

Council



Report of the head of legal and democratic and the monitoring officer

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To: COUNCIL

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Review of the council's Constitution

Recommendations

That Council:

1. adopts the following sections of the Constitution with immediate effect:
 - (i) the Procurement Procedure Rules, set out in Appendix B, as Part 4 (8);
 - (ii) the Anti-Fraud, Corruption and Bribery Policy, set out in Appendix C, as Part 5 (8);
 - (iii) the Whistleblowing Policy, set out in Appendix D, as Part 5 (3); and
2. authorises the head of legal and democratic to make these changes and any further minor or consequential amendments to the Constitution.

Purpose of Report

1. This report proposes revisions to the current Constitution to ensure it is up-to-date and reflects the council's changing environment.

Strategic Objectives

2. The Constitution underpins all the council's decision-making and therefore supports all Corporate Plan objectives.

Background

3. South Oxfordshire District Council and Vale of White Horse District Council have adopted a joint Constitution. The majority of the Constitution applies equally to both

councils, with a few minor differences. Periodically the councils undertake a Constitution review in pursuance of the requirements in Section 37 of the Local Government Act 2000.

4. The Joint Constitution Review Task Group was appointed by the two Councils in December 2021 to conduct this review. The task group consists of members from both South Oxfordshire District Council and Vale of White Horse District Council and is cross-party. The task group has met regularly in 2022. Two co-chairs were appointed to the review group: Councillor Stefan Gawrysiak from South Oxfordshire and Councillor Emily Smith from the Vale, who alternate the chairing role. The task group is supported by the head of legal and democratic, officers from democratic services, as well as service-specific officers where appropriate.
5. Only full Council can amend the Constitution. This report is being submitted to both councils' Council meetings and sets out the task group's recommendations.

Scope of this review

6. The task group is in the process of reviewing the Constitution from front to back to reflect the model Constitution adopted by most councils. The task group is aware of the size of this undertaking and has adopted a step-by-step approach. The task group's first report to Council was in October 2022, when both Councils adopted the recommendations. A revised version of the Constitution was published thereafter. This is the second of the task group's reports to Council as part of a series of regular reports to recommend new sections.
7. Due to the need to ensure the re-written Constitution is both correct and easy to read, the task group has had two readings of each element.
8. A full schedule of the elements of the new Constitution and the progress made by the task group is shown in the contents and action tracker, attached at **Appendix A**.

Suggested changes to the Constitution

Part 4 – Rules of Procedure: Procurement Procedure Rules

9. The current Constitution contains a section called Contract Procedure Rules. This was written several years ago and has increasingly become out-of-date. An officer team from the Finance Procurement team and Legal Services worked together to review the procedure rules. In conducting their review, officers gathered examples of best practice and guidance from the Chartered Institute of Public Finance and Accountancy. A revised set of procedures was put before the task group as a draft.
10. The task group welcomed the strategic approach that had been taken to the new procedure rules. The aim had been to make the rules easier to use and make it easier for companies to contract with the councils. A risk-based approach had been adopted, and standard contracts were recommended wherever possible. The rules guided officers in how to prepare contracts and advised on the need to support the council's corporate objectives, including the need for ethical procurement. The task group supported the principles behind the new procedure rules.

11. The new set of **Procurement Procedure Rules**, if adopted by the Councils, will form Part 4 (8) of the new Constitution. These rules are attached at **Appendix B**. Council is asked to adopt the new Procurement Procedure Rules with immediate effect.

Part 5 – Codes and Protocols: Anti-Fraud, Corruption and Bribery Policy

12. The task group recognises the need for the council to regularly review its anti-fraud, corruption and bribery policy to ensure it is up-to-date and follows the latest best practice. The policy provides guidance on how to raise concerns about fraud, bribery or corruption within the councils. It helps employees understand when, how and who to contact when they have concerns about fraud, bribery or corruption. It also helps councillors, co-optees on the councils' committees, partners, contractors, suppliers, voluntary organisations, and members of the public to understand how and when to contact the relevant council with their concerns.
13. The task group has reviewed the policy and included a response plan to set out what would happen if there was a breach. The revised policy makes it clear that fraud, bribery or corruption will not be tolerated, that the councils are committed to preventing and detecting fraud, bribery or corruption, and that those perpetrating fraud, bribery or corruption will be prosecuted.
14. Council is asked to adopt the new Anti-Fraud, Corruption and Bribery Policy, as set out at **Appendix C**, with immediate effect. It will form Part 5 (8) of the new Constitution.

Part 5 – Codes and Protocols: Whistleblowing Policy

15. The task group has reviewed the whistleblowing policy. A whistleblowing policy is an essential part of any good governance framework. The council promotes a culture of openness and fairness and expects all those who work for and with them to adopt the highest standards of propriety and accountability. However, all councils face a risk that something may go wrong and must address those risks as early as possible. Whenever a situation arises, there must be an opportunity for anyone to raise their concern before damage is done. This opportunity must be available without any fear.
16. The task group believes that the council must commit to the highest possible standards of openness, honesty and accountability in their activities. The council can also expect the highest standard of conduct and integrity from those that work with and for the council. The council must take seriously and investigate reports of improper activities. The revised whistleblowing policy aims to ensure that when anyone raises concerns, the councils will address them and protect the person raising the concern. The policy provides guidance on how to raise concerns within the council.
17. Council is asked to adopt the new Whistleblowing Policy, as set out at **Appendix D**, with immediate effect. It will form Part 5 (3) of the new Constitution.

Financial Implications

18. There are minimal financial implications for amendments to the Constitution as no paper copies are printed. The Constitution is published to the council's website and the public, councillors and officers are encouraged to refer to this online version.
19. The review of the Constitution is aimed at making the council's procedures more efficient and therefore there may be some financial gains as a result of the proposed changes.

Legal Implications

20. Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review. The Monitoring Officer is responsible for ensuring that the council operates within the law and that the Constitution is fit for purpose.

Conclusion

21. This report sets out proposals to further amend the Constitution. The Joint Constitution Review Task Group recommends that Council approves the proposed changes for implementation on the dates shown above and authorises the head of legal and democratic to make these changes and any further minor or consequential amendments.
22. The Constitution review is a continual process. Any changes adopted by Council can be subject to further review or adjustment. The task group will continue with the review and will make further recommendations to Council in due course.

Background Papers

None

APPENDIX A

Constitution Contents and Action Tracker South Oxfordshire and Vale of White Horse District Councils

Section	Description	Review status	Date approved by Task Group	Date adopted by Council
Contents Page				
Part 1	Summary and Explanation	Complete	29 April 2022	12/13 October 2022
Part 2				
Articles of the Constitution				
	1 – The Council Constitution	Complete	20 June 2022	12/13 October 2022
	2 – Members of the Council			
	3 – Residents and the Council			
	4 – The Full Council			
	5 – Chair of Council			
	6 – Scrutiny Committees			
	7 – The Cabinet			
	8 – Regulatory and Other Committees			
	9 – Ethical Standards Complaints Panel			
	10 – Joint Arrangements			
	11 - Officers			
	12 – Decision Making			
	13 – Finance, Contracts and Legal Matters			
	14 – Review and Revision of the Constitution			
	15 – Suspension, Interpretation and Publication of the Constitution		16 August 2022	
Part 3				
Responsibility for Functions				
	3 (A) Introduction, Key Decisions, Forward Plan			

Section	Description	Review status	Date approved by Task Group	Date adopted by Council
	3 (B) Council Functions			
	3 (C) Committee Functions	Under consideration by Task Group	Still under review	Part adopted by Council in October 2022
	3 (C) (a) Working Groups and Advisory Bodies			
	3 (D) Non-Executive Delegations			
	3 (E) Executive Functions and Cabinet Member Responsibilities			
	3 (E) (a) Table of Executive Functions			
	3 (F) Statutory and Proper Officer List			
Part 4 Rules of Procedure				
	4 (1) Council Procedure Rules			
	4 (2) Cabinet Procedure Rules			
	4 (3) Access to Information Procedure Rules			
	4 (4) Budget and Policy Framework			
	4 (5) Overview and Scrutiny Procedure Rules			
	4 (6) Audit Procedure Rules			
	4 (7) Financial Rules			
	4 (8) Procurement Procedure Rules	Drafted	8 November 2022	To Council on 7/8 December 2022
	4 (9) Officer Employment Procedure Rules	Complete	29 September 2022	12/13 October 2022
Part 5 - Codes and Protocols				
	5 (1) Members' Code of Conduct	New Oxfordshire code of conduct adopted by both	Not required	18 and 19 May 2022

Section	Description	Review status	Date approved by Task Group	Date adopted by Council
		Councils in May 2022		
	5 (2) Officers' Code of Conduct	Complete	29 September 2022	12/13 October 2022
	5 (3) Whistleblowing Policy	Drafted	8 November 2022	To Council on 7/8 December 2022
	5 (4) Protocol on Member and Officer Relations	Complete	29 September 2022	12/13 October 2022
	5 (5) Planning Protocol	Being drafted		
	5 (6) Licensing Protocol			
	5 (7) Protocol for the Attendance of Officers and Members at Meetings			
	5 (8) Anti-Fraud, Corruption and Bribery Policy	Drafted	8 November 2022	To Council on 7/8 December 2022
	5 (9) Arrangements for assessing allegations of a breach of the Member Code of Conduct	Revised arrangements adopted by both Councils	Not required	South Council 9 December 2021 Vale Council 8 December 2021
	5 (10) Role Profiles for Councillors			
	5 (11) Local Petitions Scheme			
	5 (12) Code of Governance	Under review by officers		
	Optional			
	Social Media Protocol for Members			
	Press and Media Protocol	Complete	16 August 2022	12/13 October 2022
	Councillor Call for Action			
	Members' Parental Leave Policy	Added to Constitution following	Not required	South Council 9 December 2021

Section	Description	Review status	Date approved by Task Group	Date adopted by Council
		adoption by the Council		Vale Council 8 December 2021
Part 6 – Members Allowances Scheme				
	South and Vale Councillors’ allowances schemes	Updated 1 April 2022 to reflect new allowances approved by the Council	Not required	South Council 7 October 2021 Vale Council 6 October 2021
Part 7 - Management Structure				
	Management structure February 2022	Approved by Chief Executive under delegated powers	Not required	Not required

KEY

YELLOW HIGHLIGHTING	UNDER REVIEW BY TASK GROUP OR BEING RECOMMENDED TO COUNCIL
GREEN HIGHLIGHTING	ADOPTED BY COUNCIL

APPENDIX B

Procurement Procedure Rules

SECTION 1 INTRODUCTION

The aim of this document and its underlying procedures is to bring Value for Money to the forefront of any expenditure when procuring Supplies, Services, or Works, awarding any Concession and disposing of surplus or obsolete goods/stock. These procurement rules ('the Rules') together with the Corporate Procurement Strategy and supporting guidance notes will help to ensure strategic, efficient, and economic contracts are in place, that are managed well, and help to reduce costs and risk within the supply chain. This will also help to ensure all procurements contribute to the economic, social, and environmental benefits for our communities.

Background

- 1.1. The Council is accountable to the public for the way it spends public funds, ensuring value for money, efficient, effective, and economic delivery of services and maximising the benefits available from the budgets and activity which supports the Council's strategic objectives as set out in the corporate plan. These Rules comprise standing orders and set out the framework that must be followed for:
 - i. the procurement of Supplies, Services or Works
 - ii. the award of any Concession and/or
 - iii disposal of surplus goods or obsolete items of stock or items on an inventory.
- 1.2. The Rules are complemented with supporting guidance notes and templates which must be adhered to. These documents will be periodically reviewed and amended by the Council's Procurement Team in consultation with Legal Services and the Section 151 Officer where appropriate, to reflect changes in law, policy, corrections. etc.
- 1.3. In the case of Concessions, reference should be made to the Concession Contracts Regulations 2016 ('CCR') and advice sought from the Procurement Team and / or Legal Services

General Principles

- 1.5. These Rules constitute the Council's standing orders in respect of third party contracts for the purposes of section 135 of the Local Government Act 1972:
 - i. To ensure the Council complies with its legal obligations regarding:
 - (a) the procurement of Supplies, Services and Works
 - (b) any Concession; and
 - (c) Disposals
 - ii. To ensure the Council obtains Value for Money and Best Value
 - iii. To prevent corruption or the suspicion of it

- iv. To ensure fairness and equality of treatment of all suppliers, avoidance of bias, favouritism and that fairness can be demonstrated through an audit trail, and
- v. To promote Social Value, including the local economy and environmental sustainability, to the extent that it is legally permitted
- vi. To align with the Council's Corporate Procurement Strategy.

1.6. All Contracts must be let in accordance with:

- i. all applicable laws from time to time
- ii. these Rules and the Constitution (including the Financial Procedure Rules and scheme of delegation)
- iii. the Council's standard terms and conditions from time to time. **See Guidance Note Using the Council standard terms and conditions of contract (PROC26)**

Where this is not possible, or departure is being considered, the Waiver process set out in these Rules should be followed in advance of any Procurement commencing with the requisite form being completed and signed off by Procurement (and legal and finance if required) for audit purposes. Depending on the nature of risk / complexity to be assessed by the Procurement Team, Legal Services shall be consulted ahead of any formal decision as to whether a Waiver is appropriate. **See Guidance Note Use of Waivers (PROC24).**

1.7. For Supplies or Services procurement related to Financial, Legal Services or ICT, these should not commence without prior approval from the Procurement Team, in conjunction with Legal Services, where appropriate.

1.8. The Council's procurement process shall:

- i. Comply with such of the Council's policies as are relevant, specifically the Corporate Procurement Strategy, Social Value Policy and associated supply chain standards and initiatives
- ii. Seek to reduce disadvantage, advance equality and promote community cohesion as defined in the Equality Act 2010
- iii. Make every effort to promote local businesses including Small and Medium-sized Enterprises ('SMEs').

1.9. No Contract shall be made unless:

- i. There is a statutory power to do so
- ii. It can be demonstrated that it represents Value for Money
- iii. The necessary authorisation has been obtained in accordance with the
- iv. Constitution and appropriate decision-making process
- v. It positively contributes to the Council's strategic themes and priorities, and
- vi. It is in compliance with all applicable laws and Council policies in force from time to time.

1.10. In addition, where a procurement is to be undertaken it should:

- i. Ensure that the whole needs of the Council are considered and wherever possible taken into account
- ii. Take into consideration opportunities to benefit from collaboration either inter department or inter authority or using existing compliant Contracts.

When the Rules do not apply

- 1.12. These Rules do not apply to:
- 1.13. Service contracts excluded under Regulation 10 of the Public Contracts Regulations Act (2015) ('PCR'), including but not limited to:
 - i. Contracts regarding the purchase or lease of property, acquisition, disposal, transfer of land, or any interest in land which includes licenses (for which the Council's Land Transaction Procedure Rules shall apply)
 - ii. Expenditure on legal matters (including all associated costs and fees) in connection with legal proceedings (including tribunals, inquiries, civil or criminal court proceedings and external legal advice in anticipation or contemplation of legal proceedings)
 - iii. Treasury Transactions as outlined within the council's Treasury Management Strategy.
- 1.14. Contracts awarded under the PCR 12(1) (formerly referred to as the Teckal exemption).
- 1.15. Contracts awarded under PCR 12(7) (e.g. establishing or implementing a public contract with another public sector entity).
- 1.16. Contracts of employment which make an individual a permanent or interim employee of the Councils (for the avoidance of doubt this exemption does not apply to the appointment of consultants).
- 1.17. Non-contractual funding arrangements (including Grant agreements under which the Council gives a Grant to third parties in accordance with the applicable policy or procedures) provided that the terms of the funding arrangements do not contain mutual obligations which would constitute a Contract (rather than a Grant).
- 1.18. Specific licencing requirements (such as TV Licence or Public Entertainment Licence) or subscriptions to national organisations (such as the Local Government Association).
- 1.20. Contracts for the execution of either Works or provision of Supplies or Services which must be provided by a Statutory Undertaker other than the Council. This includes, but is not limited to, arrangements with a utilities provider, where the Council has no discretion regarding whether Works are required or who must deliver them
- 1.21. Disposal of supplies deemed surplus to Council needs;
- 1.22 In the event of a genuine emergency or a major disaster involving immediate risk to persons, property or serious disruption to Council services or significant financial loss, these Rules would not apply to the extent necessary to deal with the immediate risk.
- 1.23 Once the immediate risks of that genuine emergency or major disaster has been duly mitigated, any follow up actions which would typically be subject to these

Rules should look to comply with the Rules as soon as practically possible following this.

Waivers

1.24. It should be the default position to obtain Best Value through competition, as described in these Rules, unless there are compelling reasons not to do so which are compliant with relevant laws. The **Guidance Note: Use of Waivers (PROC24)** must be applied in these instances.

1.25 The circumstances in which a Waiver may be requested are as follows:

- A. **No Genuine Competition** There is no genuine competition, for example Works, Supplies and Services:
- i Are sold only at a fixed price and no reasonably satisfactory alternative is available
 - ii are wholly controlled by trade organisation or government order and no reasonably satisfactory alternative is available
 - iii are of a proprietary type only available from a single supplier
 - iv are required for repairing or servicing existing specialist plant or equipment
 - v involve the provision of highly specialised professional legal or other services
 - vi constitute a reasonable short-term extension (less than 6 months) of a time-based contract or form part of a serial programme, the terms having been negotiated with the contractor on the basis of rates and prices contained in an initial contract awarded competitively following an invitation to Tender or Quote in accordance with these Rules
- (B) **Unforeseen Emergency** – A Waiver is necessary because of an unforeseen emergency involving immediate risk to persons, property or serious disruption to Council services
- (C) **Contract Extension** – The Contract is an extension of an existing Contract and a change of supplier would cause disproportionate technical difficulties, diseconomies of scale or significant disruption to Council services.

1.26. When considering a Waiver, it must be done in a manner that ensures the best interests of the Council are being secured.

1.27 Note that the approval of a Waiver does not preclude the need to formalise any necessary approvals and administration, for example, the creation of purchase orders and a formal Contract.

1.28 When requesting a Waiver, the Waiver Template must be used and the relevant Waiver(s) specified and evidenced (**See Guidance Note - Use of Waivers PROC24**)

Standards, Breaches and non-compliance

1.29. Compliance with these Rules is mandatory.

- 1.30. Those with responsibility for fulfilling their duties in line with the Rules are required to maintain ongoing knowledge and awareness to ensure compliance.
- 1.31. It will be the responsibility of Officers (including those with line management responsibilities) to address non-compliance swiftly and in the most appropriate way according to the circumstances.
- 1.32. Means of reporting concerns can also be raised anonymously in line with the Council's Anti-Fraud and Whistleblowing policies
- 1.33. Failure to comply with these Rules may constitute a disciplinary matter that may be pursued as appropriate, in accordance with the Council's Disciplinary Policy.
- 1.34. Councillors or Officers must not seek or receive any bribe, gift or inducement of any kind. Any Councillor or Officer who has either been offered a bribe, gift or inducement, or is aware or suspects that another Councillor or Officer has been, shall report it to the Monitoring Officer.
- 1.35. If a Councillor or Officer is, or could be, in a position where somebody with whom they have a family, personal or financial relationship might bid for a contract, they must not be involved in any way in the procurement exercise or seek to influence it.
- 1.36 Officers should follow the Employee Code of Conduct and relevant authorisations.
- 1.37. Councillors shall be aware of the requirements of the member Code of Conduct and must declare any direct or indirect interest in accordance with the law and such code.
- 1.38. Other than Cabinet Members who will be consulted where appropriate, councillors have no role in the Procurement process and must ensure that their actions do not compromise or impact on the due process that has been set out.

SECTION 2 KEY FINANCIAL & PROCUREMENT THRESHOLDS

General

- 2.1. Before considering a new procurement, the following approaches should be used:
- i. Use of internal Council services; or
 - ii. Use of an existing corporate Contract 2.2. The above should take into account the wider principles of these Rules.

Observance of Thresholds

- 2.3. The value for a proposed Contract must be a genuine pre-estimate and must be based on the total aggregated value over the life of the Contract, including any provision for extension(s).
- 2.4. Where there is a requirement for similar Supplies, Services and / or Works, this spend should be aggregated to ensure compliance with the PCR, in particular Regulation 6. There shall be no disaggregation of requirements across the Council in order to avoid the Key Financial Thresholds.
- 2.5. The **Guidance Note: Financial Values (PROC33)** together with the Key Financial Thresholds should be followed when determining which threshold applies in particular circumstances.

Authorisation and approvals Stages

- 2.6. Approvals and authorisations shall be made at four key stages (Sign-Off Approvals):
- i. Stage 1 – Determining the appropriate Route to Market – (Procurement Plan sign off)
 - ii. Stage 2 – Confirmation of Award Decision
 - iii. Stage 3 – Contract Variations / Extensions
 - iv. Stage 4 – Benefits Realisation (for Significant Contracts)

Table 1 Key Financial Thresholds & Procurement Procedures

ACTIVITY	UP TO £24,999	Over £25k to £75k	Over £75k to FTS Threshold	Over FTS Threshold (Services, Supplies, Concessions or Light Touch Regime) ¹
Tender process (as a minimum)	Obtaining at least one written Quotation using the appropriate email template	Quotation process obtaining at least 3 quotes using ITQ Template with specification and evaluation information	Formal Tender process seeking a minimum of three Tenders using ITT Template	Formal compliant Tender procedure
Formal advertising / publication of opportunity and award	Optional	eTendering System and Contracts Finder	eTendering System and Contracts Finder	eTendering System and Contracts Finder
Contract published on Contract Register	Yes, if total value exceeds £5,000 plus	Yes	Yes	Yes
Use of e-Tendering System?	Optional	Yes	Yes	Yes
Application of a Waiver (see Guidance Note: Use of Waivers PROC24)	Not required but necessary records to be kept for audit purposes	Yes – in line with Scheme of Delegation	Yes – in line with Scheme of Delegation	Yes – in line with Scheme of Delegation
Procurement Team engaged	Yes	Yes	Yes	Yes

¹ See Guidance Note Financial Values PROC33 for FTS Threshold information

Table 2 Authorisations, approvals and Contract signatory

Value Level	Acceptance of Quotation/Tender	Order/Contract Signatory
Up to £25,000	Service Manager	Service Manager
In excess of £25,000, but not more than £75,000	Head of Service	Head of Service
In excess of £75,000 but not more than FTS Threshold	Head of Service in consultation with relevant Cabinet Member	Head of Service
In excess of FTS Threshold	Cabinet approval	Executed by an Authorised Signatory of the Council

SECTION 3 KEY PROCESSES AND OTHER CONSIDERATIONS

Background

- 3.1. The following section provides a summary of key areas to consider when assessing procurement implications and / or undertaking a procurement process.

Due Diligence

- 3.2. Relevant subject matter experts (e.g. service area teams, Procurement Team, Legal Services, Finance Team, ICT, Property Team, Data Protection Officer, etc.) are to be consulted at appropriate times during the procurement process.
- 3.3. Prior to their involvement in a procurement activity, Officers (including those involved in the development specifications right through to being part of an evaluation team) are required to sign a declaration of conflict / interest form, (**see Conflicts of Interest Declaration and Confidentiality Undertaking form PROC08**) outlining any direct or indirect interest, canvassing and confidentiality matters. The completed form should be retained on the corporate Contract Register (**see Guidance Note Contract Register & Document Storage PROC31**) as part of the Contract records.

Timescales

- 3.4. Documenting specifications clearly and accurately is critical to achieving the right long-term outcomes for the Council so Officers should dedicate sufficient time for this activity.
- 3.5. Timescales for submission of tenders / quotations shall be reasonable, sufficient and proportionate to enable suppliers to submit a suitable response in order to facilitate genuine competition and compliance with the relevant PCR requirements.
- 3.6. Where the procurement is a re-tender it is essential to put in place necessary and appropriate time in advance to ensure continuity of service.

Preliminary Market Consultation

- 3.7. Where relevant and proportionate to do so, preliminary market consultation is permitted and encouraged with the intention of informing the procurement process and potential suppliers. Where such consultation takes place, care shall be taken that it is in line with the PCR and in particular Regulations 40 and 41.

Advertising Opportunities

- 3.8. Publishing of quotation / tender opportunities shall be in line with Key Financial Thresholds and all relevant procurement procedures. The primary means of advertising shall be via Contracts Finder, any associated Portal in connection with the Council's default eTendering System and for those subject to the PCR on FTS.

- 3.9. Advertising of Contracts subject to the PCR shall be in line with the requirements of the PCR and in particular Regulations 49 and 50 plus Regulation 106 in relation to Contracts Finder.

Procurement Clarifications

- 3.10. Where Quotations/Tenders are placed via the Council's eTendering System, clarifications on the procurement are only permitted via that eTendering System.
- 3.11. Discussions with Bidders after submission of a Tender and before the award of a Contract, with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) is generally not permitted. If this is considered necessary then advice must be sought from the Procurement Team.
- 3.12. Planned and structured supplier contact in the form of a Bidder's day or dialogue / negotiation as part of a prescribed procedure are permitted. Advice should be sought from the Procurement Team before undertaking such a process.

Evaluation

- 3.13. Quotations and Tenders will be evaluated in accordance with the evaluation criteria disclosed in the published procurement documents.
- 3.14. In setting criteria and in the evaluation of Quotations and Tenders, reference should be made to **Guidance Note: Production of Specification and Evaluation (PROC03)**.

Opening of Quotations / Tenders

- 3.15. In line with Key Financial Thresholds and relevant procurement procedures, Quotations and Tenders are submitted via eTendering System (**See Guidance Note eTendering System (PROC37)**) and will be transmitted by electronic means. Quotations and Tenders submitted by electronic means shall ensure that:
- i. evidence that the transmission was successfully completed is obtained and recorded through the system, and
 - ii. Quotations and Tenders are not opened until the deadline has passed for receipt of tenders.
- 3.16. Quotations and Tenders received after the specified date and time must be assessed in line with any guidance note or policy applicable at the time and in the absence of such direction in consultation with the Procurement Team.
- 3.17. Where information is felt to be missing or omitted in a Quotation and Tender then reference should be made to any guidance note or policy applicable at the time and in the absence of such direction in consultation with the Procurement Team.
- 3.18. Where the eTendering System is not used in relation to a quotation process, an audit trail shall be put in place in order to uphold the principles as set out in

these Rules. A record shall be made of the Quotations received including names, addresses and the date and time of opening using Guidance Note: Quotation Opening Record (PROC07).

Contract Award

- 3.19. Where a Contract is awarded with a value above the relevant threshold within the Key Financial Thresholds the following information shall be published on Contracts Finder: name of contractor; date on which Contract entered into; value of Contract; whether contractor is a SME or VCSE.
- 3.20. For all Contracts subject to the PCR, Contract Award Notices shall take into account any requirements and conditions around Standstill Period, in line with Regulation 87 and an individual contract report is to be completed in line with regulation 84 of the PCR.

Application of the Light Touch Regime

- 3.21. Under the PCR the Councils can apply flexibility to the approach and procedures for certain Services. A list of services to which the Light Touch Regime applies can be found in Schedule 3 of the PCR.
- 3.22. The Light Touch Regime only applies to Contracts over the PCR stated threshold (see Guidance Note Financial Values PROC33)
- 3.23. Although the use of the flexibility permitted by the Light Touch Regime is encouraged the procurement procedures and the award of Contracts must be at least sufficient to ensure compliance with the principles of transparency and equal treatment and demonstrate Value for Money.
- 3.24. Application of the Light Touch Regime does not negate requirements to comply with these Rules and follow the Council's formal decision-making process.

Contracts and documentation

- 3.25. All Contracts shall be executed by an Officer with authority to do so in accordance with these Rules.
- 3.26. The use of electronic signatures and sealing is permitted provided any process established and approved by Legal Services from time to time is followed.
- 3.27. Subject to 3.28, a Contract must be executed as a deed when one or more of the following situations exist (See Guidance Note: Financial Values (PROC33)):
- i The Contract relates to a construction project (whether a Contract for Works or a Contract for Services) where the overall value of the Works or Services is greater than the relevant sum set out in the Key Financial Thresholds.
 - ii Contracts for Works below the relevant sum set out in the Key Financial Thresholds where there is a risk of latent defects
 - iii Where it is particularly complex or high risk as identified in the Procurement Plan
 - iv Where it is a mortgage or charge

- v Where it is for the acquisition or disposal of an interest in land
- vi Where it is an appointment of a trustee, and/or
- vii Where it is a power of attorney.
- viii Where the Services relate to an interest in land or property
- ix Where it is a Grant agreement

- 3.28. Notwithstanding the above, there is no requirement for a Contract to be executed as a deed where the Head of Legal and Democratic has determined that a deed is not required.
- 3.29. The formal advice of Legal Services must be sought for a Contract that includes one or more of the following features:
Where the Contract Value is greater than the FTS Threshold for Services and Supplies and greater than the relevant sum set out in the Key Financial Thresholds for Works See Guidance note Financial Values PROC33
- Where it involves financial lease arrangement
 - Where it is proposed to use a contractor's own terms
 - Where it is particularly complex or high risk
 - Where a contractor or the circumstances demand a substantive amendment to the Councils' precedent contract documents
- 3.30. Where payment in advance is required then formal written approval of the S.151 Officer is also required. In the event of industry standards leading to a common accepted practice of advance payments (e.g. software licences) this would only need to be sought once.
- 3.31. All Contract formalities must be concluded before the Supply, Service or Works begin, bar in exceptional circumstances, and then only with the written approval of Legal Services. All related Guarantees and/or Bonds should be delivered in accordance with the Contract/Tender.
- 3.32. The Officer responsible for securing signature of the Contract must ensure that the person signing for the other contracting party has authority to bind it. Cases where this is uncertain must be referred to Legal Services.

Contract Extensions and Variations

- 3.33. Extensions or variations to existing contracts must be made in line with the **Guidance Note: Financial Values (PROC33)**.
- 3.34. If the particular circumstances of an extension or variation are not covered by these Rules, guidance should be sought from the Procurement Team, with confirmation sought from a Legal Services (where required) that the variation or extension does not conflict with applicable procurement law.

Contract Management

- 3.35. Contract management must be an integral part of the consideration when seeking to award a new Contract. This will include establishing dedicated contract managers and contract management systems that are aligned to contract and corporate objectives, Value for Money and performance

improvement. **See Guidance Note Contract Implementation and Contract Management (PROC14)**

- 3.36. Payments shall be made in accordance with the contract and in a timely manner so as to avoid the payment of any interest charges.
- 3.37. During the life of a Contract, the contract manager must monitor the Contract in line with any approved Contract management framework
- 3.38. If a contractor fails to comply with any of the provisions of a Contract, the contract manager must try to secure compliance. Proper records must be kept regarding Contract failings and any corrective measures put forward. If this is not successful, the matter should be referred promptly to the Procurement Team and advice sought as to what action should be taken to protect the Council's interests.
- 3.39. Where practicable, all Contracts should contain a dispute resolution procedure. If a contractor raises a dispute which is not clearly within the terms of a Contract, the contract manager must not negotiate a settlement until the claim has been referred to:
- i A Legal Officer for advice about the Council's legal liability, and,
 - ii The Section 151 Officer for advice about the financial implications.

OTHER MATTERS AND CONSIDERATIONS

Frameworks and Dynamic Purchasing Systems (DPS)

- 3.40. These Rules allow for the use of frameworks placed by other public authorities, central government and other third parties.
- 3.41. The use of a Framework Agreement or DPS set up by a third-party must be approved by the Procurement Team, who will seek advice from Legal Services where necessary. This is to ensure the framework is both the most appropriate route and that it is open for the Council to use.
- 3.43. All call-offs must be in accordance with the terms of relevant framework agreement.

Subsidy Control Commitments

- 3.45. Trade and Co-operation Agreement ("TCA") must be considered in situations or circumstances where the proposed arrangement may provide an advantage through state resources on a selective basis to any organisation(s) that could potentially distort competition and / or trade.

Provision of Art

- 3.46. Where the Council is seeking to acquire or commission the creation of a unique work of art or an artistic performance then the **Guidance Note: Acquisition and Commissioning of Art (PROC35)** shall be followed.

Retention, Bonds and Guarantees

- 3.47. As part of the overall due diligence, consideration should be taken as to the necessity or otherwise around seeking a Retention, Bond or Guarantee based on strategic risk. See **Guidance Note: Retention, Bonds and Guarantees (PROC35)**

SCHEDULE 1 – DEFINITIONS

DEFINED TERM	MEANING
Authorised Signatory of the Council	Means such individual(s) within the Council authorised to sign documents on its behalf as set out in the relevant section of the Constitution from time to time.
“Best Value”	Means arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
“Bidder”	Means any person who asks or is invited to submit a quotation or tender.
“Bond”	Means a financial instrument evidencing a debt of the issuer, under which the issuer promises to pay the bondholder the face value of the bond plus (usually) amounts of interest at future dates
“Cabinet Members”	Means Councillors appointed to the cabinet which carries out all of the Council’s functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution
“CCR”	Means The Concession Contracts Regulations 2016
“Code of Conduct”	Means any code of conduct applicable to Councillors of the Council from time to time.
“Concession”	Means any contract under which the Council grants rights, land or property to another organisation
“Constitution”	Means the Council’s Constitution of which these Rules form part
“Contract” or “Contracts”	Means contracts that have been or are to be set up with the express intention of supporting the delivery of Works, Service or Supplies or Concessions.
“Contract Award Notices”	Means a formal written communication sent from the Council to a Bidder accepting a Quotation or Tender
“Contract Manager”	Means the officer appointed by the relevant officer (pursuant to Rule 3.39) with responsibility for managing a particular Contract.
“Contract Value”	<p>Means the whole life value or estimated whole life value (in money or equivalent value) for any purchase (including any extensions available) calculated as follows:</p> <p>(a) Where the Contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the fixed period</p> <p>(b) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions over the life expectancy of the Contract</p> <p>(c) Where the Contract is for an uncertain duration, by multiplying the monthly payment by 48.</p> <p>Specific guidance is available in the Procedural Note: Financial Values.</p>

“Contract Register”	Means the register kept by the Council detailing all Contracts with a value of £5,000 or more.
“Contracts Finder”	Means the service provided by the UK Government by which contractors can search for information and contract opportunities within the public sector
“Corporate Procurement Strategy”	Means a high-level document which sets out the approach to show how procurement will support the council’s corporate plans and priorities and strategic themes
“Councillor”	Means a duly elected Member representing the Council in line with the Council’s Constitution.
“Council”	Means South Oxfordshire District Council OR Vale of White Horse District Council
“Data Protection Officer”	Means the Officer appointed by the Councils as being responsible for their data protection affairs from time to time.
“Disciplinary Policy”	Means any policy relating to the conduct and disciplinary procedures applicable to employees of the Council from time to time
“Disposals”	Means disposal by the councils of surplus goods or obsolete items of stock or items on an inventory
“DPS”	Means Dynamic Purchasing System
“Employee Code of Conduct”	Means the policy which sets out the expected conduct from the Council’s Officers, Contractors, agency staff and those on casual contracts
“eTendering System”	Means the Electronic Tendering System
“Finance Team”	Means the team within the Council responsible for conduct of their financial affairs
“Framework Agreement”	Means an agreement between one or more public bodies with one or more contractors, the purpose of which is to establish the terms governing contracts to be awarded during a given period.
“FTS”	Means the Find a Tender Service (or such alternative service from time to time) as is provided by the UK Government
“FTS Threshold”	Means the sum above which the UK Government recommends that the FTS be used in the UK’s public and utilities sectors. The current FTS Threshold is set out in PROC33: Financial Values Guidance Note

“Grant”	For the purpose of this document Grant shall mean a payment to help the recipient (e.g. charity) to delivery an agreed outcome but has no contractual basis. In return, the grant funder (e.g. the Council) gets no direct service delivery. A grant is usually provided subject to conditions that state how the Grant shall be used (for example to support the wider objectives of the Council in promoting the social, economic or environmental well-being within their communities). Grant funding is usually preceded by a call for proposals. The Grant offer letter will normally set out general instructions as to how this is to be achieved, and any particular conditions in regard to clawback if those wider objectives are not met
“Guarantee”	Means an instrument that guarantees a debt will be repaid to a lender by another party if the borrower defaults
“Head of Service”	Means an Officer appointed by the Council to head one of its services as set out in the Council’s management structure.
“ICT”	Means the team within the Councils responsible for their Information Communication Technology affairs.
“ITQ Template”	Means the template used by the Council to invite a Quotation anticipated to be under £75,000
“ITT Template”	Means the template used by the Council to invite a Tender anticipated to be £75,000 or over
“Key Decision”	Means a key decision as defined in the Constitution.
“Key Financial Thresholds”	Means the financial thresholds for contract value as defined from time to time in Table 1 of Section 2 of these Rules
“Legal Officer”	Means the Director – Legal and Democratic Services or such other Legal Officer with the appropriate delegated authority.
“Legal Services”	Means the team within the Council that is responsible for the provision of legal services.
“LGA”	Means Local Government Association
“Light Touch Regime”	Means the Light-Touch Regime as defined in and applying to services set out in Schedule 3 of the Public Contracts Regulations 2015 (Annex A)
“Local Authorities”	Means Public Sector organisations as defined as Local Authorities in the UK
“Monitoring Officer”	Means the Officer duly appointed in accordance with Section 5 of the Local Government and Housing Act 1989
“Officer”	Means an Officer as employed by the Council with relevant and appropriate authority to act on behalf of the Council.

“PCR”	Means the Public Contracts Regulations Act (2015)
“Portal”	Means the Southeast Business Portal run by Proactis (or such alternative service from time to time) used to publish the Council’s Contract opportunities
“Procurement Guidance”	Means the guidance notes issued by the Procurement Team together with a number of standard documents and forms, which supports the implementation of these Rules.
“Procurement Officer”	Means the appropriate officer in the Procurement Team
“Procurement Plan”	Means the document used by the Council to obtain sign off and approvals to procure and award contracts
“Procurement Team”	Means the team of individuals responsible for procurement on behalf of the Council from time to time.
“Property Team”	Means the team within the Council responsible for managing their property portfolio affairs from time to time.
“Quotation”	Means a quotation of price and any other relevant matter (without the formal issue of an invitation to Tender).
“Retention”	Means a sum of money withheld by the Council from a contractor in respect of any defects or rectifications identified or needed during a specified period following practical completion of a Contract
“Rules”	Means the procurement rules set out in this document
“Section 151 Officer”	Means Officer duly appointed in accordance with Section 151 of the Local Government Act 1972.
“Service Manager”	Means an Officer appointed by the Council to manage a Council service as set out in the Council’s management Structure
“Sign Off Approval”	Means a series of quality assurance checkpoints through which a procurement project needs to pass prior to approval, publication and contract award.
“Significant Contract”	For the purposes of these Rules a Significant Contract shall mean a Contract that is defined in line with the Council’s contract management framework (currently under development).
“SMEs”	Means small and medium-sized enterprises
“Social Value”	Public authorities are required, under the Public Services (Social Value) Act 2012 to, when commissioning a public service, consider how the service they are procuring could bring added economic, environmental and social benefits.

“Standstill Period”	Means a period following the notification of an award decision in a contract tendered before the Contract is awarded to the successful Bidder(s) as set out in the Public Contract Regulations 2015 in line with Regulation 87.
“Statutory Undertaker”	Means bodies authorised by any enactment to carry on certain specified undertakings
“Supplies, Services or Works”	Means Supplies, Services or Works as defined in the Public Contracts Regulations 2015.
“TCA”	Means the EU-UK Trade and Cooperation Agreement
“Teckal”	The right to award contracts for Works, Services or Supplies from the controlling authority to the Council Owned company. See the Regulations regulation 12 for more details: http://www.legislation.gov.uk/ukxi/2015/102/regulation/12/made
“Tender”	Means a Bidder’s proposal submitted in response to an invitation to tender.
“Treasury Transactions”	Treasury Transactions as outlined within the council’s Treasury Management Strategies.
“UK”	Means the United Kingdom of Great Britain and Northern Ireland.
“Value for Money”	Means optimum combination of whole-life cost and quality (or fitness for purpose) to meet the customer’s requirement. This includes consideration of Social Value.
“VCSE”	Means a voluntary, community & social enterprise
“Waiver”	Means the circumstances set out in these Rules whereby the normal procurement process can be set aside.
“Waiver Process”	Means the process outlined by these Rules by which it is established that a Waiver shall apply
“Waiver Template”	Means the template document issued by the Council from time to time by which Officers may apply for a Waiver.

SCHEDULE 2 – SUMMARY OF GUIDANCE NOTES

GUIDANCE NOTES	LOCATION
Acquisition and Commissioning of Art (PROC35)	Not yet drafted
Anti-Fraud Policy	
Conflicts of Interest Declaration & Confidentiality Undertaking (PROC08)	
Contract Register and Document Storage (PROC31)	
eTendering System (PROC37)	Still to be drafted
Financial Values (including Key Financial Thresholds (PROC33))	
Quotation Opening Record (PROC07)	
Retention, Bonds and Guarantees (PROC36)	
Use of Waivers (PROC24)	
Using the council standard terms and conditions of contract (PROC26)	Still to be updated by AC

SUMMARY OF POLICIES

COUNCIL POLICIES	LOCATION
Corporate Procurement Strategy	
Councillor Code of Conduct	
Disciplinary Policy	
Employee Conduct Policy	
Financial Procedure Rules	
Land Transaction Procedure	
Scheme of Delegation	
Social Value Policy	
Treasury Management Strategy	
Whistle Blowing Policy	

APPENDIX C

Anti-fraud, bribery and corruption policy

Introduction

1. This is a joint policy adopted by South Oxfordshire District Council and Vale of White Horse District Council. The policy aims to provide guidance on how to raise concerns about fraud, bribery or corruption within the councils.
2. In carrying out their functions and responsibilities, the councils wish to promote a culture of openness and fairness and expect all those who work for and with the councils to adopt the highest standards of propriety and accountability.
3. Following the publication of the Nolan Report in 1997, the Local Government Act 2000, and several well publicised cases concerning fraud and corruption within local government, the councils recognise the need for a policy to prevent wrongdoings.

Who this policy applies to

4. This policy aims to help employees (including temporary and agency staff), to understand when, how and who to contact when they have concerns about fraud, bribery or corruption. Employees must ensure they adhere to legal and contractual requirements and ensure that all procedures and practices remain above reproach.

Note: As well as using this policy and its associated response plan, any person employed or engaged by the relevant council who makes a report under this policy, should refer to the councils' whistleblowing policy for guidance.

5. This policy also aims to help councillors, co-optees on the councils' committees, partners, contractors, suppliers, voluntary organisations, and members of the public to understand how and when to contact the relevant council with their concerns.

Links to strategic objectives

6. This policy underpins the councils' strategies, initiatives and work plans.

Aims and scope of this policy

7. The councils agree that in having committees agree this policy:
 - it sets the standard at a sufficiently high level that makes it clear that fraud, bribery or corruption will not be tolerated
 - that the councils are committed to preventing and detecting fraud, bribery or corruption
 - that those perpetrating fraud, bribery or corruption will be prosecuted.
8. The councils acknowledge that the vast majority of their employees and those that work with them act with honesty and integrity at all times to safeguard the public resources they are responsible for. However, there are people who will not act in this way.

9. The councils will not accept any level of fraud, bribery or corruption. Consequently, all cases identified will be thoroughly investigated and dealt with appropriately.
10. The councils will undertake investigative activity regardless of the suspect's length of service, position/title, or relationship to the council.

Definitions

FRAUD

11. According to the Fraud Act 2006, fraud can be committed in the following three ways:

FRAUD BY FALSE REPRESENTATION: "representation" means any representation as to fact or law and may be express or implied. A person commits an offence when they dishonestly make a false representation, and intends, by making the representation to:

- make a gain for himself or another, or
- cause loss to another person or
- to expose another to a risk of loss.

A representation is false if:

- it is untrue or misleading, and
- the person making it knows that it is, or might be, untrue or misleading.

FRAUD BY FAILING TO DISCLOSE INFORMATION: an offence is committed where a person dishonestly fails to disclose to another person information, which he is under a legal duty to disclose, and intends, by failing to disclose the information to:

- make a gain for himself or another, or
- cause loss to another or to expose another to a risk of loss.

FRAUD BY ABUSE OF POSITION: an offence is committed where a person occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position, and intends, by means of the abuse of that position to:

- make a gain for himself or another, or
- cause loss to another or to expose another to a risk of loss.

In addition the Act introduces new offences in relation to obtaining services dishonestly, possessing, making and supplying articles for use in frauds

The term *fraud* is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusions.

12. This policy therefore covers all financial impropriety including theft or corruption, which are described in more detail below:
 - According to the 1968 Theft Act 'a person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it'.

- Corruption is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the actions taken by the audited body, its members or employees.
- Money Laundering is the process by which criminals attempt to “recycle” the proceeds of their criminal activity in order to conceal its origins. The burden of identifying and reporting acts of money laundering rests with the councils. Any service that receives money from an external source is potentially vulnerable. The Anti-Money Laundering Policy contains more detail. The Money Laundering Reporting Officer (MLRO) is the Sect. 151 Officer.

ACTIONS CONSTITUTING FRAUD OR CORRUPTION

13. Actions constituting fraud or corruption may include, but are not limited to:
- any dishonest or fraudulent act against a council
 - forgery or alteration of any document or account belonging to a council
 - forgery or alteration of a cheque, bank draft or any other financial document
 - misappropriation of funds, securities, supplies, or other assets
 - impropriety in the handling or reporting of money or financial transactions
 - profiteering as a result of insider knowledge of council activities
 - disclosing confidential and proprietary information to outside parties
 - destruction, removal or inappropriate use of records, furniture, fixtures and equipment
 - failure to declare an interest.
14. Areas particularly susceptible to fraud, bribery or corruption are set out below with examples of fraudulent activity (the list is not exhaustive). Appendices A and B of the anti-fraud, bribery or corruption response plan contain hints and signs to look out for that indicate that fraud or corruption may exist.

Area	Example of fraudulent activity
Contracts	Collusion with others during the tendering process
Council tax	People claiming single person discount when they are not entitled to
Recruitment fraud	Fictitious work history and/or references
Abuse of position	Falsification of records to cover up fraudulent activity such as stolen cash
Travel claims	False journeys claimed, inflated mileage or two employees claiming for a journey taken together
Expense claims	Claims submitted to the council(s) and/or a third party
Cash receipts/ petty cash	Accepting cash without receipting it or reimbursement sought for receipted but inappropriate expenditure
Payroll	Hours worked over-stated to take advantage of overtime for financial gain
Ordering and payments	Goods ordered for personal use Goods ordered from a specific supplier in return for some form of benefit
Stocks and assets	Unauthorised use of stationery Using council assets for personal use such as running a private business
Timesheets	Falsifying hours worked

	Claiming to be sick but carrying out paid work elsewhere
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BRIBERY

16. The Bribery Act 2010 was introduced to update and enhance UK law on bribery including foreign bribery. Notably, it introduces a new strict liability offence for companies and partnerships of failing to prevent bribery. The introduction of this new corporate criminal offence places a burden of proof on local authorities to show they have adequate procedures in place to prevent bribery. The councils could be guilty of an offence if an ‘associated person’ carries out an act of bribery in connection with its business. A person will be ‘associated’ with the councils where that person performs services for or on behalf of the councils. The Bribery Act also provides for strict penalties for active and passive bribery by individuals as well as companies.
17. The Bribery Act creates four prime offences:
 - two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting an advantage;
 - a discrete offence of bribery of a foreign public official; and
 - a new offence of facility by a commercial organisation to prevent a bribe being paid to obtain or retain business or a business advantage (should an offence be committed, it will be a defence that the organisation has adequate procedures in place to prevent bribery).
18. Bribery can be described as the receiving of an inducement for an action which is illegal, unethical or in breach of trust. Inducements can take the form of gifts, fees, rewards or other advantages.

Identifying the risk of fraud, bribery or corruption and risk mitigation

19. In having a risk management strategy, which includes risk mitigation measures, the councils aim to detect fraud, bribery or corruption and deter potential perpetrators of such activity.
20. This policy and its associated anti-fraud, bribery and corruption response plan set out exactly what steps to take on suspecting fraud, bribery or corruption.
21. In having a continuous programme of fraud, bribery or corruption awareness and regular updates and training for new and existing staff the councils aim to mitigate the risk of fraud, bribery or corruption taking place.
22. In referring to this policy in its quotation/tender documents with suppliers and its procurement guide, the councils aim to mitigate the risk of fraud, bribery or corruption taking place.

Avenues for reporting suspicious activity

23. The councils have in place a number of ways of reporting suspicions of fraud, bribery or corruption.

24. Non-employees of either council can use the council's complaints process, or the complaints process relating to the councillors' code of conduct.
25. In relation to employees, the relevant council will deal with matters in confidence and in accordance with the terms of their joint whistleblowing policy and the Public Interest Disclosure Act 1998.

Responsibilities

26. The primary responsibility for the prevention, detection and investigation of fraud, bribery or corruption rests with senior management, who are also responsible for managing the risk of fraud, bribery or corruption. The purpose of this policy is to set out more specific responsibilities for its prevention.

REPORTING FRAUD, BRIBERY OR CORRUPTION

27. In accordance with the councils' financial procedure rules in the councils' constitutions, "Any relevant person ...shall notify the chief finance officer or internal audit manager immediately of any financial or accounting irregularity, or suspected irregularity, or of any circumstances which may suggest the possibility of such loss or irregularity, including those affecting cash, stores, property, remuneration or allowances."

RECEIVING REPORTS AND PREVENTING FRAUD, BRIBERY OR CORRUPTION

28. The following paragraphs set out more specifically the roles and responsibilities of those receiving reports of fraud, bribery or corruption and their roles and responsibilities in preventing wrongdoings arising in the first place.
29. The anti-fraud, bribery corruption response plan provides further information on who should take what action on discovering a potential fraud, bribery or corruption.

MONITORING OFFICER

30. The monitoring officer has responsibility for:
 - ensuring that this policy is current
 - initiating action if fraud, bribery or corruption may have been identified
 - the lawfulness and fairness of decision making
 - ensuring that councillors are aware of the protocols, policies and procedures, as set out at the end of this policy that apply when carrying out their duties.

SECTION 151 (CHIEF FINANCE) OFFICER

31. The section 151 (chief finance) officer has responsibility for:
 - the proper administration of the councils' financial affairs under s.151 of the Local Government Act 1972 and s.114 of the Local Government Finance Act 1988. This includes the employee nominated by him/her to act in his/her absence and any employee of his/her staff acting on his/her behalf.
 - reporting to councillors and the Audit Commission if either council, or one of its representatives makes, or is about to make a decision which is unlawful, or involves illegal expenditure or potential financial loss (Local Government Finance Act 1988 s.114).

- investigations arising from allegations raised under the whistleblowing policy when the chief executive, internal audit manager and monitoring officer agree with the section 151 (chief finance) officer that he/she will take on the responsibility.

HUMAN RESOURCES

32. Human Resources is responsible for ensuring that new employees, during induction, are aware of their contractual obligations in relation to anti-fraud, bribery or corruption as well as this policy, the associated response plan and their links with the whistleblowing policy.

MANAGERS

33. Managers are responsible for:
- maintaining internal control systems and communicating them to their staff
 - ensuring that the councils' resources and activities are properly applied in the manner intended
 - identifying the risks to which systems and procedures are exposed
 - developing and maintaining effective controls to prevent and detect fraud, bribery and/or corruption
 - ensuring that controls are being complied with
 - implementing audit recommendations promptly
 - responding to reports of possible financial impropriety in accordance with the whistleblowing policy.

INDIVIDUAL EMPLOYEES

34. All employees should take seriously and treat with confidence any concerns raised about a potential fraud, bribery or corruption. The councils encourage reporting of suspicions and will protect those who do so (even if the suspicions are unfounded but made with good intent), as set out in the councils' whistleblowing policy.
35. The councils expect employees to follow any code of conduct relating to their personal professional qualifications and abide by the relevant councils' code of conduct for their staff.
36. Employees must operate within Section 117 of the Local Government Act 1972, to give notice in writing of pecuniary (financial) interests in contracts relating to their council or the offer of any fees or rewards other than their proper remuneration.
37. All employees must declare any offers of gifts or hospitality, which are in any way related to the performance of their council duties. The councils' guidance on gifts and hospitality provides more information.
38. Employees should not undertake work or activities outside their direct employment with either council if their council duties overlap in some way with their proposed work or activity, e.g. by causing a conflict of interest or by making use of material to which they have access by virtue of their council employment.
39. Any employee wishing to undertake other employment should check with their manager whether they need permission from their head of service to do this and

whether they should register the employment on an annual basis. If the employee needs permission the head of service should send copies of correspondence, including permission, to human resources who will record it.

40. The councils encourage all staff to make voluntary declarations for all secondary employment based on the need for open government.
41. As well as employment contract obligations, each employee is responsible for:
 - remaining aware of the policies and procedures set out at the end of this policy
 - their own conduct and contribution towards the safeguarding of council standards in accordance with the policies and procedures set out at the end of this policy
 - acting with propriety when using council resources, when handling council funds, whether they are involved with cash or payments systems, receipts or dealing with contractors or suppliers and
 - reporting details immediately to their line manager or the most appropriate employee if they suspect that fraud, bribery or corruption has been committed or they have seen any suspicious acts or events.

INTERNAL AUDIT

42. Internal audit has responsibility for:
 - the independent appraisal of control systems
 - assisting in the investigation of irregularities.

COUNCILLORS AND CO-OPTED MEMBERS OF THE COUNCILS' COMMITTEES

43. All councillors and co-optees should take seriously and treat with confidence any concerns raised about a potential fraud, bribery or corruption. The councils encourage reporting of suspicions and aim to protect those who do so (even if the suspicions are unfounded but made in good faith).
44. Councillors and co-optees must ensure that they avoid any situation where there is potential for a conflict of interest.
45. Each councillor or co-optee of the councils is responsible for:
 - observing standards, set out in the councillors code of conduct
 - familiarising themselves with the codes, protocols, policies and procedures as set out at the end of this document.

THE EXTERNAL AUDITOR

46. The external auditor has responsibility for:
 - reviewing the stewardship of public money by the councils and
 - considering whether the councils have adequate arrangements in place to prevent fraud, bribery or corruption.

THE CABINET OFFICE

47. The Cabinet Office has responsibility nationally for the biennial National Fraud Initiative (NFI). Under Section 6 of the Audit Commission Act 1998, the Cabinet Office (previously the Audit Commission) requires all councils to provide employees'

(including councillors') payroll data to enable data matching to take place with the aim of preventing and detecting fraudulent and erroneous payments from the public purse. The councils participate in this.

BENEFIT FRAUD TEAM

48. The councils' benefit fraud team carries out activities to prevent and detect benefit fraud.

THE ROLES OF THE COMMITTEES

49. South Oxfordshire and Vale of White Horse District Councils' Joint Audit and Governance Committee has responsibility for:
- risk management issues and making any recommendations thereon
 - the overview of the councils' whistleblowing policy
 - the overview of the councils' anti-fraud, bribery or corruption arrangements
 - matters relating to the councillors' code of conduct that the Monitoring Officer refers to them.

THE POLICE

50. The police may:
- investigate links to offences
 - give prevention advice
 - advise on any pre-investigation work
 - maintain a dialogue with management and/or internal audit during an investigation.

Prevention of fraud, bribery or corruption

REGULATORY FRAMEWORK

51. The councils have a wide range of mechanisms in place aimed at preventing and detecting fraud, bribery or corruption. These include the legislation set out in this document in addition to each council's financial procedure rules or regulations.
52. Managers must ensure that adequate levels of internal checks are included in working procedures, particularly financial procedures. It is important that duties are organised in such a way that no one person can carry out a complete transaction without some form of checking or intervention process being built into the system.

STAFF SELECTION/SCREENING

53. The councils' recruitment procedures ensure that the councils appoint employees on merit and prevent the appointment of unsuitable people.
54. Applicants complete an application form and must declare any criminal convictions that are not spent. Where appropriate, applicants may also be subject to a Disclosure and Barring Service (DBS) police check.
55. The councils appoint employees subject to satisfactory written references.

56. The councils conduct documentary checks on all new employees to ascertain their eligibility to employment in accordance with the Asylum & Immigration Act 1996 s.8 (as amended) effective 1 May 2004.

CONTRACTORS AND THOSE DELIVERING SERVICES FOR THE COUNCILS

57. Each council will ensure that all contracts conform to the highest standards possible. The councils will act to ensure that those organisations that work with the councils to deliver services are made aware of the councils' strong anti-fraud, bribery and corruption principles, including their whistleblowing policy.
58. Where appropriate the councils may exclude suppliers, contractors and service providers from public contracts following conviction for certain offences including participation in criminal organisations, fraud, corruption, bribery or money laundering.
59. The councils will seek an assurance that those tendering to provide supplies, goods, services and works to the councils have adequate anti-fraud, bribery or corruption recruitment procedures and controls in place; have not colluded with others during the tendering process; or canvassed or solicited any councillor or employee of either council in connection with the award or future award of contracts.
60. In awarding any contract, the councils will act in accordance with their contracts procedure rules. Within its contract terms, the councils may exercise a right to terminate a contract and recover losses if there is evidence of fraud, bribery or corruption in connection within a council contract by the contractor, its employees or anyone acting on the contractor's behalf.
61. The councils may seek the strongest available sanctions against the contractor, their employees or anyone acting on behalf of the contractor who commits fraud, bribery or corruption against the councils and will request that the organisation concerned takes appropriate action against any individual concerned.
62. Where contractors are involved with the administration of council finances, or those for which the councils have responsibility, the councils will conduct internal audit reviews and pro-active anti-fraud, bribery or corruption exercises as part of the contract management process.

COLLABORATION WITH OUTSIDE AGENCIES AND OTHER BODIES

63. Given the nature of a council's work, the nature and scope of fraud, bribery or corruption can vary and involve different bodies. Therefore, the councils may need to liaise with and undertake joint working with certain agencies, including (but not limited to):
- other local authorities
 - benefits agencies
 - the Serious Fraud Office (SCD6, formerly SO6)
 - the local police
 - the Home Office
 - the UK Border Agency

64. The councils commit to working and co-operating with other organisations to prevent organised fraud, bribery or corruption. Wherever possible, the councils will assist and exchange information with other appropriate bodies to investigate and combat fraud, bribery and corruption.

Detection and investigation

65. The range of preventative systems within the councils, particularly internal control systems, can provide indicators of fraud, bribery or corruption (and error) and can help to detect any inappropriate activity.
66. Senior managers have responsibility for preventing and detecting fraud, bribery or corruption. Often, the alertness of others enables the detection of wrongdoings and appropriate action to take place when evidence suggests that fraud, bribery or corruption may be taking place.
67. Despite the best efforts of managers and auditors, many irregularities are discovered by chance. The councils have arrangements in place to deal with such discoveries. The anti-fraud, bribery and corruption response plan sets out the councils' arrangements. Some frauds may be discovered as a result of whistleblowing.

WHISTLEBLOWING

68. The councils' whistleblowing policy encourages people to raise serious concerns. Employees reporting concerns are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998.
69. The councils will support employees who report concerns and will make every effort to protect them from reprisals. The councils will do everything possible to protect their confidentiality.

OTHER SUSPECTED FRAUD, BRIBERY CORRUPTION OR IRREGULARITY

70. As referred to in paragraph 27, a duty exists to report any suspected cases of fraud, bribery or corruption. Reporting cases in accordance with this policy and the whistleblowing policy is essential and:
- ensures the consistent treatment of information regarding fraud, bribery or corruption
 - facilitates the proper investigation of suspected cases and
 - protects the interests of individuals and the councils.
71. This process will apply to allegations of fraud, bribery or corruption relating to the following areas:
- by councillors or co-optees
 - internal fraud and other fraud, bribery or corruption by council employees acting in a personal capacity
 - by contractors or their employees and
 - external fraud, bribery or corruption (the public)
72. The anti-fraud, bribery and corruption response plan gives more guidance.

73. The external auditor also has powers to independently investigate fraud, bribery or corruption.

CONFIDENTIALITY

74. The councils will treat all information received confidentially. The councils will not disclose or discuss investigation results with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of people suspected but subsequently found innocent of wrongful conduct and to protect the councils from potential civil liability. Any processing of personal data will comply with the Data Protection Act and the data protection principles.

PUBLICITY

75. The councils' communications team may use the press to report the outcome of any action taken, including prosecutions.
76. The councils will publish this policy and any review of it to make employees, councillors, co-optees, contractors, partners and the public aware of the councils' commitment to taking action on fraud, bribery or corruption when it occurs.

Courses of action

77. Mechanisms exist within the councils to act in cases of fraud, bribery or corruption. These include the following:

DISCIPLINARY ACTION

78. Gross misconduct and other fraudulent or corrupt conduct will normally lead to dismissal. The councils' disciplinary procedure provides further information.

PROSECUTION

79. The councils will seek full redress through the legal processes available to counter any internal or external fraudulent activities perpetrated against it. This redress will be achieved through criminal and/or civil courts as considered appropriate.
80. The chief executive, in consultation with the section 151 (chief finance) officer, the monitoring officer, human resources, the internal audit manager and other external agencies as appropriate, will decide whether to refer the case to the police for prosecution. Other external agencies involved may include the Department for Works and Pensions and the Crown Prosecution Service.
81. The councils will take all reasonable action to recover any money or goods.

CONSEQUENCES OF FAILURE TO COMPLY WITH THE BRIBERY ACT 2010

82. Failure to comply with the Bribery Act 2010 could result in imprisonment of up to 10 years and/or unlimited fines without taking into account the severe reputational repercussions for the councils.
83. A statutory defence to the strict liability offence of 'failing to prevent bribery' is the introduction of internal adequate procedures. For the councils this includes:

- the appointment of the councils' monitoring officer to deal with all matters relating to bribery and corruption;
- management commitment to a zero tolerance culture to bribery and corruption. The councils will not accept any level of corruption, and all cases identified will be thoroughly investigation and dealt with appropriately;
- accessible and enforceable policies and procedures;
- a regulatory framework aimed at preventing and detecting corruption, and
- relevant staff are trained on how to spot and prevent potential bribery.

84. Failure to comply with, or breach of, any sections contained within this policy could be regarded by the councils as gross misconduct. This will be dealt with in accordance with the councils' disciplinary procedures.

Awareness and training

85. Introducing and implementing a successful anti-fraud, bribery or corruption policy is dependent largely on the awareness and responsiveness of those working in and with the councils.

86. The councils will make councillors, co-optees and employees aware of this policy initially via the induction process and will remind them of this policy via council publications.

87. The councils support the concept of fraud, bribery or corruption awareness training for councillors, co-optees and employees to ensure that their responsibilities and duties in respect of anti-fraud, bribery and corruption are current and their understanding reinforced.

88. The councils also commit to training and developing staff who are involved in investigating fraud, bribery or corruption and will provide suitable training where necessary.

89. The councils will act to ensure that those organisations that work with the councils to deliver services are made aware of the councils' strong anti-fraud, bribery or corruption principles, including their whistleblowing policy.

Monitoring of this policy

90. The monitoring officer will decide when this policy needs review in light of any change of legislation or council policy if this is before the scheduled review date.

91. The Joint Audit and Governance Committee. The monitoring officer, in consultation with the chief executive, the section 151 (chief finance) officer, and the co-chairmen of the Joint Audit and Governance Committee will ensure that any corrective actions identified from investigations are brought to the attention of the relevant committee.

Conclusion

92. The councils commit to the development of an anti-fraud, bribery and corruption culture and will not tolerate fraud, bribery or corruption.

93. Fraud, bribery or corruption, where it is detected, will be dealt with promptly, investigated fairly, and where appropriate, prosecuted to the fullest extent that the law allows. In certain matters, depending on the nature of the circumstances, alternative sanctions may, on agreement, be deemed appropriate.
94. This document seeks to state the positions of South Oxfordshire District Council and Vale of White Horse District Council and each council's intent regarding all fraud, bribery or corruption matters that may affect either council.

Officer responsible for this policy

The monitoring officer has overall responsibility for the maintenance and operation of this policy and will liaise as necessary with the chief executive, the section 151 (chief finance) officer and the internal audit manager.

This policy revokes previous versions of the anti-fraud, bribery or corruption policy.

This policy was originally approved by South Oxfordshire District Council's Cabinet on 8 February 2010 and Vale's Cabinet member on 16 March 2010.

Updated November 2011 (version 2), February 2014 (version 3), May 2016 (version 4), November 2019 (version 5) October 2022 (version 6) by the head of legal and democratic under delegated powers to make minor amendments.

Policy review date: November 2025

Additional sources of information

The following are associated policies and procedures that are referred to in this policy or can be used as additional sources of information:

Joint policies	South Oxfordshire policies	Vale of White Horse policies
Anti-fraud and corruption policy and response plan		
	Budget and policy framework procedure rules	Budget and policy framework procedure rules
Code of Conduct for members and associated complaints' procedure		
	Complaints' procedure	How to comment, complain and make a suggestion
Contracts Procedure Rules		
	Members' Allowances Scheme	Members' Allowances Scheme
Dignity at Work Policy		
Disciplinary Procedure (for employees)		
Employee Conduct Policy Financial Procedure Rules		
Gifts and Hospitality Guidance for Officers		
Grievance Procedure for Employees		
	Local Code of Governance	Code of Governance
Anti-Money Laundering Policy		
Planning Code of Good Practice for Councillors		
	Protocol on councillor/officer Relations	Member/Officer Relations
Safeguarding Children and		

Vulnerable Adults Policy		
Scheme of Delegation		
	Service Specific Procedure Manuals	Service Specific Procedure Manuals

Alternative formats of this publication are available on request. These include large print, Braille, audio, email and alternative languages.

Please contact Democratic Services at Council on  01235 422520

APPENDIX D

Joint whistleblowing policy

What is whistleblowing?

1. Protect - www.protect-advice.org.uk a charity that provides independent advice and information on whistleblowing) gives the following explanation:

‘When someone blows the whistle they are raising a concern about danger or illegality that affects others (e.g. customers, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern – they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it.’

2. The Public Interest Disclosure Act 1998 (PIDA) gives a certain amount of legal protection to those making a protected disclosure provided their disclosure meets the definition of a “protected disclosure”.

Purpose of the whistleblowing policy

3. A whistleblowing policy is an essential part of a good governance framework. In carrying out their functions and responsibilities, the councils wish to promote a culture of openness, transparency and fairness and expect all those who work for and with them to adopt the highest standards of propriety and accountability.
4. However, the councils face the risk that something may go wrong and they welcome the opportunity to address those risks as early as possible. Whenever a situation arises, the first people to know of the risk can often be those who work in or for a council. Whilst they are the people best placed to raise the concern before damage is done, they often fear they have the most to lose if they speak out.
5. To this end, the councils commit to the highest possible standards of openness, honesty and accountability in their activities. They expect a high standard of conduct and integrity from those that work with and for the councils.
6. The councils will take seriously and investigate reports of improper activities. This whistleblowing policy aims to ensure that when people raise concerns in the right way, the councils will address them and protect the person raising the concern.
7. The councils aim to mitigate the risk of inappropriate behaviour by those undertaking work on behalf of the councils. To mitigate the risks of inappropriate behaviour the councils will refer to this policy in their contracts with suppliers and their contracts procedure rules and procurement guide.

8. This is a joint policy adopted by South Oxfordshire and Vale of White Horse district councils. The policy aims to provide guidance on how to raise concerns within the councils.

Links to strategic objectives

9. This policy underpins all of the councils' strategies, initiatives and work plans.

Who this policy applies to?

10. This policy will help employees (including temporary and agency staff) and, casual workers.
11. All of the above have responsibility for drawing attention to any suspected malpractice or irregularity so that it is dealt with promptly and effectively. In terms of financial irregularities, this responsibility is set out in standing orders as set out in the paragraph below.
12. In accordance with the councils' Financial Procedure Rules, a "relevant person shall notify the chief finance officer or internal audit manager immediately of any financial or accounting irregularity, or suspected irregularity, or of any circumstances which may suggest the possibility of such loss or irregularity, including those affecting cash, stores, property, remuneration or allowances".

Note:

To make a report of fraud or corruption, also refer to the councils' anti fraud and corruption policy and the associated response plan for guidance.

What this policy covers

13. This policy aims to address serious concerns about inappropriate behaviour that is not covered by other procedures. Whistleblowing is where an employee has a concern about a danger or illegality that has a **public interest** aspect to it, usually because it threatens others. Concerns may be about the following, which are defined as "qualifying disclosures" and therefore qualify for protection under this policy:
 - any criminal offence;
 - a failure to comply with a legal obligation;
 - a miscarriage of justice;
 - the endangering of an individual's health and safety;
 - damage to the environment;
 - the deliberate concealment of information relating to any of the above matters.
14. Other concerns can and should be raised but they may not qualify for protection under this policy.

What this policy does not cover

13. This policy does not deal with matters covered by other procedures. The following offers some guidance.
 - Use the corporate complaints procedure for complaints from members of the public about the councils' services.

- Use the councillors' code of conduct for complaints about the behaviour of councillors or co-optees.
- Report allegations of abuse against a child, young person or vulnerable adult to the councils' designated employee for safeguarding in accordance with the councils' joint safeguarding children and vulnerable adults policy.
- Use the grievance policy for grievances or a private complaint if a dispute is about a member of staff's employment position and has no public interest dimension.

14. Bring to a manager's attention any deficiency in the provision of service.
15. Contractors and those doing business with the council should seek to resolve the matter with the relevant client officer or explore resolution via contractual remedies.

Protection for whistleblowers

16. In accordance with the Public Interest Disclosure Act 1998 (often referred to as the whistleblowing act), the councils will protect as best they can an employee who discloses information (rather than merely threatening to) from personal claims, victimisation, harassment or bullying as a result of his or her disclosure and will not initiate any disciplinary action against them so long as the disclosure was:
 - made in the public interest;
 - made to the appropriate person;
 - reasonably believed to be substantially true; and
 - not made for personal gain.
17. The councils will not tolerate threats of or victimisation to whistleblowers, which include deterring, or trying to deter them from raising concerns or suppressing concerns they have raised. Any employee taking reprisal or similar action against a whistleblower because he or she has made a disclosure under this policy will be subject to disciplinary action.
18. Similarly, any councillors or co-optees taking such action will be reported to the Monitoring Officer as a code of conduct complaint under the Councillor Code of Conduct.
19. Depending upon the situation, the councils will treat matters of concern raised with as much confidentiality as possible. The councils will not reveal names or positions without permission, unless required to by law, or an enquiry results in a criminal investigation in which the whistleblower might be required as a witness. However, an employee's identity might become known when the councils start

making enquiries. The councils will explain this at the time of raising a concern, so the employee can decide whether to proceed. The councils will also keep the employee informed if the situation significantly changes.

20. An employee may be accompanied by an appropriate companion in accordance with the terms of the councils' disciplinary policy when giving evidence during disciplinary hearings.
21. Any disciplinary or redundancy procedures that already affect an employee will not influence any investigation into allegations of potential malpractice if properly made.
22. The protection outlined above will not apply and an employee may be subject to disciplinary action if they act in a malicious or improper way (for example by leaking information to the press before the council has had a chance to investigate).

Anonymous allegations

23. The councils encourage people to give their name when making an allegation. The councils will do all they can to protect the employee. Concerns raised anonymously tend to be far less effective and if, for example, the councils do not have enough information, they may not be able to investigate the matter at all.
24. Also, from a practical point of view, the councils cannot provide protection to a person whose identity they do not know. It then becomes more difficult to judge whether the individual raised the concern in the public interest or maliciously.
25. If the individual does not wish to give their name, the councils will make a judgement on whether or not to consider the matter depending on:
 - the seriousness of the issue;
 - whether the concern is credible;
 - whether it can sufficiently investigate the case based on the information provided.

Untrue allegations

26. If an individual makes an allegation which they believe is true, but it is not confirmed by investigation, the councils will not take any action against the individual.
27. However, if the individual makes a deliberately false or malicious allegation that they know is untrue, the councils will take appropriate disciplinary or legal action against them. The Public Interest Disclosure Act 1998 does not protect people making allegations of this nature.

How to raise a concern

28. An individual must not attempt to investigate any concern, but should raise their concern using one of the avenues set out in this policy.
29. The section [making contact](#) provides more information.

30. An individual should raise the concern promptly, preferably in writing, giving as much information as possible, such as relevant background information, names, dates, places and the reason for the concern. However, anyone can raise a concern by telephone or by meeting an appropriate employee. The earlier someone raises a concern, the easier it will be to take effective action.
31. Although an individual does not need to prove beyond doubt that an allegation is true, the councils expect them to demonstrate that reasonable grounds exist for voicing their concern.
32. The councils will ask an individual to declare any interest they may have in any allegations they make under this policy.
33. In matters concerning the health, safety and welfare of those on council premises an individual and the elected safety representative, who become aware of a hazard (actual or potential) or dangerous occurrence, should immediately notify the councils' health and safety officer. This should be done before contacting anybody else to ensure that the councils can take immediate action if necessary to deal with the hazard.
34. If an individual feels they can't tell their employer, they should contact a prescribed person or body as set out on the Government's website at: www.gov.uk/whistleblowing Before doing this they should seek legal advice to ensure that they will not lose protection under this policy. To gain protection an individual can only tell the prescribed person or body if:
 - they think those they report to will cover up the matter;
 - they think they would be treated unfairly if they complained;
 - they have reported the matter and it hasn't been addressed.

Employees

35. In the first instance, an employee should raise a concern with their immediate manager. If not the manager, they should raise the concern with their head of service. The document 'Guidance for employees – how to react to concerns of inappropriate behaviour' in [appendix 1](#), gives information on how to do this. If the allegation relates to the suspected abuse of a child, young person or vulnerable adult, this should be reported to the councils' designated employee for safeguarding in accordance with the councils' *joint safeguarding children and vulnerable adults policy*.
36. Guidance for managers on how to deal with a concern is contained in the document 'Guidance for managers – how to react to concerns of inappropriate behaviour' in [appendix 2](#).
37. If an employee considers it inappropriate to raise a concern with their manager or head of service they should contact one of the following:
 - the chief executive;
 - the head of legal and democratic (as the monitoring officer);
 - the internal audit manager.
38. If a concern involves one of the employees listed above, or if it is believed these employee(s) may be biased, the matter should be referred directly to the chief

executive.

39. If a concern involves the chief executive, the matter should be referred to the monitoring officer.

Councillors, co-optees and members of the public

40. The section [what this policy does not cover](#) sets out ways of raising concerns, or contact can be made with one of the people listed in paragraph 39.

MAKING CONTACT

41. Individuals can contact the monitoring officer, who is responsible for the councils' whistleblowing policy, in any of the following ways:

- By writing to the head of legal and democratic (as the monitoring officer) at:
South Oxfordshire/Vale of White Horse District Council, Abbey House,
Abbey Close Abingdon OX14 3JE
Please write 'For the personal attention of the monitoring officer' on the envelope
- By telephone: 01235 422422 (via the councils' switchboard) or direct on 01235 422520
- By email: monitoringofficer@southandvale.gov.uk
- A benefit cheat can be reported by:
 - Calling the councils' confidential 24-hour benefit fraud hotline 01235 422483 . This number is staffed during council office hours and is linked to an answer phone at all other times. All information is treated in confidence.
 - Calling the National Benefit Fraud hotline 0800 854400. This freephone number is run by the Department for Works and Pensions on behalf of local authorities. For people who are hard of hearing, there is a textphone number 0800 3280512.
 - Emailing information to the Councils' benefit fraud team on fraud@southandvale.gov.uk
 - The councils have further information on benefit fraud on their websites: www.southoxon.gov.uk / www.whitehorsedc.gov.uk
 - The councils treat all information in confidence.

Withdrawing the complaint

42. An individual may make a request to withdraw any allegations made under the whistleblowing policy but should bear in mind that the councils are not obliged to stop the process. To do this, an individual will need to confirm to the monitoring officer in writing that they wish to stop the process and state their reasons for doing so.

Help for the whistleblower

43. Trade union representatives can give support and advice or act on an individual's behalf if this would help. This could be useful, particularly if the individual wishes to remain anonymous, to the extent that is possible.
44. The councils will encourage the trades unions to support any member of staff

who raises a concern with them.

45. Protect (www.protect-advice.org.uk) can offer free, confidential advice to people concerned about crime, danger or wrongdoing at work. Anyone can contact them in the following ways:
- Protect, The Green House, 244-254 Cambridge Heath, Road, London E2 9DA Telephone: 020 3117 2520
 - Email: whistle@protect-advice.org.uk

The recipient's role in acting on a whistleblowing report

46. On receiving an allegation, the recipient (it is generally assumed that this would be a line manager or the head of service within the councils) should:
- only listen to and note the concerns of the individual but must not attempt to carry out any investigation as this may damage any future enquiry if evidence is not in a legally admissible form;
 - make this policy available to the person making the report;
 - follow the guidance in [appendix 2](#) to this policy.
47. Having received the allegation, the recipient should contact the monitoring officer.

How the councils will respond

48. In order to protect individuals and the council the monitoring officer, who has the authority to act independently, will deal with initial enquiries. The purpose of the initial enquiry is to confirm or repudiate the suspicions that have arisen so that, if necessary, the councils should instigate a further investigation.
49. If the concern raised involves the monitoring officer, the chief executive will initially deal with the allegation and will nominate a responsible employee to conduct initial enquiries with the same authority that the monitoring officer would have.
50. During the initial enquiry, the monitoring officer will:
- determine the factors that gave rise to the suspicion;
 - examine factors to determine whether any irregularity has occurred (i.e. any incident or action that is not part of normal operation of the system or the expected course of events); and
 - where necessary, carry out discreet enquiries with staff and/or review documents.
51. The monitoring officer will consult with the chief executive, the section 151 (chief finance) officer and the internal audit manager. They will agree whether an investigation is appropriate and, if so, whether the responsibility will pass to the section 151 (chief finance) officer and what form that responsibility should take. The matter could involve:
- investigation by management, internal audit, or through the disciplinary process;
 - referral to the police;
 - referral to the external auditor;
 - an independent inquiry.

52. In dealing with any allegations, the monitoring officer, section 151 (chief finance) officer or the chief executive will ensure that those officers who would usually respond to allegations of malpractice, will not be involved in any enquiries or investigations, if they are implicated in the allegation.
53. The councils will normally refer concerns or allegations that fall within the scope of other policies and procedures for consideration under those procedures and will advise the whistleblower accordingly.
54. The monitoring officer, or section 151 (chief finance) officer (if responsibility for the case has passed to them), can decide to take no further action if a complaint appears to be trivial or malicious.
55. Within 10 working days of a concern being received, the councils will write to the whistleblower to:
 - acknowledge receipt of the concern;
 - explain how that council proposes to deal with the matter;
 - indicate whether any initial enquiries have been made;
 - state whether further investigations will take place and if not, why not.
56. The amount of contact between the people dealing with the allegation and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. The monitoring officer, or section 151 (chief finance) officer (if responsibility for the case has passed to them), will make the council's final decision upon the level of contact or involvement with the whistleblower. They may inform the whistleblower that there is no further need for their involvement.
57. Any meetings arranged will normally take place at the council's offices but the council can agree to have the meeting elsewhere.
58. The councils will take steps to reduce any difficulties that an individual may experience after raising a concern. For instance, if the individuals need to give evidence in criminal or disciplinary proceedings, the councils will provide support and advice on the procedures.
59. The councils accept that in the working environment members of staff need assurance that the councils have properly addressed the matter raised. Thus, subject to legal constraints, the councils will provide information about the outcome of any investigation.
60. The monitoring officer may report as necessary the outcome of any disclosure which been found to have demonstrated any impropriety in an anonymous format to the Joint Audit and Governance Committee.

Taking further action

61. This policy aims to provide an avenue to raise concerns within the councils.
62. If an individual decides to take the matter outside a council, they must ensure that they do not disclose information about a third party e.g. a company or a private individual, which may be confidential and subject to GDPR.

63. Before taking matters to an external body, the councils advise individuals to seek independent legal advice.
64. The following are possible contact points:
- the local Citizens Advice Bureau;
 - relevant professional bodies or regulatory organisations;
 - the Environment Agency;
 - the police (if it is potentially a criminal matter);
 - the Health and Safety Executive;
 - a relevant voluntary organisation;
 - a trades union;
 - the Local Government Ombudsman;
 - Equality and Human Rights commission;
 - Protect.
65. If, having raised a concern directly with the council, an individual is dissatisfied with the outcome they can also contact any of the above organisations.

Person responsible for this policy

66. The monitoring officer has overall responsibility for the maintenance and operation of this policy, and will liaise as necessary with the chief executive, the section 151 (chief finance) officer and internal audit manager.

Appendix 1 - Guidance for employees

HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action taken when first suspecting inappropriate behaviour may be crucial. This guidance explains what to do and what not to do on suspicion of inappropriate behaviour.

Inappropriate behaviour is described in the councils' whistleblowing policy as:

- any criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- the endangering of an individual's health and safety;
- damage to the environment;
- the deliberate concealment of information relating to any of the above matters.

Note: suspicion related to abuse of a child, young person or vulnerable adult, should be reported to the council's designated employee for safeguarding in accordance with the councils' joint safeguarding children and vulnerable adults policy.

ACTING UPON SUSPICIONS – THE DO'S AND DON'TS

If suspecting inappropriate behaviour affecting the council, there are a few simple rules to follow to help the council with subsequent enquiries:

Do

- ✓ make an immediate note of concerns and note as many relevant details as possible, ideally:
 - the background details and nature of the suspicions (including relevant names, dates and locations);
 - details of the job and responsibilities of the individuals involved;
 - action taken to date (if any) before raising the concern.
- ✓ communicate suspicions to someone with the appropriate authority and experience in accordance with the councils' whistleblowing policy;
- ✓ deal with the matter promptly if the concerns are warranted;

Any delay may result in accidents, cause a council to suffer loss or make further enquiries more difficult.

Don't

- × do nothing;
- × be afraid to raise concerns;

An individual will not suffer any recrimination from the councils as a result of voicing reasonably held concerns. The councils will treat the matter

sensitively and confidentially if it is able to, and will take reasonable steps to protect the individual.

- × approach or accuse any individuals directly;
- × try to investigate the matter;

There are special rules about gathering evidence. Any attempt to gather evidence by people who are unfamiliar with these rules may weaken or undermine any future prosecution.

- × convey suspicions to anyone other than those indicated in the councils' whistleblowing policy.

The Public Interest Disclosure Act 1998 will protect individuals from any reprisals as long as the rules set out in the Act are met.

The rules are that the individual:

- discloses the information in the public interest;
- reasonably believes it to be substantially true;
- must not seek any personal gain.

Protect (www.protect-advice.org) can offer free, confidential advice to people concerned about crime, danger or wrongdoing at work.

Appendix 2 - Guidance for managers

HOW TO REACT TO CONCERNS OF INAPPROPRIATE BEHAVIOUR

The action taken when first identifying, or becoming aware of suspected inappropriate behaviour, may be crucial in determining the success of any subsequent investigation.

Inappropriate behaviour is described in the councils' whistleblowing policy as:

- any criminal offence;
- a failure to comply with a legal obligation;
- a miscarriage of justice;
- the endangering of an individual's health and safety;
- damage to the environment;
- the deliberate concealment of information relating to any of the above matters.

Note: suspicion related to abuse of a child, young person or vulnerable adult, should be reported to the council's designated employee for safeguarding in accordance with the councils' joint safeguarding children and vulnerable adults policy.

Managers should familiarise themselves with the councils' anti-fraud and corruption policy and its whistleblowing policy to equip themselves to deal with allegations if they arise.

ACTING UPON SUSPICIONS – THE DO'S AND DON'TS

The following simple rules should help to ensure that matters are properly handled:

Do

- ✓ be responsive to employees' concerns;

encourage employees to voice any reasonably held concerns or suspicions. As a manager, treat them seriously, confidentially and sensitively. Reassure the individual that they will not suffer because of concerns raised in the public interest.
- ✓ note all relevant details. Details should ideally include:
 - the background details and nature of the suspicions (including relevant names, dates and locations)
 - details of the job and responsibilities of the individuals involved
 - the reasons why the person is raising the concerns
 - action (if any) taken to date before this concern was raised

Get as much information as possible from the employee reporting the suspicion and encourage them to record this in writing. If the employee has made any notes, obtain a copy of them. In addition, note any documentary evidence that may exist to support the allegations, but do not interfere with this evidence in any way.
- ✓ contact the monitoring officer to discuss the report received;

- ✓ if in doubt, report suspicions anyway;

If deciding that no further action is necessary, record the decision and inform the monitoring officer of the original notification details and the reasons why no further action is considered necessary. In recommending that no further action is necessary, be objective when evaluating the issue. Consider the facts as they appear based on the information to hand. The monitoring officer will then help to determine if further action is necessary.

- ✓ deal with the matter promptly, particularly if the concerns are considered warranted, and bearing in mind the 10 day deadline that the councils have set to respond to the whistleblower;

Any delay may cause a council to suffer financial or reputational loss, or make enquiries more difficult.

Don't

- × ridicule or belittle any suspicions raised by employees;

The councils cannot operate an effective anti-fraud and corruption culture or whistleblowing policy if employees are reluctant to pass on their concerns to management out of fear of ridicule or recrimination.

Give all employees' concerns a fair hearing and reassure employees that they will not suffer recrimination by raising any reasonably held suspicion in the public interest.

- × approach the suspect or accuse any individuals directly;

- × communicate suspicions to anyone other than those indicated in the councils' whistleblowing policy;

- × try to investigate the matter;

Remember that investigations by employees who are unfamiliar with the requirements of evidence are highly likely to jeopardise a successful outcome. They may also alert the suspect and result in the destruction of evidence.

Remember that the primary responsibility is to report the issue and all associated facts to the appropriate employee, wherever possible.