengthen resilience to the risks of fraud and corruption across the public sector, including in local government.

- There are currently no standard agreed definitions across the public sector for procurement fraud and corruption within procurement[56]. Having standard definitions in place would better enable accurate recording and comparison of cases.

- Many cases of fraud and corruption that impact procurement are discovered as a result of a whistle blower coming forward or someone raising a concern. If whistleblowing arrangements were strengthened across the board, this could encourage more individuals and business to come forward to raise their concerns.

- In some council areas there are strong and effective relationships in place between local authorities and also between local authorities and law enforcement and other agencies, which facilitate the sharing of data and intelligence. Lessons should be learned from effective relationships and be used to drive improvement in other areas.

- It would be beneficial to have in place an agreed methodology for quantifying losses from procurement fraud and corruption cases, similar to those already included in the Cabinet Office's National Fraud Initiative for other fraud losses.

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[56] As stated above, this report does not seek to amend the statutory definitions set out in the Fraud Act 2006, or the Bribery Act 2010, but rather to agree a standard working definition across the public sector to ensure that cases are being recognised and reported consistently, whether they meet a criminal threshold or not.

- It would also be beneficial to have in place an agreed methodology for measuring exposure to the risks of fraud and corruption within procurement, as this would enable public sector organisations to demonstrate savings from Counter Fraud and Anti-Corruption activity.

- Many suppliers work with a number of different public sector organisations, yet there is no common method of comparing supplier performance and feedback across organisations. A central system of supplier feedback could be used to inform supplier due diligence.

- Examine the exclusions regime for public procurement to see if more could be done to allow procurers to exclude bidders from the process (with reasonable cause and without the requirement to disclose), for example when there are known concerns with law enforcement that have not yet resulted in a prosecution. Further guidance in this area would be helpful.

- In line with the recent HMICFRS report *Fraud: A time to choose – An inspection of the police response to fraud* and the *National Fraud Policing Strategy 2019-2022*, law enforcement should continue to build capacity to respond to the threats of fraud, corruption and economic crime, including where related to procurement.

- In the Anti-Corruption Strategy there are commitments to improve how corruption is reported in national crime recording and to launch a new initiative to provide a reporting mechanism for allegations of bribery and corruption. Such a centralized reporting system would be welcomed.

- Consider modifying the current Home Office counting categories to: (a) ensure cases that involve local authorities can be separately identified, and (b) provide greater clarity on the reporting of procurement fraud as a distinct category. Local authorities would also benefit from refresher advice on reporting to Action Fraud, including how to register for the Expert Reporting Tool.

9.2 Suggested activities for MHCLG

The effective management of fraud and corruption risks should be viewed as a key element of providing oversight and assurance that a council is well-run and uses its resources wisely. In this context, MHCLG seeks to ensure a culture of strong governance and robust accountability across the local government sector, including reinforcing sound financial management and underlining the importance of internal and external audit.

MHCLG has a role to play in championing Counter Fraud and Anti-Corruption activity for the sector and will focus its efforts on providing leadership on this agenda. Through its work with the LGA, MHCLG will encourage capacity building and improvement in Counter Fraud and Anti-Corruption activities. MHCLG will contribute in the following ways:

- **Improve transparency:** In line with the MHCLG transparency commitment in the National Action Plan, MHCLG will encourage local government to improve transparency and accountability.

- **Drive improvement in data quality and usage:** MHCLG will encourage councils to improve the use and management of data.

- **The National Fraud Initiative**: MHCLG will encourage local authorities to work with the NFI to explore, and pilot, the use of data to detect cases of fraud and corruption within procurement. Cabinet Office should consider rolling out successful pilots to all local authorities via the mandatory NFI exercise.

- **Strengthen expertise in detecting, preventing and investigation procurement fraud:** MHCLG will work with the LGA as part of broader sector improvement work, to enhance and enable capacity in this area to build on the good work already underway.

- **Best practice forum:** MHCLG will continue to endorse the Fighting Fraud and Corruption Locally Board and will encourage the LGA to continue to support the FFCL board too.

- **Progress reporting**: MHCLG will work with the LGA to undertake a stock-take following the publication of this report to assess councils' progress in moving this agenda forwards and to gather additional best practice to be shared.

9.3 Suggested activities for the local government sector

This section sets out suggestions for ways the LGA could support councils to make improvements in this area.

- **Best practice fora:** The LGA should continue to support the Fighting Fraud and Corruption Locally Board to put in place a working group to embed the findings of this review. The LGA should encourage local authorities' Counter Fraud and/or Audit staff to meet regularly to discuss emerging issues. A number of regional groups already exist and it would be beneficial for information to be shared nationally as well as regionally. The NAFN[57] service provides alerts and intelligence to members on procurement fraud. The LGA should also encourage councils to support the *National Procurement Strategy* and the *National Advisory Group* facilitated by the LGA and build connections between procurement and Internal Audit/Counter Fraud functions.

- **Encouraging improvement in income generation and commercial practices**: the LGA should work with councils to encourage good practice when managing the additional risks that arise from commercial and income generating activities, for example LA companies and other investment vehicles.

- **Encouraging improvement in contract management**: There is some excellent work already on-going in local government in this area, but more could be done to improve standards across the board. The sector should improve contract management capacity, one option is by undertaking the Cabinet Office Contract Management Capability Program. The LGA has worked with the Cabinet Office team and MHCLG to make this program accessible to the local government sector. Councils have piloted the program and the LGA is facilitating council cohorts to participate in the Cabinet Office foundation level contract management training.

- **Role of the Audit Committee**: The LGA should consider how it can support the members of Audit Committees to understand their roles and responsibilities in relation to risks of fraud and corruption in procurement (and fraud and corruption more broadly) as part of its wider planned support to Audit Committees.

- **Progress reporting/self-assessment:** the LGA should work with MHCLG to undertake a stock-take following the publication of this report to assess councils' progress in moving this agenda forwards and to gather additional best practice to be shared. This could build on the LGA *National Procurement Strategy*. The results of the self-assessment could be reported to council's audit committees accompanied by an action plan, that could then be monitored by Members.

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[57] https://www.nafn.gov.uk/

9.4 Suggested activities for Local Authorities

The following section outlines good practice activities that councils could implement to improve their resilience to the risks posed by fraud and corruption in the arena of procurement. This is intended to outline a range of possibilities, as it is acknowledged that all councils will face different challenges dependent on size and stage of development. These are based on the findings of the review and good practice already in place in a number of councils.

Improve understanding of risks:

- **Make fraud awareness training mandatory:** for all staff, Members, contractors and volunteers upon employment and at regular intervals after this. Ensure that this includes specific coverage of the risks of fraud, bribery and corruption within procurement.
- **Raise awareness of the risks of fraud and corruption within the procurement lifecycle**: in addition to including procurement within mandatory awareness training, councils should carry out specific training with those individuals involved in the procurement lifecycle to cover this in more depth.
- **Procurement awareness training**: Ensure that staff are made aware of their responsibilities within the procurement lifecycle before they carry out any activities within the process. Ideally this should not focus only on high value procurement activity but consider other areas of risk too.

Build capacity and capability:

- **Counter Fraud capacity:** Councils should consider building capacity to manage the risks of corporate fraud, including conducting investigations. This should cover investigation of incidents and pro-active work such as the review of tenders and contracts, financial information and reviews of supplier information. Councils should consider an 'invest-to-save' model, whereby the costs of Counter Fraud staff are covered by the losses prevented or funds recovered through their work.
- **Fraud risk assessments:** as part of building Counter Fraud capacity, councils should conduct fraud risk assessments, involving senior management and Members.
- **Contract management capacity:** Councils should review their capacity to manage contracts effectively, to ensure that maximum value is secured from contracts. Building in contract management costs to the contract from the start, will save money in the delivery phase of the contract. One approach would be to sign up for the Cabinet Office's Contract Management Capability Programme.
- **Training on financial and procurement systems and processes**: prior to being given access to any system staff should receive appropriate training. Staff should also receive appropriate training on financial processes, with special focus on budget-holders and managers.

- **Build commercial capacity**: lack of commercial capability can impact negatively on transparency and competition. Councils should be investigating disproportionately low bids and working up 'should cost' models for complex procurements, as well as building capacity around market testing.
- **Contract auditing and review**: Councils should consider conducting regular reviews of contracts to ensure that value for money is being secured and recoup any outstanding benefits. This may require investing in addition resource or bringing in external support.
- **Encourage regional and national networks**: Counter fraud, internal audit and procurement staff should be encouraged to join regional and national networks to facilitate the sharing of best practice and common risks.
- **Incentivisation within the procurement lifecycle**: Councils should consider the incentivisation within contracts, both in terms of detailing appropriate KPIs and outcomes for suppliers and also to ensure that employees are incentivised to monitor contracts thoroughly.

Building an anti-fraud and corruption culture:

- **Tone from the top:** Members and council management teams have a crucial role to play in setting the right 'tone from the top' within the council, to instil a culture where the risks of fraud and corruption are considered, managed and their impact minimised.
- **Importance of working together**: Procurement, contract management, services, finance, internal audit and counter fraud teams need to work together to ensure that procurement practice is as robust as possible and acknowledge they all have a shared responsibility to counter the risks of fraud and corruption. An element of working well together includes effective sharing of data and information within the authority and clearly defining roles and responsibilities on complex, or high-level procurements. Councils should also seek opportunities to work together with other councils, law enforcement and central government on this agenda.
- **Use the impact of deterrence**: Where possible, councils should publicise cases that have concluded and/or resulted in prosecutions. These should be publicised both internally and externally to maximise the deterrence impact and cases should be used internally to ensure that lessons are learned. Often there is no incentive to take legal or civil action if funds have been recovered. This approach may present councils as a 'soft touch' where the worst sanctions is the return of funds by a supplier.
- **Take action against all responsible**: Councils should not only seek to take action against the perpetrators of fraud and corruption but should also take appropriate action against management functions where behaviours have enabled fraud and corruption to occur, in line with their individual code of conduct and disciplinary procedures.
- **Transparency**: Councils should consider how the procurement processes might appear from the outside and create channels for open dialogue with suppliers, being available to explain (for example) why a supplier may not have secured a particular tender.

- **Build capacity for Audit and Scrutiny Committees**: In line with their remits in individual councils, council officers should work with these committees to ensure that they have the appropriate skills and capacity to provide robust challenge and oversight.

Systems and processes:

- **Due diligence:** Appropriate due diligence should be carried out within the procurement journey and on an on-going basis. Proportionate due diligence should always be conducted, even in times of urgency and under time constraints. It should also be conducted on incumbent suppliers.
- **Manage conflicts of interest**: transparently and systematically. Declarations are needed on joining the organisation and prior to involvement with any stage of the procurement journey. Nil returns should also be required. Registers of interest need to be accessible when required. Conflicts of interest should be considered specifically in relation to areas of greater risk, for example: for consultants and secondees/contractors who may be taking procurement decisions; or in relation to local authority owned companies.
- **Manage gifts and hospitality**: transparently and systematically. All employees should be made aware of the gifts and hospitality policy and councils should have a centralised register and a clear policy and procedure in place.

Data quality and recordkeeping:

- **Data Quality**: in order to prevent, detect and investigate procurement fraud and corruption, data relating to procurement needs to be readily accessible and clearly identifiable (for example spend data, bank account information and contract information).
- **Recordkeeping**: Documentation relating to procurement should be kept securely, clearly ordered and readily accessible (contracts, variations, invoices, purchase orders, certifications, supplier due diligence, reference checks, progress reports, monitoring reports).
- **Improve transparency**: Councils should work with MHCLG to deliver the MHCLG transparency commitment under the National Action Plan and to improve transparency of spend on specific contracts both internally and externally. This should include consideration of how contract data can be linked to spend data and encourage the use of unique identifiers for companies within contract and spend data.
- **Analyse data to look for indicators:** Councils should routinely carry out analysis to identify anomalies that require further investigation. Some example include spend analysis, payments below procurement thresholds, p-card spend, VAT charged, creditor reviews and off-contract spend.
- **Consider the risks of fraud and corruption when upgrading technology**: for example, transaction review software is used by many councils to automatically identify duplicate spend, and procurement software is also used which allows the council to capture data about the procurement journey, end-to-end, which benefits transparency and allows anomalies in the process to be picked up more quickly.

10. List of Annexes

1. Survey questions sent to councils
2. Survey responses in aggregate form
3. List of additional resources
4. Fraud and corruption case studies
5. Examples of best practice
6. Risk Matrix Tool
7. Top ten asks of procurement and top ten asks of counter fraud
8. List of Local Authority Powers related to fraud and corruption investigations
9. Legal Framework for Fraud and Corruption (i.e. Fraud Act, Bribery Act 2010)
10. Procurement fraud review checklist (reproduced from LGA *Managing the risk of procurement fraud*)
11. Data analytics tests used by councils

11. With thanks to

CBI

Fighting Fraud and Corruption Locally Board

Local Government Association

CIPFA

HS2

Ministry of Defence

Joint Anti-Corruption Unit, Home Office

The National Economic Crime Centre (NECC)

Cabinet Office Centre of Expertise for Counter Fraud

NHS Counter Fraud Authority

Bath and North East Somerset Council

Birmingham City Council

Brighton and Hove City Council

Bury Council

Calderdale Metropolitan Borough Council

City of Bradford Metropolitan District Council

City of London Corporation

City of Stoke-on-Trent

City of Wolverhampton Council

Cornwall Council

Counter Fraud Unit - Cheltenham BC, Cotswold DC, Forest of Dean DC, Tewkesbury BC and West Oxfordshire DC

Crawley Borough Council

Cumbria County Council

Devon Audit Partnership

Dudley Metropolitan Borough Council

Essex County Council

Exeter City Council

Gateshead Council

Gloucestershire County Council

Greater Cambridge Shared Audit

Hertfordshire Shared Anti-Fraud Service

Kent County Council

Kirklees Council

Leicester City Council

Leicestershire County Council

Lincolnshire County Council

Leeds City Council

London Borough of Ealing

London Borough of Lambeth

London Borough of Tower Hamlets

Manchester City Council

National Investigation Service

NEPO

North Somerset Council

North Yorkshire County Council

Nottinghamshire County Council

Oxford City Council

Rugby Borough Council

Solihull Metropolitan Borough Council

Somerset County Council

South Gloucestershire Council

South Tyneside Council

South West London Fraud Partnership

St Helens Council

Stockton on Tees Borough Council.

Sunderland City Council

Tandridge District Council

Torbay Council

Veritau Ltd

Wakefield Council

Warrington Borough Council

Warwick District Council

Warwickshire County Council

Waverley Borough Council

West of England Combined Authority