

London Borough of Enfield

General Purposes Committee

19 January 2023

Subject:	Counter Fraud Policies
Cabinet Member:	Cllr Tim Leaver, Cabinet Member for Finance & Procurement
Executive Director:	Terry Osborne, Director of Law and Governance
Key Decision:	No

Purpose of Report

1. To present the following policy documents for approval by the Committee:
 - Counter Fraud Sanction & Prosecution Policy
 - Whistleblowing Policy & Procedures (incorporating the Model Whistleblowing Policy & Procedures for employees and workers in maintained schools, PRUs, academies and others)
 - Anti-Money Laundering Policy & Guidance.

Proposal

2. The General Purposes Committee is recommended to:
 - 2.1. Agree the Counter Fraud Sanction & Prosecution Policy
 - 2.2. Agree the Whistleblowing Policy & Procedures
 - 2.3. Agree Anti-Money Laundering Policy & Guidance

Reason for Proposal

3. The Sanction & Prosecution Policy, Whistleblowing Policy & Procedures, and Anti-Money Laundering Policy & Guidance all support the Council's zero tolerance to fraud. The individual policies provide information on how to prevent and identify fraud, reporting requirements where fraud is identified and the steps the Council will take to pursue sanction and prosecutions.
4. These policies were previously presented to the General Purposes Committee on 13 January 2022^{foo}. No significant amendments have

been made to the policies. The Head of Internal Audit and Risk Management will keep the documents under review and will from time to time make any minor amendments and updates that may be required.

Sanction & Prosecution Policy

5. The Counter Fraud Sanction & Prosecution Policy (**Appendix A**) sets out the case disposal options that are available to us in instances where fraud, theft, bribery or corruption have been identified across a wide range of cases including employee misconduct, Council Tax fraud and housing fraud.
6. These outcomes range from straightforward recovery of the Council's losses to the imposition of fines, disciplinary action against employees under the Code of Conduct, or criminal prosecution in the most serious of cases.
7. The policy sets out the criteria we will use to determine when prosecutions will be undertaken, including the process for approving those actions.
8. The policy serves to highlight the Council's zero-tolerance to fraud and to provide assurance that sanctions will be applied consistently.
9. The Policy will be publicised via the usual channels to act as a deterrent.

Whistleblowing Policy & Procedures (incorporating the Model Whistleblowing Policy & Procedures for schools)

10. The Council is committed to developing the highest possible behavioural standards and a culture encouraging openness, probity and accountability of all employees, councillors and council contractors. The Whistleblowing Policy & Procedures (shown at **Appendix B**) is a framework to enable and encourage reporting of any concerns regarding any aspect of the Council's work.
11. This policy applies to all workers including employees, councillors and contractors working for the Council on Council premises, including agency workers and consultants. It also covers suppliers and those organisations providing services under a contract with the Council on their own premises, for example, care homes.
12. Schools are required to have their own whistleblowing policy in place. To this end, the Schools' Personnel Service has distributed a model policy to Enfield schools; however, it is for individual schools to determine whether to adopt the model or devise their own policy.
13. The document incorporates guidance to enable staff, members and contractors to comply with the Policy and supports the Council's zero tolerance to fraud.

14. Key features of the policy include the following:

- Concerns identified by employees or agency workers should be raised initially with their line managers, or the line manager of a person who gives cause for concern.
- If not appropriate to contact a line manager, concerns can be reported to one of the Council's nominated contacts or a relevant external organisation. Contact details are provided in the Policy.
- Whistleblowers have the right to raise concerns anonymously or in confidence. The Audit and Risk Management Service has procedures that allow for the raising of concerns without the source being identified.
- Officers receiving a report under the Whistleblowing Policy should notify the Audit and Risk Management Service as soon as possible so that the Council can meet requirements to keep a central record of whistleblowing concerns raised.
- Once a concern has been raised, the Council will act to assess and appropriately investigate the matter. This may involve internal investigation or referral to a relevant external organisation, such as the Police.
- Where possible, the Council will acknowledge the whistleblowing report and endeavour to notify the whistleblower of the outcome of subsequent action. However, this may not be possible if a duty of confidence owed to others could be infringed or there could be an impact or breach of data protection legislation.
- The policy sits alongside the Council's arrangements for reporting safeguarding issues involving children and vulnerable adults (see Section 7 of the Policy).

15. The model policy for schools mirrors the corporate policy, explaining how and with whom matters can be raised. The schools' policy additionally advises that officers receiving a report under the policy must notify the Head of Audit and Risk Management who maintains a central register of whistleblowing matters raised.

16. The main whistleblowing policy was last approved by the Committee in January 2022. No significant changes have been made to either the main policy or the model schools policy.

17. Awareness of this revised policy and supporting guidance will be raised through appropriate publicity and training.

18. During 2021/22, we received a total of 4 whistleblowing referrals.

19. During 2022/23, the Counter Fraud Team have promoted the Whistleblowing Policy at the sessions we ran for staff as part of International Fraud Awareness Week in November 2022, and also via the Counter Fraud Newsletter and Staff Matters.

Anti-Money Laundering Policy & Guidance

20. Money laundering involves the “cleaning” of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, but also other illegally gained assets, are introduced into the organisation’s systems where they are processed, enabling them to leave the systems appearing to come from a legitimate source.
21. The aim of this policy, shown at **Appendix C**, is to reduce the risk of the Council, its subsidiary companies, employees, members and contractors being exposed to money laundering, and to enable compliance with legal and regulatory requirements. Although local authorities are generally not directly covered by the requirements of the Money Laundering Regulations, guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA) indicates that they should comply with the underlying spirit of the legislation and regulations. In addition, any of the Council’s trading companies which undertake regulated services are obliged to comply with the regulations.
22. Guidance is presented in addition to the main policy to provide advice to enable employees, members and contractors to comply with the requirements of the policy. In particular, directions to facilitate reporting of money laundering suspicions are set out, and due diligence procedures are outlined for services that are most likely to be exposed to money laundering attempts.
23. The Anti-Money Laundering Policy was last presented to Committee on 13 January 2022; there has been no significant changes to the policy.

Relevance to the Council’s Plan

Good Homes in Well-Connected Neighbourhoods

24. An effective Counter Fraud Service, supported by robust policies and procedures, helps minimise losses due to fraud that might adversely affect the delivery of good homes in well- connected neighbourhoods.

Safe, Healthy and Confident Communities

25. An effective Counter Fraud Service, supported by sound policies and procedures, helps minimise losses due to fraud that might adversely affect the Council achieve its objectives to sustain safe, healthy and confident communities.

An Economy that Works for Everyone

26. An effective Counter Fraud Service will minimise losses due to fraud and help the Council achieve its objectives in building a local economy that works for everyone.

Background

Sanction and Prosecution Policy

27. It is good practice for an organisation to formally define its Sanction and Prosecution Policy to ensure consistent practice and to enable a robust response to any challenge regarding the decision making process. This Policy was first established in March 2021 and was also a recommendation of a previous review of our Counter Fraud arrangements by PwC.

Whistleblowing Policy & Guidance

28. The Public Interest Disclosure Act 1998 establishes a person's right to raise concerns and provides individuals with protection from victimisation, dismissal or any other detriment provided they have a reasonable belief that what they have reported is true and the report is in good faith.

29. The Council will not tolerate any harassment or victimisation (including informal pressures) from colleagues, peers, managers, or from external sources, and will take appropriate action to protect individuals when they raise a concern in good faith.

Anti-Money Laundering Policy & Guidance

30. Although local authorities are not directly covered by the requirements of the Money Laundering Regulations, guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA) indicates that they should comply with the underlying spirit of the legislation and regulations. In addition, any of the Council's trading companies which undertake regulated services are obliged to comply with the regulations.

Main Considerations for the Council

31. Any large complex organisation needs to have a well-established and effective Counter Fraud function in place to minimise losses due to fraud; these policies help underpin that function.

Safeguarding Implications

32. Although the Whistleblowing Policy and Procedures do not specifically deal with child safeguarding or safeguarding of adults with additional needs, the policy references how these concerns may be raised.

Public Health Implications

33. There are no Public Health implications arising from this report.

Equalities Impact of the Proposal

34. An Equality Impact Assessment has been updated and can be found at **Appendix D**.
35. Although the Whistleblowing Policy and Procedures do not specifically deal with child safeguarding or safeguarding of adults with additional needs, the policy references how these concerns may be raised which is expected to impact positively on children and adults who have additional support and care needs.
36. The Audit and Risk Management Service does not routinely collect data on persons who will be directly affected by these policies. In general terms, it is not always practical to gather this information as it would need to be collected from persons who have committed fraud against the Council.
37. We have arranged for the "Better Off Enfield" website to be updated to clearly signpost as part of the online application process that persons who commit fraud can expect to face sanctions, including criminal prosecution in accordance with the Sanction and Prosecution Policy. The online application that persons complete in order to be included on the Housing Register has also been similarly updated.

Environmental and Climate Change Considerations

38. There are no discernible environmental and climate change considerations arising from the proposals in this report.

Risks that may arise if the proposed decision and related work is not taken

39. If the Counter Fraud policies in this policy are not approved there is a risk that the Council may suffer financial and reputational loss from fraudulent activities.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

40. Even if the policies are approved, a risk of financial and reputational loss from fraudulent activities will still exist. However, the adoption and communication of these policies will mitigate that risk.

Financial Implications

41. The adoption of these policies will aid in mitigating financial risk to the council, however there are no specific financial implications related to this report.

Legal Implications

42. This Report sets out and refers to various legislative provisions to investigate and sanction a person who commits fraud against the Council. The proposed policy includes sanctions that are under criminal law, civil law, employment law and alternative recovery, for example under the Local Government Pension Regulations 2013 (as further amended). Regulations 91 and 93 of the Local Government Pension Regulations 2013 cover instances where forfeiture of an employee's pension may be considered where they have either been convicted of an offence committed in connection with their employment. (Regulation 91) or where an employer who has incurred a direct financial loss as a result of an employee's actions can seek to recover that loss from the employee's pension rights.

43. There are Statutory restrictions where the following are not permitted:

- unlawful to prevent protected disclosures (Employment Rights Act 1996, s43J)
- any discrimination 'gagging' clauses are unenforceable (Equality Act 2010, s142)
- reporting of crimes

Workforce Implications

44. Existing HR policies, including the Staff Code of Conduct, incorporate the principles of these policies.

45. These policies should be widely communicated to all staff and workers to ensure they are aware of the content and expectations.

46. There should be on-going processes in place to ensure new employees and workers engaged by the Council are aware of these policies.

Property Implications

47. Whilst it is recognised that the policies in this report do relate to property matters, the contents of the report do not have any new property implications.

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Date of report: 9 January 2023

Appendices

Appendix A: Sanction & Prosecution Policy

Appendix B: Whistleblowing Policy & Procedures (incorporating the Model Whistleblowing Policy & Procedures for schools)

Appendix C: Anti-Money Laundering Policy & Guidance

Appendix D: Equality Impact Assessment

Background Papers

None



COUNTER FRAUD
SANCTION & PROSECUTION
POLICY
January 2023



1. Introduction

- 1.1 The Executive Director of Resources has a statutory responsibility under section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Council's financial affairs. These include the prevention, detection and investigation of fraud and, where appropriate, the prosecution of offenders. The Council is focused on strong prevention and deterrence of fraud through its anti-fraud activities
- 1.2 The Council also has a duty under section 17 of the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder.
- 1.3 This policy for prosecution, other sanctions and recovery complements the Council's Counter Fraud Strategy & Operating Plan; together these documents provide the guidelines and rules to be applied wherever the Council has investigated a criminal offence relating to fraud and corruption.
- 1.4 This policy has been developed with the aim of providing a framework to ensure a fair and consistent approach to the use of formal sanctions. Whenever fraud is proven, the Council will consider the merits of each case in determining whether to pursue formal action against the perpetrator.
- 1.5 This policy applies to all Council workers, including:
 - members and employees of the Council;
 - agency workers and consultants engaged by the Council;
 - the Council's agents, partners, suppliers and contractors supplying goods or services to the Council or performing work and/or delivering services on behalf of the Council;
 - maintained schools' employees, agency workers, partners, suppliers and contractors supplying goods or services to the school or performing work and/or delivering services on behalf of the school.
- 1.6 This policy has been written with due regard to the Crown Prosecution Service Code of Practice, it's Guidelines on Streamlined Process; the Bribery Act 2010 Joint Prosecution Guidance of the Director of the Serious Fraud Office and the Director of Public Prosecutions; and the Ministry of Justice Guidance on the Bribery Act 2010.
- 1.7 Approval of this policy is delegated to the Director of Law & Governance. This policy will be referred annually to the General Purposes Committee for its consideration and comment.

2 Legislative Framework

2.1 A person involved in committing fraud against the Council may commit offences contrary to a number of acts of parliament and statutory regulations. Primarily, these include:

- Theft Acts 1968 and 1978
- Criminal Attempts Act 1981
- Forgery and Counterfeiting Act 1981
- Criminal Justice Act 1987
- Fraud Act 2006
- Proceeds of Crime Act 2002
- Housing Act 1984
- Prevention of Social Housing Fraud Act (2013)
- Disabled Persons Parking Badges Act 2013
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) Regulations 2013
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).

The Crown Prosecution Service (CPS) and/or the Council may prosecute offences covered by this legislation.

2.2 In addition, Council employees, the Council's agents or any person with whom the Council does business may commit a corrupt act. These offences would be contrary to the Prevention of Corruption Acts 1906 and 1916, or the Bribery Act 2010. Only the Crown Prosecution Service can prosecute these offences.

2.3 There are also fraud offences that are contrary to the Representation of the People Acts that cannot be prosecuted by the Council and have to be referred to the Police for investigation and subsequent prosecution by the Crown Prosecution Service.

2.4 In addition, offences may be committed against the Council as a social landlord that are covered by the Housing Acts. All offences covered by the Housing Acts are civil offences. However, the Prevention of Social Housing Fraud Act 2013, makes subletting the whole of a social rented dwelling a criminal offence for which proceedings can be brought by the landlord (Council).

3 Legislation

3.1 All investigations will be undertaken in accordance with current legislation, including:

- The Police and Criminal Evidence Act (1984)
- The Human Rights Act (1998)
- The Criminal Procedures and Investigations Act (1996)
- The Criminal Procedures and Investigations Act (1996) (Code of Practice) Order 2015
- The Data Protection Act (2018)
- The Regulation of Investigatory Powers Act 2000
- The Public Interest Disclosure Act (1998)
- Equality Act 2010
- Protection of Freedoms Act 2012
- Care Act 2014

3.2 The investigating officers will also act in accordance with the Council's policies and procedures, in particular the employee code of conduct, whistleblowing policy, financial regulations and contract procedure rules.

4 Relevant Factors to Take into Consideration

4.1 The Council will consider each case on its individual merits. This policy sets out what principles will be applied, rather than attempting to define an absolute course of action.

Relevant matters for consideration include the following:

- a) The full code test (see section 5);
- b) The value of offences through actual loss to the Council or possible gain to an individual;
- c) The factors surrounding the alleged offence, including the duration and seriousness of the alleged offence;
- d) Factors relating to the alleged offender, including their age and state of health;
- e) No potential abuse of process has occurred;
- f) The sensitivity of the case has been considered.

5 The Full Code Test

5.1 All cases must meet the full code test before an investigations officer can recommend a prosecution. The full code test has two stages, being the evidential test followed by the public interest test (see sections 6 and 7).

6 Evidential Test

- 6.1 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. The evidence must be acquired in a form which can be used by the court and be admissible; and there must be enough evidence to form a realistic prospect of conviction.
- 6.2 In order to ensure that a “realistic prospect of conviction” exists, Counter Fraud Team officers and prosecutors will at all times ensure that investigations are conducted in accordance with all relevant legislation and Codes of Practice with regard to evidence gathering, interviewing and rules of disclosure

7 Public Interest Test

- 7.1 A prosecution will not usually take place unless the prosecutor is sure that it is in the public interest to do so, and that any appropriate out-of-court disposals have been considered. However, where the offence committed is of a more serious nature, or the offender has a record of previous criminal behaviour, then it is deemed more likely that a prosecution will be pursued.
- 7.2 Aggravating and mitigating factors, such as the offender’s mental health and personal circumstances, will be taken into consideration when deciding on the appropriate sanction as set out in the Code for Crown Prosecutors.

8 Recommendations and Approval for Prosecutions or Alternative Sanctions.

- 8.1 Fraud referrals and investigations that do not progress to sanctions or prosecution will only be closed with the approval of either the Counter Fraud Manager or Senior Investigator.
- 8.2 In cases involving sanctions, the investigating officer will complete a detailed Sanction Referral Report (a template is included at **Annex A**). Sanction approval is a two-step process; usually, a senior investigator will assess the report and make a sanction recommendation for the Counter Fraud Manager to consider and authorise, if appropriate. Ordinarily the Head of Internal Audit and Risk Management can authorise cases to be referred for prosecution; however, if the case

involves a Council employee then it will require authorisation by the Director of Law and Governance.

9 Potential Charges

- 9.1 When considering which potential charges may apply, investigators must consider whether such charges:
- Reflect the seriousness and extent of the crime as supported by the evidence;
 - Enable the case to be presented clearly and simply;
 - Allow the court adequate powers for sentencing or conviction orders.
- 9.2 Where there are a number of offences or there are possible alternative charges, the prosecutions officer may conclude that it is not the most serious charges which a suspect is eventually charged with.
- 9.3 In addition, charges against a suspect may be later changed to reflect changes in the suspect's circumstances.
- 9.4 In the main, cases progressed using in-house resources will relate to offences contained within the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, Disabled Persons Parking Badges Act 2013 (Section 7), the Forgery and Counterfeiting Act 1981, the Fraud Act 2006 or the Theft Act 1968 depending on when all elements of the offence occurred. However, there may also be charges for associated offences or multiple types of fraud which have been committed.
- 9.5 Charges under the Fraud Act 2006 could include:
- Fraud by false representation (section 2 of the Act);
 - Fraud by failing to disclose information (section 3 of the Act);
 - Fraud by abuse of position (section 4 of the Act).
- 9.6 The Theft Act 1968 was substantially repealed by the Fraud Act 2006 although there are some charges which still remain on the statute books. These charges include:
- Obtaining property by deception (section 1 of the Act);
 - Fraudulent obtaining of money by transfer (section 15A of the Act);

- Obtaining a pecuniary advantage (section 16 of the Act);
- False accounting (section 17 of the Act);
- Dishonestly retaining wrongful credits to accounts (section 24A of the Act).

9.7 Charges under the Prevention of Social Housing Fraud Act 2013 include:

- Knowingly subletting or parting with possession of a property let under a secure tenancy (section 1(1));
- Dishonestly subletting or parting with possession of a property let under a secure tenancy (section 1(2)).

9.8 The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 were implemented following the abolition of council tax benefit. Charges under this legislation can include:

- False representation for obtaining a reduction (regulation 7)
- Failing to notify a change of circumstances (regulation 8)

9.9 A Joint Working Initiative with the Department for Work and Pensions (DWP) for cases which involve allegations of State Benefit and Housing Benefit offences and Council Tax Reduction Scheme offences came into effect from 28 January 2019. Consideration for prosecution or sanction on these joint working cases will be in-line with the DWP National Guidance applicable at the time and referred to the CPS where appropriate.

9.10 The Disabled Persons Parking Badges Act 2013, which came into force on 8 October 2013 assists local authorities in addressing blue badge abuse. The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2013 allow for enforcement officers to inspect and retain blue badges without a police presence. Offences under other primary legislation include:

- Misusing a real badge or use of fake/altered badge while the vehicle is being driven (section 21(4B) of the Chronically Sick and Disabled Persons Act 1970)
- Misusing a real badge or use of fake/altered badge while the vehicle is parked (offences under sections 115 or 117 of the Road Traffic Regulation Act 1984)

- Dishonesty or deception committed in relation to the badge (Fraud Act 2006, Theft Act 1968, Forgery and Counterfeiting Act 1981)
- Failing to produce a badge when required to do so without reasonable excuse (section 21 (4BD) of the Chronically Sick and Disabled Persons Act 1970).

9.11 Prosecutions of private sector landlords, or managing agents, will render them 'a not fit and proper person' under the licensing terms of the Council's Private Sector Housing Enforcement Policy.

9.12 Social housing fraud falls into the following categories:

- a) Illegal subletting of a social housing property for financial gain - for these cases the Council will take civil proceedings to recover the property from the registered tenant, and to evict the illegal occupier of the property. The Council may also seek restitution in the form of an Unjust Enrichment order to recover the proceeds acquired by the registered tenant from the illegal subletting of the property. In addition, where there is sufficient evidence to support a case under the Prevention of Social Housing Fraud Act 2013, the Council may seek to prosecute the registered tenant.
- b) Obtaining social housing with no recourse to public funds –the Council will take civil proceedings to recover the property from the tenant.
- c) False applications for social housing –the Council will remove the person from the housing register and will consider prosecution.
- d) Falsely claiming succession or assignment rights to a social housing property - the Council will take civil proceedings to recover the property from the tenant and will consider prosecution.
- e) Fraudulent right to buy application for a social housing property - for these cases the Council may seek to prosecute the person that has applied for or purchased the social housing property through the Right to Buy Scheme. The Council may also take legal action to seek restitution such as a confiscation granted by the Courts under the Proceeds of Crime Act

10 Alternative or Parallel Sanctions

10.1 There are alternatives to prosecution which may be deemed more appropriate than prosecution or may be undertaken in parallel to a criminal investigation. These could be for example a simple caution,

disciplinary or management investigation and/or reporting to a professional body. There will be others associated to specific types of employment or legislation.

- 10.2 It should be noted that for some cases disciplinary action is undertaken before recommendation for prosecution has been made and formally considered. The same may also be true for reporting to professional bodies. In cases where such action has already taken place, and is then recommended for prosecution or alternative sanction, the investigations officer needs to include the full details and outcome of any such action.
- 10.3 The criminal investigation may be given precedence over the disciplinary investigation if there is a risk of serious prejudice to the former from running the two processes concurrently. However, there may be a compelling public interest in suspending or removing an individual from his/her post before the conclusion of the criminal case; in this situation, a case conference should be held to discuss the circumstances and relevant disclosure issues.
- 10.4 The criminal process may determine the actions and timing of related disciplinary investigations, particularly where there is a risk of prejudice to the criminal case. However, there may be other circumstances where sanctions are pursued concurrently, so that the public interest is protected, and disciplinary proceedings are heard in a just and timely way.
- 10.5 Cases in which the management or disciplinary process is followed adhere to the Code of Conduct for Employees and Members, ACAS Code of Practice on Disciplinary and Grievance Procedures and relevant employment law.
- 10.6 If an employee chooses to resign following the commencement of an investigation concerning their conduct, every effort will be made to conclude the proceedings during the employee's period of notice, particularly if the matters under consideration would warrant dismissal on the grounds of gross misconduct.
- 10.7 There may be evidence obtained via a criminal investigation which may not be shared with a parallel civil or disciplinary case. For example, the transcript of an interview under caution would not be made available for either a civil case, such as a housing matter, or a disciplinary investigation as the information was obtained specifically for use in a criminal case.
- 10.8 There are alternative sanctions within the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 which are two levels of possible fines, as follows:

- The council can impose a penalty of £70 where the person has negligently made an incorrect statement or representation or failed to promptly notify of a change of circumstances.
- Where there is evidence that the liable party has had a reduction which is greater than the amount of the reduction to which they were entitled, the council may invite the liable party to agree to pay a penalty, which is set at 50 per cent of the amount of the excess reduction subject to a minimum amount of £100, and a maximum amount of £1,000.

There are 14 days within which the liable party can choose to withdraw their agreement.

Whilst the public interest factors including impact on the offender must be considered, the offender's ability to pay the penalty should not be a consideration as a factor on its own.

11 Recovery Action

- 11.1 Recovery of losses should be sought for all investigations and these could be via voluntary reparation by the suspects, through pension benefits for employees (either voluntarily or via a forfeiture certificate), civil recovery through the courts, or financial and asset recovery under the Proceeds of Crime Act 2002.
- 11.2 In proven cases of subletting, the Prevention of Social Housing Fraud Act 2013 makes allowance for the Council to apply for civil or criminal profit orders and where sufficient evidence exists, the referral instructions will include an application for a profit order to be made to the court.
- 11.3 The Council may seek confiscation hearings under the Proceeds of Crime Act 2002 or Criminal Justice Act 1988 with a view to requesting confiscation orders for criminal or particular benefit resulting from fraudulent activities.
- 11.4 In addition, the recovery of legal costs and investigations costs should be sought in all cases, where appropriate.
- 11.5 All recovery options must be notified to the prosecuting lawyer including the agreement/action, compliance and any recovered amounts throughout the prosecution.
- 11.6 Financial investigations under the Proceeds of Crime Act 2002 must have begun prior to prosecution and full details disclosed to the prosecutions officer as representation is made to the court at the point of any conviction for the recovery process to begin.
- 11.7 It should be noted that recovery, whether voluntary or otherwise, will not

prevent prosecution consideration.

12 Appealing Against Decisions and Complaints

- 12.1 Where there are rights of representation, or appeal mechanisms, against enforcement action these will be communicated in accordance with the relevant statutory obligations. In the absence of such obligations these will be communicated at the same time as the action is taken, or, if that is not possible as soon as is reasonably practicable afterwards.
- 12.2 If anyone is dissatisfied with the conduct of Council officers or believes there has been a failure to follow this policy, related codes, or to meet service standards, they may complain using the Council's complaints procedure.
- 12.3 Details of the Council's complaints procedure can be found on the Council's website.

13 Publicising Prosecution Actions

- 13.1 Prosecution actions will be considered for publication in all instances, in consultation with the Council's Communications Team. The Council's Legal Team will be made aware of such publicity by the Counter Fraud Manager where particular persons or businesses are identified.

**Sanction & Prosecution Policy
Annex A - Sanction Referral Form**

Sanction Referral Form

Surname		Forename(s)					
Aliases		Reference					
Address							
D.O.B.		NI No.					
No. of Dependants		Occupation					
IUC Date		Interpreter Required	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Yes</td> <td style="width: 25%;"></td> <td style="width: 25%;">No</td> <td style="width: 25%;"></td> </tr> </table>	Yes		No	
Yes		No					
Language used by interpreter							
Defence Solicitor							
Firm and address							

Alleged Offence(s)

Case Summary

Period of Fraudulent Excess Reduction			
	From	To	Total
Benefit type			
		Total	

Previous Convictions / CRO Checks

Mitigating Circumstances and Observations

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Investigating Officer

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Signed

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Dated

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To be completed by Senior Officer:

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Usability of Evidence	Yes	No
Is the evidence obtained useable in court?		
Has the evidence been gathered correctly?		
Is there sufficient evidence to support a prosecution?		
Evidential Test	Yes	No
Is there evidence to support the reliability of a confession?		
Will the court find the confession credible?		
Are witnesses of a good character?		
Is the evidence clear?		
Have there been any delays?		
Have there been any failures in the benefit administration?		
Public Interest Test	Yes	No
Will a conviction result in a significant sentence?		
Is the financial loss above the prosecution threshold?		
Were the offences committed over a substantial period of time?		
Has there been an abuse of position or trust?		
Has the claimant suffered from any mental health issues?		
Is the claimant elderly or vulnerable?		
Was there any voluntary disclosure prior to investigating?		
Did the claimant admit the offence and make an offer to repay?		
Has there been any repayment of the overpaid benefit?		
Are there any previous incidents of fraud?		
Were there others involved in committing the offence?		
Was the offence planned?		
Was the offence committed from the outset?		
Is it likely that the offence will be repeated?		
Is the offence widespread within the local community?		

First Level Approval notes

I have reviewed this case fully and having considered all factors relating to the alleged offence(s), and with due regard to the London Borough of Enfield's sanction policy, I recommend that in this particular case, authorisation be given to proceed by way of:

Caution / Financial Penalty / Prosecution

Signed: _____

Position: _____

Date: _____

Authorising Officer Notes

I agree with the recommendations made by the team leader on this case and authorise the suggested sanction.

Signed: _____

Position: _____

Date: _____

LONDON BOROUGH OF ENFIELD

WHISTLEBLOWING POLICY & PROCEDURES JANUARY 2023

1. INTRODUCTION

The Council is committed to developing the highest possible behavioural standards and a culture encouraging openness, probity and accountability of all employees, councillors and council contractors. The whistleblowing policy (the Policy) is a framework to enable and encourage you to raise and report any concerns regarding any aspect of the Council's work which may include:

- The unauthorised use of public funds
- A failure to comply with a legal obligation
- Any conduct which may damage the Council's reputation
- A danger to the health and safety of an individual
- Damage to the environment
- Possible fraud and corruption
- Possible acts of bribery
- Conduct which is an offence or a breach of law
- Disclosures related to miscarriages of justice; and/or
- Other unethical conduct.

The Council's whistleblowing policy applies to all employees *, members and contractors working for the Council on Council premises, for example, agency staff and consultants. It also covers suppliers and organisations providing services under a contract with the Council on their own premises, for example, care homes.

Please note that the Council's Whistleblowing Policy is not intended to cover safeguarding concerns relating to children or vulnerable adults, as there are separate arrangements for raising these (see Section 7).

* Schools are required to have their own policy in place; they may choose to adopt the model policy produced by the Schools' Personnel Service (see **Annex A** of this policy).

2. HOW TO RAISE A WHISTLEBLOWING CONCERN

As a first step, you should normally report any concerns to your line manager or the manager of a person giving cause for concern, preferably in writing. However, if you feel the matter is extremely serious, sensitive or involves your line manager, you may report the matter straight to your Director.

If you feel that it is not appropriate to report your concerns to these individuals, then you should contact one of the following:

Contact	Position	Email	Contact number
Gemma Young	Head of Internal Audit and Risk Management	gemma.young@enfield.gov.uk	020 8132 1756 or 07900 168938
Marion Cameron	Deputy Head of Internal Audit and Risk Management	marion.cameron@enfield.gov.uk	020 8132 1065
Bob Cundick	Counter Fraud Manager	bob.cundick@enfield.gov.uk	020 8132 1878
Mike Tobin	Senior Counter Fraud Officer	michael.tobin@enfield.gov.uk	020 8132 2480
Terry Osborne	Director of Law and Governance	terry.osborne@enfield.gov.uk	020 8132 0668
Fay Hammond	Executive Director of Resources	fay.hammond@enfield.gov.uk	020 8379 2662
Tinu Olowe	Director of Human Resources and Organisational Design	tinu.olowe@enfield.gov.uk	020 8123 154
Ian Davis	Chief Executive	ian.davis@enfield.gov.uk	020 8379 3901

When raising your concern, you may wish to take advice on the matter from any of those listed in the section above or discuss your concerns with a colleague first. It is advisable that you report your concern as early as possible. A significant delay in reporting the matter may make the subsequent investigation difficult to pursue.

In raising your concern in writing, you should give as much detail as possible, i.e. the background and history, names and relevant dates and the reasons why you are particularly concerned about the situation.

If you feel hesitant about putting your concern in writing at this stage you should telephone the manager to whom you wish to make the report and ideally, arrange to meet them. However, you may be asked to confirm the details in writing at a later stage.

Officers receiving a report under the whistleblowing policy should notify the Audit and Risk Management Service as soon as possible so that the Council can meet requirements to keep a central record of whistleblowing concerns raised.

Please advise whether you want to raise the matter in confidence to enable appropriate arrangements to be made. (Remember the Audit and Risk Management Service has a degree of independence that allows officers to raise concerns without being identified as the source).

If these channels have been followed and you still have concerns, or if you feel that the matter cannot be discussed with any of the above, you can contact any of the following independent organisations outside the Council for assistance with your concern:

- National Audit Office Tel: 020 7798 7999 (their [website](#) provides further information)
- Protect provide free, confidential whistleblowing advice and can be contacted via their [webform](#). More information is available on their [website](#).
- Citizens Advice Bureau
- Relevant professional bodies or regulatory organisation
- Relevant voluntary organisation
- The Police.

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.

3. HOW WE WILL HANDLE THE MATTER

Once you have raised your concern, the Council will undertake an initial assessment to determine what action needs to be taken. This may involve an internal inquiry or a more formal investigation. Do not forget that testing out your concerns is not the same as either accepting or rejecting the concern.

Where appropriate, the matters raised may:

- be investigated by management, officers from the Council's Audit and Risk Management Service, or through the disciplinary process;
- be referred to the Police or appropriate agency such as Her Majesty's Revenue and Customs (HMRC) or the United Kingdom Borders Agency (UKBA);

- be referred to the Council's external auditor; or
- form the subject of an independent inquiry.

When you raise your concern, you may be asked how you think the matter might best be resolved. You will also be required to disclose any personal interest in the matter at the outset. Any concerns that should be dealt with through the Grievance Policy will be redirected.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

You will be advised of the officer handling the matter, how you can contact them and whether further assistance is required. Where possible, you will receive a letter summarising your concern and proposed actions that will be taken. Please note, however, that the Council may not be able to tell you the precise action taken where this would infringe a duty of confidence owed to someone else.

It should be noted that where a concern raised is linked to a potential redundancy, disciplinary and/or other managerial issue these processes will continue in parallel with the investigation of the alleged wrong-doing and will not prevent the Council from pursuing any subsequent action through to conclusion. This principle is not intended to prevent staff raising concerns.

Where staff have genuine concerns about potential wrong-doing they are expected to raise these concerns at the earliest opportunity and not raise these in response to other managerial actions being instigated. In all cases, when a concern is raised in writing, the responsible person will write to you:

- Acknowledging that the concern has been received;
- Indicating how the Council proposes to deal with the matter;
- Providing an estimated timeframe to conclude the investigations;
- Advising whether any initial enquires have been made
- Supplying you with information on staff support mechanisms, and
- Informing you whether further investigations will take place and if not, why not.

4. EXTERNAL CONTACTS

While we hope this Policy gives you the reassurance you need to raise concerns internally, we would rather you raise a matter with the appropriate regulator than not at all. Provided you are acting in good faith and you have evidence to back up your concern, you can also contact:

External Contact	Issue Type
Health and Safety Executive	Health and safety concerns
Environment Agency	Environmental issues
HM Revenues & Customs	Financial irregularities
BDO (Council's external auditor)	Public sector finance issues or financial irregularity
Information Commissioner's Office	Data protection issues

5. IF YOU ARE DISSATISFIED

While we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and in accordance with this Policy. If you are dissatisfied with our response it may be appropriate to seek external advice.

6. OUR ASSURANCES TO YOU

The Chief Executive and the Executive Management Team are committed to this Policy and recognise that the decision to report a concern can be a difficult one to make. If you raise a genuine concern under this Policy, you will be protected from possible reprisal or victimisation. Provided you are acting in good faith, it does not matter if you are mistaken, no action will be taken against you.

We do not extend this assurance to someone who maliciously raises a matter they know is untrue. If you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

By reporting or raising a concern you will be doing your duty to your employer and those for whom you are providing a service.

Statutory Protection

The Public Interest Disclosure Act 1998 establishes your right to raise concerns and provides individuals with protection from victimisation, dismissal or any other detriment, provided they have a reasonable belief that what they have reported is true and the report is in good faith.

Harassment or Victimisation

The Council will not tolerate any harassment or victimisation (including informal pressures) from you colleagues, peers, managers, or from external sources, and will take appropriate action to protect you when you raise a concern in good faith.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary, capability, or redundancy procedures that already affect you.

If you consider that you are being, have been or are likely to be victimised, dismissed, made redundant or made to suffer some other detriment as a result of making a report under this Policy, you should report your concerns to the Council's Monitoring Officer. The matter will then be dealt with as a new referral under this procedure.

Your confidentiality

We recognise that you may want to raise a concern in confidence under this Policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. If the situation arises where we are unable to resolve the concern without revealing your identity (for example where you are needed to come forward as a witness or to give evidence in court), we will discuss with you whether and how we can proceed.

Anonymous Allegations

Concerns expressed anonymously are not categorised as whistleblowing, as we cannot be certain of the source.

Although we are grateful for any information received, referrals made anonymously are much less powerful but will be considered at the discretion of the Council. In exercising this discretion, the factors to be considered will include:

- the seriousness of the issues raised;
- the credibility of the concern, and;
- the likelihood of confirming the allegation from attributable sources.

If you do not tell us who you are, it will be much more difficult for us to investigate the matter, and we will be unable to give you feedback.

7. SAFEGUARDING CONCERNS

Individuals wishing to report safeguarding concerns should continue to raise these via the established processes, namely;

For Children

Matters relating to child abuse should be reported to the Children in Need Service from 9am to 5pm: telephone 020 8379 2507 and the Enfield Out of Hours Team outside office hours: telephone 020 8379 1000.

More information is available here:

<https://cp.childrensportal.enfield.gov.uk/web/portal/pages/home>

For Adults with Care and Support Needs

Issues relating to the abuse or neglect of an adult at risk should be referred to the Enfield Multi-Agency Safeguarding Hub (MASH) Team.

Email them at: themashteam@enfield.gov.uk or call on 020 8379 3196 Monday to Friday from 9am to 5pm.

You can also call 24 hours a day, speaking anonymously if you wish, on the Enfield Adult Abuse Line: 020 8379 5212.

Where the concern relates to a Person in a Position of Trust (“PIPOT”), such as that person’s suitability to work with adults with care and support needs, as opposed to a specific safeguarding concern, then this can be raised by email via safeguardingadults@enfield.gov.uk.

More information is available [here](#).

8. OTHER MATTERS OUTSIDE THE SCOPE OF THE WHISTLEBLOWING POLICY

In addition to safeguarding concerns, the Policy does not normally cover the following areas:

- Matters that concern day to day issues relating to an employee’s terms and conditions of employment or a complaint about another employee which can usually be referred to their line manager, or if necessary be pursued using the Council’s Grievance Procedure.
- Matters that concern schools are covered by a separate Model Whistleblowing Policy and Procedures document (**Annex A**). If after reading this, you feel that your concern or issue is not covered, you can make a complaint online at <https://contact.ofsted.gov.uk/online-complaints>.
- Matters that would normally be dealt with by the Council’s collective bargaining arrangements with its recognised trade unions should be reported to (GMB) 020 8379 6138 / branch@gmbenfield20.org.uk or (UNISON) 020 8379 4082 / office@enfieldunison.co.uk.
- Allegations concerning fraud or financial irregularity should continue to be made directly to the Counter Fraud Team by calling our hotline number 020 8379 3166 or via email to fraud.team@enfield.gov.uk .

- Complaints from the public that relate to the standard of service delivered by the Council or Council Contractors which should be reported through the Council's Corporate Complaints procedure.

9. REVIEW OF THIS POLICY

This Policy and reports made under it should be reviewed annually by the Head of Audit & Risk Management who will submit a report to the General Purposes Committee.

Annex A



**Schools' Personnel:
get the chemistry right**

MODEL WHISTLEBLOWING POLICY AND PROCEDURES (The Reporting of Malpractice and Improper Conduct)

**FOR EMPLOYEES AND WORKERS IN MAINTAINED SCHOOLS,
PRUs, ACADEMIES AND OTHERS**

**4th Edition October 2020
(Replaces October 2017 Edition)**



INVESTOR IN PEOPLE

WHISTLEBLOWING POLICY AND PROCEDURES
(The Reporting of Malpractice and Improper Conduct)

FOR EMPLOYEES AND WORKERS IN MAINTAINED SCHOOLS, PRUs,
ACADEMIES AND OTHERS

****CONTENTS****

Page

1. INTRODUCTION	3
2. WHO THE WHISTLEBLOWING POLICY APPLIES TO	3
3. MATTERS COVERED BY THE WHISTLEBLOWING POLICY	4
4. MATTERS NOT COVERED BY THE WHISTLEBLOWING POLICY	4
5. HOW TO RAISE A CONCERN	6
(a) PRIOR to raising a concern	6
(b) How to raise a concern about the Behaviour of another Employee/Worker in Relation to a Child Protection Matter	6
(c) How to raise a concern that is NOT about the Behaviour of another Employee/Worker in Relation to a Child Protection Matter	7
6. HOW THE MATTER WILL BE HANDLED	9
7. IF YOU ARE DISSATISFIED	10
8. ASSURANCES TO YOU	10
9. STATUTORY PROTECTION	11
10. VICTIMISATION, BULLYING OR HARASSMENT	11
11. YOUR CONFIDENTIALITY	11
12. ANONYMOUS ALLEGATIONS	12

13. TAKING THE MATTER FURTHER – EXTERNAL CONTACTS

12

WHISTLEBLOWING POLICY AND PROCEDURES

(The Reporting of Malpractice and Improper Conduct)

FOR EMPLOYEES AND WORKERS IN MAINTAINED SCHOOLS, PRUs, ACADEMIES AND OTHERS

IMPORTANT NOTE RELATING TO TERMINOLOGY USED IN THIS DOCUMENT

This policy and procedure document may be adopted by maintained schools, PRUs, Academies, Free schools and/or other independent schools. Therefore, where the words 'Headteacher', 'Governing Body', 'Governors' or 'school' are used in this document, this should also be interpreted (and can be adapted) to mean, or read, Principal, Chief Executive, Head of School, Proprietor, PRU Management Committee, Members, Directors, Board of Trustees, Local Governing Body, Governing Board, PRU, Academy or Academy Trust etc., as relevant to the type of school and structure in place. Words shown in *italics* throughout this document may, therefore, be replaced by the relevant terminology from the above, or otherwise adapted appropriately.

1. INTRODUCTION

The term 'whistleblowing' relates to situations whereby an employee/worker discloses illegal or unethical conduct within an organisation. Unlike wrongdoing where the consequences are strictly personal, whistleblowing is unique as it focuses on matters relevant to the public interest. In other words, a whistle blower makes a disclosure about wrongdoing in the public interest.

If the consequences of an employer's conduct have wider implications for the general public, then the individual exposing the wrongdoing is 'whistleblowing'. The law protects whistle blowers from any potential consequences to their employment, for example by providing protection from dismissal, from being overlooked for promotion, from victimisation, harassment or any other unfair treatment.

Current UK legislation in place for the protection of whistle blowers was brought in under the Public Interest Disclosure Act 1998 (PIDA) and expanded upon with the introduction of the Enterprise and Regulatory Reform Act (ERRA) 2013. These Acts provide the legal framework that governs the circumstances in which employees can legally blow the whistle, as well as setting out the requirements for legal protection following the event.

The Governors are committed to developing and maintaining the highest possible behavioural standards and a culture encouraging openness, probity and accountability of all employees, workers and contractors. This Whistleblowing Policy provides a framework to enable and encourage you to raise and report, or 'disclose', genuine concerns regarding any relevant aspect of the *school's* work. The Policy aims to reassure you that you will be protected from possible reprisals or detriment if you have a reasonable belief that any disclosure you make is true.

2. WHO THE WHISTLEBLOWING POLICY APPLIES TO

This Whistleblowing Policy applies to all employees, inc. apprentices, trainees and work experience placements, *governors* and volunteers. It also covers contractors working for the *school* on *school* premises, for example, agency workers and consultants, as well as suppliers and any organisations providing services under a contract with the *school* on their own premises.

Note that workers who are not employees cannot claim unfair dismissal due to blowing the whistle but, because of the protection afforded, they can claim 'detrimental treatment'.

The Policy does not cover other persons such as members of the public or parents. The *school* has a separate Complaints Procedure in place for use by those persons not connected with the *School* through their own employment, work, training or provision of services.

3. MATTERS COVERED BY THE WHISTLEBLOWING POLICY

The Policy is intended to cover the most serious concerns about malpractice that fall outside the scope of other procedures.

'Qualifying Disclosures', i.e. disclosures or the reporting of serious concerns that afford an employee/worker protection in law, are disclosures of information where the employee/worker reasonably believes that one or more of the following is either happening, has taken place, or is likely to happen in the future and that disclosure is in the public interest:

- The unauthorised use, or misuse, of public funds
- A failure to comply with a legal obligation
- Conduct which is an offence or breach of the law
- Possible fraud and corruption (e.g. financial fraud or mismanagement, public examination fraud)
- Possible acts of bribery
- Serious Health and Safety risks, including risks to pupils and the public, as well as other employees/workers
- Damage to the environment
- Safeguarding or Child Protection matters
- Any conduct which may damage the *School's* reputation
- Miscarriages of justice
- Other unethical conduct
- Deliberate concealment of information relating to any of the above.

This list is not necessarily exhaustive. (See also 4. below).

4. MATTERS NOT COVERED BY THE WHISTLEBLOWING POLICY

The wrongdoing, or malpractice, being disclosed **must be 'in the public interest'**. There is no specific definition of what is meant by 'in the public interest'. However, the matter cannot relate solely to the individual who is raising it. It must adversely

affect, or threaten, others. This could mean pupils, parents or the public in general, for example. It could also be interpreted as including other employees/workers depending on all the factors involved. This may be the case only if a significant number are affected and will depend also upon the nature of the interests affected, the nature of the wrongdoing disclosed, even the identity of the alleged wrongdoer may be relevant - the more prominent s/he is, the more likely it is that the disclosure will be in the public interest. All the circumstances of the case would need to be considered to decide if the matter is in the public interest generally.

However, **a Disclosure may not be made for purely private matters, such as a problem with the individual's own employment terms or contract.**

Other matters the Whistleblowing Policy does NOT normally cover

- **The general behaviour of another employee** (i.e. behaviour that does not fall within the types of malpractice listed in 3. above). Employees should refer a complaint about another employee's behaviour to his/her Line Manager or otherwise pursue the matter through the *school's* Grievance Procedure.
- **Concerns relating to another employee's/worker's performance or capability.** There are other, more appropriate, procedures in place for management to address such issues.
- **Matters relating to the abuse or neglect of an adult at risk.** Issues relating to the abuse or neglect of an adult at risk should be referred to the Enfield Multi-Agency Safeguarding Hub (MASH) Team. Email at: themashteam@enfield.gov.uk or call on 020 8379 3196 Mon to Fri. from 9am to 5pm. You can also call 24 hours a day, speaking anonymously if you wish, on the Enfield Adult Abuse Line: Telephone 020 8379 5212.

Where the concern relates to a Person in a Position of Trust ("PIPOT"), such as that person's suitability to work with adults with care and support needs, as opposed to a specific safeguarding concern, then this can be raised via email at: safeguardingadults@enfield.gov.uk

More information is available via the link: <https://www.enfield.gov.uk/safeguardingadults>

(Note that **Child Protection concerns** are covered in the next section of this document. See 5. (a) and (b) below).

- Matters that would normally be dealt with by the *London Borough of Enfield's/the school's* **collective bargaining arrangements** with its recognised Trade Unions/Professional Associations. These should be reported, as appropriate, to:
 - the **GMB** 020 8379 6138 or email: branch@gmbenfield20.org.uk or gmbenfield@btconnect.com
 - **UNISON** (schools) 020 8379 4047 or email: schools@enfieldunison.co.uk or (general) 020 8379 4082 email: office@enfieldunison.co.uk

- **UNITE the Union** 24-hour legal helpline: 0800 709 007. London and Eastern region contact number: 020 8800 4281
- **The National Education Union (NEU)** London Region 020 8477 1234 or, to speak to a member adviser, call AdviceLine on 0345 811 8111
- **NASUWT Greater London Regional Centre** Email contact: rc-london@mail.nasuwt.org.uk; Telephone line for advice issues only (members in England) 03330 145550 or email at advice@mail.nasuwt.org.uk
- **VOICE** (Head Office, Derby) on 01332 372 337
- **NAHT** (General Enquiries) on 0300 30 30 333 or email: info@naht.org.uk
- **ASCL** on 0116 2991122

Alternatively, you may wish to contact your Professional Association/Trade Union's local School or Branch Representative in the first instance.

- **Complaints from the public that relate to the standard of service delivered by the school or the school's Contractors.** These should be reported through the *school's* Complaints Procedure.

5. HOW TO RAISE A CONCERN

(a) PRIOR to raising a concern

(i) Where there are concerns relating to a child protection matter, action should be taken in accordance with the *school's* Child Protection Policy and any other advice and guidance set out by the Safeguarding Enfield Partnership and the Department for Education (DfE).

Statutory guidance issued by the **DfE** in relation to the safeguarding of children and young people includes '**Working Together to Safeguard Children**' and '**Keeping Children Safe in Education**' (KCSIE). The relevant DfE website page can be located at: <https://www.gov.uk/government/collections/statutory-guidance-schools#safeguarding-children-and-young-people>

The website for the Safeguarding Enfield Partnership can be visited at: <https://www.enfield.gov.uk/safeguardingenfield/>

Specifically in relation to making a disclosure under this Whistleblowing Policy:

Where any concerns you may have are about the behaviour of another employee/worker in relation to a child protection matter, you should raise them as described under (b) below.

OR OTHERWISE

For other concerns that are NOT about the behaviour of another employee/worker in relation to a child protection matter, you should raise them under (c) below.

(ii) If you are a member of a Professional Association or Trade Union, it may have in place a Code, or rules, which set out how members should act in relation to raising concerns involving colleagues and/or in relation to dealings with colleagues in general. You are advised, in these circumstances, to familiarise yourself with any such Code or rules or contact your Professional Association or Trade Union for further advice prior to taking action. In any event, you may wish to consult your Professional Association/Trade Union for advice and support prior to raising a concern.

(b) How To Raise a Concern about the Behaviour of another Employee/Worker in relation to a Child Protection Matter

Part One of the statutory DfE guidance ‘Keeping Children Safe in Education’ (KCSIE) provides advice on what school staff should do if they have if they have concerns about another staff member. (For this purpose, this should also to be taken to include any other trainees, workers, volunteers, governors or others providing services to the *school*). In these circumstances:

- Any employee, worker or other person to whom this policy and procedure applies who has a concern(s) about another member of staff/worker/trainee at, or providing services to the *school*, should immediately, or at the earliest possible opportunity, refer the matter to the *Headteacher*.

Where it is decided that it meets the threshold of harm/risk of harm and is, therefore, an allegation, the *Headteacher* will report to the Local Authority Designated Officer (LADO)¹ immediately and, in any event, within one working day. (If appropriate, the Police should also be notified within one working day – or immediately, if necessary).

- If the concerns relate to the *Headteacher*, the matter should instead be reported to the *Chair of Governors*. The *Chair of Governors* will then report to the LADO (and Police, as appropriate) in the above circumstances.

¹ Every Council has a duty to manage allegations and concerns about any person who works with children and young people in their area. This includes Council staff, staff/workers, staff/workers of partner agencies, volunteers and any others who may work with local children. The LADO is responsible for managing all child protection allegations made against persons who work with children and young people in the area. The LADO must be contacted within one working day in respect of all cases in which it is alleged that - a person who works with children has behaved in a way that has harmed, or may have harmed, a child; possibly committed a criminal offence against or related to a child; behaved towards a child or children that indicates he or she may pose a risk of harm to children; or behaved or may have behaved in a way that indicates they may not be suitable to work with children. The LADO is responsible for managing and overseeing individual cases from all agencies, providing advice and guidance to employers and voluntary organisations around allegations and concerns, chairing strategy meetings (known as ‘Allegations against staff and Volunteers’ [ASV] meetings in the London Child Protection Procedures), ensuring a fair and consistent process, monitoring progress of cases to ensure they are dealt with as quickly as possible and ensuring the child’s voice is heard and that s/he is safeguarded.

- *In the event of an allegation being made against the Headteacher, where the Headteacher is also the sole proprietor of an Independent school, allegations should be reported directly to the LADO.*

Employees/workers or any other persons to whom this policy and procedure applies may consider discussing any concerns with the school's designated safeguarding lead and make any referral via him/her.

Following the raising of a concern under this heading, further action will be taken in accordance with the procedures in place for addressing child protection matters. The referrer of the matter will be informed as appropriate.

It is hoped that concerns raised can be dealt with through these channels other than in exceptional circumstances. However, where you consider that your genuine concerns have not been satisfactorily resolved, or are not being addressed, other whistleblowing channels are set out in 13. below, 'Taking Your Concerns Further – External Contacts'. (Note that Ofsted will normally address whistleblowing referrals about a Local Authority's general safeguarding arrangements. However, Ofsted does not have the authority to investigate or follow up whistleblowing concerns relating to individual cases, except where they provide evidence of more widespread or systematic failure).

(c) How To Raise a Concern that is NOT about the behaviour of another Employee/Worker in relation to a Child Protection matter

When raising your concern you may wish to take advice on the matter from any of those listed in the section below or discuss your concerns with a colleague first. It is advisable that you report your concern as early as possible. A significant delay in reporting the matter may make the subsequent investigation difficult to pursue.

PLEASE NOTE: For maintained schools, if the allegation relates to fraud or financial impropriety, then the matter must also be reported to the Council's Head of Internal Audit and Risk Management (see Step 4 below).

Step 1

As a first step, you should normally report any concerns to **your Line Manager or his/her Manager.**

It is always preferable for concerns to be raised in writing. Where this is the case, the following details should be included wherever possible:

- Name and contact details
- Background and history, names and relevant dates and the reasons why you are particularly concerned about the situation
- Whether you wish your name to remain confidential (see also Page 10 below, 'Your Confidentiality')
- Whether you want feedback
- The names and roles of any employees or others who may support your concern(s).

If you feel hesitant about putting your concerns in writing at this stage, you should speak to the manager to whom you wish to make the report and arrange to

meet with him/her. However you may be asked to put the details in writing at a later stage.

Step 2

If you feel the matter is extremely serious, sensitive or involves your Line Manager or their Manager, you may report the matter, in the manner set out in Step 1 above, directly to **the Headteacher or the Chair of Governors**, as appropriate.

Step 3

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, then you should contact:

Contact for Employees/Workers in Maintained Schools
Tony Theodoulou, Executive Director – People, People Department on 020 8379 4610

Contact for Employees/Workers in Academies/Free/Other Independent Schools
<i>Academies and others to insert relevant contact details</i>

Step 4

In addition to the steps above, you can also at any stage contact the persons named below.

For maintained schools, any allegation involving fraud or financial impropriety **must** in any event be reported to the Head of Internal Audit and Risk Management even if the process outlined in Steps 1 to 3 has been followed.

Contacts for Employees/Workers in Maintained Schools
Gemma Young, Head of Internal Audit and Risk Management on 020 8132 1756 or 07900 168938 or e-mail Gemma.young@enfield.gov.uk
<u>OR</u>
Terry Osborne, Director of Law and Governance on 020 8132 0668 or e-mail terry.osborne@enfield.gov.uk

Contacts for Employees/Workers in Academies/Free/Other Independent Schools
<i>Academies and others to insert relevant contact details</i>

NOTE RELEVANT TO COUNCIL OFFICERS RECEIVING A DISCLOSURE FROM EMPLOYEES/WORKERS IN MAINTAINED SCHOOLS - Officers receiving a report

under this section **must** notify the Audit and Risk Management Service of the report as soon as possible so that the Council meet their requirements to keep a central record of whistleblowing concerns raised.

NOTE FOR ACADEMIES (inc. Free Schools [and others as relevant]) – Academies must be aware of any related requirements set out in their Funding Agreements and the Academies Financial Handbook. They also have a specific responsibility for notifying the Education and Skills Funding Agency (ESFA) of certain instances of fraud, theft and/or irregularities.

6. HOW THE MATTER WILL BE HANDLED

Once you have raised your concern, an initial assessment will be made to determine what action needs to be taken. This may involve an internal inquiry or a more formal investigation. Do not forget that testing out your concerns is not the same as either accepting or rejecting the concern.

Where appropriate, the concerns raised may:

- be investigated internally by management, inc. *Governors (or by Officers from the London Borough of Enfield, where appropriate)* and/or through the disciplinary process;
- be referred to the Police or another appropriate agency such as Her Majesty's Revenue and Customs (HMRC) or United Kingdom Visas and Immigration (UKVI);
- be referred to the external auditor, or ESFA in relation to an Academy; or
- form the subject of an independent inquiry, or investigation by Ofsted.

(NB. Concerns raised under 5. (b) above will be dealt with in accordance with the relevant Child Protection procedures)

When you raise your concern, you may be asked how you think the matter might best be resolved. You will also be required to disclose any personal interest in the matter at the outset.

Any concerns that should be dealt with through another procedure, such as the Grievance Procedure, will be redirected. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

You will be advised of the person responsible for handling the matter, how you can contact them and whether further assistance is required. Where possible, you will receive a letter summarising your concern and proposed actions to be taken.

Whilst the purpose of this Policy is to enable possible malpractice to be investigated and to take appropriate steps to deal with it, **you will be given as much feedback as permissible.** Please note, however, that it may not be possible to tell you the precise action being taken where this would infringe a duty of confidence owed to another party.

It should be noted that where a concern raised is linked to a potential redundancy, disciplinary and/or other managerial issue these processes will continue in parallel with the investigation of the alleged wrongdoing and will not

prevent any subsequent action being pursued through to conclusion. This principle is not intended to prevent employees/workers from raising concerns.

Where employees/workers have genuine concerns about potential wrongdoing they are expected to raise these concerns at the earliest opportunity and not raise these in response to other managerial actions being instigated.

In all cases, when a concern is raised in writing, the responsible person will write to you:

- Acknowledging that the concern has been received
- Indicating how we propose to deal with the matter
- Providing an estimated timeframe to provide a final response
- Advising whether any initial enquires have been made
- Supplying you with information on staff support mechanisms, and
- Informing you if further investigations will take place and, if not, why not.

In circumstances where you are asked to attend any meeting(s) relating to the concern(s) you have raised, you may find it helpful to be accompanied by:

- a local area or regional official of a Trade Union/Professional Association;
- a workplace Trade Union/Professional Association Representative, as long as s/he has been reasonably certified in writing by their union as having experience of, or having received training in, acting as an employee's companion at such meetings. Certification may take the form of a card or letter; or
- a work colleague.

7. IF YOU ARE DISSATISFIED

Whilst it cannot be guaranteed that you will receive a response to all matters in the way that you might wish, the matter will be handled fairly and in accordance with this policy. If you are dissatisfied with the response you receive it may be appropriate to seek external advice (see 13. below).

8. ASSURANCES TO YOU

The Governors are committed to the Whistleblowing Policy and recognise that the decision to report a concern can be a difficult one to make. If you raise what you reasonably believe to be a genuine concern under this Policy, in the public interest, you will be protected from possible reprisal or victimisation. In these circumstances, it does not matter if you are mistaken, no action will be taken against you.

Of course, we do not extend this assurance to someone who maliciously raises a matter they know is untrue. If you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

By reporting or raising a concern, you will be doing your duty to your employer and those for whom you are providing a service.

9. STATUTORY PROTECTION

The Public Interest Disclosure Act 1998, as amended, and including provisions implemented under the Enterprise and Regulatory Reform Act 2013, establishes your right to speak out about malpractice. The legislation provides individuals with protection from victimisation by others, dismissal or any other detriment, provided they follow the correct procedure, they reasonably believe that what they have reported is either happening, has taken place, or is likely to happen in the future and that disclosure is in good faith and the public interest.

An employee/worker will have to show three things to claim Public Interest Disclosure Act protection:

1. That s/he made a disclosure
2. That s/he followed the correct disclosure procedure
3. That s/he was dismissed or suffered a detriment as a result of making the disclosure.

A tribunal has the power to reduce any compensation by up to 25% if it thinks the disclosure was made in "bad faith".

Please be aware that, if you report your concerns to the media, in most cases you will lose your whistleblowing legal rights.

10. VICTIMISATION, BULLYING OR HARASSMENT

Employees/workers need to be aware that they must not in any way mistreat a whistle blower by subjecting them to detriment, victimisation, bullying, or harassment. The *Governors* will not tolerate any form of victimisation, bullying or harassment (including informal pressures) from your colleagues, peers, managers, or from external sources, and will take appropriate action to protect you when you raise what you believe to be a genuine concern in the public interest.

If you consider that you have been, are being, or are likely to be victimised, dismissed, made redundant or made to suffer some other detriment as a result of making a report under this procedure, you should report your concerns as set out under any of the Steps 1 to 4 above, as appropriate to the circumstances. The matter will then be dealt with as a new referral under this procedure.

Any investigation into allegations of malpractice will not influence, or be influenced by, any disciplinary, capability or redundancy procedures that already affect you.

11. YOUR CONFIDENTIALITY

It is recognised that you may want to raise a concern in confidence under this Policy. If you ask for your identity to be protected, it will not be disclosed without your consent. If the situation arises where the concern cannot be resolved without your identity being revealed (for example where you are needed to come forward as a witness or to give evidence in court), it will be discussed with you about whether and how the matter can proceed.

12. ANONYMOUS ALLEGATIONS

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the *Governors or the London Borough of Enfield*, as appropriate. In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

Remember - if you do not state who you are, it will be much more difficult for the matter to be investigated, for your position to be protected or for you to receive feedback. Please note it is less likely that either the *Governors or the London Borough of Enfield* will be able to respond, or provide feedback, to unattributable email addresses.

13. TAKING THE MATTER FURTHER – EXTERNAL CONTACTS

The aim of this policy is to provide an internal mechanism for reporting, investigating and putting right any wrongdoing in the workplace. **It is hoped that, in the majority of cases, you will not find it necessary to refer the matter to an external contact. You are strongly encouraged to seek advice before reporting a concern to an external body.** However, if the steps within this policy do not provide a suitable resolution, there are other whistleblowing channels available to you provided that you have supporting evidence. There are also organisations that can provide general advice. As appropriate to the circumstances, such organisations include, for example, those listed overleaf.

EXTERNAL CONTACT	TYPE OF ISSUE
Protect (Previously Public Concern at Work (PCAW)). Protect provide free, confidential whistleblowing advice and can be contacted via their webform . More information is available on their website .	General Advice (Confidential advice to would be whistle blowers concerned about making a disclosure and whether they will be protected)
Citizens Advice Bureau There are various ways to contact Citizens Advice. Visit the website to find out more details: https://www.citizensadvice.org.uk/about-us/contact-us/ Contact an adviser through the national phone service Adviceline (England): 03444 111 444	General Advice
NSPCC Website link: https://www.nspcc.org.uk/keeping-children-safe/reporting-abuse/dedicated-helplines/whistleblowing-advice-line/ Whistleblowing Helpline 0800 028 0285 Email: help@nspcc.org.uk Write to: NSPCC, Weston House, 42 Curtain Road, London. EC2A 3NH	Child Protection and Welfare (Support for professionals who are worried about how child protection issues are being handled in their workplace).
Ofsted Whistleblowing Hotline 0300 123 3155 (8am to 6pm Mon-Fri) Email: whistleblowing@ofsted.gov.uk	Local Authority general Safeguarding Arrangements**
Health and Safety Executive (HSE) Tel 0300 003 1647 Visit the website for further information and ways to contact HSE http://www.hse.gov.uk/contact/whistleblowers.htm	Health and Safety Matters

Environment Agency Incident Hotline 0800 80 70 60 (24 hour service) For more information and details of incidents covered, visit the website: https://www.gov.uk/report-an-environmental-incident	Environmental Matters
Information Commissioners Office (ICO) Helpline 0303 123 1113 For further information visit the website at: https://ico.org.uk/make-a-complaint/	Data Protection matters
Her Majesty's Revenue and Customs (HMRC) HMRC-related fraud Tel: 0800 788 887 Website: https://www.gov.uk/government/organisations/hm-revenue-customs/contact/report-fraud-to-hmrc General contact information can be located at the website: https://www.gov.uk/contact-hmrc	Financial Irregularities
The Comptroller and Auditor General To make a disclosure to the Comptroller and Auditor General 020 7798 7999 Write to: The Comptroller and Auditor General, National Audit Office, 157-197 Buckingham Palace Road, London. SW1W 9SP The website page can be located at: https://www.nao.org.uk/contact-us/whistleblowing-disclosures/	The Conduct of Public Business, Value for Money, Fraud and Corruption relating to the provision of Public Services
BDO LLP (The London Borough of Enfield's Appointed Auditor) Contactable via their website https://www.bdo.co.uk/en-gb/contact	Public Sector Finance matters or Financial Irregularity
The Police	Criminal Offences
Education and Skills Funding Agency (ESFA) Cheylesmore House, Quinton Road, Coventry. CV1 2WT Tel: 0845 377 5000	In relation to Academy Trusts/Free Schools/post-16 education or training provider, intervenes if there is risk of failure or mismanagement of public funds
Other relevant Professional Bodies or Regulatory Organisations; Relevant Voluntary Organisations	Other matters – see note overleaf

N
B. See link overleaf for a full list of prescribed persons and bodies for making a disclosure.

IMPORTANT NOTE: If you decide that you need to make a disclosure to a prescribed person other than your employer, you must make sure you have chosen the correct person or body for your issue.

A full list of prescribed persons and bodies that you can make a disclosure to can be found on the following link:
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>





LONDON BOROUGH OF ENFIELD

ANTI-MONEY LAUNDERING POLICY & GUIDANCE JANUARY 2023

1. Introduction

- 1.1 The Money Laundering Regulations 2007, in conjunction with the EU's Fourth Money Laundering Directive (effective from June 2017), have brought the UK in line with all European Union countries and made it more difficult for criminals to utilise the proceeds of their crimes as well as preventing terrorist funding. This policy outlines the Council's and its relevant subsidiary companies' responsibility to comply with these regulations and updates the previous policy that was issued in 2020.
- 1.2 In addition, a guidance document to this policy available to all staff, members and contractors with access to SharePoint, sets out the procedures which must be followed (for example the reporting of suspicions of money laundering activity), to enable the Council and its subsidiary companies to demonstrate compliance with its legal obligations.
- 1.3 The legislation relating to this area is detailed and complex. Should you require further information, you should contact the Money Laundering Reporting Officer (MLRO), or the Audit and Risk Management Team, on 020 8132 1756.

2 Scope of the Policy

- 2.1 This policy applies to all employees, members and contractors of the Council and its subsidiary companies and aims to maintain the high standards of conduct which currently exist by preventing criminal activity through money laundering.
- 2.2 This policy sits alongside the Council's Counter Fraud Strategy as well as the Whistleblowing Policy & Procedures.
- 2.3 Failure by employees 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 procedures.

- 2.4 For the purposes of this policy, any reference to "employees" or "staff" includes by definition employees of both the Council and any of its subsidiary companies.

3. What is Money Laundering?

- 3.1 Money laundering involves the "cleaning" of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, but also other illegally gained assets, are introduced into the organisation's systems where they are processed, enabling them to leave the systems appearing to come from a legitimate source.

4. Policy Statement

- 4.1 Our policy is to do all we can to:

- i) Prevent, wherever possible, the Council and its relevant subsidiary companies, its employees, members and contractors from being exposed to money laundering.
- ii) Identify the potential areas where it may occur.
- iii) Comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

- 4.2 To do this:

- i) This policy document and the associated Guidance Note will be made available via the intranet.
- ii) We will provide training to relevant staff via the Fraud Awareness module on iLearn, supplemented by face-to-face training when required.
- iii) We will undertake risk-based targeted internal audit work to provide assurance about compliance.
- iv) The MLRO, with assistance from a nominated deputy will ensure that money laundering suspicions are reported in accordance with the legal and regulatory requirements.
- v) Provide updates and assurance to members, via the General Purposes Committee, on how the Council is complying with and implementing the Money Laundering Regulations.

5. The Money Laundering Reporting Officer and Compliance Officer

- 5.1 The officer nominated to receive disclosures about money laundering activity within the Council and its subsidiary companies is Gemma Young, Head of Internal Audit and Risk Management, who may be contacted by telephone on 020 8132 1756 or 07900 168 938 or by email: gemma.young@enfield.gov.uk.

- 5.2 In the absence of the Money Laundering Reporting Officer, Bob Cundick, Counter Fraud Manager, is authorised to deputise, and can be contacted at on telephone number 020 8132 1878 or email bob.cundick@enfield.gov.uk.
- 5.3 In the absence of both the MLRO and deputy MLRO, you must contact your Head of Service for advice.
- 5.4 In order to comply with responsibilities covered by the EU's Fourth Money Laundering Directive that came in force in June 2017, the Council and its relevant subsidiary companies have appointed a suitably senior officer / board member as Compliance Officer, to oversee activities that fall within the scope of the money laundering regulations, particularly regarding compliance with due diligence arrangements for services where there is exposure to the risk of money laundering. This officer shall be Fay Hammond, Executive Director of Resources.

6 Key Responsibilities

- 6.1 For this policy to be effective, it is the responsibility of **every employee, member and contractor** to be vigilant and to report any transaction or potential transaction that may arouse suspicion to the MLRO, or deputy MLRO. This should be done as soon as possible, to protect both the Council or its relevant subsidiary companies and the member of staff from future legal action.
- 6.2 Once a report has been received, it will be the MLRO's responsibility to undertake reasonable enquiries to determine what further action is to be taken. This will include whether a Suspicious Activity Report (SAR) should be prepared and submitted to the National Crime Agency (NCA).
- 6.3 All employees, members and contractors are required to co-operate with the MLRO and other investigating authorities during any subsequent money laundering investigation. Where it has been considered necessary for checks to be completed with regards to the identity of an individual for compliance with the money laundering regulations, Council or relevant subsidiary departments should maintain records of evidence gathered, when, and make them available to any investigation.
- 6.4 Under no circumstances should an individual:
- Undertake any further enquiries into the matter themselves; or
 - Raise any suspicions with the person(s) suspected of money laundering, even if consent to proceed with the transaction has been received. This would be referred to as 'tipping off'.

- 6.5 Failure to comply with the money laundering regulations including “tipping off” may result in an individual being fined or imprisoned.
- 6.6 The Compliance Officer is responsible for ensuring that appropriate due diligence arrangements are in place in relevant services that could be exposed to the risk of money laundering.
- 6.7 Should an employee, member, or contractor have any concerns or require further advice, they should contact the MLRO.

ANTI-MONEY LAUNDERING GUIDANCE

DEFINITION

Money laundering involves the “cleaning” of illegal property in order to disguise the criminal origin. The proceeds of criminal activity, usually cash, but also other illegally acquired assets, are introduced into the organisation’s system where they are processed, enabling them to leave the system appearing to come from a legitimate source. As the Council or its relevant subsidiary companies enter into thousands of transactions every day it could be subject to money laundering attempts.

1. INTRODUCTION

- 1.1 The Money Laundering Regulations 2007 brought the UK in line with all European Union countries and made it more difficult for criminals to utilise the proceeds of their crimes as well as preventing terrorist funding.
- 1.2 The primary anti-money laundering offences are now embodied within the Proceeds of Crime Act 2002 (POCA) as amended by the Serious Organised Crime and Police Act 2005.
- 1.3 The definition of money laundering has been broadened and there is now an increased range of activities caught by the statutory framework. As a result, the obligations now impact on certain areas of local authority business and require them to establish internal procedures to prevent the use of their services for money laundering and plan the scope of customer due diligence. There is now a stronger emphasis on professional services to know their clients and monitor how their clients use their services.

2. SCOPE OF THE ANTI-MONEY LAUNDERING POLICY

- 2.1 The money laundering regulations apply to all individuals, including employees, members and contractors of the Council or its relevant subsidiary companies (including agency workers). The Council’s anti-money laundering policy aims to maintain the high standards of conduct that currently exist by preventing criminal activity through money laundering.
- 2.2 This Guidance Note sets out the procedures, which must be followed (for example the reporting of suspicions of money laundering activity) to enable the Council and its relevant subsidiary companies to comply with their legal obligations.
- 2.3 Failure by an employee to comply with the procedures set out in the 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.
- 2.4 Failure to comply may also result in an individual being fined or imprisoned.

3. WHAT IS MONEY LAUNDERING?

3.1 There are three elements that constitute money laundering:

Concealing - you commit this offence if you conceal, disguise, convert, or transfer criminal property or remove it from England, Wales, Scotland or Northern Ireland (Section 327 POCA).

Arrangements – you commit an offence if you enter into or become concerned in an arrangement which you know or suspect facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person (Section 328 POCA).

Acquisition use and possession – you commit an offence if you acquire, use or have possession of criminal property (Section 329 POCA).

It is also an offence to fail to disclose knowledge or suspicion of money laundering where you acquired such knowledge or suspicion in the course of your work (Section 330 POCA). There are further offences of Tipping Off and Prejudicing an investigation (Section 333A and Section 342 POCA).

4. WHAT ARE THE COUNCIL'S AND SUSIDIARY COMPANIES' OBLIGATIONS?

4.1 Organisations conducting “relevant business” must:

Appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else's);

Appoint a Compliance Officer with sufficient authority to ensure that appropriate due diligence arrangements are in place and operating effectively for relevant services, where there is significant exposure to the risk of money laundering.

Implement a procedure to enable the reporting of suspicions of money laundering;

Maintain client due diligence procedures in certain circumstances; and

Maintain record keeping procedures.

4.2 Not all of the Council's business is “relevant” for the purposes of the legislation. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council or its relevant subsidiary companies; therefore, all staff are required to comply with the reporting procedure set out in section 6 below.

5. THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

- 5.1 The officer nominated to receive disclosures about money laundering activity within the Council or its relevant subsidiary companies is the Head of Internal Audit and Risk Management, Gemma Young, who can be contacted on 020 8132 1756 or 07900 168938 or by email: gemma.young@enfield.gov.uk.
- 5.2 In the absence of the MLRO, Bob Cundick, Counter Fraud Manager, is authorised to deputise, and can be contacted on telephone number 020 8132 1878 or by email: bob.cundick@enfield.gov.uk
- 5.3 In the absence of both the MLRO and deputy MLRO, you must contact your Head of Service for advice.

6. DISCLOSURE PROCEDURE

Reporting to the Money Laundering Reporting Officer

- 6.1 Where you know or suspect that money laundering activity is taking / has taken place or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO or deputy. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later. Should you not do so, then you may be liable to prosecution.
- 6.2 Your disclosure should be made to the MLRO using the pro-forma report attached at Annex 1.
- 6.3 Once you have reported the matter to the MLRO you must follow any directions they may give you. You must not make any further enquiries into the matter yourself and you must not proceed with the transaction until given the all clear. Any necessary investigation will be undertaken by the National Crime Agency (NCA). Simply report your suspicions to the MLRO who will undertake some preliminary enquiries and refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the investigating authorities during any subsequent money laundering investigation.
- 6.4 Similarly, at no time and under no circumstances should you voice any suspicions or raise suspicions by your actions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO. Otherwise you may commit a criminal offence of “tipping off” (see 3.1 above).

Consideration of the disclosure by the Money Laundering Reporting Officer

- 6.5 Upon receipt of a disclosure report, the MLRO will advise you of the timescale within which you will be responded to. Usually this will be within 10 working days.
- 6.6 The MLRO will undertake such other reasonable enquiries considered appropriate to ensure that all available information is taken into account in deciding whether a Suspicious Activity Report (SAR) to the NCA is required.
- 6.7 Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.
- 6.8 The MLRO commits a criminal offence if she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to her, that another person is engaged in money laundering and she does not disclose this as soon as practicable to the NCA.

7. CUSTOMER DUE DILIGENCE (CDD)

- 7.1 Customer Due Diligence (CDD) is a procedure which is carried out when undertaking 'regulated activities'. New regulations recommend that additional screening requirements should be required for staff who are involved in CDD procedures.

Regulated activity is the provision 'by way of business' of, amongst other things, certain legal services, estate agency, accountancy, audit, and other financial services, which requires that extra care is taken to check the identity of the customer or client. It requires procedures to identify your customers and check they are who they say they are. This requires obtaining a customer's:

- name
- photograph on an official document which confirms their identity
- residential address or date of birth.

- 7.2 Where the Council or its subsidiary companies are carrying out relevant business and:
- a) Forms an ongoing business relationship with a client which is expected to have an element of duration; or
 - b) Undertakes a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £13,000) or more; or
 - c) Undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £13,000) or more; or
 - d) It is known or suspected that a one-off transaction (or a series of them) involves money laundering or terrorist financing; or
 - e) Doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification;

then the CDD must be followed before any business is undertaken for that client. Verification may be carried out during the establishment of the business relationship where it is necessary not to interrupt the normal conduct of business and there is little risk of money laundering/terrorist financing occurring, provided that the verification is completed as soon as practicable after contact is first established.

7.3 The objective of completing the CDD is:

- To establish the purpose of the relationship;
- Understand the intended nature of the relationship - for example where funds will come from, the purpose of transactions, and so on.

The information that you need to obtain may include:

- details of your customer's business or employment;
- the source and origin of funds that your customer will be using in the relationship;
- copies of recent and current financial statements;
- details of the relationships between signatories and any underlying beneficial owners;
- the expected level and type of activity that will take place in your relationship.

7.4 Enhanced CDD is the gathering of additional evidence of identity or source of funds to be used in a transaction where:

- the client has not been physically present for identification;
- the client is a politically exposed person, that is an individual who at any time in the previous year has held a prominent public function outside of the UK and EU or international institution/body, this also includes their immediate family members or close associates, including holders of prominent political functions;
- there is a beneficial owner who is not your client. A beneficial owner is a person who holds more than 25% of the shares, voting rights or interest in a company, partnership or trust.

7.5 Where it is established enhanced CDD is required then the sources of evidence referred to in paragraph 7.1 and 7.3 should be applied. Such correspondence should then be placed on the client file along with a prominent note explaining which correspondence constitutes the evidence and where it is located.

7.6 The Compliance Officer is responsible for gaining assurance that appropriate CDD procedures are in place.

8. RECORD KEEPING PROCEDURES AND REPORTING

8.1 Each unit of the Council and its subsidiary companies conducting relevant business must maintain records of:

- Client identification evidence obtained; and
- Details of all relevant business transactions carried out for clients

for at least six years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering.

9. **GUIDANCE AND TRAINING**

9.1 In support of the policy and procedure, the Council will provide and update training for all relevant staff in respect of its procedures to prevent and identify money laundering and anti-terrorism situations.

10. **CONCLUSION**

10.1 The legislative requirements concerning anti-money laundering are lengthy and complex. This Guidance has been written to support the application of the Council's anti-money laundering policy so as to enable the Council and its relevant subsidiary companies to meet the legal requirements in a way that is proportionate to the risk of contravening the legislation.

10.2 Should you have any concerns regarding any transactions then you should contact the MLRO or deputy MLRO.

CONFIDENTIAL**Report to Money Laundering Reporting Officer**

To: **Money Laundering Reporting Officer (MLRO)**
 Chief Executive's Department
 Enfield Council
 Civic Centre
 Silver Street
 Enfield
 EN1 3XY
 Contact details: 020 8132 1756 or 07900 168938
 Email: gemma.young@enfield.gov.uk

From:
(insert name of employee)

Ext/Tel No.....

DETAILS OF SUSPECT:

Title	
Surname	
Forename	
Date of Birth	
Address	

IN THE CASE OF A LEGAL ENTITY (COMPANY):

Company Name:	
Address:	
Company Number:	
VAT Number:	

REASON FOR DISCLOSURE:

Please detail your suspicion providing an explanation of the activity and amounts. If you know or suspect what the offence behind the reported activity may be, please also provide those details.

OFFICE USE ONLY:

RECEIVED BY MLRO

Date:

Signature:

Please do not discuss your money laundering suspicion with anyone you believe to be involved in the suspected activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years imprisonment.

Enfield Equality Impact Assessment (EqIA)

Introduction

The purpose of an Equality Impact Assessment (EqIA) is to help Enfield Council make sure it does not discriminate against service users, residents and staff, and that we promote equality where possible. Completing the assessment is a way to make sure everyone involved in a decision or activity thinks carefully about the likely impact of their work and that we take appropriate action in response to this analysis.

The EqIA provides a way to systematically assess and record the likely equality impact of an activity, policy, strategy, budget change or any other decision.

The assessment helps us to focus on the impact on people who share one of the different nine protected characteristics as defined by the Equality Act 2010 as well as on people who are disadvantaged due to socio-economic factors. The assessment involves anticipating the consequences of the activity or decision on different groups of people and making sure that:

- unlawful discrimination is eliminated
- opportunities for advancing equal opportunities are maximised
- opportunities for fostering good relations are maximised.

The EqIA is carried out by completing this form. To complete it you will need to:

- use local or national research which relates to how the activity/ policy/ strategy/ budget change or decision being made may impact on different people in different ways based on their protected characteristic or socio-economic status;
- where possible, analyse any equality data we have on the people in Enfield who will be affected eg equality data on service users and/or equality data on the Enfield population;
- refer to the engagement and/ or consultation you have carried out with stakeholders, including the community and/or voluntary and community sector groups and consider what this engagement showed us about the likely impact of the activity/ policy/ strategy/ budget change or decision on different groups.

The results of the EqIA should be used to inform the proposal/ recommended decision and changes should be made to the proposal/ recommended decision as a result of the assessment where required. Any ongoing/ future mitigating actions required should be set out in the action plan at the end of the assessment.

The completed EqIA should be included as an appendix to relevant EMT/ Delegated Authority/ Cabinet/ Council reports regarding the service activity/ policy/ strategy/ budget change/ decision. Decision-makers should be confident that a robust EqIA has taken place, that any necessary mitigating action has been taken and that there are robust arrangements in place to ensure any necessary ongoing actions are delivered.

SECTION 1 – Equality Analysis Details

Title of service activity / policy/ strategy/ budget change/ decision that you are assessing	Report to the General Purposes Committee for the review of three Counter Fraud policy documents: Sanction & Prosecution Policy (annual review); Whistleblowing Policy & Procedures (annual review); Anti-Money Laundering Policy and Guidance (annual review).
Team/ Department	Chief Executive's Audit & Risk Management Service
Executive Director	Terry Osborne, Director of Law and Governance
Cabinet Member	Cllr Tim Leaver, Cabinet Member for Finance & Procurement
Author(s) name(s) and contact details	Bob Cundick, Counter Fraud Manager bob.cundick@enfield.gov.uk
Committee name and date of decision	General Purposes Committee – 19 January 2023

Date the EqIA was reviewed by the Corporate Strategy Service	19 December 2022
Name of Head of Service responsible for implementing the EqIA actions (if any)	Gemma Young Head of Internal Audit and Risk Management
Name of Director who has approved the EqIA	Terry Osborne, Director of Law and Governance

SECTION 2 – Summary of Proposal

Please give a brief summary of the proposed service change / policy/ strategy/ budget change/project plan/ key decision

Please summarise briefly:

What is the proposed decision or change?
 What are the reasons for the decision or change?
 What outcomes are you hoping to achieve from this change?
 Who will be impacted by the project or change - staff, service users, or the wider community?

Three Counter Fraud policies are due to be presented to the General Purposes Committee (GPC) in January 2023 for annual review.

The **Sanction and Prosecution Policy** was first presented to the GPC in March 2021; the **Whistleblowing Policy** and **Money Laundering Policy** have both been established for several years. All three policies were reviewed by GPC in January 2022.

In summary, the **Sanction and Prosecution Policy** sets out the case disposal options that are available to us in instances where fraud, theft, bribery or corruption have been identified across a wide range of cases including employee misconduct, or fraud involving issues such as housing or Council Tax committed against the Council by members of the community.

Where formal action is to be taken, the Policy establishes a process that requires at least two senior officers to review a case before sanction action can be authorised.

Under the Public Interest Disclosure Act, we are required to have in place a **Whistleblowing Policy** that protects employees from unfair treatment or dismissal if they “blow the whistle” on a concern that is in the public interest, such as matters involving fraud, bribery or corruption, breaches of the law, or health and safety dangers.

It does not cover complaints about another employee’s conduct, or employment terms and conditions, which can ultimately be addressed via the grievance process.

In practice, cases raised by the workforce per year are in single figures.

The **Money Laundering Policy** establishes a process by which staff can and should refer financial transactions to the Council’s Money Laundering Reporting Officer (“MLRO”) if they suspect that the transaction may be related to money laundering or the financing of terrorist activities. The MLRO can then choose to refer the matter on to the National Crime Agency for investigation.

In practice, annual cases raised by the workforce are negligible.

All three policies are due to be presented to the General Purposes Committee for review on 19 January 2023.

SECTION 3 – Equality Analysis

This section asks you to consider the potential differential impact of the proposed decision or change on different protected characteristics, and what mitigating actions should be taken to avoid or counteract any negative impact.

According to the Equality Act 2010, protected characteristics are aspects of a person's identity that make them who they are. The law defines 9 protected characteristics:

1. Age
2. Disability
3. Gender reassignment.
4. Marriage and civil partnership.
5. Pregnancy and maternity.
6. Race
7. Religion or belief.
8. Sex
9. Sexual orientation.

At Enfield Council, we also consider socio-economic status as an additional characteristic.

“Differential impact” means that people of a particular protected characteristic (eg people of a particular age, people with a disability, people of a particular gender, or people from a particular race and religion) will be significantly more affected by the change than other groups. Please consider both potential positive and negative impacts, and, where possible, provide evidence to explain why this group might be particularly affected. If there is no differential impact for that group, briefly explain why this is not applicable.

Please consider how the proposed change will affect staff, service users or members of the wider community who share one of the following protected characteristics.

Age

This can refer to people of a specific age e.g. 18-year olds, or age range e.g. 0-18 year olds.

Will the proposed change to service/policy/budget have a **differential impact [positive or negative]** on people of a specific age or age group (e.g. older or younger people)?

Please provide evidence to explain why this group may be particularly affected.

Although the Whistleblowing Policy does not deal with child safeguarding concerns specifically, the policy refers people to where they can report safeguarding concerns relating to children. This is expected to positively impact on children with safeguarding concerns.

Apart from this, the policies are not expected to have a differential impact on people of a specific age or age group.

Mitigating actions to be taken

N/A

Disability

A person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on the person's ability to carry out normal day-day activities.

This could include:

Physical impairment, hearing impairment, visual impairment, learning difficulties, long-standing illness or health condition, mental illness, substance abuse or other impairments.

Will the proposed change to service/policy/budget have a **differential impact [positive or negative]** on people with disabilities?

Please provide evidence to explain why this group may be particularly affected.

Although the Whistleblowing Policy does not deal with adult safeguarding concerns specifically, the policy refers people to where they can report safeguarding concerns relating to adults with care and support needs. This is expected to positively impact on adults with additional care and support needs experiencing abuse or neglect.

Apart from this, the policies are not expected to have a differential impact on people with disabilities.

Mitigating actions to be taken

N/A

Gender Reassignment

This refers to people who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on transgender people?

Please provide evidence to explain why this group may be particularly affected.

The policies are not expected to have a differential impact on transgender people

Mitigating actions to be taken

N/A

Marriage and Civil Partnership

Marriage and civil partnerships are different ways of legally recognising relationships. The formation of a civil partnership must remain secular, where-as a marriage can be conducted through either religious or civil ceremonies. In the U.K both marriages and civil partnerships can be same sex or mixed sex. Civil partners must be treated the same as married couples on a wide range of legal matters.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people in a marriage or civil partnership?

Please provide evidence to explain why this group may be particularly affected

The policies are not expected to have a differential impact on people in a marriage

or civil partnership

Mitigating actions to be taken

N/A

Pregnancy and maternity

Pregnancy refers to the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on pregnancy and maternity?

Please provide evidence to explain why this group may be particularly affected

The policies are not expected to have a differential impact on pregnancy and maternity.

Mitigating actions to be taken

N/A

Race

This refers to a group of people defined by their race, colour, and nationality (including citizenship), ethnic or national origins.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people of a certain race?

Please provide evidence to explain why this group may be particularly affected

The policies are not expected to have a differential impact on people of a certain race

Mitigating actions to be taken

N/A

Religion and belief

Religion refers to a person's faith (e.g. Buddhism, Islam, Christianity, Judaism, Sikhism, Hinduism). Belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people who follow a religion or belief, including lack of belief?

Please provide evidence to explain why this group may be particularly affected.

The policies are not expected to have a differential impact on people who follow a religion or belief, including lack of belief

Mitigating actions to be taken

N/A

Sex

Sex refers to whether you are a man or woman.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on men or women?

Please provide evidence to explain why this group may be particularly affected.

The policies are not expected to have a differential impact on men or women

Mitigating actions to be taken

N/A

Sexual Orientation

This refers to whether a person is sexually attracted to people of the same sex or a different sex to themselves. Please consider the impact on people who identify as heterosexual, bisexual, gay, lesbian, non-binary or asexual.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people with a particular sexual orientation?

Please provide evidence to explain why this group may be particularly affected.

The policies are not expected to have a differential impact on people with a particular sexual orientation

Mitigating actions to be taken

N/A

Socio-economic deprivation

This refers to people who are disadvantaged due to socio-economic factors e.g. unemployment, low income, low academic qualifications or living in a deprived area, social housing or unstable housing.

Will this change to service/policy/budget have a **differential impact [positive or negative]** on people who are socio-economically disadvantaged?

Please provide evidence to explain why this group may be particularly affected.

With regard to the **Sanction and Prosecution Policy**, persons who are affected by socio-economic deprivation may be more likely to rely on the Council for financial support, or support with their housing needs, and a higher proportion of these persons may be subject to sanction action where fraud is established.

Mitigating actions to be taken.

Continue to ensure that gateways to apply for assistance are updated to include clear warnings that persons found to have committed fraud will be subject to sanctions as per the **Sanction and Prosecution Policy**.

We have arranged for the “Better Off Enfield” website to be updated to clearly signpost as part of the online application process that persons who commit fraud can expect to face sanctions, including criminal prosecution in accordance with the Sanction and Prosecution Policy. The online application that persons complete in order to be included on the Housing Register has also been similarly updated.

SECTION 4 – Monitoring and Review

How do you intend to monitor and review the effects of this proposal?

Who will be responsible for assessing the effects of this proposal?

In order to research best practice with regard to collection of data by Counter Fraud teams in respect of protected characteristics, the Fraud Manager at each London Borough was contacted and asked to comment; however, of those who responded, none currently collect this data, although it has been suggested that the topic may be included as an agenda item for discussion at a future Executive Committee meeting of the London Boroughs' Fraud Investigation Group although this has not yet taken place.

As part of the previous EQIA, submitted in March 2021, we undertook to ensure that the gateways for Council assistance clearly warn that persons who commit fraud can expect to face sanctions, including criminal prosecution, in accordance with the **Sanction and Prosecution Policy**.

We have arranged for the "Better Off Enfield" website to be updated to clearly signpost as part of the online application process that persons who commit fraud can expect to face sanctions, including criminal prosecution in accordance with the Sanction and Prosecution Policy. The online application that persons complete in order to be included on the Housing Register has also been similarly updated.

SECTION 5 – Action Plan for Mitigating Actions.

Identified Issue	Action Required	Lead officer	Timescale/By When	Costs	Review Date/Comments
Monitoring	Continue to research and implement best practice in this area	Counter Fraud Manager	31 March 2023	Nil	Ongoing
Gateway warnings	To ensure that Council gateways to assistance contain appropriate warnings re fraudulent actions and links to the Sanction and Prosecution Policy.	Counter Fraud Manager	31 March 2022	Nil	Completed