

Somerset West and Taunton Council

Audit, Governance and Standards Committee – 12 April 2021

Anti-Fraud Framework

This matter is the responsibility of the Leader of the Council, Cllr Smith-Roberts

Report Author: Amy Tregellas, Governance Manager and Monitoring Officer

1 Executive Summary / Purpose of the Report

1.1 To present the Committee with the Anti-Fraud Framework, which consists of:

- The Anti-Fraud and Corruption Strategy (Annex 1)
- Anti-Bribery Policy (Annex 2)
- Anti-Money Laundering Policy (Annex 3)
- Whistleblowing Policy (Annex 4)

1.2 To present the Committee with the confidential report on the provision of Counter Fraud and Error Services from Powys (Confidential Annex 5)

2 Recommendations

2.1 That the Committee recommends approval of the Anti-Fraud Framework and associated documents (listed as Annex 1-4 above) to the Executive.

2.2 The Committee recommends that the Executive note the confidential report on the Counter Fraud and Error Services (Confidential Annex 5)

3 Risk Assessment

3.1 Failure to have an appropriate Anti-Fraud Framework and these policies in place, the Council is at risk of not detecting fraud, corruption or financial irregularities. This could result in significant loss to the Council and damage its reputation.

4 Background and Full details of the Report

4.1 It is essential to have these policies in place to promote good governance and to ensure that the public services provided by the Council are delivered with both confidence and credibility.

4.2 The Council is committed to the principles of effective corporate governance as set out in the guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE), entitled 'Delivering Good Governance in Local Government (2016)'.

4.3 By having this framework of policies, the Council underpins the core principles of:

- Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.
- Developing the entity's capacity including the capability of its leadership and the individuals within it.
- Managing risk and performance through robust internal control and strong public financial management.
- Implementing good practices in transparency, reporting and audit to deliver effective accountability.

4.4 It is therefore recommended that the strategy and policies outlined in section 2.1 are approved, to ensure that the Council has a robust Anti-fraud framework in place.

5 Links to Corporate Aims / Priorities

5.1 Having effective and efficient governance arrangements and a robust Anti-Fraud framework is a fundamental element of being a 'well managed' council

6 Finance / Resource Implications

6.1 None arising from this report - Not having these documents could result in not detecting fraud, corruption or financial irregularities, which could result in a loss to the Council

7 Legal Implications

7.1 None arising from this report: Any legal requirements are embedded in the policies no new or additional implications arise

8 Environmental Impact Implications

8.1 None arising from this report

9 Safeguarding and/or Community Safety Implications

9.1 None arising from this report

10 Equality and Diversity Implications

10.1 None arising from this report

11 Social Value Implications

11.1 None arising from this report

12 Partnership Implications

12.1 None arising from this report

13 Health and Wellbeing Implications

13.1 None arising from this report

14 Asset Management Implications

14.1 None arising from this report

15 Data Protection Implications

15.1 None arising from this report

16 Consultation Implications

16.1 None arising from this report

Democratic Path:

- **Audit, Governance and Standards Committee – Yes**
- **Cabinet/Executive – Yes**
- **Full Council – No**

Reporting Frequency: Annually

List of Appendices (delete if not applicable)

Annex 1	Anti-Fraud and Corruption Strategy
Annex 2	Anti-Bribery Policy
Annex 3	Anti-Money Laundering Policy
Annex 4	Whistleblowing Policy
Annex 5 (Confidential)	Confidential Report on the provision of Counter Fraud and Error Services from Powys

Contact Officers

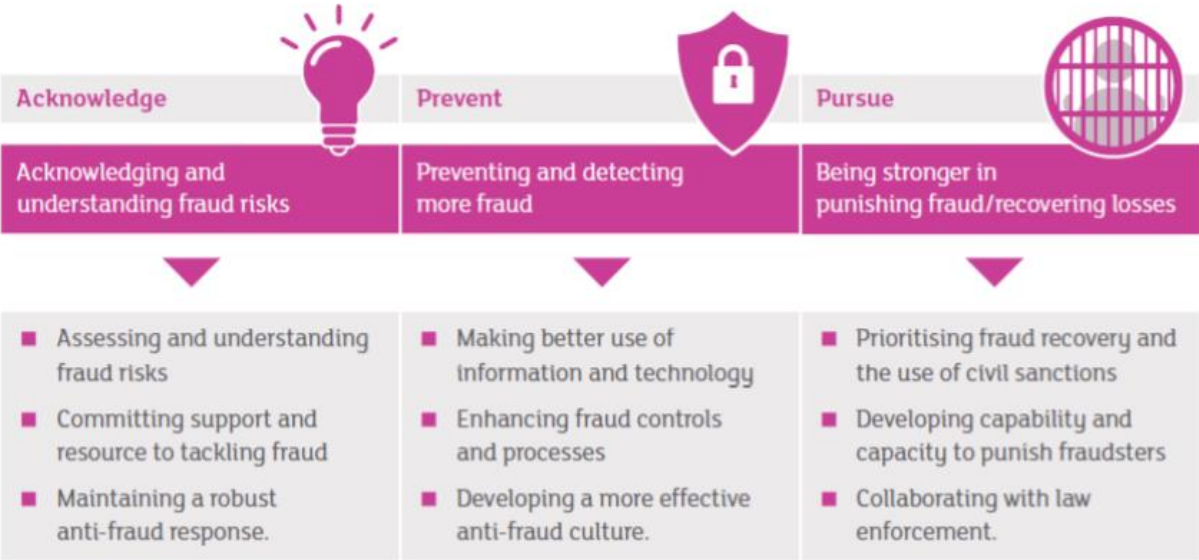
Name	Amy Tregellas, Governance Manager
Direct Dial	01823 785034
Email	a.tregellas@somersetwestandtaunton.gov.uk

SWT Anti-Fraud and Corruption Strategy

Policy Statement

Fraud against Local Government is estimated to cost billions of pounds per year. This is a significant loss to the public purse. To reduce these losses Somerset West and Taunton Council is committed to:

- The highest standards of probity in the delivery of its services, ensuring proper stewardship of its funds and assets.
- The prevention of fraud and the promotion of an anti-fraud culture.
- A zero-tolerance attitude to fraud, requiring staff and Members to act honestly and with integrity at all times, and to report all reasonable suspicions of fraud.
- The investigation of a risk based response to all instances of actual, attempted or suspected fraud. The Council will seek to recover any losses and pursue appropriate sanctions against the perpetrators. This may include criminal prosecution, disciplinary action, legal proceedings and professional sanctions.
- The Local Government Fraud Strategy: Fighting Fraud Locally which means the Council will:



1. Introduction

- 1.1 The purpose of this strategy is to make clear to Members, employees, the general public and other bodies, Somerset West and Taunton (SWT) Council's approach to fraud and corruption.
- 1.2 SWT also demands that individuals and organisations with which it comes into contact, and particularly those to which it provides finance, act towards the Council at all times with integrity and without fraudulent or corrupt intent.
- 1.3 The threat from fraud and corruption is both internal and external. The Council's expectation is that Members and employees at all levels will lead by example to ensure high standards of propriety and accountability are established and strictly adhered to, and that personal conduct is above reproach at all times
- 1.4 The Council wishes to promote a culture of honesty and opposition to fraud and corruption based on the seven principles of public life. The Council will ensure probity in local administration and governance and expects the following from all Members, employees, agency workers, volunteers, suppliers and those providing services under a contract with SWT:
 - **Selflessness** – Act solely in terms of the public interest
 - **Integrity** – 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
 - **Objectivity** – Act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias
 - **Accountability** – Be accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - **Openness** – 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.
 - **Honesty** – Be truthful
 - **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.

1.5 The Council is committed to an effective suite of anti-fraud policies, which is designed to:

- Encourage prevention
- Promote detection
- Identify a clear approach for investigation

2. Definition of Fraud

2.1 The Council defines fraud as 'any activity where deception is used for personal gain or to cause loss to another.' Fraud can be committed in one of three ways:

- Fraud by false representation – Examples include providing false information on a grant or application, staff claiming to be sick when they are in fact fit and well, or submitting time sheets or expenses with exaggerated or entirely false hours and/or expenses.
- Fraud by failing to disclose information – Examples include failing to disclose a financial interest in a company SWT is trading with, or failing to disclose a personal relationship with someone who is applying for a job at the council.
- Fraud by abuse of position – Example of staff who order goods and services through the Council's accounts for their own use.

2.2 While fraud is often seen as a complex financial crime, in its simplest form, fraud is lying. Some people will lie, or withhold information, or generally abuse their position to try to trick someone else into believing something that is not true.

3. Definition of Corruption

3.1 The Council defines corruption as the abuse of entrusted power for private gain; involving the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.

4. Culture

4.1 SWT Council has a responsibility for the proper administration of public funds and wishes to emphasise the importance it places upon probity, financial control and honest administration. The Council's arrangements for the prevention and detection of fraud and corruption will be kept under constant review. Suspected irregularities will be vigorously pursued and appropriate action will be taken.

4.2 The Council anticipates that Members, employees and the public will support its approach by reporting matters of genuine concern.

4.3 Employees may report such matters to their line managers, Assistant Director or Director. Employees may also report matters to the Monitoring Officer or

Section 151 Officer. The Council assures employees raising such concerns that they will be fully supported, and they will have nothing to fear from reprisals and there will be no adverse impact on their personal situation. Where anonymity is requested, this will be guaranteed.

- 4.4 Members and the public may report any concerns to the Monitoring Officer, S151 Officer or the Chief Executive. Requests for confidential treatment will be honoured.
- 4.5 Members of the public can also make complaints through the Council's Complaints Procedure.
- 4.6 Where appropriate, matters may be passed to the Council's Internal Auditors, South West Audit Partnership (SWAP) for investigation of any allegations of fraud or corruption received, and does so through clearly defined procedures and standards.
- 4.7 Fraud and corruption are serious offences and employees and Members may face disciplinary action if there is evidence that they have been involved in these activities. Where criminal offences are suspected consideration will be given to pursuing criminal sanctions which may involve referring the matter to the police.
- 4.8 In all cases where the Council has suffered a financial loss, appropriate action will be taken to recover the loss.
- 4.9 In order to make employees, Members, the public and other organisations aware of the Council's continued commitment for taking action on fraud and corruption, details of completed investigations, including sanctions applied, will be publicised where it is deemed appropriate.

5. The Role of Employees

- 5.1 Somerset West and Taunton Council expects its employees to be alert to the possibility of fraud and corruption and to report any suspected fraud or other irregularities to the officers listed in section 4.3.
- 5.2 Employees are expected to comply with the appropriate Code of Conduct and the Council's policies and procedures.
- 5.3 Employees are responsible for complying with Somerset West and Taunton Council's policies and procedures and it is their responsibility to ensure that they are aware of them. Where employees are also members of professional bodies they should also follow the standards of conduct laid down by them.
- 5.4 Employees are under a duty to properly account for and safeguard the money and assets under their control/charge.

- 5.5 Employees are required to provide a written declaration of any financial and non-financial interests or commitments, which may conflict with SWT's interests. SWT's Contract Procedure Rules specify that employees who have a direct or indirect financial interest in a contract shall not be supplied with, or given access to any tender documents, contracts or other information relating to them, without the authority of the senior manager.
- 5.6 Failure to disclose an interest or the acceptance, or offering of an inappropriate reward may result in disciplinary action or criminal liability. Staff must also ensure that they make appropriate disclosures of gifts and hospitality – both offered and accepted.
- 5.7 Managers at all levels are responsible for familiarising themselves with the types of fraud that might occur within their directorates and the communication and implementation of this strategy.
- 5.8 Managers are expected to create an environment in which their staff feel able to approach them with any concerns that they may have about suspected fraud or any other financial irregularities.

6. The Role of Elected Members

- 6.1 As elected representatives, all Members of Somerset West and Taunton Council have a duty to act in the public interest and to do whatever they can to ensure that the Council uses its resources in accordance with statute as well as ensuring value for money for local taxpayers.
- 6.2 This is achieved through Members operating within the Constitution which includes the Member Code of Conduct, Financial Procedure Rules and the Contract Procedure Rules.
- 6.3 Members are required to adhere to the Members' Code of Conduct, which has been formally adopted by SWT. As part of the compliance with this code, Members are required to declare to the Council's Monitoring Officer when elected, and update when circumstances dictate, relevant interests. These are recorded in the register maintained for this purpose by the Monitoring Officer.
- 6.4 Members are required to notify the Council's Monitoring Officer of any gift or hospitality over the value of £25.

7. Prevention

- 7.1 The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage. In particular, written references should be obtained regarding the known honesty and integrity of potential staff before employment offers are made.

- 7.2 The Council reviews its Constitution and Codes of Conduct on a regular basis. These place a duty on all Members and employees to act in accordance with established best practice when dealing with the affairs of the Council.
- 7.3 Section 151 of the 1972 Local Government Act requires that every local authority shall make arrangements for the proper administration of its financial affairs. This includes maintaining strong financial management underpinned by effective financial controls and an adequate and effective system of internal audit. The Section 151 Officer also has to produce Financial Procedure Rules for adoption by the Council.
- 7.4 Significant emphasis is placed on the thorough documentation of financial systems, and every effort is made to continually review and develop these systems in line with best practice to ensure efficient and effective internal controls. The adequacy and appropriateness of the Council's financial and other systems is independently monitored by both Internal and External audit.
- 7.5 The primary responsibility for the prevention and detection of fraud is with management. They must ensure that they have the appropriate controls in place, that they are operating as expected and being complied with. They must ensure that adequate levels of checks are included in working practices, particularly financial. It is important that duties are organised in such a way that no one person can carry out a complete transaction without some form of checking or intervention process being built into the system.

8. Detection and Investigation

Internal Audit

- 8.1 Internal Audit, South West Audit Partnership (SWAP) is responsible for the independent appraisal of controls and for assisting managers in the investigations of fraud and corruption.
- 8.2 SWAP includes proactive fraud work in its annual audit plan, identifying potential areas where frauds could take place and checking for fraudulent activity.

Working with others and sharing information

- 8.3 The Council is committed to working and co-operating with other organisations to prevent fraud and corruption and protect public funds. The Council may use personal information and data-matching techniques to detect and prevent fraud, and ensure public money is targeted and spent in the most appropriate and cost-effective way. In order to achieve this, information may be shared with other bodies responsible for auditing or administering public funds including, but not

limited to, the Cabinet Office National Fraud Initiative, the Department for Work and Pensions, other local authorities, HM Revenue and Customs, and the Police.

- 8.4 Somerset West and Taunton Council participates in the National Fraud Initiative (NFI). This requires public bodies to submit a number of data sets (to the Cabinet Office) for example payroll, pension, and accounts payable (but not limited to these) which is then matched to data held by public and private sector bodies. Enquires are made into any positive matches (e.g. an employee on the payroll in receipt of housing benefit).

Fraud Investigation Team

- 8.5 Powys Council carry out Fraud Investigations for SWT in respect of Counter Fraud and Error Services

Whistle-blowing

- 8.6 Despite the best efforts of officers and auditors, frauds are sometimes discovered by chance or whistle-blowing and, as indicated earlier, the Council has a Whistle-blowing Policy to enable such matters to be properly dealt with.

Investigation

- 8.7 The Council's Disciplinary Procedures are used where any investigation indicates improper conduct on the part of staff.
- 8.8 Depending on the nature and extent of the allegations, Internal Audit works closely with management and other agencies such as the Police to ensure all allegations and evidence are properly investigated and reported upon.
- 8.9 The Council expects the Police to independently prosecute offenders where financial impropriety is discovered.
- 8.10 The Council is committed to the risk based investigation of all instances of actual, attempted and suspected fraud committed against the Council and the recovery of funds and assets lost through fraud.
- 8.11 Any suspected fraud, corruption or other irregularity should be reported to the Monitoring Officer and S151 Officer. They will decide on the appropriate course of action to ensure that any investigation is carried out in accordance with Council policy and procedures, key investigation legislation and best practice. This will ensure that investigations do not jeopardise any potential disciplinary action or criminal sanctions.

9. Training and awareness

- 9.1 The successful prevention of fraud is dependent on risk awareness, the effectiveness of training (including induction) and the responsiveness of staff throughout the Council.
- 9.2 Management will provide induction and ongoing training to staff, particularly those involved in financial processes and systems to ensure that their duties and responsibilities are regularly highlighted and reinforced.
- 9.3 Internal Audit will provide fraud awareness training, where appropriate and on request.

10. Policies and Procedures – Further reading

- 10.1 In addition to this strategy there are a range of policies and procedures that help reduce the Council's fraud risks. These include:
- Anti-Bribery Policy
 - Anti-Money Laundering Policy
 - Whistleblowing Policy
 - The SWT Members Code of Conduct
 - The SWT Officers Code of Conduct
 - Disciplinary Policy
 - Financial Regulations
 - Contract Procedure Rules

11. Summary

- 11.1 SWT's Anti-Fraud Framework covers the following areas

C ulture	creating a culture in which beating fraud and corruption is part of daily business
C apability	ensuring that the range of counter fraud measures deployed is appropriate to the range of fraud risks
C ompetence	having the right skills and standards
C ommunication	raising awareness, deterring fraudsters, sharing information, celebrating successes
C apacity	deploying the right level of resources to deal with the level of fraud risk
C ollaboration	working together across internal and external boundaries: with colleagues, with other local authorities, and with other agencies; sharing resources, skills and learning, good practice and innovation, and information.

SWT Anti-Bribery Policy

1.0 Introduction

- 1.1 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. Bribes can take a variety of forms and might include cash, gifts and hospitality, a contract award, or gaining inside information about up and coming work. They're given to someone with the intention of influencing them to act in a way that favours an individual or a company.
- 1.2 No-one employed by, or doing business on behalf of the Council, should ever offer, make, ask for, or accept a payment, gift or favour in return for favourable treatment, or to gain a business advantage.
- 1.3 Under the UK Bribery Act 2010 it is illegal to:
- offer a bribe
 - agree to offer a bribe
 - accept a bribe
 - agree to accept a bribe
 - request a bribe
 - fail to prevent bribery in a commercial organisation (this means a company failing to have adequate procedures in place to prevent anyone associated with a company – employees, or anyone working on the company's behalf, such as a contractor or agent – committing offences against the UK Bribery Act).
- 1.4 Bribery is a criminal offence (more information in Appendix A). We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor will we, accept bribes or improper inducements.
- 1.5 To use a third party as a conduit to channel bribes to others is a criminal offence. We will not engage indirectly in or otherwise encourage bribery.
- 1.6 Somerset West and Taunton Council does not tolerate any form of bribery in its business and is committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards it. We aim to maintain anti-bribery compliance as "business as usual", rather than as a one-off exercise.
- 1.7 Somerset West and Taunton Council is determined to protect itself, its employees and the public from acts of Bribery, therefore it is unacceptable to:
- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given

- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy.

2.0 Aims and Scope of this Policy

- 2.1 This policy provides a coherent and consistent framework to enable Council employees to understand and comply with the Bribery Act 2010.
- 2.2 We require that all staff, permanent, temporary and agency:
- act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible
 - comply with the spirit, as well as the letter, of the laws under which the Council operates
- 2.3 This policy applies to all of the Council's activities. For partners, joint ventures and suppliers, we will seek to promote policies and conduct consistent with the principles set out in this policy.
- 2.4 This policy also applies to Members, volunteers and consultants.

3.0 This Council's commitment to action

- 3.1 The Council commits to:
- Setting out a clear anti-bribery policy and keeping it up to date
 - Making all employees aware of their responsibilities to adhere strictly to the policy at all times
 - Training all employees so that they can recognise and avoid the use of bribery by themselves and others
 - Encouraging employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
 - Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
 - Taking firm and vigorous action against any individual(s) involved in bribery
 - Include appropriate clauses in contracts to prohibit bribery.

4.0 Facilitation payments

4.1 Facilitation payments are not tolerated and are illegal. They are unofficial payments made to public officials in order to secure or expedite actions.

5.0 Gifts and hospitality

5.1 Our Gifts and Hospitality policies applying to employees and Members give guidance on acceptance of gifts and hospitality.

6.0 Public contracts and failure to prevent bribery

6.1 Under the Public Contracts Regulations 2015, a company is automatically and perpetually debarred from competing for public contracts where it is convicted of an offence relating to bribery or corruption.

7.0 Staff responsibilities

7.1 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy.

7.2 You must ensure that you read, understand and comply with this policy. You must also raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

7.3 As well as the possibility of civil action and criminal prosecution, staff who breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

8.0 Raising a concern

8.1 As a first step you should normally raise concerns with your line manager, Assistant Director or Director. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved. If you believe that management is involved, you should approach the Chief Executive, Monitoring Officer or S151 Officer.

8.2 If a Councillor(s) is involved then you should always approach the Monitoring Officer or the Chief Executive. Concerns are better raised in writing. You should set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can ask to meet the appropriate officer. The earlier you express the concern, the easier it is to take action.

8.3 Although you are not expected to prove the truth of an allegation, you will need to demonstrate that there are sufficient grounds for your concern and that you believe it is substantially true.

8.4 If you have any questions about these procedures, please contact the Monitoring Officer or S151 Officer.

9.0 Policies and Procedures – Further reading

9.1 In addition to this strategy there are a range of policies and procedures that help reduce the Council's fraud risks. These include:

- Anti-Fraud Strategy
- Anti-Money Laundering Policy
- Whistleblowing Policy
- The SWT Members Code of Conduct
- The SWT Officers Code of Conduct
- Disciplinary Policy
- Financial Regulations
- Contract Procedure Rules

The Bribery Act 2010

There are four key offences under the Bribery Act 2010:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failing to prevent bribery (section 7)

The Bribery Act 2010 (http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2).

Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.

There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

Is the Council a “commercial organisation”?

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made. There are circumstances in which we will be a commercial organisation for the purposes of section 7. This policy is intended to ensure that we have in place the necessary procedures to act as a defence to a section 7 offence.

What are “adequate procedures”?

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations

to determine proportionate procedures in the recommended areas of six principles (see below). These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

Principle 1 - Proportionate procedures

An organisation's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced.

Principle 2 - Top level commitment

The top-level management are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

Principle 3 - Risk Assessment

The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

Principle 4 - Due diligence

The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

Principle 5 - Communication (including training)

The organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

Principle 6 - Monitoring and review

The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

This Council is committed to proportional implementation of these principles.

SWT Anti-Money Laundering Policy

1.0 Introduction

- 1.1 Money laundering can be defined as “a process that makes money with an illegal origin appear legal so that it may be used”. Legislation concerning money laundering (the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017 (as amended)) has broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the obligations now impact on areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.

2.0 Scope of the Policy

- 2.1 This Policy applies to all employees of the Council and aims to maintain the high standards of conduct that currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures, which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council to comply with its legal obligations. Within this policy the term employees refers to all employees as well as elected Members.
- 2.2 Anti-money laundering legislation places responsibility upon Council employees to combat money laundering and covers a very wide area of financial transactions, including possessing, or in any way dealing with, or concealing, the proceeds of any crime. It applies to all employees involved with monetary transactions.
- 2.3 Under the legislation it is a criminal offence to:
- Assist a money launderer;
 - **Inform** a person suspected to be involved in money laundering that they are suspected or that they are the subject of police investigations;
 - Fail to report a suspicion of money laundering and;
 - Acquire, use or possess criminal property.

3.0 Purpose

- 3.1 The legislative requirements concerning anti-money laundering procedures are extensive and complex. This Policy has been written to enable the Council to meet the legal requirements in a way that is proportionate to the risk to the Council of contravening this legislation.
- 3.2 The object of this policy is to make all employees aware of their responsibilities and the consequences of non-compliance with this policy.

- 3.3 An employee could potentially be caught within the money laundering provisions if they suspect money laundering and either become involved with it in some way and /or do nothing about it.
- 3.4 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities:
Employees contravening the regulations can be faced with imprisonment (up to 14 years), a fine or both.

4.0 Money Laundering Requirements

- 4.1 Provision of training to relevant officers and staff (or contractors' staff) on the requirements of the legislation, including the identification of suspicious transactions, identity verification and reporting procedures.
- 4.2 Establishment of procedures for employees to report any suspicions to the Money Laundering Reporting Officer ("MLRO") – i.e. Paul Fitzgerald, Assistant Director – Finance and S151 Officer.
- 4.3 Designation of an officer as the Money Laundering Reporting Officer, who will receive any report, keep records and if considered appropriate, make reports to the National Criminal Intelligence Service (NCIS) - i.e. Paul Fitzgerald, Assistant Director – Finance and S151 Officer.
- 4.4 Under the legislation employees dealing with money transactions will be required to comply with certain procedures.

5.0 Procedures

- 5.1 When do I need to identify the person I am dealing with?
- When the Council is carrying out relevant business and:
 - a) Forming a business relationship: or
 - b) Considering undertaking a one off transaction
- And: -
- a) Suspect a transaction involves money laundering; or
 - b) A payment is to be made for a series of linked one off transactions involving total payment of £10,000 (15,000 Euro) or more.
- 5.2 Not all of the Council's business is "relevant" for the purposes of the legislation regarding client identification. Relevant services as defined by the legislation include investments, accountancy and audit services and the financial, company and property transactions undertaken the council.
- 5.3 What Procedures do I use to identify the person?

Any employee involved in a relevant business should ensure the client provides satisfactory evidence of their identity personally, through passport/ photo driving license plus one other document with their name and address e.g. utility bill (not mobile) mortgage/building society/bank documents, card documents, pension/benefit book. Or corporate identity, this can be through company formation documents or business rates.

In circumstances where the client cannot be physically identified the employee should be aware: -

- a) That there is greater potential for money laundering where the client is not physically present when being identified;
- b) If satisfactory evidence is not obtained the relationship or the transaction should not proceed;
- c) If the client acts, or appears to act for another person, reasonable measures must be taken for the purposes of identifying that person.

Record Keeping Procedures

- 5.4 Each Service of the Council and contractors working for the Council conducting relevant business must maintain records of: -
 - a) Client identification evidence obtained; which must be kept for five years after the end of the transaction or relationship;
 - b) Details of all relevant business transactions carried out for clients for at least five years from the completion of the transaction. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering. The Money Laundering Reporting Officer, must be informed of the existence and location of such records.
- 5.5 The precise nature of the records are not prescribed by law, however, they must provide an audit trail during any subsequent investigation, e.g. distinguishing the client and the relevant transaction and recording in what form any funds were received or paid.

6.0 The Money Laundering Reporting Officer

- 6.1 The Officer nominated to receive disclosures about money laundering activity within the Council is Paul Fitzgerald (Assistant Director – Finance and S151 Officer) i.e. The Money Laundering Reporting Officer (MLRO).
- 6.2 The Deputy Money Laundering Reporting Officers are Amy Tregellas (Monitoring Officer) and Steve Plenty (Finance Service Manager).

7.0 Internal Reporting Procedure

- 7.1 Where an employee is aware, that money laundering may have taken place (or may be taking place), he or she must contact the MLRO for guidance as soon as possible regardless of the amount being offered. In such circumstance, no money may be taken from anyone until this has been done.
- 7.2 Any person knowing or suspecting money laundering, fraud or use of the proceeds of crime must report this to the MLRO on the form(s) as attached.
- 7.3 Upon receiving the report the MLRO will consider all of the admissible information in order to determine whether there are grounds to suspect money laundering.
- 7.4 If the MLRO determines that the information or matter should be disclosed it would be reported to the National Criminal Intelligence Service (NCIS).
- 7.5 At no time and under no circumstances should an employee voice any suspicions to the person(s) suspected of money laundering, even if the NCIS has given consent to a particular transaction proceeding, otherwise the employee may be committing a criminal offence of informing. Therefore, no reference should be made on a client file to a report having been made to the MLRO. Should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render the employee liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

8.0 Other Procedures

- 8.1 The Council will establish other procedures of internal control and communication as may be appropriate for the purpose of forestalling and preventing money laundering:
 - **Regular receipts** - The Council in the normal operation of its services accepts payments from individuals and organisations e.g. in relation to council tax, sundry debtors etc. For all transactions under £2,000 the Money Laundering regulations do not apply but if an employee has reasonable grounds to suspect money laundering activities or proceeds of crime or is simply suspicious, the matter should still be reported to the MLRO.
 - **Cash receipts** – If the money offered in cash is £10,000 or more, then payment must not be accepted until the employee has received guidance from the MLRO or DMLRO.
 - **Refunds**- Care will need to be taken especially with the procedures for refunds. For instance, a significant overpayment that results in a repayment will need to be properly investigated and authorised before payment. **Note – all refunds should be made only to the source of the payment and not a**

different account. In the event of any suspicious transactions, the MLRO will be contacted to investigate the case. The possible perpetrator should not be informed.

- **Training** – The Council will take, or require its contractor to take, appropriate measures to ensure that relevant employees are:
 - a) Made aware of the provisions of these regulations, (under the Proceeds of Crime Act 2002, and the Money Laundering Regulations 2007 (as amended));
 - b) Given training in how to recognise and deal with transactions that may be related to money laundering.

9.0 Money Laundering Warning Signs

9.1 The following examples could indicate that money laundering is taking place:

- Transactions or trade that appear to make no commercial or economic sense from the perspective of the other party - a money launderer's objective is to disguise the origin of criminal funds and not necessarily to make a profit. A launderer may therefore enter into transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system.
- Large volume/large cash transactions - all large cash payments should be the subject of extra care and before accepting cash the reasons for such payments should be fully understood. Payments should be encouraged through the banking system to avoid problems.
- Payments received from third parties - money launderers will often look to legitimate business activity in order to assist in 'cleaning' criminal funds and making payments on behalf of a legitimate company can be attractive to both parties. For the legitimate company it can be useful source of funding and for the launderer the funds can be repaid through a banking system.

9.2 Examples of tell-tale signs of organised money laundering: -

1. Use of cash where other means of payment are normal
2. Unusual transactions or ways of conducting business
3. Unwillingness to answer questions/ secretiveness generally
4. Use of overseas companies
5. New companies
6. Overpayments of Council Tax where refunds are needed.

Disclosure Form to MLRO

Please complete and return to Paul Fitzgerald, Assistant Director Finance & S151 Officer

Date of disclosure

Date of event

Officer making disclosure:

Job title of officer:

Telephone details:

SUBJECT DETAILS

Title:

Surname:

Forename:

DoB:

IN THE CASE OF A LEGAL ENTITY (COMPANY)

Name:

Address:

Company Number (If known)

Type of Business:

VAT no (if known)

REASON FOR DISCLOSURE

Please provide an explanation of the activity and amounts. If you know or suspect what the offence behind the reported activity may be please provide details.

RECEIVED BY MLRO

Reference:

Date:

Signature:

SWT Whistle-blowing Policy

1.0 Introduction

- 1.1 Somerset West and Taunton District Council is committed to the highest possible standards of openness and accountability. In line with that commitment we expect both employees and members of the public who have serious concerns about any aspect of the Council's work to come forward and voice their concerns.
- 1.2 Whether you are an employee or a member of the public, you might be the first to realise that there may be something seriously wrong within the Council. This policy is intended to encourage and enable employees and members of the public to raise concerns within the Council rather than overlooking a problem.
- 1.3 This policy also explains how you can raise a concern without fear of victimisation, subsequent discrimination or disadvantage.

2.0 Who can use this policy?

- All members of the public
- All Employees (including Contractors, Agency and Temporary staff)
- External Contractors
- Suppliers
- Service providers

3.0 What is included in the policy?

- 3.1 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment. This policy is intended to cover concerns that fall outside the scope of the grievance procedure. Thus any serious concern that a member of staff or a member of the public has about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can and should be reported under this policy
- 3.2 This concern may be about something that is:
- unlawful
 - against the Council's Standing Orders, Financial Procedure Rules and policies
 - against established standards of practice
 - improper conduct
 - amounts to malpractice
 - posing a danger to the health and safety of individuals

- likely to cause damage to the environment
- other conduct that gives you cause for concern

Please note that this is not a comprehensive list but is intended to illustrate the range of issues which might be raised under this Code.

4.0 Safeguards, Harassment or Victimisation

- 4.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisals from those who may be guilty of malpractice or from the Council as a whole. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action in order to protect a person who raises a concern where they reasonably believe that the disclosure they are making is in the public interest even if they were mistaken. In addition employees have statutory protection against reprisals under the Public Interest Disclosure Act 1998 as revised by the Enterprise and Regulatory Reform Act 2013 and can refer their case to an Industrial Tribunal.

Confidentiality

- 4.2 As far as possible, the Council will protect the identity of any employee or member of the public who raises a concern and does not want his/her name to be disclosed, but this confidentiality cannot be guaranteed. It must be appreciated that any investigation process may reveal the source of the information and a statement by the person reporting the concern may be required as part of the evidence. Where an employee or member of the public has requested that their identity not be revealed, the Council will discuss the matter with them before embarking on any course of action whereby their identity will need to be disclosed.

Anonymity

- 4.3 Concerns expressed anonymously will be considered at the discretion of the Council although it must be appreciated that it is inherently difficult to investigate concerns expressed this way. It is hoped that the guarantees contained in this policy will provide sufficient reassurance to staff to enable them to raise concerns in person. However, in exercising the discretion, the factors to be taken into account would include:
- The likelihood of obtaining the necessary information
 - The seriousness of the issues raised
 - The specific nature of the complaint
 - The duty to the public.

False and Malicious Allegations

- 4.4 The Council will not tolerate the making of malicious or vexatious allegations. Acts of this nature will be treated as serious disciplinary offences. Disciplinary action, including summary dismissal for serious offences, will be taken against any employee found to have made malicious or vexatious claims.
- 4.5 In line with the Somerset West and Taunton Council Complaints Procedure examples of vexatious allegations are persistently complaining about a variety or number of different issues, persistently making the same complaint but not accepting the findings of any properly conducted investigation, and/or seeking an unrealistic outcome.
- 4.6 In addition a concern which is genuinely believed may prove to be unfounded on investigation – in which case no action will be taken against the person who raised the concern.
- 4.7 The Council will try to ensure that the negative impact of either a malicious or unfounded allegation about any person is minimised.

5.0 How to raise a concern if you are a member of the Public

5.1 You can raise your concern(s) with any of the following officers:

- Monitoring Officer – Amy Tregellas
a.tregellas@somersetwestandtaunton.gov.uk
- S151 Officer – Paul Fitzgerald
p.fitzgerald@somersetwestandtaunton.gov.uk
- Director of Internal Operations – Alison North
a.north@somersetwestandtaunton.gov.uk

If you would rather telephone – the number is 0300 304 8000

6.0 How to raise a concern if you are an employee of the Council

- 6.1 You should normally raise your concern(s) with your people manager or their manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If you prefer (for whatever reason) or if you believe that management is involved, you can contact one of the individuals listed above.
- 6.2 Alternatively you can get confidential advice from your trade union or professional association. There is an independent charity called Public Concern at Work (020 7404 6609) www.pcaw.co.uk who have lawyers who

can give independent advice at any stage about how to raise a concern about serious malpractice at work.

- 6.3 You can also invite your trade union or professional association to raise a matter on your behalf.

7.0 Members of the Public and Employees

- 7.1 Concerns can either be raised orally or in writing. Normally it is preferable to put your concern in writing.

What you need to include

It would be helpful to us if you could provide the following information

- background
- the history
- reason for your concern
- names
- dates
- places

- 7.2 A flow diagram of the process is shown at the end of this Policy document.

8.0 How the Council will respond

- 8.1 The action taken by the Council will depend on the nature of the concern. Where appropriate, the concern(s) raised will be:

- investigated by senior management, internal audit (SWAP) or through the disciplinary process
- referred to the police
- form the subject of an independent inquiry

- 8.2 In order to protect the individual and the Council, an initial investigation will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example fraud, theft and corruption) will normally be referred for consideration under those procedures.

- 8.3 It should be noted that some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this would be taken before any investigation is completed.

- 8.4 Within ten working days of a concern being raised, the officer that you have raised your concern with will write to you:

- acknowledging that the concern has been received
- indicating how he proposes to deal with the matter
- Giving an estimate of how long it will take to provide a final response

8.5 If it is impossible for initial inquiries to be completed within ten working days, the situation will be explained in the letter of acknowledgement. Where a decision is made that no investigation will take place, the reasons for this will be provided.

8.6 The amount of contact between the officers considering the issues and you raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern.

8.7 Where any meeting is arranged, you have the right to be accompanied by a union or professional association representative, relative or a friend who is not involved in the area of work to which the concern relates.

8.8 The Council will take appropriate steps to minimise any difficulties which you 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 need to inform them and consider what steps are required to provide support.

8.9 The Council accepts that by raising a concern, you will need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive as much information as possible about the outcomes of any investigation.

9.0 How the Concern can be taken further

9.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not satisfied with the outcome of your confidential allegation you can write to the Chief Executive and ask for the investigation and outcome to be reviewed. If you remain dissatisfied and you feel it is right to take the matter outside the Council, you may wish to take advice from your trade union, your local Citizens Advice Bureau, any of the external agencies listed in this policy, or your legal advisor on the options that are available to you.

9.2 Another option is that you may wish to rely on your rights under the Public Interest Disclosure Act 1998. This Act gives you protection from victimisation if you make certain disclosures of information in the public interest. The

provisions are quite complex and include a list of prescribed persons outside of the Council who can be contacted in certain circumstances. You should seek advice on the effect of the Act from the Monitoring Officer.

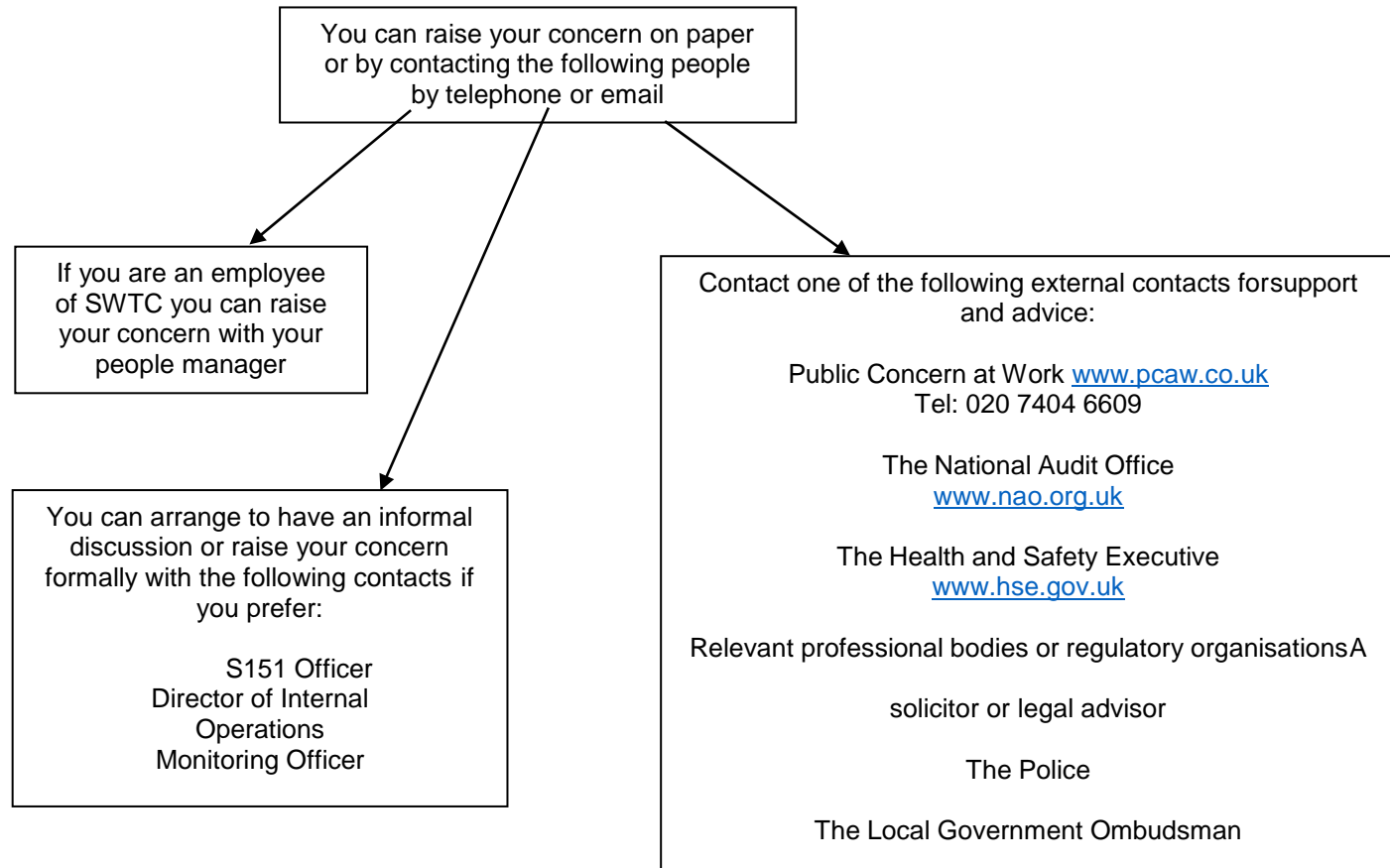
- 9.3 If you do take the matter outside the Council, you need to ensure that you do not disclose information where you owe a duty of confidentiality to persons other than the Council (e.g. service users) or where you would commit an offence by making such disclosures. This is something that you would need to check with one of the officers listed in “How to Raise a Concern” at the end of this Policy document.

10.0 The Role of the Monitoring Officer

- 10.1 The Monitoring Officer is responsible for ensuring that the Council adheres to this Policy. Their contact details are documented in this policy should you have any concerns with it. The Monitoring Officer is also responsible for reporting to the Council on any findings of improper or unlawful conduct following an investigation.

SWT Council Whistleblowing Policy

How to Raise Your Concern



SWT Council Whistleblowing Policy

How We Will Respond to Your Concern

