

Audit Committee

Meeting Venue
Via Teams

Meeting Date
Thursday, 4 June 2020

Meeting Time
1.30 pm – 2.30 pm

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



County Hall
Llandrindod Wells
Powys
LD1 5LG

28 May 2020

AGENDA

1.	APOLOGIES
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To receive apologies for absence.

2.	DECLARATIONS OF INTEREST
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To receive declarations of interest from Members.

3.	CLOSURE OF ACCOUNTS
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3.1. **WAO Audit Plans**

To consider the WAO Audit Plans for both Powys County Council and the Pension Fund.
(Pages 3 - 34)

3.2. **Closure of Accounts**

To receive an oral update by the Head of Finance.

4.	DRAFT ANNUAL GOVERNANCE STATEMENT
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To consider the draft Annual Governance Statement.
(To Follow)

5.	SWAP - INTERNAL AUDIT UPDATE
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To consider the report of the Assistant Director, SWAP.
(To Follow)

6.	RISK REGISTER - COVID 19
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To consider the Covid 19 – Risk Register.
(To Follow)

7.	POLICIES FOR INFORMATION AND REVIEW
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To note the following Policies for information, review and comment (not for discussion at Committee):

- Anti Money Laundering
- Anti Fraud
- Fraud Prosecutions and Sanctions

(Pages 35 - 74)

2020 Audit Plan – Powys County Council

Audit year: 2019-20

Date issued: May 2020

Document reference: 1801A2020-21

This document has been prepared as part of work performed in accordance with statutory functions.

No responsibility is taken by the Auditor General, the staff of Audit Wales or, where applicable, the auditor acting on behalf of the Auditor General, in relation to any member, director, officer or other employee in their individual capacity, or to any third party.

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Contents

2020 Audit Plan	
Our duties	4
Impact of COVID-19	4
Audit of financial statements	5
Performance audit	9
Certification of grant claims and returns	11
Fee, audit team and timetable	11
Accounts and Audit (Wales) Regulations 2014	14
Appendix A – Requirements of the Accounts and Audit (Wales) Regulations 2014	15
Appendix B – Accounts and Audit (Wales) Regulations 2014 – suggested notice	16

2020 Audit Plan

Our duties

- 1 We complete work each year to meet the following duties.

Audit of financial statements

- 2 Each year we audit Powys County Council's (the Council) financial statements to make sure that public money is being properly accounted for.

Value for money

- 3 The Council has to put in place arrangements to get value for money for the resources it uses, and we have to be satisfied that it has done this.

Continuous improvement

- 4 The Council also has to put in place arrangements to make continuous improvements and we also check if it has done this.

Sustainable development principle

- 5 Public bodies need to make sure that when making decisions they consider the impact they could have on people living in Wales now and in the future. We have to assess the extent to which they are doing this.

Impact of COVID-19

- 6 The COVID-19 national emergency has had an unprecedented impact on the UK and will significantly impact on local authorities' preparation of the 2019-20 accounts and our audit work, both financial audit and performance audit.
- 7 Due to the UK Government's restrictions on movement and anticipated sickness absence levels, we understand that many local authorities will not be able to prepare accounts in line with the timetable set out in the Accounts and Audit (Wales) Regulations 2014. As well as the delivery of the Auditor General's statutory responsibilities, our priority is to ensure the health, safety and well-being of Audit Wales staff, their families and those of our partners elsewhere in the public service at this incredibly challenging time.
- 8 In response to the government advice and subsequent restrictions, we have ceased on all on site work at audited bodies and our own offices. Audit Wales staff are working from home and we will continue to make whatever progress we can whilst working and engaging with you remotely.
- 9 Consequently, this audit plan does not include any details in relation to completion of our audit work. We will discuss a timetable with the authority once the current

national emergency situation is over and the authority is in a position to prepare its accounts.

- 10 We commit to ensuring that our audit work will not have a detrimental impact on you at a time when public bodies are stretched and focused on more important matters.

Audit of financial statements

- 11 It is my responsibility to issue a certificate and report on the financial statements which includes an opinion on their 'truth and fairness':
- we plan to give an opinion on the Council's financial statements.
 - assess whether the Council's Annual Governance Statement and Narrative Report were prepared in line with the CIPFA Code and relevant guidance. We also review whether they were are consistent with the financial statements prepared by the Council and with our knowledge of the Council.
- 12 In addition to our responsibilities for auditing the Council's financial statements, we also have responsibility for:
- certifying a return to the Welsh Government which provides information about the Council to support preparation of Whole of Government Accounts;
 - responding to questions and objections about the accounts from local electors (additional fees will be charged for this work, if necessary);
 - auditing the Council's pension fund accounts (a separate audit plan has been prepared for the audit of the pension fund); and
 - the certification of a number of grant claims and returns as agreed with the funding bodies.
- 13 There have been no limitations imposed on me in planning the scope of this audit.
- 14 Further information about our work is provided in our Statement of Responsibilities, which is available on our website (www.audit.wales).

Financial Statement Audit Risks

- 15 The following table sets out the key financial statement audit risks identified at the planning stage of the audit.

Exhibit 1: financial statement audit risks

This table summarises the key financial statement audit risks identified at the planning stage of the audit.

Audit risk	Proposed audit response
Significant risks	
<p>The risk of management override of controls is present in all entities. Due to the unpredictable way in which such override could occur, it is viewed as a significant risk [ISA 240.31-33].</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • test the appropriateness of journal entries and other adjustments made in preparing the financial statements; • review accounting estimates for biases; and • evaluate the rationale for any significant transactions outside the normal course of business.
<p>New financial system</p> <p>The Council has implemented a new financial system from 1 April 2019 from which the financial statements will be produced. As part of this implementation the Council had introduced a new chart of accounts and coding structure. In addition, the Council has changed the way it reports its financial information internally and to Cabinet following changes to its senior management structure.</p> <p>As the Comprehensive Income and Expenditure Statement (CIES) and Expenditure and Funding (EFA) statement are required to be prepared in line with the internal reporting structure, the prior year’s CIES and EFA will need to be restated.</p>	<p>My audit team will ensure that:</p> <ul style="list-style-type: none"> • all balances from the previous financial ledger have been transferred accurately to the new system; • the new chart of accounts and coding structure allows the financial statements to be prepared on a consistent basis to the prior year; • ensure that there are appropriate interface procedures and controls in place between the material feeder systems and the new ledger; and • the restated CIES and EFA balances are reported accurately in line with the revised reporting structure.

Audit risk	Proposed audit response
<p>Impact of COVID-19 – general risks</p> <p>The COVID-19 national emergency is likely to have a significant impact on the Authority and its accounts production process. Potential risks include:</p> <ul style="list-style-type: none"> • subsequent events. It is possible that the Council may not be able to prepare its accounts in accordance with the timetable laid down by the Accounts and Audit (Wales) Regulations 2014. The shifting reporting deadlines increases the period (and therefore the related risks) for events occurring between the date of the financial statements and the date of the auditor’s report. The consequences of the virus post 31 March 2020 will generally be non-adjusting post balance sheet events, but some form of disclosure may be needed. • use of estimates. The uncertainties and delays caused by the UK-wide lockdown may result in actual data being unavailable and greater use of estimates in preparing the accounts. 	<p>My audit team will undertake the following steps to ensure the risks arising from COVID-19 are adequately addressed:</p> <ul style="list-style-type: none"> • we will extend the period of review of subsequent events in order to identify any material subsequent events related to COVID-19, and whether these have been appropriately addressed or disclosed in the financial statements in accordance with the financial reporting framework; • we will consider if there are areas that may require management to provide further evidence due to the fast-changing nature of this issue; • we will discuss with you the key assumptions and evidence bases underlying estimates and will do this at an early stage; and • we will adopt a greater focus on the following areas: <ul style="list-style-type: none"> – the financial statement closing process (in particular journal entries and other adjustments made); and – the auditor’s evaluation of the overall presentation of the financial statements, including consideration of whether adequate disclosures have been made.

Audit risk	Proposed audit response
<p>IAS19 pension liabilities</p> <p>In many cases, actuaries use 31 December / 29 February investment values for the purpose of calculating 31 March net pension liabilities. The crisis in the financial markets may have had a significant impact upon Fund assets at the balance sheet date. Therefore, there is a risk that pension liabilities may be materially understated.</p>	<p>My audit work will consider:</p> <ul style="list-style-type: none"> • the basis for the valuation of pension fund assets and liabilities; and • actuarial assumptions that underpin the IAS19 valuations. <p>Our audit process includes the use of a consulting actuary to provide audit assurance over the methodology and assumptions used by actuaries in providing data for IAS 19 disclosures. We will review your actuary's IAS 19 reports and our consulting actuary's assessment and discuss any concerns with you at an early stage.</p>
<p>Other areas of audit attention</p>	
<p>Revaluation of Council Properties</p> <p>A fifth of the Council owned land and buildings will be subject to revaluation as at 31 March 2020 in order to comply with the requirement of the CIPFA Code of Practice. As these assets were last revalued five years ago, it is possible that the 2020 revaluation exercise could result in material movements on the Council's Balance Sheet.</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • review management's processes and assumptions for the calculation of the estimate, including review of the work performed by management experts; • review the competence, expertise and objectivity of any management experts used; • undertake testing to ensure information on revaluations is correctly input to the Council's Fixed Asset Register; and • evaluate management's processes to ensure the carrying value of assets not revalued during the year is not materially different from the current value at the balance sheet date.

Audit risk	Proposed audit response
<p>McCloud judgement</p> <p>In 2015 the Government introduced reforms to public sector pensions, meaning most public sector workers were moved into new pension schemes in 2015.</p> <p>In December 2018, the Court of Appeal ruled that the ‘transitional protection’ offered to some members of the judges’ and firefighters’ schemes, as part of the reforms, amounted to unlawful discrimination. On 15 July 2019 the Government announced that they accept that the judgment applies to all of the main public service pension schemes.</p> <p>The impact of the judgement is likely to have a significant impact on the IAS 19 disclosed liabilities.</p>	<p>My audit team will review the provision made in relation to the McCloud judgement and monitor progress on the development of proposals for a remedy to be applied in the LG/Police /Firefighters’ pensions scheme.</p>

- 16 You will be aware that the CIPFA/LASAAC Code Board recently considered a proposed Code Update 2019-20 that would have disappplied large parts of the 2019-20 Code. After discussion, the CIPFA/LASAAC Code Board decided not to adopt the proposed Code Update. Therefore, the 2019-20 Code (the Code) will apply in full for this year. We understand that the Council is working towards preparing accounts in accordance with the full Code.
- 17 For information, the introduction of IFRS 16 Leases has been deferred until 2021-22 due to COVID-19. There is considerable work required to identify leases and the COVID-19 national emergency may pose implementation risks. We will continue to work with the Authority in respect of its preparedness.

Performance audit

- 18 In addition to our Audit of Financial Statements we also carry out a programme of performance audit work to discharge the Auditor General’s duties set out on **page 4** in relation to value for money, continuous improvement and sustainable development. For 2020-21 this work is set out below.

Exhibit 2: Performance Audit Programme 2020-21

This table summarises the performance audit programme for 2020-21

Performance audit programme	Brief description
Improvement audit and assessment work including improvement planning and reporting audit	Audit of discharge of duty to publish an improvement plan, and to publish an assessment of performance.
Well-being of Future Generations Act (Wales) 2015 (WFG Act) examination	A project common to all local councils that will focus on the theme of 'prevention'.
Assurance and Risk Assessment	Project to identify the level of audit assurance and/or where further audit work may be required in future years in relation to risks to the Council putting in place proper arrangements to secure value for money in the use of resources.
Financial Sustainability	A project common to all local councils that will assess financial sustainability in light of current and anticipated future challenges building on work undertaken during 2019-20.
Vision 2025 Follow Up	Transformation remains a crucial focus for the Council as a means of delivering its corporate improvement objectives and Medium-Term Financial Strategy. This project aims to gain further insight and assurance relating to the Council's delivery of its transformation programme.
Scrutiny Follow Up	This project aims to follow up on our 2018 Scrutiny report and review the new scrutiny arrangements implemented by the Council in 2019. This review is to be conducted jointly with SWAP and the Council.

Performance audit programme	Brief description
Corporate Safeguarding Arrangements	A project aimed at reviewing the effectiveness of corporate safeguarding arrangements building on the study previously undertaken by the Auditor General in this area.

- 19 On 18 March 2020, the Auditor General wrote to the Chief Executive explaining that, following Government guidance, he had decided to suspend all on-site performance audit work with immediate effect. We will make as much progress as possible with these activities by working remotely, if appropriate. However, the COVID-19 outbreak will have an inevitable impact on the delivery of our programme of performance audit work. We are keeping this under ongoing review and will communicate further information regarding the above programme of work (including the timings and the likely outputs) when more is known about the duration of the COVID-19 restrictions and the wider impact of the outbreak on the sector.

Certification of grant claims and returns

- 20 I have been requested to undertake certification work on the Council's grant claims and returns.
- 21 The number of grant claims that are required to be audited by the Welsh Government for 2019-20 are less than in previous years.
- 22 My estimated audit fee for this work is set out in **Exhibit 3**.

Fee, audit team and timetable

- 23 My fees and planned timescales for completion of the audit are based on the following assumptions:
- the financial statements are provided in accordance with a timescale to be agreed following the end of the COVID-19 national emergency, to the quality expected and have been subject to a robust quality assurance review;
 - information provided to support the financial statements is in accordance with the agreed audit deliverables document;
 - appropriate accommodation and facilities are provided to enable my audit team to deliver the audit in an efficient manner;
 - all appropriate officials will be available during the audit;

- you have all the necessary controls and checks in place to enable the Responsible Financial Officer to provide all the assurances that I require in the Letter of Representation addressed to me; and
- Internal Audit's planned programme of work is complete, and management has responded to issues that may have affected the financial statements.

24 If I do receive questions or objections, I will discuss potential audit fees at the time.

Fee

25 Your estimated fee for 2020 is set out in **Exhibit 3** below. There have been some small changes to my fees rates for 2020, however, my audit teams will continue to drive efficiency in their audits to ensure any resulting increases will not be passed to you. This represents a 5.3% decrease compared to your actual 2019 fee, primarily due to a reduction in the number of grant claims that are required to be audited.

Exhibit 3: audit fee

This table sets out the proposed audit fee for 2020, by area of audit work, alongside the actual audit fee for last year.

Audit area	Proposed fee (£) ¹	Actual fee last year (£)
Audit of accounts ²	207,830	207,830
Performance audit work ³	110,090	110,180
Grant certification work ⁴	50,000	70,688
Total fee	367,920	388,698

26 Planning will be ongoing, and changes to my programme of audit work and therefore my fee, may be required if any key new risks emerge. I shall make no changes without first discussing them with the Council.

27 Further information on my [fee scales and fee setting](#) can be found on our website.

¹ Notes: The fees shown in this document are exclusive of VAT, which is not charged to you

² Payable November 2019 to October 2020.

³ Payable April 2020 to March 2021

⁴ Payable as work is undertaken

Audit team

28 The main members of my team, together with their contact details, are summarised in **Exhibit 4**.

Exhibit 4: my audit team

This table lists the members of the local audit team and their contact details.

Name	Role	Contact number	E-mail address
Anthony Veale	Engagement Director and Engagement Lead – Financial Audit	02920 320585	anthony.veale@audit.wales
Huw Rees	Engagement Lead – Performance Audit	02920 320599	huw.rees@audit.wales
Phil Pugh	Audit Manager (Financial Audit)	02922 677839	phil.pugh@audit.wales
David Burridge	Audit Lead (Financial Audit)	02922 677839	david.burridge@audit.wales
Lisa Williams	Audit Manager (Performance Audit)	07970 246975	lisa.williams@audit.wales

Timetable

- 29 We will continue to undertake such remote work as is possible during the COVID-19 national emergency. However, as set out above, we will not be in a position to agree a timetable with you until the COVID-19 national emergency has passed.
- 30 We will need to discuss any amendments to the timetables for the production and audit of accounts with you but will continue to work as flexibly as we can and are supportive of ‘extending’ the accounts window where required. It will be vital that this close engagement continues over the next few months, against what will doubtless be a fast-changing backdrop.
- 31 Therefore, we will report on a timetable for our audit work in due course.

- 32 There are two potential conflicts of interest that I wish to bring to your attention. The first matter relates to a member of my financial audit team who holds a voluntary role as Treasurer of a charity which has a contract to provide a service within Adult Social Care. We have introduced appropriate arrangements to ensure that this officer does not undertake any audit work in respect of this area of the Council's operations.
- 33 The second matter relates to another member of my financial team whose husband is employed by Powys Teaching Health Board and who is also a governor of a secondary school in within Powys. Again, I have introduced appropriate arrangements to ensure that this officer does not undertake work in relation to the health board (eg Pooled Budget Accounts) or the school.
- 34 I can confirm that, with the exception of the above, all other members of my team are independent of the Council and your officers.

Accounts and Audit (Wales) Regulations 2014

- 35 In respect of our accounts work, we are aware that there may be difficulties in meeting the accounts preparation and publication dates set by the Accounts and Audit (Wales) Regulations 2014. Welsh Government have indicated that the Regulations will not be amended as they already provide sufficient flexibility to deal with any delays resulting from COVID-19.
- 36 The Regulations require the publication of a notice where the authority does not expect to achieve the dates specified by the Regulations. I have included further detail in **Appendix A** and example notices in **Appendix B** that the Authority may wish to consider using.
- 37 The requirements for the exercise of electors' rights under the Public Audit (Wales) Act 2004 continue to apply. This presents some practical difficulties while lockdown restrictions still apply, eg public access to the authority's accounting records.
- 38 Therefore, my audit team will discuss with you an appropriate timetable for public inspection when we have a clear idea of the date on which the accounts will be available and when lockdown restrictions have been sufficiently relaxed. My audit team will issue an audit notice in due course setting out the appointed date for public inspection.
- 39 This may mean that there is a delay before we can issue our audit opinion.

Appendix A

Requirements of the Accounts and Audit (Wales) Regulations 2014

You may be aware that in England, the Local Government Secretary Robert Jenrick MP announced that the deadline for preparation of local government accounts will be extended to 31 August 2020 and publication of audited accounts to 30 November.

Audit Wales discussed this development with Welsh Government officials to establish if a similar announcement will be made for Wales. The Welsh Government position (as communicated to local government bodies) is currently as set out below.

Statutory requirements

The statutory position for local government bodies in Wales is set out in the Accounts and Audit (Wales) Regulations 2014 (as amended).

Welsh Government interpretation

Regulation 10 sets out the expected timetable for the preparation, approval and audit of the annual accounts. Due to the impact of COVID-19, Welsh Government recognises that it may not be possible for all local government bodies to meet this timetable. Regulation 10(4) provides local government bodies with sufficient flexibility to deal with delays caused by COVID-19. Its guidance on the Regulations, notes that:

“Where, extraordinarily, certification cannot happen before [31 May/15 June], action needs to be taken to publish a statement that clearly sets out the reasons why this has not happened before that date and agree a course of action to ensure this is done as soon as is practicable after [31 May/15 June].”

The guidance also notes that the accounts should be published by 31 July/15 September even if the accounts have not been approved.

On the basis that sufficient flexibility is built into the current Regulations, Welsh Government does not consider it necessary to amend the Regulations.

Audit Wales view and impact on the audit process

Audit Wales concurs with the Welsh Government assessment that sufficient flexibility already exists in the Regulations.

In the event that the accounts are not prepared by the statutory timetable, audited bodies should notify their audit team and publish a notice setting out there is a delay and the reason for the delay. Example wording is provided in **Appendix B**.

Appendix B

Accounts and Audit (Wales) Regulations 2014 – suggested notice

Audit notice where RFO unable to certify the accounts either due to illness or because the accounts have not been prepared

Regulation 10(1) of the Accounts and Audit (Wales) Regulations 2014 (as amended) requires that the Responsible Financial Officer of Powys County Council sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the body at the end of the year to which it relates and of that body's income and expenditure for that year. The Regulations required that this be completed by 15 June 2020.

The Responsible Financial Officer has not signed and certified the accounts for the year ended 31 March 2020. Due to the COVID-19 outbreak, the authority has diverted resources to support key frontline services and the statement of accounts has not yet been prepared. The statement of accounts will be prepared and the Responsible Financial Officer will sign and certify the statement of accounts when the immediate pressures of the COVID-19 outbreak have subsided.

Audit notice where RFO has certified the accounts but the audited body is not meeting and therefore unable to approve the accounts

Regulation 10(1) of the Accounts and Audit (Wales) Regulations 2014 (as amended) requires that Responsible Financial Officer of Powys County Council sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the body at the end of the year to which it relates and of that body's income and expenditure for that year. The Regulations required that this be completed by 15 June 2020.

[The Responsible Financial Officer signed and certified the accounts on [date].

Regulation 10(2) of the Accounts and Audit (Wales) Regulations 2014 (as amended) requires that following the certification by the Responsible Financial Officer referred to above, [name of body] approve and publish the audited statement of accounts. The Regulations required that this be completed by 15 September 2020.

[Due to the COVID-19 outbreak, the statement of accounts has not yet been prepared.]

OR

[Due to the COVID-19 outbreak, [name of body] has not met to approve the statement of accounts.]

OR

[Due to the COVID-19 outbreak, the audit of the 2019-20 statement of accounts has not yet been completed and no audit opinion has been provided. The statement of accounts that is published is the unaudited statement of accounts.]



Audit Wales

24 Cathedral Road

Cardiff CF11 9LJ

Tel: 029 2032 0500

Fax: 029 2032 0600

Textphone: 029 2032 0660

E-mail: info@audit.wales

Website: www.audit.wales

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Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg.

2020 Audit Plan – Powys Pension Fund

Audit year: 2019-20

Date issued: May 2020

Document reference: 1802A2020-21

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Contents

2020 Audit Plan	
Summary	4
Impact of COVID-19	4
Audit of Pension Fund accounts	4
Fee, audit team and timetable	10

2020 Audit Plan

Summary

- 1 As your external auditor, my objective is to carry out an audit which discharges my statutory duties as Auditor General and fulfils my obligations under the Code of Audit Practice to examine and certify whether Powys Pension Fund's (the Pension Fund) accounting statements are 'true and fair'.
- 2 The purpose of this plan is to set out my proposed work, when it will be undertaken, how much it will cost and who will undertake it.
- 3 There have been no limitations imposed on me in planning the scope of this audit.

Impact of COVID-19

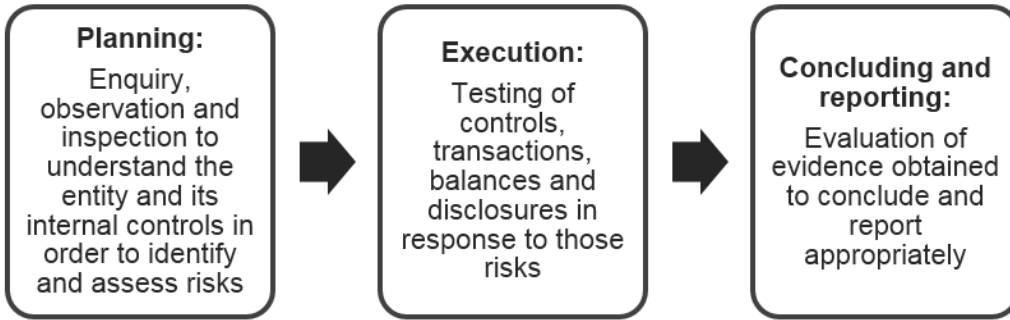
- 4 The COVID-19 national emergency has had an unprecedented impact on the UK and will significantly impact on public bodies' preparation of the 2019-20 accounts and our audit work.
- 5 Due to the UK Government's restrictions on movement and anticipated sickness absence levels, we understand that many bodies will not be able to prepare accounts in line with any previously agreed timetable. As well as the delivery of the Auditor General's statutory responsibilities, the priority is to ensure the health, safety and well-being of Audit Wales staff, their families and those of our partners elsewhere in the public service at this incredibly challenging time.
- 6 In response to the government advice and subsequent restrictions, Audit Wales staff have ceased all on site work at audited bodies and Audit Wales offices. Staff are working from home and will continue to make whatever progress they can whilst working and engaging with you remotely.
- 7 Consequently, this audit plan does not include any details in relation to completion of my audit work. My audit team will discuss a timetable with you once the current national emergency situation is over and the pension fund is in a position to prepare its accounts.
- 8 We commit to ensuring that our audit work will not have a detrimental impact on you at a time when public bodies are stretched and focused on more important matters.

Audit of Pension Fund accounts

- 9 The audit work I undertake to fulfil my responsibilities responds to my assessment of risks. This understanding allows us to develop an audit approach which focuses on addressing specific risks whilst providing assurance for the Pension Fund accounts as a whole. My audit approach consists of three phases as set out in **Exhibit 1**.

Exhibit 1: my audit approach

This table summarises the three phases of my financial audit approach, being planning, testing and reporting.



10 The risks of material misstatement which I consider to be significant and which therefore require special audit consideration, are set out in **Exhibit 2** along with the work I intend to undertake to address them. Also included are other key areas of audit attention my team will be focusing on.

Exhibit 2: Financial audit risks

This table summarises financial audit risks and the corresponding audit work planned in response.

Financial audit risks	Proposed audit response
Significant risks	
<p>Management Override The risk of management override of controls is present in all entities. Due to the unpredictable way in which such override could occur, it is viewed as a significant risk [ISA 240.31-33].</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • test the appropriateness of journal entries and other adjustments made in preparing the financial statements; • review accounting estimates for biases; and • evaluate the rationale for any significant transactions outside the normal course of business.

Financial audit risks	Proposed audit response
<p>Impact of COVID-19</p> <p>The COVID-19 national emergency will see a significant delay in the preparation and publication of accounts. There is a risk that the quality of the accounts and supporting working papers, eg around estimates and valuations, may be compromised leading to an increased incidence of errors. Quality monitoring arrangements may be compromised due to timing issues and/or resource availability.</p>	<p>My audit team will undertake the following steps to ensure the risks arising from COVID-19 are adequately addressed:</p> <ul style="list-style-type: none"> • we will consider if there are areas that require management to provide further evidence due to the fast-changing nature of this issue; • we will discuss with you the key assumptions and evidence bases underlying estimates and will do this at an early stage; • we will adopt a greater focus on the following areas: <ul style="list-style-type: none"> – the financial statement closing process (in particular journal entries and other adjustments made); and – the auditor’s evaluation of the overall presentation of the financial statements, including consideration of whether adequate disclosures have been made.
<p>Other areas of audit attention</p>	
<p>Wales Pension Partnership</p> <p>The eight Pension Funds in Wales have created an ‘all-Wales’ pooled investment vehicle which will be overseen and reported on by a joint governance committee, the Wales Pension Partnership.</p> <p>2019-20 will be the first year that this joint committee will produce full financial statements overseen by the lead authority – Carmarthenshire County Council – Finance Department.</p> <p>Powys Pension Fund transferred £72 million of funds into this new</p>	<p>My audit team will work with the auditors of the joint governance committee to:</p> <ul style="list-style-type: none"> • obtain the assurances needed on the valuation of the funds transferred into the Wales Pension Partnership arrangement; and • the disclosure note provided for individual pension funds by the lead authority.

Financial audit risks	Proposed audit response
<p>arrangement during 2018-19 and a further £37.4 million during 2019-20. We understand that a consistent disclosure note will be provided to all pension funds by the lead authority for inclusion in individual pension fund financial statements.</p>	
<p>Investment Management The systems and records of the investment managers generate account entries made to the Pension Fund Account and Net Assets Statement. The investment managers provide internal control reports on the investments held on behalf of the Pension Fund. These are independently audited and provide the Pension Fund with assurance on a wide range of controls, eg the valuation of the investment portfolio held. There is a risk that the internal control reports will not be available in the necessary timescales and, when received, highlight specific control weaknesses.</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • assess the investment managers as a service organisation; • check that investments have been made in accordance with the Investment Strategy Statement; • obtain direct confirmation from the investment managers and custodian of year-end investment balances and holdings; and • assess whether the investment managers' internal control reports for all investment managers provide assurance over a wide range of relevant controls, including the valuation of investments held.
<p>Private Equity Investments The year-end valuation of private equity investments is provided by investment managers which are based on forward looking estimates and judgements and industry guidelines. With no quoted market price information, there is greater risk with regard to the reasonableness of the valuation basis of these investments.</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • confirm the reasonableness of the estimation basis of the value of these investments included within the financial statements; and • seek additional assurance over the valuation basis from control assurance reports where available.
<p>McCloud Judgement In 2015 the Government introduced reforms to public sector pensions,</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • review the provision made by the actuary in relation to the McCloud judgement and monitor progress on the development of proposals for a

Financial audit risks	Proposed audit response
<p>meaning most public sector workers were moved into new pension schemes. In December 2018, the Court of Appeal ruled that the ‘transitional protection’ offered to some members of the judges’ and firefighters’ schemes, as part of the reforms, amounted to unlawful discrimination. On 15 July 2019 the Government announced that they accept the judgement applies to all of the main public service pension schemes. The impact of the judgement is likely to have a significant impact on the IAS19 liabilities and there is a risk that this is not adequately disclosed in the financial statements.</p>	<p>remedy to be applied in the Local Government Pension Scheme; and</p> <ul style="list-style-type: none"> • ensure that this is adequately disclosed in the financial statements.
<p>Guaranteed Minimum Pension (GMP)</p> <p>GMPs were the minimum pensions employers had to provide when they opted their employees out of the State Earnings Related Pensions Scheme (SERPS) between 1978 and 1997, usually through a defined benefit scheme.</p> <p>GMPs were calculated by reference to state pension age which used to be 60 for women and 65 for men. That made pension payments unequal and contravened the 1990 Barbour judgement.</p> <p>The 2018 Lloyds Banking Group judgement has provided clarification on whether and how GMPs should be equalised and creates an obligation to equalise GMPs dating back to 1990. No allowances have previously been made for GMPs in pension liability calculations as HM Treasury made an announcement in 2019 that public service schemes already had a method in place to achieve equalisation. However, further guidance is anticipated in the coming months, including relating</p>	<p>My audit team will:</p> <ul style="list-style-type: none"> • review any provision made by the actuary relating to the outstanding GMP issues and monitor progress on the development of guidance and clarification of the potential impact; and • ensure that this is adequately disclosed in the financial statements.

Financial audit risks	Proposed audit response
<p>to the calculation of indexation/pension increases on GMPs.</p> <p>There is a risk that appropriate allowances are not made in 2019-20 pension liability calculations for the impact of GMPs.</p>	

- 11 I do not seek to obtain absolute assurance that the Pension Fund accounting statements are true and fair but adopt a concept of materiality. My aim is to identify material misstatements, that is, those that might result in a reader of the accounts being misled. The levels at which I judge such misstatements to be material will be reported to the Audit Committee and to those charged with governance for the Council, as the administering authority of the Pension Fund as a whole, prior to completion of the audit.
- 12 For reporting purposes, I will generally treat any misstatements below a trivial level (set at 5% of materiality as not requiring consideration by those charged with governance and therefore I will not report them.
- 13 My fees and planned timescales for completion of the audit are based on the following assumptions:
- the financial statements are provided in accordance with a timescale to be agreed following the end of the COVID-19 national emergency, to the quality expected and have been subject to a robust quality assurance review;
 - information provided to support the financial statements is in accordance with the agreed audit deliverables document¹;
 - appropriate accommodation and facilities are provided to enable my audit team to deliver my audit in an efficient manner;
 - all appropriate officials will be available during the audit;
 - you have all the necessary controls and checks in place to enable the Responsible Financial Officer to provide all the assurances that I require in the Letter of Representation addressed to me;
 - Internal Audit's planned programme of work is complete, and management has responded to issues that may have affected the financial statements;
- and

¹ The agreed audit deliverables document sets out the expected working paper requirements to support the financial statements and include timescales and responsibilities.

- controls assurance reports are received from fund managers in accordance with agreed timescales and action has been taken to address any controls weaknesses.

Statutory audit functions

- 14 In addition to the audit of the accounts, I have statutory responsibilities to receive questions and objections to the accounts from local electors. These responsibilities are set out in the Public Audit (Wales) Act 2004:
- Section 30 Inspection of documents and questions at audit; and
 - Section 31 Right to make objections at audit.
- 15 The requirements for the exercise of electors' rights under the Public Audit (Wales) Act 2004 continue to apply. This presents some practical difficulties while lockdown restrictions still apply, eg public access to the authority's accounting records.
- 16 Therefore, my audit team will discuss with you an appropriate timetable for public inspection when we have a clear idea of the date on which the accounts will be available and when lockdown restrictions have been sufficiently relaxed. My audit team will issue an audit notice in due course setting out the appointed date for public inspection.
- 17 This may mean that there is a delay before we can issue our audit opinion.
- 18 Audit fees will be chargeable for work undertaken in dealing with electors' questions and objections. Because audit work will depend upon the number and nature of any questions and objections, it is not possible to estimate an audit fee for this work.
- 19 If I do receive questions or objections, I will discuss potential audit fees at the time.

Fee, audit team and timetable

Fee

- 20 Your estimated fee for 2020 is set out in **Exhibit 3**. There have been some changes to my fee rate structure for 2020 however my audit teams will continue to drive efficiency in their audits to ensure any resulting increases will not be passed onto you. The proposed fee for 2020 is in line with the previous year.

Exhibit 3: audit fee

This table sets out the proposed audit fee for 2020 alongside the actual audit fee for 2019.

	Proposed fee for 2020 (£) ²	Actual fee for 2019 (£)
Audit of pension fund accounts	32,256	32,256

- 21 The fee for the financial audit is driven by the skill mix required to deliver the work, together with the daily charge rate for each grade of staff member.
- 22 Planning will be ongoing, and changes to my programme of audit work and therefore my fee, may be required if any key new risks emerge. I shall make no changes without first discussing them with the Head of Financial Services.
- 23 Further information on my [fee scales and fee setting](#) can be found on our website.

Audit team

- 24 The main members of my team, together with their contact details, are summarised in **Exhibit 4**.

Exhibit 4: my audit team

Name	Role	Contact number	E-mail address
Anthony Veale	Engagement Lead	02920 320585	anthony.veale@audit.wales
Phil Pugh	Audit Manager	07964 118615	phil.pugh@audit.wales
Gareth Rees	Audit Lead – Senior Auditor	02921 051815	gareth.rees@audit.wales

² The fees shown in this document are exclusive of VAT, which is not charged to you.

Timetable

- 25 We will continue to undertake such remote work as is possible during the COVID-19 national emergency. However, as set out above, we will not be in a position to agree a timetable with you until the COVID-19 national emergency has passed.
- 26 We will need to discuss any amendments to the timetables for the production and audit of accounts with you but will continue to work as flexibly as we can and are supportive of 'extending' the accounts window where required. It will be vital that this close engagement continues over the next few months, against what will doubtless be a fast-changing backdrop.
- 27 Therefore, we will report on a timetable for our audit work in due course.
- 28 I can confirm that my team members are all independent of the Pension Fund and its officers. In addition, I am not aware of any potential conflicts of interest that I need to bring to your attention.



Audit Wales

24 Cathedral Road

Cardiff CF11 9LJ

Tel: 029 2032 0500

Fax: 029 2032 0600

Textphone: 029 2032 0660

E-mail: info@audit.wales

Website: www.audit.wales

We welcome correspondence and telephone calls in Welsh and English.
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg.

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ANTI MONEY LAUNDERING POLICY

Author	Yvette Kottaun David Morris Income and Awards
Date	Dec 19
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Date Approved	
Date due for review	

Contents

INTRODUCTION TO THE POLICY

1. Context
2. Scope of the Policy
3. What is Money Laundering
4. The Legal and Regulatory Framework and Obligations that it places on the Council

HOW THE COUNCIL WILL RESPONSE

5. The Council's response
6. The Money Laundering Reporting Officer
7. Reporting to the Money Laundering Reporting Officer
8. Customer Due Diligence
9. Training
10. Further Information
11. Review of the Policy

Appendix 1 - How the Council may be exposed to Money Laundering

1. Guidelines to staff and members on concerns and suspicions
2. The types of activities that may be affected

Appendix 2

- Money Laundering Report Form
- Money Laundering Disclosure Form – to be completed by the Money Laundering Reporting Officer

INTRODUCTION

1 Context

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

2 Scope of the Policy

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

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

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

3 What is Money Laundering?

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

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

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

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

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

There are also two 'third party' offences:

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

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

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

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

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

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

4.2 The Terrorism Act 2000 makes it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism. Under the Terrorism Act 2000, all individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for terrorism or its laundering, where it relates to information that comes to them in the course of their business or employment.

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

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

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

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

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

5 THE COUNCIL’S RESPONSE

5.1 The Council is responsible to undertake the following:

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

6 The Money Laundering Reporting Officer

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

will be the Deputy Money Laundering Reporting Officer.

7 Reporting to the Money Laundering Reporting Officer (MLRO)

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

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

7.2 To support the above process, **Appendix 1** provides information on the types of activities where the Council may be subject to money laundering offences and guidance to staff on situations where money laundering activities could occur.

7.3 All available information needs to be given to the MLRO to enable them to make an informed judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare a report to the National Crime Agency (NCA) NCA, for example:

- Full details of the people involved (including yourself, if relevant) e.g. name, date of birth, address, company names, directorships, phone numbers etc.
- Full details of the nature of their / your involvement
- The types of money laundering activity involved. (The MLRO can help identify this)
- The dates of such activity, including whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The (likely) amount of money / assets

7.4 Suspicions can be raised through direct contact with the MLRO; however it is preferable to use the reporting form which has been developed at **Appendix 2**, and e-mail / post the completed form to the MLRO.

7.5 The employee, Member or third party should not make any further enquiries into the matter themselves and any further action must be with the approval of the MLRO. Those who have raised a concern should ensure that they do not then voice their suspicions to the suspect or tell them that you have reported the transaction. Otherwise you may commit a criminal offence of 'tipping off' which carries a maximum penalty of 5 years imprisonment and unlimited fine.

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

8 Customer Due Diligence

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

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

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

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

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

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

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

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

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

8.7 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:

- There is actual or suspected money laundering taking place; or
- There are reasonable grounds to know or suspect that is the case and
- Whether they need to seek consent from NCA for a particular transaction to proceed.
- Where the MLRO concludes a referral is needed then they must disclose the matter as soon as possible to the NCA

8.8 Where the MLRO suspects either:

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

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

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

9 Training

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

10 Further Information

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

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

- Anti-Money Laundering Guidance for the accountancy sector , published by CCAB www.ccab.org.uk
- Anti-Money Laundering Guidance for the legal sector at www.lawsociety.org.uk
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 at: <https://www.legislation.gov.uk>

11 Review of the Policy

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

How the Council may be exposed to Money Laundering

1 Guidelines to staff and members on concerns or suspicions

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

- 1.1 If you do have any suspicions or concerns about an individual or transaction then it is always better to raise those concerns appropriately. If necessary, you may wish to use the Council's Whistleblowing Policy for further support and guidance on how to raise a concern. Conversely, if in doubt, seek advice from the MLRO.
- 1.2 Although some offences and suspicions may be fairly apparent, some can be more difficult to identify. The simple guidance is to be vigilant, and not be afraid to question something if you don't think looks right. If you think something looks suspicious, then the probability is someone else may also think the same. It is better for the Council to be safe when handling public money – it would not reflect well on the Council's reputation if it was found we had taken monies that were obtained through theft, drug trafficking, terrorism, etc.
- 1.3 It is recognised that a lot of the Council's activities are sensitive in nature, and in cases what, to some people, may be suspicious or concerning behaviour, from a money laundering perspective may not necessarily be in line with the activity occurring. However, people should always be mindful of genuine concern and suspicion.

2 The types of activities that may be affected

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

Activity	The types of activity that may be affected
New customers with high value transactions	<ul style="list-style-type: none"> • Selling property to individuals or businesses • Renting out property to individuals or businesses • Entering into other lease agreements • Undertaking services for other organisations
Secretive clients	<ul style="list-style-type: none"> • Housing benefit claimants who have sums of money entering into / out of their bank account (even if we do not award them benefit, we should still consider money laundering implications) • People buying or renting property from the Council who may not want to say what it is for • People receiving grant funding who refuse to demonstrate what funding was used for
Customers who we think are acting dishonestly or illegally	<ul style="list-style-type: none"> • People paying for Council services who do not provide details about themselves • People making odd or unusual requests for payment arrangements

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

MONEY LAUNDERING REPORT FORM

Employee Details

Name _____

Department / Section _____

Date Reported _____

Contact details _____

Offence Details

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

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

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

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

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

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

Signed _____

Date _____

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

MONEY LAUNDERING DISCLOSURE FORM – TO BE COMPLETED BY THE MONEY LAUNDERING REPORTING OFFICER

Date of Money Laundering Report Form being received _____

Date when acknowledgement receipt of Money Laundering Report Form

Report Form related to _____

Report Form completed by: _____

Officer contact details _____

Action taken to review Report Form

Findings of review

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

If yes, please complete the following details:

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

Is consent required from NCA? Has consent been received?

--

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

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

Other relevant information

--

Signed _____

Name _____

Date _____



ANTI-FRAUD & CORRUPTION POLICY

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

Contents

1	Introduction
2	Definitions of Fraud, Bribery & Corruption
3	The Council's commitment
4	Prevention of Fraud, Bribery & Corruption
5	Detection of Fraud, Bribery & Corruption
6	Investigation
7	Responses to reported Concerns and Suspicions
8	Action to deter Fraud, Bribery & Corruption
9	Measuring the effectiveness of this Policy
10	Review and approval of this Policy

Appendix 1	The Seven Principles of Public Life
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1 INTRODUCTION

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

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

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

2 DEFINITIONS OF FRAUD, BRIBERY & CORRUPTION

- 2.1 Fraud is defined as:

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

- 2.2 This may involve:

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

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

- 2.4 Bribery is defined as:

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

2.5 Corruption is defined as:

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

3 THE COUNCIL'S COMMITMENT

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

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

4 PREVENTION OF FRAUD, BRIBERY & CORRUPTION

Recruitment and induction

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

Training

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

Internal Control Arrangements

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

Organisational Culture and Conduct

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

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

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

Internal Scrutiny Arrangements

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

External Scrutiny Arrangements

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

Working with Others

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

5 DETECTION OF FRAUD, BRIBERY & CORRUPTION

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

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

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

6 INVESTIGATION

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

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

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

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

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

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

7 RESPONSES TO REPORTED CONCERNS AND SUSPICIONS

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

8 ACTION TO DETER FRAUD, BRIBERY & CORRUPTION

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

9 MEASURING THE EFFECTIVENESS OF THIS POLICY

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

10 REVIEW AND APPROVAL OF THIS POLICY

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

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

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

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

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

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

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

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

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

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POWYS COUNTY COUNCIL



FRAUD SANCTION & PROSECUTION POLICY

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

1 Policy Statement

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

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

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

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

2 Introduction

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

2.2 The objectives of this policy are:

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

3 Determining the Appropriate Sanction Route

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

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

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

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

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

- 3.4 The decision to refer cases for prosecution to legal services or to recommend the issue of civil/financial penalties as alternatives to prosecution, where permitted by certain legislation, will be taken by the Sanction Panel. This will consist of a Solicitor, input from the service Senior Manager and the Income and Awards Senior Manager, in conjunction with the Councils Head of Financial Services.

- 3.5 Alternatively, Corporate Anti-Fraud Team or the Council may refer cases to the police for investigation who may then refer matters to the Crown Prosecution Service or other prosecutor. This may occur in cases of staff fraud or where the fraud is complex and/or of a very serious nature or linked to Safeguarding issues.

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

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

4 The decision to prosecute

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

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

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

(1) The Evidential Stage

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

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

(2) Public interest test

A prosecution will usually take place unless:

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

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

5 Members / Staff / Support Staff

5.1 In all cases of:

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

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

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

6 'Welfare' Fraud

- 6.1 This includes any local or national benefit/allowance administered on behalf of the Council or central government, for example, housing benefit, council tax reduction support, social fund, direct payments, some council tax discounts/exemptions and any national benefits which the council is empowered to investigate, such as job seekers allowance, income support and employment support allowance (under any pilots or agreed partnership.)
- 6.2 Under amendments to the Local Government and Social Security legislation there are often options to consider financial penalties as an alternative to prosecution and these should always be considered. However, in serious cases of fraud or where repeat offending occurs, the option to prosecute offenders will be kept under review.

7 Civil Penalties

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

8 Administrative Penalties.

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

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

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

9 Housing/Tenancy Fraud

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

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

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

10 Other Fraud

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

11 Proceeds of Crime

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

12 Recording Penalties Sanctions and Prosecutions

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

13 Publicity

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

14 Reporting and Review

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

15 Further reading and guidance that supports this policy

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

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