

NON EXEMPT

HAVANT BOROUGH COUNCIL

GOVERNANCE AND AUDIT COMMITTEE

03 March 2015

CODES AND PROTOCOLS

Head of Southern Internal Audit Partnership

FOR RECOMMENDATION TO COUNCIL

Portfolio: Governance and Logistics – Cllr Jackie Branson

Key Decision: No

1.0 Purpose of Report

- 1.1** Havant Borough Council's Constitution brings together various codes and protocols including the Whistleblowing Policy; Anti Bribery Policy; Anti-Fraud and Corruption Policy; Anti Fraud and Corruption Response Plan and Anti Money Laundering Policy.
- 1.2** The purpose of this paper is to provide the Governance and Audit Committee with updated codes and protocols, in line with the Committee's terms of reference and compliance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of practice on managing the risk of fraud and corruption (October 2014).

2.0 Recommendation to Council that:

- 2.1** That the amended Whistleblowing Policy, Anti Bribery Policy, Anti Fraud and Corruption Policy, Anti Fraud and Corruption Response Plan and Anti Money Laundering Policy be recommended to Council for adoption.

3.0 Summary

- 3.1** The policy documents included in the constitution and presented in this report set out the key principles in minimising the risk of fraud or corruption and define the roles and responsibilities of members and officers in the prevention and detection of fraud and corruption.
- 3.2** The policy documents presented in this report were last updated in June 2012. In accordance with best practice, they have been subject to review to reflect the latest professional guidance and legislative change.

4.0 Implications

4.1 Resources: Funded through the Internal Audit Plan 2014-15

4.2 Legal: The policies have been reviewed by the Solicitor to the Council for compliance with legislation and they do comply.

4.3 Strategy: Ensuring good governance.

4.4 Risks: The nature and extent of the Council's exposure to potential external and internal risks of fraud and corruption on its behalf by persons associated with the Council is periodically assessed and documented as part of the Council's risk process. This includes financial risks but also other risks such as reputational damage.

4.5 Communications: Provision of Fraud Awareness Training

4.6 Customers and Community: None

4.7 Integrated Impact Assessment (IIA): None

5.0 Consultation: None

Appendices:

Appendix 1 – Whistleblowing Policy

Appendix 2 – Anti Bribery Policy

Appendix 3 – Anti Fraud and Corruption Policy

Appendix 4 – Anti Fraud and Corruption Response Plan

Appendix 5 – Anti Money Laundering Policy

Agreed and signed off by:

Legal Services: Jo Barden-Hernandez – 9 February 2015.

Finance: Jane Eaton – 5 February 2015.

Executive Head of Governance & Logistics: Jane Eaton – 5 February 2015.

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Havant Borough Council Whistle Blowing Policy

1.0 INTRODUCTION

- 1.1 The Council is committed to achieving the highest possible standards of openness, probity and accountability in all of its practices. This policy has been introduced to help you raise a concern you may have about malpractice such as fraud, a danger to health, safety or the environment or a crime, in the right way and without fear.
- 1.2 We all have, at one time or another, concerns about what is happening at work. Usually these concerns are easily resolved. However, when the concern is about malpractice, it can be difficult to know what to do. You may feel worried about raising an issue and decide to keep your concern to yourself, perhaps feeling that it is none of your business or that it's only a suspicion. Or you may feel that raising the matter would be disloyal to colleagues, managers or the Council itself. Perhaps you have tried to raise the matter, but found out you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.
- 1.3 The Council would prefer that you raise any concerns about malpractice at an early stage when it is just a concern, rather than wait for proof. This policy has been introduced to help you raise any concern about malpractice in the right way. It explains the routes open to all Council staff, including employees, temporary workers, agency staff and people working for sub-contractors. This policy does not replace the Council's complaints procedure which is open to all members of the public. If your concern relates to your own treatment as an employee, for example a breach of contract of employment, you should raise this under the existing grievance procedure.
- 1.4 If you have a concern about fraud or corruption, please see the Anti Fraud and Corruption Policy. If, however, you want to bring a complaint, please use the Grievance Procedure. This whistle blowing policy is primarily for a concern which affects the interests of others such as service users, the public, colleagues or the Council itself. e.g.
- Conduct which is an offence or a breach of law.
 - Disclosures related to miscarriages of justice.
 - Health and safety risks, including risks to the public as well as other employees.
 - Information risk including unauthorised disclosure of information held by the Council
 - Damage to the environment.
 - Poor performance or inappropriate behaviour by contractors
 - The unauthorised use of public funds.
 - Possible fraud and corruption (see the anti fraud and corruption plan).

- Sexual or physical abuse of clients, or
- Other unethical conduct.

If in doubt – please raise it!

OUR ASSURANCES TO YOU

The Council is committed to this policy.

Your safety

1.5 We recognise that it may be difficult to raise a concern. Legislation provides protection for employees who raise legitimate concerns about specified matters that the employee reasonably believes are in the public interest. These are called 'qualifying disclosures'. A qualifying disclosure is one made by an employee who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above

is being, has been, or likely to be committed. It is not necessary for the employee to have proof that such an act is being, has been, or likely to be committed, a reasonable belief is sufficient. Provided that you raise a concern honestly, you will not be at risk of losing your job or suffering any form of retribution for doing so even if you are mistaken. Protection from detriment also applies to ex-employees making disclosures after the termination of their employment. The Council will be vicariously liable where an employee is subjected to a detriment by a fellow employee for making a qualified disclosure. Therefore, the Council will take all reasonable steps to prevent any form of detriment and that any victimisation of an employee for raising a qualified disclosure will be treated as a disciplinary offence.

Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue and such conduct may be liable to disciplinary action. Furthermore, if disciplinary action or redundancy procedures have already been started, raising a concern will not, of itself, halt them.

Your confidence

1.6 With these assurances, we hope you will raise your concern openly and in the normal way. However, we recognise that there may be some circumstances when you would prefer to speak to someone in confidence. If so, please say when you approach them.

- 1.7 Keeping your confidence means that if you ask us not to disclose your identity, we will not do so without your consent or unless we are legally required to do so. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

Anonymity

- 1.8 Please remember that if you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should not assume we can provide the assurances we offer in the same way if you report a concern anonymously.
- 1.9 If you are unsure about raising a concern openly or in confidence, you can get independent advice from Public Concern at Work on 0207 404 6609.

2.0 HOW TO RAISE A CONCERN

- 2.1 Please remember that you do not need to have firm evidence of malpractice before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern. Remember the earlier you raise a concern the easier it is to resolve it. Your concerns may be about:
- That which makes you feel uncomfortable in terms of known standards, your experience or the standards you 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.

Step One

We hope that you will feel able to raise your concern openly with your manager. This may be done orally or, if you prefer, in writing.

Step Two

If you feel unable to raise the matter with your manager for whatever reason, or if you think the concern has not been properly addressed, please raise it with a senior manager in your area or one of the following officers:

Monitoring Officer
Chief Financial Officer.

Step Three

If you still have a concern, or feel that the matter is so serious that it cannot be dealt with through steps One and Two, then please raise it with:

Chief Executive
Executive Directors
Chief Internal Auditor.

These people have been given special responsibility and training in dealing with whistle blowing concerns and in particular the Public Interest Disclosure Act 1998.

- 2.2 If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

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

3.0 HOW WE WILL HANDLE THE MATTER

- 3.1 Once you have told us of your concern, we will confirm to you in writing that we have received it. We will then assess it and consider what action may be appropriate. This may involve an informal review, an internal enquiry or a more formal investigation. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. Remember, our Employee Assistance Programme (EAP) is also there to help you if you feel you need any support. We will write to you summarising your concern and setting out how we propose to handle it. If we have misunderstood the concern or there is any information missing please let us know.
- 3.2 We will try to establish, with you, how we can best preserve your privacy and how to communicate with you about your concern. We cannot guarantee that people may not either guess or deduce from other circumstances that it is you who expressed the concern.
- 3.3 When you raise the concern it will be helpful to know if you have ideas about how the matter might best be resolved. If you have any personal interest in the matter, we do ask that you tell us at the outset. If we think your concern falls more properly within the Grievance Procedure, we will tell you.
- 3.4 We accept that you may want to be assured that the matter has been properly addressed and whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we

may not be able to tell you about disciplinary or other action, when it infringes a duty of confidence we owe to third parties.

- 3.5 If you report a concern to your line manager and it is not satisfactorily explained at the time, it must be referred by the Manager in writing to the Monitoring Officer, or in his absence, the Deputy Monitoring Officer. The Monitoring Officer will acknowledge it in writing within two working days. If you do not hear you may approach the Monitoring Officer, directly.
- 3.6 While we cannot guarantee that we will respond to all matters in the way that you might wish, we will handle the matter fairly and properly. By using this policy you will help us to achieve this.

4.0 INDEPENDENT ADVICE

- 4.1 If you are unsure whether to use this policy or you want independent advice at any stage, free advice is available from:
- Your Trade Union if applicable
Public Concern at Work either by telephone on 020 7404 6609, or by email at whistle@pcaw.org.uk
- 4.2 If you want advice from other sources, you will have to meet any expenses incurred.

5.0 EXTERNAL CONTACTS

- 5.1 While we hope this policy gives you the reassurance you need to raise a concern internally, we recognise that there may be circumstances where you can properly report matters to outside bodies, such as to the Audit Commission or other appropriate regulator, or in very serious situations, to the police. If you do so, be careful not to disclose confidential or privileged information.
- 5.2 Public Concern at Work (or, if applicable, your union) will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

6.0 ADMINISTRATION

- 6.1 If you have any questions about the whistle blowing policy and how it applies, you can contact the HR Manager or the Monitoring Officer who will be pleased to answer your questions.
- 6.2 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy and will report to the Overview and Scrutiny Committee as part of its overall governance and risk management function. The Monitoring Officer maintains a record of concerns raised

and the outcomes (but in a form which does not endanger staff confidentiality).

- 6.3 This policy was drafted in consultation with Public Concern at Work, taking into account the Public Interest Disclosure Act 1998 which protects genuine whistleblowers. A summary of the Act can be found at www.pcaw.org.uk.
- 6.4 This policy will be reviewed annually by the Governance & Audit Committee.

See also:-

The Anti-Fraud and Corruption Policy and Response Plan
The Complaints Policy
The Councillors' Code of Conduct
The Officer Code of Conduct
The Council's Grievance Procedure
Employee Assistance Programme (EAP)

Havant Borough Council Anti Bribery Policy

1.0 POLICY STATEMENT - ANTI BRIBERY

- 1.1 Bribery is a criminal offence. The Council does not pay bribes or offer improper inducements to anyone for any purpose, nor does the Council accept bribes or improper inducements.
- 1.2 To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not engage indirectly in or otherwise encourage bribery.
- 1.3 The Council is committed to the prevention, deterrence and detection of bribery and has a zero-tolerance towards bribery.

2.0 OBJECTIVE OF THIS POLICY

- 2.1 This policy provides a coherent and consistent framework to enable the Council's officers and Councillors to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable Councillors and officers to identify and effectively report a potential breach.
- 2.2 All Councillors and officers including those permanently employed, temporary agency staff and contractors must:
 - Act honestly and with integrity at all times and safeguard the Council's resources for which they are responsible.
 - Comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates.

3.0 SCOPE OF THIS POLICY

- 3.1 This policy applies to all of the Council's activities. For partners and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.
- 3.2 This policy covers all officers including those permanently employed, temporary agency staff, contractors, non-executives, agents, members (including independent or co-opted members), volunteers and consultants.
- 3.3 Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rely solely on the Council's assurance functions.

4.0 BRIBERY

- 4.1 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.
- 4.2 Genuine hospitality or similar business expenditure that is reasonable and proportionate is allowable and not covered by the Act. However, facilitation payments are considered bribes (payments to induce officials to perform routine functions they are otherwise obligated to perform).

5.0 THE BRIBERY ACT

- 5.1 There are four key offences under the Act:
- Bribing a person to induce or reward them to perform a relevant function improperly (Section 1)
 - Requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly (Section 2)
 - Using a bribe to influence a foreign official to gain a business advantage (A foreign public official is defined as “an individual holding legislative, administrative or judicial posts or anyone carrying out a public function for a foreign country or the country’s public agencies”) (Section 6)
 - In relation to a commercial organisation committing bribery to gain or retain a business advantage, there being no adequate procedures in place to prevent such actions (Section 7)
- 5.2 The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.
- 5.3 There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. This is what is known as a “strict liability” offence. This means that there is no need to prove negligence or management complicity. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

6.0 PENALTIES

- 6.1 An individual guilty of an offence under Sections 1, 2 or 6 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.

- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

6.2 The Council, if convicted under Sections 1, 2 or 6 will also face the same level of fines and, if guilty of an offence under Section 7, is liable to an unlimited fine.

7.0 THE COUNCIL'S COMMITMENT TO ACTION

7.1 The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date.
- Making all Councillors and officers aware of the Council's policy and procedures and their responsibilities to adhere strictly to this policy at all times.
- Encouraging its Councillors and officers to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication (i.e. Whistleblowing Policy) and ensuring sensitive information is treated appropriately.
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution.
- Taking firm and vigorous action against any individual(s) involved in bribery.
- Provide information to all Councillors and officers to report breaches and suspected breaches of this policy.
- Include appropriate clauses in contracts with suppliers setting out the Council's right to terminate and secure losses in circumstances where an offence under the Bribery Act 2010 has been committed by the supplier or the supplier's agent.

8.0 ANTI-BRIBERY PROCEDURES

8.1 The Council's procedures cover six principles:-

Proportionality

The Council has procedures in place to prevent bribery by persons associated with it. These procedures are clear, practical, accessible and effectively implemented and enforced.

Top level commitment

The Joint Management Team and Service Managers are committed to preventing bribery and foster a culture within the organisation in which bribery is never acceptable.

Risk Assessment

The nature and extent of the Council's exposure to potential external and internal risks of bribery on its behalf by persons associated with it

is periodically assessed. This includes financial risks but also other risks such as reputational damage.

Due diligence

The Council takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks. Due diligence will include an evaluation of the background, experience and reputation of business partners. The transactions will be properly monitored and written agreements and contracts will provide references to the Bribery Act 2010 and this policy. Reciprocal arrangements may be required for business partners to have their own policies in place. They will be advised of the Council's policy and be expected to operate at all times in accordance with such policy.

Communication (including training)

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

9.0 BRIBERY IS NOT TOLERATED

9.1 It is unacceptable to:

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

10.0 FACILITATION PAYMENTS

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

11.0 GIFTS AND HOSPITALITY

11.1 The Council's policy regarding the requirements for gifts and hospitality

is set out within the Code of Conduct Policy.

12.0 PUBLIC CONTRACTS AND FAILURE TO PREVENT BRIBERY

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

13.0 OFFICER RESPONSIBILITIES

13.1 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 officers are required to avoid activity that breaches this policy. Officers must:

- Ensure that the policy has been read and comply with the requirements.
- Raise concerns as soon as possible where this policy has been breached or they suspect that a breach of this policy has occurred, or may occur in the future.

13.2 As well as the possibility of civil and criminal prosecution, officers that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

14.0 HOW TO RAISE A CONCERN

14.1 Please remember that you do not need to have firm evidence of malpractice before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern. Remember the earlier you raise a concern the easier it is to resolve it.

Step One

We hope that you will feel able to raise your concern openly with your manager. This may be done orally or, if you prefer, in writing.

Step Two

If you feel unable to raise the matter with your manager for whatever reason, or if you think the concern has not been properly addressed, please raise it with a senior manager in your area or one of the following officers:

Monitoring Officer
Chief Financial Officer

Step Three

If you still have a concern, or feel that the matter is so serious that it cannot be dealt with through steps One and Two, then please raise it with:

Chief Executive
Executive Directors
Chief Internal Auditor

These people have been given special responsibility and training in dealing with whistle blowing concerns and in particular the Public Interest Disclosure Act 1998.

- 12.2 If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

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

Havant Borough Council Anti-Fraud and Corruption Policy

The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether from inside or outside the Council.

Introduction

In following best practice (CIPFA / SOLACE guidance on Corporate Governance) and managing its responsibilities, Havant Borough Council is determined to protect itself against fraud and corruption both from within the Council and from external sources. Havant Borough Council already has in place a Constitution, which sets out Codes of Conduct for both Councillors and Employees; a Whistle Blowing Policy; and Financial Regulations, which provide clarity about accountabilities of individuals, Councillors, staff, etc. The Anti-Fraud and Corruption Policy brings together these key elements. The Council is committed to an effective Anti-Fraud and Corruption Policy designed to:

- Promote an anti-fraud and corruption culture
- Ensure prevention
- Facilitate detection
- Identify a clear pathway for investigation and remedial action
- Encourage the application of sanctions where appropriate
- Maximise recovery

Key Message

The Council's expectation of propriety and accountability is that Councillors and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. In all their work, they will adhere to the following General Principles of Conduct:-

Selflessness

Holders of public office should take decisions solely in terms of public interest. They should not do so to gain financial or other material benefits for themselves, their family or their friends.

Honesty and Integrity

Holders of public office should be truthful and must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards or benefits, holders of public office must act and take decisions impartially, fairly and on

merit, using the best evidence and without discrimination or bias. This would cover such areas as making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

Holders of public office are accountable to the public for their decisions and 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.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

Personal Judgement

Holders of public office may take account of the views of others, including in the case of Councillors their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

Holders of public office 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.

Duty to Uphold the Law

Holders of public office should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

Holders of public office should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

Holders of public office should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence. They should also be willing to challenge poor behaviour wherever it occurs.

The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

Key Controls

The key controls regarding the prevention of financial irregularities are that:

- (a) The Council has an effective anti-fraud and anti-corruption response plan and maintains a culture that will not tolerate fraud or corruption.
- (b) The Council has an effective anti-bribery policy and maintains a culture that will not tolerate bribery.
- (c) There are effective recruitment and selection procedures.
- (d) Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt.
- (e) High standards of conduct are promoted amongst Councillors by the Governance Committee and all Councillors and staff act with integrity and lead by example.
- (f) A register of interests is maintained and any hospitality or gifts are recorded.
- (g) Whistle blowing procedures are in place and operate effectively.
- (h) Legislation, including the Public Interest Disclosure Act 1998 and the Regulation of Investigatory Powers Act 2000 (RIPA), is adhered to.
- (i) The Council has a policy for combating benefit fraud and error and maintains its profile in the community for tackling benefit fraud.
- (j) The Council maintains a Benefits Fraud Hotline.
- (k) The Chief Financial Officer is the focal point for promoting the anti-fraud message and the key point to refer concerns of fraudulent and/or corrupt activity

The Council will fully investigate any Councillor or Officer who appears to act outside these principles and will take appropriate action, which may involve criminal prosecution under legislation including, but not limited to, the Fraud Act 2006 and The Bribery Act 2010.

Havant Borough Council Anti Fraud and Corruption Response Plan

This document provides details on how Havant Borough Council employees should respond to suspicion of fraud or corruption of any kind and raises awareness generally.

1. What Constitutes Fraud and Corruption?

- 1.1. In this document the term 'Fraud' is used to describe acts such as criminal deception, forgery, blackmail, corruption, theft, conspiracy, money laundering, false representation, concealment of material facts and collusion in any such matter.
- 1.2. For practical purposes fraud can be defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party.
- 1.3. Corruption covers the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of another person.
- 1.4. The Fraud Act 2006 states that the offence of Fraud can be committed in 3 ways:
 - Fraud by False Representation
 - (1) A person is in breach of this section if he/she:
 - (a) **dishonestly** makes a false representation; and
 - (b) **intends**, by making the representation:
 - (i) to make a gain for himself or another; or
 - (ii) to cause loss to another or to expose another to a risk of loss.
 - (2) A representation is false if:
 - (a) it is untrue or misleading; and
 - (b) the person making it knows that it is, or might be, untrue or misleading.
 - (3) "Representation" means any representation as to fact or law, including a representation as to the state of mind of:
 - (a) the person making the representation; or

(b) any other person.

(4) A representation may be express or implied.

(5) For the purposes of this section a representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).

- Fraud by failing to disclose information
 - A person is in breach of this section if he or she: **Dishonestly** fails to disclose to another person information which he/she is under legal duty to disclose and **Intends**, by failing to disclose the information, to make a gain for himself or another, or cause loss to another or to expose another to a risk of loss.
- Fraud by abuse of position
 - A person is in breach of this section if he/she: **Occupies a position** in which he/she is expected to safeguard, or not to act against, the financial interests of another person and **dishonestly** abuses that position and **Intends**, by means of the abuse of that position to make a gain for himself or another or to cause loss to another or to expose another to a risk of loss. Note: A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act.

1.5 The Bribery Act 2010 specifically addresses the issues arising from corrupt practices such as the offering, giving, soliciting or acceptance of an inducement or reward. Please see the link to this below for the Councils Anti-Bribery Act Policy:

2. **How the Anti Fraud and Corruption Response Plan fits into the overall Council approach on Corporate Governance**

2.1. The Anti Fraud and Corruption Response Plan aims to give staff and Councillors more information about the prevention and detection of fraud and how the Council deals with fraud when it is discovered.

2.2. Well-framed internal regulations usually play a passive yet vital role in preventing or substantially reducing fraud. The Council's Financial Regulations serve this purpose. In addition the Council has several policies and procedures which cover non-financial anti-fraud measures such as recruitment, conduct and discipline. The Code of Conduct sets out the local standards expected by the Council.

- Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained.

- Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.
- 2.3. The Council also has a Whistle Blowing Policy, which aims to provide avenues for staff to raise concerns without fear of reprisals or victimisation, and a policy for combating benefit fraud and error which specifically relates to Housing Benefit and Council Tax Benefit fraud.
- 2.4. The Council's Benefit Investigation Team will investigate benefit related matters. The Chief Financial Officer will instruct Internal Audit to investigate other Council related matters.

3. Detection

- 3.1. The array of preventative systems, particularly internal control systems within the Council, help to provide indicators of, and help to deter, any fraudulent activity. Where fraudulent activity is suspected, this will normally be investigated by Internal Audit. It is not Internal Audit's responsibility to detect fraud; the role of Internal Audit is to check the adequacy of the controls within systems. However, the assessment of the risk of fraud is routinely taken into account in planning all internal audits.
- 3.2. It is the responsibility of Executive Directors, Executive Heads of Service and their managers to prevent and detect fraud and corruption. However, it is often the alertness of staff, Councillors and the public to the possibility of fraud and corruption which leads to detection. This allows appropriate action to be taken when there is evidence that fraud or corruption may have been committed or is in progress.
- 3.3. Allegations can be a key source in the detection of fraud. The Council treats all allegations and complaints seriously and is committed to investigate all such matters.
- 3.4. The Council's Whistle Blowing Policy allows employees and Councillors to raise any concerns they may have in confidence and anonymously should they so wish.

Employees

- 3.5. On suspicion of Fraudulent Activity:

DO:

- Make an immediate note of your concerns.
- Convey your suspicions to someone with the appropriate authority and experience e.g. your manager, provided they are not implicated, or the Chief Financial Officer/Monitoring Officer
- Retain any evidence you may have secured.

DON'T:

- Do nothing.
- Be afraid of raising your concerns.
- Approach or accuse any individual directly.
- Try to investigate the matter yourself.
- Convey your suspicions to anyone other than those with the proper authority.

Managers

- 3.6. There are some common sense guidelines issued by the Audit Commission that managers should apply in all cases where fraud or corruption is suspected in the workplace.

DO:

- Be responsive to staff concerns.
- Note details.
- Evaluate the allegation objectively.
- Deal with the matter promptly if you feel your concerns are warranted.
- Advise the Chief Financial Officer/Monitoring Officer immediately.
- Take all complaints seriously.

DON'T:

- Ridicule or trivialise suspicions raised by staff.
- Approach or accuse any individuals directly.
- Try to investigate the matter yourself.
- Convey your suspicions to anyone other than those with the proper authority.

4. Reporting Suspicions Procedure

- 4.1. Council employees and Councillors should report to the Chief Financial Officer/Monitoring Officer any concerns they may have regarding fraud and corruption, whether it relates to dishonest behaviour by Council employees, Councillors or by others. This includes reporting of any instances of suspected money laundering.
- 4.2. Internal Audit monitor instances of financial irregularities within the Council as a whole, and report certain details to external bodies. It also has a duty to ensure that appropriate investigations are carried out. For this reason Financial Regulations require the immediate notification of a suspected or actual irregularity to the Chief Financial Officer/Monitoring Officer. A maliciously false complaint may result in disciplinary proceedings being taken.

- 4.3. Management has the responsibility for ensuring that reasonable measures are taken to prevent fraud and corruption. Staff will usually report suspicions first to their manager. The following are a list of steps that can be taken by staff:

Step One

We hope that you will feel able to raise your concern openly with your manager. This may be done orally or, if you prefer, in writing.

Step Two

If you feel unable to raise the matter with your manager for whatever reason, or if you think the concern has not been properly addressed, please raise it with a senior manager in your area or one of the following officers:

Monitoring Officer
Chief Financial Officer

Step Three

If you still have a concern, or feel that the matter is so serious that it cannot be dealt with through steps One and Two, then please raise it with:

Chief Executive
Executive Directors
Chief Internal Auditor

These people have been given special responsibility and training in dealing with whistle blowing concerns and in particular the Public Interest Disclosure Act 1998.

- 4.4. There is a genuine need for staff to be able to voice their concerns in confidence. The Council aims to provide such a facility through the Whistle Blowing policy. However, it is not trying to encourage staff to spy on colleagues or to create an acrimonious environment of suspicion and counter-claim.
- 4.5. Personal visits can be made to Chief Financial Officer or Monitoring Officer and discussions will be conducted in an appropriate meeting room.
- 4.6. If the suspicion is related to Housing Benefit or Council Tax Benefit then it should be reported to the Benefit Investigation Team (see Strategy for Combating Benefit Fraud and Error). Your information will be treated seriously and will not be considered too insignificant or in any other way unimportant, and will be investigated fully. Again all information received is treated in the strictest confidence.

- 4.7. On suspecting fraud or theft, try to avoid touching anything in the area where funds or data were located; seal the area, and notify IT if appropriate, don't attempt to examine records or any remaining funds. Then contact the Chief Financial Officer or Monitoring Officer or the Benefit Investigation Team or use the Council's Whistle Blowing Policy.
- 4.8. The Council will do all it can to recover monies or assets misappropriated by employees or others as a result of dishonest behaviour. (See Section 7 on Recovery of Losses).

5. Investigation

- 5.1. Investigation into suspected fraudulent activity will normally be carried out by Internal Audit who will liaise as appropriate with the Chief Executive, Monitoring Officer, Chief Financial Officer and Executive Directors or any other relevant officers and the Police.
- 5.2. All referrals are treated in the strictest confidence, treated seriously, fully investigated and the outcome will normally be reported to the informant.
- 5.3. On receiving information from a member of staff, a preliminary interview to determine whether an investigation is warranted will be conducted.
- 5.4. Where the criminal law appears to have been broken, an Executive Director will, with the agreement of one of the Statutory Officers refer, the case to the Police and continue to assist them throughout their investigation. The Police or the Council may bring a prosecution. Where an apparent irregularity arises between an employee and a third party the wishes of the third party concerning police involvement will be carefully considered. Normally police involvement should only arise if that party is prepared to agree to it, but there may be occasions when the employer considers that it is obliged to involve the Police.
- 5.5. In carrying out such work, strict working practices are required to be followed, which include full observation of authorisations and protocols put in place to ensure that any actions are carried out both fairly and lawfully, safeguarding the rights of privacy owed to the individual. This is governed by legislation including:
 - Data Protection Act (1998)
 - Human Rights Act (1998)
 - Regulation of Investigatory Powers Act (2000) (RIPA)
 - Freedom of Information Act (2000)
 - Criminal Procedures and Investigations Act (1996)
- 5.6. In all cases of misuse reported where covert surveillance may be needed, an application will be made either under the Council's own

monitoring procedures or if appropriate under RIPA showing the extent of any adverse impact in conducting covert monitoring, and ensuring that this is properly considered and justified by the benefit to the Council. In such cases, any decision to go ahead with the exercise is subject to the independent authorisation under the Council's surveillance procedures or, in the case of RIPA, a Magistrate, and is strictly time limited. A central file is kept of all RIPA authorisations as required by the Act.

5.7. Internal Audit staff have a role in monitoring the activities of employees in the event of any allegations of impropriety where it is alleged. This could involve the covert monitoring of activities using electronic surveillance equipment or the monitoring/interception of electronic communications (e.g. e-mail, Internet, telephone usage). Monitoring is a recognised component of the employment relationship and this is well publicised within the Council's ICT Security and Conduct policy regarding the acceptable use of its electronic and ICT systems. Clear warning is given that any unacceptable use or breach of policy may result in disciplinary action being taken against the person responsible.

5.8. Managers of the Council will also:

- Co-operate fully with Internal Audit and the Police during any investigation.
- Implement the Council's Disciplinary Procedure, where appropriate.
- Take prompt action to remedy any weaknesses discovered in internal control procedures.
- Deal swiftly, fairly and firmly with those who offend against the Council.

5.9. Where the suspicion involves a Councillor the Monitoring Officer will be notified immediately.

6. Prevention

6.1. There are many ways of preventing fraud and corruption. The Council has adopted preventative measures as follows.

6.2. An adequate and effective internal audit service is provided to carry out an on-going review of financial and other systems in use and to test those systems for weaknesses in internal controls. In carrying out this work Internal Audit will have regard to the relative risk associated with particular systems as agreed with the Council's external auditor.

6.3. The Council's Recruitment and Selection procedure requires that references should always be taken up when recruiting candidates externally. This is intended to prevent people with a history of dishonest behaviour being employed by the Council in positions of trust. Human Resources check qualification certificates with the issuing bodies for key posts in the Council to ensure validity. Human

Resources will also carry out Disclosure Barring Service (DBS) checks where appropriate in accordance with the Council's policies. Managers check references and prospective employees' right to work in the UK.

- 6.4. Employees who hold professional, trade or other qualifications are expected to comply with codes of conduct issued by the organisations of which they are members.
- 6.5. The Council aims to be an organisation that actively supports an anti-fraud culture through its policies and procedures, by supporting them and actively advocating them to staff/colleagues.
- 6.6. Before designing a system or making a decision, consider the risks to the Council and how to minimise or control the risk. (Internal Audit provides this advice when carrying out an audit assignment and can assist if you are changing systems).
- 6.7. Ensure that no one single person controls an operation from start to finish or can carry out an income or purchasing transaction on their own (separation of duties).
- 6.8. Systems design needs to be effective and efficient. Staff must understand their responsibilities for control where the system is relying on that control as a prevention measure and the monitoring of the adherence to this.
- 6.9. Responsibilities should be clearly set out and allocated to individual senior managers. It is important that management at all levels within the Council is alert to potential problems in their work area and that adequate and effective safeguards are in place to prevent financial irregularities. However, managers should also satisfy themselves that checks are in place at the appropriate levels, so that in the event of a breach, any irregularity will be picked up promptly and any loss to the Council minimised.
- 6.10. Specific preventive fraud advice can be given and often is when your service is audited. Make the most of your audit by drawing attention to areas of risk or concern. If your service requires additional assistance because you are changing your working practices Internal Audit will be pleased to assist in giving fraud prevention advice. Please contact Internal Audit through your Executive Director or Executive Head of Service.
- 6.11. The Councillors' Code of Conduct similarly sets out a recommended standard of conduct in carrying out their duties together with requirements to disclose details of Pecuniary Interests. The Council has in place a Governance Committee that promotes and maintains high standards of Councillor conduct and assists Councillors to observe the Code of Conduct.

- 6.12. The Constitution provides for executive decisions to be made in an open and accountable manner.
- 6.13. Financial Regulations prescribe the minimum standards for financial controls that must be in place within all processes in all Groups of the Council.
- 6.14. It is the responsibility of each Executive Director and Executive Head of Service to ensure that employees are aware of the measures set out above, that their clusters comply with them and that sound financial controls do exist within their financial systems and procedures.
- 6.15. Executive Directors and Executive Heads of Service should also ensure that guidelines, rules or other written procedures exist and are complied with for specific activities at risk from fraud and corruption.
- 6.16. Each employee and Councillor is responsible for observing these rules and codes. This will go a long way to preventing and detecting improper practice.

7. Recovery of Losses

- 7.1. The Council will seek to recover the losses incurred as a result of fraud and corruption.
- 7.2. Management must inform the Council's Insurance Officer as soon as possible of any potential loss. Details of the case should also be given together with an indication of what recovery action is being attempted.
- 7.3. If anyone under investigation offers money in settlement of any losses to the Council, it should be made clear that any monies offered will be accepted on the following terms:
 - Without prejudice to any other action the Council may wish to take.
 - That acceptance is only in respect of losses identified to date.
 - The Council reserves the right to seek recovery of any further losses that may come to light in the future.
- 7.4. Claims under the Council's insurance arrangements in fraud and corruption cases should be regarded as the "last resort", and will only be instigated once all other avenues of recovery have been fully explored.

8. Fraud Awareness

- 8.1. What motivates a person to commit a fraudulent act is not always easy to determine. Experience and surveys carried out of known frauds show that motivation falls into the following categories:
 - Personal financial problems.

- A corporate ethos that is conducive to corruption (“everyone else is doing it – so I can” syndrome).
- Rivalry or co-operation problems caused by malice or low staff morale.
- Staff feeling they are under-rewarded.
- Egotistical reasons - staff who want to beat the system.
- Peer pressure.
- Strong religious or political beliefs.

8.2. Opportunity can be created by all or some of the following circumstances:

- Changes in systems (procedures, computers, location etc.).
- Changes in personnel (new management, new staff).
- A position of trust.
- The ability to carry out a transaction from start to finish with no other intervention or accountability (e.g. being able to make a payment, cancel a debt etc).
- Lack of audit trail - there is no trace of who committed a fraud.
- An organisational culture that does not support accountability and control.

9. Training

- 9.1. The Council recognises that the success and credibility of its Anti-Fraud and Corruption Policy will depend largely on how effectively it is communicated throughout the organisation and beyond. To this end, details of the Policy will be made available and publicised to all Councillors and all staff and will be referred to in the e-induction module or alternative induction training. It is both managers’ and individuals’ responsibility to ensure that their knowledge of the policies and procedures is refreshed as necessary.
- 9.2. The Council supports the concept of induction training, particularly for officers involved in internal control systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. Those who do not comply with such training requirements may be subject to disciplinary procedures.
- 9.3. The officers involved in the review of internal control systems and investigative work should be thoroughly and regularly trained. The training plans of Internal Audit will reflect this requirement.
- 9.4. It is the responsibility of senior managers to communicate the Anti Fraud and Corruption Policy to their staff and to promote a greater awareness of the possibility of fraud within their services.

10. Conclusion

- 10.1. The Council will maintain a continuous overview of these arrangements and, through the Chief Financial Officer, will ensure in particular a regular review of Financial Regulations, Financial Management and Audit Arrangements.
- 10.2. This Policy Statement will also be subject to regular review at least once every three years.

Havant Borough Council Anti Money Laundering Policy

1.0 INTRODUCTION

1.1 Money laundering can be defined as “a process that makes money with an illegal origin appear legal so that it may be used”. Legislation concerning money laundering (the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007) has broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the obligations now impact on areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.

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

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the Proceeds of Crime Act 2002); or
- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328); or
- acquiring, using or possessing criminal property (section 329).

These are the primary money laundering offences, and are thus prohibited acts under the legislation. There are also two secondary offences: failure to disclose any of the three primary offences and tipping off. Tipping off is where someone informs a person or people who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

1.3 Any member of staff could potentially be caught by the money laundering provisions, if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This policy sets out how any concerns should be raised.

1.4 Whilst the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).

2.0 SCOPE OF THE POLICY

- 2.1 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations. Within this policy the term employees refers to all employees and elected Members.
- 2.2 Anti money laundering legislation places responsibility upon Council employees to combat money laundering and covers a very wide area of financial transactions, including possessing, or in any way dealing with, or concealing, the proceeds of any crime. It applies to all employees involved with monetary transactions.

3.0 MONEY LAUNDERING REQUIREMENTS, FROM THIS COUNCIL'S POINT OF VIEW

- 3.1 Provision of training to relevant officers and staff (or contractor's staff) on the requirements of the legislation, including the identification of suspicious transactions, identity verification and reporting procedures.
- 3.2 Establishment of procedures for employees to report any suspicions to the MLRO – i.e. the Monitoring Officer.
- 3.3 Designation of an officer as the MLRO, who will receive any report, keep records and if considered appropriate, make reports to the Serious Organised Crime Agency (SOCA) - i.e. the Monitoring Officer.
- 3.4 Under the legislation employees dealing with money transactions will be required to comply with certain procedures.

4.0 PROCEDURES

4.1 Customer Due Diligence

Where the Council is carrying out certain 'regulated activities' then extra care needs to be taken to check the identity of the customer or client – this is known as carrying out 'Customer Due Diligence'.

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

- Is the service a regulated activity?
- Is the Council charging for the service i.e. is it 'by way of business'?
- Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is **no** then you do not need to carry out customer due diligence.

If the answer to all of these questions is **yes** then you must carry out customer due diligence before any business is undertaken for that client. If you are unsure whether you need to carry out customer due diligence then you should contact the MLRO.

4.2 Where you need to carry out customer due diligence then you must seek evidence of identity, for example:

- checking with the customer's website to confirm their business address;
- conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
- seeking evidence from the key contact of their personal identity, for example their passport, and position within the organisation.

The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers.

Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.

4.3 If, at any time, you suspect that a client or customer for whom you are currently, or are planning to carry out a regulated activity with, is carrying out money laundering or terrorist financing, or has lied about their identity then you must report this to the MLRO.

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

- the customer has not been physically present for identification;
- the customer is a politically exposed person;
- there is a beneficial owner who is not the customer – a beneficial owner is any individual who: holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

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

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

5.0 RECORD KEEPING PROCEDURES

- 5.1 Each Service of the Council and contractors working for the Council conducting relevant business must maintain records of:-
- a) Client identification evidence obtained; which must be kept for five years after the end of the transaction or relationship
 - b) Details of all relevant business transactions carried out for clients for at least five years from the completion of the transaction. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

The Section 151 Officer must be informed of the existence and location of such records.

- 5.2 The precise nature of the records are not prescribed by law, however, they must provide an audit trail during any subsequent investigation, e.g. distinguishing the client and the relevant transaction and recording in what form any funds were received or paid.

6.0 THE MONEY LAUNDERING REPORTING OFFICER

- 6.1 The Officer nominated to receive disclosures about money laundering activity within the Council is the Chief Financial Officer or Monitoring Officer i.e. The Money Laundering Reporting Officer.
- 6.2 The Deputy Money Laundering Reporting Officers are the Service Manager Finance, Corporate Accountancy Team Leader and Deputy Monitoring Officer.

7.0 INTERNAL REPORTING PROCEDURE

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

- 7.2 Any person knowing or suspecting money laundering, fraud or use of the proceeds of crime must report this to the MLRO on the form(s) as attached.
- 7.3 Upon receiving the report the MLRO will consider all of the admissible information in order to determine whether there are grounds to suspect money laundering.
- 7.4 If the MLRO determines that the information or matter should be disclosed it will be reported to the Serious Organised Crime Agency (SOCA).
- 7.5 During this process the client must not be tipped off.
- 7.6 At no time and under no circumstances should an employee voice any suspicions to the person(s) suspected of money laundering, even if the SOCA has given consent to a particular transaction proceeding, otherwise the employee may be committing a criminal offence of "tipping off". Therefore, no reference should be made on a client file to a report having been made to the MLRO. Should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render the employee liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

8.0 OTHER PROCEDURES

- 8.1 The Council will establish other procedures of internal control and communication as may be appropriate for the purpose of forestalling and preventing money laundering:-
- 8.2 **Regular receipts** - The Council in the normal operation of its services accepts payments from individuals and organisations e.g. in relation to council tax, sundry debtors etc. For all transactions under £2,000 the Money Laundering regulations do not apply but if an employee has reasonable grounds to suspect money laundering activities or proceeds of crime or is simply suspicious, the matter should still be reported to the MLRO.
- 8.3 **Cash receipts** – If the money offered in cash is £10,000 or more, then payment must not be accepted until the employee has received guidance from the MLRO or a deputy MLRO.
- 8.4 **Refunds** - Care will need to be taken especially with the procedures for refunds. For instance, a significant overpayment which results in a repayment will need to be properly investigated and authorised before payment.

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

- 8.5 **Training** – The Council will take, or require its contractor to take, appropriate measures to ensure that relevant employees are:
- a) made aware of the provisions of these regulations, (under the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007); and
 - b) given training in how to recognise and deal with transactions which may be related to money laundering.

CONFIDENTIAL

Disclosure Form to MLRO

Date of disclosure:

Officer making disclosure:

Job title of officer:

Telephone details:

SUBJECT DETAILS

Title:

Surname:

Forename:

DoB:

Gender:

IN THE CASE OF A LEGAL ENTITY (COMPANY)

Name:

Address:

Company Number (if known)

Type of Business:

VAT no (if known):

DETAILS OF SUSPECTED OFFENCE

Nature, value and timing of activity involved:
please include full details e.g. what, when, where, how.

Nature of suspicions regarding such activity:

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

(please tick the relevant box)

Yes No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

(please tick the relevant box)

Yes No

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

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

(please tick the relevant box)

Yes No

If yes, please specify below:

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

(please tick the relevant box)

Yes No

If yes, please set out full details below:

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

(please tick the relevant box)

Yes No

If yes, please set out full 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 5 years imprisonment.

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

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity?

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

(please tick the relevant box)

Yes No

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

Details of liaison with SOCA regarding the report:

Notice Period: to

Moratorium Period: to

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

(please tick the relevant box)

Yes No

If yes, please set out the 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 SOCA, please set out 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 IS TO BE RETAINED FOR AT LEAST FIVE YEARS

Glossary of terms

Regulated activity	The provision 'by way of business' of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of €15,000 or more
Politically exposed person	An individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/body, their immediate family members or close associates.

Money Laundering - Warning Signs

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

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

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

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

Examples of tell tale signs of organised money laundering:

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