

Wolverhampton City Council

**OPEN DECISION ITEM**

Audit Committee

Date **24 September 2012**

|                              |  |
|------------------------------|--|
| Originating Service Group(s) | <b><u>DELIVERY</u></b>                                 |
| Contact Officer(s)/          | <b><u>P FARROW</u> <u>R MORGAN</u> <u>M WILKES</u></b> |
| Telephone Number(s)          | <b><u>4460</u> <u>5612</u> <u>4462</u></b>             |
| Title/Subject Matter         | <b><u>REVIEW OF FRAUD RELATED POLICIES</u></b>         |

**RECOMMENDATIONS**

1. That Members of the Audit Committee endorse the Audit Services' management review of the following policy documents:
  - Anti-Fraud and Corruption Policy (Appendix 1)
  - Whistleblowing Policy (Appendix 2)
  - Anti-Money Laundering Policy (Appendix 3)
  - Anti-Bribery Policy (Appendix 4)
  - Fraud Referral Plan – Guide for Staff (Appendix 5)
  - Fraud Response Plan – Guide for Managers (Appendix 6)
  - Fraud Investigation Plan (Appendix 7)
  - Police Referral, Prosecution and Recovery Policy (Appendix 8)
2. To note whistleblowing activity arising since the launch of the Whistleblowing Policy in September 2006.
3. To note the review of counter fraud arrangements against the provisions of Red Book 2.
4. To note the deficiencies in corporate procedures identified in relation to the recording of cases of possible fraud and irregularity and the ongoing work to secure improvements.

## **1. PURPOSE AND BACKGROUND**

1.1 On 4 September 2006 Audit Committee approved the following policy documents:

- Anti-Fraud and Corruption Policy
- Whistleblowing Policy
- Anti-Money Laundering Policy

At the same time the following additional fraud related policies were adopted by the Audit Services division:

- Fraud Referral Plan – Guide for Staff
- Fraud Response Plan – Guide for Managers
- Fraud Investigation Plan
- Police Referral, Prosecution and Recovery Policy

On 29 September 2011 Audit Committee approved the following policy document:

- Anti-Bribery Policy

1.2 Recognised best practice and the terms of the relevant policies require that they are subject to frequent review to ensure that they remain up to date and fit for purpose. The last review of the policies was brought before Audit Committee on 29 September 2011.

## **2. DETAILS**

### **2.1 September 2012 Review of Fraud Related Policies**

2.1.1 Audit Services' management have reviewed the Council's fraud related policies during September 2012 and where required contact details for organisations have been updated.

2.1.2 The Anti-Fraud and Corruption Policy has been amended to include details of data matching exercises with other bodies and agencies. This provides an important tool in the prevention and detection of fraud and corruption.

2.1.3 Following a request from the Standards Committee, at a meeting held on 17 November 2011, the Whistleblowing Policy has been amended to specify that; in the event that a member of the Monitoring of Audit Investigations Sub-Committee is dissatisfied with any aspect of an investigation, the matter could be referred to the main Audit Committee or the Council's external auditors. The Whistleblowing Policy has also been amended to clarify that details of the precise action taken may not be provided to the Whistleblower or the employee investigated where this would infringe a duty of confidence owed to others or compromise any future investigations.

2.1.4 This review of fraud related policies excludes the Council's Housing and Council Tax Benefit Sanctions Policy. An Internal Audit review of Benefit fraud arrangements, including the Benefit Sanctions Policy, was issued on 3 May 2011 and concluded that overall arrangements were satisfactory. The Head of Revenues and Benefits confirmed that the policy is still applicable and a review of the policy will be required in preparation for the introduction of the new council tax support scheme, in April 2013.

## 2.2 Monitoring of Whistleblowing Activity

2.2.1 The Council's Whistleblowing Policy requires whistleblowing activity to be reported to the Audit Committee annually. Details of specific whistleblowing cases are reported to the Audit Committee's Investigations Sub Committee on an on-going basis. A summary of cases arising since the policies were introduced in September 2006 is set out below.

| Year    | WB cases |
|---------|----------|
| 2006/7  | 13       |
| 2007/8  | 23       |
| 2008/9  | 10       |
| 2009/10 | 18       |
| 2010/11 | 23       |
| 2011/12 | 20       |
| 2012/13 | 10       |

2.2.2 Members will note that whistleblowing activity has shown an upward trend since 2008/09. This would generally be expected considering the current difficult economic conditions and high levels of uncertainty affecting the organisation.

## 2.3 Compliance with CIPFA's Red Book 2

2.3.1 In October 2008 the CIPFA Better Governance Forum published "Managing the Risk of Fraud – Actions to counter fraud and corruption", which is known as Red Book 2. This guidance document expanded upon the provisions of Red Book 1, which had attempted to set out what actions organisations should take to be effective in countering fraud. Red Book 2 is acknowledged as good practice for local authorities and is supported by, among others, The Audit Commission, the National Fraud Strategic Authority (NFSA), the Institute of Internal Auditors (IIA) and ALARM, The Public Risk Management Association.

2.3.2 Whilst the Council's counter fraud arrangements are generally compliant with the provisions of Red Book 2, a number of areas have been identified as requiring additional work.

2.3.3 During 2012 the Council has established a Counter Fraud Unit (CFU), which sits within Audit Services. The CFU has been established to develop and lead in the following areas:

- Undertaking reviews of areas classified as 'high' risk to the potential of fraud.
- Undertaking fraud investigations.
- Developing and maintaining the Council's Fraud Risk Register.
- Undertaking proactive targeted testing.
- Reviewing and updating relevant anti-fraud and related documents.
- Taking the lead on behalf of the council and acting as key contact for Wolverhampton Homes on the Audit Commission's National Fraud Initiative (NFI) exercise.
- Running counter fraud training activities.
- Raising fraud awareness across the council and promoting an anti-fraud culture.

- Maintaining links with other relevant associated bodies (internally and externally e.g. other authorities, the Audit Commission, the National Fraud Authority, the Police etc.).
- Reporting to the Audit Sub Committee as and when required on specific frauds.
- Embedding fraud awareness within the Council's strategic partners.
- Completing one off reviews at the request of management and Councillors.
- Monitoring, benchmarking and self-assessing the Council against recognised anti-fraud best practices.

2.3.4 The CFU will produce a Counter Fraud Plan which will include the additional work required to fully comply with the provisions of Red Book 2. The CFU will monitor and review the implementation of the Counter Fraud Plan and report progress to the Audit Committee's Monitoring and Investigations Sub Committee on an on-going basis.

## **2.4 Audit Commission Fraud and Corruption Return**

2.4.1 Audit Services has recently had to provide information to the Audit Commission under Section 48 of the Audit Commission Act 1998 with regard to data on fraud and corruption in local government. The review of Fraud Related Policies in September 2011 identified that while compiling the return it became clear that Internal Audit is not being informed of all cases where potential fraud or irregularity exists or has taken place, which is not in accordance with the terms of the Council's Constitution. In addition, during Audit Services' attempts to identify the level of potential fraud and irregularity across the Council, it became apparent that in many instances records were not being maintained. This situation was found to be substantially the same while compiling data for the 2012 submission.

2.4.2 As a result of the above, Audit Services is continuing to work with relevant sections across the Council to improve the reporting of instances of possible fraud and irregularity.

## **3. FINANCIAL IMPLICATIONS**

3.1 There are no direct financial implications arising from this report.  
[GE/12092012/S]

## **4. LEGAL IMPLICATIONS**

4.1 There are a number of legal implications which may arise as a result of individuals or organisations failing to comply with the policies and procedures contained within the corporate framework to counter fraud and corruption. These will be considered and advised upon as they arise.  
[MW/11092012/D]

## **5. EQUAL OPPORTUNITIES IMPLICATIONS**

5.1 There are no direct equal opportunities implications arising from this report.

## **6. ENVIRONMENTAL IMPLICATIONS**

6.1 There are no direct environmental implications arising from this report.

**7. SCHEDULE OF BACKGROUND PAPERS**

Codes of Conduct for Members

Codes of Conduct for Officers

Council Contract Procedure Rules

Council Financial Procedure Rules

Disciplinary Procedures (as set out in section D.15. of the Council's Corporate Human Resources Manual)

Fraud Response Plan

Whistleblowing Policy

Anti-Money Laundering Policy

Anti-Bribery Policy

Benefit Fraud – Sanctions Policy

**Wolverhampton City Council**

**Anti-Fraud and Corruption Policy**

**1. Introduction**

- 1.1. In discharging its responsibility to safeguard public funds, Wolverhampton City Council is committed to fighting fraud and corruption whether attempted from inside or outside the organisation.
- 1.2. The Council expects all elected and co-opted members and employees to carry out their duties in accordance with appropriate legal requirements, internal codes, rules and procedures and to act at all times with honesty and propriety in the discharge of their functions.
- 1.3. The Council also expects that all outside individuals and organisations will act towards it with honesty and integrity.
- 1.4. The purpose of the Anti-Fraud and Corruption Policy is to outline the Council's approach for dealing with threat of fraud and corruption, both internally and externally. The Policy therefore applies equally to:
  - Councillors and co-opted members
  - Employees
  - Contractors
  - Partner organisations and their employees
  - Suppliers
  - Consultants
  - Service users
  - Employees and committee members of organisations funded to any extent by the Council
- 1.5. The Policy sets out the Council's commitment to tackling fraud and corruption. It is the Council's policy that wherever evidence of fraud or corruption is identified, appropriate and decisive action will be taken against the perpetrators. Wherever possible, steps will be taken to recover losses suffered.

**2. Corporate Framework and Culture**

- 2.1. The Council has a range of interrelated policies and procedures that provide a corporate framework to counter fraud and corruption. These have been formulated in accordance with appropriate legislation and include:
  - Codes of Conduct for Members
  - Codes of Conduct for Officers
  - Council Contract Procedure Rules
  - Council Financial Procedure Rules
  - Sound systems of internal control
  - Effective internal arrangements

- Disciplinary Procedures (as set out in section D.15. of the Council's Corporate Human Resources Manual)
- Fraud Response Plan
- Whistleblowing Policy
- Fraud Awareness training
- Anti-Money Laundering Policy
- Anti-Bribery Policy
- Benefit Fraud – Sanctions Policy

2.2. The Council is committed to fostering a culture of honesty and integrity. To that end the following clear roles and responsibilities are established in relation to fraud and corruption.

### **2.3. Direct Employees of the Council**

2.3.1. Council staff are expected and positively encouraged to raise any concerns relating to fraud and corruption which they become aware of. These concerns should be raised initially through one of the following channels:

- By telephone to:

Whistleblowing Hotline      01902 550550

(24 hours a day, 7 days a week, answer phone out of office hours).

- By post to:

PO Box 4931  
Wolverhampton  
WV1 9FX

- By e-mail to:

[Audit.Services@wolverhampton.gov.uk](mailto:Audit.Services@wolverhampton.gov.uk)

- The Head of Audit Services (Ext: 4460) or any member of his staff.

2.3.2. Alternative communication channels for staff not wishing to make use of the specific whistleblowing communication mechanisms include:

- Employee's line manager
- The Chief Executive
- The Assistant Director - Corporate Services (Section 151 Officer)
- Any Assistant Director
- The Council's External Auditor:  
Pricewaterhouse Coopers  
Cornwall Court

19 Cornwall Street  
Birmingham  
B3 2DT  
(Tel: 0121 265 5000)

- The charity Public Concern at Work  
3<sup>rd</sup> Floor  
Bank Chambers  
6 -10 Borough High Street  
London  
SE1 9QQ  
(Tel: 020 7404 6609)  
([www.pcaw.org.uk](http://www.pcaw.org.uk))

- National Fraud Hotline (Tel: 0800 854400)

- 2.3.2. Full information relating to how concerns should be raised is set out in the Council's Fraud Response Plan and Whistleblowing Policy.
- 2.3.3. The Council is committed to ensuring that no member of staff should suffer victimisation or loss of employment prospects because of their action under this code. The anonymity of individuals will be respected wherever possible and consistent with the needs of the Police in any investigation they may wish to make.
- 2.3.4. Whilst the Council actively encourages staff to report any concerns relating to potential instances of fraud and corruption, where it is deemed that allegations are maliciously motivated and unfounded, action may be taken in accordance with the disciplinary procedure as set out in section D.15. of the Council's Corporate Human Resources Manual.

## **2.4. Managers**

- 2.4.1. Whenever managers or supervisory staff are informed of alleged fraudulent activity, the Council expects their response to be appropriate and decisive. Full details of how such allegations should be handled are set out in the Council's 'Fraud Response Plan for Managers'.
- 2.4.2. Basic principals governing the response of managers to allegations of fraud and corruption are outlined below.
- All allegations received should be treated seriously.
  - Employees making the allegations should given assurances regarding their confidentiality.
  - The allegations should be promptly referred to the appropriate investigating officer as set out in the Council's Fraud Response Plan. In the majority of instances this is likely to be the Head of Audit Services.
  - Managers should avoid alerting individuals of allegations made against them without the express agreement of the investigating officer, as this may compromise future investigations.



## 2.5. Customers, Suppliers and Members of the Public

2.5.1. Where persons external to the Council have concerns regarding non-Benefits related fraud and corruption, these should be raised initially through any one of the following channels:

- By telephone to:

Whistleblowing Hotline      01902 550550

(24 hours a day, 7 days a week, answer phone out of office hours).

- By post to:

PO Box 4931  
Wolverhampton  
WV1 9FX

- By e-mail to:

[Audit.Services@wolverhampton.gov.uk](mailto:Audit.Services@wolverhampton.gov.uk)

2.5.2. Alternative lines of communication available where people do not wish to utilise the specific Whistleblowing communication channels include:

- The Council's Compliments and Complaints scheme:  
Details on Council website ([www.wolverhampton.gov.uk](http://www.wolverhampton.gov.uk))  
Telephone queries: 01902 550363
- The Council's External Auditor:  
Pricewaterhouse Coopers  
Cornwall Court  
19 Cornwall Street  
Birmingham  
B3 2DT  
(Tel: 0121 265 5000)
- The charity  
Public Concern at Work  
3<sup>rd</sup> Floor  
Bank Chambers  
6 -10 Borough High Street  
London  
SE1 9QQ  
(Tel: 020 7404 6609)  
([www.pcaw.org.uk](http://www.pcaw.org.uk))
- National Fraud Hotline (Tel: 0800 854400)

2.5.3. Information regarding Housing Benefit or Council Tax Benefit fraud should be reported directly to the Council's Benefits Fraud Team (Tel: 01902 554773).

2.5.2. All information referred to the Council will be thoroughly investigated in accordance with the Fraud Response Plan. Confidentiality will be assured wherever necessary. Wherever possible, the person making the allegations will be informed of the outcome of the investigation on its conclusion.

### **3. Minimisation of Risk of Fraud and Corruption**

3.1. The Council recognises that fraud and corruption is costly both in terms of financial loss and reputational damage. The prevention of fraud and corruption is therefore a key objective of the Council and it is fully committed to establishing robust preventative and detection procedures. Respective roles and responsibilities in relation to this are outlined in the paragraphs below.

#### **3.2. Staff of the City Council**

3.2.1. It is central to the Council's anti-fraud policy that robust recruitment procedures minimise the risk of employing persons falling short of the high levels of competence and integrity expected. To this end, steps should be taken to establish as far as possible the previous record of potential staff in terms of their performance, propriety and integrity. This principle should apply equally to temporary and permanent appointments.

3.2.2. The Council's policies for recruitment and selection are set out in sections A1 and A2 of the Corporate Human Resources Manual. These detail minimum procedures regarding the taking up of references and the verification of qualifications. Policy updates are issued as appropriate (e.g. Asylum and Immigration Act - Prevention of Illegal Working) and additional requirements applicable to certain posts or candidates (e.g. Criminal Records Bureau checks) are also set out.

3.2.3. All Council staff are required to abide by the Employees Code of Conduct which is set out in Appendix 2 of the Constitution. In addition, staff are expected to comply fully with the codes of conduct laid down by their respective professional institutes, where membership of such institutes is a reasonable expectation of employment.

3.2.4. Section D15 of the Council's Corporate Human Resources Manual sets out the disciplinary framework which applies to all employees. The guidance provided also sets out the types of misconduct which may lead to disciplinary action. Whilst this list is not exclusive or exhaustive, employees are advised to be aware of its provisions.

#### **3.3. Elected and Co-opted Members of the City Council**

3.3.1. The conduct of elected and co-opted members of the City Council is governed by the following:

- The ethical framework contained in Part III of the Local Government Act 2000
- The Code of Conduct for Members

3.3.2. These matters and other relevant guidance are provided to all members at the induction course for new members and are included in the Members Handbook.

3.3.3. All complaints that a Member has breached the Code of Conduct must be made to the Standards Committee.

3.3.4. Wherever Councillors become aware of potential fraudulent activity affecting the business of the Council, they should raise the matter with the Head of Audit Services. Alternatively, the issues should be raised with the Chief Executive, the Assistant Director – Corporate Services (Section 151 Officer), or the Assistant Director - Governance.

3.3.5. The Council's Audit Committee is responsible for monitoring overall audit and control arrangements of the Council. In the effective discharge of this responsibility, the Audit Committee may from time receive reports relating to incidents of fraud and corruption.

#### **3.4. Systems of Internal Control**

3.4.1. The Assistant Director - Corporate Services (S151 Officer) has a Statutory Responsibility under section 151 of the Local Government Act 1972, to ensure that proper arrangements are made for the Council's affairs. In addition, under the Accounts and Audit Regulations 2003, the Council is required to maintain an adequate and effective internal audit of its financial records and systems of internal control.

3.4.2. The Council has put in place systems and procedures to manage and discharge its functions in an efficient and effective way. These systems incorporate internal controls to prevent and deter fraud and corruption, including adequate separation of duties where appropriate.

3.4.3. Chief Officers are responsible for maintaining effective systems of internal control within their areas of responsibility. The Head of Audit Services is responsible for ensuring that key systems of control are periodically reviewed based on an evaluation of risk.

#### **3.5. Combining with External Organisations to Prevent and Detect Fraud**

3.5.1. The Council engages in a variety of arrangements in relation to the exchange of information between the City Council and other local authorities and agencies for the purposes of preventing and detecting fraud. These include national, regional and local networks of officers involved in the investigation of fraud, including internal auditors, Trading Standards officers and Housing Benefits investigators.

- 3.5.2. The Council participates in the Audit Commission's National Fraud Initiative (NFI) data matching exercise, which is undertaken every two years. In addition, the Council feeds into the National Anti-Fraud Network (NAFN), Housing Benefit Matching Service and CIPFA's Better Governance Forum.
- 3.5.3 The Council participates in data matching exercises with other bodies and agencies, which enables information and intelligence to be generated. This is recognised as an important tool in the prevention and detection of fraud and corruption. All data matching is carried out within the requirements of legislation and the Information Commissioner.

#### **4. Effective Action**

- 4.1. Wherever allegations of fraudulent behaviour are made through any of the channels set out in paragraphs 2.3 and 2.5 above, appropriate investigations of the facts will be undertaken. The Council employs staff trained to carry out professional investigations in the following sections:
- Audit Services
  - Housing Benefit and Council Tax Benefit
  - Trading Standards
- 4.2. The Council is committed to investigating allegations as vigorously as deemed appropriate in the view of the Assistant Director – Corporate Services (Section 151 Officer) in conjunction with the Head of Audit Services and other senior officers. In making these decisions, consideration will be given to the loss incurred, the likelihood of being able to prove the allegations, and the likely resource implications.
- 4.3. The Council will take action under the terms of its disciplinary procedure as deemed proportionate to any acts of impropriety identified. In addition, where criminal activity has taken place, referrals will be made to the police under the terms of the Council's Police Referral, Prosecution and Recovery Policy. As a general principal, wherever criminal activity is identified, details are likely to be referred to the police. Restitution will be sought from all employees who have perpetuated fraudulent acts and will be in addition to any disciplinary action which may be taken.

#### **5. Training**

- 5.1. The Council recognises that the success of its Anti-Fraud and Corruption Policy is dependant upon its effective communication, both within the organisation and to its external stakeholders. To this end, comprehensive communication and training initiatives will be undertaken as necessary. These may include the following elements:
- The Anti-Fraud and Corruption Policy, together with other associated policy documents, are published on the Council's intranet site for Council employees. In addition, reference to the policies will be periodically made on employee payslips, including details of where documents can be located for employees without intranet access.

- Audit Services will run a series of Anti-Fraud and Corruption Workshops across the organisation.
- Associated policies will be published on the Council's internet site.
- The policies will be covered in the Council's City People online newspaper, with regular updates on fraudulent activity being reported.

## **6. Commitment**

- 6.1. The Council's Anti-Fraud and Corruption Policy is a clear statement of intent to tackle fraud and corruption on all levels as it affects the Council and its stakeholders. This commitment to fostering an anti-fraud culture within the organisation to protect public funds and minimise losses is serious and on-going. The Anti-Fraud and Corruption Policy will be monitored on an on-going basis by the Council's Audit Committee, and revisions will be proposed wherever necessary.

## Wolverhampton City Council

### Whistleblowing Policy

#### 1. Introduction

- 1.1. Whistleblowing is an employee's disclosure of what they consider to be malpractice by a co-worker or manager. This malpractice may constitute any behaviour felt to be detrimental to the best interests of the Council, its stakeholders and its employees. Specific examples of issues covered by the Whistleblowing Policy include:
1. Any unlawful act.
  2. Health and safety issues.
  3. Damage to the environment.
  4. Unauthorised use of public funds.
  5. Fraud and corruption of any description.
  6. Inappropriate or improper conduct (including bullying or harassment).
  7. Serious failure to comply with appropriate professional standards.
  8. Breach of the Council's Constitution or other policy or code of practice.
  9. Discrimination of any kind.
  10. Any form of unethical conduct.
- 1.2. The Council's Whistleblowing Policy does not apply to raising grievances about an employee's personal situation. Any such concerns should be raised under the existing provisions for raising grievances as set out in section D.15 of the Council's Corporate Human Resources Manual.
- 1.3. Where issues involve potential cases of fraud and corruption, employees should also refer to the Council's Fraud Referral Plan – Guide for Staff.

#### 2. Aims of the Policy

- 2.1. The aims of the Council's Whistleblowing Policy are as follows:
1. Encourage employees to feel confident about raising concerns and to question and act on those concerns.
  2. Provide ways for employees and other stakeholders to raise concerns and receive feedback where appropriate on any action taken as a result.
  3. Reassure employees that if they raise concerns in good faith and reasonably believe them to be true, they will be protected from possible reprisals or victimisation.
  4. Ensure that employees are aware of options available to them if they are dissatisfied with the Council's initial response.

### **3. Who is covered by the Policy?**

3.1. The Council's Whistleblowing Policy applies equally to all of the following groups:

1. Council employees (including part time and temporary staff).
2. Agency staff working for the Council.
3. Council contractors and suppliers.
4. Organisations working with the Council under partnership arrangements.
5. Service users and stakeholders.

### **4. What assurance does the Whistleblowing Policy provide?**

4.1. Individuals raising concerns under the Whistleblowing Policy will not be at risk of any form of retribution or sanction, including losing their job or contract with the Council, provided that:-

1. The disclosure is made in good faith.
2. There is a genuine and reasonable belief that the information, and any allegations contained in it, is substantially true.
3. The disclosure is not motivated by personal gain.

4.2. The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, where matters which are known to be untrue are raised maliciously, it is likely that disciplinary action will be taken against perpetrators.

### **5. Raising a concern**

5.1. The Council has established the following primary mechanisms for employees and other Council stakeholders to report their concerns:

1. By telephone to:

Whistleblowing Hotline      01902 550550

(24 hours a day, 7 days a week, answer phone out of office hours)

2. By post to:

PO Box 4931  
Wolverhampton  
WV1 9FX

3. By e-mail to:

[Audit.Services@wolverhampton.gov.uk](mailto:Audit.Services@wolverhampton.gov.uk)

5.2. Alternative lines of communication for reporting fraud include an employee's line manager, departmental Human Resources Manager, relevant Director or Assistant Director, the Assistant Director – Corporate Services (Section 151 Officer), the Assistant Director - Governance, the Head of Audit Services or the Chief Executive. Non-Council employees should raise their concerns with the Assistant Director - Governance, the Head of Audit Services or the Chief Executive. Information relating to Housing or Council Tax Benefits fraud should be referred to the Council's Benefit Fraud Team or the National Fraud Hotline. Full contact details for all referrals are set out in sections 2.3 and 2.5 of the Council's Anti-Fraud and Corruption Policy.

5.3. Concerns may be raised verbally or in writing.

5.4. Whilst anonymous allegations will be considered and action taken where appropriate, it is much more difficult to properly investigate matters raised anonymously. The Whistleblowing Policy is designed to protect staff raising genuinely held concerns and individuals utilising the provisions of the policy are encouraged to identify themselves. Obviously, feedback relating to any investigation which has been undertaken can only be provided where contact details are known.

## **6. How will the Council respond?**

6.1. The Council's response will depend on the nature of the concern that has been raised. In all instances, the Council will:

1. Record and acknowledge the issue raised and refer it for investigation within three days of receiving the information.
2. Respect confidentiality – The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated, however, that this is not always possible. The investigation process may reveal the source of the information and a statement by you may be required as part of the evidence. The person investigating the matter will be informed of any confidentiality requirements relating to the disclosure.
3. Decide on appropriate action e.g. Audit Services investigation, other internal investigation, referral to the police or other external organisation.



4. Subject to any legal constraints, the employee against who the allegation was made will normally be informed of the final outcome of any investigation undertaken. However, details of the precise action taken may not be provided where this would infringe a duty of confidence owed to others or compromise any future investigations.

## **7. How can a concern be taken further?**

- 7.1. Where individuals are dissatisfied with action taken by the Council in respect of issues raised under the Whistleblowing Policy, they should raise their concerns with the Assistant Director - Governance. If they remain dissatisfied, the following organisations may be contacted for advice:

1. The charity Public Concern at Work

Public Concern at Work  
3<sup>rd</sup> Floor  
Bank Chambers  
6 -10 Borough High Street  
London  
SE1 9QQ  
(Tel: 020 7404 6609)  
([www.pcaw.org.uk](http://www.pcaw.org.uk))

2. The Council's external auditors

Pricewaterhouse Coopers  
Cornwall Court  
19 Cornwall Street  
Birmingham  
B3 2DT

Tel: 0121 265 5000

3. The Audit Commission

Confidential Public Interest Disclosure Line: 0845 052 2646

In addition, individuals have the option of taking advice from their trade union, the Citizens Advice Bureau, their own legal representation etc.

## **8. Corporate recording and monitoring**

- 8.1. Service Groups will ensure that suitable internal arrangements are in place to address the requirements of the Whistleblowing Policy.
- 8.2. The Head of Audit Services will maintain a Corporate Register logging the progress of all issues raised under the Whistleblowing Policy. All officers receiving

information which may be classed as whistleblowing are responsible for informing the Head of Audit Services.

- 8.3. The progress of all audit investigations, including those into whistleblowing allegations, is reported to the Audit (Monitoring of Audit Investigations) Sub-Committee. In the event that a Member of the Sub-Committee was dissatisfied with any aspect of the investigation, the matter could be referred back to the main Audit Committee or the Council's external auditors.
- 8.4. An annual report summarising activity undertaken under the Council's Whistleblowing Policy will be submitted to the Audit Committee by the Head of Audit Services.
- 8.5. The Council's Whistleblowing Policy will be reviewed on an annual basis by the Head of Audit Services to ensure that it remains up to date, fit for purpose and represents generally accepted good practice.

## **Wolverhampton City Council Anti-Money Laundering Policy**

### **1. Introduction**

- 1.1 The Proceeds of Crime Act 2002 (POCA) and the Money Laundering Regulations 2003 broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the new obligations impacted upon certain areas of local authority business and required local authorities to establish internal procedures to prevent the use of their services for money laundering.
- 1.2 The Money Laundering Regulations 2003 have now been revoked and have been replaced by the Money Laundering Regulations 2007 (the 2007 Regulations). Public authorities are not legally obliged to apply the provisions of the 2007 Regulations but, as responsible public bodies, they should employ procedures which reflect the essence of the UK's anti-terrorist financing and anti-money laundering regimes. Authorities and their staff are, therefore, subject to the full provisions of the Terrorism Act 2000 (the TA) and POCA.

### **2. Scope of Policy**

- 2.1 The Policy sets out the procedures which must be followed to enable the Council to comply with its legal obligations. This Policy applies to all officers and members of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering.
- 2.2 Further information is set out in the Guidance Note. Both the Policy and the Guidance Note sit alongside the Council's policies covering Anti-Fraud and Corruption and Whistleblowing.
- 2.3 Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the City Council's Disciplinary Policy and Procedure.

### **3. What is Money Laundering?**

- 3.1 Money laundering is any process which is intended to use, control, hide or disguise monies which are the proceeds of 'crime'. 'Crime' means any action which could be deemed a crime committed within the UK and includes tax fraud and evasion. Money Laundering relates to all property and means:
  - concealing, disguising, converting, transferring or removing criminal property from the UK (section 327 of POCA); or

- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328); or
- acquiring, using or possessing criminal property (section 329); or
- becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorist Act 2000).

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

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

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

#### 4. What are the obligations on the Council?

4.1 Organisations conducting “relevant business” must:

- appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else’s);
- implement a procedure to enable the reporting of suspicions of money laundering;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

Not all of the Council’s business is “relevant” for the purposes of the legislation. Relevant services as defined by the legislation include investments, accountancy and audit services carried out by Corporate Services staff and the financial, company and property transactions undertaken by Property Delivery Services and Legal Services. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council; therefore, all staff are required to comply with the reporting procedure set out in section 6 below.

4.2 The following sections of this Policy provide further detail about the requirements listed in paragraph 4.1.

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

5.1 The officers nominated to receive disclosures about money laundering activity within the Council are the Assistant Director - Corporate Services (S151 Officer), Assistant Director - Governance and Head of Audit Services. The main point of contact is Peter Farrow, Head of Audit Services, who may be contacted in writing at Wolverhampton City Council, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RL. Additional contact details are as below:

**Peter Farrow**

**Head of Audit Services**

Tel: (01902) 554460

Fax: (01902) 554040

E-mail: Peter.Farrow@wolverhampton.gov.uk

**Pat Main**

**Assistant Director - Corporate Services (S151 Officer)**

Tel: (01902) 554500

Fax: (01902) 554406

E-mail: Pat.Main@wolverhampton.gov.uk

**Susan Kembrey**

**Assistant Director - Governance**

Tel: (01902) 554910

Fax: (01902) 554970

E-mail: Susan.Kembrey@wolverhampton.gov.uk

5.2 In the absence of the MLROs listed above, Mark Taylor, Financial Controller, or Richard Morgan, Senior Audit Manager, are authorised to deputise for the Assistant Director - Corporate Services (S151 Officer) and Head of Audit Services respectively and can be contacted at the above address or as follows:

Mark Taylor            01902 556609 (Mark.Taylor@wolverhampton.gov.uk)

Richard Morgan        01902 554466 (Richard.Morgan@wolverhampton.gov.uk)

## **6. Disclosure Procedure**

### **Cash Payments**

6.1 **To help prevent money laundering, cash payments (including notes, coin or travellers cheques in any currency) above £5,000 will not be accepted for any Council service.**

This is not designed to prevent customers making payments for Council services but to minimise the risk to the Council of high value cash transactions.

### **Reporting to the Money Laundering Reporting Officer (MLRO)**

- 6.2 Where an employee knows or suspects that money laundering activity is taking/has taken place, or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, they must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to their attention, not weeks or months later. **Failure to report the matter to the MLRO as described here may render the employee subject to prosecution.**
- 6.3 Disclosure should be made to the MLRO using the proforma report. The report must include as much detail as possible, for example:
- Full details of the people involved (including the employee, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;
  - Full details of the nature of involvement;
    - If the employee is concerned that their involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the 2002 Act, then the report must include all relevant details, as the employee will need consent from the Serious Organised Crime Agency (SOCA), 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.
    - The employee 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;
  - 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 the 2002 Act (or section 21A of the 2000 Act), or both;
  - The dates of such activities, including:
    - whether the transactions have happened, are ongoing or are imminent;
      - Where they took place
      - How they were undertaken
      - The (likely) amount of money/assets involved
      - Why, exactly, you are suspicious – SOCA will require full reasons

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 him to prepare his report to SOCA, where appropriate. Copies of any relevant supporting documentation should be enclosed.

- 6.4 Once the matter is reported to the MLRO, employees must follow any directions he may give. The employee **must NOT make any further enquiries into the matter themselves**: any necessary investigation will be undertaken by SOCA. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 6.5 Similarly, **at no time and under no circumstances should the employee voice any suspicions** to the person(s) suspected of money laundering, even if SOCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise a criminal offence of “tipping off” may be committed.
- 6.6 No reference should be made on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render an employee liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

#### **Consideration of the disclosure by the Money Laundering Reporting Officer**

- 6.7 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise the employee of the timescale within which he expects to respond.
- 6.8 The MLRO will consider the report and any other available internal information he thinks relevant e.g.
- reviewing other transaction patterns and volumes
  - the length of any business relationship involved
  - the number of any one-off transactions and linked one-off transactions
  - any identification evidence held;

and undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to SOCA 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 the employee.

- 6.9 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 SOCA for a particular transaction to proceed.

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

6.10.1 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.

6.10.2 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to SOCA.

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

6.11 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.

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

6.13 ***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 SOCA.***

## **7. Client Identification Procedure (Due Diligence)**

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

7.2 Customer due diligence means:

- (a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source
- (b) identifying, where there is a beneficial owner who is not the customer, the beneficial owner and taking adequate measures, on a risk-sensitive basis, to verify his identity so that the relevant person is satisfied that he knows who



the beneficial owner is, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement; and

- (c) obtaining information for the purpose and intended nature of the business relationship.

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

- Is the service a regulated activity (see 7.3)?
- Is the Council charging for the service i.e. is it 'by way of business'?
- Is the service being provided to a customer other than a UK public authority?

If the answer to any of these questions is **no** then there is no need to carry out customer due diligence

If the answer to all these questions is **yes** then customer due diligence must be carried out **before** any business is undertaken for that client. If there is uncertainty whether customer due diligence is required then the MLRO should be contacted for advice.

7.3 Regulated activity is defined as the provision 'by way of business' of: advice about tax affairs; accounting services; treasury management, investment or other financial services; audit services; legal services; estate agency; services involving the formation, operation or arrangement of a company or trust or; dealing in goods wherever a transaction involves a cash payment of €15,000 or more."

7.4 Where customer due diligence is required then evidence of identity must be sought, for example:

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

7.5 The requirement for customer due diligence applies immediately for new customers and should be applied on a risk sensitive basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officer's knowledge of the customer and a regular scrutiny of the transactions involved.

7.6 If, at any time, it is suspected that a client or customer for whom the Council is currently, or is planning to carry out, a regulated activity is carrying out money laundering or terrorist financing, or has lied about their identity then this must be reported to the MLRO.

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

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

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

## **8 Record Keeping Procedures**

8.1 Each unit of the Council conducting relevant business must maintain 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 by the authorities into money laundering.

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

8.3 An electronic copy of every customer due diligence record must be sent to the MLRO to meet the requirements of the Regulations and in case of inspection by the relevant supervising body.

## **9 Conclusion**

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

9.2 Any concerns whatsoever regarding any transactions should be reported to the MLRO.

## 10 Further Information

10.1 Further information can be obtained from the MLRO and the following sources:

**www.soca.gov.uk** – website of the Serious and Organised Crime Agency

“Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations” – CIPFA

“Anti-Money Laundering (Proceeds of Crime and Terrorism) – Second Interim Guidance for Accountants” – CCAB (**www.ccab.org.uk**)

Money Laundering Guidance at **www.lawsociety.org.uk**

SI 2007 No. 2157 The Money Laundering Regulations 2007 at: [http://www.hm-treasury.gov.uk/consultations\\_and\\_legislation/money\\_laundering\\_directive/consult\\_money\\_laundering\\_2007.cfm](http://www.hm-treasury.gov.uk/consultations_and_legislation/money_laundering_directive/consult_money_laundering_2007.cfm)

**Wolverhampton City Council**

**Anti-Bribery Policy**

**1. Introduction**

1.1 The Bribery Act 2010 has updated the legislation on bribery and extended the law to cover bribery in the international business community. It has also created a corporate offence of failing to prevent bribery.

1.2 Although Local Authorities are unlikely to be involved in areas where bribery is prevalent in terms of either scale or frequency, it is good practice to comply with the Guidance issued by the Ministry of Justice to evidence an anti-bribery culture across the organisation. As such, Wolverhampton City Council has established this policy to ensure compliance.

1.3 To limit the risk of exposure to bribery the Council will:

- publish a clear anti-bribery policy and review other associated policies
- train all staff so that they can recognise and avoid the use of bribery by themselves and others
- ensure that all business partners are aware of the anti-bribery policy and that their staff must abide by it
- encourage employees to be vigilant and to report any suspicion of bribery
- ensure that policies and control systems are audited regularly to ensure they are fit for purpose
- address conflicts of interests and the risks created through acceptance of gifts and hospitality through corporate policies
- investigate instances of alleged bribery and assist the police and other appropriate enforcement agencies in any resultant action
- take appropriate action against any member of staff who engages in bribery.

**2. Scope of the Policy**

2.1 This policy applies to all of the organisation's activities. For partners, joint ventures and suppliers, the Council will seek to promote the adoption of policies consistent with the principles set out in this policy. Within the organisation, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

- 2.2 This policy applies to all employees, including permanent and temporary employees, temporary agency staff, contractors, volunteers, consultants and members of the Council and aims to maintain the high standards of conduct, which currently exist within the Council by preventing criminal activity through bribery. The Policy sets out the procedures that must be followed (for example the reporting of offers or invitations to bribe) to enable the Council, its members and employees to comply with its intention to establish an anti-bribery culture within the organisation.
- 2.3 The policy sits alongside the Council's Anti-Fraud and Corruption Policy, Whistleblowing Policy and Anti-Money Laundering Policy.
- 2.4 Failure by a member of staff to comply with the procedures set out in this policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy. Failure by a Member to comply with the procedures set out in this policy may be referred to the Standards Committee.

### **3. What Is Bribery?**

- 3.1 Bribery is defined as the offer, promise or giving of financial or other advantage to another with the intent of inducing that person to perform improperly, or rewarding that person for the improper performance of a relevant function or activity.
- 3.2 The term bribery can be applied to both the act of offering or giving a bribe (active bribery), or the request for or acceptance of a bribe (passive bribery).
- 3.3 Any Member or employee who, in the course of Council business, becomes aware that a bribe has been requested, offered, given or accepted should report their suspicions promptly, in accordance with the Policy set out in this document. Failure to do this may inadvertently result in an offence under the Bribery Act 2010.
- 3.4 The risk of the Council contravening the legislation is considered to be relatively low but preventative measures need to be in place to prevent the Council becoming liable under the new provision of failure by a relevant commercial organisation to prevent bribery.
- 3.5 The statutory provisions relating to bribery are summarised in Appendix A to this policy, together with references to further information.

### **4. Policy Statement**

- 4.1 The Council forbids the offering, the giving, the solicitation or the acceptance of any bribe, whether in cash or by way of any other type of inducement, to or from any person or company, wherever they are situated and whether they are:
- a public official or body
  - a private person
  - a company

- any individual employee, agent or other person or body acting on the council's or group's behalf

in order to gain any commercial, contractual or regulatory advantage for the council or group in a way which is unethical or in order to gain any personal advantage, financial or otherwise for the individual, the council, the group, or anyone connected with said parties. Staff members are forbidden from accepting any inducement which would result in a gain or advantage to the briber or any person(s) or third parties associated with them.

The inducement being intended to influence the member of staff to take any action, which may not be in the interests of the council. Any staff member found to be involved in bribery is liable to disciplinary action, dismissal and prosecution.

The Council is entitled to terminate the contract forthwith and to recover from a supplier the amount of any loss resulting from such termination if:

1. the supplier or any employee of the supplier shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not done any act in relation to the contract or
2. the like acts shall have been done by any person employed by the supplier or acting on his behalf (whether with or without the knowledge of the supplier) or
3. in relation to the contract the supplier or any person employed by the supplier has committed any offence under the Bribery Act 2010 or shall have given any fee or reward for the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

## **5. Policy Aims**

5.1 The aims of the Policy are to:

- assist the staff and Members of Wolverhampton City Council to understand bribery and their personal legal obligations and responsibilities arising from the requirements of the legal and regulatory provisions
- protect the Council from the corporate offence of failure to prevent bribery, and
- set out the procedures which must be followed to enable the Council and its staff to comply with their legal obligations.

5.2 Wolverhampton City Council will do all it can to:

- prevent the Council, its members and its staff being exposed to bribery;
- identify the potential areas where it may occur; and

- comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases of bribery.

## **6. Procedures**

6.1 All members and employees are required to:

- report promptly all reasonable suspicions<sup>1</sup> of bribery, whether active (the offer or giving of a bribe) or passive (the request for or receipt of a bribe), to the Head of Audit Services

6.2 The Head of Audit Services must promptly:

- evaluate all concerns to determine whether it is appropriate to make a report to the Police
- if appropriate, ensure that an internal report is completed

6.3 Although there is no legal requirement for the Council to have formal procedures for evidencing the identity of those they do business with, staff and members 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, the identification procedures in the Council's Anti-Money Laundering Procedures should be followed.

6.4. The Council will:

- make all staff and members aware of the obligations placed on the Council, and on themselves as individuals, by the anti-bribery legislation
- give targeted training, with periodic refreshers, to those most likely to encounter bribery

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<sup>1</sup> There is no definition of what constitutes reasonable suspicion. There must be genuine reasons or grounds for the suspicion: it is more than speculation or hunch and common sense will be needed.

### Bribery: Legal and Regulatory Framework

#### The Bribery Act 2010

This Act defines four principal bribery offences, only three of which are likely to apply to the Council:

- the giving or offering of a bribe
- the request for, or acceptance of a bribe
- bribing a foreign public official
- the failure by a relevant commercial organisation to prevent bribery

The offence of failing to prevent bribery will not apply so long as the Council has appropriate procedures in place to act as a deterrent.

#### Statutory Definitions

- “Bribe” is defined as “giving a financial or other advantage to another person” It is clear that a bribe is not restricted to only financial payment.
- The intention of the bribe is “to induce them to perform improperly a relevant function or activity, or to reward them for having improperly performed a relevant function or activity”.
  - The term “relevant function or activity” includes all functions of a public nature and all activities connected with a business, trade or profession.
  - The term “improper performance” is defined as being in breach of a relevant expectation, including the failure to perform that function or activity when it would be reasonable to expect it to be performed.
- “Relevant commercial organisation” is defined as
  - A body incorporated under the law of any part of the UK and which carries on business whether there or elsewhere
  - A partnership that is formed under the law of any part of the UK and which carries on business there or elsewhere, or
  - Any other body corporate or partnership wherever incorporated or formed which carries on business in any part of the UK.
- “Failure to prevent bribery” relates only to active bribery on the part of a person with the intent to obtain or retain business, or to obtain or retain an advantage in the conduct of business for the organisation. It does not include preventing passive bribery, (i.e. the invitation to a third party to give a bribe, or the acceptance of such a bribe).



**Wolverhampton City Council****Fraud Referral Plan – Guide for Staff****1. Introduction**

- 1.1. Fraud and malpractice within the public sector cost the taxpayer and damage the reputation of public bodies.
- 1.2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, employees and others with serious concerns about any aspect of the Council's business are encouraged to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that staff are able to report their suspicions without fear of reprisals. The Council's approach is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem.

**2. Acting upon Your Suspicions – The Dos and Don'ts**

- 2.1. There are existing procedures in place to enable you to report any suspicions you have regarding your employment with the Council. These are set out in the Council's Anti-Fraud and Corruption Policy which was revised and approved in September 2012. This guide for staff is intended to complement this policy statement.
- 2.2. A Council employee may have a concern about something that they believe to be:
  - unlawful; or
  - contrary to the Council's Procedure Rules and Policies; or
  - falling below established standards or practices; or
  - amounts to an improper conduct.
- 2.3. In law, 'fraud' is defined in the Fraud Act 2006. In general terms, fraud involves the use of deception or the abuse of position to obtain some benefit or to be to the detriment of some person or organisation.
- 2.4. 'Corruption', in its broadest sense, involves the taking of decisions for inappropriate reasons – e.g. awarding a contract to a friend, appointing employees for personal reasons, or the giving or acceptance of gifts as an inducement to take a course of action that may not otherwise be taken.
- 2.5. Examples of the types of financial irregularities which may be suspected include:
  - theft of Council property.
  - abuse of Council property.
  - deception or falsification of records (e.g. fraudulent time or expense claims).
- 2.6. Malpractice includes abuse of clients, evasion of statutory responsibilities, and damage to the environment or other unethical conduct.
- 2.7. The Local Government Act 1972 makes it a criminal offence for a local government employee, in the course of his employment, to receive any fee or reward other than his proper remuneration.

## **Things to do when you suspect a fraud - DOs**

### **1. Make an immediate note of your concerns**

Note all relevant details such as what was said in telephone and other conversations, the date, time and names of any parties involved. Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person you raise the matter with that it is done in good faith and that you believe there are sufficient grounds for your concern.

### **2. Convey your suspicions to someone with the appropriate authority and experience**

This is normally the Audit Services Division via the Whistleblowing Hotline (tel: 550550); e-mail to [Audit.Services@wolverhampton.gov.uk](mailto:Audit.Services@wolverhampton.gov.uk); or post to PO Box 4931, Wolverhampton, WV1 9FX. Alternatively you might contact your line manager, Assistant Director, the Assistant Director – Corporate Services (Section 151 Officer) or the Chief Executive, or any of the contacts listed in the Council's Anti-Fraud and Corruption Policy.

### **3. Deal with the matter promptly, if you feel your concerns are warranted**

Any delays may cause the Council to suffer further loss. Concerns are better raised in writing. You are invited to set out the background and history of the concerns, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.

## **Things not to do when you suspect a fraud – DON'Ts**

### **1. Do nothing**

### **2. Be afraid of raising your concerns**

You will not suffer any recrimination by acting in good faith and voicing a reasonably held suspicion.

Any matter you raise will be treated sensitively and confidentially.

### **3. Approach or accuse any individuals directly**

### **4. Try to investigate the matter yourself**

There are special rules surrounding the gathering of evidence for use in disciplinary or criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may adversely affect the outcome of the case.

Internal Audit staff are trained in handling investigations in the proper manner.

### **3. Safeguards**

#### **3.1. Harassment or Victimisation**

- 3.1.1. The Council recognises that the decision to report a concern can be a difficult one to make, not least because of fear of reprisal from those responsible for the malpractice, fraud or irregularity. The Council will not tolerate harassment or victimisation and will take action to protect anyone who raises a concern in good faith.
- 3.1.2. This does not mean that if you are already the subject of disciplinary or redundancy procedures, that these procedures will be halted as a result of your reporting a concern.

#### **3.2. Confidentiality**

- 3.2.1. The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated, however, that this is not always possible. The investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.

#### **3.3. Anonymous Allegations**

- 3.3.1. This guidance strongly advises you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council.
- 3.3.2. In exercising this discretion, the factors to be taken into account would include:
- the seriousness of the issues raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources.

#### **3.4. Untrue Allegations**

- 3.4. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary action may be taken against you.

#### **SUMMARY OF THINGS TO DO IF YOU SUSPECT A FRAUD**

- Note all relevant details, but do not attempt to investigate the matter further yourself.
- Report all suspicions promptly, to your manager or someone with the appropriate authority.
- If in doubt, report your suspicions anyway.

#### **4. How Will the Council Respond?**

- 4.1. The action taken by the Council will depend on the nature of the concern. The matters raised may:
- be investigated internally;
  - be referred to the Police;
  - be referred to the External Auditor; or
  - form the subject of an independent enquiry.
- 4.2. In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under special procedures concerning these matters.
- 4.3. Some concerns may be resolved or action agreed without the need for investigation and, depending on the information received and nature of the investigation, you may be contacted to clarify information provided or to update you on proceedings.

**Wolverhampton City Council****Fraud Response Plan – Guide for Managers****1. Introduction**

- 1.1. All public sector organisations are potentially at risk from the threat of fraudulent or corrupt activity. Wolverhampton City Council recognises this risk and is fully committed to establishing a robust anti-fraud and corruption culture. As managers employed by the Council, your effective response to instances of potential fraud and corruption is a key element of the Council's Anti-Fraud and Corruption Policy.
- 1.2. Failure to embed an anti-fraud and corruption culture within the Council could have numerous potentially negative implications in addition to the obvious financial cost of fraud. These may include:
- Reduced staff morale.
  - Negative reputational effect in respect of frauds which are made public.
  - Reduced public and political confidence in public services.
- 1.3. The purpose of this guidance is to provide Managers with the necessary information to be able to deal appropriately with all issues relating to fraud which come to their attention. The guidance focuses on the following key areas:
- Identification of the different types of fraud.
  - Dealing with allegations of fraud.
  - Dealing with suspicions of fraud.

**2. Different Types of Fraud**

- 2.1. The term 'fraud' is defined with the Fraud Act 2006. The following three types of fraud are included within the provisions of the Act:
1. Fraud by false representation.
  2. Fraud by failing to disclose information.
  3. Fraud by abuse of position.
- 2.2. 'Theft fraud and deliberate falsification of records' is included in the Corporate Human Resources Manual as an example of what may constitute gross misconduct.

**3. Dealing with Allegations of Fraud and Corruption**

- 3.1. The Council's Anti-Fraud and Corruption Policy and Fraud Referral Plan for Staff set out what individual members of staff should do if they suspect fraudulent activity at work. One of the main options available to staff set out in these documents is referral of their concerns to their managers. This section sets out how managers should handle allegations of fraud and corruption referred to them by their staff.

## **Things to do when staff make allegations of fraud – DOs**

### **1. Take the allegations seriously**

Reassure the staff making the allegations that you take them seriously. Do not belittle the staff however unlikely you may feel the allegations may be.

### **2. Ensure the employee has access to relevant Council policies**

These would include:

- Anti-Fraud and Corruption Policy.
- Fraud Referral Plan for Staff.
- Whistleblowing Policy.
- Anti-Money Laundering Policy.
- Anti-Bribery Policy

### **3. Instruct the employee in respect of the following:**

- The issues should not be discussed with other employees.
- The matter should not be raised with the subject of the allegation.
- The issues should not be raised with individuals from outside the organisation e.g. local press.

### **3. Protection of confidentiality**

The employee should be reassured that confidentiality will be maintained as far as possible. They should be made aware however that they may be required to provide statements during a subsequent investigation into the matter.

### **4. Note details of the precise allegations**

Managers receiving allegations of fraud and corruption should make detailed notes including the following:

- Time and date allegation received.
- Name of person making allegation.
- Precise details of allegations.

### **5. Refer allegations in accordance with Anti-Fraud and Corruption Policy**

Allegations should be referred for investigation in accordance with the Council's Anti-Fraud and Corruption Policy. This will generally be to the Head of Audit Services, but in certain instances, other avenues may be felt to be more appropriate (see section 4 of this document - below). The following details of the referral should be noted for future reference:

- Time and date of referral.
- Name and position of officer to whom allegation was referred.
- Relevant details regarding the possible future investigation of the issue.

## **6. Deal with all allegations promptly**

Whilst it is often uncomfortable for managers to receive allegations of fraud and corruption, it is fundamentally important that the issues are tackled promptly. Not only might delays result in further losses to the Council, they may also make it more difficult to subsequently investigate.

## **Mistakes to avoid when dealing with allegations of fraud – DON'Ts**

### **1. Do not ignore or ridicule concerns raised by staff**

It is imperative that an anti-fraud and corruption culture is fostered within the organisation. To this end, managers need to be aware that it is often quite stressful for staff to raise concerns with managers and they should therefore be afforded full management support and understanding.

### **2. Do not approach or accuse any individual directly**

Where there appears to be a case which may need further investigation, it is important that individuals involved are not inadvertently tipped off which may lead to incriminating evidence being destroyed.

### **3. Do not convey the information to anyone other than those set out in the Council's Anti-Fraud and Corruption Policy**

For the purposes of facilitating successful investigations, it is important that information regarding the allegations is restricted to those with a genuine need to know. These will generally be the officers set out in the Council's Anti-Fraud and Corruption Policy.

### **4. Do not attempt to investigate the matter yourself**

Wherever it appears possible that fraud or corruption is present, it is important that staff with appropriate skills and experience investigate the matter as soon as is practically possible.

## **4. Dealing with Suspicions of Fraud and Corruption**

4.1. Where managers become suspicious of fraud and corruption, either involving their own staff, other Council staff, or individuals external to the organisation, they should deal with it in accordance with the Council's Anti-Fraud and Corruption Policy. The main options available to a manager are to refer the matter to one or more of the following:

- The Head of Audit Services (Ext:4460) or a member the Audit Services Team. This should generally be the first point of contact as Audit Services deal with the majority fraud investigations (excluding Benefit fraud) and they should be able to provide appropriate assistance and advice. Information may be submitted by e-mail to: [Audit.Services@wolverhampton.gov.uk](mailto:Audit.Services@wolverhampton.gov.uk).
- Your Director or Assistant Director.
- Your Departmental Human Resources Officer.

- 4.2. Wherever suspicions of fraud and corruption are referred to somewhere other than Audit Services, details should be formally logged and Audit Services should be informed promptly.



**Wolverhampton City Council****Fraud Investigation Plan****1. Introduction**

- 1.1. Wolverhampton City Council is committed to addressing fraud and corruption whether attempted from inside or outside the organisation. The investigation of fraud is generally the responsibility of the Council's Audit Services Division, the only exception being in relation to Housing and Council Tax Benefit fraud which is investigated by a specialist team. This Fraud Investigation Plan sets out the basic framework which is followed by Audit Services when investigating fraud.

**2. Audit Services Investigation of Suspected Fraudulent Activity**

- 2.1. When cases of suspected fraud and corruption are reported to Audit Services under the terms of the Council's Anti-Fraud and Corruption Policy, the Head of Audit Services will make an assessment as to whether or not the case should be investigated. This assessment is based on a number of factors including, but not limited, to the following:

1. Seriousness of the allegations.
2. Financial loss (actual or potential) and exposure to reputational risk.
3. Cost of conducting an appropriate investigation.
4. Perceived likelihood of satisfactorily proving the allegations.
5. Potential for line management to efficiently and effectively deal with the issues.
6. Potential for the case to be referred to the police for investigation.
7. Availability of sufficient audit resources.

The Head of Audit Services will consult the Chief Executive, the Assistant Director – Corporate Services (Section 151 Officer), and the Assistant Director - Governance as appropriate.

- 2.2. Notwithstanding the above, the Council's clear position is that allegations of fraud are taken extremely seriously, and wherever realistically possible in the professional judgement of the Head of Audit Services, allegations are vigorously investigated.
- 2.3. In instances where it is decided that an audit investigation is not an appropriate response to an allegation, details of the allegation together with reasons why it was decided not to investigate will be logged within the Audit Services Division. Reasons for not undertaking an Audit investigation will be discussed with managers who have referred cases to Audit Services, and advice on how best to proceed will be offered where appropriate.
- 2.4. All Audit Services investigations into allegations of fraud are subject to close direction and control by appropriately qualified and experienced audit staff. As a result, all

investigations are carried out independently and objectively and in line with professional standards and recognised best practice.

### **3. Reporting the Outcome of Audit Investigations**

- 3.1. All issues arising out of audit investigations will be reported formally to appropriate Directors and Assistant Directors, including recommendations relating to potential disciplinary issues where appropriate. Where issues requiring urgent action are identified, interim or verbal reports may be made as deemed necessary.
- 3.2. Issues of a particularly serious or sensitive nature may be reported to the Assistant Director – Corporate Services (Section 151 Officer) and/or the Chief Executive, at the discretion of the Head of Audit Services. In addition, reports may be made to the Council's Audit Committee in accordance with its agreed reporting framework.
- 3.3. Issues arising from audit investigations may also be reported outside the organisation when deemed necessary by the Head of Audit Services in conjunction with the Assistant Director – Corporate Services (Section 151 Officer). This may include reporting to the Council's external auditors, HM Revenue and Customs, the Department for Works and Pensions, or any other relevant organisation. Referrals to the police are covered within the Council's Prosecution and Recovery Plan.
- 3.4. Where audit reports contain specific recommendations, these will be discussed with responsible officers and an Agreed Action Plan will be produced. Audit Services review progress in respect of the implementation of the Agreed Action Plan, usually between six months to a year after the issue of the original report. Failures to satisfactorily implement agreed actions may be reported to the relevant Strategic Director, the Assistant Director – Corporate Services (Section 151 Officer) and the Council's Audit Committee.

**Wolverhampton City Council****Police Referral, Prosecution and Recovery Policy****1. Introduction**

- 1.1. The Council's Anti-Fraud and Corruption Policy sets out its commitment to tackling fraud and corruption, whether instigated from inside or outside the organisation. The Policy clearly states that wherever evidence of fraud or corruption is identified, appropriate and decisive action will be taken against the perpetrators, including taking all necessary steps to recover losses where possible.
- 1.2. This Prosecution and Recovery Plan sets out the detailed specific considerations which should be taken in respect of referring cases to the Police for investigation, prosecution of offenders and attempting to recover losses incurred.
- 1.3. This policy applies to all types of fraud, corruption or other serious irregularity affecting the Council, with the exception of Housing and Council Tax Benefit fraud, for which a separate Sanctions Policy is in place.

**2. Procedural Framework**

- 2.1. Audit Services are actively fostering close working relationships with the police in order to improve the referral of cases for investigation. All actual or potential referrals to the police in respect of fraud and corruption matters should therefore be dealt with by Audit Services or under arrangements approved by Audit Services. This will assist in maintaining effective communications with the police and ensure consistency. Audit Services will maintain detailed records of fraud and corruption cases referred to the police for investigation.
- 2.2. Referrals should not normally affect or delay internal disciplinary action. This should proceed independently of any police investigation, prosecution or other action taken in respect of an alleged criminal offence. However, Managers and HR officers involved in internal investigations will need to liaise with Internal Audit staff at each stage of any investigation before formal disciplinary action is taken. In exceptional circumstances the police may request suspension of internal procedures.
- 2.3. During the course of an investigation into a fraud and corruption matter it is important that steps are taken to protect evidence where necessary. This is particularly important when dealing with potential referrals to the police, as investigations can be compromised and considerable time wasted in proceedings which cannot subsequently be supported by evidence. Steps which may need to be considered dependant upon the circumstances of the particular case, include the suspension of employees and the securing of documents, computer data and other physical evidence. Management should co-operate with Audit Services in respect of the progression of the investigation.

**3. Referral Decisions**

- 3.1. Decisions to refer a fraud, corruption or irregularity matter to the police will normally be taken by the Head of Audit Services or his/her nominee. In certain cases e.g. involving

particularly sensitive or complex issues, the Head of Audit Services may consult with the Assistant Director - Corporate Services (S151 Officer) or the Assistant Director - Governance before making a referral. Decisions not to refer a case will be agreed with the Assistant Director – Corporate Services (Section 151 Officer) and the Assistant Director - Governance.

- 3.2. The starting point for referral decisions will be that all cases will be referred to the police where there is prima facie evidence of a criminal offence having been committed.
- 3.3. Very few exceptions should be made to the above rule but the following may be considered for exemption in appropriate circumstances:
  1. In cases where a full voluntary disclosure is made and the amounts involved and/or nature of the offence is not regarded as significant. The disclosure must not be associated with an investigation which is being carried out at the time.
  2. Where the amount involved is small and it is known that the police will not proceed with any action.
  3. Where there has been a significant failure in administration which has contributed to the offence.
- 3.4. Where decisions are made not to refer a case to the police, full details including the rationale for reaching the decision will be logged within Audit Services.

#### **4. Recovery of losses**

- 4.1. Notwithstanding any action taken by the police, the Council is committed to recovering any losses incurred as a result of fraudulent activity wherever possible. This may include pursuing a civil action through the courts where this is deemed by the Head of Audit Services in conjunction with the Assistant Director – Corporate Services (Section 151 Officer) and the Assistant Director - Governance to be an appropriate course of action.

#### **5. Reporting**

- 5.1. The Head of Audit Services will report all instances of referrals for prosecution to the Audit Committee on a regular basis throughout the year. In addition, the Annual Internal Audit Report will also summarise all referrals.