

THE VALE OF GLAMORGAN COUNCIL

CABINET: 6<sup>TH</sup> FEBRUARY, 2025

REFERENCE FROM GOVERNANCE AND AUDIT COMMITTEE: 6<sup>TH</sup> JANUARY, 2025

“ COUNTER FRAUD POLICIES (HRIAS) –

One of the core functions of an effective Governance and Audit Committee was to consider the effectiveness of the Council’s risk management arrangements, the control environment and associated anti-fraud and corruption policies.

The Council's Counter Fraud Strategy and Framework was integral to that and therefore at Appendix A to the report was the updated Counter Fraud Strategy and Framework.

The Counter Fraud Strategy and Framework outlined the aims and objectives of the Strategy, identified fraud risks and included steps to support the Council’s improvement and resilience to fraud, bribery and corruption.

To support this Strategy, the Corporate Fraud Enforcement Policy, Anti-Fraud, Bribery and Corruption Policy, Anti-Money Laundering Policy and the Anti-Tax Evasion Policy had all been reviewed and updated to reflect legislative changes or changes to working practices

These policies drove the commitment to developing a culture of honesty, integrity and opposition to fraud, corruption and bribery.

The Chair queried whether the national fraud initiative survey checklist had been considered when drafting the new policies. The Deputy Head of Regional Internal Audit Service clarified that it would be in the current round of NFI.

It was

RESOLVED – T H A T the Council’s updated Counter Fraud Policies including the Council’s Counter Fraud Strategy and Framework be agreed and referred to Cabinet for approval.

Reason for decision

Having regard to the contents of the report and discussions at the meeting.”

Attached as Appendix: Report to Governance and Audit Committee – 6<sup>th</sup> January, 2025

Meeting of:	<b>Governance and Audit Committee</b>
Date of Meeting:	<b>Monday, 16 December 2024</b>
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Counter Fraud Polices
Purpose of Report:	To provide members of the Committee with the updated Counter Fraud Strategy and Fraud Policies prior to submission to Cabinet for approval
Report Owner:	Head of Regional Internal Audit Service
Responsible Officer:	Head of Finance & Section 151 Officer
Elected Member and Officer Consultation:	No Elected Members have been consulted. Legal Services and Head of Finance
Policy Framework:	The proposals in this report are in accordance with the policy framework and budget
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• One of the core functions of an effective Governance and Audit Committee is to consider the effectiveness of the Council’s risk management arrangements, the control environment and associated anti-fraud and corruption policies.</li> <li>• The Council's Counter Fraud Strategy &amp; Framework is integral to that and therefore at Appendix A is the updated Counter Fraud Strategy &amp; Framework.</li> <li>• The Counter Fraud Strategy &amp; Framework outlines the aims and objectives of the strategy, identifies fraud risks and includes steps to support the Council’s improvement and resilience to fraud, bribery and corruption.</li> <li>• To support this strategy, the Corporate Fraud Enforcement Policy, Anti-Fraud, Bribery &amp; Corruption Policy, Anti Money Laundering Policy and the Anti-Tax Evasion Policy have all been reviewed and updated to reflect legislative changes or changes to working practices.</li> <li>• These policies drive the commitment to developing a culture of honesty, integrity and opposition to fraud, corruption and bribery.</li> </ul>	

## **Recommendation**

1. That the Committee reviews the Council's updated Counter Fraud policies including the Council's Counter Fraud Strategy & Framework prior to approval by Cabinet.

## **Reason for Recommendation**

1. To ensure the Governance and Audit Committee is informed and have an opportunity to comment.

## **1. Background**

- 1.1 The Council's Counter Fraud Strategy and Framework 2021 to 2024 was a 3-year strategy to provide a framework for the Council in respect of fraud by identifying roles and responsibilities, aims and objectives, fraud risks, an action plan and a fraud response plan flowchart. Counter fraud policies are also in place to support the strategy.
- 1.2 This strategy requires reviewing and updating and the Council's fraud policies have been refreshed alongside the updated strategy to ensure the Council maintains a suite of strategies and policies to support the effective management of the prevention, detection, investigation of fraud, corruption, and bribery

## **2. Key Issues for Consideration**

- 2.1 The Council's Counter Fraud Strategy and Framework at Appendix A outlines the aims and objectives of the strategy, identifies fraud risks and includes steps to support continual improvement to the Council's resilience to fraud, bribery and corruption. The strategy identifies roles and responsibilities, aims and objectives, and fraud risks. Measures of success and a flow chart demonstrate the Council's approach to a suspected fraud is also included.
- 2.2 Supporting this Strategy are key policies such as the Corporate Fraud Enforcement Policy, the Anti-Fraud, Bribery and Corruption Policy, the Anti - Money Laundering Policy and the Anti-Tax Evasion policy. These all assist in developing a culture of honesty, integrity and opposition to fraud, corruption and bribery.
- 2.3 These policies have been revised and updated to reflect current legislation and working practices. The updated policies are attached as follows:

- Appendix B - Corporate Fraud Enforcement Policy
- Appendix C – Anti-Fraud, Bribery & Corruption Policy
- Appendix D – Anti Money Laundering Policy
- Appendix E – Anti Tax Evasion Policy

**2.4** These policies drive the commitment to developing a culture of honesty, integrity and opposition to fraud, corruption and bribery.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

**3.1** These measures aim to prevent or reduce the risk of fraud occurring.

### **4. Climate Change and Nature Implications**

**4.1** None as a consequence of this report.

### **5. Resources and Legal Considerations**

#### **Financial**

**5.1** To ensure that the Council funds and resources are used appropriately.

#### **Employment**

**5.2** There is a resource impact in relation to the investigation and resolution of potential fraud, bribery, and corruption matters.

#### **Legal (Including Equalities)**

**5.3** Public Service organisations have a responsibility to embed effective standards for countering fraud, corruption, and bribery into the organisations. This supports good governance and demonstrates effective financial stewardship and strong public financial management.

**5.4** These policies help to ensure that crime committed by Council employees and members in undertaking their duties can be detected and addressed

### **6. Background Papers**

None



# Counter Fraud Strategy & Framework

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## 1. Introduction

Fraud within the public sector costs the taxpayer approximately £2.2 billion each year. Detected cases of fraud and corruption are on the increase and all local authorities are likely to be affected in some way by fraudulent or corrupt activity.

The Council is determined that the culture and tone of the organisation is one of honesty, integrity and opposition to fraud, corruption and bribery. There is an expectation and requirement that all individuals and organisations associated, in whatever way with the Council, will act with integrity.

Councillors and Employees at all levels will lead by example in these matters and act in accordance with all Council Codes of Conduct and codes of conduct applicable to individuals. Employees are expected to follow any Code of Conduct related to their personal professional qualifications and to abide by the National Code of Conduct together with any relevant amendments and local policies.

The Council takes its responsibilities for the stewardship of public finances very seriously and is committed to the highest standards of transparency and accountability in order to ensure appropriate use of public funds and assets. It has a duty to prevent fraud and corruption, whether it is attempted by someone within or outside of the Council such as another organisation, a resident, an employee, contractor, or Councillor. The Council is committed to creating and maintaining an effective anti-fraud and corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.

The Council maintains a suite of strategies and policies to support the effective management of the prevention, detection, investigation of fraud, corruption, and bribery (Counter Fraud, Bribery & Corruption Policy, Whistleblowing Policy/ 'Speakout', and Anti-Money Laundering Policy). This document provides an extension to the council's existing policies affording a framework of reactive and proactive initiatives to detect fraud and / or demonstrate assurance that fraud has not taken place.

In all its dealings, the Council will adhere to the seven principles of public life set out in the Nolan Committee's report on *Standards in Public Life*.

### ***Selflessness***

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

### ***Integrity***

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

### ***Objectivity***

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

## Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

## Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands. Openness requires an inclusive approach, an outward focus, and a commitment to partnership

## Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## Leadership

Holders of public office should promote and support these principles by leadership and example.

The Council will not tolerate fraud or corruption by its councillors, employees, suppliers, contractors, customers, or any other attacks on its resources by criminals. We will take all necessary steps to investigate all allegations of fraud or corruption and pursue sanctions available in each case, including removal from office, dismissal, prosecution, and robust recovery of losses through both civil and criminal means.

To fulfil the Council's Fraud Action Plan 2025 - 2028, the Council must ensure that fraud, bribery, corruption, and misappropriation is minimised. Every pound lost to fraud and corruption is a reduction in resources and negatively influences the Council's ability to deliver its objectives.

Our strategy is based upon five key principles: Govern, Acknowledge, Prevent, Pursue and Protect.





Accompanying the five principles are six overarching themes to assist the organisation ensure that our counter fraud response is comprehensive and effective. These are often referred to as the six Cs.

- **Culture** – create a culture in which beating fraud and corruption is part of normal business
- **Capability** – ensuring that the range of counter fraud measures deployed is appropriate to the fraud risks
- **Capacity** – deploying the right level of resources to deal with the level of fraud risk
- **Competence** – having the right skills and standards in place
- **Communication** – raising awareness, deterring fraudsters sharing information and celebrating success
- **Collaboration** – working together across internal and external boundaries with colleagues and other agencies, sharing resources, information skills and learning

## 2. Roles & Responsibilities

The Counter Fraud, Bribery & Corruption Policy deals with fraud, corruption, and bribery internally and externally, it applies to:

- Employees
- Councillors
- Contractors
- Consultants
- Suppliers
- Service Users

Key roles and responsibilities are as follows:

Stakeholder Responsibilities	Specific Responsibilities
<b>Chief Executive</b>	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud corruption and bribery.
<b>Head of Finance (Section 151 Officer)</b>	To ensure the Council has adopted an appropriate counter fraud strategy, there is an effective internal control environment in place and there is an adequately resourced and effective Counter-Fraud Team.
<b>Head of Legal Services (Monitoring Officer)</b>	To advise Councillors and Officers on ethical issues, standards, and powers to ensure that the Council operates within the law and statutory Codes of Practice.
<b>The Governance &amp; Audit Committee</b>	To monitor on a regular basis the Council's approach to tackling fraud and corruption and promote an anti-fraud culture.

Stakeholder Responsibilities	Specific Responsibilities
<b>Councillors</b>	To comply with the Code of Conduct and related Council policies and procedures, to be aware of the possibility of fraud, corruption, and bribery and to report any genuine concerns accordingly.
<b>Internal Audit</b>	Internal Audit is responsible for evaluating the potential for the occurrence of fraud and how the organisation manages fraud risk.
<b>Corporate Fraud Officer</b>	Responsible for the co-ordination of the Council's Counter Fraud Strategy and Framework including the measures in place to acknowledge, prevent and pursue fraud and corruption activity. This also includes the key co-ordination role in the National Fraud Initiative (NFI), which is a fraud prevention and detection exercise based around bulk data matching that is led by the Cabinet Office, every two years.
<b>Chief Executive, Directors, Heads of Service and Operational Managers</b>	Manage the risk of fraud, corruption, and bribery. To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to the Corporate Fraud Officer or Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption, and bribery and to reduce these risks by implementing strong internal controls. It is vital that this group show leadership in supporting investigations into fraud and corruption and that they are responsive to implementing actions arising from this work. Their role in the NFI exercise is to provide data for matching and to analyses the outputs from the matching exercise and take appropriate action.
<b>Employees</b>	Our employees are the first line of defence against fraud, corruption, and bribery. They are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable. Also responsible for reporting malpractice through the established 'Whistle Blowing' and 'Speakout' procedures. Employees are expected to adhere to the Employee Code of Conduct Protocol, Financial Regulations and Contract Procedure Rules.

### 3. Definitions

#### What is Fraud?

The **Fraud Act 2006** details the legal definitions of fraud and is used for the criminal prosecution of fraud offences. The Council also deals with fraud in non-criminal disciplinary matters.

For the purposes of this document, fraud is defined as,

*‘the intentional distortion of financial statements, or other records by a person or persons internal or external to the Council, which is carried out to conceal the misappropriation of assets or otherwise for gain’.*

This includes deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

The definition covers various offences including deception, forgery, theft, misappropriation, collusion, and misrepresentation. However, use in this context is not intended to limit the full use of the Fraud Act 2006 in the investigation and prosecution by the Council of any offences.

## **What is Corruption?**

Corruption is the offering or acceptance of inducements designed to influence official action or decision making. These inducements can take many forms including cash, holidays, event tickets, meals.

## **Bribery Act 2010**

The **Bribery Act 2010** reformed criminal law to provide a new, modern, and comprehensive scheme of bribery offences that will enable courts and prosecutors to respond more effectively to bribery at home or abroad.

**Bribery** - ‘the offering, promising giving, soliciting agreement to accept or acceptance of a financial or other advantage which may induce or reward a person to perform improperly a relevant function under ‘The Bribery Act 2010.’

## **Bribery Act Offences**

The Act creates the following offences relevant to the Council:

- Offences of bribing another person,
- Offences relating to being bribed; and
- Offences relating to the bribery of foreign public officials.

Furthermore, if the offence is proved to have been committed with the consent or connivance of a senior officer of the organisation, then the senior officer may be personally liable.

Further guidance is available from the Ministry of Justice to explain to organisations what action is required to ensure they are compliant.

## **What is Theft?**

Theft is stealing any property belonging to the Council or which has been entrusted to it (i.e., client funds), including cash, equipment, vehicles, data.

Theft does not necessarily require fraud to be committed. Theft can also include the stealing of property belonging to our staff or members whilst on Council property.

## What is Money Laundering?

Money laundering is the process by which criminals attempt to 'recycle' the proceeds of their criminal activities to conceal its origins and ownership and which leaves them with money that cannot be traced back. All employees are instructed to be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through e-mails. Detailed guidance is set out in the Council's Anti- Money Laundering (AML) Policy.

Any service that receives money from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and if there is any suspicion concerning the appropriateness of the transaction then the Council's Money Laundering Policy should be followed. The Council's Money Laundering Reporting Officer (MLRO) is the Head of Finance / s151 Officer.

## Tax Evasion

The Criminal Finance Act 2017 introduced two new criminal offences; one relating to UK tax evasion, one relating to foreign tax evasion. The new offences, which came into force on 30 September 2017, are designed to help the Government counter circumstances where a body's employees facilitate tax evasion by their customers or suppliers. Although tax evasion does not have a direct impact on the Council, under the new legislation there is a strict liability for failing to prevent the facilitation of tax evasion by one of its associates, such as an employee or contractor. This could arise, for example, if a Council employee conspired with a supplier to falsify the amount paid on an invoice so that the supplier evaded paying income or corporate taxes.

## 4. Aims and Objectives

The aims and objectives of the Counter Fraud Strategy & Framework are to: -

**A.** To protect the Council's valuable resources by ensuring they are not lost through fraud and corruption but are used for improving the delivery of services to Vale of Glamorgan residents through the successful implementation of the Fraud Action Plan.

**B.** To gain a better understanding of local fraud and corruption risks influencing the Council's ability to deliver its objectives.

**C.** Create an 'anti-fraud' culture that highlights the Council's zero tolerance of fraud, corruption, and bribery, which defines roles and responsibilities and actively engages the public, Councillors, and employees, by raising awareness of fraud both internally and externally.

**D.** Actively seeks to increase the Council's resilience to fraud and corruption through the raising of fraud awareness.

**E.** To provide a best practice counter-fraud service which:

- Proactively deters, prevents, and detects fraud, corruption, and bribery.
- Investigates suspected or detected fraud, corruption, and bribery.
- Enables the Council to apply appropriate sanctions and recover losses.

- Provides management reports and recommendations to inform policy, systems, and control improvements, thereby reducing the Council's exposure to fraudulent activity.

**F.** Create an environment that enables the reporting of any genuine suspicions of fraudulent activity. However, we will not tolerate malicious or vexatious allegations or those motivated by personal gain and, if proven, we may take disciplinary or legal action; and

**G.** Work with our partners and other investigative bodies in collaboration to strengthen and continuously improve our arrangements to prevent fraud and corruption.

## 5. Fraud Risks

The Council seeks to fulfil its responsibility to reduce fraud and protect its resources by a strategic approach consistent with that outlined in both CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption and in the Local Government Fighting Fraud & Corruption Strategy for the 2020's, and its five key themes of Govern, Acknowledge, Prevent, Pursue & Protect. Fraud risks are corporate risks faced by all our services and, as with other risks, they are the responsibility of the Directorates to manage and mitigate.

The Corporate Fraud Officer and Internal Audit, however, provide advice, knowledge, and support to the Directorates in the managements of these risks.

<b>Committing Support</b>	The Council's commitment to tackling fraud threats is clear. We have Whistleblowing and 'Speakout' procedures and support those who come forward to report suspected fraud. All reports will be treated seriously and acted upon. Staff awareness of fraud risks will be gained through e-learning, face-to-face development sessions, Internal Audit and Corporate Fraud Officer reports and general consultation and advice provided.
<b>Anti-fraud culture</b>	We will promote and develop a strong counter fraud culture, raise awareness, provide a fraud e-learning tool, and provide information and guidance on all aspects of our counter fraud work.
<b>Fraud Recovery</b>	A crucial element of our response to tackling fraud is recovering any monies lost through fraud. This is an important part of our strategy and will be rigorously pursued, where possible.
<b>Assessing Risks</b>	We will continuously assess those areas most vulnerable to the risk of fraud as part of our risk management arrangements and annually meet with the Council's Strategic Leadership Team to discuss fraud, bribery, corruption, and internal control risks and seek to assess in terms of likelihood and impact. These risk assessments along with known fraud risks identified by investigation work and national reports and fraud patterns will inform our annual programme of works for both Internal Audit and the Corporate Fraud Officer.
<b>Robust Response</b>	We will strengthen measures to prevent fraud. Internal Audit and the Corporate Fraud Officer will work with management and our

	internal partners such as Human Resources, Finance and Legal to ensure new and existing systems and policy initiatives are adequately fraud proofed.
<b>Enhancing fraud controls and processes</b>	We will educate managers regarding their responsibilities for operating effective internal controls within their service areas. We will promote strong management and good governance that provides scrutiny and independent challenge to risks and management controls. Internal Audit reviews will seek to highlight vulnerabilities in the control environment and make recommendations for improvement. The Corporate Fraud Officer investigations and reports will also provide management with actions to improve controls to reduce fraud risks.
<b>Punishing Fraudsters</b>	We will apply realistic and effective sanctions for individuals or organisations where an investigation reveals fraudulent activity. This may include legal action, criminal and/or disciplinary action. We will also seek to publicise successes to act as a deterrent to those seeking to commit fraud. This is detailed in the Council's Corporate Fraud Enforcement Policy.
<b>Better use of Information Technology</b>	We will explore the use of data and analytical software to prevent and detect fraudulent activity. We will always look for opportunities to share data and fraud intelligence to increase our capability to uncover potential and actual fraud as we have done in becoming members of the Welsh Fraud Officers' Group. We will continue to play an active part in the National Fraud Initiative (NFI) data matching exercise. Whilst the Corporate Fraud Officer plays a co-ordination and support role in this exercise, management are responsible for processing the actual matches. The Corporate Fraud Officer will ensure there is a robust follow up process to ensure that high risk matches are pursued where appropriate.
<b>Enforcement</b>	We will investigate instances of suspected fraud detected through the planned proactive work; cases of suspected fraud referred from internal or external stakeholders or received via the Whistleblowing/ 'Speakout' procedures and prioritised on a fraud risk basis. We will work with internal/external partners/organisations, including law enforcement agencies where common ground exists or where intelligence can be lawfully shared.

## 6. Current Fraud Landscape & Risks

The fraud landscape is ever changing and requires constant review. The cost of living crisis has provided a further challenge in this area. The Council keeps abreast of these changes in a number of ways.

- Membership of the National Anti-Fraud Network (NAFN), which provides the Council with a legal gateway to a wide range of information providers, best practice, legislation

updates and sharing of fraud intelligence/bulletins of local and national interest potentially affecting the organisation.

- Membership of the Welsh Fraud Officers' Group to discuss current fraud work and associated risks, trends and emerging fraud risks developing across Wales.
- Members of the Welsh Chief Auditors' Group, who aim is to ensure that the people of Wales know whether public money is being managed wisely and that public bodies in Wales understand how to improve outcomes.
- Membership of The Chartered Institute of Public Finance and Accountancy (CIPFA).
- Attendance at relevant counter fraud conferences.
- Contributors to the National Fraud Initiative (NFI) exercise led by the Cabinet Office and co-ordinators of the output reports analysis from the exercise.
- Constant review of incoming fraud referrals informing patterns and/or concerns affecting the fraud risk in specific areas.
- Fraud investigation and Internal Audit outcome reports to management highlighting any fraud risk control weaknesses with recommendations to strengthen.
- Liaison with the Directorates on an annual basis to discuss fraud risks and periodically when required.

The Council can be exposed to fraud, corruption, and bribery through a variety of internal and external sources. These include:

	<b>Fraud Risk Area</b>	<b>Overview</b>
<b>1</b>	<b>Housing Benefit &amp; Council Tax Reduction</b>	A claimant makes a claim based on information known to be inaccurate or fails to inform the council about a change in circumstances that would reduce the award.
<b>2</b>	<b>Council Tax Single Person Discount (SPD) / Other Council Tax Discounts</b>	A claimant claims a discount when more than one person actually lives in the household, falsely claims to be a student, or claims a property is empty and unfurnished.
<b>3</b>	<b>Cyber Fraud</b>	The use of technology specifically is used to take advantage of system weaknesses for gain. This could include ransomware/malware attacks, hacking or use of council systems to test stolen account details ("checker fraud"). Staff/clients could fall victim to scams and frauds, including executive impersonation, advanced fee, and funds transfer. It could also include "cyber-enabled" frauds (i.e. use of the internet to commit fraud). Remote working can increase risk leaving users more vulnerable to fraudulent attacks. This is due to reduced checks.

4	<b>Direct Payments</b>	A recipient falsely claims Direct Payments, e.g. by misrepresenting their care needs or failing to disclose receipt of other benefits. There is also a risk of abuse of position by personal assistants, carers, or parents, leading to monies not being spent for the recipients benefit. There is an additional risk that a family member misuses the direct payments meant for the person they are caring for and becomes dependant on the income.
5	<b>Procurement Fraud</b>	There are activities including price-fixing, bid rigging and cover pricing, to maximise profit margins or share out contracts. In addition, this risk also overlaps with bribery and corruption internal risks. There is a risk that claims are made to defraud the council by claiming payment for goods/services not provided; delivering goods/services of substandard quality; overpricing or duplicate invoicing.
6	<b>National Non-Domestic Rates (NNDR)</b>	A business makes a claim for rate relief based on false information, e.g. stating that a property is no longer in use; not declaring the location of a business or falsely claiming relief, e.g. by claiming to be occupied by a charity; intermittent occupation or the use of “phoenix companies” to avoid liability (although not technically illegal).
7	<b>Internal Fraud by Officers and Members</b>	Officers or Members may abuse their position for private gain or misuse council assets for personal gain, including computer hardware and software, plant, machinery and equipment and intellectual property. Theft of cash or portable items belonging to the Council, employees, or Members. Receipt of financial or other rewards as an inducement to perform their duties improperly or seek to influence a decision-maker. Also, a risk of failing to declare an interest in a company or organisation.
8	<b>Client Finances</b>	The management of client’s finances, where clients lack capacity, are fraudulently managed. This covers appointeeship, court of protection and any other management of client’s finances.
9	<b>Election Fraud</b>	There is voter registration fraud; impersonation (at polling stations); phishing and hacking, denial of service and ransomware (particularly at the time of an election).
10	<b>Cash Handling</b>	Theft or false accounting occurs with officers responsible for handling cash, either as income or expenditure (e.g. petty cash). This could include accounting for cash (and other income) security and banking.
11	<b>Organised Crime/ Money Laundering</b>	Council systems are used to launder money or there is abuse of council systems and they are used by organised crime gangs, e.g. sham marriages. Also, there is a risk that properties are used within the area as fronts for illegal activity (illicit tobacco/alcohol, money laundering).
12	<b>Schools</b>	Although most schools’ frauds are covered elsewhere (e.g. payroll, staffing, cash handling, procurement),



		nationally schools are the largest source of internal referrals.
13	<b>Insurance Fraud</b>	Bogus claims are made with serial claimants across authorities. Also organised “crash for cash” or “slip and trip” frauds and any insurance claim that is proved to be false, made against the organisation or the organisations insurers.
14	<b>Blue Badges</b>	Abuse of the scheme occurs, including an individual using a badge holder’s badge when the badge holder is not part of the journey or continues to use it or applies for a new badge after the badge holder’s death. Also, the use of counterfeited badges or applications for a blue badge using inaccurate information or failing to report a change.
15	<b>Payment to suppliers (including payment by Purchasing Cards)</b>	There is misuse of procurement cards, creation of bogus suppliers / invoices. Offences include fraud by abuse of position, false accounting, and corruption.
16	<b>Employment / Payroll</b>	There are submissions of claims for duties not carried out, inflation of expenses claims, claiming sick pay when fit to work and failing to work contracted hours. Also, the creation of ghost employees and generating payments and false overtime claims. Offences include fraud by false representation, failure to disclose information and false accounting.
17	<b>Grants</b>	Grant payments are obtained from the Council under false pretences or that grants are claimed from different sources for the same purpose or that the recipient fails to deliver outputs stated in the grant conditions. In addition, there is a risk of bogus companies or individuals making a claim perpetrating to be someone else. This also overlaps with the internal risk of corruption. There is additional risk where there is a requirement to process and pay grants at speed where sufficient checks may not be completed.
18	<b>Licensing</b>	There is an abuse of a license (e.g. assigning to someone else). There is also a risk of a fraudulent application for a license, such as a taxi license, where an applicant does not declare a relevant fact or fails to declare a change posing a potential risk to the public.
19	<b>Recruitment</b>	Applicants submit bogus qualifications or references or have no right to work or fail to disclose income for benefit purposes. There is also a risk of offences which could include fraud by false representation or failure to disclose information.
20	<b>False Applications</b>	There is a risk that the council is supplied with false documentation in support of applications / registrations in respect of services provided e.g. declaration of intention to marry from persons subject to immigration control, applications for housing and planning applications.

These areas can be regularly subject to attack by individuals / groups intent on committing fraud, which if successful means that there is less money and resources available for those in genuine need.

## 7. Managing the Risk of Fraud, Bribery, & Corruption

Whilst all stakeholders have a part to play in reducing the risk of fraud, Elected Members and Senior Management are ideally positioned to influence the ethical tone of the organisation and play a crucial role in fostering a culture of high ethical standards and integrity.

As with any risk faced by the Council, it is the responsibility of managers to ensure that fraud risk is adequately considered within their individual service areas and in support of achieving strategic priorities, business plans, project and programme objectives and outcomes. In making this assessment, it is important to consider the risk of fraud occurring (i.e., proactive) rather than the actual incidence of fraud that has occurred in the past (reactive).

Once the fraud risk has been evaluated, appropriate action will be taken by management to mitigate those risks on an on-going basis, for example through introducing and operating effective systems of internal control.

Good corporate governance procedures are a strong safeguard against fraud, corruption, and bribery.

The Council's Governance and Audit Committee plays a key role in scrutinising the Council's approach to fraud, its system of controls and risk management; and its wider resilience to financial irregularity in general.

Internal Audit undertakes a risk-based assurance programme of work each year developed with input from management and agreed by the Governance and Audit Committee. This assurance work involves an independent review of systems and procedures, including a review of the management of risk (of both fraud and other types of risk) whereby system weaknesses are brought to the attention of management along with recommendations to strengthen controls within procedures.

## 8. Steps to Support Continual Improvement

This Counter Fraud Strategy and Framework sets out the developments and actions the Council proposes to take over the medium-term future to further improve its resilience to fraud, bribery, and corruption. These developments include the following actions:

1.	Maintain a Fraud Risk Register which is integrated into the existing risk management framework, where significant fraud, bribery and corruption risks will be owned and maintained by the directorates.
2.	Ensure there is a comprehensive and up-to-date set of policies and procedures which together represent a cohesive strategy for identifying, managing, and responding to fraud risks.

3.	To be an active participant in the bi-annual National Fraud Initiative (NFI) exercise and to robustly investigate suspected cases of fraud identified through NFI. The Corporate Fraud Officer is responsible for the co-ordination of the exercise including ensuring that the data sets comply with specification and are securely uploaded to the Cabinet Office. Management are responsible for the review of matches that are returned and for referring suspicions of fraud and corruption to the Corporate Fraud Officer.
4.	Raise awareness of fraud, bribery, and corruption by delivering a fraud awareness training programme for Members and Officers and provide ongoing fraud awareness training as required.
5.	Produce an annual Corporate Fraud report to those charged with governance covering all reactive and proactive fraud initiatives.
6.	Undertake welfare benefit investigations (including joint cases with the DWP), recommend the relevant sanction and the recovery of overpaid benefit
7.	To maximise the use of data analytics and data matching to review electronic data to detect and prevent fraud.
8.	To actively maintain the Council's membership of the Welsh Fraud Officers Team, the Chartered Institute of Public Finance and Accountancy (CIPFA), and all other links to enforcement partners including the Police, DWP and HMRC. Also, to be open to new and innovative anti-fraud projects.
9.	To produce fraud investigation outcome reports for management which highlight the action taken to investigate the fraud risks, the outcome of the investigations e.g., sanction and recommendations to minimise future risk of fraud.

## 9. Measures of Success

The successful implementation of this strategy will be measured by the following:

- Successful implementation of the actions contained within the strategy.
- Increased awareness of fraud, corruption and bribery risks by members, managers, and employees.
- Evidence that fraud risks are being actively managed across the Council.
- Increased fraud risk resilience across the Council to protect the Council's assets and resources.
- An anti-fraud, bribery, and corruption culture where employees feel able to identify and report concerns relating to potential fraud, corruption, and bribery.

## 10. Reporting and Review

The Council's approach to suspected fraud can be demonstrated in its Fraud Response Plan/Flowchart - **see Appendix 1.**

The Council recognises that the primary responsibility for the prevention and detection of fraud rests with management. If anyone believes that someone is committing a fraud or suspects corrupt practices, these concerns should be raised in the first instance directly with line management then the Corporate Fraud Officer or Internal Audit.

Where managers are made aware of suspected fraud by employees, they have responsibilities for passing on those concerns to the Corporate Fraud Officer, Internal Audit and Head of Finance (Section 151 Officer).

In the event of a whistleblowing allegation the Monitoring Officer should also be updated. Managers should react urgently to suspicion of potential internal fraud, bribery, or corruption.

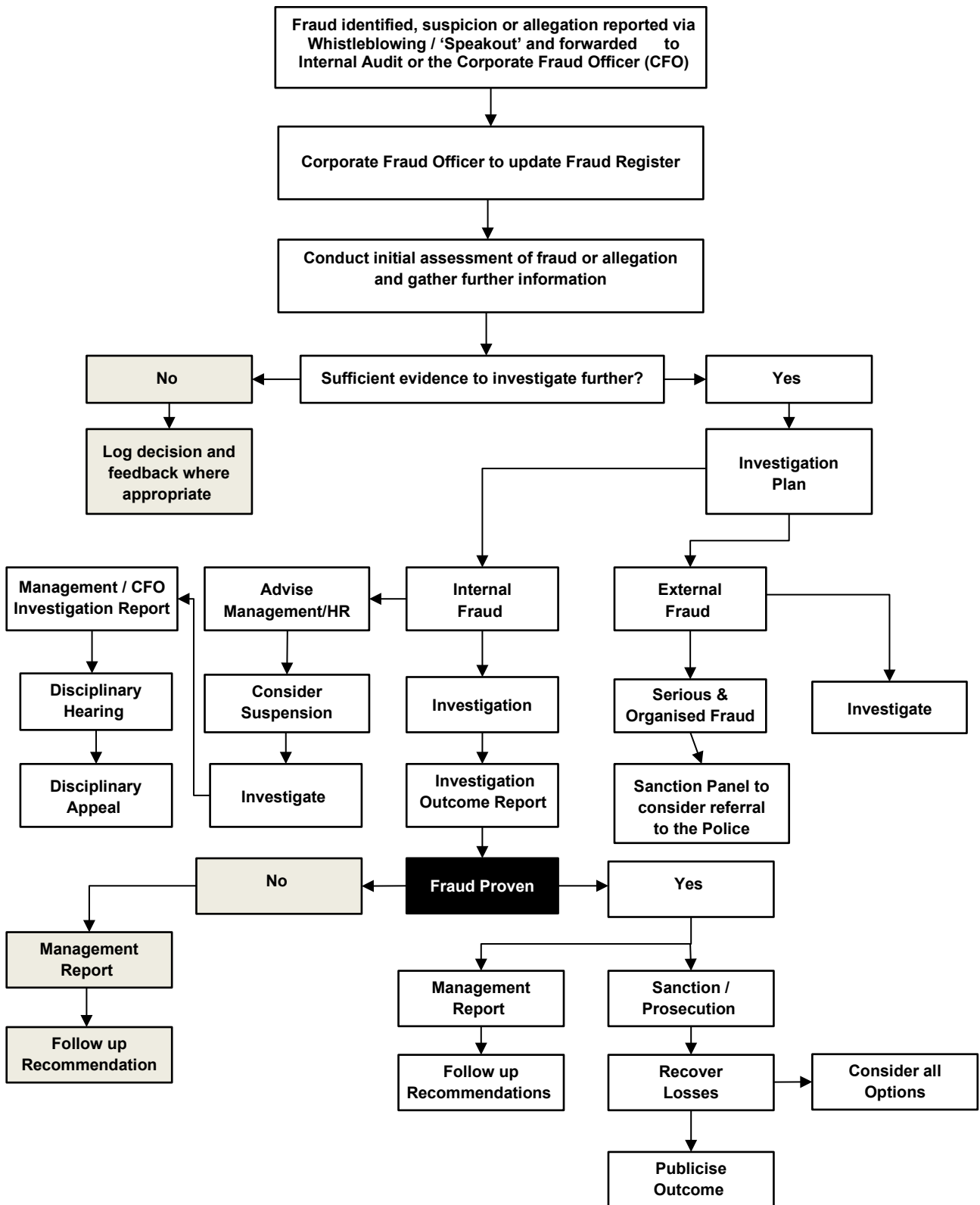
Head teachers of LA-maintained schools should, in addition to above, also notify their Chair of Governors. Notifications must be treated with the utmost confidentiality. Any person that is implicated in the alleged offence should not be included in the notification procedure.

The Head of Finance (Section 151 Officer), Head of Legal Services and the Head of Regional Internal Audit Service has responsibility for ensuring the Council has a robust counter fraud, bribery, and corruption response.

The Governance and Audit Committee will ensure the continuous review and amendment of this Strategy and the Action Plan contained within it. To ensure that it remains compliant with good practice national public sector standards, primarily CIPFA's Code of Practice on Managing the Risk of Fraud, Bribery and Corruption and the Local Government Fighting Fraud & Corruption Strategy for the 2020's and continues to meet the needs of Vale of Glamorgan Council.

This document will be reviewed and updated every 3 years.

## Appendix 1 - Fraud Response Plan





# Corporate Fraud Enforcement Policy

## Section 1 - Introduction

- 1.1 The Vale of Glamorgan Council is committed to protecting public funds through its action to prevent and detect fraud and the Council's Anti-Fraud and Corruption Policy sets out its aims and objectives regarding both deterring and tackling fraud and associated offences. The Anti-Fraud and Corruption Policy states that the Council will seek the appropriate sanctions against any individual or organisation that defraud or seek to defraud it.
- 1.2 The objectives of this policy are:
- To ensure that the Council can apply a full range of sanctions in a just and consistent manner.
  - To ensure that sanctions are applied in an effective, proportionate, and cost-efficient manner.
  - To ensure that the sanction decision making process is stringent, robust, transparent and properly considers the public interest.
  - To make it clear that the Council will not tolerate fraud and will take appropriate action.
  - To penalise those who to seek to defraud public funds.
- 1.3 The use of sanctions will be governed by this policy and the principles of this policy and will specifically cover:
- Elected Members and Council Staff
  - Welfare Fraud such as Council Tax Reduction
  - Social Housing Fraud
  - Other fraud investigated by the Regional Internal Audit Service.
- 1.4 ***It should be noted that the Shared Regulatory Service (SRS) has its own Compliance and Enforcement Policy to cover SRS areas of work.***

## Section 2 - Determining the Appropriate Sanction Route

- 2.1 This policy is designed to provide a framework to ensure the most appropriate resolution to a case is reached. The sanction decision will always have regard to the Anti-Fraud, Bribery and Corruption Policy objectives, the individual circumstances of the persons concerned and the overall impact of the sanction to both the individual and the community.
- 2.2 A range of sanctions are available in relation to identified fraud and corruption. These include disciplinary action, civil proceedings, criminal proceedings, and civil/financial penalties. Where appropriate, the Council may take more than

one form of action. For example, where staff commit fraud or corruption, disciplinary action, prosecution and civil recovery may all be appropriate.

- 2.3 The decision to refer cases for prosecution or to recommend another form of sanction as an alternative to prosecution, where permitted by certain legislation, will be taken by the Council's Sanction Panel. The Sanction Panel will consist of the Head of Finance and the Monitoring Officer/Head of Legal & Democratic Services (or nominated representatives), supported by the Head of the Regional Internal Audit Service. The Head of Human Resources will be included when appropriate.
- 2.4 The Sanction Panel may refer cases to the police for investigation who may then refer matters to the Crown Prosecution Service. This can occur in cases of staff fraud or where the fraud is complex and/or of a very serious nature or linked to Safeguarding issues.
- 2.5 The Sanction Panel will consider the Director for Public Prosecutor's Guidance on Charging to ensure that decisions to charge criminal offences and other prosecution decisions are fair and consistent and fully comply with the Police and Criminal Evidence Act (PACE), the PACE Codes of Practice and the Code for Crown Prosecutors.
- 2.6 When considering a case, the Sanction Panel will apply the most recent edition of the Code for Crown Prosecutors and ensure that all cases accepted for prosecution meet the Full Code Test namely that there is sufficient evidence to have a realistic prospect of a conviction and that it is in the public interest to prosecute.
- 2.7 The two stages of the Full Code Test will be considered as follows: -

- **The Evidential Test**

- There is sufficient evidence to provide a realistic prospect of conviction.

A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be. If the case passes the evidential stage, it will then be considered under the Public Interest Test.

- **Public Interest Test**

- A prosecution will usually take place unless there are public interest factors tending against prosecution which outweigh those tending in favour.

- 2.8 The more serious the offence, or the offender's record of criminal behaviour, the more likely it is that a prosecution will be required to meet the public interest. Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction as set out in the Code for Crown Prosecutors.



## **Section 3 - Types of Fraud Covered by this Policy**

### **3.1 Elected Members and Council Staff**

- 3.1.1 In all cases of fraud, theft, corruption, financial misconduct or serious and intentional breach of financial regulations committed by employees or elected members of the Council, the Council will seek disciplinary action in accordance with the Council's Disciplinary Policy and/or prosecution as appropriate.
- 3.1.2 Where a financial loss has been identified the Council will seek to recover this loss either through the civil or criminal process. In addition, where staff are members of professional bodies or are subject to national codes of conduct such as teaching, social services staff, cases will be referred to the relevant professional body.
- 3.1.3 Where appropriate under this policy, cases will be referred to the relevant prosecuting authority for criminal prosecution.

### **3.2 Welfare Fraud**

- 3.2.1 This includes any local or national benefit/allowance administered by the Council or on behalf of central government, for example, housing benefit, council tax reduction support, social fund, direct payments, some council tax discounts/exemptions and any national benefits which the Council is empowered to investigate, such as job seekers allowance, income support and employment support allowance (under any pilots or agreed partnerships).
- 3.2.2 Under amendments to the Local Government and Social Security legislation there are often options to consider financial penalties as an alternative to prosecution and these should always be considered.

### **3.3 Social Housing Fraud**

- 3.3.1 Where a false statement is made on a housing or homeless application, or where false information is provided during the tenancy, the Council will consider prosecution. Fraud and illegal subletting committed by applicants will be considered for criminal prosecution using the Theft Act, Fraud Act, Housing Acts, Forgery and Counterfeiting Act 1987 and/or Prevention of Social Housing Fraud Act.
- 3.3.2 The factors that will affect the decision to prosecute will be based on the evidential and the public interest test.

### **3.4 Other Fraud**

- 3.4.1 This includes grants, reliefs and exemptions, council tax or non-domestic rates and other applications for financial assistance. This will include cases of attempted fraud, i.e. applications for grants where the financial estimates are deliberately misstated and false applications for direct care payments. Falsifying travel claims, timesheets or procurement documentation to gain a financial benefit is also covered by this Policy.
- 3.4.2 In cases where the Council suffers a financial loss, or risk of loss, it will always consider seeking recovery. Where an organisation is involved in the fraud, the Council will also make referrals to the relevant governing body as and when appropriate, i.e. Charities Commission, Registrar of Companies.
- 3.4.3 The Council will also consider criminal prosecution. The factors that will affect the decision to prosecute will be based on the evidential and the public interest test.

## **Section 4 – Investigations**

- 4.1 All investigations will be carried out with due regard to the following legislation and any associated guidance or codes of practice, in so far as they relate to the fraud:
- the Criminal Procedure and Investigations Act 1996
  - the Police and Criminal Evidence Act 1984
  - the Regulation of Investigatory Powers Act 2016 and 2000
  - the Criminal Justice and Police Act 2001
  - the Human Rights Act 1998
  - The Protection of Freedoms Act 2012
- 4.2 These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.
- 4.3 The procedures for interviewing alleged defendants follow the principles set out in the Police and Criminal Evidence Act 1984, as amended, and the relevant associated Codes of Practice.
- 4.4 The Council may work with other organisations such as the Department for Work and Pensions, the Police, Home Office, HM Revenues and Customs and other local authorities to detect and deter fraud. The work may include joint investigations with them and, where appropriate, assist in any prosecution.
- 4.5 Investigations will be carried out or led by officers with the appropriate training and / or experience.

## Section 5 – Types of Sanction

- 5.1 In all cases where fraud is identified the Council will consider commencing legal processing to recover the debt from the fraudulent party.
- 5.2 When considering cases for sanction, it is essential that each case is subject to scrutiny based on its own facts and merits with due consideration to the Equality Act 2010 and the Human Rights Act 1998. The circumstances of each individual case will ultimately determine the eventual sanction route.
- 5.3 The Sanction Panel will consider any previous prosecutions, cautions or financial / administrative penalties from the Council, other local authorities, the Department for Work and Pensions, the Police or other enforcement agencies. Having considered all the relevant facts and circumstances of an individual case, the Sanction Panel will recommend a course of action.
- 5.4 **Annex A** contains the decision-making process to be used for Local Authority Welfare Benefit fraud.
- 5.5 Financial & Fixed Penalties (Relates to Council Tax Reduction Fraud only)**
- 5.5.1 Regulation 13 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013, provide for financial penalties as alternatives to prosecution. The legislation allows for financial penalties amounting to 50% of the gross overpayment (of benefit) subject to a minimum penalty of £100 to a maximum of £1,000 as an alternative to prosecution.
- 5.5.2 In those instances where the claimant refuses to accept the Financial Penalty, the Council will consider the case for prosecution.
- 5.5.3 In accordance with Regulations 16 and 17 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013, a council can impose a £70 fixed penalty in less serious cases or, where it is not in the public's interest to consider a financial penalty or prosecution. These can be imposed where a false declaration has been made or where, without reasonable excuse, there is a failure to give a prompt notification of relevant change of circumstances to the authority in accordance with requirements. The Council can also consider a fixed penalty of £100 in accordance with Regulation 14 where there are grounds for instituting proceedings for an offence (under these Regulations or any other enactment) relating to an acts or omissions.
- 5.6 Proceeds of Crime**
- 5.6.1 The Council will use the Proceeds of Crime Act 2002, and the provisions of Prevention of Social Housing Fraud Act 2013 to obtain Confiscation Orders to include Compensation Orders as well as recovery of the full criminal benefit figure where possible. The purpose is to recover the financial benefit that the

offender has obtained from their crimes. Proceedings only take place after a criminal conviction has been obtained, but they are conducted according to the civil standard of proof. Where appropriate, compensation orders can also be sought from the court.

5.6.2 The Council may use its own accredited Corporate Fraud Officer or those attached to other law enforcement agencies to conduct investigations, obtain orders and present evidence.

## **5.7 Prosecution**

5.7.1 The Council can prosecute breaches of legislation, particularly in respect of those who flout the law or who act irresponsibly or where other enforcement actions, such as a financial penalty have failed to secure compliance.

5.7.2 The decision as to whether prosecution is the most appropriate course of action in a particular case will be made:

- In accordance with this Policy.
- In accordance with the Code for Crown Prosecutors; and
- In accordance with statutory requirements, taking into consideration all relevant codes of practice and without any unnecessary delay.

5.7.3 In following the Code for Crown Prosecutors, a prosecution will only be commenced where the Sanction Panel is satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the defendant(s). In addition, the Sanction Panel must be satisfied that having considered all the relevant facts and circumstances of the case and having regard to the criteria established by the Code for Crown Prosecutors, a prosecution would be in the public interest.

5.7.4 The ultimate decision on prosecution will be taken by the prosecuting body. In some cases, this will be the Council, in others it will be the Crown Prosecution Service. Other than where the Crown Prosecution Service is the most appropriate prosecuting authority, the Council will utilise internal legal services to undertake criminal prosecutions.

5.7.5 A successful prosecution will result in a criminal record. There is a range of sanctions available to the court depending on the charge and the circumstances of a case and the offender. These include a discharge, a fine or a community order.

## **Section 6 - Recording Sanctions**

- 6.1 All sanctions will be recorded by the Council's Corporate Fraud Officer and copies of all documents used to consider and issue the sanction will be retained, in accordance with the relevant Retention Policies.
- 6.2 An accurate record of all convictions, penalties and cautions will enable the correct decisions to be made whilst taking full account of previous information.

## **Section 7 - Reporting and Review**

- 7.1 Summary information on cases and action taken will be reported to the Council's Communications team in line with the Procedures for Publishing Press Releases Referencing Criminal Convictions. It is the Council's intention to positively promote this policy as well as the outcome of any prosecutions. This may deter others from fraudulent activity and reassure the public that the Vale of Glamorgan Council will take action to prevent fraud.
- 7.2 The Council's Annual Corporate Fraud report will highlight cases where sanctions or prosecutions have resulted from investigations conducted by the Counter Fraud Officer.
- 7.3 This policy will be reviewed every 3 years or when changes in legislation require it.

## Annex A

### Local Authority Welfare Benefit Fraud - Decision Making Process

Where enough evidence has been gathered to provide a realistic prospect of conviction through the courts and regard has been given to the requirements of all relevant legislation (including the Human Rights Act), then a prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour.

If DWP benefits are also involved a joint working case may be undertaken.

#### The Test of Public Interest

Each case will be considered on its own individual merits and the final decision will be at the discretion of the Sanction Panel / Sanction Decision Maker. However, the age, circumstances or mental state of the offender must be considered.

#### Financial Penalty (for Council Tax Reduction Scheme (CTRS) Only)

Where grounds exist for instituting criminal proceedings the Council may offer an alternative penalty.

- It is in the public interest to offer a Financial Penalty i.e., consideration must have been given to the seriousness of the offence and/or the circumstances of the person, such factors as their health, previous convictions, social and domestic circumstances, as well as their financial position
- The offering of the Financial Penalty should reduce the likelihood of re-offending.
- There is no requirement for the person to admit the offence
- The overall value of the fraud is below £5,000
- If the overall value of the fraud is above £5,000 (prosecutable) but the offence has been committed over a short period of time (less than 6 months)

#### Fixed Penalty

The Council can consider a fixed penalty of £100 in accordance with Regulation 14 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013, examples of this are:

- Where there are grounds for instituting proceedings for an offence (under these Regulations or any other enactment) relating to an acts or omissions.

The Council may also consider imposing a fixed penalty of £70 in accordance with Regulations 16 & 17 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013, examples of this are:

- In less serious cases where the claimant negligently makes an incorrect statement or representation, or negligently gives incorrect information or evidence
- The claimant fails to take reasonable steps to correct the error.
- Where the public interest factors outweigh those tending in favour of a prosecution or financial penalty.
- failing to give a prompt notification of a relevant change of circumstances

## **Prosecution**

In all other cases the Council will consider prosecution.

The Public Interest factors that are relevant to establish a decision to prosecute will often depend on the potential seriousness of the offence or the circumstances of the offender, examples of this are:

- The previous history of the offender
- Any statutory defence available
- Action taken to avoid recurrence
- Any explanation offered, and if the law allows the circumstances and attitude of the offender
- What course of action will best serve the public interest
- Whether there is a realistic prospect of conviction

Some factors may increase the need to prosecute while others may suggest an alternative course of action.

If there are additional factors that should be considered, then those factors should be considered and noted.

It should be emphasised that the decision on whether to prosecute in the public interest is very much a matter of common sense and the above factors are only a guide in reaching a decision. All decisions to prosecute will be taken in line with the Code for Crown Prosecutors.



# **Anti-Fraud, Bribery & Corruption Policy**

**Financial Services  
Corporate Resources Directorate**



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## **Introduction**

Fraud within the public sector costs the taxpayer billions of pounds each year. Detected cases of fraud and corruption are on the increase and all local authorities are likely to be affected in some way by fraudulent or corrupt activity.

At the Vale of Glamorgan Council, we want to make sure that we are providing excellent services to the residents of the Vale. All our staff, permanent and temporary, Councillors, partners, agency workers and contractors have an important role to play in achieving this goal and we expect everyone to be committed to our high standards of service which are based on the principles of honesty, openness, and accountability.

We know that we face the risk that something may go wrong or that someone may ignore our policies, our procedures, or the law, resulting in some very serious consequences, in relation to Fraud, Bribery and Corruption. Experience shows that staff, or others who work on behalf of an organisation, often have worries or suspicions and could, by reporting their concerns at an early stage, help put things right or identify and stop potential wrongdoing.

## **Policy Statement**

The Vale of Glamorgan Council wishes to promote a culture of openness and honesty, consistent with the principles for conduct identified by the Committee for Standards in Public Life and expects all those who work for and with the Council to adopt the highest standards of propriety and accountability.

Following the publication of several well publicised cases concerning fraud and corruption within local government, the Council recognises the need for a policy to prevent wrongdoings.

This Council has in place a clear network of systems and procedures to assist it in the prevention and investigation of fraud, bribery, and corruption. The Council is committed to ensuring that these arrangements will keep pace with future developments, in both preventative and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.

## **Who this Policy applies to**

This Policy aims to help employees (including temporary and agency workers), to understand how and when to contact the Council regarding fraud, bribery, or corruption. Employees must ensure they adhere to legal and contractual requirements and ensure that all procedures and practices remain above reproach.

Note: As well as using this Policy, any person employed or engaged by the Council who makes a report under this Policy, should refer to the Council's Whistleblowing Policy for further guidance.

This Policy also aims to help Employees, Councillors, Contractors, Consultants, Suppliers and Service Users to understand how and when to contact the Council with their concerns.

## **Environment and Culture**

In approving this Policy, the Council is setting the standard at a sufficiently high level and sends a clear message that:

- Fraud, bribery, or corruption will not be tolerated.
- All reported or identified instances will be dealt with in a professional and timely manner.
- It is committed to preventing and detecting fraud, bribery, or corruption.
- Those perpetrating fraud, bribery or corruption will be dealt with swiftly and firmly and be prosecuted using all the sanctions available.

The Council acknowledges that the vast majority of its employees and those that work with them always act with honesty and integrity to safeguard the public resources they are responsible for. However, there are people who may not act in this way.

Consequently, any allegations received in any way, including those made anonymously, will be taken seriously, and be investigated in an appropriate manner. There is a need to ensure that allegations are not frivolous, as in the case of employees, this could result in disciplinary action.

When fraud, bribery or corruption has occurred because of a breakdown in the authority's systems or procedures, senior management will ensure that appropriate improvements in controls are implemented to prevent re-occurrence.

To assist all employees and Members in their awareness of this approach to fraud, bribery and corruption, management will ensure:

- Participation in training and awareness programmes covering fraud detection and prevention.
- Ensure employees understand internal controls are designed and intended to prevent and detect fraud.
- Encourage employees to report suspected fraud, bribery, or corruption directly to those responsible for investigations without fear of disclosure or retribution - as set out in the Council's Whistleblowing Policy/ Speak Out.

## Definitions

### Fraud and Corruption

By reference to the Fraud Act 2006, fraud can be committed in the following three ways:

1. **Fraud by False Representation:** “representation” means any representation as to fact or law that may be expressed or implied. A person commits an offence when they dishonestly make a false representation, and intends, by making the representation to:

- make a gain for yourself or another, or
- cause loss to another person or expose another to a risk of loss.

A representation is false if:

- it is untrue or misleading, and
- the person making it knows that it is, or might be, untrue or misleading.

2. **Fraud by Failing to Disclose Information:** an offence is committed where a person dishonestly fails to disclose to another person information, which they are under a legal duty to disclose, and intends, by failing to disclose the information to:

- make a gain for themselves or another, or
- cause loss to another or to expose another to a risk of loss.

3. **Fraud by Abuse of Position:** an offence is committed where a person occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position, and intends, by means of the abuse of that position to:

- make a gain for himself or another cause loss to another, or
- to expose another to a risk of loss.

The term fraud is generally used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusions.

This Policy therefore covers all financial impropriety including theft or corruption, which is described in more detail below:

- According to the 1968 Theft Act “a person shall be guilty of theft if they dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it”.

- Corruption is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the actions taken by the audited body, its Members, or employees.
- Actions constituting fraud or corruption may include, but are not limited to:
  - Any dishonest or fraudulent act against the Council.
  - Forgery or alteration of any record or account belonging to the Council.
  - Submitting false or exaggerated timesheets
  - Working for another employer whilst on sickness absence
  - Forgery or alteration of a cheque, bank draft or any other financial document.
  - Misappropriation of funds, securities, supplies, or other assets.
  - Impropriety in the handling or reporting of money or financial transactions.
  - Profiteering as a result of insider knowledge of Council activities.
  - Contractors collaborating together during a tender process (bid rigging)
  - Disclosing confidential and proprietary information to outside parties.
  - Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment.
  - Failure to declare an interest.
  - Mandate fraud, where someone requests the Council to change a direct debit, standing order or bank account details by purporting to be an organisation we make regular payments to, such as a subscription or a business supplier.

## **Bribery Act 2010**

The Bribery Act 2010 was introduced to update and enhance UK law on bribery including foreign bribery.

It introduced a strict liability offence for companies and partnerships of failing to prevent bribery. The introduction of this corporate criminal offence places a burden of proof on local authorities to show they have adequate procedures in place to prevent bribery.

The Council could be guilty of an offence if an “associated person” carries out an act of bribery in connection with its business. A person will be “associated” where that person performs services for or on behalf of the Council and could include contractors and sub-contractors. The Bribery Act also provides for strict penalties for active and passive bribery by individuals as well as companies.

Bribery can be described as the receiving of an inducement for an action which is illegal, unethical or in breach of trust. Inducements can take the form of gifts, fees, rewards, or other advantages such as retaining business.

A statutory defence to the strict liability offence of “failing to prevent bribery” is the introduction of internal adequate procedures. The Council provides for such arrangements through this policy and associated documents, the appointment of the Council’s Head of Finance and/or Monitoring Officer to deal with all matters relating to

bribery and corruption, management's commitment to a zero-tolerance culture and training of relevant employees.

Therefore the Council plays an important role in preventing or eliminating bribery in the private sector and should ensure that various anti-corruption provisions are included in procurement and contractual documents.

## **Tax Evasion**

The Criminal Finance Act 2017 introduced two criminal offences; one relating to UK tax evasion, one relating to foreign tax evasion. These are designed to help the Government counter circumstances where a body's employees facilitate tax evasion by their customers or suppliers. Although tax evasion does not have a direct impact on the Council, under this legislation there is a strict liability for failing to prevent the facilitation of tax evasion by one of its associates, such as an employee or contractor.

This could arise, for example, if a Council employee conspired with a supplier to falsify the amount paid on an invoice so that the supplier evaded paying income or corporate taxes.

There are three tests that must be passed before an offence is committed:

- Criminal tax evasion by a taxpayer (either an individual or a legal entity);
- Criminal facilitation of the offence by a person associated with the body, by taking steps with a view to; being knowingly concerned in; or aiding, abetting, counselling, or procuring the tax evasion by the taxpayer; and
- The body not preventing a person associated with it from committing the criminal facilitation.

Similar to the Bribery Act 2010, there is a statutory defence of having "reasonable prevention procedures" in place. HMRC has issued guidance on this setting out six risk principles that all organisations are expected to consider when reviewing whether they have proportionated and reasonable risk protocols in place. The Council has undertaken significant work to ensure risks are identified and implement procedures proportionate to those risks.

## **Corporate Framework**

The Council has a wide range of interrelated policies and procedures that provide an effective deterrent to fraudulent activity and provide the means for reporting or detecting fraud or corruption. These have been formulated in line with appropriate legislative requirements and it is important that all employees and Members know about them.

They include:

- Accounting procedures and records
- Anti-Fraud, Bribery & Corruption Policy

- Code of Corporate Governance
- Codes of Conduct
- Contract and Financial Procedure Rules
- Disciplinary Procedure
- Effective internal audit
- Effective recruitment and selection procedures
- Grievance Procedure
- Procurement Code of Practice
- Sound internal control systems
- The Council's Constitution
- Whistleblowing Policy

Managers have a responsibility to ensure that all employees have access to the relevant rules and regulations and receive suitable training.

Members and employees must ensure that they read and understand the rules and regulations that apply to them and act in accordance with them.

### **Identifying the Risk of Fraud, Bribery or Corruption and Risk Mitigation**

In having a risk management strategy, which includes risk mitigation measures, the Council aims to detect fraud, bribery or corruption and deter potential perpetrators of such activity.

This Policy sets out exactly what steps to take on suspecting fraud, bribery, or corruption.

In having a continuous programme of awareness and regular updates and training for new and existing employees, and in referring to this Policy in its quotation/tender documents with suppliers and its procurement guide, the Council aim to mitigate the risk of fraud, bribery or corruption taking place.

### **Acting upon your Suspicions**

If you suspect that fraud, bribery or corruption is being committed there are a few simple guidelines that should be followed.

#### **DO**

- Make an immediate note of your concerns. Note all relevant details, such as what was said in telephone or other conversations, the date, the time, and the names of the parties involved.
- Convey your suspicions to someone with the appropriate authority and experience. For staff this is usually your manager or Internal Audit, although it could be to any of the people or organisations listed in the 'Raising your Concerns' section.
- Deal with the matter promptly if you feel your concerns are warranted. Any delay may cause the council to suffer further financial or reputational loss.

- Don't be afraid to act and remember to use the 'Speak Out Line' if you are worried about revealing your identity.

## **DON'T**

- Do nothing.
- Be afraid of raising your concerns. Staff will not suffer any recrimination as a result of raising a concern in good faith.
- Approach or accuse any individuals directly. You may have misinterpreted a perfectly genuine situation.
- Try to investigate the matter yourself. There are rules concerning the gathering of evidence for use in criminal cases. Proper investigative procedures must be followed.
- Convey your suspicions to anyone other than those with the proper authority.

If in doubt – raise your concerns, Speak Out.

## **Responsibilities**

The primary responsibility for the prevention, detection and investigation of fraud, bribery, or corruption rests with senior management, who are also responsible for managing the risk of such occurrences. However, the Council always requires all employees and elected Members to act honestly and with integrity and to guard the resources for which they are responsible. Fraud, bribery, and corruption can pose a significant threat to these resources and must therefore also be their concern.

In doing so and in accordance with the Council's codes of conduct, there is a requirement for all employees and elected Members or persons acting on behalf of the Council to notify the Council immediately of any financial or accounting irregularity, or suspected irregularity, or of any circumstances which may suggest the possibility of such loss or irregularity, including those affecting cash, stores, property, remuneration or allowances.

The purpose of this Policy document is to also set out specific responsibilities with regards to the prevention and detection of fraud, bribery and corruption as follows:

**Head of Finance** (also known as Section 151 Officer) is responsible for:

- Ensuring that this Policy is current.
- The maintenance and operation of this Policy.
- Ensuring proper arrangements are made for the Council's financial affairs.
- Ensuring the Council implements appropriate measures to prevent and detect fraud, bribery, and corruption, and protect the Council's assets from fraud and loss.
- Ensuring that the Council has put in place effective arrangements for internal audit and that it is adequately resourced and maintained.
- Supporting the Council's internal audit arrangements and ensuring that the Governance & Audit Committee receives the necessary advice and information, so that both functions can operate effectively.



## **Employee Recruitment and Management**

A key preventative measure against fraud is to deter employees who might undertake such activities. The Council recognises that effective recruitment processes are essential to ensure the integrity of all new employees. These include:

- The checking of identity documents.
- References and qualification checks for new employees.
- Checks for appropriate posts through the Disclosure and Barring Service.
- Detailed appraisal of employees' performance and ability during probationary periods and throughout their entire employment.

## **Contractors and Suppliers**

The Council will ensure that all contracts conform to the highest standards possible and ensure that those organisations that work with the Council to deliver services are made aware of the Council's strong anti-fraud, bribery, and corruption principles, including the "whistleblowing" policy.

Where appropriate the Council may exclude suppliers, contractors and service providers from public contracts following conviction for certain offences including participation in criminal organisations, fraud, corruption, bribery, or money laundering.

The Council will seek an assurance that those tendering to provide supplies, goods, services and works to the Council have adequate anti-fraud, bribery or corruption recruitment procedures and controls in place; have not colluded with others during the tendering process; or canvassed or solicited any Elected Member or employee of the Council in connection with the award or future award of contracts.

In awarding any contract, the Council will act in accordance with its Contracts Procedure Rules and Procurement Policy and Strategy. Within its contract terms, the Council may exercise its right to terminate a contract and recover its losses if there is evidence of fraud, bribery, or corruption in connection within a Council contract by the contractor, its employees or anyone acting on the contractor's behalf.

The Council may seek the strongest available sanctions against the contractor, their employees or anyone acting on behalf of the contractor who commits fraud, bribery or corruption against the Council and will request that the organisation concerned takes appropriate action against any individual concerned.

Where contractors are involved with the administration of Council finances or those for which the Council has responsibility, the Council will conduct internal audit reviews and/or pro-active anti-fraud, bribery, or corruption exercises as part of the contract management process.

## **Collaboration and Working with Others**

The Council is committed to working and cooperating with other organisations to prevent organised fraud, bribery, and corruption. Wherever possible and legal the Council will assist and exchange information with other appropriate bodies to assist in investigations to combat fraud, bribery, and corruption.

The Council is committed to participation in the National Fraud Initiative. The Council provides information from relevant databases for matching against similar information of other Local Authorities and participating organisations.

The Council will consider joint working with certain agencies, including (but not limited to):

- Other Local Authorities
- Benefits agencies
- Local Police
- UK Border Agency.

## **Detection and Investigation**

The range of preventative systems within the Council, particularly internal control systems, can provide indicators of fraud, bribery, or corruption (and error) and can help to detect any inappropriate activity.

Management have responsibility for preventing and detecting fraud, bribery or corruption, and proactive exercises will be conducted by Internal Audit in targeted services areas where there is a high risk from fraud. However, despite the best efforts of managers and auditors, many irregularities are discovered often by chance or through the alertness of others and will come to the attention of the Council through its whistleblowing arrangements.

## **Whistleblowing**

The Council operates a Whistleblowing Policy and supporting Speak Out reporting mechanism in accordance with the provisions of the Public Interest Disclosure Act 1998, which is intended to encourage and enable all employees of the Council, including trainees and agency workers, to raise concerns about any financial or other malpractice in the Council. Everything will be done to protect confidentiality. The 'whistleblower' will be advised of the action that has been taken as far as the law will allow.

Where Members of the Council and Co-opted Members of Committees come into possession of information which may indicate a fraudulent or corrupt act is being perpetrated against the Council, they should report this to either the Chief Executive, Head of Finance, Monitoring Officer, Head of Regional Internal Audit Service, Head of Human Resources or the Chair of the Governance & Audit Committee, in accordance with the Protocol on Member / Officer Relations (Section 22 of the Constitution) which complements the Local Code of Conduct for Members (Section 19 of the Constitution).

## Raising Concerns

Staff, Members, Suppliers and Contractors can raise their concerns either via:

- Directly contacting the Council's Internal Audit Service via email: [internalaudit@valeofglamorgan.gov.uk](mailto:internalaudit@valeofglamorgan.gov.uk) or via post at the Council's Civic Offices.

The Council's confidential 'Speak Out' out number or online option below:

- Confidential Speak Out Line: 01446 731115
- Report a Concern Online: [Speak Out](#)
- Use the email address: [speakout@valeofglamorgan.gov.uk](mailto:speakout@valeofglamorgan.gov.uk)

Alternatively, you can contact any of the recipients below with your concerns calling 01446 700111 and asking for:

- Chief Executive:
- Head of Finance (Section 151 Officer):
- Monitoring Officer:
- Head of Regional Internal Audit Service:
- Head of Human Resources:

All are located at the following address:

Vale of Glamorgan Council  
Civic Offices  
Holton Road  
Barry  
CF63 4RU

Contact your Chair of Governors (if you work for a school)

Another alternative line of communication available where people do not wish to utilise the specific communications listed includes:

- Protect, formerly Public Concern at Work, (020 3117 2520), a registered charity.

## Investigation

In response to referrals of potential fraud, Investigations will be conducted in line with the Council's Fraud Response Plan. When information relating to fraud or corruption is obtained it is reviewed and subject to an informal risk assessment. Some are followed up with a full investigation and others may be better dealt with as management issues. Where appropriate management shall:

- Report all allegations immediately to Internal Audit and Senior Management.
- Follow any guidance provided.
- Where appropriate, following approval by the Council's Sanction Panel. contact other agencies, e.g., the Police.

- Where appropriate, support the Council's investigation and disciplinary procedures.

Depending on the nature and anticipated extent of the information obtained, Internal Audit will normally work closely with:

- Senior Management
- Human Resources
- Legal Services
- Other agencies, such as the Police and the Office of Fair Trading.

This is to ensure that all allegations and evidence are properly investigated and reported upon, and that where appropriate, losses are recovered for the Council. Where financial impropriety is discovered the matter may be referred to the Police in accordance with the Anti-Fraud and Bribery Policy and the Corporate Fraud Enforcement Policy . The Head of Finance, Monitoring Officer, Head of the Regional Internal Audit Service or the Corporate Fraud Officer on their behalf, may seek the advice of the Police in the first instance. Referral to the Police will not prohibit subsequent or concurrent action under the disciplinary procedures.

Reporting cases in accordance with this Policy and the Whistleblowing Policy is essential and:

- Ensures the consistent treatment of information regarding fraud, bribery, or corruption
- Facilitates the proper investigation of suspected cases and
- Protects the interests of individuals and the Council.

The Council will treat all information received confidentially and will not disclose or discuss investigations with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of people suspected but subsequently found innocent of wrongful conduct and to protect the Council from potential civil liability. Any processing of personal data will comply with the Data Protection Act and the data protection principles.

## **Deterrence**

The Council recognises that fraud, bribery, and corruption are costly, both in terms of reputation risk and financial losses. The prevention of fraud is therefore a key objective of the authority and respective measures are outlined below.

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

- Publicising the fact that the Council is firmly set against fraud and corruption at every appropriate opportunity.
- Acting robustly and decisively when fraud, bribery and corruption is suspected.
- Prosecution of offenders.

- Taking action to effect maximum recovery for the Council.
- Use of the Proceeds of Crime Act where appropriate to maximise the penalty and the level of recovery by the Council.
- Having sound internal control systems, that still allow for innovation and efficiency, but at the same time minimising the opportunity for fraud, bribery, and corruption.
- Reporting to the media any action taken relating to acts of impropriety, subject to the usual restrictions on reporting legal proceedings.

## **Training and Awareness**

It is the responsibility of management to communicate the Anti-Fraud, Bribery & Corruption Policy to their employees and to promote within their teams a greater awareness of and alertness to the signs of fraud, bribery, and corruption.

Through induction training the Council ensures that all employees are clear about their responsibilities and duties in this respect, particularly those officers involved in internal control systems.

Internal Audit and the Council's Corporate Fraud Officer also offer support and guidance in relation to Anti-Fraud, Bribery & Corruption awareness.

Managers should ensure the message is highlighted and reinforced through the completion of the Fraud Awareness training module on 'iDev', as a core part of induction and employee's development.

The Internal Audit Service and the Council's Corporate Fraud Officer will also raise awareness through targeted training and the dissemination of fraud warnings and alerts received by the authority.

Senior management should ensure Members are aware of this Policy initially via the induction process and then reminding them of this Policy via Council publications. Members should also be encouraged to undertake the Fraud Awareness training module.

## **Courses of Action**

Mechanisms exist within the Council to act in cases of fraud, bribery, or corruption. These include the following:

## **Disciplinary Action**

Gross misconduct and other fraudulent or corrupt conduct will normally lead to dismissal. Failure to comply or breach any sections contained within this Policy could also be regarded by the Council as gross misconduct. Such actions will be dealt with in accordance with the Council's disciplinary procedures.

## **Prosecution**

The Council will seek full redress through the legal processes available to counter any internal or external fraudulent activities perpetrated against it. This redress will be achieved through criminal and/or civil courts as considered appropriate.

The Chief Executive, in consultation with the Sanction Panel (consisting of the Head of Finance, the Monitoring Officer, the Head of Regional Internal Audit and the Head of Human Resources and Organisational Development, where appropriate, as well as other external agencies, will decide whether to formally refer the case to the Police for prosecution. Other external agencies involved may include Government Departments and the Crown Prosecution Service.

## **Monitoring of this Policy**

The Head of Finance (Section 151 Officer) has overall responsibility for the maintenance and operation of this Policy and will liaise with the Chief Executive, the Monitoring Officer, the Head of Regional Internal Audit Service and the Head of Human Resources and Organisational Development on an annual basis to ensure that it continues to remain compliant and meets the requirements of the Council.

Any material changes or updates will be reported to the Governance & Audit Committee.



# **Anti-Money Laundering Policy**

**Finance Services  
Corporate Resources Directorate**

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## Introduction

The Vale of Glamorgan Council (the Council) is committed to the highest possible standards of conduct. Although as a local authority it is not directly covered by the requirements of current anti-money laundering legislation, it has responded to guidance from the finance and legal professions and developed an Anti-Money Laundering Policy and accompanying Guidance Notes to provide advice and assistance where money laundering is encountered or suspected.

Money laundering is the process of concealing sources of money. Money evidently gained through crime is 'dirty' money, and money that has been 'laundered' to appear as if it came from a legitimate source is 'clean' money. Money can be laundered by many methods, which vary in complexity and sophistication.

Historically, legislation to tackle the laundering of the proceeds of crime was aimed at the financial and investment sector. However, it was subsequently recognised that those involved in criminal conduct were able to 'clean' criminal proceeds through a wider range of businesses and professional activities.

This policy confirms the Council's commitment to ensuring that the relevant legislation is complied with encompassing:

- Proceeds of Crime Act 2002 (as amended)
- Terrorism Acts 2000 & 2006
- The Counter-Terrorism Act 200
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).
- Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulation 2019. (MLR 2019).

## Scope

This policy applies to all Council employees and elected members and aims to maintain existing high standards of conduct within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations. Further information can be found under the Obligations of the Council on page 5.

This Policy and its accompanying Guidance Notes apply to all employees and Members of the Council. They sit alongside the Council's Anti-Fraud, Bribery, and Corruption Policy, Code of Conduct and Whistle Blowing Policy as components of the Council's Corporate Governance regime.

**It is extremely important that all members and employees are familiar with their legal responsibilities and are vigilant at all times. Serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).**

## Key Message

The key message of this Policy is that if you suspect that money-laundering activity may be taking place or proposed, in relation to anything you are dealing with, you should immediately disclose those suspicions to the Council's MLRO. (Please refer to the Money Laundering checklist at Appendix 1 to assist.) The Council's MLRO is the Head of Finance/Section 151 Officer.

If the matter involves a proposed transaction (e.g. the sale of property) you should not proceed with the transaction without approval from the MLRO or the National Crime Agency (NCA). If possible, you should defer the transaction in such a way as not to alert anyone else to your suspicions. If you believe you cannot reasonably do so, you should immediately contact the MLRO or the Deputy MLRO.

If you are unable to defer the transaction without exposing your suspicions, e.g. as it is a cash transaction, you should complete the transaction as you usually would and record as much detail as possible on the form attached as Appendix 1 and then pass the completed documentation to the MLRO.

## What is Money Laundering

Money laundering is the process of concealing sources of money. Money evidently gained through crime is 'dirty' money, and money that has been 'laundered' to appear as if it came from a legitimate source is 'clean' money. Money can be laundered by many methods, which vary in complexity and sophistication.

Money laundering is the process of channelling 'bad' money into 'good' money to hide the fact that the money originated from criminal activity, and often involves three steps:

- **Placement** - cash is introduced into the financial system by some means;
- **Layering** - a financial transaction to camouflage the illegal source;
- **Integration** - acquisition of financial wealth from the transaction of the illicit funds.

There are two types of offences, which may be committed:

- Money laundering offences
- Failure to report money-laundering offences

The main types of money laundering offences are:

- Acquiring, using or possessing criminal property,
- Handling the proceeds of crimes such as theft, fraud and tax evasion,
- Being knowingly involved in any way with criminal or terrorist property,
- Entering into arrangements to facilitate laundering criminal or terrorist property,
- Investing the proceeds of crime in other financial products,
- Investing the proceeds of crimes through the acquisition of property/assets,
- Transferring criminal property.

## Obligations of the Council

The law requires those organisations in the regulated sector and conducting relevant business to:

- Appoint a MLRO to receive Suspicious Activity Reports from employees of suspected money laundering activity,
- Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures.

Not all the Council's business is 'relevant' for these purposes. It is mainly the accountancy and audit services carried out by the Finance Department and certain financial, company and property transactions carried out by the Legal Department. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council. Therefore, all employees are required to comply with the Council's Anti Money Laundering Policy in terms of reporting concerns about possible money laundering.

The Money Laundering Regulations 2017 require appropriate systems of internal control to prevent money laundering. There must be management controls in place to help identify possible attempts to launder money or fund terrorism, so that appropriate action to prevent or report it can be taken.

Systems of internal control should help identify unusual or suspicious transactions or customer activity and should include:

- Identification of relevant responsibilities under this Policy.
- Provision of information to relevant persons on suspected money laundering risks.
- Training of relevant employees on the legal and regulatory responsibilities for money laundering and control measures.
- Measures to ensure that money laundering risks are taken into account in the day-to-day operations of the organisation.

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

The officer nominated to receive Suspicious Activity Reports about money laundering activity within the Council is the Head of Finance/151 Officer. The MLRO can be contacted as follows:

MLRO, Vale of Glamorgan Council, Civic Offices, Holton Road, Barry, CF63 4RU

In the absence of the MLRO, the employee should contact the Deputy MLRO.

Vale of Glamorgan Council, Civic Offices, Holton Road, Barry, CF63 4RU

### **Potential Money Laundering Situations**

It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors, which may, either alone or cumulatively, suggest possible money laundering activity:

- Payment of a substantial sum in cash, the Council defines this as over £1,000),
- Payment of lower cash sums where cash is not the normal means of payment,
- A new customer or use of new/shell companies,
- A secretive customer, e.g. refuses to provide requested information without a reasonable explanation,
- Concerns about the honesty, integrity, identity or location of a customer,
- Illogical third-party transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts,
- Involvement of an unconnected third party without logical reason or explanation,
- Overpayments by a customer or payments of deposits subsequently requested back,
- Absence of an obvious legitimate source of funds,
- Unusual transactions or ways of conducting business, without reasonable explanation,
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational,
- The cancellation or reversal of an earlier transaction,
- Requests for release of customer account details other than in the normal course of business,
- Transactions at substantially above or below fair market values,
- Poor business records or internal accounting controls,
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO,
- Lack of 'traceability' of persons involved,
- Individuals and companies that are insolvent yet have funds.

### **Failure to Report Offences or Suspicions**

In addition to the money laundering offences, there are other offences of failure to report suspicions of money laundering. These are committed where, in the course of conducting relevant business, you know or suspect, or have reasonable grounds to do so (even if you did not know or suspect), that another person is engaged in money laundering and you do not disclose this as soon as is practicable to the MLRO.

Failure to report money-laundering offences means that potentially any employee 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 their suspicions.

Whilst the risk of contravening the legislation is low, it is extremely important that all employees understand their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. However, an offence is not committed if the suspected money laundering activity is reported to the MLRO and appropriate consent obtained to continue with the transaction.

If you report suspected money laundering to the MLRO, you should not discuss it with anyone else: you may commit a further offence of ‘tipping off’ (if, knowing a disclosure to the MLRO has been made, you make a disclosure to someone else which is likely to prejudice any investigation which might be conducted).

Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. Be very careful what you say and to whom, in these circumstances. Any person found guilty of tipping off or prejudicing an investigation is liable to imprisonment (maximum five years), a fine or both.

### **Reporting Procedure**

If you know or suspect that money laundering activity is taking place, has taken place, or that your involvement in a matter may amount to a prohibited act under the legislation, this must be disclosed immediately to the MLRO. This disclosure should be done within hours of the information coming to your attention, not weeks or months later. If you do not disclose information immediately, then you may be liable to criminal prosecution.

Your disclosure should be made using the report form (SAR) attached at Appendix 2. The disclosure report must contain as much detail as possible, for example:

- Full details of the people involved (including yourself if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc.
- Full details of the nature of your and their involvement,
- The types of money laundering activity suspected,
- The dates of such activities, including whether the transactions have happened, are on-going or are imminent,
- Where they took place,
- How they were undertaken,
- The (likely) amount of money/assets involved,
- Why, exactly, you are suspicious?

You should also supply any other available information to help the MLRO to make a sound judgement as to the next steps to be taken and you should enclose copies of any relevant supporting documentation.

If you are a legal adviser and consider that legal professional privilege may apply to the information, you should explain fully in the report form the reasons why you contend the information is privileged. The MLRO, in consultation with the Head of Legal Services/Monitoring Officer, will then decide whether the information is exempt from the requirement to report suspected money laundering to the NCA.

Once you have reported the matter to the MLRO you must follow any directions the MLRO may give you. You must **NOT** make any further enquiries into the matter yourself. Any necessary investigation will be undertaken by the NCA. All employees will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or to any other individual without the specific consent of the MLRO. If you do so, you may commit the offence of 'tipping off'.

Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would 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.

In all cases, no further action must be taken in relation to the transaction(s) in question until either the MLRO or the NCA (if applicable) has specifically given their written consent to proceed.

### **Suspicious Activity Report (SAR)**

On receipt of a SAR, the MLRO will record the date of receipt on the report, acknowledge receipt of it and indicate when the MLRO expects to respond.

The MLRO will consider the report and any other available internal information the MLRO thinks relevant. This may include:

- Reviewing other transactions, 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.

The MLRO will undertake any other inquiries deemed appropriate and will ensure that all available information has been obtained. In doing so, the MLRO will avoid any action which could tip off those involved, or which could give the appearance of tipping them off. Where appropriate, Internal Audit will investigate on behalf of the MLRO.

The MLRO may also need to discuss the report with the employee who reported the case.

The MLRO will then consider all aspects of the case and decide whether a report to the NCA is required. The MLRO must make a timely determination as to:

- Whether there is actual or suspected money laundering taking place,
- Whether there are reasonable grounds to know or suspect that money laundering is taking place,
- Whether the MLRO needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO concludes one or more of the above, the MLRO will record her conclusion and disclose the matter as soon as possible to NCA online.

Once the MLRO has made a disclosure to NCA, their consent will be needed before you can take any further part in the transaction. Consent will be received in the following way:

- Specific consent,
- Deemed consent if no notice of refusal is received from NCA during the notice period (i.e. 7 working days starting with the first working day after the MLRO makes the disclosure),
- Deemed consent if refusal of consent is given during the notice period but the moratorium period has expired (31 days starting with the day on which the MLRO receives notice of refusal of consent) has elapsed without any further refusal of consent.

The MLRO should make clear in the report to NCA if such consent is required, and if there are any deadlines for giving such consent, e.g. completion date or court deadline.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering this will be recorded appropriately, and the MLRO will give consent for any on-going or imminent transaction(s) to proceed.

All SAR's referred to the MLRO and reports made by her to 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 they know or suspect, or has reasonable grounds to do so, through a SAR being made to her, that another person is engaged in money laundering and the MLRO does not disclose this as soon as possible to the NCA.

### **Additional Requirements for Finance and Legal Employees**

Those employees providing certain financial and legal services (i.e. 'relevant persons') must comply with the customer identification procedure, 'due diligence' and the record keeping procedures.

There are various levels of 'due diligence'. The 2017 Regulations require due diligence to be carried out on a risk sensitive basis, so that:

- 'Simplified due diligence' is required where there is a low risk of money laundering. For example, if a company is listed on the stock exchange, a company search and evidence of the listing would suffice. (Note, for example, a company search is often undertaken / may already have been undertaken for the Council by the Procurement Section in conjunction with the Accountancy Section – so further inquiry may not need to be undertaken),
- 'Enhanced due diligence' for those with a high-risk status, for example remote transactions where the customer is not physically present to be identified would require additional appropriate documents to be requested.



- The 'beneficial owner', the individual that ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, should be identified.
- The business relationship should be scrutinised throughout its existence and not just at the beginning.

You may rely on due diligence undertaken by those regulated by the Financial Conduct Authority (FCA) or supervised by a listed professional regulator e.g. the Solicitors Regulation Authority. Any information obtained may be used as evidence in any subsequent investigation by the relevant enforcement authorities into money laundering.

In all cases, evidence of the customer identification and record of the relationship / transaction should be retained for at least five years from the end of the business relationship of transaction(s). The records that must be kept are:

- A copy of, or references to, the evidence of the identity obtained under the customer due diligence requirements in the Regulations,
- The supporting evidence and records in respect of the business relationships and occasional transactions which are the subject of customer due diligence measures or on-going monitoring,
- A copy of the identification documents accepted, and verification evidence obtained,
- References to the evidence of identity,
- Transaction and business relationship records should be maintained in a form from which a satisfactory audit trail may be compiled, and which may establish a financial profile of any suspect account or customer.

If satisfactory evidence of identity is not obtained at the outset of the matter, then the business relationship or one-off transaction(s) cannot proceed any further.

The customer identification procedure must be carried out when the Council is carrying out 'relevant business' and:

- Forms a business partnership with a customer,
- Undertakes a one-off transaction (including a property transaction or payment of a debt) involving a cash payment by or to a customer of £8,800 or more,
- Undertakes a series of linked one-off transactions involving total payment by or to the customer(s) of £8,800 or more,
- It is known or suspected that a one-off transaction, or a series of them, involves money laundering. This must be completed before any business is undertaken for that customer in relation to accountancy, procurement, audit and legal services with a financial or real estate transaction.

In the above circumstances, employees must:

- Identify the person seeking to form the business relationship or conduct the transaction (an individual or company / organisation),
- Verify their identity using reliable, independent sources of information,
- Identify who benefits from the transaction,



- Monitor transactions to make sure they are consistent with what you understand about that person or country,
- Understand the source of their funds,
- Ensure there is a logical reason why they would want to do business with the Council.

This applies to existing customers, as well as new ones, but identification evidence is not required for matters entered into prior to 1<sup>st</sup> March 2004.

The law does not prescribe the precise nature of the records to be retained. 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 Council will be routinely making records of work carried out in the course of normal business and these should suffice in this regard.

### **Training**

The Council will take appropriate measures to ensure that employees are made aware of the law relating to money laundering and will arrange targeted, on-going, training to key individuals most likely to be affected by the legislation.

### **Further Information**

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

- <https://www.nationalcrimeagency.gov.uk> – website of the National Crime Agency
- Anti-Money Laundering Guidance for the accountancy sector, published by Consultative Committee of Accountancy Bodies (CCAB) [www.ccab.org.uk](http://www.ccab.org.uk)
- Anti-Money Laundering Guidance for the legal sector at the Law Society: <https://www.lawsociety.org.uk/>
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 at: <https://www.legislation.gov.uk>

### **Conclusion**

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This document has been written to enable the Council to meet the legal requirements in a way that is proportionate to the low risk to the Council of contravening the legislation. Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

The policy will be reviewed as and when required e.g. following any legislative changes and reported to Cabinet and the Governance and Audit Committee.

## **Appendices**

### **Appendix 1**

## **How the Council may be exposed to Money Laundering**

### **Guidelines to staff and members on concerns or suspicions**

It is anticipated that the most likely scenario in which a money laundering issue may arise is where officers unwittingly become concerned or involved in an arrangement which we know or suspect enables criminal property to be retained or acquired by a third party.

If you do have any suspicions or concerns about an individual or transaction, then it is always better to raise those concerns appropriately. If necessary, you may wish to use the Council's Whistleblowing Policy for further support and guidance on how to raise a concern. Conversely, if in doubt, seek advice from the MLRO.

Although some offences and suspicions may be fairly apparent, some can be more difficult to identify. The simple guidance is to be vigilant, and not be afraid to question something if you don't think looks right. If you think something looks suspicious, then the probability is someone else may also think the same. It is better for the Council to be safe when handling public money – it would not reflect well on the Council's reputation if it was found we had taken monies that were obtained through theft, drug trafficking, terrorism, etc.

It is recognised that a lot of the Council's activities are sensitive in nature, and in cases what, to some people, may be suspicious or concerning behaviour, from a money laundering perspective may not necessarily be in line with the activity occurring. However, people should always be mindful of genuine concern and suspicion.

### **The types of activity that may be affected**

The following table sets out the types of activities that might be suspicious, and how the Council may come across those activities. It is not intended to be exhaustive, and just because something you are suspicious about is not on the list, it does not mean you should not report it.

<b>Activity</b>	<b>The types of activity that may be affected</b>
New customers with high value transactions	<ul style="list-style-type: none"><li>• Selling property to individuals or businesses</li><li>• Renting out property to individuals or businesses</li><li>• Entering into other lease agreements</li><li>• Undertaking services for other organisations</li></ul>
Secretive clients	<ul style="list-style-type: none"><li>• Housing benefit claimants who have sums of money entering into / out of their bank account (even if we do not award them benefit, we should still consider money laundering implications)</li><li>• People buying or renting property from the Council who may not want to say what it is for</li><li>• People receiving grant funding who refuse to demonstrate what funding was used for</li></ul>

Customers who we think are acting dishonestly or illegally	<ul style="list-style-type: none"> <li>• People paying for Council services who do not provide details about themselves</li> <li>• People making odd or unusual requests for payment arrangements</li> </ul>
Illogical transactions	<ul style="list-style-type: none"> <li>• People paying in cash then requesting refunds</li> <li>• Requests for the Council to pay seemingly unconnected third parties in respect of goods / services provided to the Council</li> <li>• Requests for the Council to pay in foreign currencies for no apparent reasons</li> </ul>
Payments of substantial sums by cash	<ul style="list-style-type: none"> <li>• Large debt arrears paid in cash</li> <li>• Refunding overpayments</li> <li>• Deposits / payments for property</li> </ul>
Movement of funds overseas	<ul style="list-style-type: none"> <li>• Requests to pay monies overseas, potentially for "tax purposes"</li> </ul>
Cancellation of earlier transactions	<ul style="list-style-type: none"> <li>• Third party "refunds" grant payment as no longer needed / used</li> <li>• No payment demanded even though good / service has been provided</li> <li>• Sudden and unexpected termination of lease agreements</li> </ul>
Requests for client account details outside normal course of business	<ul style="list-style-type: none"> <li>• Queries from other companies regarding legitimacy of customers</li> <li>• Council receiving correspondence / information on behalf of other companies</li> </ul>
Extensive and Overcomplicated client business structures / arrangements	<ul style="list-style-type: none"> <li>• Requests to pay third parties in respect of goods / services</li> <li>• Receipt of business payments (rent, business rates) in settlement from seemingly unconnected third parties</li> </ul>
Poor accounting records and internal financial control	<ul style="list-style-type: none"> <li>• Requests for grant funding / business support indicates third party not supported by financial information</li> <li>• Companies tendering for contracts unable to provide proper financial information / information provided raises concerns</li> <li>• Tender for a contract which is suspiciously low</li> </ul>
Unusual property investments or transactions	<ul style="list-style-type: none"> <li>• Requests to purchase Council assets / land with no apparent purpose</li> <li>• Requests to rent Council property with no apparent business motive</li> </ul>
Overcomplicated legal arrangements / multiple solicitors	<ul style="list-style-type: none"> <li>• Property transactions where the Council is dealing with several different parties</li> </ul>

## Appendix 2

### MONEY LAUNDERING REPORT FORM

#### Employee Details

Name \_\_\_\_\_  
Department / Section \_\_\_\_\_  
Date Reported \_\_\_\_\_  
Contact details \_\_\_\_\_

#### Offence Details

Give full details of the name(s) and address (es) of the person(s) / Company (s) / public body (s) / Directorship (s) involved Identities of the person(s) / company (s) subject to the enquiry

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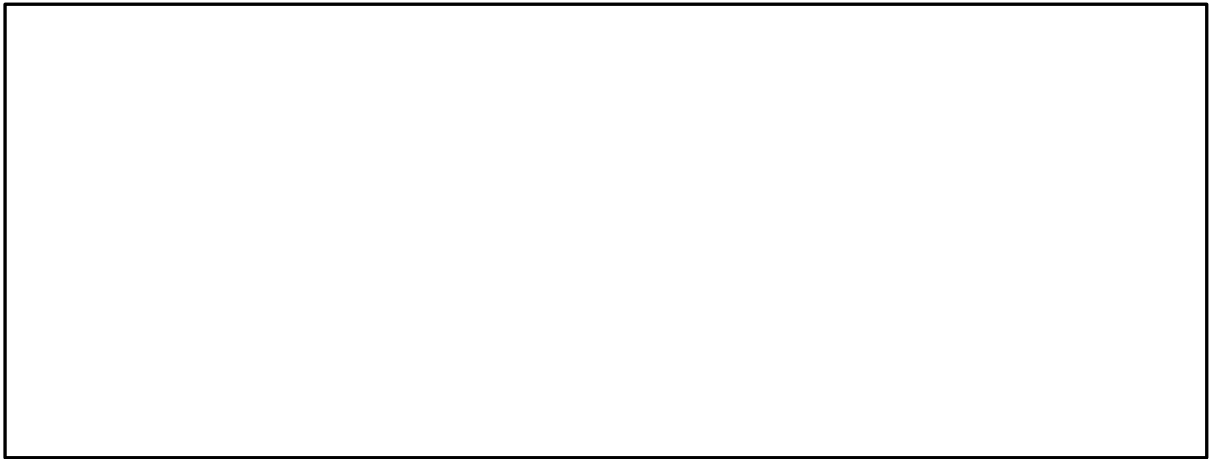
**Nature, value and timing of the activity involved** – please include full details of whether this has already occurred, is on-going or is likely to occur, where / when this occurred, how it arose, and the amount of money / assets involved and why you are suspicious. Please continue on another sheet if necessary.

**Investigations** – has any investigation already occurred, as far as you are aware? If so, please detail below:

**Discussions** – have you discussed your suspicions with anyone – including any advisory bodies? Please identify who you have contacted and why such discussions were necessary.

**Disclosure** – is there any reason why you believe this should not be disclosed to National Crime Agency (NCA)?

**Further Information** – if there is any further information you believe to be relevant, please include here:



Signed: \_\_\_\_\_  
Date: \_\_\_\_\_

**Appendix 3**

**MONEY LAUNDERING DISCLOSURE FORM – TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER**

Date of Money Laundering Report Form being received: \_\_\_\_\_

Date when acknowledgement receipt of Money Laundering Report Form:  
\_\_\_\_\_

Report Form related to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Report Form completed by:

Officer contact details:

\_\_\_\_\_

Action taken to review Report Form:

\_\_\_\_\_

Findings of review:

\_\_\_\_\_

Are there reasonable grounds for suspecting money laundering activity? If yes, please give details:

\_\_\_\_\_

If yes, please complete the following details:

Date or report to NCA:
Details of liaison with NCA regarding the report:
Notice Period:
Moratorium period:

Is consent required from NCA? Has consent been received?

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Date consent given by MLRO to employee for Council to proceed with the transaction:

\_\_\_\_\_

Date consent given to MLRO to employee for any prohibited act transactions to proceed:

\_\_\_\_\_

Other relevant information:

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Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_





# Anti-Tax Evasion Policy

**Financial Services  
Corporate Resources Directorate**

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## **1. Introduction**

The Government believes that relevant bodies should be criminally liable where they fail to prevent those who act for, or on their behalf, from criminally facilitating Tax Evasion.

At the Vale of Glamorgan Council, we want to make sure that we are providing excellent services to the residents of the Vale. All our staff, permanent and temporary, Councillors, partners, agency workers and contractors have an important role to play in achieving this goal and we expect everyone to be committed to our high standards of service which are based on the principles of honesty, openness, and accountability.

The Criminal Finances Act 2017 (the '2017 Act') became law in the summer of 2017 and Part 3 of the 2017 Act introduced new offences which sets out how those organisations categorised as 'relevant bodies' under the Act will be considered criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating Tax Evasion. The act applies to tax evaded which is owed in the UK or in a foreign country.

This policy is supplementary to the Council's wider Anti-Fraud, Bribery and Corruption Strategy and Policy which sets out the key responsibilities with regard to fraud prevention and what to do if fraud or financial irregularity is suspected and the action that will be taken by management.

## **2. Policy Statement**

The Vale of Glamorgan Council (the Council) wishes to promote a culture of openness and honesty, consistent with the principles for conduct identified by the Committee for Standards in Public Life and expects all those who work for and with the Council to adopt the highest standards of propriety and accountability.

The Criminal Offences Act 2017, recognises the need for a policy to prevent wrongdoing.

The Council is required to take preventative measures to prevent tax evasion. The Council aims to conduct its financial affairs in a law-abiding way and does not tolerate either the commitment or facilitation of Tax Evasion. The Council has a zero- tolerance approach to all forms of Tax Evasion, whether under UK law or under the law of any foreign country.

The Council already has a range of policies, procedures and guidance that underpins its financial activities including the Anti-Money Laundering Policy and the Anti-Fraud, Bribery and Corruption Policy.

### 3. Who this Policy Applies To

This policy applies to all persons working for the Council or any subsidiary, including employees at all levels, directors, officers, and associates including, but not limited to, agency workers, seconded workers, volunteers, apprentices, contractors, external consultants, third party representatives and business partners, sponsors or any other person associated with us, wherever located.

This policy is adopted by the Council. Officers in leadership positions are responsible for ensuring those reporting to them understand and comply with the policy.

We request all our officers and all who have, or seek to have, a business relationship with the Council, to familiarise themselves with our Tax Evasion Policy and to always act in a way which is consistent with the procedures and reporting arrangements therein.

### 4. Legislative Context

The Government believes that the Council should be criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating tax evasion.

The offence does not fundamentally alter what is criminal; it simply focuses on who is to be held accountable for acts contrary to the current law.

The offence focuses on the failure to prevent the crimes and those who act for or on behalf of the Council, rather than trying to attribute acts to the Council.

Part 3 of the Criminal Finances Act 2017 (“the Act”) created the corporate criminal offence of failure to prevent the facilitation of Tax Evasion. Under this offence the Council, if found to be facilitating Tax Evasion, could face an unlimited fine and consequent damage to reputation. The Council could be found guilty if a third party committed Tax Evasion which a member of Council staff or an associate helped to assist in any way.

The legislation applies to any form of tax including employment taxes and indirect taxes such as VAT, national insurance, landfill tax, custom tax and excise duties e.g. road fund licence and tax on the sale of alcohol and tobacco, capital gains and employment taxes. This list is not exhaustive.

### 5. Who Can be Held Accountable for Tax Evasion?

The Government guidance refers to both the ‘**Relevant body**’, namely (Vale of Glamorgan Council) and ‘**persons acting as associates**,’ (any employee, agent or other person who performs services for, or, on behalf of the Council). The associate person can be individual or an incorporated body.

For Corporate offences to be committed a criminal offence must have been committed at the taxpayer level (stage one)

**Stage one:** The criminal tax evasion by a taxpayer (either an individual or a legal entity) under existing law.

It is criminal offence to deliberately and dishonestly facilitate the commission of revenue fraud or to assist a person to fraudulently evade tax. It is also a crime to aid and abet another person in committing a revenue fraud.

**Stage two:** The criminal facilitation of the tax evasion by an associate person of a relevant body.

Only a relevant body can commit the offences. If an associate deliberately and dishonestly criminally facilitates a tax evasion offence whilst performing services for or on behalf of the Council, the Council is accountable, unless they could evidence that reasonable prevention procedures have been put in place to prevent its associated persons from committing tax evasion.

## 6. Prevention Procedures

Government guidance suggests the proportionate prevention measures should be taken based on an assessment that identifies the specific risks of the organisation.

The Government has set the same threshold for Tax Evasion prevention measures as those set for Bribery (under S7 of the Bribery Act 2010). i.e., When an offence has been committed, an organisation must be able to evidence that they have adequate procedures in place designed to prevent persons associated with the Council from undertaking such conduct.

The Council must ensure that their policies and procedures are up-to-date, and that staff are made aware of their responsibility around the recognition and prevention of tax evasion. This will not only provide a safeguard against tax evasion but also enable the Council to evidence that prevention procedures are in place.

HMRC has produced guidance on the appropriate set of prevention measures (six core principles) which could be put in place by a relevant body to prevent associated persons from criminally facilitating Tax Evasion are:



**Have an effective audit function which includes monitoring and review to ensure compliance**

## 7. Definitions

**Tax Evasion** is the non-payment or under-payment of taxes, usually resulting from making a false declaration or no declaration at all of taxes due to the relevant tax authorities, resulting in legal penalties (which may be civil or criminal) if the perpetrator of tax evasion is caught.

**Tax Avoidance** is seeking to minimise a tax bill without deliberate deception (which would be tax evasion) but contrary to the spirit of the law. It therefore involves the exploitation of loopholes and gaps in the tax and other legislation in ways not anticipated by the law.

**Relevant Body** – The government guidance for the corporate offences of failure to prevent criminal facilitation of tax evasion, (1st September 2017) states that only a 'relevant body' can commit the new offences. This means that only incorporated bodies (typically companies but also includes the Council) and partnerships can commit the new offences, not individuals.

However, a relevant body can commit offences if a person acting in the capacity of a person associated with it criminally facilitates a tax evasion offence.

A person is associated with a relevant body if that person is an employee, agent or other person who performs services for or on behalf of the relevant body (such as sub-contractors).

## 8. Risk Assessment

It is unlikely that any one individual Council Officer would benefit individually from Tax Evasion.

There would have to be collusion either with a supplier or another council employee for an individual to benefit. However, the Council's Internal Audit Team will conduct regular compliance checks paying attention to areas of high risk and report back to the Governance and Audit Committee as part of its reporting requirements on counter fraud activities.

## 9. Areas of Risk

The following examples are intended to illustrate situations in which a person (member of staff) or the Council could facilitate tax evasion. These examples noted are not an exhaustive list.

### **Value Added Tax**

Paid to non-registered Suppliers – Suppliers adding VAT to their invoices when they are not registered for VAT with the intention of not paying the tax over to HMRC. If the invoice is approved/paid by a Council employee without questioning the incorrect addition of VAT to the invoice, they could be facilitating tax evasion by the supplier. If the council paid the invoice and recovered the VAT from HMRC this would not be identified as a cost in anyone's budget so would be difficult to spot.

### **Paying Fraudulent VAT Only Invoices**

Accepting and paying a VAT only invoice without checking that it is valid and relates to goods and services received by the Council could facilitate tax evasion by a supplier. VAT only invoices would not be identified as a cost against any budget as the money would be recovered from HMRC and could therefore go undetected.

### **Raising Invoices to a Customer**

Having supplied goods or services to Customer A, they then ask the service to raise the invoice to Customer B. The reason for this change could be because Customer A is not VAT registered and cannot recover VAT whereas Customer B is registered and can recover the VAT. This type of request could be an indicator of tax evasion and the reason for the request should be obtained and the change only made if it is clear that the reason is not in order to evade tax.

### **Supplies of Goods or Services to Customers**

At a customer's request, changing the description of the goods or services supplied from those that would be subject to VAT to something that does not attract VAT. The only reason for doing this would be so that the customer does not have to pay the correct VAT due. The employee would be facilitating tax evasion by complying with this request.

### **Construction Industry Scheme**

Invoices received from suppliers could show a false breakdown of labour costs with the intention that a lower amount of tax will be deducted on the labour element, or no tax being deducted at all. A lack of understanding as to what comes within the scope of the scheme or the implications of not applying the scheme, could mean that the Council is committing a criminal offence as they have assisted a third party in criminal tax evasion.

### **PAYE – Income Tax/National Insurance**

Failure to deduct the Tax and NI at the correct rate - A manager agrees to allow a staff member to claim home to work travel through an expense claim, by describing it in such a way to avoid its correct identification. Knowing that this is against the Council's policy and with the intention to help the member of staff member to avoid paying the tax that is properly due. The manager is allowing the staff member to make a false statement to evade paying tax and is therefore committing an offence of assisting criminal tax evasion.

### **Inappropriate use of Gift Vouchers**

A member of staff is rewarded by way of a gift voucher over the HMRC trivial gift limit (currently £50). This could be seen to be a deliberate form of reward to avoid tax liabilities.

### **Off Payroll Working (IR35)**

Failure to identify workers/contractors that should be paid via the payroll - A supplier wishes to be treated as a self-employed contractor so that payments to them are paid gross and they can evade paying the appropriate income tax and national insurance liabilities.

A Council officer helps the supplier falsifying information on the Employment Status Questionnaire to obtain a self-employed status result.

By supplying false information in this way, the Council employee is committing a criminal offence as they have assisted a third party in criminal tax evasion.

### **Direct Payments (for Care & Support Services)**

The Council makes payments to people who have been assessed as needing help from Social Services and who would like to arrange and pay for their own care and support, instead of receiving the support direct from the Council. The recipient of the direct payment then becomes responsible for deductions for Income Tax and National Insurance from payments made to personal assistants and declaring this to HMRC.

As part of the Council's duty to monitor the use of the direct payments awarded to individuals, staff carrying out monitoring should ensure that deductions for Income Tax and National Insurance are being properly deducted and declared to HMRC. In the event that the payments are not being made the member of staff must raise this with their manager.

Failure to ensure deductions for Income Tax and National Insurance are paid means that the Council or member of staff is committing a criminal offence as they have assisted a third party in criminal tax evasion.

### **Grants**

Failure to ensure that Grant funding is used for intended purpose.

The Council gives a grant to an organisation for a specific project or service which may include the employment of staff. Staff are paid without the appropriate deduction of Income Tax and National Insurance. No checks are made when the grant is applied for to ensure that the organisation has sufficient funds to meet the tax liabilities and no checks are made to ensure the grant funding is used properly and for the intended purposes.

If the organisation has deliberately evaded tax, the Council is committing a criminal offence as they have assisted a third party in criminal tax evasion. 28.

These examples are intended to be illustrative and cannot cover every form of risk. Other risks would include:

- Encouraging elderly/disabled clients or charities to self-certify to obtain VAT zero-rating for goods they received when they do not qualify for the zero-rating.
- Negotiating with suppliers to make cash payments for goods or services.



## 10. Proportionality of Risk-based Prevention Procedures

The Council has a zero tolerance for anyone committing tax evasion and recognises its responsibility to prevent the facilitation of tax evasion. This is reflected in the governance process and procedures to address specific risks.

The Council has the following practices in place that all contribute to staff awareness and governance:

- Council Constitution, Contract & Financial Procedure Rules
- Accounting procedures and records
- Code of Corporate Governance
- Procurement Code of Practice
- Code of Conduct
- Anti-Fraud, Bribery & Corruption Policy
- Anti-Money Laundering Policy
- Whistleblowing Policy

**Head of Finance** (also known as Section 151 Officer) is responsible for:

- Ensuring that this Policy is current.
- The maintenance and operation of this Policy.
- Ensuring proper arrangements are made for the Council's financial affairs.
- Ensuring the Council implements appropriate measures to prevent and detect tax evasion and protect the public purse Council's assets from fraud and loss.
- Ensuring that the Council has put in place effective arrangements for internal audit and that it is adequately resourced and maintained.
- Supporting the Council's internal audit arrangements and ensuring that the Governance & Audit Committee receives the necessary advice and information, so that both functions can operate effectively.

## 11. Due Diligence

Processes and procedures are in place in relation to payment of invoices. Regular audits take place and additional caution is exercised when making payments to new suppliers.

## 12. Communication and Training

All relevant staff should be aware of the Criminal Finances Act 2017 requirements via appropriate means of training. This is included within the Fraud Awareness Module available on idev

The reporting process for anyone who may have concerns that either tax evasion or the facilitation of tax evasion offences may have been committed is outlined below.

Concerns are better submitted in writing – we need the background and history of your concern, giving names, copies of any documents, dates, and places (where possible).

We would like you to explain why you are concerned about the situation – we do not expect you to prove the truth of an allegation.

- Please use this [Speak Out](#) webpage to report your concerns.
- You may also call our Confidential Speak Out Line: 01446 731115 or use the email address: [speakout@valeofglamorgan.gov.uk](mailto:speakout@valeofglamorgan.gov.uk)
- Directly contacting the Council's Internal Audit Service via email: [internalaudit@valeofglamorgan.gov.uk](mailto:internalaudit@valeofglamorgan.gov.uk) or via post at the Council's Civic Offices.

Alternatively, you can contact any of the recipients below with your concerns calling 01446 700111 and asking for:

- Chief Executive:
- Head of Finance (Section 151 Officer):
- Monitoring Officer:
- Head of Regional Internal Audit Service:
- Head of Human Resources:
- Head of Human Resources:

All are located at the following address:

Vale of Glamorgan Council  
Civic Offices  
Holton Road  
Barry  
CF63 4RU

Contact your Chair of Governors (if you work for a school)

### **13. Monitoring and Review**

Monitoring and review will form part of the annual audit programme of activities and annual reports will be presented back to the Governance and Audit Committee.

### **14. Top Level Commitment**

The policy is supported by Senior Officers and endorsed by the Governance and Audit Committee.

All Chief Officers are responsible for ensuring compliance with the Anti-Fraud, Bribery and Corruption Policy, Anti-Money Laundering Policy, and the Anti-Tax Evasion Policy and with systems of internal control.