

Report Title:	Revised Anti Fraud and Anti Corruption Policies
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	Councillor Sayonara Luxton
Meeting and Date:	Audit and Performance Review Panel – 26 February 2018
Responsible Officer(s):	Rob Stubbs, Deputy Director and Head of Finance
Wards affected:	All

## Report Summary

The council's Anti Fraud and Anti Corruption Policies have been reviewed and aligned where possible. Key changes are:

1. Prosecution and Sanctions Policy – Minor changes
2. Anti Fraud and Anti Corruption Policy – .Minor changes
3. Anti Bribery Policy – Minor changes
4. Anti Money Laundering Policy – Minor changes
5. Regulation of Investigatory Powers Act (RIPA) Policy and Procedures – Policy and Procedures updated to bring in line with recommended best practice
6. Whistleblowing Policy – Minor changes

## 1. DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That Members consider and approve the following policies:

- **Prosecution and Sanctions Policy**
- **Anti Fraud and Anti Corruption Policy**
- **Anti Bribery Policy**
- **Anti-Money Laundering Policy**
- **Regulation of Investigatory Powers Act (RIPA) Policy and Procedures**
- **Whistleblowing Policy**

## 2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 To ensure that anti fraud and anti corruption activity complies with legislation and follows best practice.

Option	Comments
Approve the policies <b>Recommended</b>	This will ensure that activity undertaken by the Shared Audit and Investigation Service on behalf of the council, complies with legislation.
Amend the policies.	May result in legal challenge through not complying with legislation or inefficiencies within the Shared Audit and Investigation Service.
Not to approve the policies.	May result in legal challenge through not complying with legislation or inefficiencies within the Shared Audit and Investigation Service.

## 3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Residents have confidence that public funds are being used economically, efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation / loss.	Significant financial losses to the Council.  Loss of residents confidence.  Council reputation may be affected.	Financial losses are identified and recovered.  Gain residents confidence.  Council reputation protected.	N/A	N/A	31 March 2019

## 4. FINANCIAL DETAILS / VALUE FOR MONEY

### 4.1 a) Financial impact on the budget

Revenue - Officer time in dealing with provision of the SAIS  
Capital – None.

### b) Financial Background – N/A

## **5. LEGAL IMPLICATIONS**

### **5.1 Relevant legislation includes:**

- Corruption Act 1906
- Criminal Procedures and Investigations Act (CPIA) 1996;
- Data Protection Act 1998;
- Fraud Act 2006;
- Freedom of Information Act 2000;
- Human Rights Act 1998;
- Local Government Finance Act 1992;
- Police and Criminal Evidence Act (PACE) 1984;
- Proceeds of Crime Act 2002;
- Regulation of Investigatory Powers Act (RIPA) 2000; and
- Bribery Act 2010

## **6. RISK MANAGEMENT**

Risks	Uncontrolled	Controls	Controlled
1. Failure to have and follow appropriate fraud policies leads to breach of legislation resulting in fines, investigation and reputation damage.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low
2. Failure to provide an investigation service leads to major event, fraud and/or mismanagement of monies.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low
3. Failure to have an investigation service in place to investigate potential losses.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low

## **7. POTENTIAL IMPACTS**

### **7.1 None**

## **8. CONSULTATION**

### **8.1 Consultations has taken place with the Corporate Management Team and S151 Officer.**

## **9. TIMETABLE FOR IMPLEMENTATION**

### **9.1 The Fraud Policies will be effective from the date of approval by this Panel.**

## 10. APPENDICES

- Appendix A - Prosecution and Sanctions Policy
- Appendix B – Anti Fraud and Anti Corruption Policy
- Appendix C – Anti Bribery Policy
- Appendix D – Anti Money Laundering Policy
- Appendix E - Regulation of Investigatory Powers Act (RIPA) Policy and Procedures
- Appendix F – Whistleblowing Policy (Raising Concerns at Work) Policy and Procedure

## 11. BACKGROUND DOCUMENTS

- 11.1 2018/19 Internal Audit and Investigation Plan.  
Anti Fraud and Anti Corruption Strategy

## 12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Comment & returned
Cllr Sayonara Luxton	Chair of Audit and Performance Review Panel		
Alison Alexander	Managing Director	24/01/18	
Russell O'Keefe	Executive Director	24/01/18	
Andy Jeffs	Executive Director	24/01/18	
Rob Stubbs	Deputy Director and Head of Finance	24/01/18	
Terry Baldwin	Head of HR	24/01/18	

## REPORT HISTORY

<b>Decision type:</b> Non-key decision	<b>Urgency item?</b> No
Report Author: Catherine Hickman, Lead Specialist, Audit and Investigation	

## **ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD** **CORPORATE PROSECUTION AND SANCTION POLICY**

### **Introduction**

The Royal Borough of Windsor and Maidenhead (The Council) will prosecute any person who commits a criminal offence against the systems, processes and functions of the Council and/or assaults or threatens any member or employee of the Council, if there is sufficient evidence and if, in the opinion of the Council, it is in the public interest to do so.

When deciding if it is in the public interest, all officers authorised to decide whether to prosecute on behalf of the Council will be guided by the Code for Crown Prosecutors. Whenever it is appropriate, the Council will consider offering other sanctions as an alternative to prosecution.

The Council will consider each case on its own merits before deciding whether or not to prosecute. If it is the case that the Council has suffered a material/financial loss, it may take separate action to stop further payments/ recover money, irrespective of whether it decides to take criminal proceedings, and where steps to prevent further losses or recover losses already incurred are not available or desirable in the course of any criminal proceedings.

### **Alternatives to Prosecution - Cautions**

In the issuing of Cautions the Council will be guided by the relevant statutory Guidance, currently the Ministry of Justice – Simple Caution for Adult Offender guidance.

### **Alternatives to Prosecution - Statutory Sanctions**

The Council may consider a Statutory Sanction, whether a monetary penalty or otherwise, as an alternative to prosecution for an offence where the imposition or offer of such a sanction for the specified offence or offences is prescribed by law.

### **Code for Crown Prosecutors – The Evidential Test**

When making a decision on whether to prosecute, the Council will first consider whether there is sufficient evidence:

- a) is there sufficient evidence of the commission of an offence to provide a realistic prospect of conviction? And
- b) is the evidence reliable and able to be used in court?

### **Code for Crown Prosecutors – The Public Interest Test**

Once the Evidential Test has been satisfied, the Council will then consider whether the Public Interest Test is satisfied. The Public Interest Test will be assessed following the guidance in the “Code for Crown Prosecutors” to ensure that any prosecution is in the public interest.

**Other Sanctions or Penalties**

Where a person engages in conduct which is not criminal, but is otherwise prohibited by legal statute or regulation applicable to the functions of the Council, or fails in their legal obligation to the Council, the Council may consider the imposition or offer of a sanction or monetary penalty where to impose a monetary penalty or sanction for the given circumstances is prescribed by law.

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD  
CORPORATE ANTI-FRAUD AND ANTI-CORRUPTION POLICY**

**1. INTRODUCTION**

The Royal Borough of Windsor and Maidenhead ('The Council') aims to deliver high quality services and provide value for money by being fully accountable, honest and open in everything that it does.

Fraud and corruption undermine these aims by diverting resources from legitimate activities, damaging public confidence in the Council and adversely affecting staff morale.

To achieve its strategic priorities, the Council seeks to ensure that measures are taken to prevent, detect and investigate fraudulent or corrupt acts whether it is attempted on or from within the Council. The aim of this policy is to reduce losses from fraud and corruption to an absolute minimum.

**2. DEFINING FRAUD**

Fraud includes:

- a) falsification or alteration of accounting records or other documents;
- b) misappropriation of assets or theft;
- c) suppression or omission of the effects of transactions from accounting records of other documents;
- d) recording transactions which have no substance; and
- e) wilful misrepresentation of transactions or of the Council's state of affairs.

The Fraud Act 2006 defines fraud in three classes:

- a) fraud by false representation;
- b) fraud by failing to disclose information; and
- c) fraud by abuse of position.

**3. DEFINING CORRUPTION**

The Council defines corruption as the offering, giving, soliciting or accepting of any inducement or reward which would influence the actions taken by the Council, its Members or Officers. Examples where this might occur:

- a) tendering and awarding of contracts;
- b) pecuniary interests of Members and Officers;
- c) the award of permissions, planning consents and licenses; and
- d) the disposal of assets.

#### **4. FRAMEWORK FOR PREVENTION AND DETECTION**

It is a management responsibility to maintain the internal control system and to ensure that the Council's resources are properly applied in the manner and on the activities intended. This includes responsibility for the prevention and detection of fraud and other illegal acts.

#### **5. KEY PRINCIPLES AND CULTURE**

The Council is determined that the authority follows the ten general principles enumerated by the Committee on Standards of Public Life

- a) selflessness;
- b) honesty and integrity;
- c) objectivity;
- d) accountability;
- e) openness;
- f) personal judgement;
- g) respect for others;
- h) duty to uphold the law;
- i) stewardship; and
- j) leadership

The Council expects Members (elected and co-opted) and employees (including agency staff, consultants and contractors) to lead by example in ensuring effective opposition to fraud and corruption. This includes ensuring adherence to legislation, local rules and regulations, National and Local Codes of Conduct and that all procedures and practices are beyond reproach.

#### **6. RAISING CONCERNS**

Employees at all levels should be alert to the possibility of fraud and corruption. They are expected and encouraged to raise any concerns relating to fraud and corruption. These can be raised in any way that the employee prefers, including with their line manager, through an Executive Director, with the Shared Audit and Investigation Service or through the Council's Whistleblowing Policy (*'Raising concerns at work'*). Whichever route is chosen, the employee can be assured that concerns raised in good faith will be fully investigated and, wherever possible, those raising concerns will be heard in confidence.

When management receive concerns from employees or others regarding potential fraud or corruption, they should immediately contact the Lead Specialist – Audit and Investigation, Shared Audit and Investigation Service with details of the concerns. The Lead Specialist, Audit and Investigation,



Shared Audit and Investigation Service will make preliminary enquiries and in consultation with the Section 151 Officer will determine whether there are grounds for an investigation.

Councillors, service users, suppliers, partner organisations and members of the public are encouraged to report any concerns. These concerns about fraud and corruption should be reported either directly to the Lead Specialist - Audit and Investigation, Shared Audit and Investigation Service or via the Council's Whistleblowing Policy.

If employees feel that they are unable to use internal routes then they can contact the council's external auditors:

**KPMG LLP**

Darren Gilbert  
100 Temple Street,  
Bristol  
BS1 6AG

[Darren.Gilbert@KPMG.co.uk](mailto:Darren.Gilbert@KPMG.co.uk)

Although the Council encourages its staff to report concerns acting in good faith, any maliciously motivated and unfounded allegations may be dealt with through the Council's disciplinary code.

## **7. CORPORATE GOVERNANCE**

The main corporate policies and procedures which formulate the Council's framework for minimising risk and the prevention of fraud and corruption include:

- a) Anti Fraud and Anti Corruption Strategy
- b) Internal Audit Charter
- c) Contract Procedure Rules
- d) Finance Procedure Rules
- e) Human Resources Disciplinary Policy and Procedure
- f) Human Resources Code of Conduct for Employees
- g) Human Resources Recruitment and Selection Code of Practice
- h) Members' Code of Conduct
- i) Anti Money Laundering Policy
- j) Officers' Code of Conduct;
- k) Prosecution and Sanction Policy;
- l) Risk Management Policy and Strategy
- m) Scheme of Delegation
- n) Whistleblowing Policy; and

- o) Anti Bribery Policy

## **8. CORPORATE RESPONSIBILITY**

Heads of Service must ensure that all employees in their service are familiar with the corporate policies and procedures listed above, in addition to any other relevant rules and regulations specific to their service. Failure to adhere to these policies and procedures could result in the instigation of disciplinary procedures.

## **9. RECRUITMENT**

The Council recognises that one of the most important issues relating to the prevention of fraud and corruption is the effective recruitment of staff and therefore takes pre-employment screening seriously.

Employee recruitment is required to be in accordance with procedures laid down by the Head of Human Resources. As part of these procedures, particular reference is made to:

- a) verifying the identity of the applicant;
- b) obtaining satisfactory references prior to appointment;
- c) verifying the applicant is able to work legitimately in the UK;
- d) verifying and retaining copies of certificates for stated qualifications;  
and
- e) undertaking Disclosure and Barring Service checks, where appropriate.

These practices apply to all permanent appointments including those where employees have entered the organisation as an agency worker or consultant in the first instance.

## **10. SYSTEM OF INTERNAL CONTROL**

The risk of fraud and corruption can be minimised by good financial management, sound internal control systems, effective management supervision, and by raising public, member and employee awareness of fraud.

Internal control is the whole system of controls, financial and otherwise, established to provide reasonable assurance of:

- a) proper aims and objectives;
- b) efficient and effective operations;
- c) reliable management information and reporting;
- d) legitimate expenditure;
- e) compliance with laws and regulations;
- f) performance management; and

- g) security of assets and income.

Weaknesses in the design and operation of administrative and financial internal control systems may increase the risk of fraud. Systems should contain efficient, effective, and well-documented internal controls for:

- a) adequate segregation of duties;
- b) proper authorisation and approval procedures;
- c) adequate physical security over assets; and
- d) reliable monitoring and reporting arrangements.

is management's responsibility to install adequate internal controls and rectify weaknesses if they occur. To help management discharge this responsibility, systems may be subject to review by both Internal and External Audit. Auditors are responsible for reporting to management on significant weaknesses in the control environment, including deficiencies in the operation of internal controls and highlighting exposure to the risk of fraud. Audit concerns are promptly followed up to ensure issues highlighted are appropriately actioned.

Management should instigate occasional deterrent compliance checks on the operation of internal controls within their service and are encouraged to seek advice from the Shared Audit and Investigation Service on what checks should be carried out. This work should be used to inform the Annual Governance Statement.

## **11. RISK MANAGEMENT**

Major fraud risks relating to services should be included within Service Risk Registers and subject to regular review to ensure that appropriate controls are in place to mitigate those risks.

## **12. ROLE OF STATUTORY OFFICERS**

The Council has a statutory responsibility, under Section 151 of the Local Government Act 1972, to ensure the proper administration of its financial affairs and also to nominate one of its Officers to take responsibility for those affairs. The Council's nominated Section 151 Officer is the Deputy Director and Head of Finance.

The Council's Monitoring Officer is responsible under Section 5 of the Local Government and Housing Act 1989 to guard against, inter alia, illegality, impropriety and maladministration in the Council's affairs.

## **13. EFFECTIVE ACTION**

Responsibility for investigating suspected fraud and corruption against the Council rests with the Shared Audit and Investigation Service. This is to ensure that the investigation is performed only by properly trained officers in accordance with :

- a) Corruption Act 1906
- b) Criminal Procedures and Investigations Act (CPIA) 1996;
- c) Data Protection Act 1998;
- d) Fraud Act 2006;
- e) Freedom of Information Act 2000;
- f) Human Rights Act 1998;
- g) Local Government Finance Act 1992;
- h) Police and Criminal Evidence Act (PACE) 1984;
- i) Proceeds of Crime Act 2002; and
- j) Regulation of Investigatory Powers Act (RIPA) 2000
- k) The Council Tax (Administration and Enforcement) Regulations 1992.

#### **14. PROCEDURE**

All referrals will initially be risk assessed and material instances of fraud or irregularity in the Council will be referred to the Shared Audit and Investigation Service.

The Shared Audit and Investigation Service will ensure the following objectives are met:

- a) investigations are undertaken fairly, objectively and in accordance with relevant laws and regulations, so as to avoid jeopardising the outcome on legal and procedural technicalities;
- b) to protect the evidence;
- c) to prove or disprove the original suspicions of fraud;
- d) if proven, to support the findings by producing effective evidence;
- e) to present evidence in an appropriate format accepted by the Crown Prosecution Service or the appropriate disciplining service; and
- f) to apply appropriate sanctions and redress against those individuals and organisations that seek to defraud.

#### **15. COMPLETION**

Once an investigation is completed the Shared Audit and Investigation Service may have responsibilities in relation to:

- a) recommending improvements to systems;
- b) attendance at disciplinary hearings and tribunals;
- c) attendance at Court as a witness; and
- d) reporting to the Audit and Performance Review Panel.

Conclusions will be based on fact allowing management to take forward any required disciplinary and/or criminal proceedings as they determine appropriate.

## **16. DISCIPLINARY**

The Council has in place disciplinary procedures which must be followed whenever staff are suspected of committing a fraudulent or corrupt act.

The disciplinary procedures are set out and available on Hyperwave. The Managing Director has overall responsibility for ensuring that the disciplinary procedure is managed effectively. Line managers, under the overall direction of Heads of Service, are responsible for day to day management and ensuring compliance with disciplinary policies and procedures.

## **17. REPORTING AND PUBLICITY**

Incidents of fraud and corruption are reported through the following mechanisms:

- a) Corporate Management Team;
- b) Audit and Performance Review Panel; and
- c) External Auditors (currently KPMG).

Where evidence of fraud and corruption is found, appropriate sanctions will be sought in line with the Council's Prosecution and Sanctions Policy. The details of any proven act of fraud or corruption, including action taken by the Council will be publicised to employees, Members and the public. This is aimed at deterring further attempts of fraud or corruption by demonstrating the seriousness with which the Council views such cases. In agreement with the Section 151 Officer and the Monitoring Officer, the Council will report criminal activity to the Police at the appropriate stage.

## **18. COUNCIL TAX INVESTIGATIONS**

The Shared Audit and Investigation Service is responsible for undertaking investigations within the Council Tax Reduction Scheme and Single Person Discounts. This involves:

- a) investigating suspected fraud by false statement and/or failure to declare changes in circumstances or other method;
- b) making random checks on claimants; and
- c) maximising recovery of overpayments.

Where evidence of fraud and corruption is found, appropriate sanctions will be sought in line with the Council's Prosecution and Sanctions Policy. Successful prosecutions will be publicised to help deter further fraud.

## **19. WORKING WITH OTHERS**

Arrangements are in place to encourage the exchange of information between the Council and other agencies on national and local fraud and corruption activity. This includes participation in the National Fraud Initiative which matches data across a wide range of public service organisations in order to detect fraud or erroneous payments.

## **20. MONEY LAUNDERING**

The Proceeds of Crime Act 2002 details the three principal money laundering offences as:

- a) assisting another to retain the benefit of crime;
- b) acquisition, possession or use of criminal proceeds; and
- c) concealing or transferring proceeds to avoid prosecution.

In addition there are related offences for failing to report where a person has knowledge, suspicion or reasonable grounds for knowledge or suspicion that money laundering has taken place, as well as for tipping off a person that a disclosure has taken place.

Council Officers and Members who suspect money laundering activities should report their concern to the Council's nominated Money Laundering Reporting Officer (MLRO) and the Section 151 Officer (Deputy Director and Head of Finance). Further details are contained in the Anti-Money Laundering Policy.

## **21. CONCLUSION AND REVIEW**

The Council has systems and procedures to deter and investigate fraud and corruption. It will ensure these arrangements are fair and are monitored and updated to keep pace with future developments in preventative, deterrent and detection techniques regarding fraudulent or corrupt activity.

To this end, the Council maintains a continuous review of these arrangements through, in particular the Audit and Performance Review Panel, the Section 151 Officer (Deputy Director and Head of Finance), Shared Audit and Investigation Service, External Audit and the Monitoring Officer.

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD  
ANTI-BRIBERY POLICY**

**1. POLICY STATEMENT**

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero tolerance towards bribery. We aim to maintain anti bribery compliance “business as usual”, rather than as a one-off exercise.

**2. OBJECTIVE**

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

We require that all personnel including those permanently employed, temporary agency staff and contractors:

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

**3. SCOPE**

This policy 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.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels, in every service.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), partner organisations, volunteers and consultants.

#### **4. COMMITMENT**

The Council commits to:

- a) setting out a clear anti bribery policy and keeping it up to date;
- b) making all employees aware of their responsibilities to adhere strictly to this policy at all times;
- c) training all employees so that they can recognise and avoid the use of bribery by themselves and others;
- d) encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately;
- e) rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution;
- f) taking firm and vigorous action against any individual(s) involved in bribery;
- g) provide information to all employees to report breaches and suspected breaches of this policy;
- h) include appropriate clauses in contacts to prevent bribery.

#### **5. THE BRIBERY ACT**

The Bribery Act defines bribery as 'an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage'.

There are four key offences under the Act:

- a) bribery of another person (section 1);
- b) accepting a bribe (section 2);
- c) bribing a foreign official (section 6); and
- d) failing to prevent bribery (section 7).

The Bribery Act 2010 ([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100023\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1)) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.



The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.” Therefore, we are a “commercial organisation”.

## **6. ADEQUATE PROCEDURES**

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures in the recommended areas of six principals. These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national enterprises. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

## **7. PROPORTIONATE PROCEDURES**

An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.

## **8. TOP LEVEL COMMITMENT**

The Managing Director, Executive Directors and Members are committed to preventing bribery by persons associated with it. Bribery is never acceptable.

## **9. RISK ASSESSMENT**

The Council will assess the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

## **10. DUE DILIGENCE**

The Council applies due diligence procedures, taking a proportionate and risk-based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

## **11. COMMUNICATION**

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

## **12. MONITORING AND REVIEW**

The Council monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary. The Council is committed to proportional implementation of these principles.

## **13. PENALTIES**

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- a) on conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both;
- b) on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

## **14. BRIBERY IS NOT TOLERATED**

It is unacceptable to:

- a) give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- b) give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- c) accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- d) accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- e) retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy;
- f) engage in activity in breach of this policy.

## **15. FACILITATION PAYMENTS**

Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. Facilitation payments are not tolerated and are illegal.

## 16. GIFTS AND HOSPITALITY

The Council's Gifts and Hospitality guidance notes are held on the 'Declaration of the Offer/Receipt of Gifts and Hospitalities Guidance Notes' form. Additional guidance is held in the Anti Fraud and Anti Corruption Guidance Notes for Employees. In determining whether to accept a gift or hospitality employees should consider the following:

- Whether the company or individual is seeking a contract;
- Whether the company or individual regularly submits, has submitted, is likely to or is in the process of submitting a planning application, or has been granted planning permission;
- Whether a contract with the company/individual is under negotiation;
- Whether the final contract sum has been agreed;
- Whether the hospitality is genuinely instructive or constitutes more of a social function;
- The level and location of the hospitality;
- The frequency of the hospitality;
- Whether it is directed at you or to a group.

Officers are required to make a declaration within 28 days of receiving or being offered any gift or hospitality over the value of £25.00.

It is wise to err on the side of caution. Any gift that is clearly expensive should raise questions with you and should be declined. The offer, however, should still be recorded. You should always consider how such a gift or hospitality could be perceived by others. If you are in any doubt, and for your own protection, you should seek advice from your Head of Service or ultimately from your Executive Director. There are some instances where gifts and hospitality must not be accepted. These are when dealing with planning applications, negotiating a contract and before a final contract sum is agreed. The overriding guidance to take account of is 'when in doubt, opt out'.

Examples of 'gifts and hospitality'

- Lunches;
- Presents e.g. drink, food, diaries, calendars, stationery, tickets for events;
- Cash, cheques or any other form of reward;
- Being paid or paid for to go anywhere (inside and outside of working hours)
- Visits abroad
- Hospitality tents

The general procedures to be followed in considering whether or not to accept or offer gifts and hospitality are as follows:

- All gifts and hospitality offered, whether received or not, must be recorded and entered in your Directorate's 'Register of Gifts and Hospitality' held by your Executive Director.
- All hospitality, wherever possible, should be agreed beforehand by your Executive Director.
- If you find yourself stuck in an awkward situation and unable to get authorisation beforehand, register the acceptance of the gift or hospitality if at all possible, pay for yourself, and then discuss with your Strategic Director whether it is appropriate for the Council to reimburse these expenses.
- Only modest gifts including gifts of a promotional nature e.g. calendars, diaries etc, and gifts of a sort normally given out by that company are acceptable.
- Fees and rewards, whether cash, cheques or air miles, other than as part of your proper remuneration are not acceptable. Gifts offered but not received should be returned with a polite and courteous explanation. The same applies to when hospitality has to be declined. In this instance the company should be courteously informed of our procedures and standards. All gifts and hospitality given must be registered in the 'Register of Gifts and Hospitality' held by your Executive Director.
- No cash or cheques should be given.
- It is not normal for gifts to be given, except as part of a promotion or marketing initiative, therefore if you wish to express your gratitude by the way of a gift you must seek prior approval from your Executive Director.
- Any hospitality to be given out, beyond normal working lunch, should also be agreed beforehand by your Executive Director. If you are in any doubt you should seek advice from your Executive Director.

## **17. PUBLIC CONTRACTS AND FAILURE TO PREVENT BRIBERY**

Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. This organisation has the discretion to exclude organisations convicted of this offence.

## **18. STAFF RESPONSIBILITIES**

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 staff are required to avoid activity that breaches this policy.

Staff must:

- a) ensure that you read, understand and comply with this policy; and
- b) 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.
- c) As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

## **19. RAISING A CONCERN**

The Council is committed to ensuring that we all have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns. We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns – these are explained in the Raising Concerns at Work (Whistleblowing) Policy. Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith. If you have any questions about these procedures, please contact the Lead Specialist – Audit and Investigation, Shared Audit and Investigation Service, Catherine Hickman.

## **20. OTHER RELEVANT RBWM POLICIES**

Anti Fraud and Anti Corruption Policy, Anti Money Laundering Policy, Raising Concerns at Work (Whistleblowing) Policy, Codes of Conduct, Contract Procedure Rules and Finance Procedure Rules.

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD  
ANTI-MONEY LAUNDERING POLICY**

**1. INTRODUCTION**

Money laundering legislation requires local authorities to establish internal procedures to prevent the use of their services for money laundering. Money laundering legislation in the UK is primarily governed by the following legislation:

- a) the Terrorism Act 2000;
- b) the Anti Terrorist Crime & Security Act 2001;
- c) the Proceeds of Crime Act 2002;
- d) Serious Organised Crime and Police Act 2005; and
- e) the Money Laundering Regulations 2007.

**2. SCOPE OF THIS POLICY**

This Policy applies to all employees and contractors of the Council. The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations.

Staff should report any suspicions to the appointed Money Laundering Reporting Officer (MLRO) and it is for the MLRO to consider if the circumstances warrant the completion of a 'suspicious activity report' (SAR), which is sent to the National Crime Agency.

Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them in accordance with the Council's Disciplinary procedures.

**3. WHAT IS MONEY LAUNDERING?**

The legislation is not limited to major organised crimes, but covers proceeds of all crimes, however small. The primary money laundering offences and thus prohibited acts under the legislation are:

- a) concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
- b) 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 the 2002 Act); or
- c) acquiring, using or possessing criminal property (section 329 of the 2002 Act); or
- d) becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorist Act 2000); or
- e) failing to disclose suspected money laundering

The defence to these offences is to make an 'authorised disclosure' to an approved person. Approved persons are Customs Officers, Police Officers and the Council's MLRO.

#### **4. SUSPICIOUS ACTIVITY**

Some indications of suspicious activity are:

- a) any unusually large cash payment;
- b) any overpayment or duplicate payment in cash where the refund is requested by cheque; or
- c) if a 'third party' is involved in any transaction (e.g. someone paying cash to settle someone else's bill.)

The Council should be alert to large amounts of cash accepted as a payment, which would normally arouse suspicion.

Officers involved in Treasury Management and cashiering activities are the most likely to encounter attempts to launder money but all staff should be alert to the possibilities.

All organisations and each individual are required by law to try to prevent and to report any attempts to 'launder' money.

#### **5. THE COUNCIL'S OBLIGATIONS**

Organisations conducting "relevant business" must:

- a) appoint a MLRO to receive disclosures from employees of money laundering activity (their own or anyone else's);
- b) implement a procedure to enable the reporting of suspicions of money laundering;
- c) maintain client identification procedures in certain circumstances; and
- d) maintain record keeping procedures.

#### **6. THE MONEY LAUNDERING REPORTING OFFICER**

If you have any suspicions, you must contact the MLRO. The Council's nominated MLRO is the S151 Officer.

## **7. DISCLOSURE PROCEDURE**

Reporting to the MLRO: 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 act under the legislation, you must disclose this as soon as practicable to the MLRO. The disclosure should be within *hours* of the information coming to your attention, not weeks or months later. **SHOULD YOU NOT DO SO, YOU MAY BE LIABLE TO PROSECUTION.**

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 National Crime Agency (NCA)).

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the SOCA or NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit a criminal offence of “tipping off”. Do not, therefore, make any reference 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 you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

On receipt of the disclosure the MLRO will:

- a) consider the report and make such further enquiries as are necessary to form a view on whether a person is engaged in money laundering;
- b) consider all other relevant information in making this judgement;
- c) ensure that nothing is done which could alert the person or business concerned that a report and an investigation could ensue;
- d) make a report to SOCA, if appropriate, making full notes of the reasons for doing so;
- e) co-operate with any enquiries made by the proper authorities; and
- f) maintain all records of disclosures and reports for at least five years.

## **8. CLIENT IDENTIFICATION PROCEDURE**

Each section of the Council must maintain certain procedures where a transaction or series of linked transactions amounts to 15,000 Euros (approximately £10,000) or more These are to:

- a) require satisfactory evidence of the identity of both internal and external clients at the outset of the matter;
- b) require that if satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot precede any further;



- c) recognise the greater potential for money laundering when the client is not present; and
- d) require that where a client appears to act for another that reasonable measures are taken to establish the identity of that person.

Staff involved in Treasury Management should ensure that all dealings are carried out in accordance with the Treasury Management Strategy and Treasury Management Policies which ensure that transactions are only undertaken with approved counterparties.

## **9. RECORD KEEPING PROCEDURE**

Each service of the Council conducting relevant business must maintain records for at least five years of:

- a) client identification evidence obtained; and
- b) details of all relevant business transactions carried out for clients

The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail.

## **10. FURTHER INFORMATION AND ADVICE**

For any further information or guidance, please contact the MLRO (S151 Officer).



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## **ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD POLICY**

ON THE ACQUISITION OF COMMUNICATIONS DATA,  
AND USE OF COVERT SURVEILLANCE  
AND COVERT HUMAN INTELLIGENCE SOURCES  
(*REGULATION OF INVESTIGATORY POWERS ACT 2000*)

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**Takes Effect – Immediately after Approval by the Audit & Performance Review Panel on  
26 February 2018**

# **ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD POLICY**

## **ON THE ACQUISITION OF COMMUNICATIONS DATA, AND USE OF COVERT SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES (REGULATION OF INVESTIGATORY POWERS ACT 2000)**

### **Statement**

Officers and employees of (and contractors working on behalf of) the Royal Borough of Windsor and Maidenhead may, in the course of their investigatory, regulatory and enforcement duties, need to make observations of persons in a covert manner, to use a Covert Human Intelligence Source or to acquire Communications Data. These techniques may be needed whether the subject of the investigation is a member of the public, the owner of a business or a Council employee.

By its very nature, this sort of action is potentially intrusive and so it is extremely important that there is a very strict control on what is appropriate and that, where such action is needed, it is properly regulated in order to comply with Legislation and to protect the individual's rights of privacy.

Privacy is a right, but in any democratic society, it is not an absolute right. The right to a private and family life, as set out in the European Convention on Human Rights, must be balanced with the right of other citizens to live safely and freely, which is the most basic function that every citizen looks to the state to perform.

Drawing on the principles set out in the Regulation of Investigatory Powers Act 2000 and the Data Protection Act 1998, this policy sets out the Royal Borough's approach to Covert Surveillance, the use of Covert Human Intelligence Sources and the acquisition of Communications Data.

The policy also sets out Members' oversight of this area, adopts a set of procedures and appoints appropriate officers to ensure that these areas are properly controlled and regulated.

### Policy

- 1.1 It is the policy of The Royal Borough of Windsor and Maidenhead (the Council) that all Covert Surveillance, the use of Covert Human Intelligence Sources (informants) and the acquisition of Communications Data by those working for or on behalf of this Council (investigators) will be carried out in accordance with this policy and the associated procedure. (the RIPA Procedure). Any member, officer or employee who deliberately or recklessly breaches this policy will normally be considered to have committed an act of gross misconduct and will be dealt with accordingly.
- 1.2 In so far as the Regulation of Investigatory Powers Act (RIPA) allows, Covert Surveillance and the use of Covert Human Intelligence Sources (informants) will always be subject to the RIPA application process. (This does NOT affect monitoring activities where the actions undertaken do not amount to covert surveillance.) Where officers wish to undertake covert surveillance or use informants but where RIPA is not available, a similar process of considering the proportionality and necessity of any such activities must be carried out before the activities are undertaken and approval gained from a RIPA authorising officer.
- 1.3 When acquiring Communications Data officers are instructed to use the RIPA process, as amended by the Investigatory Powers Act 2016, unless they are doing so with the consent of the data subject. Communications data may only be obtained using RIPA powers for the purposes of investigating a criminal offence.

### Appointments

- 1.4 The Council appoints the Managing Director as the *Senior Authorising Officer (SAO)* and *Senior Responsible Officer (SRO)* for all purposes under RIPA.
- 1.5 The Council appoints the Lead Specialist – Shared Audit and Investigation Service as the *RIPA Monitoring Officer (RMO)* to monitor the use of covert techniques within this Council (whether using the RIPA or non-RIPA processes) and reports to members on the activities the policy covers. They are also directed to ensure that appropriate training is made available to *Authorising Officers (AOs)* and applicants when it is required.
- 1.6 The Council directs that only those appointed by this policy as AOs may authorise covert surveillance, the use of informants or the acquisition of communications data.
- 1.7 The Council appoints Directors and Heads of Service to meet the training criteria. In addition, there are identified officers trained as AOs, subject to a maximum number of six (including the SAO). The Council instructs the RMO to maintain a list of all those currently authorised as part of the RIPA Procedures.
- 1.8 The Council directs the SAO to appoint such persons as he may from time to time see fit to be *Single Points of Contact (SPOC)* (or to make such other arrangements as he deems appropriate) for the purposes of acquiring communications data by the use of RIPA.
- 1.9 In order for the Council's RIPA authorisations to take effect, they must be approved by a Magistrate. The chief legal officer (Head of Law and Governance) is instructed to authorise all those who may need to apply to a Magistrate to appear for that purpose for the Council. The RMO is directed to maintain a list, as part of the RIPA Procedures, of all those so authorised.

### Oversight and Reporting

- 1.10 The RMO shall report to elected Members on the use of RIPA regulated activity by officers of the Council every six months. Such a report shall be presented to the Members (or to such a sub-committee as the full council shall deem appropriate to constitute for oversight purposes) by the RMO and the SRO. The report **must not** contain any information that identifies specific persons or operations but must be clear about the nature of the operations carried out and the product obtained.
- 1.11 Alongside this report, the RMO and SRO will report details of 'Non-RIPA' surveillance in precisely the same fashion.
- 1.12 Elected Members shall have oversight of the Council's policy and shall review that policy annually should it be deemed by the RMO that significant changes have been made.. At that review (or following any six-monthly report) elected Members shall make such amendments as they deem necessary to the Council's policy, and may give such directions as they deem necessary to the RMO and SRO in order to ensure that the Council's policy is followed.
- 1.13 Elected Members shall not interfere in individual authorisations. Their function is to, with reference to the reports, satisfy themselves that the Council's policy is robust and that it is being followed by all officers involved in this area. **Although it is elected members who are accountable to the public for council actions, it is essential that there should be no possibility of political interference in law enforcement operations.**

### RIPA Procedures

- 1.14 The RMO is instructed to create a set of procedures that provide instruction and guidance for the use of surveillance and informants, and the acquisition of communications data. They are further instructed to maintain and update the RIPA Procedures, ensuring that they continue to be both lawful and examples of best practice.
- 1.15 The reference to 'maintain and update' in this section includes the duty to remove AOs from the list if they cease to be employed in a relevant role or if they no longer satisfy the requirements to be an AO, and the right to add names to that list so long as (a) they satisfy the policy and regulatory requirements and (b) at no time does the number of AOs exceed six.
- 1.16 If a change is required, in the opinion of the RMO, in order to comply with this part, they are authorised to make that change without prior approval from any person.
- 1.17 The RMO must report any changes made under this section to Members when they undertake their annual oversight of the Policy, as set out above.
- 1.18 All managers are required to ensure that their staff understand that covert investigation techniques may only be used in accordance with this policy and the associated procedures.

### Training

- 1.19 In accordance with this Code of Practice, AOs **must** receive full training in the use of their powers. They must be assessed at the end of the training, to ensure competence, and must undertake refresher training at least every two years. Training will be arranged by the RMO. Designated AOs who do not meet the required standard, or who exceed the training intervals, are prohibited from authorising applications until they have met the requirements of this paragraph. AOs must have an awareness of appropriate investigative techniques, Data Protection and Human Rights Legislation.

## Royal Borough of Windsor and Maidenhead

### Policy on the Acquisition of Communications Data, and the use of Covert Surveillance and Covert Human Intelligence Sources

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- 1.20 Those officers who actually carry out surveillance work must be adequately trained prior to any surveillance being undertaken. A corporate training programme will be developed to ensure that AOs and staff undertaking relevant investigations are fully aware of the legislative framework.
- 1.21 The *Senior Leadership Team* members who have no direct involvement with covert investigation will undertake a briefing at least biannually, to ensure that they have a good understanding of the activities that might fall into the definition of covert investigation techniques.

#### Exceptions, Notes and Complaints

- 1.22 CCTV cameras operated by this Council are NOT covered by this policy, unless they are used in a way that constitutes covert surveillance; only under those circumstances must the provisions of this policy and the RIPA Procedures be followed.
- 1.23 Interception of communications, if it is done as part of normal business practice, does NOT fall into the definition of acquisition of communications data. (This includes, but is not limited to opening of post for distribution, logging of telephone calls, for the purpose of cost allocation, reimbursement, benchmarking, etc.; logging E Mails and internet access for the purpose of private reimbursement.)
- 1.24 If any person wishes to make a complaint about anything to which this policy applies is invited to use the Council's Complaints Procedure. Any complaint received will be treated as serious and investigated in line with this Council's policy on complaints. **Regardless of this, the detail of an operation, or indeed its existence, must never be admitted to as part of a complaint. This does not mean it will not be investigated, just that the result of any investigation would be entirely confidential and not disclosed to the complainant.**

#### Adoption and Amendment of the Policy

- 1.25 This version of the Policy was approved by the Audit and Performance Review Panel on behalf of the Council on 26 February 2018 after which it came into immediate effect. It replaces all previous policies on these subjects.

**Note:** The procedures issued under para 1.14 may be found on [hyperwave](#).

# **ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**

## **RAISING CONCERNS AT WORK (WHISTLEBLOWING) POLICY AND PROCEDURE (NON SCHOOLS)**

### **Covers:**

- Purpose and aims
- Scope
- How to raise a concern
- Practice and procedure
- How the council will respond
- Safeguards
- How the matter can be taken further
- Responsibility of employees / Monitoring Officer
- Contacts.

## **1. PURPOSE AND AIMS**

- 1.1 The Royal Borough of Windsor and Maidenhead (the council) must aspire to the highest standards of quality, probity, openness and accountability in all its activities. In line with the Public Interest Disclosure Act 1998, this policy and procedure aims to create an environment in which employees and others working with council, who have concerns about any aspect of the council's work, feel encouraged to disclose information to an appropriate person within the council. Raising concerns at work also applies to members, contractors, consultants and agency staff working on council premises.
- 1.2 The council's whistleblowing policy and procedure is compliant with the Public Interest Disclosure Act 1998. It also recognises the arrival of the Enterprise and Regulatory Reform Act 2013 (ERA) and the protections inserted by the ERA into the Public Interest Disclosure Act 1998. These are designed to protect workers from being unfairly dismissed by their employer or suffering other detriment whenever they report their concerns about matters that affect the public interest to their employer, regulatory authorities or other designated persons.
- 1.3 Whistleblowing claims will only now be valid when an employee blows the whistle in relation to a matter for which the disclosure is genuinely in the public interest. This will exclude breaches of individuals' contracts of employment and breaches of other legal obligations, which do not involve issues of a wider public interest.
- 1.4 The good faith test is a test which needs to be satisfied by claimants bringing a whistleblowing claim. With the introduction of the public interest test, it was considered that the existence of two tests would have a deterrent effect and reduce the number of disclosures. This Act changes the application of the good faith test, so it will now be considered by the tribunal when deciding on remedy, rather than liability. The tribunal will have the power to reduce any compensation award by up to 25% where a disclosure has been made in predominantly bad faith.
- 1.5 Employees, because of their close proximity to council practices, are often the first to identify areas or issues that may be of concern. However, they may be reluctant to express these concerns because they feel that speaking up would be disloyal to their colleagues or to the council – and they may also be worried that they will be victimised or harassed as a result of their actions.
- 1.6 This policy is designed to help create an environment in which employees and others feel they are able to raise concerns without fear of reprisal. By responding to and addressing concerns in the quickest possible time, the council aims to contain such matters within the council. However, employees or others must be able to take matters further if they are dissatisfied with the council's response.



## **2. SCOPE**

- 2.1 The council has an Anti-Fraud and Anti-Corruption Statement (available on the intranet and the council's website), which employees are encouraged to continue to use to identify and report problems or concerns, particularly in relation to financial or contractual irregularities.
- 2.2 This document is designed to sit alongside the statement, together with the council's Grievance Procedure (which enables employees to lodge a grievance relating to their employment) and the Dignity at Work Policy, which includes a procedure for dealing with claims of harassment (both available on the intranet).
- 2.3 Raising concerns at work is intended to cover concerns that fall outside the scope of these three procedures and extends the range of issues that employees are encouraged to report.
- 2.4 These concerns may be about acts that:
- Are unlawful or involve fraud, deceit and/or bribery.
  - Represent a risk to health and safety.
  - Cause environmental damage.
  - Infringe equal opportunities related legislation and / or council policies, e.g. discriminatory behaviour.
  - Amount to improper or unethical conduct, for example a breach of a statutory code of conduct, or are an abuse of position.
  - Are a miscarriage of justice.
  - Are a criminal offence or breach of law.
  - Are safeguarding failures.

## **3. HOW TO RAISE A CONCERN**

- 3.1 Concerns can be discussed with a colleague first and it may be easier to raise the matter if more than one of you has had the same experience or concern.
- 3.2 A friend, colleague, or a representative of your trade union or professional association may assist in raising a concern and may be in attendance at any related meetings.
- 3.3 Employees should, if possible, raise a concern in the first instance with their immediate manager.
- 3.4 Members should raise any concerns with their Group Leader.
- 3.5 Non-employees, for example. agency workers, contractors, partners, volunteers, should raise a concern in the first instance with the person to whom they directly report / have contact within the council.

- 3.6 In some cases, the nature or sensitivity of the concern means that this may not always be appropriate. If a person feels they cannot raise their concern with their immediate manager/contact, they are able to go directly to either the Head of Human Resources, the Monitoring Officer (Head of Law and Governance), Deputy Director and Head of Finance or the Lead Specialist - Audit and Investigation. They may also do so if, having raised the concern with the immediate manager/contact, they feel there has not been an appropriate response.
- 3.7 In the event of a concern being of an extreme and potentially serious nature, employees and others may raise it directly with the Managing Director or the Leader of the Council.
- 3.8 For all concerns in respect of any suspected financial irregularity, officers must notify the Deputy Director and Head of Finance and the Lead Specialist - Audit and Investigation immediately.
- 3.9 In circumstances where an individual feels that it is necessary to raise a concern with an independent body rather than raise it internally within the council, they may obtain guidance from the Public Concern at Work charity who can be contacted on 020 7404 6609.

#### **4. PRACTICE AND PROCEDURE**

- 4.1 Concerns are better raised in writing but can be made orally; in either case it is essential to give as much information as possible so that reasonable grounds for the concern can be demonstrated.
- 4.2 The earlier the concern is raised, the greater the opportunity for the council to take remedial action.
- 4.3 Advice and guidance on how matters of concern may be raised and pursued can be obtained from the Head of Human Resources, the Lead Specialist - Audit and Investigation or the Monitoring Officer.

#### **5. HOW THE COUNCIL WILL RESPOND**

- 5.1 Once a concern is raised, an appropriate council officer will make initial enquiries, taking advice from the Head of Human Resources, Monitoring Officer, Head of Finance and the Lead Specialist - Audit and Investigation, to help decide if an investigation is appropriate and if so, what form it should take. As soon as possible and in any case within 10 working days of a concern being raised, the person handling the matter will write to the individual raising the concern acknowledging that it has been raised and indicating how, as far as possible, it will be dealt with. The individual will be kept informed of progress and will receive a full and final response, subject to any legal restraints.

- 5.2 An Investigation Officer will be appointed by the relevant director.
- 5.3 In relation to allegations of fraud and corruption (including bribery) in respect of members and directors, the Managing Director will lead the process and will appoint an appropriate Investigating Officer, in liaison with the Monitoring Officer, Head of Human Resources, Deputy Director and Head of Finance and the Lead Specialist - Audit and Investigation. For cases involving the Managing Director, the Leader of the Council will direct the process.
- 5.4 Any decision to refer a matter to the police will be taken by the Monitoring Officer, in consultation with the relevant director, the Lead Specialist - Audit and Investigation and the Head of Human Resources, as appropriate. The council will normally wish the police to be made aware of, and investigate independently, those offenders where financial impropriety is discovered.
- 5.5 Depending on the nature of the allegation, the Investigating Officer will normally work closely with the director appointing them, to ensure that all allegations are thoroughly investigated and reported upon.
- 5.6 The Investigating Officer will:
- Deal promptly with the matter.
  - Record all evidence received.
  - Ensure that all evidence is sound and adequately supported.
  - Ensure security of all evidence collected.
  - Contact other agencies such as police.
  - Notify the council's Insurance and Risk Manager, if applicable, who in turn will notify the council's insurers.
  - Assist management to implement council disciplinary procedures, where appropriate.

The processes outlined above will also apply to members.

- 5.7 The council's disciplinary procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees.

## **6. SAFEGUARDS**

### **Harassment or victimisation**

- 6.1 The council recognises that it can be difficult to report a concern, not least because of the fear of reprisal from those responsible for the potential malpractice. The council will not tolerate harassment or victimisation of the person who has raised the issue and will take appropriate action against individuals who perpetrate such harassment.

### **Confidentiality**

- 6.2 Wherever practical and possible, the council will protect the identity of those raising a concern if they do not wish their name to be disclosed. It must be appreciated, however, that the process of investigation may reveal the source of information and a statement may also be required as part of the evidence. Advice and support will be provided where this is the case and disclosure of your identity will not be done without your consent unless legally required to do so.
- 6.3 Anyone may approach the council confidentially if they so wish and as long as their allegation appears to have been raised honestly and in good faith, their wish for confidentiality will be supported.
- 6.4 This approach is further supported by decisions of the courts, who have recognised in certain circumstances the identity of persons who have made allegations or given information to the public and other bodies should not be revealed (in the course of legal proceedings, for example). They recognise that disclosure could discourage others from making allegations or giving information to the proper authorities.

### **Support for those raising concerns**

- 6.5 If you are a trade union member, you are encouraged to raise and discuss matters with your union representatives before seeking to invoke the whistleblowing procedure. Trade unions can advise you whether or not to proceed and the best way to present your disclosure.
- 6.6 The council's HR Service can be a place where you can discuss how to make a disclosure and lodge a matter of concern. Employees and non-employees will often discuss the issues that worry them with members of the HR Business Partner team in the first instance. Such discussions will be in confidence if that is what you prefer, but there may be some disclosures (for instance criminal acts) that cannot remain confidential.
- 6.7 Employees of the council can contact the EAP, which is a completely independent workplace support service, accessible on line and via a freephone number, 24 hrs a day, 365 days of the year.
- 6.8 The service offers free and completely confidential advice and help in relation to personal or work related issues.

### **Anonymous allegations**

- 6.9 Individuals raising concerns are strongly encouraged to put their name to any allegation. Concerns expressed anonymously are much less powerful, and will only be considered if the Monitoring Officer advises that the allegation demonstrates sufficient cause to take the matter further.

### **Untrue allegations**

- 6.10 If someone makes an allegation in good faith and it is not confirmed by an investigation, no action will be taken against the person who has made the report. If, however, an individual makes an allegation, which is subsequently shown to be malicious or vexatious, disciplinary action is likely to be taken against them.

## **7. HOW THE MATTER CAN BE TAKEN FURTHER**

- 7.1 This policy is intended to provide employees and others with an effective process for raising concerns within the council. The council hopes that those using this process will be satisfied with the way their concerns are treated and any investigations that may be carried out. However, if they are not satisfied and feel it is right to take the matter outside the council, then either the Head of Human Resources or the Monitoring Officer will provide advice as to other options.

## **8. RESPONSIBILITY OF OFFICERS / MONITORING OFFICER**

- 8.1 The Head of Human Resources and the Monitoring Officer have overall responsibility for the maintenance and operation of this policy.
- 8.2 The Lead Specialist - Audit and Investigation should be notified of all concerns raised through this policy. All concerns raised and the outcomes (in a form which respects the individual's confidentiality) will be maintained by the Head of Human Resources.

## **9. CONTACTS**

### **Internal**

Managing Director	01628 796367
Monitoring Officer and Head of Law and Governance	01628 796748
Lead Specialist – Audit and Investigation Service	07917 265742
Deputy Director and Head of Finance (Financial Issues)	01628 796341
Head of Human Resources	01628 796992

### **External**

External Audit (KPMG)	
Audit Commission (Whistleblowing Line)	0845 052 2646
Your Local Union Representative	
Public Concern at Work ( <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a> )	020 7404 6609

## **10 PUBLICITY**

- 10.1 This policy should be publicised to the widest possible audience so that all internal and external parties related to the council are aware of its existence in the event they have a legitimate concern or complaint.