

Manchester City Council Report for Information

Report to: Audit Committee - 11 March 2019
Subject: Counter Fraud Policy Update
Report of: Head of Internal Audit and Risk Management

Summary

It is the role of the Chief Executive, in conjunction with the City Treasurer and the City Solicitor to develop and maintain an anti-fraud and anti-corruption policy, whistle-blowing policy and risk management processes.

The role of Audit Committee is “to obtain assurance over the Council’s corporate governance and risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements”. This includes having sight of key policies and procedures in respect of anti-fraud and anti-corruption arrangements.

This reports presents updated drafts of the Whistleblowing, Anti-Money Laundering and Anti-Bribery Policies for Audit Committee review and comment prior to approval.

Recommendation

Audit Committee are requested to note the draft policies in advance of approval by the Chief Executive.

Wards Affected: All

Financial Consequences: None

Contact Officers:

Name: Carol Culley
Position: City Treasurer
Telephone: 0161 234 3406
Email: c.culley@manchester.gov.uk

Name: Tom Powell
Position: Head of Internal Audit and Risk Management
Telephone: 0161 234 5273
E-mail t.powell@manchester.gov.uk

Background Documents (available for public inspection):

Whistleblowing Policy Update Reports to Audit Committee 6 March 2017; Standards

Committee 2 November 2017; and Personnel Committee 4 November 2017.

Anti-Money Laundering Policy presented to Audit Committee June 2017.

Anti-Bribery Policy reported to Audit Committee January 2012 and Executive February 2012.

1. Introduction

- 1.1. In accordance with the Accounts and Audit Regulations and the principles of good governance the Council is required to maintain appropriate systems of internal control, including arrangements to prevent and detect fraud and corruption.
- 1.2. The purpose of this report is to provide Members of the proposed changes to three of the Council's key counter fraud policies; Whistleblowing, Anti-Money Laundering and Anti-Bribery.

2. Background

- 2.1. The prevention and detection of fraud and corruption helps protect financial assets, ensuring legality and maintain a positive reputation for the Council. In demonstrating a robust approach to fraud and corruption the Council promotes confidence with officers, Members, stakeholders and the public. By investigating issues of potential fraud or corruption the Council demonstrates transparency, openness and a willingness to address matters of wrongdoing.
- 2.2. The Council is committed to ensuring the people of Manchester can have confidence that the affairs of the Council are conducted in accordance with the highest standards of probity and honesty.
- 2.3. In seeking to ensure this commitment is met, the Council has a counter fraud policy and strategy which establishes and defines the overall approach to combating fraud, corruption and wrongdoing. Below this sit various counter-fraud related policies, supporting procedural documents and behaviour codes which describe the arrangements in place for preventing, detecting and investigating fraud and error. These together with a strong internal control environment are the main methods to help protect the Council against the risk of fraud. The Internal Audit Service acts on behalf of the City Treasurer in ensuring these arrangements are regularly reviewed and remain effective.
- 2.4. Whilst the principles of the policies apply, any concerns raised in relation to Members will be investigated and addressed through the Council's Standards Committee.

3. Counter Fraud Strategy, Policies and Procedures

- 3.1. The Council's overall approach to protect the public funds entrusted to it against fraud and loss is set out in the Counter Fraud Policy and Counter Fraud and Irregularity Strategy. The documents describe the policy framework for preventing fraud and irregularity, the Council's approach to countering fraud within each of the component areas (acknowledge, deter, prevent, investigate and pursue) and the key priorities for delivering the strategy (these documents will be provided to Audit Committee as part of the Annual Fraud Report).

- 3.2. The approach to delivering the strategy includes the implementation of key policy documents; namely Whistleblowing, Anti-Money Laundering and Anti-Bribery. These are summarised below:

Whistleblowing Policy

- 3.3. Whistleblowing remains one of the key means of reporting suspected irregularity, wrongdoing or misconduct. Concerns can be raised either anonymously or by a named individual.
- 3.4. The Council's Whistleblowing Policy was last reviewed by Audit Committee in March 2017. The policy sets out how individuals can raise concerns; including a dedicated telephone line, an email account maintained by officers within Internal Audit, in writing or in person. The latter two may be received by officers within Internal Audit, HROD or via line management within the business area.
- 3.5. The review and refresh of the policy has not resulted in any substantial changes to the content, however it has resulted in some amendments to reflect the following:
- References to the General Data Protection Regulations (GDPR) following the introduction of the new Regulations; and
 - Feedback following an independent, external review of the policy by the leading whistleblowing charity Protect. This review confirmed the content as fit for purpose but did recommend greater emphasis on the policy's application to employees and workers to reflect the Council's responsibilities under the Public Interest Disclosure Act (PIDA), which provides employees and workers with protections from suffering detriment if raising genuine issues of concern. The policy does still recognise that members of the public will report concerns to Internal Audit and that such matters will be processed in line with the principles of the whistleblowing policy; however the individuals are not covered under PIDA legislation.

Anti-Money Laundering Policy

- 3.6. The policy defines the responsibilities of officers in respect of the various pieces of legislation including the Proceeds of Crime Act 2002 (as amended by the Crime and Courts Act 2013 and Serious Crime Act 2015), Terrorism Act 2000 and the Money Laundering and Transfer of Funds (Information to the Payer) Regulations 2017.
- 3.7. The Anti-Money Laundering Policy was last reviewed by Audit Committee in June 2017 and has since been refreshed to include reference to GDPR and the related Regulations which have been introduced in the interim period.

Anti-Bribery and Criminal Facilitation of Tax Evasion Policy

- 3.8. The policy refers to the Bribery Act 2010 and confirms that the Council will not tolerate the offering, promising, giving, receiving or soliciting of financial or other advantage for the purpose of inducing a person to perform improperly a

function or activity of an official in the discharge of his or her public/legal duties. The legislative framework remains unchanged since the policy document was last reviewed by Audit Committee in January 2012.

- 3.9. The policy has been updated and renamed to incorporate the Criminal Finances Act 2017 and in particular corporate offences relating to the failure to prevent the criminal facilitation of tax evasion. The policy has been amended to reflect the responsibilities of officers in respect of this legislation.
- 3.10. As with both the Whistleblowing and Anti-Money Laundering Policies, the document has been updated for the introduction of the GDPR.
- 3.11. The structure of the policy has been reviewed alongside a review of policies used across comparable organisations.

4. Development Activities

- 4.1. To support the policy review and update and as part of the Annual Internal Audit Plan approved by Audit Committee, Internal Audit committed to help raise awareness of whistleblowing across the organisation. To do this we have:
 - Engaged with the whistleblowing charity Protect to provide access to a free confidential, telephone advice line manned by legal officers who are able to advise employees across the Council and in schools.
 - Completed specialist training for officers from HR, Legal Services and Internal Audit with responsibility for handling whistleblowing concerns to enhance their understanding of the subject and legislative responsibilities.
 - Developed an e-learning training package that all can staff access. This includes whistleblowing, anti-bribery and anti-money laundering as well as general fraud awareness.
- 4.2. To ensure staff are aware of the updated policies, introduction of the advice line and fraud awareness training we have liaised with the corporate Communications Team and proposed an article for inclusion within the Forum to signpost staff to the sources of learning and advice. The whistleblowing policy and the above proposals have been shared with the Trades Unions and as a result of their comments and suggestions, a six month review of the efficacy of the advice line and wider whistleblowing investigation arrangements has been agreed.

5. Recommendations

- 5.1 Audit Committee are requested to note the draft policies in advance of approval by the Chief Executive.



Draft Whistleblowing Policy

Policy and Guidance for Whistleblowers

Audit and Risk Management

March 2019

Table of Contents

1. Introduction	2
2. What is Whistleblowing	3
3. Making a Disclosure or Raising a Concern.....	4
a) Making an Internal Disclosure.....	4
b) Making an External Disclosure to the Regulator.....	5
c) Whistleblowing by Individuals Employed in Schools.....	5
d) Concerns Raised by Members of the Public.....	7
4. How to Report a Whistleblowing Concern.....	7
5. How the Council will Respond.....	8
a) Anonymous Allegations	9
6. Outcomes.....	9
7. Safeguards.....	10
a) Confidentiality and Anonymity.....	10
b) Harrassment and Victimisation.....	10
c) Malicious Allegations.....	11
d) Misue of the Policy.....	11
8. Data Protection and FOI.....	11
9. Monitoring of Whistleblowing Complaints.....	12
10. Training and Awareness.....	13
11. Frequently Asked Questions.....	13
Appendix A - Examples of Whistleblowing	16
Appendix B - Whistleblowing Case Record.....	17
Appendix C - Nolan Principles under pinning public life.....	19

Whistleblowing Policy

1. Introduction

- 1.1 Manchester City Council is committed to the highest possible standards of honesty, openness and accountability and will not tolerate malpractice or wrongdoing.
- 1.2 Whistleblowing is generally the term used when someone who is employed in an organisation reports a concern about suspected wrongdoing, malpractice, illegality or risk in the workplace.
- 1.3 The Council's Whistleblowing Policy is a vital element of our governance arrangements and is designed to allow those employed by the Council to come forward and raise both disclosures and serious allegations of wrongdoing involving the actions of the Council's employees, its Councillors, contractors or any aspect of the Council's activities.
- 1.4 As such the Council is committed to a policy which seeks to protect those individuals who make certain disclosures with regard to any instance of malpractice or wrongdoing and to investigate them in the public interest.
- 1.5 This policy seeks to set out how the Council will handle and respond to serious allegations of perceived wrongdoing raised by employees and workers of the Council.

Aims and Scope

- 1.6 Our whistleblowing policy seeks to cover all disclosures and allegations made by Council employees, including temporary and agency staff and those employed in community schools, community special schools, voluntary controlled schools and maintained nursery schools.
- 1.7 It also extends to any other individuals who work for the Council who want to raise an allegation of perceived wrongdoing, including consultants, contractors and sub-contractors who are engaged in work for the Council.
- 1.8 The policy seeks to:
 - provide for a culture of zero tolerance toward fraud and corruption and deter wrongdoing;
 - encourage employees and workers with serious concerns about any aspect of the Council's work to feel confident to come forward and voice those concerns;
 - raise concerns at an early stage and in the right way ensuring that critical information gets to the people who need to know and who are able to take action;
 - provide safeguards to reassure those who raise concerns in the public interest and not maliciously or for personal gain, that they can do so without fear of reprisals or victimisation or disciplinary action, regardless of whether these are subsequently proven;
 - set out how the Council will respond to allegations made and enable them to get feedback on any action taken; and

- ensure that employees and workers know what to do if they are not satisfied with actions taken.
- 1.9 The whistleblowing policy is not to be used where other more appropriate internal reporting procedures are available. There are existing Council procedures which enable employees to lodge a grievance relating to their conditions of employment, raise matters of harassment or to make a general complaint, which by contrast, generally have no additional public interest dimension.
- 1.10 This whistleblowing policy covers concerns that fall outside the scope of those existing internal procedures. Equally, the Council will investigate any allegations made through the above procedures, which raise serious concerns over wrongdoing, under the whistleblowing process.
- 1.11 Any individuals who are raising concerns relating to money laundering offences or Proceeds of Crime Act 2002 are required to report these concerns directly to the Money Laundering Reporting Officer (MLRO) in line with the Anti Money Laundering Policy.

2. What is Whistleblowing?

- 2.1 Whistleblowing is the confidential disclosure by an employee or worker of any concerns relating to a perceived wrongdoing involving any aspect of the Council's work or those who work for the Council (Appendix A). The whistleblowing process assists individuals, who believe they have discovered malpractice, impropriety or wrongdoing, to raise a concern, in order that this can be addressed.
- 2.2 The **Public Interest Disclosure Act 1998 (PIDA)** is known as the whistleblowing law and is designed to encourage and enable employees and workers to "speak out" and to report suspected wrongdoing at work. This is commonly known as "blowing the whistle".
- 2.3 PIDA legislation legally protects employees and workers from any detriment from their employer or colleagues that arises as a result of making a "protected disclosure" (a qualifying disclosure) in the public interest. This includes protection from harassment, victimisation or dismissal by their employer.
- 2.4 A qualifying disclosure means any disclosure of information made to the Council or other prescribed person, which in the reasonable belief of the individual making the disclosure, is made in the public interest and tends to show one or more of the following:
- (a) that a criminal offence has been committed, is being committed or is likely to be committed;
 - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - (d) that the health or safety of any individual has been, is being or is likely to be endangered;
 - (e) that the environment has been, is being or is likely to be damaged; or

- (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- 2.5 A disclosure of information is not a qualifying disclosure if the person making the disclosure commits an offence by making it.
- 2.6 A prescribed person is someone identified in regulations who is independent of the employee's organisation, but usually has an authoritative relationship with the organisation, such as a regulatory or legislative body (see paragraph 3.8).
- 2.7 Whilst protection under the PIDA covers employees and most workers it is not extended to partners, non-executive directors, volunteers or the self-employed. However, the principles outlined in this policy, as far as they can be, will be applied to whistleblowing allegations received from sources other than employees and workers of the Council. As with internally reported cases, particular consideration needs to be given to matters of confidentiality.

3. Making a Disclosure or Raising a Concern

Making an Internal Disclosure

- 3.1 Where possible employees or workers should raise concerns in writing, however raising a concern verbally also counts as whistleblowing. Wherever possible, the information provided should include the background and history of the concern, provide names, dates and places where possible, and the reason why the individual is particularly concerned about the situation.
- 3.2 The earlier an employee or worker expresses a concern, the easier it will be to take action. Individuals should raise a concern as soon as there is a reasonable suspicion; they are not expected to investigate the concern themselves to prove the suspicions are well-founded. Providing genuine concerns are being raised it does not matter if the employee or worker is mistaken.
- 3.3 It is the hope and intention of the Council that any employee or worker with a concern about any aspect of the Council's operations or its conduct, feels able to first raise those concerns internally with line management or with one or more of the officers listed below. This includes where an employee wants to make a protected disclosure about their manager.
- Head of Internal Audit & Risk Management
 - The Chief Officer of the Directorate
 - The City Treasurer (Section 151 Officer)
 - The City Solicitor (Monitoring Officer)
 - The Chief Executive

- 3.4 Details of all concerns received by Managers should be reported to the Internal Audit Section to be logged; allowing a central record of whistleblowing cases to be maintained. This includes concerns received in relation to Foundation and Voluntary Aided Schools, Academy Schools, Sixth Form Colleges and Free Schools.
- 3.5 Where allegations are made against Internal Audit, in order to ensure impartiality and integrity of the investigation, these allegations will be immediately referred to the City Solicitor who will make appropriate arrangements for an independent investigation to take place. Where allegations are made which may relate to both Internal Audit and City Solicitors, those allegations will immediately be referred to the Chief Executive, who will make arrangements for an independent investigation to take place.
- 3.6 To ensure transparency where any allegations are made in respect of Internal Audit, it may be appropriate that the Chair of Audit Committee and External Audit are made aware, on a confidential basis, that such allegations have been made and the arrangements that have been put in place to investigate them.

Making an External Disclosure to the Regulator

- 3.7 Under whistleblowing law, if an employee or worker does not feel comfortable making a disclosure internally within the Council, or if they are not satisfied with the response they have received, they have the right to take their concerns outside the Council to certain 'prescribed regulators' for example the Care Quality Commission, Ofsted etc.
- 3.8 Below is a list of other 'prescribed regulators' to whom an employee or worker may make a protected disclosure:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/183340/11-641-blowing-the-whistle-to-a-prescribed-person.pdf
- 3.9 Before making a disclosure, an employee or worker may first wish to discuss the concern on a confidential basis with a manager, trade union representative, solicitor or professional body and seek advice on how to proceed. These discussions may help assess how justified the concern is, and if they then wish to proceed, the most appropriate and effective way to report it. This is important because the report should be made so as to allow the most effective investigation, whilst affording the whistleblower protection under the PIDA.
- 3.10 Additional information about the PIDA can be obtained from the whistleblowing charity Protect (formally Public Concern at Work (PCaW)). For information visit www.protect-advice.org.uk or telephone the independent and confidential advice line 0800 1124408.
- 3.11 Employees and workers are protected when they make a disclosure. In making a protected disclosure to a regulator the employee or worker must:
 - reasonably believe that the disclosure they are making is in the public interest;
 - reasonably believe that the information detailed and any allegations in it are substantially true; and
 - the matter disclosed must fall within the matters prescribed for that regulator.

Whistleblowing by Individuals Employed in Schools

- 3.12 The Council is the legal employer of individuals who are employed in schools maintained by the Council such as **community schools, community special schools, voluntary controlled or maintained nursery schools and pupil referral units**.
- 3.13 Each such school should have their own whistleblowing policy and reporting arrangements which reflect the principles and requirements set out in this policy. In most cases employees and workers are encouraged to raise their concerns in accordance with the school's own reporting procedures, rather than directly to the Council.
- 3.14 However, if the employee or worker has a concern which they feel they cannot discuss with the management of the school or have good reason to believe that their complaint or disclosure will not be properly handled, then they may report their concerns directly to the Council or to a prescribed regulator using the Council's whistleblowing reporting procedures (see section 4).
- 3.15 **Safeguarding concerns** - if the concern raised relates to a child protection issue, these should be reported to the Local Authority Designated Officer (LADO) and in line with specific guidelines outlined in the school's safeguarding policy.
- 3.16 The whistleblowing policy is not to be used where other more appropriate reporting procedures are available within school, for example, in relation to any grievance relating to employment matters or to make a general complaint in relation to the school.
- 3.17 The Council expects schools (as identified in paragraph 3.13) to respond to a disclosure or allegation in the same way the Council would respond. The Headteacher or Chair of Governors would be expected to seek advice as necessary from the Council.
- 3.18 The Council's Internal Audit Section can offer advice and support to schools on the approach to be taken to investigate whistleblowing allegations to ensure concerns are properly addressed.
- 3.19 The action taken by schools in response to allegations made will depend on the nature and seriousness of the concern. Where appropriate, the matters raised may be:
- investigated by school management, or the Council's Internal Audit Service;
 - referred to the Police;
 - referred to the External Auditor; or be
 - subject of an independent enquiry.
- 3.20 For monitoring purposes the Headteacher or Chair of Governors must report (at the earliest opportunity) details of all whistleblowing allegations or suspicions of fraud, theft or corruption made within the school to the Council's Head of Internal Audit and Risk Management. Internal Audit will monitor the outcome of all cases, including action taken to reduce the risk of reoccurrence.
- 3.21 Employees or workers who wish to raise concerns over practices in schools outside of their place of employment should report these directly to the Council.
- 3.22 This policy does not extend to **Foundation and Voluntary Aided Schools** as the respective governing body is the employer, not the Council. Each such school should have their own whistleblowing policy and arrangements for reporting, logging and investigating concerns. The governing body must decide how employees and workers may make a qualifying disclosure under PIDA or raise an allegation of wrongdoing.

- 3.23 The Council's ability to legally investigate disclosures of serious wrongdoing in foundation and voluntary aided schools is reduced unless the allegations relate to safeguarding matters, Special Educational Needs and/or financial mismanagement. The Council should be notified of all concerns reported in relation to these matters.
- 3.24 **Academy Schools, Sixth Form Colleges and Free Schools** should adopt their own whistleblowing policy and procedures as the Council has no legal power to investigate; except for those concerns relating to safeguarding issues and Special Educational Needs.
- 3.25 The Council will acknowledge receipt of any disclosures received relating to these institutions and advise whistleblowers accordingly on an appropriate course of action regarding the concerns raised. If the disclosure relates to serious wrongdoing in respect of safeguarding issues involving children or vulnerable adults the Council has a legal obligation to investigate and will do so irrespective of the status of the school
- 3.26 The Council will log all concerns of wrongdoing received in relation to schools. Whilst the Council may not investigate every concern raised (as this may be undertaken by the individual school concerned), logging the issues enables the Council to monitor progress and where possible deal with the concerns having regard to any legal obligations or duty of care in relation to the school.
- 3.27 The Council will work with the Regional School Commissioner and Department for Education to review any matter referred to them in relation to Schools in Manchester.
- 3.28 Employees or workers who have major concerns about other schools or about other Council services can report these matters to Manchester City Council as a member of the public. These reports would not be covered by the protection of whistleblowing law.

Concerns Raised by Members of the Public

- 3.29 If you are not a Council employee or worker you can still contact the Council to report any concerns or disclosures over wrongdoing (see section 4) and these will be treated in the same way. Unlike disclosures made by employees, protection under PIDA law does not extend to disclosures made by members of the public.

4. How to Report a Whistleblowing Concern

- 4.1 Whistleblowing concerns can be reported to Internal Audit as follows:

- E-mail at: Whistleblowing@manchester.gov.uk
- Whistleblowing hotline (managed by Internal Audit): **0161 234 5280**
- Use the Council's secure online Whistleblowing reporting form.
<https://secure.manchester.gov.uk/forms/form/606/en/whistleblowing>
- Concerns can also be reported in writing to:
Head of Internal Audit and Risk Management,

Confidential

Manchester City Council,
Floor 6, Town Hall Extension, Mount Street Elevation
Manchester, M60 2LA

- 4.2 Employees and workers can raise concerns through their manager if they feel confident to do so. The manager must then follow the obligation of confidentiality and reporting procedures in accordance with Section 5.
- 4.3 For monitoring purposes, all whistleblowing cases referred to managers must be reported upon receipt to Internal Audit. This may be done by the whistleblower, receiving manager or the senior manager investigating the allegations. Internal Audit will also offer advice and support to the appointed investigating officer.
- 4.4 Any person reporting a concern should provide as much information as possible, including:
- who the allegations are against;
 - full details on the nature of the alleged wrongdoing;
 - provide any evidence they have in support of the allegation;
 - whether the person making the disclosure is a Council (or school) employee or worker;
 - name and contact details, unless the individual wishes to remain anonymous (if contact details are provided the investigating officer may get in touch to seek further information).
- 4.5 In the event that an employee or worker does not feel comfortable making a disclosure to the Council then a protected disclosure may be made to the appropriate prescribed organisation from those listed below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/183340/11-641-blowing-the-whistle-to-a-prescribed-person.pdf

5. How the Council will Respond

- 5.1 The Council will formally respond to acknowledge receipt of a disclosure within 5 working days of the concerns being received.
- 5.2 A further acknowledgement will be sent within a further 10 working days to indicate:
- how the Council proposes to deal with the matter; and the policy under which it will be investigated;
 - whether the Council considers it to be a protected disclosure;
 - contact details for the officer handling the investigation;
 - arrangements for confidentiality;

- an estimate of how long it will take to provide a response on the outcome;
- any initial enquiries which may have been made;
- if no action is planned, why not.

- 5.3 All proposed action should be notified and agreed with Internal Audit on behalf of the City Treasurer and in consultation with the relevant Chief Officer.
- 5.4 All allegations will be handled confidentially and discreetly by those managers who are directly involved in the investigation process. The ongoing point of contact for the whistleblower will be given in the acknowledgement letter.
- 5.5 If necessary, further information will be sought from the whistleblower. This will depend on the nature of the matters raised, the potential difficulties involved in conducting an investigation and the clarity of the information provided.
- 5.6 At any meeting arranged to discuss an employee or worker's concerns the individual has the right, if they so wish, to be accompanied by their Trade Union representative or a friend who is not involved in the area to which the concern relates.
- 5.7 The Council will do what it lawfully can to minimise any difficulties that an employee or worker may experience as a result of raising a concern. For example, if an employee is required to give evidence in criminal or disciplinary proceedings, the Council will advise the employee about the procedures in terms of what will happen and what will be expected of them.

Anonymous Allegations

- 5.8 The Council recognise that there may be circumstances where employees and workers are worried about being identified when reporting concerns about their employer. Concerns expressed anonymously are more difficult to investigate, and harder to substantiate, and further liaison with the whistleblower is not possible. It is also difficult for an anonymous whistleblower to be protected by the law if they subsequently suffer detrimental treatment.
- 5.9 Both anonymous allegations and named referrals which include contact details are treated seriously and are considered on the basis of individual merits. Factors that will be taken into consideration when assessing the allegation will include:
- the seriousness of the issues raised;
 - the credibility of the concern; and
 - the likelihood of confirming the allegations from attributable sources.

6. Outcomes

- 6.1 The Council will, subject to legal constraints, seek to advise the whistleblower on the outcomes of the investigation in order to assure them the matter has been properly addressed. The Council will not usually provide the whistleblower with all the details of

investigation outcomes as this could breach others' rights to confidentiality e.g if disciplinary action has been taken against an individual. Some concerns raised may be resolved by agreed action, once the whistleblowers concerns have been explained, without the need for investigation.

- 6.2 Investigation reports will be required for all cases. These will usually be issued by the Investigating Officer in confidence under restricted circulation including the Chief Officer of the department involved and the Chief Executive, City Solicitor, City Treasurer, Director of Human Resources and External Auditor.
- 6.3 Reporting is restricted as the content of investigation reports could include personal information of others, commercially sensitive information or details of investigation processes and practices the publication of which could prejudice the effective conduct of future investigations.
- 6.4 Where investigations are completed by managers within the department, Internal Audit will require confirmation of the outcome from the work undertaken, details of any system risk issues and actions to be taken to mitigate future reoccurrences (see Appendix B). Internal Audit may carry out follow up work as a result of any identified areas of risk.

7. Safeguards

- 7.1 In order to ensure that allegations are investigated in the right spirit with the right outcome, the following safeguards or principles should be applied in all cases.

Confidentiality and Anonymity

- 7.2 The Council's Whistleblowing Policy seeks to protect the identity of the employee or worker making a disclosure wherever possible.
- 7.3 Records of employee or worker's disclosures held by Internal Audit are stored securely; access to whistleblowing and related investigation records is restricted to specific officers assigned to examine the concerns being raised. Wherever possible the identity of an employee or worker raising a concern will not be revealed as part of an investigation. Should this not be possible the employee or worker will be notified and consent will be sought beforehand.
- 7.4 Circumstances which may require the disclosure of an employee or workers identity, and override their request for confidentiality, include disclosures relating to any child at risk or abuse of a vulnerable adult. The Council is required to investigate these matters under separate procedures which take priority over any request for confidentiality.
- 7.5 The Council cannot guarantee to protect the identity of an employee or worker raising allegations of serious wrongdoing where a criminal offence has been committed, and legal/prosecution action results from the disclosure. In some cases an employee may have to act as a witness and/or provide evidence in relation to offences which are referred to the Police.

- 7.6 Progress reports are submitted periodically to the Statutory Officers and Audit Committee which may include details of investigations. In such circumstances these are anonymised.

Harassment and Victimisation

- 7.7 The Council acknowledges that the decision to report a concern can be a difficult one for an employee or worker to make, not least because of the fear of reprisal from those responsible for the malpractice. It is unlawful for an employee or worker to suffer victimisation or harassment for whistleblowing.
- 7.8 The Council will not tolerate harassment or victimisation against an employee who has raised a genuine concern under the whistleblowing policy. Victimisation may include an attempt to identify the person raising the concern. Any employee who victimises a whistleblower will be subject to disciplinary action which may lead to dismissal. An individual may also be personally liable for treating a colleague detrimentally on the grounds that they have raised public interest concerns.
- 7.9 Chief Officers and Heads of Service should monitor how whistleblowers are subsequently treated after raising a matter of concern. They should ensure that any harassment or victimisation is dealt with under disciplinary arrangements.
- 7.10 Any employee who believes they have been victimised as a result of making a disclosure or blowing the whistle should report their concerns to the City Solicitor.

Malicious Allegations

- 7.11 While encouraging employees and workers to bring forward matters of concern, the Council must guard against claims which are malicious. This is because of the risk of claims made to deliberately damage the reputation of other employees, workers or the Council as a whole and not least because the cost of investigation is high.
- 7.12 If an employee makes an allegation which they reasonably believe is a whistleblowing concern, but it is not confirmed by the investigation, no action will be considered or taken against them. However, if an employee makes false, malicious or vexatious allegations this will be treated as a serious disciplinary offence and disciplinary action will be taken. The PIDA only offers protection from dismissal or detriment if the employee or worker reasonably believes their disclosure was made in the public interest.

Misuse of the Policy

- 7.13 The policy is not designed to allow:
- individuals who have acted inappropriately to escape punishment by highlighting any malpractices they were involved in;
 - employment protection in relation to a redundancy situation or pre-existing disciplinary issues as a result of reporting a wrongdoing;
 - an individual to raise a concern for some private or purely personal motive.

8. Data Protection and FOI

- 8.1 The Freedom of Information Act 2000 gives a general right of access to all types of recorded information held by public authorities. As such the Council often receives requests for information under the Freedom of Information Act.
- 8.2 The Council has a legal obligation to provide the information unless it falls under one of the exemptions of the Act.
- 8.3 The Freedom of Information Act contains exemptions which may be applicable to permit the withholding of information identifying the whistleblower, including:
- Section 40 Personal Data.
 - Section 41 Information which, if disclosed, would give rise to an actionable breach of confidence.
- 8.4 Many people making a disclosure to the Council will wish to protect their identity and the Council will always seek to protect the identity of individuals during the course of progressing an investigation. If the Council receives a request for information identifying a whistleblower, the Council will contact the whistleblower to seek their views beforehand and will, wherever possible, seek to comply with those views.
- 8.5 The principle of maintaining confidentiality should also be applied to the identity of any individual who may be the subject of a disclosure.
- 8.6 When processing personal data as part of a whistleblowing investigation, the Council will take all necessary precautions to protect such data and not to share it more widely than is necessary as part of the investigation. The Council will apply the General Data Protection Regulations and the Data Protection Act 2018 in all aspects of any whistleblowing investigation.

9. Monitoring of Whistleblowing Complaints

- 9.1 Internal Audit will maintain a central record of all whistleblowing referrals made under this policy and monitor the outcome of these cases. The collection, monitoring, review and storage of these records will at all times be carried out within the safeguarding principles set out at part 7 of this policy.
- 9.2 As such, details of any allegation should be reported to Internal Audit by the receiving manager on receipt. Internal Audit will log and allocate each case a reference number whether or not Internal Audit are involved in the investigation work. The outcome of the investigation should be notified to Internal Audit by the Investigating Officer.
- 9.3 The records held by Internal Audit will be used to analyse the impact and effectiveness of the arrangements in place in statistical terms and records held in HR sections may be subject to review. The detailed case records form part of the process of reporting back to Members on the effectiveness and outcomes of the Policy and form the record of

actions taken in the case of any matters raised under the Public Interest Disclosure Act. This information will be referred to for monitoring purposes and periodic assurance reports provided to the Audit Committee by the Head of Internal Audit and Risk Management as part of this process.

- 9.4 The City Treasurer and the Chief Executive retain responsibility for monitoring the effectiveness of the Council's Whistleblowing Policy and process. The Standards Committee has an overview of the Whistleblowing Policy.
- 9.5 A Whistleblowing Case Record sheet (Appendix B) should be used by the Investigating Officer to record a summary for each case. A copy should be sent to Internal Audit and one retained with the investigation paperwork on completion.

10. Training and Awareness

- 10.1 Chief Officers and Heads of Service are responsible for ensuring that their employees are aware of the whistleblowing policy and process and that any training needs are addressed which may arise from the application of the policy. Raising awareness of the Council's Whistleblowing Policy should form part of the induction training for all employees and should be addressed as refresher training for all employees.
- 10.2 Employees and workers have a responsibility to ensure that they are aware of and understand the Council's policy in relation to whistleblowing.

11. Frequently Asked Questions

What is the difference between whistleblowing and making a complaint or a grievance?

In general terms, whistleblowing occurs when an employee raises a concern about danger or illegality that affects others and which has a public interest dimension to it. The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concerns. As a result, the whistleblower should not be expected to prove their case; rather he or she raises the concern so others can address it.

A grievance or private complaint is, by contrast, a dispute about the employee's own employment position and has no additional public interest dimension. When someone complains, they are saying that they have personally been poorly treated. This poor treatment could involve a breach of their individual employment rights or bullying and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint, and, for this reason, is expected to be able to prove their case.

For example, bullying and discrimination issues should be dealt with under the Council's Employee Dispute and Resolution Policy maintained by Human Resources.

Can concerns be raised confidentially or anonymously?

The Council encourages whistleblowers to identify themselves and raise concerns openly. Openness makes it easier for the Council to assess the issue, work out how to investigate the matter and get more information. The effectiveness of any whistleblowing investigation may be limited where an individual chooses not to be identified.

An individual raises a concern confidentially if he or she gives his or her name on the condition that it is not revealed without their consent. An individual raises a concern anonymously if he or she does not give his or her name at all. Clearly, if the Council does not know who provided the information, it is not possible to reassure or protect them.

Does the Public Interest Disclosure Act (PIDA) require an employer to keep a whistleblower's identity secret?

The simple answer is no. PIDA contains no specific provision on confidentiality. The protections within the Act can be deemed to encourage employees and workers to raise issues openly. The Council recognises the need for a confidential port of call for any worried employee or worker and will respect a request for confidentiality; however in some cases it may not be possible. For example if the matter was about safeguarding or related to a criminal offence and had to be referred to the police. If this is the case the Investigating Officer would confirm this before a name is disclosed.

Am I protected from dismissal if I blow the whistle?

It is unlawful to dismiss an employee for the reason that they have blown the whistle: this would be an unfair dismissal and applies from day one of employment. As long as disclosures meet the legal tests, an employee should not be dismissed for raising concerns.

Workers who are not employees cannot claim unfair dismissal because of whistleblowing, but they are protected and can claim detrimental treatment.

The types of whistleblowing eligible for protection as qualifying disclosures are provided at Appendix A.

Who is protected?

The Public Interest Disclosure Act (PIDA) only protects employees and workers who raise concerns. Those who are genuinely self-employed workers, volunteers or public appointees cannot bring claims in Employment Tribunals if they are treated badly or dismissed because they have raised whistleblowing concerns. As such, School Governors and Councillors are not currently covered by PIDA.

However, the Council wants to hear from any worker if they have a concern about wrongdoing at work. As far as possible the individual will be treated in a similar way to a whistleblower even if they do not fall within the legal definition.

A worker will be eligible for protection if:

- they reasonably believe that there is wrongdoing that falls within one of the categories of concern they are telling the right person
- they believe that their disclosure is in the public interest.

Who is not protected?

An employee or worker will not be afforded protection if:

- they break the law when they report something, for example because they signed the Official Secrets Act.
- they were part of the wrongdoing.
- they found out about the wrongdoing when someone wanted legal advice ('legal professional privilege'), for example if they are a solicitor.
- It is not in the public interest.

What information should a whistleblower provide?

Supporting evidence for the allegations, if available, is clearly helpful. However, the law does not require individuals to have evidence before reporting the matter, but it does say that the individual must reasonably believe the information is substantially true. Individuals should report concerns to line management or other at the earliest opportunity rather than wait to collate any evidence.

Whistleblowers are encouraged to provide their contact details to allow the Council to seek further information, where necessary and advise on outcomes.

Where can I get independent advice?

Before making a disclosure, an employee or worker may first wish to discuss the concern on a confidential basis with a manager, trade union representative, solicitor or professional body and seek advice on how to proceed. These discussions may help assess how justified the concern is, and if they then wish to proceed, the most appropriate and effective way to report it.

Individuals can contact the independent charity Protect (formally Public Concern at Work) for free, independent and confidential advice, for example to find out which concerns are legally protected and how best to raise concerns. The charity has provided a specific confidential advice line for Manchester staff, telephone number: 0800 1124408 or visit their website www.protect-advice.org.uk

Appendix A

EXAMPLES OF WHISTLEBLOWING

Concerns around suspected wrongdoing, malpractice, illegality or risk in the workplace may include:

- criminal offences;
- failure to comply with a legal duty;
- miscarriages of justice;
- fraud or corruption;
- abuse of authority;
- serious breaches of Council policy or procedure;
- unethical conduct and actions deemed unprofessional or inappropriate; this could include breaches of regulations requiring school governors to 'act with integrity, objectivity and honesty and in the best interests of the school' and breaches of the 'Nolan Principles' which are the basis of ethical standards expected of public office holders (Appendix C);
- the health and safety of any individual has been, or is likely to be, endangered;
- the environment has been, is being or is likely to be, damaged (as a result of the City Council's actions or inactions); and
- information about any of the above has been, is being, or is likely to be, deliberately concealed.

Appendix B

CONFIDENTIAL
MANCHESTER CITY COUNCIL
WHISTLEBLOWING CASE RECORD

Date concerns/allegations received.	
Details of individual receiving the concern/allegation (i.e. name, job title, contact details)	
Directorate Involved	
How were the concerns/allegations reported – in writing /verbally	
Does the individual wish to remain anonymous?	
If not, details of officer raising concern, /allegations (i.e. name, job title, contact details)	
Was confidentiality requested and/or explained?	
A summary of the concern / allegation raised:	

<p>Has formal acknowledgement been provided in-line with the Whistleblowing Policy?</p> <p>(acknowledgement 5 working days and update within 10 further days)</p>	
Date reported to Internal Audit	
Details of Investigating Officer (i.e. name, job title, contact details)	
<p>Summary outcome of investigation:</p> <p>(Proved/unproven, details of any action plans and recommendations)</p>	
Date notification of outcome provided to individual raising the concern/allegation	
Papers retained (location), responsible officer and review date:	

Appendix C

SEVEN NOLAN PRINCIPLES

The following are the Seven Nolan Principles underpinning standards for Public Life:

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public services. The principles also have application to all those in other sectors delivering public services.

1. Selflessness: Holders of public office should act solely in terms of the public interest.
2. Integrity: Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. Accountability: Holders of public office are accountable to the public for their decisions and actions and must admit themselves to the scrutiny necessary to ensure this.
5. Openness: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. Honesty: Holders of public office should be truthful.
7. Leadership: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Source: The Committees website is at <http://www.public-standards.gov.uk/>



Draft Anti-Money Laundering Policy

Policy and Guidance Document

Audit and Risk Management
March 2019

Table of Contents

1.	Introduction	3
2.	What is Money Laundering?	4
3.	Requirements of the Money Laundering Legislation	5
4.	The Money Laundering Reporting Officer (MLRO).....	5
5.	Due Diligence Procedure	6
6.	Reporting Procedure for Suspicions of Money Laundering	8
7.	Consideration of Disclosure	9
8.	Training	10
9.	Appendix A.....	12
10.	Appendix B.....	15
11.	Appendix C.....	17
12.	Appendix D.....	18
13.	Appendix E.....	21
14.	Appendix F.....	22

Anti-Money Laundering Policy

1. Introduction

- 1.1 Money Laundering is the process by which criminally obtained money or other criminal property is exchanged for “clean” money or other assets with no obvious link to their criminal origins. The term is used for a number of offences involving the integration of “dirty money” (i.e. the proceeds of crime) into the mainstream economy. The aim is to legitimise the possession of such monies through circulation and this effectively leads to “clean” funds being received in exchange.
- 1.2 Although local authorities are not directly covered by the requirements of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, guidance from the Chartered Institute of Public Finance and Accountancy (“CIPFA”) indicates that they should comply with the underlying spirit of the legislation and regulations.
- 1.3 Manchester City Council is committed to establishing and maintaining effective arrangements to prevent and detect attempts to launder money using Council services. The Council requires all Members and employees to demonstrate the highest standards of honesty and integrity and this includes compliance with appropriate legislation. The Council is committed to working constructively with the Police and other relevant agencies in relation to combating money laundering and ensuring compliance with the legislation.
- 1.4 This policy should be read in conjunction with the Council’s Anti-Fraud and Corruption Policy. The Council will seek to ensure the corporate stance on money laundering is widely publicised and that employees and Members have access to the appropriate guidance. Failure to comply with the procedures set out in this document may constitute a disciplinary and/or criminal offence.

Scope

- 1.5 This policy applies to Manchester City Council, and as a consequence it applies to Members and all employees of the Council, including temporary and agency staff as well as those employed in community schools, community special schools, voluntary controlled schools and maintained nursery schools. It contains specific sections to advise employees and Members of the process to be followed to enable the Council to comply with its legal obligations.
- 1.6 Our policy is to ensure all appropriate action is taken to prevent, wherever possible, the Council and its Members and employees from being exposed to money laundering and to comply with all legal and regulatory obligations, including the reporting of suspected or actual cases in line with disclosure requirements.

2. What is Money Laundering?

- 2.1 The Proceeds of Crime Act 2002 (as amended by the Crime and Courts Act 2013, Serious Crime Act 2015 and the Criminal Finances Act 2017), Terrorism Act 2000 (as amended by the Criminal Finances Act 2017) and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 cover a range of activities and offences in relation to money laundering. The primary ones are listed below; further details are provided in **Appendix A: Offences Table**:
- Concealing, disguising, converting or transferring criminal property or removing it from the UK;
 - Entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
 - Acquiring, using or possessing criminal property;
 - Failure to disclose knowledge or suspicion of another person(s) involvement in money laundering; and
 - Tipping off or making a disclosure which is likely to prejudice an investigation being carried out by a law enforcing authority, knowing that such an investigation is in motion.
- 2.2 These offences cover a range of activities, which do not necessarily need to involve money or laundering, regarding the proceeds of crime. This means that potentially any employee or Member, irrespective of what sort of Council business they are undertaking, could commit an offence if they become aware of, or suspect the existence of criminal property, irrespective of the size of the benefit gained, and/or fail to report their concerns.
- 2.3 Where an employee/Member suspects money laundering and reports, or are aware that someone else has, they must exercise caution in what is discussed with others as a further offence of “tipping off” may be committed if, knowing or suspecting a disclosure has been made, the employee/Member take any action which is likely to prejudice any investigation that may be conducted.
- 2.4 It is impossible to give a definitive list of ways in which to spot money laundering or how to decide whether to make a report. Facts which tend to suggest that something ‘odd’ is happening may be sufficient for a reasonable suspicion of money laundering to arise. Risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity are provided at **Appendix B: Possible Signs of Money Laundering**.
- 2.5 Potentially any employee or Member could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it, then they may be liable to prosecution. Heavy penalties, including unlimited fines and up to 14 years imprisonment, can be handed down to those who are convicted of one of the offences listed above.

3. Requirements of the Money Laundering Legislation

- 3.1 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 impose specific obligations on “relevant persons”.
- 3.2 The term relevant person relates to the following activities carried out in the course of business; tax advice; accounting services; treasury management; investment or other financial services; credit institutions; audit services; legal services; estate agents; services involving the formation, operation or arrangement of a company or trust; dealing in goods wherever a transaction involves a cash payment equivalent to €15,000 (£12,000) or more.
- 3.3 Some activities undertaken by local authorities could be included within the scope of the money laundering regulations. Therefore to ensure compliance with the regulations and legislation and for the purposes of this Policy and Guidance, the Council are considered a relevant person when acting in the course of business and activities carried on by them.
- 3.4 The obligations include the following requirements:
 - Appoint a Money Laundering Reporting Officer (MLRO).
 - Obtain sufficient knowledge to ascertain the true identity of customers in certain circumstances, by applying customer due diligence measures.
 - Know the intended nature of business relationships and undertake ongoing monitoring of them (to identify unusual transactions).
 - Implement a procedure for assessing and controlling risk and reporting suspicions of money laundering.
 - Maintain record keeping procedures (e.g. for evidence of identity obtained, details of transactions undertaken, for at least 5 years).
- 3.5 The European Union 4th Money Laundering Directive requires a focus on risk assessments in relation to anti-money laundering; in particular the need to evidence that an organisation’s exposure to risk is considered as part of ongoing business. As such Heads of Service should maintain engagement with Internal Audit as business operations change with regard to undertaking appropriate and proportionate assessments.

4. The Money Laundering Reporting Officer (MLRO)

- 4.1 If an individual becomes aware that their involvement in a matter may amount to money laundering then they must report it to the Money Laundering Reporting Officer (MLRO) and not take any further action until they have received consent from the MLRO, who may have to be granted such consent by the National Crime Agency.
- 4.2 The Council has designated the City Treasurer as the Money Laundering Reporting Officer (MLRO):

Address: City Treasurer, Manchester City Council, Town Hall Extension, Level 3, Albert Square, Manchester, M60 2LA

Telephone Number: 0161 234 3406

Email: carol.culley@manchester.gov.uk

- 4.3 In the absence of the MLRO or in instances where it is suspected that the MLRO is involved in suspicious transactions, concerns should be raised with the Head of Internal Audit and Risk Management.

Address: Head of Internal Audit and Risk Management, Manchester City Council, Town Hall Extension, Level 6, Albert Square, Manchester, M60 2LA

Telephone Number: 0161 234 5273

Email: t.powell@manchester.gov.uk

5. Due-Diligence Procedure

- 5.1 Where the Council is carrying out activities in the course of business (paragraph 3.2), extra care needs to be taken to check the identity of the customer – this is known as carrying out customer due diligence. This is covered in Regulations 27-38 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. Details of the process to be undertaken is provided in **Appendix C: Customer Due Diligence Procedure Flowchart.**

When is it done?

- 5.2 The requirement for customer due diligence applies immediately for new customers and should be applied on a risk basis for existing customers. Ongoing customer due diligence must also be carried out during the life of a business relationship but should be proportionate to the risk of money laundering and terrorist funding, based on the officers' knowledge of the customer and a regular scrutiny of the transactions involved.
- 5.3 Where there is a need to not interrupt the normal conduct of business and there is little risk of money laundering and terrorist funding occurring, verification may be carried out during the establishment of the business relationship provided that the verification is completed as soon as practicable after the contact is first established

What does it involve?

- 5.4 Due diligence essentially means identifying the customer and verifying their identity on the basis of documents, data or information obtained from a reliable and independent source and depending upon the purpose and intended nature of the business relationship. Where you need to carry out customer due diligence then you must seek evidence of identity, see **Appendix D: Verification of Customer Identity.**
- 5.5 Where the customer is acting or appears to be acting for someone else, reasonable steps must also be taken to establish the identity of that other person.

- 5.6 Where there is a beneficial owner who is not the customer (i.e. an individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust), adequate measures should be taken on a risk-sensitive basis to verify the beneficial owner's identity. In the case of a legal person, trust or similar legal arrangement, this should include measures to understand the ownership and control structure of the person, trust or arrangement.
- 5.7 The legislation allows organisations to vary customer due diligence and monitoring according to the risk of money laundering or terrorist financing which depends on the type of customer, business relationship, product or transaction. This recognises that not all customers present the same risk, for example there is no need to apply customer due diligence measures where the customer is a UK public authority.

What is 'Enhanced Customer Due Diligence'?

- 5.8 Enhanced customer due diligence and enhanced ongoing monitoring must be carried out in any case identified in Regulation 33(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 , for example:
- The customer has provided false or stolen identification documentation or information.
 - The customer has not been physically present for identification.
 - The customer is a politically exposed person (i.e. an individual who at any time in the preceding year has held a prominent public function inside or outside of the UK, and EU or international institution / body, their immediate family members or close associates).
 - There is a beneficial owner who is not the customer (i.e. an individual who: holds more than 25% of the shares, voting rights or interest in a company, partnership or trust).
 - The party involved is established in a high-risk third country.
- 5.9 Enhanced customer due diligence could include any additional documentation, data or information that will confirm the customer's identity and / or the source of the funds to be used in the business relationship / transaction. If enhanced customer due diligence is required then the MLRO must be consulted prior to it being carried out.

Cash Payment Procedure

- 5.10 Where cash in excess of £1000 is received from customers, employees should ask for, and inspect, identification (**Appendix D: Verification of Customer Identity**). This will help to identify and report any suspicious transactions.
- 5.11 Electronic or cheque payments to the Council are easily traceable through the banking system. As traceability is key and an individual walking in to pay a debt with cash is not necessarily traceable, it is best practice to insist on payment by cheque or electronically from a UK Clearing Bank

Satisfactory Evidence of Identity

- 5.12 The Council require only the most basic of identity checks (e.g. signed, written instructions on the organisation in question's headed paper at the outset of a particular

matter) documented on a Verification of Customer Identity Checklist. The following factors suggest these minimum level checks are appropriate for the Council:

- For internal customers, we all work for the same organisation and therefore have detailed awareness of individuals and their location through previous dealings.
- For external customers, the Council, as a matter of law, can only provide services to other local authorities and designated public bodies. These customers are heavily regulated and most are well known to us.

Generally:

- We know most of our customers and those through whom they are acting – there is no, or very little, doubt as to their identity;
- Any services that may be defined as regulated business activities are provided to customers who are UK local authority/public bodies; and
- We are subject to defined, robust public sector governance and financial management controls.

Record Keeping Procedures

- 5.13 Each area of the Council acting in the course of business carried on by them, see paragraph 3.2, must maintain records of every customer due diligence record, either hard copy or electronic, and details of all relevant transactions carried out for customers for a minimum of five years from the date of (as appropriate) the transaction / end of any client relationship. This is to meet the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (Regulation 40) and may be used as evidence in any subsequent investigation/inspection by the relevant supervising body.
- 5.14 Records must be capable of providing an audit trail during any investigation, for example distinguishing the customer and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for customers in the course of normal business and these should suffice in this regard.

6. Reporting Procedure for Suspicions of Money Laundering

- 6.1 Where an employee or Member suspects money laundering activity they must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later.
- 6.2 Disclosures should be made to the MLRO in line with the procedure outlined at **Appendix E: Suspicious Transactions Reporting Procedure**. The standard pro-forma report attached at **Appendix F** should be used for this purpose. The report must include as much detail as possible, for example:
- Full details of the people involved (including employee or Member, if relevant);

- Full details of the nature of their involvement;
 - The types of money laundering activity involved (see **Appendix A, Offences Table**);
 - The dates of such activities, including whether the transactions have happened, are ongoing or are imminent;
 - Where they took place;
 - How they were undertaken;
 - The (likely) amount of money/assets involved;
 - Exactly why there are suspicions; the NCA will require full reasons;
 - Any other relevant available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare their report to the NCA, where appropriate.
- 6.3 If an employee or Member becomes concerned that their own involvement in a transaction would amount to an offence under sections 327 – 329 of the Proceeds of Crime Act 2002 or Regulations 86 - 88 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (**see appendix A**), then the report must include all relevant details. Consent will be required from the NCA, via the MLRO, for the individual to take any further part in the transaction. This is the case even if the customer gives instructions for the matter to proceed before such consent is given. Employees and Members should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.
- 6.4 Once the matter has been reported to the MLRO then any subsequent directions provided must be followed. Further enquiries into the matter should not be made by the employee or Member; any necessary investigation will be undertaken by the NCA.
- 6.5 Reference of any reports being made to the MLRO should not be recorded on client files – should the client exercise their right to see their records, then such a note/reference will tip them off to the report having been made and may render the employee or Member liable to prosecution. The MLRO must keep the appropriate records in a confidential manner.
- 6.6 Any information containing personal and/or sensitive data which is supplied or processed during the course of a money laundering investigation shall not be processed wider than is absolutely necessary for the purposes of determining whether a money laundering offence has been committed.

7. Consideration of Disclosure

- 7.1 The MLRO must note on the face of the disclosure report the date it was received, acknowledge receipt of the document and advise the employee or Member submitting the report of the timescale for a response.

- 7.2 The MLRO will consider the report and any other relevant internal information available, for example:
- reviewing other transaction patterns and volumes;
 - the length of any business relationship involved;
 - the number of any one-off transactions and linked one-off transactions; and
 - any identification evidence held.
- 7.3 The MLRO will undertake other reasonable enquiries considered appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required. The MLRO may also need to discuss the disclosure report with the employee or Member who submitted the report.
- 7.4 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:
- there is actual or suspected money laundering taking place; or
 - there are reasonable grounds to know or suspect that is the case and;
 - whether they need to seek consent from the NCA for a particular transaction to proceed.
- 7.5 Where the MLRO does decide then they must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless they have a reasonable excuse for non-disclosure to the NCA (for example, you wish to claim legal professional privilege for not disclosing the information). Up to date forms can be downloaded from the NCA website at www.nationalcrimeagency.gov.uk.
- 7.6 Where the MLRO considers no money laundering is taking place or suspects money laundering but has a reasonable excuse for non-disclosure, then they must note the report accordingly and can then immediately give their consent for any ongoing or imminent transactions to proceed. However, it's better to disclose than not.
- 7.7 In cases where legal professional privilege may apply, the MLRO must liaise with the City Solicitor to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
- 7.8 Where consent is required from the NCA for a transaction(s) to proceed, then the transaction(s) in question must not be undertaken, completed or proceed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.
- 7.9 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then the MLRO shall mark the report accordingly and give consent for any ongoing or imminent transaction(s) to proceed.
- 7.10 All disclosure reports referred to the MLRO and reports made by them to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 7.11 The MLRO may commit a criminal offence under section 331 of the Proceeds of Crime Act 2002 if they know or suspect (or has reasonable grounds to do so) through a disclosure being made, that another person is engaged in money laundering and does not disclose this as soon as practicable to the NCA.

8. Training

- 8.1 Employees considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training.
- 8.2 Additionally, relevant Members and employees will be made aware of the legal and regulatory requirements relating to money laundering and terrorist financing, and the requirements of data protection, which are relevant to the implementation of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and how they affect both the Council and themselves
- 8.3 Notwithstanding the paragraphs above, it is the duty of employees and Members to report all suspicious transactions to the MLRO (**see appendix F**).

9. Appendix A

OFFENCES TABLE

Section Ref.	Type of Offence	Definition
S327 Proceeds of Crime Act 2002	Money Laundering Offence: Concealing Criminal Property	A person commits an offence if they conceal, disguise, convert or transfer criminal property or if they remove criminal property from England, Wales, Scotland or Northern Ireland. This is punishable by a maximum term of imprisonment of 14 years at the Crown Court and an unlimited fine. At the Magistrates Court it is 6 months and £5,000 fine.
S328 Proceeds of Crime Act 2002	Money Laundering Offence: Arrangements	This offence requires a person to become actively involved in some arrangement which helps someone else to get, keep, use or control the proceeds of a crime. The punishment is as for S327.
S329 Proceeds of Crime Act 2002	Money Laundering Offence: Acquisition, Use and Possession	This offence is committed by anyone that has criminal proceeds in their possession provided they know or suspect that it represents the proceeds of a crime unless they paid 'adequate consideration' for it. Someone who pays less than the open market value is therefore guilty of the offence but someone who pays the full retail price, despite knowing or suspecting they are stolen goods is not guilty. The punishment is as for S327.
S330 Proceeds of Crime Act 2002	Failure to Disclose Offence: Regulated Sector	This offence is committed by an employee of a business in the regulated sector who has knowledge or suspicion of another person's involvement in money laundering and does not make a report through the appropriate channels. Negligence is not a defence as the employee will be tried upon what they should have known given their experience, knowledge and training. This is punishable by a maximum term of imprisonment of 5 years and/or a fine.

<p>S331 Proceeds of Crime Act 2002</p>	<p>Failure to Disclose Offence: Nominated Officers in the Regulated Sector</p>	<p>This offence is committed by a nominated officer (MLRO) of a business in the regulated sector who has knowledge or suspicion of another person's involvement in money laundering and does not make a report through the appropriate channels without an acceptable excuse under the legislation. Negligence is not a defence as the nominated officer will be tried upon what they should have known given their experience, knowledge and training.</p> <p>This is punishable by a maximum term of imprisonment of 5 years and/or a fine.</p>
<p>S332 Proceeds of Crime Act 2002</p>	<p>Failure to Disclose Offence: Other Nominated Officers</p>	<p>This offence is committed by a nominated officer (MLRO) of a business outside of the regulated sector who has knowledge or suspicion of another person's involvement in money laundering and does not make a report through the appropriate channels without an acceptable excuse under the legislation. The officer will be tried on what they knew or suspected not on what they might have been expected to know or suspect.</p> <p>This is punishable by a maximum term of imprisonment of 5 years and/or a fine.</p>
<p>S333 Proceeds of Crime Act 2002</p>	<p>Tipping Off Offence</p>	<p>This offence is committed if an officer or Member makes a disclosure which is likely to prejudice an investigation being carried out by a law enforcing authority, knowing that such an investigation is in motion.</p> <p>This is punishable by a maximum term of imprisonment of 5 years and/or a fine.</p>
<p>Reg 86 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017</p>	<p>Contravening a relevant requirement</p>	<p>A person commits an offence if they have not followed any relevant guidance issued by the European Supervisory Authorities, Financial Conduct Authority or any other relevant supervisory authority approved by the Treasury.</p> <p>This is punishable by a maximum term of imprisonment of 2 years at the Crown Court, a fine, or both. At the Magistrates Court a term of three months, a fine, or both.</p>

<p>Reg 87</p> <p>Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017</p>	<p><u>Prejudicing an investigation</u></p>	<p>This offence is committed when a person who knows or suspects that an appropriate officer is acting (or proposing to act) in connection with an investigation into potential contravention of a relevant requirement which is being or is about to be conducted. The offence is committed if either they make a disclosure which is likely to prejudice the investigation or they falsely, conceal, destroy or otherwise dispose of, or cause to permit the falsification, concealment, destruction or disposal of, documents which are relevant to the investigation.</p> <p>The punishment is as for Reg. 86 above.</p>
<p>Reg 88</p> <p>Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017</p>	<p>Providing false or misleading information</p>	<p>There are two separate offences under regulation 88. Under regulation 88(1) a person commits an offence if:</p> <ol style="list-style-type: none"> 1. In purported compliance with a requirement imposed on him by or under the MLR 2017, provides information which is false or misleading in a material particular and knows that the information is false or misleading; or 2. Is reckless as to whether the information is false or misleading. <p>In respect of both offences, the punishment is the same as Regs 86 and 87 above.</p>

10. Appendix B

POSSIBLE SIGNS OF MONEY LAUNDERING

Types of risk factors which *may*, either alone or along with other factors suggest the possibility of money laundering activity:

General

- A new customer with no previous 'history' with the Council;
- A secretive customer: for example, one who refuses to provide requested information without a reasonable explanation;
- Concerns about the honesty, integrity, identity of a customer;
- Illogical third party transactions: for example, 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;
- Payment of a substantial sum in cash (but it's reasonable to be suspicious of any cash payments particularly those over £1,000);
- Overpayments by a customer;
- Absence of an obvious legitimate source of the funds;
- Movement of funds to/from overseas, particularly to and from a higher risk country;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions is out of line with normal expectations;
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational;
- Cancellation or reversal of an earlier transaction;
- Requests for release of customer account details other than in the normal course of business;
- 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.

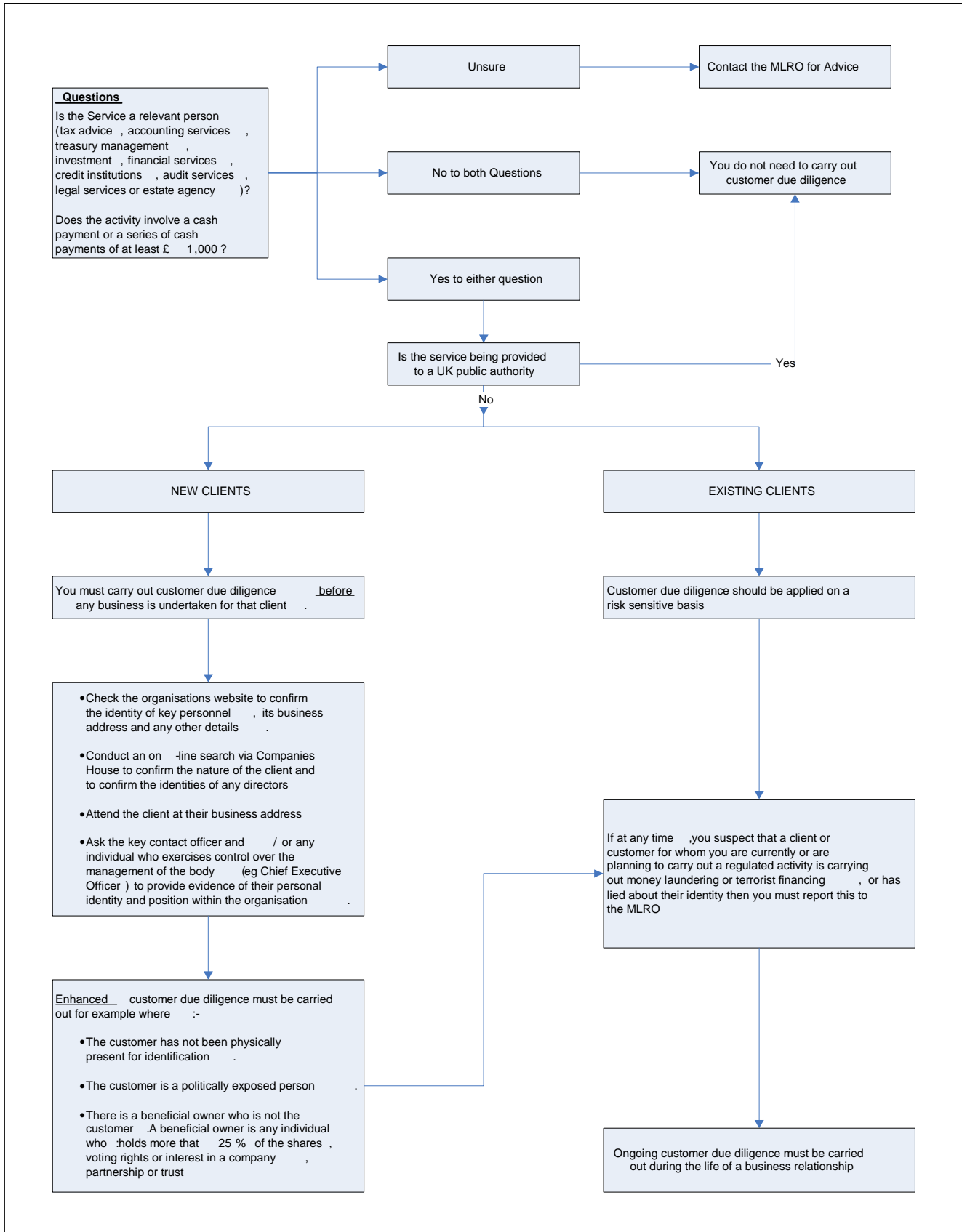
Property Matters

- Unusual property investment transactions with no apparent investment purpose;
- Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking);

- Regarding property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination.

11. Appendix C

CUSTOMER DUE DILIGENCE PROCEDURE FLOWCHART



12. Appendix D

VERIFICATION OF CUSTOMER IDENTITY

Verification of Customer Identity Checklist for customer:

Name: _____

NB: If you are receiving funds from a Council customer in any transaction **above £1,000 cash**, the identity of the customer must be checked.

All suspicions, regardless of amount, should be reported to the MLRO via the Money Laundering Reporting Form.

A. Evidence not obtained – reasons:

1. Customer previously identified in: Month _____ Year _____
2. Other – state reason fully _____

B. Evidence obtained to verify name and address:

Acceptable on their own:

- Full national passport.
- Full national driving licence with photo.
- Pension book.
- Armed Forces ID Card.
- Signed ID card of employer known to you.

Acceptable with two of next group below:

- Young person NI card (under 18 only).
- Pensioner's travel pass.
- Building Society passbook.
- Credit Reference agency search.
- National ID Card.
- Copy Company Certificate of Incorporation if a limited.
- Company and 2 Directors personal identify as above.

***NOT acceptable on their own:**

- Gas, electricity, telephone bill.
- Mortgage statement.
- Council tax demand.
- Bank/Building Society/credit card statement.
- Young persons medical card (under 18 only).
- Home visit to applicants address.
- Check of telephone directory.
- Check electoral roll.

**Suitable for proof of address only*

NB BEST PRACTICE is to have one of Group (a) plus two of Group (c)

C. Evidence obtained for unquoted company or partnership:

- Certificate of Incorporation or equivalent.
- Certificate of Trade or equivalent.
- Latest report and audited accounts.
- Principal shareholder/partner (*personal ID*).
- Principal Director (*personal ID*)
- Screenshot of the customers' website to confirm their business address.
- Screenshot of Companies House website detailing the nature and business of the customer and confirming the identities of directors.
- A written instruction on the organisation in question's headed paper.

D. Disadvantaged Customers:

e.g. Confirmation of identity from Social Worker or Bail Officer, Police, School, Courts etc.

E. If evidence not obtained for the reasons in A, do you have any suspicions regarding identity? _____

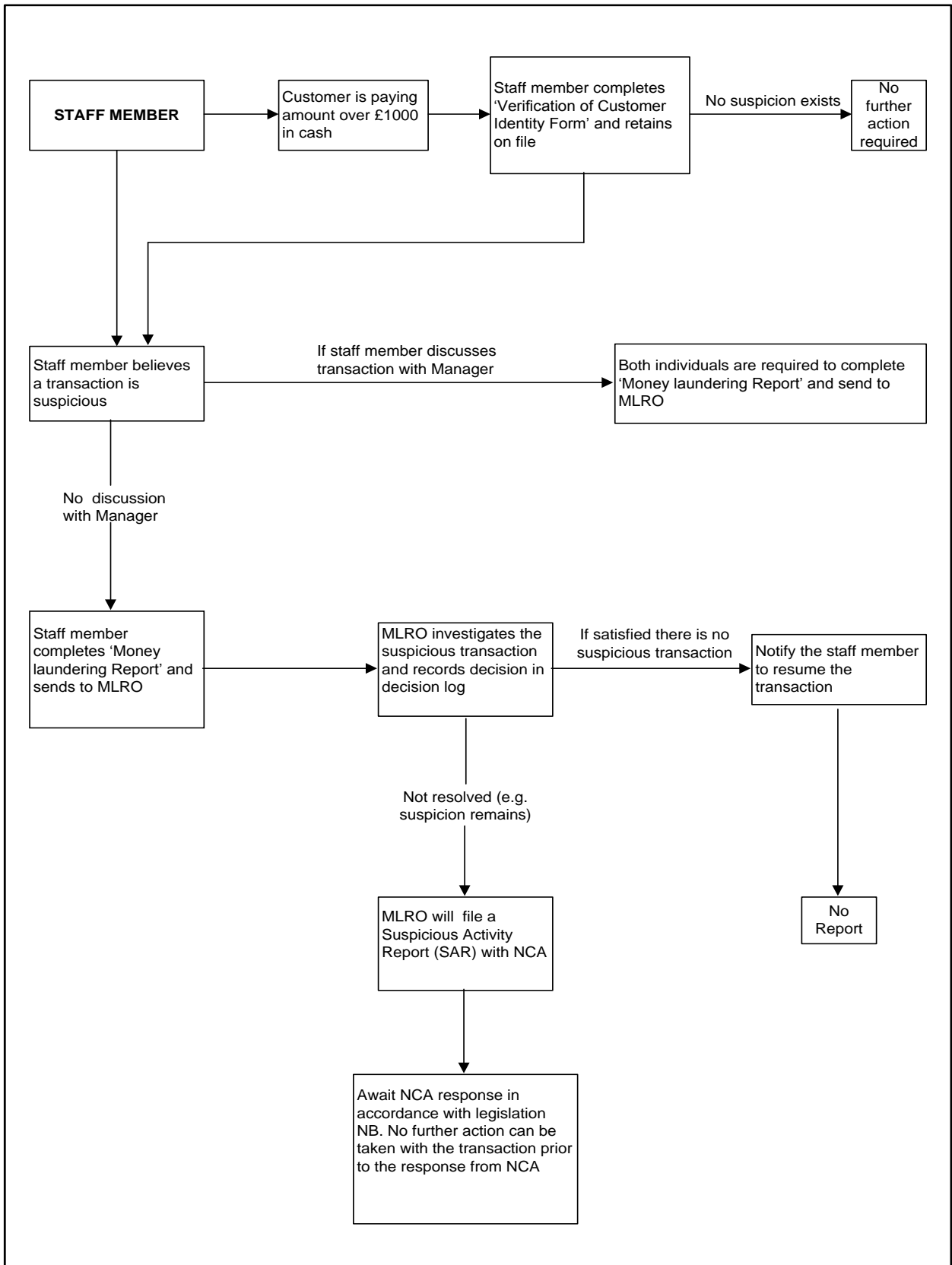
I confirm that I have seen the originals of the documents indicated above and have identified the above Customer(s)

Signed _____ **Date** _____

NB Wherever possible TAKE PHOTOCOPIES of the identification evidence TO PLACE ON FILE. Copies should be notarised to indicate a copy and signed to evidence sight of the original.

13. Appendix E

SUSPICIOUS TRANSACTION REPORTING PROCEDURE



14. Appendix F

MONEY LAUNDERING REPORT

CONFIDENTIAL

To: Money Laundering Reporting Officer

From:

[insert name of officer]

Directorate: Ext/Tel No:.....

[insert post title and Business Unit]

DETAILS OF SUSPECTED OFFENCE

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

[if a company/public body please include details of nature of business]

Nature, value and timing of activity involved:

[Please include full details eg 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)?

[Please tick the relevant box]

Yes No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

[Please tick the relevant box]

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)

[Please tick the relevant box]

Yes No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to the NCA? (eg are you a lawyer and wish to claim legal professional privilege?)

[Please tick the relevant box]

Yes No

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act under sections 327-329 of the Proceeds of Crime Act 2002 or Regulations 86 – 88 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and which requires appropriate consent from the NCA? (see Appendix A, Offences Table)

[Please tick the relevant box]

Yes No

If yes, please enclose details in the box below:

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

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

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

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE:

Action Plan:

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 the NCA?

[Please tick the relevant box]

Yes

No

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

and complete the box below:

Details of liaison with the NCA regarding the report:

Notice Period: to

Moratorium Period: to

Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts?

[Please tick relevant box]

Yes

No

If yes, please confirm full details in the box below:

Date consent received from the NCA:

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 NCA, please set out below the reason(s) for non-disclosure:

[Please set out any reasonable excuse for non-disclosure]

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

Other relevant information:

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

THIS REPORT TO BE RETAINED SECURELY FOR AT LEAST FIVE YEARS

Earliest disposal date:



Draft Anti-Bribery and Criminal Facilitation of Tax Evasion Policy

Policy and Guidance Document

Audit and Risk Management
March 2019

Contents

1. Introduction	3
-----------------------	---

2.	The Bribery Act 2010	3
3.	Criminal Facilitation of Tax Evasion	5
4.	Responsibilities	6
5.	Raising a Concern	58
6.	Other Relevant Policies.....	8
7.	Appendix A.....	60
8.	Appendix B.....	62
9.	Appendix C	Error! Bookmark not defined.

Anti-Bribery and Criminal Facilitation of Tax Evasion (CFTE) Policy

1. Introduction

- 1.1 Manchester City Council has a zero tolerance approach to fraud and corruption and will not tolerate malpractice or wrongdoing. The Council's Anti-Bribery and Criminal Facilitation of Tax Evasion (CFTE) Policy is a vital element of our anti-fraud, corruption and governance arrangements and our commitment to prevent and detect bribery, fraud, tax evasion and other irregularity.
- 1.2 The Council is committed to establishing and maintaining effective arrangements to prevent and detect acts of bribery, corruption and tax evasion in relation to Council services. Manchester City Council requires all Members and employees to demonstrate the highest standards of honesty and integrity and this includes compliance with the relevant legislation.
- 1.3 This policy should be read in conjunction with the Anti-Fraud and Corruption Policy and Employee and Member Codes of Conduct. The Council will seek to ensure the corporate stance on bribery is widely publicised and that employees and Members have access to the appropriate guidance. Failure to comply with the procedures set out in this document may result in the commission of a disciplinary and/or criminal offence.

Scope

- 1.4 This policy applies to Manchester City Council, as a consequence it applies to Members and all its employees of the Council, including temporary and agency staff, including contractors, as well as those employed in community schools, community special schools, voluntary controlled schools and maintained nursery schools as well as volunteers. It contains specific sections to advise employees and Members of the types of offences within the Bribery Act 2010 and the Criminal Finances Act 2017 and the process to be followed to enable the Council to comply with its legal obligations.

2. The Bribery Act 2010

- 2.1 Bribery is defined within the Bribery Act 2010 as, in summary, the offering, promising, giving, receiving or soliciting of a financial or other advantage for the purpose of inducing a person to perform improperly a function or activity of an official in the discharge of his or her public or legal duties. The act of bribery is the intention to gain a personal, commercial, regulatory or contractual advantage.

Offences

- 2.2 There are four offences under the Bribery Act 2010, which are summarised below; further details are provided at **Appendix A**:
- to offer, promise or give a bribe (Section 1).
 - to request, agree to receive, or accept a bribe (Section 2).
 - bribe a foreign public official in order to obtain or retain business (Section 6).
 - failure by a commercial organisation to prevent bribery in the course of its business - corporate offence (Section 7).

Prohibited Actions

- 2.3 The Council prohibits the offering, giving, promising, solicitation or the acceptance of any bribe, whether cash or other inducement, specifically:
- to or from any person or company, wherever they are situated and whether they are: a public official or body, a private person, a company, any individual employee, agent or other person or body acting on the Council's behalf;
 - in order to gain any commercial, contractual or regulatory advantage for the Council or group in a way which is unethical;
 - in order to gain any personal advantage, financial or otherwise for the individual, the council, or partner organisations, or anyone connected with said parties.
- 2.4 Employees and Members are forbidden from accepting any inducement which would result in a personal gain or advantage to the briber or any person(s) or third parties associated with them.

Penalties following Prosecution

- 2.5 The legislation includes severe penalties for breaches of the Act.
- 2.6 An individual found guilty of an offence under Sections 1, 2 or 6 of the Bribery Act is liable on conviction at:
- Magistrates Court: imprisonment for a maximum of 12 months (six months in Northern Ireland), or to an unlimited fine or to both.
 - Crown Court: imprisonment for a maximum term of 10 years, or to an unlimited fine, or both.
- 2.7 Under Section 14 of the Act, Directors, Senior Managers and employees who are found to be involved can all be held personally liable; together with heavy fines for organisations for a failure to prevent bribery.
- 2.8 Section 7 of the Act provides a defence for commercial organisations against prosecution if there are adequate procedures in place to prevent bribery. The Secretary of State has issued statutory guidance on the procedures that relevant commercial organisations can put in place (see Appendix B).

Public Contracts and Failure to Prevent Bribery

- 2.9 Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. However the Council has the discretion to exclude organisations convicted of this offence.

Internal Sanctions

- 2.10 As well as the possibility of criminal prosecution (above), any employee found to be breaching this policy by being involved in bribery may face disciplinary action, which could result in dismissal in cases of gross misconduct.
- 2.11 Any Member found to be involved in bribery will be reported to the Monitoring Officer who may refer the matter to the Standards Committee.
- 2.12 Any supplier found to be involved in bribery is liable to have their contract terminated. The Council will actively pursue the recovery of any costs or financial loss incurred as a result of such termination.

3. Criminal Facilitation of Tax Evasion (CFTE)

- 3.1 Tax evasion can be described as any fraudulent activity that intends to divert funds from the public revenue and constitutes the common law offence of cheating the public revenue. It is already a crime to deliberately and dishonestly facilitate the commission of revenue fraud as well as be knowingly concerned in, or take steps with a view to, another person fraudulently evading tax that they owe (referred to as criminal facilitation). The fact that this crime may be committed in the course of one's work is not a defence.

Offences

- 3.2 Part 3 of the Criminal Finances Act 2017 introduces a new corporate offence of failure to prevent the CFTE and holds relevant bodies liable for failing to prevent actions taken by employees, agents or other persons or incorporated bodies acting for or on behalf of the relevant body. This is applicable to the Council and applies to situations where the Council fails to prevent 'associated persons' from assisting in the evasion of tax by another party.
- 3.3 An 'associated person', as set out in the legislation, is an employee, agent or other person who performs services for or on behalf of the Council. The offence is committed where the facilitation offences are committed by someone acting in the capacity of an associated person. The associated person can be an individual or an incorporated body.

- 3.4 In order for the corporate charges to be brought there must first be two offences that have taken place (**see Appendix A**):
- Criminal tax evasion by a taxpayer: This must be a criminal offence by the tax-payer. Under legislation this includes “taking steps with a view to” or “be knowingly concerned in” the evasion of tax – an actual loss of public revenue or criminal prosecution need not necessarily take place for the offence to be committed. Non-compliance that falls short of fraud will not result in the corporate charge being brought.
 - Criminal facilitation by an associated person: The associated person must deliberately and dishonestly take action to facilitate the taxpayer’s evasion. To accidentally, ignorantly or negligently facilitate the evasion of tax will not result in the corporate offence.
- 3.5 If both offences have been committed then the Council will have committed the corporate offence of failure to prevent the facilitation of tax evasion unless it can demonstrate that it had reasonable preventative procedures in place.

Penalties

- 3.6 The penalty for this offence includes unlimited fines and ancillary orders such as confiscation orders or serious crime prevention orders, as well as reputational damage to the Council.

4. Responsibilities

- 4.1 The Council takes seriously its responsibilities in meeting the legal obligations under both the Bribery Act and Criminal Finances Act in ensuring that the exposure to risk is minimised in relation to acts of bribery, corruption and CFTE in the course of business activities.
- 4.2 The Council recognises that any Member or employee engaging in acts of bribery or CFTE will reflect adversely on its reputation and of the public sector in general.

The Council’s Commitment to Action

- 4.3 The Council is committed to the following actions:
- publish a an anti-bribery and criminal facilitation of tax evasion policy and procedure document which forms part of Council’s approach to anti fraud.
 - make all relevant staff aware of their responsibilities to adhere to this policy.
 - train relevant staff so that they can recognise and avoid the use of bribery and CFTE by themselves and others.
 - encourage staff to be vigilant and to report any suspicion of bribery and tax evasion, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately.

- rigorously investigating instances of alleged bribery and CFTE and assisting police and other appropriate authorities in any resultant prosecution.
 - taking firm and vigorous action against any individual(s) involved in bribery and/or CFTE.
 - provide information to all employees to report breaches and suspected breaches of this policy.
 - ensure relevant partners and suppliers are aware of the Council's stance on anti-bribery and CFTE and include appropriate clauses in contracts and agreements to deter, prevent and detect bribery and CFTE.
 - ensure that its policies and control systems are audited regularly to ensure they are fit for purpose.
 - address conflicts of interests and the risks created by gifts and hospitality through corporate policies.
 - take firm disciplinary action against any member or officer, who engages in bribery or CFTE and assist the police and other appropriate authorities in any resultant action.
- 4.4 The Council seeks to promote the principles set out within the Ministry of Justice's Bribery Act Guidance when developing procedures, including top-level commitment to tackling bribery (Principle 2) and effective communication, including training (Principle 5) as well as adhering to HMRC guidance for the prevention of CFTE.
- 4.5 Chief Officers have an additional responsibility (beyond that of all employees) for ensuring this policy is communicated effectively to staff and frequently refreshed throughout their Directorate along with other good practice regarding ethical behaviour.

Employee and Member Responsibilities

- 4.6 The deterrence, prevention, detection and reporting of bribery, CFTE and other forms of corruption is the responsibility of all employees and Members working for the Council. All employees and Members are required to avoid activity that breaches this policy.
- 4.7 Employees are expected to:
- Read, understand and comply with the policy; and
 - Raise concerns as soon as possible if they suspect that a conflict with this policy has occurred or may occur in the future.
- 4.8 Chief Officers should review activities regularly within their Directorate to consider their exposure to risk. It is the responsibility of Chief Officers to ensure that staff within their Directorate are aware of their responsibilities in preventing bribery and CFTE and to ensure compliance with policy.
- 4.9 It is the responsibility of Internal Audit to undertake periodic assessments on the risk of bribery and CFTE across the Council and review the effectiveness of measures put in place to prevent these from occurring.

5. Raising a Concern

- 5.1 All employees have a responsibility to help deter, detect, prevent and report instances of bribery or tax evasion. If employees have a concern regarding a suspected instance of bribery, corruption or tax evasion this should be reported as soon as possible.
- 5.2 Employees who raise concerns or report wrongdoing (e.g. that they have been offered a bribe, asked to bribe a third party or have been asked to facilitate tax evasion) can understandably be worried about whether there will be repercussions. The Council aims to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if those concerns turn out to be mistaken.
- 5.3 There are multiple channels to help raise concerns. These are set out in the Council's Whistleblowing Policy (see Appendix C).
- 5.4 The Public Interest Disclosure Act 1998 (PIDA) protects employees and workers who make certain disclosures of information in the public interest. Further information regarding this is included within the Council's Whistleblowing Policy. The Council is committed to ensuring that nobody suffers detrimental treatment through refusing to take part in acts of bribery, corruption or CFTE, or because of reporting a concern in good faith.
- 5.5 In the rare event that internal disclosure proves inappropriate, concerns can be raised by employees directly with the police. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).
- 5.6 Concerns can be raised anonymously. In the event that an incident of bribery, corruption, or CFTE is reported, the Council will act as soon as possible to evaluate the situation. There are clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.

6. Other Relevant Policies

Bribery Act 2010 - <https://www.legislation.gov.uk/ukpga/2010/23/contents>

Anti-Money Laundering Policy – AWAITING APPROVAL

Bribery Act 2010 Government Guidance -
<https://www.gov.uk/government/publications/bribery-act-2010-guidance>

Anti Fraud & Corruption Policy -
https://secure.manchester.gov.uk/download/meetings/id/12946/item_13_-_anti-fraud_and_corruption_policies_and_procedures

The Council's Whistleblowing Policy – AWAITING APPROVAL

Criminal Finances Act 2017 - <http://www.legislation.gov.uk/ukpga/2017/22/enacted>

Government legislation and guidance for the corporate offence of failure to prevent the criminal facilitation of tax evasion –

<https://www.gov.uk/government/consultations/tackling-tax-evasion-a-new-corporate-offence-of-failure-to-prevent-the-criminal-facilitation-of-tax-evasion>

Appendix A

BRIBERY AND CRIMINAL FACILITATION OF TAX EVASION - OFFENCES TABLE

Legislation	Type of Offence	Definition
Bribery Act 2010	Section 1: Offence of bribing another person	This section makes it an offence when: <ul style="list-style-type: none"> • Offers, promises or gives a financial or other advantage to another person and intends the advantage to induce a person to perform improperly a relevant function or activity or to reward a person for the improper performance of such a function of activity; or • Offers promises or gives a financial or other advantage to another person and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.
	Section 2: Being bribed	This section makes it an offence when a person: <ul style="list-style-type: none"> • Requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly. • Requests, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper performance of the person or a relevant function or activity. • Requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance of a relevant function or activity; or • In anticipation of or in consequence of the person requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly.
	Section 6: Bribery of foreign public officials	Under this section an offence is committed where a person: <ul style="list-style-type: none"> • Intends to influence a foreign official in an official capacity and intends to obtain or retain business or an advantage in the conduct business; or • Offers, promises or gives any financial or other advantage to a foreign public official.
	Section 7: Failure of a commercial organisation is guilty of an offence	A relevant commercial organisation is guilty of an offence: <ul style="list-style-type: none"> • If a person associated with the organisation bribes another person intending to obtain or retain an advantage in the conduct of business for the organisation and the organisation fails to take reasonable steps to implement adequate procedures to prevent such activity.

Criminal Finances Act 2017	Section 45 (4) UK tax evasion offence	In this part “UK tax evasion offence” means: <ul style="list-style-type: none"> • An offence of cheating the public revenue, or • An offence under the law of any part of the United Kingdom consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax
	Section 45 (5) UK tax evasion facilitation offence	In this part “UK tax evasion facilitation offence” means an offence under the law of any part of the United Kingdom consisting of: <ul style="list-style-type: none"> • Being knowingly concerned in, or taking steps with a view to, the fraudulent evasion of a tax by another person • Aiding and abetting, counselling or procuring the commission of a UK tax evasion offence, or • Being involved at and part in the commission of an offence consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax.
	Section 45 (1) and (2) Failure to prevent facilitation of UK tax evasion offences	A relevant body is guilty of an offence if a person commits a UK tax evasion facilitation offence when acting in the capacity of a person associated with that relevant body. It is a defence for the relevant body to prove that, when the UK tax evasion facilitation offence was committed: <ul style="list-style-type: none"> • The relevant body had in place such prevention procedures as it was reasonable in all the circumstances to expect the relevant body to have in place, or • It was not reasonable in the circumstances to expect the relevant body to have any prevention procedures in place.

Appendix B

PRINCIPLES TO BE CONSIDERED WHEN DETERMINING PROCEDURES

Key Areas of Focus	Actions
<p>Principle 1 : Risk assessment – understanding Council’s exposure to bribery risk</p>	<p>A full bribery risk assessment and ongoing assessment thereafter to determine the level of exposure and to identify any additional procedures necessary to those already in place.</p>
<p>Principle 2 : Top level commitment – sending a clear message that bribery and CFTE will not be tolerated</p>	<p>To be reflected and communicated in relevant policies, procedures and codes including specific anti-bribery and CFTE policy.</p>
<p>Principle 3 : Due diligence – knowing who the Council does business with</p>	<p>Understanding the Council’s customers and those working for and on behalf of the Council and seeking assurance that they have adequate procedures in place to prevent bribery and CFTE.</p> <p>Providing assurance over due diligence checks within key processes such as procurement, vendor payments and recruitment vetting.</p>
<p>Principle 4 : Clear, practical and accessible policies and procedures – clearly state what is acceptable and what isn’t</p>	<p>Specific anti bribery and CFTE policy and procedures which support the Council’s stance.</p> <p>Procedures proportionate to the risks faced by the Council</p>
<p>Principle 5 : Effective implementation – going beyond paper compliance and embedding anti-bribery controls</p>	<p>Communication of policies and procedures</p> <p>Employee training and education</p>
<p>Principle 6 : Monitoring and review – regular review of policies, procedures and processes to prevent bribery and corruption</p>	<p>Review levels of compliance with existing policy and procedures.</p> <p>Benchmark procedures against other organisations and make improvements where necessary.</p>

Appendix C

How to Report a Whistleblowing Concern

Any employee or worker who has a whistleblowing concern relating to the Council can use our whistleblowing reporting procedures.

Anyone reporting a concern should provide as much information as possible, including:

- who the allegations are against;
- full details on the nature of the alleged wrongdoing;
- provide any evidence they have in support of the allegation;
- state if the person making the disclosure is an employee of Manchester City Council;
- If not, does the person work in a school
- Whether the person is a service user or member of the public
- name and contact details (unless they wish to remain anonymous).

Council employees and workers can report a concern through their manager if they feel confident to do so. The manager must follow the obligation of confidentiality and reporting procedures in accordance with the Whistleblowing Policy.

For monitoring purposes, all whistleblowing cases referred to managers must be reported on receipt to Internal Audit. This may be done by the whistleblower, receiving manager or the senior manager investigating the allegations. Internal Audit will also offer advice and support to the appointed investigator.

Concerns can be reported to Internal Audit in one of the following ways:

- E-mail to Internal Audit at: Whistleblowing@manchester.gov.uk
- Telephone: [Whistleblowing hotline on 0161 234 5280](tel:01612345280)
- Use the Council's secure online Whistleblowing reporting form. <https://secure.manchester.gov.uk/forms/form/606/en/whistleblowing>
- Concerns can also be reported in writing to:
Head of Internal Audit and Risk Management,
Confidential
Manchester City Council,
Floor 6, Town Hall Extension, Mount Street Elevation
Manchester, M60 2LA

Internal Audit will gather as much information as possible about the concerns raised. If contact details are provided we may get in touch to seek further information.

Concerns can also be raised with the City Treasurer; telephone 0161 234 3406 or via email carol.culley@manchester.gov.uk