

Pwyllgor Archwilio

Meeting Venue
**Ystafell Bwyllgor A - Neuadd y Sir,
Llandrindod, Powys**

Meeting Date
Dydd Iau, 7 Mai 2020

Meeting Time
10.00 am



County Hall
Llandrindod Wells
Powys
LD1 5LG

For further information please contact
Lisa Richards
01597 826371
lisa.richards@powys.gov.uk

Issue Date

Mae croeso i chi siarad yn Gymraeg neu yn Saesneg yn y cyfarfod.
Rhowch wybod pa iaith rydych am ei defnyddio erbyn hanner dydd, ddau ddiwrnod
gwaith cyn y cyfarfod.
You are welcome to speak Welsh or English in the meeting.
Please inform us of which language you wish to use by noon, two working days
before the meeting.

AGENDA

1.	YMDDIHEURIADAU
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Derbyn ymddiheuriadau am absenoldeb.

2.	DATGANIADAU O DDIDDORDEB
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Derbyn datganiadau o ddiddordeb oddi wrth Aelodau.

3.	COFNODION
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Awdurdodi'r Cadeirydd i lofnodi cofnodion y cyfarfod blaenorol.
(Tudalennau 1 - 6)

4.	CYNLLUN ARCHWILIO - GWAHARDDIADAU
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5.	CAU CYFRIFON
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Ystyried adroddiad y Pennaeth Cyllid

6.	FFRAMWAITH LLYWODRAETHIANT CYFALAF NEWID
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7.	DATGANIAD LLYWODRAETHIANT BLYNYDDOL
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Ystyried y Datganiad Llywodraethiant Blynyddol drafft.

8.	RHEOLAETH Y DRYSORFA - CH4
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Ystyried adroddiad yr Aelod Portffolio ar faterion Cyllid.

(Tudalennau 7 - 28)

9.	ADRODDIAD SWAP AR DALIAD CYFALAF I THEATR BRYCHEINIOG
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10.	POLISI GWRTH-WYNGALCHU ARIAN CYNGOR SIR POWYS
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Ystyried Polisi draft Gwrth-wyngalchu Arian y Sir.

(Tudalennau 29 - 46)

11.	POLISI GWRTH-DWYLL CYNGOR SIR POWYS
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Ystyried y Polisi draft Gwrth-Dwyll.

(Tudalennau 47 - 58)

12.	POLISI ERLYNIADAU A SANCSIYNAU TWYLL CYNGOR SIR POWYS
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Ystyried y Polisi Erlyniadau a Sancsiynau drafft.

(Tudalennau 59 - 68)

13.	COVID 19
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13.1. **Goblygiadau ariannol Covid 19**

Ystyried adroddiad y Pennaeth Cyllid.

(i gynnwys

- Rheoli Arian Parod
- Colli incwm
- Effaith ariannol
- Taliadau – cymorth busnes

13.2. **Covid 19 - Cofrestr Risg**

14.	RHAGLEN WAITH
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Ystyried y blaenraglen waith a ph'un a ddylid cynnwys unrhyw eitemau ychwanegol.

MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD AT COMMITTEE ROOM A - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON FRIDAY, 7 FEBRUARY 2020

PRESENT:

Mr J Brautigam, In the Chair, County Councillors M Barnes, M J Jones, K Laurie-Parry, K Lewis, DW Meredith, D A Thomas, R G Thomas, T J Van-Rees and A Williams and

Cabinet Portfolio Holders In Attendance: County Councillors G Breeze and A W Davies

Officers: Jane Thomas, Head of Finance

Other Officers In Attendance: Messrs I Halstead and D Hill, SWAP, Mr P Pugh, Ms L Williams and Ms S Leahy, WAO

1.	APOLOGIES
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Apologies for absence were received from County Councillors J G Morris (Chair), D R Jones, WD Powell, J M Williams and R Williams

2.	DECLARATIONS OF INTEREST
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County Councillor T J Van Rees declared an interest in item 10, Theatr Brycheiniog as a former Board Member.

3.	DISCLOSURE OF PARTY WHIPS
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There were no disclosures of party whips.

4.	MINUTES
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The Chair was authorised to sign the minutes of the previous meeting, held on 19 December 2019, as a correct record.

5.	WAO ANNUAL AUDIT SUMMARY 2019
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Documents:

- WAO – Annual Audit Summary 2019

Discussion:

- This was a new style report replacing annual audit letters that was being trialled – the WAO would welcome any feedback
- The summary provides a snapshot of work completed in the period October 2018 to December 2019

- The WAO were satisfied with value for money but recognised the challenges in the delivery of timely transformation
- A report regarding Financial Sustainability will be available for the March meeting
- The WAO were also satisfied that planning and reporting requirements were in place to deliver continued improvement
- the Corporate Improvement Plan had been published in October 2019
- Wellbeing of Future Generations examinations show that the Council has acted in accordance with the sustainable development principle, but improvements could be made with regard to schools' infrastructure and the design of the North Powys Wellbeing Programme
- A higher priority needs to be given to transformation
- Ongoing work includes
 - Delivering Vision 2025
 - Growing Mid Wales
 - Assurance and Risk Assessment
 - Financial Sustainability
- The Committee questioned whether the process associated with the use of funds under the Capital Receipts Directive had been considered and whether the projects financed had been sustainable. The requirements of the Directive are quite specific.
- The WAO were asked if there was any discussion with the senior management team regarding the work programme. The WAO combine their knowledge of what is happening within the Council with particular reference to risk. Prior to finalising the Audit Plan, discussions are held with the Chief Executive and other senior managers to discuss what has been included. The work programme will cover specific projects and national projects, but managers will be asked if there are any areas which they think should be included. The WAO would robustly challenge if there was a suggestion by management that an item was not included.
- The WAO were asked how their work programme ties in with the Internal Audit work programme. With regard to financial audit work there is no reliance on the internal audit work programme. However, the outcomes of internal audit reports inform the level of risk to the financial statements and whether any of those risks might lead to misstatements. If this were the case, then more testing would be done in that particular area. A similar process would apply to performance auditing.
- A specific query was raised regarding the Mid Wales Growth Deal – to date no money has been spent but the governance arrangements will be included in the work programme
- A Member asked the WAO if consideration was given to projects that were overspent but was advised that the Authority had responsibility for project management and the WAO would only consider whether funds had been properly accounted for and would not have an impact on the financial statements.
- The WAO were asked if they received good quality data from other sources. There were good relationships with CIW and Estyn. The WAO was also an observer on the Improvement and Assurance Board and could monitor implementation of Action Plans through that forum.
- With reference to Value for Money, the WAO were asked how their opinion had been evidenced. Consideration is given to processes, methods, policies and procedures to ensure money is spent effectively

and efficiently. This will be aligned with good practice and any recommendations included within the final report. There was very little benchmarking analysis, but the Portfolio Holder for Finance indicated that this was the subject of discussion at the Improvement and Assurance Board.

Outcome:

- **The summary report was noted**

6.	STRATEGIC RISK MANAGEMENT
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Documents:

- Report of the Portfolio Holder for Corporate Governance and Engagement
- Strategic Risk Register
- Heat Map

Discussion:

- Report to end of quarter 3
- 11 risks on the Strategic Risk Register
- CS0009 – this risk had been escalated to the Strategic Register. Even after mitigation the risk remains high.
- Members requested that the date a risk is first included on the register be reported
- ED0022 – inherent risk had been scored at 9 but the residual risk after mitigation had increased to 12
- ED0023 – the score did not improve after mitigation
- Members were concerned that mitigation was not impacting upon the scores – this was apparent in a number of the risks and further information was sought. There was further concern that the service risk registers may be in a similar state.
- Evidence of mitigation actions was required
- Close monitoring was not an adequate mitigation measure
- The report was a Cabinet report and the Committee was unclear what the role of the Audit Committee was in considering this report – the Committee asked that their role be clarified with regards all reports – are reports for information, scrutiny etc
- It was suggested that the outcomes arising from Cabinet's consideration of the report should be considered

Outcomes:

- **The Chair would liaise with senior officers regarding the issues raised relating to the Strategic Risk Register**

7.	INTERNAL AUDIT
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Documents:

- Report of Internal Audit Activity as at 30 January 2020

Discussions:

- More resource has been added as the year has progressed
- 63% of work has been completed or is in draft
- 31% is work in progress
- 6% is planned
- The top 20 risks across the sector have been reviewed
- There is a clear programme of work going forward
- If Members thought there were any further areas of risk, the Head of Internal Audit would appreciate feedback
- Partial opinions have been given:
 - Patch Management – a technical IT audit has been undertaken. Patches have been loaded straight into the system without testing. It is not clear that the process has been carried out effectively. There was a lack of supporting records.
 - Deprivation of Liberties (DOLs) – the scope of DOLs had widened in 2014 leading to an increase in the number of applications. There has been a significant failure in carrying out assessments in line with timescales. The Committee questioned why a ‘partial’ opinion was given rather than none at all. The Head of Internal Audit advised that the opinion given was based on a wider review.
- Additional work had been undertaken in relation to Theatr Brycheiniog with Schools IT and Commissioning having been postponed.
- Performance is good and the Plan is on track to be delivered by year end

Outcomes:

- **The report was noted**
- **The Internal Audit Working Group would consider those audits where a partial or low opinion was given in more depth**

8.	TREASURY MANAGEMENT
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Documents:

- Report of the Portfolio Holder for Finance

Discussion:

- The Treasury Management Strategy will form part of the document pack for Council when the budget is considered
- A slight improvement in VAT reporting was noted but level of errors was still unacceptable. The team continues with the ‘right first time’ policy but there are notable failures in some areas to submit the correct documentation. Members were concerned that this issue continued despite any failure to claim VAT being charged to the service. This was particularly prevalent in schools.
- The Public Works Loan Board interest rate has increased, and the Committee asked if this had changed the debt management strategy or whether there were any inherent risks. The Head of Finance reported that alternatives were being considered for both short and longer-term loans but that there would be no greater risk provided the strategy was adhered to.

Outcomes:

- **The report was noted**

9.	CLOSURE OF ACCOUNTS
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Documents:

- Report of the Head of Finance

Discussion:

- A project management approach continues to be taken
- The WAO deliverables list has already been received
- CIPFA have produced information to streamline account preparation and are to run workshops
- Internal workshops are already in hand
- The process was on track and there were no issues to report

Outcomes:

- **The report was noted**

10.	THEATR BRYCHEINIOG
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The Chair informed the meeting that the review into the grant paid to Theatr Brycheiniog in 2018 had taken longer than expected. The report had been withdrawn in September 2019 pending a further review by SWAP. This is nearing completion and both reports will be considered at an extra meeting of the Audit Committee on 23 March 2020.

11.	AUDIT COMMITTEE SELF EVALUATION
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Documents:

- Report of the Chair
- Completed Self-Evaluation questionnaire

Discussion:

- Members were of the opinion that the core principles of an audit committee were not reflected in the Constitution
- The Committee regularly reviews its terms of reference to ensure they remain appropriate – this will be scheduled in the work programme for a future meeting
- A review of Internal Audit had also been carried out and both documents would be checked for consistency

Outcomes:

- **A review of the Audit Committee's Terms of Reference would be included on a future agenda**

12.	WORK PROGRAMME
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Documents:

- Work programme 2020

Discussion:

- The extra meeting on 23 March 2020 will consider
 - Savings delivery 2019/20
 - Update on risk register report
 - WAO Audit Plan
 - Internal Audit Plan
 - Theatr Brycheiniog
 - WAO Financial Sustainability
 - WAO Assurance and Risk Assessment
- WAO Audit Summary will be considered on 4 September 2020
- WAO Annual Improvement Report will be considered on 10 December 2020

Outcomes:

- **The work programme will be amended to include the items discussed**

**Mr J Brautigam
Chair**

CYNGOR SIR POWYS COUNTY COUNCIL.

AUDIT COMMITTEE

7th May 2020

CABINET

12th May 2020

REPORT AUTHOR: County Councillor Aled Davies
Portfolio Holder for Finance

REPORT TITLE: Treasury Management Qtr 4 Report

REPORT FOR: Information

1. Purpose

- 1.1 CIPFA's 2009 Treasury Management Bulletin suggested:
"In order to enshrine best practice it is suggested that authorities report formally on treasury management activities at least twice a year and preferably quarterly."

The CIPFA Code of Practice on Treasury Management emphasises a number of key areas including the following:-

- xi. Treasury management performance and policy setting should be subject to scrutiny prior to implementation.

- 1.2 In line with the above, this report is providing information on the activities for the quarter ending 31st March 2020.

2. Economic Background and Forecasts

- 2.1 The economic background is attached at Appendix B.
- 2.2 The most recent forecast of interest rates by the Authority's advisor is as follows:

	Jun 20	Sep 20	Dec 20	Mar 21	Jun 21	Sep 21	Dec 21
Bank rate	0.10%	0.10%	0.10%	0.10%	0.10%	0.10%	0.10%
5yr PWLB	1.90%	1.90%	1.90%	2.00%	2.00%	2.00%	2.10%
10yr PWLB	2.10%	2.10%	2.10%	2.20%	2.20%	2.20%	2.30%
25yr PWLB	2.50%	2.50%	2.50%	2.60%	2.60%	2.60%	2.70%
50yr PWLB	2.30%	2.30%	2.30%	2.40%	2.40%	2.40%	2.50%

3. Treasury Management Strategy

- 3.1 The Treasury Management Strategy approved by Full Council on 7th March 2019 is at Appendix A.
- 3.2 The Authority's investment priorities within the Strategy are: -
- (a) the security of capital and
 - (b) the liquidity of its investments.
- 3.3 The Authority aims to achieve the optimum return on its investments commensurate with proper levels of security and liquidity. The risk appetite has been low in order to give priority to security of investments.

4. Current Investments

- 4.1 The current investment market is difficult as rates are very low and in line with the 0.10% Bank Rate.
- 4.2 The Authority had the following investments at 31st March 2020:-

Invested with:	Principal £000's	Interest Rate	Start Date	Maturity Date
HSBC	9,405	0.00%		
Thurrock BC	10,000	0.80%	12-Mar-20	30-Apr-20
Total	19,405			

None of the Authority's deposit accounts are paying interest since bank rate was reduced to 0.10%. Further lending to other local authorities for short periods of time and the use of Money Market Funds will be reviewed when further assessment of the receipt of income to the Authority has taken place.

- 4.3 Higher return rates have been difficult to achieve as the Authority is not in a position to invest its cash for more than a short period of time.
- 4.4 Investment returns in future years:
Our advisors' are not currently suggesting earning rates for investments for budgeting purposes. Previous suggested rates were per below:-

2019/20	0.75%
2020/21	0.75%
2021/22	1.00%

These were based on investments for up to three months duration.

5. Credit Rating Changes

- 5.1 There have been no credit rating changes relevant to this Authority's position during the last quarter.
- 5.2 The credit rating list for end of March is attached as a separate file to this report.

6. Borrowing / Re-scheduling

- 6.1 Effective management of the Authority's debt is essential to ensure that the impact of interest payable is minimised against our revenue accounts whilst maintaining prudent borrowing policies.

6.2 The Authority's Capital Position:

The Council's underlying need to borrow for capital expenditure is termed the Capital Financing Requirement (CFR). This figure is a gauge of the Council's indebtedness. The CFR results from the capital activity of the Council and resources used to pay for the capital spend. It represents the current year's unfinanced capital expenditure and prior years' net or unfinanced capital expenditure which has not yet been paid for by revenue or other resources.

Part of the Council's treasury activities is to address the funding requirements for this borrowing need. Depending on the capital expenditure programme, the treasury service organises the Council's cash position to ensure that sufficient cash is available to meet the capital plans and cash flow requirements. This may be sourced through external borrowing or utilising temporary cash resources within the Council.

Net external borrowing (borrowings less investments) should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for the current year and next two financial years. This allows some flexibility for limited early borrowing for future years.

Original CFR Position (per original approved budget):

	As at 31.03.19 Actual	2019/20 Original Estimate	2020/21 Original Estimate	2021/22 Original Estimate
	£M	£M	£M	£M
Capital Financing Requirement	349,530	401,581	446,140	465,145

Updated CFR position as at 31.03.20:

	As at 31.03.19 Actual	2019/2020 Current Estimate	2020/21 Current Estimate	2021/22 Current Estimate
	£M	£M	£M	£M
Capital Financing Requirement	349,530	386,527	448,627	497,536

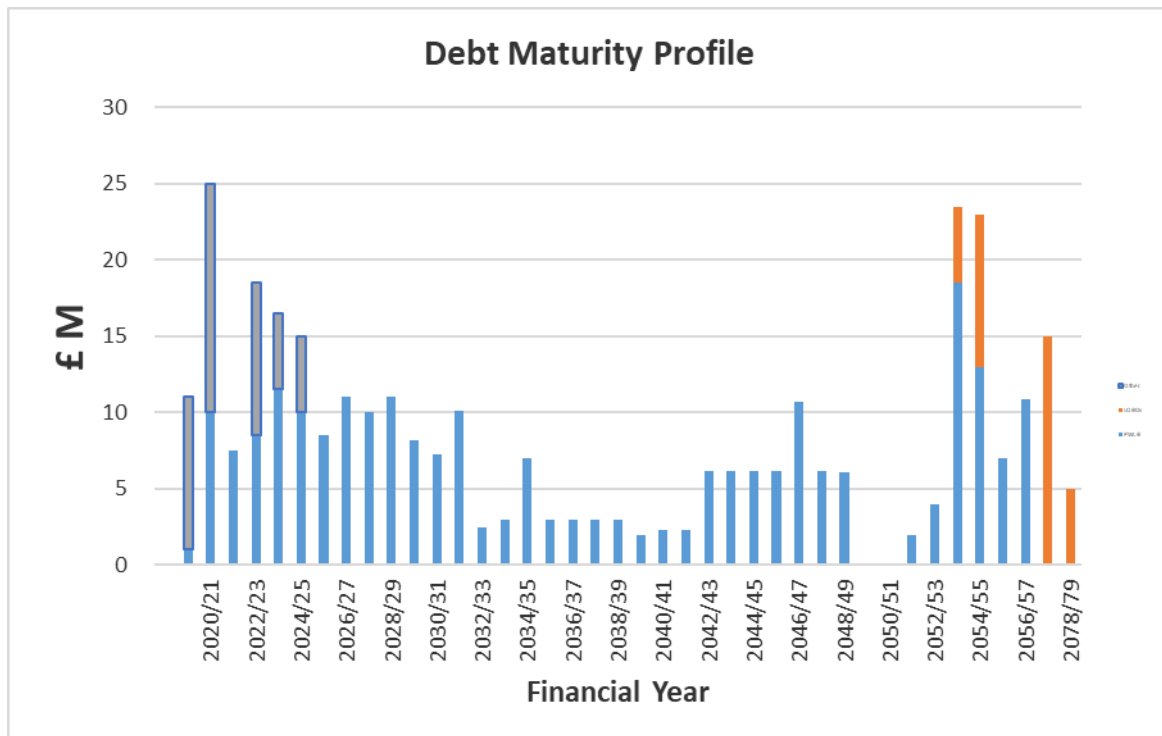
- 6.3 The Authority had outstanding long-term external debt of £299.2m at 31st March 2019. In relation to the CFR figure for 31st March 2019, this equated to the Authority being under borrowed by £50.3m. Using cash reserves as opposed to borrowing has been a prudent and cost effective approach over the last few years. However, members will be aware that internal borrowing is only a temporary situation and officers have advised that, based on capital estimates, it will be necessary for the Authority to borrow at stages over the next few years.
- 6.4 On 9th October 2019 HM Treasury increased the margin that applies to new PWLB loans by 100bps with no prior discussion. This led to increased borrowing rates for local authorities.
- 6.5 Capital Budget/Spend per efinancials:

Capital:	Original Approved Budget £	Working Budget £	Actual Capital Spend (not including commitments) £	%age Actual Spend
	92,234,000			
Qtr 1 end of June		123,568,153	6,655,314	5.39%
Qtr 2 end of Sept		102,036,287	21,973,109	21.53%
Qtr 3 end of Dec		76,226,654	39,298,294	51.55%
Qtr 4 end of Mar		72,435,084	61,461,671	84.85%

The financing of the approved capital budget included £51m of Prudential Borrowing and Supported Borrowing of £13.72m.

It remains a significant challenge to manage the Authority's cashflow and its need to borrow when the Capital working budget increases/decreases significantly during the financial year and, despite this, actual spend continues to be significantly below the working budget. This challenge is currently further magnified by the Covid 19 situation resulting in some Capital projects on hold.

- 6.5 *Debt Maturity Profile as at 31.03.20:*



6.6 PWLB Loans Rescheduling:

The Public Works Loans Board released a circular regarding rates on 20th October 2010. As a result of this, rates immediately increased by 0.87-0.88 basis points across the board. The overall impact of this circular was that it is far more difficult for authorities to reschedule debt. PWLB interest rates in the last quarter have not been conducive towards any rescheduling.

7. Prudential Indicators

7.1 All TM Prudential Indicators were complied with in the quarter ending 31st March 2020.

8. VAT

8.1 The Technical Section of Finance act as the authority's VAT section. VAT can pose a risk to the authority hence the Treasury Manager has been asked to include VAT information in these quarterly reports.

8.2 The monthly VAT returns were submitted within the required deadlines during the quarter ending 31st March 2020.

8.3 Key Performance Indicators:

The VAT KPI's for 2019/20 are attached at Appendix C. The KPI's for debtor invoices are showing an improvement compared to previous years due to the introduction of a workflow process for checking debtor invoices implemented as part of the new financial system in April. Further to this,

this process is now ensuring correct vat treatment prior to invoices being raised as opposed to after.

Advice

N/A

Resource Implications

N/A

Legal implications

N/A

Comment from local member(s)

N/A

Integrated Impact Assessment

N/A

Recommendation

It is recommended that this report be accepted.

Contact Officer: Ann Owen
Tel: 01597 826327
Email: ann.owen@powys.gov.uk

Head of Service: Jane Thomas

Corporate Director: Ness Young

Appendix A:

Approved Treasury Management Strategy 2019/20:

7.5 “High” credit quality:

- 7.5.1 It is proposed that the Authority continue with the following in respect of defining a “high” credit quality. If a rating is not available from any of the rating agencies then the available ratings will be used. Members will note that this proposal excludes investments with some banks off the advisors’ suggested list:-

Long Term Ratings (in respect of long-term investments):

Permitted Fitch Ratings	Permitted Moody's Ratings	Permitted S&P Ratings
AAA	Aaa	AAA
AA+	Aa1	AA+
AA	Aa2	AA
AA-	Aa3	AA-

Short Term Ratings (in respect of short-term investments):

Permitted Fitch Ratings	Permitted Moody's Ratings	Permitted S&P Ratings
F1+	N/A	A-1+
F1	P-1	A-1

7.6 Country limits:

- 7.6.1 It is proposed that the Authority will use approved counterparties from the UK and approved counterparties from other countries with the following sovereign credit ratings:-

Permitted Fitch Ratings	Permitted Moody's Ratings	Permitted S&P Ratings
AAA	Aaa	AAA

Country	Maximum Investment per Country	Credit Rating/Other Assessment of Risk
AAA countries	£20M (held in call accounts)	As per rating list
UK	No Maximum Investment	As per rating list

7.7 *Group/Institutions - Counterparty Criteria/Limits:*

Specified Investments:

Institution	Maximum Investment per Group/Institution £M	Maximum Length	Credit Rating/Other Assessment of Risk
UK Banks	30	Up to 364 days	As per Link's matrices and the Authority's definition of a high credit rating
Foreign Banks	5	Up to 364 days	As per Link's matrices and the Authority's definition of a high credit rating
Other Local Authorities	25	Up to 364 days	N/A

Non-Specified Investments:

Institution	Maximum Investment per Group/Institution £M	Maximum Length	Credit Rating/Other Assessment of Risk
UK Banks	10 (£5M limit with any one institution)	Up to 2 years	As per Link's matrices and the Authority's definition of a high credit rating
Foreign Banks	2	Up to 2 years	As per Link's matrices and the Authority's definition of a high credit rating
Money Market Funds (max. of 5)	10	N/A	All are AAA rated
Other Local Authorities	10	Up to 5 years	N/A
<i>Note: Limits for Specified and Non-Specified are combined limits. The maximum limit will also apply to a banking group as a whole.</i>			

Appendix B

Economic Background

UK. Economic growth in 2019 was very volatile with quarter 1 unexpectedly strong at 0.5%, quarter 2 dire at -0.2%, quarter 3 bouncing back up to +0.5% and quarter 4 flat at 0.0%, +1.1% y/y. 2020 started with optimistic business surveys pointing to an upswing in growth after the ending of political uncertainty as a result of the decisive result of the general election in December settled the Brexit issue. However, the three monthly GDP statistics in January were disappointing, being stuck at 0.0% growth. Since then, the whole world has changed as a result of the coronavirus outbreak. It now looks likely that the closedown of whole sections of the economy will result in a fall in GDP of at least 15% in quarter two. What is uncertain, however, is the extent of the damage that will be done to businesses by the end of the lock down period, when the end of the lock down will occur, whether there could be a second wave of the outbreak, how soon a vaccine will be created and then how quickly it can be administered to the population. This leaves huge uncertainties as to how quickly the economy will recover.

Although the UK left the EU on 31 January 2020, we still have much uncertainty as to whether there will be a reasonable trade deal achieved by the end of 2020. It is also unclear as to whether the coronavirus outbreak may yet impact on the deadline of agreeing a deal by then.

After the Monetary Policy Committee raised **Bank Rate** from 0.5% to 0.75% in August 2018, Brexit uncertainty caused the MPC to sit on its hands and do nothing until March 2020; at this point it was abundantly clear that the coronavirus outbreak posed a huge threat to the economy of the UK. Two emergency cuts in Bank Rate from 0.75%, therefore, occurred in March, first to 0.25% and then to 0.10%. These cuts were accompanied by an increase in **quantitative easing (QE)**, essentially the purchases of gilts (mainly) by the Bank of England of £200bn. The Government and the Bank were also very concerned to stop people losing their jobs during this lock down period. Accordingly, the Government has introduced various schemes to subsidise both employed and self-employed jobs for three months while the country is locked down. It also put in place a raft of other measures to help businesses access loans from their banks, (with the Government providing guarantees to the banks against losses), to tide them over the lock down period when some firms may have little or no income. However, at the time of writing, this leaves open a question as to whether some firms will be solvent, even if they take out such loans, and some may also choose to close as there is, and will be, insufficient demand for their services. This is a rapidly evolving situation so there may be further measures to come from the Bank and the Government. The measures to support jobs and businesses already taken by the Government will result in a huge increase in the annual budget deficit from about 2% to nearly 11%. The ratio of debt to GDP is also likely to increase from around 80% to around 105%. In the Budget in March, the Government also announced a large increase in spending on infrastructure; this will also help the

economy to recover once the lock down is ended. Provided the coronavirus outbreak is brought under control relatively swiftly and the lock down is eased, it is hoped that there would be a sharp recovery but one that would take a prolonged time to fully recover previous lost momentum.

Inflation is not going to be an issue for the near future as the world economy will be heading into a recession which is already causing a glut in the supply of oil which has fallen sharply in price. Other prices will also be under downward pressure; wage inflation has also been on a downward path over the last half year and is likely to continue that trend in the current environment. While inflation could even turn negative in the Eurozone, this is currently not likely in the UK.

Employment had been growing healthily through the last year but it will obviously be heading for a big hit in the coming months. The good news over the last year is that wage inflation has been significantly higher than CPI inflation which means that consumer real spending power has been increasing and so will have provided support to GDP growth. However, while people cannot leave their homes to do non-food shopping, retail sales will also take a big hit.

USA. Growth in quarter 1 of 2019 was strong at 3.1% but growth fell back to 2.0% in quarter 2 and 2.1% in quarters 3 and 4. The slowdown in economic growth resulted in the Fed cutting rates from 2.25-2.50% by 0.25% in each of July, September and October. Once coronavirus started to impact the US in a big way, the Fed took decisive action by cutting rates twice by 0.50%, and then 1.00%, in March, all the way down to 0.00 – 0.25%. Near the end of March, Congress agreed a \$2trn stimulus package (worth about 10% of GDP) and new lending facilities announced by the Fed which could channel up to \$6trn in temporary financing to consumers and firms over the coming months. Nearly half of the first figure is made up of permanent fiscal transfers to households and firms, including cash payments of \$1,200 to individuals.

The loans for small businesses, which convert into grants if firms use them to maintain their payroll, will cost \$367bn and 100% of the cost of lost wages for four months will also be covered. In addition, there will be \$500bn of funding from the Treasury's Exchange Stabilization Fund which will provide loans for hard-hit industries, including \$50bn for airlines.

However, all this will not stop the US falling into a sharp recession in quarter 2 of 2020; some estimates are that growth could fall by as much as 40%. The first two weeks in March of initial jobless claims have already hit a total of 10 million and look headed for a total of 15m by the end of March.

EUROZONE. The annual rate of growth has been steadily falling, from 1.8% in 2018 to only 0.9% y/y in quarter 4 in 2019. The European Central Bank (ECB) ended its programme of quantitative easing purchases of debt in December 2018, which meant that the central banks in the US, UK and EU had all ended the phase of post financial crisis expansion of liquidity supporting world financial markets by purchases of debt. However, the downturn in EZ growth, together with inflation falling well under the upper limit of its target range of 0 to 2%, (but it

aims to keep it near to 2%), prompted the ECB to take new measures to stimulate growth. At its March 2019 meeting it announced a third round of TLTROs; this provides banks with cheap two year maturity borrowing every three months from September 2019 until March 2021. However, since then, the downturn in EZ and world growth has gathered momentum so at its meeting in September 2019, it cut its deposit rate further into negative territory, from -0.4% to -0.5% and announced a resumption of quantitative easing purchases of debt to start in November at €20bn per month, a relatively small amount, plus more TLTRO measures. Once coronavirus started having a major impact in Europe, the ECB took action in March 2020 to expand its QE operations and other measures to help promote expansion of credit and economic growth. What is currently missing is a coordinated EU response of fiscal action by all national governments to protect jobs, support businesses directly and promote economic growth by expanding government expenditure on e.g. infrastructure; action is therefore likely to be patchy.

CHINA. Economic growth has been weakening over successive years, despite repeated rounds of central bank stimulus; medium-term risks have also been increasing. The major feature of 2019 was the trade war with the US. However, this has been eclipsed by being the first country to be hit by the coronavirus outbreak. This resulted in a lock down of the country and a major contraction of economic activity in February-March 2020. While it appears that China had put a lid on the virus by the end of March, these are still early days to be confident and it is clear that the economy is going to take some time to recover its previous rate of growth. Ongoing economic issues remain, in needing to make major progress to eliminate excess industrial capacity and to switch investment from property construction and infrastructure to consumer goods production. It also needs to address the level of non-performing loans in the banking and credit systems.

JAPAN has been struggling to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy. It appears to have missed much of the domestic impact from coronavirus in 2019-20 but the virus is at an early stage there.

WORLD GROWTH. The trade war between the US and China on tariffs was a major concern to financial markets and was depressing worldwide growth during 2019, as any downturn in China would spill over into impacting countries supplying raw materials to China. Concerns were particularly focused on the synchronised general weakening of growth in the major economies of the world. These concerns resulted in government bond yields in the developed world falling significantly during 2019. In 2020, coronavirus is the big issue which is going to sweep around most countries in the world and have a major impact in causing a world recession in growth in 2020.

Appendix C

VAT - Key Performance Indicators:

Creditor Invoices

VAT return for	No of high value Creditor invoices checked	No of Creditor invoices highlighted as requiring "proper" document for VAT recovery	%age of creditor invoices checked requiring "proper" document for VAT recovery
Apr-19	102	3	2.94%
May-19	184	1	0.54%
Jun-19	224	0	0.00%
Jul-19	235	1	0.43%
Aug-19	226	1	0.44%
Sep-19	177	1	0.56%
Oct-19	199	2	1.01%
Nov-19	214	2	0.93%
Dec-19	188	1	0.53%
Jan-20	206	2	0.97%
Feb-20	190	2	1.05%
Mar-20	Not yet completed		

Income Management Entries

VAT return for	No of entries checked by formula per the ledger account code used	No of entries needing follow up check (but not necessarily incorrect)	%age of entries needing follow up check
Apr-19	645	17	2.64%
May-19	676	4	0.59%
Jun-19	947	3	0.32%
Jul-19	974	7	0.72%
Aug-19	590	12	2.035
Sep-19	877	13	1.48%
Oct-19	1,088	5	1.01%
Nov-19	893	13	1.46%
Dec-19	718	7	0.97%
Jan-20	1131	6	0.53%
Feb-20	1024	5	0.49%
Mar-20	Not yet completed		

Debtor Invoices

VAT return for	No of Debtor invoices checked	No of checked debtor invoices with incorrect VAT code used	%age of debtor invoices with incorrect VAT code
Apr-19	50	0	0.00%
May-19	57	1	1.75%
Jun-19	72	6	8.33%
Jul-19	119	23	19.33%
Aug-19	74	3	4.05%
Sep-19	89	11	12.36%
Oct-19	59	5	8.47%
Nov-19	81	8	9.88%
Dec-19	64	9	14.06%
Jan-20	98	18	18.37%
Feb-20	70	3	4.29%
Mar-20	Not yet completed		

Purchase Cards

VAT return for	No of transactions for which paperwork requested for checking	No of Amazon invoices included in check	Resolvable errors discovered	No of transactions for which no response received within timescale	Value of VAT potentially claimable but recharged to budget due to non-response	No of transactions where VAT claimed incorrectly	%age of transactions available to be checked where VAT was claimed incorrectly	Value of VAT incorrectly claimed hence recharged to budget
Apr-19	243	26	15	12	£1,161.13	11	4.76%	£1,162.23
May-19	302	25	21	20	£1,849.63	22	7.80%	£1,035.51
Jun-19	348	23	31	16	£1,677.68	12	3.61%	£730.63
Jul-19	279	0	19	11	£1,331.95	9	3.36%	£1,856.52
Aug-19	132	0	9	4	£726.08	6	4.69%	-£35.05
Sep-19	256	0	15	11	£1,503.81	9	3.67%	£4,703.92
Oct-19	274	0	8	6	£1,170.47	10	3.73%	£1,799.96
Nov-19	266	0	9	N/A	N/A	N/A	2.63%	-£124.05
Dec-19	299	0	24	23	£763.98	7	2.54%	£539.61
Jan-20	190	0	17	17	£1,328.33	7	4.05%	£613.44
Feb-20	199	0	3	3	£208.50	5	2.55%	£99.15
Mar-20	Not yet completed							

Chargebacks to service areas

The upload of appropriate documents to the Barclaycard purchase card system to enable vat recovery was made mandatory in September 2017 as a result of the lack of response from service areas/establishments to provide documents when requested. Where no document has been uploaded, any VAT amount input against the transaction is charged to the service area as there is no evidence to support the vat recovery.

Any other VAT errors that come to light as a result of the various checks are also charged to the relevant service areas.

Budget holders are able to see this clearly as chargebacks are coded to account code EX400600 and the activity code used alongside this gives the reason why this chargeback has occurred.

The total amount charged back to service areas in 2019/20 to end of March is £76,541.16. The breakdown of this is as follows:-

Reason	£
Not a tax invoice	6,422.82
Not a tax invoice – no response from service area	2,201.93
PCC not the named customer	5,769.38
No VAT registration number on invoice	142.00
No invoice uploaded to Barclaycard system	11,437.11
Invoices uploaded do not match the payment	675.62
No evidence supplied to enable vat recovery	1,040.01
Foreign VAT (not recoverable)	75.69
No VAT amount on invoice in first place	4,127.62
Supplier not vat registered	273.79
Supply not to PCC	38,469.04
Overaccounting for VAT	5,906.15
PCC Internal payment	0
Document spoilt	0
Total	76,541.16

Of the above £27,688.87 was potentially recoverable. £21k of the errors listed above were in relation to schools. The £38.4k where the supply was not to PCC was correction of errors in relation to payments for elections as vat is only recoverable on the Council's own elections.

Trwy rinwedd paragraff(au) 14 Rhan 1 Atodlen 12A
Deddf Llywodraeth Leol 1972.

Document is Restricted

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



Author	Yvette Kottaun David Morris Income and Awards
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INTRODUCTION

1 Context

- 1.1 This Policy, and the accompanying procedures and reporting forms, represents an important part of the Council's approach to dealing with the risk of fraud and corruption. This Policy seeks to complement the Anti-Fraud, Corruption and Bribery Policy and Whistleblowing Policy and contribute to the overall framework of Corporate Governance established to ensure that the Council is well managed and fulfils its statutory and regulatory duties in a proper and responsible manner.
- 1.2 The risks to the Council of contravening money laundering legislation is low and some aspects of the legal and regulatory requirements do not apply to public authorities. However, it is recognised that the Council is not completely immune from the risks surrounding money laundering. The purpose of the Anti-Money Laundering Policy is to clearly demonstrate that the Council embraces the underlying principles of money laundering legislation and is taking reasonable steps to minimise the likelihood of such activities occurring, by developing a suitable framework of arrangements to safeguard itself against action of this nature, whilst making satisfactory provisions to achieve compliance to legal and regulatory requirements, where appropriate.
- 1.3 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the 2017 Money Laundering Regulations), provide numerous and prescriptive requirements with regards to risk assessments, policies and procedures and customer due diligence checks, amongst other things, all of which are designed to minimise the risk of businesses inadvertently or otherwise becoming involved in money laundering or terrorist financing.
- 1.4 Whilst local authorities are not bound by the requirements of the 2017 Money Laundering Regulations, even when undertaking regulated activities within the meaning of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, it is prudent and responsible practice for local authorities to comply with the underlying spirit of the legislation and to have in place appropriate and proportionate anti-money laundering safeguards.
- 1.5 Whilst local authorities do not strictly fall within the scope of the 2017 Money Laundering Regulations, they are bound by the Proceeds of Crime Act 2002 and the Terrorism Act 2006, both of which place a number of duties and responsibilities on local authorities and employees and members of the same, in order that they do not find themselves subject to criminal prosecution.
- 1.6 This policy seeks to address both the underlying spirit of the 2017 regulations whilst ensuring responsibilities under the Proceeds of Crime Act 2002 and Terrorism Act 2006 are clear.

2 Scope of the Policy

- 2.1 This Policy applies to all employees whether permanent or temporary, and Members of the Council. It aims to prevent criminal activity through money laundering and to enable employees and Members to respond to a concern that they have in the course of their dealings for the Council.

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).

- 2.2 Failure by any employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

3 What is Money Laundering?

- 3.1 Money laundering is a term designed to cover a number of offences. These offences relate to the improper handling of funds that are the proceeds of criminal acts, or terrorist acts, so that they appear to come from a legitimate source. It relates to both the activities of organised crime but also to those who benefit financially from dishonest activities such as receiving stolen goods. The Proceeds of Crime act 2002 (POCA), as amended by the Serious Organised Crime and Police Act 2005, creates a range of criminal offences arising from dealing with proceeds of crime. The four main offences that may be committed under money laundering legislation are:

- Concealing, disguising, converting, transferring or removing criminal property from anywhere within the UK;
- Entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- Acquiring, using or possessing criminal property*;
- Entering onto or being concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property ** by concealment, removal, transfer or in any other way:

It is also an offence to attempt to conspire or incite to commit any of the above offences and to aid, abet, conceal, procure or commission any of the above offences.

**Criminal property is something which constitutes a person's benefit from criminal conduct or represents such benefit; it is not limited to money and there is no minimum amount.*

***Terrorist Property includes money or other property likely to be used for terrorism, proceeds of terrorist acts, and proceeds of acts carried out for the purposes of terrorism.*

There are also two 'third party' offences:

- Failing to disclose information relating to money laundering offences (in respect of both criminal property and terrorist property) where there is reasonable grounds for knowledge or suspicion *** ; and,
- Tipping off or informing someone who is, or is suspected of being involved in money laundering activities, in such a way as to reduce the likelihood of or prejudice an investigation.

**** It is important to note that whilst the disclosure obligations and tipping off offences in relation to criminal property will not always strictly apply to local authorities all individuals and business' have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from terrorism, proceeds of acts carried out for the purposes of terrorism or fiancé likely to be used for terrorism, where that information has come to them in the course of their business or employment.*

- 3.2 The Money laundering offences cited above carry a prison sentence of up to 14 years. A defence is available if it can be shown that any knowledge or suspicion of money laundering was reported to the National Crime Agency (NCA) and as a result that any resultant transaction was put on hold until consent to proceed was given.

4 The legal and regulatory framework and the obligations that it places on the Council

- 4.1 The main laws and regulations which set out the money laundering regulations are:

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

- 4.2 The Terrorism Act 2000 makes 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. Under the Terrorism Act 2000, all individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for terrorism or its laundering, where it relates to information that comes to them in the course of their business or employment.

- 4.3 The 2012 Money Laundering Regulations and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 establish that as long as businesses are not operating within the "regulated sector", then the offences of failing to disclose suspicions of money laundering, and tipping

off, do not apply. The list of businesses within the regulated sector does not include local authorities, and as such these offences do not apply to the Council. Furthermore, the 2003 Money Laundering Regulations, which preceded the 2012 regulations, made organisations responsible for undertaking “relevant business” to have appropriate systems in place for the reporting of money laundering, staff training, and identifying and keeping records of money laundering

4.4 The Chartered Institute of Public Finance and Accountancy (CIPFA) issued 2 sets of guidance on how legal and regulatory provisions impact on public authorities. CIPFA has confirmed that local authorities were not a “relevant business” in terms of the 2003 Money Laundering Regulations and are therefore not required to have systems in place to identify, record and report money laundering.

4.5 However, CIPFA has also advised that ‘it is prudent and responsible practice for public service organisations, including those outside the scope of the regulations, to put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to enable them to detect and avoid involvement in the crimes described in the legislation and regulations.’ There could also be a “substantial reputational risk for an authority which does not have such procedures in place”.

4.6 This Policy and the working practices aligned to it have been designed to address the risk the Council may face if it does not properly address the potential for money laundering. As a responsible authority, we need to be mindful that a money laundering offence could be committed by an employee, or the Council could be a victim of such an offence.

5 THE COUNCIL’S RESPONSE

5.1 The Council is responsible to undertake the following:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from Members or employees of money laundering activity (their own or anyone else’s)
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain client identification procedures (see Section 7.0) in certain circumstances and
- Maintain records

6 The Money Laundering Reporting Officer

6.1 All employees and Members are obliged to report any suspicion of money laundering or terrorist financing to the Council’s Nominated Officer(s). The Council has nominated the Head of Financial Services as the Money Laundering Reporting Officer (MLRO). In their absence, the Head of Finance (and Deputy S151 Officer)

will be the Deputy Money Laundering Reporting Officer.

7 Reporting to the Money Laundering Reporting Officer (MLRO)

- 7.1 The primary duty of any employee, member or third party under this Policy is to ensure that any suspicions or concerns that money laundering has occurred, or is likely to occur, should be reported to the MLRO as soon as the suspicion arises. The disclosure should be within 'hours' of a suspicious activity coming to an individual officer's attention, rather than several days or weeks later.

Delays or failure to report may leave you personally liable to prosecution.

- 7.2 To support the above process, **Appendix 1** provides information on the types of activities where the Council may be subject to money laundering offences and guidance to staff on situations where money laundering activities could occur.
- 7.3 All available information needs to be given to the MLRO to enable them to make an informed judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare a report to the National Crime Agency (NCA) NCA, 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 their / your involvement
 - The types of money laundering activity involved. (The MLRO can help identify this)
 - The dates of such activity, including whether the transactions have happened, are ongoing or are imminent
 - Where they took place
 - How they were undertaken
 - The (likely) amount of money / assets
- 7.4 Suspicions can be raised through direct contact with the MLRO; however it is preferable to use the reporting form which has been developed at **Appendix 2**, and e-mail / post the completed form to the MLRO.
- 7.5 The employee, Member or third party should not make any further enquiries into the matter themselves and any further action must be with the approval of the MLRO. Those who have raised a concern should ensure that they do not then voice their suspicions to the suspect or tell them that you have reported the transaction. Otherwise you may commit a criminal offence of 'tipping off' which carries a maximum penalty of 5 years imprisonment and unlimited fine.

- 7.6 Upon receipt of a disclosure report the MLRO must acknowledge receipt and confirm the timescale within which they expect to respond.
- 7.7 The MLRO is required to promptly evaluate any concerns/disclosures raised and determine whether they require further investigation and hence referral to the NCA, by means of a Suspicious Activity Report (SARs) using the reporting forms included at **Appendix 2**. The MLRO should not undertake investigation of any concerns themselves. Where legal professional privilege may apply, the MLRO must liaise with the Solicitor of the Council to determine the further action to be taken.
- 7.8 Where money laundering is suspected the MLRO will report to NCA, by making a Suspicious Activity report and will also notify Internal Audit and the Monitoring Officer.
- 7.9 In some cases, it may be necessary to seek approval from NCA before the Council can undertake any further activity in respect of the transaction. Where the MLRO has made such a referral to NCA, they will notify the person raising the concern, and again inform the individual when NCA has provided permission for the transaction to proceed.
- 7.10 If a request for consent has been made to NCA, no action should occur for a period of 7 days or until NCA gives consent. If this results in a transaction having to be deferred or delayed, it should be carefully handled to ensure that the customer is not tipped off as to the money laundering concern.
- 7.11 After 7 days, if NCA does not notify otherwise, they are deemed to have given consent to the transaction. If NCA instead notifies they refuse to give consent, they have a further 31 calendar days to take action, a moratorium period of 31 days starts on the day the Council receives the refusal notice. During this period, the Council cannot proceed with the matter for which the consent was applied. At the expiry of the 31 days if we have not heard anything, NCA is deemed to have consented to the request and the Council can proceed.
- 7.12 The MLRO should retain the details of any referrals made, including correspondence with the necessary bodies, using the forms included in **Appendix 2**. All information should be retained for a minimum of 6 years.
- 7.13 To ensure the Council minimises the risk of tipping off, and to minimise any reputational damage should the suspicion be unfounded, the confidentiality of the matter will be respected at all times; the MLRO will only inform anyone of the suspicion where there is a genuine business need.

8 Customer Due Diligence

- 8.1 The Council does undertake activities that may be considered, under the Money Laundering Regulations, to be regulated, however it does not undertake these activities by way of business, and therefore would not normally be expected to undertake due diligence in respect of any clients to whom it provides these services. The types of activities that are regulated are:

- Credit and Financial institution,
- Legal, Auditors, Accountants and Tax Advisers,
- Trust of Company service providers
- Estate Agents
- Casinos,
- High value dealers i.e. dealing in goods of any description whenever a transaction involves accepting a total cash payment of more than €10,000 (£8,750).

8.2 However, it is good practice that wherever the Council does enter into such activities with a third party then due diligence checks should be actioned before the establishment of a relationship/transaction with the third party. Anyone entering into such transactions should refer these to the MLRO to undertake due diligence checks.

8.3 Undertaking customer due diligence checks can take a number of forms. HM Revenues and Customs have issued “core guidance” in this area. Consideration should be given to taking one or more of the following, where applicable:

- Confirming the identity of the client via documentation, data or information obtained from a reliable and independent source, e.g. passport, and/or position within an organisation, where appropriate.
- Obtaining confirmation from Companies House as to the registration details of the Company and details of the Company business.
- Seeking electronic verification, e.g. performing credit checks.
- Obtaining confirmation to regulated industries bodies (e.g. in the case of accountants, checking to CCAB certified bodies).
- Requesting copies of financial statements.
- Requesting details of interests and beneficial ownerships – with reference to the latter this is any individual who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.
- Obtaining information on the purpose and intended nature of the business relationship.

8.4 Examples of other available internal information that may be considered relevant are:

- 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
- Any identification evidence held

8.5 Any checks undertaken should remain proportionate to the risks of the individual business and the relationship. Additional checking may need to be performed if the person is not physically present to be identified, or they are politically exposed, by virtue of holding a prominent public function. Details of such checks should be recorded on the reporting forms in **Appendix 2** and retained for a minimum of 6 years, with an electronic copy of every customer due diligence record being retained by the MLRO to meet the requirements of the regulations and in case of inspection by the relevant supervising body.

8.6 There is also now an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. One option to review these matters might be to do so as part of the ongoing monitoring of the business arrangements, as is usually provided for in the Terms of Business Letter, Service Level Agreement or other written record, as well as scrutinising transactions as they occur, paying particular attention to complex or unusually large transactions, unusual patterns of transactions and/or unexpected transactions, etc.

8.7 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 NCA for a particular transaction to proceed.
- Where the MLRO concludes a referral is needed then they must disclose the matter as soon as possible to the NCA

8.8 Where the MLRO suspects either:

- Money laundering but has reasonable excuse for nondisclosure: or
- Concludes that there are no reasonable grounds to suspect money laundering:

They must note the report accordingly and give immediate consent for any ongoing or imminent transactions to proceed.

8.9 Where money laundering is suspected the MLRO will report to NCA, by making Suspicious Activity report and also notify the Head of Internal Audit, and the Monitoring Officer.

9 Training

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

10 Further Information

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

- <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/national-economic-crime-centre> – website of the National Crime Agency

- Anti-Money Laundering Guidance for the accountancy sector , published by CCAB www.ccab.org.uk
- Anti-Money Laundering Guidance for the legal sector at 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>

11 Review of the Policy

- 11.1 The Policy will be reviewed at least every 3 years, and confirmed by Audit Committee with any substantial changes.
- 11.2 On an annual basis, Section 7 of the Policy, which provides details of the key parties responsible for money laundering reporting activities, shall be reviewed by the Money Laundering Reporting Officer, the Head of Internal Audit and Corporate Risk Officer to ensure that details remain relevant and up-to-date. This review will not require re-endorsement of the Policy.

How the Council may be exposed to Money Laundering

1 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.

- 1.1 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.
- 1.2 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 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.
- 1.3 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.

2 The types of activities that may be affected

- 2.1 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 and card 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
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 over-complicated 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 investments or 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

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 _____

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. This form, upon completion, should be passed directly to the Money Laundering Reporting Officer.

**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 of report to NCA:

Details of liaison with NCA regarding the report:

Notice Period:

Moratorium period:

Is consent required from NCA? Has consent been received?

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

Signed_____

Name_____

Date_____



ANTI-FRAUD & CORRUPTION POLICY

Author	Yvette Kottaun David Morris Income and Awards
Date	Dec 19
Document Status	Final Draft v3
Date Approved	
Date due for review	

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Appendix 1	The Seven Principles of Public Life
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1 INTRODUCTION

- 1.1 Powys County Council is opposed to all forms of fraud and corruption, including bribery, and is determined to protect itself from such actions whether attempted from within the Council or by an outside individual, group or organisation.
- 1.2 The Council recognises that fraud, bribery and corruption will undermine the standards of public service, which it promotes. It also reduces the resources available for the good of the whole community. Such activity may therefore impact on the ability of the Council to achieve its corporate objectives, as set out in Vision 2025 and its Corporate Plans.

In response to this, the Anti-Fraud & Corruption Policy is designed to:

- Encourage prevention;
- Promote detection; and
- Support investigation

2 DEFINITIONS OF FRAUD, BRIBERY & CORRUPTION

- 2.1 Fraud is defined as:

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

- 2.2 This may involve:

- Dishonestly making a false representation to make a gain, to cause loss or to expose another to a risk of loss.
- Dishonestly failing to disclose information for which there is a legal duty to disclose, in order to make a gain, to cause loss or to expose another to a risk of loss.
- Dishonestly abusing a position, where the person occupying the position is expected to safeguard, or not act against, financial interests to make a gain, to cause loss or to expose another to a risk or loss.

- 2.3 Fraud can be any act of deception which acts to the financial detriment of the Council. Acts such as misappropriation or petty theft will therefore also be considered by the Council as fraud and treated under the arrangements within this Policy.

- 2.4 Bribery is defined as:

The offering, giving or soliciting of an inducement or reward which may influence a person to perform a function or activity improperly.

2.5 Corruption is defined as:

The giving and/or acceptance of an inducement or reward which influences the action of any person.

3 THE COUNCIL'S COMMITMENT

3.1 In developing and operating its anti-fraud, bribery and corruption arrangements, the Council will:

- Where possible, take action to prevent fraud, bribery and corruption activity occurring.
- Encourage the detection of such activity.
- Promote Member, officer, the general public and other stakeholder awareness of fraud, bribery and corruption.
- Offer specific training on these issues to officers in key positions within the organisation.
- Encourage Members, officers, the general public and other stakeholders to report any concerns or suspicions.
- Investigate any substantiated concerns or suspicions in a fair and confidential manner.
- Take action as appropriate based on the outcomes of investigations.

4 PREVENTION OF FRAUD, BRIBERY & CORRUPTION

Recruitment and induction

- 4.1 The Council recognises that a key preventative measure in the fight against fraud, bribery and corruption is to take effective steps at the recruitment stage to verify the propriety and integrity of the previous records of potential employees of the organisation. The Council has a Recruitment and Selection Policy, Procedure and Guidance which should be adhered to in recruiting both permanent and temporary/contract staff. This guidance requires a number of checks at the recruitment stage to establish and confirm the previous records of potential employees, including the take up of written references and Disclosure and Barring Service checks for certain identified posts.
- 4.2 The Council has developed a formal induction process for new employees. This is intended to assist them in understanding the Council, its decision-making arrangements and the requirements of the Officers' Code of Conduct.
- 4.3 As elected representatives of the local community, newly-elected Members are also required to complete an induction to assist them in understanding the Council, its decision-making arrangements and the requirements of the Members' Code of Conduct.

Training

- 4.4 The Council recognises that training is a vital tool in ensuring that both officers and Members clearly understand their roles and responsibilities within the organisation and carry these out within the Council's framework of policies and procedures. Training is particularly important where employees are required to operate within financial systems or handle monies or personal/confidential information.
- 4.5 The Council will promote a general awareness of fraud, bribery and corruption to all employees and Members, with specific training provided to officers engaged in the prevention and detection of such activity to ensure that they have the necessary skills to carry out these functions. Officers involved in investigatory work will be provided with relevant specific training that meets their needs and allows for continuous professional development.

Internal Control Arrangements

- 4.6 The Council as a whole operates within a framework of policies and procedures intended to direct the activity of the Council and ensure transparency in decision making. The Constitution is a key arrangement and includes the Council's financial procedure rules and contracts procedure rules.
- 4.7 Responsible officers are expected to ensure that effective internal control arrangements are incorporated into the design or development of systems and procedures. Such arrangements would include ensuring adequate segregation of duties, authorisation and physical security controls to protect the Council from error, misappropriation or loss.
- 4.8 Members and officers are required to declare any financial and other interest in any outside bodies or organisations which could be considered or perceived as having an influence on their actions on behalf of the Council.
- 4.9 The Council has established a Standards Committee to deal with matters relating to the Members' Code of Conduct.

Organisational Culture and Conduct

- 4.10 The Council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud, bribery and corruption. The Council operates a zero-tolerance approach towards fraud, bribery and corruption activity.
- 4.11 The Council supports the Seven Principles of Public Life identified by the Nolan Committee and recognises that these are fundamental to developing an effective working environment which does not allow or tolerate fraud, bribery and corruption activity. Further information on the Seven Principles of Public Life can be found at Appendix 1 to this document.
- 4.12 The Council expects that Members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. In particular, Members and officers are expected to adhere to their

relevant Code of Conduct and declare any interests they may have that could or could be perceived to influence them in any decision-making they may be involved in relating to Council business. Members (where the value is more than £100) and Officers are also required to declare any gifts or hospitality they are offered relating to their role or Council business, whether these are accepted or declined.

- 4.13 Managers should strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. There is also a Whistleblowing Policy in place to enable staff to raise any concerns where staff feel unable to raise concerns with their manager.
- 4.14 The Council also expects that individuals and organisations, e.g. suppliers, contractors, partners and service providers that it comes into contact with will act with integrity in their dealings with the Council and without thought or actions involving fraud and corruption. Powys has an Anti-Money Laundering Policy which includes responsibility by all Officers and Members to be aware of the potential dangers and relevant Officers to ensure good practice and scrutiny of financial transactions.

Internal Scrutiny Arrangements

- 4.15 The Council has an internal audit function which has the responsibility to objectively examine, evaluate and report on the adequacy of the control environment by evaluating its effectiveness in achieving the organisation's objectives. The work of internal audit will include review of the existence and effectiveness of the Council's internal control arrangements. Any review work undertaken by the internal audit function will give due consideration to the risk of fraud or corruption within the area subject to audit.
- 4.16 Assurance of the effective operation of internal control arrangements is requested from management annually as part of the Council's arrangements for preparing the Annual Governance Statement. Managers are required to specifically provide assurance on the effective operation of internal control arrangements and staff awareness of this Policy. Managers also have a responsibility to carry out regular risk reviews and to raise concerns if they identify any areas where there is a potential weakness in internal controls.
- 4.17 The Audit Committee has a role in providing independent assurance to the Council on the adequacy of the Council's control environment. This role is discharged by the Committee through the receipt of regular reports on the work and findings of internal and external audit, and the Council's governance and risk arrangements. The Committee will review these reports and the Council's risks and look to direct any key areas of concern that warrant investigation to the Corporate Fraud Team to form part of their annual work plan.

External Scrutiny Arrangements

- 4.18 The Council is subjected to a high degree of external scrutiny of its affairs by a variety of bodies and people, for example, External Audit (Wales Audit Office) and Central Government Departments including DWP and Defra through statutory returns.
- 4.19 As part of its statutory duties, the External Auditor (Wales Audit Office) is required to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud, bribery and corruption.

Working with Others

- 4.20 The Council is committed to working with other organisations to prevent and detect fraud, bribery and corruption through undertaking specific initiatives and ensuring that arrangements are in place to encourage the exchange of information between the Council and other agencies. Though not intended to be exhaustive, the Council currently works with the DWP, Dyfed Powys Police, the Cabinet Office (National Fraud Initiative) and a number of networking groups.

5 DETECTION OF FRAUD, BRIBERY & CORRUPTION

- 5.1 The Council has put in place a range of internal control arrangements within its systems and processes to detect inappropriate or dishonest activity, including budget monitoring and reconciliations. These arrangements are designed to detect fraud, corruption and bribery activity should this occur. The Council recognises, however, that the detection of such activity is often as a result of the alertness of Members, employees, the general public and other stakeholders.
- 5.2 Members, employees, the general public and other stakeholders are encouraged to come forward and report any concerns or suspicions they may have through one of the following:
- Line Manager or Service Manager
 - The Council's Internal Audit Team
 - The Council's Corporate Anti-Fraud Team: fraud@powys.gov.uk
 - Online at: <http://www.powys.gov.uk/en/benefits/report-fraud/>
 - The Council's Whistleblowing Policy
 - Chief Executive / Monitoring Officer / Section 151 Officer
 - The Council's External Auditor, Wales Audit Office
- 5.3 The Council's Financial Procedure Rules require Chief Officers to immediately notify the Section 151 Officer of any financial irregularity or suspected financial irregularity.
- 5.4 The Council recognises that on occasions, employees, Members and organisations working with the Council may not want to express their

concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. In such instances, persons are urged to report concerns or suspicions through the channels set out in the Council's Whistleblowing Policy.

- 5.5 The Corporate Fraud team operates a proactive detection service. It is essential that services co-operate fully to support the fraud detection process with the provision of information, data, systems or officer access along with updated customer privacy notices.

6 INVESTIGATION

- 6.1 Any Manager with information about suspected fraud, bribery or corruption activity must report this immediately to the Corporate Anti-Fraud Team or Internal Audit Team.
- 6.2 Managers may have an employee issue which initially would indicate being dealt with as a disciplinary issue in partnership with Workforce and OD. The Council now requires a co-ordinated approach to the investigation of allegations as a whole to ensure the effective use of the skills and resources within the organisation based on the nature of the allegation and the investigatory skills required.

Therefore a decision must now be made by the Section 151 Officer, Workforce and OD and the service area to agree the appropriate investigation route prior to any investigation starting for any matter.

This decision point is also key to ensuring that the recording and securing of evidence that is received and collected is sound and adequately supported, so that the Council's disciplinary procedures and/or criminal procedures can be utilised effectively.

- 6.3 The Council has a formal procedure for conducting such investigations which allows for investigations to be carried out impartially and with complete confidentiality. As well as looking to confirm or refute allegations of fraud and corruption activity reported, investigatory work will also look to identify any improvements in internal control, training needs or other suitable solutions to prevent or deter the reported activity from recurring.
- 6.4 The Council's disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour as opposed to criminal actions, by a Council employee.
- 6.5 Where financial impropriety is discovered or it appears that a criminal offence may have been committed, the Council's presumption is that the issue will be pursued by the Corporate Anti-Fraud Team. Matters may also be referred to

the Police. Any such decision will not be seen to prohibit and should not unnecessarily delay action under the disciplinary procedure.

- 6.6 When making decisions about prosecutions, the Council will have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions.
- 6.7 The Council will seek, where appropriate, to maximise the recovery of any loss to the Council.
- 6.8 The investigation process must not be misused. The Council will treat any reporting of unfounded malicious allegations seriously. Where employees are concerned, any such finding from the investigation process may be treated as a disciplinary matter.
- 6.9 Elected Members and employees will be given advice and support, where considered necessary, if they are the subject of any unfounded malicious allegation.
- 6.10 The Corporate Anti-Fraud Team is responsible for investigations relating to: Bribery, redirection of payments & grants, misuse of council property, theft of time, payroll/employment, procurement fraud, failure to declare declarations of interest, blue badge fraud, personal budgets/direct payments, housing tenancy fraud, council tax reduction scheme & council tax support, right to buy fraud, business rates, insurance payments, schools/education fraud (*this list is not exhaustive)

7 RESPONSES TO REPORTED CONCERNS AND SUSPICIONS

- 7.1 Any person or organisation reporting concerns or suspicions of fraud or corruption activity may request to be kept informed of the progress of any investigation or its outcome. The Council reserves the right to not fulfil this request where doing so may be to the detriment of the effectiveness and confidentiality of the investigation process.
- 7.2 Where people or organisations have raised a concern or suspicion about fraud or corruption activity but are not satisfied with the response they received, they may pursue the matter further by referring the issue through one of the following channels:
 - the Council's complaints procedure
 - An Elected Member
 - The External Auditor, Wales Audit Office
 - Public Concern at Work
 - A relevant professional or regulatory body
 - A solicitor or the Police

8 ACTION TO DETER FRAUD, BRIBERY & CORRUPTION

- 8.1 All anti-fraud, bribery and corruption activities undertaken by the Council, including the update of this Policy will be publicised in order to make employees, Members, the general public and stakeholders aware of the Council's commitment to taking action on such activity, when it occurs.
- 8.2 The Council will endeavour to act robustly and decisively when fraud, bribery or corruption is suspected and proven. This will be demonstrated through disciplinary action and/or prosecution.
- 8.3 The Council will take action to help ensure the maximum recoveries for the Council.
- 8.4 The Council's Communications team is responsible for optimising the opportunities available to publicise to the public any anti-fraud, bribery and corruption activity being undertaken within the Council. Once notified of such cases, the Communications Team is also responsible for endeavouring to ensure that the results of any investigations undertaken, including prosecutions, are reported in the local press.

9 MEASURING THE EFFECTIVENESS OF THIS POLICY

- 9.1 The Council has recognised the importance of measuring the effectiveness of its anti-fraud, bribery and corruption arrangements and that this cannot consist of one single measure. The Council will demonstrate the effectiveness of this Policy through a number of measures focusing on outcomes and will include assessments of:
- Awareness levels
 - Number of suspicions and concerns reported per annum
 - Number of investigations undertaken
 - Outcomes of investigations undertaken
 - Level of losses identified
 - Sanctions applied
 - Financial savings or gains generated.
- 9.2 This information will be reported to the Audit Committee on at least an annual basis.

10 REVIEW AND APPROVAL OF THIS POLICY

- 10.1 The Anti-Fraud and Corruption Policy will be reviewed every 3 years with any substantial changes being approved by the Audit Committee.

Annex 1**The Seven Principles of Public Life**

Selflessness - Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership - Holders of public office should promote and support these principles by leadership and example.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

POWYS COUNTY COUNCIL



FRAUD SANCTION & PROSECUTION POLICY

Author	Yvette Kottaun David Morris Income and Awards
Date	Dec 19
Document Status	Final Draft v3
Date Approved	
Date due for review	

1 Policy Statement

The Council will use the full range of sanctions available to it, including criminal prosecution, civil recovery, internal discipline and referral to professional bodies in order to deter fraud, corruption, bribery and associated offences.

The Council will utilise own in-house legal services or agent solicitors to conduct prosecutions, as well as the Crown Prosecution Service, where appropriate.

The Council will refer matters to other law enforcement agencies or regulators where appropriate and support those agencies in bringing proceedings.

This policy only relates to investigations undertaken by the Corporate Anti-Fraud Team on behalf of the Council.

2 Introduction

2.1 The Councils Anti-Fraud and Corruption Policy sets out our aims and objectives with regard to both deterring and tackling fraud and associated offences. The Anti-Fraud and Corruption policy states that the Council will seek the appropriate sanctions against any individual or organisation that defraud, or seek to defraud, it. The use of sanctions will be governed by this policy and the principles of this policy shall apply equally to any fraud against the Council or against funds for which the Council has responsibility.

2.2 The objectives of this policy are:

- To ensure that the Council can apply a full range of sanctions in a just and consistent manner.
- To ensure that sanctions are applied in an effective, proportionate and cost efficient manner.
- To ensure that the sanction decision making process is stringent, robust, transparent and properly considers the public interest.
- To make it clear that the Council will not tolerate fraud and will take appropriate action
- To punish those who to seek to defraud public funds.

3 Determining the Appropriate Sanction Route

3.1 This policy is designed to provide a framework to ensure the most appropriate resolution to a case is reached. The sanction decision will have regard at all times to the Anti-Fraud and Corruption Policy objectives, the individual circumstances of the persons concerned and the overall impact of the punishment to both the individual and the community.

3.2 A range of sanctions are available to the Council in relation to identified fraud and corruption. These include disciplinary action, civil proceedings, criminal proceedings and civil/financial penalties. Where appropriate, the Council may

take more than one form of action. For example, where staff commit fraud or corruption disciplinary, prosecution and civil recovery action may all be appropriate.

- 3.3 One sanction available to the Council is criminal prosecution. We recognise that this is a serious step to take and the decision to refer cases for prosecution will not be taken lightly. The ultimate decision on prosecution will be taken by the prosecuting body. In some cases this will be the Council, through the Head of Financial Services, in others the Crown Prosecution Service.

Other than where the Crown Prosecution Service is the most appropriate prosecuting authority, the Council will utilise internal legal services to undertake criminal prosecutions.

- 3.4 The decision to refer cases for prosecution to legal services or to recommend the issue of civil/financial penalties as alternatives to prosecution, where permitted by certain legislation, will be taken by the Sanction Panel. This will consist of a Solicitor, input from the service Senior Manager and the Income and Awards Senior Manager, in conjunction with the Council's Head of Financial Services.
- 3.5 Alternatively, Corporate Anti-Fraud Team or the Council may refer cases to the police for investigation who may then refer matters to the Crown Prosecution Service or other prosecutor. This may occur in cases of staff fraud or where the fraud is complex and/or of a very serious nature or linked to Safeguarding issues.

This policy outlines various penalties/sanctions or criminal proceedings that may be considered by the Council, as permitted by legislation, where offending contrary to any of the following has occurred, although this list is not exclusive:

- Theft Acts 1968/ 1978
- Forgery and Counterfeiting Act 1987 (FCA)
- Computer Misuse Use Act 1990
- Social Security Administration Act 1992 (SSAA)
- Local Government Finance Act 1992 (LGFA)
- Data Protection Act 1998 (DPA)
- Identity Card Act 2006
- Fraud Act 2006
- The Bribery Act 2010
- Welfare Reform Act 2012 (WRA)
- The Prevention of Social Housing Fraud Act 2013. (PoSHFA)

4 The decision to prosecute

- 4.1 The Council will apply the Director for Public Prosecutors Guidance on Charging to ensure that decisions to charge criminal offences and other

prosecution decisions are fair and consistent and fully comply with the Police and Criminal Evidence Act, the PACE Codes of Practice and the Code for Crown Prosecutors.

- 4.2 When considering a case for prosecution the Council will apply the most recent edition of the Code for Crown Prosecutors and ensure that all cases accepted for prosecution meet the Full Code Test namely that there is sufficient evidence to have a realistic prospect of a conviction and that it is in the public interest to prosecute.
- 4.3 The two stages of the Full code test will be considered as follows:-

(1) The Evidential Stage

Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

If the case passes the evidential stage it will then be considered under the Public Interest Stage.

(2) Public interest test

A prosecution will usually take place unless:

- the prosecutor is sure that there are public interest factors tending against prosecution which outweigh those tending in favour
- the prosecutor is satisfied that the public interest may be properly served, in the first instance, by offering the offender the opportunity to have the matter dealt with by an out of court disposal.

The more serious the offence, or the offender's record of criminal behaviour, the more likely it is that a prosecution will be required to meet the public interest. Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction as set out in the Code for Crown Prosecutors.

5 Members / Staff / Support Staff

5.1 In all cases of:

- fraud, and / or
- theft, and / or
- financial misconduct, and / or
- serious and intentional breach of financial regulations, and /or
- corruption

committed by employees of the Council, we will seek disciplinary action in accordance with the Councils Discipline Policy and/or prosecution as appropriate.

- 5.2 Where a fraud involving an elected Member is identified this will be reported to the Council's Monitoring Officer and potentially the Standards Board Committee.
- 5.3 Where a financial loss has been identified we will always seek to recover this loss either through the civil or criminal process. In addition, where staff are members of professional bodies or are subject to national codes of conduct such as teaching and social services staff, we will refer cases to the relevant professional body.
- 5.4 Where appropriate under this policy we will refer cases to the relevant prosecuting authority for criminal prosecution.

6 'Welfare' Fraud

- 6.1 This includes any local or national benefit/allowance administered on behalf of the Council or central government, for example, housing benefit, council tax reduction support, social fund, direct payments, some council tax discounts/exemptions and any national benefits which the council is empowered to investigate, such as job seekers allowance, income support and employment support allowance (under any pilots or agreed partnership.)
- 6.2 Under amendments to the Local Government and Social Security legislation there are often options to consider financial penalties as an alternative 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.

7 Civil Penalties

- 7.1 The *Local Government Finance Act*, the *Council Tax Reduction Schemes (Detection of Fraud and Enforcement)(Wales) Regulations 2013* and the SSAA (as amended by the WRA) both provide councils with the ability to impose financial penalties where a person fails to report a material fact affecting their benefits or where a person fails, without good reason, to correct an error.
- 7.2 Each 'Act' lays out its own requirement for such a penalty to be imposed:
- As a general rule the penalties are fixed one-off 'fines' to be added to a person's liability to pay.
 - They can only be offered where a person fails to report a material fact or is negligent in some way and that failure resulted in an overpayment of benefit or a reduction in Council Tax liability.
 - These penalties can only be imposed where no criminal charges or other administrative penalties are offered.
 - The person receiving the penalty can appeal against the imposition of it, if permitted by legislation.

8 Administrative Penalties.

8.1 Section 115A of the SSAA and *Regulation 11 Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (Wales) Regulations 2013*, provide for financial/administrative penalties as alternatives to prosecution. The legislation allows for financial penalties amounting to 50% of the gross overpayment/reduction can be offered if the following conditions are met:

- There is a recoverable overpayment or excess award of benefit/reduction as defined by the relevant legislation.
- There is no overpayment or excess award but that an application has been made where an individual has knowingly made a false statement.
- The cause of the overpayment is attributed to an act or omission on the part of the defendant.
- There are grounds for instituting criminal proceedings for an offence relating to the overpayment upon which a penalty is based.
- The person offered such a penalty has the ability to repay it within a reasonable timescale and the imposition of such a penalty will not overburden them if they have existing priority debts.

8.2 In all cases of fraud the Council will seek to recover the overpaid benefit/reduction/award. In all cases considered for sanction, it is essential that each case is subject to scrutiny on the basis of its own particular details. The circumstances of each individual case will ultimately determine the eventual sanction route. The Council will consider any previous prosecutions, cautions or administrative penalties from; the Council, other Local Authorities the Department of Work and Pensions, the Police, or other enforcement agencies.

9 Housing/Tenancy Fraud

9.1 In all cases of fraudulent housing or homeless applications, where a tenancy has been obtained, the Council will seek repossession of the property and recovery of any financial losses. The Councils view is that one property lost to fraud is one less property available to use for genuine applicants.

9.2 Where a false statement is made on a housing or homeless application, or a Right to Buy or Succession application, the Council will also consider prosecution. Fraud and illegal subletting committed by applicants will be considered for criminal prosecution using the Theft Act, Fraud Act, Housing Acts and/or PoSHFA.

9.3 The factors that will affect our decision to prosecute will be based on the evidential and the public interest tests.

10 Other Fraud

- 10.1 This includes, Grants, Reliefs and exemptions, council tax or non-domestic rates and other applications for financial assistance.
- 10.2 In cases where the Council suffers a financial loss, or risk of loss, we will always seek recovery. Where an organisation is involved in the fraud, the Council will also make referrals to the relevant governing body as and when appropriate, i.e. Charities Commission, Registrar of Companies.
- 10.3 The Council will also consider criminal prosecution. The factors that will affect our decision to prosecute will be based on the evidential and the public interest test. This will include cases of attempted fraud i.e. applications for renovation grants where the financial estimates are deliberately misstated; false applications for direct care payments.

11 Proceeds of Crime

- 11.1 The Council in partnership with Corporate Anti-Fraud Team will use the Proceeds of Crime Act 2002, Criminal Justice Act 1988 and the provisions of PoSHFA 2013 to obtain Confiscation Orders to include Compensation Orders as well as recovery of the full criminal benefit figure where possible.
- 11.2 The Council may use its own accredited Financial Investigators, or those attached to other law enforcement agencies in order to conduct investigation, obtain orders and present evidence.

12 Recording Penalties Sanctions and Prosecutions

- 12.1 For an effective regime of sanctions to be successful it is a requirement that accurate records of all convictions, penalties and cautions are maintained. This will enable the correct decisions to be made taking full account of the defendant's background. Therefore, it is important that a record of each is maintained.
- 12.2 Any/all sanctions must be recorded by both Corporate Anti-Fraud Team 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. Relevant paperwork must also be sent to the National Anti-Fraud Network to be retained on its central data-base. In the case of prosecution, all cases that result in successful convictions will be reported to Dyfed-Powys Police for recording on the Police National Computer (PNC) central databases.

13 Publicity

- 13.1 It is Councils intention to positively promote this policy as well as the outcome of any prosecutions, which will deter others from fraudulent activity and reassure the public that the authorities take action to prevent fraud.

14 Reporting and Review

- 14.1 Summary information on cases and action taken will be reported to the Councils Communications team in line with the Procedures for Publishing Press Releases Referencing Criminal Convictions. An annual report will be produced for the Chief Executives, Senior Management Team and Audit Committees of the Council of all cases where sanctions or prosecutions have resulted from investigations conducted by Counter Fraud Officers.
- 14.2 This policy will be reviewed every 3 years or when changes in legislation require it by the Council's Head of Legal Services, and the Income and Awards Senior Manager. Any minor or consequential changes will be made with the agreement of the Head of Legal Services.

15 Further reading and guidance that supports this policy

- The Councils own Anti-Fraud and Corruption Policy
- Issue of Civil Penalties- Council Tax Reduction Scheme (Enforcement & Fraud) Regs 2013.
- Issue of Administrative Penalties and Prosecution in CTRS criminal cases- CTRS
- (Enforcement & Fraud) Regs 2013. Fraud Act 2006.
- Issue of Civil Penalties and Prosecution for Council Tax Fraud (SPD/Student exemptions & Discounts etc.) Local Government Finance Act 1992. Fraud Act 2006. Theft Act 1978 (S2)
- Prosecution for Tenancy Fraud and civil/criminal recovery of unlawful profits. Prevention of Social Housing Fraud Act 2013. Fraud Act 2006. Proceeds of Crime Act 2002.
- Prosecution for Housing Application/Homelessness Fraud- Housing Act 1996. Fraud Act 2006
- Blue Badge Abuse, Disabled Persons' Parking Badge Act 2013. Road Traffic Acts. Fraud Act 2006
- Staff/Members- Disciplinary Process/Standards Board. Prosecution: Fraud Act 2006
- NNDR Fraud. Penalties and Prosecution. Theft Act 1968 and Fraud Act 2006
- Prosecution for Application Fraud. Theft Act 1968 and Fraud Act 2006.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol