

AUDIT AND GOVERNANCE COMMITTEE



Report subject	Annual Evolution (for the 2022/23 financial year) of the 'Anti-Fraud & Corruption Policy', the 'Whistleblowing Policy', the 'Declaration of Interests, Gifts & Hospitality Policy' (for Officers) and the 'Regulation of Investigatory Powers Act (RIPA) and the Investigatory Powers Act (IPA) Policy.
Meeting date	17 March 2022
Status	Public Report
Executive summary	<p>An annual review of the Council's:</p> <ul style="list-style-type: none"> • Anti-Fraud & Corruption Policy, • Whistleblowing Policy, • Declaration of Interests, Gifts & Hospitality Policy (for Officers) • Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy <p>has taken place to ensure they are updated in line with best practice and legislation.</p> <p>Some minor changes have been made to the Council's Anti-Fraud & Corruption Policy including updating/simplifying the definition of corruption along with other wording and contact detail amendments.</p> <p>The Whistleblowing Policy has been updated following a review against best practice in the ISO37002 Whistleblowing Management Systems guidelines. Some other changes have been made including clarifying that the Policy's primary purpose is to deal with disclosures relating to Council business and also explaining the process for employees raising safeguarding concerns.</p> <p>Several changes have been made to the Council's Declaration of Interests, Gifts & Hospitality Policy (for Officers) including clarifying the need for officers to comply with the policy when 'local arrangements' may exist, clarifying officer responsibilities under the policy, providing further guidance/clarification on gifts and also making declaration forms clearer on how the approving manager has made their decision about any declarations and the need, or not, for any measures to manage actual or perceived conflicts. A 'frequently asked questions' section has also been included in the policy.</p> <p>The previous Regulation of Investigatory Power Act (RIPA) Policy has been strengthened to include provision for acquiring communications data so is now more explicitly and accurately titled, Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy.</p> <p>The strengthened sections include a statement that the scenario of BCP acquiring communications data, using the IPA provisions, is unlikely to be used. However, should the need ever arise, the strengthened sections include the process for a Council nominated Authorising Officer to give approval for IPA communications data access/acquisition and is reflected in the Accessing Communications Data Flowchart (Appendix E to the Policy).</p> <p>Some amendments have been made to Appendix B (RIPA</p>

	Authorisation Process) including use of necessary forms and clarification that surveillance can only take place until the expiry date is reached. A section has also been added for Policy consultation, equalities impact assessment date and document control.
Recommendations	<p>It is RECOMMENDED that Audit & Governance Committee:</p> <ul style="list-style-type: none"> Approve the Council's the Anti-Fraud & Corruption Policy, Whistleblowing Policy, Declaration of Interests, Gifts & Hospitality Policy (for Officers) and the Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy for the 2022/23 financial year. Delegate any changes required as part of the review of the Policies by the Equalities Impact Assessment Panel on 24th March 2022 to the Head of Audit & Management Assurance.
Reason for recommendations	To ensure Council policies are regularly reviewed and updated in line with best practice and legislation.
Portfolio Holder(s):	Cllr Drew Mellor, Leader of the Council
Corporate Director	Graham Farrant, Chief Executive
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Wards	Council-wide
Classification	For recommendation approval

Background

1. The Audit & Governance Committee Terms of Reference states the committee should consider and approve arrangements for counter-fraud and corruption.
2. This report provides an updated Anti-Fraud & Corruption Policy, Whistleblowing Policy, Declaration of Interests, Gifts and Hospitality Policy (for Officers), and Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy following an annual review to ensure they are in line with best practice and current legislation.
3. All four policies form part of the Council's governance arrangements for preventing, detecting and acting upon fraud and corruption.

Anti-Fraud & Corruption Policy (see Appendix A)

4. The purpose of the Council's Anti-Fraud & Corruption Policy is to:
 - highlight relevant legislation
 - set out the Council's approach to countering fraud and corruption
 - detail roles and responsibilities of officers and councillors and
 - provide further detailed guidance for officers and managers

5. Some minor changes have been made to the policy including updating/simplifying the definition of corruption to “*The abuse of entrusted power for private gain*” and some other minor wording/contact detail amendments.

Whistleblowing Policy (see Appendix B)

6. The Council's Whistleblowing Policy seeks to enable individuals to feel confident in raising concerns in the public interest about suspected serious wrongdoing in the Council and its services without fear of reprisals or victimisation even where the concern or allegations are not subsequently confirmed by the investigation.
7. A review has been carried out to assess the policy against the ISO37002 Whistleblowing Management Systems best practice guidance. The following areas have been added to the policy:
 - The impact of not reporting wrongdoing
 - Retention periods for disclosure records
 - Requesting feedback from the whistleblower (added 'Stage 7 – Lessons learnt in consultation with the whistleblower' in Whistleblowing Procedure Appendix 1)
 - The process for any breaches of a whistleblower's confidentiality or anonymity
 - Assessing the risk of detriment to the whistleblower
 - Ensuring timely response to the disclosure
8. Some other changes have been made to the policy which include clarifying that the Policy's primary purpose is to deal with protected disclosures relating to Council business and also clarifying the process to follow regarding safeguarding concerns (Children's or Adults) that are raised by an employee.
9. Other minor wording changes and updated links/contact details have also been made.

Declaration of Interests, Gifts & Hospitality Policy (for employees) (see Appendix C)

10. The purpose of the Declaration of Interests, Gifts & Hospitality Policy is to protect the Council and employees against conflicts of interest and allegations of impropriety. The public must be confident that decisions made by employees of whatever nature are made for good and proper reasons and are not influenced inappropriately by the interests of individual employees, their relatives or friends.
11. Several changes have been made to the policy as part of the annual evolution as summarised below:
 - Clarified need to for employees to comply with this policy when using their own discretion to make eligibility decisions, award decisions or grant permissions in addition to local service arrangements that may also exist.
 - Added responsibility of Line Managers/Team Leaders/ Heads of Service to ensure all completed Form 1's are held centrally within the Service Directorate.
 - Added responsibility of Service Directors to, in the case of an employee being a beneficiary in a service user's Will, determine the appropriate course of action.
 - Updated definition of corruption as: The abuse of entrusted power for private gain. Forms of corruption include lack of impartiality, cronyism, and embezzlement.
 - Clarified that the Gifts flowchart does not apply to a gift from a third-party representative (not a service user) which may be accepted if the employee is accepting the gift of behalf of the Council (or residents) and they deem that refusing the gift would cause significant offence (an Officer decision record is required in these circumstances).
 - Amended Gifts flowchart to clarify that any gift of value over £25 from a representative of organisation or persons who do, or might, provide work, goods or services to the Council or who require a decision from the Council should never be accepted.

- On Forms 1 and 2 added sections for the approving manager to detail why they have made their decision about the declaration/gift/hospitality and any actions or other requirements to manage actual or perceived conflicts.
- Added Appendix E – Frequently Asked Questions.

Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy (see Appendix D)

12. A new BCP RIPA Policy was approved by the Audit & Governance Committee on 22 April 2021.
13. The BCP RIPA Policy explains the type of surveillance the Council can and cannot undertake and also explains those limited circumstances where covert surveillance, requiring external authorisation, may be appropriate.
14. The use of Regulation of Investigatory Powers Act (RIPA) annual report 2020/21 was presented to Audit & Governance Committee on 29 July 2021. This report explained that BCP Council was in the process of drafting an Investigatory Powers Act 2016 (IPA) Policy for communications data acquisition and this would be presented to Audit & Governance Committee for approval in due course.
15. Following consultation and advice, including from the Investigatory Powers Commissioner's Office Inspector, it is more appropriate to combine the Regulation of Investigatory Powers Act and Investigatory Powers Act into one strengthened single policy as only minor changes were needed to the existing Regulation of Investigatory Powers Act Policy.
16. The combined Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy has been updated with the following changes:
 - Clarified that the IPA is unlikely to be used by the Council.
 - Introduced requirement for a Council nominated Authorising Officer to give approval for IPA communications data access/acquisition before onward consideration by NAFN (National Anti-Fraud Network).
 - Introduced requirement for unique reference number to be obtained from the RIPA Administrator for IPA authorisation requests.
 - Added section for Policy consultation, equalities impact assessment date and document control.
 - Included details of full approval process for IPA in Appendix A (Surveillance that can and cannot be carried out by LA's).
 - Some amendments made to Appendix B (RIPA Authorisation Process) including use of necessary forms and clarified surveillance can only take place until the expiry date is reached.
 - Amendments made to Appendix E (Accessing Communications Data Flowchart) including reference to serious crime, a new 'necessary and proportionate' question, the need to obtain approval from Authorising Officer and assignment of unique reference number by RIPA Administrator.
 - Some other minor wording changes.

Training and Awareness

17. Further training and awareness will be carried out to ensure the policies are widely communicated, recognised and available.

Options Appraisal

18. An options appraisal is not applicable for this report

Summary of financial implications

19. There are no direct financial implications from this report. All four policies seek to establish strong governance arrangements to prevent fraud and corruption including financial loss through wrongdoing.

Summary of legal implications

20. The relevant legal implications (including non-compliance) are included in the attached policies.

Summary of human resources implications

21. Council Policies generally apply to all relevant individuals acting on behalf of the Council. Some of the content and requirements of the four policies in this report only apply to council employees and where this is the case specific other arrangements may exist for other individuals acting on the Council's behalf such as Councillors or contractors.

Summary of sustainability impact

22. There are no direct sustainability impact implications from this report.

Summary of public health implications

23. There are no public health implications from this report.

Summary of equality implications

24. The equality implications have been considered as part of the development of the policies attached to this report. Equality impact assessment screening tool forms have been reviewed and updated., The Policies will be formally presented to the Equalities Impact Assessment Panel on 24th March 2022 as per the new BCP governance arrangements for approving Council Policies. Audit & Governance Committee are asked to delegate any changes arising from this process to the Head of Audit & Management Assurance. No material changes are anticipated as experts from the Panel have already informally reviewed the Policies.

Summary of risk assessment

25. There are no direct risk assessment implications from this report.

Background papers

None

Appendices

Appendix A - Anti-Fraud & Corruption Policy

Appendix B - Whistleblowing Policy

Appendix C - Declarations of Interests, Gifts & Hospitality Policy (for Officers)

Appendix D - Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy