

Agenda Item	5
Report No	AC/24/25

THE HIGHLAND COUNCIL

Committee: **Audit Committee**

Date: **12 November 2025**

Report Title: **Economic Crime and Corporate Transparency Act 2023 – Failure to Prevent Fraud offence**

Report By: **Strategic Lead (Audit and Risk)**

1. Purpose/Executive Summary

- 1.1 The Economic Crime and Corporate Transparency Act (ECCT Act) became law in October 2023. This introduced a new offence from 1 September 2025; the failure to prevent fraud. This means that the Council could be found criminally liable where an employee, agent, subsidiary, or other ‘associated person’, commits a fraud intending to benefit the Council, and the Council did not have “reasonable fraud prevention procedures in place” to prevent this.
- 1.2 This report sets out the work that has been undertaken to date to provide assurance that the Council does have reasonable procedures in place which meets the Act’s requirements.

2. Recommendations

- 2.1 The Committee is invited to:
 - (i) **Consider** and **note** that the Council does already have reasonable fraud prevention procedures in place. However, as set out in sections 5.4 and 5.5, further work is being undertaken to enhance these;
 - (ii) **Approve** the revised Counter Fraud Policy at **Appendix 1** and Whistleblowing Policy at **Appendix 2**.

3. Implications

- 3.1 Resource: Implementing more robust fraud prevention measures, as outlined in the Counter Fraud Policy, may necessitate the allocation of additional resources by Services to ensure their effective delivery. Failure to effectively manage these risks may expose the Council to significant financial loss.
- 3.2 Legal: the Council must comply with the new legislation as failure to do so could result in prosecution and/ or reputational damage.

- 3.3 Risk: This report seeks to enhance and strengthen the Council's framework for identifying and mitigating the risks associated with fraud.
- 3.4 There are no or Gaelic or Health and Safety, implications arising from this report.

4. Impacts

- 4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.
- 4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.
- 4.3 An Integrated Impact Assessment screening has been undertaken for the Counter Fraud Policy and the Whistleblowing Policy. The screening identified that a full Impact Assessment was not required for either policy as there were no impacts resulting from the Counter Fraud Policy and positive impacts were identified in respect of human rights under the Whistleblowing Policy which recognises the protection granted under the Employment Rights Act.

5. Review of fraud prevention procedures

- 5.1 The Act states that organisations will have a defence if they have "reasonable procedures" in place to prevent fraud. Potential frauds where the Council would benefit could include false representation on grant claims, manipulating data and not reporting issues to regulatory bodies to prevent fines.
- 5.2 Guidance has been issued by the Home Office, to assist organisations in this matter. The guidance includes a fraud prevention framework which is informed by the following six principles:
- (1) top level commitment
 - (2) risk assessment
 - (3) proportionate risk-based prevention procedures
 - (4) due diligence
 - (5) communication (including training)
 - (6) monitoring and review.

This guidance has been used to review the Council's current arrangements and to identify any areas for improvement.

- 5.3 The Fraud and Whistleblowing Annual Report 2023/24 was reported to the Audit Committee on 13th June 2024. This report also included details of an assessment of the Council's compliance with the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption. This highlighted that the Council already has a number of the expected measures in place to prevent fraud, with the exception being the absence of a formalised approach to carrying out fraud risk assessments. This work also included the review, update and renaming of a new Counter Fraud Policy which was approved by the Committee.
- 5.4 In response to the six principles detailed at 5.2, the current position is as follows:

The new legislation was discussed by the Corporate management team on 1st September 2025 in order to ensure awareness. Information on the new ECCTA requirements for fraud prevention were covered in the Audit Committee fraud awareness training provided on the 20 August 2025.

The Counter Fraud Policy at Appendix 1, has been reviewed to reflect the new legislative requirements. In particular, this has been expanded to set out more clearly:

- the requirements under the Economic Crime and Corporate Transparency Act 2023: Failure to Prevent Fraud (ECCTA) (see section 1.4)
- the top level commitment to preventing fraud (see section 2)
- the requirement for proportionate risk assessments to be prepared (see section 4.1)
- the Council's Fraud Prevention Procedures (see section 4.2)
- key risk areas such as Digital Fraud and Cybersecurity and Third-party (see sections 4.3 and 4.4).

Also, as part of the wider fraud prevention framework, the opportunity was taken to review the Whistleblowing Policy. This can be found at Appendix 2.

5.5 It is intended that a more formalised approach to fraud risk assessment will be progressed with the assistance of Chief Officers for their areas of responsibility. Other planned work includes:

- review of the fraud training available to staff and refresh as necessary
- communications to staff to inform them of the new offence and to remind them of the fraud prevention framework already in place and the requirement to adhere to this.

Designation: Strategic Lead (Audit and Risk)

Date: 8 October 2025

Authors: Donna Sutherland, Strategic Lead (Audit and Risk)
Jason Thurlbeck, Corporate Audit Manager



**THE HIGHLAND COUNCIL
COUNTER FRAUD POLICY**

Date revised: 22/10/25

Approved by the Audit Committee on: 12/11/2025 (TBC)

1. Introduction

- 1.1 The Counter Fraud Policy forms part of the Highland Council's governance arrangements. Its aim is to ensure that the Council's resources are used for their intended purpose and that any losses through fraud and corruption are minimised.
- 1.2 This policy outlines the Council's commitment to creating an anti-fraud culture and maintaining high ethical standards in the administration of public funds.
- 1.3 It is part of the framework, which will:
 - Encourage fraud deterrence and prevention.
 - Ensure that there are adequate arrangements in place to prevent the bribery of Council staff and Members.
 - Raise awareness of fraud and corruption and promote their detection.
 - Govern the performance of investigations and facilitate recovery of any losses to the Council.
 - Invoke disciplinary proceedings and reporting to the Police and/ or Procurator Fiscal as appropriate.
 - Regularly review the policy and update as required.
- 1.4 Economic Crime and Corporate Transparency Act 2023: Failure to Prevent Fraud (ECCTA)
 - 1.4.1 This Act established a corporate offence of 'failure to prevent fraud' where organisations may be criminally liable if an employee, agent, subsidiary, or other associated person commits a fraud intending to benefit the organisation or its clients, and the organisation did not have reasonable fraud prevention procedures in place. The Act requires organisations to assess fraud risks, implement proportionate prevention procedures, ensure top-level commitment, conduct due diligence, communicate policies, and regularly monitor and review their effectiveness.
- 1.5 The policy outlines the approach within the Council and defines the roles and responsibilities for dealing with the threat of fraud, theft, bribery and corruption, both internally and externally. It applies to:
 - Employees
 - Members
 - Agency staff
 - Contractors
 - Consultants
 - Suppliers
 - Service users
 - Staff and committee members of organisations funded by the Council
 - Staff and principals of partner organisations.

2. Ethical Culture and Leadership Commitment

- 2.1 The Council's leadership is committed to fostering an ethical culture and a zero-tolerance approach to fraud. Senior management will demonstrate visible support for anti-fraud initiatives and ensure that ethical behaviour is embedded throughout the organisation.
- 2.2 The Council expects a high standard of conduct from its employees and Members. It also requires all individuals and organisations with whom it deals, in any capacity, to behave towards the Council with integrity, and without intent or actions involving fraud or corruption.

3. Definitions

- 3.1 For the purposes of this policy, the following definitions are used:

Fraud – Fraud covers a wide variety of activities. Essentially a fraud will be committed when someone makes a false representation to another in order to gain from that. This may include:

- Falsification or alteration of accounting records or other documents
- Misappropriation of assets
- Suppression or omission of the effects of transactions from records or documents.
- Recording transactions which have no substance.
- Wilful misrepresentation of transactions or the Council's state of affairs.

Theft – Theft is the taking of property belonging to someone else without their permission and with deliberate, dishonest intent.

Corruption – a form of dishonesty or a criminal offence which is undertaken by a person or an organization which is entrusted in a position of authority, in order to acquire illicit benefits or abuse power for one's personal gain.

Bribery – offering, giving, receiving, or soliciting of any item of value to influence the actions of an official, or other person, in charge of a public or legal duty.

Activities, which may be susceptible to corruption and bribery, include:

- Contracts
- Disposal of assets
- Planning consents and licences.

4. Prevention

- 4.1 Fraud risk identification is essential to understand specific exposures to risk, changing patterns in fraud and corruption threats and the potential consequences to the Council and its service users. Fraud risks should be routinely identified, considered, and managed as part of the Council's risk

management arrangements. Chief Officers will ensure that proportionate fraud risk assessments are undertaken for their areas of responsibility.

4.2 Fraud prevention procedures

4.2.1 The Council will adopt and implement the following reasonable fraud prevention procedures across its operations:

- (1) Top-level commitment: Senior management must foster a culture of integrity and zero tolerance for fraud.
- (2) Risk Assessment: Regularly assess the Council's exposure to fraud risks.
- (3) Proportionate Procedures: Implement prevention measures that are proportionate to the risks identified.
- (4) Due Diligence: Conduct due diligence on employees, agents, subsidiaries, and business partners.
- (5) Communication: Ensure fraud prevention policies are clearly communicated and understood throughout the Council.
- (6) Monitoring and Review: Regularly monitor and review procedures to ensure they remain effective.

4.3 Digital Fraud and Cybersecurity Risk

4.3.1 The Council recognises the increasing threat of digital fraud and cybercrime. Appropriate controls, monitoring, and staff training will be implemented to mitigate risks associated with IT systems, data breaches, and online transactions.

4.4 Third-Party Risk

4.4.1 Fraud risk assessments will include contractors, suppliers, funded organisations, and partner organisations. Due diligence will be conducted on all third parties to ensure compliance with the Council's fraud prevention procedures.

4.5 Fraud Prevention Responsibilities

4.5.1 The Council recognises that everyone has a role in preventing fraud and corruption, and the key groups of people involved in prevention are listed below.

4.6 Employees

4.6.1 All employees have a responsibility for ensuring that fraud risks are identified, considered, and managed as part of the Council's risk management arrangements. Chief Officers will ensure that proportionate fraud risk assessments are undertaken for their areas of responsibility.

4.6.2 Employees are often the first line of defence in preventing fraud and corruption and a key component is the effective recruitment of staff. Staff

recruitment will be undertaken in accordance with the Council's policy for the Recruitment and Selection of staff. Suitable references will be obtained, and Disclosure Scotland checks undertaken, where appropriate, before a formal offer of employment is made.

- 4.6.3 All employees are required to comply with the [Council's Code of Conduct for Employees](#), which sets out the minimum conduct expected. A breach of this Code may result in action being taken in accordance with the Council's Disciplinary Procedure. Where an employee is a member of a professional institute, they must also comply with their institute's professional Code.
- 4.6.4 Employees should be alert to the possibility of fraud and corruption and report any concerns to their Line Manager. Where the employee is of the opinion that this cannot be done, but has concerns of malpractice or wrongdoing, alternatively, they can report this through the [Council's Whistleblowing Policy](#) (see 4.8.3).

4.7 Members

- 4.7.1 All Members are required to comply with the [Code of Conduct for Councillors](#) published by the Standards Commission for Scotland. Any breaches of this will be dealt with by the Standards Commission, who may apply sanctions.

4.8 Internal Audit

- 4.8.1 Where fraud or corruption is suspected by a Council employee this should be reported to the Strategic Lead (Audit and Risk) in accordance with the Council's Financial Regulations. Dependent upon the allegations it may be decided to report the matter directly to the Police or to undertake an internal fraud investigation by the Corporate Fraud Team which is part of the wider Internal Audit Team. See further details at section 6.
- 4.8.2 Cases of suspected fraud can also be reported by the general public by calling the Hotline on 0800 854183, e-mailing corporate.fraud@highland.gov.uk or using the [Fraud Referral Form Online](#). Council employees who wish to remain anonymous can also use any of these options to report their fraud concerns.
- 4.8.3 The team is also responsible for investigating allegations of wrongdoing (whistleblowing). The staff whistleblowing policy provides further information on how to report concerns and the process that is followed. Whistleblowing concerns can be reported by calling the Hotline number above, e-mailing whistleblowing@highland.gov.uk or using the [Whistleblowing Form Online](#).
- 4.8.4 Benefits are delivered by Social Security Scotland and the Department of Work and Pensions (DWP). It is necessary to know which organisation pays which benefit to report suspected fraud to the correct one.

Social Security Scotland: Details of the benefits paid can be found at: <https://socialsecurity.gov.scot/benefits>

You can report [online](#), by calling free on 0800 158 2701 or by post to:
Social Security Scotland
PO Box 1029
Dundee
DD1 9FT.

All other benefits are paid by the DWP and cases of suspected fraud can be reported to them [online](#), by calling the DWP National Benefit Fraud Hotline on 0800 854 440 or by post to:
Mail Handling Site A
Wolverhampton
WV98 2BP.

- 4.8.5 Separate arrangements are in place for reporting by Council staff who process benefit claims (see 5.5).

5. Deterrence

- 5.1 In order to deter possible fraud and corruption, the Council will have appropriate systems of internal control.
- 5.2 Section 95 of the Local Government (Scotland) Act 1973 requires all Local Authorities to have adequate systems and controls to ensure the proper administration of their financial affairs. The Council's Financial Regulations, supported by the relevant Instruction Notes, Contract Standing Orders, and Scheme of Delegation provide the framework to address this.
- 5.3 Management must ensure that sound financial systems and procedures, incorporating efficient and effective internal controls, are in place. This may include documented working manuals and operating procedures, which should be issued to relevant staff. Separation of duties is a fundamental internal control and should be in place to act as a deterrent against fraud.
- 5.4 The Council may share information with other authorities and agencies for the purposes of preventing and detecting fraud. This includes participation in the National Fraud Initiative (NFI).
- 5.5 All employees involved in the administration of benefit claims will be given fraud awareness training, and this will be regularly updated. Any concerns or potential cases of fraud will be reported as set out at 4.8.1. For claims with a Housing element to the Universal Credit, these will be referred promptly to the DWP using their prescribed Counter Fraud, Compliance & Debt team (CFCD) referral process. The Corporate Fraud Team act as the Single Point of Contact for the CFCD, Police Scotland and other agencies including Immigration Services.

6. Investigations

- 6.1 It is essential to ensure that a consistent approach is followed with regard to suspected fraud and corruption, and a proper investigation is undertaken by an independent and experienced team.
- 6.2 The investigation will be undertaken in accordance with the Internal Audit Charter. Where a criminal offence is suspected then Interviews Under Caution may occur. An investigation report will be produced if necessary and issued to the appropriate senior officer.
- 6.3 The senior officer should consider this report and where it identifies any wrongdoing by one or more Council employees, this should be dealt with in accordance with the Council's Disciplinary Procedures.
- 6.4 Furthermore, if the investigation identifies that any criminal offences have occurred, the Corporate Fraud Team will report this directly to the Procurator Fiscal using the prescribed reporting system.
- 6.5 Where the investigation identifies any control weaknesses in the Council's procedures or non-adherence to the Council's policies and procedures, this will be addressed through the production of a "control weaknesses" audit report, which will make the necessary recommendations to address the identified weaknesses. A copy of this report will also be provided to the Council's External Auditors.
- 6.6 Any individual sums of £5,000 or above, will be reported to the External Auditors by the Strategic Lead (Audit and Risk) as soon as the details are available. Where a firm is appointed as the External Auditors, they will collate the details and report these to Audit Scotland. Audit Scotland may choose to include anonymised details of reported frauds as part of their counter-fraud activities.

7. Awareness and Training

- 7.1 This policy will be communicated to all employees, Members, and external stakeholders, and published on the Council's website to ensure awareness.
- 7.2 The Assistant Chief Executives are responsible for ensuring that this information is cascaded through their Service structures so that their employees are aware of this Policy and the need for adherence.
- 7.3 Managers should ensure that all members of staff are adequately trained in order to perform their duties. This includes the need for induction and work-related training, particularly for those employees involved in internal control systems. These should be regularly highlighted and enforced.

This policy will be regularly reviewed by the Strategic Lead (Audit and Risk) in order to reflect changes, which occur within the Council or with legislative requirements.

Any such revisions will be approved by the Audit Committee.

See also the Fraud Awareness Leaflet

Version Control:

V1 4 October 2011

V1.1 25 February 2020 (updated for new job titles)

V2 13 June 2024 (renamed, revised, amended and reapproved).

V3 12 November 2025 (revised, amended).



THE HIGHLAND COUNCIL

STAFF WHISTLEBLOWING POLICY

Date revised: 22/10/25

Approved by the Audit Committee on: 12/11/2025 (TBC)

1. Introduction

1.1 What is whistleblowing?

Whistleblowing is the term used where an employee or worker suspects malpractice or wrongdoing and reports this information to an independent officer (see below) within the Council or an external organisation (see 2.4). Malpractice and wrongdoing fall into one or more of the following categories:

- Criminal offences
- Failure to comply with legal obligations
- Miscarriage of justice
- Health and safety danger of an individual
- Damage to the environment
- Deliberate attempt to cover up of any of the above.

Whistleblowing does not cover:

- Less serious matters where an employee should raise these with their line manager and follow the organisational hierarchy for escalating concerns
- An employee's concerns about their employment which should be addressed in accordance with the relevant HR policy for example bullying and harassment or grievance policy.

1.2 Aim of policy

The aim of this policy is to encourage employees and workers to raise internally any serious concerns they have with confidence that they will not be harassed or victimised for doing so. Workers include those who work closely for the Council such as agency staff and key contractors.

The policy sets out how whistleblowing allegations can be reported and how these will be addressed within the Council.

If you are considering whistleblowing, it is important that you read this policy first and comply with its requirements. A flowchart is provided at Appendix 1 to assist you in deciding if whistleblowing applies to your situation or whether another route should be followed.

You may also wish to take advice. This can be undertaken internally by contacting the Corporate Fraud Team (see 2.1) for confidential advice or externally by contacting [Protect](#) (formerly known as Public Concern at Work) on 020 3117 2520. If you are a member of a Trade Union, you can also contact your trade union representative for advice.

1.3 Who can raise concerns?

All Council employees and workers who may identify malpractice or wrongdoing in their dealings with the Council are encouraged to use the Whistleblowing Service where this fits into one of the categories in 1.1 above.

Employees/ workers are not expected to prove the truth of an allegation but will need to demonstrate there are sufficient grounds for concern, i.e. they have an honest and reliable suspicion or belief that the malpractice or wrongdoing has happened, is happening or is likely to happen.

1.4 Protection and safeguards

All employees are legally protected ¹ in whistleblowing and cannot be dismissed for this reason, provided they:

- are reporting malpractice or wrongdoing as detailed at 1.1 above
- are making a disclosure in the public interest i.e. it is not motivated by personal interests, and
- reasonably believe that the information provided is both true and being reported to the correct person/ organisation.

This legal protection also means that employees cannot be bullied, harassed or victimised for whistleblowing. Failure to comply with this could result in an employee raising a claim with an Employment Tribunal.

Furthermore, the Council will not tolerate harassment or victimisation by employees or workers under its' control and will take appropriate action to protect those who raise a concern either during its investigation; and/ or subsequent to investigation.

Deterring or victimising employees for raising concerns amount to serious misconduct and may lead to disciplinary action.

If employees/ workers make an allegation in good faith and in the public interest, but it's not confirmed by the investigation, the matter will end there. However, where they are found to have made malicious or vexatious allegations, this may lead to disciplinary action.

The Council will strive to protect an individual's identity when they raise a concern and does not wish their name to be disclosed. However, this information may have to be revealed during the investigation process and the individual required to produce a statement as part of the evidence. This may also be compromised in matters of civil or criminal law where anonymity cannot be guaranteed.

1.5 Training and awareness

All staff should be made aware of this policy in accordance with the normal communication arrangements. An electronic version of this policy will also be published on the Council's website.

Managers are responsible for ensuring that their staff have been made aware of this policy and its requirements. In particular this should be included as part of staff induction and any refresher training.

Employees have a responsibility to ensure that they are aware of, and fully understand this policy including the circumstances under which it can be used.

Should any employee receive a whistleblowing concern this should be sent in confidence to the Corporate Fraud Team as detailed at 2.1 below. They should not take any further action on this matter and should not attempt to investigate the matter themselves.

¹ Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998)

2. Process

2.1 Reporting a concern

All whistleblowing concerns will be investigated by the Corporate Fraud Team within the Internal Audit Section which is an independent review function within the Council. Any concerns can be reported to them using one of the following methods, all of which are treated in confidence:

- Telephoning the hotline on 0800 854183
- Completing the [Online Form](#)
- E-mailing: Whistleblowing@highland.gov.uk

The more information provided then the easier it is to properly investigate any concerns.

2.2 How concerns will be dealt with

All concerns received will be logged and reviewed to determine the best course of action. This will be dependent upon the nature of the concern. Where these fall into the scope of other existing procedures, e.g. child protection, HR policies, complaints process then these will be referred to the appropriate officers to address. Also, where this falls outside the Council's responsibilities then this will be referred to the relevant external agency e.g. NHS, Department of Work and Pensions (DWP).

The Council will write to the employee/ worker at their home or e-mail address if provided, within 10 working days of receiving their concern. This response will:

- Acknowledge receipt of the concern;
- Indicate how this will be dealt with. If this is outside the scope of whistleblowing then details of what action has been taken will be detailed.

If any meeting is arranged to seek further information from the employee/ worker, they have the right to be accompanied by a trade union or professional association representative or a colleague.

The Council accepts that employees/ workers need to be assured that the matter has been properly addressed. When the investigation has been completed, confirmation will be provided in writing.

2.3 Anonymous allegations

The policy encourages employees/ workers to put their names to allegations. If not, it is more difficult to investigate if further information/ clarification is required and this may limit what action can be taken. Also, employees/ workers who remain anonymous cannot be informed how their concern will be dealt with. However, if an individual does wish to remain anonymous then it is helpful if the following is provided:

- A detailed description of their concern
- A mobile phone number or e-mail address through which contact can be made
- Names, addresses and descriptions of individuals involved

- Any other relevant information relating to their concern
- Any documentary evidence that supports their concern.

Anonymous disclosures are preferred to silence in matters relating to allegations of serious wrongdoing.

2.4 Reporting to prescribed persons

All employees/ workers are expected to report whistleblowing internally and the earlier this is done then the easier it is to address. However, if they feel that the correct course of action is to report it outside of the Council then care must be taken to report to the correct organisation (prescribed person) to ensure adherence to the Code of Conduct for Council Employees and also avoid breaking laws relating to issues such as Data Protection. Again, advice can be sought before taking this action (see 1.2).

Where information is reported externally this should only be done to the appropriate “prescribed person” where this falls within their remit. This link provides details of the [prescribed person](#) and a brief description of what can be reported. For Council business this is [Audit Scotland](#).

2.5 Security and retention of information

Information provided and/ or established during an investigation is likely to include personal data and so arrangements for the retention, security and destruction of any documentation will be undertaken in accordance with the requirements of the Data Protection Act 2018.

Where a formal investigation is undertaken which culminates in a disciplinary hearing, Police investigation and/ or report to the Procurator Fiscal, then in accordance with the Internal Audit data retention schedule, this information is held for 10 years after completion of the investigation. Any information obtained that is not necessary for the investigation should be securely destroyed.

2.6 Monitoring of concerns

An annual report detailing the number of whistleblowing concerns received and outcomes will be provided to the Audit Committee. This information will be anonymised so that employees/ workers cannot be identified and will not contain any confidential information.

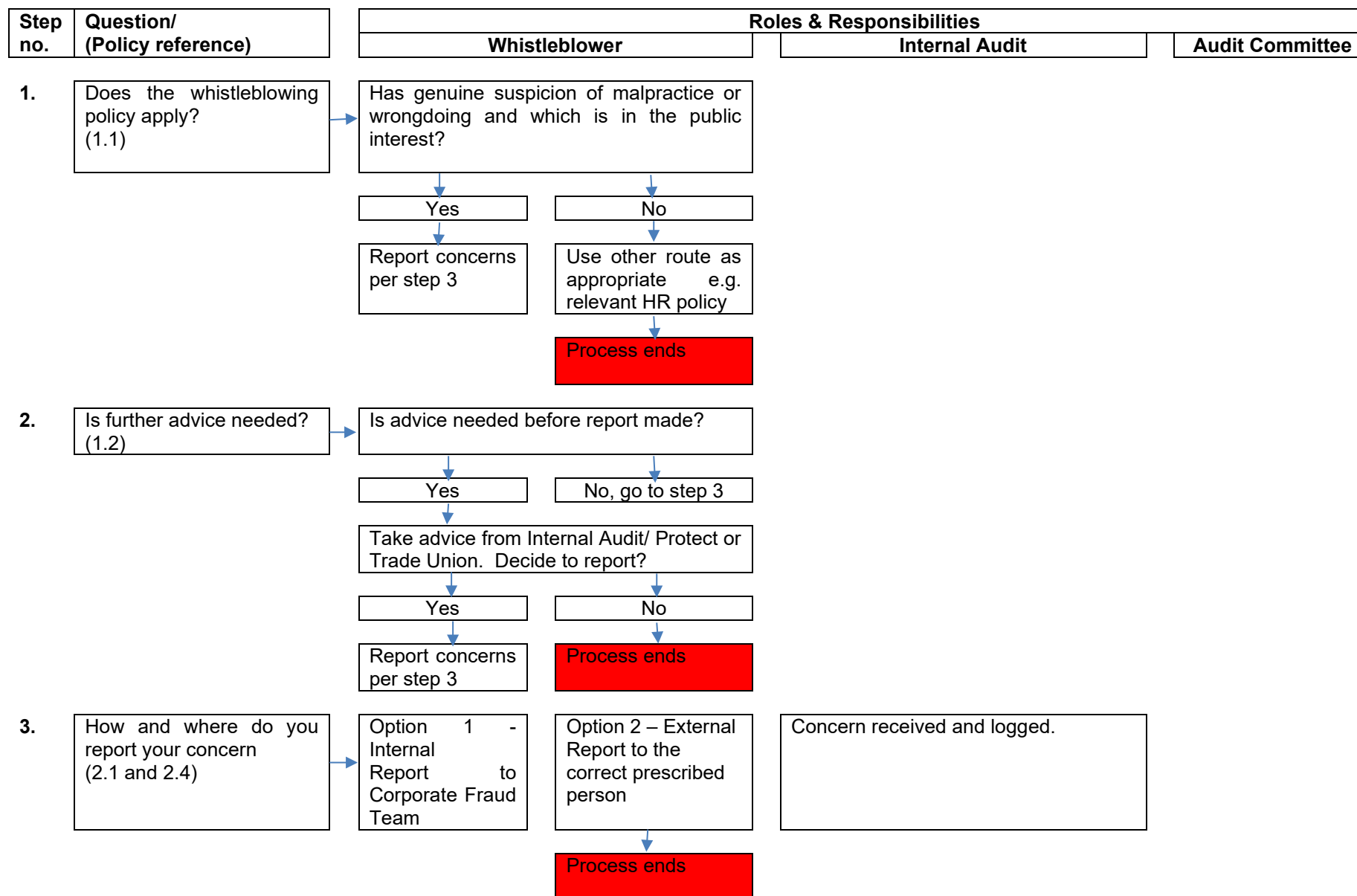
The aim of this report is to ensure that there is appropriate Member scrutiny and to provide assurance that:

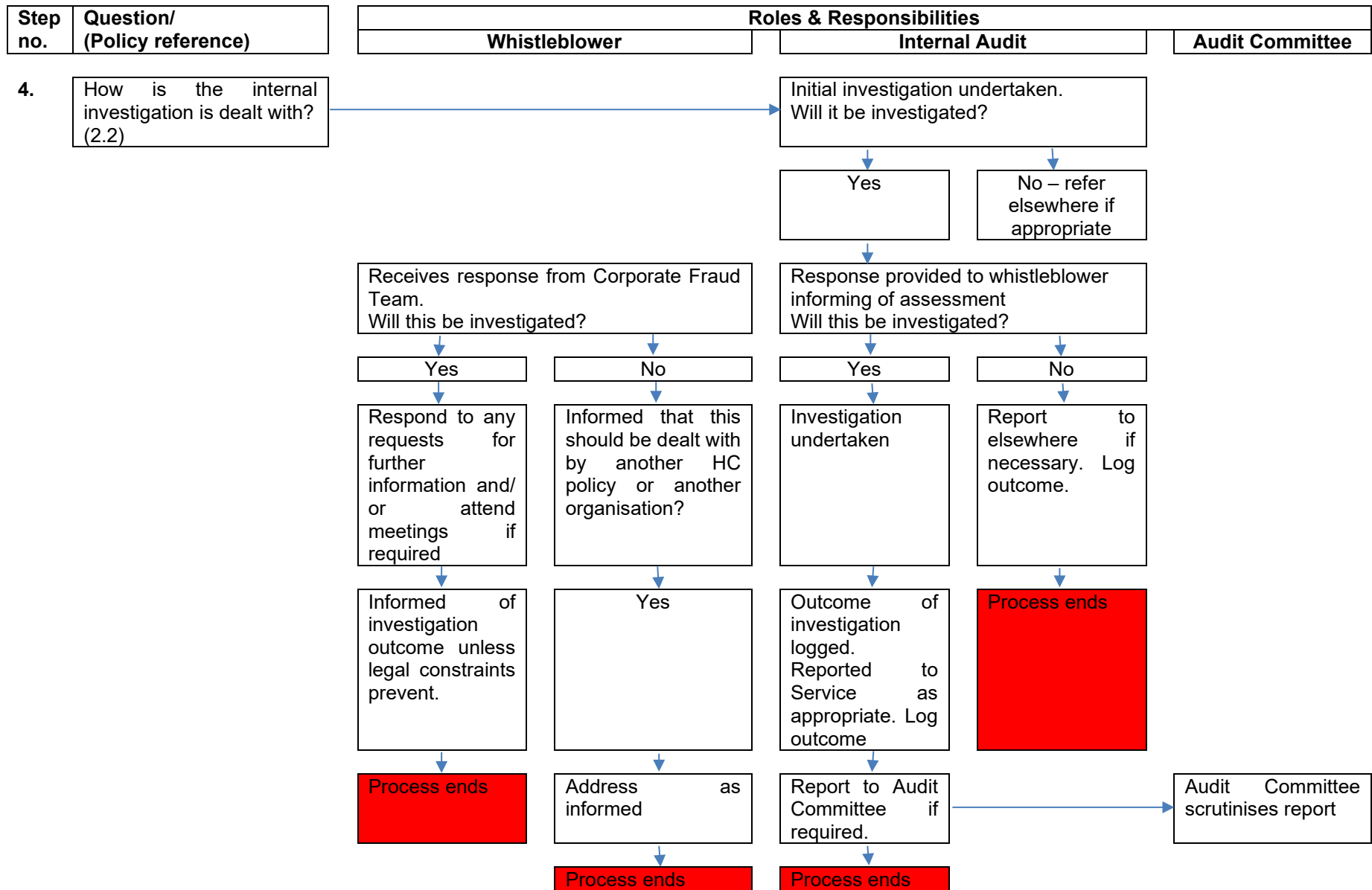
- The Council, Service or team learns from the investigation findings and that appropriate action has been taken to address these to ensure they are not repeated, and
- All whistleblowing complaints received have been addressed in accordance with this policy and in a consistent matter.

Where an investigation identifies control weaknesses and/ or fraudulent activity, this information will be reported to the Committee in the normal manner by way of an Internal Audit report.

Guide to whistleblowing process

Appendix 1





Audit Committee scrutinises report

