



# **Anti-Fraud and Corruption Framework**

## **Contents**

- Anti-Fraud and Corruption Strategy
- Fraud Response Plan
- Anti-Bribery Policy
- Anti-Money Laundering Policy
- Whistleblowing Policy

# Anti-Fraud and Corruption Strategy



## 1.0 Introduction

Rother District Council (RDC) aims to provide quality services that are accessible to all sections of the community and delivered fairly and efficiently. The Council is firmly opposed to fraud and corruption of any kind and will take prompt and decisive action to deal equally with perpetrators from inside and outside the Council. The community and our customers have a right to expect the highest possible standards of honesty and integrity from the Council, its officers and the individual Members elected to represent them, and that the actions of those persons are free of fraud and corruption. Equally, the Council expects all individuals and organisations with which it conducts business to act with integrity and without thought or actions involving fraud and corruption.

Like all local authorities, RDC operates within a statutory framework which governs the behaviour of elected Members and officers, in addition to which, it has a well-established framework of guidance on best practice which is laid down in its Financial Procedure Rules, Procurement Procedure Rules, Delegations to Officers, staff Conditions of Service and the Members' Code of Conduct. The reference to 'Members' within this document includes both Members and co-opted Members (if any).

The aim of this document is that it should be a policy statement of the Council's strategy for combating and dealing with fraud and corruption both within and against the authority. As such, it provides an overview of the key principles to be observed by Members and officers. It does not seek, however, to detail the specific requirements which are contained in the Constitution, Members' Code of Conduct and the Conditions of Service, and thus avoids the potential for conflicting advice from different documents. Additionally, nothing in this document shall preclude the Monitoring Officer and Section 151 Officer from fulfilling their statutory responsibilities.

## 2.0 Anti-Fraud and Corruption Framework

To demonstrate its commitment to the prevention and detection of fraud the Council has devised an Anti-Fraud and Corruption Framework (AFCF).

The AFCF is made up five separate but related documents, and this strategy is the highest level document within the Framework. The other documents are the Fraud Response Plan, the Anti-Bribery Policy, the Anti-Money Laundering Policy, and the Whistleblowing Policy.

Each document identifies whether it should be linked to or considered in conjunction with any other corporate document. There is a separate strategy for dealing with Benefit Fraud, therefore frauds by benefit claimants are not covered by this strategy.

The AFCF is designed to:

- encourage fraud deterrence and prevention;
- raise awareness of fraud, bribery and corruption and promote their detection; and
- provide guidance on how concerns should be reported and how they will be dealt with.

### **3.0 Culture**

The Council's elected Members (Councillors) and officers (staff) play an important role in creating and maintaining a culture of openness, honesty and opposition to fraud and corruption. The Council expects Members and officers at all levels to lead by example in ensuring adherence to legal requirements, rules, procedures and practices and to carry out their duties in accordance with the seven principles of public life (i.e. selflessness, integrity, objectivity, accountability, openness, honesty and leadership).

Councillors, officers and members of the public are all important elements in the stance against fraud and corruption and are positively encouraged to raise any concerns they may have on these issues which impact on Council activities. The Council will ensure that any allegations received in any way, including by anonymous letters or telephone calls, will be taken seriously and investigated in an appropriate manner.

The Council will deal firmly with those who defraud or attempt to defraud the Council or who are corrupt or where there has been financial malpractice.

When fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, it is the responsibility of management to ensure that appropriate improvements in systems of control are implemented to prevent a recurrence. This should be done in consultation with the Audit Manager who will review the control procedures to ensure that the opportunity to repeat the fraud is minimised.

### **4.0 Prevention**

#### **4.1 The Role of the Section 151 Officer**

The Chief Finance Officer (Section 151 Officer) is responsible for the proper administration of the Authority's financial affairs, as defined by Section 151 of the Local Government Act 1972. The Council's Financial Procedure Rules state that the Chief Finance Officer is responsible for:

- the proper administration of the authority's financial affairs;
- setting and monitoring compliance with financial management standards;
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- providing financial information;
- preparing the revenue budget and capital programme; and
- Treasury Management.

Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council, Cabinet and the External Auditor if the authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure;
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority; and
- is about to make an unlawful entry in the authority's accounts.

#### 4.2 The Role of the Monitoring Officer

The Deputy Chief Executive is the 'Monitoring Officer' in accordance with section 5 (1) of the Local Government and Housing Act 1989. It is the responsibility of the designated Monitoring Officer to maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by Members, officers and the public. The role also contributes to the corporate governance of the Council, in particular, through the provision of professional legal and ethical advice.

The Monitoring Officer shall, under section 5 (2) of the Local Government and Housing Act 1989, make a report to the Cabinet and Council where it appears to them that the Cabinet or Council and/or officers appointed by them:

- has made or is about to make a decision which contravenes any enactment, or rule of law; and
- has made or is about to make a decision that would give rise to maladministration or injustice as is mentioned in Part III of the Local Government Act 1974.

#### 4.3 The Role of Management

The Chief Executive, Deputy Chief Executive, Director – Place and Climate Change, Chief Finance Officer, Heads of Service and other service managers are responsible for maintaining internal control systems and ensuring that the Council's resources and activities are properly applied in the manner intended. Management, with the assistance of Internal Audit, are responsible for identifying the risks to which systems and procedures are exposed and developing and maintaining effective controls to prevent and detect fraud. They must ensure that controls are complied with and relevant training is provided for all employees.

Management are also responsible for the communication and implementation of the AFCF and ensuring that their employees are aware of staff policies and procedures, the Council's Constitution, Financial Procedure Rules and that the requirements of each are being met in their everyday business activities. In addition, managers must make their employees aware of the requirements of the Council's Conditions of Service through the induction process.

Management should create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Where they are unsure of the procedures, they must refer to the information included within the Fraud Response Plan and Whistleblowing Policy.

#### 4.4 The Role of Employees

Individual officers are responsible for their own conduct and for contributing towards the safeguarding of corporate standards. Each employee is governed

in their work by the Council's Constitution, Financial Procedure Rules, Conditions of Service and other policies on conduct. These are available on the Council's intranet (Teams); employees must be aware of and abide by these policies. Employees are responsible for ensuring that they follow the instructions as detailed within policies and procedures, or provided by management, particularly in relation to income and expenditure, and the security of assets.

A key preventative measure in dealing with fraud and corruption is to use effective checks at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts. The Council has a formal recruitment procedure, which contains appropriate safeguards on matters such as written references and verifying qualifications held. A standard criminal background check in the form of a self-declaration is also undertaken and Disclosure and Barring Service (DBS) checks made where appropriate. Where contractors provide a service and employ their own staff, confirmation should be required that the above procedures are part of the contractor's recruitment process and have been undertaken.

Employees are expected to be aware of the possibility that fraud, corruption and theft may exist in the workplace, and they are required to make themselves familiar with and comply with the Council's AFCF. Employees must be aware of procedures to be followed if they suspect that fraudulent or corrupt acts have been committed.

#### 4.5 The Role of Elected Members

Elected Members are each responsible for their own conduct and contributing towards the safeguarding of corporate standards. As elected representatives, all Members have a duty to protect the Council and public money from any acts of fraud, bribery and corruption. This is done through a framework which includes the AFCS, compliance with the Members' Code of Conduct and compliance with the Council's Constitution. Conduct and ethical matters are specifically brought to the attention of Members during induction and include the declaration and registration of interests. The Monitoring Officer advises Members of new legislative or procedural requirements.

#### 4.6 Conflicts of Interest

Both Members and officers must ensure that they avoid situations where there is potential for a conflict of interest (e.g. when undertaking external tendering of services, internal tendering, planning and land issues). Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information. Declaration of interests should be recorded in accordance with the Code of Conduct and Constitution.

#### 4.7 Internal Control Systems

Management is required to establish and maintain systems of internal control which should prevent and detect fraud and corruption. However, internal controls are only effective if they are properly executed and it is management's responsibility to ensure that the controls are properly applied

so that the risk of fraud is minimised. Controls should therefore be regularly reviewed to ensure they remain appropriate and effective. The Internal and External Auditors assist management in this task by independently monitoring the existence, effectiveness and appropriateness of these controls.

The Council also expects its partners to have adequate controls in place to minimise fraud.

#### 4.8 Internal Audit

Internal Audit plays a vital preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Under the Accounts and Audit Regulations 2015 and its own professional standards, it has a duty to provide an independent and objective opinion on the Council's control environment. As part of this duty of care, Internal Audit will ordinarily investigate all cases of suspected financial irregularity, fraud or corruption (except for benefit fraud) in accordance with established procedures and relevant regulations. However, the responsibility for investigating may lie with one of our local authority partners in certain circumstances – see *4.10 Joint Working*.

#### 4.9 External Audit

External Audit is an essential safeguard of the stewardship of public money. It is not the External Auditor's function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External Auditors are always alert to the possibility of fraud and irregularity and will act without undue delay if grounds for suspicion come to their notice. The External Auditor has a responsibility to review the Council's arrangements for preventing and detecting fraud and irregularities, and arrangements designed to limit the opportunity for corruption.

#### 4.10 Joint Working

Where fraud or corruption is suspected in an area of joint working with other local authorities (including shared services and joint projects) it will be the responsibility of the lead authority to investigate. Any such concerns regarding RDC led activities should therefore be reported to the relevant Head of Service/service manager and/or the Audit Manager in the first instance to agree the way forward. All other cases should be reported to, and investigated by, the lead authority, and RDC informed of the outcome (where appropriate). The Audit Manager may also act as go-between if the person raising the concern does not wish to contact the partner authority direct.

#### 4.11 Working with Others

Arrangements are in place, and continue to develop, to encourage the exchange of information with other organisations in respect of fraudulent and corrupt activities. These organisations include:

- Police
- Department for Work and Pensions
- HM Revenue and Customs
- Other outside agencies

- Suppliers and contractors

Where appropriate, the Council will also participate in data matching exercises and will share information using legislation or legal gateways available to us and our partners. For example, the Cabinet Office uses a Code of Data Matching Practice for its National Fraud Initiative (NFI), which is recognised by the Information Commissioner as complying with Data Protection legislation.

The Council will make full use of its statutory powers to obtain information and will utilise the services of the National Anti-Fraud Network (NAFN) to support such information gathering.

## **5.0 Detection and Investigation**

In preventing and deterring fraud the Council is committed to maintaining a culture which will not tolerate fraud, bribery and corruption and will deal swiftly and firmly with any persons who defraud or attempt to defraud the Council, or who are corrupt. Disciplinary action and prosecution will be invoked whenever fraud or corruption is found. Additional information detailing the raising, investigation and resolution of concerns can be found within the Fraud Response Plan and the Whistleblowing Policy.

All elected Members and employees have a vital role in the detection of fraud and corruption and must be vigilant against the possibility of fraudulent and corrupt activity. A confidential whistleblowing procedure has therefore been established to encourage anyone who wishes to raise concerns about such behaviour to do so with confidence.

Internal Audit also assists management in fulfilling their responsibility for the detection of fraud and corruption and may detect fraud or corruption as a result of work undertaken.

Any investigation undertaken by Internal Audit, or other appropriate officers, must comply with codes of practice and other regulated powers. All relevant interviews and gathering of evidence must be conducted in accordance with the Police and Criminal Evidence Act 1984 (PACE), the Regulation of Investigatory Powers Act 2000 (RIPA), the Human Rights Act 1998, the Criminal Procedure and Investigations Act 1996 and the Investigatory Powers Act 2016 to ensure that all evidence remains admissible in a court of law. The objective of any investigation will be to establish whether there is evidence that fraud or malpractice has occurred and to collate sufficient, relevant and reliable evidence to support a complaint to the Police and allow disciplinary action and/or legal action to take place.

Where financial impropriety is discovered, the Council's presumption is that the Police will be called in. The Crown Prosecution Service determines whether a prosecution will be pursued. The final decision whether to refer a case to the Police rests with the Chief Executive in consultation with Human Resources. Referral to the Police will not prohibit action under the Council's Disciplinary Procedures.

External Audit also has powers to independently investigate fraud and corruption, and the Council can use their services for this purpose too. Any cases of fraud or corruption over £10,000 must be reported to External Audit.

Investigations should not be undertaken without appropriate knowledge of relevant legislation, and the Audit Manager should be notified of all suspected occurrences, as detailed within the Fraud Response Plan.

## **6.0 Training and Awareness**

The Council recognises that the continuing success of its AFCF is largely dependent on the awareness of staff and Members throughout the Council. Managers must ensure that all staff receive training in fraud awareness and are made aware of the AFCF. The level and extent of this will depend on the work that individual employees carry out. When employees are an integral part of the control framework, it will be necessary for them to be regularly reminded of fraud issues. In other cases it may be sufficient to include information in an induction pack or to refer them to key policies and procedures on the Council's intranet (Teams). The Audit Manager should be consulted as necessary to provide advice on this and refresher training will be provided as and when required. The Council is also committed to providing suitable training, where necessary, for staff that are involved in investigating fraud and corruption.

Employees, Councillors and members of the public also need to be kept informed about how they can notify the Council if they think something is wrong. The Whistleblowing Policy details the methods available for raising concerns.

## **7.0 Conclusion and Review**

This Strategy highlights the policies and procedures which the Council has put in place to assist in the prevention, detection and investigation of fraud and corruption.

Having established a strategy for dealing with fraud and corruption, the Council will ensure that these procedures continue to contribute to a strong control environment and good corporate governance within the authority, and that the arrangements remain appropriate and adequate for the prevention and detection of fraud and corruption.

Regular review of the AFCF will be undertaken by the Audit Manager so that it remains current and effective.

### **Version Control**

Version 5 – November 2022



# Fraud Response Plan



## 1.0 Introduction

Rother District Council (RDC) is committed to the highest possible standards of openness, probity and accountability in all its affairs. It promotes a culture of honesty and will not tolerate fraud and corruption in the administration of its responsibilities.

This Fraud Response Plan (FRP) forms part of the Council's Anti-Fraud and Corruption Framework and details how suspected instances of fraud and corruption can be reported, and how investigations into suspicions will be conducted and concluded.

## 2.0 Objectives and Scope

The purpose of this FRP is to reinforce the Council's approach to fraud by setting out the ways in which concerns about suspected fraud or corruption can be raised and to establish a protocol for investigating and responding to any such events. The reference to 'Members' within this document includes both Members and co-opted Members (if any).

The objectives of the FRP are to ensure that timely and effective action can be taken to:

- prevent further losses of funds or other assets where fraud has occurred and to maximise recovery of losses;
- minimise the effect of a fraud or corrupt act by taking appropriate and timely action at the earliest opportunity;
- ensure there is a clear understanding over the process and responsibilities for investigating suspected fraud or corruption;
- minimise the risk of inappropriate action or disclosure taking place which would compromise an investigation;
- identify the perpetrators and maximise the success of any disciplinary/legal action taken;
- ensure there is substance and evidence to support any allegation against an employee before that employee is subject to disciplinary action;
- minimise any adverse publicity for the Council, suffered as a result of fraud; and
- identify any lessons which can develop future fraud management and prevention; minimise any adverse impacts on the business of the Council.

This document applies to all Members, employees and volunteers and should be applicable to third parties such as agency staff, contractors, suppliers and partners (including shared service providers) as appropriate.

### **3.0 Definition of Fraud and Corruption**

Fraud is defined 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, or to mislead or misrepresent’.

Corruption is defined as ‘the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person; or the failure to disclose an interest in order to enjoy financial or other pecuniary gain’.

### **4.0 Types of Fraud and Corruption**

In addition to the obvious frauds involving theft of assets or the misappropriation of funds, the following are examples of the types of activity that may also be regarded as fraud or corruption:

- Manipulation or misreporting of financial information
- Misuse of the Council’s assets, including cash, stock and equipment
- Deception (e.g. misrepresentation of qualifications to obtain employment)
- Offering or accepting bribes or inducements from third parties
- Conspiracy to breach laws or regulations
- Fraudulent completion of official documents (e.g. VAT receipts)
- Time recording fraud
- Theft of intellectual property (e.g. unauthorised use of a brand name/logo, theft of customer data or product design)
- False mileage/expenses claims
- Influencing procurement/planning/licensing decisions for personal gain (or for the benefit of family or friends)

Note - This list is not exhaustive.

### **5.0 What should an employee or Member do if they suspect fraud or corruption?**

It is the responsibility of all staff and Members to report fraud whenever they come across it within their work or in connection with their duties. Ignoring such acts is not acceptable. A confidential reporting procedure has therefore been established to encourage and enable staff and Members to raise serious concerns internally rather than overlooking the problem or informing the media or other external bodies. The reporting process is explained in more detail in the Council’s [Whistleblowing Policy](#).

Employees should initially raise any suspicions of fraud or corruption with their line manager or Head of Service. Concerns may be raised verbally or in writing. The officer receiving the allegation is then required to inform the Audit Manager and the Section 151 Officer and/or Monitoring Officer as appropriate, and agree any immediate action required to minimise any serious danger or risk.

Note - Any suspicions of fraud or corruption in areas of joint working (including shared services and joint projects) which are not managed by RDC should be raised with the relevant lead authority.

Employees who suspect their line manager or Head of Service may be involved or do not think it appropriate to discuss the concern with them should contact one of the Designated Officers listed below. Members should approach one of the Designated Officers directly.

The nature and seriousness of the incident should be considered before deciding which of the Designated Officers to contact.

- Malcolm Johnston, Chief Executive
- Lorna Ford, Deputy Chief Executive (Monitoring Officer)
- Ben Hook, Director – Place and Climate Change
- Antony Baden, Chief Finance Officer (Section 151 Officer)
- Gary Angell, Audit Manager

Alternatively, concerns may be reported to the Audit Manager direct by either completing an online [Whistleblowing Form](#), sending an email to [audit@rother.gov.uk](mailto:audit@rother.gov.uk) or by ringing the Council's confidential Fraud Hotline on **01424 787799**. These reports may be submitted anonymously if you prefer not to be identified.

You should never confront the suspected individual or act in a manner which might draw their attention to your suspicions. At the earliest opportunity you should clearly record all the activities you have witnessed and information you have received or are aware of. It is important to record as much information as possible to inform any subsequent management assessment or investigation, including dates, times and sequences of events.

The Council will support anyone who raises a genuine concern in good faith, even if it later turns out to be mistaken. While all suspected incidents of fraud and corruption should be reported, employees should note that disciplinary action will be taken if frivolous or malicious allegations are found to have been made.

## **6.0 What should managers do when suspected fraud or corruption is reported to them by a member of staff?**

- Listen to the concerns of your staff and treat every report you receive seriously and sensitively.
- Make sure that all staff concerned are given a fair hearing. You should reassure your staff that they will not suffer because they have told you of their suspicions.
- Get as much information as possible from the member of staff, write any information down and agree the content with the individual raising the concern. Do not interfere with any evidence and make sure it is kept in a safe place.
- Differentiate between a performance issue, non-compliance and a fraud or corrupt act. If either of the former two, then consult the Conditions of

Service or Human Resources. If there is a possibility of fraud or corruption, then:

- Do not investigate the matter yourself (or access the suspect's computer) in an attempt to determine the facts as this could prejudice any criminal investigation.
- Report the matter immediately to the Audit Manager.
- If unsure, please contact the Audit Manager for advice or a confidential discussion.

Following discussion with the Audit Manager, a decision will be made regarding the way forward. Managers are the responsible officers, although Internal Audit must be notified in all cases of suspected fraud or irregularity. In certain cases, Internal Audit will assume full responsibility for the fraud response. If the complaint involves a Member, then the Monitoring Officer should also be notified.

## **7.0 What should auditors do if they suspect fraud or corruption?**

If in the course of their duties a member of the Internal Audit Team suspects fraud or corruption they should cease work on the assignment immediately and report it to the Audit Manager. If the Audit Manager is unavailable then the Deputy Chief Executive should be informed.

## **8.0 What should a member of the public do if they suspect fraud or corruption?**

Members of the public who suspect fraud or corruption are encouraged to contact the Council.

If the issue relates to a Council employee or an individual working on behalf of the Council (including agency workers and contractors), the matter should be reported to the Audit Manager by either completing the online [Whistleblowing Form](#), sending an email to [audit@rother.gov.uk](mailto:audit@rother.gov.uk) or by ringing the Council's confidential Fraud Hotline on **01424 787799**. Complaints about the conduct of Members should be reported to the Monitoring Officer in the first instance.

If **benefit fraud** is suspected, we encourage you to report the matter either by completing the online [Report a fraud form](#) or by ringing the Benefit Fraud Hotline on **01424 787737**.

## **9.0 Investigating Allegations of Irregularities**

The objective of the investigation is to:

- establish whether there is evidence that a fraud has occurred;
- collect sufficient evidence to support any complaint to the Police; and
- provide sufficient evidence for disciplinary or legal action.

When a suspected fraud or corrupt act is reported, the relevant senior officer will initially discuss the matter with the Audit Manager. If the evidence indicates potential wrongdoing, the Audit Manager will then undertake a detailed investigation keeping both Human Resources and the Chief Executive informed about progress as it proceeds.

All investigations will be conducted in accordance with the relevant Council policies and procedures and where appropriate criminal legislation.

All interviews with staff will be conducted in line with the Council's disciplinary procedures. Should there be a possibility that the investigation could lead to a criminal prosecution then all relevant interviews must be carried out by the Police or by an officer suitably trained in the Police and Criminal Evidence Act 1984 (PACE) to ensure that all evidence gathered remains admissible in a court of law.

Due consideration must also be given the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA), the Human Rights Act 1998 and the Investigatory Powers Act 2016 when undertaking any investigation.

Any conversations you have with, or information that you provide to the Audit Manager or other investigating officers will remain confidential. You should remember, however, that you may be required to provide a signed written statement should the case result in a criminal prosecution.

## **10.0 Preservation of Evidence**

When the initial enquiry has established that further investigation is required, it is essential that all available evidence relating to the fraud be preserved without alerting the alleged perpetrator to your suspicions.

Original documentation is the best form of evidence and original documents should be obtained and retained if possible. They should not be marked in any way and handled as little as possible. Photocopies should be marked, dated and certified as copies. When evidence is held on a computer, the computer should be secured, and the ICT Manager and the Audit Manager consulted about the most appropriate way of retrieving the data in accordance with the rules of court evidence. Under no circumstances should the computer be viewed by anyone who is not appropriately trained. (Note - Even switching it on may corrupt or destroy important evidence.) Other forms of evidence may include cash or stock, which should be counted and agreed in the presence of the responsible officer. If the person responsible for assets is not available, two people should record the amount held and sign a statement confirming it.

Whenever a person is suspended from work for suspected fraud or corruption they should be asked to remove all personal belongings from their desk/cupboard and be informed that the desk/cupboard may be examined. Please note also:

- (1) the suspended person must be supervised when removing their personal belongings to prevent the removal of any evidence;
- (2) any door entry card must also be surrendered and/or access revoked;
- (3) access to files and/or computer records should be suspended immediately (and any files or ICT/mobile phone equipment which contain such data recovered); and
- (4) Internet and/or telephone links should be terminated immediately, if not before the suspension is actioned.

## **11.0 Actions Following the Completion of an Investigation**

Once the investigation has been completed, a written report will be issued to senior management stating the facts discovered by the investigation. A recommendation will also be made as to the appropriate course of action to be followed. This can include a disciplinary hearing, criminal proceedings or no further action.

If the fraud was significant (e.g. high value, senior officer, Member, high reputational impact) the findings will also be discussed in detail with the relevant Head of Service/service manager to enable sufficient action to be taken.

The decision whether to take disciplinary action/criminal proceedings rests with the Chief Executive after receiving advice from Human Resources.

## **12.0 Follow Up**

Following all investigations into suspected irregularities, work will be undertaken with the relevant service area(s) in order to address any weaknesses in procedures identified during the investigation. It is the responsibility of management at all levels to ensure that effective systems of internal control are established and operating to minimise the potential for fraud and corruption. Where fraud has been identified, management, in consultation with the Audit Manager, should review the control procedures to ensure that the opportunity to repeat the fraud is minimised.

Where appropriate, the Council will liaise with the Police if sufficient evidence exists for prosecution. This approach may be adopted in conjunction with the Council's own disciplinary procedures.

Whenever fraud has been proved, the Council will make every effort to recover the losses. The method used will vary depending on the type of loss and the regulations and powers available. All means of recovery including recovery under social security legislation, attachment of earnings, civil court proceedings and criminal court compensation will be used as appropriate to the offence.

## **13.0 Publicity**

The Senior Leadership Team, with the agreement of the Leader of the Council, will deal with the Press and publicity in all matters regarding fraud and corruption. Where appropriate the details of all successful prosecutions for fraud may be released to the media through the Communications Team. Staff and Managers must not directly disclose to the Press the details of any cases suspected or under investigation. Disclosure of details to the media without express authority would be regarded as a disciplinary matter. The aim is to publicise the Council's intolerance of fraud or corruption both within the Council and by users of its services. It also serves to publicise our successes against those who would perpetrate such fraud or corruption against the Council.

### **Version Control**

Version 5 – November 2022

# Anti-Bribery Policy



---

## 1.0 Policy Statement

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance of bribery. We aim to maintain anti-bribery compliance as “business as usual”, rather than a one-off exercise.

## 2.0 Objective of this policy

This policy provides a coherent and consistent framework to enable the Council’s employees and Members to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees and Members to identify and effectively report a potential breach.

We require that all personnel, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity at all times and to safeguard the Council’s resources for which they are responsible; and
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates.

## 3.0 Scope of this policy

This policy applies to all Council activities. For partners (including shared service providers), joint ventures, contractors and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

The responsibility to control the risk of bribery occurring resides at all levels of the Council.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, agents, Members, volunteers and consultants.

## 4.0 This Council's commitment to action

This Council commits to:

- Setting out a clear anti-bribery policy and keeping it up-to-date.
- Making all employees and Members aware of their responsibilities to adhere strictly to this policy at all times.
- Making training available to permit recognition and avoidance of bribery.
- Encouraging employees, Members and others to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately.
- Rigorously investigating instances of alleged bribery and assisting Police and other appropriate authorities in any resultant prosecution.
- Taking firm and vigorous action against any individual(s) involved in bribery.
- Include appropriate clauses in contracts to prevent bribery.

## 5.0 The Bribery Act 2010

### 5.1 Definition of Bribery

Broadly, the Act defines bribery as giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith.

Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.

### 5.2 Offences

There are four key offences under the Act:

- bribery of another person (section 1)
  - accepting a bribe (section 2)
  - bribing a foreign official (section 6)
  - failure by a commercial organisation to prevent bribery - a corporate offence (section 7)
- Note - It is still an offence for someone to offer a bribe even if it is not accepted.

A *commercial organisation* will have a defence to the corporate offence of failure to prevent bribery if it can show that it had in place *adequate procedures* designed to prevent bribery by or of persons associated with the organisation.



### 5.3 Is the Council a “commercial organisation”?

Yes. The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.”

### 5.4 What are “adequate procedures”?

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

### 5.5 Six principles for bribery prevention

- **Proportionate procedures** – An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.
- **Top level commitment** – The top-level management is committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.
- **Risk assessment** – The organisation assesses the nature and extent of its exposure to potential external or internal risks of bribery on its behalf by persons associated with it. This includes financial risks but also other risks such as reputational damage.
- **Due diligence** – The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.
- **Communication (including training)** – The organisation ensures that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.
- **Monitoring and review** - The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

The Council is committed to proportional implementation of these principles.

### 5.6 Penalties

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

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

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

## **6.0 Bribery is not tolerated**

It is unacceptable to:

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

## **7.0 Facilitation payments**

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

## **8.0 Gifts and hospitality**

This policy is not meant to change the requirements of our gifts and hospitality guidance, which can be found within the Conditions of Service. In summary, all gifts and hospitality offered to or received by officers should be reported to their line manager and recorded in a Register, regardless of whether they are accepted or not.

## **9.0 Public contracts and bribery offences**

Under the Public Contracts Regulations 2015, a Bribery Act conviction in respect of active bribery (section 1), passive bribery (section 2) or bribery of foreign public officials (section 6) gives rise to a mandatory exclusion from participation in public tenders. The offence of 'failure of commercial

organisations to prevent bribery' (section 7) will not trigger mandatory exclusion but may give rise to grounds in support of a discretionary exclusion.

## **10.0. Staff responsibilities**

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

You must:

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

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

## **11.0 Raising a concern**

The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns.

If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns. Please refer to the Council's [Whistleblowing Policy](#) and determine the most appropriate course of action. Preferably the disclosure will be made and resolved internally. However, where internal disclosure proves inappropriate, concerns can be raised via your trade union, professional organisation or regulatory body (e.g. External Auditor). Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.

We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

If you have any questions about these procedures, please contact Gary Angell, Audit Manager either by email ([gary.angell@rother.gov.uk](mailto:gary.angell@rother.gov.uk)) or by telephone (01424 787709).

## **Version Control**

Version 5 – November 2022

# Anti-Money Laundering Policy



---

## 1.0 Introduction

The Proceeds of Crime Act 2002 and the Terrorism Act 2000 place certain obligations on the Council and its employees regarding suspected money laundering.

Any 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. Failure to report these suspicions is a criminal offence.

This policy has therefore been adopted in order to provide guidance and introduce safeguards to help staff identify and report instances where money laundering is suspected.

## 2.0 Objectives and Scope

The policy sets out the procedures which must be followed to enable employees to comply with their legal obligations.

The aim of this policy is to prevent criminal activity through money laundering by:

- raising awareness of the legal and regulatory requirements affecting both individuals and the Council as a whole; and
- helping employees to correctly respond to any concerns they may have about money laundering in the course of their dealings for the Council.

This policy applies to all employees, whether permanent or temporary.

## 3.0 What is Money Laundering?

### 3.1 Definition

Money laundering is generally understood to mean the process by which illegally acquired funds (i.e. from crime or terrorism) are moved through financial systems so that they appear to come from a legitimate source. However, the term also covers a range of activities, which do not necessarily need to involve money.

### 3.2 Legislation

The main requirements of the UK anti-money laundering regime are set out in the:

- Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005 and further amended by the Serious Crime Act 2015).
- Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001 and the Terrorism Act 2006 and further amended by the Money Laundering Regulations 2007).
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (which supersede the Money Laundering Regulations 2007, 2012 and 2015).

Whilst local authorities are not subject to the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, guidance from the Chartered Institute of Public Finance & Accountancy (CIPFA) indicates that they should still comply with the underlying spirit of the legislation and regulations by taking all reasonable steps to minimise the likelihood of money laundering, including putting in place proper policies and procedures.

### 3.3 Legislative Requirements

The main requirements of the legislation are:

- To nominate a Money Laundering Reporting Officer (MLRO)
- Maintain client identification procedures in certain circumstances
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures

### 3.4 Offences

Money laundering offences under the Proceeds of Crime Act 2002 include:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327);
- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328); and
- acquiring, using or possessing criminal property (section 329).

There are also two secondary offences:

- failure to disclose any of the three primary offences above; and
- “tipping off” whereby somebody informs a person or persons who are, or who 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.

The Terrorism Act 2000 includes the money laundering offence of becoming concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism.

### 3.5 Penalties

The consequences for staff committing an offence are potentially very serious. 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 imposed.

### 4.0 The Money Laundering Reporting Officer (MLRO)

The officer nominated to receive disclosures about money laundering activity within the Council is Antony Baden, the Chief Finance Officer (Section 151 Officer).

### 5.0 How do I know when money laundering is taking place?

It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively, suggest possible money laundering activity:

- Payment of a substantial sum in cash (i.e. over £10,000),
- Payment of lower cash sums where cash is not the normal means of payment
- A new customer or use of new/shell companies
- A secretive customer – e.g. refuses to provide requested information without a reasonable explanation
- Concerns about the honesty, integrity, identity or location of a customer
- Illogical third party transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts
- Involvement of an unconnected third party without logical reason or explanation
- Overpayments by a customer or payments of deposits subsequently requested back
- Absence of an obvious legitimate source of funds
- Movement of funds overseas, particularly to a higher risk country or tax haven
- Unusual transactions or ways of conducting business, without reasonable explanation
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational
- The cancellation or reversal of an earlier transaction
- Requests for release of customer account details other than in the normal course of business
- Transactions at substantially above or below fair market values
- Poor business records or internal accounting controls
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO
- Lack of 'traceability' of persons involved
- Individuals and companies that are insolvent yet have funds

Facts that tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise.

## 6.0 What should I do if I suspect a case of money laundering?

Anyone who knows or suspects money laundering activity is either taking, or has taken, place **must** inform the MLRO immediately, either in person or in writing by completing Part A of the disclosure form included at the end of the policy.

**If you do not disclose information immediately, then you may be liable to criminal prosecution.**

If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 to 329 of the Proceeds of Crime Act 2002, then your report must include all relevant details, as you will need consent from the National Crime Agency, via the MLRO, to take any further part in the transaction.

You should make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent – e.g. a completion date or court deadline.

You must follow any subsequent directions from the MLRO but must not make any further enquiries into the matter or any related transactions.

You must not disclose or indicate your suspicions to the person suspected of the money laundering as this could be regarded as “tipping off” which is itself an offence. Similarly, you must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.

## 7.0 What will the MLRO do?

The MLRO will consider the report and any other available internal information he thinks relevant. This may include:

- reviewing other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions; and
- any identification evidence held.

The MLRO will undertake any other enquiries deemed appropriate and will ensure that all available information is taken into account before deciding whether a report to the National Crime Agency (NCA) is required. When making further enquiries the MLRO must avoid any action which could tip off those involved, or which could give the appearance of tipping them off.

The MLRO may also need to discuss the report with you.

If the MLRO concludes that there is actual money laundering taking place, or that there are reasonable grounds to suspect so, he will record his reasoning in Part B of the disclosure form (included at the end of this policy) and must submit a Suspicious Activity Report (SAR) to the NCA immediately.

If consent is required to proceed with transactions for any prohibited acts under sections 327 to 329 of the Proceeds of Crime Act 2002, this can also be requested when the MLRO submits his report.

The quickest and easiest way to submit a SAR is online via the NCA website [www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk) (registration required). This provides instant confirmation and a reference number once the report has been received.

The system does not retain a file copy for your use, so the MLRO should keep a copy of the report.

**The MLRO will commit a criminal offence if he knows or suspects, or has reasonable grounds to do so, that another person is engaged in money laundering and he does not disclose this to the NCA as soon as practicable.**

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering, or he suspects money laundering but has a good reason for non-disclosure, then this must be noted accordingly on Part B of the disclosure form and consent given in writing for any ongoing or imminent transactions to proceed. The MLRO should consult with the Council's Legal Services before reaching a non-disclosure decision. If in any doubt, the MLRO should always disclose

## 8.0 Customer Due Diligence

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 require 'relevant persons' (i.e. credit and financial institutions, audit and accountants firms, tax advisers and insolvency practitioners, independent legal professionals, trust or company service providers, estate agents, high value dealers and casinos) to perform additional checks when undertaking certain activities in the course of their business. This process is known as customer due diligence.

Customer due diligence measures consist of identifying and verifying the identity of the customer, and any beneficial owner of the customer, and obtaining information on the purpose and intended nature of the business relationship. Regulated businesses are required to undertake these measures where they establish a business relationship, carry out an occasional transaction over 15,000 euros, suspect money laundering or terrorist financing or doubt the accuracy of customer identification information.

The regulations concerning customer due diligence are detailed and complicated, and there is no legal obligation for local authorities to carry them out. However, Council employees are encouraged to adopt the regulations where practical to minimise the likelihood of money laundering.

The basic identity check for **existing business customers** is to verify that signed, written instructions on the organisation's headed paper were obtained at the outset of the business relationship.

For **new business customers**, the Council can exercise due diligence by conducting some simple enquiries such as:

- checking with the customer's website to confirm their business address;



- conducting an online search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors;
- attending to the client at their business address; and
- seeking evidence of the key contact's personal identity (e.g. passport, photo ID card or driving licence) and position within the organisation.

If satisfactory evidence of identity is not obtained at the outset then the business relationship (or one-off transaction) should not proceed any further and you should report the matter immediately to the MLRO.

For further information on the customer due diligence requirements visit the money laundering regulations guidance on the GOV.UK website and go to the following location: <https://www.gov.uk/guidance/money-laundering-regulations-your-responsibilities>

## 9.0 Other Customer Checks

Staff dealing with transactions which involve income should be suspicious of any unusual payments received from private individuals – e.g. in respect of council tax, benefit overpayments, sundry debtors, etc. In particular, the following practices may indicate potential money laundering:

- large payments of cash;
- substantial overpayments of debts followed by a request for a refund (especially if this happens more than once); and
- substantial overpayments by credit or debit card where a cheque refund is requested (also a potential indication of credit card fraud).

Suggested checks include:

- Assess whether the size/method of payment seems reasonable given the nature and value of the debt.
- Check whether substantial overpayments are due to a genuine mistake – e.g. the customer used the wrong payee details, accidentally made a duplicate payment or entered too many zeros on an Internet payment. (This excuse becomes less credible if the customer then repeats this behaviour once the matter is corrected).
- Consider whether the customer requesting a refund is attempting to introduce intermediaries to either protect their identity or hide their involvement. (The safest policy is to always refund the originating card/bank account).

Preferably, all of the above checks should be carried out based on information already received rather than through further contact with the customer. Care must be taken to avoid “tipping off” the customer.

**If you are still suspicious about the transaction after carrying out the above checks, you should report the matter immediately to the MLRO.**

## 10.0 Record Keeping

All disclosure reports referred to the MLRO and reports subsequently made to NCA must be retained by the MLRO in a confidential file kept securely for that purpose, for a minimum of five years.

Where operational, evidence of customer due diligence checks, and details of all relevant business transactions carried out for those customers must also be kept for at least five years.

## **11.0 Guidance and Training**

In support of this policy, the Council will:

- make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the Anti-Money Laundering legislation; and
- provide targeted training to those officers considered most likely to encounter money laundering.

Note - It is the duty of officers to report all suspicious transactions whether they have received their training or not.

## **12.0 Conclusion**

Given the nature of the Council's services and for whom these services are provided, instances of suspected money laundering are unlikely to arise very often, if at all. However, we must be mindful of the legislative requirements, as failure to comply may render individuals liable to prosecution.

The Council believes that this policy represents a proportionate response to the level of risk faced.

### **Version Control**

Version 5 – November 2022

**MONEY LAUNDERING ACTIVITY – DISCLOSURE FORM (PART A)**

*To report suspected money laundering, complete this form and pass it to the Money Laundering Reporting Officer (MLRO)*

<b>From:</b>	<b>Name:</b>	
	<b>Job Title:</b>	
	<b>Service:</b>	
	<b>Tel/Ext No:</b>	

Date by which a response is required: .....

**Details of suspected offence:**

**Name(s) and address(es) of person(s)/company/public body involved and nature of business if a company/public body:**

--

**Nature, value and timing of activity involved (e.g. what, when, where, how):**

--

*(Continue on a separate sheet if necessary)*

**Nature of suspicions regarding such activity:**

--

**Name(s) and address(es) of person(s)/company/public body involved and nature of business if a company/public body:**

*(Continue on a separate sheet if necessary)*

**Has any investigation been undertaken (as far as you are aware)?**  
*(Delete as appropriate)*

Yes/No

**If yes, please include details below:**

**Have you discussed your suspicions with anyone else?** *(Delete as appropriate)*

Yes/No

**If yes, please specify below, explaining why such discussion was necessary:**

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

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

***Please do not discuss the content of this report with anyone you believe may be involved in the suspected money laundering activity described. To do so may constitute a “tipping off” offence under the Proceeds of Crime Act 2002 which carries a maximum penalty of five years imprisonment.***

## MONEY LAUNDERING ACTIVITY – DISCLOSURE FORM (PART B)

*This part of the form must be completed by the MLRO*

### SECTION 1 - ACKNOWLEDGEMENT AND REVIEW

<b>Date report received by MLRO:</b>	
<b>Date receipt acknowledged:</b>	

#### Consideration of disclosure to the National Crime Agency (NCA):

<b>Action taken to review the report:</b>

#### Outcome of consideration of disclosure:

<b>Are there reasonable grounds for suspecting money laundering activity?</b>

<b>If there are reasonable grounds for suspicion, will a Suspicious Activity Report (SAR) be made to the NCA? (Delete as appropriate)</b>	Yes/No
---	--------

*If yes, please complete Section 2. If no, go straight to Section 3.*

### SECTION 2 - DETAILS OF LIAISON WITH THE NCA

<b>Date of Report:</b>		<b>Reference number:</b>	
------------------------	--	--------------------------	--

<b>Notice Period:</b>	From:	To:
-----------------------	-------	-----

Note - The NCA has 7 working days starting the first working day after the consent request is made to refuse continuation of the activity. If no refusal has been received, consent is deemed to have been given and the activity may continue.

<b>Moratorium Period:</b>	From:	To:
---------------------------	-------	-----

Note - If consent is refused during the notice period, a further 31 days starting with the day on which consent is refused must elapse before the activity may continue. In the absence of any action to restrain the activity by law enforcement during the moratorium period the activity may continue.

<b>Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? (Delete as appropriate)</b>	Yes/No
---	--------

**Record of consent given by the NCA**

<b>Date:</b>		<b>Time:</b>	
--------------	--	--------------	--

**SECTION 3 - NON-DISCLOSURE**

<b>If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out below the reason(s) for non-disclosure:</b>
Note - Include details of any discussions with other Officers (e.g. Legal Services) together with their name(s) and the advice given.

**SECTION 4 - RECORD OF CONSENT GIVEN BY MLRO**

Consent given by MLRO for the employee:	Date
To proceed with the transaction	
For any prohibited act transactions to proceed	

**SECTION 5 - ANY OTHER RELEVANT INFORMATION**

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

Print Name: .....

***THIS REPORT MUST BE RETAINED FOR AT LEAST FIVE YEARS***

# Whistleblowing Policy



## 1.0 Introduction

Rother District Council is committed to the highest possible standards of corporate governance including openness, probity and accountability in the delivery of its services to the people who live and work within the District. It is also committed to the prevention, deterrence, detection and investigation of all forms of fraud, theft or corruption. The authority has put in place a range of rules, regulations, procedures and codes of practice to deliver this commitment, but unfortunately malpractice and/or wrongdoing may still occur.

The Council is determined that the culture and tone of the organisation shall be one of honesty and strong opposition to fraud, corruption or any form of malpractice. There is an expectation and requirement that all individuals and organisations associated in whatever way with the Council will act with integrity and that employees, at all levels, will lead by example in these matters.

The Council's employees are an important element in detecting and preventing fraud, corruption or any form of malpractice. Employees are often the first to realise that there may be something wrong within the Council. However, they may be reluctant to speak up if their concerns are no more than a suspicion or if they feel that raising the matter would be disloyal to their colleagues or the Council.

The Council is not prepared to tolerate malpractice or fraudulent activity. Employees, and others that we deal with, are therefore positively encouraged to raise any concerns associated with the Council's activity at an early stage. This policy has been introduced to enable you to do this in confidence, without fear of victimisation, subsequent discrimination or disadvantage. The policy also encourages you to raise concerns within the Council (or if you feel that this is not appropriate then externally) rather than overlooking a problem.

## 2.0 Objectives and Scope

The objectives of this policy are to:

- encourage individuals to feel confident in raising serious concerns;
- provide a channel to raise those concerns (on an anonymous basis if necessary) and to have confidence that those concerns will be properly dealt with; and
- reassure staff that they will be protected from possible reprisals or victimisation if they have made the disclosure in good faith.

This policy applies to all employees of the Council (including agency staff, trainees and volunteers) as well as independent consultants, contractors, suppliers, elected Members (Councillors) and members of the public.

### **3.0 Definition of Whistleblowing**

The term 'whistleblowing' in this policy refers to any confidential disclosure of suspected wrongdoing in respect of anyone working for or associated with the Council.

### **4.0 Reportable Behaviour**

Any serious concerns about a Council's activity or the conduct of any of its officers, Members or agents should be reported using this procedure.

Potential areas of concerns may include:

- Any unlawful act, whether criminal (e.g. theft) or a breach of the civil law (e.g. breach of contract).
- Maladministration (e.g. unjustified delay, incompetence, neglectful advice).
- Breach of any statutory Code of Practice.
- Health and safety risks, including risks to the public as well as other employees.
- The unauthorised use of public funds (e.g. expenditure for an improper purpose).
- Fraud and corruption (e.g. to solicit or receive any gift/reward as a bribe).
- Breach of the Conditions of Service or Members' Code of Conduct
- Any unethical conduct.

Note - This list is not exhaustive.

This policy does not cover employees lodging grievances about their employment, or the public complaining about services that they have or have not received. There are separate Council procedures in place detailing the course of action for those circumstances.

### **5.0 Safeguards**

#### **5.1 Prevention of Harassment or Victimisation**

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith. Any member of staff found to be victimising you will be considered to be committing a serious disciplinary offence.

If you experience any such pressure after raising a legitimate concern, tell someone in authority.



## 5.2 Confidentiality

Whilst the Council gives an assurance that it will not tolerate the harassment or victimisation of anyone raising a genuine concern, it recognises that nonetheless an individual may want to raise a concern in confidence under this policy. The Council will take steps to maintain your confidentiality throughout the process. However, it is possible that we will be unable to resolve the concern raised without revealing your identity (e.g. because your evidence is needed in court) but if this occurs we will discuss with you in advance how we can proceed.

## 5.3 Anonymous Allegations

This policy encourages you to put your name to any allegation you make. Concerns expressed anonymously are much less powerful, but they will still be considered for investigation at the discretion of the Council.

## 5.4 Untrue Allegations

No action will be taken against staff who make allegations in good faith if they are not confirmed by the investigation. Employees who report legitimate concerns under this policy are merely fulfilling their duty to the Council and will not therefore be at risk of losing their job/position or suffering any form of retribution. However, if an individual is found to make malicious or vexatious allegations it may be considered appropriate to take disciplinary action.

## 6.0 How to Raise a Concern

Any concerns that you have may be raised verbally or in writing. Concerns are better raised in writing giving the background, history and reason for the concern together with names, dates, places and as much information as possible. If you do not feel able to put your concern in writing then you can telephone or meet the officer you intend reporting to. Where appropriate, arrangements can be made for disclosures outside normal working hours.

**Remember – The earlier you express your concern the easier it will be to take action. If in doubt, raise it!**

The reporting route for concerns will depend on the seriousness and sensitivity of the issues and who is thought to be involved.

**If you are a member of staff**, agency staff, self-employed worker, contractor, or volunteer you can raise your concern or suspicion in the first instance with your line manager or Head of Service. (The officer receiving the allegation is then required to inform the Audit Manager and the Section 151 Officer and/or Monitoring Officer.) If this is not appropriate you can raise the issue directly with **one** of the following Designated Officers.

- Malcolm Johnston, Chief Executive
- Lorna Ford, Deputy Chief Executive (Monitoring Officer)
- Ben Hook, Director – Place and Climate Change
- Antony Baden, Chief Finance Officer (Section 151 Officer)
- Gary Angell, Audit Manager

**If you are a Councillor** you should approach one of the above Designated Officers directly.

Your choice of Delegated Officer should take into account the nature and seriousness of your concern and whether they might already be involved in the issue.

Note - Regardless of the route you take, the Designated Officer will be required to inform at least one member of the Senior Leadership Team (Chief Executive, Deputy Chief Executive, Director – Place and Climate Change or Chief Finance Officer) if your concern leads to a formal investigation. However, only one of these officers will usually be consulted in relation to the detail of your concern. This is to ensure that any further escalation or complaint about the conduct of an investigation may be dealt with by a different officer.

**If you are a member of the public** then you are encouraged to raise any matters of concern directly with the Council by contacting the Audit Manager. This may be done using one of the following methods:

- **Online:** By completing a [Whistleblowing Form](#)
- **By email:** By sending a message to [audit@rother.gov.uk](mailto:audit@rother.gov.uk)
- **By telephone:** By calling the Fraud Hotline on **01424 787799**
- **By post:** By writing to the Audit Manager at Rother District Council, Town Hall, Bexhill-on-Sea, East Sussex, TN39 3JX.

All Whistleblowing Forms and email messages are delivered direct to the Audit Manager and are only accessible by this officer. Similarly, all calls (and voicemail messages) received on the Fraud Hotline can only be answered (or accessed in the case of a message) by the Audit Manager.

**All information received by the Audit Manager will be handled in the strictest confidence, but you may still raise your concerns anonymously if you prefer.**

In the event that the Audit Manager is absent for any sustained period of time (e.g. annual leave of more than 72 hours) then one of the Designated Officers listed above will be given secure access to any messages received.

Note - The Internal Audit Team are automatically sent an email alert whenever a whistleblowing referral is received meaning that they would know when to arrange for a Designated Officer to be given secure access. However, at no point are they able to view the content of the message themselves.

## **7.0 How the Council Will Respond**

The action taken by the Council will depend on the nature of the concern. The matters raised may:

- Be investigated internally by Management or Internal Audit
- Be referred to the Monitoring Officer
- Be referred to the Police
- Be referred to the External Auditor
- Form the subject of an independent inquiry.

You are encouraged to put your name to concerns. All cases reported will be considered, but concerns expressed anonymously are more difficult to action and investigate effectively. The Council will not expect you to prove that your concern is true, but you will need to demonstrate to the person contacted that there are reasonable grounds for you to raise the issue.

The following factors will be taken into account when establishing the scope and depth of any investigation:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from other sources and information

In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures, for example, discrimination issues, will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation.

All serious concerns will be investigated quickly using the most appropriate procedure. It is essential that your allegation is heard by an officer who is impartial and capable of taking an independent view on the concerns raised.

The amount of contact between you and the Designated Officer considering your concerns will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from you in a discreet manner. You have the right to be accompanied by a friend, colleague (not involved in the area of work to which the concern relates), trade union or professional association representative when attending any meetings.

The Designated Officer will respond to you within 10 working days acknowledging that your concern has been received and where required arrange an initial, confidential meeting to obtain any further information. This is to enable the Designated Officer to decide upon the best course of action but should not be construed as an acceptance or rejection of the concern.

The Designated Officer will then decide whether an investigation is appropriate or not and, if so, what form it should take.

Owing to the variety of factors to take into account it is only possible to offer an estimate of the timescale for investigation, but the Designated Officer will keep you informed of progress – subject to legal constraints and matters of confidentiality.

## **8.0 How the Matter Can Be Taken Further**

This policy is intended to provide a channel for you to raise concerns within the Council. If you are not satisfied with the outcome of an investigation, and you feel it is right to take the matter outside the Council, the following are possible contact points:

- Relevant professional, government or regulatory bodies such as the Health and Safety Executive, Environment Agency, Financial Conduct Authority, HM Revenue and Customs, or HM Treasury
- Local Government Ombudsman
- External Auditor – Contact: Darren J. Wells (Director), Grant Thornton UK LLP, Telephone: 01293 554120, Email: [Darren.J.Wells@uk.gt.com](mailto:Darren.J.Wells@uk.gt.com)
- Police
- Recognised trade unions

In instances where staff decide to take the matter outside the Council they must always ensure that, in the first instance, the Council has been given an opportunity to fully investigate the issues raised. You will also need to ensure that confidential information is not disclosed unless relevant to your concern.

## **9.0 Independent Advice**

### **9.1 Council Employees**

The Council recognises that employees may wish to seek advice and be represented by their trade union when using the provisions of this policy and acknowledges and endorses the role trade union representatives play in this area.

It is worth remembering that your trade union, professional organisation or regulatory body can play a valuable role in assisting you raise your concerns under this policy.

### **9.2 Members of the Public**

Organisations that may be able to provide specific advice, in addition to those listed in paragraph 8.0, include:

- Citizens Advice
- Protect (formerly Public Concern at Work)

Protect is an independent charity that provides free advice to anyone who wishes to raise concerns about fraud or other serious malpractice. It can be contacted by telephone on 020 3117 2520, by email at [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk) or by completing an [online form](#)

## **10.0 Relevant Legislation**

The Public Interest Disclosure Act 1998 aims to protect whistleblowers from victimisation and dismissal, where they raise genuine concerns about a range of misconduct and malpractice. It covers virtually all employees in the public, private and voluntary sectors, and certain other workers, including agency staff, homeworkers, trainees, contractors, and all professionals in the NHS. The usual employment law restrictions on minimum qualifying period and age do not apply.

A worker will be protected if the disclosure is made in good faith and is about:

- a criminal act;
- a failure to comply with a legal obligation;

- miscarriage of justice;
- danger to health and safety;
- any damage to the environment; and
- an attempt to cover up any of these.

The Act extends protection given to health and safety representatives to individuals who raise genuine concerns about health, safety or environmental risks. (The Employment Rights Act 1996 already gives some legal protection to employees who take action over, or raise concerns about, health and safety at work.)

Where a whistleblower is victimised following a protected disclosure, they can take a claim to an employment tribunal for compensation. If a whistleblower is dismissed, they can apply for an interim order to keep their job, pending a full hearing.

### **Version Control**

Version 5 – November 2022