

## **ANTI-FRAUD AND CORRUPTION POLICY**

**March 2019**

This document is presented to the Audit Committee as a suite of documents to support awareness of our anti-fraud culture. However, each of the appendices are owned by different service areas of the council and are made available to members of staff as separate policies on the council's intranet and not as presented to the audit committee as one document.

## **DOCUMENT CONTROL**

**Document Title: Anti-Fraud and Corruption Policy**

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<b>Applies to</b>	<b>All staff and Elected Members</b>

### **Document Approvals**

This policy will be reviewed every year by the Internal Audit Manager, unless legislation or sector development require otherwise, ensuring that it continues to meet its objectives and take account of good practice developments. The policy will be approved by the Audit Committee every two years.

THIS POLICY IS NOT EXHAUSTIVE AND MAY BE SUBJECT TO CHANGE

The council welcomes comments and feedback on its policies and procedures. Please contact Gail Beaton, Internal Audit Manager of the Internal Audit and Investigation Team if you have any comments.

<b>CONTENTS</b>	
<b>1.</b>	<b>INTRODUCTION</b>
<b>2.</b>	<b>DEFINITIONS</b>
<b>3.</b>	<b>RULES AND PROCEDURES</b>
<b>4.</b>	<b>HOW THE COUNCIL EXPECTS MEMBERS AND EMPLOYEES TO BEHAVE</b>
<b>5.</b>	<b>PREVENTION OF FRAUD AND CORRUPTION</b>
<b>6.</b>	<b>DETECTING AND INVESTIGATING FRAUD, CORRUPTION</b>
<b>7.</b>	<b>TRAINING AND AWARENESS</b>
<b>8.</b>	<b>REVIEW OF THE POLICY AND ITS EFFECTIVENESS</b>
<b>9.</b>	<b>WHO TO CONTACT</b>

**APPENDICES**

<b>1. FRAUD INVESTIGATION PLAN .....</b>	<b>13</b>
<b>2. THE GENERAL PRINCIPLES GOVERNING THE CONDUCT OF MEMBERS AND CO-OPTED MEMBERS .....</b>	<b>21</b>
<b>3. CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY &amp; PROCEDURE .....</b>	<b>23</b>
<b>4. PROSECUTION POLICY.....</b>	<b>32</b>
<b>5. ANTI-MONEY LAUNDERING POLICY .....</b>	<b>37</b>
<b>6. ANTI-BRIBERY POLICY .....</b>	<b>58</b>
<b>7. HOUSING TENANCY FRAUD POLICY .....</b>	<b>63</b>

## **Policy Statement**

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### **Policy Aims and Objectives**

Waverley Borough Council is committed to dealing with all types of fraud perpetrated against us. There is therefore a need to ensure that we have in place policies and procedures that enables any incidents to be investigated in accordance with best practice.

Waverley will tackle fraudulent promptly and effectively, to ensure that any losses are minimised.

The key objectives of this policy are to;

- Underpin the Council's zero-tolerance approach to fraud, seeking prosecution and compensatory payments where applicable
- Proactively prevent fraudulent activity occurring with the promotion of the contents of the attached policies and procedures
- Detect and tackle fraud associated with mutual exchanges
- Raise awareness amongst staff and the public about fraud and what that means
- Encourage Staff and members of the public to report suspected cases of fraud to Waverley
- To deal effectively with reports and observations of fraud
- Work in partnership with statutory agencies and other organisations, including where possible to share information, data and resources, where appropriate to investigate fraudulent activities.

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## **Scope of Policy**

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### **INTRODUCTION**

- 1.1 This policy outlines Waverley's approach to dealing with fraud. The Anti-Fraud and Corruption Policy recognises that Waverley Borough Council is at risk of loss due to fraud and corruption both within the council and outside it.
- 1.2 In meeting our responsibilities relating to fraud, corruption and bribery the authority has a zero tolerance. This commitment to preventing fraud and corruption is reinforced through the development and application of our 'Anti-Fraud, Corruption policies', 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 everyone in the organisations and those that it has any dealings with. Council is committed to maintaining an environment and culture that is based on the prevention of fraud, corruption

## ANTI-FRAUD AND CORRUPTION POLICY

and bribery, whether it is an attempt on the Council from outside or within, and is committed to an effective Anti-Fraud, Corruption Policy designed to:

- encourage prevention;
- promote detection; and
- ensure effective investigation where suspected fraud or corruption has occurred and
- Prosecute offenders where appropriate

1.3 There is an expectation and requirement that all members, employees, consultants, contractors and service users be fair and honest, and if able to do so, provide help, information and support to assist the investigation of fraud and corruption. In addition advice on how members of the public may raise suspicions about fraud and corruption is contained in Appendix 1 and 3 to this Policy.

1.4 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.

1.5 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.

1.6 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 DEFINITIONS**

2.1 The Fraud Act 2006 is legislation that has been introduced in order to provide for absolute clarity on the subject of fraud. It replaces certain parts of other legislation (e.g. parts of the Theft Act 1968 and 1978) which were generally untidy, had become difficult to operate and were open to arguments on technicalities.

2.2 Section 1 of the Fraud Act 2006 introduces a new general offence of fraud and three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and
- Fraud by abuse of position.

## ANTI-FRAUD AND CORRUPTION POLICY

- 2.3 Fraud by false representation requires:
- Dishonesty
  - An intent to make gain or cause loss; and
  - The person makes the representation knowing that it is or might be false or misleading.
- 2.4 Fraud by failing to disclose information requires:
- Dishonesty;
  - An intent to make gain or cause loss; and
  - Failure to disclose information where there is a legal duty to disclose.
- 2.5 Fraud by abuse of position requires:
- Dishonesty;
  - An intent to make gain or cause loss; and
  - Abuse of a position where one is expected to safeguard another person's financial interests.

### **Corruption**

- 2.6 **Corruption** is 'the offering, giving or soliciting or acceptance of an inducement or reward, or showing any favour or disfavour which may influence any person to act improperly.' It is an offence under the Prevention of Corruption Acts 1889 – 1916 as amended and Section 117(3) of the Local Government Act 1972.

### **Bribery**

- 2.7 Bribery can be described as giving someone a financial inducement or reward, or other form of advantage to encourage that person to perform their functions or activities improperly, or to reward that person for having already done so, in order to gain a personal, commercial, regulatory or contractual advantage.
- 2.8 The Bribery Act 2010 came into force on 1 July 2011. The Council has an approved Anti-Bribery Policy in place, which is referred to at Appendix 6 of this Anti Fraud and Corruption Policy.

### **Money Laundering**

- 2.9 Money Laundering is a term applied to any method used to convert or exchange money or assets obtained from criminal activity into money or assets that are "clean", in such a way that the "clean" money can no longer be linked back to the criminal activity. Whilst the risk of money laundering to Waverley Borough Council is relatively low, Waverley Borough Council has adopted an Anti-Money Laundering Policy (Appendix 5) as good practice. This Policy supports all staff in

complying with the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the payer) Regulations 2017..

### **3 RULES AND PROCEDURES**

3.1 Waverley Borough Council has various procedures and rules to ensure that the day to day operations and activities are properly controlled and are an important part of the internal control framework.

3.2 These include: -

- The Council's Constitution
- Financial Regulations
- Contract Procedure Rules (CPRs)
- Waverley Local Code of Conduct for Members
- Waverley Code of Conduct for Staff
- Scheme of Delegation
- Employees' Conditions of Service
- IT Acceptable Use Policy
- Any other Codes of Conduct adopted by the Council
- Members' Register of Interests and gifts and hospitality
- Staff register of gifts and hospitality.

3.3 Individual Services will have also introduced their own measures designed to control their activities e.g. schemes of delegation, working manuals etc.

3.4 Heads of Service need to ensure that staff have access to these rules and regulations and that staff receive appropriate training.

### **4 BEHAVIOUR OF MEMBERS AND EMPLOYEES**

4.1 Waverley Borough Council is resolute that the culture and tone of the Authority is one of honesty and opposition to fraud and corruption.

4.2 There is an expectation and requirement that all individual, business and organisation dealing in any way with the Council will act with high standards or probity, openness and integrity and that Council Employees or its agent(s) at all level will lead by example in these matters.

4.3 As part of the requirements of the Codes of Conduct, Members and employees are required to declare any interests that they may have.

4.4 Employees are a vital element in its stance against fraud and corruption and they are positively encouraged to raise any concerns that they may have.

## ANTI-FRAUD AND CORRUPTION POLICY

- 4.5 Waverley Borough 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.
- 4.6 Waverley Borough 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. Waverley Borough 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.
- 4.7 Waverley Borough Council will deal with all information fairly and confidentially. The aim will be to avoid revealing the names of the person/s who supply information. The Fraud Investigation plan (Appendix 1) provides further information on this issue.
- 4.8 Waverley Borough Council expects its Management Board to deal firmly and efficiently with anyone who is perpetrates fraud, corruption or bribery. Cases involving staff will usually lead to disciplinary action, which may result in dismissal. The Chief Executive or Strategic Director in consultation with the Internal Audit Manager may refer matters to the Police if it is suspected that any criminal offence has been carried out.
- 4.9 There is a need to ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations, may be dealt with as a disciplinary matter.
- 4.10 In relation to complaints involving members, the Monitoring Officer will decide whether it falls within the scope of the Members Code of Conduct and if so, what further steps (if any) should be taken in line with the Council's published arrangements for dealing with Standards Allegations against Councillors and co-opted Members under the Localism Act 2011
- 4.11 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.

## **5 PREVENTION OF FRAUD AND CORRUPTION**



## ANTI-FRAUD AND CORRUPTION POLICY

- 5.1 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 staff have access to these rules and regulations and that staff receive suitable training in respect of them. The operation and adequacy of the internal controls in individual systems is the responsibility of Heads of Service and is subject to regular review by both Internal and External Audit.
- 5.2 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.
- 5.3 A further preventative measure against fraud and corruption exists at the recruitment stage to establish, as far as possible, the previous record of potential employees in terms of their propriety and integrity. Staff recruitment is therefore required to be in accordance with Waverley Borough Council's Recruitment and Selection Procedures - which requires written references to be obtained. Where it is assessed as being appropriate and necessary to do so, applicants will be required to have an enhanced Disclosure and Barring Service (DBS) check (or check against the barred list for working with adults or children). The full procedures are set out in the Council's Criminal Records Check and Disclosure Policy.
- 5.4 All members and employees are required to declare the receiving of any gift with an estimated value of at least £50 or hospitality with an estimated value of at least £100 within 28 days of its receipt. Providing written notification to the monitoring officer if a member and logged in the gifts and hospitality books held by each of the Personal Assistants to the Strategic Directors or Chief Executive if a member of staff. Registers are maintained of all declarations.
- 5.5 Members are required to declare their disclosable pecuniary interests and non pecuniary or other interests which the Council has decided are appropriate for registration in accordance with the Code of Conduct for Members and to act in accordance with the code.

- 5.6 Employees are required to declare their personal interests in accordance with the Officers Code of Conduct.
- 5.7 Waverley Borough 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 2018, Freedom of Information Act 2000, Environmental 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.

## **6 DETECTING AND INVESTIGATING FRAUD, CORRUPTION AND BRIBERY**

- 6.1 The preventative measures described in the previous section significantly reduce the risk of fraud and corruption but cannot eliminate it entirely. The operation of internal controls in a system may alert employees to potential fraud. However, many frauds are discovered by chance or 'tip off'.
- 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 Waverley Borough 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.
- 6.4 Financial Regulations require Chief Executive , Directors and Heads of Service to ensure that all suspected irregularities or financial improprieties are reported to the Internal Audit Manager. 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.
- 6.5 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

## ANTI-FRAUD AND CORRUPTION POLICY

fraud, corruption or bribery may have been committed, or is in progress. Waverley Borough Council's Confidential Reporting (Whistleblowing) Policy (Appendix 3) is intended to encourage and enable staff to raise serious concerns. Employees reporting concerns in this way are afforded certain rights under the Public Interest Disclosure Act 1988.

- 6.6 The Internal Audit Manager will work with the Management Board and the Borough Solicitor to decide on the type and course of the investigation. Human Resources will also be consulted and involved where appropriate in investigations, particularly where they may lead to disciplinary action. This will include referring cases to the Police where necessary including where necessary informal advice may be sought in the early stages of an investigation. The Council will prosecute offenders and invoke its disciplinary procedures where appropriate, ensuring that any internal proceedings do not prejudice any criminal case.
- 6.7 All investigations will be carried out in accordance with the principles contained within the Code of Conduct for Investigators attached as Appendix A to Appendix 1 the Fraud Investigation Plan.

## **7 TRAINING**

- 7.1 The Council recognises that the continuing success of its Anti-Fraud, Corruption Policy and its general credibility and reputation will depend largely on the effectiveness of programmed training and the responsiveness of employees throughout the organisation. Therefore, proper training is essential, particularly for employees involved in internal control systems. All employees are made aware of the Anti Fraud and Corruption Policy via various channels of communication e.g. service team briefings and the Intranet.
- 7.2 The investigation of fraud, corruption is carried out in consultation with Heads of Service by Waverley Borough Council's Internal Audit Service whose skill base in investigative techniques is maintained by appropriate training. It is necessary, therefore, that employees involved in this work should be properly and regularly trained; the training plans of these employees will reflect this requirement.
- 7.3 In addition Waverley Borough Council will seek via appropriate publicity to increase and maintain the general public awareness of the facilities available to report concerns of fraud and corruption such as the online "Report it" facility on the Waverley Borough Council website and the Fraud confidential reporting telephone line.

## **8 REVIEW OF THE POLICY AND ITS EFFECTIVENESS**

- 8.1 Waverley Borough Council has an array of measures and procedures to assist in combating fraud and corruption. It is determined to keep pace with

## ANTI-FRAUD AND CORRUPTION POLICY

any future developments in preventative and detection techniques and to be able to respond to any future government incentives for the detection of fraud. The Anti Fraud and Corruption Policy and its effectiveness will be the subject of regular review.

### **9 WHO TO CONTACT**

9.1 Advice and guidance on how to pursue matters of concern may be obtained from:-

Strategic Director (Section 151 officer) 01483 523099

Internal Audit Manager 01483 523260

Monitoring Officer 01483 523108

**FRAUD INVESTIGATION PLAN**

**1 INTRODUCTION**

1.1 Waverley Borough Council is committed to the highest possible standards of openness, probity and accountability in all its affairs. The Anti-Fraud and Corruption Policy document outlines the principles the Council is committed to in relation to preventing, reporting and managing fraud and corruption.

1.2 This Fraud Investigation Plan reinforces Waverley Borough Council's firm approach by setting out the ways in which employees or members of the public can voice their concerns about suspected fraud or corruption and how the Council will deal with such complaints.

**2 WHAT DOES THE COUNCIL WANT TO KNOW ABOUT?**

2.1 This Plan is intended to be implemented where suspicions of fraud or corruption have been raised supported by the detailed Fraud Response plan.

**2.2 Corruption**

2.2.1 This is defined as **'the offering, giving, soliciting, or acceptance of an inducement or reward, or showing any favour or disfavour which may influence any person to act improperly.'**

**2.3 Fraud**

2.3.1 Fraud as per the Fraud Act 2006 covers:

- Fraud by false representation.

This requires dishonesty; an intent to make gain or cause loss; the person makes the representation knowing that it is or might be false or misleading.

- Fraud by failing to disclose information.

This requires dishonesty; an intent to make gain or cause loss; failure to disclose information where there is a legal duty to disclose.

- Fraud by abuse of position.

This requires dishonesty; an intent to make gain or cause loss; abuse of a position where one is expected to safeguard another person's financial interests.

## **2.4 Bribery**

2.4.1 Bribery, as per the Bribery Act 2010 covers:

- Bribery of another person;
- Accepting a bribe;
- Bribing a foreign official; and
- Failing to prevent bribery

Please refer to the Anti-Bribery Policy at Appendix 6 for full details.

## **2.5 Examples of fraudulent or corrupt acts**

2.5.1 The examples/areas of risk listed below apply to local authorities in general. It is not an exhaustive list.

### **2.5.2 Employee Fraud where benefit is obtained directly from the Council**

Theft of cash or other assets e.g. building materials which involves false accounting to conceal the loss.

Where Council equipment is used for personal use e.g. unauthorised private use of Council vehicles.

Undertaking personal tasks in 'works time' – e.g. shopping, unauthorised use of IT facilities such as the Internet, and any other such activities that could reasonably fall under this classification.

### **2.5.3 Employee Fraud against a third party**

Where an employee abuses a position of trust to defraud a third party e.g. a social worker who has access to the cash and property of an elderly person or a teacher in charge of school funds.

### **2.5.4 External Fraud**

Where individuals or companies fraudulently obtain money from the Council, e.g. invalid invoices/work not done, mandate fraud.

Money Laundering – “the process by which criminal proceeds are sanitised to disguise their illicit origins”. The Authority’s Finance Service intends to develop an Anti-Money Laundering policy (Appendix 5). The integration of this policy into the Authority will ensure compliance with relevant legislative requirements e.g. The Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the payer) Regulations 2017. Furthermore, good practice will also be incorporated into the policy where appropriate from various professional bodies such as the

Chartered Institute of Public Finance and Accountancy (CIPFA) and the Institute of Chartered Accountants in England and Wales (ICAEW).

Local Council Tax Reduction Scheme fraud - false declarations of income or statements of residency.

Business Rates/Relief Fraud – false declaration

### 2.5.5 Corruption and Bribery

Areas of the highest risk include:-

Tendering and award of contracts.

Settlement of contractors' final accounts and claims.

Appointment and reward of consultants.

Canvassing for appointments.

Acceptance of hospitality and other benefits e.g. free holidays.

Pressure selling.

Awarding of permissions, planning consents and licences.

The above is not an exhaustive list.

In the case of any doubt about the seriousness of any concerns, advice and guidance can be obtained from the Internal Audit Services on 01483 523260.

- 2.6 Other activities of Council officers which are unlawful, fail to comply with Council procedure, rules or policies or which fall below established standards or practices may be investigated under this plan following consideration by management and on advice from Human Resources and Internal Audit. Concerns or allegations which fall within the scope of other, existing, procedures (e.g. child protection or discrimination issues) will normally be dealt with under those procedures.

## 3 SAFEGUARDS

**Confidentiality** – All concerns will be treated in confidence and every effort will be made not to reveal the identity of employees if they so wish. At the appropriate time, however, employees may need to come forward as witnesses.

**Anonymous Allegations** – This policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much more difficult to act upon, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

**Untrue Allegations** – If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered against the individual making the allegation.

#### **4 WHAT SHOULD AN EMPLOYEE DO IF THEY SUSPECT FRAUD OR CORRUPTION?**

4.1 Employees are often the first to realise that there is something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

4.2 The Council's Confidential Reporting (Whistleblowing) Policy is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or passing details to the media or other external bodies. This policy has been discussed with the relevant Trade Unions and has received their approval. Employees reporting concerns in this way are afforded certain rights under the Public Interest Disclosure Act 1998.

4.3 A full copy of the Confidential Reporting (Whistleblowing) Policy (Appendix 3 of this Anti-Fraud and Corruption Policy) is also available on the Council's intranet and website.

4.4 Where appropriate, employees should normally raise concerns with their immediate manager or their supervisor who, if the claim can be substantiated, will inform Internal Audit. The nature of the complaint will determine the Council's course of action. For further advice on how to raise concerns reference should be made to section 6 of the Confidential Reporting (Whistleblowing) Policy (Appendix 3).

4.5 Internal Audit can be contacted by phone on 01483 523260 by email: [internal.audit@waverley.gov.uk](mailto:internal.audit@waverley.gov.uk) or by writing to the Internal Audit Manager, Waverley Borough Council, Council Offices, The Burys, Godalming GU7 1HR.

#### **5 WHAT SHOULD A MEMBER OF THE PUBLIC DO IF THEY SUSPECT FRAUD OR CORRUPTION?**

5.1 Waverley Borough Council encourages members of the public who suspect fraud and corruption to contact the Internal Audit Service or the Strategic Director (Section 151 Officer) in the first instance. Alternatively they can report their suspicions on the authorities online reporting facility "Report it" or by calling the confidential reporting line 01483 523586.



5.2 The Internal Audit service operates independently of all other Council Services, and has the following objectives in relation to fraud and corruption:-

- To promote an anti-fraud culture.
- To deter, prevent, detect and investigate fraud and corruption.
- To see appropriate action is taken against those who commit fraud or corruption.
- To obtain compensation in respect of any losses to Waverley Borough Council.

## **6 HOW THE COUNCIL WILL DEAL WITH ALLEGATIONS OF FRAUD AND CORRUPTION**

6.1 For issues raised by employees or member of the public, the action taken by the Council will depend on the nature of the concern. The matters raised may:

- Be investigated internally; or
- Be referred to the Police where there is evidence of a criminal offence

6.2 Within ten working days of a concern being received a designated officer will write to the complainant in those instances where the complainant has provided contact details:-

- Acknowledging that the concern has been received;
- Indicating how it is proposed to deal with the matter;
- Giving an estimate of how long it will take to provide a final response;
- Indicating whether any initial enquiries have been made;
- Supplying information on staff support mechanisms, and
- Indicating whether any further investigations will take place, and if not, why not.

6.3 Waverley Borough Council accepts that people who reported the alleged fraud or corruption need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive information about the outcome of any investigation and whether any changes/improvements are to be made to systems and procedures as a consequence.

## **7 ALTERNATIVE METHODS FOR TAKING A COMPLAINT FORWARD**

7.1 If either a member of the public or an employee feels it is right to take the matter outside these processes, the following are possible ways forward:

- Local Councillors – details of how to contact are on the Waverley Borough Council website.

## FRAUD INVESTIGATION PLAN

- Grant Thornton UK LLP – Waverley’s external auditors. They are completely independent from Waverley Borough Council and can be contacted on Tel No.012 9355 4072 or 07880456149 alternatively by e-mail: Sarah.L.Ironmonger@uk.gt.com
- Relevant professional bodies
- The Local Government Ombudsman – this is an independent body set up by the Government to deal with complaints against councils in the United Kingdom. Advice can be obtained on 0300 061 0614.
- Public Concern at Work – this is a charity, which provides free and strictly confidential legal help to anyone concerned about malpractice which threatens the public interest. They operate a helpline on 020 7404 6609 or can be e-mailed at [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk). More information is on their website at [www.pcaw.org.uk](http://www.pcaw.org.uk)

7.2 If employees take matters outside the Authority, it will be necessary to ensure that they do not disclose confidential or legally privileged information. As such it is advisable that employees take appropriate advice before proceeding.

## 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.

## FRAUD INVESTIGATION PLAN

- 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
    - 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 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.

## APPENDIX 2

### THE GENERAL PRINCIPLES GOVERNING THE CONDUCT OF MEMBERS AND CO-OPTED MEMBERS

Members are reminded of the 10 General Principles of Conduct (as set out below), which govern the conduct of members.

1. **Selflessness** - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. **Honesty and Integrity** - Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity** - Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. **Accountability** - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with any scrutiny appropriate to their particular office.
5. **Openness** - Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
6. **Personal judgement** - Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
7. **Respect for others** - Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.
8. **Duty to Uphold the Law** - Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
9. **Stewardship** - Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.
10. **Leadership** - Members should promote and support these principles by

THE GENERAL PRINCIPLES GOVERNING THE CONDUCT OF MEMBERS AND CO-  
OPTED MEMBERS

leadership, and by example, and should act in a way that secures or  
preserves public confidence.

**CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY &  
PROCEDURE**

**FOR  
STAFF (EMPLOYEES),  
CONTRACTORS & PARTNERS**

**Part A: The Policy**

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

**Part C: Contact details**

<b>Owned By:</b>	<b>Internal Audit Manager/Human Resources</b>
<b>Created Date:</b>	<b>2010</b>
<b>Review Date:</b>	<b>March 2017 (minors re Job Titles Jan 2018)</b>
<b>JCC Consultation Date:</b>	<b>November 2016</b>
<b>Council Approved</b>	<b>March 2017</b>
<b>Date for Review:</b>	<b>2020 or change in legislation</b>

## CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY & PROCEDURE

<b><i>Content</i></b>	
<b>1</b>	<b>INTRODUCTION</b>
<b>2</b>	<b>AIM OF THE POLICY</b>
<b>3</b>	<b>COUNCIL'S RULES OF PROCEDURES</b>
<b>4</b>	<b>TYPES OF CONCERNS</b>
<b>5</b>	<b>SAFEGUARDS</b>
<b>6</b>	<b>PROCEDURES FOR DEALING WITH A CONCERN</b>
<b>7</b>	<b>HOW THE COMPLAINT WILL BE DEALT WITH</b>
<b>8</b>	<b>CONTACT DETAILS</b>
<b>8.1</b>	<b>INTERNAL CONTACT DETAILS</b>
<b>8.2</b>	<b>EXTERNAL CONTACT DETAILS</b>



## **POLICY STATEMENT**

**THIS POLICY AIMS TO ENCOURAGE AND ENABLE EMPLOYEES TO RAISE ISSUES OF CONCERN ABOUT SUSPECTED IMPROPER CONDUCT IN THE WAY WAVERLEY CARRIES OUT IT'S BUSINESS.**

If the matter being raised relates directly to a Councillors conduct, you should contact the Monitoring Officer, please see Part C of this policy for contact details.

### **Scope of the Policy**

#### **Part A:**

#### **1. INTRODUCTION**

- 1.1 Waverley Borough Council is committed to conducting its business properly through the application of a range of procedures including its Contract Procedural Rules, Financial Regulations, and Codes of Conduct. These reinforce the Council's commitment to effective governance, the highest possible standards of openness, honesty and accountability.
- 1.2 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.
- 1.3 Waverley 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 employee makes deliberately false or malicious allegations this will be regarded as a serious disciplinary offence.
- 1.4 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.

#### **2.0 AIM OF THE POLICY**

- 2.1 This Policy aims to:-
  - 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.

- Provide avenues for employees to raise those concerns and receive feedback on any action taken

### **3.0 THE COUNCIL'S RULES AND PROCEDURES**

3.1 The council has adopted a number of rules and procedures 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:

- Codes of Conduct for Employees and Councillors
- Financial Regulations
- Contract Procedure Rules
- Scheme of Delegation
- Employees' Conditions of Service and Staff Code of Conduct

3.2 The Financial Regulations require all cases of actual or suspected fraud, corruption, bribery and theft to be reported immediately to the Section 151 Officer who will inform the Internal Audit Manager. The Chief Executive, Strategic Directors and Heads of Service must ensure that all staff are aware of the reporting requirements.

### **4.0 TYPES OF CONCERNS THAT CAN BE RAISED AS PART OF THIS POLICY**

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

- any unlawful act (e.g. theft);
- the unauthorised use of public funds (e.g. expenditure for improper purpose);
- a breach of the Code of Conduct for Employee/Councillors;
- maladministration (e.g. not adhering to procedures, negligence);
- failing to safeguard personal and/or sensitive information (data protection);
- damage to the environment (e.g. pollution);
- fraud and corruption (e.g. to give or receive any gift/reward as a bribe);
- abuse of power;
- other unethical conduct; and
- any deliberate concealment of information tending to show any of the above.
- health and safety risks, either to the public or other employees;
- the abuse of children and /or vulnerable adults (physical or psychological);
- Similar behaviour not otherwise described

## **5.0 SAFEGUARDS**

### **5.1 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.

### **5.2 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.

### **5.3 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 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.

### **5.4 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 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 Manager, after consultation with other senior officers as necessary.

## **6. WHISTLEBLOWING PROCEDURE PART B: PROCEDURES FOR DEALING WITH A REPORT**

### **6.1 How to report any concerns**

You are advised in the first instance to report your suspicions to the Internal Audit Manager who manages the Council's Whistle-blowing arrangements, dealing with concerns that relate to members of staff, 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 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 fraud and corruption. The more detailed the information provided will provide more assistance in resolving any issues raised.

Letters can also be addressed to:

Internal Audit Manager  
The Bury's  
Council Offices  
Godalming  
Surrey GU7 1HR

Alternatively your suspicions can be reported directly to the Chief Executive, Section 151 Officer, Strategic Directors. The Internal Audit 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 may, in confidence and without fear of recrimination, disclose worries 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. 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 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 '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.

## **7.0 HOW THE COMPLAINT WILL BE DEALT WITH**

7.1 The Internal Audit 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. 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, 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 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 Management Board, Section 151 Officer, Monitoring Officer, Head of Finance or the Internal Audit Manager, an appropriate body will be requested to complete the investigation, such as the Council's External Auditors.

7.2 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.

7.3 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.

7.4 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

## CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY & PROCEDURE

Whistleblowing Policy. This may be in addition to any legal proceedings instigated by the police.

- 7.5 Where appropriate the Internal Audit Manager will refer findings to the Police for investigation or review, after discussion with the Chief Executive , Section 151 Officer or the Monitoring Officer.
- 7.6 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 deems appropriate, continue to investigate, which may result in further evidence being required from you.

## 8. WHISTLEBLOWING PART C: CONTACT DETAILS

### 8.1 Internal Contact Details

Internal Audit Manager – Gail Beaton  
Telephone: 01483 523260 e-mail: [gail.beaton@waverley.gov.uk](mailto:gail.beaton@waverley.gov.uk)

Chief Executive – Tom Horwood  
Telephone: 01483-523238 e-mail: [tom.horwood@waverley.gov.uk](mailto:tom.horwood@waverley.gov.uk)

Section 151 Officer  
– Graeme Clark  
Telephone: 01483-523099 e-mail: [graeme.clark@waverley.gov.uk](mailto:graeme.clark@waverley.gov.uk)

Monitoring Officer – Robin Taylor  
Telephone: 01483 523108 e-mail: [robin.taylor@waverley.gov.uk](mailto:robin.taylor@waverley.gov.uk)

### 8.2 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**

Sarah Ironmonger  
Associate Director  
Grant Thornton House  
Melton Street  
Euston Square  
LONDON NW1 2EP

Telephone: 020777283328  
e-mail: Sarah.L.Ironmonger

#### **Public Concern at Work**

3<sup>rd</sup> Floor, Bank 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 Services: [services@pcaw.org.uk](mailto:services@pcaw.org.uk)

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

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

**PROSECUTION POLICY**

<b>Owned By:</b>	<b>Internal Audit Manager</b>
<b>Created Date:</b>	<b>2010</b>
<b>Review Date:</b>	<b>March 2017 (minor changes re titles Jan 2018)</b>
<b>CMT Approval Date:</b>	<b>March 2017</b>
<b>JCC Consultation Date:</b>	<b>October 2016/</b>
<b>Council Approved</b>	<b>March 2017</b>
<b>Date for Review:</b>	<b>2020 or change in legislation</b>



## PROSECUTION POLICY

<b><i>Content</i></b>	
<b>1</b>	<b>INTRODUCTION</b>
<b>2</b>	<b>GENERAL</b>
<b>3</b>	<b>PUBLICITY</b>

## Policy Statement

**THIS POLICY IS INTENDED TO ENSURE THAT THE COUNCIL APPLIES THE APPROPRIATE PROCESS WHEN DECIDING TO COMPLETE PROSECUTIONS AGAINST THOSE INDIVIDUALS THAT COMMIT IMPROPER CONDUCT THAT CAN RESULT IN PROSECUTION ACTION BEING ADOPTED.**

## Scope of the Policy

### 1. INTRODUCTION

- a. Waverley Borough Council is committed to conducting its business properly through the application of a range of policies and procedures this policy relates to the prosecution of individuals who have breached regulatory or legislative requirements. 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, Corruption Policy' in order to prevent and minimise its occurrence.
- b. The Council will constantly review and monitor its systems and amend procedures as required.
- c. 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.

### 2. GENERAL

- a. The Council's policy on fraud is to:
  - ❖ Deter it in the first instance
  - ❖ Detect it quickly
  - ❖ Investigate it efficiently and in accordance with the law; and
  - ❖ Prosecute offenders when appropriate
  - ❖ Make it as easy as possible for staff, Members and the Public to report concerns
- b. In order to prosecute;
  - The evidence must be collected according to local procedures and in accordance with the necessary laws, which currently include the Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedures

## PROSECUTION POLICY

Investigations Act 1996 (CPIA), the Regulation of Investigatory Powers Act 2018 (RIPA) and Prevention of Social Housing Fraud Act 2013.

- The Council must be satisfied that there is sufficient evidence to provide a 'realistic prospect of conviction', meaning that a jury or bench of magistrates or a judge hearing a case alone, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.
  - If there is sufficient evidence to provide a realistic prospect of conviction, the Council must also be satisfied that it is in the public interest to prosecute.
- c. The council will when considering a prosecution, and throughout the course of a case, always adhere to the principles contained in the Code for Crown Prosecutors issued by the Director of Public Prosecutions.
- d. In most cases, the Section 151 Officer and the Internal Audit Manager, and where appropriate in consultation with the Chief Executive, or another designated officer, will decide whether reporting the matter to the Police is appropriate. In exceptional circumstances the Internal Audit Manager may, after consultation with the Council's Borough Solicitor/Legal Services, refer a matter to the Police direct without prior consultation with the S151 Officer or the Chief Executive. Cases will also be discussed with the Leader of the Council, and the relevant Portfolio Holder will be kept informed of progress.
- e. In deciding whether a fraud should be reported to the Police, the following factors will be taken into consideration;
- The extent of the fraud/corruption in financial terms and how long the offence has lasted.
  - The sufficiency and appropriateness of evidence.
  - How the public interest will be best served.
- f. In general, all cases will be reported to the Police. However, the decision as to whether to prosecute or not ultimately rests with the Police and the Crown Prosecution Service, although the Council reserves the right to instigate proceedings itself if it is considered necessary. Any action will be taken in accordance with underlying principles, which include the following:

Each case will be examined on its own merits;

All persons under suspicion will be treated fairly;

Decisions will only be taken when the facts are known;

The rules of Natural Justice will always prevail.

## PROSECUTION POLICY

- g. The Section 151 Officer in consultation with the Internal Audit Manager and the Monitoring Officer/ Borough Solicitor, will decide on the sanctions to be imposed should the case be deemed serious. These sanctions can include disciplinary action, criminal prosecution, civil litigation and/or referral to professional accredited bodies.
- h. In respect of Housing Benefit fraud, this type of fraud is now investigated by the DWP as part of the Single Fraud Investigation Service.

### **3. PUBLICITY**

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

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

<b>Owned by:</b>	<b>Head of Finance Peter Vickers</b>
<b>Created Date:</b>	<b>Nov 2012</b>
<b>Review Date:</b>	<b>Jan 2018 re Titles March 2019</b>
<b>CMT Approval Date:</b>	<b>March 2017</b>
<b>JCC Consultation Date:</b>	<b>Oct 2016</b>
<b>Executive/Council Approval date:</b>	<b>March 2017</b>
<b>Date for review:</b>	<b>March 2020 or change in legislation</b>

## ANTI-MONEY LAUNDERING POLICY

<b>Content</b>	
<b>1.0</b>	<b>INTRODUCTION</b>
<b>2.0</b>	<b>SCOPE OF THE POLICY</b>
<b>3.0</b>	<b>MONEY LAUNDERING</b>
<b>4.0</b>	<b>OBLIGATIONS ON THE COUNCIL</b>
<b>5.0</b>	<b>MONEY LAUNDERING REPORTING OFFICER</b>
<b>6.0</b>	<b>REPORTING PROCEDURE</b>
<b>7.0</b>	<b>POLICIES, CONTROLS &amp; PROCEDURE</b>
<b>8.0</b>	<b>TRAINING</b>
<b>9.0</b>	<b>MAINTAIN CLIENT IDENTIFICATION PROCEDURES IN CERTAIN CIRCUMSTANCES</b>
<b>10.0</b>	<b>FURTHER INFORMATION</b>
<b>11.0</b>	<b>GUIDANCE</b>
<b>ANNEXE A</b>	<b>MONEY LAUNDERING AVOIDANCE - GUIDANCE NOTES</b>

## Money Laundering Reporting Procedure

### What you need to know

If you suspect that money laundering has (or may be taking place) you must report it to the MLRO:

- regardless of amount
- as soon as you know or suspect
- using the confidential 'Report to MLRO' form

If your involvement amounts to a prohibited act you must:

- Inform the MLRO
- Get consent from SOCA (via the MLRO) to take any further action in the transaction
- Clarify whether there are any deadlines for consent (eg completion date of transaction)

Once reported to the MLRO you must:

- Follow any directions given by the MLRO
- Not make any further enquiries into the matter
- Co-operate with the MLRO and authorities in any investigation
- Not voice your suspicions to the person(s) suspected as this amounts to 'tipping off' and is a criminal offence

#### Things to remember:

- The regulations applies to all officers and Members and all services and payments
- You must not accept cash payments that exceed £5,000
- Any incidents of someone trying to pay £5,000 or more in cash must be reported regardless
- **Undertake due diligence and know your customer**

#### Warning Signs may include:

- Large volume/cash transactions
- Secretive or obstructive behaviour
- Overpayment/ duplicate payment made in cash where refund is requested via BACS or cheque
- Absence of an obvious source of funds
- Use of cash where other means are normal
- Unusual patterns of transactions

## Introduction

- 1.1 The Council will do all it can to prevent the Council and its staff being exposed to money laundering through criminal activity, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.
- 1.2 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 came into force on the 26 June 2017. Although Local Authorities are not obliged to comply with the requirements of this legislation the Chartered Institute of Public Finance and Accounting (CIPFA) advises that an organisation should consider a policy framework which supports the implementation of the counter fraud strategy and includes an anti-money laundering policy to prevent the use of their services for money laundering.

## 2. Scope

- 2.1 This Policy applies to all officers, whether permanent or temporary, and Members of the Council. Officers and Members must be familiar with their responsibilities in preventing criminal activity through money laundering and must be vigilant at all times.
- 2.2 The policy applies to all areas of work undertaken by the Council.
- 2.3 The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations.
- 2.4 Further information is set out in the accompanying Guidance on page 10.
- 2.5 This Policy sits alongside the Council's Whistleblowing Policy and Anti-Fraud and Corruption Policy.
- 2.6 Failure by an officer or Member to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary and Capability Procedure.



### **3. Definition of Money Laundering**

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

- concealing, disguising, converting, transferring criminal property or removing it from the UK
- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- acquiring, using or possessing criminal property
- doing something that might prejudice an investigation (for example falsifying a document)

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

- Failure to disclose any of the primary offences
- Tipping off - where someone informs a person or people who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation. Tipping off carries a maximum penalty of five years imprisonment.

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

### **4. Obligations on the Council**

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

- appointing a Money Laundering Reporting Officer (MLRO) to receive disclosures from officers and members of money laundering activity
- implementing a reporting procedure to enable the reporting of suspicions of money laundering
- The policies, controls and procedures must be:

- proportionate with regard to the size and nature of the relevant person's business, and
  - approved by its senior management.
- The policies, controls and procedures must be regularly reviewed and must include:
  - cash payments
  - risk management practices
  - internal controls
  - customer due diligence
  - record keeping procedures
  - the monitoring and management of compliance with, and the internal communication of, such policies, controls and procedures.
- training to recognise transactions that may indicate money laundering
- maintaining client identification procedures in certain circumstances

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

- 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](mailto:peter.vickers@waverley.gov.uk)  
Telephone: 01483 523539

- 5.2 In the absence of the MLRO contact the Internal Audit Manager, Gail Beaton, at the above address or on telephone number 01483 523260.

## **6. Reporting Procedure**

- 6.1 Where an officer or Member becomes aware or suspects that money laundering may have taken place (or may be taking place) they must contact the MLRO regardless of the amount.
- 6.2 If an officer or Member becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation it must be reported to the MLRO. Disclosure must be within hours of the information coming to light. Failure to do this may render the officer or Member liable to prosecution.

## ANTI-MONEY LAUNDERING POLICY

- 6.3 Disclosure should be made to the MLRO using the form at Appendix A to this policy. Full details must be included in the form.
- 6.4 If the officer or Member is concerned that their involvement in the transaction would amount to a prohibited act under the definition of Money Laundering at paragraph 3, consent will be needed from the 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 officer or Member should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.
- 6.5 Information given in the reporting form must enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable the MLRO to prepare a report to SOCA, where appropriate.
- 6.6 Once the matter is reported to the MLRO, officers and Members must follow any directions given by the MLRO. They must NOT make any further enquiries into the matter themselves and must co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 6.7 Similarly, at no time and under no circumstances should the officer or Member voice any suspicions to the person(s) suspected of money laundering, even if 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.
- 6.8 No reference should be made on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render an officer or Member liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

### **Consideration of the disclosure by the MLRO**

- 6.9 Upon receipt of a report, the MLRO must complete the MLRO part of the form, note the date of receipt of the report and acknowledge receipt of it. The MLRO should also advise the officer or Member of the timescale within which a response should be expected.

## ANTI-MONEY LAUNDERING POLICY

- 6.10 The MLRO will consider the report and any other available internal information that is relevant eg:
- reviewing other transaction patterns and volumes
  - the length of any business relationship involved
  - the number of any one-off transactions and linked one-off transactions
  - any identification evidence held
- 6.11 The MLRO will undertake such other reasonable inquiries considered appropriate in order to ensure that all available information is taken into account in deciding whether a report to 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 officer or Member.
- 6.12 Once the MLRO has evaluated the disclosure report and any other relevant information, the MLRO must make a timely determination as to whether:
- there is actual or suspected money laundering taking place; or
  - there are reasonable grounds to know or suspect that is the case; and
  - whether there is a need to seek consent from SOCA for a particular transaction to proceed.
- 6.13 Where the MLRO does so conclude, the matter must be disclosed as soon as practicable to SOCA on their standard report form and in the prescribed manner, unless there is a reasonable excuse for non-disclosure to SOCA (for example, a lawyer can claim legal professional privilege for not disclosing the information).
- 6.14 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, the report must be noted accordingly. Consent can then be given immediately for any ongoing or imminent transactions to proceed.
- 6.15 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to SOCA.
- 6.16 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.
- 6.17 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering the MLRO shall mark the report accordingly and give consent for any ongoing or imminent transaction(s) to proceed.

- 6.18 All disclosure reports referred to the MLRO and reports made by the MLRO to SOCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 6.19 The MLRO commits a criminal offence if the MLRO knows or suspects, or has reasonable grounds to do so, through a disclosure being made, that another person is engaged in money laundering and the MLRO does not disclose this as soon as practicable to SOCA.

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

### Cash payments

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

### Risk Management

- 7.2 Risk will be assessed by taking into account risk factors including factors relating to:
- The Council's customers
  - The area in which the Council operates
  - The Council's services
  - The Council's transactions
  - The Council's delivery channels
- 7.3 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all officers and Members are familiar with their legal responsibilities.
- 7.4 The risk to the Council of contravening the anti-money laundering legislation will be assessed on a periodic basis and the adequacy and effectiveness the Anti-Money Laundering Policy will be reviewed in light of such assessments.

### Internal Controls

7.5 The internal controls include:

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

7.6 The independent audit function has responsibility:

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

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

### Customer Due Diligence

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

7.9 Customer due diligence means:

- (a) identifying the customer and verifying the customer's identity 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 owner and taking adequate measures, on a risk-sensitive basis, to verify their identity and where the beneficial owner is a trust or similar understand the ownership and control structure of the trust or arrangement.

- (c) obtaining information on the purpose and intended nature of the business relationship.

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

- Is the service a regulated activity (see 7.4.4)
- Is the Council charging for the service ie is it 'by way of business'?
- Is the service being provided to a customer other than a UK public authority?

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

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

7.11 Regulated activity is defined as the provision 'by way of business' of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of £10,000 or more.

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

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

- details of your customer's business or employment (checking with the customer's website to confirm their business address)
- the source and origin of funds that your customer will be using in the relationship
- copies of recent and current financial statements
- the expected level and type of activity that will take place in your relationship
- conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors

## ANTI-MONEY LAUNDERING POLICY

- details of the relationships between signatories and any underlying beneficial owners
- seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation

7.14 The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.

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

### Enhanced Due Diligence

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

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

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

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

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



## ANTI-MONEY LAUNDERING POLICY

- carrying out stricter ongoing monitoring of the business relationship

### Record Keeping

- 7.19 The Council will keep a record of all customer due diligence measures carried out, including:
- customer identification documents obtained
  - risk assessments
  - your policies, controls and procedures
  - training records
- 7.20 Each Service of the Council and contractors working for the Council conducting relevant business must maintain records of:-
- a) Due diligence and customer identification evidence obtained - which must be kept for five years after the end of the transaction or relationship
  - b) Details of all relevant business transactions carried out for clients for at least five years from the completion of the transaction. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.
- 7.21 Any personal data obtained for the purpose of the regulations may only be processed for the purposes of preventing money laundering or terrorist financing.
- 7.22 The MLRO must be informed of the existence and location of such records.
- 7.23 The records must be capable of providing an audit trail during any subsequent investigation, eg distinguishing the client and the relevant transaction and recording in what form any funds were received or paid.
- 7.24 An electronic copy of every customer due diligence record must be sent to the MLRO to meet the requirements of the Regulations and in case of inspection by the relevant supervising body.
- 7.25 Monitoring and Management of Compliance with, and Internal Communication of Policies, Controls and Procedures.
- 7.26 In support of the policy and procedure, the council will:
- Endeavour to make all staff aware of the requirement and obligation placed on the council and on themselves as individuals by the anti-money laundering legislation; and

- Provide targeted training where it has been identified staff are most likely to encounter money laundering

## 8. Training

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

## 9. Maintain client identification procedures in certain circumstances

- 9.1 You also need to identify the 'beneficial owner' in certain situations. This may be because someone else is acting on behalf of another person in a particular transaction, or it may be because you need to establish the ownership structure of a company, partnership or trust.
- 9.2 As a general rule, the beneficial owner is the person who's behind the customer and who owns or controls the customer, or it's the person on whose behalf a transaction or activity is carried out.
- 9.3 If you have doubts about a customer's identity, you must stop dealing with them until you're sure.

## 10. Further Information

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

**[www.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)

## 11. Guidance

### 11.1 Circumstances that may be susceptible to money laundering:

- The areas where large sums of money may be received by the Council, including:
  - Council Tax
  - Business Rates
  - Rent or Rent Arrears payments
  - Hire of venues, and Licensing
- Sale of Council land/buildings (as sale proceeds could be in cash)
- Sale of Council properties under right to buy scheme
- Investments – this would cover activities such as the issue of local bonds or transfers to for from non UK banks

### 11.2 Indicators that might be warning signs:

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

## ANTI-MONEY LAUNDERING POLICY

- Use of cash where other means of payment are normal
- Unusual transactions or ways of conducting business
- Use of overseas companies
- New companies

### Client identification

11.3 This means obtaining a customer's:

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

11.4 Satisfactory evidence of personal identity includes:

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

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

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

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

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

11.8 The types of record you keep may include:

## ANTI-MONEY LAUNDERING POLICY

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

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

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

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

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

**Confidential**

**Report to the Money Laundering Reporting Officer**

**Money Laundering Activity**

From	
Job Title	
Telephone No	
Email	

Details of suspected offence

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

ANTI-MONEY LAUNDERING POLICY

How the transaction was undertaken				
Single transaction or series				
Reason for suspicion (full reasons)				
Evidence (provide any supporting documentation)				
Nature of involvement:				
Does your involvement constitute a prohibited act under the definition of money laundering?				
Do you need consent from the SOCA to take any further part in the transaction?				
Is there a deadline that consent is needed by? ie from a deadline of the transaction				
Has any investigation been undertaken as far as you are aware? (if Yes please give details below)	Yes		No	
Have you discussed your suspicions with anyone else? (if Yes please specify below, explaining why such discussion was necessary)	Yes		No	
Have you consulted any supervisory body guidance re money laundering? Eg the Law Society (if Yes please specify below)	Yes		No	
Has any investigation been undertaken as far as you are aware? (if Yes please give details below)	Yes		No	
Do you feel you have a reasonable excuse for not disclosing the matter to the SOCA? (if Yes please give details below)	Yes		No	
Please give any other information you feel is relevant:				

Signed:	Dated:

**Completion by Money Laundering Reporting Officer**  
**Money Laundering Activity**

Date report received	
Date receipt of report acknowledged	

Details of suspected offence

<b>Consideration of Disclosure</b>			
Action plan:			
<b>Outcome of Consideration of Disclosure</b>			
Are there reasonable grounds for suspecting money laundering activity?			
If there are reasonable grounds for suspicion will a report be made to SOCA? If Yes please complete below	Yes	No	
Date of report to SOCA			
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? If Yes please confirm full details below	Yes	No	



## ANTI-BRIBERY POLICY

Date consent received from SOCA	
Date consent given by MLRO to officer	
If there are reasonable grounds to suspect money laundering but you do not intend to report the matter to SOCA please set out the reason(s) for non disclosure below:	
Date consent given by MLRO to officer for any prohibited act transaction to proceed	
Other relevant information	
Signed:	Dated:

This report should be retained for at least five years.

## APPENDIX 6

### ANTI-BRIBERY POLICY

#### INTRODUCTION

Bribery can be described as giving someone a financial inducement or other form of advantage to encourage that person to perform their functions or activities improperly, or to reward that person for having already done so, in order to gain a personal, commercial, regulatory or contractual advantage.

The Bribery Act 2010 came into force on 1 July 2011. The Act makes it an offence for a United Kingdom (UK) citizen or resident to pay or receive a bribe, either directly or indirectly. The Act provides for transactions that take place in the UK and abroad,

## ANTI-BRIBERY POLICY

and both in the public and private sectors. Companies and partnerships can also commit an offence where a bribe has been paid on their behalf by an associate. Associates include employees, agents and other persons providing services on behalf of the corporate entity.

This Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does it accept bribes or improper inducements.

The Council is also committed to a zero-tolerance approach that includes prevention, deterrence and detection of bribery. Adequate procedures to minimise the risk of bribery will be implemented and Members and staff will be made aware of them.

The Act relates to "commercial organisations", and this definition includes the Council. There are four key offences under the Act:

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

The offence of failing to prevent bribery is a corporate offence. However, there is a full defence to this, if it can be shown that an organisation had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

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

- 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; or
- 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.

## SCOPE OF THIS POLICY

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

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

## ANTI-BRIBERY POLICY

We require that all Members and staff:

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

### **THIS COUNCIL'S COMMITMENT TO ACTION**

This Council commits to:

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

### **GIFTS AND HOSPITALITY**

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

## ANTI-BRIBERY POLICY

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

### **Members**

1. Members must exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member
2. Members must not accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
3. A Member must register with the Monitoring Officer any gift with an estimated value of at least £50, or hospitality with an estimated value of at least £100 within 28 days of its receipt.

### **Officers**

4. Employees should accept offers of hospitality only if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. They should be authorised by your Head of Service, in advance where possible.
5. When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.
6. Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc. when you are satisfied that there is no ulterior motive associated with the offer of the gift and where acceptance gives no danger of misinterpretation by a member of the public.
7. When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
8. Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc

## ANTI-BRIBERY POLICY

are required, you should claim any personal expenses involved from Waverley to avoid jeopardising the integrity of subsequent purchasing decisions.

9. Gifts which fall outside the definition in 6 above should be politely refused and Waverley's policy on the acceptance of gifts should be explained. If you have any doubt, please seek advice from, in the first instance, your Head of Service.
10. If a gift is delivered to the office without prior warning, unless it falls within the scope of acceptable gifts (see 6), in consultation with your Head of Service, the gift should be returned.
11. All hospitality offered, whether or not it is accepted, and all gifts offered or received, whether or not they are accepted or returned, must be entered in the Register of Hospitality and Gifts on Backstage and a note made of the action taken.

## RESPONSIBILITIES OF MEMBERS AND STAFF

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

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

## RAISING A CONCERN

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

- Chief Executive                      01483 523237
- Monitoring Officer:                01483 523108
- Internal Audit:                        01483 523260

## ANTI-BRIBERY POLICY

The Council's Confidential Reporting (Whistleblowing) Policy Appendix 3 can also be used to raise bribery concerns.

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

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

### **Other relevant strategies/policies (all available on the Intranet or Council website)**

- Anti-Fraud and Corruption Policy
- Anti-Money Laundering Policy
- Confidential Reporting (Whistleblowing) Policy
- Officers' Code of Conduct
- Members' Code of Conduct
- Financial Regulations
- Contract Procedure Rules
- Councillors Planning Code of Good Practice

**HOUSING TENANCY FRAUD POLICY**



<b>Owned by:</b>	<b>Tenancy and Estates Manager</b>
<b>Created Date:</b>	<b>January 2014</b>
<b>Equality Impact Assessment completed:</b>	<b>n/a</b>
<b>CMT Approval Date:</b>	<b>n/a</b>
<b>JCC Consultation Date:</b>	<b>n/a</b>
<b>Executive/Council Approval date:</b>	<b>tbc</b>
<b>Date for review:</b>	<b>April 2015</b>
<b>Reviewed</b>	<b>November 2016</b>
<b>Date for second review:</b>	<b>November 2021</b>

<b>Content</b>
<b>POLICY STATEMENT:</b>
<b>1 POLICY AIMS AND OBJECTIVES</b>
<b>SCOPE OF POLICY:</b>
<b>2 INTRODUCTION</b>
<b>3 WHAT IS TENANCY FRAUD</b>
<b>4 IMPACT OF TENANCY FRAUD</b>
<b>5 WHAT IS WAVERLEY BOROUGH COUNCIL DOING TO COMBAT TENANCY FRAUD</b>
<b>6 PERFORMANCE MEASURES AND TARGETS</b>
<b>7 RESPONSIBILITY AND REPORTING ARRANGEMENTS</b>
<b>8 MONITORING AND REVIEW ARRANGEMENTS</b>
<b>AUTHOR AND FEEDBACK</b>
<b>RELATED INFORMATION</b>



## **POLICY STATEMENT**

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### **1 POLICY AIMS AND OBJECTIVES**

- 1.1 Waverley Borough Council is committed to dealing with tenancy fraud. There is a great housing need in the borough with limited supply and social housing should be available for those in housing need at the time they need it.
- 1.2 Waverley will tackle fraudulent applications, unlawful subletting and tenancy misuse promptly and effectively, to ensure all its housing stock is used by those with legitimate housing need.
- 1.3 The key objectives of the tenancy fraud policy are to;
- Underpin the Council's zero-tolerance approach to housing fraud, seeking prosecution and compensatory payment (according to the Prevention of Social Housing Fraud Act 2013)
  - Proactively prevent fraudulent activity
  - Prevent fraudulent applications for housing
  - Use introductory and flexible tenancy reviews to identify potential fraud
  - Prevent fraudulent right to buy applications
  - Detect and tackle fraud associated with mutual exchanges
  - Raise awareness amongst staff and the public about tenancy fraud and what that means
  - Encourage residents and members of the public to report suspected cases of tenancy fraud to Waverley
  - To deal effectively with reports and observations of tenancy fraud
  - Work in partnership with statutory agencies and housing associations in the Waverley area to share information, data and resources, where appropriate.

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## **SCOPE OF POLICY**

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### **2 INTRODUCTION**

- 2.1 This policy outlines Waverley's approach to dealing with tenancy fraud.

### **3 WHAT IS TENANCY FRAUD?**

- 3.1 Tenancy fraud or misuse can present itself in various forms and can occur at any stage during a tenancy lifecycle.
- 3.2 The following list is not exhaustive, but does include the main types of tenancy fraud:
- Fraudulently obtaining a social housing tenancy by misrepresentation of identity or circumstances

- Unauthorised subletting:
  - subletting the whole property to a single household; or
  - multiple sublets within one property, without prior consent
- Non occupation by the tenant(s) as their only or main home
- Unauthorised assignment of the tenancy – mutual exchange or transfer of tenancy without permission
- Key selling – where the tenant leaves the property and passes on the keys in return for a one off lump sum payment or favour
- Wrongly claimed succession – retention of a tenancy following the death or vacation of the tenant(s)
- Fraudulent right to buy application

3.3 In some instances unlawful subletting can generate lucrative profits for individuals or organised groups. It is therefore essential that Waverley can demonstrate that the tenants who should be occupying its homes really are in residence.

**Please note** – tenancy misuse does not refer to cases where tenant have taken in a lodger or sublet with prior written consent.

## 4 IMPACT OF TENANCY FRAUD

- 4.1 Failure to tackle tenancy fraud has a number of effects on both Waverley and its residents. These are:
- the housing stock is not put to best use
  - increased waiting times for prospective tenants and existing tenants wishing to move
  - an increased risk of disrepair and damage to the property due to a reluctance to report repairs or accept improvements, and from modifications to make the property more suitable to sub-let
  - an increased risk of criminal damage or anti-social behaviour
  - added difficulties gaining access to carry out maintenance repairs or gas servicing
  - the unlawful sub-tenant(s) who may not be aware of their status can be vulnerable to being charged increased rents and deposits and are at risk of unlawful evictions and homelessness
  - a drain on resources due to the costs of investigation and court proceedings.

## 5 WHAT IS WAVERLEY DOING TO COMBAT TENANCY FRAUD?

- 5.1 Waverley has a range of measures to combat tenancy fraud. These are listed below:

## 5.2 Awareness

- 5.2.1 Waverley highlights the consequences of tenancy fraud and the methods with which it can be reported at sign up interviews and tenancy visits and via its website and tenants' newsletter.

Waverley highlights the Tenancy Fraud Policy, risk of fraud and success in tackling fraud to housing staff at briefings and team meetings.

## 5.3 When making an Application

- 5.3.1 All applicants sign a declaration to confirm they have provided true and accurate information. Prior to a potential tenant being accepted onto Waverley's Housing Need Register photo identity, address and financial checks are carried out to verify the information provided by the applicant(s). Once accepted on the register all applicants circumstances are reviewed annually.

## 5.4 Start of the Tenancy

- 5.4.1 Before a tenancy is allocated Waverley carries out a series of identification and verification checks to ensure that the prospective tenant and their family household/circumstances are what they say they are. Proof of essential data is required, such as birth certificates, photo identification, passports, immigration papers or driving licences.
- 5.4.2 Waverley endeavours at all times to ensure the right people are allocated to the right home. Staff involved in the process are aware of the potential for tenancy fraud and the importance of the sign up process for preventing tenancies being obtained by deception.

## 5.5 Use of Photographs

- 5.5.1 Waverley photographs new tenant(s) as part of our sign up process. The photographs are held electronically and/or physical copies are held on tenancy files to assist in confirming identity if required. Photographs can also be taken at tenancy review visits. Photos will be held confidentially according to Data Protection requirements and only used for identification checks and tackling social housing fraud.

## 5.6 Early Contact

- 5.6.1 New tenants are contacted by phone within four to six weeks of new tenant(s) moving in. The purpose of the call is to ensure that the new tenant has moved in, has settled in and is using the property as their only and main home. The call is also an opportunity to check that they have no outstanding issues and they are receiving any help or support they may require. If tenants can not be reached by phone an email and/or letter is sent requesting contact. If no

contact is made the case is referred to the Tenancy and Estate Officer to visit and take appropriate action as required.

### 5.7 Tenancy Review Visits

5.7.1 Review visits are held at four and seven months for introductory tenants. Reviews for Flexible and Secure tenants are prioritised according to housing data regarding contact. These are designed to ensure tenancy conditions are been met, capture other data required on household members for wider purposes (such as overcrowding), alongside ensuring the tenant is not sub-letting part of their home without consent and is using the property as their only or main home.

### 5.8 Responding to Reports

5.8.1 Waverley takes all reports of alleged tenancy fraud seriously and commits to undertake an investigation in accordance with the Waverley's Prosecution Policy. Waverley has a dedicated email address and online reporting mechanism for people to report suspicions of tenancy fraud. Reports can also be made by phone or in person.

Waverley may undertake covert surveillance, which is a legitimate tool in fraud investigations; in accordance the Council's approved RIPA Policy.

5.8.2 Staff have a clear Dealing with Tenancy Fraud procedure and receive relevant training to investigate and tackle tenancy fraud. If the tenant is vulnerable or elderly and the property has been taken over by illegal occupants without the tenant's permission Waverley will work with the tenant to regain occupation of their property.

### 5.9 Right to Buy process

5.9.1 All right to buy applicants must attend an interview to prove identity and residency and are subject to a credit check as part of the eligibility assessment.

### 5.10 Publicity Campaign

5.10.1 Waverley will undertake periodic publicity campaigns to raise awareness with residents and the public that they are able to report suspected cases of tenancy fraud (anonymously if they wish in through Waverleys Reportit process).

### 5.11 Court Action

5.11.1 Where there is deemed to be sufficient evidence of tenancy fraud Waverley will pursue cases through the Courts in accordance with Waverley's

## HOUSING TENANCY FRAUD POLICY

Prosecution Policy, in order to re-possess the property and where appropriate seek proceeds of crime order against the tenant(s).

### 5.12 National Fraud Initiative (NFI)

5.12.1 Waverley participates in data matching exercises such as NFI and other local groups including the Surrey Counter Fraud Partnership and submits data to be matched against private and other public sector bodies to highlight instances where data provided by one party matches that held by another, indicating possible cases where tenancy fraud is being perpetrated within the borough.

5.12.2 Waverley will seek to access information from banks, utility and telecommunication companies to detect tenancy fraud, where necessary as part of fraud investigations.

### 5.13 Statutory and Partner Liaison

5.13.1 Waverley is an active member of the Surrey County Fraud Partnership and Surrey Tenancy Fraud Forum working with Surrey local authorities, housing associations and statutory partners in the Waverley area to jointly tackle tenancy fraud and share information.

5.13.2 Waverley also exchanges information with Department Work and Pensions (DWP) to identify address discrepancies.

### 5.14 Staff involvement in Fraud

5.14.1 Waverley takes a zero-tolerance approach to staff proved to have been involved in tenancy fraud. Any staff implicated in a possible housing fraud in any manner will be referred to the Section 151 Officer (Strategic Director) in accordance with Waverley's Anti-Fraud, Corruption Policy.

### 5.15 Whistleblowing

5.15.1 The Council actively encourages and protects whistle blowers raising suspected housing fraud. All whistle blowers will remain anonymous and be supported in their giving of evidence.

## 6 PERFORMANCE MEASURE AND TARGETS

6.1 Performance data about the effectiveness of our dealing with tenancy fraud will be gathered and reported annually to ensure and drive continuous improvement in our service delivery to our residents.

## 7 RESPONSIBILITY AND REPORTING ARRANGEMENTS

- 7.1 The Head of Housing Operations is responsible for delivering this policy.
- 7.2 The Head of Housing Operations is responsible for ensuring that all appropriate staff involved in the implementation of this policy are aware of and trained in this policy and its procedures.

## **8 MONITORING AND REVIEW ARRANGEMENTS**

- 8.1 All suspected housing fraud reports received by Waverley will be recorded. Housing fraud investigations and the subsequent results and actions of those investigations will be reported annually to Members. This will ensure Waverley is effectively implementing this policy and associated documents, and that residents and staff are treated fairly and equitably.
- 8.2 Central monitoring of all reports will be undertaken on an annual basis. This will monitor the number of new cases received and any properties recovered through voluntary surrender or legal possession. Performance data will be included in the routine key performance indicator reports.
- 8.4 This policy will be reviewed every five years, unless legislation or sector development require otherwise, ensuring that it continues to meet its objectives and take account of good practice developments.

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### **Author and Feedback**

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The Council welcomes comments and feedback on its policies and procedures. Please contact the Tenancy and Estates Manager, Housing Services if you have any comments.

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### **Related Information**

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## **9 Associated Documents**

- Tenancy Strategy
- Tenancy Policy
- Confidential Reporting (Whistleblowing) Policy
- Prosecution Policy
- Anti-Fraud, Corruption Policy