

ANTI-FRAUD AND CORRUPTION, WHISTLE-BLOWING AND ANTI-MONEY LAUNDERING

Cabinet Member Cllr Peter Hare-Scott
Responsible Officer Audit Team Leader

Reason for Report: To present the Committee with the reviewed and updated Policies for Anti-Fraud & Corruption, Whistle-blowing and Anti-Money Laundering.

RECOMMENDATION(S):

1. That the Committee approve the amendments to the Anti-Fraud & Corruption, Whistle-Blowing & Anti-Money Laundering Policies
2. Give the Audit Team Leader delegated authority to make minor amendments to these policies e.g. changes to job titles
3. Agree to review these policies every four years meaning that the Committee will next review them in 2018 unless there are any major changes

Relationship to Corporate Plan: These policies support good governance arrangements enabling confidence in our delivery of the Corporate Plan.

Financial Implications: Not having these documents could result in not detecting fraud, corruption or financial irregularities, which could result in a loss to the Council.

Legal Implications: Any legal requirements are embedded in the policies no new or additional implications arise.

Risk Assessment: Without these Policies the Council is at risk of not detecting fraud, corruption or financial irregularities, which could result in significant loss to the Council and damage its reputation.

1.0 Introduction

- 1.1 Several years ago the Council had an overreaching Anti-Fraud, Bribery and Corruption Strategy; this has been updated and appears at Appendix A.
- 1.2 The Council's Policies underpinning this; Whistle-blowing (Appendix B) and Anti-Money Laundering (Appendix C) were last reviewed and updated by the Audit Committee in September 2011.
- 1.3 Once again this year there are only minor amendments required; these changes are highlighted on the attached policies. As a result we have made the recommendations at 2 and 3 above.

2.0 Relationship with Corporate Governance

- 2.1 The Council demonstrates its commitment to good governance through the adoption of a Code of Corporate Governance. The Council's Code is based upon best practice as recommended by CIPFA/SOLACE Core Principles. Core Principle 3 – *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour* includes the adoption of policies relating to Anti-Fraud & Corruption and Whistle-blowing.
- 2.2 The Audit Commission's report on 'Protecting the Public Purse: Local Government fighting fraud' makes reference to it being good practice to have an Anti-Money Laundering Policy which is actively publicised to staff.

3.0 Conclusion

- 3.1 It is essential to have these documents in place to promote good governance and accountability within Mid Devon District Council.

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Circulation of the Report: Cllr Peter Hare-Scott and Management Team

MID DEVON DISTRICT COUNCIL
APPENDIX A
ANTI-FRAUD, BRIBERY AND CORRUPTION STRATEGY
DECEMBER 2014

1.0 Introduction

- 1.1 The purpose of this strategy is to make clear to Members, employees, the general public and other bodies, Mid Devon District Council's approach to fraud and corruption.
- 1.2 MDDC 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 has adopted the seven Nolan principles of public life governing conduct, which are:
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 1.5 The Council is committed to an effective anti-fraud and corruption strategy, which is designed to:
- Encourage prevention
 - Promote detection
 - Identify a clear approach for investigation

2.0 Culture

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

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- 2.3 Employees may report such matters to their managers or supervisors or to MDDC's Internal Audit Service. 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.
- 2.4 Members and the public may report any concerns to the Monitoring Officer, the Chief Executive or again to MDDC's Internal Audit Service. Requests for confidential treatment will be honoured. Members of the public can also make complaints through the Council's Complaints Procedure.
- 2.5 Internal Audit is responsible for the initial receipt and investigation of any allegations of fraud or corruption received and does so through clearly defined procedures and standards.

3.0 Prevention

- 3.1 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.
- 3.2 Members are required to adhere to the Members' Code of Conduct, to be found in the Constitution, which has been formally adopted by MDDC. 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.
- 3.3 Similarly, all employees are bound by the requirements of the Code of Conduct for Employees. Employees are required to declare non-financial interests that they consider could bring about conflict with the authority's interests. MDDC employees are also expected to follow any code related to their professional role and qualifications.
- 3.4 As a general rule, all Members and Officers of the Council are advised to refuse any offers of gifts or hospitality, which might be considered to be related to the performance of their duties in relation to the Council. The exceptions to the rule are modest items up to £10 per item. Personal gifts to employees with a value of more than £10 must be recorded in the Register of Hospitality and Gifts held by the Monitoring Officer. Members are required to notify the Council's Monitoring Officer of any gift or hospitality over the value of £25.

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- 3.5 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.
- 3.6 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 Regulations for adoption by the Council.
- 3.7 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.

4.0 Detection and Investigation

- 4.1 The Council, through its Internal Audit Section and Housing Benefits Fraud Investigation Team, undertakes specific tests or initiatives to detect fraud, such as the data matching as part of the National Fraud Initiative (NFI)
- 4.2 As already mentioned, the Council would expect employees, in support of its policy, to report matters of genuine concern to their managers or supervisors.
- 4.3 Despite the best efforts of financial managers and auditors, frauds are sometimes discovered by chance or whistle-blowing and, as indicated earlier, the Council has arrangements in place to enable such information to be properly dealt with.
- 4.4 The Council's Disciplinary Procedures are used where any investigation indicates improper conduct on the part of staff.
- 4.5 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.
- 4.6 The Council expects the Police to independently prosecute offenders where financial impropriety is discovered.

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5.0 Training

- 5.1 MDDC recognises the continuing success of its Anti-Fraud, Bribery and Corruption Strategy, and its general credibility, depends largely on the effectiveness of programmed training and the responsiveness of staff throughout the Council.
- 5.2 To facilitate this there is an induction process as well as on-going training and development to ensure that employees' responsibilities and duties are regularly highlighted and reinforced.
- 5.3 As one of the internal mechanisms for investigating allegations of fraud and corruption Internal Audit Service staff and others are also properly and regularly trained in this area of work.

6.0 Policies

- 6.1 The Whistle-blowing and Anti-Money Laundering Policies are on the Internal Audit pages of SharePoint and MDDC's website. See also the Financial Regulations, section 18 in particular, on the Finance pages of SharePoint and the website.

Whistle-blowing Policy 2014



1.0 BACKGROUND

- 1.1 All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice and-or similar wrongdoings, it can be difficult to know what to do.
- 1.2 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling that it is none of your business or that it is only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to next.
- 1.3 Mid Devon District Council has introduced this policy to enable you to raise your concerns about such malpractice-matters at an early stage and in the correct way. We would rather that you raised the issue when it is just a concern rather than wait for proof. If something is troubling you, which you think we should know about or look into, please use this policy. The Whistle-blowing Policy is primarily for concerns where you have a reasonable belief that the interests of others or of the organisation itself are at risk.
- 1.4 This policy applies to:
- Staff employed by the Council
 - The Council's contractors and sub contractors
 - Agency staff
 - People on work experience placements with the Council
 - Homeworkers
 - Individuals undergoing training
- 1.5 In a number of cases other policies will be more appropriate including:
- Members (refer to the Members Code of Conduct & Monitoring Officer)
 - Issues relating to poor performance (Capability Policy)
 - Grievance against the Council arising directly from employment and/or working practices of the Council (Grievance Policy)
 - Standards of Conduct in the workplace (Disciplinary Policy)

2.0 WHAT IS MALPRACTICE?

- 2.1 Malpractice can include any of the following:
- Fraud, corruption or financial irregularities

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- Breaches of health & safety and dangerous practices (to the public or employees)
- The physical, mental or sexual abuse of clients
- Serious damage to the environment
- Failure to comply with a legal obligation
- Any other illegal or criminal conduct
- Sexual, racial, physical or verbal harassment of others
- Breaches of data/ information security

2.2 You may not be certain that the 'wrongdoing' is definitely malpractice because it is not mentioned in the above list. The Council does not expect you to be able to prove malpractice. That is the Council's responsibility. But if the concern is enough that you feel the need to mention it to family, friends or a colleague in confidence, the Council wants to know about it. If in doubt, please raise it.

3.0 WILL MY IDENTITY BE KEPT CONFIDENTIAL?

3.1 It is in ~~the Council's~~MDDC's interest that concerns are raised so we can put them right and we will protect workers who voice concerns, this includes protecting the confidentiality of the worker. However, you should be aware that if a concern is to be investigated, you will be asked to provide information and your identity may have to be disclosed. If this is the case, you will be informed in advance and the Council will make sure that you are given support and protection. The Council will work to ensure that only those involved in the investigation are aware of your identity.

3.2 The Council wants people to give their name when making an allegation so that we can check the facts and make sure that the individual has reasonable belief of 'wrongdoing' and that they have acted in ~~good faith~~the public interest by raising this concern and that it is not merely malicious or mischievous. If you feel unable to give your name this should not stop you reporting your suspicions. Anonymous allegations will be considered but will be much more difficult to investigate. All documentation relating to the concern raised will be kept confidential and in a secure place.

4.0 WILL I BE PROTECTED FROM VICTIMISATION?

4.1 It can be difficult for workers to raise concerns and the Council will provide support for those that do. We will not tolerate victimisation-bullying or harassment of those who raise genuine concerns and will treat these actions as a serious disciplinary offence.

5.0 WHAT HAPPENS IF A MALICIOUS ALLEGATION IS MADE?

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5.1 If the Council believes that you made an allegation frivolously, maliciously or for personal gain you will face disciplinary action.

6.0 WHAT WILL HAPPEN IF MY CONCERN IS NOT UPHeld?

6.1 You may raise a genuine concern that is not upheld by an investigation. In such circumstances you will be thanked for raising your concerns. No action will be brought against you. You will continue to be protected against [harassment/victimisation](#).

7.0 WHO CAN I RAISE A CONCERN WITH?

7.1 This will often depend on the nature of the allegation and how serious it is. Normally you should raise any issues with your immediate line manager. If however, you feel that the matter cannot be resolved by talking to your line manager you can speak to your Head of Service or Service Manager.

7.2 If you do not feel able to contact any of these people you can talk to any one of the Council's designated Whistle-blowing Advisers who are responsible for making sure that an enquiry is made into all concerns raised. These are:

Amy Tregellas, Head of Communities & Governance, ext 4246
 Catherine Yandle, Audit Team Leader, ext 4975
 Suzanne Kingdom, Auditor, ext 4236
 Nicky Chandler, Auditor, ext 4237

7.3 The Council recognises that you may wish to seek advice and be represented by your Trade Union when using this policy (staff not belonging to the Trade Union may be represented by a work colleague). The Council acknowledges and endorses the role Trade Union officers can play in helping to identify concerns and alert management of these.

8.0 WHAT INFORMATION SHOULD I GIVE WHEN RAISING A CONCERN?

8.1 You should make it clear that you are raising your concern under the Whistle-blowing Policy. You should let us know your concerns as early as possible and provide as much factual information as you possibly can. This should include names, dates, places, history and why you are concerned. You should also provide your name and contact number if you feel able to do so. You can provide this information in writing if you wish, but this is not necessary.

9.0 WHAT IS THE PROCEDURE FOR INVESTIGATING A CONCERN?

9.1 The first decision to make is whether the matter needs to be investigated at all. This does not mean that your concern will be brushed aside, simply that

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there may be a simple explanation. For example, your line manager (or the person you have raised the concern with) may know that the practice is legal, or authorised, or in some way not malpractice.

9.2 If an investigation is necessary, your concerns may be:

- investigated and dealt with internally;
- referred to the Police; or
- referred to the External Auditor

9.3 An internal investigation will begin with initial enquiries. The purpose of these enquiries is to ascertain whether a detailed investigation is appropriate or necessary. If there are specific procedures in place for certain matters (for example, sexual or racial harassment), these procedures will be used as the basis of the investigation.

9.4 If requested, an initial response will be sent to your home address within ten working days, which will:

- acknowledge receipt of your concern
- tell you what initial enquiries have been made
- explain how the matter is going to be dealt with
- estimate how long it will take to give you a final response
- provide information on employee support, including alternative positions within the Council if any are available
- tell you if and why there is to be no further investigation.

9.5 If, during this time, you want to know how the investigation is proceeding or you are concerned that your identity has been deduced or that you may be being victimised, please contact one of the designated officers outlined in Paragraph 7.2.

9.6 The investigating officer will also update you regularly on the progress of the investigation, unless there are legal reasons for not doing so. If that is the case, you will be told what those reasons are.

9.7 The final response will tell you the outcome of the investigation and what action has been taken, unless there are legal reasons why we cannot provide you with this information. For example, we may not be able to give you feedback where disciplinary action has been (or is proposed to be) taken by the Council against an individual.

10.0 CAN I RAISE MY CONCERNS TO SOMEONE OUTSIDE THE COUNCIL?

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- 10.1 This policy encourages you to disclose concerns within the Council. External disclosures to other bodies should only be made in exceptional circumstances, for example, if you have already raised your concern through the Whistle-blowing Policy and feel that no action has been taken or there has been a cover up or if you reasonably believe your allegation has not been properly investigated. You are encouraged to seek advice, e.g. from your Trade Union representative or work colleague, before making an external disclosure.
- 10.2 In such circumstances workers can make disclosures to the following contact points:
- Trade Union
 - The Police
 - Public Concern at Work on 020 7404 6609.
 - Confidential Public Interest Disclosure Line at 0845 052 2646.
 - Health & Safety Executive
- 10.3 Employees of the Council have a duty not to undertake any actions that may bring the Council in to disrepute (see Officer Code of Conduct). If you do decide to report your concerns outside the Council, you must ensure you have very good reason for doing so, and you must not disclose confidential information.

11.0 RESPONSIBILITY FOR THIS POLICY

- 11.1 The Audit Team Leader has overall responsibility for the maintenance and operation of this Policy. The Policy will be reviewed and updated ~~on an~~ **annual basis** to ensure that it is both up to date and working as intended.
- 11.2 A confidential record of disclosure and its outcomes will be kept for a period of 5 years from the date all action was concluded on the matter. Reports will be made to the **Audit Scrutiny** Committee on a half yearly basis to inform them of the number of instances of Whistle-blowing and which category they fall into (from section 2.1). However, no personal details will be listed to ensure that confidentiality is not jeopardised.

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1.0 WHAT IS MONEY LAUNDERING?

- 1.1 Money Laundering can be defined as “the crime of moving money that has been obtained illegally through banks and other businesses to make it appear that the money has been obtained legally”.
- 1.2 When the Council (or any of its employees or Members) is accepting or dealing with money or other assets there is a risk that such money or assets could come from a criminal source. In the vast majority of cases this is unlikely, but everyone should bear in mind that they could contravene the law if they become aware of or suspect criminal activity and continue to be involved in the matter without reporting their concerns.

2.0 RECOGNISING MONEY LAUNDERING

- 2.1 Possible indicators of money laundering may include:
- Cash based businesses which are more likely to add criminal funds to legitimate business takings
 - Large cash receipts generally
 - A person who is reluctant to supply evidence of identity or address
 - Large overpayment of fees or money on account
 - Cancelled transactions without good reason, requiring a repayment
 - Requests to forward balances on to a third party
 - Information received about an individual which may reveal criminality or association with criminality
 - The use of over complicated financial systems or funds received from third parties
 - A buyer’s or seller’s financial profile not “fitting” the transaction they are undertaking
 - Unexplained use of an out of area solicitor/agent in relation to a property transaction
- 2.2 This list is not exhaustive but simply gives examples of when employees should consider whether their suspicions should be aroused.
- 2.3 Such circumstances should suggest to the employee that they should be asking themselves questions such as e.g. *Would I expect this individual to have this amount of cash; why do they wish to pay in cash; why is this person offering to pay more than the going rate for this item/service, etc.*

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3.0 LEGISLATION RELATING TO MONEY LAUNDERING

3.1 Legislation concerning money laundering has broadened the definition of money laundering and increased the range of activities caught by the statutory framework. The obligations 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.

3.2 There are several pieces of legislation relating to money laundering which include:

- The Terrorism Act 2000 (Amendment) regulations 2007
- The Anti-Terrorist Crime and Security Act 2001
- The Proceeds of Crime Act 2002 (Amendment) Regulations 2007
- Serious Organised Crime and Police Act 2005
- Money Laundering Regulations ~~2003 &~~ 2007
- ~~Third European Union Money Laundering Directive 2005~~

3.3 This Policy needs to be considered in conjunction with the Whistle-blowing and Anti-Fraud and ~~Anti~~ Corruption Policies.

4.0 PURPOSE AND SCOPE OF THE POLICY

4.1 The Policy aims to maintain the high standards of conduct which currently exist within ~~the Council~~ MDDC by preventing criminal activity through money laundering.

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

4.3 This policy applies to all employees (including agency staff and contractors) and elected Members. The objective of this policy is to make all employees aware of their responsibilities and the consequences of non compliance. Service Managers must ensure that all employees are aware of this policy.

4.4 An employee could potentially 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 – e.g. if they:

- Assist a money launderer
- ~~“Tip-off” a person suspected to be involved in money laundering that they are suspected or that they are the subject of police investigations~~ Knowingly prejudice a money laundering investigation

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- Fail to ~~report~~ disclose knowledge or a suspicion of money laundering
- Acquire, use ~~of~~ or possess criminal property

4.5 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 legislation can be faced with imprisonment (up to 14 years), a fine or both.

4.6 Failure by an employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Procedure.

5.0 REPORTING/DISCLOSING INFORMATION

5.1 If an employee/Member suspects money laundering then they must report their suspicions to the Audit Team Leader who is the Council's Money Laundering Reporting Officer (MLRO). In such circumstance, no money may be taken from the suspected person(s) or company until this has been done.

5.2 In the event that the Audit Team Leader is not available then the disclosure must be made to ~~the Head of Legal and Democratic Services (Monitoring Officer)~~, Head of Communities and Governance (~~Deputy~~ Monitoring Officer) or the Head of Finance (Section 151 Officer).

5.3 The employee/Member will need to supply as much information as possible to the Audit Team Leader about the individual or company concerned i.e. name, address and their reasons for suspicion. If any other employees/Members have been involved with the transaction the names of these persons should also be passed to the Audit Team Leader.

5.4 Any disclosures must be reported using the form at the end of this Policy. Upon receiving the completed form the MLRO will consider all of the admissible information in order to determine whether there are grounds to suspect money laundering. If the MLRO determines that the information or matter should be disclosed it will be reported to the UK Financial Intelligence Unit (UKFIU) which is the branch of the ~~Serious Organised National~~ Crime Agency (~~SOGANCA~~) that deals with money laundering.

5.5 No discussion with colleagues should take place regarding disclosure. Disclosures should be kept confidential. It is important to ensure that the person(s) suspected of money laundering is not "tipped off" regarding the disclosure. It is an offence to prejudice an investigation by informing anyone of the disclosure or by tampering with evidence. If found guilty there is a punishment of up to 5 years in prison.

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6.0 AFTER DISCLOSURE

- 6.1 Employees/Members making a disclosure report to the Audit Team Leader as the MLRO of the Council will be informed if a suspicious activity report is made to the UKFIUNCA.
- 6.2 No transactions can be completed where it is believed that money laundering is involved until clearance has been received from ~~either the UKFIU or the~~ SOGANCA, or seven days have elapsed since the disclosure was made to them and no instructions have been received. Employees must always check the position with the Audit Team Leader before taking any action.

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DISCLOSURE FORM TO MONEY LAUNDERING REPORTING OFFICER

Please complete and return to the **Audit Team Leader**

Details of Employee/Member	
Date of Disclosure	
Date of Event	
Name of person making the disclosure	
Job title	
Service Area	
Contact details (email address and telephone number)	
Details of Suspected Offence	
Full name of person(s) subject to inquiry <i>(include title, surname and forename)</i>	
Address	
Date of Birth	
Details of identification (if known)	
In the case of a legal entity (Company)	
Name of company	
Address of company	
Company Number (if known)	
Type of business	
VAT number (if known)	

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Any other details you have about the person(s) or company that may be relevant	
Reason for Disclosure	
Please provide an explanation of the nature of the activity and amounts. If you know or suspect what offence is being committed please provide details	
Have you discussed your suspicions with anyone else? If so, please list	
Received by Money Laundering Reporting Officer (MLRO)	
Reference	
Date	
Signature	
Print Name	

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