

THE VALE OF GLAMORGAN COUNCIL

CABINET: 28TH MARCH, 2022

REFERENCE FROM GOVERNANCE AND AUDIT COMMITTEE: 1ST MARCH, 2022

“881 DRAFT COUNTER FRAUD POLICIES (HRIAS) –

The Head of Regional Internal Audit Service presented the report, which outlined that one of the core functions of an effective Governance and Audit Committee was to consider the effectiveness of the Council’s risk management arrangements, the control environment and associated anti-fraud and corruption policies.

The Council's updated Counter Fraud Strategy and Framework 2021 to 2024 was considered by the Committee on 13th December, 2021.

Key policies such as the Anti-Fraud, Bribery and Corruption Policy, Anti-Money Laundering Policy and an Anti-Tax Evasion Policy had been updated to sit alongside the strategy. These would be used to assist in driving the commitment to developing a culture of honesty, integrity and opposition to fraud, corruption and bribery.

The three policies attached for consideration and comment were:

- Appendix A - Anti-Fraud, Bribery and Corruption Policy,
- Appendix B - Anti-Money Laundering Policy and
- Appendix C - Anti-Tax Evasion Policy

Following a query regarding consultation with Trade Unions, the Head of Regional Internal Audit Service clarified that there had been input from the Trade Unions around the development of the Whistleblowing policy which was important when it came to the Council’s counter fraud strategy. One thing that had been flagged, was the importance of raising the profile of new policies with staff, so consideration was being given around promotion. It was also recognised that staff needed to feel protected when raising concerns in a confidential manner.

Subsequently, it was

RESOLVED –

- (1) T H A T the draft Counter Fraud Policies be noted.
- (2) T H A T Cabinet be advised of any comments from the Committee and the draft Counter Fraud Policies be submitted to Cabinet for approval.

Reasons for decisions

- (1) Having regard to the contents of the report and discussions at the meeting.

(2) In order that Cabinet can be advised of the Committee's views on the draft Counter Fraud Policies prior to approval."

Attached as Appendix – Report to Governance and Audit Committee: 1st March, 2022

Meeting of:	Governance and Audit Committee
Date of Meeting:	Tuesday, 01 March 2022
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Draft Counter Fraud Policies
Purpose of Report:	To provide members of the Committee with the Council's draft Counter Fraud Policies for consideration prior to submission to Cabinet for approval.
Report Owner:	Head of the Regional Internal Audit Service
Responsible Officer:	Interim Head of Finance & Section 151 Officer
Elected Member and Officer Consultation:	There are no matters in this report which relate to an individual ward
Policy Framework:	This is a matter for executive decision
<p>Executive Summary:</p> <ul style="list-style-type: none"> • One of the core functions of an effective Governance and Audit Committee is to consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and corruption policies. • The Council's updated Counter Fraud Strategy & Framework 2021 to 2024 was considered by this Committee on 13th December 2021. • Key policies such as the Anti Fraud, Bribery and Corruption Policy, Anti Money Laundering Policy and an Anti Tax Evasion policy have been updated to sit alongside the strategy. These will be used to assist in driving the commitment to developing a culture of honesty, integrity and opposition to fraud, corruption and bribery. 	

Recommendations

1. That Members of the Committee note the draft Counter Fraud Policies
2. That Members of the Committee comment on the draft Counter Fraud Policies prior to submission to Cabinet for approval.

Reasons for Recommendations

1. To keep the Governance & Audit Committee informed

1. Background

- 1.1 The Council's updated Counter Fraud Strategy and Framework 2021 to 2024 is a 3-year strategy which provides a framework which identifies roles and responsibilities, aims and objectives, fraud risks, an action plan and a fraud response plan flowchart.
- 1.2 To support this strategy and framework, counter fraud policies have been developed, reviewed and updated.
- 1.3 Three policies are attached for consideration and comment:
 - Appendix A - Anti-Fraud, Bribery and Corruption Policy,
 - Appendix B - Anti-Money Laundering Policy and
 - Appendix C - Anti-Tax Evasion Policy

2. Key Issues for Consideration

- 2.1 The documents at Appendix A, Appendix B and Appendix C have been reviewed and updated in line with current legislation. These are key policies which will assist in driving the commitment to developing a culture of honesty, integrity and opposition to fraud, corruption, and bribery.

Anti-Fraud, Bribery and Corruption Policy (Appendix A)

- 2.2 The Vale of Glamorgan Council wishes to promote a zero-tolerance culture to fraud, bribery, and corruption.
- 2.3 The Council is determined that the culture and tone of the organisation is one of honesty, integrity and opposition to fraud, corruption and bribery. There is an expectation and requirement that all individuals and organisations associated, in whatever way with the Council, will act with integrity.

- 2.4** Councillors and Employees at all levels will lead by example in these matters and act in accordance with the Council's Codes of Conduct for Members and Officers. Employees are also expected to follow any Code of Conduct related to their personal professional qualifications and to abide by the National Code of Conduct together with any relevant amendments and local policies.
- 2.5** The Council takes its responsibilities for the stewardship of public finances very seriously and is committed to the highest standards of transparency and accountability to ensure appropriate use of public funds and assets. It has a duty to prevent fraud and corruption, whether it is attempted by someone within or outside of the Council such as another organisation, a resident, an employee, contractor, or Councillor. The Council is committed to creating and maintaining an effective anti-fraud and corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.
- 2.6** This policy document provides an extension to the council's existing policies including the Council's Whistleblowing Policy and Speak Out Line, affording a framework of reactive and proactive initiatives to detect fraud and / or demonstrate assurance that fraud has not taken place.
- Anti-Money Laundering Policy (Appendix B)
- 2.7** The Vale of Glamorgan Council is committed to the highest possible standards of conduct. Although as a local authority it is not directly covered by the requirements of current anti-money laundering legislation, it has responded to guidance from the finance and legal professions and developed an Anti-Money Laundering Policy and accompanying Guidance Notes to provide advice and assistance where money laundering is encountered or suspected.
- 2.8** Money laundering is the process of concealing sources of money. Money evidently gained through crime is 'dirty' money, and money that has been 'laundered' to appear as if it came from a legitimate source is 'clean' money. Money can be laundered by many methods, which vary in complexity and sophistication.
- 2.9** Historically, legislation to tackle the laundering of the proceeds of crime was aimed at the financial and investment sector. However, it was subsequently recognised that those involved in criminal conduct were able to 'clean' criminal proceeds through a wider range of businesses and professional activities.
- 2.10** This policy confirms the Council's commitment to ensuring that the relevant legislation is complied with.

Anti-Tax Evasion Policy (Appendix C)

- 2.11** The Government believes that relevant bodies should be criminally liable where they fail to prevent those who act for, or on their behalf, from criminally facilitating Tax Evasion.
- 2.12** At the Vale of Glamorgan Council, we want to make sure that we are providing excellent services to the residents of the Vale. All our staff, permanent and temporary, Councillors, partners, agency workers and contractors have an important role to play in achieving this goal and we expect everyone to be committed to our high standards of service which are based on the principles of honesty, openness, and accountability.
- 2.13** The Criminal Finances Act 2017 (the '2017 Act') became law in the summer of 2017 and Part 3 of the 2017 Act introduced new offences which sets out how those organisations categorised as 'relevant bodies' under the Act will be considered criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating Tax Evasion. The act applies to tax evaded which is owed in the UK or in a foreign country.
- 2.14** This policy is supplementary to the Council's wider Anti-Fraud, Bribery and Corruption Strategy and Policy which sets out the key responsibilities with regard to fraud prevention and what to do if fraud or financial irregularity is suspected and the action that will be taken by management.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1** These measures aim to prevent or reduce the risk of fraud, bribery, and corruption occurring.

4. Resources and Legal Considerations

Financial

- 4.1** To ensure that the Council funds and resources are used appropriately.

Employment

- 4.2** There is a resource impact in relation to the investigation and resolution of potential fraud, bribery, and corruption matters. The impact is borne by Directorates and Internal Audit.

Legal (Including Equalities)

- 4.3 Public Service organisations have a responsibility to embed effective standards for countering fraud, corruption, and bribery into the organisations. This supports good governance and demonstrates effective financial stewardship and strong public financial management.
- 4.4 These policies help to ensure that crime committed by Council employees and members in undertaking their duties can be detected and addressed

5. Background Papers

None



Anti-Fraud, Bribery & Corruption Policy

**Financial Services
Directorate of Resources**

Contents	Page
1. Introduction	3
2. Policy Statement	4
3. Who this Policy Applies to	5
4. Environment and Culture	5
5. Definitions	6
• Fraud and Corruption	6
• Bribery Act 2010	7
• Tax Evasion	8
• Money Laundering	9
6. Corporate Framework	9
7. Identifying the Risk of Fraud, Bribery or Corruption and Risk Mitigation	10
8. Acting Upon Your Suspicions	10
9. Responsibilities	11
10. Prevention of Fraud, Bribery and Corruption	13
• Employee Recruitment and Management	13
• Contractors and Suppliers	13
• Collaboration and Working with Others	14
11. Detection and Investigation	14
• Whistleblowing	15
• Raising Concerns	15
• Investigation	16
12. Deterrence	17
• Training and Awareness	17
• Courses of Action	18
13. Monitoring of this Policy	18

Control

- Policy Lead Officer: Head of Regional Internal Audit Service
- Responsible Officer: Head of Finance (Section 151 Officer)
- Consultation: Council Governance & Audit Committee
- Implementation Date: xxxxxxxx 2022
- Review Arrangements: Annually

1. Introduction

Fraud within the public sector costs the taxpayer billions of pounds each year. Detected cases of fraud and corruption are on the increase and all local authorities are likely to be affected in some way by fraudulent or corrupt activity.

At the Vale of Glamorgan Council, we want to make sure that we are providing excellent services to the residents of the Vale. All our staff, permanent and temporary, Councillors, partners, agency workers and contractors have an important role to play in achieving this goal and we expect everyone to be committed to our high standards of service which are based on the principles of honesty, openness, and accountability.

We know that we face the risk that something may go wrong or that someone may ignore our policies, our procedures, or the law, resulting in some very serious consequences, in relation to Fraud, Bribery and Corruption. Experience shows that staff, or others who work on behalf of an organisation, often have worries or suspicions and could, by reporting their concerns at an early stage, help put things right or identify and stop potential wrongdoing.

VALE OF GLAMORGAN COUNCIL ANTI-FRAUD, BRIBERY & CORRUPTION POLICY

2. Policy Statement

The Vale of Glamorgan Council wishes to promote a zero-tolerance culture to fraud, bribery, and corruption.

The Council is determined that the culture and tone of the organisation is one of honesty, integrity and opposition to fraud, corruption and bribery. There is an expectation and requirement that all individuals and organisations associated, in whatever way with the Council, will act with integrity.

Councillors and Employees at all levels will lead by example in these matters and act in accordance with the Council's Codes of Conduct for Members and Officers. Employees are also expected to follow any Code of Conduct related to their personal professional qualifications and to abide by the National Code of Conduct together with any relevant amendments and local policies.

The Council takes its responsibilities for the stewardship of public finances very seriously and is committed to the highest standards of transparency and accountability in order to ensure appropriate use of public funds and assets. It has a duty to prevent fraud and corruption, whether it is attempted by someone within or outside of the Council such as another organisation, a resident, an employee, contractor, or Councillor. The Council is committed to creating and maintaining an effective anti-fraud and corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities.

The Council maintains a suite of strategies and policies to support the effective management of the prevention, detection, investigation of fraud, corruption and bribery including an Anti-Fraud, Bribery & Corruption Policy, Whistleblowing Policy and a confidential 'Speak Out' out number or online option below:

- Confidential Speak Out Line: 01446 731115
- Report a Concern Online: [Speak Out Line](#)
- Email address: speakout@valeofglamorgan.gov.uk

This document provides an extension to the council's existing policies affording a framework of reactive and proactive initiatives to detect fraud and / or demonstrate assurance that fraud has not taken place.

3. Who this Policy Applies to

- All employees (including centrally employed teachers) of the Vale of Glamorgan Council (as defined by the Employment Rights Act) and is commended to School Governing Bodies and other associated employers as best practice.
- All Members of the Council.
- Partner Organisations.
- Third Party individuals such as Partners, Consultancy, Suppliers, Contractors, volunteers and employees of Council Suppliers and Contractors who are employed to deliver goods/services to the Council.
- General Public.

This Policy also aims to help employees (including temporary and agency workers), to understand how and when to contact the Council regarding fraud, bribery, or corruption. Employees must ensure they adhere to legal and contractual requirements and ensure that all procedures and practices remain above reproach.

Note: As well as using this Policy, any person employed or engaged by the Council who makes a report under this Policy, should refer to the Council's Whistleblowing Policy & the Speak Out Line for further guidance.

This Policy also aims to help Employees, Councillors, Contractors, Consultants, Suppliers and Service Users to understand how and when to contact the Council with their concerns.

4. Environment and Culture

In approving this Policy, the Council is setting the standard at a sufficiently high level and sends a clear message that:

- Fraud, bribery, or corruption will not be tolerated.
- All reported or identified instances will be dealt with in a professional and timely manner.
- It is committed to preventing and detecting fraud, bribery, or corruption.
- Those perpetrating fraud, bribery or corruption will be dealt with swiftly and firmly and be prosecuted using all the sanctions available.

The Council acknowledges that the vast majority of its employees and those that work with them always act with honesty and integrity to safeguard the public resources they are responsible for. However, there are people who may not act in this way.

Consequently, any allegations received in any way, including those made anonymously, will be taken seriously, and be investigated in an appropriate manner. There is a need to ensure that allegations are not frivolous, as in the case of employees, this could result in disciplinary action.

When fraud, bribery or corruption has occurred because of a breakdown in the authority's systems or procedures, senior management will ensure that appropriate improvements in controls are implemented to prevent re-occurrence.

To assist all employees and Members in their awareness of this approach to fraud, bribery and corruption, management will ensure:

- Participation in training and awareness programmes covering fraud detection and prevention.
- Ensure employees understand internal controls are designed and intended to prevent and detect fraud.
- Encourage employees to report suspected fraud, bribery, or corruption directly to those responsible for investigations without fear of disclosure or retribution – as set out in the Council's Whistleblowing Policy/ Speak Out.

5. Definitions

Fraud and Corruption

By reference to the Fraud Act 2006, fraud can be committed in the following three ways:

- **Fraud by False Representation:** “representation” means any representation as to fact or law that may be expressed or implied. A person commits an offence when they dishonestly make a false representation, and intends, by making the representation to:
 - make a gain for himself or another, or
 - cause loss to another person or expose another to a risk of loss.

A representation is false if:

- it is untrue or misleading, and
- the person making it knows that it is, or might be, untrue or misleading.

For understanding the term intention – this should bear its ordinary meaning and should also extend as elsewhere in criminal law to the point of including the foresight of a virtually certain consequence. For example, it is sufficient that “A” makes a false representation foreseeing that it is virtually certain to cause loss to “B” although that is not his purpose, and although he hopes that “B” will not lose.

- **Fraud by Failing to Disclose Information:** an offence is committed where a person dishonestly fails to disclose to another person information, which he is under a legal duty to disclose, and intends, by failing to disclose the information to:
 - make a gain for themselves or another, or
 - cause loss to another or to expose another to a risk of loss.

- **Fraud by Abuse of Position:** an offence is committed where a person occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position, and intends, by means of the abuse of that position to:
 - make a gain for himself or another cause loss to another, or
 - to expose another to a risk of loss.

The term fraud is generally used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusions.

This Policy therefore covers all financial impropriety including theft or corruption, which is described in more detail below:

- According to the 1968 Theft Act “a person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it”.
- Corruption is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the actions taken by the audited body, its Members, or employees.
- Actions constituting fraud or corruption may include, but are not limited to:
 - Any dishonest or fraudulent act against the Council.
 - Forgery or alteration of any record or account belonging to the Council.
 - Forgery or alteration of a cheque, bank draft or any other financial document.
 - Misappropriation of funds, securities, supplies, or other assets.
 - Impropriety in the handling or reporting of money or financial transactions.
 - Profiteering as a result of insider knowledge of Council activities.
 - Disclosing confidential and proprietary information to outside parties.
 - Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment.
 - Failure to declare an interest.

Bribery Act 2010

The Bribery Act 2010 was introduced to update and enhance UK law on bribery including foreign bribery.

Notably, it introduced a new strict liability offence for companies and partnerships of failing to prevent bribery. The introduction of this new corporate criminal offence places a burden of proof on local authorities to show they have adequate procedures in place to prevent bribery.

The Council could be guilty of an offence if an “associated person” carries out an act of bribery in connection with its business. A person will be “associated” where that person performs services for or on behalf of the Council and could include contractors and sub-contractors. The Bribery Act also provides for strict penalties for active and passive bribery by individuals as well as companies.

Bribery can be described as the receiving of an inducement for an action which is illegal, unethical or in breach of trust. Inducements can take the form of gifts, fees, rewards, or other advantages such as retaining business.

The Bribery Act created four prime offences:

- Two general offences covering the offering, promising, or giving of a bribe (“active” bribery), and the requesting, agreeing to receive or accepting a bribe (“passive” bribery);
- A discrete offence of bribery of a foreign public official; and
- A new offence of a commercial organisation failing to prevent a bribe being paid (note: should an offence be committed; it will be a defence that the organisation has adequate procedures in place to prevent bribery).

A statutory defence to the strict liability offence of “failing to prevent bribery” is the introduction of internal adequate procedures. The Council provides for such arrangements through this policy and associated documents, the appointment of the Council’s Head of Finance and/or Monitoring Officer to deal with all matters relating to bribery and corruption, management’s commitment to a zero-tolerance culture and training of relevant employees.

Note: Under the latter offence although, it applies specifically to commercial organisations, further guidance issued by the Government did clarify that a public sector organisation would fall within the definition set out in section 7 of the Act, if for example, a company was established by a local authority under the Local Government Act 2003.

That aside, the Council plays an important role in preventing or eliminating bribery in the private sector and should ensure that various anti-corruption provisions are included in procurement and contractual documents.

Tax Evasion

The Criminal Finance Act 2017 introduced two new criminal offences; one relating to UK tax evasion, one relating to foreign tax evasion. The new offences, which came into force on 30 September 2017, are designed to help the Government counter circumstances where a body’s employees facilitate tax evasion by their customers or suppliers. Although tax evasion does not have a direct impact on the Council, under the new legislation there is a strict liability for failing to prevent the facilitation of tax evasion by one of its associates, such as an employee or contractor. This could arise, for example, if a Council employee conspired with a supplier to falsify the amount paid on an invoice so that the supplier evaded paying income or corporate taxes.

There are three tests that must be passed before an offence is committed:

- Criminal tax evasion by a taxpayer (either an individual or a legal entity);
- Criminal facilitation of the offence by a person associated with the body, by taking steps with a view to; being knowingly concerned in; or aiding, abetting, counselling, or procuring the tax evasion by the taxpayer; and

- The body not preventing a person associated with it from committing the criminal facilitation.

Similar to the Bribery Act 2010, there is a statutory defence of having “reasonable prevention procedures” in place. HMRC has issued guidance on this setting out six risk principles that all organisations are expected to consider when reviewing whether they have proportionated and reasonable risk protocols in place. The Council has undertaken significant work to ensure risks are identified and implement procedures proportionate to those risks.

Money Laundering

Money laundering is the process by which criminals attempt to ‘recycle’ the proceeds of their criminal activities in order to conceal its origins and ownership and which leaves them with money that cannot be traced back. All employees are instructed to be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through e-mails. Detailed guidance is set out in the Council’s Anti-Money Laundering Policy.

Any service that receives money from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and if there is any suspicion concerning the appropriateness of the transaction then the Council’s Anti-Money Laundering Policy should be followed. The Council’s Money Laundering Reporting Officer (MLRO) is the Chief Finance Officer / Section 151 Officer.

6. Corporate Framework

The Council has a wide range of interrelated policies and procedures that provide an effective deterrent to fraudulent activity and provide the means for reporting or detecting fraud or corruption. These have been formulated in line with appropriate legislative requirements and it is important that all employees and Members know about them.

They include:

- Accounting procedures and records
- Anti-Fraud, Bribery & Corruption Policy
- Code of Corporate Governance
- Codes of Conduct
- Contract and Financial Procedure Rules
- Disciplinary Procedure
- Effective internal audit
- Effective recruitment and selection procedures
- Grievance Procedure
- Procurement Code of Practice
- Sound internal control systems
- The Council’s Constitution
- Whistleblowing Policy

Managers have a responsibility to ensure that all employees have access to the relevant rules and regulations and receive suitable training.

Members and employees must ensure that they read and understand the rules and regulations that apply to them and act in accordance with them.

7. Identifying the Risk of Fraud, Bribery or Corruption and Risk Mitigation

In having a risk management strategy, which includes risk mitigation measures, the Council aims to detect fraud, bribery or corruption and deter potential perpetrators of such activity.

This Policy sets out exactly what steps to take on suspecting fraud, bribery, or corruption.

In having a continuous programme of awareness and regular updates and training for new and existing employees, and in referring to this Policy in its quotation/tender documents with suppliers and its procurement guide, the Council aim to mitigate the risk of fraud, bribery or corruption taking place.

The nature and scale of losses to fraud and corruption are identified where they can be practically established. By measuring the scale of losses, and learning from where they are detected, knowledge is gained of where controls within systems should be strengthened or introduced to reduce the risk of fraud and corruption in the future.

8. Acting Upon Your Suspicions

If you suspect that fraud, bribery or corruption is being committed there are a few simple guidelines that should be followed.

DO

- Make an immediate note of your concerns. Note all relevant details, such as what was said in telephone or other conversations, the date, the time, and the names of the parties involved.
- Convey your suspicions to someone with the appropriate authority and experience. For staff this is usually your manager or Internal Audit, although it could be to any of the people or organisations listed in the 'Raising your Concerns' section.
- Deal with the matter promptly if you feel your concerns are warranted. Any delay may cause the council to suffer further financial or reputational loss.
- Don't be afraid to act and remember to use the 'Speak Out Line' if you are worried about revealing your identity.

DON'T

- Do nothing.
- Be afraid of raising your concerns. Staff will not suffer any recrimination as a result of raising a concern in good faith.
- Approach or accuse any individuals directly. You may have misinterpreted a perfectly genuine situation.

- Try to investigate the matter yourself. There are rules concerning the gathering of evidence for use in criminal cases. Proper investigative procedures must be followed.
- Convey your suspicions to anyone other than those with the proper authority.

If in doubt – raise your concerns, Speak Out.

9. Responsibilities

The primary responsibility for the prevention, detection and investigation of fraud, bribery, or corruption rests with senior management, who are also responsible for managing the risk of such occurrences. However, the Council always requires all employees and elected Members to act honestly and with integrity and to guard the resources for which they are responsible. Fraud, bribery, and corruption can pose a significant threat to these resources and must therefore also be their concern.

In doing so and in accordance with the Council's codes of conduct, there is a requirement for all employees and elected Members or persons acting on behalf of the Council to notify the Council immediately of any financial or accounting irregularity, or suspected irregularity, or of any circumstances which may suggest the possibility of such loss or irregularity, including those affecting cash, stores, property, remuneration or allowances.

The purpose of this Policy document is to also set out specific responsibilities with regards to the prevention and detection of fraud, bribery and corruption as follows:

Stakeholder	Specific Responsibilities
Chief Executive	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud corruption and bribery.
Chief Finance Officer (Section 151 Officer)	To ensure the Council has adopted an appropriate fraud strategy and framework, there is an effective internal control environment in place and there is an adequately resourced and effective Counter Fraud resource.
Monitoring Officer	To advise Councillors and Officers on ethical issues, standards, and powers to ensure that the Council operates within the law and statutory Codes of Practice.
The Governance and Audit Committee	To monitor on a regular basis the Council's approach to tackling fraud and corruption and promote an anti-fraud culture.
Councillors	To comply with the Code of Conduct and related Council policies and procedures, to be aware of the possibility of fraud, bribery, and corruption and to report any genuine concerns accordingly.

Stakeholder	Specific Responsibilities
Internal Audit	<p>Internal Audit are responsible for evaluating the potential for the occurrence of fraud and how the organisation manages fraud risk.</p> <p>Internal Audit also provides the key co-ordination role in the National Fraud Initiative (NFI), which is a fraud prevention and detection exercise based around bulk data matching that is led by the Cabinet Office, every two years.</p>
Chief Executive, Chief Officers and Heads of Service	<p>Manage the risk of fraud, corruption, and bribery. To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption, and bribery and to reduce these risks by implementing strong internal controls. It is vital that this group show leadership in supporting investigations into fraud and corruption and that they are responsive to implementing actions arising from this work. Their role in the NFI exercise is to provide data for matching and to analyse the outputs from the matching exercise and take appropriate action.</p>
Employees	<p>Our employees are the first line of defence against fraud, corruption, and bribery. They are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable. Also responsible for reporting malpractice through the established 'Whistle Blowing' procedures. Employees are expected to adhere to the Employee Code of Conduct Protocol and Financial Regulations and Contract Procedure Rules.</p>

10. Prevention of Fraud, Bribery and Corruption

Employee Recruitment and Management

A key preventative measure against fraud is to deter employees who might undertake such activities. The Council recognises that effective recruitment processes are essential to ensure the integrity of all new employees. These include:

- The checking of identity documents.
- References and qualification checks for new employees.
- Checks for appropriate posts through the Disclosure and Barring Service.
- Detailed appraisal of employees' performance and ability during probationary periods and throughout their entire employment.

Contractors and Suppliers

The Council will ensure that all contracts conform to the highest standards possible and ensure that those organisations that work with the Council to deliver services are made aware of the Council's strong anti-fraud, bribery, and corruption principles, including the Whistleblowing policy.

Where appropriate the Council may exclude suppliers, contractors and service providers from public contracts following conviction for certain offences including participation in criminal organisations, fraud, corruption, bribery, or money laundering.

The Council will seek an assurance that those tendering to provide supplies, goods, services and works to the Council have adequate anti-fraud, bribery or corruption recruitment procedures and controls in place; have not colluded with others during the tendering process; or canvassed or solicited any Elected Member or employee of the Council in connection with the award or future award of contracts.

In awarding any contract, the Council will act in accordance with its Contracts Procedure Rules and Procurement Policy and Strategy. Within its contract terms, the Council may exercise its right to terminate a contract and recover its losses if there is evidence of fraud, bribery, or corruption in connection within a Council contract by the contractor, its employees or anyone acting on the contractor's behalf.

The Council may seek the strongest available sanctions against the contractor, their employees or anyone acting on behalf of the contractor who commits fraud, bribery or corruption against the Council and will request that the organisation concerned takes appropriate action against any individual concerned.

Where contractors are involved with the administration of Council finances or those for which the Council has responsibility, the Council will conduct internal audit reviews and/or pro-active anti-fraud, bribery, or corruption exercises as part of the contract management process.

Collaboration and Working with Others

The Council is committed to working and cooperating with other organisations to prevent organised fraud, bribery, and corruption. Wherever possible and legal the Council will assist and exchange information with other appropriate bodies to assist in investigations to combat fraud, bribery, and corruption.

The Council is committed to participation in the National Fraud Initiative. The Council provides information from relevant databases for matching against similar information of other Local Authorities and participating organisations.

The Council will consider joint working with certain agencies, including (but not limited to):

- Other Local Authorities
- Welsh Government
- Department of Work and Pensions (DWP) & other Government Departments & Agencies
- Police
- UK Border Agency

11. Detection and Investigation

Managers play a key role in ensuring that systems and processes are in place to detect fraudulent activity.

In many cases, the diligence of individuals and the alertness and good citizenship of the public at large, detect acts of fraud or corruption. Fraud, bribery, and corruption may also be discovered by Internal Audit during routine audits, pro-active fraud audits or through the use of data matching. Frauds are also detected as a result of the Council's participation in the National Fraud Initiative exercise.

Employees, elected members and external stakeholders (including third party individuals) are expected to report suspected fraud or corruption in accordance with Council's Financial Regulations and the Whistleblowing policy.

The range of preventative systems within the Council, particularly internal control systems, can provide indicators of fraud, bribery, or corruption (and error) and can help to detect any inappropriate activity.

Management have responsibility for preventing and detecting fraud, bribery or corruption, and proactive exercises will be conducted by Internal Audit in targeted services areas where there is a high risk from fraud. However, despite the best efforts of managers and auditors, many irregularities are discovered often by chance or through the alertness of others and will come to the attention of the Council through its whistleblowing arrangements.

Whistleblowing

The Council operates a Whistleblowing Policy and supporting Speak Out reporting mechanism in accordance with the provisions of the Public Interest Disclosure Act 1998, which is intended to encourage and enable all employees of the Council, including trainees and agency workers, to raise concerns about any financial or other malpractice in the Council. Everything will be done to protect confidentiality. The 'whistleblower' will be advised of the action that has been taken as far as the law will allow.

Where Members of the Council and Co-opted Members of Committees come into possession of information which may indicate a fraudulent or corrupt act is being perpetrated against the Council, they should report this to either the Chief Executive, Head of Finance, Monitoring Officer, Head of Regional Internal Audit Service, Head of Human Resources or the Chair of the Governance & Audit Committee.

Raising Concerns

Staff, Members, Suppliers and Contractors can raise their concerns either via:

- Directly contacting the Council's Internal Audit Service (01446 709724)/ (01446 709794)
- By post to the Council's Civic Offices

The Council's confidential 'Speak Out' out number or online option below:

- Confidential Speak Out Line: 01446 731115
- Report a Concern Online: [Speak Out Line](#)
- Email address: speakout@valeofglamorgan.gov.uk

Alternatively, you can contact any of the recipients below with your concerns:

- Chief Executive: 01446 709202
- Head of Finance (Section 151 Officer): 01446 709254
- Monitoring Officer: 01446 709402
- Head of Regional Internal Audit Service: 01446 709572
- Head of Human Resources: 01446 709357

All are located at the following address:

Vale of Glamorgan Council
Civic Offices
Holton Road
Barry
CF63 4RU

Contact your Chair of Governors (if you work for a school)

Another alternative line of communication available where people do not wish to utilise the specific communications listed includes:

- Protect, formerly Public Concern at Work, (020 3117 2520), a registered charity.
Website: protect-advice.org.uk

Investigation

Investigations will be carried out in response to referrals of potential fraud. When information relating to fraud or corruption is obtained it is reviewed and subject to an informal risk assessment. Some are followed up with a full investigation and others may be better dealt with as management issues. Where appropriate management shall:

- Report all allegations immediately to Internal Audit and Senior Management.
- Follow any guidance provided.
- Where appropriate, contact other agencies, e.g., the Police.
- Where appropriate, support the Council's investigation and disciplinary procedures.

Depending on the nature and anticipated extent of the information obtained, Internal Audit will normally work closely with:

- Senior Management
- Human Resources
- Legal Services
- Other agencies, such as the Police.

This is to ensure that all allegations and evidence are properly investigated and reported upon, and that where appropriate, losses are recovered for the Council. Where financial impropriety is discovered the matter may be referred to the Police in accordance with the Anti-Fraud and Bribery Policy. The Head of Finance, Monitoring Officer, or the Internal Audit team or the Corporate Investigating Officer on their behalf, may seek the advice of the Police in the first instance. Referral to the Police will not prohibit subsequent or concurrent action under the disciplinary procedures.

Reporting cases in accordance with this Policy and the Whistleblowing Policy is essential and:

- Ensures the consistent treatment of information regarding fraud, bribery, or corruption
- Facilitates the proper investigation of suspected cases and
- Protects the interests of individuals and the Council.

The Council will treat all information received confidentially and will not disclose or discuss investigations with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of people suspected but subsequently found innocent of wrongful conduct and to protect the Council from potential civil liability. Any processing of personal data will comply with the Data Protection Act and the data protection principles.

12. Deterrence

The Council recognises that fraud, bribery, and corruption are costly, both in terms of reputation risk and financial losses. The prevention of fraud is therefore a key objective of the authority and respective measures are outlined below.

There are a number of ways in which we deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside or outside of the Council, and these include:

- Publicising the fact that the Council is firmly set against fraud and corruption at every appropriate opportunity.
- Acting robustly and decisively when fraud, bribery and corruption is suspected.
- Prosecution of offenders.
- Taking action to effect maximum recovery for the Council.
- Use of the Proceeds of Crime Act where appropriate to maximise the penalty and the level of recovery by the Council.
- Having sound internal control systems, that still allow for innovation and efficiency, but at the same time minimising the opportunity for fraud, bribery, and corruption.
- Reporting to the media any action taken relating to acts of impropriety, subject to the usual restrictions on reporting legal proceedings.

Training & Awareness

It is the responsibility of management to communicate the Anti-Fraud, Bribery & Corruption Policy to their employees and to promote within their teams a greater awareness of and alertness to the signs of fraud, bribery, and corruption.

Through induction training the Council ensures that all employees are clear about their responsibilities and duties in this respect, particularly those officers involved in internal control systems.

Internal Audit also offer support and guidance in relation to Anti-Fraud, Bribery & Corruption awareness.

Managers should ensure the message is highlighted and reinforced through the completion of the Fraud Awareness training module on 'iDev', as a core part of induction and employee's development.

Senior management should ensure Members are aware of this Policy initially via the induction process and then reminding them of this Policy via Council publications.

Courses of Action

Mechanisms exist within the Council to act in cases of fraud, bribery, or corruption. These include the following:

- **Disciplinary Action**

Gross misconduct and other fraudulent or corrupt conduct will normally lead to dismissal. Failure to comply or breach any sections contained within this Policy could also be regarded by the Council as gross misconduct. Such actions will be dealt with in accordance with the Council's disciplinary procedures.

- **Prosecution**

The Council will seek full redress through the legal processes available to counter any internal or external fraudulent activities perpetrated against it. This redress will be achieved through criminal and/or civil courts as considered appropriate.

The Chief Executive, in consultation with the Chief Finance Officer, the Monitoring Officer, HR Manager, the Internal Audit Manager and other external agencies as appropriate, will decide whether to formally refer the case to the Police for prosecution. Other external agencies involved may include Government Departments and the Crown Prosecution Service.

13. Monitoring of this Policy

The Head of Finance (Section 151 Officer) has overall responsibility for the maintenance and operation of this Policy and will liaise with the Chief Executive, the Monitoring Officer, the Head of Regional Internal Audit Service and the Head of Human Resources and Organisational Development on an annual basis to ensure that it continues to remain compliant and meets the requirements of the Council. Any material changes or updates will be reported to the Governance & Audit Committee.



Anti-Money Laundering (AML) Policy

**Finance Services
Directorate of Resources**

Contents	Page
1. Introduction	3
2. Scope	4
3. Key Message	4
4. What is Money Laundering	5
5. Obligations of the Council	5
6. Money Laundering Reporting Officer (MLRO)	6
7. Potential Money Laundering Situations	6
8. Failure to Report Offences or Suspicions	7
9. Reporting Procedure	8
10. Money Laundering Report	9
11. Additional Requirements for Finance and Legal Employees	10
12. Training	11
13. Further Information	12
14. Conclusion	12
Appendices	
Appendix 1 - Money Laundering Checklist	13
Appendix 2. Money Laundering Report Form	15
Appendix 3. Money Laundering Disclosure Form	18

Control

Policy Lead Officer: Head of Regional Internal Audit Services

Responsible Officer: Head of Finance / Section 151 Officer

Consultation: Governance and Audit Committee

Implementation Date: xxxxxxxx 2022

Review Arrangements: Every 2 years

1. Introduction

The Vale of Glamorgan Council (the Council) is committed to the highest possible standards of conduct. Although as a local authority it is not directly covered by the requirements of current anti-money laundering legislation, it has responded to guidance from the finance and legal professions and developed an Anti-Money Laundering Policy and accompanying Guidance Notes to provide advice and assistance where money laundering is encountered or suspected.

Money laundering is the process of concealing sources of money. Money evidently gained through crime is 'dirty' money, and money that has been 'laundered' to appear as if it came from a legitimate source is 'clean' money. Money can be laundered by many methods, which vary in complexity and sophistication.

Historically, legislation to tackle the laundering of the proceeds of crime was aimed at the financial and investment sector. However, it was subsequently recognised that those involved in criminal conduct were able to 'clean' criminal proceeds through a wider range of businesses and professional activities.

This policy confirms the Council's commitment to ensuring that the relevant legislation is complied with encompassing:

- The Proceeds of Crime Act 2002 (as amended by the Criminal Courts Act 2013 and the Serious Crime Act 2015)
- The Terrorism Acts 2000 & 2006.
- The Counter-Terrorism Act 2008; and
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).
- The Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulation 2019. (MLR 2019).

2. Scope

This Policy and its accompanying Guidance Notes applies to all Council employees and elected Members of the Council and aims to maintain existing high standards of conduct within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations. Further information can be found under the Obligations of the Council on page 5.

This policy sits alongside the Council's Anti-Fraud, Bribery, and Corruption Policy, Code of Conduct and Whistle Blowing Policy as components of the Council's Corporate Governance regime.

It is extremely important that all members and employees are familiar with their legal responsibilities and are vigilant at all times. Serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).

3. Key Message

The key message of this Policy is that if you suspect that money-laundering activity may be taking place or proposed, in relation to anything you are dealing with, you should immediately disclose those suspicions to the Council's MLRO.

*(Please refer to the Money Laundering checklist at **Appendix 1** to assist and the reporting form at **Appendix 2**.)*

The Council's MLRO is the Head of Finance/Section 151 Officer and the designated Deputy MLRO is the Council's Deputy Section 151 Officer (Operational Manager – Accountancy)

If the matter involves a proposed transaction (e.g. the sale of property) you should not proceed with the transaction without approval from the MLRO or the National Crime Agency (NCA). If possible, you should defer the transaction in such a way as not to alert anyone else to your suspicions. If you believe you cannot reasonably do so, you should immediately contact the MLRO or the Deputy MLRO.

If you are unable to defer the transaction without exposing your suspicions, e.g. as it is a cash transaction, you should complete the transaction as you usually would and record as much detail as possible on the form attached at **Appendix 2** and then pass the completed documentation to the MLRO.

4. What is Money Laundering

Money laundering is the process of concealing sources of money. Money evidently gained through crime is 'dirty' money, and money that has been 'laundered' to appear as if it came from a legitimate source is 'clean' money. Money can be laundered by many methods, which vary in complexity and sophistication.

Money laundering is the process of channelling 'bad' money into 'good' money to hide the fact that the money originated from criminal activity, and often involves three steps:

- **Placement** - cash is introduced into the financial system by some means;
- **Layering** - a financial transaction to camouflage the illegal source;
- **Integration** - acquisition of financial wealth from the transaction of the illicit funds.

There are two types of offences, which may be committed:

- Money laundering offences
- Failure to report money-laundering offences

The main types of money laundering offences are:

- Acquiring, using or possessing criminal property,
- Handling the proceeds of crimes such as theft, fraud and tax evasion,
- Being knowingly involved in any way with criminal or terrorist property,
- Entering into arrangements to facilitate laundering criminal or terrorist property,
- Investing the proceeds of crime in other financial products,
- Investing the proceeds of crimes through the acquisition of property/assets,
- Transferring criminal property.

5. Obligations of the Council

The law requires those organisations in the regulated sector and conducting relevant business to:

- Appoint a MLRO to receive Suspicious Activity Reports from employees of suspected money laundering activity,
- Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures.

Not all the Council's business is 'relevant' for these purposes, it is mainly the accountancy and audit services carried out by the Finance Department and certain financial, company and property transactions carried out by the Legal Department. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council.

Therefore, all employees are required to comply with the Council's Anti Money Laundering Policy in terms of reporting concerns about possible money laundering.

The Money Laundering Regulations 2017 require appropriate systems of internal control to prevent money laundering. There must be management controls in place to help identify possible attempts to launder money or fund terrorism, so that appropriate action to prevent or report it can be taken. Systems of internal control should help identify unusual or suspicious transactions or customer activity and should include:

- Identification of relevant responsibilities under this Policy.
- Provision of information to relevant persons on suspected money laundering risks.
- Training of relevant employees on the legal and regulatory responsibilities for money laundering and control measures.
- Measures to ensure that money laundering risks are taken into account in the day-to-day operations of the organisation.

6. Money Laundering Reporting Officer (MLRO)

The officer nominated to receive any reports about money laundering activity within the Council is the Head of Finance/151 Officer, in the absence of the MLRO, the Council's Deputy S151 Officer (Operational Manager – Accountancy) can be contacted using a confidential email address MLRO@valeofglamorgan.gov.uk.

7. Potential Money Laundering Situations

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, anything that is £5,000 or more,
- 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,
- 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.

8. Failure to Report Offences or Suspicions

Where, in the course of conducting relevant business, you know or suspect, or have reasonable grounds to do so (even if you did not know or suspect), that another person is engaged in money laundering and you do not disclose this as soon as is practicable to the MLRO you are committing an offence.

Failure to report money-laundering offences means that potentially any employee could 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 their suspicions.

Whilst the risk of contravening the legislation is low, it is extremely important that all employees understand their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation. However, an offence is not committed if the suspected money laundering activity is reported to the MLRO and appropriate consent obtained to continue with the transaction.

If you report suspected money laundering to the MLRO, you should not discuss it with anyone else: you may commit a further offence of 'tipping off' (if, knowing a disclosure to the MLRO has been made, you make a disclosure to someone else which is likely to prejudice any investigation which might be conducted).

Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. Be very careful what you say and to whom, in these circumstances. Any person found guilty of tipping off or prejudicing an investigation is liable to imprisonment (maximum five years), a fine or both.

9. Reporting Procedure

If you know or suspect that money laundering activity is taking place, has taken place, or that your involvement in a matter may amount to a prohibited act under the legislation, this must be disclosed immediately to the MLRO. This disclosure should be done within hours of the information coming to your attention, not weeks or months

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

Your disclosure should be made using the report form attached at **Appendix 2**. The disclosure report must contain as much detail as possible, for example:

- Full details of the people involved (including yourself if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc.
- Full details of the nature of your and their involvement,
- The types of money laundering activity suspected,
- The dates of such activities, including whether the transactions have happened, are on-going or are imminent,
- Where they took place,
- How they were undertaken,
- The (likely) amount of money/assets involved,
- Why, exactly, you are suspicious?

You should also supply any other available information to help the MLRO to make a sound judgement as to the next steps to be taken and you should enclose copies of any relevant supporting documentation.

If you are a legal adviser and consider that legal professional privilege may apply to the information, you should explain fully in the report form the reasons why you contend the information is privileged. The MLRO, in consultation with the Head of Legal Services/Monitoring Officer, will then decide whether the information is exempt from the requirement to report suspected money laundering to the NCA.

Once you have reported the matter to the MLRO you must follow any directions the MLRO may give you. You must **NOT** make any further enquiries into the matter yourself. Any necessary investigation will be undertaken by the NCA. All employees will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or to any other individual without the specific consent of the MLRO. If you do so, you may commit the offence of 'tipping off'.

Do not make any reference on records held to the fact that you have made a report to the MLRO. If a customer exercises their right to see their record, any such note would obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

In all cases, no further action must be taken in relation to the transaction(s) in question until either the MLRO or the NCA (if applicable) has specifically given their written consent to proceed.

10. Money Laundering Report

On receipt of a money laundering report, the MLRO will record the date of receipt on the report, acknowledge receipt of it and indicate when the MLRO expects to respond.

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

- Reviewing other transactions, patterns and volumes,
- The length of any business relationship involved,
- The number of any one-off transactions and linked one-off transactions,
- Any identification evidence.

The MLRO will undertake any inquiries deemed appropriate and will ensure that all available information has been obtained. In doing so, the MLRO will avoid any action which could tip off those involved, or which could give the appearance of tipping them off. Where appropriate, Internal Audit will investigate on behalf of the MLRO.

The MLRO may also need to discuss the report with the employee who reported the case.

The MLRO will then consider all aspects of the case and decide whether a report to the NCA is required. The MLRO must make a timely determination as to:

- Whether there is actual or suspected money laundering taking place,
- Whether there are reasonable grounds to know or suspect that money laundering is taking place,
- Whether the MLRO needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO concludes one or more of the above, the MLRO will record the conclusion and disclose the matter as soon as possible to NCA online.

Once the MLRO has made a disclosure to NCA, their consent will be needed before any further part in the transaction can take place. Consent will be received in the following way:

- Specific consent,
- Deemed consent if no notice of refusal is received from NCA during the notice period (i.e. 7 working days starting with the first working day after the MLRO makes the disclosure),
- Deemed consent if refusal of consent is given during the notice period but the moratorium period has expired (31 days starting with the day on which the MLRO receives notice of refusal of consent) has elapsed without any further refusal of consent.

The MLRO should make clear in the report to NCA if such consent is required, and if there are any deadlines for giving such consent, e.g. completion date or court deadline.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering this will be recorded appropriately, and the MLRO will give consent for any on-going or imminent transaction(s) to proceed.

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

The MLRO commits a criminal offence if they know or suspect, or has reasonable grounds to suspect that another person is engaged in money laundering and this is not disclose as soon as possible to the NCA.

11. Additional Requirements for Finance and Legal Employees

Those employees providing certain financial and legal services (i.e. 'relevant persons') must comply with the customer identification procedure, 'due diligence' and the record keeping procedures.

There are various levels of 'due diligence'. The 2017 Regulations require due diligence to be carried out on a risk sensitive basis, so that:

- Simplified due diligence is required where there is a low risk of money laundering. For example, if a company is listed on the stock exchange, a company search and evidence of the listing would suffice. (Note, for example, a company search is often undertaken / may already have been undertaken for the Council by the Procurement Section in conjunction with the Accountancy Section – so further inquiry may not need to be undertaken),
- 'Enhanced due diligence' for those with a high-risk status, for example remote transactions where the customer is not physically present to be identified would require additional appropriate documents to be requested.
- The 'beneficial owner', the individual that ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, should be identified.
- The business relationship should be scrutinised throughout its existence and not just at the beginning.

You may rely on due diligence undertaken by those regulated by the Financial Conduct Authority (FCA) or supervised by a listed professional regulator e.g. the Solicitors Regulation Authority. Any information obtained may be used as evidence in any subsequent investigation by the relevant enforcement authorities into money laundering.

In all cases, evidence of the customer identification and record of the relationship / transaction should be retained for at least five years from the end of the business relationship of transaction(s). The records that must be kept are:

- A copy of, or references to, the evidence of the identity obtained under the customer due diligence requirements in the Regulations,
- The supporting evidence and records in respect of the business relationships and occasional transactions which are the subject of customer due diligence measures or on-going monitoring,
- A copy of the identification documents accepted, and verification evidence obtained,

- References to the evidence of identity,
- Transaction and business relationship records should be maintained in a form from which a satisfactory audit trail may be compiled, and which may establish a financial profile of any suspect account or customer.

If satisfactory evidence of identity is not obtained at the outset of the matter, then the business relationship or one-off transaction(s) cannot proceed any further.

The customer identification procedure must be carried out when the Council is carrying out 'relevant business' and:

- Forms a business partnership with a customer,
- Undertakes a one-off transaction (including a property transaction or payment of a debt) involving a cash payment by or to a customer of 15,000 euros (approximately £12,500) or more,
- Undertakes a series of linked one-off transactions involving total payment by or to the customer(s) of 15,000 euros (approximately £12,500) or more;
- It is known or suspected that a one-off transaction, or a series of them, involves money laundering. This must be completed before any business is undertaken for that customer in relation to accountancy, procurement, audit and legal services with a financial or real estate transaction.

In the above circumstances, employees must:

- Identify the person seeking to form the business relationship or conduct the transaction (an individual or company / organisation),
- Verify their identity using reliable, independent sources of information,
- Identify who benefits from the transaction,
- Monitor transactions to make sure they are consistent with what you understand about that person or country,
- Understand the source of their funds,
- Ensure there is a logical reason why they would want to do business with the Council.

This applies to existing customers, as well as new ones, but identification evidence is not required for matters entered into prior to 1st March 2004.

The law does not prescribe the precise nature of the records to be retained. However, they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the Council will be routinely making records of work carried out in the course of normal business and these should suffice in this regard.

12. Training

The Council will take appropriate measures to ensure that employees are made aware of the law relating to money laundering and will arrange targeted, on-going, training to key individuals most likely to be affected by the legislation.

13. Further Information

Further information can be obtained from the MLRO and the following sources:

- <https://www.nationalcrimeagency.gov.uk> – website of the National Crime Agency
- Anti-Money Laundering Guidance for the accountancy sector, published by Consultative Committee of Accountancy Bodies (CCAB) www.ccab.org.uk
- Anti-Money Laundering Guidance for the legal sector at the Law Society: <https://www.lawsociety.org.uk/>
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 at: <https://www.legislation.gov.uk>

14. Conclusion

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This document has been written to enable the Council to meet the legal requirements in a way that is proportionate to the low risk to the Council of contravening the legislation. Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

The policy will be reviewed as and when required e.g. following any legislative changes and reported to Cabinet and the Governance and Audit Committee.

Appendix 1

Money Laundering Checklist

Guidelines to staff and members on concerns or suspicions

It is anticipated that the most likely scenario in which a money laundering issue may arise is where officers unwittingly become concerned or involved in an arrangement which we know or suspect enables criminal property to be retained or acquired by a third party.

If you do have any suspicions or concerns about an individual or transaction, then it is always better to raise those concerns appropriately. If necessary, you may wish to use the Council’s Whistleblowing Policy for further support and guidance on how to raise a concern. Conversely, if in doubt, seek advice from the MLRO.

Although some offences and suspicions may be fairly apparent, some can be more difficult to identify. The simple guidance is to be vigilant, and not be afraid to question something if you don’t think it looks right. If you think something looks suspicious, then the probability is someone else may also think the same. It is better for the Council to be safe when handling public money – it would not reflect well on the Council’s reputation if it was found we had taken monies that were obtained through theft, drug trafficking, terrorism, etc.

It is recognised that a lot of the Council’s activities are sensitive in nature, and in cases what, to some people, may be suspicious or concerning behaviour, from a money laundering perspective may not necessarily be in line with the activity occurring. However, people should always be mindful of genuine concern and suspicion.

The types of activity that may be affected

The following table sets out the types of activities that might be suspicious, and how the Council may come across those activities. It is not intended to be exhaustive, and just because something you are suspicious about is not on the list, it doesn’t mean you shouldn’t report it.

Activity	The types of activity that may be affected
New customers with high value transactions	<ul style="list-style-type: none"> • Selling property to individuals or businesses • Renting out property to individuals or businesses • Entering into other lease agreements • Undertaking services for other organisations
Secretive clients	<ul style="list-style-type: none"> • Housing benefit claimants who have sums of money entering into / out of their bank account (even if we do not award them benefit, we should still consider money laundering implications) • People buying or renting property from the Council who may not want to say what it is for • People receiving grant funding who refuse to demonstrate what funding was used for
Customers who we think are acting dishonestly or illegally	<ul style="list-style-type: none"> • People paying for Council services who do not provide details about themselves • People making odd or unusual requests for payment arrangements
Illogical transactions	<ul style="list-style-type: none"> • People paying in cash then requesting refunds • Requests for the Council to pay seemingly unconnected third parties in respect of goods / services provided to the Council • Requests for the Council to pay in foreign currencies for no apparent reasons

Activity	The types of activity that may be affected
Payments of substantial sums by cash	<ul style="list-style-type: none"> • Large debt arrears paid in cash • Refunding overpayments • Deposits / payments for property
Movement of funds overseas	<ul style="list-style-type: none"> • Requests to pay monies overseas, potentially for “tax purposes”
Cancellation of earlier transactions	<ul style="list-style-type: none"> • Third party “refunds” grant payment as no longer needed / used • No payment demanded even though good / service has been provided • Sudden and unexpected termination of lease agreements
Requests for client account details outside normal course of business	<ul style="list-style-type: none"> • Queries from other companies regarding legitimacy of customers • Council receiving correspondence / information on behalf of other companies
Extensive and Overcomplicated client business structures / arrangements	<ul style="list-style-type: none"> • Requests to pay third parties in respect of goods / services • Receipt of business payments (rent, business rates) in settlement from seemingly unconnected third parties
Poor accounting records and internal financial control	<ul style="list-style-type: none"> • Requests for grant funding / business support indicates third party not supported by financial information • Companies tendering for contracts unable to provide proper financial information / information provided raises concerns • Tender for a contract which is suspiciously low
Unusual property or investments transactions	<ul style="list-style-type: none"> • Requests to purchase Council assets / land with no apparent purpose • Requests to rent Council property with no apparent business motive
Overcomplicated legal arrangements / multiple solicitors	<ul style="list-style-type: none"> • Property transactions where the Council is dealing with several different parties

Appendix 2

MONEY LAUNDERING REPORT FORM

Employee Details

Name _____

Department / Section _____

Date Reported _____

Contact details _____

Offence Details

Give full details of the name(s) and address (es) of the person(s) / Company (s) / public body (s) / Directorship (s) involved Identities of the person(s) / company (s) subject to the enquiry

Nature, value and timing of the activity involved – please include full details of whether this has already occurred, is on-going or is likely to occur, where / when this occurred, how it arose, and the amount of money / assets involved and why you are suspicious. Please continue on another sheet if necessary.

Investigations – has any investigation already occurred, as far as you are aware? If so, please detail below:

Discussions – have you discussed your suspicions with anyone – including any advisory bodies? Please identify who you have contacted and why such discussions were necessary.

Disclosure – is there any reason why you believe this should not be disclosed to National Crime Agency (NCA)?

Further Information – if there is any further information you believe to be relevant, please include here:

Signed: _____

Date: _____

This completed form is to be submitted to the Councils Money Lending Responsible Officer or Deputy via email :

- MLRO@valeofglamorgan.gov.uk

OR/

By post to Vale of Glamorgan Council, Civic Offices, Holton Road, Barry, CF63 4RU

MONEY LAUNDERING DISCLOSURE FORM
(TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER)

Date of Money Laundering Report Form being received: _____

Date when acknowledgement receipt of Money Laundering Report Form:

Report Form related to:

Report Form completed by:

Officer contact details:

Action taken to review Report Form:

Findings of review:

Are there reasonable grounds for suspecting money laundering activity? If yes, please give details:

If yes, please complete the following details:

Date or report to NCA:
Details of liaison with NCA regarding the report:
Notice Period:
Moratorium period:

Is consent required from NCA? Has consent been received?

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Date consent given by MLRO to employee for Council to proceed with the transaction:

Date consent given to MLRO to employee for any prohibited act transactions to proceed:

Other relevant information:

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Signed: _____

Name: _____

Date: _____



Anti-Tax Evasion Policy

**Financial Services
Directorate of Resources**

Contents	Page
1. Introduction	3
2. Policy Statement	4
3. Who this Policy Applies to	4
4. Legislative Context	4
5. Who can be held accountable for Tax Evasion?	5
6. Prevention Procedures	6
7. Definitions	7
• Tax Evasion	
• Tax Avoidance	
• Relevant Body	
8. Risk Assessments	7
9. Areas of Risk	7
10. Proportionality of Risk-based Prevention Procedures	10
11. Due Diligence	10
12. Communication and Training	10
13. Monitoring and Review	11
14. Top Level Commitment	11

Control

Policy Lead Officer: Head of Regional Internal Audit Service

Responsible Officer: Head of Finance (151 Officer)

Consultation: Council Governance & Audit Committee

Implementation Date: xxxxxxxx 2022

Review Arrangements: Annually

1. Introduction

The Government believes that relevant bodies should be criminally liable where they fail to prevent those who act for, or on their behalf, from criminally facilitating Tax Evasion.

At the Vale of Glamorgan Council, we want to make sure that we are providing excellent services to the residents of the Vale. All our staff, permanent and temporary, Councillors, partners, agency workers and contractors have an important role to play in achieving this goal and we expect everyone to be committed to our high standards of service which are based on the principles of honesty, openness, and accountability.

The Criminal Finances Act 2017 (the '2017 Act') became law in the summer of 2017 and Part 3 of the 2017 Act introduced new offences which sets out how those organisations categorised as 'relevant bodies' under the Act will be considered criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating Tax Evasion. The act applies to tax evaded which is owed in the UK or in a foreign country.

This policy is supplementary to the Council's wider Anti-Fraud, Bribery and Corruption Strategy and Policy which sets out the key responsibilities with regard to fraud prevention and what to do if fraud or financial irregularity is suspected and the action that will be taken by management.

VALE OF GLAMORGAN COUNCIL TAX EVASION POLICY

2. Policy Statement

The Vale of Glamorgan Council (the Council) wishes to promote a culture of openness and honesty, consistent with the principles for conduct identified by the Committee for Standards in Public Life and expects all those who work for and with the Council to adopt the highest standards of propriety and accountability.

Following the publication of the Criminal Offences Act 2017, the Council recognises the need for a policy to prevent wrongdoing.

The Council is required to take preventative measures to prevent tax evasion. The Council aims to conduct its financial affairs in a law-abiding way and does not tolerate either the commitment or facilitation of Tax Evasion. The Council has a zero-tolerance approach to all forms of Tax Evasion, whether under UK law or under the law of any foreign country.

The Council already has a range of policies, procedures and guidance that underpins its financial activities including the Anti-Money Laundering Policy and the Anti-Fraud, Bribery and Corruption Policy.

3. Who this Policy Applies To

This policy applies to all persons working for the Council or any subsidiary, including employees at all levels, directors, officers, and associates (as defined below), including, but not limited to, agency workers, seconded workers, volunteers, apprentices, contractors, external consultants, third party representatives and business partners, sponsors or any other person associated with us, wherever located.

This policy is adopted by the Council. Officers in leadership positions are responsible for ensuring those reporting to them understand and comply with the policy.

We request all our officers and all who have, or seek to have, a business relationship with the Council, to familiarise themselves with our Tax Evasion Policy and to always act in a way which is consistent with the procedures and reporting arrangements therein.

4. Legislative Context

The Government believes that the Council should be criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating tax evasion.

The offence does not fundamentally alter what is criminal; it simply focuses on who is to be held accountable for acts contrary to the current law.

The offence focuses on the failure to prevent the crimes and those who act for or on behalf of the Council, rather than trying to attribute acts to the Council.

The new legislation in relation to Corporate Tax Evasion is laid out in the Criminal Finance Act 2017 (“CFA 2017”). This new act came into force on the 30th September 2017:

Part 3 CFA 2017 creates two separate corporate offences:

- Failure to prevent facilitation of UK tax evasion and;
- Failure to prevent facilitation of overseas tax evasion.

The Council would be guilty of an offence if a person commits a UK tax evasion facilitation offence when acting in the capacity of a person associated with the Council.

Under S45 (4) CFA 2017 a UK tax evasion offence is either of the following:

- a) An offence of cheating the public revenue.
- b) An offence under the law of any part of the United Kingdom consisting of being knowingly concerned in or taking steps with a view to, the fraudulent evasion of a tax.

Under S45 (5) CFA 2017 ‘UK tax evasion facilitation offence’ means an offence under the law of any part of the United Kingdom consisting of:

- a) Being knowingly concerned in, or taking steps with a view to, the fraudulent evasion of a tax of another person,
- b) Aiding, abetting, counselling, or procuring the commission of a UK tax evasion offence, or
- c) Being involved in the commission of an offence consisting of being knowingly concerned in, or taking steps with a view to, the fraudulent evasion of tax.

5. Who Can be Held Accountable for Tax Evasion?

The Government guidance refers to both the ‘Relevant body’, namely (Vale of Glamorgan Council) and ‘persons acting as associates,’ (any employee, agent or other person who performs services for, or, on behalf of the Council). The associate person can be individual or an incorporated body.

For Corporate offences to be committed a criminal offence must have been committed at the taxpayer level (stage one)

Stage one: The criminal tax evasion by a taxpayer (either an individual or a legal entity) under existing law.

It is criminal offence to deliberately and dishonestly facilitate the commission of revenue fraud or to assist a person to fraudulently evade tax. It is also a crime to aid and abet another person in committing a revenue fraud.

Stage two: The criminal facilitation of the tax evasion by an associate person of a relevant body.

Only a relevant body can commit the new offences. If an associate deliberately and dishonestly criminally facilitates a tax evasion offence whilst performing services for or on behalf of the Council, the Council is accountable, unless they could evidence that reasonable prevention procedures have been put in place to prevent its associated persons from committing tax evasion.

6. Prevention Procedures

Government guidance suggests the proportionate prevention measures should be taken based on an assessment that identifies the specific risks of the organisation.

The Government has set the same threshold for Tax Evasion prevention measures as those set for Bribery (under S7 of the Bribery Act 2010). i.e., When an offence has been committed, an organisation must be able to evidence that they have adequate procedures in place designed to prevent persons associated with the Council from undertaking such conduct.

The Council must ensure that their policies and procedures are up-to-date, and that staff are made aware of their responsibility around the recognition and prevention of tax evasion. This will not only provide a safeguard against tax evasion but also enable the Council to evidence that prevention procedures are in place.

HMRC has produced guidance on the appropriate set of prevention measures (six core principles) which could be put in place by a relevant body to prevent associated persons from criminally facilitating Tax Evasion are:



7. Definitions

Tax Evasion is the non-payment or under-payment of taxes, usually resulting from making a false declaration or no declaration at all of taxes due to the relevant tax authorities, resulting in legal penalties (which may be civil or criminal) if the perpetrator of tax evasion is caught.

Tax Avoidance is seeking to minimise a tax bill without deliberate deception (which would be tax evasion) but contrary to the spirit of the law. It therefore involves the exploitation of loopholes and gaps in the tax and other legislation in ways not anticipated by the law.

Relevant Body – The government guidance for the corporate offences of failure to prevent criminal facilitation of tax evasion, (1st September 2017) states that only a 'relevant body' can commit the new offences. This means that only incorporated bodies (typically companies but also includes the Council) and partnerships can commit the new offences, not individuals.

However, a relevant body can commit the new offences if a person acting in the capacity of a person associated with it criminally facilitates a tax evasion offence.

A person is associated with a relevant body if that person is an employee, agent or other person who performs services for or on behalf of the relevant body (such as sub-contractors).

8. Risk Assessment

It is unlikely that any one individual Council Officer would benefit individually from Tax Evasion.

There would have to be collusion either with a supplier or another council employee for an individual to benefit. However, the Council's Internal Audit Team will conduct regular compliance checks paying attention to areas of high risk and report back to the Governance and Audit Committee as part of its reporting requirements on counter fraud activities.

9. Areas of Risk

The following examples are intended to illustrate situations in which a person (member of staff) or the Council could facilitate tax evasion. These examples noted are not an exhaustive list.

Value Added Tax

Paid to non-registered Suppliers – Suppliers adding VAT to their invoices when they are not registered for VAT with the intention of not paying the tax over to HMRC. If the invoice is approved/paid by a Council employee without questioning the incorrect addition of VAT to the invoice, they could be facilitating tax evasion by the supplier. If the council paid the invoice and recovered the VAT from HMRC this would not be identified as a cost in anyone's budget so would be difficult to spot.

Paying Fraudulent VAT Only Invoices

Accepting and paying a VAT only invoice without checking that it is valid and relates to goods and services received by the Council could facilitate tax evasion by a supplier. VAT only invoices would not be identified as a cost against any budget as the money would be recovered from HMRC and could therefore go undetected.

Raising Invoices to a Customer

Having supplied goods or services to Customer A, they then ask the service to raise the invoice to Customer B. The reason for this change could be because Customer A is not VAT registered and cannot recover VAT whereas Customer B is registered and can recover the VAT. This type of request could be an indicator of tax evasion and the reason for the request should be obtained and the change only made if it is clear that the reason is not in order to evade tax.

Supplies of Goods or Services to Customers

At a customer's request, changing the description of the goods or services supplied from those that would be subject to VAT to something that does not attract VAT. The only reason for doing this would be so that the customer does not have to pay the correct VAT due. The employee would be facilitating tax evasion by complying with this request.

Construction Industry Scheme

Invoices received from suppliers could show a false breakdown of labour costs with the intention that a lower amount of tax will be deducted on the labour element, or no tax being deducted at all.

A lack of understanding as to what comes within the scope of the scheme or the implications of not applying the scheme, could mean that the Council is committing a criminal offence as they have assisted a third party in criminal tax evasion.

PAYE – Income Tax/National Insurance

Failure to deduct the Tax and NI at the correct rate - A manager agrees to allow a staff member to claim home to work travel through an expense claim, by describing it in such a way to avoid its correct identification. Knowing that this is against the Council's policy and with the intention to help the member of staff member to avoid paying the tax that is properly due.

The manager is allowing the staff member to make a false statement to evade paying tax and is therefore committing an offence of assisting criminal tax evasion.

Inappropriate use of Gift Vouchers

A member of staff is rewarded by way of a gift voucher over the HMRC trivial gift limit (currently £50). This could be seen to be a deliberate form of reward to avoid tax liabilities.

Off Payroll Working (IR35)

Failure to identify workers/contractors that should be paid via the payroll - A supplier wishes to be treated as a self-employed contractor so that payments to them are paid gross and they can evade paying the appropriate income tax and national insurance liabilities.

A Council officer helps the supplier falsifying information on the Employment Status Questionnaire to obtain a self-employed status results.

By supplying false information in this way, the Council employee is committing a criminal offence as they have assisted a third party in criminal tax evasion.

Direct Payments (for Care & Support Services)

The Council makes payments to people who have been assessed as needing help from Social Services and who would like to arrange and pay for their own care and support, instead of receiving the support direct from the Council. The recipient of the direct payment then becomes responsible for deductions for Income Tax and National Insurance from payments made to personal assistants and declaring this to HMRC.

As part of the Council's duty to monitor the use of the direct payments awarded to individuals, staff carrying out monitoring should ensure that deductions for Income Tax and National Insurance are being properly deducted and declared to HMRC. In the event that the payments are not being made the member of staff must raise this with their manager.

Failure to ensure deductions for Income Tax and National Insurance are paid means that the Council or member of staff is committing a criminal offence as they have assisted a third party in criminal tax evasion.

Grants

Failure to ensure that Grant funding is used for intended purpose.

The Council gives a grant to an organisation for a specific project or service which may include the employment of staff. Staff are paid without the appropriate deduction of Income Tax and National Insurance. No checks are made when the grant is applied for to ensure that the organisation has sufficient funds to meet the tax liabilities and no checks are made to ensure the grant funding is used properly and for the intended purposes.

If the organisation has deliberately evaded tax, the Council is committing a criminal offence as they have assisted a third party in criminal tax evasion. 28.

These examples are intended to be illustrative and cannot cover every form of risk. Other risks would include:

- Encouraging elderly/disabled clients or charities to self-certify to obtain VAT zero-rating for goods they received when they do not qualify for the zero-rating.
- Negotiating with suppliers to make cash payments for goods or services.

10. Proportionality of Risk-based Prevention Procedures

The Council has a zero tolerance for anyone committing tax evasion and recognises its responsibility to prevent the facilitation of tax evasion. This is reflected in the governance process and procedures to address specific risks.

The Council has the following practices in place that all contribute to staff awareness and governance:

- Council Constitution, Contract & Financial Procedure Rules
- Accounting procedures and records
- Code of Corporate Governance
- Procurement Code of Practice
- Code of Conduct
- Anti-Fraud, Bribery & Corruption Policy
- Anti-Money Laundering Policy
- Whistleblowing (Speak Out) Policy

Head of Finance (also known as Section 151 Officer) is responsible for:

- Ensuring that this Policy is current.
- The maintenance and operation of this Policy.
- Ensuring proper arrangements are made for the Council's financial affairs.
- Ensuring the Council implements appropriate measures to prevent and detect tax evasion and protect the public purse Council's assets from fraud and loss.
- Ensuring that the Council has put in place effective arrangements for internal audit and that it is adequately resourced and maintained.
- Supporting the Council's internal audit arrangements and ensuring that the Governance & Audit Committee receives the necessary advice and information, so that both functions can operate effectively.

11. Due Diligence

Processes and procedures are in place in relation to payment of invoices. Regular audits take place and additional caution is exercised when making payments to new suppliers.

12. Communication and Training

All relevant staff should be aware of the Criminal Finances Act 2017 requirements via appropriate means of training.

The reporting process for anyone who may have concerns that either tax evasion or the facilitation of tax evasion offences may have been committed is outlined below.

Concerns are better submitted in writing – we need the background and history of your concern, giving names, copies of any documents, dates, and places (where possible).

We would like you to explain why you are concerned about the situation – we do not expect you to prove the truth of an allegation.

- Please use this [Speak Out Line](#) webpage to report your concerns.
- You may also call our Confidential Speak Out Line: 01446 731115 or use the email address: speakout@valeofglamorgan.gov.uk

Alternatively, concerns can be raised either via:

- Directly contacting the Council's Internal Audit Service (01446 709724)/ (01446 709794)
- By post to the Council's Civic Offices

Or you can contact any of the recipients below with your concerns:

- Chief Executive: 01446 709202
- Head of Finance (Section 151 Officer): 01446 709254
- Monitoring Officer: 01446 709402
- Head of Regional Internal Audit Service: 01446 709572
- Head of Human Resources: 01446 709357

All are located at the following address:

Vale of Glamorgan Council
Civic Offices
Holton Road
Barry
CF63 4RU

Contact your Chair of Governors (if you work for a school)

13. Monitoring and Review

Monitoring and review will form part of the annual audit programme of activities and annual reports will be presented back to the Governance and Audit Committee.

14. Top Level Commitment

The policy is supported by Senior Officers and endorsed by the Governance and Audit Committee.

All Chief Officers are responsible for ensuring compliance with the Anti-Fraud, Bribery and corruption Policy, Anti-Money Laundering Policy, and the Tax Evasion Policy and with systems of internal control.