

Anti-Fraud and Corruption Strategy

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1. Luton Rising policy statement on fraud and corruption

1.1. This policy outlines Luton Rising’s (the company) attitude to fraud and corruption and the approach to be taken when faced with such matters. The company is committed to the prevention and detection of fraud and corruption, whether from within or outside the organisation and the aims of this document are to:

- Be clear that the company will not tolerate fraudulent or corrupt acts and will take firm action against those who defraud the authority, who are corrupt or engage in financial malpractice.

- Provide a consistent framework for managers and Members, which enables effective deterrence, prevention, detection and investigation of fraud and corruption.
 - Detail the responsibilities of employees, management and Members with regard to fraud and corruption.
 - Assist the Shareholder's (Luton Council's) S151 Officer and Monitoring Officer in meeting the requirements of their roles in respect to the prevention of fraud and corruption.
 - Explain the role of company officers in relation to the prevention of fraud and actively promote a culture of openness and honesty in all its dealings.
- 1.2. The company's directors, officers and all who work for, with or on behalf of the company have a key role in maintaining an anti-fraud culture. They are encouraged to raise any serious concerns about the company's work, including any reasonable belief that fraud or corruption is occurring.
 - 1.3. The desired culture is also reinforced through the company's people and management policies, procedures and practices, where values of openness and honesty are highlighted.
 - 1.4. The company aims to learn from any incidents of fraud or corruption and where there have been breakdowns in systems, procedures, or governance arrangements, these will be reviewed, and controls put in place to prevent a reoccurrence.
 - 1.5. This policy statement is underpinned by an Anti-Fraud and Corruption Strategy, which sets out the key responsibilities regarding fraud prevention, what to do if fraud is suspected and the action that will be taken by management.
 - 1.6. The strategy is based upon four key themes: **Govern, Acknowledge, Prevent and Pursue**, and adheres to the *Fighting Fraud and Corruption Locally - A Strategy for the 2020s* published in March 2020.
 - 1.7. Appendix 2 to this report sets out how these themes are addressed by the company

2. Definitions of commonly used terms

Fraud

2.1. The Chartered Institute of Public Finance and Accountancy (CIPFA) defines fraud as:

“Any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss”.

2.2. As a crime 'fraud' is defined by the Fraud Act 2006 as:

- Fraud by false representation.
- Fraud by failing to disclose.
- Fraud by abuse of position.

2.3. In addition, the Fraud Act deals with offences relating to the possession of articles for use in fraud, making or supplying articles for use in frauds, participation by a sole trader in fraudulent business, and obtaining services dishonestly, either personally or for another.

Bribery

2.4. The Bribery Act 2010 came into force in the UK on 1 July 2011. It amends and reforms UK criminal law and provides a modern legal framework to combat bribery in the UK and internationally. Staff need to be aware of their obligations under this Act, which sets out offences of accepting and giving bribes. This applies to both staff and the company corporately.

2.5. The Bribery Act creates the following offences:

- Active bribery: promising or giving a financial or other advantage;
- Passive bribery: agreeing to receive or accepting a financial or other advantage;
- Bribery of foreign public officials; and
- The failure of commercial organisations to prevent bribery by an associated person (corporate offence).

2.6. The penalty under the Bribery Act is an unlimited fine and/or imprisonment up to a maximum of 10 years.

Corruption

2.7. Corruption is the deliberate misuse of your position for direct or indirect personal gain. 'Corruption' includes offering, giving, requesting or accepting a bribe or reward, which influences your actions or the actions of someone else. The Bribery Act 2010 makes it possible for Senior Officers to be convicted where they are deemed to have given their consent or tacit approval in giving or receiving a bribe.

2.8. The Act also creates the Corporate Offence of "failing to prevent bribery on behalf of a commercial organisation" (corporate liability). To protect itself against the corporate offence, the Act also requires organisations to have "adequate procedures in place to prevent bribery". This strategy is designed to meet that requirement.

Money Laundering

2.9. Money Laundering is the process by which criminals attempt to 'recycle' the proceeds of their criminal activities in order to conceal its origin and ownership whilst retaining use of the funds.

- 2.10. The burden of identifying and reporting acts of money laundering rests within the company. 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 any suspicion concerning the appropriateness of a transaction should be reported and advice sought from the Money Laundering Reporting Officer (MLRO) (the company's Chief Finance Officer).
- 2.11. The company recognises its responsibilities under the Money Laundering Regulations 2017 and the Proceeds of Crime Act 2002 and will comply with its Shareholder's Anti-Money Laundering Policy, which is attached as Appendix 4.

3. Anti-fraud and corruption strategy

- 3.1. The company will fulfil its responsibility to reduce fraud and protect our resources with a strategic approach consistent with that outlined in the *Fighting Fraud and Corruption Locally Strategy 2020* and CIPFA's *Managing the Risk of Fraud and Corruption*.
- 3.2. The company will not tolerate any form of fraud and corruption, both from within the Council and from external sources. We recognise fraud can:
- Undermine the standards of business conduct that the company is attempting to achieve;
 - Reduce the level of resources available to meet the company's commitments and aspirations; and
 - Reduce public confidence in the company.
- 3.3. This strategy applies to:
- All company employees (including agency and contracted staff) and directors;
 - Company partners; and
 - Company suppliers, contractors and consultants.
- 3.4. The strategy aims to:
- Protect the company's valuable resources by ensuring they are not lost through fraud but are used for improved services to our residents and local taxpayers; □ Create and promote an 'anti-fraud' culture which highlights the company's approach of fraud and corruption;
 - Provide a counter fraud provision which:
 - Ensures that the resources dedicated are sufficient and those involved are trained to deliver a professional counter fraud service to the highest standards.
 - Proactively deters, prevents, and detects fraud, bribery, and corruption. ○ Investigates suspected or detected fraud, bribery and corruption.
 - Enables the company to apply appropriate sanctions and recover all losses through court action or by invoicing an individual.

- Provides recommendations to inform policy, system, risk management and control improvements, thereby reducing the company's exposure to fraudulent activity;
- Create an environment that enables the reporting of any genuine suspicions of fraudulent activity. However, we will not tolerate malicious or vexatious allegations or those motivated by personal gain and, if proven, we may take disciplinary or legal action; and
- Work with our partners and other investigative bodies to strengthen and continuously improve our arrangements to prevent fraud and corruption.

3.5. Appendix 1 to this report sets out the Fraud Response Plan for the company.

4. Managing the risk of fraud and corruption

- 4.1. As with any risk faced by the Council, it is the responsibility of managers and officers to ensure that the risk of fraud is adequately considered when preparing risk assessments supporting strategic priorities, business plans, projects, and programmed objectives. In making this assessment it is important to consider the risk of fraud occurring as well as any actual incidences of fraud that occurred in the past. Once the fraud risk has been evaluated, appropriate action should be taken to mitigate those risks on an ongoing basis.
- 4.2. Any changes in operations or the business environment must also be assessed to ensure any impacts, which might increase or otherwise change the risk of fraud, bribery, and corruption, are considered.
- 4.3. Good corporate governance procedures are a strong safeguard against fraud and corruption. Adequate supervision, recruitment and selection, scrutiny and healthy scepticism should not be distrusted but as good management practice shaping attitudes and creating an environment opposed to fraudulent activity.
- 4.4. Whilst all stakeholders in scope have a part to play in reducing the risk of fraud, directors and the Executive team are ideally positioned to influence the ethical tone of the organisation and play a crucial role in fostering a culture of high ethical standards and integrity.

5. Strategy review

- 5.1. The Chief Finance Officer will ensure the continuous review and amendment of this strategy and the relevant associated policies as necessary to ensure that it remains consistent with good practice, national Codes of Practice and meets the needs of the company.
- 5.2. Review date: Regular review or as required by legislative changes.

6. Finding out more about fraud

- 6.1. The company, through its Shareholder, has access to the Hertfordshire Shared AntiFraud Service (SAFS) and this service provides information about fraud and its impact on local government [Shared Anti-Fraud Service | Hertfordshire County Council](#). SAFS also provides the Council's anti-fraud function and have access to data and information held by the Council to conduct its investigations working with relevant Council officers.
- 6.2. The company's Financial Regulations require senior management to notify the Audit Manager immediately of all actual or suspected instances of fraud, theft, financial irregularity or improper use of / misappropriation of Council property or resources.
- 6.3. For staff who suspect fraud you should speak to your line manager, the Executive Director, Governance or Chief Finance Officer or you can contact the Shared AntiFraud Service directly at:

Telephone: **0300 123 4033**

Email: Fraud.team@hertfordshire.gov.uk (this is a secure email for all Council staff)

Webpage: www.hertfordshire.gov.uk/fraud and select the **REPORT FRAUD** button.

Appendix 1 – Fraud Response Plan

The Council's Financial Regulations require senior management to notify the Audit Manager immediately of all actual or suspected instances of fraud, theft, financial irregularity or improper use of / misappropriation of Council property or resources.

For staff who suspect or discover fraud, concerns should be immediately reported to a line manager, Executive Director, Governance or Chief Finance Officer or the Shared AntiFraud Service (SAFS), who will decide what further action is appropriate.

The company has access to SAFS who provide the Council's anti-fraud function and have access to data and information held by the Council to conduct its investigations working with relevant officers.

Contact details for SAFS can be found below:

Telephone: **0300 123 4033**

Email: Fraud.team@hertfordshire.gov.uk (this is a secure email for all Council staff)

Webpage: www.hertfordshire.gov.uk/fraud and select the **REPORT FRAUD** button.

The aims and objectives of the Fraud Response Plan are to:

- Prevent further losses of funds or other assets where fraud has occurred;

- Minimise the risk of inappropriate action or disclosure taking place which would compromise an investigation;
- Ensure there is a clear understanding over who will lead any investigation and to ensure managers, HR, Internal Audit are involved as appropriate;
- Establish and secure evidence necessary and ensure containment of any information for disciplinary, civil and / or criminal action;
- Maximise recovery of losses;
- Ensure appropriate and timely action is taken against those who are suspected of fraud;
- Identify the perpetrators and take appropriate action with any disciplinary, civil and / or criminal action; and
- Minimise any adverse publicity for the company.

Notifying suspected fraud

The company relies on its employees, its agents and the public to help prevent and detect fraud and corruption. Often employees are the first to realise there is something seriously wrong internally, as they are in positions to be able to spot any possible cases of fraud or corruption at an early stage.

Company directors and those working for, with or on behalf of the company must report any concerns they may have regarding fraud, bribery and corruption, whether it relates to dishonest behaviours by company directors or staff or by others.

The action taken when a suspected case of fraud, bribery, or corruption is first found might be vital to the success of any investigation that follows, so it is important that employees' actions are in line with the information given in this document. Directors, service users, suppliers, partner organisations and members of the public are encouraged to report concerns about fraud and corruption.

Whilst you can remain anonymous, it does help if your details are provided as concerns expressed anonymously are often much more difficult to investigate. For example, we may need to contact you to obtain further information or verify the information supplied.

Investigation process

Any suspicion of fraud will be treated seriously and will be reviewed in accordance with legislation, local policy and processes.

Suspected fraud will be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both the company and the suspected individual(s).

Where necessary SAFS will work in co-operation with other organisations such as the Police, Department for Work and Pensions, Home Office, Her Majesty's Revenue and Customs, UK Borders Agency, NHS Counter Fraud Authority and other Local Authorities.

Investigations into suspected fraud or corruption will be conducted in a professional manner in accordance with the relevant statutory provisions and local protocols to ensure any actions are carried out both fairly and lawfully.

If sufficient evidence is established, the case will be reviewed to decide on the appropriate course of action to be taken. The company's response will follow its Shareholder's Fraud Sanction and Prosecution Policy (attached at Appendix 3) which provides further guidance of what appropriate action will be taken against the persons concerned.

Confidentiality

Details of any investigation are strictly confidential and will not be discussed with anyone other than the relevant management representatives.

If the media becomes aware of an investigation and attempt to contact directors or staff, no disclosure of the alleged fraud and investigation can be given. All matters relating to statements to the media will be dealt with through the company's communications team.

Summary

This Fraud Response Plan, in conjunction with the Counter Fraud and Corruption Strategy, provides a framework for preventing and investigating fraud, corruption and bribery against the company. It is imperative that awareness of this plan is promoted both within the company and externally.

The plan will be reviewed at least annually and following any major fraud or changes in legislation.

Appendix 2 – How the company evidences its governance and acknowledges, prevents, and pursues fraud

Governs	Executive Support	Our Executive Team will set the tone for a zero tolerance of fraud and corruption and will ensure that an anti-fraud culture is embedded across the company and the services it delivers.
	Robust Arrangements	The company will adopt and apply appropriate policies and procedures that seek to reduce the risk of fraud and corruption and encourage staff to report fraud where they see it.
Acknowledge	Committing Support	The company’s commitment to tackling the threat of fraud is clear. We have strong fraud reporting procedures and support those who come forward to report suspected fraud. All reports will be treated seriously and acted upon. We will not, however, tolerate malicious or vexatious allegations.
	Assessing Risks	We will continuously assess those areas most vulnerable to the risk of fraud as part of our risk management arrangements. These risk assessments will inform our internal controls and counter fraud priorities.
	Robust Response	We will strengthen measures to prevent fraud. We will respond positively, taking appropriate action, where fraud is reported or suspected. We will review all incidences of fraud to ensure that any weaknesses in systems or processes that allowed the fraud to occur are removed.
Prevent	Better use of Information Technology	We will make greater use of data and analytical software to prevent and detect fraudulent activity. We will look for opportunities to share data and fraud intelligence to increase our capability to uncover potential and actual fraud.
	Anti-Fraud Culture	We will promote and develop a strong counter fraud culture, raise awareness, provide information on all aspects of our counter fraud work. This will include publicising the results of all proactive work, fraud investigations and any recovery of losses due to fraud.
Pursue	Fraud Recovery	A crucial element of our response to tackling fraud is recovering any monies lost through fraud. This is an important part of our strategy and will be rigorously pursued, where possible.
	Punishing Fraudsters	We will apply realistic and effective sanctions for individuals or organisations where an investigation reveals fraudulent activity. This may include legal action, criminal and / or disciplinary action, where appropriate.
	Enforcement	Appropriately trained investigators will investigate any fraud detected through the planned proactive work; cases of suspected fraud referred from internal or external stakeholders. We will work with appropriate internal and external partners / agencies / organisations.

APPENDIX 3 – LUTON COUNCIL’S FRAUD SANCTION AND PROSECUTION POLICY

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1. Introduction

- 1.1. Luton Borough Council (the Council) takes its responsibility to protect public funds seriously and expects its business to be conducted to the highest ethical and legal standards. The Council does not tolerate fraud, theft or corruption. Where there is evidence of fraud, theft or corruption against the Council, those responsible, whether internal or external to the Council, will be held accountable for their actions using the full range of sanctions available. The use of sanctions is governed by this policy that sets out appropriate action to take.
- 1.2. This Policy forms part of the Council's wider anti-fraud framework (it includes matters of fraud, bribery, corruption, theft and related offences) and supports the Council's 'Enforcement Policy':
<https://www.luton.gov.uk/Environment/Lists/LutonDocuments/PDF/Environmental%20and%20Consumer%20Services/EnforcementPolicy.pdf>
- 1.3. Its objectives are:
 1. To ensure sanctions in relation to fraud or similar crimes are applied fairly and consistently;
 2. To ensure sanctions are applied in an efficient and cost-effective way;
 3. To set out the range of sanctions available;
 4. To ensure the sanction decision making process is robust, transparent and fair; and
 5. To make it clear that the Council will not tolerate fraud.
- 1.4. The Council will investigate allegations of fraud, theft or corruption in line with the Council's Fraud Response Plan. Following an investigation, a range of factors will require consideration before deciding on appropriate sanction, including the individual circumstances of each case, the impact on the individual and the wider community, and the seriousness of the offence.

2. Sanction Options

- 2.1. Where there is evidence of fraud, theft or corruption, the following options will be considered:
 1. No further action;
 2. Referral to professional bodies;
 3. Disciplinary action;
 4. Civil proceedings;
 5. Criminal prosecution; and

6. Sanctions as alternatives to prosecution.

2.2. The Council will consider any of the above options and parallel sanctions may be pursued.

No further action

2.3. The Council may consider, following an investigation, closing a case without taking any further action. This may occur where there is no evidence of fraud or misconduct, or where it is not in the public interest to take action.

Referral to professional bodies

2.4. Where there is adequate evidence that a person or entity has breached professional duties or responsibilities, the Council will refer the matter to the relevant professional body.

Disciplinary action

2.5. In the event that an allegation is made against a Council employee, The Shared AntiFraud Service (SAFS) will consult with the Council's Human Resources Service and appropriate action will be taken following the Council's Disciplinary Policy.

2.6. The investigating officer may be a member of SAFS or may be appointed through the HR Disciplinary process. Sanctions may include warnings or dismissal and alongside this, additional sanction options will be considered including referral to professional bodies, civil proceedings and criminal prosecutions.

2.7. If, during the course of an investigation or disciplinary action, the employee suspected of fraud, theft or corruption chooses to resign, the Council will continue to pursue referral to professional bodies, civil proceedings or criminal prosecution where appropriate.

2.8. In the event of an allegation against a Councillor in relation to fraud, theft or corruption against the Council, this will be reported to the Monitoring Officer, who will agree the action to be taken with the Chief Executive. Depending on the circumstances of the case, criminal proceedings may also be considered.

Civil proceedings

2.9. The Council may take civil proceedings where appropriate. Regardless of whether or not any sanction action is taken, the Council will seek, where appropriate, to recover any overpaid, misused or unfairly gained monies.

2.10. The following measures may be considered in the pursuit of financial recovery:

- Consultation with the Council's Payroll and Pensions Teams to redress financial loss caused by employees. The Council will attempt to recover the loss from the capital value of the individual's accrued benefits in the Pension Scheme if they are a member, which are then reduced as advised by the actuary;

- Recovery of money through appropriate legal proceedings; and
- Legal action such as freezing / restraint orders to preserve evidence and assets.

2.11. There will be overpayments which are not due to fraud, and the Council will determine appropriate recovery in these cases.

Criminal prosecution

2.12. Where the Council considers it 'expedient for the promotion or protection of the interests of the inhabitants of their area', Section 222 of the Local Government Act 1972 empowers the Council to prosecute or appear in legal proceedings and, in the case of civil proceedings, institute them in their own name.

2.13. Furthermore, Section 223 of the Local Government Act 1972 allows a "Local Authority to authorise any member if its staff to prosecute or defend designated matters in magistrates' court".

2.14. In the most serious of cases, the Council will consider the prosecution of those suspected to have committed fraud or theft. Where the Council considers there is sufficient evidence (based on the Code for Crown Prosecutors) to indicate a criminal act has taken place, a decision will be made whether to undertake a criminal prosecution utilising the Council's Legal Services (or contracted legal representatives) the Police or another law enforcement partner (such as DWP or HMRC). This decision will be made by the Head of SAFS, the Head of Legal Services, and the relevant Director/Head of Service (or delegated appropriately).

2.15. Before a decision is taken whether or not to prosecute, the Council will be guided by the Code for Crown Prosecutors and will only initiate legal action if, following legal advice, it has satisfied the following two tests:

1. **Evidential Test** – the evidence must be:

- Clear, reliable and admissible in court; and
- Strong enough for a realistic chance of prosecution. i.e. to prove a case 'beyond reasonable doubt'.

2. **Public Interest Test** – the prosecution is in the public interest, taking into account:

- Seriousness and / or monetary value of the offence;
- Cost and proportionality of the prosecution;
- Age and health of the suspect;
- Culpability of the suspect;

- Circumstances of and harm caused to the victim; and
- Impact on the community.

2.16. Where a case has been referred to the Police to investigate, the final decision as to whether or not to pursue the case will be taken by the Police and the Crown Prosecution Service.

2.17. The Council will conduct the investigations in accordance with the Criminal Procedure and Investigations Act 1996 and the Police and Criminal Evidence Act 1984 and other relevant legislation and codes of practice.

2.18. Criminal proceedings may be brought for a suspected offence under the following legislation:

- The Theft Act 1968 (as amended);
- The Fraud Act 2006;
- Local Government Finance Act 1992;
- Housing Act 1996;
- Prevention of Social Housing Fraud Act 2013;
- Council Tax Reduction Scheme (Detection of Fraud and Enforcement) Regulations 2013;
- Forgery and Counterfeiting Act 1981;
- Computer Misuse Act 1990;
- Identity Documents Act 2010;
- The Bribery Act 2010;
- Road Traffic Regulation Act 1984; and
- Any other relevant provision in law.

2.19. Any criminal proceedings will include action to recover money or assets, via civil routes, court compensation, via the Proceeds of Crime Act 2002, or the Prevention of Social Housing Fraud Act 2013.

Sanction as alternatives to prosecution

Simple Cautions

- 2.20. A Simple Caution (previously known as a Formal Caution) may be offered as an alternative to prosecution for some less serious offences or for first time offences to a business or individual where there is a realistic prospect of conviction, and where that business or individual has admitted the offence. Where a Simple Caution is declined, it is likely that a prosecution will be instituted.
- 2.21. The Local Government Finance Act 1992 allows the Council to consider financial penalties as alternatives to prosecution and these should always be considered. However, in serious cases of fraud or where repeat offending occurs, the option to prosecute offenders will be kept under review.

Civil Penalties

- 2.22. Regulation 13 Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and Schedule 3 Local Government Finance Act 1992 permit 'billing authorities' to impose financial penalties where a person fails to report a material fact affecting their Council tax liability or where a person fails, without good reason, to correct an error.
- 2.23. The Head of Revenue & Benefits will make the decision about the imposition of any Civil Penalties.
- 2.24. All penalties will be recovered by adding the debt to a person's Council Tax liability for the current year and recovered only once that annual liability has been settled in full.

Administrative Penalties

- 2.25. Regulation 11 Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, provide for Administrative Penalties to be offered to persons as alternatives to prosecution. The legislation allows for Administrative Penalties amounting to 50% of the gross reduction can be offered. In all such cases of fraud the Council will seek to recover the excess award as well any penalty.
- 2.26. The Council's Head of Revenue & Benefits will make the decision about the offer of any Administrative Penalties on advice from SAFS. The Head of SAFS will arrange for the administrative penalty to be offered to the person liable for it and any cooling off period required by legislation.

Parallel sanctions

- 2.27. It is preferable for the appropriate sanctions to proceed simultaneously, but it is not necessary for anyone to await the result of another before concluding. However, due consideration must be given to all proceedings to ensure that one does not impact improperly upon another. The decision to run parallel sanctions will be determined on a case by case basis.

3. Partnerships

- 3.1. Where appropriate, the Council will work in partnership with other organisations such as the Police, other Local Authorities, Social Housing Providers, Department for Work and Pensions, Her Majesty's Revenue and Customs, UK Borders Agency and the Home Office, to bring joint proceedings or assist the other organisation to bring its own proceedings.

4. Recording Decisions

- 4.1. For an effective regime of sanctions to be successful accurate records of all convictions, penalties and cautions must be maintained. This will enable the correct decisions to be made taking full account of the defendant's background.
- 4.2. All sanctions will be recorded by both SAFS and the Council, and copies of all documents used to consider and issue the sanction should be retained, in accordance with the relevant retention policies.
- 4.3. In the case of prosecution, all cases that result in successful convictions will be reported to the Police for recording on the Police National Computer (PNC) central databases.

5. Publicity

- 5.1. It is the Council's intention to positively promote this Policy, as well as the outcome of any prosecutions, to deter others from fraudulent activity and reassure the public that the Council acts against those committing fraudulent and/or corrupt acts.
- 5.2. Consideration will be given to whether the outcome of any case should be reported to the community via various media channels. Publicity, where appropriate, will ensure the profile of counter fraud activity remains at a level which will contribute to ensuring the key objective of preventing fraud is met.

6. Review

- 6.1. This Policy will be kept under regular review to ensure compliance with current legislation and best practice.

Appendix 4 – Luton Council’s Anti-Money Laundering Policy

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1. Introduction

- 1.1. Although local authorities are not directly covered by the requirements of The Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.
- 1.2. Luton Borough Council (the Council) is committed to the highest possible standards of conduct and has, therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.
- 1.3. This policy includes the appointment of a Money Laundering Reporting Officer (MLRO) to comply with legislation and to oversee the reporting of suspicious activity and money laundering to the National Crime Agency.

2. Scope of the policy

- 2.1. This policy aims to maintain the high standards of conduct that currently exist within the Council by preventing criminal activity through money laundering and to enable the Council to comply with legal obligations.
- 2.2. This policy applies to all employees, whether permanent or temporary, Members of the Council, contractors and anyone providing a service for the Council. Its aim is to enable employees and Members to respond to a concern they have in the course of their work for the Council and places a duty upon them to report suspicious activity and money laundering to the MLRO.
- 2.3. Individuals who have a concern relating to a matter outside of work should contact the Police.

3. Definition of money laundering

- 3.1. Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 (POCA) as the following 'prohibited acts':
 - a) Concealing, disguising, converting, transferring, or removing criminal property from the UK (s327 POCA).
 - b) Becoming involved in an arrangement which an individual knows or suspects, facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (s328 POCA).
 - c) Acquiring, using, or possessing criminal property (s329 POCA).
 - d) Doing something that might prejudice an investigation e.g., falsifying a document (s333 POCA).
 - e) Failure to disclose one of the offences listed in a) to c) above, where there are reasonable grounds for knowledge or suspicion (s330-332 POCA); and
 - f) Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation (s333 POCA).

- 3.2. Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of 'failure to disclose' and 'tipping off' do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.
- 3.3. The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism.
- 3.4. Although the term 'money laundering' is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.
- 3.5. Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences detailed in 3.1.

4. Requirements of the money laundering legislation

4.1. The main requirements of the legislation are:

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

5. The Money Laundering Reporting Officer (MLRO)

5.1. The Council has designated the Head of Shared Anti-Fraud Service (SAFS) as the Money Laundering Reporting Officer (MLRO).

5.2. **The key requirement on employees is to promptly report any suspected money laundering activity to the MLRO.** (See 7. Reporting Procedure for Suspicions of Money Laundering, below for further guidance).

5.3. The MLRO can be contacted at:

Address:

Shared Anti-Fraud Service
Hertfordshire County Council
Post point CHN341
County Hall
Pegs Lane
Hertford
SG13 8DN

Website: <https://www.hertfordshire.gov.uk/services/business/consumer-advice/safs.aspx>

Telephone Nos: 01462 474000 and 01438 844705

5.4. In the absence of the Head of SAFS the Counter Fraud Managers are authorised to deputise.

6. Client identification procedures

6.1. Although not a legal requirement, the Council has developed formal client identification procedures which must be followed when Council land or property is being sold. These procedures require individuals and, if appropriate, companies to provide proof of identity and current address.

6.2. If satisfactory evidence is not obtained at the outset of a matter, then the transaction must not be progressed, and a disclosure report must be submitted to the MLRO.

6.3. All personal data collected must be kept in compliance with the Data Protection Act 2018 and the General Data Protection Regulation (UK).

7. Reporting procedure for suspicions of money laundering

7.1. Where you know or suspect that money laundering activity is taking place or has taken place or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. Your disclosure should be made to the MLRO using the disclosure report, the report must include as much detail as possible including:

- Full details of the people involved;
- Full details of the nature of their/your involvement;
- The types of money laundering activity involved;
- The date(s) of such activities;
- Whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets involved; and
- Why, exactly, you are suspicious.

7.2. Along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering, and to enable them to prepare their report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

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

further part in the transaction. This is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g., a completion date or legal deadline.

- 7.4. 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. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 7.5. Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise, you may commit a criminal offence of 'tipping off'.
- 7.6. Do not make any reference on a client file to a report having been made to the MLRO. Should the client exercise their right to see the file, then such a note may 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.

8. Consideration of the disclosure by the Money Laundering Reporting Officer (MLRO)

- 8.1. Upon receipt of a disclosure report, the MLRO must note the date of receipt on their section of the report and acknowledge receipt of it. They should also advise you of the timescale within which they expect to respond to you. The MLRO will consider the report and any other available internal information they think relevant, for example:
 - reviewing other transaction patterns and volumes;
 - the length of any business relationship involved;
 - the number of any one-off transactions and linked one-off transactions; and
 - any identification evidence held.
- 8.2. The MLRO will undertake such other reasonable inquiries they think appropriate in order to ensure that all available information is considered in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.
- 8.3. Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:
 - there is actual or suspected money laundering taking place; or
 - there are reasonable grounds to know or suspect that is the case; and

- whether they need to seek consent from the NCA for a particular transaction to proceed.
- 8.4. Where the MLRO does so conclude, then they must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless they have a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).
 - 8.5. Where the MLRO suspects money laundering but has a reasonable excuse for nondisclosure, then they must note the report accordingly; they can then immediately give their consent for any ongoing or imminent transactions to proceed.
 - 8.6. In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Legal Department to decide whether there is a reasonable excuse for not reporting the matter to the NCA.
 - 8.7. Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.
 - 8.8. Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then they shall mark the report accordingly and give their consent for any ongoing or imminent transaction(s) to proceed.
 - 8.9. All disclosure reports referred to the MLRO and reports made by them to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
 - 8.10. The MLRO commits a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

9. Training

- 9.1. Officers considered likely to be exposed to suspicious situations, will be made aware of these by senior management and provided with appropriate training. Additionally, all employees and Members will be familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves.
- 9.2. Notwithstanding the paragraphs above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.

10. Luton Borough Council procedures

- 10.1. Although the relevant Regulations relating to money laundering do not, in many cases directly apply to local authorities, guidance from CIPFA states that local authorities should comply with the requirements of these Regulations. All members of staff and those acting on behalf of the Council must follow the Council's AntiMoney Laundering Policy, published on the Council's website.
- 10.2. This Policy sets a limit on payments to the Council in the form of cash; places a duty on members of staff who suspect money laundering activity to report this to the MLRO; and require that officer to make appropriate reports to the National Crime Agency.
- 10.3. The Money Laundering Reporting Officer. The officer nominated to receive disclosures about money laundering activity within the Council. In the absence of the Head of SAFS, the SAFS Counter Fraud Managers are authorised to deputise.

Procedures

- A. No payment to the Council will be accepted in cash if it exceeds £5,000.
- B. Any employee who suspects money laundering activity must make a Disclosure Report reporting their suspicion promptly to the Money Laundering Reporting Officer (MLRO), or to the MLRO's deputy if appropriate, using the Money Laundering Reporting Procedure.
- C. The employee must follow any subsequent directions of the MLRO or deputy and must not themselves make any further enquiries into the matter.
- D. The employee must not disclose or otherwise indicate their suspicions to the person suspected of money laundering.
- E. The MLRO or deputy must promptly evaluate any Disclosure Report, to determine whether it should be reported to the National Crime Agency (NCA).
- F. The MLRO or deputy must, if they so determine, promptly report the matter to NCA on their standard report form and in the prescribed manner.
- G. The MLRO or deputy will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

11. Conclusion

- 11.1. Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the level of risk it faces of money laundering offences.

12. Review

12.1. This policy will be reviewed every three years or as required by legislation.

Annex 1 to Appendix 4 – Report to MLRO Template

CONFIDENTIAL

To: The Money Laundering Reporting Officer (MLRO)
Head of Shared Anti-Fraud Service
Hertfordshire County Council
Post point CHN341
County Hall
Pegs Lane
Hertford
SG13 8DN

From officer reporting suspected activity:

Name:	
Position:	
Business unit:	
Email address:	
Telephone numbers:	

Do not discuss the content of this report with anyone, especially the person you believe to be involved in the suspected money laundering activity you have described. To do so may constitute a tipping off offence.

Details of suspected offence:

Name(s) and address(es) of person(s) involved: (Please also include date of birth, nationality, national insurance numbers - if possible) (If a company please include details of nature of business, type of organisation, registered office address, company registration number, VAT registration number)
Nature, value, and timing of activity involved: (Please include full details e.g., what, when, where, how.)
Nature of suspicions regarding such activity:
Has any investigation been undertaken (as far as you are aware)? Yes / No If yes, please include details below:

Have you discussed your suspicions with anyone else? Yes / No
If yes, please specify below, explaining why such discussion was necessary:
Have you consulted any supervisory body guidance re money laundering (e.g., the Law Society)? Yes / No
If yes, please specify below:
Do you feel you have reasonable grounds for not disclosing the matter to the FCA (e.g., are you a lawyer and wish to claim legal professional privilege)? Yes / No
If yes, please set out full details below:
Are you involved in a transaction which might be a prohibited act under the Proceeds of Crime Act, and which requires appropriate consent from NCA? Yes / No
If yes, please enclose details below:
Please detail below any other information you feel is relevant:

FOR COMPLETION BY THE MONEY LAUNDERING REPORTING OFFICER

Date report received:	
Date receipt of report acknowledged:	

Consideration of Disclosure - Action plan

Are there reasonable grounds for suspecting money-laundering activity?
If there are reasonable grounds for suspicion, will a report be made to NCA? Yes / No
If yes, please confirm date of report to NCA:
Details of liaison with NCA regarding the report:
Is consent required from the NCA for any ongoing or imminent transactions that would otherwise be prohibited acts? Yes / No
If yes, please confirm full details:

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Date consent received from NCA:	
Date receipt of report acknowledged:	
Date consent given by you to employee:	
Date consent given by you to employee for any prohibited act transactions to proceed:	

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out below the reason(s) for non-disclosure:
Other relevant information:
Signed: Dated:

RETENTION PERIOD FIVE YEARS