



## **CABINET – 20TH SEPTEMBER 2017**

**SUBJECT:       UPDATED ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY AND  
                  UPDATED ANTI-MONEY LAUNDERING POLICY**

**REPORT BY:    ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151  
                  OFFICER**

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- 1.1     The report, which was presented to Special Audit Committee on 25th July 2017, sought the approval of the Audit Committee for the updated Anti-Fraud, Bribery and Corruption Policy and the Anti-Money Laundering Policy, prior to consideration by Cabinet.
  - 1.2     The Authority has strived to maintain a high level of probity and integrity when carrying on its business and with corporate governance continuing to become a key business driver the need to maintain, review and update key priorities is as ever an important part of the governance toolkit.
  - 1.3     Both the Anti-Fraud, Bribery and Corruption Policy and the Anti-Money Laundering Policy are key elements within a suite of policies that focus on the prevention of fraud and wrong doing and set out the standards by which the organisation operates.
  - 1.4     The existing policies were last reviewed in 2011 and have now been updated to account for operational changes and to reflect best practice and ongoing compliance with current legislative requirements.
  - 1.5     It is unlikely that the Anti-Money Laundering Policy will be particularly relevant to our day to day activities but as a complimentary policy sitting alongside the Anti-Fraud, Bribery and Corruption Policy it will increase awareness and provide guidance to both Members and Officers should a potential situation arise with large sums of cash.
  - 1.6     Both policies act as statements of the Council's attitude towards fraud and corruption and contain the following key elements: -
    - They will apply to Members and Officers;
    - They will apply to third parties who have dealings with the Authority;
    - They will underpin the culture of the Authority;
    - The role and responsibilities of Members and Officers in contributing to a culture of honesty and openness are laid out; and
    - Training and awareness are key contributing factors.
  - 1.7     Following consideration and discussion it was moved and seconded that the recommendation in the report be approved. By a show of hands this was unanimously agreed:

RECOMMENDED that for the reasons outlined in the Officers report, the updated Anti-Fraud, Bribery and Corruption Policy and updated Anti-Money Laundering Policy be approved by Cabinet.
  - 1.8     Members are asked to consider the recommendations.

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Appendix:  
Report to Audit Committee dated 25th July 2017



## **AUDIT COMMITTEE – 25TH JULY 2017**

**SUBJECT:           UPDATED ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY AND  
                          UPDATED ANTI-MONEY LAUNDERING POLICY**

**REPORT BY:       INTERNAL AUDIT SERVICES MANAGER**

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### **1.       PURPOSE OF REPORT**

1.1       To seek approval of two updated policies prior to consideration by Cabinet. The policies are the Anti-Fraud, Bribery and Corruption Policy (Appendix 1) and the Anti-Money Laundering Policy (Appendix 2).

### **2.       LINKS TO STRATEGY**

2.1       Strong corporate governance arrangements are an essential element of ensuring that the Council's key priorities are effectively delivered and this in turn contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015: -

- A prosperous Wales.
- A resilient Wales.
- A healthier Wales.
- A more equal Wales.
- A Wales of cohesive communities.
- A Wales of vibrant culture and thriving Welsh Language.
- A globally responsible Wales.

### **3.       THE REPORT**

3.1       The Authority has always strived to maintain a high level of probity and integrity when carrying out its business and with corporate governance continuing to become a key business driver the need to maintain, review and update key policies is as ever an important part of the governance toolkit.

3.2       Both the Anti-Fraud, Bribery and Corruption Policy and the Anti-Money Laundering Policy are key elements within a suite of policies that focus on the prevention of fraud and wrong doing and set out the standards by which the organisation operates.

3.3       The existing policies were last reviewed in 2011 and have now been updated to account for operational changes and to reflect best practice and ongoing compliance with current legislative requirements.

3.4       It is unlikely that the Anti-Money Laundering Policy will be particularly relevant to our day to day activities but as a complimentary policy sitting alongside the Anti-Fraud, Bribery and Corruption Policy it will increase awareness and provide guidance to both Members and Officers should a potential situation arise with large sums of cash.

3.5 Both policies act as statements of the Council's attitude towards fraud and corruption and contain the following key elements: -

- they will apply to Members and Officers;
- they will apply to third parties who have dealings with the Authority;
- they will underpin the culture of the Authority;
- the role and responsibilities of Members and Officers in contributing to a culture of honesty and openness are laid out; and
- training and awareness are key contributing factors.

#### **4. WELL-BEING OF FUTURE GENERATIONS**

4.1 Strong corporate governance arrangements are a key element in ensuring that the Well-being Goals within the Well-being of Future Generations Act (Wales) 2015 are met.

#### **5. EQUALITIES IMPLICATIONS**

5.1 There are no equalities implications.

#### **6. FINANCIAL IMPLICATIONS**

6.1 There are no financial implications.

#### **7. PERSONNEL IMPLICATIONS**

7.1 There are no personnel implications.

#### **8. CONSULTATIONS**

8.1 Any comments received have been reflected in the report.

#### **9. RECOMMENDATIONS**

9.1 Members of the Audit Committee are asked to approve the updated policies prior to their consideration by Cabinet.

#### **10. REASONS FOR THE RECOMMENDATIONS**

10.1 To ensure that both Council policies remain valid and up to date.

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Consultees: Nicole Scammell, Acting Director of Corporate Services and Section 151 Officer  
Stephen Harris, Interim Head of Corporate Finance

Appendices: -

Appendix 1 – Anti-Fraud, Bribery & Corruption Policy

Appendix 2 – Anti-Money Laundering Policy

# CAERPHILLY COUNTY BOROUGH COUNCIL

## ANTI FRAUD, BRIBERY AND CORRUPTION POLICY



# 1 INTRODUCTION

- 1.1 In carrying out its functions and responsibilities, the Authority adopts a culture of openness and fairness and expects that elected members and employees at all levels will adopt the highest standards of propriety and accountability. This is achieved by leading by example and by an understanding of and adherence to rules, procedures and agreed practices. These standards are also expected from organisations that have dealings with the Authority (e.g. suppliers/contractors). It is our policy to conduct all of our dealings in an honest and ethical manner. We take a zero-tolerance approach to bribery and corruption and are committed to acting professionally, fairly and with integrity in all our dealings and relationships wherever we operate and implementing and enforcing effective systems to counter bribery.
- 1.2 The Authority must demonstrate clearly that it is firmly committed to dealing with fraud and corruption and will deal equally with perpetrators from inside (Members and employees) and outside the Authority. In addition, there will be no distinction made in investigation and action between cases that generate financial benefits and those that do not. We will uphold all laws relevant to countering bribery and corruption and we are bound by the laws of the UK, including the Bribery Act 2010, in respect of our conduct.
- 1.3 The Anti-Fraud, Bribery and Corruption Policy, however, will not compromise the Authority's equal opportunities policy or any obligations as an employer under the code of conduct for local government employees. Bribery and corruption are punishable for individuals by up to ten years' imprisonment and if we are found to have taken part in corruption we could face an unlimited fine and face damage to our reputation. We therefore take our legal responsibilities very seriously.
- 1.4 This policy document embodies a series of measures designed to frustrate any attempted fraudulent or corrupt act and the steps to be taken if such an act occurs. For ease of understanding, it is separated into five areas:

Culture	Section 2
Prevention	Section 3
Deterrence	Section 4
Detection and Investigation	Section 5
Awareness and Training	Section 6

- 1.5 The Authority is also aware of the high degree of external scrutiny of its affairs by a variety of bodies such as the Wales Audit Office, the Public Services Ombudsman for Wales, HM Revenue & Customs and other regulatory bodies. These bodies are important in highlighting any areas where improvements can be made.
- 1.6 Fraud, corruption and bribery are defined as:

**Fraud** – *“the intentional distortion of financial statements or other records by persons internal or external to the Authority which is carried out to conceal the misappropriation of assets or otherwise for gain”.*

In addition, fraud can also be defined as *“the intentional distortion of financial statements or other records by persons internal or external to the Authority which is carried out to mislead or misrepresent”.*

**Corruption** – *“the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.*

In addition, this policy covers *“the failure to disclose an interest in order to gain financial or other pecuniary gain.”*

**Bribery** – “a bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage.”

## **2. CULTURE**

- 2.1 The culture of the Authority is one of openness and the core values of fairness, trust and value support this. The Authority’s culture therefore supports the opposition to fraud and corruption.
- 2.2 The prevention/detection of fraud, bribery and corruption and the protection of the public purse are everyone’s responsibility. Bribery and corruption are punishable for individuals by up to ten years’ imprisonment and if you are found to have taken part in corruption you could face an unlimited fine.
- 2.3 The Authority’s elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding bribery, fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will, wherever possible, be treated in confidence.
- 2.4 Concerns must be raised when members or employees reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:
- ◆ a criminal offence
  - ◆ a failure to comply with a statutory or legal obligation
  - ◆ improper unauthorised use of public or other funds
  - ◆ a miscarriage of justice
  - ◆ maladministration, misconduct or malpractice
  - ◆ endangering of an individual’s health and safety
  - ◆ deliberate concealment of any of the above.
- 2.5 The Authority will ensure that any allegations received in any way will be taken seriously and investigated in an appropriate manner, subject to the requirements of the Human Rights Act 1998 and Equality Act 2010. Anonymous letters or phone calls will be considered on their merit and dependent on the nature and seriousness of the allegation. The Council has a whistleblowing policy that sets out the Council’s approach to these types of allegations in more detail.
- 2.6 The Authority will deal firmly with those who defraud the Authority, or who are corrupt, or where there has been financial malpractice or bribery. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees raising malicious allegations) may be dealt with as a disciplinary matter.
- 2.7 When fraud, bribery, or corruption has occurred because of a breakdown in the Authority’s systems or procedures, the Director and Head of Service responsible will ensure that appropriate improvements in systems of control are implemented to prevent a reoccurrence.

## **3 PREVENTION**

### **3.1 ELECTED MEMBERS - The Role of Elected Members**

- 3.1.1 As elected representatives, all members of the Authority have a duty to the Borough’s residents to protect the Authority from all forms of fraud, corruption and bribery.
- 3.1.2 This is met through the Anti-fraud, Bribery and Corruption Policy and compliance with the Council’s Code of Conduct for Members, the Authority’s Constitution, Financial Regulations, Standing Orders or Contracts and the relevant legislation, internal rules and regulations.

3.1.3 Elected members undertake to observe the Council's code of conduct when they take office. These conduct and ethical matters are specifically brought to the attention of members during induction and include the declaration and registration of interests. The Monitoring Officer advises members of new legislative or procedural requirements.

3.1.4 The Council's Code of Conduct for Members is based upon the following 10 principles for conduct in public life:

- (i) Selflessness
- (ii) Honesty
- (iii) Integrity and propriety
- (iv) Stewardship
- (v) Duty to uphold the law
- (vi) Objectivity in decision making
- (vii) Equality and respect
- (viii) Openness
- (ix) Accountability
- (x) Leadership

## 3.2 **EMPLOYEES - The Role of Managers**

3.2.1 Managers at all levels are responsible for the communication and implementation of this policy in their work area. They are also responsible for ensuring that their employees are aware of the Authority's Policies and Procedures, Financial Regulations and Standing Orders for Contracts, and that the requirements of each are being met in their everyday business activities. In addition, managers must make their employees aware of the requirements of the Code of Conduct for Employees through the induction process.

3.2.2 Managers are expected to strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Where they are unsure of the procedures they must refer to the appropriate Policies and Procedures.

3.2.3 Special arrangements may apply where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll, the benefits system or council tax. Managers must ensure that relevant training is provided for employees. Checks must be carried out at least annually to ensure that proper procedures are being followed.

3.2.4 The Authority recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts. The Authority's equal opportunities policy will be adhered to during this process.

3.2.5 The Authority has a formal recruitment procedure, which contains appropriate safeguards on matters such as written references and verifying qualifications held and employment history. Disclosure and Barring Service (DBS) checks are undertaken for employees and Elected Members working with or having direct contact with children or vulnerable adults.

3.2.6 The aims of vetting people before employment are;

- ◆ To ensure recruitment of the best person for the job
- ◆ To discourage dishonest people from applying for jobs
- ◆ To make sure that all staff are honest
- ◆ To show that the Council has taken all reasonable steps to prevent fraud



### 3.3 **EMPLOYEES - Responsibilities of Employees**

- 3.3.1 Each employee is governed in their work by the Authority's Standing Orders for Contracts and Financial Regulations and other codes of conduct and policies (health and safety, IT strategy, IT security). They are also governed by the code of conduct for local government employees. Included in these are guidelines on gifts and hospitality and codes of conduct associated with professional and personal conduct and conflicts of interest. These are issued to all employees when they join the Authority or will be provided by their manager. [N.B. Section 117 of the Local Government Act 1972 prohibits the acceptance of fees, gifts or rewards; other than by way of proper remuneration from the Council, or otherwise where this has been specifically authorised by a Director and where it has been recorded in the hospitality register maintained by the Directorate.]
- 3.3.2 In addition to paragraph 3.3.1, employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of the assets of the Authority. These will be included in induction training and procedure manuals. In some areas, specific training maybe required or professional responsibilities require staff to keep themselves updated in their area of work; employees in these areas are required to ensure that they are aware of the specific relevance of this to their work.
- 3.3.3 Employees are expected always to be aware of the possibility that fraud, corruption or theft may exist in the workplace and be able to share their concerns with management. If for any reason, they feel unable to speak to their manager they must refer the matter to one of those named below. Workers who refuse to accept or offer a bribe, or those who raise concerns or report another's wrongdoing, are sometimes worried about possible repercussions. We aim to encourage openness and will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken.
- 3.3.4 Concerns must be raised, in the first instance, directly with the supervisor/ manager, or, if necessary, anonymously (by letter or phone), and via other routes, in accordance with the Authority's Whistleblowing Policy which includes:
- ◆ Heads of Service, Directors, the Authority's Monitoring Officer, the S.151 Officer or the Head of Human Resources and Organisational Development.
  - ◆ Alternatively additional concerns can be raised via the independent charity, Public Concern at Work.
- 3.3.5 Under the Code of Conduct, members have specific obligations to uphold the law, in relation to stewardship of the Council's assets and for integrity in matters of claiming expenses, and of gifts and hospitality. Our zero-tolerance approach to bribery and corruption must be communicated to all suppliers, contractors and business partners at the outset of our relationship with them and as appropriate thereafter.

3.3.6 Any allegations of benefit fraud are to be referred to the Department of Work & Pensions for investigation.

### 3.4 **Conflicts of Interest**

3.4.1 Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues, etc. Effective role separation will ensure decisions are made, and are seen to be made, based upon impartial advice and avoid questions about improper disclosure of confidential information.

### 3.5 **Official Guidance**

3.5.1 In addition to Financial Regulations and Standing Orders for Contracts, service areas will have their own procedures to prevent and detect fraud. Where audit reports, both internal and external, recommend

methods to minimise losses to the Authority, managers and employees must be made aware of these various sources of guidance and alter their working practices accordingly.

### 3.6 Role of Internal Audit

3.6.1 Internal Audit Services is within the Head of Corporate Finance's responsibility and it plays a vital preventative role in trying to ensure that systems and procedures are in place to prevent and detect fraud and corruption. The Head of Corporate Finance and S.151 Officer must be informed of all cases of suspected irregularity, in accordance with the requirements of the Council's Financial Regulations. Internal Audit Services role is to assist management in ensuring that a comprehensive investigation is undertaken and that changes in procedures are implemented to prevent further losses to the Authority, except for benefit fraud investigations which are undertaken by the DWP.

3.6.2 Internal Audit Services has arranged and will keep under review procedures and arrangements to develop and encourage the exchange of information on national and local fraud and corruption activity in relation to local authorities with external agencies such as:

- ◆ police
- ◆ county, unitary and district groups
- ◆ the Councils external audit provider
- ◆ Wales Audit Office
- ◆ government departments.

### 3.7 The Role of External Audit

3.8.1 Independent external audit is an essential safeguard in the stewardship of public money. The external auditor has a responsibility to review the Authority's arrangements to prevent and detect fraud and irregularity, and the arrangements designed to limit the opportunity for corrupt practices. It is not the external auditor's function to prevent fraud and irregularity, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice. The Council participates in the National Fraud Initiative which is designed to cross match data obtained from a number of sources to highlight areas where there is potential fraudulent activity which are subsequently investigated.

## 4. **DETERRENCE**

### 4.1 Prosecution

4.1.1 There may be no choice about prosecution. The Criminal Law Act 1967, section 4 creates an offence of assisting offenders by committing any act without lawful authority or reasonable excuse which would impede the apprehension or prosecution of any person whom a person knows or believes to be guilty of an arrestable offence.

### 4.2 Disciplinary Action

4.2.1 Theft, fraud, bribery and corruption are serious offences against the Authority and employees may face disciplinary action if there is evidence that they have been involved in these activities. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

4.2.2 Members will face appropriate action if they are found to have been involved in theft, fraud, bribery or corruption against the Authority. Action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner. The Code of

Conduct, and regulations made by the National Assembly, govern the obligation to report a criminal offence and the way in which that may be dealt with as a breach of the Code.

#### 4.3 Publicity

- 4.3.1 The Council will optimise the publicity opportunities associated with anti-fraud, bribery and corruption activity within the Authority.
- 4.3.2 In all cases where financial loss to the Authority has occurred, the Authority will seek to recover the loss and will in, appropriate circumstances, advertise the fact.
- 4.3.3 All anti-fraud, bribery and corruption activities, including the update of this policy, will be publicised in order to make the employees and the public aware of the Authority's commitment to taking action on fraud and corruption when it occurs.
- 4.3.4 Reports will be made to the Audit Committee in respect of initiatives undertaken to counter fraud, bribery and corruption.

### 5. **DETECTION AND INVESTIGATION**

- 5.1 Internal Audit Services plays an important role in the detection of fraud, bribery and corruption. Included in their Audit Plan are reviews of systems financial controls, which include specific fraud, bribery and corruption tests.
- 5.2 In addition to internal audit, there are numerous systems controls in place to deter fraud, bribery and corruption, but it is often the vigilance of employees and members of the public that aids detection.
- 5.3 In some cases frauds are discovered by chance or 'tip-off' and arrangements are in place to enable such information to be properly dealt with, in accordance with the Council's Whistleblowing Policy and relevant legislation.
- 5.4 All suspected irregularities are required to be reported (verbally or in writing) in line with the Council's Financial Regulations and / or the "Whistleblowing Policy". This is essential to any anti-fraud, bribery and corruption strategy, and ensures the consistent treatment of information regarding fraud and corruption.
- 5.5 This process will apply to all the following areas:
  - a) internal fraud/bribery/corruption
  - b) other fraud/bribery/corruption by Authority employees
  - c) fraud/bribery/corruption by elected members
  - d) fraud by contractors or contractors' employees
  - e) external fraud (the public).
- 5.6 Cases under c), d) and e) would normally be referred directly to the Council's External Auditor, Ombudsman or the police.
- 5.7 Any decision to refer a matter to the police will be taken by the Head of Corporate Finance and S.151 Officer in consultation with the Chief Executive, Director/Head of Service, Head of Legal Services and Monitoring Officer and the Head of Human Resources & Organisational Development. The Authority will normally make the police aware of and investigate independently where financial impropriety is suspected.
- 5.8 Depending on the nature of an allegation the Internal Auditor Manager will normally work closely with the relevant Head of Service concerned to ensure that all allegations are thoroughly investigated and reported upon, and the necessary system improvements made to prevent any recurrence.

- 5.9 The Authority's disciplinary policy and procedures will be used to facilitate any further investigation of any allegations of improper behaviour by employees. The processes as outlined in paragraph 4.2.2 will cover Members.

## **6. AWARENESS AND TRAINING**

- 6.1 The Authority recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of programmed training and an awareness of elected members and employees throughout the Authority.
- 6.2 To facilitate this, positive and appropriate provision has been made via induction for members and new employees, and, additionally for employees, via their development plans where appropriate, for the specific post held. This may include specialist training for certain elected members and employees.
- 6.3 Full copies of the "Whistleblowing Policy", the "Anti Money Laundering Policy" and the "Anti-Fraud, Bribery and Corruption Policy" are posted on the Council's intranet and website ([www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)).

## **7. CONCLUSIONS**

- 7.1 The Authority has always prided itself on setting and maintaining high standards and a culture of openness, with core values of fairness, trust and value. This strategy fully supports the Authority's desire to maintain an honest Authority, free from fraud, bribery and corruption.
- 7.2 The Authority has in place a network of systems and procedures to assist it in dealing with fraud, bribery and corruption when it occurs. It is determined that these arrangements will keep pace with any future developments in techniques to both prevent and detect fraudulent or corrupt activity that may affect its operation.
- 7.3 The Authority will maintain a continuous review of all these systems and procedures through Internal Audit Services.
- 7.4 This policy will be reviewed periodically.

# CAERPHILLY COUNTY BOROUGH COUNCIL

## ANTI MONEY LAUNDERING POLICY



## 1. Introduction

Although local authorities are not directly covered by the requirements of the Money Laundering Regulations 2007, guidance from the Chartered Institute of Public Finance and Accounting (CIPFA) indicates that they should comply with the underlying spirit of the legislation and regulations.

The legislative requirements concerning money laundering procedures are lengthy and complex. Caerphilly County Borough Council is committed to the highest possible standards of conduct. This policy has been written to enable the Council to meet the legal requirements in a way that is proportionate to the Council's risk of contravening the legislation and to ensure that there are adequate safeguards and reporting arrangements to ensure that the Council is not used by 3<sup>rd</sup> parties for the purpose of money laundering.

The policy sets out the procedures which must be followed and it is suggested that this be read in conjunction with the Anti- Fraud, Bribery and Corruption Policy and the Financial Procedure Rules which govern the day to day operation of the Authority's financial administration.

## 2. Scope Of The Policy

This policy applies to:

- All Council employees (permanent, temporary or casual)
- Elected Members
- Agency Staff
- Consultants
- Contractors
- Partners

The aim of this policy is to enable officers and Members to respond to a concern they have in relation to suspicions of money laundering activity as part of their work and sets out the procedures that must be followed.

Individuals who have a concern relating to a matter outside work should contact the Police.

## 3. Definition of Money Laundering

Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 as the following "prohibited acts".

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Doing something that might prejudice an investigation, e.g. falsifying a document
- Failure to disclose one of the offences above, where there are reasonable grounds for knowledge or suspicion.
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of, or prejudice an investigation.

Whilst the risk of the Council contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation.

## 4. What Are The Obligations On The Council

The main requirements of the legislation are:

- Appoint a Money Laundering Reporting Officer to receive disclosures from employees of money laundering activity
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain client identification procedures in certain circumstances and
- Maintain record keeping procedures

The key areas covered by the Act relate mainly to Accountancy, Audit Services and property transactions undertaken by Legal Services. However, to ensure compliance with the law, all staff are required to comply with the reporting / disclosure procedure set out in section 6 below.

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

The Council has designated the S.151 Officer as the Money Laundering Reporting Officer. She can be contacted by email: [scammn@caerphilly.gov.uk](mailto:scammn@caerphilly.gov.uk), or by telephone: 01443 863031.

The Money Laundering Reporting Officer is responsible for receiving reports of suspicious activities relating to money laundering and evaluating the information provided, before determining if a referral should be made to the National Crime Agency.

## 6. Reporting Procedure For Suspicions Of Money Laundering

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, 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.

Your disclosure should be made to the MLRO using the disclosure report, available on the Council's Intranet, via the governance link on the home page. The report should include as much detail as possible including:

- Full details of the people involved
- Full details of the nature of their/your involvement
- The types of money laundering activity involved
- The dates of such activities
- Whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money'/assets involved
- Why, exactly, you are suspicious.

Along with 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 her to prepare her report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

If you are concerned that your involvement in the transaction would amount to a prohibited act under Sections 3279-329 of the Act, then your report must include all relevant details, as you will need consent from the 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 and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.

Once you have reported the matter to the MLRO you must follow any directions she may give you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff 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 the 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”.

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.

## **7. Consideration of the Disclosure by the Money Laundering Reporting Officer**

Upon receipt of a disclosure report, the MLRO must note the date of receipt on their section of the report and acknowledge receipt of it. The MLRO should also advise you of the timescale within which he expects to respond to you.

The MLRO will consider the report and any other available internal information he thinks relevant, for example:

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

The MLRO will undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he needs to seek consent from the NCA for a particular transaction to proceed

Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Council’s Monitoring Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.



All disclosure reports referred to the MLRO and reports made by him to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

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

## 8. **Client Identification**

Although there is no legal requirement for the Council to have formal procedures for evidencing the identity of those they do business with, staff should be alert to potentially suspicious circumstances. Where there may be doubt and in particular, when forming a new business relationship or considering a significant one off transaction, identification of the party to the transaction(s) should be sought.

## 9. **Record Keeping**

Each section of the Council conducting relevant business (Accountancy, Audit and certain Legal Services) must maintain appropriate records of:

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

The precise nature of the records to be held is not prescribed by law, however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the party giving rise to concern and the relevant transactions and recording in what form any funds were received or paid.

## 10. **Training & Awareness**

The Council does not have any areas of activity that are considered to be especially vulnerable to money laundering. This is supported by the fact that local authorities are not included as a “relevant person” in the Money Laundering Regulations 2007 and are therefore not covered by those regulations.

Those receiving, or arranging to receive cash on behalf of the Council must ensure they are familiar with this policy. As the types of transactions which may be used by money launderers are almost unlimited, it is difficult to define a suspicious transaction.

Training will be delivered upon request.

## 11. **Further Information**

Money laundering guidance is available from professional bodies (for example ACCA, CIPFA, LLA, The Law Society) and HM Revenue and Customs.

## 12. **Review**

This policy will be reviewed and updated periodically.