

CUMBRIA COUNTY COUNCIL

ANTI-FRAUD AND CORRUPTION RESPONSE PLAN

March 2008 (previous version March 2005)

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Executive Summary

Over recent years, there has been a growing awareness among local authorities of an increasing level of fraud, and the publicity given to discovered frauds. There are also indications that fraud is becoming more organised.

The aim of this Response Plan is to respond to national concerns about fraud, particularly public sector frauds, by the introduction of clear guidelines for the detection, prevention and reporting of fraud. This should be read in conjunction with the Anti-Fraud Strategy. The County Council has already responded to national concerns by participating in a data matching exercise for payroll, pensions and housing benefits organised by the Audit Commission. Listed below are a number of other factors and changes that necessitate the update of the Anti-Fraud Response Plan:

- Constant change by the Council in its Directorates' management structures
- Greater delegation for chief officers and managers
- Cash limits for service managers and the opportunity cost of fraud, i.e. less money for service provision
- The consequent dilution of traditional supervision and control measures
- Nolan Committee and the confidential reporting code (whistle-blowing)
- Increasing levels of organised fraud particularly in student awards and housing benefit (Districts)
- The national anti-fraud campaign of which this response plan forms the Council's response
- Outsourcing of services
- Increased partnership working
- The requirements of the Proceeds of Crime Act 2002, Fraud Act 2006 and Money Laundering Regulations 2007.

We all work for the public and although individual frauds rarely involve large amounts, it is the very disproportionate and long lasting damage inflicted by a small number of offenders to the good reputation and integrity of the vast majority of Council staff, which is a real issue. Preventing and reporting concerns about the possibility of misuse of cash limited public funds is a collective responsibility of all staff.

In this document several key officers are referred to :

- The Section 151 Officer is currently the Director of Finance and Central services

- The Monitoring Officer is currently the Head of Legal Services
- The HR Manager is the Directorate HR Manager.

The contents of the response plan are as follows:

Section 1	Introduction
Section 2	Fraud Response Plan
Section 3	Detection and Awareness
Section 4	Prevention
Section 5	Introduction to Council Policies and Guidelines
Section 6	Whistle-blowing Policy
Section 7	TMP Money Laundering Policy

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Section 1: Introduction to the Authority's Fraud and Corruption Response Plan

CORPORATE POLICY

The County Council has adopted an anti-fraud & Corruption Strategy in which it sets out its overall policy in respect to fraud and corruption. This clearly states that the Council is committed to establishing and maintaining a strategy for the prevention and detection of fraud and corruption and where necessary for pursuing allegations of fraud and corruption. It also outlines the Council's commitment to creating an anti-fraud culture and maintaining high ethical standards in its administration of public funds.

The County Council has also adopted a whistleblowing Policy giving staff a mechanism for reporting suspicions of fraud and corruption in the Council's activities. Although this policy protects whistleblowers from victimisation, disciplinary action may be taken against staff if it is found that they have acted frivolously, maliciously, or for personal gain.

The anti-fraud & Corruption Strategy and the whistleblowing Policy are available for viewing or download from the Council's web site.

1.1 What are Fraud and Corruption?

Prior to the Fraud Act 2006 (which came into force on 15 January 2007) there was no defined crime of fraud. Fraud was dealt with under various sections of the Theft Act 1968 and 1978. Instances of fraud committed before 15 January 2007 will continue to be dealt with under these provisions, and those from 15 January 2007 under the new offences defined in the Fraud Act 2006. The Audit Commission defines **fraud** as:

"the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain"

(Fraud Audit Manual, the Audit Commission)

1.1.1 These records can include travel claims, petty cash vouchers, or claims for Items of Service from independent contractors. It should be noted that fraud does not include misappropriation or petty theft without the distortion of financial statements or other records.

1.1.2 **Corruption** is defined as:

"the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action a person to act against the interests of the organisation"

(Fraud Audit Manual, the Audit Commission)

1.1.3 International Standard on Auditing 240 is now concerned with fraud that causes material misstatement through fraudulent financial reporting.

1.1.4 A broader definition has been developed by the Law Commission in its report on fraud (July 2002): -

Any person who, with intent to make gain or to cause loss or to expose another to risk of loss, dishonestly: -

- i) Makes a false representation, or
- ii) Fails to disclose information to another person which,
 - a) He or she is under a legal duty to disclose,
 - b) Is of a kind which the other person trusts him or her to disclose, and is information which in the circumstances it is reasonable to expect him or her to disclose, or
- iii) Abuses a position in which he or she is expected to safeguard, or not to act against, the financial interests of another person or of anyone acting on that person's behalf.

The offence of obtaining services dishonestly would be committed where, with intent to avoid payment, a person by any dishonest act obtains services in respect of which payment is required. Deception is not an essential element of the offence. It would therefore extend to the obtaining of services by providing false information to computers and machines.

1.1.5 Under the Fraud Act 2006 the following offences (all involving the purpose of gaining personally or causing loss to another) are defined:

Fraud by false representation – *knowingly saying, writing or electronic communication of anything untrue or misleading or conduct that misleads.*

Fraud by failing to disclose information – *failing to disclose to another, information that is legally required.*

Fraud by abuse of position – *applies to those abusing positions where they are expected to safeguard the financial interests of another person.*

The Act also introduced new offences:

- Possession etc. of articles for use in frauds
- Making or supplying articles for use in frauds
- Participating in fraudulent trading
- Obtaining services dishonestly.

1.2 Why Do We Need To Worry About Fraud And Corruption?

1.2.1 Standards of financial administration in Cumbria have always been high. Even though the vast majority of people working in the County Council are honest and diligent, the Authority cannot be complacent. Nationally risks are high in certain areas, for example in:

- Items of Service claims from independent contractors;
- Contractual claims;

- Payroll, overtime and expenses;
- Supplies of goods and services;
- The handling of cash;
- Benefits/Awards;
- Where budgets have been devolved and freedom is given to managers.

1.2.2 Nationally, organised crime is taking place. Criminals do not need to live in Cumbria, they can make use of post office box numbers to divert their ill-gotten gains.

1.2.3 In addition, control and monitoring arrangements often need review and strengthening, for example in:

- The authorisation of expenditure;
- Comparative expenditure and income data;
- The approval of expense claims.

1.2.4 In liaison with internal and external auditors, systems are constantly reviewed and tightened up. For example, authorisation procedures are continually reviewed.

1.2.5 Chief Officers' and their managers hold prime responsibility for the operation of adequate and effective internal controls to ensure secure and reliable operation of systems and the prevention, detection, reporting of irregularity and/or fraud (Financial Regulation C29).

1.3 Why Do We Need A Fraud And Corruption Response Plan?

1.3.1 The prevention of fraud, and the protection of the public purse is:

Everybody's Business

1.3.2 It is important that all staff know:

- Where to look for fraud;
- How to prevent it;
- What to do if they come upon fraud.

1.3.3 This strategy addresses these three problems, and in particular it provides information to staff at any level who come upon behaviour either internal or external to the Authority which they think may be fraudulent or corrupt.

1.3.4 The purpose of this response plan is to define authority levels, responsibilities for action, and reporting lines in the event of a suspected fraud or irregularity. The use of the plan should enable the Authority to:

- Prevent further loss;
- Establish and secure evidence necessary for criminal and disciplinary action;
- Recover losses;
- Punish the culprits;
- Review the reasons for the incident, the measures taken to prevent a recurrence, and any action needed to strengthen future responses to fraud;

- Keep all personnel with a need to know suitably informed about the incident and the institution's response;
- Inform the police;
- Assign responsibility for investigating the incident;
- Establish circumstances in which external specialists should be involved;
- Establish lines of communication with the police.

1.4 Content Of Fraud And Corruption Response plan

1.4.1 Section 2 of this document (Fraud and Corruption Response Plan) details what to do if you, or any member of staff, comes upon behaviour, or finds documents, that they think may constitute fraud.

1.4.2 Section 3 of the Strategy (Fraud and Corruption Detection and Awareness) advises on fraud awareness, and what to look for.

1.4.3 Section 4 (Fraud Prevention) gives practical advice on how to prevent fraud.

1.4.4 Section 5 (Introduction to Policies and Guidelines) explains how the fraud and corruption response plan fits into the overall Authority approach on probity and policies.

1.4.5 The Fraud and Corruption Strategy should be read in conjunction with the Whistle-blowing Policy, which is included in the Council's Constitution and available on the Intranet (<http://www.intouch.ccc/>)

1.4.6 Section 7 reproduces the Council's Money Laundering Policy.

1.4.7 A separate paper, "Corporate Advice on Employment and Legal Matters", offers further advice, and is available from Legal Services.

1.4.8 (Regulation of Investigatory Powers Act 2000) offers guidance on compliance with the Act, and sets the procedure to be followed when wishing to carry out surveillance. See <http://www.intouch.ccc/>

1.4.9 If you have any concerns about fraud whatsoever, do talk to your line manager. Alternatively, you may wish to talk to the

- Head of Management Audit.
- Audit Managers
- You may be concerned about the behaviour of a member of staff, in which case you may prefer to go to your HR Manager who will then involve the internal auditor and the Section 151 Officer.
- Head of Trading Standards.
- Alternatively, you may contact the Fraud **Hot line number which is a** free phone hotline number on **0800 389 2330**. Any concerns will be logged and passed on to the appropriate person. Please note that this number should be used for reporting genuine cases of the suspicion of irregularities only and not for reporting issues that should be addressed through routine management processes. For example, if there concerns over the payment of an invoice, it may be appropriate to address this matter with the contractor in the first

instance, so that any attempts at an irregularity are stopped immediately, through rigorous monitoring

- 1.4.10 It is important that you do not try to carry out the investigation yourself, without expert advice and assistance. However, this does not prevent you from carrying out routine monitoring of the activities you manage, since this may be important evidence at a later stage. A badly managed investigation may do more harm than good and there are a number of internal and external processes which have to be followed to yield a satisfactory conclusion.

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Section 2: The Authority's Fraud and Corruption Response Plan

2.1 Introduction

2.1.1 Suspicion of fraud or irregularity may be raised through a number of means, including the following:

- Requirement on all personnel under financial regulations to report fraud or irregularity;
- Public interest disclosure procedure (whistle-blowing policy);
- Planned audit work;
- Operation of proper procedures.

2.1.2 There are a number of facets to the management of a suspected case of fraud, which may involve officers from a number of disciplines, including audit, finance, human resources, trading standards and police. Additionally there are a number of specific legislative requirements. Therefore, it is vitally important that the response plan is followed by all concerned in order to ensure that the situation is handled professionally and to safeguard against the case being compromised. Once fraud or corruption is suspected, there are four immediate issues to be addressed:

- the proper internal investigation of the matter;
- what action, if any, should be taken in relation to the officer concerned;
- the facilitation and management of the investigation; and subsequently
- whether to involve the police and if so at what stage.

2.1.3 It is important that all investigations are conducted promptly.

2.2 Requirements of The Financial Regulations and Overview of Response

2.2.1 The Financial Regulations require that awareness or suspicion of "fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources" is reported to the Section 151 Officer. However, other contact numbers are available, as outlined in the whistleblowing policy, and via the hotline number.

2.2.2 The Section 151 Officer will then determine, after consultation with appropriate staff, what action should be taken. This could be the resolution of the issue within the Directorate, or a full investigation. If the Director of Finance and CS determines that an investigation should be carried out, an investigation team will be identified. This team will normally comprise of the Counter Fraud Officer/Head of Management Audit, a nominated HR Manager, the Operational Manager (or nominated deputy). In addition, it may be appropriate to call on technical experts, such as Trading Standards. Additionally, the Counter Fraud

Officer/Head of Management Audit will liaise with the Council's Monitoring Officer.

- 2.2.3 The Investigating Team will be responsible for the proper investigation of the matter, with reference to all relevant legislation.

2.3 **Initial Action**

2.3.1 If you have any suspicions whatsoever that a fraud is taking or has taken place, then the first step is to formally raise this concern. Normally this should be raised with your line manager or Chief Officer or you can use the hotline number **0800 389 2330**. If the suspect is your line manager, you may wish to discuss it with another senior manager in your organisation or talk to your Chief Officer. Alternatively, you may wish to go directly to the Head of Management Audit, the Counter Fraud Officer or any internal auditor or your HR Manager. Any of these alternatives are acceptable. Whichever path you choose, and this will depend on the scale of the problem and whom you as an individual feel most comfortable talking to, **do this immediately**. Do not try to solve the problem yourself. At this stage, do not inform the police.

2.3.2 You should avoid discussing your suspicions with anyone other than the officer with whom you formally raised the issue.

2.3.3 The officer that you raised the issue with should ensure that the matter is reported confidentially to the Section 151 Officer and the Management Audit Unit.

2.3.4 Care should be taken, by any both officer who suspects fraud, and any officer to whom this suspicion is reported, to retain any evidence and make immediate note of the issues and concerns. All records relating to the issue under investigation should be secured as soon as suspicions arise to ensure they are not destroyed or amended.

2.3.5 Do not investigate or interview staff (or private contractors): this will be done as necessary by the staff from Management Audit, or directly by the police if appropriate. The requirements of the Criminal Procedure and Investigations Act 1996 will apply to any such interviews, so it is vital that any staff conducting interviews are aware of these requirements to ensure that the investigation is not jeopardised.

If you are in a position where you must interview staff, it is not necessary to continue to question an individual beyond the point where it becomes evident that there are grounds to suspect him/her of an offence. To proceed beyond this stage requires a formal caution before questions can be asked for the purpose of obtaining evidence, which may be given to a court in a prosecution. The exact wording of the caution is as follows:

" You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence". **THIS SHOULD BE AVOIDED AND LEFT TO THE POLICE OR AN AUTHORISED CRIMINAL INSPECTOR.**

2.3.6 Where in accordance with the appropriate disciplinary procedure a member of staff is to be suspended pending investigation, secure his/her desk, filing

cabinets etc., and retrieve all office keys etc. so as to ensure further access is denied.

2.3.7 Await further direction from the investigating team.

2.3.8 Any initial concerns and discussions you may have will be treated sensitively and in complete confidence, and you must not be afraid to raise them. There may be a perfectly good reason for whatever you are concerned about. If this proves to be the case, then no further action will be needed and at least your concern will have been aired.

2.3.9 Staff raising concerns in good faith are protected by the provisions of the Public Interest Disclosure Act 1998. This is covered in more detail in the Whistle-blowing Policy, which forms part of the Council's Constitution and is available on the intranet.

2.4 Referral to the Police

2.4.1 Investigations will try to establish at an early stage whether it appears that a criminal offence has taken place. This will shape the manner in which the investigation is handled and determine the likely outcome and course of action.

2.4.2 Where initial investigations point to the likelihood of fraud or corruption for sums of more than a nominal amount set by the Head of Management Audit and subject to consultations with the Section 151 Officer, Cumbria Police will be contacted with a view to determining whether they wish to conduct their own criminal investigation. Where the Police decide to take action Head of Management Audit will liaise closely with them to ensure that there is no possibility of Head of Management Audit investigation work compromising the criminal investigation.

2.5 Fraud Management Process

2.5.1 A flowchart illustrating the process is included on page 18. This will help you understand how the process works.

2.5.2 The process is co-ordinated by an "Investigating Team", comprising (depending on the scale and the nature of the issue) some combination of the:

- Internal audit staff (Management Audit Unit)
- Nominated HR Manager (if an internal situation).
- Operational Manager (or nominated deputy)
- Technical Staff, e.g. Trading Standards, where appropriate.

The Head of Management Audit will liaise with the Monitoring Officer.

2.5.3 There are three distinct aspects that the Investigating Team will manage:

- Issues concerning members of staff or independent contractors
- The actual investigation
- The external environment

2.6 Surveillance

2.6.1 The Regulation of Investigatory Powers Act 2000 imposes certain conditions should surveillance be necessary.

2.6.2 The Act covers:

- Interception of Communications;
- Surveillance and covert Human Intelligence sources (informers);
- Directed Surveillance;
- Intrusive Surveillance;
- The conduct and use of covert Human Intelligence sources;
- Investigation of Electronic Data protected by Encryption.

2.6.3 Surveillance should not be carried out unless authorised by Head of Legal services, Head of Trading standards or Head of Management Audit. Communications work can only be carried out by Trading Standards.

2.6.4 Surveillance has to be justified in accordance with the conventions of the Human Rights Act 1999

- The grounds on which the authority is sought;
- Consideration of why directed surveillance is proportionate to what it seeks to achieve;
- The identity or identities, where known, of those to be the subject of directed surveillance;
- Any potential collateral intrusion (the impact on third parties);
- Details of the action authorised;
- Details of the investigation or operation;
- The likelihood of acquiring any confidential material.

2.7 Physical evidence

2.7.1 The Head of Management Audit/Counter Fraud Officer will take control of any assets, documents, records and correspondence, which may be relevant to the investigation. Physical evidence will be either secured on site or removed and retained by Head of Management Audit/Counter Fraud Officer for examination. Where it is necessary to remove property for audit purposes, a Retention of Property form detailing all records taken away from the premises will be completed and a copy given to management.

2.8 Electronic evidence

2.8.1 If the Head of Management Audit/Counter Fraud Officer suspects that computers, storage media, mobile phones, blackberries and the like may contain information pertinent to the investigation then these computers or media will be quarantined and evidentially sound copies created for analysis. Where necessary, I.T Section of the Finance Directorate and will be involved.

2.9 Issues Concerning Staff Members Or Independent Contractors

2.9.1 **Staff**

The Council's Staff Code of Conduct and Anti-Fraud & Corruption Strategy both require all staff to report any suspicions of theft, fraud or corruption to enable a proper investigation into the circumstances to be undertaken. If a member of staff does not feel comfortable speaking to their line manager, the Strategy incorporates a list of both Head of Management Audit and external contacts that they may wish to refer their concerns to.

2.9.2 Line and other managers

If a member of staff raises a concern regarding financial malpractice then the details must be passed immediately to the Head of Management Audit for consideration of appropriate action. Managers should only establish the basic facts of the suspicion and should not attempt to carry out any investigation themselves.

2.9.3 Members

All Council Members have a duty under the Council's Members' Code of Conduct and the Anti-Fraud & Corruption Strategy to report any instances of improper conduct. The Strategy incorporates a list of both Head of Management Audit and external contacts that they may wish to refer their concerns to.

2.9.4 Throughout the investigation, your nominated HR Manager and Monitoring Officer will provide advice to all parties, including the operational managers, on any issue concerning staff.

2.9.5 It should be noted, however, that the Authority's Disciplinary Procedure is very clear regarding the standards of behaviour expected of employees. The Authority's Code of Conduct and Disciplinary Policy also gives examples of disciplinary action that may be taken in the event of those rules being broken. Officers should also be familiar with the "Officer's Code of Conduct", which is included in the Constitution.

2.9.6 Examples of behaviour that could lead to disciplinary action include:

- False entries in attendance records such as flexi sheets;
- Breaches of confidentiality regarding information;
- Failure to declare a direct pecuniary or otherwise conflicting interest.

2.9.7 In addition, the category of gross misconduct for which summary dismissal applies if proven include:

- Theft and unauthorised borrowing (that includes theft of intellectual property);
- Fraud, including deliberate falsification of payment, travel claims, time or financial records;
- Corruption.

2.9.8 The attention of all staff must also therefore be drawn to the Disciplinary Rules and Procedures. These procedures are available on the Council's intranet site at <http://www.intouch.ccc/handbook/hrtoolkit/toolkit.asp>

2.9.9 It is possible that staff who are under investigation may have to be **suspended immediately**, although there may be situations where further evidence may be needed. Any suspensions, however, must be carried out by the appropriate Operational Manager who is the only individual authorised to make that decision. Any decisions regarding staff will also be made in conjunction with the Head of Legal Services and must be in accordance with Authority's procedures and policies.

2.9.10 Because any investigation about fraud will invariably focus on the actions of individual members of staff or independent contractors:

<p>It is important that the Monitoring Officer is involved in any decision concerning staff.</p>
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2.9.11 The nominated **HR Manager** will advise on issues such as:

- Liaison with Trade Unions;
- Management of staff, suspended under suspicion, but who are subsequently reinstated;
- Provision of references to prospective employers for staff who have been investigated;
- Dismissal of staff found guilty.

2.10 Management Of The Investigation

2.10.1 Provided that the Head of Management Audit is satisfied that sufficient concern or evidence exists to indicate that a fraud may have been committed against the Council, the Investigating Team will manage the investigation. It is probable that the investigation will be performed by the internal auditors and led by the Council's Counter Fraud Officer. However, there could be circumstances where the assistance of the external auditors may be requested, or a member of staff with key skills.

2.10.2 The Counter Fraud Officer/Head of Management Audit has access to the Police Economic Crime Unit at Carleton Hall, Penrith, who can be consulted at an early stage to provide informal advice on the conduct of the investigation.

2.10.3 The Investigating Team will agree the terms of reference, its scope of operations and an initial time allocation with specific monitoring points.

2.10.4 The internal auditors will perform the investigation in accordance with best practice as laid down in the Internal Audit Code of Practice and International Standards of Auditing.

2.10.5 The Counter Fraud Officer/Head of Management Audit will report back to the appropriate Operations Manager at the agreed points or earlier, should the results of the investigation dictate. This Team will make decisions regarding:

- Involvement of the police;
- Action to be taken (if any) against the suspected perpetrator;
- Communications with external bodies;

- Proposed action regarding recovery of losses;
- The level of any additional routine or ad hoc investigations required in related areas;
- Producing and issuing of reports.

2.11 Outcome of investigations

- 2.11.1 Head of Management Audit will produce and issue an investigation report that provides management with their findings and recommendations. It is management's responsibility to take further action. If disciplinary action is warranted then the Council's Disciplinary Procedures will be invoked at the earliest opportunity.
- 2.11.2 These include the appointment of an Investigating Officer and a Nominated Officer to hear the evidence and make the final decision in the case. Disciplinary procedures will normally begin after an audit report recommends that disciplinary action should be taken against a member of staff.
- 2.11.3 However, there may be circumstances, due to the nature of the allegations, where capability and disciplinary procedures run alongside the audit investigation and the audit investigation effectively is the capability and disciplinary investigation.
- 2.11.4 Audit investigations into the conduct of Members will be reported on to the Director of Organisational Development and the Council's Monitoring Officer, who will determine what further action to take.
- 2.11.5 Any weaknesses in the system of controls will be identified in the audit report and recommendations will be made advising management as to how the controls can be improved to prevent any recurrence of fraud or corruption.
- 2.11.6 The Council will normally seek to recover the losses incurred as result of fraud, and corruption; this will include taking appropriate legal action if necessary. Where the Council has suffered loss as a result of fraud, or corruption by an employee the Council may be entitled to have recourse to his/her accrued pension rights to make good the loss.
- 2.11.7 The Council's Insurance Officer (located in the Exchequer Function) should be informed as soon as possible of the loss. Where it is possible to do so, details of the case should be given together with some indication of the likely loss and what recovery action is being attempted. This information has to be passed to the Council's insurers promptly to keep open the possibility of making a claim.
- 2.11.8 Making claims under the Council's insurance arrangements in fraud, and corruption cases should be regarded as a "last resort", and only be instigated once all other avenues or recovery have been fully explored. Receipt by the Council of a payment from its insurers does not protect offenders from civil recovery proceedings, e.g. by the insurers.

2.11.9 If anyone under investigation offers money in settlement of any losses to the Council, it should be made clear that any monies offered will only be accepted: -

without prejudice to any other action the Council may wish to take; that acceptance is only in respect of losses (including any interest on loss) identified to date and that the Council reserves the right to seek recovery of any further losses that may come to light in the future.

2.11.10 In addition wherever possible the Council will seek to recover any financial loss incurred from individuals or organizations responsible.

2.12 Management Of External Affairs

2.12.1 Dependent on the size of the fraud and the extent of the investigation, the Investigating Team in conjunction with the [Monitoring Officer](#) will consider whether to:

- Involve the police;
- Whether to consult the Media Manager;
- Involve the service committee/ senior elected members.

2.12.2 Individuals involved in the investigation must not take decisions alone to involve external organisations. These decisions must lie with the main Team since any ill-thought-out or spontaneous comments/acts may jeopardise the whole investigation.

2.12.3 The Authority has a policy for managing external communications, (particularly in crisis situations) and this work must always be carried out by the Media Manager.

2.13 Witness Support

2.13.1 The County Council appreciates that fraud investigations may place witnesses in a stressful situation, both during the course of the investigation and during any subsequent disciplinary or court appearance where they may be required to give evidence. The County Council will attempt to support witnesses, in accordance with the following principles as discussed below:

2.13.2 Support at Work

In serious circumstances, the County Council would consider redeploying managers or witnesses where a difficult relationship would result out of allegations being made. If circumstances result in a member of staff being suspended then tensions may be temporarily eased.

2.13.3 Support at a Disciplinary/Court hearing

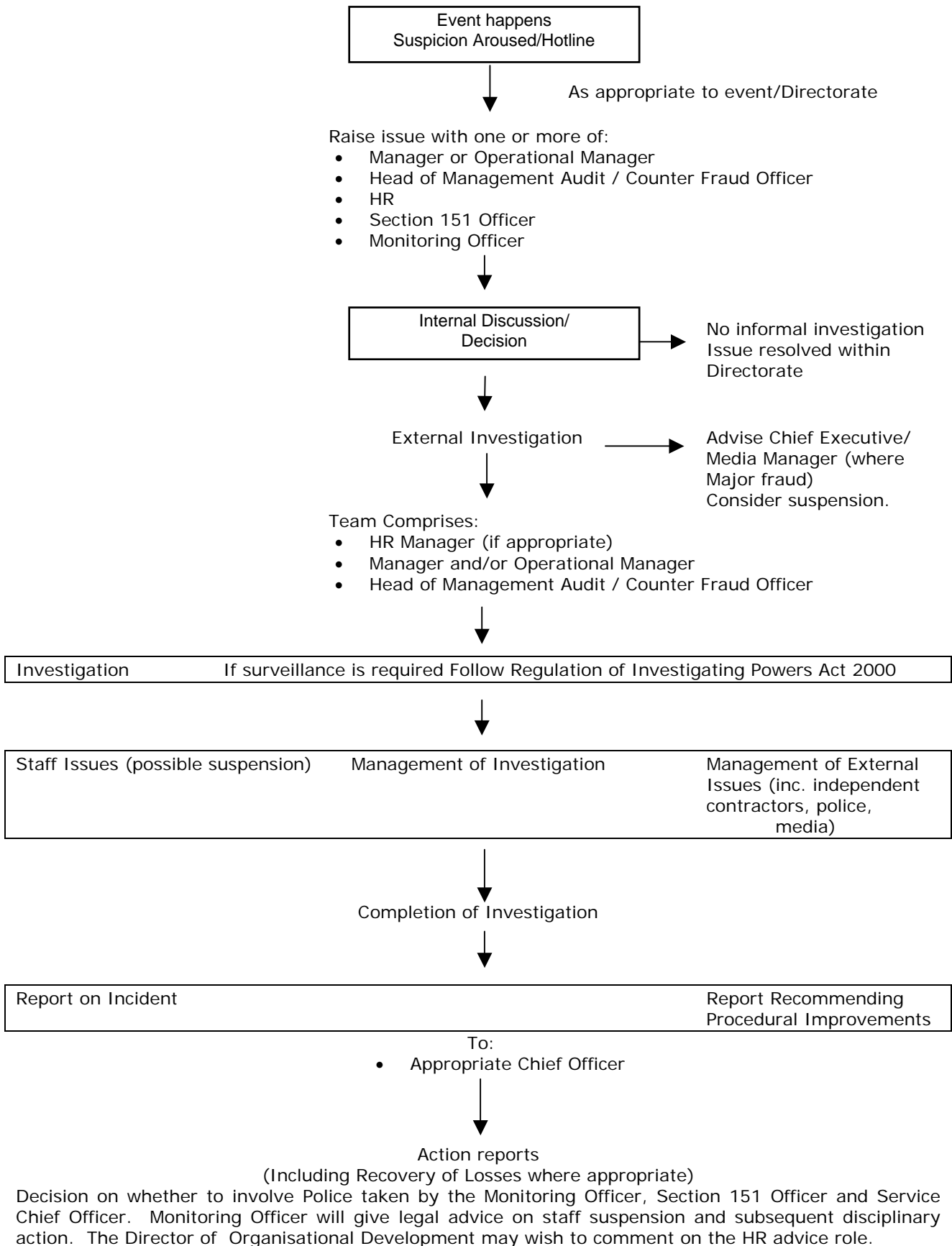
Crown courts have their own Witness Support Scheme. However, if a witness was appearing at a disciplinary or a Court hearing, then an independent representative from Capita would be available for a confidential counselling service. The witness's trade union representative may also be available to help in such situations.

2.14 Review of Fraud Response Plan

2.14.1 This plan will be reviewed for fitness of purpose at least annually and after each use.

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OUTLINE OF FRAUD MANAGEMENT PROCESS



Section 3: Fraud and Corruption - Detection and Awareness

3.1 Introduction

3.1.1 This section aims to give practical advice and information to managers who are likely to be responsible for areas where fraud or corruption may occur. It gives hints regarding what signs to look for which indicate that fraud or corruption may exist, provides specific examples of frauds that have taken place and provides guidance as to what action to take if fraud is suspected.

3.2 Where Might Fraud Happen?

3.2.1 Quite simply, fraud can happen wherever staff or independent contractors complete official documentation and can take financial advantage of the Authority. The risk of fraud is enhanced where staff or contractors are in positions of trust or responsibility and are not checked or subjected to effective monitoring or validation. Consequently, the following areas are particularly susceptible to fraud:

- Claims from independent contractors / outsourced contracts
- Travel and expense claims
- Cash receipts/petty cash
- Payroll
- Ordering (For example, unauthorised order or falsification of order)
- Stocks and assets (especially, portable/attractive items)

3.3 Examples Of Fraud

3.3.1 *Claims for Items of Service payments:*

- Claiming for services not performed
- Claiming for a higher level of service than that performed
- Duplicate claim for service previously paid for

3.3.2 *Contracts:*

- Falsified contractual claims for delays in contract work
- Irregularities in tendering
- Claims for work not performed
- Bogus invoices submitted

3.3.3 *Travel claims:*

This is a most difficult area to control. Due to staff travelling alone and the volume of journeys and numbers of staff claiming, it is extremely difficult for management to check and validate the claims being made. The most common frauds in this area are:

- False journeys claimed
- Mileages inflated
- Unnecessary journeys undertaken

- 2 officers claim for a journey taken together
- Claiming first class travel but taking second class
- Hire of car not used for official purposes

3.3.4 **Expense claims:**

There are numerous claims that can be made, such as training expenses, removal expenses, subsistence claims etc. The examples of fraud in this area generally fall into the following categories:

- False or inflated claims made
- Claim submitted to the Authority and a third party
- Excessive/inappropriate expenses claimed

3.3.5 **Cash receipts:**

Cash can be collected by staff in a variety of situations and is a high-risk area for obvious reasons. The main problems are:

- Accepting cash without receipting or declaring it
- Altering documentation to disguise the theft of cash
- Teeming and lading (e.g. substituting cheques received, but not recorded, for cash received)

3.3.6 **Petty cash:**

Petty cash is usually held in a limited number of authorised locations at a specified level, e.g. £100. The responsibility for managing the “float” is usually vested in one person, but the following problems can arise:

- Reimbursement sought for receipted, but inappropriate expenditure
- Vouchers/receipts submitted, no expenditure made
- Borrowing from fund

There are some large imprest accounts held at County Council establishments

3.3.7 **Payroll:**

The major payroll frauds are most likely to occur with respect to new starters and with leavers. However, some fraud areas exist:

- Erroneous or “ghost” employees introduced onto the payroll, the salary being paid to the perpetrator
- A leaver not being taken off the payroll and the salary payment being diverted to the perpetrator
- Hours worked over-stated to take advantage of flexi-time or over-time arrangements
- Claiming for work not performed
- Receiving payment from another organisation during normal working hours when paid by Cumbria County Council

3.3.8 **Ordering:**

This is an area that is open to corruption as well as fraud, but the number of personnel in a position to commit an offence in this area is more limited than in some of the earlier examples. However, fraud can also be committed by suppliers.

- Goods ordered for personal use or from a specific supplier in return for some form of benefit
- Goods ordered bear no resemblance to goods received
- Goods ordered from a relative’s or friend’s business
- Accepting a lower number of items than ordered, but certifying an invoice for the higher number

- Creating/certifying false invoices, for which no order has been raised (internally or externally generated)
- Generating payments through cheque requisition voucher for services not received

3.3.9 ***Stocks and assets:***

Misuse, theft and fraud in this area are not unusual. The most obvious and common risk area is stationery, however - staff come into contact with a variety of stocks and assets, which, if not properly controlled, will be subject to losses due to fraud and theft.

A further problem is the use of the Authority's assets for an individual's personal reasons, e.g.: Using a personal computer, fax, telephone, mobile phone etc. for running a private business or for personal use.

NB These examples do not represent a comprehensive list of potential frauds.

3.4 **How To Look For Fraud**

3.4.1 All managers should ensure that internal controls are in place to prevent and detect fraud and error. The types of controls available to the manager are detailed in Section 4. However, as stated earlier, fraud often involves the falsification of records. Therefore, managers need to be aware of the possibility of fraud when reviewing or presented with claims/forms/documentation etc. Issues that may give rise to suspicions are:

- Documents that have been altered, correcting fluid used thereon, or different pens and different handwriting
- Claims that can not be checked, particularly if prior authorisation was not given or supporting papers are inadequate
- Strange trends (use comparisons and reasonableness)
- Confused, illegible text and missing details
- Delays in documentation completion or submission
- Use of numerous cost centres to code expenditure
- No vouchers or receipts to support claims
- Large payments where no VAT number quoted
- Contact address has no permanency – mobile phone number quoted, no address for correspondence
- Payments are made to an offshore bank
- Invoices that quote a P.O. number, rather than a specified address
- Computer fraud/falsification of computerised records

3.4.2 There are also a number of indications of a staff member being in a situation whereby they could be acting fraudulently. Managers may need to be concerned where staff are:

- Living beyond their means (lifestyle - house, car, holidays, clothes)
- Under financial pressure (possibly caused by drinking/gambling/over-extension of credit etc.)
- Exhibiting stress, or behaviour which causes concern
- Not taking annual leave

- Solely responsible for a “risk” area and/or possibly refusal to allow another officer to be involved in their duties
- Attracting complaints from members of the public
- Having inappropriate discussions with other independent contractors

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Section 4: How to Prevent Fraud

4.1. Introduction

4.1.1 The aftermath of fraud is costly, time-consuming, disruptive, and unpleasant. The major thrust of any anti-fraud strategy should therefore be prevention. The Authority therefore needs to maintain a sound and effective system of internal control. This can be strengthened by specific measures, including: denial of opportunity, effective leadership, auditing, response to fraud and employee screening.

4.2 Internal Control Systems

4.2.1 Whilst it is impossible to create a 100% fraud proof system, managers must ensure that the systems they operate include a reasonable number of effective controls designed to detect and prevent fraud and error. The actions and controls managers should take/consider are as follows:

- a) Document procedures and controls and train all staff in their use;
- b) Ensure staff are aware of all relevant guidelines and policies, including the Manual of Practice - Financial and Administration Management, and check compliance with these procedures;
- c) Separate duties between staff and consider staff rotation. Avoid a single employee being solely responsible for the initiation through to the completion of a transaction.
- d) Introduce adequate "internal check". Most simply this involves an independent officer checking the work/calculations/documentation prepared by the initiating officer.
- e) Review budget statements and other management information, and follow up variances.
- f) Ensure expenses to be supported by appropriate receipts.
- g) Ensure the prior documented approval of expense generating courses, visits etc.
- h) Cross out the uncompleted part of a claim form, thereby making the addition of further expenses after approval difficult.
- i) Minimise cash/stock holdings. Bank cash/cheques regularly, at least weekly, possibly more frequently depending on the value and the risk.
- j) Use trend analysis. Travel claims are one area where the manager would be able to use the logbook or Autoroute to check the miles claimed by each staff member. This allows comparison month by month. The use of the Advanced Information System is particularly relevant with regard to Items of Service claims. The system is able to produce Authority-wide comparisons of claims

data together with ad hoc reporting of, for example, quarterly comparisons of claims from each contractor.

- k) Ensure adequate monitoring of high-risk areas. This is particularly important for the monitoring of contracts.
- l) Ensure that staff take their holidays
- m) Ensure orders over a certain level to be signed by a designated official.

Note: There is now a requirement in the contract procedure rules that any contracts with a value of £250,000 or more should have a specific monitoring system approved by Management Audit.

4.3 Denial of Opportunity

- 4.3.1 Fraud can be minimised through carefully designed and consistently operated management procedures, which deny opportunities for fraud. Staff should always receive training in the operation of these systems.
- 4.3.2 The classic way to guard against fraud in financial systems is segregation of duties, so that no individual has undue management of payments, income or assets.
- 4.3.3 The Authority should prevent the possible misuse of information technology through managing the physical access to terminals, and protecting systems with electronic access restrictions.

4.4 Leadership

- 4.4.1 Key determinants of the standards of behaviour in an organisation will be the standards observed at the top, and the policies and approach to their enforcement promoted from the top. The culture within the Authority will be influenced by the apparent behaviour of members and senior managers.
- 4.4.2 Members and staff should therefore ensure that their behaviour is always demonstrably selfless and in the best interests of the authority.
- 4.4.3 Members and staff should ensure that they do not circumvent or appear to circumvent prescribed control procedures.
- 4.4.4 Members and staff should ensure that they follow the guidance as included in the respective Codes of Conduct.

4.5 The Role of Auditors

- 4.5.1 When new systems are being designed or existing systems are to be modified, internal auditors can advise management on building in ways of preventing or detecting fraud.
- 4.5.2 A continuous review of systems by internal audit may deter attempted fraud and should result in continuous improvements. However, it should be noted that audit resources are limited, and many activities will only be reviewed on a cyclical basis. Chief Officers are primarily responsible for operating adequate and effective systems for ongoing monitoring and feedback of information about their activities. The risk of fraud should be a factor in audit plans.

4.6 Response to Fraud

- 4.6.1 The police advise that prosecution is a particularly effective deterrent because of the risk of a custodial sentence and a criminal record. However, the threat of prosecution only deters if the threat is real. Therefore, each and every case arising should normally be referred to the police by the Investigation Team, irrespective of the status of the individual [and initiating any necessary action to maintain standards and objectives required \(Financial Regulation C30\)](#).

4.7 Employee Screening

- 4.7.1 Potential new members of staff should be screened before appointment, particularly for posts with financial responsibility. For example:
- References should cover a reasonable, continuous period; and any gaps should be explained
 - An official employer's reference should be obtained
 - Doubts about the contents of the reference should be resolved before confirming the appointment. If this is done by telephone, a written record of the discussion should be kept to comply with employment law
 - Essential qualifications should be checked before making an offer of employment (for example by requiring original certificates at the interview).
- 4.7.2 Recruitment procedures should require applicants to declare any connections with existing members and staff. Those involved in the recruitment process should similarly be required to declare such connections.

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Section 5: An Introduction to the Authority's Policies and Guidelines

5.1 Where Does The Fraud And Corruption Response Plan Fit In?

5.1.1 The Authority has many policies and procedures, which are designed to regulate behaviour, and ensure that systems (particularly financial) are in place.

5.1.2 It is important that all staff are aware of these policies and procedures, and of their content. Copies of the most important documents in respect of fraud and corruption should be issued to all senior managers and staff involved in financial procedures. These are:

- Financial Procedure Rules (Financial Regulations);
- Constitution;
- Contracts Procedures Rules;
- Financial Administration and Management 'Manual of Practice';
- Code of Conduct for members and officers; and -
- Computer Security Code of Practice.

5.1.3 Staff and Members should also be aware of:

- Grievance Procedures;
- Disciplinary Procedures;
- Whistle-blowing Policy.
- The Council's Money Laundering Policy

5.1.4 A full copy of the Constitution (including the Financial Regulations, Members' and Officers' Codes of Conduct and the Whistle blowing policy), and details of the Grievance and Disciplinary Procedures are available to view on the County Council's intranet site at <http://www.intouch.ccc/>.

5.1.5 Additionally, there are other bodies within the Authority, which assess risk, review procedures, and carry out specific tests to detect fraud and error and also strengthen the Council's preventative arrangements. These are:

- Internal auditors (Management Audit)
- External auditors (District Audit)
- Chief Officers

5.1.6 Finally, the Authority has an overall approach to ensuring that fraud and corruption is minimised and that probity is upheld. This includes, in addition to the above:

- Effective systems and controls which are monitored by both internal and external audit

- An environment of openness and trust
- The Anti Fraud and Corruption Strategy

5.2 **Financial Regulations And Constitution**

5.2.1 The County Council works within a statutory framework, and in accordance with the highest standards of corporate governance. Therefore, it is necessary to lay down rules which all councillors and employees **must** follow when acting on behalf of the Authority.

5.2.2 The Financial Procedures Rules state that:

Any individual becoming aware of (or suspecting) fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources (including systems and/information must report the matter immediately (via his Chief Officer if preferred) to the Section 151 Officer. The Section 151 Officer shall take whatever steps he considers necessary to investigate and report upon the matter and direct the Head of Management Audit in accordance with the anti-fraud strategy. The Chief Officer and management shall meanwhile take any appropriate action to prevent further loss and to secure records and documentation against removal or alteration. If there is a possibility that an employee may have been involved, a report by Management Audit Unit upon the matter shall be considered by the Chief Officer, Head of Service, Chief Legal Officer and HR Manager before deciding what action is appropriate in relation to the employee.

The Head of Management Audit must notify the Director of Resources of all frauds.

5.3 **Code Of Conduct**

5.3.1 These guidelines are summarised here, but it is very important that **YOU READ THEM**.

5.3.2 **Why do we need guidelines?**

People who work in the public sector must be impartial and honest in the conduct of their business. It is therefore the responsibility of everyone who works for the Authority to ensure that they are not placed in a position where there is a risk of conflict between personal interests and Authority duties.

The guidelines clearly state the duties of staff and offer guidance on how to award risk.

5.3.3 **Key points of the guidelines**

a) *Acceptance of gifts*

Staff must not accept gifts in any circumstances, although small gifts of low value (such as diaries or tokens of gratitude) from a member of the public need not necessarily be refused. If in doubt, consult Head of Management Audit.

b) Hospitality

Modest hospitality, e.g. a lunch in the course of a working visit, may be accepted, provided it is similar in scale to that which the Authority may offer. Such hospitality must be recorded in a register in accordance with the corporate procedure. Other offers of hospitality or entertainment must be refused.

c) Declaration of Interests

You must declare in writing any financial interest or relationship you have which may affect the Authority's policies and decisions. Examples include a close relative or partner who has a financial interest in an aspect of the Authority's Purchasing Procedures which provides the County Council with goods or services.

Officers should not only avoid the risk of conflicts between their public duties and their personal or private interests but should avoid situations where such conflicts might be perceived by the public.

The Monitoring Officer maintains the register and he will advise on any aspect of this.

d) Preferential treatment in private transactions

Staff must not seek preferential rates for private transactions with companies with whom they deal on behalf of the Authority.

e) Contracts

Staff who deal with suppliers and contractors, and in particular, those who sign or place orders must adhere to Contracts Procedures Rules.

f) Outside employment

Authority employees must not engage in outside employment, which may conflict with or be detrimental to their Authority work.

g) Commercial sponsorship

Acceptance of commercial sponsorship by staff for attendance on courses and conferences may be acceptable, but permission must be sought from the relevant manager and/or Chief Officer.

h) Confidential information

Staff must not disclose any confidential information, which could prejudice the interests of the Authority.

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Section 6: Whistle-Blowing Policy

6.1 Introduction

6.1.1 At one time or another staff may have concerns about what is happening at work, for example, concerns about:

- Conduct which is an offence or a breach of the law
- Health and safety risks, including risks to the public as well as other employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud and corruption
- Other unethical conduct
- Homophobic, racial, religious, sexual or physical abuse of clients, staff and members.
- Conduct which makes staff feel uncomfortable in terms of known standards, their experience or the standards they believe the County Council subscribes to; or
- Conduct which is against the Authority's Financial Regulations and policies falls below established standards of practice.

6.1.2 Staff may be worried about raising such issues, feeling that to do so would be disloyal to colleagues, managers or to the organisation.

6.1.3 "Whistle blowing: Procedure and Guidance" is included in Section 5b of the County Council's Constitution, and gives guidance to staff who wish to raise issues, and line managers with whom such issues are raised. The Constitution can be viewed on the County's intranet site at <http://www.intouch.ccc/> under "Corporate Information".

6.1.4 Cumbria County Council has introduced this procedure to enable staff to raise their concerns about such malpractice at an early stage and in the right way.

6.1.5 The Public Interest Disclosure Act 1998 sets out to provide a simple framework to promote responsible whistle blowing. The Act provides strong and clear protection for workers who raise concerns about malpractice internally, and, where they have good reason for doing so, externally.

6.1.6 Concerns raised through the whistle-blowing policy are distinct from complaints or issues raised through the grievance procedure. Under a whistle-blowing policy, an employee raises a matter so that others may investigate it; it is not for the employee to prove the case.

6.1. **Hot line number**

The Council has now set up a free phone fraud hotline number on **0800 389 2330**. Any concerns will be logged and passed on to the appropriate person. Please note that this number should be used for reporting genuine cases of the suspicion of irregularities. Examples of which are provided in the Policy only and not for reporting issues that should be addressed through routine management processes.

6.2 **Summary**

- 6.2.1 ***This policy provides staff with a mechanism to raise legitimate concerns they have about issues of potential malpractice in the work place.***
- 6.2.2 ***The policy offers staff confidentiality in raising such concerns.***
- 6.2.3 ***Staff raising such concerns are also provided with statutory protection by the Public Interest Disclosure Act 1998.***

Further support is available from Public Concern at Work. Public Concern at Work is a national charity, launched in 1993, which aims to promote accountability and good governance in organisations. They have a confidential legal help line that offers advice and support in relation to whistle blowing.

- Public Concern At Work
- Suite 306,
16 Baldwin's Gardens,
London
EC1N 7JR
- Telephone: 0171 404 6609
- Web: <http://www.pcaw.co.uk>

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Section 7: Money Laundering Policy

7.1 Introduction

- 7.1.1 There are several Acts of Parliament and the Financial Services Authority ('FSA') has also made provisions relating to money laundering, with the main legislation being contained in the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 (which contain provisions to implement the Second EU Money Laundering Directive).
- 7.1.2 Detailed money laundering regulations came into effect on 1st March 2004 under the Money Laundering Regulations 2003, Statutory Instrument ('SI') 2003 No. 3075, and this Statutory Instrument, The Terrorism Act 2000, the Anti-Terrorism, Crime & Security Act 2001 and the Proceeds of Crime Act 2002 cover the main compliance requirements.
- 7.1.3 The key requirements of this legislation cover an area wider than the fairly narrow treasury management function, including possessing, or in any way dealing with, or concealing, the proceeds of any crime.
- 7.1.4 Whilst the Council is not directly required to implement the requirements of the Money Laundering Regulations 2003, the Council and its officers are subject to the provisions of the Terrorism Act 2000, the Anti-Terrorism, Crime & Security Act 2001 and The Proceeds of Crime Act 2002.
- 7.1.5 Furthermore, the Council would not wish to be used by money launderers and proposes to operate procedures intended to deter and forestall this.
- 7.2 Full details of the requirements are shown in [Appendix 1](#).

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Proceeds of Crime (Anti Money Laundering)
This Organisation's and Your Own Personal Responsibilities

Purpose

These notes are important. They are designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, as they affect both the organisation and you personally. All these principles are covered in the Council's Money Laundering Policy.

What is Money Laundering?

Money Laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. The following acts constitute the act of money laundering:

- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, or from Scotland, or from Northern Ireland.
- Becoming concerned in an arrangement in which someone knowingly suspects or facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person.
- Acquiring, using or possessing criminal property.

Although the term 'money laundering' is generally used when describing the activities of organised crime – for which the legislation and regulations were first and foremost introduced – to most people who are likely to come across it, or be affected by it, it involves a suspicion that someone they know, or know of, is financially benefiting from dishonest activities.

Criminal property is defined very widely in the law relating to money laundering. It includes not only the proceeds of crime committed by somebody else, but also possession of the proceeds of an individual's own crime – for example, the retention of monies from non-payment of income tax. It does not matter how small the amount of money involved is. It also includes the proceeds of crimes that take place abroad.

What laws exist to control Money Laundering?

In recent years, new laws have been passed which shift significantly the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law. These laws are important, and, for those who wish to refer to them, and we hope you will, a list of them appear at the end of these notes.

What is this Organisation's policy on Money Laundering?

Our policy is to do all we can to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly however, that it is every member of staff's responsibility to be vigilant.

The organisation has nominated **the Chief Finance Officer (01228 227350)**, assisted by **the Head of Management Audit (01228 226280)**, to be responsible for anti-money laundering measures within the organisation.

What are the main Money Laundering offences?

There are three principal offences – concealing, arranging and acquisition/use/possession.

Concealing is where someone knows or suspects a case of money laundering, but conceals or disguises its existence. *Arranging* is where someone involves himself or herself in an arrangement to assist in money laundering. *Acquisition (etc)* is where someone seeks to benefit from money laundering by acquiring, using, or possessing the property concerned.

There are also two 'third party' offences – failure to disclose one of the three principal offences and 'tipping off'. *Tipping off* is where someone informs a person or people, who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

All the money laundering offences may be committed by an organisation or by the individuals working for it.

What are the implications for the organisation and its staff?

The organisation has accepted the responsibility to ensure that those of its staff who are most likely to be exposed to money laundering can make themselves fully aware of the law, and where necessary, are suitably trained. The organisation has also implemented procedures for reporting suspicious transactions and, if necessary, making an appropriate report to the National Criminal Intelligence Service (NCIS).

The consequences for staff of committing an offence are potentially very serious. While it is considered most unlikely that a member of staff would commit one of the three principal offences, the failure to disclose a suspicion of a case of money laundering is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion.

Whilst stressing the importance of reporting your suspicions, however, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

What are the penalties?

Money laundering offences may be tried at a magistrates' court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison, or both. In a Crown Court, fines are unlimited, and sentences from two to fourteen years may be handed out.

What should I do if I suspect a case of Money Laundering?

You should report the case immediately to the contacts above either using a form the above contacts will give you or, if your prefer, in a discussion. The contacts will decide whether the transaction is suspicious and whether to make a report to the NCIS. There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered likely to be exposed to suspicious situations, you will be made aware of these by your senior officer, and where appropriate, training will be provided.

Summary

Robust money laundering procedures are essential if this organisation and its staff are to comply with our responsibilities and legal obligations. It falls to you as a member of the organisation's staff, as well as to the organisation itself, to follow these procedures rigorously.

Legislation and Regulations relating to Money Laundering

- The Proceeds of Crime Act 2002
- The Terrorism Act 2000
- The Money Laundering Regulations 2003 updated in 2007.

Examples

Any transaction involving an unusually large amount of cash should cause questions to be asked about the source. This will particularly be the case where cash paid exceeds the amount necessary to settle a transaction, and the person(s) concerned request a non-cash return of the excess. This will include double payments.

The reason for the use of trusts or offshore funds for handling the proceeds or settlement of a transaction should be questioned.

Care should be exercised and further enquiries may be needed where:

- A third party intermediary becomes involved in a transaction
- The identity of a party is difficult to establish or is undisclosed
- A vehicle company is used by a third party and the ultimate ownership is concealed or difficult to establish
- A party is evasive as to the source or destiny of funds.