

Hurworth School

Whistle Blowing Policy

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Senior Leadership Team Lead Reviewer: Elaine Colclough

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Anti-Fraud & Corruption Policy Statement

Introduction

Darlington Borough Council is determined to maintain its reputation as an Authority which will not tolerate fraud, corruption or abuse of position for personal gain, wherever it may be found in any area of Council activity.

The purpose of this Policy Statement is to set out for members and employees of the Council the main principles for countering fraud and corruption.

The Policy statement includes:

- the scope;
- the culture and the stance against fraud and corruption;
- how to raise concerns and report financial malpractice;
- the principle of having a Council anti-fraud & corruption strategy;
- the responsible employee.

Elected Members, and employees, should play a key role in counter-fraud initiatives. This includes providing a corporate framework within which counter-fraud arrangements will function, and the promotion of an anti-fraud culture across the whole of the Council. This should provide a sound defence against internal and external abuse of public funds.

This Statement also reflects the principles of the Nolan Committee.

Part of the External Auditor's statutory duties are to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption.

The relevant definitions are as follows;

- Fraud is the "intentional distortion of financial statements or other records by persons internal or external to the organisation, which is carried out to conceal the misappropriation of assets or otherwise for gain".
- Corruption is the "offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person".

Scope

This Policy Statement applies to elected members, co-opted members of committees, and all employees who work for the Council.

With regard to others who provide services for the Council, the Nolan Committee reiterated a fundamental principle in its report on the "Standards of Conduct in Local Government" 1997, which was:

"Where a citizen receives a service which is paid for wholly or in part by the taxpayer, then the government or local authority must retain appropriate responsibility for safeguarding the interests of both the user and taxpayer regardless of the status of the service provider".

Therefore, the Council expects that individuals and organisations (e.g. partners, suppliers, contractors, and service providers) that it deals with will act with integrity and without thought or actions involving fraud and corruption. Where relevant, the Council will include appropriate clauses in its contracts about the consequences of fraud, bribery and corruption; evidence of such acts are most likely to lead to a termination of the particular contract and may lead to prosecution.

The Anti-Fraud & Corruption Policy Statement and Strategy are commended to the Council's schools governing bodies, with the expectation that they will be adopted.

Culture and Stance Against Fraud & Corruption

Responsibility for an anti-fraud culture is the joint duty of all those involved in giving political direction, determining policy and management. The strategy should be directed against fraud and corruption whether it is attempted against the Council from outside or from within its own workforce.

The Council expects that Members and employees at all levels will lead by example in ensuring adherence to legal requirements, contract procedure rules, financial procedure rules, codes of conduct, other procedures and practices.

As part of this culture, the Council will provide clear routes by which concerns can be raised by both Members and employees, and those outside who are providing, using or paying for public services.

Senior Management is expected to deal swiftly and firmly with those who defraud the Council or who are corrupt. The Council, including Members, senior management and governors, should be robust in dealing with financial malpractice.

The Council also has in place two Committees whose monitoring roles are relevant

- The Standards Committee, which sets and monitors standards of conduct, and includes independent members who are neither Councillors nor Employees.
- The Resources Scrutiny Committee which scrutinises the way in which the Council's Financial and Human Resources are controlled and deployed.

Raising Concerns

Although this document specifically refers to fraud and corruption, it equally applies to all financial malpractice. This includes a wide range of irregularities and criminal acts that are financial or finance-related. It includes, for example, the criminal acts of

theft of "property", which includes all assets and cash; false accounting; obtaining by deception; pecuniary advantage by deception; computer abuse and computer crime. Also, it includes bribery and corruption. Employees and Members can be exposed to a number of "pressures", from contractors, landlords, the public etc. to act in a particular way in a particular case; this may involve "favouritism" regarding the access to all kinds of services and benefits (e.g. grants, awards, benefits, council housing, or gaining contracts, planning permission, etc.).

Members and employees are an important element in the Council's stance on fraud and corruption, and they are positively encouraged and expected to raise any concerns that they may have on these issues where they are associated with the Council's activity.

Employees should normally raise concerns through their immediate manager, who will inform the Director of Corporate Services and their Director, if different. However it is recognised that they may feel inhibited in certain circumstances. In this case, employees and members should contact either the Chief Executive, the Director of Corporate Services or the Borough Solicitor. The Council's Confidential Reporting ("Whistleblowing") Policy gives further guidance on how to raise concerns and it gives details about the support and safeguards that are available to those that do raise concerns.

Concerns will be treated in confidence, properly investigated and dealt with fairly. There is, of course, a need to ensure that any investigation process is not misused, therefore, any internal abuse, such as raising malicious or vexatious allegations, may be dealt with as a disciplinary matter.

Anti-Fraud & Corruption Strategy

This Policy Statement forms an important part of the Anti-Fraud & Corruption Strategy by setting out the tone, culture and expectations of the Council, as part of the corporate framework.

The Strategy itself details such key features as the corporate framework, prevention, detection and investigation, training and deterrence.

The Responsible Officer

Under Section 151 of the Local Government Act 1972 and Regulation 5 of The Accounts and Audit Regulations 2003 (S.I. No.533), the "Responsible Financial Officer" (i.e. the Director of Corporate Services) is responsible for ensuring that the Council has control systems and measures in place "to enable the prevention and detection of inaccuracies and fraud, and the ability to reconstitute any lost records". An Anti-Fraud & Corruption Policy Statement and Strategy helps towards discharging part of this responsibility.

Also, under Regulation 6 of The Accounts and Audit Regulations 2003, the Council has delegated to the Director of Corporate Services, the responsibility for maintaining "an adequate and effective system of internal audit of the Council's accounting records and its systems of internal control in accordance with proper internal audit

practices", together with the statutory right of access to documents, records, information and explanations considered necessary for that purpose.
Accordingly, the Director of Corporate Services will:

- take overall responsibility for the maintenance and operation of this Policy;
- maintain records of financial malpractice, including concerns and allegations received; matters arising from audits; investigations and evidence; and the outcomes;
- report as necessary to the Council

Anti-Fraud & Corruption Strategy

1. Introduction

1.1 The Council's Anti-Fraud and Corruption Strategy is based on a series of comprehensive and inter-related procedures designed to deter, frustrate, or take effective action against any attempted fraudulent or corrupt acts affecting the Council.

1.2 An effective Strategy will require support across the Council and involves:

- A Corporate Framework;
- Prevention (of error, irregularities, fraud and corruption);
- Detection and Investigation;
- Training;
- Deterrence.

2. Corporate framework

2.1 The Corporate Framework requires a whole range of high level component parts, if it is to contribute to the Council having an effective counter-fraud strategy, and some of the key ones include:

- An Anti-Fraud & Corruption Policy Statement which emphasises the importance of probity to all concerned;
- Member support;
- Codes of conduct for Members and Employees;
- Protocol for Members on Gifts and Hospitality
- Proceeds of Crime Act (Anti-Money Laundering) Policy
- Confidential Reporting ("Whistleblowing") Policy, and Complaints Procedures;
- Benefits Anti-Fraud Policy, Strategy and Sanctions Policy.
- Contracts Procedure Rules and Financial Procedure Rules;
- IT Security Policy
- Sound internal control systems, procedures and reliable records;
- Effective internal audit;
- Effective recruitment procedures;
- The Council's Disciplinary Procedure;
- The Regulation of Investigatory Powers (RIPA) Procedure
- Clear responsibilities, accountabilities and standards;

- Induction and training.

3. Prevention

3.1 Within the overall corporate framework there are a number of key people and measures which can help in the prevention of fraud and corruption, and these are:

- Employees of the Council;
- Members;
- Internal Control Systems;
- Combining with Others to Prevent and Fight Fraud.

Employees of the Council

3.2 A key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, in terms of their propriety and integrity. In this regard, temporary staff should be treated in the same manner as permanent employees.

3.3 Employee recruitment should be in accordance with procedures laid down by the Head of Human Resource Management. Whenever possible, written references should be obtained with specific assurances regarding the known honesty and integrity of potential employees before formal employment offers are made.

3.4 All employees must abide by the Council's Code of Conduct for Employees, which sets out the Council's requirement on personal conduct. This Code forms part of the Employee Handbook and is referred to in all Contracts of Employment. Employees of the Council are expected to follow any code of conduct related to their personal Professional Institute.

3.5 The Council has in place employee disciplinary procedures. Any breach of conduct will be dealt with under these procedures and may result in dismissal.

3.6 Employees are reminded under the Council's Contracts Procedure Rules that they must operate within Section 117 of the Local Government Act 1972, regarding the disclosure of pecuniary interests in contracts relating to the Council or the non-acceptance of any fees or rewards whatsoever other than their proper remuneration. These requirements are set out in the Council's Code of Conduct for Employees.

3.7 The Borough Solicitor is the appointed Monitoring Officer in line with the Local Government and Housing Act 1989. As part of this role, the Borough Solicitor has overall responsibility for the maintenance and operation of the Authority's Confidential Reporting ("Whistleblowing") Policy.

Members

3.8 Members are required to operate within:

- The Councils Code of Conduct for members;
- Local Authorities Members' Interest Regulations 1992 (SI 618); SI 1996/121.5

- Council Rules of Procedure.

3.9 These matters and other guidance are specifically brought to the attention of Members at the induction course for new Members and are in each Member's Handbook; they include rules on the declaration and registration with the Chief Executive of potential areas of conflict between Members' Council duties and responsibilities and any other areas of their personal or professional lives.

3.10 The Authority has in place a Standards Committee, which promotes high standards of member conduct and assists members to observe the code of conduct.

Internal Control Systems

3.11 The Council has Contracts Procedure Rules, Financial Procedure Rules and various rules and codes of conduct in place that provide a requirement on employees, when dealing with the Council's affairs, to act in accordance with best practice.

3.12 The Director of Corporate Services has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure that proper arrangements are made for the Council's financial affairs. In addition, under the Accounts & Audit Regulations 2003 as the "responsible financial officer", he is required to determine the accounting control systems which include:

- "measures to enable the prevention and detection of inaccuracies and fraud",
- "identification of the duties of employees dealing with financial transactions and the division of responsibilities of those employees in relation to significant transactions".

The latter requirement is a key control in the prevention of impropriety.

3.13 The Council's aim is to have sound financial systems and procedures which incorporate efficient and effective internal controls. As part of the Strategy, the "separation of duties" should be considered as a fundamental control in systems, especially when involving significant transactions.

3.14 Under the Council's Financial Procedure Rules, Directors are responsible for ensuring that adequate controls are in place. The existence, appropriateness, and effectiveness of these internal controls is independently monitored and reported upon by the Council's Internal Audit Section.

Combining with Others to Prevent and Fight Fraud

3.15 The Council is committed to exchanging information with other local and national agencies in order to identify and prevent fraud. Such activity is carried out in full compliance with the Data Protection Act 1998 and with the Code of Practice for National Fraud Initiative Data Matching Exercises and includes providing payroll information to other agencies for data matching purposes. Any employee found to be perpetrating fraud on another local or national agency is liable to face disciplinary action where this has implications for the Council's trust and confidence in the employee. In certain cases disciplinary action could lead to dismissal.

3.16 The Council operates the Verification Framework (VF) in line with central government initiatives to reduce benefit fraud.

3.17 The Council also participates in an intelligence gathering, collation and dissemination service on fraud and corruption known as the National Anti-Fraud Network (NAFN) and is a member of the Chartered Institute of Public Finance and Accountancy (CIPFA) Better Governance Forum.

4. Detection and Investigation

4.1 It is the responsibility of Directors and their managers to prevent and detect fraud and corruption.

4.2 In addition, Internal Audit and External Audit will liaise closely and implement a cyclical programme of audits which will test for fraud and corruption.

4.3 However, despite the best efforts of managers and auditors, many frauds are discovered by chance or "tip-off". It is often the alertness of employees and the public that enables detection to occur. In such cases there is a requirement within the Council's Financial Procedure Rules to inform the Director of Corporate Services.

4.4 The Anti-Fraud & Corruption Policy Statement provides a clear path for raising concerns and facilitating "tip-offs", and the fraud-response arrangements, outlined in this Strategy, enable such information or allegations to be properly dealt with. The Council's Anti-Money Laundering and Confidential Reporting "Whistleblowing" Policies also gives advice on how to raise a concern and the safeguards and support that are available to those who raise concerns.

4.5 All Allegations of fraudulent activity notified to the Director of Corporate Services are considered by Internal Audit. Some are followed up with a full investigation, others are better dealt with as a management issue. However, in order that appropriate action can be taken in each case it is vital to;

- report allegations swiftly
- record all evidence that has been received;
- ensure that evidence is sound and adequately supported;
- make secure all of the evidence that has been collected;
- refer, where appropriate, to the Council's disciplinary procedures;

4.6 Reporting suspected irregularities is essential to the Anti-Fraud and Corruption Strategy and ensures:

- consistent treatment of information regarding fraud and corruption;
- proper investigation, if necessary, by an independent and experienced audit team;
- the optimum protection of the Council's interests.

4.7 Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management, HR, legal etc., and other agencies, such as the Police. This is to ensure that all allegations and evidence are properly

investigated and reported upon, and where appropriate, maximum recoveries are made for the Council.

4.8 The Council's disciplinary procedures will be used to the fullest extent where the outcome of the Audit investigation indicates that fraud has taken place.

4.9 Where financial impropriety is discovered, the Council's presumption is that the Police will be called in. The Crown Prosecution Service determine whether or not a prosecution will be pursued. Referral to the Police is a matter for the Director of Corporate Services and the relevant Director. Various employees will be consulted during investigations and the Chief Executive will be kept informed of referrals to the Police. Referral to the Police will not inhibit action under the disciplinary procedure.

4.10 The Council's External Auditor also has powers to independently investigate fraud and corruption, and the Council can use his services for this purpose too.

5. Training

5.1 The Council recognises that the continuing success of its Anti-Fraud and Corruption Strategy and its general credibility will depend largely on the effectiveness of programmed training, communication and responsiveness of employees throughout the organisation.

5.2 To facilitate this, the Council supports the concept of full induction, training and follow-up training; this applies particularly to employees involved in internal control systems and financial and finance-related systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced, and to casual, temporary and agency staff, who may not be aware of the high standards of probity that are required in the public sector.

5.3 The Council intranet will be utilised to promote the Anti-Fraud and Corruption Policy and Strategy and associated documents, procedures and information.

5.4 The review of the Council's internal control systems and the investigation of fraud and corruption centres on Internal Audit, apart from the investigation of fraudulent Housing Benefit claims which rest with Housing Benefits Investigation Team.

5.5 The employees involved in the review of internal control systems and investigative work should be properly and regularly trained; the training plans of Internal Audit and the Housing Benefits Investigation Team will reflect this requirement.

6. Deterrence

6.1 There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside and/or outside of the Council, and these include:

- Publicising the fact that the Council is firmly set against fraud and corruption and states this at every appropriate opportunity - e.g., clause in contracts, statements on benefits claim forms, website, publications etc.;
- Acting robustly and decisively when fraud and corruption are suspected and proven - e.g., the termination of contracts, dismissal, prosecution etc.;
- Taking action to effect the maximum recoveries for the Council - e.g. through agreement, Court action, penalties etc.;
- Having sound internal control systems, that still allow for innovation, but at the same time minimising the opportunity for fraud and corruption.
- The operation and advertising of a Benefit Fraud Hotline.

7. Conclusion

7.1 The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments, in both prevention and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.

7.2 To this end, the Council maintains a continuous overview of such arrangements, in particular, through the roles of the Monitoring Officer and Director of Corporate Services, the Contract and Financial Procedure Rules, codes of Conduct and various codes of financial practice, accounting instructions and audit arrangements

7.3 Both the Policy Statement and Strategy will be subject to review annually by the Director of Corporate Services to ensure that they remain current.

Proceeds of Crime Act (Anti-Money Laundering) Policy

1. Introduction

1.1 The Proceeds Of Crime Act 2002, Money Laundering Regulations 2003 and other recent legislation impose significant new burdens on Local Authorities to recognise and report "money laundering" by those they deal with.

1.2 The Acts have broadened the definition of money laundering and increased the range of activities caught by the statutory control framework; in particular, the duty to report suspicions of money laundering is strengthened and criminal sanctions imposed for failure to do so.

2. What is Money Laundering?

2.1 Money laundering is an act falling within section 340(11) of the Proceeds of Crime Act 2002 (POCA). **Money laundering is now interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime.**

Organised Money Laundering.

2.2 This is what is typically thought of as money laundering and involves organised crime and providing a legitimate cover for criminal funds. The aim is for the money to get into the financial mainstream, and therefore 'dirty' funds appear to come 'clean'. There are many different methods, from the purchase of property and luxury goods to the creation of 'shell' companies.

Smaller Scale Money Laundering.

2.3 This occurs whenever money generated by crime is placed in the economic system, i.e. any type of property crime is likely to involve money laundering.

To most people who are likely to come across it or be affected by it, money laundering involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

3. What duty does the Council have?

3.1 The Council must reflect the principles of this legislation by the establishment of internal procedures to prevent the use of their services for money laundering and by the appointment of a Money Laundering Reporting Officer (MLRO).

Money Laundering Reporting Officer.

3.2 The officer nominated to receive disclosures about money laundering activity within the Council is the Chief Internal Auditor, Brian James. He can be contacted as follows:

Brian James
Chief Internal Auditor
Audit Services
Darlington Borough Council
Corporate Services Department
Town Hall
Darlington
DL1 5QT

Tel; 01325 388140 Ext 2140
Email ; brian.james@darlington.gov.uk

*In the absence of the MLRO, the Audit Managers are authorised to deputise for him.
Dawn Barron tel 388141 Paula Coxon tel 388104 Brian McGuire tel 388142.*

Client Identification for Relevant Business

3.3 In addition to appointing a MLRO, the legislation mainly concerns the Council's 'relevant business' of accountancy and audit services, and the financial, company and property transactions undertaken by Legal Services that are provided 'by way of business' to third parties.

3.4 Legal, Finance, Accounting and Audit staff must follow the procedures set out in Appendix 1 in order to ascertain the true identity of clients and ensure record keeping procedures (e.g. for evidence of identity obtained, details of transactions undertaken, for at least 5 years afterwards).

3.5 Legal Services are subject to particular provisions applying to the legal profession and these are set out separately in Legal Services procedure notes.

4. Duties upon all members of staff

Criminal Offences

Potentially any employee could commit a criminal offence if they suspect money laundering and either become involved with it in some way and/or do nothing about it.

4.1 The principle offences of money laundering under the legislation are:

- Concealing, disguising, converting, transferring or removing criminal property (Section 327)
- Being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (Section 328)
- Acquiring, using or possessing criminal property (Section 329)

4.2 However there are also two further 'third party' offences that relate to the suspicion or knowledge that money laundering is taking place, and these are the ones that members of staff are more likely to commit:

- Failure to disclose one of the principle offences
- Tipping Off – where someone informs a person who is, or suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation.

To comply with the legislation all staff are required to follow the reporting procedure set out in this policy if they have knowledge of or suspicion of money laundering taking place.

4.3 Recognising Money Laundering.

At all times staff should:

- be wary of unusually large cash transactions;
- be wary of the absence of an obvious legitimate source of funds
- be alert to the possibility of money laundering by a client or a prospective client;

4.4 Possible signs of money laundering are set out in Appendix 2.

5. Reporting Procedure

5.1 Where you know or suspect that money laundering activity is taking place (or has happened) you must immediately notify the MLRO on the form set out in Appendix 3. If you do not immediately notify the MLRO then you may be liable to prosecution.

5.2 You must still report your concerns, even if you believe someone else has already reported their suspicions of the same money laundering activity.

5.3 After reporting:

- you must not make any further enquiries into the matter yourself and you must assist the MLRO as requested;
- at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, otherwise you may commit a criminal offence of “tipping off”. Be very careful what you say; preliminary enquiries of a client to obtain more information (e.g. confirm their identity, clarify the source of funds) will not amount to tipping off unless you know or suspect that a report has been made;
- You should not record on a client file that the MLRO has been notified - 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 secure manner. Such disclosures to the MLRO will be protected in that they will not be taken to breach any restriction on the disclosure of information.

5.4 You should be aware that:

- If you deliberately shut your mind to the obvious, you will still be responsible under the legislation.
- Although you do not need actual evidence money laundering is happening, mere speculation or gossip is unlikely to be sufficient to show ‘knowledge or suspicion’.
- The legislation covers the proceeds of any crime, no matter how minor and irrespective of the size of the benefit gained.

6. Action by Money Laundering Reporting Officer

6.1 The MLRO will:

- Advise you of the timescale within which he expects to respond to you;
- will consider the form and any other available internal information he thinks relevant;
- undertake such other reasonable inquiries he thinks appropriate;
- seek specialist legal and financial advice (if appropriate);

- once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination about money laundering, as to whether:
 - there is actual or suspected money laundering taking place; or
 - there are reasonable grounds to know or suspect that is the case; and
 - whether he needs to seek consent from the Serious Organised Crime Agency (SOCA) for a particular transaction to proceed.

6.2 If so then the MLRO must disclose this as soon as practicable to the SOCA (the Serious Organised Crime Agency) on their standard report form and in the prescribed manner, unless there is a reasonable excuse for non-disclosure to the SOCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

6.3 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.

6.4 The MLRO commits a criminal offence if he or she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him or her, that another person is engaged in money laundering and he or she does not disclose this as soon as practicable to the SOCA.

6.5 The MLRO should always consult the Borough Solicitor in complex or difficult cases.

Please take prompt and proper action in accordance with this Policy if you have any suspicions and if you have any concerns whatsoever regarding any transactions then you should contact the MLRO as you can be held criminally liable for a number of offences.

7. Review of this Policy

7.1 This Policy will be reviewed and updated annually, as necessary, by the Chief Internal Auditor.

Identification procedure and record keeping procedures for financial services, audit and legal staff

A. General

The procedures set out in this Appendix apply to Council Employees conducting 'relevant business' (set out below) and these are mainly accountancy and audit services carried out by Financial Services and certain financial, company and property transactions undertaken by Legal Services.

“Relevant” for the purposes of the legislation is the provision **by way of business** of:

- advice about the tax affairs of another person by a body corporate;
- accountancy services by a body corporate;
- audit services;
- legal services by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction);
- services in relation to the formation, operation or management of a company or a trust.

B. Identification Procedure

Where the Council is carrying out relevant business (the provision of accountancy, audit and certain legal services ‘by way of business’ to third parties) and:

- a) forms an ongoing business relationship with a client; or
- b) undertakes a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £10,000) or more; or
- c) undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £10,000) or more; or
- d) it is known or suspected that a one-off transaction (or a series of them) involves money laundering;

Then this Identification Procedure must be followed before any business is undertaken with that organisation or person. For the procedure, you must obtain satisfactory evidence of identity, as soon as practicable after instructions are received (unless evidence has already been obtained). This applies to existing and new persons or organisations, but identification evidence is not required for matters entered into prior to 1 March 2004.

Satisfactory evidence is evidence which:

- is capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be; and
- does in fact do so.

Evidence of identity should be obtained as follows:

1. Signed, written instructions on official letterhead at the outset of a particular matter. Such correspondence should then be placed on the Council’s file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

2. If you are undertaking work for a new persons or organisations or further instructions from a person or an organisation not well known to you, then you may also wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself, for example:

- checking the organisation's website to confirm the business address;
- attending them at their business address;
- asking the key contact Employee to provide evidence of their personal identity and position within the organisation; for example signed, written confirmation from their Head of Service or Chair of the relevant organisation.

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 until this becomes available.

The law states that particular care must be taken when the person or organisation that is paying you to do work or who the council is an agent for, is not physically present when being identified: this is always likely to be the case for the Council, given that its relevant business can only be undertaken for other local authorities and designated public bodies (not individuals) and therefore instructions will usually be given in writing.

There are a limited number of exceptions where identification evidence does not need to be obtained, for example evidence is not required when a purchaser of property is represented by a legal professional (eg solicitor, legal executive, licensed conveyancer etc): this is because we are entitled to presume that the professional has complied with the legislation and checked the purchaser's identity (as their own client).

General guidance on money laundering legislation suggests that fairly rigorous identification checks should be made: for example, in relation to an organisation, evidence should be obtained as to the identity of key individuals within the organisation along with evidence of identity of the business entity and its activity.

You will see, however, that the Council's Client Identification Procedure provides for only the most basic of identity checks – signed, written instructions on the organisation in question's headed paper at the outset of a particular matter. This is not because client identification is not important, but because of the need to introduce a procedure that is workable, appropriate to the nature of the Council as an organisation and proportionate to the risk to the Council of money laundering, which has been assessed as low.

C. Recording Keeping Procedures

Each unit of the Council conducting relevant business must maintain records for at least five years from the end of the business relationship or one-off transaction(s) of:

- identification evidence obtained; and
- details of all relevant business transactions carried out for those persons or organisations for whom we have obtained evidence

This is so they may be used as evidence in any subsequent investigation by the authorities into money laundering.

The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any investigation, for example

distinguishing the person or organisation and the relevant transaction and recording in what form any funds were received or paid.

In practice, Council business units will be routinely making records of work carried out for persons or organisations in the course of normal business and these should be sufficient for this requirement.

Possible signs of money laundering

It is impossible to give a definitive list of ways in which to spot money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors that may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:

General

- A secretive client: e.g., refuses to provide requested information without a reasonable explanation;
- Concerns about the honesty, integrity, identity or location of a client;
- Illogical third party transactions: unnecessary routing or receipt of funds from third parties or through third party accounts;
- Involvement of an unconnected third party without logical reason or explanation;
- Payment of a substantial sum in cash;
- Significant overpayments by a client and the subsequent requests for refunds;
- Absence of an obvious legitimate source of the funds;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location or type of a client) is out of line with normal expectations;
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational;
- Refunds following the cancellation or reversal of an earlier transaction;
- Requests for release of client account details other than in the normal course of business;
- Poor business records or internal accounting controls;
- A previous transaction for the same client that has been, or should have been, reported to the MLRO.

Property

- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Re property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination.

Reporting Forms

CONFIDENTIAL

Report to Money Laundering Reporting Officer re money laundering activity

To: [] Money Laundering Reporting Officer

From:
[insert name of employee]

Directorate: Ext/Tel

No:..... *[insert post title and Business Unit]*

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)?

Yes/No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

Yes/No

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

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

Yes/No

If yes, please specify below:

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

Yes/No

If yes, please set out full details below:

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

Yes/No

If yes, please give details 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 5years' 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?

[Please tick the relevant box]

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

Yes/No

If yes, please confirm date of report to SOCA:

.....

and complete the box below:

Details of liaison with the SOCA regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from the SOCA to any ongoing or imminent transactions which would otherwise be prohibited acts?

Yes/ No

If yes, please confirm full details below:

Date consent received from SOCA:

.....

Date consent given by you to employee:

.....

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

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

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

Other relevant information:

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

.....

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS

Confidential reporting policy

Preamble

1. Employees are often the first to realise that there may be 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.
2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
3. This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting 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.
4. The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.
5. These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some departments. You are responsible for making service users aware of the existence of these procedures.
6. This policy has been discussed with the relevant trade unions and professional organisations and has their support.

Aims and Scope of this Policy

7. This policy aims to :-
 - (a) Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.
 - (b) Provide avenues for you to raise those concerns and receive feedback on any action taken.
 - (c) Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.

- (d) Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.
8. There are existing procedures in place to enable you to lodge a grievance relating to your own employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. These include :
- (a) Conduct which is an offence or a breach of law.
 - (b) Disclosures related to miscarriage of justice.
 - (c) Health and safety risks, including risks to the public as well as other employees.
 - (d) Damage to the environment.
 - (e) The unauthorised use of public funds.
 - (f) Possible fraud and corruption.
 - (g) Sexual or physical abuse of clients.
 - (h) Other unethical conduct.
9. Thus, any serious concerns that you 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 Policy. This may be about something that :
- (a) Makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to.
 - (b) Is against the Council's Procedure Rules and policies.
 - (c) Falls below established standards of practice.
 - (d) Amounts to improper conduct.
10. This policy does not replace the corporate complaints procedure.

Safeguards

Harassment or Victimisation

- 11. The Council is committed to good practice and high standards and wants to be supportive of employees.
- 12. The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 13. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a

concern in good faith.

14. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

Confidentiality

15. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

Anonymous Allegations

16. This policy encourages you to put your name to your allegation whenever possible.
17. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
18. In exercising this discretion the factors to be taken into account would include :-
 - (a) The seriousness of the issues raised.
 - (b) The credibility of the concern.
 - (c) The likelihood of confirming the allegation from attributable sources.

Untrue Allegations

19. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

How to Raise a Concern

20. As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Director of Corporate Services, Monitoring Officer or Internal Audit.
21. Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to use the following format :-
 - (a) the background and history of the concern (giving relevant dates); and
 - (b) the reason why you are particularly concerned about the situation.
22. The earlier you express the concern the easier it is to take action.

23. Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

24. Obtain advice/guidance on how to pursue matters of concern may be obtained from :-

Chief Executive	Tel: 388011
Director of Corporate Services	Tel: 388302
Monitoring Officer (Borough Solicitor)	Tel: 388307
Chief Internal Auditor.	Tel: 388140

25. You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

26. You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

How the Council will Respond

27. The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

28. Where appropriate, the matters raised may :-

- (a) be investigated by management, internal audit or through the disciplinary process.
- (b) be referred to the Police.
- (c) be referred to the External Auditor; and
- (d) form the subject of an independent inquiry.

29. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries 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 (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

30. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will taken before any investigation is conducted.

31. Within ten working days of a concern being raised, the person with whom you raised the concern will write to you :-

- (a) acknowledging that the concern has been received;

- (b) indicating how we propose to deal with the matter;
 - (c) giving an estimate of how long it will take to provide a final response;
 - (d) telling you whether any initial enquiries have been made;
 - (e) supplying you with information on staff support mechanisms; and
 - (f) telling you whether further investigations will take place and if not, why not.
32. The amount of contact between the Officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
33. Where any meeting is arranged, off-site if you so wish, you can be accompanied by a Union or professional association representative or a friend.
34. The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
35. The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

The Responsible Officer

36. The Chief Executive has overall responsibility for the maintenance and operation of this policy. That Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

How the Matter Can Be Taken Further

37. This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points :-
- (a) the external auditor;
 - (b) your Trade Union;
 - (c) your local Citizen Advice Bureau;
 - (d) relevant professional bodies or regulatory organisations;
 - (e) a relevant voluntary organisation;
 - (f) the Police.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.