



**ROCHDALE
METROPOLITAN BOROUGH
COUNCIL**

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ANTI-FRAUD AND CORRUPTION STRATEGY

November 2011
(updated version from May 2007)

ANTI-FRAUD AND CORRUPTION STRATEGY

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1 INTRODUCTION

- 1.1 The Anti Fraud and Corruption Strategy recognises that the Council as a large organisation is at risk of loss due to fraud and corruption both from within the Council and outside it.
- 1.2 In meeting the Council's responsibilities relating to fraud and corruption, whether attempted internally or externally, the Council is committed to an effective anti-fraud and corruption strategy designed to:-
- encourage prevention
 - promote detection
 - ensure effective investigation where suspected fraud or corruption has occurred
 - 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 to the Strategy.

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
 - Fraud by abuse of position.
- 2.3 Fraud by false representation 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.
- 2.4 Fraud by failing to disclose information requires:
- Dishonesty
 - An intent to make gain or cause loss
 - 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
 - Abuse of a position where one is expected to safeguard another person's financial interests.

Corruption

- 2.6 Corruption is '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.' It is an offence under the Prevention of Corruption Acts 1889 - 1916 as amended and S.117(3) of the Local Government Act 1972.

Bribery

- 2.7 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 Council has an approved Anti-Bribery Policy in place, which is referred to at Appendix 7 of this Anti-Fraud and Corruption Strategy.

3 RULES AND PROCEDURES

- 3.1 The 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:-
- Council Constitution including Financial Regulations
 - Contracts Procedure Rules
 - Code of Conduct for Councillors and Voting Co-opted Members
 - Officers' Code of Conduct
 - Scheme of Delegation.
- 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 Service Directors need to ensure that staff have access to these rules and regulations and that staff receive appropriate training.
- 3.5 Failure to comply with the rules and regulations may result in formal action being taken. In the case of employees this would be through the Council's disciplinary process and for members would involve the Standards Board or the Standards Committee. It is the responsibility of the Monitoring Officer (Borough Solicitor) to report matters to the Standards Committee.

4 BEHAVIOUR OF MEMBERS AND EMPLOYEES

- 4.1 The 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 individuals, businesses and organisations dealing in any way with the Council will act with high standards of probity, openness and integrity and that Council employees or its agent(s) at all levels will lead by example in these matters.
- 4.3 The Secretary of State has specified the general principles which are to cover the conduct of members and co-opted members (see Appendix 2). The Council will develop its working behaviour around these principles.
- 4.4 The Council's Codes of Conduct for Members and employees set out an approach to work that is honest, fair, accountable and, as far as possible, transparent. Members and employees must act in line with the codes at all times.
- 4.5 The Council's 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.

- 4.6 All information supplied will be dealt with fairly and confidentially. The aim will be to avoid revealing the names of persons who supply information. The fraud investigation plan (see Appendix 1) provides further information on this issue.
- 4.7 Service Directors are expected to deal firmly and quickly with those who are corrupt, who seek to corrupt, who defraud, or who seek to defraud the Council. Cases involving staff will usually lead to disciplinary action, which may result in dismissal. Where there is prima facie evidence that a criminal offence has been committed it is the policy of the Council to refer the case to the Police for prosecution.
- 4.8 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.
- 4.9 In relation to complaints involving Members, Internal Audit will consult the Monitoring Officer on whether or not the complaint falls within the scope of the Members' Code of Conduct and if so, the process of making a formal complaint to the Standards Board for England will be followed where that is deemed the appropriate course of action. Where a formal complaint is made to the Standards Board, the Board will decide what further steps (if any) should be taken.
- 4.10 The Standards Committee includes amongst its roles and functions the promotion and maintenance of high standards of conduct by members, assisting members to observe the Member's code of conduct and the monitoring and operation of the member's and Officer's Codes of Conduct. It also maintains an overview of Internal and External Audit in relation to the Member's Code of Conduct and an overview of the Confidential Reporting (Whistleblowing) Policy.

5 PREVENTION OF FRAUD AND CORRUPTION

- 5.1 A key preventative measure against fraud and corruption is an adequate internal control framework covering all the Council's systems both financial and non financial which support the delivery of services. The corporate rules and procedures referred to at paragraph 2.2 form part of this framework. The operation and adequacy of the internal controls in individual systems is the responsibility of Service Directors and is subject to regular review by both Internal and External Audit.
- 5.2 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 the Council's Code of Practice - "Fair Recruitment and Selection" - which requires written references to be obtained using a form of questionnaire. The accompanying letter urges that the reference should be a full and frank disclosure of all relevant matters. When recruiting for posts that involve work with children or vulnerable adults, or where otherwise deemed appropriate, the screening process must include assessment and checks by the Criminal Records Bureau.
- 5.3 All Members and employees are required within 28 days of receiving any gift or hospitality over £25 to provide written notification to the Borough Solicitor of the existence and nature of the gift or hospitality. All members and employees are required to refuse all gifts or hospitality in excess of £100 (if received on one occasion) or in excess of a total of £100 (if received on more than one occasion in the same Municipal year from the same individual or organisation), except with the approval of the Chief Executive (all such exceptions are to be reported to Standards Committee). Registers are maintained of all declarations.
- 5.4 Members are required to declare their personal and prejudicial interests in accordance with the Code of Conduct for Members and voting Co-opted members and to act in accordance with the code.
- 5.5 Employees are required to declare their personal interests in accordance with the Officers Code of Conduct.
- 5.6 A voluntary Register of Interests is maintained for senior officers (Grade PO 7 and above) to declare their business and related interests, membership of, or associations with, clubs, societies and other organisations.

- 5.7 The Council is committed to working and co-operating with other organisations to prevent organised fraud and corruption. This may involve the exchange of information with other organisations and data matching (in accordance with the Data Protection Act).

6 DETECTION AND INVESTIGATION OF FRAUD AND CORRUPTION

- 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 the internal controls in a system may alert employees to potential fraud. However, many frauds are discovered by chance or 'tip off'.
- 6.2 Financial Regulations require Service Directors to notify Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Under the code of conduct employees are expected to report any impropriety or breach of procedure to the appropriate manager. Reporting cases in this way is essential to the Anti-Fraud and Corruption Strategy and to ensure that:
- all suspected cases of fraud and corruption are investigated properly;
 - the fraud investigation plan (Appendix 1) is carried out properly;
 - there is a standard process for dealing with all suspected cases of fraud and corruption; and
 - people and the Council's interests are protected.
- 6.3 The 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 1998.
- 6.4 Internal Audit will consult with Service Directors to decide on the type and course of investigations. Human Resources staff 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. Internal Audit may also seek informal advice from the Police in the early stages of an investigation. Care will be taken to ensure that internal disciplinary procedures are followed but do not prejudice any criminal case.
- 6.5 In cases other than Benefits Fraud the action taken will follow the prosecution policy outlined in Appendix 4. For Housing Benefit and Council Tax fraud the action taken will follow the prosecution policy outlined in Appendix 5. The Audit Commission also has powers to request or carry out an investigation into fraud and corruption.

7 TRAINING AND AWARENESS

- 7.1 The Council recognises that an important aspect of its Anti-Fraud and Corruption Strategy is the general awareness and responsiveness of employees throughout the Council. To facilitate this the Council supports the concept of induction and training, particularly for employees involved in internal control systems. All employees are made aware of the Anti-Fraud and Corruption Strategy via various channels of communication e.g. service team briefings and the Intranet. In addition a copy of this document is distributed to all service managers, officers in charge of establishments, Headteachers etc.
- 7.2 In addition the Council will seek via appropriate publicity to increase and maintain the general public awareness of the facilities available to report concerns about fraud and corruption.
- 7.3 The investigation of fraud and corruption is carried out in consultation with Services by the Council's Internal Audit Team whose skillbase in investigative techniques is maintained by appropriate training.

8 REVIEW OF THE STRATEGY AND ITS EFFECTIVENESS

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

Chief Executive	01706 925401
Borough Solicitor	01706 924702
Head of Human Resources	01706 925603
Head of Audit and Risk Management	01706 925452

APPENDIX 1 - FRAUD INVESTIGATION PLAN

1 INTRODUCTION

- 1.1 The Council is committed to the highest possible standards of openness, probity and accountability in all its affairs. The Anti-Fraud and Corruption Strategy 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 the 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.

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
- Failing to prevent bribery

Please refer to the Anti-Bribery Policy at Appendix 7 for full details.

2.5 Examples of fraudulent or corrupt acts

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

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.

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.

External Fraud

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

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 6). 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 Regulations 2003. 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).

Benefit fraud - false declarations of income or statements of residency.

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 Head of Audit and Risk Management on 01706 925452 or the Head of Human Resources Services on 01706 925603.

- 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 Strategy) 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 the Head of Audit and Risk Management. 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 7 of the Confidential Reporting (Whistleblowing) Policy (Appendix 3).
- 4.5 Internal Audit can be contacted by phone on 01706 925452, by email at internal.audit@rochdale.gov.uk or by writing to the Head of Audit and Risk Management, Rochdale MBC, Finance Services, Telegraph House , Baillie Street, Rochdale OL16 1JH.

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

- 5.1 The Council encourages members of the public who suspect fraud and corruption to contact the Chief Executive or Internal Audit Section in the first instance.
- 5.2 The Internal Audit Section is a unit, which 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 the Council.
- 5.3 Internal Audit can be contacted by phone on 01706 925452, by email at internal.audit@rochdale.gov.uk or by writing to the Head of Audit and Risk Management, Rochdale MBC, Finance Services, Telegraph House , Baillie Street, Rochdale OL16 1JH.

6 HOW THE COUNCIL WILL DEAL WITH ALLEGATIONS OF FRAUD OR CORRUPTION

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

- be investigated internally
- 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 The 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 feel it is right to take the matter outside these processes, the following are possible ways forward:

- **Local Councillors** – details of how to contact and surgery hours are on the Council's web site www.rochdale.gov.uk. Alternatively ring the Member's Secretariat on 01706 924826 or 01706 924801.
- **The Audit Commission** – the Council's external auditor appointed to audit and scrutinise the Council's finances and performance. They are completely independent from the Council and can be contacted on 01706 925434
- **Trade Unions** – employees may invite their Trade Union to raise a matter on their behalf.
- **The Police** – suspicions of fraud or corruption may be reported directly to the Police who can be contacted on 0161 872 5050.
- **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 0845 602 1983.
- **Public Concern at Work** – this is a charity, which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 020 7404 6609 or can be e-mailed at whistle@pcaw.co.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.

APPENDIX 2 - THE GENERAL PRINCIPLES GOVERNING THE CONDUCT OF MEMBERS AND CO-OPTED 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 co-operate 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 view 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 leadership, and by example, and should act in a way that secures or preserves public confidence.

APPENDIX 3 - CONFIDENTIAL REPORTING (WHISTLEBLOWING) POLICY

1 Introduction

- 1.1 Employees are in a good position to be aware of unacceptable behaviour or practice within the Authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. Employees may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concerns rather than report what may just be suspicions of unacceptable behaviour or practice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. To achieve these ends, it encourages freedom of speech. In line with that commitment, it is expected that employees who have serious concerns about any aspects of the Council's work should come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3 This policy document makes it clear to employees that they can do so without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting (Whistleblowing) Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside.
- 1.4 This policy applies to all employees. For the purpose of this policy only, the term "employees" also includes contractors and suppliers working for or on behalf of the Council, on Council premises or elsewhere.

2 Aims and scope of this policy

- 2.1 This Policy aims to:-
- encourage employees to feel confident in raising serious concerns and to question and act upon concerns about unacceptable behaviour or practice within the Authority
 - provide avenues for employees to raise those concerns and receive feedback on any action taken
 - ensure that employees receive a response to their concerns and that employees are aware of how to pursue them if they are not satisfied
 - reassure employees that they will be protected from possible reprisals or victimisation if employees have a reasonable belief that they have made any disclosure in good faith
- 2.2 There are existing procedures to lodge a grievance relating to employment matters. The Confidential Reporting (Whistleblowing) Policy is intended to cover major concerns that fall outside the scope of other policies/procedures. As such it may cover concerns such as:
- conduct which is an offence or a breach of the law
 - disclosures related to miscarriages of justice
 - damage to the environment
 - the unauthorised or inappropriate use of public funds
 - fraud, corruption and bribery
 - racial harassment, sexual or physical abuse of clients, or
 - other unethical conduct
- 2.3 Thus, any serious concerns that employees have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting (Whistleblowing) Policy. This may be about something that:-
- makes employees feel uncomfortable in terms of known standards, experience or the standards they believe the Council subscribes to, or
 - is against the Council's Constitution and policies, or
 - falls below established standards of practice, or

- amounts to improper conduct

3 Safeguards

Harassment and Victimisation

- 3.1 The Council is committed to good practice and high standards and wants to support employees in achieving good practice and high standards.
- 3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what employees are saying is true, employees should have nothing to fear because they will be doing their duty to their employer and those for whom they are providing a service.
- 3.3 The Council will not tolerate any harassment or victimisation (including informal pressures) of a person expressing a concern and will take appropriate action to protect employees when they raise a concern in good faith.
- 3.4 Any investigation into allegations of potential unacceptable behaviour or practice will not influence or be influenced by any disciplinary or redundancy procedures that already affect employees.

4 Confidentiality

- 4.1 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.

5 Anonymous allegations

- 5.1 This policy encourages employees to put their names to their allegations whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Chief Executive, Borough Solicitor, Head of Human Resources or the Head of Audit and Risk Management .
- 5.3 In exercising this discretion, the factors to be taken into account include:-
- the seriousness of the issues raised
 - the credibility of the concerns, and
 - the likelihood of confirming the allegations from attributable sources

6 Untrue allegations

- 6.1 If employees make allegations in good faith but it is not confirmed by the investigation, no action will be taken against them. If, however, employees make allegations frivolously, maliciously or for personal gain, disciplinary or other action may be taken against them.

7 How to raise a concern

- 7.1 ***As a first step, employees should normally raise concerns with their immediate manager or their supervisor.*** This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if employees believe that management is involved, they should approach the Chief Executive, Borough Solicitor as Monitoring Officer, Head of Human Resources, or the Head of Audit and Risk Management .
- 7.2 Concerns may be raised verbally or in writing. Employees who wish to put their complaints in writing should do so using the following format:-
- the background and history of the concerns (giving relevant dates whenever possible)
 - the reasons why they are particularly concerned about the situation.

- 7.3 The earlier employees express their concerns, the easier it is to take action.
- 7.4 Although employees are not expected to prove the truth of allegations, they will need to demonstrate to the person contacted that there are reasonable grounds for their concerns.
- 7.5 Advice and guidance on how to pursue matters of concern may be obtained from the Chief Executive, Borough Solicitor, Head of Human Resources Service or the Head of Audit and Risk Management .

Chief Executive	01706 925401
Borough Solicitor	01706 924702
Head of Human Resources	01706 925603
Head of Audit and Risk Management	01706 925452

If employees have a good reason to be unwilling to refer the matter of concern to one of the above, employees may contact the External Auditor on 01706 925434.

- 7.6 Employees may invite their trade union or professional association representative or workplace colleague to be present during any meetings or interviews in connection with the concerns they have raised.

8 **How the Council will respond**

- 8.1 The Council will respond to the concerns of employees. Employees should remember that testing out their concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate, the matters raised may:-
- be investigated by management, Internal Audit or through the disciplinary process
 - be referred to the Police
 - be referred to the External Auditor
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries (normally led by Internal Audit) will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (see paragraph 2.2) will normally be referred for consideration under those procedures.
- 8.4 All reasonable efforts will be made to ensure that individuals directly or indirectly involved in any initial enquiries are made aware (as far as the need to maintain confidentiality permits) why those enquiries are taking place. The formal reporting relationship in cases of allegations made is between Internal Audit and Service Directors. As such, once informed by Internal Audit it is then service management's responsibility to ensure that staff within their service are aware and that staff support facilities are provided where necessary.
- 8.5 It is stressed that there is no presumption of guilt of any officers at any stage in the initial enquiries process. Auditors are professionally bound to work independently with integrity and an open mind and are intent in examining processes and activities at this stage rather than officers personally.
- 8.6 The time frame for completing the initial enquiries cannot be specified easily as each situation is different and, in some cases further issues may arise which require follow up. Internal Audit will seek to ensure that this part of the process is carried out as expediently as possible yet without compromising on the thoroughness of the enquiry.
- 8.7 At the completion of the initial enquiries phase Internal Audit will formally report to the client Service Management (Service Director or Executive Director) who will decide whether to invoke the Council's

disciplinary procedures. Where evidence of wrongdoing is identified Internal Audit will make recommendation to that effect.

- 8.8 The Human Resources Service will provide advice and support to managers and staff by advising on support available e.g. Welfare, Counselling etc.
- 8.9 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 8.10 Within ten working days of a concern being received the Chief Executive, Borough Solicitor, Head of Human Resources, Head of Audit and Risk Management or another 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 further investigations will take place and, if not, why not.
- 8.11 The amount of contact between the officer considering the issues and the relevant employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the relevant employee.
- 8.12 Where any meeting is arranged, off-site if the employee so wishes, the employee can be accompanied by a trade union or professional association representative or a workplace colleague.

9 **How matters of concern can be taken further**

- 9.1 This Policy is intended to provide employees with an avenue to raise concerns within the Authority. The Authority hopes that employees will be satisfied.

However, if employees feel that matters of concern have not been dealt with satisfactorily, the following are possible contacts if they wish to take matters further:-

- Local Councillors – details of how to contact and surgery hours are on the Council’s web site www.rochdale.gov.uk. Alternatively ring the Member’s Secretariat on 01706 924826 or 01706 924801.
- The Audit Commission – the Council’s external auditor appointed to audit and scrutinise the Council’s finances and performance. They are completely independent from the Council and can be contacted on 01706 925434
- Relevant professional bodies
- Solicitors
- Greater Manchester Police - 0161 872 5050.

- 9.2 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.

- 9.3 If employees make allegations frivolously, maliciously or for personal gain, then disciplinary or other action may be taken against them.

10 **Review**

- 10.1 Rochdale Council will continue to review its rules and procedures and will make sure that the Confidential Reporting (Whistleblowing) Policy is regularly reviewed to ensure it stays current, appropriate and effective.

APPENDIX 4 - PROSECUTION POLICY

- 1.1 The Council is committed to preventing fraud and corruption and has developed an 'Anti-Fraud and Corruption Policy' in order to minimise its occurrence.
- 1.2 Having a prosecution policy does not affect other internal disciplinary codes implemented by the Council and internal offenders (i.e. employees or Councillors) will be liable to general disciplinary procedures as well as prosecution. Liaison will take place with the Police to ensure that any internal disciplinary procedures do not prejudice or interfere with criminal proceedings.
- 1.3 The Council's financial regulations require Service Directors to notify Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Authority's property or resources. Where initial evidence suggests that a criminal offence has been committed the Service Director will be consulted about referral to the Police. It is the practice of Internal Audit to seek informal advice from the Police at an early stage in an investigation as the standard of evidence to support a criminal prosecution is much higher than that for internal disciplinary processes.
- 1.4 It is the policy of the Council that where there is prima facie evidence that a criminal offence has been committed then the case will be referred to the Police for prosecution.

APPENDIX 5 - BENEFIT FRAUD PROSECUTION POLICY

1. Introduction

1.1 Rochdale Metropolitan Borough Council administers Housing and Council Tax benefit to around 24,000 claimants. The council is committed to providing this service in a professional manner and is aware of the high risk within the benefit system from fraud and error, and the necessity to protect the public purse from abuse. Rochdale Metropolitan Borough Council is committed to protecting public funds through the prevention, detection, deterrence and investigation of means tested benefit fraud, council discounts and exemptions or other benefits administered by the council. This includes:

- Fraud by Council tenants
- Fraud by people renting from Housing Associations
- Fraud in the commercial rented sector
- Fraud by Owner Occupiers
- Housing and Council Tax Benefit frauds linked to Income Support, income based Job Seekers Allowance and other State Benefits
- Fraud by people claiming an Educational award or grant
- Blue Badge Fraud
- Direct Payments (Social Care)
- Council Tax Discounts and Exemptions

1.2 The Council recognises that prosecution, the use of Administrative Penalties as defined by the Fraud Act 1997, and the issuing of Local Authority Formal Cautions are an essential part of this commitment and have a key role to play in deterring offenders.

1.3 Where the Council believes that there are grounds to suspect that a criminal offence may have been committed, an interview under caution will be carried out in accordance with the Police and Criminal Evidence Act to determine the correct circumstances. Interviews under caution will only be carried out if there is a definite possibility that further action will be taken.

1.4 If sufficient evidence is established, the case will be referred to the Fraud Manager before any further action is initiated. The Fraud Manager will review all of the evidence available and decide on the appropriate course of action to be taken.

1.5 If prosecution appears to be appropriate, the case will be referred to the authority's legal section to arrange a pre-charge meeting for consideration and advice.

1.6 If the legal section decide to prosecute, following a full examination of all the circumstances and evidence, they will refer the case back to the fraud investigator to prepare a prosecution file.

1.7 Each individual case will be considered on its own merits, although a full set of criteria has been established as to when a prosecution will be considered and when it will not. Investigators will assess all cases in the light of these criteria before developing the case for further action.

2. Prosecution Criteria

2.1 The four main areas affecting the decision on whether a prosecution should be considered or not are as follows:

2.2 Amount and Period of Fraud

2.2.1 Where the fraudulent activity has not resulted in a significant financial gain to the claimant, prosecution is less likely to be considered appropriate. This does not necessarily rule out all low

value cases. If it appears that the fraud was systematic and a deliberate attempt to gain money by deception or the fraud is discovered after a relatively short space of time and a significant financial gain could have occurred had it continued, then prosecution proceedings may still be considered.

2.2.2 If clear evidence of fraud has been established but the amount of overpaid benefit is not a significant amount, i.e. the amount of the fraudulent overpayment is less than the cost of prosecution proceedings would be, then an Administrative Penalty or Formal Caution may be considered. However, if the claimant refuses to accept an Administrative Penalty or Formal Caution then a prosecution will be pursued.

2.2.3 One clear factor to take into consideration will be the length of time that the fraud has continued. If the deception has continued for a number of years then the financial value will not be as important, as clearly the offender will have had ample opportunity to declare the correct circumstances.

2.3 Physical/Mental Factors

2.3.1 Prosecution will not be pursued where it is considered that physical or mental problems have contributed to the reasons for committing the offence. Furthermore, we will not pursue cases where there is clear evidence to suggest that the health problems of the claimant, partner or a third party (e.g. a child), would be severely adversely affected by our action.

2.3.2 Obvious examples of physical or mental factors include severe medical conditions, any threat/suspicion of suicide, infirm or bedridden individuals, or individuals with learning difficulties or perceived/known impairment to their mental health. Confirmation of these conditions would need to be obtained, such as checking with their doctor or carer, and looking for payment of incapacity benefit, and well-trained members of staff would sensitively handle this.

2.4 Insufficient Evidence

2.4.1 The Council has the burden of proof and must prove all elements of any offence beyond reasonable doubt.

2.4.2 Prosecution proceedings will not be considered if there is any doubt in the evidence that has been gathered.

2.5 Failure in Administration

2.5.1 It should be evident on the file in relation to the questioning of offenders, that all procedures have been adhered to with regard to satisfying the conditions of the Police And Criminal Evidence Act 1984.

2.5.2 If an investigation is flawed in any way, or there has been any unacceptable delay in the course of enquiries, then the case would not be of sufficient standard to be considered for prosecution.

2.6 In addition to the above criteria, the following factors will also be considered when deciding whether prosecution action is appropriate:

- The level of cooperation from the benefit claimant during the investigation
- Any previous Administrative Penalties, Formal Cautions or benefit fraud convictions
- The level of deliberate intent, e.g. if evidence submitted in support of a benefit claim appears to have been deliberately falsified or altered
- The involvement of a collusive employer or landlord – these will be regarded as serious fraud and prosecution may be appropriate irrespective of the amount of overpayment
- Whether or not the offender is in a position of trust e.g. a Local Authority employee or an Elected Member. Disciplinary proceedings may also be initiated for employees that are found to be in breach of the Council's Code of Conduct for Employees

- 2.7 Offences of a serious nature e.g. involving systematic abuse of the benefits scheme may be referred to the Police.
- 2.8 The Council may report successful prosecution cases to the media and formal press releases may be issued.

3. Administrative Penalty

- 3.1 The Social Security Administration Act 1992 provides that Councils may offer an Administrative Penalty (a fixed penalty fine) as an alternative to prosecution.
- 3.2 The offer of an Administration Penalty may be made where there is sufficient evidence to justify the prosecution of an offence, where the offence is not so serious and where the overpayment is low enough that it would not be in the public interest to prosecute.
- 3.3 Administrative Penalties will only be offered in cases where it is clear that the offender can afford to pay a penalty.
- 3.4 An Administrative Penalty can only be offered in respect of an overpayment or part overpayment that accrued after the date the power to offer a penalty came into force. In the case of any employer, this is 30th April 2002 and in all other cases, 18th December 1997.
- 3.5 If a person enters into an Administrative Penalty Agreement they will be required to pay a penalty to the Council equivalent to 30% of any recoverable overpayment that they have fraudulently received (in addition to repaying the overpayment).
- 3.6 The Administrative Penalty is payable in addition to the overpayment and is recoverable by the same methods as those by which the overpayment is recoverable.
- 3.7 Failure to repay the debt or default on instalments will result in civil proceedings being taken, although regard will be given to the claimant's financial circumstances.
- 3.8 In the case of an employer, the amount of the penalty is based on the circumstances of the offence.

4. Formal Caution

- 4.1 A Formal Caution is an oral warning (of which a written record is made), given in certain circumstances to a person who has committed an offence.
- 4.2 A caution can only be considered when;
- there is sufficient evidence to justify instituting criminal proceedings
 - the person has admitted the offence during an interview under caution and agrees to the caution
 - there are no previous convictions or cautions for benefit fraud, and
 - there was no other person involved in the fraud.
- 4.3 If the person is subsequently prosecuted for another benefit offence, the caution may be cited in court.

5. One Strike

- 5.1 From 1st April 2010, new legislation was introduced for benefit fraud offences commissioned wholly on or after 1st April 2010 and is known as "One Strike".

- 5.2 If a benefit claimant is convicted of an offence in Court, or accepts an Administrative Penalty or Formal Caution as an alternative to prosecution, any Social Security and/or Local Authority benefit they receive now or in the future may be the subject of a reduction or withdrawal in accordance with the Social Security (Loss of Benefit) Regulations 2001, as amended by the Social Security (Loss of Benefit) Amendment Regulations 2010.

6. Action on overpayment of benefit to Landlords

- 6.1 Payments of benefits may in certain circumstances be made directly to landlords on behalf of the claimant, and they are made aware of their duty to report known changes in their tenant's circumstances.
- 6.2 Landlords who commit an offence by assisting claimants to falsify claims for benefits will be considered for prosecution.

7. Working in Partnership with other Agencies

- 7.1 The Council may investigate cases involving state benefits with agreement from the Department for Works and Pensions, or jointly with them. In these cases, the offering of an Administrative Penalty or Formal Caution and the prosecution of offences may be delegated to either agency.
- 7.2 Where necessary, the Council will also work closely with other organisations such as the Police, Home Office, Customs and Excise and other Local Authorities in order to develop and promote an anti-fraud culture and to further prevent, detect and deter benefit fraud.

8. Conclusion

- 8.1 The Council will seek to deter means tested benefit fraud via the pursuit of prosecution or the imposition of administrative penalties and formal cautions in cases where all the criteria has been met.
- 8.2 The criteria that have been established are designed to ensure that the correct cases are brought to court, and that the Council acts in a positive way to actively deter the genuine and deliberate fraudster.

	Actual	Budgeted	Over/Under
Actual	3,750.00	3,750.00	0.00
Budgeted	3,267.45	3,267.45	0.00
Over/Under	482.55	482.55	0.00
Actual	3,750.00	3,750.00	0.00
Budgeted	3,750.00	3,750.00	0.00
Over/Under	0.00	0.00	0.00
Actual	105.00	105.00	0.00
Budgeted	0.00	0.00	0.00
Over/Under	286.88	286.88	0.00
Actual	100.00	100.00	0.00
Budgeted	125.00	125.00	0.00
Over/Under	616.88	616.88	0.00
Actual	18.89%	18.89%	0.00%
Budgeted	18.89%	18.89%	0.00%
Over/Under	0.00%	0.00%	0.00%
Actual	1,240.00	1,240.00	0.00
Budgeted	1,592.50	1,592.50	0.00
Over/Under	46.74%	46.74%	0.00
Actual	1,240.00	1,240.00	0.00
Budgeted	1,240.00	1,240.00	0.00
Over/Under	0.00	0.00	0.00
Actual	50.00	50.00	0.00
Budgeted	68.00	68.00	0.00
Over/Under	583.10	583.10	0.00
Actual	17.18%	17.18%	0.00%
Budgeted	17.18%	17.18%	0.00%
Over/Under	0.00%	0.00%	0.00%
Actual	15.00	15.00	0.00
Budgeted	255.00	255.00	0.00
Over/Under	682.50	682.50	0.00
Actual	0.00	0.00	0.00
Budgeted	1.12	1.12	0.00
Over/Under	255.25	255.25	0.00
Actual	1,240.00	1,240.00	0.00
Budgeted	1,240.00	1,240.00	0.00
Over/Under	0.00	0.00	0.00

Anti-Money Laundering Policy

2006 - 2009



ANTI-MONEY LAUNDERING POLICY

1. Introduction

- 1.1 There have been significant changes to the legislation concerning money laundering, which have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. The implications of the changes in legislation, considered by professional bodies, has resulted in Best Practice Guidance being issued that requires local authorities to establish internal procedures to prevent the use of their services for money laundering.

2. Scope of the Policy

- 2.1 The risk to the Council of contravening the legislation is low. However, **it is extremely important that all employees are familiar with their legal responsibilities:** serious criminal sanctions may be imposed for breaches of legislation, including ‘tipping off’, which may result in imprisonment.
- 2.2 This policy applies to all employees of the Council and aims to maintain the high standards of conduct that currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed to enable the Council to comply with its legal obligations.
- 2.3 Further information is set out in the accompanying Guidance Note. Both the Policy and Guidance Notes sit alongside the Council’s ‘Whistleblowing’ Policy and Anti-Fraud and Corruption Strategy.
- 2.4 Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council’s Disciplinary Policy and Procedures.

3. What is Money Laundering?

- 3.1 Money laundering means:-
- 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
 - Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property

These are the primary money laundering offences and prohibited acts under the legislation.

- 3.2 Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and do nothing about it. The Guidance Note gives practical examples. This Policy sets out how any concerns should be raised.

4. What are the Obligations of the Council?

- 4.1 Organisations conducting relevant business must:
- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity (their own or anyone else’s)
 - Implement a procedure to enable the reporting of suspicions of money laundering
 - Maintain client identification procedures in certain circumstances
 - Maintain record keeping procedures
- 4.2 Not all of the Council’s business is relevant for the purposes of the legislation. The areas where large sums of money may be received by the Council are Council Tax, Business Rates, Rent or Rent Arrears payments, Sales of Council vehicles at Auction, Sale of Land & Property, Hire of Venues/Catering, some Graphics work for external customers. These are only examples, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council. **All staff are therefore required to comply with the reporting procedure set out in section 6 below.**
- 4.3 The following sections of this Policy provide further detail about the requirements listed in paragraph 4.1.

5. The Money Laundering Reporting Officer

- 5.1 The officer nominated to receive disclosures about money laundering activity within the council is the Assistant

Head of Finance, Pauline Kane. She can be contacted as follows:

Pauline Kane
Assistant Head of Finance (Support Services)
Rochdale MBC
Floor 5 Municipal Offices
Smith Street
Rochdale
OL16 1LQ
01706 925405
pauline.kane@rochdale.gov.uk

- 5.2 In the absence of the MLRO, Assistant Borough Solicitor, Anne Taylor, is authorised to deputise. Anne can be contacted at the following address or on telephone number 01706 924737

Anne Taylor
Assistant Borough Solicitor
Legal & Democratic Services
Town Hall
The Esplanade
Rochdale
OL16 1AB
anne.taylor@rochdale.gov.uk

6. Disclosure Procedure

6.1 Reporting to the Money Laundering Reporting Officer

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO. The disclosure should be within 'hours' of the information coming to your attention, not weeks or months later. **Should you not do this then you may be liable for prosecution.**

- 6.2 Your disclosure should be made to the MLRO using the report proforma, appendix 1. The report must include as much detail as possible, for example

- Full details of the people involved (including yourself if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers etc.
- Full details of the nature of your involvement
 - If you are concerned that your involvement in the transaction would amount to a prohibited act your report must include all the relevant details. You will need consent from the National Criminal Intelligence Service (NCIS), via the MLRO, to take any further part in the transaction.
 - You should make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.
- The types of money laundering activity involved:
- The dates of such activities including:
 - Whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money/assets involved
- Why, exactly, you are suspicious – the NCIS will require full reasons

Along with any other available information to enable the MLRO to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the NCIS, where appropriate. You should also enclose copies of any relevant supporting documentation.

- 6.3 Once you have reported the matter to the MLRO you must follow any directions she may give you. **You must NOT make any further enquiries into the matter yourself.** Any necessary investigation will be undertaken by the NCIS. Simply report your suspicions to the MLRO who will refer the matter on to the NCIS if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

- 6.4 Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCIS has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit a criminal offence of ‘tipping off’ (see guidance notes for further details).
- 6.5 Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.
- 6.6 Consideration of the Disclosure by the Money Laundering Reporting Officer.**
Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. She should also advise you of the timescale within which she expects to respond to you.
- 6.7 The MLRO will consider the report and any other available information she thinks relevant e.g:
- Reviewing other transaction patterns and volumes
 - The length of any business relationship involved
 - The number of any one-off transactions and linked one-off transactions
 - Any identification evidence held
- and undertake such other reasonable enquiries she thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCIS is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.
- 6.8 Once the MLRO has evaluated the disclosure report and any other relevant information she must make a timely determination as to whether
- there is actual or suspected money laundering taking place
 - there are reasonable grounds to know or suspect that is the case
 - whether she needs to seek consent from the NCIS for a particular transaction to proceed
- 6.9 Where the MLRO concludes the above, she must disclose the matter as soon as practicable to the NCIS on their standard report form and in the prescribed manner unless she has a reasonable excuse for non-disclosure to the NCIS (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information)
- 6.9.1 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then she must note the report accordingly. She can then immediately give her consent for any ongoing or imminent transactions to proceed.
- 6.9.2 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to the NCIS.
- 6.9.3 Where consent is required from NCIS for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCIS has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCIS.
- 6.10 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then she shall mark the report accordingly and give her consent for any ongoing or imminent transaction(s) to proceed.
- 6.11 All disclosure reports referred to the MLRO and reports made by him to the NCIS must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 6.12 The MLRO commits a criminal offence if she knows or suspects, or has reasonable grounds to do so, through disclosure being made to him, that another person is engaged in money laundering and she does not disclose this as soon as practicable to the NCIS.

7. Client Identification Procedure

- 7.1 Where the Council is carrying out cash payment or collection and any one of the following apply
- a) forms an ongoing business relationship with a client.

- b) undertakes a one-off transaction involving payment by or to the client of £3,000 or more.
- c) undertakes a series of linked one-off transactions involving total payment by or to the client(s) of £3,000 or more.
- d) it is known or suspected that a one-off transaction (or a series of them) involves money laundering then this Client Identification Procedure must be followed before any business is undertaken for that client.

7.2 In the above circumstances, staff in the relevant unit of the Council must obtain satisfactory evidence of the identity of the prospective client, as soon as practicable after instructions are received (unless evidence of the client has already been obtained). This applies to existing clients, as well as new ones.

7.3 Once instructions to provide a collection of cash have been received, and it has been established that any of paragraphs 7.1 (a) to (d) apply, evidence of identity should be obtained as follows;

Internal Clients

7.3.1 Appropriate evidence of identity for Council departments will be signed, written instructions on Council headed paper or an email on the internal MS Outlook email system at the outset of a particular matter. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes evidence and where it is located.

External Clients

7.3.2 The MLRO will maintain a central file of general client identification evidence regarding the external organisations to whom the council provide a service. You should check with the MLRO that the organisation in respect of which you require identification is included in the MLRO's central file and check the precise details contained in relation to that organisation. If the organisation is not included in the central file, you should discuss with the MLRO. You should then obtain the following additional evidence:

7.3.2.1 For external clients, appropriate additional evidence of identity will be written instructions on the organisations official letterhead at the outset of the matter or an email from the organisations e-communication system. Such correspondence should then be placed on the Council's client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located (and including a reference to a search of the MLROs central file, if undertaken).

7.3.3 With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself. Please see the Guidance Note for more information.

7.3.4 For individuals, accepted documents of identification are passport, driving licence, bank statements and utility bills.

7.4 In all cases the evidence should be retained for at least five years from the end of the business relationship transaction(s).

7.5 **If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one-off transaction(s) cannot proceed any further.**

8. Record Keeping Procedures

8.1 Each unit of the Council conducting relevant business must maintain records of:

- client identification evidence obtained.
 - details of all relevant business transactions carried out for clients
- for at least five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

8.2 The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice.

9. Conclusion

- 9.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy has been written to enable the Council to meet legal requirements in a way that is proportionate to the very low risk to the Council of contravening the legislation.
- 9.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

CONFIDENTIAL

Report to Money Laundering Reporting Officer

regarding money laundering activity

To: **Pauline Kane, RMBC Money Laundering Reporting Officer**

From

(Insert name of employee)

Service

Ext/Tel No:

(insert post title and service)

DETAILS OF SUSPECTED OFFENCE

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

(if a company/public body please include details of nature of business)

Nature, value and timing of activity involved:

(please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary)

Nature of suspicions regarding such activity:

(please continue on a separate sheet if necessary)

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

(Please tick the relevant box)

Yes / No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

Yes / No

(please tick the relevant box)

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

Have you consulted any supervisory body guidance re money laundering? Yes / No

e.g. the Law Society. *(Please tick the relevant box)*

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the NCIS? E.g. are you a lawyer and wish to claim legal professional privilege?

Yes / No

(Please tick the relevant box)

If yes, please set out full details below:

Are you involved in a transaction that might be a prohibited act under sections 327- 329 of the Act and which requires appropriate consent from the NCIS? **Yes / No**
(Please tick the relevant box)

If yes, please enclose details in the box below:

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

Signed:

Dated:

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

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

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a report be made to the NCIS? Yes / No
(Please tick the relevant box)

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

Details of liaison with the NCIS regarding the report:

Notice of Period: ----- to -----

Moratorium Period: ----- to -----

**Is consent required from the NCIS to any ongoing or imminent transactions
which would otherwise be prohibited acts? *(Please tick the relevant box)* Yes / No**

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

Date consent received from NCIS: -----

Date consent given by you to employee: -----

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

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

.....

Other relevant information:

Signed:

Dated:

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS

APPENDIX 7 – 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, 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, non-executives, volunteers and consultants. It also applies to all of the Council's activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

This policy provides a coherent and consistent framework to enable the Council's 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 Strategy), it will also enable employees to identify and effectively report a potential breach.

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.

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. A Member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the Authority's Monitoring Officer of the existence and nature of that gift or hospitality.
2. All Members must refuse all gifts of hospitality in excess of £100 (if received on one occasion) or in excess of a total of £100 (if received on more than one occasion in the same Municipal year from the same individual or organisation), except with the approval of the Chief Executive (all such exceptions to be reported to the Standards Committee).
3. The Mayor and Deputy Mayor when acting in a representative capacity be exempted from (1) and (2) above but that any gift with a value in excess of £100 should be registered and a record kept of where it is stored or displayed.

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 properly authorised and recorded.
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.
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.

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:

The Chief Executive: 01706 925401
Borough Solicitor: 01706 924702
Head of Audit and Risk Management: 01706 925452.

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

If the concern is not able to be raised via internal channels, then options such as Local Councillors; Audit Commission (whilst still in place); 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 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 Strategy
- Anti money laundering policy
- Confidential Reporting (Whistleblowing) Policy
- Officers' Code of Conduct
- Members' Code of Conduct

- Financial Regulations
- Contract Procedure Rules
- Code of Conduct for Members and Officers dealing with planning matters
- Code of Conduct for Members and Officers dealing with matters under the Licensing Act 2003