

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE AUDIT COMMITTEE - 19 NOVEMBER 2014

SUBMITTED TO THE COUNCIL MEETING - 9 DECEMBER 2014

(To be read in conjunction with the Agenda for the Meeting)

**Present**

Cllr Richard Gates (Chairman)	Cllr Tony Gordon-Smith
Cllr Wyatt Ramsdale (Vice Chairman)	Cllr Stephen Hill
Cllr Jenny Else	Cllr Peter Isherwood

**Apologies**

Cllr Stewart Stennett

**Also Present**

Dominic Bradley from Grant Thornton

28. MINUTES (Agenda item 1.)

RESOLVED that the minutes of the meeting held on 17 September be confirmed and signed.

29. APOLOGIES FOR ABSENCE (Agenda item 2.)

Apologies for absence were received from Councillor Stewart Stennett.

30. DISCLOSURE OF INTERESTS (Agenda item 3.)

There were no interests declared under this heading.

31. QUESTIONS BY MEMBERS OF THE PUBLIC (Agenda item 4.)

There were none.

**PART I - RECOMMENDATIONS TO THE COUNCIL**

32. REVISED GOVERNANCE POLICIES (Agenda item 8.)

The Committee received updated versions of four governance policies which are set out at Annexes 1-4 to these minutes, as follows:-

- Annexe 1 Whistleblowing Policy
- Annexe 2 Corporate Anti-Fraud, Corruption and Bribery Policy
- Annexe 3 Prosecution Policy
- Annexe 4 Anti-Money Laundering Policy and Guidance

The Committee noted that the majority of changes were minor, reflecting changes in legislation and the organisational restructure affecting job titles and positions. The whistleblowing policy had also been clarified to ensure that any concerns relating to Member conduct should be reported to the Monitoring Officer.

The policies would continue to be reviewed annually by officers and where necessary be presented to the Audit Committee to be endorsed.

Members were pleased that these policies were in place, and asked officers to ensure they were thoroughly publicised to all staff. Officers reassured the Committee that the updated policies would be disseminated to relevant staff and that all new members of staff were briefed on these policies as part of the induction process.

The Committee

**RECOMMENDS that:**

- 1. The revised policies set out in Annexes 1-4 to these minutes be approved and adopted; and**
- 2. Officers be instructed to cascade and publicise these documents to all staff.**

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

**PART II - MATTERS OF REPORT**

Background Papers

The background papers relating to the following report items in Part II are as specified in the agenda for the Audit Committee.

33. ANNUAL AUDIT LETTER 2013/14 (Agenda item 5.)

Dominic Bradley from Grant Thornton was present at the meeting and presented the Annual Audit Letter. He reported that it had been a good year for Waverley, and that Grant Thornton had issued an unqualified opinion on the Council's 2013/14 financial statements and an unqualified value for money conclusion.

The Committee was very pleased with the content of the letter, and asked that their thanks be passed on to officers in the finance team. Members also asked officers to issue a press release explaining that Waverley had received excellent audit findings.

It was noted that Waverley's external audit team within Grant Thornton, Emily Hill and Dominic Bradley, were being rotated and that the Council would be working with a new team next year. The Committee thanked Emily and Dominic for their work over recent years, and looked forward to working with the new team.

RESOLVED that:

1. The Annual Audit Letter be noted; and
2. Officers be asked to issue a press release explaining that Waverley had received excellent audit findings.

34. PROGRESS ON THE IMPLEMENTATION OF INTERNAL AUDIT RECOMMENDATIONS (Agenda item 6.)

The Committee received the report outlining internal audit recommendations overdue or due within the next month. The Internal Audit Client Manager circulated an updated version of Annexe 1 to the report which contained updates from officers since the agenda had been published.

It was noted that most of the internal audit recommendations arose as good practice in areas of risk and did not necessarily mean that there had been any incidents in these areas.

In relation to recommendation IA14/18.004 (sundry debtors) it was noted that the Agresso consultants were now on site and the Head of Finance reassured the Committee that the recommendation would be completed on time. The financial regulations (recommendation IA14/18.005) had been updated to reflect the changes in job titles and would also be updated to include reference to InTend, Waverley's new e-tendering system. The updated financial regulations would need to be approved by Council and the Head of Finance would ensure that this was done as soon as possible.

Annexe 2 to the report contained a note of progress made by officers in response to recommendations raised by the external auditors. The Head of Finance explained that the administration of Agresso and iTrent is linked to key senior officers within the finance team and therefore it would be difficult for someone in IT to solely hold the administration rights to these systems due to the complexity of the systems, however he assured the Committee that other mitigation measures were in place.

RESOLVED that:

1. The progress on the implementation of internal audit recommendations be noted; and
2. The progress made on the recommendations raised by the external auditors, Grant Thornton, be noted.

35. PROGRESS ON THE INTERNAL AUDIT PLAN FOR 2014/15 (Agenda item 7.)

The Committee received the report setting out the current position of the Internal Audit reviews detailed in the 2014/15 Audit Plan. The format of the report had been amended slightly to include a planned start date for each review, which Members found very useful.

RESOLVED that the progress for the Internal Audit Plan 2014/15 be noted.

36. RISK MANAGEMENT UPDATE (Agenda item 9.)

*[This item contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of the revised Part 1 of Schedule 12A to the Local Government Act 1972, namely;-*

*Information relating to the financial or business affairs of any particular person (including the authority holding that information).]*

The Committee received the report presenting the latest corporate risk registers as updated by heads of service. Members raised a number of questions about the detailed risk scenarios which were answered by officers.

RESOLVED that the revised corporate risk registers be noted.

37. EXCLUSION OF PRESS AND PUBLIC (Agenda item 10.)

At 6.15pm it was:

RESOLVED that pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item(s) on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item(s), there would be disclosure to them of exempt information (as defined by Section 1001 of the Act) of the description specified in paragraph 7 of the revised Part 1 of Schedule 12A to the Local Government Act 1972, namely:

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

38. INTERNAL AUDIT INVESTIGATION - UPDATE (Agenda item 11.)

The Committee received a verbal update from the Director of Finance and Resources on the latest position on an investigation.

**The meeting commenced at 5.00 pm and concluded at 6.32 pm**

**Chairman**

**WHISTLE-BLOWING POLICY**

**FOR RESIDENTS (MEMBERS OF THE PUBLIC),  
STAFF (EMPLOYEES),  
CONTRACTORS, PARTNERS  
AND COUNCILLORS**

**Part A: The Policy**

**Part B: Procedures for dealing with a report**

**Part C: Contact details**

Part A: THIS A POLICY IS INTENDED TO ENCOURAGE AND ENABLE ANYONE TO RAISE ISSUES OF CONCERN ABOUT RELATED TO SUSPECTED IMPROPER CONDUCT IN THE WAY WAVERLEY CARRYESNG OUT ITSOFTHE COUNCIL'S BUSINESS.

## Introduction

Waverley Borough Council is committed seeks to ensure the proper conducting of its business properly through the application of a range of procedures including its Contract Procedural Rules, Financial Regulations, and Codes of Conduct. These and other related procedures, which reinforces the Council's commitment to effective governance, the highest possible standards of openness, honesty and accountability and to encourage to embed an anti-fraud, anti-corruption and anti-bribery culture reinforcing Waverley's zero tolerance to fraud, corruption and bribery.

This policy supports that commitment by encouraging employees and others who may have serious concerns about any aspect of the Council's work to be able to raise those concerns in good faith, in confidence and without fear of recrimination.

Waverley The Council is committed to dealing responsibly and professionally with any genuine concern raised about malpractice, be it danger to staff or the public, financial malpractice, breach of legal obligations or damage to the environment. However, if any Waverley employeeThe making of deliberately false or malicious allegations by any employee of the Council this will be regarded as a serious disciplinary offence.

This policy is in addition to the Council's complaints procedures and ethical standards framework for Councillors and other statutory reporting procedures. The Council acknowledges the legal protection, under the Public Interest Disclosure Act 1998, provided for employees who make disclosures about improper practice.

## Aim of the Policy

The aim of This Policy is intended to encourage anyone who may have concerns about improper conduct of the Council, elected Members or external organisations to disclose any allegation of malpractice within the Council, without fear of recrimination. This Policy is founded on the principle that service users and the public interest come first.

### The Council's rules and procedures

The council has adopted aA number of rules and procedures have been approved and adopted to ensure the Council's business is properly monitored and controlled. They form part of the Council's internal control process and system of governance and it is important that all members and staff are aware of, and abide by, them.

The most important of these are:

Version 1 Approved by June 2008 Audit Committee

Version 2 Endorsed by Audit Committee on 22 November 2011, Agreed by Council on 13 December 2011

Version 3 Endorsed by Audit Committee on 20<sup>th</sup> November 2012

Version 4 Endorsed by Presented to Audit Committee on 17<sup>th</sup> September 2013

Version 5 Presented to Audit Committee on 19<sup>th</sup> November 2014 Due for Revision in 2014

- Codes of Conduct for Employees and [CouncillorsMembers](#)
- Financial Regulations
- Contract Procedure Rules
- Scheme of Delegation
- Employees' Conditions of Service [and Staff Code of Conduct](#)

The Financial Regulations require all cases of actual or suspected fraud, corruption, bribery and theft to be reported immediately to the Section 151 Officer ([Strategic Director for Finance and Resources](#)) who will inform the Internal Audit Client Manager. The Executive- Director, [Strategic-Director of Operations](#) and Heads of Service must ensure that all staff are aware of the reporting requirement.

### **Concerns involving Fraud, Corruption and Bribery**

Concerns can be raised if there is a reasonable belief that one or more of the following has occurred:

- Gross mismanagement.
- Actions contrary to the [Codes](#) of [Conducts](#) relating to staff and Members of the council.
- Actions that are illegal, fraudulent and/or corrupt.
- Actions that compromise health and safety at work.
- The concealment of any of the previous matters.
- Similar behaviour not otherwise described.

### **Safeguards**

#### ***Harassment or Victimisation***

The Council recognises that the decision to report a concern can be a difficult one, not least because of the fear of reprisal from those responsible for the misconduct. The Council will not tolerate harassment or victimisation and will take all reasonable measures to protect those who raise a concern in good faith. This does not mean that, if you are an officer of the Council making the disclosure and are already the subject of disciplinary or redundancy procedures, these will be halted as a result of the disclosure.

#### ***Confidentiality***

The Council will protect the identity of the person making the disclosure (wherever possible) where that Officer has requested that his or her name be kept confidential. During the course of an investigation, the Council will keep [to](#) a minimum [the](#) number of people aware of who raised the matter. However, it must be appreciated that the investigation process may reveal the name of the source of the information, and a statement by the officer making the disclosure may be needed as part of the evidence.

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### ***Anonymous Allegations***

This policy encourages those making a disclosure to put their name to the allegations. Concerns expressed anonymously are much less powerful, but they [may will](#) be considered at the discretion of the Council. In exercising that discretion, the factors to be taken into account would include:-

- I. the seriousness of the issue raised;
- II. the credibility of the concern; and
- III. the likelihood of confirming the allegation from attributable sources.

### ***Untrue Allegations***

If an allegation is made in good faith but is not confirmed by the investigation, no action will be taken against the officer making the disclosure. If, however, [a member of staff individuals](#) makes malicious or vexatious allegations, the allegations will not be taken further and disciplinary action may result. The judgement of whether an allegation is malicious or vexatious rests with the Internal Audit Client Manager, after consultation with other senior officers as necessary.



## Whistleblowing Policy Part B: Procedures for dealing with a report

### How to report any concerns

You are advised in the first instance to report your suspicions to the Internal Audit Client Manager who manages the Council's Whistle-blowing arrangements, dealing with concerns that relate to members of staff, ~~elected Members of the Council~~ and other contractors/partners. Concerns can be reported by calling 01483 523333 and asking for one of the Council officers listed ~~in Part C of this policy below (whose direct lines are also shown below)~~ or alternatively by e-mailing them. Calls will be answered between 09.00 and 17.00 Monday to Thursday (09.00 to 16.45 on Fridays). If the person you call is not able to take your call, it will be possible to leave a message either on "Voicemail" or with the person answering your call. Reports can also be submitted using the web reporting facility on the Waverley web site [www.waverley.gov.uk](http://www.waverley.gov.uk) in "Report it" in ~~f~~Fraud and corruption. The more detailed the information provided will provide more assistance in ~~the~~ resolving any issues raised.

Letters can also be addressed to:

Internal Audit Client Manager  
The Burys  
Council Offices  
Godalming  
Surrey GU7 1HR

Alternatively your suspicions can be reported directly to the Executive Director, Section 151 Officer (~~Strategic Director~~ ~~offer~~ Finance and Resources) ~~or Strategic Director of Operations~~. The Internal Audit Client Manager may where necessary suggest that the matter be referred to third parties that may deal with issues of Member conduct, or the Police. [If the matter relates to a Councillor, you should contact the Monitoring Officer.](#)

[Anyone with concerns](#) ~~Everyone is advised that they~~ may, in confidence and without fear of recrimination, disclose ~~worries~~ concerns of suspected improper conduct at the levels set out below. Concerns are better raised in writing. You are invited to set out the background and history of the concern, giving as much information as possible including names, dates, vehicle details and places where possible, including contact details of the whistle blower to enable the investigating officer to clarify and verify the circumstances and the reason for raising this particular concern. ~~for why the situation has raised particular concern.~~ If you feel unable to put a concern in writing, you can telephone or arrange to meet the appropriate officer. It may in some circumstances be necessary if the need arises for the complainant originator to be called as a witness at a later date, should the need arise.

If you do not wish to go through this reporting mechanism, or you are unhappy with the outcome of any investigation undertaken, please feel free to contact any of the other external organisations listed in this policy.

Employees are advised that they may raise their concerns with other external organisations such as the Citizens' Advice Bureau, addresses and telephone numbers can be found in the telephone directory. Alternatively ~~the~~ 'Public Concern at Work' is a registered charity which is able to provide, free of charge, confidential and independent advice to people in these circumstances. Contact details for this organisation are included at the end of this policy.

### **How the Complaint will be dealt with**

a) The Internal Audit Client Manager logs all reports and carries out a preliminary review in each case to determine the most appropriate course of action. The action will depend on the nature and seriousness of the concern, ~~and will also be logged.~~ Any matters which fall within the scope of other existing procedures (e.g. complaints or discrimination issues) will be dealt with under these procedures. Some concerns may be resolved by agreed action without the need for investigation. Matters to be investigated may be:

- dealt with internally by the Internal Audit Service or other specialists such as the Benefit Investigations Team, Human Resources Advisors or
- referred to the Police or other external agency.

The decision as to who shall complete the investigation will be made by the Internal Audit Client Manager in consultation with the Section 151 Officer and the Monitoring Officer.

Where an allegation is made against Senior Officers of the Council, including members of the Corporate Management Team, Section 151 Officer, Monitoring Officer, Head of Finance or the Internal Audit Client Manager, an appropriate body will be requested to complete the investigation, such as the Council's External Auditors.

b) Within **three working days** of a concern being received, the Council will contact the complainant, (if contact details are supplied):

- acknowledging that the concern has been received,
- indicating how it proposes to deal with the matter,

The Council may also ask for more information where this would assist in the investigation.

c) Investigations may result in recommendations for changes to procedures and systems which will be incorporated into action plans. Follow-up reviews will be carried out to ensure that recommendations are implemented.

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d) Investigations may lead to disciplinary action against employees conducted in accordance with the Council's Disciplinary Procedures. In this situation, the employee would be informed that the issue has been raised under the Whistleblowing Policy. This may be in addition to any legal proceedings instigated by the police.

e) Where appropriate the Internal Audit Client Manager will refer findings to the Police for investigation or review, after discussion with the Executive Director, Section 151 Officer or the Monitoring Officer.

f) If you raise a matter and then later decide to withdraw your concern, the Council will respect your wishes wherever possible. However, if the matter is assessed as serious, then the Council will, where it ~~is deemed~~ is deemed appropriate, continue to investigate, which may result in further evidence being required from you.

**Whistleblowing Policy part C: Contact Details**

**Internal Contact Details**

Internal Audit Client Manager – Gail Beaton

Telephone: 01483 523260 e-mail: [gail.beaton@waverley.gov.uk](mailto:gail.beaton@waverley.gov.uk)

Executive Director– Paul Wenham

Telephone: 01483-523238 e-mail: [paul.wenham@waverley.gov.uk](mailto:paul.wenham@waverley.gov.uk)

~~Strategic~~ Director ~~of~~ Finance and Resources (Section 151 Officer) – Graeme Clark

Telephone: 01483-523099 e-mail: [graeme.clark@waverley.gov.uk](mailto:graeme.clark@waverley.gov.uk)

~~Strategic~~ Director of Operations – Damian Roberts

Telephone: 01483-523418 e-mail: [damian.roberts@waverley.gov.uk](mailto:damian.roberts@waverley.gov.uk)

Monitoring Officer – Robin Pellow

Telephone: 01483 523222 e-mail: [robin.pellow@waverley.gov.uk](mailto:robin.pellow@waverley.gov.uk)

**External Organisation Contact Details**

Grant Thornton is the Council's external auditor, an independent body, which may be contacted if you feel that your suspicions of fraud or malpractice have not been satisfactorily dealt with through the internal route.

**Grant Thornton**

~~Iain G Murray~~~~Kathryn Sharp~~

Telephone:

~~0207772833284293 554130~~

~~Associate Director~~ ~~udit Manager~~

—e-mail:

~~[iain.g.murray](mailto:iain.g.murray@uk.gt.com)~~~~[Kathryn.E.Sharp@uk.gt.com](mailto:Kathryn.E.Sharp@uk.gt.com)~~

~~Grant Thornton House~~

~~Melton Street~~~~The Explorer Building~~

~~Euston Square~~~~Fleming Way~~

~~LONDON NW1 2EP~~~~Manor Royal~~

~~Gatwick~~

~~RH10 9GT~~

**Public Concern at Work**

3<sup>rd</sup> Floor, Banks Chambers

6-10 Borough High Street

London

SE1 9QQ

**Whistleblowing Advice Line**

Telephone: 0207 404 6609

General Enquiries 020 3117 2520

Fax 0207 403 8823

Website: [www.pcaw.org.uk](http://www.pcaw.org.uk)

E-mail

UK enquiries: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

UK Helpline: [helpline@pcaw.org.uk](mailto:helpline@pcaw.org.uk)

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UK Services: [services@pcaw.org.uk](mailto:services@pcaw.org.uk)

Any concerns relating to Housing Benefits can be reported confidentially on the Department Work and Pensions Fraud hotline: 0800-854-440.

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**ANTI-FRAUD, CORRUPTION AND**

**BRIBERY STRATEGY**

**1 Introduction**

- 1.1 Waverley Borough Council has a zero tolerance policy towards fraud, corruption and bribery. This commitment to preventing fraud and corruption is reinforced through the development and application of our 'Anti-Fraud, Corruption and Bribery Strategy', in order to prevent and minimise its occurrence. The Council creates a culture of risk mitigation by developing and cascading relevant policies and procedures to all organisations and individuals that it has any dealings with.

The Council is committed to maintaining an environment and culture that is based on the prevention of fraud, corruption and bribery, whether it is an attempt on the Council from outside or within, and is committed to an effective Anti-Fraud, Corruption and Bribery Strategy designed to:

- encourage prevention;
- promote detection; and
- identify a clear pathway for investigation of fraud, corruption and bribery.

- 1.2 The Council is dedicated to making sure that the opportunity for fraud, corruption and bribery is reduced to the lowest level of risk by having strong internal controls, processes and procedures that assist to limit the opportunity of fraud risks materialising. Where there is the possibility of fraud, corruption or bribery and other areas requiring investigation, the Council will deal with it in a professional and lawful manner.
- 1.3 The Council expects all people and organisations with whom it is in any way associated to be honest and fair in their dealings with us, our clients and customers. All parties should be prepared to provide any help, information and support needed to help combat fraud, corruption and bribery, and this expectation will be reflected within any contract between the Council and third parties.
- 1.4 The Council's expectation on propriety and accountability is that our elected Members and employees lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 1.5 The Council's External Auditors have a responsibility to report on the adequacy of the Council's anti-fraud, anti-corruption and anti-bribery arrangements, as well as the power to carry out an independent investigation into fraud, corruption and bribery if the need arose.

## 2 Definition of Fraud , Corruption and Bribery

### 2.1 For the purpose of this policy:-

**“Fraud”** is defined as “the intentional distortion of financial statements or other records by persons internal or external to the Council carried out to conceal the misappropriation of assets or other gain”.

In addition, “fraud” can also be defined as *the intentional distortion of financial statements or other records by persons internal or external to the authority carried out to mislead or misrepresent the truth.*

**“Corruption”** is defined as “the offering, giving or soliciting or acceptance of an inducement or reward which may influence the action of any person”.

**“Bribery”** is “an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage”

The Bribery Act 2010 contains four offences:

- Offering, promising or giving a bribe (section 1)
- Requesting, agreeing to receive, or accept a bribe (section 2)
- Bribing a foreign official (section 6)
- Failing to prevent bribery (section 7)

It will also be taken to include failure to disclose an interest in order to gain financial or other pecuniary benefit.

## 3 Prevention

### 3.1 The Council has carefully considered its own internal corporate governance arrangements in order to regulate the actions of elected Members and employees and to ensure that appropriate procedures are in place to prevent fraud, corruption and bribery. A range of policy documents has been in existence for a number of years and **these** have been used to regulate and govern the Council’s business dealings. These include: -

- Financial Regulations
- Contract Procedure Rules (CPRs)
- Waverley Code of Conduct for Staff
- Whistleblowing Policy
- Waverley Local Code of Conduct for Members
- The Council’s Constitution
- Employees’ Conditions of Service
- IT **Acceptable Use Policy**
- Scheme of Delegation

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- Any other Codes of Conduct adopted by the Council
- Members' Register of Interests and gifts and hospitality
- Staff register of gifts and hospitality.

These documents receive periodic review and are updated as appropriate.

3.2 As part of the requirements of the Codes of Conduct, Members and employees are formally reminded each year to declare any interests that they may have.

3.1 Individual Council Services are responsible for ensuring that there are adequate and appropriate controls in place to minimise the risk of fraud, corruption and bribery occurring. Examples include accounting control procedures, working manuals and operating procedures. Heads of Service are required to ensure that all staff have access to these rules and regulations and that staff receive suitable training in respect of them.

3.2 Heads of Service must ensure that suitable levels of internal controls are included in working practices, particularly where there is a financial element. It is important that duties are organised so that no one person can carry out a complete transaction without some form of checking process by another person being built into the system. In addition to the formal rules mentioned above each manager has a responsibility to implement systems of internal control to

- ensure adherence to Council Policies and directives in order to achieve the Council's objectives;
- safeguard assets;
- secure the relevance, reliability and integrity of information, so ensuring as far as possible the completeness and accuracy of records; and
- ensure compliance with statutory requirements.

3.2 The Council must ensure that proper procedures are followed in full when employing new staff. Where possible, the previous employment records of anyone we are considering employing must be checked. In particular jobs where risk of fraud, corruption and/or bribery is greater, further checks are necessary such as **with the Disclosure and Barring Service**. This applies to both temporary and permanent staff. The full procedures are as set out in the Council's Recruitment and Selection Procedures.

#### **4 Combining with Others**

4.2 The Council is committed to working and co-operating with other organisations to prevent organised fraud, corruption and bribery. Wherever possible, we will help and exchange information with other organisations to deal with fraud in accordance with appropriate legislation, including the Data Protection Act 1998, Freedom of Information Act 2000, Environmental

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Information Regulations 2004, Human Rights Acts 1998, Regulation of Investigatory Powers Act 2000, **Fraud Act 2006** and **the Prevention of Social Housing Fraud Act 2013**.

## **5 How the Council expects Members and employees to behave**

- 5.1 The Council's Codes of Conduct for Members and employees set out an approach to work that is both honest and fair. Both Members and employees must act in line with the relevant Codes and the law at all times.
- 5.2 The Council is committed to tackling fraud, corruption and bribery in all areas. The Council recognises that both its staff and its Members are its ambassadors in its stance on fraud, corruption and bribery and they are therefore positively encouraged to raise any concerns that they may have on these issues. Such concerns will be treated in confidence and properly investigated. Victimising staff members or deterring them from raising a concern about fraud or corruption is a serious disciplinary matter. The Council's Whistleblowing Policy details the process that should be followed for reporting known or suspected fraud, corruption and bribery and how these will be investigated.
- 5.3 The Council will deal with all information fairly and confidentially. The Council will endeavour not to reveal the names of the people who give information unless their permission is given to do so.
- 5.4 The Council expects its Corporate Management Team to deal firmly and efficiently with anyone who is responsible for fraud, corruption or bribery. The **Executive Director** or **Director of Finance and Resources** in consultation with the Internal Audit Client Manager may refer matters to the Police if it is suspected that any criminal activity has been carried out.
- 5.5 The Council must ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations, will be dealt with as a disciplinary matter.
- 5.6 If anyone is found to have breached these rules and regulations the appropriate formal action will be taken. This may include disciplinary action that could result in the ending of their employment with the Council (in respect of employees). In respect of elected Members, matters will be dealt with by the Council's Monitoring Officer. Where a contractor or subcontractor breaches the Council's policies on fraud, corruption and bribery which form part of the terms and conditions of the appropriate contract, the Council will **consider terminating** the contract forthwith.

## 6 Detecting and Investigating Fraud, Corruption and Bribery

- 6.1 As the Council's Section 151 Officer, the **Director of Finance and Resources** has the overarching responsibility for the investigation of fraud and corruption. The Internal Audit Section has responsibility for all types of fraud and corruption investigations, with the exception of Housing Benefit and Council Tax Benefit fraud as the dedicated Benefit Investigations Team undertake this function.
- 6.2 All investigative work carried out by the Internal Audit Section will comply with the procedures contained in the Audit Manual and Fraud Response Plan. Investigating officers will receive the necessary training to carry out their work effectively. All proven cases of fraud, corruption or bribery will be reported to the Audit Committee and the Executive.
- 6.3 For cases relating to Housing and Council Tax Benefit fraud the action taken will follow the Local Government Fraud Manual, the Council's Housing Benefit Anti-Fraud Strategy and the Housing and Council Tax Benefit Fraud Prosecution Policy adopted by that service pertinent to relevant legislation. In all other instances of fraud, the action taken will follow the Council's corporate Prosecution Policy.
- 6.4 The Council believes that if it is to combat fraud, corruption and bribery effectively, it must pay due attention to prevention. It is therefore essential that clear rules and procedures are in place which Members, employees, consultants and contractors must work within. This includes those that are set out in Paragraph 3.1.
- 6.5 The Council's Codes of Conduct, Whistleblowing Policy and Financial Regulations require employees to report any suspected cases of fraud, corruption and bribery to the appropriate manager, or, if necessary, directly to the Internal Audit Client Manager. The Council's Whistleblowing Policy provides full guidance on reporting procedures. Reporting cases in this way is essential to the anti-fraud, corruption and bribery strategy and makes sure that:
- Suspected cases of fraud, corruption and bribery are investigated promptly and properly
  - The fraud response plan is followed
  - There is a standard process for dealing with all suspected cases of fraud, corruption and bribery; and
  - People and their interests are protected.
- 6.6 It is acknowledged to be the responsibility of senior management to prevent and detect fraud, corruption and bribery. However, it is often the alertness of employees, Members and the public to raise concerns that enables detection

to occur and the appropriate action to take place when there is evidence that fraud, corruption or bribery may have been committed, or is in progress.

- 6.7 The Council's Whistleblowing Policy is intended to encourage anyone to raise any concerns they may have. Employees reporting in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998).
- 6.8 The Internal Audit Client Manager will work with the Corporate Management Team and the Borough Solicitor to decide on the type and course of the investigation. This will include referring cases to the Police where necessary. The Council will prosecute offenders and invoke its disciplinary procedures where appropriate, ensuring that any internal proceedings do not prejudice any criminal case. All investigations will be carried out in accordance with the principles contained within the Code of Conduct for Investigators attached as Appendix A.

## **7 Training**

- 7.1 The Council recognises that the continuing success of its Anti-Fraud, Corruption and Bribery Strategy 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. However, induction programmes are provided to all staff and members to give a basic level of awareness.
- 7.2 The investigation of fraud, corruption and bribery centres on the Council's Internal Audit Service and the Benefit Investigations Team. 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.

## **8 Conclusion**

- 8.1 The Council is committed to tackling fraud, corruption and bribery whenever it happens within its business dealings. It will be robust in dealing with financial malpractice and will deal swiftly and thoroughly with any Councillor, member of staff, contractor or member of the public who attempts to defraud the Authority or who are thought to be corrupt, through the awarding of a bribe or the acceptance of a bribe. The Council's response will be as effective and organised as possible and will enact the principles included in this document.
- 8.2 The Council will continue to review its rules and procedures to ensure that this strategy document remains effective in the combat of fraud, corruption and bribery.

## Code of Conduct For Investigators

### Introduction

This Code of Conduct relates to the staff conduct, responsibilities and duties of Investigating Officers (IO). Its aim is to outline the principles that guide the conduct of investigators whilst carrying out their duties.

This Code does not restrict the discretion of the Investigator, but aims to define the conduct on which their discretion should be exercised. It also applies to Investigators when not at work (where their actions may reflect on their integrity or professional status with regards to their employment).

### Code of Conduct

The IO will act in accordance with the approved staff Code of Conduct.

1. The Officer must be aware he or she is an employee of the Council and act as a direct representative of the Council;
2. The Officer will perform the duties and undertake the responsibilities as specified in the Role Profile and Job Description of the relevant post in a professional and responsible manner.
3. Duties must be performed with no prejudices and in a manner showing courtesy to all concerned.
4. When carrying out duties the Officer must:-
  - a) Provide the highest standards of professionalism, integrity, confidentiality, financial propriety and personal conduct
  - b) Always work within the legal and regulatory frameworks affecting the practice and working of colleagues and never encourage, assist or act in collusion with any person who may be engaged in any improper or unlawful conduct.
  - c) Act honestly and fairly and in a courteous, polite and considerate manner towards any person they come into contact with in the performance of their duties.
  - d) Never knowingly mislead any person about the extent of their powers, the nature of representation or what can be competently delivered and achieved.
  - e) Never misuse their position or any information received during the course of their duties for any improper or unlawful gain or benefit, whether for themselves or another likely to bring the Council into disrepute, confidentiality must be obtained at all times.
  - f) Declare in writing to the Monitoring Officer any conflict of interest or circumstances which may give rise to one as soon as the conflict arises.
  - g) Disclose to the Monitoring Officer as appropriate any financial, business or personal interest they may have with any person or organisation with whom their duties bring them into contact.

- h) Carry out all work in an objective and impartial manner with particular regard to Waverley, and/or those contracting their services, equality and diversity policies and relevant equality legislation.
- i) Ensure any information or evidence is obtained or accessed in accordance with relevant legislation and codes of practice, including:
  - Fraud Act 2006
  - **Prevention of Social Housing Fraud Act 2013**
  - Theft Act 1968
  - Human Rights Act 1998
  - Police and Criminal Evidence Act 1984
  - Criminal Procedures and Investigations Act 1996
  - Regulation of Investigatory Powers Act 2000, and any related regulations
  - Data Protection Act 1998
  - Social Security Administration Act 1992
  - Social Security Fraud Act 2001
  - Race Relations Act 1976 and the Race Relations (Amendment) Act 2000
  - Equality Act 2010
  - Criminal Justice Act 1967 (and subsequent amendments)
  - Identity Card Act 2006
5. The Officer must perform duties in line with the Council's Anti-Fraud and Corruption Policy and all associated Corporate Anti-Fraud, Anti-Corruption and Anti-Bribery Strategy including related protocols, policies and plans.
6. The Officer must have due regard for their own health and safety and that of others in the course of business. The Officer will not be expected to take any action which may cause harm of a physical or mental condition to themselves or others;
7. The Officer will take all necessary precautions and follow the Council's Lone Worker Policy and the Health and Safety Policy to ensure safety when working alone and out of hours; where contact is made with a vulnerable person in the course of their duties, this must be reported to their line manager at the earliest opportunity complete with a written narrative describing the encounter.
8. The Officer must dress in a manner in line with corporate policy;
9. The Officer will be expected to maintain a high level of knowledge of relevant legislation and procedures to enable the duties to be performed at the required standard;
10. An Officer in breach of any of the above rules may be subject to the Disciplinary Procedures of the Council.

## PROSECUTION POLICY

Waverley 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, Anti-Corruption and Anti-Bribery Strategy' in order 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 cessation of the relevant contract.

### GENERAL

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

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) and the Regulation of Investigatory Powers Act 2000 (RIPA).
- The Council must be satisfied that there is sufficient evidence to provide a 'realistic prospect of conviction', 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.



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.

In most cases, the **Director of Finance and Resources** and the Internal Audit Client Manager, and where appropriate in consultation with the **Executive Director**, or another designated officer, will decide whether reporting the matter to the Police is appropriate. In exceptional circumstances the Internal Audit Client Manager may, after consultation with the Council's Borough Solicitor/**Legal Services**, refer a matter to the Police direct without prior consultation with the **Director of Finance and Resources** or the **Executive Director**. Cases will also be discussed with the Leader of the Council, and the relevant Portfolio Holder will be kept informed of progress.

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.

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.

**The Director of Finance and Resources** (Section 151 Officer) in consultation with the Internal Audit Client Manager and the Borough Solicitor/**Legal Services**, will decide on the sanctions to be imposed should the case be deemed serious. These sanctions can include disciplinary action, criminal prosecution, civil litigation or referral to professional accredited bodies.

Special arrangements are made in respect of Housing Benefit and Council Tax Benefit fraud, for which a dedicated investigation team is employed. They operate to a separate Housing Benefit Anti-Fraud Strategy and a Housing and Council Tax Benefit Prosecution Policy, which embrace the principles of the Council's wider Anti-Fraud, Anti-Corruption and Anti-Bribery Strategy.





## Publicity

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 bribery. These include measures to prevent and deter the commission of offences.

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.

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).

This list is not exhaustive and other factors may be relevant in the circumstances of each individual case.

When, having considered the above factors, it is considered appropriate to publish details of a conviction, the **Director of Finance and Resources**, as Section 151 Officer to the Council, will record the reasons for the publication, and the Monitoring Officer will maintain a central register of the records.

**THIS POLICY IS NOT EXHAUSTIVE AND MAY BE SUBJECT TO CHANGE**

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## **ANTI-MONEY LAUNDERING POLICY AND GUIDANCE**

### **1.0 INTRODUCTION**

1.1. The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 place obligations on the Council and its employees to establish internal procedures to prevent the use of their services for money laundering.

### **2.0 SCOPE OF THE POLICY**

2.1 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. The 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.

2.2 Further information is set out in the accompanying Guidance Note in Annexe A. Both this Policy and the Guidance Notes sit alongside the Council's Whistleblowing Policy and Anti-Fraud Anti-Corruption and Anti-Bribery Strategy.

2.3 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. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary and Capability Procedure.

### **3.0 WHAT IS 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 (section 327 of the 2002 Act); or
- 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); or
- acquiring, using or possessing criminal property (section 329).

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 three primary offences and tipping off. Tipping off is 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.

- 3.2 Potentially any member of staff 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. The Guidance Note gives practical examples. This Policy sets out how any concerns should be raised.
- 3.3 Whilst the risk to the Council of contravening the legislation is low, ***it is extremely important that all employees are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.***

#### **4.0 WHAT ARE THE OBLIGATIONS ON THE COUNCIL?**

- 4.1 Organisations conducting “relevant business” must:
- appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else’s);
  - implement a procedure to enable the reporting of suspicions of money laundering;
  - maintain client identification procedures in certain circumstances; and
  - maintain record keeping procedures.
- 4.2 Not all of the Council’s business is “relevant” for the purposes of the legislation: it is mainly accountancy and audit services and the financial, company and property transactions undertaken by Legal Services. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, **all** staff are required to comply with the reporting procedure set out in section 6 below.
- 4.3 The following sections of this Policy provide further detail about the requirements listed in paragraph 4.1.

## 5.0 THE MONEY LAUNDERING REPORTING OFFICER

- 5.1 The officer nominated to receive disclosures about money laundering activity within the Council is the **Head of Finance, Peter Vickers**. He can be contacted as follows:

**Peter Vickers**  
Head of Finance  
Waverley Borough Council  
Council Offices  
The Burys  
Godalming  
Surrey  
GU7 1HR

e-mail: peter.vickers@waverley.gov.uk

Telephone: 01483 523539

- 5.2 In the absence of the MLRO, the Internal Audit Client Manager, Gail Beaton, is authorised to deputise for him. Gail can be contacted at the above address or on telephone number 01483 523260 (direct line).

## 6.0 DISCLOSURE PROCEDURE

### Cash Payments

- 6.1 No payment to the Council will be accepted in cash (including notes, coins or travellers' cheques in any currency) if it exceeds £5,000.

### Reporting to the Money Laundering Reporting Officer

- 6.2 Where it is suspected that money laundering activity is taking/has taken place, or an employee becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, this must be disclosed as soon as practicable to the MLRO. The disclosure should be within "hours" of the information coming to the employee's attention, not weeks or months later. **SHOULD THIS NOT BE DONE, THEN THE EMPLOYEE MAY BE LIABLE TO PROSECUTION.**

6.3 Disclosure should be made to the MLRO using the pro forma report attached at Appendix 1 [to this policy and guidance](#). The report must include as much detail as possible, for example:

- Full details of the people involved (including the employee, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;
- Full details of the nature of involvement;
  - If the employee is concerned that their involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the 2002 Act, then the report must include all relevant details, as the employee will need consent from the Serious Organised Crime Agency (SOCA), 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 employee 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;
- The types of money laundering activity involved:
  - if possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under the 2002 Act (or 2000 Act), or general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both;
- The dates of such activities, including:
  - whether the transactions have happened, are ongoing or are imminent;
    - Where they took place;
    - How they were undertaken;
    - The (likely) amount of money/assets involved;
    - Why, exactly, you are suspicious – SOCA will require full reasons;

along with any other available information to 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 him to prepare his report to SOCA, where appropriate. Copies of any relevant supporting documentation should be enclosed.

6.4 Once the matter is reported to the MLRO, employees must follow any directions he may give. The employee **must NOT make any further enquiries into the matter themselves**: any necessary investigation will be undertaken by SOCA. All members of staff will be required to co-operate

with the MLRO and the authorities during any subsequent money laundering investigation.

- 6.5 Similarly, **at no time and under no circumstances should the employee voice any suspicions** to the person(s) suspected of money laundering, even if SOCA 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.
- 6.6 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 employee liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

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

- 6.7 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise the employee of the timescale within which he expects to respond.
- 6.8 The MLRO will consider the report and any other available internal information he thinks relevant e.g.

- 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;

and undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to SOCA 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 employee.

- 6.9 Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:
- there is actual or suspected money laundering taking place; or
  - there are reasonable grounds to know or suspect that is the case; and
  - whether he needs to seek consent from SOCA for a particular transaction to proceed.
- 6.10 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to SOCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to SOCA (for example, a lawyer can claim legal professional privilege for not disclosing the information).
- 6.10.1 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.
- 6.10.2 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 SOCA.
- 6.10.3 Where consent is required from SOCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until SOCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from SOCA.
- 6.11 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.
- 6.12 All disclosure reports referred to the MLRO and reports made by him to SOCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 6.13 ***The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to SOCA.***



## 7.0 CUSTOMER DUE DILIGENCE

- 7.1 Where the Council is carrying out certain 'regulated activities' then extra care needs to be taken to check the identity of the customer or client – this is known as carrying out Customer Due Diligence.
- 7.2 Customer due diligence means:
- (a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;
  - (b) identifying, where there is a beneficial owner who is not the customer, the beneficial owner and taking adequate measures, on a risk-sensitive basis, to verify his identity so that the relevant person is satisfied that he knows who the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement; and
  - (c) obtaining information on the purpose and intended nature of the business relationship.

7.2 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 7.3)?
- Is the Council charging for the service i.e. 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.

7.3 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."

- 7.4 Where customer due diligence is required then evidence of identity must be sought, for example:
- checking with the customer's website to confirm their business address;
  - conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
  - seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation.
- 7.5 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.
- 7.6 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.
- 7.7 In certain circumstances enhanced customer due diligence must be carried out for example where:
- 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.
- 7.8 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.

## **8.0 RECORD KEEPING PROCEDURES**

- 8.1 Each unit of the Council conducting relevant business must maintain records of:
- client identification evidence obtained; and
  - details of all relevant business transactions carried out for clients for at least five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.
- 8.2 The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.
- 8.3 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.

## **9.0 CONCLUSION**

- 9.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written so as to enable the Council to meet the legal requirements in a way which is proportionate to the very low risk to the Council of contravening the legislation.
- 9.2 Any concerns whatsoever regarding any transactions should be reported to the MLRO.

## **10.0 FURTHER INFORMATION**

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

**[www.soca.gov.uk](http://www.soca.gov.uk)** – website of the Serious and Organised 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](http://www.ccab.org.uk)**)

Money Laundering Guidance at **[www.lawsociety.org.uk](http://www.lawsociety.org.uk)**

SI 2007 No. 2157 The Money Laundering Regulations 2007 at:  
**[http://www.hm-treasury.gov.uk/consultations\\_and\\_legislation/money\\_laundering\\_directive/consult\\_moneylaundering\\_2007.cfm](http://www.hm-treasury.gov.uk/consultations_and_legislation/money_laundering_directive/consult_moneylaundering_2007.cfm)**

**CONFIDENTIAL**

**Report to Money Laundering Reporting Officer**

**Re: Money Laundering Activity**

**To: Peter Vickers , Money Laundering Reporting Officer**

From:

*[insert name of employee]*

Directorate:

*[insert post title and Business Unit]*

Ext/Tel No:

**DETAILS OF SUSPECTED OFFENCE:**

**Name(s) and address(es) of person(s) involved:**

*[if a company/public body please include details of nature of business]*

**Nature, value and timing of activity involved:**

*[Please include full details e.g. what, when, where, how.  
Continue on a separate sheet if necessary]*

**Nature of suspicions regarding such activity:**  
*[Please continue on a separate sheet if necessary]*

**Has any investigation been undertaken (as far as you are aware)?**

*[Please tick the relevant box]*

Yes  No

**If yes, please include details below:**

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

*[Please tick the relevant box]*

Yes  No

**If yes, please specify below, explaining why such discussion was necessary:**

**Have you consulted any supervisory body guidance re money laundering?  
(e.g. the Law Society)**

*[Please tick the relevant box]*

Yes  No

**If yes, please specify below:**

**Do you feel you have a reasonable excuse for not disclosing the matter to SOCA?  
(e.g. are you a lawyer and wish to claim legal professional privilege?)**

*[Please tick the relevant box]*

Yes  No

**If yes, please set out full details below:**

**Are you involved in a transaction which might be a prohibited Act under  
Sections 327- 329 of the Act and which requires appropriate consent from SOCA?**

*[Please tick the relevant box]*

Yes  No

If yes, please enclose details in the box below:

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

Signed:

Dated:

***Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years' imprisonment.***

**THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO**

Date report received:

Date receipt of report acknowledged:

**CONSIDERATION OF DISCLOSURE:**

**Action plan:**

**OUTCOME OF CONSIDERATION OF DISCLOSURE:**

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

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

*[Please tick the relevant box]*

Yes  No

**If yes, please confirm date of report to SOCA:  
and complete the box below:**

**Details of liaison with SOCA regarding the report:**

**Notice Period:** to

**Moratorium Period:** to





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

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

Date consent received from SOCA:

Date consent given by you to employee:

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

*[Please set out any reasonable excuse for non-disclosure]*

Date consent given by you to employee for any prohibited act transactions to proceed:

Other relevant information:

Signed: ..... Dated: .....

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

## **MONEY LAUNDERING AVOIDANCE – GUIDANCE NOTES**

### **1.0 INTRODUCTION**

1.1 Legislation concerning money laundering (the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2003) has increased the range of activities caught by the statutory framework. As a result, the obligations impact on areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering. Money laundering can be defined as “a process that makes money with an illegal origin appear legal so that it may be used”. Typically, money laundering transactions that might affect Waverley may occur when individuals or organisations make large payments to Waverley in cash, or make significant overpayments which subsequently require large refunds from Waverley. Other examples can be found in the glossary attached to this document.

### **2.0 SCOPE OF THIS GUIDANCE**

2.1 This guidance applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. Within this guidance the term employees refers to all employees and elected Members.

2.2 Anti-money laundering legislation places responsibility upon Council employees to combat money laundering and covers a very wide area of financial transactions, including possessing, or in any way dealing with, or concealing, the proceeds of any crime. It applies to all employees involved with monetary transactions

2.3 Under the legislation it is a criminal offence to:

- assist a money launderer
- "tip off" a person suspected to be involved in money laundering that they are suspected or that they are the subject of police investigations
- fail to report a suspicion of money laundering and
- acquire, use or possess criminal property

### **3.0 PURPOSE OF THIS GUIDANCE**

3.1 The legislative requirements concerning anti-money laundering procedures are extensive and complex. This Guidance has been written so as to enable the Council to meet the legal requirements in a way which is proportionate to the very low risk to the Council of contravening this legislation.

3.2 The object of this guidance is to make all employees aware of their responsibilities.

3.3 Any employee could potentially be affected 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.

3.4 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all relevant employees are familiar with their legal responsibilities

#### **4.0 ANTI-MONEY LAUNDERING REQUIREMENTS - WAVERLEY'S OBLIGATIONS**

4.1 Waverley must:

(a) ensure that relevant officers and staff (or contractors' staff) are aware of and have information on the requirements of the legislation, including the identification of suspicious transactions, identity verification and reporting procedures. (*Common examples of transactions that could appear suspicious are set out in section 5.7.2 but whenever staff have grounds to be suspicious of any transaction the matter should be reported in accordance with the guidance in this document.*)

(b) designate an officer as the Money Laundering Reporting Officer (MLRO) –who will receive any report, keep records and if considered appropriate, make reports to the National Criminal Intelligence Service (NCIS). Waverley's MLRO is set out at section 6.1.

(c) establish procedures for employees to report any suspicions to the Money Laundering Reporting Officer (MLRO). Waverley's procedures are set out from section 5.0.

4.2 Under the legislation employees dealing with money transactions will be required to comply with the procedures as set out below.

#### **5.0 PROCEDURES**

5.1 Not all of the Council's business is "relevant" for the purposes of the legislation. Relevant services as defined by the legislation include investments, accountancy and audit services and the financial, company and property transactions undertaken by Property Services and Legal Services.

5.2 However, when the Council is carrying out "relevant" business and is forming a business relationship or considering undertaking a one off transaction, and any member of staff suspects a transaction involves money laundering, the procedures set out below apply.

5.3 Additionally, if in the course of "relevant" business a payment is to be made to Waverley for a series of linked one off transactions involving total payment of £10,000 or more, the procedures set out below apply.

## 5.4 CLIENT IDENTIFICATION PROCEDURE

5.4.1 Any employee involved in a relevant business transaction should ensure the client provides satisfactory evidence of their personal identity, through passport or a photo-driving licence plus one other document with their name and address e.g. utility bill (not mobile) mortgage/building society/bank documents, card documents, pension/benefit book. Satisfactory evidence of corporate identity can be through company formation documents or business rates documents.

5.4.2 In circumstances where the client cannot be physically identified the employee 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.

## 5.5 RECORD KEEPING PROCEDURES

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

- a) Client 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.

5.5.2 The MLRO (see 6.2) must be informed of the existence and location of such records.

5.5.3 The precise nature of the records is not prescribed by law. However, the records must provide 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.

## 5.6 INTERNAL REPORTING PROCEDURE

5.6.1 Where an employee is aware that money laundering may have taken place (or may be taking place) he or she must contact the MLRO (see paragraph 6.2) for guidance as soon as possible, regardless of the amount. In such circumstance, no money may be taken from anyone until this has been done.

5.6.2 Any person knowing or suspecting money laundering, fraud or use of the proceeds of crime must report this to the MLRO on the form ~~(s)~~ as attached [as Appendix 1](#).

5.6.3 Upon receiving the report the MLRO will consider all of the admissible information in order to determine whether there are grounds to suspect money laundering.

5.6.4 If the MLRO determines that the information or matter should be disclosed it will be reported to the National Criminal Intelligence Service (NCIS)

5.6.5 During this process the client must not be tipped off.

5.6.6 At no time and under no circumstances should an employee voice any suspicions to the person(s) suspected of money laundering, even if the NCIS has given consent to a particular transaction proceeding, otherwise the employee may be committing a criminal offence of “tipping off”. Therefore, 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 the employee liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

## 5.7 OTHER PROCEDURES

5.7.1 The Council will establish other procedures of internal control and communication as may be appropriate for the purpose of forestalling and preventing money laundering:-

5.7.2 **Regular receipts-** The Council in the normal operation of its services accepts payments from individuals and organisations e.g. in relation to council tax, sundry debtors etc. For all transactions under £2,000 the Money Laundering regulations do not apply but if an employee has reasonable grounds to suspect money laundering activities, or proceeds of crime or is simply suspicious, the matter should still be reported to the MLRO.

5.7.3 **Cash receipts** – If the money offered in cash is £10,000 or more, then payment must not be accepted until the employee has received guidance from the MLRO.

5.7.4 **Refunds-** Care will need to be taken especially with the procedures for refunds. For instance, a significant overpayment which results in a repayment will need to be properly investigated and authorised before payment.

5.7.5 In the event of any suspicious transactions, the MLRO will be contacted to investigate the case. The possible perpetrator should not be informed (i.e. not “tipped off”)

5.7.6 **Training** – The Council will take, or require its contractor to take, appropriate measures to ensure that relevant employees are :

- a) Made aware of the provisions of these regulations, ( under the Proceeds of Crime Act 2002, and the Money Laundering Regulations 2003)
- b) Given training in how to recognise and deal with transactions which may be related to money laundering.

## 6.0 THE MONEY LAUNDERING REPORTING OFFICER - MLRO

6.1 The Officer nominated as The Money Laundering Reporting Officer who will receive disclosures about money laundering activity within the Council is **Peter Vickers**, Head of Finance. When he is not available the Deputy MLRO will take his place.

6.2 The Deputy Money Laundering Reporting Officer is Gail Beaton, Internal Audit Client Manager.

**Disclosure Form to MLRO**

-  
-

Date of disclosure

-

Officer making disclosure:

-

Job title of officer:

-

Telephone details:

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**SUBJECT DETAILS**

-

Title:

-

Surname:

-

Forename:

-

DoB:

-

Gender:

-

**IN THE CASE OF A LEGAL ENTITY (COMPANY)**

-

Name:

-

Address:

-

Company Number (if known)

-

Type of Business:

-

VAT no (if known)

-

**REASON FOR DISCLOSURE**

-

(if you know or suspect what the offence behind the reported activity may be please provide details)

-

**RECEIPT FROM MLRO**

Reference:

Date:

Signature:

## Glossary of terms

AML	Anti money laundering
MLRO	Money laundering reporting officer as defined in the Money Laundering Regulations 2003 and the FSA (Financial Services Act)
NCIS	National Criminal Intelligence Service. Provides strategic and tactical intelligence on serious and organised crime, nationally and internationally and is responsible, through its Economic Crime Unit, for receiving reports of money laundering suspicions.

## Money Laundering - Warning Signs

The following examples could indicate that money laundering is taking place:

Transactions or trade that appear to make no commercial or economic sense from the perspective of the other party: A money launderer's objective is to disguise the origin of criminal funds and not necessarily to make a profit, A launderer may therefore enter into transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system;

Large volume/large cash transactions; all large cash payments should be the subject of extra care and before accepting cash the reasons for such payments should be fully understood. Payments should be encouraged through the banking system to avoid problems.

Payments received from third parties: Money launderers will often look to legitimate business activity in order to assist in 'cleaning' criminal funds and making payments on behalf of a legitimate company can be attractive to both parties. For the legitimate company it can be a useful source of funding and for the launderer the funds can be processed through the banking system:

Examples of tell tale signs of organised money laundering:-

1. Use of cash where other means of payment are normal
2. Unusual transactions or ways of conducting business
3. Unwillingness to answer questions/ secretiveness generally
4. Use of overseas companies
5. New companies
6. Overpayments of Council tax where refunds are needed.

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