

## **Fraud Prevention Policy (including fraud, corruption, money-laundering, bribery and tax evasion)**

<b>This policy applies to:</b>	
Members	Yes
Officers	Yes
Managers	Yes, including some specific additional requirements
Others	Agency staff, temporary staff, volunteers, consultants, contractors and partners

### **You must:**

- Be aware of the definitions in relation to fraudulent and related activity, including the various criminal offences they include
- Not commit any of the offences detailed
- Report any suspicions of these offences being committed
- Develop (where applicable to role) and fully comply with policies and processes to reduce the risk of these offences being committed
- Disclose any gifts and hospitality that you receive, in line with other policies

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### **Contents:**

1. Definitions
2. Reporting
3. Practical Considerations
4. Implications of non-compliance
5. Toolkit A- Potential signs of control weaknesses
6. Toolkit B- Specific requirements in relation to Money Laundering risks
7. Appendix A- Disclosure Report to the Money Laundering Reporting Officer
8. Appendix B- Role of the Money Laundering Reporting Officer (MLRO)

## **1. Definitions**

***Fraud*** encompasses an array of irregularities and illegal acts characterised by intentional deception with intent to make a gain or to cause a loss, or to expose another to a risk of loss. It can be perpetrated for the benefit of or to the detriment of North Hertfordshire District Council and by persons outside as well as inside the Council.

***Corruption*** is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the action of a Member or officer of the Council.

**Money laundering** is the term used to describe a number of offences involving the proceeds of crime or terrorist funds. It is a criminal offence to:

- Conceal, disguise, convert, transfer or remove criminal property from the United Kingdom
- Enter into or become concerned in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquire, use or possess criminal property
- Fail to disclose one of the principal offences listed above, where there are reasonable grounds for knowing or suspecting the money was a proceed of crime
- Tell someone that you are going to make a report or tell someone that they are being investigated (tipping-off)
- Falsify, destroy, dispose of, conceal any document which is relevant to an investigation, or allow this to happen

**Bribery** is an inducement or reward offered, promised, received or provided to gain personal, commercial, regulatory or contractual advantage and such advantage leads to the improper performance of a relevant function or activity. It is a criminal offence to:

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

It is also an offence for the Council to fail to prevent bribery, or to fail to put in place adequate measures to prevent bribery.

**Tax evasion** is criminal conduct which involves individuals or businesses paying too little tax or wrongly claiming tax repayments by acting dishonestly. It is an offence to dishonestly "take steps with a view to" or "be knowingly concerned in" the evasion of the tax. For these offences to be committed it is not necessary that any tax actually be successfully evaded. It is now also an offence for the Council to fail to take appropriate steps to prevent an associated person (e.g. employees and contractors) criminally facilitating the evasion of a tax, and this will be the case whether the tax evaded is owed in the UK or in a foreign country. Examples include:

- Knowingly entering false or misleading information in relation to the employment of an individual to facilitate the underpayment of income tax
- Knowingly processing invoice payments or raise debt to facilitate the underpayment of tax
- Knowingly processing documents for services supplied to the Council as being outside the scope of VAT, when they should be in scope
- Knowingly helping an overseas contractor to avoid overseas tax on payments they make to the Council

- Knowingly processing a payment to an employee / contractor as an expense rather than another type of payment which would be subject to tax.

## **2. Reporting**

The Council will promote an environment where everyone feels able to report any concerns that they have, including anything related to this policy.

With the exception of Money Laundering (see below), any suspicions that you have can be reported to:

- Your immediate Manager or Supervisor
- Your Service Director
- The Monitoring Officer (see the Whistleblowing policy)

Suspicious of fraud against the Council can also be reported to the Shared Anti-Fraud Service (<https://www.hertfordshire.gov.uk/services/Business/Consumer-advice/safs.aspx>). Suspicious of benefit fraud (including housing benefit fraud) should be reported to the Department for Work and Pensions (online at <https://www.gov.uk/report-benefit-fraud>, by phone 0800 854 440 or text phone 0800 328 0512).

Suspicious of Money Laundering must be reported directly to the Money Laundering Reporting Officer (MLRO) (Service Director- Resources) or the Deputy MLRO (Service Director- Customers) using the form at Appendix A. The form guides you through the information that you need to provide, and you should provide as much information as possible, including any supporting information. You should avoid talking to anyone else about any suspicions, due to the criminal offence of tipping-off.

The referral should take place before any payment is taken (where applicable) and must not then be taken until clearance is received from the MLRO. The MLRO will consider all reports in a timely manner and follow the process described in Appendix B.

The Council will investigate all suspicions that are reported, and where deemed appropriate the matter raised may be:

- Referred to the Shared Internal Audit Service (SIAS)
- Referred to the Shared Anti-Fraud Service (SAFS)
- Referred to the Police
- Subject to an HR investigation undertaken by management
- Referred to the Council's External Auditor
- Subject to an Independent Inquiry
- Reported to National Crime Agency (Money Laundering only)

Individuals may be worried about repercussions from failing to engage in what they believe is a criminal activity or reporting that activity. The Council encourages openness and will support anyone who raises genuine concerns under this Policy and/ or our Whistleblowing Policy, even if they turn out to be mistaken. This is because reporting such concerns has been identified as one of the most effective tools to counter fraud and related offences.

The Council is committed to ensuring no one suffers any detrimental treatment as a result of acting in good faith. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Monitoring Officer immediately. If the matter is not remedied, and you are an employee, you should raise it formally using our Complaints Resolution Policy.

You should also note that failing to report suspicions of money laundering is, in itself, a criminal offence.

### **3. Practical considerations**

The Council, through the Senior Management Team, is committed to developing a policy that is proportionate to the risks it faces. This section highlights some of the more detailed requirements.

The role of the Finance, Audit and Risk Committee includes reviewing and developing anti-fraud and anti-corruption strategies, as well as reviewing the effectiveness of SAFS.

#### **Risk Assessment and Proportionate Action**

Management are responsible for putting in place processes and controls that help to prevent fraud, corruption and bribery. For higher risk areas (e.g. payments and income) this should limit the responsibility that is placed on one person, involve effective separation of duties and be fully compliant with the Financial Regulations and Contract and Procurement Rules. This should include that full records are maintained. These controls should be kept under review to ensure they are operating effectively and that staff have received appropriate training. SIAS can support in this through operational audits.

If a SIAS audit or a fraud incident highlights an opportunity for controls to be improved, then the Council is committed to taking proportionate action to address this. The responsible manager is expected to determine and implement any improvements.

The Council has an overarching “Fraud, Corruption and Bribery” risk on its risk register. This incorporates a number of sub-risks that are kept under regular review. This includes the risks from both within the Council, and from outside. It also covers financial and other (e.g. reputational) risks.

In relation to Money Laundering, the Council has determined those activities that are most susceptible to money laundering. From this it has developed some specific requirements that are detailed in Toolkit B. If you are involved in financial transactions, treasury management, Council Tax, NNDR or sale of land and property then you must be fully aware of the requirements in this toolkit.

#### **Linked Policies and Procedures**

Everyone is required to adhere to all Council policies, procedures and processes. There are a number of policies/ Codes that specifically relate to this area, i.e.:

- Employee Code of Conduct (Officers)
- Councillor’s Code of Conduct (Members)
- Employee Handbook (Officers)
- Financial Regulations (Officers and Members)
- Contract and Procurement Rules (Officers and Members)
- Conflicts of Interest Policy (Officers)

- Management of Organisational Conflicts in Council roles and duties Guidance (Officers and Members)
- Whistleblowing Policy (Officers and Members)
- Employee Gifts and Hospitality Policy (Officers)
- Members Protocol for Gifts and Hospitality (Members)
- Protocol for Member/ Officer Working Arrangements
- Information Security Policy (Officers and Members)

### **General management controls**

Effective management also helps to ensure that controls are operating effectively. Toolkit A at the end of this policy provides some areas to look out for.

Managers are required to comply with HR checks during the recruitment process. This requires that written references are obtained for all employees (including temporary and agency staff). Also, where appointment is dependent on the holding of specific qualifications, HR manages the process for ensuring that stated qualifications are verified and copies of certificates retained on the individual's personal file. This helps to ensure the integrity of all staff working for the Council.

The Council's Scheme of Delegation, Financial Regulations and Contract Procurement Rules contain checks and balances on decision-making and ensure that decisions are taken at the right level with appropriate transparency.

### **Working with third parties and contractual terms**

It is appreciated that the Council has less control when it contracts with others to undertake services or works on its behalf. However it takes a risk based approach, based on the need to acquire specialist skills, seek economies of scale or obtain additional capacity. There are additional requirements when working with contactors and third parties.

The terms of the Council's contracts require that contractors take all reasonable steps, in accordance with good industry practice, to prevent any bribery and fraudulent activity by the Staff, the Contractor (including its shareholders, members, directors) and/or any of the Contractor's suppliers, in connection with the receipt of monies from the Council. The Contractor must notify the Council immediately if it has reason to suspect that any fraud has occurred, is occurring or is likely to occur. In response to this information, the Council will decide how to respond.

The Council's zero tolerance approach to bribery and corruption must be communicated to all suppliers, contractors and partners at the outset of our business relationship with them and as appropriate thereafter.

The contact manager, or partnership lead, will be responsible for communicating and ensuring adherence to these requirements. Where a Selection Questionnaire is used, the standard version ensures understanding and acceptance of these requirements at an early stage, and therefore this must be used as a template.

A company is automatically and perpetually barred from competing for public contracts where it is convicted of a corruption offence. Although this can be lifted where the company

has demonstrated that they have taken sufficient action to change their behaviour (known as self-cleaning). Organisations that are convicted of failing to prevent bribery are not automatically barred. The Council has the discretion to exclude organisations convicted of this offence, and (unless exceptional circumstances apply) will exercise this discretion. The Council will also reserve the right to continue to exclude organisations where it is felt that evidence of 'self-cleaning' is insufficient.

Toolkit A at the end of this policy provides some further areas to look out for.

## **Communication and Training**

The Council is committed to making training available to everyone. This will range from general training (e.g. e-learning) through to specific training for certain roles. Some of this training will be deemed to be mandatory. Managers should identify and arrange any training that their staff require. All officers should also request training on any areas that they are uncertain about.

## **4. Implications of non-compliance**

In all cases the Council will seek to make use of the strongest available sanctions for engagement in these illegal activities and/ or non-compliance with this policy. Whilst this is primarily focused on behaviour against the Council or where purporting to be acting on behalf of the Council, it is likely that it will also be applied to more general engagement in these activities. As a deterrent and to make public its position with regard to these acts, the Council seeks to publicise its successful sanctions in the local press

For Members, this will include prosecution and civil proceedings. The Council will also utilise its own Standards Committee to the fullest extent to promote high standards and regulate the conduct of Members.

For employees (including agency and temporary staff), this will include disciplinary action, prosecution and civil proceedings. Employees found to have committed guilty of gross misconduct for offences of fraud, theft, serious financial malpractice, using their position for personal gain or for the gain of others, will be subject to immediate dismissal. As with all disciplinary matters, the level of proof required is that of the balance of probability. Disciplinary cases involving allegations of fraud, corruption and financial malpractice will be handled on this basis. The decision to refer the matter on for further action, such as Police prosecution, will be taken by the Service Director- Resources and the investigating officer, in conjunction with the Council's Monitoring Officer.

It should also be noted that failure to undertake any mandatory training will also result in disciplinary action being taken against employees and Members.

Where others commit, or attempt to commit, fraud (or related acts) against the Council, then the Council will seek to apply sanctions whenever possible. This will range from official warnings to criminal prosecution. In all cases, the Council will seek to recover any fraudulently obtained amounts, and where necessary and appropriate its costs incurred in doing so, and will utilise all means available to recover these amounts. This will include freezing assets, confiscation orders, civil litigation and general debt recovery.

## **5. TOOLKIT A- Potential signs of control weaknesses**

The following are potential signs of concern in relation to staff and processes.

- Staff not taking annual leave
- Staff only ever taking very short periods of leave
- Due to sickness or vacancies, processes are not being followed in full (e.g. where checks are required, they are not taking place)
- Complaints (or an increase in complaints) from customers or other stakeholders
- Decision making records are missing, or rationale is missing or not sufficiently justified
- Authorisation processes are not followed correctly, and those responsible for monitoring those processes are hindered from doing so
- Staff are secretive about certain matters or relationships
- Staff make trips out at short notice without explanation
- Staff have a more lavish lifestyle than you would expect
- Staff or a contractor/ consultant is accused of engaging in improper business practices

The following are risk factors in relation to suppliers.

- Requests for stage payments that are not in accordance with the contract or seem unusual
- Requests for payment in a different way to usual (e.g. a new bank account)
- Requests for payment in a different currency or via a different country, especially where there is no known connection to the business
- A supplier or potential supplier has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a "special relationship" with foreign government officials
- A potential supplier/ supplier requests payment in cash and/or refuses to sign a formal agreement, or to provide an invoice or receipt for a payment made
- A supplier or potential supplier requests an unexpected additional fee or commission to "facilitate" a service
- A supplier or potential supplier demands entertainment or gifts before commencing or continuing contractual negotiations or provision of services
- A supplier or potential supplier requests that you provide employment or some other advantage to a friend or relative
- The Council receives an invoice from a supplier or potential supplier that appears to be non-standard or customised
- A supplier or potential supplier insists on the use of side letters or refuses to put terms agreed in writing
- A supplier or potential supplier requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to the Council
- Those who work for the Council or on its behalf are offered an unusually generous gift or lavish hospitality by a supplier or potential supplier
- Requests for charitable support or donations in lieu of, or in addition to, contractual payments

## **6. TOOLKIT B- Specific requirements in relation to Money Laundering risks**

### **General**

The Council will not accept cash payments that are greater than £3,000. Anyone who wishes to make a cash payment in excess of this limit will need to make advance arrangements for acceptance with the Service Director- Resources.

The Council will also not accept £50 notes due to the increased risk of fraudulent notes.

For all transactions it is important to think about if anything feels wrong, e.g.:

- Is it plausible that the person can pay the amount they are paying by the means that they are paying it?
- Does the name of the person involved match the source of the funds (e.g. name on cheque book, credit card)?
- Is the payment being broken down in to a number of small transactions?
- Refunds where the money is going to a different place than the original source
- Does the transaction make sense?

### **Treasury Management**

The Service Director- Resources is responsible for detailing the procedures it has in place for establishing the identity / authenticity of lenders, and ensuring that these are followed. The Council does not accept loans from individuals, and loans will only be obtained from the Public Works Loan Board (PWLB), authorised institutions under the Banking Act and other Local Authorities.

### **Council Tax and NNDR**

Refunds that exceed £500 for Council Tax or £5,000 for NNDR Tax will be subject to a Money Laundering check. This involves the Senior Officer/Manager checking the validity of the refund and confirming that the refund is being paid to the correct party (i.e. the party responsible for the payment).

### **Sale of Land and Property**

Where the Council is proposing to sell either land or property with a value in excess of £10,000, client identification must be sought before business is conducted. If the client has legal representation, then the responsibility for confirmation of identity rests with their legal representative, otherwise it rests with the Council's Legal Services Team.

Evidence of the identity of the prospective client should be obtained as soon as practicable after instructions are received unless evidence of the client has already been obtained. This requirement applies to both new and existing clients.

Evidence obtained from an individual should confirm proof of identity and proof of their current address. Evidence obtained with regard to an organisation should allow the company to be fully identified in terms of registered office, registration number etc. If satisfactory evidence of identity is not obtained then the transaction must not be progressed.



Evidence should be annotated 'Evidence re Money Laundering', placed on the Council's client file and retained for at least five years from the end of the business relationship or one-off transaction(s). This is to ensure that it could be used in a future investigation into money laundering. Care must be taken to ensure compliance with the General Data Protection Regulations when storing individuals' personal data.

Records should be maintained in such a way as to provide an audit trail during any subsequent investigation. In practice, records of work carried out for clients in the normal course of Council business should suffice in this regard.

Where evidence of identity is required, the Council officer dealing with the transaction, must require individuals to provide evidence of identity in the form of at least one of the following documents:

- Current passport
- Current full UK photocard driving licence (both sections)
- Current UK provisional photocard driving licence (both sections)
- Birth certificate
- Marriage certificate

Additionally, an individual must prove their current address by providing at least one item from the following list:

- Current full UK photocard driving licence (if not already used as evidence of identity)
- Current UK provisional photocard driving licence (if not already used as evidence of identity)
- Bank, building society or credit union statement or passbook (with printed address) (less than 3 months old)
- Recent utility bill (i.e. dated within the last twelve months), i.e. gas, electric, water (not a mobile phone bill)
- Mortgage statement (less than 12 months old)
- Insurance document (less than 12 months old)
- Credit card statement (less than 3 months old)

Original documents should be photocopied and the client requested to sign them thus confirming that the photocopies are an authentic copy of the original documents presented.

If a client is unable to visit in person, the client should be asked to provide documents 'certified as a true copy' by a notary public. Checks should then be made to ensure that the notary is registered with the Law Society. Once this has been confirmed, the notary should be contacted to confirm that they did indeed certify the documents.

Where the client is a company, identity should be established by means of:

- The company's full name and registration number;
- Details of the registered office address; and
- Any separate trading address relevant to the contract concerned

A company search should then be carried out to verify the details given and check the location of any relevant trading address.

In the event that one or a few individuals effectively own the company, the personal identity of the key contact should also be checked. This should include obtaining the evidence

described above in relation to individuals, as well as evidence of their position within the organisation.

**APPENDIX A- Disclosure Report to the Money Laundering Reporting Officer**

**CONFIDENTIAL**

**FOR COMPLETION BY THE OFFICER REPORTING THE SUSPECTED OFFENCE**

**To: Ian Couper, Service Director- Resources**

From: .....

Service Directorate: ..... Tel: .....

**DETAILS OF SUSPECTED OFFENCE:**

**Name(s) and address(es) of person(s) involved:**

(Please also include date of birth, nationality, national insurance numbers- if possible)

(If a company please include details of nature of business, type of organisation, registered office address, company registration number, VAT registration number)

**Nature, value and timing of activity involved:**

(Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary)

**Nature of suspicions regarding such activity:**

(Please continue on a separate sheet if necessary)

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

Yes                      No

**If yes, please include details below:**

**Have you discussed your suspicions with anyone else?**

Yes                      No

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

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

Yes                      No

**If yes, please specify below:**

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

Yes                      No

**If yes, please set out full details below:**

**Are you involved in a transaction which might be a prohibited act under the Proceeds of Crime Act and which requires appropriate consent from NCA?**

Yes

No

**If yes, please enclose details below:**

**Please detail below any other information you feel is relevant:**

**Signed:..... Dated:.....**

**Do not discuss the content of this report with anyone, especially the person you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence.**

**FOR COMPLETION BY THE MONEY LAUNDERING REPORTING OFFICER**

Date report received: .....

Date receipt of report acknowledged: .....

**Consideration of Disclosure**

Action plan:

**Outcome of Consideration of Disclosure**

Are there reasonable grounds for suspecting money-laundering activity?

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

Yes                      No

If yes, please confirm date of report to NCA: .....

Details of liaison with NCA regarding the report:

Is consent required from the SOCA for any ongoing or imminent transactions that would otherwise be prohibited acts?

Yes                      No

If yes, please confirm full details:

Date consent received from SOCA: .....

Date consent given by you to employee: .....

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

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

.....

Other relevant information:

Signed:..... Dated:.....

**THIS REPORT MUST BE RETAINED FOR FIVE YEARS**



## **APPENDIX B- Role of the Money Laundering Reporting Officer (MLRO)**

Upon receiving a disclosure report, the MLRO will date it and formally acknowledge its receipt. The acknowledgement will also advise of the timescale within which response should be expected.

The MLRO will consider the disclosure report and any other relevant internal information available to them. This might include:

- Reviewing other transaction patterns and volumes
- The length of any business relationship involved
- The number of any one-off transactions and linked one-off transactions
- Any identification evidence held.

The MLRO may undertake other reasonable inquiries to ensure that all available information is taken into account when deciding whether a report to NCA is required. The MLRO may need to discuss his report with the reporting individual.

Once the MLRO has evaluated the disclosure report and any other relevant information, they must determine in a timely manner whether:

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

Where the MLRO concludes that there are no reasonable grounds to suspect or confirm money laundering, the disclosure report is annotated accordingly. All information known to the Council at the time is recorded and the reasons why the information obtained did not give rise to knowledge or suspicion of money laundering detailed. Consent can then be given for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO will liaise with the Service Director- Legal and Community to decide whether there are reasonable grounds for not reporting the matter to the NCA.

Where the MLRO concludes that actual or suspected money laundering is taking place this will be disclosed as soon as practicable to NCA via the SAR Online system,.

Where consent is required from NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until this consent has been received.

The MLRO will act as the link between NCA and the relevant Council officers to ensure that the appropriate action is taken in these circumstances.