



# ***ROYAL BOROUGH OF KINGSTON UPON THAMES***

## ***Anti-Fraud Framework***

***Revised: January 2016***

## INTRODUCTION

### ***Message from the Strategic Leadership Team***

***The Council puts probity and accountability high on its agenda and takes fraud and corruption seriously. The message is clear that malpractice in any form will not be tolerated.***

***A key priority for the Council is ensuring probity, standards and transparency in all our business and decision-making. This is at the heart of our Anti-Fraud culture.***

***We know that the majority of our residents, service users, partners, contractors, elected Members and staff are honest. However we also appreciate that fraud exists and that we have a duty to protect the honest majority. The Anti-Fraud Framework provides the Council with a sound basis on which to do this.***

### ***Preamble***

The Anti-Fraud Framework sets out the Council's policies and strategies in relation to fraud and corruption and has the full support of the Council's Members and Strategic Leadership Team.

The Council is committed to the highest standards of propriety in the delivery of its services and management of its resources and assets. Good corporate governance, probity and transparency in the conduct of all our business and decision making is essential to the successful delivery of Destination Kingston.

The Council recognises its fiduciary responsibility to protect public funds. We will endeavour to maintain robust systems and high standards of conduct including honesty, openness and accountability and recognise that Members, employees, our contractors and partners with whom we work with to deliver services, all have an essential role to play in achieving this goal.

The Anti-Fraud framework brings together the Council's anti-fraud policies and strategies into one framework document. Staff and Members are expected to read the framework, seek clarification where necessary and apply its principles fairly and consistently in the conduct of their duties.

The Anti-Fraud Framework includes the following:

- Part 1 – Anti-Fraud Strategy
- Part 2 – Whistleblowing Policy
- Part 3 – Anti-Bribery Policy
- Part 4 – Anti-Money Laundering Policy



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## PART 1 ANTI-FRAUD STRATEGY

### POLICY STATEMENT

1. The Council aims to provide excellent public service and needs to ensure propriety and accountability in all matters. The Council is determined to protect itself and the public from fraud and corruption and is committed to the rigorous maintenance of a strategy for the prevention and detection of fraud and corruption, which will provide a framework for:
  - encouraging fraud deterrence and prevention
  - raising awareness of fraud and corruption and promoting their detection
  - performing investigations and facilitating recovery
  - invoking disciplinary proceedings and referral to Police
  - taking action to remedy weaknesses in controls and processes
  - monitoring, publishing and updating the policy and its related procedures and performance
  
2. Our strategy is designed to reduce the Council's exposure to the risks of fraud and reduce resulting losses. We achieve our aims through 3 key themes: Acknowledge, Prevent and Pursue. These themes exist within the overall context of an anti-fraud culture promoted by the Council through its leaders, governance arrangements and general approach to fraud:

<p><b>ACKNOWLEDGE</b></p> <p><i>Acknowledging and understanding fraud risks:</i></p>	<ul style="list-style-type: none"> <li>• Committing support to tackling fraud.</li> <li>• Being clear on what we are seeking to combat – we are clear about what constitutes fraud, bribery, theft, and financial malpractice/ irregularities.</li> <li>• Assessing and understanding the risks – we are proactive in assessing and responding to the risks of fraud and corruption to which the Council is exposed.</li> </ul>
<p><b>PREVENT</b></p> <p><i>Preventing and detecting fraud</i></p>	<ul style="list-style-type: none"> <li>• having an effective anti-fraud culture – we take a professional, integrated and proactive approach to countering fraud and are clear about the roles and responsibilities of our members, staff, partners and contractors.</li> <li>• We have a corporate framework which underpins the operation of the Council and has a number of elements which exist to help protect the Council against fraud. This includes documented codes, procedures and protocols to guide behaviour</li> <li>• Anti-Fraud training is essential in ensuring that staff and members understand the importance of tackling fraud, are able to recognise fraud and abuse and know how and where to report suspicions of fraud. Continuous and active promotion of the councils robust stance against fraud and corruption should also be made to members of the public, contractors and partners to whom we work with to deliver services</li> </ul>

	<ul style="list-style-type: none"> <li>• Making use of information and technology</li> </ul>
<p><b>PURSUE</b></p> <p><i>Being robust in pursuing and punishing fraud and recovering losses</i></p>	<ul style="list-style-type: none"> <li>• taking integrated action to investigate fraud;</li> <li>• pursuing appropriate and proportionate sanctions to punish those committing fraud;</li> <li>• seeking redress to recover losses;</li> <li>• learning from our experiences and those of others and taking remedial and positive action to improve controls to prevent future fraud losses.</li> <li>• Collaborating across local authorities and with other agencies including the police</li> </ul>

## **ACKNOWLEDGE**

### **COMMITTING SUPPORT TO TACKLING FRAUD**

3. There is strong support for counter fraud work at a senior level, led by the Leader, the Chief Executive and the Director of Finance and this is critical to underpinning the Council's successful counter fraud response. This is reflected in the Council's Anti-Fraud Framework which identifies clear commitment, leadership, authority, support, resources and skills necessary for the Council to protect itself against fraud.
4. Our Members and our chief officers set the tone for our stance on fraud & corruption and are committed to leading a professional, integrated and proactive approach.

### **WHAT WE ARE SEEKING TO COMBAT?**

#### **WHAT IS FRAUD?**

5. The Fraud Act 2006 (the 2006 Act), which came into force on 15 January 2007, introduced the first legal definitions of fraud. The Act creates a new general offence of fraud which may be committed in three ways:
  - fraud by false representation (e.g. using a false identity to gain a benefit or job or tenancy)
  - fraud by failing to disclose information (e.g. failing to disclose income when making a claim for benefits or other means-tested services)
  - fraud by abusing a position of trust (e.g. misusing clients' funds).
6. The 2006 Act also created new offences of:
  - obtaining services dishonestly
  - possessing, making and supplying articles for use in frauds
  - fraudulent trading applicable to non-traders.



7. The 2006 Act sets out what is required before fraud is committed in any of the specified ways. However, in general terms, to commit the new fraud offence, a person's conduct must be dishonest and by it he/she must intend to make a gain for him/herself or another, or to cause a loss to another, or expose another to a risk of loss.
8. The Council also seeks to take civil action (e.g. claim for misrepresentation, deceit or disciplinary or regulatory action) in cases of suspected fraud, where appropriate. In civil law, fraud is proved when it is shown that a false representation has been made:
  - a) knowingly;
  - b) without belief in its truth; or
  - c) recklessly, careless whether it is true or false.
9. Fraud includes false accounting, which is defined under Section 17 of the Theft Act 1968.
10. For the purposes of this policy and strategy, fraud is defined as ***any dishonest act or omission, whether by fraudulent representation, failure to disclose information, or abuse of position, by an individual, group or organisation, which is intended to make a gain, or cause a loss, or risk of loss (whether or not an actual gain has been made or loss suffered) to the Council, the residents of the Borough, or the wider national community.***
11. This definition is not intended to, nor shall it, limit any investigation by the Council into any alleged fraud, nor shall it prejudice or in any way compromise any criminal prosecution or civil action taken in respect of it.

## **WHAT IS BRIBERY?**

12. Bribery is offering, promising or giving of financial or other advantages designed to induce an individual to take an improper decision or action. These inducements can take many forms including cash, holidays, event tickets, meals. Bribery is a criminal offence, set out in the Bribery Act 2010. Some of areas of activity, which may be particularly susceptible to bribery include:
  - procurement (contracts and commissioning)
  - grants
  - asset disposal
  - planning consents
  - licenses and other approvals
13. Although the strategy largely refers to fraud, the same roles and responsibilities of key stakeholders and the framework for prevention and detection apply to bribery. The Council has an Anti-Bribery Policy and this forms part of the overarching Anti-Fraud Framework (Part 3).

## **WHAT IS THEFT?**

14. Theft is defined in Section 1 of the Theft Act 1968 as “dishonestly appropriating property belonging to another with the intention of permanently depriving the other of it”. It therefore includes stealing any property belonging to the Council, or which has been entrusted to it (e.g. client funds), including cash, equipment, vehicles, and data. The offence of theft does not necessarily require fraud for it to be committed. Theft can also include the stealing of property belonging to our staff, members or visitors whilst on Council premises.

## **WHAT IS FINANCIAL MALPRACTICE/IRREGULARITY?**

15. Financial malpractice or irregularity is used to describe any acts or omissions which represent a deliberate serious breach of accounting principles, financial regulations or any of the Council’s financial governance arrangements. They do not have to result in personal financial gain. They will include situations where undisclosed conflicts of interest result in some form of other benefit.

## **OTHER OFFENCES**

16. There are other common law offences relevant to this policy and strategy and the definitions given herein are not intended to, nor shall they, limit any investigation by the Council into any alleged offence, nor shall they prejudice or in any way compromise any criminal prosecution or civil action taken in respect of it.
17. For example there is an offence of misconduct in public office which is committed where a public officer acting in his/her public office wilfully neglects to perform his/her duty and/or wilfully misconducts him/herself to such a degree as to amount to an abuse of the public’s trust in the office holder, without reasonable excuse or justification.
18. There are also various offences dealing with the unauthorised disclosure of information obtained by public officers in the exercise of any power conferred, or duty imposed, by or under the statute or for the purposes of any functions under the statute.
19. There are also offences concerned with corrupt practices in elections.

## **ASSESSING THE RISKS**

20. Our Anti-Fraud strategy is informed by a good understanding of the fraud threat, emerging risks and savings that can be made from investing in countering fraud.
21. It is important to remember that fraud, corruption, theft and other losses are always a risk to the Council, our residents and the public purse. Failure to manage these risks presents opportunities to individuals, groups or organisations intent on making a dishonest gain or causing a loss.
22. The Council has a methodology for identifying, assessing and managing risks. The risks of fraud, corruption, theft and other impropriety are covered by our methodology.

23. Because we have a particular desire to counter fraud & corruption, we expect the risks of fraud & corruption to be considered explicitly by our managers and staff so that we can gain an overall picture of our risk exposures in this respect. Our Joint Anti-Fraud Forum with the London Borough of Richmond is responsible for overseeing the Council's fraud risk register and this is reviewed by the Strategic Leadership Team and our Audit, Governance and Standards Committee as part of an annual assessment process.
24. Our overall assessment of the risks takes account of both our judgements on the likelihood and impact of our exposures and also our known losses to fraud & corruption, and the experiences of similar organisations.
25. This risk based approach to fraud enables the Council to manage risk more effectively and target resources more efficiently. Considering fraud risks as part of an organisation-wide risk assessment means that we are better able to assess our overall vulnerability to fraud and identify areas that are most likely to be affected.

## **PREVENT**

### **ANTI FRAUD CULTURE**

26. Underpinning any preventative approach is a strong Anti-Fraud culture that is driven and implemented from the top down. One where both Members and Officers uphold the highest standards of conduct and propriety and follow in full the 'Nolan' principles of public life:
  - ***Selflessness***
  - ***Integrity***
  - ***Objectivity***
  - ***Accountability***
  - ***Openness***
  - ***Honesty***
  - ***Leadership***
27. The Council operates within a clear professional and ethical framework where matters of propriety and high standards of conduct are paramount for all our members, staff, partners and contractors. They are expected to lead by example and to conduct themselves beyond reproach. They are required to adhere to rules and regulations and to National and Local Codes of Conduct.
28. The Council requires all individuals and organisations with which it deals in any capacity to behave towards the Council with integrity and without intent to defraud or corrupt.
29. Members, Council employees and members of the public are important elements in the stance against fraud and corruption and are positively encouraged to raise any concerns they may have on these issues which impact on Council activities

30. We mobilise the honest majority against the dishonest minority and create a strong anti-fraud & corruption culture. Our members, staff, partners, contractors and the public are in no doubt about our intolerance of, and commitment to tackle, fraud & corruption through our policy stance, promotions and leadership.
31. We create an environment in which countering fraud & corruption is the responsibility of all those living and working within the Royal Borough of Kingston upon Thames.
32. The following table sets out our expectations of our members, staff, contractors and partners, and describes their formal roles and responsibilities for countering fraud:

**TABLE 1: ROLES AND RESPONSIBILITIES**

Role	Responsibility
<b><u>All Members</u></b>	<ul style="list-style-type: none"> <li>• Act in a manner which sets an example to the community and to staff</li> <li>• Comply with the Member Code of Conduct, other locally adopted protocols for behaviour, and other aspects of the Council's constitution concerning financial governance</li> <li>• Be alert to the red flags that may indicate fraud &amp; corruption (see counter fraud &amp; corruption awareness guidance)</li> <li>• Report genuine suspicions of fraud, corruption or other financial irregularities to the South West London Fraud Partnership (SWLFP-Investigations Service).</li> </ul>
<b>Leader of the Council</b>	<ul style="list-style-type: none"> <li>• Acts as the Council's member lead for counter fraud &amp; corruption to promote the policy, strategy and framework internally and externally.</li> </ul>
<b>Treasury Committee</b>	<ul style="list-style-type: none"> <li>• Endorses the policy, strategy and framework</li> <li>• Sets the tone for the Council's stance on counter fraud.</li> </ul>
<b>Audit, Governance and Standards Committee</b>	<ul style="list-style-type: none"> <li>• Approves the policy, strategy and framework annually</li> <li>• Monitors implementation of the policy, strategy and framework, primarily through the work of the South West London Audit Partnership (Internal Audit) and the South West London Fraud Partnership. In particular: <ul style="list-style-type: none"> <li>– ensures fraud risks are identified, assessed and managed adequately and effectively</li> <li>– ensures that the overall level and nature of the investment made in counter fraud work is adequate and effective and provides for a professional, integrated and proactive approach</li> <li>– Receives updates on fraud work undertaken, fraud risks and reports on significant frauds identified. The Audit, Governance and Standards Committee will review and monitor management action taken to redress control issues identified as a result of significant frauds.</li> </ul> </li> <li>• Promotes and maintains high standards of conduct amongst elected, co-opted and advisory members and employees (including the declaration and registration of interests)</li> <li>• Advises the Council on the adoption of a Code of Conduct for Councillors and its effective implementation, including member training and advice</li> <li>• Determines appropriate action on local standards matters.</li> </ul>

Role	Responsibility
<b><u>All Staff</u></b>	<ul style="list-style-type: none"> <li>• Act in a manner which sets an example to the community and to other staff</li> <li>• Comply with the Employee Code of Conduct and financial governance arrangements (e.g. Contract Standing Orders and Financial Regulations)</li> <li>• Be alert to the red flags that may indicate fraud &amp; corruption</li> <li>• Report genuine suspicions of fraud, corruption or other financial irregularities to the South West London Fraud Partnership.</li> </ul>
<b>Strategic Leadership Team</b>	<ul style="list-style-type: none"> <li>• Approves the policy, strategy and framework annually</li> <li>• Assesses the overall exposure to fraud &amp; corruption risks annually</li> <li>• Considers any new or increased exposures to fraud &amp; corruption that are drawn to its attention</li> <li>• Ensures that the overall level and nature of the investment made in counter fraud &amp; corruption work is adequate and effective and provides for a professional, integrated and proactive approach.</li> </ul>
<b>Directorate Management Teams</b>	<ul style="list-style-type: none"> <li>• Assess the exposure to fraud risks in Directorate activities annually</li> <li>• Consider any new or increased exposures to fraud &amp; corruption in Directorate activities</li> <li>• Escalate serious concerns as appropriate</li> <li>• Ensure that the action taken to address fraud &amp; corruption risks in Directorate activities is adequate and effective (whether aimed at prevention, deterrence or detection).</li> </ul>
<b>Service Management Teams</b>	<ul style="list-style-type: none"> <li>• Assess the exposure to fraud risks in Service activities annually</li> <li>• Consider any new or increased exposures to fraud &amp; corruption in Service activities</li> <li>• Escalate serious concerns as appropriate</li> <li>• Ensure that the action taken to address fraud &amp; corruption risks in Service activities is adequate and effective (whether aimed at prevention, deterrence or detection).</li> </ul>
<b>Programme/ Project Teams</b>	<ul style="list-style-type: none"> <li>• Assess the exposure to fraud risks in Programme/ Project activities annually</li> <li>• Consider any new or increased exposures to fraud &amp; corruption in Programme/ Project activities</li> <li>• Escalate serious concerns as appropriate</li> <li>• Ensure that the action taken to address fraud risks in Programme/ Project activities is adequate and effective (whether aimed at prevention, deterrence or detection).</li> </ul>
<b><u>All Chief Officers</u></b>	<ul style="list-style-type: none"> <li>• Set the tone for the Council's stance on counter fraud &amp; corruption</li> </ul>
<b>Chief Executive</b>	<ul style="list-style-type: none"> <li>• Acts as the Council's Head of Paid Service to promote a strong anti fraud &amp; corruption culture.</li> </ul>
<b>Director of Finance</b>	<ul style="list-style-type: none"> <li>• Acts as the Council's Section 151 Officer with regard to probity and propriety</li> <li>• Receives reports on significant frauds and fraud risks identified and ensures that appropriate action is taken to redress these.</li> </ul>
<b>Head of Corporate Governance</b>	<ul style="list-style-type: none"> <li>• Acts as the Council's officer lead for counter fraud &amp; corruption to promote and implement the policy and strategy internally and externally</li> <li>• Accountable for the Council's counter fraud &amp; corruption framework.</li> </ul>

Role	Responsibility
Strategic and Service Directors	<ul style="list-style-type: none"> <li>• Lead the Directorate's activities to counter fraud &amp; corruption.</li> </ul>
Heads of Service	<ul style="list-style-type: none"> <li>• Lead the Service's activities to counter fraud &amp; corruption.</li> </ul>
Programme and Project Managers	<ul style="list-style-type: none"> <li>• Lead the Programme / Project's activities to counter fraud &amp; corruption.</li> </ul>
Partnership leads	<ul style="list-style-type: none"> <li>• Assess the Council's exposure to fraud and corruption risks from Partnership activities annually</li> <li>• Consider any new or increased Council exposures to fraud &amp; corruption from Partnership activities</li> <li>• Escalate serious concerns as appropriate</li> <li>• Ensure that the action taken to address the Council's fraud &amp; corruption risks from Partnership activities is adequate and effective (whether aimed at prevention, deterrence or detection).</li> </ul>
<u>All Managers</u>	<ul style="list-style-type: none"> <li>• Take responsibility to counter fraud &amp; corruption in activities for which they are responsible</li> <li>• Escalate serious concerns as appropriate</li> <li>• Work with others to ensure appropriate investigation of concerns (e.g. South West London Audit Partnership (Internal Audit), South West London Fraud Partnership (Investigations), Human Resources and Corporate Solicitor / South London Legal Partnership.</li> <li>• Have a duty to protect their service areas from losses due to fraud and irregularity and are responsible for implementing robust and proper internal controls. This includes being familiar with fraud risks in their service area and ensuring that sound controls are in place to mitigate those risks to acceptable levels.</li> </ul>
South West London Audit Partnership (Internal Audit) and South West London Fraud Partnership (SWLFP- Investigations Service)	<ul style="list-style-type: none"> <li>• Ensures policies, strategies and procedures are adequate and effective</li> <li>• Provides guidance and support in fraud &amp; corruption risk assessments and in appropriate risk management action</li> <li>• Ensures co-ordinated action is taken to counter fraud &amp; corruption, working with others as appropriate (e.g. Democratic Services, Human Resources, Corporate Solicitor / South London Legal Partnership, members, directors, managers and other external agencies where necessary)</li> <li>• Leads on investigations, sanctions, redress and lessons learned/ remedies</li> <li>• Provides an objective opinion on counter fraud &amp; corruption policies and procedures and their effectiveness in practice</li> <li>• Undertakes checks on controls and procedures as part of its internal audit work</li> <li>• Ensures control and other weaknesses revealed from events are addressed</li> <li>• Involvement in new system design or advice on changes to systems and processes to identify and eliminate fraud risks and gaps in control.</li> <li>• Providing regular reports to Audit, Governance and Standards Committee on fraud work undertaken</li> <li>• Leads on the Council's fraud risk register in conjunction with Senior Managers and the Anti-Fraud Forum</li> </ul>

Role	Responsibility
	<ul style="list-style-type: none"> <li>• Undertakes a programme of proactive fraud work based on the Council's assessment of its key fraud risks.</li> <li>• Participation in National Anti-Fraud initiatives (NFI) and other data matching exercises.</li> </ul>
Democratic Services	<ul style="list-style-type: none"> <li>• Supports member policies and procedures in adequately addressing counter fraud &amp; corruption matters, working with the Audit, Governance and Standards Committee as appropriate (e.g. training and development, member code of conduct, investigation procedures).</li> </ul>
Human Resources	<ul style="list-style-type: none"> <li>• Ensures employee policies and procedures adequately address counter fraud &amp; corruption matters, working with the South West London Audit Partnership (Internal Audit) and South West London Fraud Partnership (Investigations Service) as appropriate (e.g. organisational culture initiatives, training and development, employee code of conduct, whistleblowing procedure, disciplinary procedures, employee surveys)</li> <li>• Arranges and ensures proprietary checking for employees</li> <li>• Ensures investigatory and disciplinary action against an employee is undertaken in accordance with the Council's employee and disciplinary procedures.</li> </ul>
Corporate Solicitor and South London Legal Partnership	<ul style="list-style-type: none"> <li>• Ensures actions are lawful through the role of the Monitoring Officer – establishing and monitoring compliance with policies, procedures and frameworks, e.g. Regulation of Investigatory Powers Act 2000 (RIPA), Whistleblowing Policy</li> <li>• Advises on evidence prior to submission to police or disciplinary/regulatory procedures</li> <li>• Authorises and conducts legal proceedings on behalf of the Council, subject to any necessary member authorisations.</li> </ul>
Contractors and partners	<ul style="list-style-type: none"> <li>• Declare probity concerns (e.g. at pre-qualification stage)</li> <li>• Maintain strong counter fraud &amp; corruption principles and measures (covering, for example, recruitment, proprietary checking of employees and sub-contractors, own whistleblowing procedures and/or use of the Council's procedures, gifts and hospitality rules and registers, and compliance with the Council's Contract Standing Orders and Financial Regulations)</li> <li>• Certify an understanding that collusion and inducements lead to disqualification</li> <li>• Provide required evidence of application of principles and procedures</li> <li>• Provide appropriate access to premises, records and personnel to Council staff and auditors</li> <li>• Cover the Council's losses from fraud perpetrated by employees of the contractor or people acting on the contractor's behalf</li> <li>• Work with the SWLFP on pro-active Anti-Fraud exercises where appropriate.</li> </ul>
Joint Anti-Fraud Forum	<ul style="list-style-type: none"> <li>• Act as a focal point to disseminate best practice, discuss cross-departmental and organisational fraud, information sharing, highlighting examples of cross departmental and organisational co-operation, publicity and generally promoting an effective Anti-Fraud culture within the Borough.</li> <li>• Oversee, review and update the Council's Fraud Risk Register to ensure that fraud risks are identified, effectively mitigated and</li> </ul>



Role	Responsibility
	where they are not, identify action to manage those risks and breach gaps in control.
External Audit	<ul style="list-style-type: none"> <li>Assesses the adequacy and appropriateness of the Council's financial systems and the integrity of public funds.</li> <li>Undertakes specific reviews where appropriate to test the adequacy of the Council's arrangements for preventing and detecting fraud and corruption</li> <li>External Audit are informed of any significant cases of fraud or corruption which may have a material impact on the Authority's accounts.</li> </ul>
Corporate Solicitor (Monitoring Officer)	<ul style="list-style-type: none"> <li>Receives reports on significant frauds identified and ensures that appropriate action taken is lawful and appropriate.</li> <li>Is alerted of whistleblowing cases and reviews and reports on these where appropriate.</li> </ul>

## CORPORATE FRAMEWORK

33. The Council takes ultimate responsibility for the protection of public funds including those administered on behalf of the Government or others in the community. The corporate framework, which underpins the operation of the Council, has a number of elements that exist to help protect the Council against fraud:

Table 2: Corporate Framework

<b>The Constitution</b>	The Council's Corporate Governance arrangements are set out in its <a href="#">Constitution</a> . This sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose
<b>Procurement procedures</b>	Including <a href="#">Contract Standing Orders and Financial Regulations</a>  <a href="https://intranet.kingston.gov.uk/task/buy-procure-goods-or-services/">https://intranet.kingston.gov.uk/task/buy-procure-goods-or-services/</a>
<b>Scheme of Delegation</b>	This sets out the Council's decision making arrangements and levels of authority to members and officers and forms part of the Council's Constitution.
<b>Members and Employee Codes of Conduct</b>	The Codes of Conduct set out clear standards of conduct which members and officers must comply with as part of their duties in public office and working for the Council.
<b>Declaration of Interests and Gifts and hospitality procedures for Members and Officers</b>	In accordance with the <a href="#">Employee Code of Conduct</a> , employees are required to <a href="#">declare any interests</a> they have outside their employment which can cause actual or perceived conflicts between their individual interests and those of the Council and can therefore affect their capacity to make effective decisions on behalf of the Council. The Employee Code of Conduct also provides rules on the



	<p>receipt and registering of <a href="#">gifts and hospitality</a>.</p> <p>The Members Code of Conduct requires Members to formally register their interests and gifts and hospitality. These can be accessed on-line via the Council's website</p>
<b>Employee Vetting Procedures</b>	<p>The Council recognises that one of the most important issues relating to the prevention of fraud and corruption is the recruitment of staff. Rigorous recruitment procedures are applied to all staff to ensure that we employ staff who have the highest standards of probity. Recruitment procedures are in place and these must be followed with particular reference to obtaining satisfactory references prior to appointment, verifying certificates for stated qualifications and undertaking Disclosure and Barring Service checks where appropriate.</p>
<b>A corporate induction programme</b>	<p>This includes expected standards for probity and conduct</p>
<b>Effective disciplinary procedures</b>	<p><a href="#">Disciplinary procedures</a> provide a framework for dealing with an employee's conduct, including fraud.</p>
<b>Whistleblowing Policy</b>	<p>The Whistleblowing policy has been developed in accordance with the provisions of the Public Interest Disclosure Act 1998. Employees including agency staff and contractors are encouraged to report their concerns in accordance with this policy. This forms part of the Council's overarching Anti-Fraud Framework (Part 2).</p> <p>With whistleblowing, it is important to remember that the Whistleblowing Policy is not concerned just with fraud, corruption and other financial irregularities as it is designed to enable staff and contractors to 'blow the whistle' on all kinds of dangerous or illegal activity including fraud, health and safety concerns, environmental issues and poor standards of care. However, the Policy is clear on the Council's stance on fraud &amp; corruption and misuse of public funds and makes it clear that suspicions of fraud, corruption or other financial irregularity should be reported, either by the 'whistleblower' or the person to whom they blew the whistle, to the <b>South West London Audit Partnership (Internal Audit) on 020 8547 4624 or the South West London Fraud Partnership (Investigations Service) on 020 871 8383.</b></p> <p>We monitor the use of our whistleblowing policy so that we can understand and respond to the sources and nature of concerns.</p>
<b>Confidential Fraud Hotlines and 'Report It' facility.</b>	<p>Hotlines have been established to allow staff, Members and the public to raise concerns. Reports can be raised anonymously although individuals are encouraged to leave as much information as possible to assist with the investigation.</p>

	<p><b>For Council Tax Reduction and Council Tax Fraud, Telephone: 020 8871 8383 or email: <a href="mailto:swlfp@wandsworth.gov.uk">swlfp@wandsworth.gov.uk</a></b></p> <p><b>For Fraud against the Council</b> e.g. Whistleblowing and other irregularities <b>(Telephone 020 8871 8383)</b></p> <p>Staff, service users and members of the public can also contact <b>the South West London Audit Partnership (Internal Audit) direct on Telephone 020 8547 4624 or the South West London Fraud Partnership (Investigations Service) direct on Telephone 020 8871 8383.</b></p> <p>An on-line <b>'Report It'</b> facility is also available on the Council's website to allow the public to report issues relating to a number of incidents including missed bin collections and fly tipping.</p>
<b>Anti-Fraud framework and strategy</b>	An Anti-Fraud framework has been established which provides the structure within which the Council aims to protect itself against fraud and corruption. The Anti-Fraud Strategy forms part of the overarching framework and includes clearly defined roles and responsibilities.
<b>Internal systems, controls and procedures</b>	<p>The Council's Standing Orders, Financial Regulations and Scheme of Delegation together with departmental procedures set out a framework for dealing with the affairs of the Council and all employees have a duty to comply with these provisions. Thorough documentation, including operational procedures are expected for all financial and key operating systems and these should be issued to relevant staff. These should be subject to review in line with best practice to ensure that efficient and effective internal controls are in place to deter fraudulent activity and to detect error.</p> <p>Managers must also be committed to continually improve the systems they are responsible for, both through their own assessments and by positive response to audit recommendations. Not only must they ensure that appropriate procedures are in place but that these are being complied with consistently. This includes ensuring that a satisfactory segregation of duties and system of internal check is maintained at all times and that the integrity of data is maintained.</p>
<b>Corporate complaints procedures</b>	The Corporate complaints procedure has been established to allow complaints against the Council to be raised and dealt with formally. This includes complaints relating to allegations of fraudulent or corrupt behaviour.
<b>South West London Audit Partnership (Internal Audit) and South West London</b>	South West London Audit Partnership & South West London Fraud Partnership have work programmes that include proactive work, determined by formal risk assessment (see also Table 1 above).

<b>Fraud Partnership (Investigations Service)</b>	
<b>Data matching</b>	Participation in National Anti-Fraud initiatives and other data matching exercises.
<b>Anti-Fraud awareness and Training</b>	Publicity and training is an essential part of an effective Anti-Fraud culture, including knowing when and where to report suspicions of fraud and having confidence in those arrangements (see below).
<b>Work with Schools</b>	<p>The South West London Audit Partnership undertake audit work as part of the transfer of schools to Academy status and offer a continued service to Academies as part of an agreed SLA covering both internal audit and fraud investigation work.</p> <p>A regular programme of fraud briefings and awareness sessions are provided to Headteachers and Finance Officers.</p> <p>Achieving for Children (AfC) has established its own Anti-fraud and Whistleblowing Policies.</p>

## **ANTI-FRAUD AWARENESS AND TRAINING**

34. We have a programme of training in fraud awareness for our members and staff, with specific training aimed at areas at high risk of fraud. We also ensure those with formal, professional responsibilities under our counter fraud & corruption framework (see Table 1 above), receive training to meet these responsibilities.
35. Knowing when and where to report suspicions of fraud and having confidence in those arrangements is an important part of an effective Anti-Fraud culture. Our mechanisms include our Whistleblowing Policy, confidential fraud hotlines (benefit fraud and general fraud numbers and emails) and our online 'Report It' facility for the public. These mechanisms are clearly detailed in the Council's Anti-Fraud Framework and on its internet and intranet sites.
36. We publicise, both internally and externally, summaries of our activity and achievements in countering fraud & corruption. This includes regular updates to Audit, Governance and Standards Committee.
37. We issue regular reminders of our stance, e.g. through the annual Council Tax leaflet, through our staff payslips, and through the website and intranet.
38. We also always seek maximum publicity where we undertake or have been party to a successful prosecution where the resulting sentence is considered to be a deterrent to others, for example through press releases and on the Council's website. Other sanctions applied are often publicised too, as appropriate.

## MAKING USE OF INFORMATION AND TECHNOLOGY

39. In addition to our human detection processes, we also have a programme of analytical and computerised detection. We proactively identify the areas at greatest risk of fraud, corruption and other irregularities and use that knowledge to inform our programme of detection activity and proactive work.
40. Our methods of computerised detection include:
  - data matching initiatives (such as the National Fraud Initiative and the Housing Benefit Data Matching Service)
  - data sharing with partners in accordance with agreed protocols and frameworks
  - analytical intelligence techniques to determine unusual trends, anomalies and patterns that may indicate fraud or corruption.

## PURSUE

### INVESTIGATION

41. Material instances of fraud or irregularity in the Council are investigated by the South West London Fraud Partnership (SWLFP-Investigations Service), on behalf of the Director of Finance. In the event of irregularities involving misconduct by a Member, the Audit, Governance and Standards Committee, the Monitoring Officer or an Investigating Officer on his behalf, are likely to be involved if a possible breach in the Code of Conduct has occurred.
42. Where a Housing Benefit fraud has been committed, this will be investigated by the Department for Work & Pensions (DWP). Benefit investigation (this covers Housing Benefit & Council Tax Benefit but **not Council Tax Reduction**) is now the responsibility of the DWP under the Single Fraud Investigation Service (SFIS). There is a process for referring cases to SFIS and for sharing information.
43. Where a Council Tax Reduction fraud has been committed, this will also be investigated by the South West London Fraud Partnership.
44. All referrals are risk assessed and where there are reasonable grounds to suspect fraud, corruption or other financial irregularity, an investigation will take place in accordance with agreed investigation procedures.
45. Depending on the nature of the investigation, the South West London Fraud Partnership will normally work closely with management and other agencies such as the Police to ensure that all matters are properly investigated and reported on.
46. Evidence gathered as part of the investigations may be used for:

- **disciplinary or regulatory** action
  - **civil** action to preserve assets and recover money, interest and costs
  - **criminal** prosecution - resulting in imprisonment, penalties, fines, orders, etc.
47. Investigations are undertaken with due regard to key legislation including (but not limited to) the Data Protection Act 1998, The Police and Criminal Evidence Act 1984 (PACE), The Fraud Act 2006, the Social Security Administration Act 1992 (SSAA) and the Regulation of Investigatory Powers Act 2000.
48. Where referrals affect other agencies, such as the DWP or another council or partner, the South West London Fraud Partnership will make early contact with those agencies to provide them with information under the confines of the Data Protection Act and where applicable, joint investigations will be undertaken.

### **SANCTIONS (SANCTIONS POLICY)**

49. The Council seeks to apply appropriate criminal, civil, including disciplinary/regulatory, sanctions in all cases where the evidence suggests that fraud, corruption or financial irregularities or malpractice have been committed.
50. Sanctions are determined at the end of an investigation, subject only to applying any necessary interim or precautionary measures or sanctions, for example to prevent continuing fraudulent or corrupt activity or behaviour.
51. The Council seeks the strongest possible sanction against any individual or organisation that defrauds, or seeks to defraud, the public purse. Our use of sanctions applies equally to any fraud against us or against funds for which we are responsible.
52. A range of sanctions is available to the Council. These include disciplinary action, civil proceedings, criminal proceedings, confiscation proceedings, formal cautions and administrative penalties. In appropriate cases we take more than one form of action. For example, where staff have defrauded the Council we may take disciplinary, prosecution and civil recovery action.
53. Where the Council takes action, the decision to refer cases for prosecution is taken by the Head of Internal Audit and Investigations in conjunction with the Corporate Solicitor and/or South London Legal Partnership.
54. In considering whether it is appropriate to prosecute for an offence it is generally accepted that there are two 'tests' to be applied – the evidential test and the public interest test. These are currently set out in the Code for Crown Prosecutors. The Prosecutor will consider both tests before approving a prosecution but will only go onto consider the Public Interest test where he/she believes that the Evidential Test is satisfied.

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57. To meet the **Evidential Test**, the Prosecutor must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction' bearing in mind that the Prosecution is required to prove its case to the criminal standard of proof, i.e. 'beyond a reasonable doubt', or so as to be sure. The evidence must be acquired in a form which can be used by the court, be admissible and be reliable. If there is not sufficient evidence, the case cannot go ahead no matter how important the case or how strong the public interest is in favour of prosecution. Consideration must be given to how the defence case may affect the prosecution case. If necessary an advice file will be sent to the prosecutor for their opinion.
58. The **Public Interest Test** in each case will be considered where there is enough evidence to provide a realistic prospect of conviction. In serious cases a prosecution usually takes place unless there are sufficient public interest factors against prosecution. Public interest factors that affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender. Aggravating factors may increase the need to prosecute while mitigating factors may suggest that another course of action, such as offering a sanction, is more appropriate.
59. To ensure that a 'realistic prospect of conviction' exists, investigations are conducted in accordance with relevant legislation and in line with published Codes of Practice and Guidance on evidence gathering, interviewing and rules of disclosure. Evidence is independently examined and if the Public Interest test is satisfied, the case file is passed on to either the Council's Corporate Solicitor and/or South London Legal Partnership, the DWP or the Crown Prosecution Service (CPS) via the police. All prosecutors will then consider the evidence to ensure that both tests are met.
60. Our sanctions policy with regard to the most common types of fraud & corruption is set out below;
  - housing fraud
  - Council Tax & Council Tax Reduction fraud
  - other fraud
  - staff fraud & corruption
  - Member fraud & corruption.

## Housing Fraud

61. In all cases of fraudulent housing or homeless applications, where a tenancy has been obtained, the Council will work with the housing provider to seek repossession of the property and recovery of any financial losses. The Council's view is that one property lost to fraud is one less property available to use for genuine applicants.
62. Frauds committed by housing and homeless applicants are also considered for criminal prosecution.
63. The factors that affect our decision to prosecute are based on the evidential and the public interest tests in line with the Code for Crown Prosecutors.
64. Where Council properties have been sublet or are abandoned the Council always seeks repossession of the property and recovery of any financial losses. Under the new Prevention of Social Housing Fraud Act 2013, the Council will seek to prosecute in appropriate cases and can now be granted unlawful profit orders (UPO's). An "unlawful profit order" is an order requiring the offender to pay the landlord an amount representing the profit made by the offender as a result of the conduct constituting the offence. These can be granted by both the criminal court and the civil courts and can be done without having to prosecute.

## Other Fraud

65. In all other cases of fraud, for example direct care payments, renovation grants, voluntary sector grants, regeneration funding, insurance claims, blue badges, residents' parking, student awards, licences, school places, market traders and other applications for financial assistance, where the Council suffers a financial loss, we always seek recovery. Where an organisation is involved in the fraud, the Council also make referrals to the relevant governing body, e.g. Charities Commission, Registrar of Companies.
66. The Council also considers criminal prosecution. The factors that affect our decision to prosecute are based on the evidential and the public interest tests. This includes cases of attempted fraud such as applications for renovation grants where the financial estimates are deliberately misstated, and false applications for direct care payments.
67. Prosecutions are undertaken for a number of reasons by services areas outside of the South West London Audit Partnership (Internal Audit) and the South West London Fraud Partnership (Investigations Service) e.g. Trading Standards, Environmental Health, who have their own procedures for deciding on appropriate sanctions and redress.

## Employee Fraud

68. All cases of fraud, theft, financial misconduct, serious and intentional breach of financial regulations and corruption committed by officers are serious breaches of the disciplinary rules. Normally such cases will be considered as gross misconduct where dismissal would be considered a likely sanction.

69. Where a financial loss has been identified we always seek to recover this loss either through the civil or criminal process.
70. Where appropriate under this policy we refer cases to the relevant prosecuting authority for criminal prosecution.

### Member Fraud

71. All cases of fraud, theft, financial misconduct, and corruption committed by Members are serious breaches of the trust placed in them by virtue of their public office. Our Audit, Governance and Standards Committee regulates the conduct of Members in accordance with nationally and locally determined standards and hears complaints about the conduct of councillors where referred to it. It has various sanctions at its disposal including censure, reprimand and recommending other sanctions including removal from Committee membership.
72. Where a financial loss has been identified we always seek to recover this loss either through the civil or criminal process.
73. Where appropriate we refer cases to the relevant prosecuting authority for criminal prosecution.

### Prosecution– General & Parallel Sanctions

#### **REDRESS**

74. The recovery of money and resources wrongfully taken from us is a key part of our integrated strategy. Loss recovery is a key driver aimed at reducing losses from fraud & corruption and reducing exposure to the risks of fraud & corruption. As such, we actively seek to recover our losses.
75. Whilst the Council has insurance cover for losses from fraud, corruption or other such acts, these are subject to excesses and specific limits. We therefore do not rely on insurance as a preferred method of loss recovery.
76. We have a range of options available to us for recovering losses and, since the Proceeds of Crime Act 2002, these have increased. The options we consider include:



- instigating recovery of property, removing from the Housing Register, cancelling temporary accommodation, disallowing from Right to Buy, suing for loss of rent and/or portable discount
- charges on property
- third party debt orders (Garnishee' – where payment can be obtained from a third party whom owes or holds money for the debtor, e.g. where a bank is ordered to pay the credit balance in a debtor's bank account to the creditor in satisfaction of a judgement or court order)
- attachment of earnings
- freezing injunctions
  
- pursuing debts via legal proceedings
- confiscation orders to secure the 'benefit' from a person involved in criminal activity, e.g. where a person has fraudulently obtained benefit which they have used to pay a mortgage on a property, the amount by which the property has increased in value may be confiscated as distinct from simply the amount of overpaid benefit
- compensation
- restitution orders
- use of the National Crime Agency (NCA) for the most serious crimes.

77. Wherever the Council takes proceedings, criminal or civil, in respect of fraud, corruption or other financial irregularity/ malpractice it will seek to recover all its costs in doing so.

## **LEARNING & REMEDY**

78. The Council seeks to learn from all its experiences of countering fraud & corruption, and from best practice and the experiences of others. We aim to remedy any weaknesses and identified exposure to fraud.

79. The SWLFP produce Investigation reports for corporate fraud investigations which identify any gaps in control or instances of non-compliance with procedure, systems and processes. These reports make recommendations to management which addressed these gaps and seek to reduce future exposure to the risk of fraud. For significant frauds, reports are made to the Audit, Governance and Standards Committee to include lessons learnt and agreed actions are monitored to ensure they are implemented.

80. The Anti-Fraud Strategy is reviewed on an annual basis to ensure that it remains up to date and reflects best practice. The Audit, Governance and Standards Committee are responsible for monitoring the implementation of this strategy, primarily through the work of the SWLAP & SWLFP (see Roles and Responsibilities in Table 1 above).

## **COLLABORATION**

81. The Council has effective co-operation and joint working arrangements with a range of other local authorities and external agencies including:

- The Police
- Department for Work and Pensions (DWP)
- UK Border Agency
- HM Revenue and Customs
- NHS Counter Fraud specialists
- Other Government departments
- Registered Social Landlords

82. These arrangements encourage the exchange of information on national and local fraud and corruption activity and where required, working together to investigate fraud cases and undertake proactive fraud activities.
83. The Joint Anti-Fraud Forum with the London Borough of Richmond is an example of our robust collaborative working arrangements.

## PART 2 WHISTLEBLOWING POLICY

### 1 Policy Statement

The Council is committed to high quality services and ensuring that it, and the people working for it are open, fair and accountable.

Managers have a duty to prevent dangerous or illegal actions at work. All employees, including those who work for a contractor or agency, have an important part to play and often, it is only through whistleblowing that information comes to light.

Employees are often the first to realise that there may be something seriously wrong within the Council or some part of it and it is recognised that employees may not express concerns they have because they feel that speaking out would be disloyal to their colleagues or the Council. They may also fear harassment or victimisation if they make a stand. In these circumstances employees may feel it is easier to ignore the concern rather than report what may just be a suspicion.

The purpose of this policy is to:

- Encourage and enable the Whistleblower to feel confident in speaking up and raising concerns or suspicions
- Provide the Whistleblower with a confidential method of raising concerns
- Enable the Whistleblower to confidentially raise concerns within the Council environment
- Ensure the Whistleblower receives a response to their concerns and if not satisfied, is aware of how to take the matter further
- Reassure the Whistleblower that they will be protected from reprisals or victimisation for Whistleblowing where they reasonably believe that it is in the public interest.

This policy is not designed to be used;

- a) for raising or reconsideration of matters that come under existing internal procedures e.g. Grievance, Disciplinary, Capability, Dignity at Work or the Council's general complaints procedure; or
- b) for allegations that fall within the scope of specific procedures (for example child or vulnerable adult protection) which will normally be referred for consideration under the relevant procedure, unless the employee has good reason to believe that the procedure is not being followed or will not be followed effectively; or
- c) as an appeal process from any complaint or grievance handled under any of the above procedures.

The Whistleblowing procedure is primarily for concerns where the interests of the Council, its assets, its users or staff are at risk.

## **2 Introduction**

### **What is Whistleblowing?**

Someone blows the whistle when they tell someone in authority about a dangerous or illegal activity that they are aware of through their work. This can include health and safety risks, environmental issues, fraud, poor standards of care and other problems.

### **Why does the Council need a Whistleblowing procedure?**

This procedure:

- Supports the Public Interest Disclosure Act
- Gives you a way of raising concerns in a structured and supportive environment within the Council
- Means that you can feel confident to bring up genuinely held concerns without fear of recrimination
- Shows the Council's commitment to investigating and taking firm management action where wrongdoing may be proven
- Encourages and enables you to raise concerns within RBK rather than overlooking problems or "blowing the whistle" outside the Council.

### **Who can use the Council's whistleblowing procedure?**

- An employee of the Council
- Agency staff, trainees and self-employed staff employed on Council work
- The staff of Council contractors employed on Council work
- Partner agencies (including the NHS and voluntary sector groups undertaking work on behalf of or in conjunction with the Council.

### **When should I raise a concern?**

If you find out about activities that harm clients of the Council, colleagues working for the Council, or the Council itself. These may include:

- Illegal activities
- Miscarriages of justice
- Risks to health and safety
- Damage to the environment
- Misuse of public funds
- Fraud and corruption
- Abuse of clients
- Other wrongdoing, (including attempts to cover up wrongdoing)

For example, you could raise a serious concern about service provision, the actions of officers, or the actions of others acting on behalf of the Council, which:

- Fall below the Council's standards of practice, including the Council's Code of Conduct for Employees
- Are against the Council's Standing Orders and policies
- Amount to improper conduct

## **How does this procedure fit with the Council's other procedures?**

This procedure does not replace the Corporate Complaints Procedure for people who use the Council's services, or the Social Services Guidance for Staff Concerned about Staff Conduct Regarding Service Provision.

The whistleblowing procedure is about concerns regarding the public interest. If you are concerned about an issue relating to your personal position at work, you should use the Grievance procedure or another Human Resources procedure.

## **Role of Trade Unions**

The whistleblowing procedure has been developed in consultation with Staff Side Representatives and Teachers' Professional Associations and has their full support. Your trade union will advise you on raising concerns and/or support you in doing so, as appropriate.

## **3. The process**

### **Who do I tell?**

#### **If you work for the Council:**

You should raise any concerns with your line manager. But if you feel unable to do so or you are concerned about something serious, you may approach other senior officers or Councillors (see below – Can I take the matter further?). This may include a senior manager, your Head of Service, Director, the Chief Executive or a Councillor. You can raise a concern by talking to someone or writing to them.

If you raise a concern with your line manager under this procedure you need to make sure that they know this.

If you suspect fraud or corruption, you may approach the Head of Internal Audit & Investigations.

Staff in Social Care may approach the Customer Services Officer, or any of the senior officers listed above.

#### **If you work in a school:**

Please refer to the Achieving for Children (AfC) Whistleblowing Policy.

#### **If you work for an agency or are a temporary worker:**

You should raise any concerns with your line manager. But if you feel unable to do so or you are concerned about something serious, you may approach a senior manager, your Head of Service, Director or the Chief Executive. You can raise a concern by talking to someone or writing (including by email) to them.

## **If you work for a company that has a contract with the Council:**

You should raise any concerns with the;

- Executive Head of OD & Strategic Business, telephone number: 020 8547 5153; or
- Capability Lead, Commissioning 020 8547 5300.

But if you feel unable to do so or you are concerned about something serious, you may approach the Head of Internal Audit & Investigations, telephone number 020 8547 4624. You can raise a concern by talking to someone or by writing to them.

Useful contact numbers:

- The Council's Monitoring Officer - 020 8547 5110
- The Chief Executive - 020 8547 5150
- The Executive Head of Organisational Development and Strategic Business - 020 8547 5153
- To raise issues with Councillors please go to the [Councillors web page for their details](#) or contact the group Offices – Liberal Democrat Group on 020 8547 5141; Conservative Group on 020 8547 5130
- The Head of Internal Audit & Investigations - 020 8547 4624; or
- The South West London Fraud Partnership on 020 8871 8383
- The Chair of the Audit, Governance and Standards Committee – please see the Audit, Governance and Standards [Committee web page](#) for details or contact the Democratic Support Team on 020 8547 5021
- Contact the whistleblowing hotline on 020 8871 8383

## **Is there any support available for me?**

You can get the support of a staff representative, who may accompany you when raising a concern. Remember that by speaking up, it is not up to you to prove your concerns. However, you should be prepared to give the background and the reasons why you feel particularly troubled.

## **What is my role as a manager?**

If a member of staff raised a concern with you, you should:

- i) Ensure you make a confidential record of the concerns raised
- ii) Then contact the Head of Internal Audit and Investigations or Human Resources who will advise on the next step in the process

It is your duty to pass this information on to the Head of Internal Audit and Investigations or your HR Business Partner to ensure that the appropriate action can be taken.

## **What happens next?**

We will look into your concern to see what should happen. This may involve:

- An internal investigation
- An external auditor
- An independent inquiry
- The police

We will normally write to you within 10 working days of receiving your concerns. We will list them, tell you who is handling the matter, how you can contact them and whether we need your further help. We will also tell you where to get support if you need it.

## **What happens in an internal investigation?**

If there is an internal investigation, a special investigations team will be set up. This team is responsible for gathering all relevant information and meeting with all relevant staff. The team may interview a number of staff.

When they have finished their investigation, they must produce a report on their findings. The report is then considered by senior management. Based on the findings, management will then decide what further action to take. This may include disciplinary action for anyone involved in any wrongdoing.

On the other hand, if the investigation finds that the concerns raised or allegations made by the person who has 'blown the whistle' are malicious, frivolous, or for personal gain, disciplinary action will be taken against them.

Depending on any legal restrictions on giving you information, we will let you know the outcome of any investigation.

## **Will I be involved in an investigation?**

You may not want us to let people know that you have raised a concern. If we can investigate and resolve your concern without involving you, the Council will not involve you further. If we are not able to resolve the problem without telling someone else who you are, we will always talk to you first.

The Council encourages you to tell us who you are whenever possible as anonymous concerns are more difficult to investigate and the Council cannot protect your position or give you any feedback if we don't know who you are.

## **Will I get into trouble? And will anyone find out that I have 'blown the whistle'?**

The Council does not allow or tolerate the harassment or victimisation (including informal pressure) of anyone who raises a genuine concern and will take appropriate action to protect the whistleblower. Victimisation of a whistleblower by any other colleague for raising a concern under this policy will in itself constitute a disciplinary offence.

There may be a situation where you want to tell us of your concern and not let anyone else know that you have. If we are not able to resolve the problem without telling someone else who you are, we will always talk to you first.

### **Where can I get independent advice about raising a concern?**

Although we would hope this policy gives you the reassurance to report any concerns you may have through the internal channels we recognise that there may be circumstances where you feel unable to follow this process and want external advice and support. If this is the case, you can talk to:

- Your union
- An independent legal advisor
- The Independent Charity, [Public Concern at Work](#), telephone number: 020 7404 6609 or e-mail [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk). Their lawyers can give you free confidential advice on how to raise a concern about serious wrongdoing at work.

### **Can I take the matter further?**

If you have followed the procedure and it has not worked or you feel that the matter is so serious that you cannot discuss it with any of the above, please contact one of the following:

- The Council's Monitoring Officer – 020 8547 5110
- The Chief Executive - 020 8547 5150
- The Executive Head of Organisational Development and Strategic Business – 020 8547 5153
- To raise issues with Councillors please go to the [Councillors web page](#) for their details or contact the group Offices – Liberal Democrat Group on 020 8547 5141; Conservative Group on 020 8547 5130
- The Head of Internal Audit & Investigations – 020 8547 4624
- The Chair of the Audit, Governance and Standards Committee please see the Audit, Governance and Standards [Committee web page](#) for details or contact the Democratic Support Team on 0208 547 5021
- The whistleblowing hotline on 020 8871 8383

### **Can I refer the matter outside of the Council?**

We encourage all staff to use the procedure. But if you are not satisfied with any action and you feel it is right to take the matter outside the Council, you can contact the following organisations:

- The Health and Safety Executive 0845 300 9923 <http://www.hse.gov.uk/>
- The National Audit Office 020 7798 7999 <https://www.nao.org.uk/>
- The Environment Agency 03708 506506 <https://www.gov.uk/government/organisations/environment-agency>
- The Serious Fraud Office 020 7239 7272 <http://www.sfo.gov.uk/>
- HM Revenue and Customs 020 7239 7388



- The Department for Business Innovation and Skills 020 7215 5000
- The Charity Commission 0845 3000218 <https://www.gov.uk/government/organizations/charity-commission>
- The Information Commissioner 01625 545 745 <https://ico.org.uk/>
- Care Quality Commission 03000 616161 <http://www.cqc.org.uk/>
- External Audit 020 8547 5599
- Your Member of Parliament <http://www.parliament.uk/mps-lords-and-offices/mps/>

## **Our Commitment to You**

### **Your Protection**

#### **What is the Public Interest Disclosure Act?**

The [Public Interest Disclosure Act](#) provides workers with protection from dismissal or other damage as a result of making a disclosure of information in the public interest about wrongdoing at work. Such disclosures are protected if they are done according to the Act's provisions. Disclosures may be made to the employer, prescribed regulatory bodies or on a wider basis to the Police. The Act's protection is strongest where workers raise matters with their employers.

The Council is committed to adhering to this Act and to provisions contained within this policy. If you raise a genuine concern in accordance with this policy, you will not be at risk of losing your job or suffering any form of retribution as a result. Provided you are acting honestly and reasonably believe it to be in the public interest, it does not matter if you are mistaken or if there is an innocent explanation for your concerns. This assurance is not extended to someone who maliciously raises a matter they know is untrue. Disciplinary action will be taken against employees who knowingly make false allegations.

#### **Telling other people confidential information**

Giving out information about third parties to whom the Council owes a duty of confidence may not be protected under the Public Interest Disclosure Act. This may lead to disciplinary action. If you are in any doubt you should seek advice from your manager, union, lawyer or Public Concern at Work (020 7404 6609).

#### **Who is responsible for this policy?**

- The Executive Head of Organisational Development and Strategic Business has overall responsibility for supervising the use of this Procedure and maintaining a record of that.
- The Corporate Solicitor, who is the Statutory Monitoring Officer, must in appropriate cases report to the Council on any proposal, decision, or omission by the Council, or any of its Panels or Committees, the Cabinet or officers which contravenes the law or causes mal-administration or injustice.

- Managers must ensure that the Monitoring Officer is alerted in appropriate cases.

### **Mediation and dispute resolution**

If we believe that the issues relate more to conflicts or trust between managers and employees or other staff members, we will give consideration at the earliest opportunity, to the use of mediators or officers from another service in an attempt to resolve these conflicts, rebuild trust or support staff who have raised concerns.

### **Accountability**

Everyone should expect to be held accountable for adopting fair, honest and open behaviours and practices when raising, receiving and handling concerns.

Individuals and service areas will be accountable for:

- poor practice in relation to encouraging the raising of concerns and responding to them
- the victimisation of staff for making public interest disclosures
- raising false concerns in bad faith or for personal benefit
- acting with disrespect or other unreasonable behaviour when raising or responding to concerns

### **Whistleblowing - Summary**

#### **DO**

- Make a difference and report your concerns
- Write down all the details of your concern
  - Note all relevant details such as what was said in telephone or other conversations, the date, time and the names of parties involved.
  - Note any documentary evidence that may exist to support your claim but do not interfere with this evidence.
- Deal with the matter quickly. Any delay could allow the problem to continue and escalate and for evidence to disappear.
- Think about risks and outcomes before you act
- Follow the guidance and contact the appropriate officer

#### **DON'T**

- Do nothing and let it go unreported
- Be afraid to raise concerns and use this policy's protection
- Approach and accuse individuals directly
- Try and investigate the matter yourself
- Convey your suspicions to anyone except those of the proper authority as set out in this policy
- Use the whistleblowing procedure to pursue a personal grievance

## PART 3 ANTI-BRIBERY POLICY

### 1. Policy Statement

**Bribery** is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

### 2. Objective of this policy

This policy provides a coherent and consistent framework to enable the Council’s employees and Members to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

We require that all personnel, including those permanently employed, temporary, agency staff, members and contractors:

- Act honestly and with integrity at all times and to safeguard the organisations’ 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 organisation operates, in respect of the lawful and responsible conduct of activities.

### 3. Scope of this policy

This policy applies to all the activities of the Royal Borough of Kingston upon Thames (‘the Council’). For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely with assurance functions, but in all business units and corporate functions.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary and agency staff, contractors, agents, Members (including independent and co-opted members), volunteers and consultants (“employees”).

#### **4. The Councils commitment to action**

##### ***We commit to:***

- Setting out a clear anti-bribery policy and keeping it up to date
- Making employees aware of their responsibilities to adhere strictly to this policy at all times
- Providing information to employees so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging employees to be vigilant and to report any suspicion of bribery, providing them with suitable channels of communication 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 employees to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery

#### **5. The Bribery Act 2010**

There are four key offences under the Act:

- To offer, promise or give a bribe (Section 1)
- To request, agree to receive, or accept a bribe (Section 2)
- Bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business (section 6)
- A corporate offence 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 (section 7). This applies to local authorities where commercial companies are used to support a function or project and also where we trade in commercial terms. 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

##### **5.1 What are “adequate procedures”?**

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures in the recommended areas of six principles. The six principles as applied to the Council are:

###### **a. Proportionate procedures**

Action taken needs to be proportionate to the risks faced relative to the size of the project or subject matter.

**b. Top level commitment**

The Strategic Leadership Team and Members are committed to preventing bribery by persons associated with the Council. They foster a culture within the organisation in which bribery, corruption or bad business practices are never acceptable.

**c. Risk Assessment**

The Council assesses the nature and extent of their exposure to potential external and internal risks, including bribery, on their behalf by persons associated with them. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

**d. Due diligence**

We apply due diligence procedures, taking 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.

**e. Communication (including training)**

We seek to ensure that our 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 faced.

**f. Monitoring and review**

Recognising that risks and effectiveness may change from time to time, we will monitor and review procedures designed to prevent bribery by persons associated with the Council and make improvements where necessary.

## **5.2 Penalties**

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

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

## 6. Requirements

### *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

### **Facilitation payments**

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

### **Gifts and hospitality and Declarations of Interest**

This policy is not meant to change any requirements as set out in the Council's existing Policies and Procedures, and should therefore be read in conjunction with the Council's [Code of Conduct](#).

### **Public contracts and failure to prevent bribery**

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. The Council has the discretion to exclude organisations convicted of this offence.

## 7. Employee responsibilities

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

**You must:**

- Ensure that you read, understand and comply with this policy
- Raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future

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

## **8. Raising a concern**

The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every employee to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns.

The roles of Internal Audit & Investigation are now managed by the South West London Audit Partnership (Internal Audit) and the South West London Fraud Partnership (Investigations Service). If you would like to contact us, please email or phone us on:

South West London Audit Partnership – [internalaudit@rbk.kingston.gov.uk](mailto:internalaudit@rbk.kingston.gov.uk) or phone 020 8547 4624

South West London Fraud Partnership – [swlfp@wandsworth.gov.uk](mailto:swlfp@wandsworth.gov.uk) or phone 020 8871 8383

Alternatively, please refer to the Council's Whistleblowing Policy.

Preferably the disclosure will be made and resolved internally (e.g. to your Head of Service, South West London Audit Partnership, South West London Fraud Partnership or if you are a councillor you may report any occurrence to the Leader of the Council). If internal disclosure proves inappropriate, concerns can be raised with the regulator (Department for Business Innovation & Skills):

### **[Blowing the Whistle to a Prescribed Person](#)**

In the event that an employee does not feel comfortable in making a disclosure to the Council, they are entitled to also make a Protected Disclosure to a number of other organisations.

Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

## **9.**

Anonymity

Concerns can be raised anonymously. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. However, this is easier and quicker if concerns raised are not anonymous.

Employees who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing, can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

If you have any questions about these procedures, please contact the South West London Audit Partnership or the South West London Fraud Partnership.

## **10. Other relevant policies and links**

[\*Bribery Act 2010\*](#)

[\*Bribery Act final guidance\*](#)

[\*Blowing the Whistle to a Prescribed Person\*](#)



## **PART 4 ANTI- MONEY LAUNDERING POLICY**

### **1. POLICY STATEMENT**

The Council will take all reasonable steps to prevent its systems and processes being used for money laundering.

### **2. INTRODUCTION**

Money laundering is a series of processes designed to disguise or convert illegally obtained cash or assets (proceeds of crime) so that they appear to have come from a legitimate source. Individuals and organisations can commit offences if they possess, convert, transfer or conceal those proceeds of crime. Criminals could launder illicitly obtained funds through the council in a number of ways. For example: by making large payments in cash, such as for business rates, council tax or when purchasing assets.

Anyone who becomes involved with an activity which they know, or have reasonable grounds to suspect, is related to the proceeds of crime, may be guilty of money laundering.

#### **Offences under money laundering legislation**

There are a number of offences under different parts of the legislative framework. Specific offences have been drafted for terrorist financing as set out in the Terrorism Act 2000. It is an offence to be involved in raising funds for terrorism, concealing or providing funds in any way or to be involved in the laundering of such funds. It is also an offence to fail to report suspected terrorist financing activity identified in the course of employment. For example, it would be an offence to encourage or facilitate the payment of grant funding to an organisation involved in terrorist activity or not to report suspicions about an organisation.

In addition to terrorist financing, offences have been defined in relation to general criminal profit under the Proceeds of Crime Act 2002. This creates offences of concealing, disguising, converting, transferring or removing from the UK, any criminal property or being involved in an arrangement which facilitates such activity. Whilst the offences of failing to disclose and tipping off do not apply to the council in relation to general criminal property, if staff suspect money laundering, they are expected to inform the council's Money Laundering Officer.

The Money Laundering Regulations 2007 as amended by the Money Laundering (Amendment) Regulations 2012 set out the requirements for those working in the field of investments, financial services and advice. Whilst the council is not considered to be bound by the regulations, as a prudent and responsible council, we will adopt proportional procedures to detect and avoid involvement in money laundering.

### **3. SCOPE OF THE POLICY**

This policy provides a coherent and consistent framework to enable employees to understand and implement arrangements to enable compliance with anti-money

laundering legislation. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

This Policy applies to all of the council's activities, its personnel, including those permanently employed, temporary staff, agency staff, contractors, Members (including independent members), volunteers and consultants.

Failure by any member of staff to comply with this Policy may lead to prosecution and disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the council's ***Disciplinary Procedures***.

Whilst it is stressed that the risk to the Authority is low, it is extremely important that all staff are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation. The key requirement for staff is to:

**Promptly report any suspected money laundering activity to the Money Laundering Reporting Officer [see 5 and 6].**

#### **4. WHAT ARE THE COUNCIL'S OBLIGATIONS?**

As an organisation undertaking "*relevant business*" the council has a number of obligations under the legislation:

- To appoint a Money Laundering Reporting Officer ("MLRO") to receive disclosures of suspected money laundering activity from any Member, staff, contractor or partner
- To establish internal procedures to help forestall and prevent money laundering
- To implement formal systems for members and employees to report money laundering suspicions to the MLRO.
- To make internal enquiries and to make reports, as necessary, to the United Kingdom Financial Intelligence Unit, part of the National Crime Agency (NCA), via the MLRO
- To make all employees aware of their responsibilities to adhere strictly to this policy at all times.
- To provide training to those staff considered most likely to encounter money laundering activities e.g. how to recognise and deal with potential money laundering offences.
- To maintain, in certain circumstances, client identification procedures, and
- To maintain robust record keeping procedures

Not all of RBK's business is "*relevant*" for the purposes of the legislation. Some of the council's services are more likely to be affected by Money Laundering and the POCA. These include, but are not limited to:

- Legal Services (South London Legal Partnership/Corporate Solicitor)
- Finance Directorate
- Those areas of business involved in awarding contracts
- Those involved in overseeing the conduct of contractual obligations
- Housing – particularly in respect of rent and the *Right to Buy* scheme
- Bailiffs who may handle cash on behalf of the Local Authority
- The payments office
- South West London Audit Partnership (Internal Audit)
- South West London Fraud Partnership (Investigations Service)

## 5. THE MONEY LAUNDERING REPORTING OFFICER (“MLRO”)

The officer nominated to receive disclosures of suspected money laundering activity within the Council is:

**Director of Finance  
SLT Suite  
1<sup>st</sup> Floor Guildhall 2  
Royal Borough of Kingston upon Thames  
High Street  
Kingston upon Thames  
KT1 1EU  
Telephone 020 8547 5570**

In the absence of the MLRO, the Corporate Solicitor is authorised to deputise:

**Corporate Solicitor. Tel: 020 8547 5110**

## 6. ANTI-MONEY LAUNDERING PROCEDURES

### 6.1 DISCLOSURE PROCEDURE (Reporting to the MLRO)

Where you know or suspect that a money laundering activity is taking/ has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. If you subsequently learn of further information relating to your knowledge or suspicion that further information must also be disclosed to the MLRO.

### **IF YOU FAIL TO DO SO, YOU MAY BE LIABLE TO PROSECUTION.**

Your disclosure should be made to the MLRO using the pro-forma report attached at Appendix 1. The report must include as much detail as possible, for example:

- I. Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, and phone numbers, etc

II. Full details of the nature of their/ your involvement;

If you are concerned that your involvement in the transaction would amount to a prohibited act under POCA [i.e. a deliberate concealment or a dishonest arrangement or acquisition<sup>i</sup>], then your report must include all relevant details, as you will need consent from NCA, via the MLRO, to take any further part in the transaction – this is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required, for what remaining steps consent is required (NCA will only give consent to the extent requested) and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.

III. The types of money laundering activity involved;

If possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under the 2002 Act (or 2000 Act), or general reporting requirement under section 330 of POCA (or section 21A of the 2000 Act), or both;

IV. The dates of such activities, including whether the transactions have happened, are ongoing or are imminent. Include:

- Where they took place
- How they were undertaken
- The (likely) amount of money/ assets involved
- Why, exactly, you are suspicious – NCA will require full reasons

V. Finally, you must provide any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare their report to NCA, where appropriate. You should also enclose copies of any relevant supporting documentation.

**For clarification on any of the above, contact the MLRO for further assistance.**

Once you have reported the matter to the MLRO you must follow any directions they may give you. **You must NOT make any further enquiries into the matter yourself:** any necessary investigation will be undertaken by NCA. Simply report your suspicions to the MLRO who will refer the matter on to NCA if appropriate. All Members, staff, contractors and partners will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

Similarly, at no time and **under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering**, even if NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise, you may commit a criminal offence of “*tipping off*” and you may be prosecuted [see 3].

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<sup>i</sup> [www.legislation.gov.uk/ukpga/2002/29/part/7](http://www.legislation.gov.uk/ukpga/2002/29/part/7)

Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

## **6.2 RECOGNITION OF SUSPICIOUS TRANSACTIONS**

There are many types of transactions which may be used by money launderers, making it difficult to define. Guidance will be provided to staff in relevant areas to enable them to recognise suspicious transactions.

The Council has set up a general transaction limit of £13,000 or approximately 15,000 Euros (in line with the 2007 Regulations) over which any transaction or group of transactions from the same source should automatically be classified or deemed as suspicious. This does **NOT** mean however, that any transactions under this limit should not be reported. All suspicious transactions irrespective of value should be reported.

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

Upon receipt of a disclosure report, the MLRO must note the date of receipt on their section of the report and acknowledge receipt of it. They should also advise the discloser of the timescale within which they expect to respond.

The MLRO will evaluate the report and evidence as soon as reasonably practicable to decide whether the suspicion warrants disclosure to NCA. The MLRO may undertake such further enquiries that s/he considers appropriate in order to ensure that all available information is taken into account when deciding whether a report to NCA is required e.g.:

- reviewing other transaction patterns and volumes
- the length of any business relationship involved
- the number of any one-off transactions and linked one-off transactions
- any identification of evidence held

These enquiries will be undertaken confidentially so as to avoid tipping off those involved. The MLRO may also need to discuss the report with the individual making the initial disclosure.

## **6.4 DETERMINATION OF THE DISCLOSURE BY THE MLRO**

Once the MLRO has completed evaluating the disclosure report, together with any other information gathered, s/he must make a timely determination as to whether:-

- Actual or suspected money laundering is taking place
- There are reasonable grounds to know or suspect that that is the case
- Whether or not to submit the case to NCA via a Suspicious Activity Report (“SAR”)
- Whether s/he needs to seek the consent from NCA for a particular transaction to proceed

## 6.5 SUBMITTING A SUSPICIOUS ACTIVITY REPORT (SAR)

If the MLRO determines that the matter should be reported, s/he must do so as soon as practicable, using the standard NCA report form [SAR] and in the prescribed manner [via the NCA website], unless s/he believes there is reasonable excuse for non-disclosure to NCA, e.g. if a lawyer wishes to claim legal professional privilege<sup>ii</sup>.

There is no hard and fast rule as to when it may be appropriate to submit a SAR. The following are hypothetical examples of situations that local authorities may become involved in and which could trigger the need for a SAR:

### **Example 1 - 'Right to Buy'**

A Local Authority receives an application from a tenant to purchase the property they reside in. The Local Authority record shows the applicant is in receipt of Housing and/or Council Tax benefit. This raises suspicion as to how the tenant intends to finance the purchase – or whether the claim to Housing and/or Council Tax benefit has been fraudulent.

In the normal course of events any investigation should be referred to the Local Authority's own fraud investigation department which is best placed to determine the validity of the claim.

### **Example 2 - Lump sum cash payment**

A situation could arise where substantial arrears of Council Tax have accrued in respect of an individual or commercial concern.

The rate payer, in order to satisfy the arrears, makes a cash payment through either the Council Tax department or the finance department.

This may give rise to a suspicion and be reported as a SAR.

### **Example 3 – Staggered electronic payments**

A Council Tax customer transfers over £10,000 into their Council Tax account, but over several transactions of lower amounts. With the account in credit, they then ask for a refund to another bank account.

In this circumstance, the MLRO should be contacted to consider the case further. The case could well be reported as a SAR or could be looked at first by the Local Authority's own fraud investigation department.

## 6.6 CONSENT FROM NATIONAL CRIME AGENCY (NCA)

In cases where consent from NCA is required for a transaction to proceed, the transaction must not be undertaken or completed until NCA have given their specific consent, or there is “deemed” consent through the expiry of the relevant time limits without objection from

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<sup>ii</sup> In those cases where legal professional privilege may apply, the MLRO will liaise with the Corporate Solicitor and/or South London Legal Partnership to determine whether there is a reasonable excuse for not reporting the matter to NCA.

NCA. Consent, is deemed to have been received if there is no response from NCA refusing consent within 7 working days from the date the SAR is made. Consent, is also “deemed” to have been given if there has been an initial refusal of consent but a period of 31 days (includes weekend) has elapsed since the initial refusal of consent without any further steps being taken by NCA.

## 6.7 FURTHER ACTION

Where the MLRO determines that there are no reasonable grounds for suspecting money laundering, they will endorse the report accordingly and give consent for the ongoing or imminent transaction to proceed. The MLRO will retain in a confidential file all disclosure reports received, together with all reports made to NCA. These shall be retained for a minimum of five years.

**The MLRO commits a criminal offence if s/he knows or suspects, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as possible to NCA.**

## 6.8 CLIENT IDENTIFICATION PROCEDURES

From 1 March 2009, where RBK is carrying out “*relevant business*”, and any of the below ‘*triggers*’ apply, then these ***Client Identification Procedures*** must be followed before any business is undertaken for that client.

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

Once instructions to provide relevant business have been received, and it has been established that any of the above triggers apply, staff **MUST** obtain satisfactory evidence of the identity of prospective clients (both internal and external) as soon as practicable after instructions are received (unless evidence of the client has already been obtained).

The Council’s ***Client Identification Procedure*** requires basic identity checks for existing clients as follows:

- ***Internal clients:*** signed, written instructions on Council headed notepaper or an email on the internal email system at the outset of the business relationship;
- ***External clients:*** signed, written instructions on the organisation’s own headed paper at the outset of the business relationship.

The reason for this low level Procedure is because the Council's risk of exposure to money laundering is assessed as low, so the procedure is considered appropriate to this perceived risk. The risk assessment takes account of regulations that restrict the extent to which services can be provided and the organisations with which the Council can contract.

The Client Identification Procedure should enable us to have confidence in accepting instructions from a known client. If, however, you are undertaking work for a new client, then you may also wish to seek additional evidence, for example:

- check the organisation's website to confirm the identity of personnel, its business etc;
- address and any other details;
- meet the client at their business address;
- confirm that the organisation is included in the telephone directory;
- ask the key contact officer to provide evidence of personal identity and position within the organisation, for example:
  - (a) passport, photo ID card, driving licence;
  - (b) signed, written confirmation from the Head of Service or Chair of the relevant organisation that such person works for the organisation.

## 6.9 RECORD KEEPING

Each section of the Council carrying out "*relevant business*", **MUST** maintain appropriate records of:

- client identification evidence obtained; and
- details of all relevant business transactions carried out for clients

These records must be kept for at least five years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

There is no substantive guidance in the 2007 Regulations as to the form of the records or the manner in which they should be stored. As a matter of best practice the records **MUST** be kept in a form that would enable them to be retrieved or reconstituted within a reasonable time following a demand from the regulatory authorities or internally by the Counter-Fraud and Corruption Unit. They must therefore be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, staff will routinely make records of work carried out for clients in the course of normal business and these should suffice in this regard.

## 6.10 GUIDANCE AND TRAINING

In support of this Policy and the Procedures, RBK will:

- I. Make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the Anti-Money Laundering legislation; and



- II. Give targeted training to those most likely to encounter money laundering on how to recognise and deal with transactions which may be related to money laundering or terrorism financing.

As a minimum, staff should be made aware of:

- The Money Laundering Regulations 2007 as amended by the Money Laundering (Amendment) Regulations 2012
- The Proceeds of Crime Act 2002 - Part 7
- The Terrorism Act 2000 - Sections 18, 21A and 38B

## **6.11 CONCLUSIONS**

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This Policy has been written to enable the Council to meet the legal obligations in a way, which is proportionate to the very low risk to RBK of contravening the legislation.

**Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.**

**REPORT TO THE MONEY LAUNDERING REPORTING OFFICER**

**re SUSPECTED MONEY LAUNDERING ACTIVITY**

<b>From:</b> <i>(Full Name &amp; position)</i>	<b>Department:</b>	<b>Tel No:</b> <b>Email:</b>
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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/property involved:  
*(Please include full details e.g. what, when, where, how. Please include the whereabouts of the laundered property, so far as you are aware. Continue on a separate sheet if necessary)*

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

Has an investigation been undertaken (as far as you are aware)?  
*(Please tick relevant box)*

Yes

No

If yes, please include details below:

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

Has the matter been discussed with any other person?  
*(Please tick relevant box)*

Yes

No

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

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

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

Yes

No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to NCA? (e.g. are you a lawyer and wish to claim Legal professional privilege?) *(Please tick relevant box)*

Yes

No

If yes, please set out full details below:

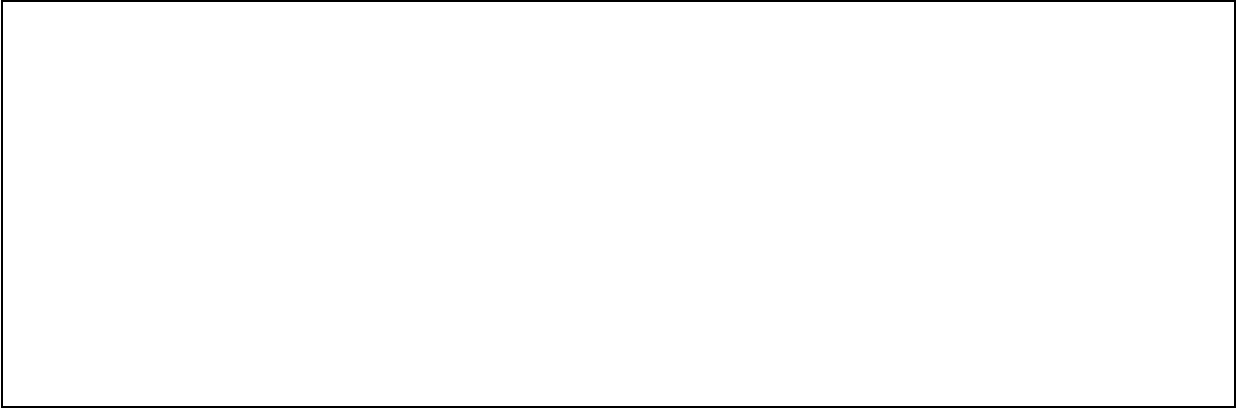
Are you involved in a transaction which might be a prohibited act under sections 327-329 of 2002 Act or Section 18 of the 2000 Act and which required appropriate Consent from NCA? *(Please tick relevant box)*

Yes

No

If yes, please enclose details in the box below:

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



Signed:.....

Dated:.....

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

**APPENDIX 1 CONTINUED – REPORT TO BE COMPLETED BY THE MLRO**

**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:
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Outcome of Consideration of Disclosure:

Are there reasonable grounds for suspecting money laundering activity? Do you know the identity of the alleged money launderer or the whereabouts of the property concerned?
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If there are reasonable grounds for suspicion, will a report be made to NCA? (*Please tick relevant box*)  Yes  No

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

Details of liaison with NCA regarding the report:
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Notice Period: ..... to ..... Moratorium Period: ..... to .....
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Is consent required from NCA to any ongoing or imminent transactions which would otherwise be prohibited acts?  Yes  No

If yes, please confirm full details in the box below. Ensure that consent for all remaining steps in the transaction is sought since consent will only be given to the extent to which it is requested:

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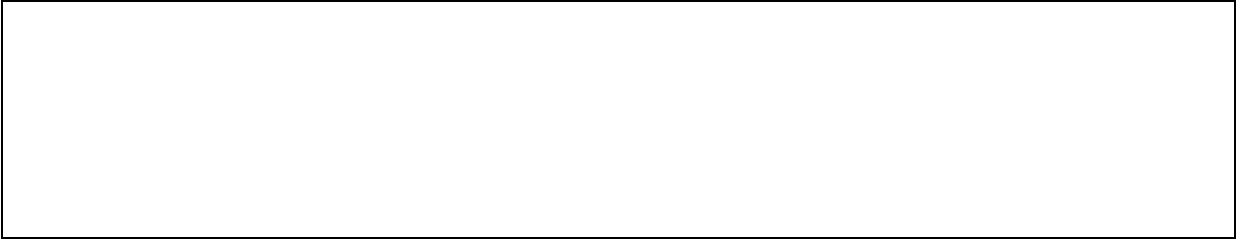
Date consent received from NCA:	
Date consent given to you to employee:	

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

Please set out any reasonable excuse for non-disclosure:
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Date consent given by you to employee for any prohibited act transactions to proceed:	
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Other relevant information:
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Signed:.....

Dated:.....

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