

<b>Report of:</b>	<b>Chief Internal Auditor</b>
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<b>Report Track:</b>	<b>Audit &amp; Governance Committee</b>

**Audit & Governance Committee****1<sup>st</sup> April 2014****Confidential Reporting, Anti-fraud & Bribery and  
Anti-Money Laundering Frameworks****1 Purpose of Report**

- 1.1 To seek Members approval for the adoption of:
- the revised Confidential Reporting Framework;
  - the revised Anti-fraud and Bribery Framework; and
  - an Anti-Money Laundering Framework.

These three policies set-out a framework for the identification, reporting and investigation of improper behaviour towards the Council.

**2 Recommendations**

- 2.1 That the Committee recommends to Cabinet the adoption of the Anti-fraud and Bribery Framework; the revised Confidential Reporting Framework and the Anti-Money Laundering Framework.

**3 Key Issues and Reasons for Recommendation**

- 3.1 The Council has existing Anti-Fraud and Confidential reporting frameworks which were last approved in 2009. Since that time there have been a number of changes in legislation and best practice including the introduction of the Bribery Act and changes to the law surrounding protection to employees for Whistleblowing. The policies have been updated to reflect these changes.
- 3.2 The Council has not previously adopted a Money Laundering framework or offered direct guidance and support to its employees on the identification and reporting of suspected money laundering since the Proceeds of Crime Act was introduced. Although the Council is not part of the Regulated Sector which are required to have detailed formal procedures in place it is seen as best practice

to have a policy in place. The attached Anti-Money Laundering Framework has therefore produced to provide a reporting mechanism as well as support to employees.

- 3.3 The Confidential Reporting Framework provides a clear, documented route by which anyone, whether internal or external to the Council, can report concerns about illegal, improper or dangerous activities and provides protection where it is available against harassment and victimisation for doing so. It sits as a front-end process which can provide a route to raise concerns in confidence into a number of Council policies and processes.
- 3.4 The Anti-fraud and Bribery Framework provides information relating to the Council's stance on fraud and bribery and set-out the processes that will be used to investigate and where necessary prosecute any fraud or bribery identified. It also sets-out the proactive work undertaken to minimise the Council's chances of falling victim to fraud or bribery.
- 3.5 The Anti-Money Laundering Framework sets out the actions the Council will take to minimise its exposure to money-laundering as well as providing a route by which suspicious activity can be reported. The framework also sets-out the actions the Council will take when money-laundering activity is identified to ensure compliance with the necessary legislation.

#### **4 Report Detail**

- 4.1 The Confidential Reporting, Anti-fraud and Bribery and Anti-money laundering Frameworks are closely aligned policies provide key reporting frameworks which establish secure, independent mechanisms by which anyone can raise valid concerns in confidence relating to any improper, illegal or other unacceptable behaviour. They provide a key element of the Council's Corporate Governance arrangements.
- 4.2 Once approved they will be circulated to all those within the organisation as well as being publically available on the Council's website.
- 4.3 The policies have been circulated to managers and the Trade Unions for consultation. No adverse comments have been received.
- 4.4 The policies will be reviewed on a regular basis and will be updated and reissued periodically. The operation of the policies will be overseen by the Chief Internal Auditor and Head of Governance to ensure they are operating effectively.

#### **Confidential Reporting Framework**

- 4.5 The Council introduced a Whistleblowing policy in 1998 to comply with the Public Interest Disclosure Act 1998 and this was updated and expanded in 2009 with the introduction of the Confidential Reporting Framework which

provided a similar route by which anyone could raise concerns in addition to employees who had statutory protection.

- 4.6 The policy has been reviewed and updated to reflect the changes in statutory protection following the Enterprise and Regulatory Reform Act 2013 which introduced a requirement for the whistle-blower to show that the disclosure was “in the public interest” and removed protection for concerns raised in “good faith”. However, the Council’s framework still offers a wider avenue for genuine concerns to be raised about inappropriate, illegal and improper activity than those which can gain statutory protection.
- 4.7 The policy promotes an open route by which any employee, Member, contractor, supplier or the general public can raise concerns about any activity involving the Council which may be illegal, improper or dangerous. This includes theft, fraud, bribery, health & safety breaches, contract rigging, and inferior supply of work/goods etc.
- 4.8 The framework supplies a number of central points of contact who can take the concerns and pass them through to be investigated or dealt with by the most relevant policy or process. This could be disciplinary process, referral to the Police, investigation by the Health & Safety Officer etc. The framework includes protection of the individual who raised the concern from harassment and victimisation and allows their identity to be withheld where possible.

#### **Anti-Fraud & Bribery Framework**

- 4.9 The Council introduced an Anti-fraud and Corruption policy in 1998 and this was updated and expanded in 2009 with the introduction of the Anti-fraud and Corruption framework.
- 4.10 Following the introduction of the Bribery Act in 2010 the Council needed to revise the policy and make its stance in relation to bribery more explicit as well as providing clear guidance to staff on how to identify and avoid bribery offences. The Anti-fraud and Bribery Framework has been written to include more detailed and explicit references to bribery and wider advice to ensure employees are aware of actions to take to avoid becoming involved in fraudulent activity or bribery.

#### **Anti-Money Laundering Framework**

- 4.11 This is a new policy for the Council which seeks to provide a central source of guidance to all Council employees on the identification of money laundering activity and actions to take if they come across suspicious activity.
- 4.12 The policy also introduces a small number of key contacts within the Council who will act as the liaison with the National Crime Agency for the reporting of any suspicious activity.

**5 Implications****5.1 Financial**

There are no direct financial implications arising from this report.

**5.2 Legal**

The Council is charged with various statutory duties and responsibilities and is further required to account for the manner in which it discharges those duties and responsibilities. The adoption of these policies by the Council will assist in the good governance of the Council and mitigate the Council's risk of being exposed to liability.

**5.3 Human Resources**

These policies will complement existing HR policies for dealing with grievance and disciplinary matters and the Council's Code of Conduct for employees.

**5.4 Section 17 (Crime Prevention)**

The policies are all designed to prevent, detect or investigate criminal offences and other improper acts carried out against the Council or by those employed or working with the Council. As such they provide a contribution to crime prevention.

**5.5 Human Rights Act**

None

**5.6 Data Protection**

None

**5.7 Risk Management**

Managers are responsible for ensuring that there are adequate arrangements in place to prevent and detect fraud, bribery or other improper acts. Internal Audit also carries out reviews to assess the effectiveness of those internal controls. These policies will assist managers in providing a robust control environment as well as provide a number of ways that employees and others can raise concerns in confidence that they will be taken seriously. As such the risk of the Council becoming victim of fraud, bribery or other failings is reduced.

**5.8 Equality & Diversity**

The policies have all been subjected to an Equality & Diversity Impact Assessment which has not highlighted any areas of concern. An ongoing

review of the policies will be carried out to ensure that they remain open and accessible to all and no unforeseen equality & diversity implications arise.

**5.9 Best Value**

None

**6 Appendices to the Report**

Appendix 1 – Anti-Fraud & Bribery Framework  
Appendix 2 - Confidential Reporting Framework  
Appendix 3 – Anti-Money Laundering Framework.

**Background Papers**

- Equality & Diversity Impact Assessments



# **Anti-Fraud & Bribery Framework**

**March 2014**

**Policy Statement**

**The Council has a zero tolerance to fraud and bribery.**

**The Council will take positive action regarding any improper practices that are identified and will deal with perpetrators from within and outside the Council.**

**The Council will consider taking legal and/or disciplinary action where there is evidence of fraud or bribery occurring. This will include referring matters to the Police for criminal investigations.**

**It is expected that Members and employees at all levels will adopt the highest standards of propriety and accountability and will lead by example in ensuring adherence to rules, procedures and agreed practices**

**Employees and Members will not pay bribes or offer improper inducements to anyone for any purpose; they will also not accept or solicit bribes or improper inducements.**

**The Council also expects that individuals and organisations (e.g. the public, suppliers/contractors), which it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud or bribery. The Council in turn will endeavour to ensure that all of its dealings will be on the same basis.**

**The protection of the public purse is everyone's responsibility.**

## 1 INTRODUCTION

1.1 This framework represents a commitment by the Council to protect public funds and to ensure that all Council activities are carried out in accordance with the principles of openness, honesty and integrity.

1.2 In carrying out its functions and responsibilities the Council is fully committed to deterring fraud and bribery, whether it is attempted on or from within the Council. The Council is committed to an effective anti-fraud and bribery strategy designed to:-

- limit, as far as possible, the opportunities to commit fraudulent acts – **prevention**;
- enable any such acts to be **detected** at an early stage; and
- deal with any subsequent **investigations** in a prompt, thorough and professional manner.

1.3 The Fraud Act 2006 defines fraud as :-

**“the intention to make gain or cause loss by false representation, failing to disclose information or abuse of position.”**

1.4 The Bribery Act 2010 defines bribery as:-

**“the giving or taking of a reward in return for acting dishonestly and/or in breach of the law. The reward could relate to money, payment in kind, goods or services”**

1.5 There are four offences under the Bribery Act :-

- The giving or offering of a bribe
- The request for or acceptance of a bribe
- Bribing a foreign public official
- The failure of a commercial organisation to prevent bribery

1.6 This framework outlines the mechanisms whereby the Council will deliver its policy commitment to its partners, customers, contractors and to the general public. It also contributes to the Council’s defence against an allegation of failure to prevent bribery. The framework covers a series of measures designed to frustrate any attempted bribery or fraudulent act, these are grouped under the following headings:-

- Culture
- Prevention
- Detection and Investigation
- Training

## Anti-Fraud and Bribery Framework

- 1.7 The Council's Confidential Reporting framework also encourages everyone to disclose concerns about potential fraud and bribery and therefore should be read alongside this framework.
- 1.8 If Members, managers, employees<sup>1</sup> or members of the public are unsure of the appropriate action to take in relation to the items contained in the framework then they should contact one of the officers detailed at 2.12 for advice and guidance.

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<sup>1</sup> The term employees covers Agency Staff, Temporary Workers, Casuals and Volunteers.

## **2 CULTURE**

- 2.1 The culture and tone of the Council will continue to be one of honesty and opposition to fraud and bribery.
- 2.2 The culture and procedures established by the Council are intended to ensure that high standards in public life are embedded throughout the Authority. It is expected that Members and employees at all levels will adopt the highest standards of propriety and accountability and will lead by example in ensuring adherence to rules, procedures and agreed practices.
- 2.3 Some examples of the rules and procedures include:-
- Financial Regulations & Contract Procedure Rules
  - Codes of Conduct for employees and Members (including guidance on gifts & hospitality and declarations of interest)
  - Scheme of Delegations
  - HR Policies and Procedures
  - Departmental policies and working practices
- 2.4 The Council also expects that individuals and organisations (e.g. the public, suppliers/contractors), which it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud or bribery. The Council in turn will endeavour to ensure that all of its dealings will be on the same basis. The protection of the public purse is everyone's responsibility.
- 2.5 All Members and employees play an important part in creating and maintaining the culture within the Council. Everyone is therefore positively encouraged to raise any concerns that they may have regarding fraud and bribery in any of the activities of the Council in the knowledge that such concerns will, wherever possible, be treated in the strictest confidence and investigated properly.
- 2.6 All Members and employees should act appropriately in all dealings and guidance on appropriate behaviour is available in the form of Codes of Conduct for Members and employees and in some cases service specific policies and codes of practice. Departments will review the risk of fraud and bribery and where necessary develop specific guidance to reduce the opportunities available or increase detection of offences.
- 2.7 The Council will take a robust approach in all cases of suspected financial malpractice, fraud or bribery and will always seek to refer cases of suspected fraud and bribery to the Police for investigation.

## Anti-Fraud and Bribery Framework

- 2.8 Any Member or employee who attempts to defraud the Council, who acts corruptly or who is involved in bribery will be dealt with swiftly. Where appropriate following proven fraud or bribery the Council will implement its disciplinary procedures or make a referral under the Standards process for Members. Any investigation of an employee would follow the Council's disciplinary process and any investigation of Members would follow the Standards Process.
- 2.9 Where it is found that fraud or bribery has occurred due to a breakdown in the Council's systems or procedures, Management will ensure that appropriate improvements in systems of controls are implemented in order to prevent a reoccurrence.
- 2.10 Unless there are good reasons to the contrary, any allegations received by way of anonymous letters or telephone calls will be taken seriously and investigated in an appropriate manner. Further information on the protection that is offered to employees and others who raise concerns is contained in the Council's Confidential Reporting framework.
- 2.11 The Council needs to ensure that any investigation process is not misused and, therefore, any abuse of procedures such as raising malicious and unfounded allegations may be dealt with as a disciplinary matter.

### Reporting Concerns – Employees / Elected Members

- 2.12 Employee concerns should be raised in the first instance directly with your supervisor, Service Manager, member of Leadership Team. If the individual feels that this is not appropriate then any of the following people may be approached:-

Post	Telephone
Chief Internal Auditor	01543 464415
Head of Governance	01543 464411
S151 Officer (Head of Financial Management)	01543 464334
Monitoring Officer (Head of Law & Admin)	01785 619204

- 2.13 Elected Members may choose to raise their concerns with any of the above or the Chief Executive.
- 2.14 In certain circumstances you may wish to contact an appropriate external body – e.g. Trade Union to raise the concern on your behalf.

### Reporting Concerns – Members of the Public, Suppliers, Contractors

- 2.15 Members of the public and the Council's suppliers/contractors are also encouraged to report concerns to the Council via the any of the contacts in the table at 2.12.

For **Housing Benefit Fraud Allegations** the Benefit Fraud Investigation Team should be contacted on **01785 619447**

### **3 PREVENTION**

3.1 The Council is required to establish procedures for the scrutiny of its own functions to ensure that there are proper arrangements in place to administer the Council's financial affairs. This internal scrutiny occurs as a result of :-

- Responsibilities arising from section 151 of the Local Government Act 1972 responsibilities and Section 114 Local Government Finance Act 1988;
- the establishment of a sound Internal Audit function in accordance with the Accounts and Audit Regulations 2011; and
- the responsibilities placed on the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

3.2 The Council's activities are also subjected to a high degree of external scrutiny by others including:-

- Local Government Ombudsman;
- National Audit Office;
- External Auditors
- Central Government Departments;
- HM Revenues and Customs; and
- The general public.

3.3 In order to ensure the Council is able to effectively target its resources and not create overly burdensome procedures in areas where the risk of fraud or bribery is low each service area will conduct an assessment of its risk in these areas. These risk assessments will be documented by the Service Manager and periodically reviewed to ensure that they reflect any changes in the level of exposure.

#### **Employees**

3.4 The Council recognises that a key preventative measure in dealing with fraud and bribery is to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees. This applies to permanent, temporary and casual posts where identity checks and asylum/immigration checks are performed as part of the induction process.

3.5 The Council has a formal procedure for recruitment and it is important that this is complied with, especially in relation to the verification of all qualifications and the obtaining of written references to ascertain the honesty and integrity of potential employees. The Council will follow an open and fair recruitment process without favouritism or canvassing for all posts.

- 3.6 The Council's Financial Regulations, Contract Procedure Rules and Code of Conduct for Employees govern all employees. In addition to the Council's rules many employees will also be required to comply with the standards and ethical requirements laid-down by their professional bodies. These key policies provide the operational framework for the Council and create a culture which seeks to minimise the risk of fraud or bribery occurring.
- 3.7 All employees must ensure that they declare all outside interests in accordance with the Code of Conduct for Employees and any departmental policies. Employees need to ensure personal integrity in all transactions. Where a conflict of interest may occur then the employee should not become involved in the transaction and should inform their line-manager.
- 3.8 All private employment/outside commitments performed by employees must be declared to the Council and approved in advance. Private work should be carried out in hours when the employee is not employed by the Council and should not be conducted from Council Premises or using Council tools and equipment. Further details on private work can be found in the Code of Conduct for employees.
- 3.9 Public duties are slightly different and the Council has a separate policy which allows a set amount of paid time off to conduct these duties where they are recognised public duties (e.g. School Governors, Magistrates). However public duties must still be declared as an outside interest.
- 3.10 Employees need to ensure that declarations relating to outside interests and private works are kept up to date with any changes as and when they occur.
- 3.11 Employees must never accept gifts of cash regardless of the value. It is a serious criminal offence for an employee to receive any fee or reward other than their proper remuneration for carrying out their duties.
- 3.12 Employees also need to follow the Council's rules set out in the Code of Conduct on the giving of gifts, hospitality and sponsorship to other individuals and organisations.
- 3.13 An employee should not seek or offer any incentive or reward in return for acting in a particular way or reaching a particular decision as this would constitute a criminal offence under the Bribery Act.

### **Managers (Service Managers & Leadership Team)**

- 3.14 All Managers should lead by example and ensure that there is a zero tolerance approach to fraud and bribery within the Council. Managers should ensure that their staff and all suppliers, contractors and partner organisations that they work with are aware of this policy and any responsibilities that are placed on them.

- 3.15 Managers are responsible for ensuring that all internal controls within their area of responsibility are effectively maintained. They should investigate any potential weakness in these controls due to factors such as the level of vacancies, sickness absence or annual leave and where possible look to ensure controls remain effective and operational.
- 3.16 The Council has developed and is committed to continually improving systems and procedures incorporating efficient and effective internal controls, including the provision of adequate separation of duties. Service Managers have a responsibility to ensure that all systems of internal control, including those in a computerised environment, are operating effectively and documented adequately.
- 3.17 All processes and activities need to be designed to be open and transparent and be designed to reduce the opportunities for fraud, bribery or corrupt acts to occur. Managers are encouraged to consult with Internal Audit when they are looking to change working methods to ensure appropriate controls are built in.

#### **Elected Members**

- 3.18 The activities and conduct of Members are governed by :-
- the Council's Constitution;
  - Code of Conduct for Members;
- 3.19 These matters are specifically brought to the attention of Members in the Induction pack and include the declaration and registration of potential areas of conflict. Members are advised of new requirements on them as and when they occur by the Monitoring Officer and Democratic Services.
- 3.20 Members must ensure that they act appropriately in all circumstances and should not seek or offer any incentive or reward in return for acting in a particular way or reaching a particular decision. Members may be acting corruptly if they attempt to use their position as an elected member for their own or anybody else's personal gain or loss. This could also constitute an offence under the bribery act.
- 3.21 It is important that all Members promptly complete and return their Declaration of Interests upon election and at any time when there are changes to their outside interests in accordance with the Code of Conduct. Any failure to declare an interest may lead to action being taken against the Member under the Standards process.
- 3.22 Members must also comply with the rules relating to the receipt of gifts and hospitality when considering if they can be accepted or not. Any gift must be declared in the gifts & hospitality register in the Gifts & Hospitality Register in accordance with the Council's Code of Conduct for Members.

### **Contractors/Suppliers**

- 3.23 The Council expects contractors and suppliers to have a zero tolerance approach to fraud and bribery and to establish appropriate procedures to ensure that their dealings with the Council are open and honest. We expect all contractors delivering services on behalf of the Council to establish appropriate anti-fraud & bribery policies and to have reporting routes for concerns to be raised.
- 3.24 Prospective contractors and suppliers will be vetted as part of the Procurement selection process. The Council has a mandatory obligation under Regulation 23 of the Public Contracts Regulations 2006 to exclude suppliers of work, goods, materials or services from bidding for public sector contracts when they or a Director has been convicted of a fraud or bribery offence.

### **Role Conflict and Separation**

- 3.25 Members and employees must always ensure that they avoid situations where there is a potential role conflict. Such situations can arise where there is externalisation of services or tendering situations. Members or employees close friends/relations may work for companies tendering for work being let by the Council and it is therefore necessary to be open and honest where such conflicts occur. The relevant declarations of interest should be made and you should consider withdrawing yourself from the decision making process. Members and employees are encouraged to seek advice and to err on the side of caution if they feel that they may have a conflict of interest in a decision being made that would benefit themselves or a close friend or relation.
- 3.26 Effective role separation will ensure that the decisions made by the Council are based upon impartial advice and avoid questions about the improper disclosure of confidential information. This is particularly important where one part of the Council may be tendering for a Council contract in competition with external companies.

### **Systems**

- 3.27 The Council's Code of Conduct for Employees and Financial Regulations along with other Council documents and policies require employees to act in accordance with best practice.
- 3.28 The Head of Financial Management has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper administration of the Council's financial affairs. The Council's Financial Regulations and Contract Procedure Rules which outline systems, procedures and responsibilities are widely distributed to employees and should be complied with at all times.

3.29 The Internal Audit Section independently monitors and reviews the internal control systems established by managers in accordance with the Audit Plan.

**Co-operation with Others**

3.30 Arrangements are in place to encourage the exchange of information on national and local fraud and bribery activity in relation to Local Authorities with external agencies such as:-

- the Police;
- Internal Audit Groups;
- National Audit Office;
- the National Anti-Fraud Network;
- The National Fraud Authority;
- the Serious & Organised Crime Agency; and
- Government Departments and Agencies.

3.31 The Council is a statutory participant in the National Fraud Initiative (NFI). The Council submits data that it holds on various systems such as Housing Benefits, Insurance Claims, Creditor Payments and Housing Rents. This data is then matched with data provided by other public sector bodies to identify potential frauds. More information on the NFI can be found on the Council's website <http://www.cannockchasedc.gov.uk/NFI>.

#### **4 DETECTION AND INVESTIGATION**

- 4.1 There are numerous systems of control in place to deter fraud and bribery, but it is often the vigilance of employees and members of the public that aids detection. Frauds are often discovered by chance or following a “tip-off” and arrangements are in place to enable such information to be dealt with appropriately. The process for following up information is contained in the Fraud Response Plan below.
- 4.2 All cases of suspected or proven fraud, bribery or other impropriety (with the exception of Housing Benefit Frauds) must be notified to the Chief Internal Auditor as soon as possible to ensure that a central record is maintained and to determine whether further work is needed to examine the appropriateness of the control framework in place in the area. Any suspected fraud, bribery or corrupt practice involving elected Members will be reported to the Monitoring Officer by the Chief Internal Auditor.
- 4.3 Early reporting is essential to the success of this strategy and the swift referral of cases of suspected fraud or bribery to the Chief Internal Auditor will:-
- ensure the consistent treatment of information regarding fraud and bribery;
  - ensure the proper implementation of a fraud investigation in accordance with the Council’s Fraud Response Plan; and
  - allow for the identification of any implications in relation to Money Laundering/Proceeds of Crime Act and the relevant external notifications to be made.

#### **Fraud Response Plan** (Excluding Housing and Council Tax Benefit Fraud)

- 4.4 Usually, an initial investigation will be carried out which will aim to confirm or disprove the initial suspicion or allegation by obtaining and thoroughly evaluating all material evidence so as to establish the facts. Where observations or surveillance are required this will be properly authorised and carried out in accordance with the Regulation of Investigatory Powers Act and the Council’s own policy.
- 4.5 The investigation will aim to: -
- identify all those involved;
  - collect and record all evidence to support the allegation, and ensure that it is held securely;
  - liaise as necessary with the relevant member of Leadership Team and outside agencies where appropriate

- 4.6 The Head of Financial Management, as s151 Officer, has the authority to determine whether to refer allegations of suspected fraud and bribery to the Police for prosecution. In most cases the Police will be invited to carry out a fraud or bribery investigation. Where the Police decide to investigate the Internal Audit section will work with alongside them to conduct an internal investigation and disciplinary action will be taken at the appropriate time.
- 4.7 At the conclusion of the investigation a report will be made to the Chief Executive, the relevant member of Leadership Team and the s151 Officer/Monitoring Officer. If one of these Officers is potentially implicated in the investigation then they will be excluded from the reporting process.
- 4.8 All employees engaged in the investigation of potential fraud and bribery will ensure that the strictest standards are adhered to, in particular regarding the confidentiality of the investigation. This is especially important due to the fact that: -
- Allegations and suspicions may turn out to be unfounded and hence embarrassment for the accused and the Council is spared;
  - Where fraud has occurred breaches in confidentiality could alert the suspect and give them the opportunity to cover their tracks or destroy evidence.
- 4.9 **Employees** - In accordance with the Council's Disciplinary Policy & Procedures, management has the prime responsibility for investigations into the conduct of employees. However in accordance with Financial Regulations, the s151 Officer (Head of Financial Management) has responsibility for organising the investigation of suspected fraud or bribery. In most cases an appropriate officer and/or the Head of Governance/the Chief Internal Auditor will be appointed as joint Investigating Officers and the investigation will be conducted and reported to management in accordance with the Council's Disciplinary Scheme.
- 4.10 **Member** – Investigation of Members will be carried out by the Head of Governance/Chief Internal Auditor in consultation with the Monitoring Officer. The outcome of investigations will be referred where relevant to the Standard Committee.
- 4.11 **External Frauds**- Where the allegation of fraud does not implicate an employee then the Head of Governance or the Chief Internal Auditor will conduct the investigation.

### **Housing & Council Tax Benefit Fraud**

- 4.12 Housing and Council Tax Benefit Frauds are normally investigated by the Benefit Fraud Investigation Team and are covered by the separate investigation and sanctions policy. However where the Housing Benefit fraud involves a Member the Chief Executive and the Monitoring Officer will be consulted and kept informed. The Chief Internal Auditor, Head of Governance and HR Manager will be consulted and kept informed in relation to any Housing Benefit Fraud committed by employees. Members or employees found to have committed housing benefit fraud may also be subject to Standards or disciplinary action.

### **Prosecution Policy**

- 4.13 The Council will look to prosecute all those accused of committing fraud, theft, or bribery against the Council. In most cases the Council will refer the matter to the Police for an independent prosecution.
- 4.14 The prosecution of Housing and Council Tax Benefit Fraud will be pursued in accordance with the Sanctions Policy.
- 4.15 Where an employee is found to have been involved in fraudulent or corrupt activity or bribery the Council will look to take further action in accordance with the Disciplinary Policy. Where Members are found to be involved in fraudulent or corrupt activity the Monitoring Officer will be informed and the matter will be referred for a Standards Investigation.
- 4.16 Where a genuine mistake or error is discovered the Council will not look to prosecute but will provide training and advice to the employee/Member and possibly look to revise systems and procedures to prevent similar actions occurring in the future.

### **Support for Witnesses During An Investigation/Prosecution**

- 4.17 The Council recognises that the decision to report a concern or to give evidence as part of an investigation is often a difficult one to make not least because of the fear of reprisal from those responsible for the malpractice. However, where there are genuine concerns then the witness has nothing to fear as they are fulfilling a duty to the Council and to those for whom it provides services.

- 4.18 The Council will be as supportive as possible to witnesses during an investigation. Harassment and victimisation (including informal pressure) will not be tolerated. If as a result of providing evidence in good faith the witness experiences any pressure the Council will take action to protect them. Any employee or Member who is found to be victimising anyone who is providing evidence to an investigation may face action under the Standards or disciplinary procedures.
- 4.19 The Council will take all possible steps to maintain the confidentiality of a witness throughout the process where they have expressed a preference for their name not to be disclosed. However it is recognised that this may not always be possible. In the event that the investigation requires confidentiality to be broken then the witness will be informed in advance.
- 4.20 The Council will take steps to minimise any difficulties that the witness may face as a result of providing evidence to an investigation. For example, where the person is required to give evidence at a criminal or disciplinary proceeding then the Council will arrange for them to receive advice and support about the process that they will have to go through.

**5 TRAINING & INFORMATION**

- 5.1 The Council acknowledges the importance of ensuring that Members and employees are fully aware of their personal responsibilities, and will ensure appropriate training is provided.
- 5.2 There are a number of key documents which set-out responsibilities and these include:-
- Codes of Conduct for Members
  - Code of Conduct for Employees (including Gifts and Hospitality Guidelines)
  - Financial Regulations & Contract Procedure Rules
  - Confidential Reporting Policy
  - The Constitution
  - Relevant Professional Ethical Codes or frameworks.
- 5.3 The Chief Internal Auditor will ensure that all employees are made aware of their responsibilities under this policy as part of their induction process as well as ensuring that they are aware of the relevant reporting procedures.
- 5.4 The Council recognises that the continuing success of this strategy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of employees throughout the organisation.
- 5.5 Managers will also ensure that all contractors/suppliers are aware of the existence of this framework and their responsibilities under it.
- 5.6 This framework will also be made available to contractors and the public by publishing it on the Council's website.
- 5.7 In addition to the above actions the Council will review its services to identify those most at risk of bribery, fraud and bribery and where necessary develop additional guidance and procedures to address any significant risks identified.

**6 Monitoring & Review**

- 6.1 The Council has in place a clear network of systems and procedures to assist it in dealing with fraud and bribery.
- 6.2 The Head of Governance will maintain a continuous overview of the arrangements in place to ensure that they are consistently applied and that all action taken is proportional. This framework will be reviewed and updated periodically to follow best practice and other changes.
- 6.3 Monitoring on the application of the framework, including allegations not proven or false allegations will be carried out. This will include monitoring of equality and diversity issues in relation to the person who has an allegation made against them and in relation to the ultimate outcome of any investigations. Information that may be recorded includes age, gender, race, disability, etc. However it may not be possible to obtain all information for all cases.
- 6.4 This information will be used to monitor trends and to ensure that the policy is applied equally to all and in particular that decisions to prosecute or take other action are consistently applied.

**7 ASSOCIATED POLICIES**

- 7.1 Other associated Council Policies:-
- Confidential Reporting Framework
  - Disciplinary Policy
  - Codes of Conduct for Members & Employees
  - Regulation of Investigatory Powers Policy

This policy can be provided in Braille, on audio cassette tape/disk, **large print** and in the following languages Bengali, Gujarati, Chinese, Urdu, Punjabi and Polish on request to Cannock Chase Council on 01543 462621.

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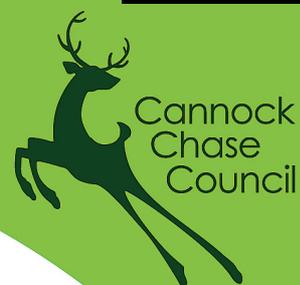
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# **Confidential Reporting Framework**

**March 2014**

Policy Statement

Cannock Chase District Council is committed to ensuring that all of its activities are conducted ethically, honestly and with the highest possible standard of openness and accountability so as to protect everyone's safety and secure the proper use of public money.

It is recognised that employees, Members, the public and contractors/suppliers who deal regularly with the Council are often the first to realise that there may be something seriously wrong.

The Council expects its employees, Members and others that we deal with to come forward and raise their concerns about any Council activity.

The Council will seek to protect individuals raising concerns in the Public Interest from harassment or victimisation; confidentiality will be maintained as far as is possible and within any requirements of the law.

The Council is committed to investigating and responding to any concerns raised as fully as is possible.

WHAT IS CONFIDENTIAL REPORTING?

The Confidential Reporting framework is an early warning system that can alert the Council to such things as :-

- someone defrauding the Council;
- faulty machinery or unsafe working practices being used by employees or contractors;
- people abusing their positions via discrimination or harassment,
- illegal activities;
- concerns relating to the treatment of children and vulnerable adults; or
- employees or Members seeking or accepting payments in exchange for work or contracts to a specific supplier or for making a particular decision.

For employees there are other policies available which should be used in preference to the Confidential Reporting Framework depending on the circumstance. For example where they have complaints about harassment, grievances over their employment and health & safety concerns, the reporting routes set out in these policies should be followed.

## Confidential Reporting Framework

Confidential reporting is a valuable activity; which can be used to inform those who need to know about fraud, corruption, cover-ups and many other problems. It is often only through the receipt of such reports that this information comes to light and can be addressed before real damage is done.

This Confidential Reporting Framework aims to provide a clear, documented process by which people can report concerns to the Council and to give them the assurance that the matter will be handled appropriately and where necessary confidentially.

### 1 INTRODUCTION

1.1 Employees<sup>1</sup> and other people that the Council deal with are often in the best position to know when the interests of the public are being put at risk. The Council recognises that these people can act as useful early warning systems on matters of safety or to help uncover fraud and mismanagement within the Council. However, individuals may often not raise their concerns because they:-

- feel that they are being disloyal to colleagues or the Council;
- fear reprisals will be made through harassment or victimisation; or
- they are unsure of the best way to proceed.

1.2 The Council aims to promote an open and honest culture and is committed to the highest possible standards of probity and accountability. The Council seeks to foster an environment which encourages anyone with serious concerns about any aspect of the authority's work to come forward and raise those concerns. Wherever possible the confidentiality of the individual raising the concern will be maintained.

1.3 This framework compliments the Council's Anti-fraud and Bribery Framework, and Disciplinary Policy. The Code of Conduct for Employees reinforces the message that concerns can be raised without fear of reprisal.

1.4 The Confidential Reporting framework is a mechanism by which concerns can be raised with the Council in a controlled and protected way; it is not a detailed investigation process. Concerns that are raised via the Confidential Reporting process will be reviewed and generally will be referred for investigation under the most relevant Council procedure. Examples of where the concern may be passed will include:-

- disciplinary or standards investigation;
- grievance investigation;
- harassment & bullying investigation;
- investigation by the Health & Safety Officer
- referral under safeguarding policies; and
- anti-fraud or bribery investigation.

1.5 Although this policy is predominantly aimed at employees of the Council who have statutory protection under the Public Interest Disclosure Act, the Council recognises that many other individuals and groups may also have concerns that they may wish to raise with the Council in a controlled and protected way. This framework applies equally, in terms of reporting, investigation and confidentiality to all individuals including employees, Members, agency workers, contractors, suppliers, partner organisations and the public.

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<sup>1</sup> The term employees covers Agency Staff, Temporary Workers, Casuals and Volunteers.

## Confidential Reporting Framework

- 1.6 All individuals are encouraged to raise serious concerns within the Council without fear of retribution and irrespective of seniority, rank or status. For employees there may be other routes which should be used prior to making a report under this framework unless you feel that by raising a concern openly through the normal process would lead to harassment and victimisation.

## **2**     **SCOPE OF THE POLICY**

2.1     This policy is about creating an environment which:

- provides avenues for individuals to raise concerns and receive feedback on any action taken;
- acknowledges that individuals can take the matter further if dissatisfied with the Council's response; and
- reassures individuals that they will be protected from reprisals or victimisation.

2.2     Individuals are encouraged to report any serious concerns relating to an activity of the Council or the conduct of any employee or Member under this policy. Typical concerns include the following:

- conduct which is an offence or a breach of the law;
- a criminal offence has been, is being, or is likely to be committed;
- suspected or actual fraudulent or corrupt activity;
- harassment or bullying of employees or clients or the public;
- health and safety risks to employees, contractors or the public;
- damage to the environment;
- showing undue favour over a contractual or employment matter;
- a breach of the scheme of delegations, contract procedure rules or financial regulations;
- safeguarding issues relating to children and vulnerable adults; and
- a breach of the employees' or members' code of conduct.

This list is not exhaustive; the policy applies to any unethical or improper conduct.

2.3     This policy is **NOT** about employees lodging grievances about their employment or the public complaining about the level or quality of service that they have received. There are other policies and procedures in place to cover these situations.

- Harassment & Bullying Policy;
- Grievance Policy; and
- Comments, Compliments and Complaints Process.

**3 SAFEGUARDS – SUPPORT FOR THOSE RAISING CONCERNS**

Council Responsibility

- 3.1 The Council recognises that the decision to report a concern is often a difficult one to make not least because of the fear of reprisal from those responsible for the malpractice. However, where there are genuine concerns then the reporter has nothing to fear as they are fulfilling a duty to the Council and to those for whom it provides services.
- 3.2 Where a concern is raised then the Council will be as supportive as possible. Harassment and victimisation (including informal pressure) will not be tolerated. If as a result of raising a concern in the Public Interest the reporter experiences any pressure the Council will take action to protect them. Any employee or Member who is found to be victimising anyone who has raised a concern may face action under the disciplinary or Standards procedures.
- 3.3 All employees are entitled to protection under the Public Interest Disclosure Act which includes protection from harassment and victimisation due to raising a justified concern (one in the Public Interest). However this does not mean that if an employee is already the subject of disciplinary or redundancy procedures, that those will be halted as a result of the employee making an allegation.
- 3.4 Where an allegation raised under this process leads to an investigation then this will be carried out in accordance with the relevant policies and legislation including the Regulation of Investigatory Powers Act, the Data Protection Act and also will act in accordance with the Human Rights Act, the Council's Anti-Fraud and Bribery Framework, the Standards Investigation Procedures for Members and the Disciplinary Policy for employees.
- 3.5 The Council will take all possible steps to maintain the confidentiality of the person making the allegation throughout the process where they have expressed a preference for their name not to be disclosed. However it is recognised that this may not always be possible. In the event that the investigation requires confidentiality to be broken then the person will be informed in advance.
- 3.6 The Council will take steps to minimise any difficulties that the person making an allegation experiences as a result of raising a concern. For example, where the person is required to give evidence at a criminal or disciplinary proceeding then the Council will arrange for them to receive advice and support about the process that they will have to go through.
- 3.7 Any unwarranted breach of confidentiality by someone involved the investigation of an allegation may be considered for disciplinary action. This could be where someone who is either being investigated or interviewed as part of the investigation becomes aware of the identity of the person who made the allegation and deliberately identifies them to others.

Anonymous Allegations

- 3.8 Generally people are encouraged not to make allegations anonymously. This is because :-
- being anonymous doesn't stop others from successfully guessing who raised the concern;
  - it is harder to investigate the concern if people cannot ask follow-up questions or seek clarification;
  - it is easier to protect employees/workers under the Public Interest Disclosure Act if concerns are raised openly; and
  - it can lead people to focus on the whistleblower, maybe suspecting that they might be raising the concern maliciously.
- 3.9 All allegations will be reviewed by the Council's Internal Audit Section and/or Human Resources Section in consultation with the Monitoring Officer, s151 Officer or Designated Officer for Safeguarding referrals where relevant. Where there is sufficient evidence to substantiate the allegation it will be followed-up. However, it should be noted that anonymous allegations can be more difficult to action effectively.
- 3.10 Where an anonymous allegation is received the Council will take the following factors into account to determine the scope and depth of any investigation:-
- the seriousness of the issues raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from other sources and information provided in the face of a denial by the accused.

Unproved/Untrue Allegations

- 3.11 If a genuine allegation is made but is not confirmed through investigation then no action will be taken against the reporter and the matter will be considered to be closed. However, if there is evidence that an allegation is malicious, vexatious or was made for personal gain then disciplinary action may be taken against the person making the allegation.

## **4 HOW TO RAISE A CONCERN**

4.1 The Council will consider concerns raised verbally or in writing provided that adequate information is provided. However, concerns are best advised in writing setting out the following:-

- background and history to the concern;
- names, dates and places (where possible); and
- the reason you are particularly concerned about the situation.

Although you are not expected to prove the truth of the allegation, you will need to demonstrate to the person you contact that there are sufficient grounds for your concern.

4.2 If you would prefer to discuss the issues directly with someone prior to putting them in writing then you can telephone or arrange to meet an appropriate officer or advice and guidance can be obtained from Internal Audit or Human Resources.

4.3 The earlier a concern is expressed the easier it will be for the Council to take action.

### Employees

4.4 Employees are encouraged to raise concerns that they may have with their immediate line-manager or their Head of Service through the day-to-day reporting processes. Where other policies are available to employees (such as grievance or harassment & bullying) these routes should be pursued. However it is recognised that the seriousness, sensitivity or the circumstances of the allegation may make it unwise to approach their line-manager; for example where the line-manager is believed to be involved. If an employee feels that they cannot raise the issue with their line-manager then they should contact one of the people listed at 4.11 below.

4.5 A concern should only be raised under this policy if the employee considers that, in their opinion, they have not had a satisfactory response from their line-manager or if circumstances make it unwise for the person to approach their line-manager. In addition employees need to show they are raising the concern in the "Public Interest" in order to have the statutory protection offered by the Public Interest Disclosure Act.

4.6 It may be relevant for employees to discuss the matter with colleagues if they believe similar concerns are held as it may be easier for the matter to be raised where two or more individuals share the same concerns. *However once a concern has been raised under this Confidential Reporting Policy you should be mindful that any further discussions with other parties may affect the ability of the Council to maintain your confidentiality.*

## Confidential Reporting Framework

- 4.7 Employees can also approach their trade union to raise the concern on their behalf; this would normally be done through the Joint Consultative Committee & Trade Unions Consultation Forum. However, where relevant the Union can raise the concern directly with one of the named below.
- 4.8 Employees have the right to invite a trade union representative or workplace colleague to be present at any interviews or meetings held in relation to the concerns that they have raised.

### Members of the Public, Contractors, Suppliers

- 4.9 Members of the public, contractors and suppliers to the Council can contact one of the designated officers directly if they have any concerns - 4.11.

### Members

- 4.10 Members should address any concerns that they have to the Chief Executive s151 Officer or Monitoring Officer (Head of Law & Administrative Services). However if they believe one of these people may be implicated then they can contact the Chief Internal Auditor or Head of Governance directly.

### Who to contact

- 4.11 The following people are the key contacts under this Confidential Reporting Policy and should be contacted if you wish to raise any concerns or for advice under this policy. They will be able to refer the matter to other employees for investigation if relevant:-

**Chief Internal Auditor** – ext 4415 or 01543 464415  
**Head of Governance** – ext 4411 or 01543 464411

Alternatively employees and Members may choose to approach one of the following directly for specific concerns:-

Monitoring Officer (Head of Law & Administrative Services) – ext 4223  
Human Resources Manager - ext 4426  
Health & Safety Officer – ext 4227  
s151 Officer (Head of Financial Management) – ext 4334

In certain circumstances employees may wish to contact an appropriate external body – e.g. Trade Union to raise the concern under this policy on their behalf. (See also section 6)

For **Housing Benefit Fraud Allegations** the Benefit Fraud Investigation Team should be contacted on **01785 619447**.

## Confidential Reporting Framework

Issues relating to the **Safeguarding of Children and Vulnerable Adults** can be made directly to Staffordshire Safeguarding Children's Board via the County Council on 0800 1313126 or to the Designated Officer for Safeguarding – (Head of Commissioning – ext 4416)

**5 INVESTIGATING A CONCERN**

- 5.1 An initial review will take place by the Council's Internal Audit Section and/or Human Resources Section in consultation with the relevant Head of Service/Service Manager, s151 Officer, Monitoring Officer, or Designated Officer for Safeguarding (where they are not implicated in the allegation) to establish the facts of the allegation. Where the concern raised is a Housing Benefit related matter then this will be referred to and be investigated by the Benefit Fraud Investigation Team. Where matters relate to safeguarding children and vulnerable adults the matter will be referred to the relevant agencies.
- 5.2 This initial review will determine whether the concerns are more appropriate to be addressed under one of the Council's other policies/procedures, such as Customer Compliments, Comments & Complaints or Grievance Policy. Where allegations fall under the scope of a specific policy/procedure they will normally be referred for consideration under those procedures by the Reviewing Officer after consultation with the person making the complaint.
- 5.3 The Reviewing Officer will determine the most appropriate action; this will depend on the nature of the concern but could include any of the following:-
- an internal investigation (for example a disciplinary investigation or an investigation under the Anti-fraud and Bribery Framework's fraud response plan);
  - referral to the Police
  - referral to Safeguarding agencies;
  - referral to the National Crime Agency (for potential money laundering allegations);
  - referral to the Council's External Auditor;
  - referral to the Health & Safety Executive or other regulatory body
  - referral to the Standards Committee.
- 5.4 The amount of contact between the person raising a concern and the Reviewing Officer will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary further information will be sought from the person who raised the concern in a discrete manner.
- 5.5 With the exception of anonymous allegations, the Reviewing Officer will write to the person raising the issue within 10 working days of a concern being received to:-
- acknowledge that the concern has been received;
  - indicate how it is proposed to deal with the matter (e.g. referral under another policy, investigation etc);
  - inform whether further investigations will take place, and if not, why not.

## Confidential Reporting Framework

- 5.6 It will often only be possible for the Reviewing Officer to offer an estimated timescale for any investigation as it may not be clear how much information will need to be reviewed to enable a full investigation to be concluded. However, wherever possible (and subject to constraints relating to confidentiality etc) the Reviewing Officer will keep the person who raised the concern informed of further progress at regular intervals throughout the course of any investigation.
- 5.7 The Council accepts that individuals who raise concerns under this process will want to be assured that the matter has been properly addressed. Therefore, the Council will provide the person raising a concern with information relating to the outcome of any investigations. However the information provided may be limited due to confidentiality and data protection issues.
- 5.8 A full report of any findings will be provided at the conclusion of the investigation in accordance with the relevant policy. This may be to the relevant member of Leadership Team unless they have been implicated in the allegation. Where the Chief Executive is implicated the Leader of the Council may receive the report.
- 5.9 Where allegations implicate Members then the Monitoring Officer will be informed throughout the process and if necessary the matter will be referred to the Standards Committee for their consideration and possible investigation of a breach of the Member's Code of Conduct.
- 5.10 Summaries of investigations and lessons learnt may also be reported to Leadership Team and the Audit & Governance Committee where Council process failures have been discovered as part of the investigation.

**6 TAKING THE MATTER FURTHER**

- 6.1 This policy aims to provide employees and others with an avenue to raise concerns within the Council. It hopes that everyone who chooses to raise a concern under this process will be satisfied with the response to their concerns. However if the individual is not satisfied with the outcome of the investigation they can make a complaint to the Council's Monitoring Officer.
- 6.2 Individuals may choose to seek advice in relation to the matter from outside the Council; the following are possible contact points:-
- External Auditors;
  - relevant professional bodies/regulatory organisations;
  - the Local Government Ombudsman;
  - your Solicitor;
  - the Police;
  - Public Concern at Work;
  - Trade Unions;
  - Professional Associations.

**7 TRAINING & INFORMATION**

- 7.1 The Council acknowledges the importance of ensuring that Members and employees are fully aware of their personal responsibilities, and will ensure appropriate training is provided to all Members and employees.
- 7.2 There are a number of key documents which set-out those responsibilities and these include:-
- Codes of Conduct for Members
  - Code of Conduct for Employees Financial Regulations
  - Anti-Fraud & Bribery Framework
  - Anti-Money Laundering Framework
  - The Constitution
  - Relevant Professional Ethical Codes or frameworks
  - Safeguarding Children and Vulnerable Adults Policy.
- 7.3 All employees will be made aware of their responsibilities under this policy by their line managers as well as ensuring that they are aware of the relevant reporting procedures.
- 7.4 The Council recognises that the continuing success of this strategy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of employees throughout the organisation. Awareness training will be made available to managers and key employees.
- 7.5 The Council will also ensure that all contractors/suppliers are aware of the existence of this framework and their responsibilities under it as part of the tendering process.
- 7.6 This framework and the advice leaflet will also be made available to contractors and the public by publishing it on the Council's website.

**8 MONITORING & REVIEW**

- 8.1 The Head of Governance will maintain a continuous overview of the operation of this Confidential Reporting Framework to ensure it is consistently applied and will report, as necessary, to the Council via the Audit & Governance Committee on the effectiveness of the framework.
- 8.2 This framework will be reviewed and updated periodically to follow best practice and other changes.
- 8.3 Monitoring on the application of the framework, including allegations not proven or false allegations will be carried out. This will include monitoring of equality and diversity issues in relation to the person who has an allegation made against them and in relation to the ultimate outcome of any investigations. Information that may be recorded includes age, gender, race, disability, etc. However it may not be possible to obtain all information for all cases.
- 8.4 This information will be used to monitor trends and to ensure that the framework is applied equally to all and in particular that decisions to investigate or take other action are consistently applied.

**9 RESPONSIBLE OFFICERS**

- 9.1 The Head of Governance has overall responsibility for the maintenance and operation of this policy.
- 9.2 The Chief Internal Auditor, Head of Governance, Head of Human Resources, s151 Officer and Monitoring Officer can be contacted to discuss any aspect of this policy in more detail or to offer advice and guidance.

**10 ASSOCIATED POLICIES**

- 10.1 Other associated Council Policies:-
- Anti-fraud & Bribery Framework
  - Disciplinary Policy
  - Anti-Money Laundering Framework
  - Members & Employees Codes of Conduct
  - Regulation of Investigatory Powers Policy
  - Employee Grievance Policy
  - Comments, Compliments and Complaints Policy
  - Harassment & Bullying Policy
  - Safeguarding Children & Vulnerable Adults Policy

## Confidential Reporting Framework

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# **Anti-money Laundering Framework**

**March 2014**

**Policy Statement**

**Money Laundering is a generic term which covers various illegal activities used by criminals to conceal the proceeds of their criminal activities and to try and make it look like the proceeds have come from a legitimate source.**

**Criminals often target legitimate organisations such as Councils to assist them in their money laundering activities. Anyone who knowingly assists or suspects that they may be assisting someone in money laundering may be prosecuted for their part in the activity.**

**The Council will do all it can to: -**

- **prevent, wherever possible, the organisation, its employees and Members from being exposed to money laundering;**
- **identify the potential areas where money laundering may occur and take appropriate action to minimise the risk; and**
- **comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases of Money Laundering.**

**Every employee and Member also has a personal responsibility to be vigilant.**

## 1 INTRODUCTION

- 1.1 Money laundering is any activity used to conceal or disguise the nature, source, location, ownership or control of currency or assets. It is most often an attempt to hide the proceeds of dishonest or criminal activity and to try to give the impression that the income is from a legitimate source so that it can be used.
- 1.2 It is often associated with large scale crime such as drug trafficking, terrorist funding and financial crimes involving fraud but the UK legislation also applies to any level of activity used to conceal the source of income which is of benefit to the individual. This can be anything from the proceeds of petty theft or from hiding income to commit benefit fraud up to larger corporate crimes which can involve complex and well planned linked transactions.
- 1.3 The Council is at risk of being used in money laundering activity as many of our activities could appear attractive to someone looking to launder money. For example we collect many sources of income including rents (housing and commercial) business rates and council tax. These could be deliberately overpaid, possibly in cash and then a refund requested which would generate a cheque from the Council and provide a legitimate source for the income. Other areas at risk include property deals either right to buy transactions or larger regeneration/development schemes, partnerships with private sector firms and treasury management activities.
- 1.4 The UK legislation puts a personal responsibility on all individuals to report suspicions of money laundering. This framework aims to provide all employees<sup>1</sup>, Members partners and contractors with a structured, supported process by which they can raise concerns of money laundering and to provide information on how they could be affected by the legislation

## 2 SCOPE OF THE FRAMEWORK

- 2.1 This policy applies to all Members and employees of the Council and aims to maintain the high standards of conduct, which currently exist within the Council by preventing criminal activity through money laundering. The framework sets out the procedures, which must be followed to enable the Council to comply with its legal obligations. An accompanying Guidance Note sits alongside the framework document giving a brief summary of the impact of the legislation on employees and Members.
- 2.2 Both this framework and the Guidance Note compliment the Council's Confidential Reporting framework and Anti-Fraud and Corruption framework.
- 2.3 Members and employees have a personal responsibility under the Proceeds of Crime Act 2000 (POCA) and therefore failure to comply with the procedures set out in this framework may lead to criminal prosecution. In addition employees could face disciplinary action in accordance with the Council's Disciplinary Policy and Procedures if they become involved in or fail to report suspicious transactions. Members could also face allegations of breaching their Code of Conduct and be subjected to investigation by the Standards Committee if they fail to comply with these procedures.

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<sup>1</sup> The term employees refers to Temporary and Agency Staff as well as volunteers.

### **3 WHAT IS MONEY LAUNDERING?**

#### 3.1 The Money Laundering offences are:

- **concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of POCA)** This covers hiding an item or its source, removing serial numbers, or changing an item for something else. For example a person using illegally earned money to buy a house or piece of land could claim that a large cash payment is from the death of relative or a lottery win;
- **entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328 of POCA)** This is the actual involvement in or helping to cover up an act – eg an employee arranges a refund to be made in relation to a significant overpayment of Business Rates when they suspect the overpayments have been deliberately made by the bill payer;
- **acquiring, using or possessing criminal property (section 329 of POCA) accepting stolen items knowingly or knowingly taking advantage of them or accepting items paid for by the proceeds of crime.** This could be paying significantly less than the value of an item with the suspicion or knowledge that it may be stolen; or
- **becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorism property (section 18 of the Terrorism Act 2000).** This is about hiding income or other items which are being used to fund or carry out terrorist activities.

These are the primary money laundering offences and are thus prohibited activities under POCA.

#### 3.2 There are two ‘third party’ offences relating to the Regulated Sector –

- **failure to disclose one of the primary offences (section 330-332 of POCA),** and
- **‘tipping-off’ (Section 333 of POCA).** Tipping off is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of an investigation or of prejudicing an investigation.

Most employees of the Council do not fall into the “Regulated Sector” and these offences are unlikely to be committed. The “Regulated Sector” covers activities carried out by organisations who are regularly dealing with large monetary transactions such as financial institutions, lawyers, accountants, estate agents, casinos etc.

#### 3.3 However, all Members and employees could commit the offence of **“doing something which might prejudice an investigation” (Section 342 of POCA)** if they have knowledge of or a suspicion of a Money Laundering Offence being committed and fail to report it so that it can be investigated.

## Anti-Money Laundering Framework

- 3.4 Criminal Property is defined in Section 340 (3) of POCA as “property”<sup>2</sup> that is or represents the person’s benefit from illegal actions in whole or part and the person knows or suspects that it is the proceeds of a criminal act.
- 3.5 Potentially any employee could be caught by the money laundering provisions if he/she knows or suspects money laundering and either becomes involved with it in some way and/or does nothing about it. This framework sets out how any concerns should be raised.
- 3.6 Whilst the risk to the Council of contravening the legislation is low, ***it is extremely important that all employees and Members are familiar with their personal legal responsibilities; serious criminal sanctions may be imposed for breaches of the legislation.***

### **What Are The Obligations On The Council?**

- 3.7 The Council’s business is classed as being outside of the “Regulated Sector” for the purposes of the legislation which means we do not need to implement fully the rules around appointing a MLRO and setting up detailed client identification procedures for all clients. However, the Council has voluntarily adopted some of the procedures to help to identify and report any suspicious activity as we may be targeted by people wishing to carry out money laundering activity.

### **The Money Laundering Reporting Officer (MLRO)**

- 3.8 Although the Council is not required to formally appoint a Money Laundering Reporting Officer we have nominated people to receive disclosures about money laundering activity within the Council who are aware of the information required and the mechanisms to pass the information on to the relevant bodies. These people are: -

<b>Stephen Baddeley</b> <b>Chief Internal Auditor</b>  <b>Tel – 01543 464415</b>	<b>Judith Aupers</b> <b>Head of Governance</b>  <b>Tel – 01543 464411</b>	<b>Bob Kean</b> <b>Head of Financial</b> <b>Management</b> <b>Tel – 01543 464334</b>
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## **4 DISCLOSURE PROCEDURE**

### **Reporting Concerns to the Money Laundering Reporting Officer (MLRO)**

- 4.1 Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited activity under POCA as defined in paragraph 3.1, you must disclose this as soon as practicably possible to the MLRO. **Delays or failure to report may leave you personally liable to prosecution.**

<sup>2</sup>Defined by Section 340 (9) of POCA - “Property is all property wherever situated and includes-  
(a) money;  
(b) all forms of property, real or personal, heritable or moveable;  
(c) things in action and other intangible or incorporeal property.”

4.2 Your disclosure should be made to the MLRO **initially verbally (in person or by telephone)**. You will need to provide as much detail as possible, for example: -

- Full details of the people involved (including yourself, if relevant), eg name, date of birth, address, company names, directorships, phone numbers, etc;
- Full details of the nature of their/your involvement - if you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of POCA (see section 3.1 above for details), then you will need consent from the National Crime Agency (NCA), via the MLRO, to take any further part in the transaction. You should therefore make it clear in the report whether there are any deadlines for giving such consent e.g. a completion date or court deadline;
- The type of money laundering activity involved. The MLRO can help identify this.
- The dates of such activities, including whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets

**All available information needs to be given to the MLRO to enable him/her to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him/her to prepare his report to NCA, where appropriate.**

4.3 Following the initial contact you should promptly complete the “Report to Money Laundering Reporting Officer” Form (with the assistance of the MLRO where necessary) which is attached as Appendix 1. You should also enclose copies of any relevant supporting documentation.

4.4 Once you have reported the matter to the MLRO you must follow any directions they may give you. **You must NOT make any further enquiries into the matter yourself**; any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All employees will be required to co-operate with the MLRO and the Police during any subsequent money laundering investigation.

4.5 Similarly, **at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or tell them you have reported the transaction**, even if the NCA has given consent to a particular transaction proceeding; **otherwise you may commit a criminal offence by prejudicing the investigation which carries a maximum penalty of 5 years imprisonment and an unlimited fine.**

4.6 Do not, therefore, make any reference on a client file in any form e.g. record of telephone conversation, e-mails etc to a report having been made to the MLRO – should the client exercise their right to see the file, under the Data Protection or Freedom of Information Act, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

### Consideration of the disclosure by the Money Laundering Reporting Officer

- 4.7 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his/her section of the report and acknowledge receipt of it. He/she should also advise you of the timescale within which he/she expects to respond to you.
- 4.8 The MLRO will consider the report and any other available internal information he/she thinks relevant eg:
- reviewing other transaction patterns and volumes;
  - the length of any business relationship involved;
  - the number of any one-off transactions and linked one-off transactions;
  - any identification evidence held;

he/she will undertake such other reasonable enquiries he/she thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

- 4.9 Once the MLRO has evaluated the disclosure report and any other relevant information, he/she must make a timely determination as to whether:
- there is actual or suspected money laundering taking place; or
  - there are reasonable grounds to know or suspect that is the case; and
  - whether he/she needs to seek consent from the NCA for a particular transaction to proceed.
- 4.10 Where the MLRO concludes a referral is needed then he/she must disclose the matter as soon as practicable to the NCA on their standard Suspicious Activity Report (SAR) form and in the prescribed manner<sup>3</sup>, unless he/she has a reasonable excuse for non-disclosure to NCA (for example, the reporter is a lawyer and wishes to claim legal professional privilege for not disclosing the information).
- Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure then he/she must note the report accordingly. he/she can then immediately give their consent for any ongoing or imminent transactions to proceed. In cases where legal professional privilege may apply, the MLRO must liaise with the Monitoring Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
  - Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits<sup>4</sup> without objection from the NCA.

<sup>3</sup> The preferred manner is via the online reporting facility on SOCA website, the designated MLROs will have accounts set-up for them to use this facility at [www.soca.gov.uk](http://www.soca.gov.uk).

<sup>4</sup> The time limit after which the transaction can be processed is 7 days from the day after the SAR is submitted if no refusal is received or 31 days from the day the refusal is given if notice to proceed has not been issued earlier.

- 4.11 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he/she shall mark the report accordingly and give his/her consent for any ongoing or imminent transaction(s) to proceed.
- 4.12 All disclosure reports referred to the MLRO and reports made by him/her to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 4.13 ***The MLRO could commit a criminal offence if he/she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him/her, that another person is engaged in money laundering and he/she does not disclose this as soon as practicable to the NCA.***

## **5 CLIENT IDENTIFICATION PROCEDURE**

- 5.1 Where a cash payment of over £2,000 is received, or where any form of payment from an unknown organisation exceeding €15,000 is received, officers dealing with the matter will need to establish the identity of the individual/company involved to seek to ensure that the risk of receiving the proceeds of crime can be minimised. An unknown person/organisation is someone who the Council has not had any dealings with prior to the transaction eg it could be a new developer we have not worked with before on a regeneration scheme.
- 5.2 For individuals, their passport or photo driving licence should be provided, together with one of the following:
- Utility bills i.e. electricity, water etc. however mobile phone bills are not acceptable
  - Mortgage/building society/bank statements
  - Credit card statements
  - Pension or benefit confirmation letters
- If a passport or photo driving licence is not available, then two of the other items listed above will need to be produced.
- 5.3 For companies, a Companies House Search should be undertaken to confirm the existence of the company and identify who the directors are. Personal identification should then be obtained for the representatives of the company together with proof of their authority to act on behalf of the company. Care should be taken if it becomes clear that the individual has only recently become a director of the company or if there has been a recent change in the registered office.
- 5.4 For any other type of organisation, for example a sole trader or partnership, personal identification should be obtained for the individuals together with documents indicating their relationship to the organisation.
- 5.5 Copies of any evidence provided in support of the identification of an individual or organisation should be kept on a central file by the Head of Governance so that it can be referred to later if necessary. Records should be kept for 5 years after the end of the transaction

**6 Administrative Arrangements**

- 6.1 The Head of Governance has overall responsibility for this framework.
- 6.2 The Council has in place a clear network of systems and procedures to assist it in dealing with fraud and corruption. These arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation. The Head of Governance will maintain a continuous overview of the arrangements in place.
- 6.3 This framework will be reviewed and updated periodically to follow best practice and other changes.
- 6.4 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This framework has been written so as to enable the Council and all of its employees/Members to meet the legal requirements in a way that is proportionate to the low risk to the Council and its employees of contravening the legislation.
- 6.5 Should you have any concerns whatsoever regarding any transactions then you should contact one of the MLROs.

**Anti-Money Laundering Framework**

APPENDIX 1  
CONFIDENTIAL

**Report to Money Laundering Reporting Officer  
re money laundering activity**

From \_\_\_\_\_ Tel \_\_\_\_\_

Section \_\_\_\_\_ Date of Report \_\_\_\_\_

**Details of Suspected Offence**

**Main Subject (Person)**

Surname:		Forename(s):		Title:	
Date of Birth:		Gender:			
Occupation:		Employer			
Address (in full inc Postcode) Please state if Home/Business/etc Current or Previous					

**Or**

**Main Subject (Company)**

Company Name:		Company No:	
Type of Business:		VAT No:	
Country of Reg:			
Address (in full inc Postcode) Please state if Current or Previous			

**Bank Account Details**

Account Name:			
Sort Code:		Account No:	

## Anti-Money Laundering Framework

### Other Information

Any knowledge/evidence held to confirm identification and/or address i.e. passport/driving licence etc:

### Connected Subject Person (if any)

Surname:		Forename(s):		Title:	
Date of Birth:		Gender:			
Occupation:		Employer			
Address (in full inc Postcode) Please state if Current or Previous					

Or

### Connected Subject Company (if any)

Company Name:		CompanyNo:	
Type of Business:		VAT No:	
Country of Reg:			
Address (in full inc Postcode) Please state if Current or Previous			

## Anti-Money Laundering Framework

### Bank Account Details

Account Name			
Sort Code:		Account No:	

### Other Information

Any knowledge/evidence held to confirm identification and/or address i.e. passport/driving licence etc:

**Reason for the Suspicion**

**Please set out the reason for the suspicion.**

Please continue on separate sheet if required

**Have you discussed your suspicions with anyone else?**

Yes  No

Please tick relevant box

**If yes please include details below**

**Please set out below any other information that you feel is relevant:**

**Signed \_\_\_\_\_ Date \_\_\_\_\_**

**Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described.**

**Anti-Money Laundering Framework**

**THE REMAINING PARTS OF THIS FORM ARE FOR COMPLETION BY THE MLRO**

Date report received \_\_\_\_\_

Date receipt of report acknowledged \_\_\_\_\_

**Consideration of Disclosure**

**Action Plan**

**Outcome of Consideration of Disclosure**

**Are there reasonable grounds for suspecting money laundering activity?**

**Anti-Money Laundering Framework**

**If there are reasonable grounds for suspicion, will a report be made to NCA?**

Please tick relevant box

Yes  No

**If yes, please confirm full date of report to NCA: \_\_\_\_\_  
and complete the box below:**

**Details of liaison with NCA regarding the report**

**Who Reported to or OnlineSAR reference number \_\_\_\_\_**

**Notice Period \_\_\_\_\_ to \_\_\_\_\_.**

**Moratorium period \_\_\_\_\_ to \_\_\_\_\_.**

**Is consent required from NCA to any ongoing or imminent transactions  Yes  No  
which would otherwise be prohibited acts?**

**If yes, please confirm full details in the box below**

**Date consent received from NCA \_\_\_\_\_**

**Date consent given by you to employee / Member \_\_\_\_\_**

**Anti-Money Laundering Framework**

**If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to NCA, please set-out below the reason(s) for non-disclosure:**

**Date consent given by you to employee for any prohibited act \_\_\_\_\_  
transaction to proceed where no disclosure made.**

Other relevant information:

Signed \_\_\_\_\_ Date \_\_\_\_\_

**THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS**