

# Agenda Item 10.

**TITLE** Review of the Council's Anti-Fraud and Anti-Corruption Policies

**FOR CONSIDERATION BY** Audit Committee on 29 July 2020

**WARD** None Specific

**LEAD OFFICER** Deputy Chief Executive - Graham Ebers

## **OUTCOME / BENEFITS TO THE COMMUNITY**

This report outlines the Council's key policies to support its Anti-Fraud and Anti-Corruption culture.

## **RECOMMENDATION**

The Audit Committee is asked to agree the proposed amendments to the Anti-Fraud and Anti-Corruption Policy, the Whistleblowing Policy, Anti Money Laundering Policy, Prosecutions and Sanctions Policy, Anti Bribery Policy and the Regulation of Investigatory Powers Act (RIPA) Policy and recommend these for approval to Council, via the Constitution Review Working Group.

## **SUMMARY OF REPORT**

The Council's Constitution provides for the Audit Committee to agree all of the Council's Anti-Fraud and Anti-Corruption policies prior to their adoption being recommended to Council via the Constitution Review Working Group. This review takes place regularly and is an important element of good governance.

A summary of the changes for each policy is set out below and a copy of each of the fraud policies, with tracked changes, is attached at [Appendix A](#).

## **Background**

The Council's Fraud Policies are subject to regular review and update. A summary of the recent updated (July 2020) is below.

### **Anti Fraud and Anti Corruption - Policy Changes 7/2020**

#### **ANTI FRAUD AND CORRUPTION STRATEGY**

9.4.2.1 – deleted as it is incorrect : fraud has long been defined in English law and there are many definitions of fraud in the Fraud Act, beyond those mentioned.

9.4.5.1 – The Council requires, as it is a requirement, not a simple expectation.

9.4.6 – expected > required // should > must

9.4.13 – list of legislation removed as (a) it is, and is always likely to be, incomplete and (b) any changes would necessitate updating. There is no need to list legislation, as it is covered by the phrase, "appropriate legislation".

9.4.14 – tidied up to create separate objectives and to reference Criminal Procedure and Investigations Act Code of Practice (CPIA) / National File Standard (NFS) requirements.

9.4.18 – removed the section specific to CTax. There are no specific references to any of the other type of investigation (procurement / housing &c.).

9.4.19 – turned into a statement of intent.

9.4.20 – should > must // requirement to act in accordance with the policy.

#### **WHISTLEBLOWING POLICY**

9.5.6.1 – Added "(Those making reports should also note that by concealing their identity, it is harder for the Council to ensure that they are protected in accordance with the Act); this is because those responsible for putting the Act into effect within the Council will not know who they are.)"

#### **ANTI MONEY LAUNDERING POLICY**

9.7.2.1 – strengthened the instruction // clarified the personal criminal liability in not reporting

9.7.3.1 – clarified – able to prove that disclosure has been made.

9.7.7 – tidied and clarified.

#### **ANTI-BRIBERY POLICY**

We > 'the Council' throughout (and other grammatical changes following).  
should > must, where appropriate

9.6.1.2 – strengthened and formalised language.

9.6.2 – clarified meaning

9.6.3 – clarified that working with the Council = promising to comply.

9.6.9/10 – added WHO must carry out due diligence & risk assessment.

9.6.13 – removed – it's not a policy statement

9.6.16 – clarified that all offers/gifts regardless of value are covered

9.6.19.1 – emphasised that all good faith reports = whistleblowing

#### **PROSECUTION AND SANCTIONS POLICY**

Title changed (to reflect current practice) to CASE DISPOSAL POLICY

9.8.1.3 – clarifies who can make disposal decisions (see attached process map)

9.8.6 – to allow sanctions / penalties where a decision not to prosecute is made.

9.8.7 – Added to ensure all costs are pursued

9.8.8 – Added to bring NFS formally in to the Council

**ACQUISITION OF COMMUNICATIONS DATA AND USE OF COVERT SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES POLICY**

Added in Investigatory Powers Act to title.

Cleaned to define RIPA, IPA and DPA as abbreviations in the first section.

Provided numbering for most sub-paras.

Added the Investigatory Powers Act throughout, and changed the sections on Communications Data (CD) to reflect the new Act.

9.9.2.1 – Referenced online investigations need the need to authorise if they go beyond *open source* work.

9.9.2.2 – Amended to reflect IPA provisions and confirm the status of the statutory CoP.

9.9.2.3 – Added to ensure continuity of NAFN membership, as this is required for access to CD

**9.9.3**

Appoints all AOs as VOs for CD requests – various textual amendments needed to reflect these appointments throughout this section.

No substantive changes – there are still a maximum of six AO / VO for the Council.

NB – A person of the same rank as the SRO is required to ‘be aware’ of all comms data requests before they are submitted.

**GENERAL**

Generally should has been replaced with ‘must’ (where an instruction appears to be appropriate) and, on occasion, with ‘may’, where this appears to be the intent. It is good practice to ensure that those to whom the policy applies are clear that this is not should (ought to) but must (have to).

Consider a statement that deliberately or recklessly failing to comply with each policy would normally amount to misconduct (and the consequences of this).

**Analysis of Issues**

See above

**FINANCIAL IMPLICATIONS OF THE RECOMMENDATION**

***The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.***

|                                   | How much will it Cost/ (Save) | Is there sufficient funding – if not quantify the Shortfall | Revenue or Capital? |
|-----------------------------------|-------------------------------|---|---------------------|
| Current Financial Year (Year 1)   | n/a                           | Yes   | n/a                 |
| Next Financial Year (Year 2)      | n/a                           | Yes   | n/a                 |
| Following Financial Year (Year 3) | n/a                           | Yes   | n/a                 |

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| <b>Other financial information relevant to the Recommendation/Decision</b> |
| N/a  |

|   |
|---|
| <b>Cross-Council Implications</b> (how does this decision impact on other Council services, including properties and priorities?) |
| N/a   |

|                                    |
|------------------------------------|
| <b>Public Sector Equality Duty</b> |
| N/a                                |

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| <b>Reasons for considering the report in Part 2</b> |
| N/a   |

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|----------------------------------|
| <b>List of Background Papers</b> |
| N/a                              |

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