



ARGYLL AND BUTE COUNCIL

CONSTITUTION

PART D

FINANCIAL AND SECURITY REGULATIONS

ARGYLL AND BUTE COUNCIL

FINANCIAL AND SECURITY REGULATIONS

1 STATUS OF FINANCIAL AND SECURITY REGULATIONS

- 1.1 The Financial and Security regulations provide the framework for managing the Council's financial affairs. Every Committee, Sub-Committee, Councillor, Officer and Agent of the Council to whom these Regulations apply will observe their provisions. It is the duty of each Director to ensure that all employees and agents of the Council are made aware of the Regulations and the requirement to comply with them.
- 1.2 All Councillors and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

2 FINANCIAL MANAGEMENT

- 2.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.
Council
- 2.2 The Council is responsible for adopting the Council's Constitution and for approving the budget. It is also responsible for approving the Council's code of corporate governance.
- 2.3 The Council is responsible for regulating and controlling the finances of the Council to comply with these Regulations. The Council will keep under review the state of the Council's finances generally.
- 2.4 The Council will be responsible for determining and monitoring the corporate and service planning framework and may provide any Committee, Sub-Committee, Councillor, or Officer (whether individually or collectively) with such guidance as may be considered appropriate in relation to the preparation of corporate and service plans and the estimates of revenue and capital expenditure.

Audit and Scrutiny Committee

- 2.5 The terms of reference of the Audit and Scrutiny Committee are set out in Part C of this Constitution.

Chief Executive

- 2.6 The Chief Executive is responsible for the corporate and overall strategic management of the Council. He or she will report to and provide information to the Council relating to the Performance Improvement Framework of the organisation.

Head of Financial Services

- 2.7 The Head of Financial Services is the proper officer, for the purposes of Section 95 of the Local Government (Scotland) Act 1973, under the general direction of the Council and the Chief Executive.
- 2.8 The Head of Financial Services has statutory duties in relation to the financial administration and stewardship of the Council. S/he is responsible for the proper administration of the Council's financial affairs and setting and monitoring compliance with financial management standards.
- 2.9 In addition to what is set out in these Regulations, the Head of Financial Services may issue financial instructions to amplify or clarify these Regulations. Other Executive Directors may also issue financial instructions relating to the functions and operation of their Services, following consultation with the Head of Financial Services.

Executive Director - Customer Services

- 2.10 The Executive Director - Customer Services is the Council's Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989. S/he is responsible for maintaining and monitoring compliance with the Council's Corporate Governance, Ethical Standards and Strategic Risk Management frameworks, and for maintaining a system of record keeping in relation to all Council decisions.
- 2.11 The Chief Executive and all Executive Directors are responsible for ensuring the Council is advised of the financial implications of all proposals and that the Head of Financial Services has been consulted on all such proposals.

3. FINANCIAL PLANNING

- 3.1 The Council is responsible for agreeing the Council's strategic policy framework, revenue budget and capital programmes.

- 3.2 The inclusion of items in approved revenue or capital budgets will constitute authority to the relevant officer, in terms of the Scheme of Delegation or Contract Standing Orders, to incur that expenditure.

Service Planning and Revenue Budget

- 3.3 The Head of Financial Services will report to the Council on the level of financial resources likely to be available in each financial year and will keep the Policy and Resources Committee informed about the Council's overall finances and financial performance, and other officers will provide such information as is required to the Head of Financial Services.
- 3.4 In each financial year the Policy and Resources Committee will from time to time consider such frameworks and detailed procedural arrangements for the preparation of the Service Plans and the Revenue Budget. The detailed form of revenue estimates and the programme for their preparation will be determined by the Head of Financial Services.
- 3.5 Each year draft Service and Area Plans and related estimates of expenditure and income will be considered by the Council at a meeting to be held not later than the date prescribed by law. The Council will revise these plans and estimates as they consider appropriate, approve them on that basis, authorise the expenditure, determine the Council Tax, and pass any other resolutions which may be appropriate.

Capital Programme

- 3.6 The Head of Financial Services will report to the Council on the level of financial resources likely to be available to support the capital programme in each financial year and will keep the Committee informed about the overall financial position on the capital budget.
- 3.7 The Council will have regard to the CIPFA Prudential Code for capital finance in local authorities. The key objectives are to ensure that capital investment plans are affordable, prudent and sustainable; that treasury management decisions are taken in accordance with good professional practice; that capital planning is supported by proper business case development and option appraisal. The Code sets out minimum prudential indicators which must be used and factors that must be taken into account.
- 3.8 In each financial year the Policy and Resources Committee will from time to time consider procedural arrangement for the preparation of the capital programme. The detailed form of the capital programme and arrangements for its preparation will be determined by the Head of

Financial Services.

- 3.9 The draft Capital Programme will be considered by the Policy and Resources Committee which will advise the Council on any matter relating thereto. The Council will revise the programme as they consider appropriate, approve it on that basis, authorise the expenditure and pass any other resolutions that may be appropriate.

Budget Monitoring and Control

- 3.11 Each Executive Director will monitor and control expenditure within the financial allocation provided in the revenue and capital Budgets.
- 3.12 The Head of Financial Services will provide Executive Directors with access to the Corporate Financial Information Systems and will provide statements of income and expenditure on a regular basis to Directors.
- 3.13 Where it is forecast that the total income or expenditure for a Service or a capital project is likely to vary significantly from the approved financial allocation, the relevant Executive Director, after consultation with the Head of Financial Services, will inform the Council and take any action necessary to avoid exceeding the budget allocation for a service or a capital project.

Virement

- 3.14 Virement is the process of transferring budget between cost centres, services or departments or between capital projects.
- 3.15 Virement in the Revenue Budget arises at a number of levels:-
- i) Between cost centres within a head of service.
 - ii) Between heads of service within a department.
 - iii) Between departments

Virement may be exercised as outlined below, provided some or all of the following apply as detailed below –

- (a) the Head of Financial Services has been notified in advance;
- (b) the virement does not create an additional financial commitment into the following financial year;
- (c) there has been advance consultation with the Leader and/or Depute Leader and the relevant Policy Lead

Virement between cost centres can be approved by the Head of Service up to a level of £25,000. Virement above this level requires approval of the relevant Executive Director and compliance with (a)

and (b) immediately above

Virement between services must be approved by the Executive Director up to a level of £100,000 together with compliance with (a) and (b) immediately above.

Virement between services or Departments from £100,000 to a level of £200,000 must be approved by the Executive Director or Executive Directors together with compliance with paragraphs (a), (b) and (c) immediately above.

Virement above £200,000 requires approval of the Council.

3.16 Virement in the Capital Budget arises at the following levels –

- (a) Between projects within a service
- (b) Between services within a department
- (c) Between departments

Virement between projects within a service can be approved by the Director up to level of £200,000.

An Executive Director may exercise virement within the Departmental Capital Budget, provided -

- (a) the Head of Financial Services has been notified in advance;
- (b) there has been advance consultation with the Leader and/or Deputy Leader and the relevant Policy Lead;
- (c) the virement arises from a need to ensure the continuation or completion of a project already begun within the capital programme or the virement is to, or in respect of, a project within the approved Departmental Capital Programme;
- (d) the amount of any individual virement does not exceed £200,000, otherwise the proposed virement will be reported to the Council.

3.17 An Executive Director may exercise virement in either the Service Revenue or Capital Budget to meet any immediate need created by a sudden emergency subject to advising the Chief Executive and the Leader and/or Deputy Leader and relevant Policy Lead of the action taken and to reporting to the Council as soon as possible in respect of items which otherwise need to be reported in terms of these Regulations.

- 3.18 Where there is a proposal to forego income or to incur revenue or capital expenditure for which there is no budgetary provision, and it is not proposed to meet that expenditure by virement, the proposal will be considered by the Policy and Resources Committee.

4 RISK MANAGEMENT

- 4.1 The Policy and Resources Committee is responsible for approving the Council's risk management strategy and the effectiveness of risk management. A strategic risk register and operational risk registers will reflect the regular assessment of risks which will inform the development of the Council's Corporate and Service plans, revenue budget and capital programme.
- 4.2 The detailed arrangements for preparation, maintenance and monitoring of the strategic and operational risk registers will be determined by the Head of Financial Services.

Internal Control

- 4.3 Internal Control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.4 The Head of Financial Services is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.
- 4.5 It is the responsibility of directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving financial and other performance targets.

Audit

- 4.6 The Head of Financial Services will arrange to secure continuous and effective internal audit of the accounting, financial and other operations of the Council and, in doing so, those conducting that audit will not be subject to the control or direction of any person, and, in addition to reporting as otherwise required by the Council's Codes of Practice to the Chief Executive, the Head of Financial Services or the Executive

Director - Customer Services, a report may be submitted to the Audit and Scrutiny Committee, which Committee may give such advice and guidance as it may consider appropriate within its Terms of Reference.

- 4.7 The Head of Financial Services will prepare and the Audit and Scrutiny Committee will endorse terms of reference for and programmes of internal audit.
- 4.8 The Head of Financial Services or a person authorised by her/him has authority on production of identification, to -
- (a) enter at all reasonable time any Council premises or land:
 - (b) have access to all records, documents and correspondence including any data held on computer storage media, which relate to the operation, administration and financial transactions of the Council:
 - (c) require and receive such explanations, from any Councillor, employee, agent or other person, which are considered necessary concerning any matter under examination;
 - (d) require any Councillor, employee or agent of the Council to produce cash, stores or any other Council property under their control or to which they have access.
- 4.9 Executive Directors are required immediately to notify the Executive Director - Customer Services, as Monitoring Officer, the Head of Financial Services of all financial irregularities or of any circumstances that may suggest the possibility of irregularity, including those affecting cash, stores, contracts or property. The Executive Director - Customer Services in consultation with the Head of Financial Services will take whatever steps she/he may consider necessary to investigate and will immediately inform the Chief Executive in all cases where it appears that there may be a crime or offence involved. The decision as to reporting any matter to the police will be made in accordance with the Council's Anti-fraud Strategy, which is attached at appendix 2.

Insurance

- 4.10 The Executive Director - Customer Services will effect all insurance cover, negotiate and settle all claims in consultation with the Head of Financial Services and other Executive Directors as necessary.
- 4.11 Executive Director / Chief Officer will provide prompt notification to the Executive Director - Customer Services of all new or increased risks,

property, vehicles, equipment and other assets which require to be insured and of any alterations affecting existing insurance.

- 4.12 Executive Directors will advise the Executive Director - Customer Services of any activities within their Service remit which might result in any person or body having a claim against the Council, and where the risk of such an event could be covered by insurance.
- 4.13 Executive Directors will notify immediately the Executive Director - Customer Services of any loss, liability or damage or any event likely to lead to a claim, and will inform the police where there is a legal liability to do so, or where, after consulting the Executive Director - Customer Services, they have been advised to do so. In the case of incidents involving any vehicle the appropriate Director will also notify the Executive Director - Development and Infrastructure Services.
- 4.14 All appropriate employees of the Council will be included in a suitable fidelity guarantee insurance.
- 4.16 The Executive Director - Customer Services will review all insurances in consultation with other Directors as appropriate.
- 4.17 Executive Directors will consult the Executive Director - Customer Services regarding the terms of any indemnity which the Council is requested to give, or which the Council may require from any other party.

Preventing Fraud and Corruption

- 4.18 The Executive Director - Customer Services is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

5. ASSET MANAGEMENT

Council Resources

- 5.1 The Policy and Resources Committee is responsible for approving the Council's corporate asset management strategy for reviewing the effectiveness of asset management. The Executive Director – Customer Services is responsible for the detailed development and review of the corporate asset management strategy.
- 5.2 Inventories will be maintained on a continuous basis by all Services and these will contain an accurate description of furniture, fittings and equipment, plant and machinery. The extent to which property of the Council will be recorded and the form in which inventories will be kept

will be determined by the appropriate Executive Director in consultation with the Head of Financial Services.

- 5.3 The Council's property will not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the Executive Director concerned from time to time.
- 5.4 The care, custody and level of equipment and stock in any Service will be the responsibility of the Executive Director concerned who will ensure that -
- (a) Adequate arrangements have been made for the proper and secure storage of all equipment and stock;
 - (b) Stock levels are maintained at the minimum level sufficient to meet the operational requirements of the Service;
 - (c) All equipment and stock received, issued, or otherwise disposed of are accounted for;
 - (d) All stocks are checked in accordance with arrangements approved by the Head of Financial Services.
- 5.5 Any significant deficiencies found on stock taking or at any other time must be investigated by the relevant Executive Director who consulting as necessary with the Head of Financial Services or the Executive Director - Customer Services may take whatever action she/he considers appropriate, and may write off losses of stock where she/he considers there are good and sufficient reasons for doing so.
- 5.6 Redundant and surplus stocks and items of equipment will be disposed of by competitive tender under arrangements approved by the Head of Financial Services, except where the Executive Director concerned is of the opinion that the income likely to accrue from the disposal is less than £10,000, in which case the Executive Director concerned may dispose of the surplus so as to ensure that any reasonable value which the stock may have may be realised.
- 5.7 The Executive Director – Development and Infrastructure Services will have overall responsibility for ensuring that all vehicles, plant and equipment are maintained in a satisfactory state of repair, and will take whatever appropriate steps are necessary by way of action or advice to ensure that all legal and safety requirements in respect of their operation are complied with.

- 5.8 All vehicles and mobile plant and equipment will be used only for the purposes of the Council, and by such persons and under such arrangements as the appropriate Executive Director will approve from time to time.
- 5.9 No employee may take a vehicle home unless officially rostered for duty or stand-by and the vehicle is required in connection with that purpose, or the prior permission of the Executive Director concerned has been granted, which permission will only be given if the use of the vehicle is required for, or arising from, the conduct of Council business. The unofficial or unauthorised use of a vehicle, including the carrying of unauthorised passengers, is prohibited.
- 5.10 If any vehicle is involved in an accident, whether or not there is injury to any person or damage to any other vehicle or property, the person in charge of the vehicle at the time of the accident will, in addition to any other requirement of law, not later than the end of the current work period, or earlier if the nature of the accident so warrants, inform the Executive Director of Service concerned and will complete an accident report which will be forwarded immediately to the Executive Director - Customer Services.
- 5.11 All use of vehicles will be recorded in such forms or log books as the Executive Director – Development and Infrastructure Services in consultation with the appropriate Executive Director, may agree.
- 5.12 All vehicles surplus to the requirements of the Council will be disposed of by competitive tender under arrangements approved by the Executive Director - Development and Infrastructure Services.
- 5.13 The corporate asset management strategy will provide for the maintenance of an asset register of all heritable properties owned or leased by the Council recording the holding Service, purpose for which held, location, extent and plan reference, purchase details, valuation, particulars or nature of interest, rents payable and particulars of any tenancies granted.
- 5.14 The Executive Director - Customer Services will have custody of all title deeds and other leases and agreements in respect of all heritable properties owned or leased by the Council.
- 5.15 Each Executive Director is responsible for maintaining proper security at all times of all buildings, stocks, stores, furniture, equipment and cash under their control. The Executive Director - Development and

Infrastructure Services will be consulted in any case where security is thought to be defective or inadequate, or that special security arrangements may be required.

- 5.16 Each Executive Director will advise the Head of Financial Services of all circumstances within the Service where cash is held or is otherwise under the control of employees of the Council, and will ensure that all amounts of cash so held or controlled do not exceed amounts which may be agreed with the Head of Strategic Finance.
- 5.17 Keys to safes and similar receptacles containing cash or valuable documents or articles will be carried on the person of those responsible or be kept secure otherwise. The Executive Director concerned will in each case determine the person responsible or approve the arrangements for keeping keys secure. A register of all key holders will be kept in each Service and the loss of any keys will be reported immediately to the Head of Service concerned.

Security and Protection of Private Property

- 5.18 All employees who may be required to receive or hold cash or property on behalf of the Council, or who may be required or likely in the course of their normal duties to enter private property or otherwise confirm their identity and such other employees as a Executive Director may direct, will be given an identity card bearing a photograph of the holder, and must produce the card to any person having reasonable grounds to know the identity of the holder.
- 5.19 Each Executive Director will be responsible for ensuring that proper privacy and security is maintained in respect of information held in any medium including on any computer storage medium, and the requirements of the Data Protection Act 2018 and the Freedom of Information (Scotland) Act 2002 and the General Data Protection Regulations 2016/679 and any other relevant legislation are complied with.
- 5.20 Each Executive Director will ensure that the information held in any medium and the use to which that information is put is confined solely to the purposes of the Council and in compliance with Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002 and any other relevant legislation and no person will communicate any information so held to any other person except where the information is being communicated where the person receiving the information is entitled to receive it and the Council has an obligation to provide it.

- 5.21 In each case where it is known that the Council assumes a legal responsibility to prevent or mitigate loss of or damage to moveable private property, the Executive Director concerned will ensure that arrangements exist so that in each case an itemised inventory will be prepared in the presence of two officers.
- 5.22 Any valuable such as jewellery, cash or documents will be deposited for safe custody in accordance with arrangements approved by the Head of Financial Services.
- 5.23 Any person who, by virtue of employment with the Council, is responsible for the custody or management of cash or property belonging to a third party will, in so doing, employ standards of stewardship no less than those laid down in these Regulations and elsewhere for cash and property belonging to the Council.
- 5.24 Any employee will, if required by the Head of Financial Services or the relevant Executive Director concerned provide immediately a full and proper account of all cash and property received from, or on behalf of, a third party, and will, if so directed by the Executive Director transmit that cash or property to any other specified person.

6 TREASURY MANAGEMENT, INVESTMENTS AND TRUSTS

- 6.1 The Policy and Resources Committee will have responsibility for the overall investment of money under the control of the Council. All investments of money under the control of the Council will be made in the name of the Council or in the name of nominees approved by the Council; Bearer Securities will be excepted from this regulation but any purchase of such securities will be reported to the Council.
- 6.2 All heritable securities which are the property of, or in the name of the Council or its nominees and the title deeds of all property in the ownership of the Council will be held in the custody of the Executive Director - Customer Services or an officer appointed by him/her.
- 6.3 The Council will comply with the CIPFA Code of Practice for Prudential Borrowing. The Council will approve on an annual basis a set of prudential code indicators. The Head of Financial Services will keep these under review and report any exceptions in the first instance to the Council.
- 6.4 The Policy and Resources Committee will keep under review the level of borrowing.

- 6.5 All borrowing and lending will be effected in the name of the Council and will be in accordance with the CIPFA Code of Treasury Management. The Policy and Resources Committee will approve from time to time a Treasury Policy Statement. The Policy and Resources Committee will approve, annually, a Treasury Management Strategy. Implementation and monitoring of its Treasury Management Policies and Practices will be the responsibility of the Policy and Resources Committee. The execution and administration of Treasury Management decisions will be the responsibility of the Head of Financial Services, who will act in accordance with the Council's Policy Statement and Treasury Management Practices and CIPFA's Standard of Professional Practice on Treasury Management.
- 6.6 All funds in the hands of the Council will be aggregated for the purposes of Treasury management as defined in the CIPFA Code and will be under the control of the Head of Financial Services.
- 6.7 All executive decisions on borrowing, investment or financing will be delegated to the Head of Financial Services and/or other officers designated by her/him, who all will be required to act in accordance with the CIPFA Code of Treasury Management in Local Authorities.
- 6.8 A Treasury Policy Statement will be adopted by the Council, and Treasury Management Strategy will be the overall responsibility of the Council.
- 6.9 The Head of Financial Services will present to the Council an Annual Report and such other reports on the Treasury Management Operation and on the exercise of delegated treasury management powers.
- 6.10 The Head of Financial Services will be the Council's registrar of stocks, bonds and mortgages granted by the Council and will maintain records of all borrowing of money by the Council.
- 6.11 All trust funds administered by Members and/or officers acting as trustees by virtue of their official position will wherever possible be in the name of the Council. Except as provided in regulation 16.2 all office bearers acting as trustees by virtue of their official position will deposit all securities etc. relating to the trust with the Head of Financial Services unless the trust deed provides otherwise.

7 SYSTEMS AND PROCEDURES

- 7.1 The Council will ensure that there are in place sound systems and procedures and an effective framework of accountability and control.

- 7.2 Executive Directors will ensure that a proper scheme of delegation has been established within their department and is operating effectively. The scheme of delegation should identify staff authorised to act on the Executive Director's behalf in respect of payments, income collection and placing orders together with the limits of their authority.

Accounting Records

- 7.3 The Head of Financial Services will consult other Executive Directors about the procedures and records to be maintained in each Service. All accounting procedures and all accounting and related records of the Council will be decided by the Head of Financial Services.
- 7.4 All accounts and accounting records of the Council will be compiled by or under the direction of the Head of Financial Services.
- 7.5 Executive Directors should ensure that all accounting records and other documentation are held for the periods as required by statute or as advised by the Head of Financial Services.
- 7.6 The following principles will be observed -
- (a) the duties of providing information about sums due to or by the Council and of calculating, checking and recording these, will be separated as completely as possible from the duty of collecting or disbursing them.
 - (b) officers charged with the duty of examining and checking the accounts of transactions will not so far as possible themselves be involved in managing these accounts.
- 7.7 Executive Directors should ensure that their relevant staff receive relevant financial training that has been approved by the Head of Financial Services.

Procurement

All procurement of works, goods, and services will be in terms of the Contract Standing Orders, the Council's Procurement Strategy and guidance provided by the Executive Director - Customer Services.

- 7.8 Official orders will be in a form approved by the Head of Financial Services in consultation with the Head of Legal and Regulatory Services. Each Executive Director will ensure that proper procedures exist for the custody, control and authorisation of official order forms.
- 7.9 Official orders will be issued for all work, goods or services to be

supplied to the Council except -

- (a) work, goods or services which are covered by a prior written agreement or contract which prescribes that payment will be made at certain intervals or under certain conditions;
- (b) specified categories of goods or services which may be purchased in accordance with and subject to the terms of any scheme approved by the Council involving an agreement with any bank to extend credit to the Council for such purchases by way of corporate credit cards;
- (c) the metered element of utility services, but not the installation, alteration or repair of such services;
- (d) periodic payments such as rates or water and sewerage charges;
- (e) purchases in cash for which reimbursement is made through an imprest account;
- (f) where the specific approval of the Head of Legal and Regulatory Services has been obtained;
- (g) in an emergency, an oral order may be given under arrangements approved from time to time by each Executive Director but will be confirmed in writing immediately thereafter.
- (h) where training courses, seminars or conferences are being booked the order form supplied by the Company organising/running the event may be used.

7.10 All orders will, by way of authorisation, either -

- (a) be signed by the appropriate Executive Director or by a person designated by the Executive Director to do so, and the names and specimen signatures of such persons will be supplied to the Head of Legal and Regulatory Services and will be amended on the occasion of any change; or
- (b) be issued electronically through an eProcurement system by a person designated by the appropriate Executive Director, and where the names of such persons and authorisation limits have been notified to the Head of Legal and Regulatory Services. or
- (c) be issued utilising a corporate credit card to a person

designated by the appropriate Executive Director.

- (d) under such other arrangements as may be approved by the Head of Legal and Regulatory Services.

7.11 The person authorising any order will ensure that the expenditure to be incurred is legal, that funds have been provided in the budget to cover the expenditure, and that the order indicates clearly the nature and quantity of goods or services to be supplied, and any contract or agreed price.

7.12 A copy of any order form will, if so required on any occasion, be supplied to the Head of Legal and Regulatory Services.

Payment of Accounts

7.13 All payments of money due from the Council (except interest payments under Regulation 8.30) will be by cheque or other instrument drawn on, or by the automated transfer of funds from, the Council's main bank accounts.

7.14 An Executive Director issuing an order is responsible (except as otherwise specifically arranged with the Head of Legal and Regulatory Services) for examining, verifying and certifying the related invoice(s) and similarly for any other payments generated within the Service which may not be supported by an invoice or voucher from a third party. Such certification will be a signature by or on behalf of the Executive Director. The names of the officers authorised to sign such records will be sent to the Head of Legal and Regulatory Services by each Executive Director together with specimen signatures, and will be amended on the occasion of any change.

Where an order has been issued electronically through an eProcurement system and been authorised by a person nominated by the relevant Executive Director, invoices should be sent directly by the supplier to the Head of Legal and Regulatory Services. Provided delivery of the order has been receipted and the invoice has been matched to the receipts order for price and quantity by a person nominated by the relevant Executive Director, no further certification is necessary prior to payment of that invoice by the Head of Legal and Regulatory Services.

7.15 Before certifying an invoice or other payment document, the certifying officer will (except to the extent that the Head of Legal and Regulatory Services may otherwise determine) be satisfied that -

- (a) the work, goods or services to which the invoice relates have

been received, carried out, examined and approved:

- (b) the prices, extensions, calculations, discounts, other allowances, credits, and VAT and other taxes are correct:
- (c) the relevant expenditure has been properly incurred:
- (d) appropriate entries have been made in inventories, stores records or stock books as required:
- (e) the invoice has not previously been passed for payment:
- (f) the invoice is in the name of the Council or an integral part of it:
- (g) the charge is a proper liability of the Council
- (h) any guidance issued by the Head of Financial Services or the Head of Legal and Regulatory Services has been complied with.

7.16 Where contracts stipulate that payment must be made against a consolidated statement, certifying officers may approve such statements where they are not satisfied that all the provisions of paragraph 8.15 are fulfilled provided that they immediately invoke contract procedures for the rectification of those charges, such rectification to be included on a subsequent statement.

7.17 Duly certified invoices will be passed without delay to the Head of Legal and Regulatory Services for payment and may be examined to the extent that s/he considers necessary. The Head of Legal and Regulatory Services will be entitled to make such enquiries and to receive such information and explanations as s/he may require.

7.18 Every Executive Director will as soon as possible after 31 March notify the Head of Financial Services, by a date which may be specified each year, of all significant outstanding expenditure relating to the previous financial year.

Salaries and Wages

7.19 Each Executive Director will keep the records and information about salaries, wages and other emoluments as the Head of Financial Services and the Head of HR and ICT Services may require, and will be responsible for the accuracy and authenticity of that information.

7.20 The payment of all salaries, wages, pensions, compensations and other emoluments to all employees or former employees of the

Council and all other payments made to employees as a consequence of their employment by the Council will be made under arrangements made by the Head of HR and ICT Services. and approved by the Head of Financial Services

- 7.21 Each Executive Director will notify the Head of HR and ICT Services as soon as possible of all matters affecting the payment of emoluments, and in particular -
- (a) appointments, including temporary and casual appointments, resignations, dismissals, suspensions, secondments and transfers;
 - (b) absences from duty for sickness or other reason, apart from approved annual and other leave which has no effect on wages or other emoluments;
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (d) information necessary to maintain records of service for pension, income tax, national insurance and the like purposes.
- 7.22 The Chief Executive, Head of Financial Services and the Head of HR and ICT Services, as appropriate, will keep all Executive Directors informed about changes in conditions of service, pension benefits and regulations and other similar matters.
- 7.23 All time sheets, expense claims and other documents which form the basis of a payment to an employee of the Council will be in a form agreed with the Heads of Financial Services and Improvement and ICT Services. The names of officers authorised to sign these documents will be sent to the Head of HR and ICT Services by each Executive Director together with specimen signatures and will be amended on the occasion of any change.

Travelling and Subsistence

- 7.24 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses will be submitted to the Head of Financial Services, certified in an approved form, and made up to a specified day each month. The names of officers authorised to sign or approve these documents will be sent to the Head of Financial Services by each Executive Director together with specimen signatures and will be amended on the occasion of any change. All claims by an Executive Director will be approved by the Chief

Executive or the Head of Financial Services. All claims by the Chief Executive will be approved by the Chief Internal Auditor. All claims by the Head of Financial Services will be approved by the Chief Executive.

- 7.25 Certification by or on behalf of an Executive Director will be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
- 7.26 Employees claims submitted more than six months after the expenses were incurred will be paid only with the express approval of the relevant Executive Director.
- 7.27 Employees and Councillors using their own cars for official journeys are responsible for ensuring that motor insurance is in place that is appropriate for the use of the vehicle on Council business.
- 7.28 Payments of remuneration and reimbursement of expenses to Councillors, will be made by according to the relevant statutory regulations under arrangements approved by the Head of Financial Services.
- 7.29 Payments to Members of the Children's Panel, the Children's Panel Advisory Committee, to Safeguarders and to such other persons who from time to time are co-opted or required to attend as members of Committees, Sub-Committees, Panels or other Groups established by the Council, who are entitled to claim travelling or other allowances or expenses will be made by the Head of Financial Services, following submission of claims by those making the claim to the Executive Director - Customer Services in the first instance.

Imprests

- 7.30 The Head of Financial Services will provide such imprests as may be appropriate for Officers of the Council who may need them for the purposes of defraying petty cash and other expenses.
- 7.31 Where appropriate, the Head of Financial Services will open a bank account for use by the imprest holder who will not overdraw that account. Bank accounts will be opened only by the Head of Financial Services, or under arrangements approved by the Head of Financial Services.
- 7.32 Subject to the approval of the Head of Financial Services, other Executive Directors may make arrangements for minor items of

expenditure to be paid from imprest accounts. Payments will be supported by receipted vouchers whenever possible.

- 7.33 No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the Council as set out elsewhere in these regulations.
- 7.34 An Officer responsible for an imprest will, when requested, provide the Head of Financial Services with a certificate as to the state of the imprest.
- 7.35 Officers will be personally responsible for imprests which they hold and on leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest, they will account to the Head of Financial Services for the amount advanced. A formal record of this accounting will be retained in the Service concerned.
- 7.36 All imprest accounts will be maintained in accordance with guidance issued by the Head of Financial Services.

Taxation

- 7.37 The Head of Financial Services is responsible for advising, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 7.38 The Head of Financial Services is responsible for ensuring arrangements are in place to maintain the Council's tax records, make all tax payments, receive tax credits and submit tax returns by their due date as appropriate.

Income

- 7.39 As part of the process of developing service plans and budgets, charges relating to the provision of services will increase in line with inflation each year except where the charge is fixed by or under a statutory provision by a body other than the Council; or where on the recommendation of the relevant Executive Director the Council varies or rebates any charge. This process will include examining the means of increasing income and marketing the services.
- 7.40 Each Executive Director will notify the Head of Financial Services of all money due to the Council and of contracts, leases and other agreements and arrangements which involve the receipt of money by the Council.

- 7.41 Except as otherwise agreed with the Head of Financial Services the appropriate Executive Director will, in respect of matters for which there is a legal or administrative responsibility, render accounts for all work done, goods supplied, services provided, and all other amounts due, such accounts to be rendered in terms of guidance which may be issued by the Head of Financial Services.
- 7.42 All receipt forms, books and other forms of accountable stationary used to record financial and related transactions will be in a form approved by the Head of Financial Services and will be ordered, controlled and issued by, or under arrangements approved by, the Head of Financial Services.
- 7.43 No officer will give a receipt for money received on behalf of the Council on any form other than an official receipt approved in terms of the preceding paragraph. This regulation will not apply to the Executive Director - Customer Services for money received and for which a receipt is contained in a document issued by the Executive Director - Customer Services. The Executive Director - Customer Services will, however, advise the Head of Financial Services of the issue of the document and the sum of money received.
- 7.44 All money received by an officer on behalf of the Council will without unreasonable delay be paid to the Head of Financial Services or, in accordance with arrangements made by the Head of Financial Services, direct to the Council's bank accounts. No deduction may be made from such money save to the extent that the Head of Financial Services may specifically authorise.
- 7.45 Personal cheques will not be cashed out of money held on behalf of the Council, nor will personal cheques be substituted for cash collected on behalf of the Council.
- 7.46 Every transfer of money from one member of staff to another must be recorded in the appropriate departmental records by the signature of the receiving officer.
- 7.47 No debt in respect of an amount due to the Council, once correctly established, will be discharged otherwise than by payment in full. However the Executive Director - Customer Services, may delegate authority to the Head of Financial Services, or the Head of Legal and Regulatory Services to exercise a discretion to write off in whole or in part the debt where
- (a) as a result of the death, sequestration or liquidation of the debtor there are insufficient free funds to meet the Council's

claim; or

- (b) otherwise, there are good and sufficient reasons for doing so, having regard to the relative level of the debt and the prospects and costs associated with securing payment.

Banking Arrangements and Cheques

- 7.48 All arrangements with the Council's Bankers will be made by or under arrangements approved by the Head of Financial Services and they shall operate such bank accounts as s/he may consider necessary.
- 7.49 All cheques and other forms enabling payment to be made from any Council bank account, to include any corporate credit card, will be ordered only by the Head of Financial Services, who will ensure that proper arrangements have been made for their safe custody and that adequate controls exist over the use and production of cheques.
- 7.50 Cheques and other instruments drawn on the Council's bank accounts will bear the facsimile signature of or be signed by the Head of Financial Services or such other Officer as may be from time to time authorised by the Head of Financial Services.
- 7.51 All arrangements for the receipt and payment of monies using the Clearing House Automated Payment System and the Bankers Automated Clearing Services will be made by or under arrangements approved by the Head of Financial Services.

Significant Trading Operations

- 7.52 It is the responsibility of the Head of Financial Services to advise on areas of the Council's operations where the establishment of trading accounts in compliance with the Local Government in Scotland Act 2003 is required.
- 7.53 The relevant director responsible for each significant trading operation, in consultation with the Head of Financial Services, will prepare three-yearly estimates of income and expenditure incorporating any statutory or Council financial targets.
- 7.54 The Head of Financial Services will prepare periodic trading statements for each significant trading operation.

June 2019

APPENDIX 1 - TO THE FINANCIAL AND SECURITY REGULATIONS

INTERNAL AUDIT -TERMS OF REFERENCE

OBJECTIVE

Internal Audit is responsible for advising all levels of management and the Council (through its Audit and Scrutiny Committee), on the Council's systems of internal control. It is a review activity which continuously reinforces line management's responsibility for effective internal controls. The existence of internal audit is not a substitute for management's responsibility to ensure the existence of a sound framework of internal control. Internal audit supports:

- Management's organisational objectives
- The Audit and Scrutiny Committee's need for overall assurance on the quality and cost effectiveness of risk management and internal controls.

Internal Audit areas of focus include:

- Risk Management and Internal control effectiveness
- Statutory, procedures and control compliance
- Implementation of recommendations
- Corporate governance
- Systems development
- Process improvement
- Performance reporting
- Value for Money and Best Value

Over time it is envisaged that the function will increase the proportion of reviews of operational systems, value for money and contribute to Best Value.

SCOPE

Internal Audit's work provides assurance on the extent to which management controls ensure that:

- The Council's assets are safeguarded from significant losses, including those caused by fraud, waste, inefficiency and commercially unsound practices;
- Relevant laws, rules and regulations are complied with;
- Operations are conducted effectively, efficiently and economically;
- Operations are conducted in accordance with Council policies and procedures;
- Management information systems are reliable and secure;
- Systems under development are monitored, that appropriate internal controls are built in and are consistent with the organisations' needs;
- Significant Council risks are identified and effectively managed;
- Major Council projects achieve their objectives.

In addition, Internal Audit may perform special reviews requested by the senior management or the Audit and Scrutiny Committee. When plans are changed for such reviews, this is reported to the Audit and Scrutiny Committee so that it clearly understands the implications on resources and for the assurance it requires about internal controls, and any impact on the delivery of agreed plans.

INDEPENDENCE

Internal Audit is independent of the systems and activities it reviews and will objectively report its findings to the appropriate level of management in order to ensure corrective action is taken on a timely basis. To this end, Internal Audit has the authority to require a timely written response to any findings and recommendations contained in assignment reports.

Wherever internal audit provides proactive consultancy advice it must be careful to maintain its independence from the operational activity concerned to preserve its ability to undertake an objective review at a future date.

Consultancy advice includes guidance regarding the controls designed for developing systems or the implications for controls of amendments to systems; guidance regarding risk management and internal control strategies; and guidance regarding the development of best practice corporate governance structures and processes.

AUTHORITY AND ACCESS

Internal Audit has no responsibility for operational functions within the Council and no direct responsibility for, nor authority over any of the activities subject to internal audit review. Internal Audit derives its authority from the Council who enable them to have unrestricted access to all records, systems, documents, property and staff as required in the performance of its work.

Internal Audit has unrestricted access to the officer designated as responsible under Section 95 of the Local Government Act 1973, the Chief Executive and the Chair of the Audit and Scrutiny Committee.

INTERNAL AUDIT MANAGEMENT

The Council's Chief Internal Auditor has responsibility for:

- Assisting directors and management with risk management;
- Developing a plan that is based on assessed Council risks and Internal Audit's objectives;
- Developing a programme based on the plan and which is flexible enough to meet changing organisational needs;
- Ensuring that resourcing arrangements are in place to deliver the plan and are flexible enough to cope with special requests;

- Providing regular progress reports to senior management and the Audit and Scrutiny Committee;
- Ensuring Internal Audit remains effective, credible, productive and focused on areas of most significance to the Council;
- Working with line management constructively to challenge and improve established and proposed practices and to put forward ideas for improving processes;
- Developing an appropriately skilled team, supported where necessary by external expertise, to meet best practice;
- Maintaining an open relationship with the external auditors; and
- Fostering a culture of joint-working with management leading to agreed solutions.

Internal Audit is not relieved of its responsibilities when areas of the Council are subject to review by others. It always needs to assess the extent to which it can rely upon that work, co-ordinate its audit planning with those other review agencies, e.g. external auditors, and decide what further investigations need to be carried out.

QUALITY AND SKILLS

The Council's Chief Internal Auditor has responsibility for ensuring the skills of Internal Audit staff are developed and maintained through:

- Recruitment of appropriately qualified and experienced staff,
- Re-skilling and training Internal Audit staff e.g. in complex technical areas, in the use of technology, implementing best practice and in developing interpersonal skills such as communication;
- Techniques such as benchmarking to identify and adopt appropriate best practices;
- The engagement of external specialists as and when necessary and cost-effectively to meet changing Council needs; and
- Developing and monitoring appropriate internal audit performance measures, including mechanisms for continuous improvement.

Internal Audit must demonstrate objectivity and professionalism, including applying best practice and compliance with the Code of Practice for Internal Audit for Local Authorities in the UK.

APPENDIX 2 - TO THE FINANCIAL AND SECURITY REGULATIONS ARGYLL AND BUTE COUNCIL

Anti-Fraud Strategy

Contents

1. Introduction
2. Our Written Rules
3. How we Expect our Members and Employees to Behave
4. Preventing fraud and corruption
5. Detecting and Investigating Fraud and Corruption
6. Training
7. Conclusion

Annex 1 - Fraud Response Plan

Annex 2 - Public Interest Disclosure (Whistleblowing) Policy

Annex 3 – Anti Money Laundering Policy

Annex 4 - Guidance on Responding to an Anti Fraud situation

1. INTRODUCTION

- 1.1 Argyll and Bute Council is a large organisation and the size and nature of our services puts us at risk of loss due to fraud and corruption both from within the Council and outside it.
- 1.2 We are committed to making sure that the opportunity for fraud and corruption is reduced to the lowest possible risk. Where there is the possibility of fraud, corruption and other problems, we will deal with it in a firm and controlled manner.
- 1.3 An important part of this approach is an anti-fraud and anti-corruption strategy, which we will use to advise and guide members and staff on our approach to the serious issues of fraud and corruption. This document provides an overview of our policy in this matter and includes a 'fraud response plan' which provides more detailed guidance on how to deal with fraud and corruption.
- 1.4 The main message is that we expect all members, employees, suppliers, consultants, contractors, and service users, to be fair and honest, and to give us any help, information and support we need to deal with fraud and corruption.
- 1.5 The strategy set out in this document covers the following areas:
 - ❖ Our written rules
 - ❖ How we expect our members and employees to behave
 - ❖ Preventing fraud and corruption
 - ❖ Detecting and investigating fraud and corruption
 - ❖ Training
 - ❖ Publicising our activities to prevent fraud

- 1.6 The Anti Fraud and Corruption Strategy is compliant with The Equality Act 2010.

2. **OUR WRITTEN RULES**

- 2.1 We have a number of procedures and rules to make sure that our financial, working and organisational procedures are properly controlled. These are an important part of our internal control process, and it is important that all members and staff know about them.
- 2.2 The most important of these are as follows:
- ❖ Council Standing Orders
 - ❖ Contract Standing Orders/Procurement manual
 - ❖ Financial and Security Regulations
 - ❖ Scheme of Delegation
 - ❖ Guidance-Code of Conduct for Employees
 - ❖ Protocol for Member / Officer Relations
 - ❖ Public Interest Disclosure (Whistleblowing) Policy
 - ❖ Employees' Conditions of Service

There is also the Councillors National Code of Conduct.

- 2.3 Individual departments have also introduced their own measures, which are designed to control their activities. Examples include accounting control procedures, working manuals and operating procedures.
- 2.4 Executive Directors must make sure that all staff have access to these rules and regulations and that staff receive suitable training.
- 2.5 Members and employees must make sure that they read and understand the rules and regulations that apply to them, and act in line with them.
- 2.6 If anyone breaks these rules and regulations we may take formal action against them. This may include ending their employment with the Council in respect of employees and, in respect of members, it will be the responsibility of the Executive Director of Customer Services as Monitoring Officer to report matters to the appropriate authority.

3. **HOW WE EXPECT COUNCIL MEMBERS AND EMPLOYEES TO BEHAVE**

- 3.1 We expect all people and organisations who are in any way associated with us to be honest and fair in their dealings with us and our clients and customers. We expect our members and employees to lead by example in these matters.
- 3.2 Our Ethical Framework, or internal rules, for members and employees set out an approach to work that is both honest and fair. Members and employees must act in line with the Ethical Framework at all times.

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The Council has also developed a Code of Corporate Governance which will assist in protecting the Council from fraud.

- 3.3 Our members and employees have an essential and integral part to play in dealing with fraud and corruption and we will encourage our staff and members to inform us if they suspect a case of fraud.
- 3.4 We will deal with all information fairly and confidentially. We will endeavour not to reveal the names of the people who gave us the information. Our Fraud Response Plan (Annex 1) and our Public Interest Disclosure (Whistleblowing) Policy (Annex 2) give more advice on this issue.
- 3.5 The Nolan Committee sets out the seven guiding principles that apply to people who serve the public. We will develop our working behaviour around these principles.
- 3.6 We expect our Executive Directors to deal firmly and quickly with anyone who is responsible for fraud or corruption. The Executive Director - Customer Services in consultation with the Chief Executive, the Executive Director within whose Department the fraud is alleged to have occurred and the Head of Financial Services and the Chief Internal Auditor may refer matters to the police where they suspect any criminal activity has occurred.
- 3.7 We must ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations against a colleague, will be dealt with as a disciplinary matter.
- 3.8 When awarding contracts the Council will undertake due diligence to ensure that they are not awarded to suppliers who have known involvement in serious organised crime or have been convicted of fraud.

4. PREVENTING FRAUD AND CORRUPTION

- 4.1 We believe that if we are to beat fraud and corruption, we must prevent it from happening in the first place. It is essential that we have clear rules and procedures, within which members and employees can work. These include the main corporate rules, which are set out in section 2.
- 4.2 We must regularly review and update our written rules.
- 4.3 Managing the risk of fraud is the responsibility of the Council's Strategic Management Team. Executive Directors must make sure that suitable levels of internal check are included in working procedures, particularly financial procedures. It is important that duties are organised so that no one person can carry out a complete transaction without some form of checking process being built into the system.

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- 4.4 We must follow our procedures when employing new staff. If possible, we must check the previous employment records of anyone we are considering employing. This applies to both temporary and permanent staff.
- 4.5 We are committed to working and co-operating with other organisations to prevent organised fraud and corruption. Wherever possible, we will be prepared to help and exchange information, subject to the requirements of Data Protection, with other Councils and organisations to deal with fraud. We will participate in any national anti fraud initiatives.
- 4.6 This kind of work needs to be tightly controlled particularly in relation to data protection issues.
- 4.7 The Public Interest Disclosure (Whistleblowing) Policy provides a process for people to give us information which may be given in confidence that may prevent fraud and corruption.
- 4.8 We will make sure that full details of reporting facilities are widely published to the public, members and employees, and that all information we receive in this way is investigated and dealt with. This will include an online form for any person to report suspected fraud. Such referrals will be carefully handled to ensure that the process is not subject to abuse.

5. DETECTING AND INVESTIGATING FRAUD AND CORRUPTION

- 5.1 You should read this section with our fraud response plan (Annex 1).
- 5.2 Employees must report any suspected cases of fraud and corruption to the appropriate line manager, or, may do so in terms of the Public Interest Disclosure (Whistleblowing) Policy to the Executive Director - Customer Services. Reporting cases in this way is essential to the anti-fraud and corruption strategy and makes sure that:
 - ❖ suspected cases of fraud and corruption are investigated properly,
 - ❖ the Fraud Response Plan is carried out properly,
 - ❖ there is a standard process for dealing with all suspected cases of fraud and corruption,
 - ❖ people and our interests are protected.
- 5.3 The Council's Public Interest Disclosure (Whistleblowing) Policy is intended to encourage and enable anyone to raise serious concerns. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998).
- 5.4 The Executive Director - Customer Services in consultation with the Chief Executive, and the Chief Officer within whose Department the fraud is alleged to have occurred will decide on the type and course of the investigation. This will include referring cases to the police where necessary. The alleged fraud will also be reported to the Head of

Financial Services and the Chief Internal Auditor. We will prosecute offenders and we will carry out our disciplinary procedures where appropriate. We will ensure that any internal proceedings do not prejudice any criminal case. For further guidance on this see Appendix 5.

5.5 The Chief Internal Auditor, whilst not participating in the investigation of the alleged fraud, will liaise with the Executive Director - Customer Services in their investigation of the alleged fraud and in particular;

- 1 Examine current Council policies, procedures and financial controls, their current working and effectiveness in relation to the alleged fraud;
- 2 Report to the Strategic Management Team in relation to the adequacy of current Council policies, procedures and financial controls in relation to the alleged fraud and make recommendations for their revisal;
- 3 Provide advice and assistance to the Executive Director - Customer Services in relation to Council policies, procedures and financial controls and control issues relevant to the investigation of the alleged fraud.

5.6 In respect of any case of alleged fraud or corruption discovered by or referred to the Executive Director - Customer Services they shall;

- 1 Deal promptly and confidentially with the matter;
- 2 Maintain full documentation of all evidence received and comply with the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002 in relation to the release of information in relation to the alleged fraud;
- 3 Ensure that the investigation is carried out having regard to the Councils policy under the Regulation of Investigatory Powers (Scotland) Act 2000 and it's obligations under the Human Rights Act 1998;
- 4 Ensure that the evidence is sound and adequately reported;
- 5 Report findings to the Strategic Management Team;
- 6 Liaise with the Chief Internal Auditor in accordance with paragraph 5.5 hereof.

5.7 The Accounts Commission has powers to request or carry out an investigation into fraud and corruption.

6. TRAINING

6.1 We understand that the key to introducing a successful anti-fraud and anti-corruption strategy and making sure it continues to apply will depend on programmed training and the way all our employees respond.

6.2 We support the idea of providing training for our employees who are involved in or managing internal control systems to make sure that their responsibilities and duties are regularly reviewed and reinforced.

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- 6.3 We are also committed to training and developing our employees who are involved in investigating fraud and corruption and we will provide suitable training.

7. CONCLUSION

- 7.1 We are committed to tackling fraud and corruption whenever it happens. Our response will be effective and organised and will rely on the principles included in this document.
- 7.2 We will continue to review our rules and procedures and will make sure that this strategy document is regularly reviewed to make sure it stays effective.

Annex 1 to Anti Fraud Strategy

Fraud Response Plan

1. Introduction

- 1.1 Argyll and Bute Council is committed to the highest possible standards of openness, probity and accountability in all its affairs. It is determined to develop a culture of honesty and opposition to fraud and corruption.
- 1.2 In line with that commitment, the Council's Anti-Fraud Strategy outlines the principles we are committed to in relation to preventing, reporting and managing the investigation and prosecution of fraud and corruption.
- 1.3 This Fraud Response Plan reinforces the Council's robust approach by setting out the ways in which employees or members of the public can voice their concerns about suspected fraud or corruption. It also outlines how the Council will deal with such complaints.

2. What Do We Want To Know About?

- 2.1 This Plan is intended to be implemented where suspicions of fraud or corruption have been raised.

Fraud is defined as:

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

Corruption is defined as:

"The offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person".

- 2.2 Concerns or allegations which fall within the scope of other, existing, procedures (eg child protection or discrimination issues) will normally be referred for consideration under those procedures.

- 2.3 Fraudulent or corrupt acts may include:

Systems Issues - i.e. where a process/system exists which is prone to abuse by either employees or public (eg Planning Applications).

Financial Issues - i.e. where individuals or companies have fraudulently obtained money from the Council (eg invalid invoices/work not done, Council Tax Reduction Scheme fraud).

Equipment Issues - i.e. where Council equipment is used for personal use, (eg personal use of Council vehicles).

Resource Issues - i.e. where there is a misuse of resources (eg theft of building materials).

Other Issues - i.e. activities undertaken by officers of the Council which may be:

- ❖ unlawful,
- ❖ against the Council's Standing Orders or policies,
- ❖ below established standards or practices,
- ❖ improper conduct (e.g. receiving hospitality).

This is not an exhaustive list.

3. Safeguards

Harassment or Victimisation – The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect those who raise a concern in good faith.

Confidentiality – The Council will do its best to protect an individual's identity when he or she raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence.

Anonymous Allegations – This policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:

- ❖ the seriousness of the issues raised
- ❖ the credibility of the concern
- ❖ the likelihood of confirming the allegation from attributable sources

Untrue Allegations – If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the originator. If, however, individuals make malicious or vexatious allegations, action may be considered against the individual making the allegation.

4. What Should An Employee Do If They Suspect Fraud Or Corruption?

4.1 Employees are often the first to realise that there is something seriously wrong within the Council. If they have serious concerns in relation to fraud or corruption within the council they should report this to their line Manager. However, they may not express their concerns in this way because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

4.2 The Council's Public Interest Disclosure (Whistleblowing) Policy is intended to encourage and enable staff to raise serious concerns

within the Council rather than overlooking a problem or blowing the whistle to the media or other external bodies.

4.3 A copy of the Public Interest Disclosure (Whistleblowing) Policy is attached as Annex 2.

5. What Should A Member Of The Public Do If They Suspect Fraud Or Corruption?

5.1 The Council encourages members of the public who suspect fraud and corruption to contact the Chief Executive or Executive Director - Customer Services in the first instance. Members of the public may report matters to the Executive Director - Customer Services in terms of the Public Interest Disclosure Policy. Both the Executive Director - Customer Services and the Head of Financial Services have obligations to maintain and review the Council's Financial and Security Regulations and any suspected breach of these may be reported to either of them.

5.2 Argyll and Bute Council wishes to maintain procedures with the following aims:

- ❖ To develop an anti-fraud culture
- ❖ To deter, prevent, detect and investigate fraud and corruption
- ❖ To see appropriate action against those who commit or seek to commit some sort of fraud or corruption
- ❖ To obtain compensation in respect of any losses to the Council

5.3 The possible courses of action taken by the Council are outlined below.

5.4 The Executive Director - Customer Services can be contacted by phone on 01546 605522 or by writing to; The Executive Director - Customer Services, Kilmory Lochgilphead, Argyll. In addition the Council has an online enquiry form to allow information to be submitted in this way also.

6. How Will Allegations Of Fraud Or Corruption Be Dealt With By The Council?

6.1 For issues raised by employees or members of the public, the action taken by the Council will depend on the nature of the concern. The matters raised may:

- ❖ be investigated internally, and/or
- ❖ be referred to the Police

6.2 Within 10 working days of a concern being received, the Chief Executive, Executive Director - Customer Services or designated officer will write to the complainant:

- ❖ acknowledging that the concern has been received indicating how it proposes to deal with the matter

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- ❖ giving an estimate of how long it will take to provide a final response
- ❖ telling them whether any initial enquiries have been made
telling them whether any further investigations will take place,
and if not, why not

6.3 The Council accepts that those people who reported the alleged fraud or corruption need to be assured that the matter has been properly addressed. Thus, subject to any legal constraints, they will receive information about the outcomes of any investigation.

7. Alternative Methods for Taking A Complaint Forward

7.1 If either a member of the public or an employee feel it is right to take the matter outside these processes, the following are possible ways forward:

- ❖ your local Councillor – If you are unsure how to contact them, call the Council on 01546 605522 for advice.
- ❖ the Accounts Commission – who are the organisation appointed to scrutinise the Council's finances and performance. By law, they must be completely independent from the Council.
- ❖ your Trade Union – employees may invite their Trade Union to raise a matter on their behalf.
- ❖ the Police – suspicions of fraud or corruption may be reported directly to the Police.
- ❖ the Scottish Public Services Ombudsman– this is an independent body set up by the Government to deal with complaints against public bodies such as Councils in Scotland
- ❖ Public Concern at Work – this is a charity which provides free and strictly confidential legal help to anyone concerned about a malpractice which threatens the public interest. They operate a helpline on 0171 404 6609 or can be e-mailed at whistle@pcaw.demon.co.uk.
- ❖ The Department of Work and Pensions to report benefit fraud. To contact the National Benefit Fraud Hotline (NBFH) available on telephone 0800 854 4400 or report it online at; <https://www.gov.uk/report-benefit-fraud>

Annex 2 to Anti Fraud Strategy

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWING) POLICY

1. INTRODUCTION

1.1 Argyll and Bute Council is committed to the highest standards of openness, probity and accountability. These high standards are coupled with a positive approach to enabling employees and others who become aware of wrongdoing, improper conduct or other failures of a substantive nature to bring attention to their concerns. The Council's Public Interest Disclosure Policy is, therefore, designed –

- To set out a process for the investigation of certain disclosures of information which are made in the public interest;
- To provide protection from reprisal or victimisation for individuals who make such disclosures in good faith; and
- Thus to provide a genuine recourse for legitimate representations without encouraging a climate in which they become malicious, trivial or routine.

1.2 There are existing procedures in place which enable employees of the Council to raise a grievance relating to their own employment. The Public Interest Disclosure Policy is designed to deal with matters which fall outwith the scope of the Grievance or Disciplinary Procedures.

2. SCOPE

2.1 In the context of the work of Argyll and Bute Council, a “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the person making the disclosure, tends to show one or more of the following –

- (a) That a criminal offence has been committed, is being committed or is likely to be committed,
- (b) That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject,
- (c) That any person has failed, is failing or is likely to fail to comply with any obligation as to their conduct or otherwise imposed on that person by –
 - The Argyll and Bute Council Protocol governing relations between Members and Officers.
 - The Council's Standing Orders, Contract Standing Orders, Procurement Manual or Financial and Security Regulations.
 - The Argyll and Bute Code of Conduct for Officers.
- (d) That the health or safety of any individual has been, is being or is likely to be endangered.

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- (e) That the Council has committed, is committing or is likely to commit to a course of action which is unlawful.
- (f) That the Council has taken, is taking, or likely to take a course of action, or there has been a corresponding failure, which is likely to give rise to a finding of maladministration on the part of the Council.
- (g) That information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

A qualifying disclosure is made in accordance with this policy if the person –

- (a) Makes the disclosure in good faith
- (b) Reasonably believes that the information disclosed, and any allegation contained in it, are substantially true
- (c) Does not make the disclosure for purposes of personal gain
- (d) In all the circumstances of the matter, believes it is reasonable for the person to make the disclosure.

- 2.2 Any disclosure alleging a breach of the Councillors Code of Conduct issued under the Ethical Standards & Public Life Etc (Scotland) Act 2000 in respect of a Councillor should be referred by the person making the disclosure to Mr Bill Thomson, Commissioner for Ethical Standards in Public Life, Thistle House, 91 Clifton Terrace, Edinburgh EH12 5HE –
email: investigations@standardscommission.org.uk

3. SAFEGUARDS

- 3.1 The Council recognises that taking a decision to report a concern of the type covered by this policy can be a difficult one, not least because of the fear of reprisal. The Council makes it clear that it will not tolerate any reprisals under any circumstances and will take action to protect a person who makes a qualifying disclosure.
- 3.2 If a disclosure is made in good faith but is not confirmed by subsequent investigation, no action will be taken against the person making the disclosure. The Council will, however, protect itself, its Members and Employees against malicious allegations and will take appropriate action against any person who makes such an allegation. The Council will also take such reasonable steps which may be open to it to minimise the impact on any of its Members or Employees of an allegation which is either malicious or unfounded.

- 3.3 Nothing in this Policy means that if a person is already the subject of any action or procedure against them (including in the case of employees, disciplinary procedures) that those procedures will necessarily be halted as a result of a disclosure made under this policy.

4. CONFIDENTIALITY

- 4.1 In a culture of openness, and against the Council's stated policy that it will protect a person who may make a disclosure in good faith and in the public interest, and to assist any investigative process, it is clearly desirable that the person who makes a disclosure should be prepared to do so on an attributable basis. The Council will, however, take reasonable steps, but cannot guarantee, to protect the identity of a person who makes a disclosure and does not wish his or her name to be disclosed, subject to the following factors –
- (a) The seriousness and nature of the issues raised
 - (b) The likelihood of confirming any allegation from other attributable sources
 - (c) The need for evidential statements as part of any investigation
 - (d) The credibility of the allegation, and, in all the circumstances, the need to allow a person against whom an allegation is made to test the veracity and substance of it
 - (e) The likelihood, in all the circumstances, of unwarranted reprisals being directed against a person who makes a disclosure.
- 4.2 The Officer conducting the investigation will, however, take all necessary steps to ensure that the name of a person who makes a disclosure is not disclosed to others within the Council except, strictly, on a need to know basis in order to further the due completion of the investigation and the Council's response to it. (See paragraph 5 below).
- 4.3 The Council will not disclose in any public document the name of any person who makes a disclosure, nor will the Council disclose that person's name to any third party outside the Council except –
- Where an offence may have been committed and there is considered to be an obligation to report that to the Police or Procurator Fiscal, or to co-operate with enquiries instituted by the Police or the Fiscal.
 - Otherwise where there would be any failure on the part of the Council to comply with any legal obligation on them.
- 4.4 Allegations expressed anonymously will not normally be considered. In exercising any discretion to consider any anonymous allegation, the factors which will be taken into account are –

- The seriousness and nature of the issues raised
- The credibility of the concerns
- The likelihood of confirming the allegations from other attributable sources

5. DISCLOSURES AND THEIR INVESTIGATION

5.1 As noted earlier, this Policy is designed to provide recourse for legitimate representations to be made about wrongdoing, improper conduct or other failure of a substantive nature. Any person making a disclosure in terms of this Policy should do so to the Council's Monitoring Officer, the Executive Director of Customer Services. The Monitoring Officer will decide –

- (a) Whether the matter is one which should be dealt with under the Council's Grievance or Disciplinary Procedures, and, if so, will refer the matter to the appropriate Officer.
- (b) Whether the matter is one which should be dealt with under any Complaints or other procedure of the Council, and, if so, will refer the matter to the appropriate Officer.
- (c) Whether the matter is one which should be investigated in terms of this Policy and, if so, will conduct an investigation in terms of this Policy.
- (d) In the absence of an investigation in terms of this Policy, what other action, if any, should be taken.

5.2 Notwithstanding and without prejudice to the statutory obligations placed on the Monitoring Officer, for the purposes of this Policy the function of the Monitoring Officer is to investigate a disclosure of information, and any allegation contained in it, relating to any matter contained in paragraph 2.1 of this Policy.

5.3 The purpose of an investigation under this Policy will be to determine which of the following findings is the case –

- (a) That there is no evidence of any failure to comply with any of the matters set out in paragraph 2.1 above,
- (b) That no action needs to be taken in respect of the matters which are the subject of the investigation
- (c) That any matter which is the subject of investigation can be remedied by compliance with any recommendations which are made in the report of the investigation

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- (d) That there is evidence of a failure on the part of a Councillor in relation to any of the matters referred to in paragraph 2.1 above in which case, with the exception of a matter in respect of which a criminal offence may have been committed, the report of the investigation will be submitted to the Council which will consider what action, if any, should be taken.
 - (e) That there is evidence of a failure on the part of a person, who is not a Councillor but has been appointed or co-opted to any Committee or Sub-Committee or Short Life Working Group of the Council, in relation to any of the matters referred to in paragraph 2.1 above in which case, with the exception of a matter in respect of which a criminal offence may have been committed, the report of the investigation will be referred to the Audit and Scrutiny Committee which will consider what action, if any, should be taken.
 - (f) That there is evidence of a failure on the part of an Officer of the Council in relation to any matter referred to in paragraph 2.1 above, in which case the report of the investigation will be referred to the Chief Executive who will determine what action, if any, should be taken.
 - (g) That there is evidence of a systematic or procedural failure on the part of the Council in relation to any matter referred to in paragraph 2.1 above, in which case the report of the investigation will be referred to the Chief Executive and /or the Council to determine what action, if any, should be taken.
 - (h) That otherwise the matters which are the subject of the investigation should be referred to the Council's Audit and Scrutiny Committee.
- 5.4 For the purpose of conducting an investigation in terms of this Policy, the Monitoring Officer –
- (a) May conduct the investigation personally, or may authorise another person to do so
 - (b) May obtain information from such persons and in such manner, and make such enquiries, as she/he thinks fit
 - (c) May require any Officer or Member to provide such information or explanation as may be necessary for the purpose of conducting the investigation
 - (d) Must give any person who is the subject of any allegation which is being investigated the opportunity or opportunities to respond to and comment on any allegation and must, in the course of any interview, allow that person to be accompanied by any other person
 - (e) May require any Officer or Member holding or accountable for any document or record (held in any medium) relating to the investigation to give access to such document or record.

- (f) May, to assist the investigation, obtain advice from any person inside or outside the Council who is qualified to give it.

5.5 A copy of any report of any investigation must be given to any Member or Officer of the Council who is the subject of the report before the report is finally disposed of by the Monitoring Officer as set out in paragraph 5.3 above.

6. DECISIONS AND RECOMMENDATIONS OF AUDIT AND SCRUTINY COMMITTEE

6.1 The Audit and Scrutiny Committee shall decide whether or not there has been a failure on the part of any person who is the subject of a report in terms of Paragraph 5.3(e), with the exception of a matter in respect of which a criminal offence may have been committed until any criminal proceedings have been disposed of.

6.2 Where the Audit and Scrutiny Committee decides that there has been no such failure on the part of any such person it will give notice to that effect to the person concerned.

6.3 Where the Audit and Scrutiny Committee decides that there has been such a failure as is mentioned in Paragraph 6.1 above, the Committee must decide, having regard to the Statutory authority or basis on which that person has been nominated, appointed or co-opted, whether the nature of the failure is such that either –

- (a) The Council is to advise the person concerned that there has been a failure on his or her part, and specify the details of that failure; or

- (b) Submit a report to Council, which report will be considered in public, advising that there has been a failure on the part of such a person concerned, specifying the details of that failure, which report may include a recommendation that any one of the following courses of action should be taken by the Council –

- (i) That the person concerned be afforded the opportunity of apologising to the Council in respect of the failure; or

- (ii) That the person concerned should be the subject of a resolution of censure expressing the Council's disappointment that there has been a failure on the part of such a person concerned; or

- (iii) That the Council remove the person concerned from any one or more positions to which the person was appointed by the Council or any of its Committees or Sub-Committees, and/or that the person be removed from membership of any one or more Committee, Sub-Committee, or Short Life Working Group of the Council;

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- (iv) That the Council request the persons nominating or appointing body to remove or withdraw their nomination or appointment and remove that person from any Committee, Sub-Committee, or Short Life Working Group of the Council;
- 6.4 Before submitting a recommendation in terms of paragraph 6.3(b) to the Council, the Audit and Scrutiny Committee will provide a copy of their report, including any recommendation contained in it, to the person concerned.
- 6.5 In considering a recommendation in terms of paragraph 6.3(b) the Council will afford an opportunity to the person concerned to make a statement to the Council, and it will not be open to the Council to pass a resolution which would, in respect of the person concerned, be more onerous than the course of action recommended by the Audit and Scrutiny Committee.

Annex 3 - Anti Money Laundering Procedure

We will do all it can to prevent the Council and its staff being exposed to money laundering, identify the potential areas where it may occur, and comply with all legal and regulatory requirements in regard to the reporting of actual or suspected cases.

Key Issues

- ❖ The Council is committed to the prevention, detection and reporting of money laundering
- ❖ All employees must be vigilant for the signs of money laundering
- ❖ Any employee who suspects money laundering activity must report this promptly to the Money Laundering Reporting Officer (MLRO)
- ❖ Where the Council is carrying out relevant business then the Client Identification Procedure must be followed.

1. Introduction

- 1.1 The Proceeds of Crime Act 2002 ('the Act') consolidated, updated and reformed the criminal law with regard to Money Laundering.
- 1.2 The Money Laundering Regulations 2007 came into force in December 2007 and required local authorities to put in place suitable anti-money laundering controls.
- 1.3 This policy has been designed to introduce safeguards to help identify and report on instances where money laundering is suspected and sets out procedures which must be followed to enable the Council to comply with its legal obligations.

2. Scope of the Procedure

- 2.1 This procedure applies to all employees of the Council and aims to prevent criminal activity through money laundering.

The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO) using the reporting to money laundering reporting officer form.

3. What is Money Laundering?

3.1 Money laundering means exchanging money or assets that were obtained criminally for money or assets that appear to be from a legitimate source.

Money laundering offences include:

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

There are also two secondary offences:

- ❖ failure to disclose any of the three primary offences above; and
- ❖ 'tipping off' whereby somebody informs a person or persons who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

3.2 Any member of staff could be caught by the money laundering provisions, if they suspect money laundering and either become involved with it in some way and/or do nothing about it.

3.3 While the risk to the Council of contravening the legislation is low, it is important that all employees are familiar with their responsibilities as criminal sanctions may be imposed for breaches of the legislation.

3.4 Details of any cash payments of over £1000 must be reported to the MLRO.

4. The Money Laundering Reporting Officer (MLRO)

4.1 The officer nominated to receive disclosures about money laundering activity within the Council is the **Governance, Risk and Safety Manager – Iain Jackson**.

5. Reporting Procedures

5.1 Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, firstly by discussing their suspicion with the MLRO and then by submitting the report to the MLRO using the disclosure form – part 1, attached at Appendix A.

5.2 The employee must follow any directions given by the MLRO, and must not make any further enquiries into the matter or take any further steps in any related transaction without authorisation from

the MLRO.

- 5.3 The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.
- 5.4 The MLRO must promptly evaluate any disclosure report, to determine whether it should be reported to the National Crime Agency (NCA).
- 5.5 The MLRO must promptly report the matter to NCA, on their standard report form and in the prescribed manner.
- 5.6 The MLRO will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

6. Client Identification Procedure

- 6.1 Where the Council is carrying out 'relevant business' and as part of this
 - ❖ forms an ongoing business relationship with a client;
 - ❖ undertakes a one-off transaction involving payment by or to the client of £10000 or more;
 - undertakes a series of linked one-off transactions involving total payment by or to the client(s) of £10000 or more;
 - ❖ it is known or suspected that a one-off transaction (or a series of them) involves money laundering;
 - ❖ then the Client Identification Procedure (as set out below) must be followed before any business is undertaken for that client.

Unlike the reporting procedure, the client identification procedure is restricted to those operating relevant business i.e. Financial Services and Legal Services. This requirement does not apply if a business relationship with the client existed before 1st March 2004.

- 6.2 Where the 'relevant business' is being provided to another public sector body then you must ensure that you have signed, written instructions on the body's headed paper before any business is undertaken.
- 6.3 Where the 'relevant business' is not for a public sector body, then you should seek additional evidence of identity, for example: checking with the organisation's website to confirm their business address; conducting an on-line search via Companies House; seeking evidence from the key contact of their personal identity and position within the organisation.
- 6.4 With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of

the organisation itself - please see the Guidance Note for more information.

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

7. Record Keeping Procedures

- 7.1 Where the 'relevant business' is carried out then the client identification evidence and details of the relevant transaction(s) for that client must be retained for at least five years.

8. Guidance & Training

- 8.1 In support of this procedure, the Council will make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the Anti Money Laundering legislation.

Disclosure Form - Part 1

Report to Money Laundering Reporting Officer

DETAILS OF EMPLOYEE :

From _____

Service _____ Contact Details _____

Date _____

1. Are you dealing with a transaction which might be a prohibited act under sections 327-329 of the Proceeds of Crime Act 2002 and which requires appropriate consent from the SOCA?
Yes/No

DETAILS OF SUSPECTED OFFENCE :

2. Identities of the person(s) subject to the enquiry

Name _____

Address _____

Contact Details _____

3. Nature and details of activity

(Please include full details of activity e.g. what, when, where, how. Continue on a separate sheet if necessary)

-
-
4. Nature of suspicions regarding such activity:

(Please continue on a separate sheet if necessary)

5. To your knowledge has any investigation been undertaken?

If yes please include details below:

Yes/No

6. Have you discussed your suspicions with anyone else?

If yes please specify below with whom, explaining reasons for such discussion and the outcome of the discussion:

Yes/No

(Please continue on a separate sheet if necessary)

7. Have you consulted any supervisory body for guidance? (e.g. the Law Society) If yes please provide details:

Yes/No

(Please continue on a separate sheet if necessary)

8. Do you feel you have a reasonable excuse for not disclosing the matter to the SOCA? (e.g. are you a lawyer and wish to claim legal professional privilege) Yes/No
If yes please set out below full details for not wanting to disclose the matter to NCIS ::

(Please continue on a separate sheet if necessary)

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

(Please continue on a separate sheet if necessary)

Signed

Dated

Once completed please forward this form to your Money Laundering Reporting Officer. Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence which carries a maximum penalty of 5 years imprisonment.

Money Laundering Disclosure Form - Part 2

The following part of this form is for completion by the MLRO

DETAILS OF MLRO

Name _____

Service _____ Contact Details _____

Date report received _____ Date report acknowledged _____

1. Has the report submitted been considered?

If no please state reasons

Yes/No

(Please continue on a separate sheet if necessary)

2. If you feel there are no grounds to suspect Money Laundering activity have you informed the employee to continue with the transaction?

Yes/No

3. If there are reasonable grounds for suspicion will a report be made to the SOCA or the Police?

Yes/No

If no please state reasons and go to question 5

If yes has a report been made to NCA or the Police?

Please confirm date of report to NCA _____

Details of liaison with the NCA or the Police regarding the report

Name of NCA person spoken to _____

Notice Period _____ to _____

Moratorium Period _____ to _____

4. **Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts?** Yes/No

If yes has consent been obtained?

Name of NCA person spoken to _____

Contact Details _____

Date consent received from NCA _____

Date consent given by you to employee _____

5. **If there are reasonable grounds to suspect money laundering but you do not intend to report the matter to the NCA please set out below the reason(s) for non-disclosure.**

Date consent given by you to employee for any prohibited transactions to proceed _____

Signed _____ Dated _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS

Money Laundering Consent to Proceed Form - Part 3

This form is for completion by the MLRO

DETAILS OF MLRO

Name _____

Service _____ Contact Details _____

DETAILS OF EMPLOYEE :

Name _____

Service _____ Contact Details _____

DETAILS OF REPORT :

Name of person involved _____

Contact Details _____

Date of Report _____

OUTCOME :

I can confirm that the above transaction/query can/cannot proceed

Signed _____ Date _____
(MLRO)



ANNEX 4 – GUIDANCE ON RESPONDING TO A FRAUD SITUATION

PART	TITLE	
A	WHAT YOU SHOULD DO	
B	INITIAL RESPONSE CHECKLIST	
C	HOW IS AN INVESTIGATION MANAGED?	
D	HOW SHOULD EVIDENCE BE OBTAINED AND KEPT?	
E	WHAT YOU SHOULDN'T DO	

ANNEX 4A

Guidance on responding to a fraud situation - what you should do

The golden rules for responding correctly

The ultimate golden rule is that evidence should be collected and handled without compromising it or a future criminal investigation and prosecution.

RESPOND APPROPRIATELY TO INITIAL SUSPICION	If it is safe to do so, an initial investigation should be carried out to identify what further action is necessary. If there is an indication of fraud or anything requiring further investigation, this should be recorded and passed promptly to Internal Audit Services. All staff should be made aware of and follow the guidance in Appendix 2.
CONFIDENTIALITY	All information received as part of the fraud investigation should be treated as confidential and should only be shared with those who have a need to know.
GET ADVICE	Services should consult with HR before taking any action. Feel free at any point to contact Internal Audit for guidance or help. The Revenues and Benefits Counter Fraud Investigation Team may be able to provide further advice and / or assist the Internal Audit Team in investigating any corporate frauds that may arise.
PLAN CAREFULLY	Carefully evaluate evidence, assess risk and plan actions. Take the time to do this well. Again assistance can be provided by Internal Audit.
REFER EFFECTIVELY	If necessary agree with Internal Audit who will be responsible for the investigation. Internal Audit will be happy to act in an advisory capacity in a number of circumstances rather than lead the work.
STAY IN CONTROL	Investigation work should be well monitored and controlled with regular meetings with all parties involved to review progress and decide future actions. Controlling time and cost is also important.
KEEP GOOD RECORDS	Keep first class records, particularly where evidence of criminality is obtained. Evidence and documentation must be stored securely in its original condition.
BE CAREFUL ABOUT INTERVIEWING	Interviews, which should only be used for fact finding, should be carefully planned, undertaken and recorded. Interviews should always be carried out by two people. The interviewee should be allowed to be accompanied. A formal record should be kept of the interview. Never interview a criminal suspect before consulting the Police and giving them the opportunity to investigate. The Head of Legal and Regulatory Services will be happy to advise.
STOP AT THE RIGHT TIME	Referring the matter at the right time is essential to achieving a successful outcome. Guidance will be provided by Internal Audit.
FOLLOW UP ACTION TAKEN	Make sure that the Council learns from the experience and strengthens internal control.

ANNEX 4B
Initial response checklist
Being told about a fraud

All information received must be treated as confidential and should only be shared with those who have a need to know

1. Note details of the informant.

- Name
- Address and telephone number
- Position
- Accept information that is provided anonymously, but encourage the person to give their details by suggesting this would help a future investigation if they can be contacted for further information.

2. Be responsive to concerns raised.

- Encourage an informant to voice concerns
- Assure them that their concerns will be taken seriously and properly looked into
- Make sure that the conversation is conducted privately and cannot be overheard inappropriately
- Listen carefully and attentively.

3. Refer to an appropriate Manager.

- If you are not the appropriate person it would be best to stop a conversation at a suitable opportunity so that they can be involved.
- If the informant has given contact details tell them that a senior member of staff will contact them.

4. Ask questions to try to get as much information as possible.

- Probe and clarify where necessary
- Find out if the informant has any evidence – e.g. documents
- Ask open questions – who, what, where, when, why, how.

5. Check if the informant wants to make a Public Interest Disclosure Act 1998 (PIDA).

- An informant may qualify to make a protected disclosure if they give their name and are an employee
- Tell them briefly about PIDA
- Ask them if they are making a disclosure or would like to do so
- Reassure the informant all information will be treated in confidence

Think you just found a fraud?

Consider personal safety and leave immediately if at risk from a suspect.

1. As soon as possible make a note of your concerns ensuring this is kept secure and cannot be overseen.

- Who
- What
- Where
- When
- Why
- How.

2. Make copies of any documentation on site that may be relevant and is readily accessible.

- Computer records and outputs – Seek support from Head of Legal and Regulatory Services to ensure evidence is protected from contamination and destruction and is collected correctly
- Financial documents such as invoices
- Procedure documentation
- Reports

3. Convey your suspicions as soon as possible to the appropriate Manager.

- Initial information and evidence obtained should be evaluated
- Further investigation work should be carefully considered and planned
- Involve Audit Services if necessary

Don't do these!

1. Don't unduly challenge and never ridicule an informant about the reliability of their information.

- We want to know everything they know, even if it is wrong
- There will be time afterwards to evaluate what has been said and to determine what action should be taken
- Be open and approachable.

2. Don't confront anyone suspected or accused.

- A fraudster should not be alerted before the investigating parties are ready to take action
- Inappropriately interviewing a suspect can compromise a criminal investigation
- Wrongly accusing someone can do serious damage to careers, relationships and professional credibility.

3. Don't tell anyone who does not need to know.

ANNEX 4C

How is an investigation managed?

Objectives

The objectives of an investigation are to:

- identify if fraud has taken place
- identify the dishonest persons
- estimate the financial loss and make recovery
- act fairly by collecting balanced evidence to support or disprove allegations and suspicions of fraud
- recommend and agree action to improve internal control
- consider taking formal action where needed.

How to investigate

The approach to investigation work is summarised below:

When fraud is suspected:-

- Evaluate the information, evidence and sources
- Assess risk
- Plan and prioritise the work required
- Gather evidence from records, documents and enquiries
- Decide on further courses of action

At all stages consideration should be given to the cost and benefits of doing the work.

The first and second steps of evaluation and assessing risk should always be undertaken. These are essential to gain an adequate understanding of the circumstances, risks and possible courses of action.

Meetings should be held regularly to re-evaluate evidence gathered and to re-assess risk as the investigation progresses. In making the assessment of risk, try to anticipate the whole potential extent for fraud. Think of the worse case scenario. For example, if an employee is able to commit a fraud in one area, how many other areas might also be at similar risk and should be checked? This will help to identify the gaps in knowledge towards which further investigative enquiries need to be made.

The investigation cycle continues until the objectives of the investigation have been achieved or further useful evidence is unlikely to be available. The evidence that has been obtained can then be evaluated in its entirety and appropriate action considered.

ANNEX 4D

How should evidence be obtained and kept?

Evidence handling and record keeping must be excellent.

Golden rules for evidence gathering and record keeping

The ultimate golden rule, here again, is that evidence should be collected and handled without compromising it or a future criminal investigation and prosecution. The guidance covers investigations which involve a team of staff. Most investigations in Services will be done by a single manager and not all the steps will be required.

ESTABLISH A FILING SYSTEM STRAIGHT AWAY	Chronicle in an investigation logbook every action taken during the investigation. Also keep an exhibits record for evidence gathered.
GET ENOUGH ADMINISTRATIVE SUPPORT	Keep right up to date with filing and record keeping.
OBTAIN ORIGINAL DOCUMENTARY EVIDENCE	Obtain original documentary evidence (e.g. invoices) where possible. Give a receipt and a copy of what is taken.
RECORD INTERVIEWS AND CONVERSATIONS	Conversations, information received and actions taken should be recorded contemporaneously.
MAINTAIN EVIDENCE SECURELY IN ORIGINAL CONDITION	Make sure original documents or items are not marked or damaged in any way. Store securely and work on copies.
GET ADVICE ABOUT OBTAINING AND USING IT AND FORENSIC EVIDENCE	IT and forensic evidence requires specialist skills to meet criminal standards. Get advice from the Head of Legal and Regulatory Services.
DON'T THROW ANYTHING AWAY	File everything including rough notes and working papers to avoid potential allegations of destroying evidence.

ANNEX 4E

What you shouldn't do

This section looks at the main risks and how they can be avoided.

The cardinal sins

The ultimate cardinal sin is to compromise a future criminal investigation by the Police or other agency and therefore the chances of a successful prosecution.

RUSH AN ILL PLANNED INVESTIGATION	Poorly managed investigations may jeopardise criminal prosecution and other action. Investigations should be well planned and involve staff with appropriate skills and experience. If in doubt call Internal Audit.
CONDUCT A CRIMINAL INVESTIGATION	This is the responsibility of the Police. When reasonable suspicion of a criminal offence is established, report the matter to Internal Audit and discuss the way forward.
INTERVIEW CRIMINAL SUSPECTS	This is the responsibility of the Police. Stop any ongoing interviews once reasonable suspicion arises or a confession is made. Don't start any new interviews of suspects. Never try to interview under caution. Report the matter to Internal Audit and discuss the way forward.
COMPROMISE EVIDENCE	The courts expect the original evidence to be produced in its original condition. Make a copy to work on and keep the original in a secure and safe file.
COMPROMISE COMPUTER EVIDENCE	If you switch a computer on or off you immediately compromise the evidence it may contain. Taking evidence from a computer involves specialist skills to copy hard drives and access networks appropriately. Specialist advice must be obtained. Report this to Head of Legal and Regulatory Services and discuss the way forward.
THROW EVIDENCE AWAY	Keep everything. The law generally requires the prosecution to disclose all material evidence to the defence. This may include the audit files.
MOUNT COVERT SURVEILLANCE	Whilst the Council is a body to which the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) applies, we do not normally use covert surveillance. Don't follow people around or take pictures of them without their knowledge. This would be committing an offence.
USE INFORMANTS	Whilst the Council is a body to which the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) applies, we do not normally use covert surveillance. You cannot direct someone to find out information outside the normal course of the audit / investigation. So, for example, you cannot direct a member of the public "to keep an eye on things and let me know when it happens again". You can encourage them to contact you with further information which you are willing to take into account as part of the audit / investigation if they wish.

INTERCEPT COMMUNICATIONS	Accessing personal e-mail and post without the permission of the individual concerned can be illegal under <i>RIPSA</i> and / or the <i>Data Protection Act 2018</i> . Get legal advice about your proposed enquiries in advance of taking any actions of this nature.
BREACH DATA PROTECTION REQUIREMENTS	Under <i>Schedule 2, Part 1 of the Data Protection Act 2018</i> , data can be shared between organisations for purposes of preventing and detecting crime. However, obtain legal advice about the specific acquisition, use and sharing of computer data.
BECOME AN EXPERT WITNESS	The evidence should speak for itself and the expression of opinion should be unnecessary or properly limited. Always take legal advice if you are asked to make a statement to the Police or you have been called as a witness at trial. An ordinary witness states what they found, heard or saw. An expert witness offers professional opinion on the evidence and this should be avoided.

It is important to keep in mind that evidence gathered during an audit investigation may subsequently be called upon in a criminal prosecution, civil law action or disciplinary / dismissal case. The action that can be taken against a fraudster will be compromised if it is possible to highlight procedural weaknesses in the investigation or evidence gathering process which may lead to evidence being ruled inadmissible or otherwise discredited.