



GUILDFORD  
B O R O U G H

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**Pedro Wrobel**  
Joint Chief Executive  
Guildford & Waverley  
Borough Councils

**Executive**

**Thursday, 16th May, 2024**

**Supplementary Information Sheet**

**Agenda No    Item**

8.    **Supplementary Agenda Pack - Anti-Fraud & Corruption Policy and Strategy (Pages 1 - 66)**

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# **Guildford Borough Council**

Report to: Executive

Date: 16 May 2024

Ward(s) affected: All

Report of Director: Joint Executive Director of Finance (S.151 Officer)

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Report Status: Open

## **Guildford Borough Council**

### **Anti-Fraud and Corruption Policy**

#### **1. Executive Summary**

1.1 Guildford Borough Council encourages staff and others to report any cases of suspected wrongdoing or misconduct, illegal acts, or failure to act within the Council, as part of its commitment to act with integrity and openness in the best interest of its residents and communities. To govern any such disclosures, the Council has an Anti-Fraud and Corruption Policy. That Policy has been reviewed and updated.

#### **2. Recommendation to Committee**

The Executive is recommended:

2.1. To consider and adopt the proposed Anti-Fraud and Corruption Policy at Appendix 1 together with the accompanying appendices:

Appendix 2 – Anti Bribery Policy

Appendix 3 – Counter Fraud Policy

Appendix 4 – Fraud Prosecution Policy

Appendix 5 – Anti Money Laundering Policy

Appendix 6 – Fraud Response Plan

### **3. Reasons for Recommendation:**

- 3.1. Guildford Borough Council operate a 'zero tolerance' approach towards fraud and corruption and we will use the full range of sanctions available against any individual or organisation found to be committing fraud. Every pound taken by theft or fraud reduces our ability to provide services to the people who need them the most.
- 3.2. It is right and proper to uphold the principles of transparency to encourage individuals to make any disclosures and raise any concerns where they suspect wrongdoing.
- 3.3. It is important that the Council has a Policy in place to govern and investigate issues related to Fraud and corruption and such Policy is kept under regular review.
- 3.4. As the adoption of the Policy is within the remit of the Executive, there is merit in the Executive having the opportunity to consider any proposed revisions to the Policy and being able to provide feedback.

### **4. Exemption from publication**

This report does not contain exempt information under schedule 12A to the Local Government Act 1972.

### **5. Purpose of Report**

The purpose of the report is for the Executive to have the opportunity to consider the proposed Council's Anti- Fraud and Corruption Policy and to provide feedback whether to adopt the Policy.

## **6. Strategic Priorities**

- 6.1. One of the Council's values is to ensure that its councillors and staff uphold the highest standards of conduct.
- 6.2. The Council's mission is to be a trusted, efficient, innovative, and transparent Council that listens and responds quickly to the needs of our community.

## **7. Background**

- 7.1. The aim of the Anti-Fraud Policy is to prevent any form of fraud from happening in the Authority as well as encourage employees and others who have serious concerns about any fraudulent activities to come forwards and voice those concerns.
- 7.2. The Council's Anti-Fraud Policy intends to:
  - Take appropriate measures to prevent and deter fraud;
  - Encourage employees to report any suspicions of fraud;
  - Take appropriate disciplinary, civil, or criminal proceedings;
  - Report suspected fraud to the police and all relevant organisations.
  - Reassure staff that they should be able to raise genuine concerns without fear of reprisals, victimisation, subsequent discrimination, disadvantage or dismissal, even if they turn out to be mistaken, provided the disclosure is made in the public interest.
- 7.3. The Council is committed to conducting business with honesty and integrity and expects all staff to maintain high standards of conduct. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct and activities. A culture of openness and accountability is essential to prevent such situations occurring or to address them when they do occur.

- 7.4 Having an Anti-Fraud and Corruption policy is viewed by the Council as a policy that can prevent the occurrence of fraudulent activities and make a valuable contribution to the Council's efficiency and long-term success. The Council is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all aspects of its practices.
- 7.5 The Anti-Fraud and Corruption Policy should be regularly reviewed at least every two years, or more frequently where there is change to legislation or statutory guidance, or learning from its operation that should be considered.
- 7.7 It is proposed that Guildford Borough Council and Waverley Borough Council attempt to align their Anti-Fraud and Corruption Policies as far as it is appropriate to do so, whilst accepting there may be local differences. This is with a view to supporting the collaboration and transformation programme.

## **8. Consultations**

- 8.1. The purpose of this report is to consult with the Council's Executive and to obtain feedback whether to adopt this policy.

## **9. Key Risks**

- 9.1. There is a risk of not having an Anti-Fraud and Corruption Policy in place, fraudulent activities are not detected.
- 9.2. There is a risk that disclosures are not made, or not made in a transparent way, or dealt with in accordance with process. There is a greater risk of fraudulent activities and wrongdoing going unchecked within the Council.

## **10. Financial Implications**

There are no financial implications arising from this report.

## **11. Legal Implications**

- 11.1. This Committee's terms of reference provide that the Committee is responsible for considering an annual report of the operation of the Anti-Fraud and Corruption policy, including incidents reported.
- 11.2. The Constitution provides that the Executive is responsible for making decisions on all executive matters within the policy framework which are not the responsibility of any other part of the Council.

## **12. Human Resource Implications**

There are no Human Resource implications arising from this report.

## **13. Equality and Diversity Implications**

There are no Equality & Diversity implications arising from this report.

## **14. Climate Change/Sustainability Implications**

There are no Climate Change/Sustainability implications arising from this report.

## **15. Background Papers**

None.

## **16. Appendices**

Appendix 1 – Anti-Fraud and Corruption Policy

Appendix 2 - Anti Bribery Policy

Appendix 3 – Counter Fraud Policy

Appendix 4 – Fraud Prosecution Policy

Appendix 5 – Anti Money Laundering Policy

Appendix 6 – Fraud Response Plan

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**Guildford Borough Council**  
**Anti-Fraud and Corruption Policy and**  
**Strategy**





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## Anti-fraud Policy Statement

- 1.1 We (Guildford Borough Council) operate a 'zero tolerance' approach towards fraud and corruption and we will use the full range of sanctions available against any individual or organisation found to be committing fraud. Every pound taken by theft or fraud reduces our ability to provide services to the people who need them the most.
- 1.2 There are both internal and external threats of Fraud & Corruption against the Council. We are compliant with good practice in local government; we seek to Govern, Acknowledge, Prevent, Pursue and Protect the public purse and the interests of our clients, partners, employees, and other stakeholders and retain a high ethical standing within the community.
- 1.3 This policy applies to all parts of the Council and to all our Councillors, employees, temporary and agency staff, volunteers, contractors, and consultants in relation to their work with/for us. We rely on the support of staff, businesses, and the community to deliver the services we provide to people in need. Loss of confidence in the Council because of fraud or corruption could have an adverse impact on our funding and investment in the area, leading to a more severe impact on the services we deliver than the initial theft.
- 1.4 We expect all our Councillors, employees, agency and temporary workers, consultants, contractors, partner organisations, service users and all residents to be honest, and to give us any help, information and support we need to deal with fraud and corruption. In return, we will:
  - Take appropriate measures to prevent and deter fraud;
  - Introduce and maintain procedures to detect fraud;
  - Encourage employees to report any suspicions of fraud;
  - Provide resources to train our staff about fraud risk and investigate fraud;
  - Take appropriate disciplinary, civil, or criminal proceedings; and
  - Report suspected fraud to the police and all relevant organisations.
- 1.5 It is in everyone's interests to prevent fraud and corruption from happening. Report any suspected incident immediately to your manager and to the Section 151 Officer (unless you suspect your manager may be involved). This strategy and response plan sets out what we mean by

fraud; how we tackle fraud; what you should do if you suspect fraud; and how we will respond.

 <p>SPEAK-OUT-¶ ABOUT-¶ FRAUD-¶</p>	<p>If-you-have-any-concerns-about-fraud,-we-want-to-know:-¶</p> <p> Call-in-confidence:-<b>01483-444036</b>¶</p> <p>-Email:¶</p> <p><a href="mailto:monitoringofficer@guildford.gov.uk">monitoringofficer@guildford.gov.uk</a>- <a href="mailto:section151officer@guildford.gov.uk">section151officer@guildford.gov.uk</a>-¶</p> <p> Write-to:-Section-151-Officer,-Guildford-Borough-Council,-Millmead-House,-Millmead,-Guildford,-GU2-4BB¶</p>
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## Anti-fraud and Corruption Strategy

### 2. Definition of Fraud and Corruption

2.1 The Fraud Act 2006 introduced the first legal definitions of fraud, which is used for the criminal prosecution of fraud offences. Fraud is defined as a wrongful act or criminal deception intended to result in financial or personal gain. Corruption is defined as the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person.

2.2 The following are some of the highest risk fraud areas for the Council, from external threats, these are the frauds most likely to be instigated by residents or individuals outside of our organisation:

- Housing tenancy fraud including subletting of a council property;
- False identity or making false declarations to obtain council services, this includes but is not limited to:
  - privileges such as a parking blue badge,
  - ad hoc financial support,
  - disabled facilities or covid grants;
  - discounts or exemptions on business rates or council tax,
  - direct payments;
- False or exaggerated insurance claims;
- Collusion between companies when tendering for Council contracts; and Right to Buy fraud.

2.3 In addition, where the award of services is legitimate a failure to notify of a change in circumstances or even death of the service user so that the financial benefit received can continue and/or be received by others.

2.4 The following are some examples of internal fraud or corruption, which you may come across:

- Providing false identity or right to remain/work documents, references, or any other information when applying for a job;
- Making false claims for expenses, overtime, flexitime, or any other allowance;
- Not declaring a conflict of interest e.g., owning properties which are leased to the Council, or receiving benefits from the Council; you or your family owning companies which we do business with; or

working for organisations which receive grant funding from the Council;

- Not declaring associated conflict of interest in companies and organisations the Authority undertake various forms of transactions with.
- Abuse of position by allocating housing, or any other benefits or services, to people who are not entitled to them;
- Misusing Blue Badges, residential, business or any other parking permits;
- Fraudulently claiming any benefits, we, the DWP or HMRC provide, including housing benefits, working/child tax credits, disability benefits, and council tax benefits;
- Fraudulently making, or exaggerating, an insurance claim against the Council;
- Using our vehicles, IT equipment, offices/buildings, stocks, materials, or any other resources for personal use, or to run a private business;
- Theft of money, materials or other resources from the Authority, our partners, or our clients;
- Collusion with contractors including in the procurement process or raising orders, or submitting invoices for payment when the work hasn't been done;
- Working for another organisation, running a business, or being self-employed during contracted hours, including working whilst off sick;
- Accepting gifts or hospitality from contractors, or organisations who are bidding for work, or who we have contracts with, or who receive grants from us.

2.5 The above list can't cover every example of fraud or corruption. If you have any questions, please contact the Section151 Officer for further advice.

## **Responsibilities**

2.6 We expect all individuals, groups and organisations that receive services from, or provide services on behalf of the Council to be honest in their dealings with us and our clients and customers. Councillors and managers are expected to lead by example regarding observing the Seven Principles

of Standards in Public Life, as set out by the Nolan Committee. These are shown below:

**Selflessness-** Holders of public office take decisions in terms of the public interest. They should not do so to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity-** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their performance of their official duties.

**Objectivity-** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability-** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness-** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty-** Holders of public office have a duty to declare any private interests relating to their public duties to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership-** Holders of public office should promote and support these principles by leadership and example.

- 2.7 We expect our Councillors and employees, including any temporary, agency and consultancy resources, to lead by example in preventing, deterring, and advising of suspected fraud and corruption and these responsibilities are summarised below:

<b>Individual/Group</b>	<b>Role/Responsibility</b>
Corporate Governance and Standards Committee	Approving and monitoring corporate anti-fraud policies. Reviewing reports relating to fraud risks and investigations from internal and external auditors.
Corporate Management Board	Overseeing the council's approach to counter-fraud activity, setting the tone to embed a culture of high standards. Ensuring a consistent approach to identifying and managing fraud risk is adopted by all service areas. Reviewing reports to ensure that risks relating to fraud are being managed appropriately.
Strategic Directors/Executive Heads of Service/Lead Specialist	Introducing and maintaining effective controls to prevent fraud or corruption from happening in their service area, or corporate programme. Ensuring that a fraud or corruption risk assessment has been conducted for their service area/ corporate programme. Notifying all suspected fraud or corruption incidents within their service area/ programme to the Strategic Director Finance. Approving follow up action to be taken in response to actual incidents of fraud or corruption.
Section 151 Officer/ Monitoring Officer	The Section 151 and Monitoring officers will ensure: Regular assessments of fraud risks and the resources and skills are available to tackle fraud. Consultation with Directors/Assistant Directors about the best course of action when suspected fraud or corruption incidents are raised. Allocation of an investigator, consulting with appropriate senior managers and HR personnel at agreed stages during any investigation into internal fraud or corruption and completing the investigation within agreed timescales. The police, and other organisations are notified when a criminal prosecution is required. Facilitating fraud and corruption awareness training. Provision of regular reports to the Authority's Leadership Group and Corporate Governance Committee on fraud risks and pro-active and responsive investigations. Providing advice and guidance on internal controls to prevent fraud or corruption. Undertaking pro-active projects to identify possible fraud or corruption.



Employees and Councillors	Complying with the Council’s Codes of Conduct and Constitution. Informing their manager, or Assistant Director and Head of Audit & Risk Management of any suspected fraud or corruption incidents.
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## Our Approach to Fighting Fraud & Corruption

We have aligned our fraud approach to the recommended Fighting Fraud Locally Strategy for the 2020s. The guiding principles of this Strategy are to: Govern; Acknowledge; Prevent; Pursue and Protect.

### 4.1 Govern

Those charged with governance support the local arrangements and the policy is embedded throughout the organisation. Our strategy should be read in conjunction with our Counter Fraud Policy which sets out how we tackle the risk of fraud and investigate allegations of fraud; and the Council's Whistleblowing Policy, which is intended to encourage and enable employees to raise serious concerns.

### 4.2 Acknowledge

The risks faced by the Council are recognised and evaluated to ensure the right capability and capacity are in place. Understanding the risks helps to determine how we respond. Annually, risks and responses are considered by the Section 151 Officer in consultation with stakeholders.

### 4.3 Prevent

As part of the Annual Audit Plan the controls within processes, owned by management, to prevent or deter internal and external fraud and corruption are evaluated as well as the corporate availability of technology and data sharing mechanisms that form a second line of defence in preventing and/or detecting fraud and corruption activities. The majority of resources are deployed to prevent the opportunity for fraud or corruption to occur in the Council.

### 4.4 Pursue

The development of capacity and capability to efficiently investigate and use sanctions to punish fraudsters and recover losses. Prioritising use of civil sanctions and collaborating with other agencies. We will use all sanctions available to us to deal with anyone committing fraud or corruption, including referring cases to the police, prosecuting offenders, and seeking recovery of monies and/or other assets obtained by fraud or

corruption. Our Sanctions Policy is attached (Appendix 3), which describes the process in more detail.

#### **4.5 Protect**

The protection of public funds, the organisation from serious and organised crime and protecting individuals from becoming victims of crime.

### **Related Council Policies**

We also have arrangements in place where any instances of suspected money laundering or bribery are reported. Our Anti-money Laundering Policy (Appendix 4) explains what money laundering is, and what we do to manage the risks associated with crime and money laundering. Our Anti-bribery Policy (Appendix 5) explains the legal position for the Council and employees; and how to report any concerns.

### **Monitoring**

- 4.6 This policy and the appendices are monitored and reviewed on a biennial basis. We will consult with all the relevant services areas to ensure that all relevant legal, financial and personnel issues are included in the review processes. Annually a workplan is set with actions to be completed in the year. How we prioritise resources is determined by our risk assessment.
- 4.7 The Council's Corporate Governance and Standards Committee has overall responsibility for this policy, and it is presented to the Committee for its approval when any review takes place. The outcomes of fraud work are communicated to Corporate Governance and Standards Committee as part of quarterly performance reports and our Annual Report.

### **Training**

- 4.8 The Council recognises that the continuing success of its Anti-Fraud, Corruption Policy and its general credibility and reputation will depend largely on the effectiveness of programmed training and the responsiveness of employees throughout the organisation. Therefore, proper training is essential, particularly for employees involved in internal control systems. All employees will be made aware of the Anti-Fraud and Corruption Policy via various channels of communication e.g., service team briefings and the intranet.

- 4.9 The investigation of fraud, corruption is carried out by the Section 151 Officer in consultation with Guildford Borough Council's Executive Heads of Service whose skill base in investigative techniques is maintained by appropriate training. It is necessary, therefore, that employees involved in this work should be properly and regularly trained; the training plans of these employees will reflect this requirement.
- 4.10 In addition, Guildford Borough Council will seek via appropriate publicity to increase and maintain the public awareness of the facilities available to report concerns of fraud and corruption by making available appropriate channels on the Guildford Borough Council website and providing a Fraud confidential reporting telephone line.

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# **Guildford Borough Council Anti-Bribery Policy**

## Impact Assessments and Consideration:

Impact Assessment Type	Required / Not Required	Date Completed		Impact Assessments and Considerations Comment	Assessment Owner
Equality Impact Assessment				Everyone will be treated equally in accordance with the law and the contents of the agreed council's fraud related policies	
Data Protection Impact Assessment				Information obtained will be treated in accordance with legal requirements.	

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## Policy Statement

This document demonstrates Guildford Borough Council's (the Council) commitment to educate those that are employed, including those acting on behalf of the council and those with whom we do business, with our expectations and governance arrangements to report and, deter acts of bribery and the action that will be taken if allegations of bribery are found to have substance.

Bribery refers to the offering, giving, soliciting, or receiving of any item of value as a means of influencing the actions of an individual holding a public or legal duty.

## Introduction

### Scope of this policy

This policy covers Councillors, staff at all levels and grades, including those employed by agency, contractors, non-executives, volunteers and consultants. It also applies to all of the Council's activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

This policy provides a coherent and consistent framework to enable the Council's Councillors and employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents (most notably the Counter Fraud Policy), it will also enable employees to identify and effectively report a potential breach.

We require that all Councillors and staff:

- act honestly and with integrity always and to safeguard the Council's resources for which they are responsible; and
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions within which this Council operates, in respect of the lawful and responsible conduct of activities.

## This council's commitment to action

This Council commits to:

- develop and communicate adequate anti-bribery procedures based on principles such as risk and proportionality;



- ensure that there is a genuine commitment to the anti-bribery procedures from senior management;
- ensure that the anti-bribery procedures are clear, practical, accessible, effectively implemented, monitored and enforced;
- apply due diligence procedures in respect of persons who perform or will perform services for or on behalf of the Council;
- set out a clear anti-bribery policy and keep this policy up to date;
- make Councillors and staff aware of their responsibilities to adhere to this policy at all times;
- encourage staff to be vigilant and to report any suspicions of bribery;
- rigorously investigate instances of alleged bribery and to assist the Police and other appropriate authorities where necessary;
- take firm and vigorous action against any individual(s) proved to have been involved in bribery; and
- include appropriate clauses in contracts to prevent bribery.

## **Gifts and hospitality**

This anti-bribery policy is not meant to change the requirements we already have in place regarding gifts and hospitality, for example, as defined in the Officers' and Members' Codes of Conduct. Central Government does not intend that genuine hospitality or similar business expenditure that is reasonable and proportionate be caught by the Bribery Act. Therefore, it is reasonable to continue to provide or accept appropriate hospitality, promotional or other business expenditure providing it is in accordance with the Codes set out below.

To avoid any doubt, the main points of the existing Members' and Officers' Codes of Conduct that relate to hospitality are listed at points 1 to 8 below. Both Codes of Conduct can also be found in full on the Intranet or the Council website.

### **Councillors**

1. Councillors must exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor.
2. Councillors must not accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, license or other significant advantage.

3. A Councillor must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50, within 28 days of receipt.

## **Officers**

1. Employees should accept offers of hospitality only if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. They should be authorised by your Executive Head of Service, in advance where possible.
2. When hospitality is declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
3. Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc. when you are satisfied that there is no ulterior motive associated with the offer of the gift and where acceptance gives no danger of misinterpretation by a member of the public.
4. When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
5. Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc are required, you should claim any personal expenses involved from the Authority to avoid jeopardising the integrity of subsequent purchasing decisions.
6. Gifts which fall outside the definition re insignificant items of token value above should be politely refused and the Authority's policy on the acceptance of gifts should be explained. If you have any doubt, please seek advice from, in the first instance, your Executive Head of Service.

7. If a gift is delivered to the office without prior warning, unless it falls within the scope of insignificant gifts (see 3 above), in consultation with your Executive Head of Service, the gift should be returned.
8. All hospitality offered, whether or not it is accepted, and all gifts offered or received, whether or not they are accepted or returned, must be entered in the Register of Hospitality and Gifts on Backstage and a note made of the action taken.

## **Responsibilities of councillors and staff**

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All Councillors and staff are required to avoid activity that breaches this policy.

You must ensure that you read, understand and comply with this policy, and that you raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future. You should be aware that a breach of the Bribery Act can lead to civil and criminal prosecution; in addition, a breach of this policy may result in disciplinary action, which could lead to dismissal on the grounds of gross misconduct.

## **Raising a concern**

As a first step, employees should normally raise concerns (verbally or in writing) with their immediate manager or supervisor. If circumstances dictate that this isn't possible, then other contacts for raising a concern are:

- Chief Executive                      01483 444271
- Monitoring Officer:                      01483 444022
- Section 151 Officer:                      01483 444036

The Council's Confidential Reporting (Whistleblowing) Policy can also be used to raise bribery concerns.

If the concern is not able to be raised via internal channels, then options such as Local Councillors; Trade Unions; The Police; or The Local Government Ombudsman are all possible alternatives.

Staff not involved with bribery who raise a genuine concern, either via the Confidential Reporting (Whistleblowing) Policy or otherwise, will not be at risk of losing their job or suffering any form of retribution or harassment as a result. Providing those concerns raised are genuine and in good faith, it does not matter if they are mistaken or ultimately turn out to be not proven.

The Council welcomes comments and feedback on its policies and procedures. This policy will be reviewed at least bi-annually by the Section 151 Officer, unless legislation or sector development require otherwise, ensuring that it continues to meet its objectives and take account of good practice developments. The policy will be presented for endorsement to the Corporate Governance and Standards Committee every two years. If you have any comments, please provide these to the Section 151 Officer.

This policy is not exhaustive and may be subject to change.

# **Guildford Borough Council Counter Fraud Policy**

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## Introduction

Guildford Borough Council (the Council) recognises that detected fraud and corruption in local authorities is increasing and that it has a statutory duty to minimise the risk of fraud and where possible prevent fraud and corruption from occurring in the authority. *Fighting fraud and corruption locally 2020*<sup>1</sup> is the updated counter fraud and corruption strategy for local government. It provides a blueprint for a coordinated response to fraud and corruption perpetrated against local authorities. The strategy outlines a governance framework that calls for continued national and regional collaboration on counter fraud under the fighting fraud and corruption locally umbrella. Aligning our own policy and strategy to this framework supports the development and maintenance of a culture in which fraud and corruption are unacceptable.

The aim of this policy and other antifraud measures put in place by the council is to develop and embed strong antifraud culture. This not only acts as a deterrent to potential perpetrators of such activity but it will also assist the council and protecting vital services and managing its resources effectively.

There will always be a small minority who consider fraud to be acceptable. The Council has put in place appropriate measures to prevent fraud from entering the system, but when it does occur, the council will act swiftly to detect, investigate, and punish those identified to have been involved in fraudulent activity. The Council will utilise all available criminal civil regulatory and disciplinary sanctions and will seek to recover all losses where this is in the public interest and taking account of the resources available. This policy applies to all:

- members and employees of the council
- agency workers and consultants engaged by the Council.
- the Council's agents, partners, suppliers and contractors supplying goods or services to the council or performing work and/or delivering services on behalf of the Council.
- members of the public in use of Council services

There are three ways the Council can discharge this duty. These are by making all members, employees and the public:

- aware of the Council's views on fraud and corruption;
- aware of their personal responsibilities in relation to the conduct;
- aware of what action they should take if they become aware of fraud or corruption.

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<sup>1</sup> [FFCL - Strategy for the 2020s.pdf \(local.gov.uk\)](#)

This policy document covers (i), while the 'Fraud Response Plan' has been developed to cover (ii) and (iii) above.

This policy supports the local code of corporate governance and promoting the values of good governance through the upholding of high standards of conduct and behaviour.

## **Policy Statement**

The Council is committed to the prevention and detection of fraud, bribery and/or corruption and associated activities whether it is perpetuated against or arises from within the Council, to protect public funds. Where fraud, bribery and/or corruption is suspected or identified the Council will commission an investigation and take all reasonable steps to recover losses.

The Council will use sanctions where the need is identified. This may include informing the police to pursue a prosecution (wherever relevant), and/or the use of disciplinary action against employees where fraud bribery and/or corruption is suspected or identified, whilst treating each case on its own merits and taking account of the public interest.

## **Strategic approach to fraud**

One of the basic principles in the management of public sector organisations is to ensure the proper use of public funds. It is, therefore, important that all those who work in the public sector are aware of the risks of fraud, bribery, corruption and/or money laundering, along with the measures available for their detection and prevention.

This policy sets out the Council's position in respect of fraud, bribery and/or corruption, along with associated activities, involving dishonesty such as money laundering, and tax avoidance. It is applicable to all aspects of the Council's business, employees, contractors and any person or organisation doing business with the Council.

The Council's use of sanctions will be governed by this policy and the principles of the policy shall apply equally to any fraud against the Council or against funds for which the Council has responsibility. The Council will not accept abuse of either its services or resources. Fraud, corruption and theft whether committed by staff (paid and volunteers), elected members, contractors, agents and/or other third parties will not be tolerated. All persons under suspicion will be treated fairly. This means that so far as it may be reasonable and/or appropriate to do so, the Council will look to strike the right balance between preservation of personal rights and freedoms and the public interest need, to ensure justice which is achieved in any given case.



The Council's fraud response plan, supports this policy provides further details on:

- definitions of fraud, bribery, corruption and money laundering
- what criminal offences relate to fraud, bribery, corruption and money laundering.
- the Council's approach to ensure adequate procedures in place to mitigate the risks.
- general roles and responsibilities
- an overview of relevant contacts for advice or reporting concerns
- the range of sanctions available to the council as a deterrent fraud, bribery and associated offences

This policy is underpinned by a strategy that sets out how this policy will be implemented and delivered, with specific reference to the outcomes and priorities identified in this policy.

## **Outcomes**

This policy seeks to achieve the following outcome:

Outcome - a zero tolerance to fraud, bribery, corruption and money laundering, with early detection and prompt investigation of fraud, bribery, corruption and money laundering, thereby engendering confidence and trust in the governance arrangements of the Council.

Strategy Action 1. – To promote to counter fraud culture and engage employees in combating fraud

Strategy Action 2. – Ensuring robust mechanisms for preventing, measuring, and reporting on fraud

Strategy Action 3. – Assessment of fraud risk identification of the area's most vulnerable to fraud

Strategy Action 4. – Sharing good practice to combat fraud

## **Links to other Corporate Policies or relevant external/legal documents**

This policy should be read in conjunction with:

1. Counter Fraud Policy
2. Fraud Prosecution Policy
3. Anti-Money Laundering Policy
4. Whistleblowing Policy

## 5. Anti Bribery Policy

These policies will be made available on the Authority's intranet.

Many service areas within the Council have statutory, regulatory, or other enforcement powers in place and have their own service specific policies that focus on those specific operational considerations. Those policies complement this policy, providing detailed operational context specific to the enforcement remit of the relevant services to which they relate. In the event, however, that conflict may arise, clarification should be sought from the Council's Monitoring Officer.

# **Guildford Borough Council Fraud Prosecution Policy**

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## **Introduction**

Guildford Borough Council (the Council) is committed to conducting its business properly through the application of a range of policies and procedures this policy relates to the prosecution of individuals who have breached regulatory or legislative requirements. Guildford Borough Council has a zero tolerance policy towards fraud, corruption and bribery. This commitment to preventing fraud and corruption is reinforced through the development of the Council's 'Anti-Fraud and Corruption Strategy and the Counter Fraud Policy' to prevent and minimise its occurrence.

The Council will constantly review and monitor its systems and amend procedures as required.

This policy does not supersede other internal disciplinary codes implemented by the Council, and internal offenders (e.g., Council employees or elected Members) will be subject to general disciplinary procedures in addition to potential prosecution. Where the offender is a contractor or subcontractor the Council would potentially prosecute, and this could result in the termination of the relevant contract.

## **Policy Statement**

This policy is intended to ensure that the Council applies the appropriate process when deciding to complete prosecutions against those individuals that commit improper conduct that can result in prosecution action being adopted.

## **General**

a) The Council's policy on fraud is to:

- Deter it in the first instance.
- Detect it quickly.
- Investigate it efficiently and in accordance with the law; and
- Prosecute offenders when appropriate.
- Make it as easy as possible for staff, Members and the Public to report concerns.

b) In order to prosecute;

- The evidence must be collected according to local procedures and in accordance with the necessary laws, which currently include the Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedures Investigations Act 1996 (CPIA), the

Regulation of Investigatory Powers Act 2018 (RIPA) and Prevention of Social Housing Fraud Act 2013.

- The Council must be satisfied that there is sufficient evidence to provide a ‘realistic prospect of conviction’ (*notwithstanding paragraph 3(f)*), meaning that a jury or bench of magistrates or a judge hearing a case alone, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.
  - If there is sufficient evidence to provide a realistic prospect of conviction, the Council must also be satisfied that it is in the public interest to prosecute.
- c) The Council will when considering a prosecution, and throughout the course of a case, always adhere to the principles contained in the Code for Crown Prosecutors issued by the Director of Public Prosecutions.
- d) In most cases, the Section 151 Officer where appropriate in consultation with the Chief Executive, or another designated officer, will decide whether reporting the matter to the Police is appropriate. In exceptional circumstances the Section 151 Officer may, after consultation with the Council’s Monitoring Officer/Legal Services, refer a matter to the Police direct without prior consultation. Cases will also be discussed with the Leader of the Council, and the relevant Portfolio Holder will be kept informed of progress.
- e) In deciding whether a fraud should be reported to the Police, the following factors will be taken into consideration: -
- The extent of the fraud/corruption in financial terms and how long the offence has lasted.
  - The sufficiency and appropriateness of evidence.
  - How the public interest will be best served.
- f) In general, all cases will be reported to the Police. However, the decision as to whether to prosecute or not ultimately rests with the Police and the Crown Prosecution Service, although the Council reserves the right to instigate proceedings itself if it is considered necessary. Any action will be taken in accordance with underlying principles, which include the following:
- Each case will be examined on its own merits;

- All persons under suspicion will be treated fairly;
- Decisions will only be taken when the facts are known; The rules of Natural Justice will always prevail.

g) The Section 151 Officer in consultation with the Monitoring Officer, will decide on the sanctions to be imposed should the case be deemed serious. These sanctions can include disciplinary action, criminal prosecution, civil litigation and/or referral to professional accredited bodies.

In respect of Housing Benefit fraud, this type of fraud is now investigated by the Department of Work and Pensions (DWP) as part of the Single Fraud Investigation Service. One of the basic principles in the management of public sector organisations is to ensure the proper use of public funds. It is, therefore, important that all those who work in the public sector are aware of the risks of fraud, bribery, corruption and/or money laundering, along with the measures and its detection and prevention.

This policy sets out the Council's position in respect of fraud, bribery and/or corruption, along with associated activities, involving dishonesty such as money laundering, tax avoidance and is applicable to all aspects of the Council's business, employees, contractors and any person or organisation doing business with the Council.

The Council's use of sanctions will be governed by this policy and the principles of the policy shall apply equally to any fraud against the Council or against funds for which the Council has responsibility. The Council will not accept abuse of either its services or resources. Fraud, corruption and theft whether committed by staff (paid and volunteers), elected members, contractors, agents and/or other third parties will not be tolerated. All persons under suspicion will be treated fairly. This means that so far as it may be reasonable and/or appropriate to do so, the Council will look to strike the right balance between preservation of personal rights and freedoms and the public interest need, to ensure justice which is achieved in any given case.

## **Publicity**

a) The Council's aim, and statutory responsibility, is to prevent the waste, theft and fraud of public money. With that in mind the Council has in place a wide range of measures aimed at preventing fraud, corruption and other wrong doings. These include measures to prevent and deter the commission of offences.

- b) One such deterrent measure is the publication of details of convictions obtained by the Council. The publicity surrounding a conviction for fraud has two positive effects. First, it deters others who may be seeking to commit such offences, and second it generates confidence in the general public that the Council takes a serious view of fraud and is proactive in seeking to prevent it.
- c) The Council will therefore consider publishing the name and address of each person convicted of fraud, together with details of the offence(s) in question. In reaching a decision as to whether to publish the name(s) and address(es), the Council will take the following factors into consideration;
- The specific details of the offence committed.
  - The public interest in disclosing personal information (for example, the deterrent effect referred to above).
  - Whether the publication would be proportionate.
  - The personal circumstances of the offender.
  - Whether any other person may be affected by the publication (for example, family members).
- d) This list is not exhaustive and other factors may be relevant in the circumstances of each individual case.
- e) When having considered the above factors, it is considered appropriate to publish details of a conviction, the Section 151 Officer will record the reasons for the publication, and the Monitoring Officer, will maintain a central register of the records.

### **Links to other Corporate Policies or relevant external/ legal documents**

This policy should be read in conjunction with all other related policies including:

- Anti Bribery Policy
- Counter Fraud Policy
- Fraud Prosecution Policy
- Anti Money Laundering Policy

These policies will be made available on the Council's intranet.

Several service areas within the Council have statutory, regulatory or other enforcement powers in place and have their own service specific policies that focus on those specific



operational considerations. These policies complement this policy, providing detailed operational context specific to the enforcement remit of the relevant services to which they relate. In the event, however, that conflict may arise, clarification should be sought from the Council's Monitoring Officer.

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**Guildford Borough Council  
Anti-Money Laundering Policy**

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## **1) Introduction**

- 2.1. The Council will do all it can to prevent the Council and its staff being exposed to money laundering through criminal activity, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially regarding the reporting of actual or suspected cases.
- 2.2. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 came into force on the 26 June 2017. There have subsequently been two amendments, neither of which impact on this policy, The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 and Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020. Although Local Authorities are not obliged to comply with the requirements of this legislation the Chartered Institute of Public Finance and Accounting (CIPFA) advises that an organisation should consider a policy framework which supports the implementation of the counter fraud strategy and includes an anti-money laundering policy to prevent the use of their services for money laundering.

## **2) Scope**

- 2.3. This Policy applies to all officers, whether permanent or temporary, and Members of the Council. Officers and Members must be familiar with their responsibilities in preventing criminal activity through money laundering and must be vigilant at all times.
- 2.4. The policy applies to all areas of work undertaken by the Council.
- 2.5. The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.

2.4 Further information is set out in the accompanying Guidance on page 10.

2.6. This Policy sits alongside the Council's Whistleblowing Policy and Anti-Fraud and Corruption Policy.

2.7. Failure by an officer or Member to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary and Capability Procedure.

### **3) Definition of Money Laundering**

3.1 Money laundering is the term used for a number of offences involving the proceeds of crime or terrorism funds. The following constitute the act of money laundering:

- concealing, disguising, converting, transferring criminal property or removing it from the UK
- 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.
- acquiring, using or possessing criminal property
- doing something that might prejudice an investigation (for example falsifying a document)

3.2 These are the primary money laundering offences and are therefore prohibited acts under the legislation. There are also two secondary offences:

- Failure to disclose any of the primary offences.
- Tipping off - where someone informs a person or people who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their

being investigated or prejudicing an investigation. Tipping off carries a maximum penalty of five years imprisonment.

3.3 Potentially any officer or Member could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it.

#### **4) Obligations on the Council**

4.1 The Council is required to establish and maintain policies, controls and procedures to mitigate and effectively manage the risks of money laundering and terrorist financing. This includes:

- appointing a Money Laundering Reporting Officer (MLRO) to receive disclosures from officers and members of money laundering activity
- implementing a reporting procedure to enable the reporting of suspicions of money laundering
- The policies, controls and procedures must be:
- proportionate with regard to the size and nature of the relevant person's business, and
- approved by its senior management.
- The policies, controls and procedures must be regularly reviewed and must include:
  - cash payments
  - risk management practices
  - internal controls
  - customer due diligence
  - record keeping procedures
  - the monitoring and management of compliance with, and the internal communication of, such policies, controls and procedures.
- training to recognise transactions that may indicate money laundering.

- maintaining client identification procedures in certain circumstances

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

The officer nominated to receive disclosures about money laundering activity within the Council is:

Richard Bates

Joint Strategic Director of Finance

e-mail: Richard.bates@guildford.gov.uk

Telephone: 01483 444036

Guildford Borough Council

Millmead House

Guildford

Surrey

GU2 4BB

## **6) Reporting Procedure**

- 6.1 Where an officer or Member becomes aware or suspects that money laundering may have taken place (or may be taking place) they must contact the MLRO regardless of the amount.
- 6.2 If an officer or Member becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation it must be reported to the MLRO. Disclosure must be within hours of the information coming to light. Failure to do this may render the officer or Member liable to prosecution.
- 6.3 Disclosure should be made to the MLRO using the form at Appendix A to this policy. Full details must be included in the form.
- 6.4 If the officer or Member is concerned that their involvement in the transaction would amount to a prohibited act under the definition of Money Laundering at paragraph 3. consent will be



needed from the National Crime Agency (NCA), via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. The officer or Member should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g., a completion date or court deadline.

- 6.5 Information given in the reporting form must enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable the MLRO to prepare a report to NCA, where appropriate.
- 6.6 Once the matter is reported to the MLRO, officers and Members must follow any directions given by the MLRO. They must NOT make any further enquiries into the matter themselves and must co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 6.7 Similarly, at no time and under no circumstances should the officer or Member voice any suspicions to the person(s) suspected of money laundering, even if NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO otherwise a criminal offence of “tipping off” (see the Guidance Note for further details) may be committed.
- 6.8 No reference should be made on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render an officer or Member liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

## Consideration of the disclosure by the MLRO

- 6.9 Upon receipt of a report, the MLRO must complete the MLRO part of the form, note the date of receipt of the report and acknowledge receipt of it. The MLRO should also advise the officer or Member of the timescale within which a response should be expected.
- 6.10 The MLRO will consider the report and any other available internal information that is 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.
- 6.11 The MLRO will undertake such other reasonable inquiries considered appropriate in order to ensure that all available information is taken into account in deciding whether a report to 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 the officer or Member.
- 6.12 Once the MLRO has evaluated the disclosure report and any other relevant information, the MLRO 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 there is a need to seek consent from NCA for a particular transaction to proceed.
- 6.13 Where the MLRO does so conclude, the matter must be disclosed as soon as practicable to NCA on their standard report form and in the prescribed manner, unless there is a reasonable

excuse for non-disclosure to NCA (for example, a lawyer can claim legal professional privilege for not disclosing the information).

- 6.14 Where the MLRO suspects money laundering but has a reasonable excuse for nondisclosure, the report must be noted accordingly. Consent can then be given immediately for any ongoing or imminent transactions to proceed.
- 6.15 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to NCA.
- 6.16 Where consent is required from NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from NCA.
- 6.17 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering the MLRO shall mark the report accordingly and give consent for any ongoing or imminent transaction(s) to proceed.
- 6.18 All disclosure reports referred to the MLRO and reports made by the MLRO to NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 6.19 The MLRO commits a criminal offence if the MLRO knows or suspects, or has reasonable grounds to do so, through a disclosure being made, that another person is engaged in money laundering and the MLRO does not disclose this as soon as practicable to NCA.

## **7) Policies, Controls and Procedure**

### **Cash payments**

7.1 No cash payment to the Council will be accepted if it exceeds £5,000 (including notes, coins or traveller cheques in any currency). Any incidents of someone trying to make a cash payment more than £5,000 must be reported to the MLRO regardless of whether you suspect money laundering activity or not.

### **Risk Management**

7.2 Risk will be assessed by taking into account risk factors including factors relating to:

- The Council's customers
- The area in which the Council operates
- The Council's services
- The Council's transactions
- The Council's delivery channels

7.3 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all officers and Members are familiar with their legal responsibilities.

7.4 The risk to the Council of contravening the anti-money laundering legislation will be assessed on a periodic basis and the adequacy and effectiveness the Anti-Money Laundering Policy will be reviewed in light of such assessments.

### **Internal Controls**

7.5 The internal controls include:

- appointing a ‘nominated officer’ and making sure that employees know to report any suspicious activity to them (the MLRO)
- identifying the responsibilities of senior managers and providing them with regular information on money laundering risks
- training relevant employees on their anti-money laundering responsibilities
- documenting and updating your anti-money laundering policies, controls and procedures
- introducing measures to make sure that the risk of money laundering is taken into account in the day-to-day running of your business.

7.6 The independent audit function has responsibility:

- to examine and evaluate the adequacy and effectiveness of the policies, controls and procedures.
- to make recommendations in relation to those policies, controls and procedures III. to monitor compliance with those recommendations.

7.7 New technology – where new technology is adopted the Council will ensure appropriate measures are taken to assess and, if necessary, mitigate any money laundering or terrorist financing risks this new technology may cause.

### **Customer Due Diligence**

7.8 Customer due diligence means that the Council must know its customers and understand their businesses so that it is in a position to know if there is suspicious activity that should be reported.

7.9 Customer due diligence means:

- a) identifying the customer and verifying the customer's identity based on documents, data or information obtained from a reliable and independent source.
- b) identifying where there is a beneficial owner who is not the customer owner and taking adequate measures, on a risk-sensitive basis, to verify their identity and where the beneficial owner is a trust or similar understand the ownership and control structure of the trust or arrangement.
- c) obtaining information on the purpose and intended nature of the business relationship.

7.10 The Regulations regarding customer due diligence are detailed and complex, but there are some simple questions that will help decide if it is necessary:

- Is the service a regulated activity (see 7.11)
- Is the Council charging for the service ie is it 'by way of business'?
- Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is '**No**' then there is no need to carry out customer due diligence.

If the answer to all these questions is '**Yes**' then customer due diligence must be carried out before any business is undertaken for that client. If there is uncertainty whether customer due diligence is required then the MLRO should be contacted for advice.

7.11 Regulated activity is defined as the provision 'by way of business' of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or;

dealing in goods wherever a transaction involves a cash payment of £10,000 or more.

7.12 Customer due diligence must also be applied if a person carries out an occasional transaction that amount to 15,000 euros or more, whether the transaction is executed in a single operation or in several operations that appear to be linked. This applies to all transactions and can include dealings with agents, third parties, property or equipment, cheques, cash or bank transfers.

7.13 Where customer due diligence is required then evidence of identity must be sought, for example:

- details of your customer's business or employment (checking with the customer's website to confirm their business address)
- the source and origin of funds that your customer will be using in the relationship
- copies of recent and current financial statements
- the expected level and type of activity that will take place in your relationship
- conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors
- details of the relationships between signatories and any underlying beneficial owners
- seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation

7.14 The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and

terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.

7.15 If, at any time, it is suspected that a client or customer for whom the Council is currently, or is planning to carry out, a regulated activity is carrying out money laundering or terrorist financing or has lied about their identity then this must be reported to the MLRO.

### **Enhanced Due Diligence**

7.16 In certain circumstances enhanced customer due diligence must be carried out for example where:

- There is a high risk of money laundering or terrorist financing
- The person has provided false or stolen identification
- the customer has not been physically present for identification
- the customer is a politically exposed person
- there is a beneficial owner who is not the customer – a beneficial owner is any individual who: holds more than 25% of the shares, voting rights or interest in a company, partnership or trust

7.17 Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer's identity and/or the source of the funds to be used in the business relationship/ transaction. If it is believed that enhanced customer due diligence is required then the MLRO should be consulted prior to carrying it out.

7.18 The enhanced due diligence measures when you deal with a politically exposed person are:



- making sure that only senior management gives approval for a new business relationship
- taking adequate measures to establish where the person's wealth and the funds involved in the business relationship come from
- carrying out stricter ongoing monitoring of the business relationship

## **Record Keeping**

7.19 The Council will keep a record of all customer due diligence measures carried out, including:

- customer identification documents obtained
- risk assessments
- your policies, controls and procedures
- training records

7.20 Each Service of the Council and contractors working for the Council conducting relevant business must maintain records of:-

- a) Due diligence and customer identification evidence obtained - which must be kept for five years after the end of the transaction or relationship
- b) Details of all relevant business transactions carried out for clients for at least five years from the completion of the transaction. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

7.21 Any personal data obtained for the purpose of the regulations may only be processed for the purposes of preventing money laundering or terrorist financing.

7.22 The MLRO must be informed of the existence and location of such records.

- 7.23 The records must be capable of providing an audit trail during any subsequent investigation, e.g., distinguishing the client and the relevant transaction and recording in what form any funds were received or paid.
- 7.24 An electronic copy of every customer due diligence record must be sent to the MLRO to meet the requirements of the Regulations and in case of inspection by the relevant supervising body.
- 7.25 Monitoring and Management of Compliance with, and Internal Communication of Policies, Controls and Procedures.
- 7.26 In support of the policy and procedure, the council will:
- Endeavour to make all staff aware of the requirement and obligation placed on the council and on themselves as individuals by the anti-money laundering legislation; and
  - Provide targeted training where it has been identified staff are most likely to encounter money laundering.

## **8) Training**

- 8.1 The Council has a commitment to training employees so they're aware of their responsibilities.
- 8.2 Training will be targeted to areas where large sums of money may be received by the Council.

## **9) Maintain client identification procedures in certain circumstances**

- 9.1 You also need to identify the 'beneficial owner' in certain situations. This may be because someone else is acting on behalf of another person in a particular transaction, or it may be because you need to establish the ownership structure of a company, partnership or trust.

9.2 As a general rule, the beneficial owner is the person who's behind the customer and who owns or controls the customer, or it's the person on whose behalf a transaction or activity is carried out.

9.3 If you have doubts about a customer's identity, you must stop dealing with them until, you're sure.

## 10) Further Information

10.1 Further information can be obtained from the MLRO and the following sources:

**www.nationalcrimeagency.gov.uk** – website of the National Crime Agency

“Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations” – CIPFA

“Anti-Money Laundering (Proceeds of Crime and Terrorism) – Second Interim Guidance for Accountants” – CCAB

(**www.ccab.org.uk**)

Money Laundering Guidance at **www.lawsociety.org.uk**

SI 2007 No. 2157 The Money Laundering Regulations 2007 at: [The Money Laundering Regulations 2007 \(legislation.gov.uk\)](http://www.legislation.gov.uk)

## 11) Guidance

11.1 Circumstances that may be susceptible to money laundering:

- The areas where large sums of money may be received by the Council, including:
  - Council Tax
  - Business Rates
  - Rent or Rent Arrears payments
  - Hire of venues, and Licensing
- Sale of Council land/buildings (as sale proceeds could be in cash)
- Sale of Council properties under right to buy scheme

- Investments – this would cover activities such as the issue of local bonds or transfers to or from non UK banks

#### 11.2 Indicators that might be warning signs:

- Transactions that are complex and unusually large or there is an unusual pattern of transactions
- Where the person you are dealing with is excessively secretive or obstructive
- Transactions or trade that appear to make no commercial, economic or legal purpose
- any other activity or situation which may be regarded as particularly likely by its nature to be related to money laundering or terrorist financing
- transactions which might favour anonymity
- Large volume/large cash transactions
- An overpayment or duplicate payment in cash where the refund is requested by cheque or BACS
- Payments received from third parties
- Where a customer pays funds to the Council but then ends the transaction for no apparent reason, or unexpectedly asks for the money to be refunded or forwarded to a third party
- Where a customer tells you that funds are coming from one source and at the last minute the source changes
- Absence of an obvious legitimate source of funds eg where an individual is on low income and is purchasing a property from the Council
- Movement of funds overseas, particularly to a high risk country
- Individuals or companies that are insolvent but have funds
- Purchase of property (eg Council house) where no mortgage is involved
- Use of cash where other means of payment are normal
- Unusual transactions or ways of conducting business

- Use of overseas companies
- New companies

## **Client identification**

11.3 This means obtaining a customer's:

- name
- photograph on an official document which confirms their identity
- residential address and date of birth

11.4 Satisfactory evidence of personal identity includes:

- Passport or photo driving licence.
- Utility bills, bank statements and other official documents. Other sources of customer information include the electoral register and information held by credit reference agencies such as Experian and Equifax. (Mobile phone bills are not acceptable).
- Satisfactory evidence of corporate identity can be through company formation documents or business rates documents.

11.5 You also need to identify the 'beneficial owner' in certain situations. This may be because someone else is acting on behalf of another person in a particular transaction, or it may be because you need to establish the ownership structure of a company, partnership or trust. As a general rule, the beneficial owner is the person who's behind the customer and who owns or controls the customer, or it's the person on whose behalf a transaction or activity is carried out.

11.6 If you have doubts about a customer's identity, you must stop dealing with them until you're sure.

11.7 In circumstances where the client cannot be physically identified the officer should be aware that :

- a) there is greater potential for money laundering if the client is not physically present when being identified;
- b) if satisfactory evidence is not obtained the relationship or the transaction should not proceed;
- c) if the client acts, or appears to act for another person, reasonable measures must be taken for the purposes of identifying that other person.

11.8 The types of record you keep may include:

- daily records of transactions
- receipts
- cheques
- paying-in books
- customer correspondence

11.9 The formats that you can keep your records in are:

- originals
- photocopies
- microfiche
- scanned
- computerised or electronic

11.10 You must keep your records for five years beginning from:

- the date a business relationship ends
- the date a transaction is completed

**Confidential**

**Report to the Money Laundering Reporting Officer**

**Money Laundering Activity (Form A)**

From	
Job Title	
Telephone No	
Email	

Details of suspected offence

<b>Name(s) and address(es) of details of person(s) involved</b> <i>[if a company/public body please include nature of business]</i>	
Name	
Date of birth	
Address	
Company names	
Directorships	
Phone numbers	
Other relevant information	
<b>Nature, value and timing of activity involved</b> <i>(Please include full details)</i>	
Date (has it happened, ongoing or imminent)	

Description of activity	
(Likely) amount of money/assets involved	
Where activity took place	
How the transaction was undertaken	

Single transaction or series				
Reason for suspicion (full reasons)				
Evidence (provide any supporting documentation)				
Nature of involvement:				
Does your involvement constitute a prohibited act under the definition of money laundering?				
Do you need consent from the NCA to take any further part in the transaction?				
Is there a deadline that consent is needed by? ie from a deadline of the transaction				
Has any investigation been undertaken as far as you are aware? (if Yes please give details below)	Yes		No	
Have you discussed your suspicions with anyone else? (if Yes please specify below, explaining why such discussion was necessary)	Yes		No	



Have you consulted any supervisory body guidance re money laundering? Eg the Law Society (if Yes please specify below)	Yes		No
Has any investigation been undertaken as far as you are aware? (if Yes please give details below)	Yes		No
Do you feel you have a reasonable excuse for not disclosing the matter to the NCA? (if Yes please give details below)	Yes		No
Please give any other information you feel is relevant:			
Signed:	Dated:		

## Completion by Money Laundering Reporting Officer

### Money Laundering Activity (Form B)

Date report received	
Date receipt of report acknowledged	

#### Details of suspected offence

<b>Consideration of Disclosure</b>			
Action plan:			
<b>Outcome of Consideration of Disclosure</b>			
Are there reasonable grounds for suspecting money laundering activity?			
If there are reasonable grounds for suspicion will a report be made to NCA? If Yes please complete below	Yes		No
Date of report to NCA			
Details of liaison with NCA regarding	Notice period:		to

the report:	Moratorium period: to		
Is consent required from NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? If Yes please confirm full details below	Yes		No
Date consent received from NCA			
Date consent given by MLRO to officer			
If there are reasonable grounds to suspect money laundering but you do not intend to report the matter to NCA please set out the reason(s) for non-disclosure below:			
Date consent given by MLRO to officer for any prohibited act transaction to proceed			
Other relevant information			

Signed:	Dated:
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This report should be retained for at least five years.

# Fraud Response Plan

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## **1) Introduction**

- 1.1 The Council's Anti-Fraud, Bribery and Corruption Policy and Strategy makes it clear that the Council is committed to adopting a zero tolerance approach to fraud, bribery and corruption from both internal and external sources. Where fraud, bribery or corruption is suspected the Council will deal with the allegations seriously in accordance with Council procedures.
- 1.2 This Fraud Response Plan provides guidance to Councillors and staff on the procedures that should be followed where a fraud is suspected or discovered. It includes reporting requirements, responsibilities for actions and how allegations will be investigated. It should be read in conjunction with the Council's Anti -Fraud, Bribery and Corruption Policy and Strategy, and the Whistleblowing Policy.
- 1.3 It is important to ensure that a structured and consistent approach is implemented by the Council for the investigation of any cases of fraud, bribery and corruption. This Fraud Response Plan sets out the Council's approach to ensure:
- 1.4 Councillors and staff are aware of how to report any allegations of fraud, bribery or corruption;
- there is a clear understanding of who will lead investigations and appropriate staff are informed and involved;
  - Information about the investigation is retained by officers involved in the case. in accordance with the Council's Information Management and retention policies;
  - further losses of funds or assets where fraud may have occurred are prevented and the recovery of losses is maximised;
  - evidence is gathered to support an allegation and inform further action;
  - evidence necessary for possible disciplinary and criminal action is established and secured;
  - any adverse effects or publicity on the business of the Council or any other partner organisations involved are minimised;
  - a review is undertaken of the reasons for the incident and action taken to improve control, strengthen procedures and prevent recurrence.
- 1.5 Under no circumstances should staff feel that they must tolerate the abuse of systems employed at the Council by other staff members or outside persons in ways that may be classed as potentially fraudulent behaviour.

Whilst total anonymity cannot be guaranteed, every effort will be made not to reveal your name. However, if criminal activity is found and the case is forwarded to the police, your identity may be needed at a later date. However, all persons implicated by an

- 1.6 allegation must be informed of the circumstances and relevant evidence and allowed to comment as part of the investigation.
- 1.7 The Council seeks to establish a flexible Fraud Response Plan to enable the approach to be varied in individual cases. Generally, the approach taken shall depend on the perceived risk to the Council in a financial or reputational sense. This shall be judged individually for each case, based on the information available.

## **2) Reporting Suspicions**

- 2.1 The procedures detailed below should be followed for all suspected cases of fraud, bribery and corruption involving Council staff, its partners and suppliers. You may also come across instances where third parties are attempting to defraud or scam the Council, for example submitting bogus invoices or changing bank details of suppliers. Any concerns such as these should be reported to the Strategic Director Finance or the Monitoring Officer who will investigate further and arrange for alerts to be circulated to relevant areas of the Council.
- 2.2 Examples of fraud, bribery and corruption include, but are not limited to theft, financial irregularities, and misuse of Council property, vehicles or equipment, misuse of Council systems, conflicts of interest and supplier kickbacks.

## **3) Action by Employees**

- 3.1 You should raise your concerns or suspicions with your line manager in the first instance. If you feel unable to approach your line manager, you should report any concerns or suspicions of financial irregularity to the Strategic Director Finance or the monitoring Officer. Alternatively, you may choose to report your concerns or suspicions anonymously via the Council's whistleblowing reporting procedures outlined in the Whistleblowing Policy. Whilst total anonymity cannot be guaranteed, every effort will be made not to reveal your name. However, if criminal activity is found and the case is forwarded to the police, your identity may be needed at a later date.



- 3.2 If you suspect a colleague is committing fraud, under no circumstances confront him or her with accusations of wrongdoing. This may allow the destruction of evidence and in extreme cases may expose you to physical danger. If your suspicions are mistaken, then workplace relationships may be poisoned irretrievably. The official investigators are best placed to interview suspects.
- 3.3 Once you have reported the incident, you may be contacted further by Internal Audit as part of the ongoing investigation. You should provide them with as much information as possible to enable the investigation to be effectively progressed.

#### **4) Action by Managers**

- 4.1 If you have reason to suspect fraud, bribery or corruption in your work area, or a concern has been reported to you by a member of your staff, you should do the following:
- Listen to the concerns of your staff and treat every report seriously and sensitively. Reassure staff that their concerns will be taken seriously and passed on to the appropriate officer;
  - Obtain as much information as possible from the member of staff, including any notes or evidence to support the allegation. Do not interfere with this evidence and ensure it is kept securely;
  - Do not attempt to investigate the matter yourself or attempt to obtain any further evidence as this may compromise any internal audit, disciplinary or police investigation;
  - Report the matter immediately to the Strategic Director Finance or Monitoring Officer.

#### **5) Action by Councillors**

If a Councillor has suspicions about fraud, bribery or corruption whether it be a fellow elected Councillor, officers of the Council or partner organisations of the Council they should report this to the Chief Executive or the Monitoring Officer at the earliest opportunity.

#### **6) Action by Members of the Public**

If a member of the public would like to raise a concern, they should follow the reporting procedure contained within the Whistleblowing Policy on the Council's website.

## **7) Malicious Allegations**

All Councillors and staff should be aware that malicious or vexatious allegations will not be tolerated and may be dealt with as a disciplinary matter.

## **8) Investigating Allegations of Fraud**

### **Preliminary Investigations (Fact finding)**

- 8.1 In the event of any serious or immediate threat to the Council's financial position, significant fraud, bribery or major accounting breakdown, the Strategic Director Finance must be immediately informed. If the allegation involves a Member, the Monitoring Officer will be informed. If preliminary investigation shows the allegations to be groundless, the matter may then be dismissed and referred to the Directorate to resolve.
- 8.2 The Strategic Director Finance or Monitoring Officer will initiate the investigation and may seek assistance from HR or the Corporate Fraud team as appropriate. Once the preliminary investigation has been completed a report may be prepared by the Strategic Director Finance or Monitoring Officer for the relevant Director. In more serious cases it may be necessary to prepare an interim report if immediate control measures are required.
- 8.3 The Strategic Director Finance or Monitoring Officer will usually keep the Chief Executive informed. If it appears that a criminal offence has occurred, the Strategic Director Finance or Monitoring Officer, as appropriate, shall consider whether the matter should be referred to the Police.
- 8.4 Also note that under Article 33 of the General Data Protection Regulation in cases where the Fraud has included a personal data breach, the Council has a duty to report the incident to the Information Commissioners Office in accordance with Article 55. This shall be carried out without undue delay and, where feasible, not later than 72 hours after having become aware of the personal data breach. The investigation team should be aware of the need to ensure that other statutory requirements are adhered to in the process of obtaining evidence, particularly the need to obtain in advance a RIPA (Regulation of Investigatory Powers Act) authorisation, should it be necessary to obtain evidence through the process of surveillance.

- 8.5 Staff should note that failure to cooperate fully with an investigation may itself constitute grounds for disciplinary action.

### **Interviewing Employees as part of a Preliminary Investigation**

- 8.6 During the course of the preliminary / fact finding investigation, it may be necessary to interview one or more employees. In these cases, the employee should be informed of the purpose of the meeting and that he/she may not refuse to attend without good reason. A refusal without good reason to answer questions relevant to the investigation may result in action being taken under the Council's disciplinary procedure for potential gross misconduct.
- 8.7 All interviews of employees will be undertaken by two people from the investigation team. Normally, one person will ask the questions and the other will take contemporaneous notes. Once the notes have been typed up, a copy will be provided to the employee who will be invited to read them, make and initial any amendments and then sign the interview notes, accepting them as a correct record. It is good practice for the interviewer to counter-initial any amendments to confirm their acceptance. Should there be any disagreement, the interviewer will need to consider the materiality of the amendment and if significant, this should be brought out in the ensuing report,
- 8.8 The purpose of the preliminary interview will be to obtain information (fact-finding) and as such the employee will not be entitled to be accompanied. However, should they wish to have someone present, this will be at the discretion of the Investigation Team.
- 8.9 During the course of the interview, if an individual admits to a criminal offence or the interviewer believes that an admission of a criminal offence is imminent, the recommended practice is that the interview be suspended and the matter referred directly to the Police.

### **Interviewing Employees under the Council's Formal Disciplinary Procedure**

- 8.10 If, following a preliminary investigation, there is evidence to indicate that fraud, bribery or corruption may have been committed by an employee, a formal investigation into the matter will be carried out in accordance with the Council's disciplinary procedure.

8.11 Official guidance does permit the continuation of an interview following admission of a criminal offence but only after issuing a formal caution. Under PACE, the interviewee would be entitled to legal representation. In deciding whether to continue, the interviewer will need to consider the seriousness of the case and the likelihood of it being referred for prosecution, bearing in mind the requirements of the Council's Anti Fraud, Bribery and Corruption policy with regard to prosecutions. If it is considered that seeking a prosecution would not be appropriate, the interview can continue without issuing a caution.

## **9) Reporting of an incidence of Fraud, Bribery and / or corruption**

9.1 Upon completion of the investigation and subject to the Council's disciplinary procedures where relevant, where an incidence of fraud, bribery and/or corruption is found to have taken place, a report will be produced and issued to Strategic Director Finance, Monitoring Officer and the relevant Service Director.

9.2 The report shall contain:

- a description of the incident/issues alleged including an assessment of the value of any losses;
- the people involved and the means by which the fraud was allowed to occur (highlighting any control and/or operating weaknesses within the systems)
- all possible facts relating to the alleged fraud;
- recommendations to improve/restore the controls and minimise the risk of a re-occurrence; a conclusion on the way forward; any other relevant material.

9.3 Where an incidence of fraud, bribery and/or corruption is found to have taken place a report on the fraud shall be presented to the Corporate Governance and Standards Committee, along with the findings of any investigations undertaken, at their next meeting following the completion of the investigation. The Chief Executive and Deputy Leader will also be informed. An interim report may be presented if a Corporate Governance and Standards Committee meeting takes place during an ongoing investigation.

**10) Recovery of Assets and / or Sanctions**

In accordance with the Anti-Fraud, Bribery and Corruption Policy, if it is confirmed the Council has suffered financial loss, attempts will be made to recover such losses from the perpetrator.

# Fraud Response Flow Chart

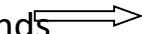
Event occurs / Suspicions aroused



**Report concern to either:**  
 Line Manager (by Employee)  
 Strategic Director Finance (by Employee/Manager)  
 Whistleblowing Policy (by Employee / Public / Member)  
 Chief Executive / Monitoring Officer (by Member)



Preliminary investigation to establish merit/grounds to proceed.



Formal investigation not required. Issue resolved by Directorate



Chief Executive / Audit Committee Chair inform (if appropriate)



Formal investigation in accordance with relevant procedures.  
 Strategic Director Finance/Monitoring Office  
 Corporate Fraud Workforce (Disciplinary)

Internal Fraud Police informed (if appropriate)



External Fraud Management of external contractors / media / police

Investigation completed and Report produced in accordance with relevant procedures.



Recovery of losses (if appropriate)