

## MEMBERS INTERESTS 2012

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

	General		Notes
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest <b>because</b> it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/>          <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>          <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 16/7/12) or a pecuniary interest but it relates to the functions of my Council in respect of:  (i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.  (ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.  (iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay.  (iv) An allowance, payment or indemnity given to Members  (v) Any ceremonial honour given to Members  (vi) Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>	<i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/2/13 – 19/2/17)	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>

**'disclosable pecuniary interest'** (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

### **Interest**

Employment, office, trade, profession or vocation

Sponsorship

### **Prescribed description**

Any employment, office, trade, profession or vocation carried on for profit or gain.

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;*

*"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;*

*"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;*

*"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;*

*"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;*

*"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

**'non pecuniary interest'** means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

**'a connected person'** means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

**'body exercising functions of a public nature'** means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

**NB** Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

**AUDIT AND GOVERNANCE COMMITTEE**

**HELD: 26 JUNE 2014**  
Start: 7.00pm  
Finish: 8.05pm

**PRESENT:**

Councillor E Pope (Chairman)  
D Whittington (Vice Chairman)

Councillors C Dereli G Jones  
Y Gagen R A Pendleton  
P Greenall N Pryce-Roberts  
J Hodson L Savage  
D Westley

Officers Borough Treasurer (Mr M Taylor)  
Borough Solicitor (Mr T Broderick)  
Audit Manager (Mr M Coysh)  
Assistant Member Services Manager (Mrs J Denning)

Also in attendance: Ms K Murray, Engagement Lead, Grant Thornton (External Audit)  
Mr G Small, Engagement Manager, Grant Thornton (External Audit)

**1. APOLOGIES**

An apology for absence was received on behalf of Councillor Owens.

**2. MEMBERSHIP OF THE COMMITTEE**

In accordance with Council Procedure Rule 4, the Committee noted the termination of membership of Councillor G Hodson and the appointment of Councillor J Hodson for this meeting only, giving effect to the wishes of the Political Groups.

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**4. MINUTES**

RESOLVED That the minutes of the last meeting of the Committee held on 25 March 2014 be approved as a correct record and signed by the Chairman.

**5. GRANT THORNTON FINANCIAL RESILIENCE REPORT**

Consideration was given to the report of the Borough Treasurer, as contained on pages 7 to 20 of the Book of Reports, which detailed the External Auditor's finding from their review of the Council's arrangements for securing financial resilience.

RESOLVED That the report be noted.

**6. GRANT THORNTON AUDIT & GOVERNANCE COMMITTEE UPDATE**

Consideration was given to the report of the Borough Treasurer, as contained on pages 21 to 38 of the Book of Reports, which provided an update from the External Auditors on progress in delivering against their audit plan; a summary of emerging national issues and development; and a number of challenge questions for the Committee to consider.

A 'Guide to Local Authority Accounts', produced by Grant Thornton, was circulated.

RESOLVED That the report be noted and a copy of the Grant Thornton 'Guide to Local Authority Accounts' as circulated at the meeting be provided to all Members.

**7. INTERNAL AUDIT ANNUAL REPORT 2013-14**

Consideration was given to the report of the Borough Treasurer, as contained on pages 39 to 48 of the Book of Reports, which presented the 2013-14 Internal Audit Annual Report.

Comments and questions were raised in respect of the following:

- 84% of agreed recommendations implemented on time by Managers
- Data Protection – incoming data
- Council Tax – Single persons discount – County wide review
- Accuracy of Benefits Claims and Benefits enquiries
- Impact of Welfare Reform on Revenues & Benefits – Future Briefing for Members
- Figures claiming Single Persons Discount – Significant
- Reconciliations – improvements made

RESOLVED That the Internal Audit Annual Report for 2013-14 be noted.

(Note: Councillors J Hodson and Savage arrived during consideration of this item.)

**8. INTERNAL AUDIT ACTIVITIES - QUARTERLY UPDATE**

Consideration was given to the report of the Borough Treasurer, as contained on pages 49 to 52 of the Book of Reports, which advised of progress against the 2014/15 Internal Audit Plan.

RESOLVED That the progress in the year to date be noted.

**9. ANNUAL GOVERNANCE STATEMENT 2013/2014**

Consideration was given to the report of the Borough Treasurer, as contained on pages 53 to 62 of the Book of Reports, which presented the Council's Annual Governance Statement for 2013/14.

Comments and questions were raised in respect of the following:

- Sickness Monitoring and welfare – Quarterly reports submitted to Cabinet and Corporate Overview & Scrutiny Committee.
- Vehicle Maintenance Contractor certification process and improved record keeping and monitoring.

RESOLVED That the Annual Governance Statement 2013/2014 be approved and commended to the Leader and Managing Directors for signature.

## **10. STATEMENT OF ACCOUNTS**

Consideration was given to the report of the Borough Treasurer, as contained on pages 63 to 64 of the Book of Reports, which provided details on the preparation of the Statement of Accounts for the year ended 31 March 2014.

The Borough Treasurer advised that in line with requirements the Statement of Accounts would be sent to all Members and would be available on the Council's website.

RESOLVED A. That the report be noted.

- B. That a further report to approve the audited statement of accounts be produced for the next meeting of the Committee.

## **11. FINANCIAL REGULATIONS**

Consideration was given to the report of the Borough Treasurer, as contained on pages 65 to 94 of the Book of Reports, on the revision and updating of the Council's Financial Regulations within the Constitution.

RESOLVED That the updated set of Financial Regulations attached at Appendix 1 of the report be endorsed and the document reissued to all staff.

## **12. OFFICER CODE OF CONDUCT**

Consideration was given to the joint report of the Borough Treasurer and Borough Solicitor, as contained on pages 95 to 118 of the Book of Reports, which set out a number of proposed revisions to the Council's Officer Code of conduct within the Constitution.

Comments and questions were raised in respect of the following:

- Training for staff on the Code of Conduct and Equalities – Future Briefing Note
- Disclosure of interests for staff
- Member and Officer Relationships in Planning Protocol

- RESOLVED A. That the revisions to the Officer Code of Conduct, attached at Appendix 1 to the report, be endorsed and the updated document circulated to staff.
- B. That the Transformation Manager be asked to prepare a Briefing Note to identify what training is provided to staff on the Code and also on issues such as equality.

**13. REGULATION OF INVESTIGATORY POWERS ACT QUARTERLY MONITORING OF USE OF POWERS**

Consideration was given to the report of the Borough Solicitor, as contained on pages 119 to 122 of the Book of Reports, in relation to the quarterly monitoring of activity under the Regulatory of Investigatory Powers Act 2000 (RIPA), which reported that there was no relevant activity to bring to the attention on the Committee.

RESOLVED That the update be noted.

**14. WORK PROGRAMME**

Consideration was given to the Committee's programme of work as set down at page 123 of the Book of Reports.

- RESOLVED That the Work Programme be approved and future training be held on the following topics:
- Housing Asset Management
  - Data Protection
  - Universal Credit – Revenues and Benefits

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THE CHAIRMAN



## **AGENDA ITEM: 5**

**AUDIT AND GOVERNANCE COMMITTEE:**

**23 September 2014**

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**Report of: Borough Treasurer**

**Relevant Managing Director: Managing Director (People and Places)**

**Contact for further information: Marc Taylor (Extn. 5092)  
(E-mail: [marc.taylor@westlancs.gov.uk](mailto:marc.taylor@westlancs.gov.uk))**

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**SUBJECT: GRANT THORNTON AUDIT FINDINGS**

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Wards affected: Borough wide

### **1.0 PURPOSE OF THE REPORT**

1.1 To receive reports from our External Auditors setting out their findings on the audit of the accounts and value for money.

### **2.0 RECOMMENDATIONS**

2.1 That the reports be noted.

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### **3.0 BACKGROUND**

3.1 A report on the Statement of Accounts for 2013-14 was considered by this Committee at its meeting in June, and subsequently a link to this statement was sent to all Members by e-mail.

3.2 During the Summer a team of auditors from Grant Thornton has spent several weeks auditing the accounts and reviewing the Statement. The External Auditors are now required to present their findings for this audit to Members.

#### **4.0 AUDIT FINDINGS**

- 4.1 At the time of writing this report Grant Thornton had almost completed their audit of the accounts, and their findings to date are set out in the reports in the appendices. This shows that it is expected that the Council will receive an unqualified opinion on its accounts and that no significant problems or issues have been identified. The appendices also provide a positive assessment of the Council's financial performance and financial position.
- 4.2 Representatives from Grant Thornton will attend the Committee meeting to present their findings and answer any questions that Members may have on the accounts.

#### **5.0 SUSTAINABILITY IMPLICATIONS / COMMUNITY STRATEGY**

- 5.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

#### **6.0 RISK ASSESSMENT**

- 6.1 The audit of the accounts is part of the overall control framework that is designed to ensure that the Council properly accounts for the use of its assets and resources.

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#### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

#### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

#### **Appendices**

Appendix 1 – The Audit Findings for West Lancashire Borough Council (TO FOLLOW)  
Appendix 2 – Report on Value for Money for West Lancashire Borough Council



# Report on Value for Money for West Lancashire Borough Council

Year ended 31 March 2014

August 2014

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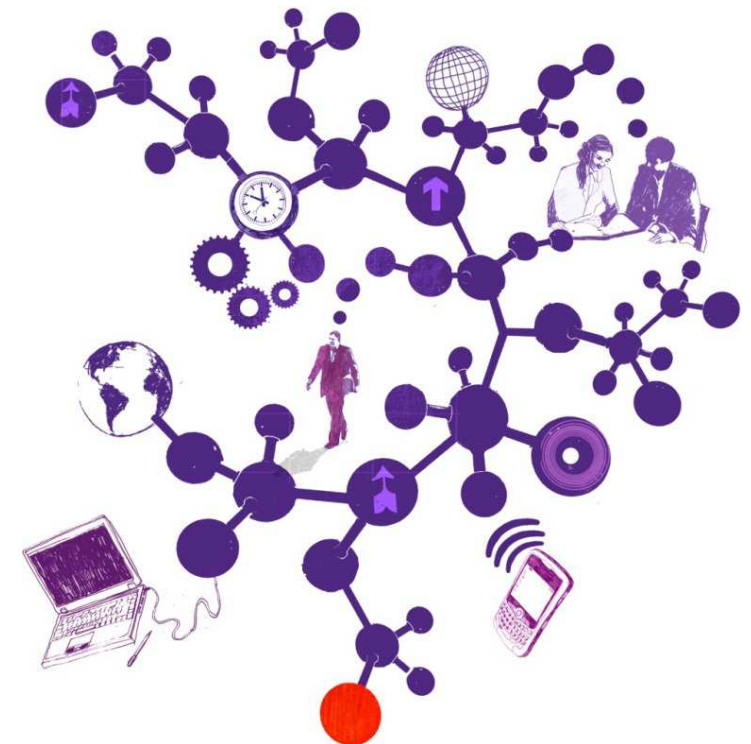
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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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# Introduction

## What is this report?

This report summarises the findings from our work supporting our Value for Money (VfM) conclusion, which is required as part of the statutory external audit responsibilities.

It compliments our Audit Findings Report, by providing additional detail on the themes that underpin our VfM conclusion.

## Value for Money Conclusion

The Code of Audit Practice 2010 (the Code) describes the Council's responsibilities to put in place proper arrangements to:

- secure economy, efficiency and effectiveness in its use of resources
- ensure proper stewardship and governance
- review regularly the adequacy and effectiveness of these arrangements.

We are required to give our VfM conclusion based on two criteria specified by the Audit Commission, which support our reporting responsibilities under the Code.

These criteria are:

**The Council has proper arrangements in place for securing financial resilience:** the Council has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.

**The Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness:** the Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.

The Code require auditors to identify significant risks to the VfM conclusion and to plan sufficient work to evaluate the impact of those risks, if any.

## Our approach

The approach involves:

- desktop analysis of relevant documentation
- meetings with key internal stakeholders
- a risk assessment to identify any significant risks.

Our approach is designed to assess:

- the arrangements in place related to the specified criteria
- performance during 2013-14 and what that says about those arrangements
- any significant risks that we have identified.

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# Introduction

## What is this context?

### Nationally

The 2010 Spending Review set the Coalition Government's financial settlement for the four years to 2014/15, and the 2013 Review then covered 2015/16. By the end of this period, central funding to local government will have reduced by 35%.

2013/14 is the third year of councils having to deliver efficiency savings in response to the 2010 Spending Review and, given the 2013 Review and the budget statement in 2014, this will need to continue for the foreseeable future.

Delivering these efficiency savings and maintaining financial resilience is becoming increasingly difficult, even for top-performing councils. The challenges include:

- responding to welfare reform; and
- the drive towards more integrated health and social care.

Demand for many demography-driven council services is expected to rise, whereas demand for some income-earning services is falling.

To fulfil their statutory requirements, councils must continue to provide certain services. But the opposing trends in funding and demand will create a sizeable funding gap even if carefully managed. In short, the sector is working through its greatest financial challenge of recent times.

### Locally

West Lancashire Borough is the most south westerly of all Lancashire Districts and borders the large metropolitan districts of Merseyside and Greater Manchester. The District is largely rural but has two significant urban centres at Ormskirk, a long established market town and Skelmersdale, which incorporates one of the New Towns built to take population overspill from Liverpool and Manchester. The borough has areas that contrast significantly in levels of deprivation and social priorities.

The Council has maintained a strong financial position both in absolute terms and relative to similar Councils. It has sustained this by looking at innovative and alternative delivery options but maintained a focus on key local priorities, ensuring any service changes those priorities.

Now, more than ever, it is important that councils have sound arrangements for securing Value for Money.

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# Executive Summary

## Overall Risk Assessment

There were no significant risks identified during our VfM planning.

## Overall VfM conclusion

On the basis of our work, and having regard to the guidance on the specified criteria published by the Audit Commission, we are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2014.

## Key findings

### Securing financial resilience

We have undertaken a review which considered the Council's arrangements against key indicators of financial performance and the three expected characteristics of proper arrangements, as defined by the Audit Commission:

- strategic financial planning
- financial governance
- financial control.

Overall our work highlighted that the Council is in a strong financial position in absolute terms and relative to Councils of a similar size. The Council is maintaining financial stability and has good governance arrangements over financial policy.

### Challenging economy, efficiency and effectiveness

We have reviewed whether the Council has prioritised its resources to take account of the tighter constraints it is required to operate within and whether it has achieved cost reductions and improved productivity and efficiencies.

Overall our work highlighted that the Council is continuing its focus on medium to long term priorities through its Business Plan and looks for ways to provide services differently while securing those priorities.

# Executive Summary

We use a red/amber/green (RAG) rating with the following definitions.

<b>Green</b>	<b>Adequate arrangements appear to be in place</b>
<b>Amber</b>	<b>Adequate arrangements, with areas for development</b>
<b>Red</b>	<b>Inadequate arrangements</b>

## Overview of arrangements

Risk area	Summary observations	High level risk assessment
<b>Key Indicators of Financial Performance</b>	The Council's key indicators of financial performance are strong and are remaining stable over time.	<b>Green</b>
<b>Strategic Financial Planning</b>	The Council has a clear vision for its financial planning within the time-frame it has for the Business Plan. This vision has taken into account long term factors such as demographics and population change. The Council is making progress with its plans for next Business Plan time-frame.	<b>Green</b>
<b>Financial Governance</b>	The Council has a good process for financial governance that covers the whole planning cycle, includes consultation on proposals and performance reporting, and is underpinned with effective challenge and assurance processes	<b>Green</b>
<b>Financial Control</b>	The Council has good overall financial control which is reflected in successful budget management.	<b>Green</b>
<b>Prioritising Resources</b>	The Council prioritises its resources based on objectives articulated clearly in the Business Plan. The annual refresh process allows for flexibility while ensuring the underlying priorities are met.	<b>Green</b>
<b>Improving Efficiency &amp; Productivity</b>	The Council can demonstrate through its performance and budget management arrangements that it continues to make improvements in efficiency and productivity. Through its Business plan it can demonstrate that it continues to look for new ways to achieve efficiencies and provide services.	<b>Green</b>
<b>Management of Natural Resources</b>	The Council is mindful of the impact its decisions have on the use of natural resources. It seeks to minimise this impact in its own operations and provides resources for residents and business in the Borough to do the same.	<b>Green</b>

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# Key Indicators of Financial Performance

Area of focus	Summary observations	RAG-Rating
<b>Liquidity</b>	<p>Review of the Draft accounts shows the net cash position has improved overall.</p> <p>Financial resilience ratios show little adverse movement. Only the ratio of tax receipts to gross spend has changed. This reflects expected changes in government funding working their way through.</p> <p>The Council monitors its collection rates. Although collection has have been outsourced to BTLS, the Council still receives regular updates from BTLS and a formal Annual Report. This confirms collection rates are returning to normal levels and gross savings from the outsourcing exercise are being delivered.</p>	<b>Green</b>
<b>Borrowing</b>	<p>There has been no change in the debt structure of the Council.</p> <p>Both Treasury Management and Prudential Code performance indicators have performed according to plan.</p> <p>The Treasury Management Plan takes in to account current market conditions and complies with the relevant Codes of Practise.</p> <p>Treasury Management, and prudential indicators have been established for the next three years and the Minimum Revenue Provision policy reported. The Treasury Management framework has been updated for changes to CIPFA Code.</p>	<b>Green</b>
<b>Workforce</b>	<p>The Council's key Workforce indicator is BV12 Working Days Lost Due to Sickness Absence. It is reported quarterly and an annual target of 2.02 has been set.</p> <p>In 2013/14, the Council had a challenging year with a number of long term sickness absences having an impact on the quarterly statistics. However these cases came to an end during the final quarter and as a result, the indicator fell below target.</p> <p>Quarter 4 performance for 2014 shows a notable improvement on Quarter 4 for 2013.</p>	<b>Green</b>
<b>Performance against budgets (Revenue Capital &amp; Savings)</b>	<p>Budget monitoring reports during the year have shown that, overall, all service lines are achieving small percentage underspends on their service budgets with only Central Services being over budget at Q3. This too was a relatively small percentage of the budget and did not impact significantly on the overall position.</p> <p>The Budget report set out explanations and actions for all variances against budget, whether favourable or unfavourable. It also explains that some of the Central Services savings will have been achieved in the Service Lines.</p> <p>A review of the draft accounts for 2014 has confirmed a consistent outturn with a small favourable budget variance and indicates a prudent approach based on a sound understanding of costs and revenue streams.</p>	<b>Green</b>



# Key Indicators of Financial Performance

Area of focus	Summary observations	RAG-Rating
<p><b>Reserves balances</b></p>	<p>The Movement on Reserves Statement within the draft accounts for 2014 shows that for both 2012/13 and 2013/14 the Council has not used reserves to balance the budget. Moreover, the Council has been making prudent transfers into earmarked reserves in anticipation of the need to support phased changes in service provision.</p> <p>The Council has a low level of free reserves at 31 March 2014 at £961k. However, the earmarked reserves of £11.6million include a corporate reserve of £7million built up specifically to assist in phasing service changes and covering related one-off costs expected to arise in the period of the next Business Plan, to deal with fluctuations in levels of income and expenditure, and to provide the funding for a range of major projects that have been previously agreed.</p> <p>Earmarked reserves also include a £2.4million self insurance reserve. This is to cover specific risks and has been reduced in each of the last two years.</p> <p>The Council does not operate a fixed reserves policy except for the interaction with Minimum Revenue Provision, as required by proper practice. Our review confirmed that earmarked reserves are based on expected risks and requirements.</p>	<p><b>Green</b></p>

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# Strategic Financial Planning

Area of focus	Summary observations	RAG-Rating
<b>Focus of the MTFP</b>	<p>The Council's Business Plan functions as the medium term financial plan.</p> <p>The leadership team has continued to focus on long term issues, for example, the re-development of Skelmersdale and Major Service Reviews. These are based on a clear understanding of demographic and environmental pressures and recognise the need for the Council to be networked with larger sub-regional bodies such as the Local Enterprise Partnership and the Liverpool and Manchester corridor. This understanding is reflected by the next iteration of the Business Plan driving earlier work on the 2015/16 annual budget which was well underway in July 2014.</p> <p>The Housing Revenue Account is under continuous review. We have reviewed the 2014/15 revenue and capital programme reports. These show a clear understanding of long term requirements, the resources available and the impact on current funding. Efficiencies are used to fund investment and there is a clear programme through to 2019 that the annual planning cycle both supports and feeds in to.</p>	<b>Green</b>
<b>Adequacy of planning assumptions</b>	<p>The current Business Plan runs to 2014/15. A 2015/18 plan is currently being finalised.</p> <p>The Council restricts the period of the Business Plan to a timeframe over which it can be confident about its ability to realistically predict what the government settlement will be. However within each district plan period, the impact of demographic and other long term trends are considered along with feedback from residents and stakeholders. The Council's budget outturn indicates a prudent approach to assumptions about inflationary pressure on pay and other costs. This has been consistent for the last three years.</p> <p>This year the Council has had a full revaluation of its Non-Housing estate. It has also reviewed the value of the Housing Revenues Account estate in accordance with Beacon principles. There is no evidence of changing asset values which have not been considered as part of the Business Plan. Although there are significant impairment charges going through the Housing Revenue Account, these relate largely to capital programme items that do not add value but bring dwellings up to the condition required by the Council's HRA Business Plan. General Fund assets have not seen any significant deterioration.</p>	
<b>Scope of the MTFP and Links to Annual Planning</b>	<p>The Business plan covers all areas of the Council's responsibilities and priorities. It gives due consideration to the General Fund and Housing Revenue Account. It's forward look is restricted but this reflects the period over which the Council is confident it can make accurate forecasts.</p> <p>The Business Plan links to the Annual Planning cycle through the Annual Refresh which ensures the plan objectives are reflected in and supported by annual service and budget planning.</p>	

# Strategic Financial Planning

Area of focus	Summary observations	RAG-Rating
<b>Review process</b>	<p>The Business Plan is subject to an annual refresh during each year of the planning timeframe.</p> <p>This refresh ensures service planning and budgeting link effectively throughout the life of plan and enables flexibility within the plan.</p> <p>The Council has an effective consultation process including consideration of "opposition proposals" and "alternative budgets" before the Annual Budget and Business Plan refresh are agreed.</p>	<b>Green</b>
<b>Responsiveness of the Plan</b>	<p>Responsiveness is assured through the Annual refresh of the Business Plan.</p>	<b>Green</b>

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# Financial Governance

Area of focus	Summary observations	RAG-Rating
<b>Understanding of the financial environment</b>	<p>The leadership team has continued to maintain a focus on medium to long term issues. These are reflected in the Business Plan and the Annual Business Plan.</p> <p>Members are consulted on priorities and have the opportunity, with officer support, to prepare and propose alternatives and provide robust challenge.</p> <p>The Business Plan is based on a clear understanding of the underlying assumptions and conditions. These include, but are not limited to, the absence of any legal challenge to the Council's plans and the impact of Council decisions on its sources of Income. A good example of this is the explanation of how Government policy on Rent convergence impacts on the Councils Rent setting, set out in the papers that support the 2014/15 Housing Estimates.</p>	<b>Green</b>
<b>Executive &amp; Member Engagement</b>	<p>The Council consults Officers and Members on the planning process and facilitates discussion of Members alternative proposals. The Council has a variety of consultation tools at its disposal .</p> <p>The Council provides Members' briefing sessions before each meeting of the Audit and Governance Committee, these are not restricted to Committee members and attendance is good. Similar support exists for the Overview and Scrutiny Committee.</p> <p>The challenge provided by members through the Audit and Governance Committee is thorough and informed.</p> <p>The Borough Treasury is the 151 Officer. He sits on the leadership team and reports directly to the Joint Managing Directors. He is a qualified accountant with many year's experience.</p>	<b>Green</b>
<b>Overview for controls over key cost categories</b>	<p>Control over key cost categories is exercised through the quarterly Budget Monitoring reports. These include full explanations for all variances (favourable and unfavourable) together with action plans for those considered to be significant, either in terms of risk to the overall budget or to service level budgets.</p> <p>The Councils arrangements for obtaining assurances for the Annual Governance Statement include a self-assessment by Heads of Services, reviewed by Internal Audit, which cover both budget and performance management.</p>	<b>Green</b>

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# Financial Governance

Area of focus	Summary observations	RAG-Rating
<b>Budget Reporting (Revenue &amp; Capital)</b>	<p>The Cabinet receives quarterly budget monitoring reports highlighting all variances, with explanations and action plans for individual service budgets that are considered significant.</p> <p>Significance is determined by taking a rounded view of the risk and impact of variance on the individual service and the overall budget position.</p> <p>This enables cabinet to monitor budgets effectively, to gauge the likely impact of those plans on the Business Plan.</p> <p>The budget monitoring reports go to the Executive Overview and Scrutiny Committee to ensure challenge and the provide and opportunity for call-in of budget monitoring decisions.</p>	<p><b>Green</b></p>
<b>Adequacy of other Committee Reporting</b>	<p>The Cabinet receives quarterly performance management reports that together with the budget monitoring report, enable a rounded view to be taken on progress against the Business Plan.</p> <p>As with the Budget monitoring reports, performance reports are also presented to the Scrutiny Committee. The Scrutiny Committee also looks at budget and performance monitoring of individually significant and high profile projects.</p>	<p><b>Green</b></p>

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# Financial Control

Area of focus	Summary observations	RAG-Rating
<b>Budget setting &amp; monitoring – revenue &amp; capital</b>	<p>The Annual Budget is based on the annual refresh of the Business Plan. It includes revenue and capital plans.</p> <p>There is a clear understanding of the impact of accounting and financial reporting aspects such as the impact of periodic asset valuations.</p> <p>The budget is reported to Members each quarter. The budget monitoring reports include clear explanations of any variances together a summary of actions in relation to those variances and the likely impact on the outturn position. The Council's process is the same for both favourable and unfavourable variances and capital and revenue budgets.</p> <p>At 31 March 2014, the Council has a low level of free reserves at £961,000. However, Council also has earmarked reserves of £11.6million which include a corporate reserve of £7million built up specifically to assist phasing service changes and to cover one-off costs expected to arise in the period of the next Business Plan, to deal with fluctuations in levels of income and expenditure, and to provide the funding for a range of major projects that have been previously agreed. Earmarked reserves also include a £2.4 million self insurance reserve. This covers specific risks and has been reduced in each of the last two years.</p> <p>The Council does not operate a fixed reserves policy except for the interaction with Minimum Revenue Provision as required by proper practices. Our review indicates that earmarked reserves are based on expected risks and requirements.</p> <p>The Council is clear in its statutory responsibilities and takes these into account in its Major Service Reviews. The Council also has a robust approach to consultation and engagement, the results of which are challenged through Overview and Scrutiny Committees.</p> <p>The Budget report, the Statement of responsibilities for the Accounts and the Annual Governance Statement all include the relevant confirmations required by CIPFA's Local Authority Accounting Code of Practice.</p>	<p style="text-align: center;"><b>Green</b></p>

# Financial Control

Area of focus	Summary observations	RAG-Rating
<b>Savings plans setting &amp; monitoring</b>	<p>The leadership team has continued to focus on long term issues, for example, the re-development of Skelmersdale and Major Service Reviews. These are based on a clear understanding of demographic and environmental pressures and recognise the need for the Council to be networked with larger sub-regional bodies such as the Local Enterprise Partnership and Liverpool and Manchester corridor.</p> <p>This understanding is demonstrated by the next iteration of the Business Plan driving earlier work on the 2015/16 annual budget which is well underway in July 2014.</p> <p>An example, the 2014/15 revenue and capital programme for the Housing Revenue Account show a clear understanding of long term requirements, the resources available and the impact on current funding. Efficiencies are used to fund investment and there is a clear programme through to 2019 that the annual planning cycle supports and feeds in to.</p>	<b>Green</b>
<b>Key financial accounting systems</b>	<p>We have reported the results of our interim audit which concluded that there were no material weaknesses in the Council's key financial systems.</p> <p>Internal Audit's annual report for 2014 also raised no concerns with the operation of controls in key financial systems. Although Revenues and Benefits transaction management has been outsourced, Internal Audit were able to gain access and assurance over controls in place.</p>	<b>Green</b>
<b>Finance section resourcing</b>	<p>There has been no significant change in the key staff at the Council or in their remit or areas of responsibility.</p> <p>There has been a reduction in the Internal Audit section but this has not impeded the ability of the team to deliver its programme.</p>	<b>Green</b>

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# Financial Control

Area of focus	Summary observations	RAG-Rating
<b>Adequacy of Internal audit arrangements</b>	Internal Audit arrangements have been reviewed as part of our risk assessment for our audit. We concluded Internal Audit arrangements are adequate and effective. Our relationship with Internal Audit is very open and Internal Audit are willing to liaise over detailed work to improve efficiency and assurance.	<b>Green</b>
<b>External audit conclusions</b>	See above re key financial systems	<b>Green</b>
<b>Assurance framework/risk management processes</b>	The Council has an appropriate assurance framework in place. Risk management processes are clear and well communicated.	<b>Green</b>

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# Prioritising Resources

Area of focus	Summary observations	RAG-Rating
<b>Leadership and challenge in prioritising resources</b>	<p>The leadership team has continued to focus on long term issues, for example, the re-development of Skelmersdale and Major Service Reviews (MSR) . These are based on a clear understanding of demographic and environmental pressures and recognise the need for the Council to be networked with larger sub-regional bodies such as the Local Enterprise Partnership and Liverpool and Manchester corridor. This understanding is demonstrated by the next iteration of the Business Plan driving earlier work on the 2015/16 annual budget which was well underway in July 2014.</p> <p>The challenge is based on the Business plan refresh and MSR. The Council refreshes the Business Plan each year for both changes in Annual plans and to re-state to the end of the current planning cycle.</p> <p>Areas the Council is looking to challenge next include Leisure Services and provision of sports facilities whether through sharing the service with neighbouring Councils, partnering with Edge Hill University, or developing community managed facilities in Skelmersdale.</p>	<b>Green</b>
<b>Consultation with key stakeholders</b>	<p>The Council has effective means for stakeholder engagement and public consultation processes.</p> <p>The Council's website and staff newsletter flag up consultation processes and encourage input. However, discussions with management suggest staff schemes and proposals, while good, are often too small-scale.</p> <p>Stakeholder views are invited on a wide range of issues and a sample of households are surveyed using paper based questionnaires.</p> <p>Stakeholder engagement is often sought after officers and members have considered areas for MSR and viable reorganisations and savings have been identified. As a result, stakeholder comments are focussed. This is evident in the stakeholder engagement around Housing Estimates.</p>	<b>Green</b>
<b>Basis for decision making</b>	<p>The Council has a sound understanding of costs and revenue streams.</p>	<b>Green</b>
<b>Understanding costs and the impact and outcome of decisions</b>	<p>The Council has a good understanding of cost impacts of its spending and policy decisions. For example, the recent poorer collection rates reflected one-off disruption as collection responsibility passed to the new provider. Current performance indicators show a return to more normal collection rates.</p>	<b>Green</b>

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# Improving Efficiency & Productivity

Area of focus	Summary observations	RAG-Rating
<b>IT Systems and Data quality</b>	<p>The Council has a good record for error free financial statements and good arrangements for scrutiny of performance and budget reporting.</p> <p>Work to certify the 2013 Housing and Council Tax benefits Subsidy Return identified a higher number of errors than in previous years. Although no longer under the direct management control of the Council, its response has been to scrutinize the performance monitoring, contract management and governance arrangements. This has included a renewed focus on performance data.</p>	<b>Green</b>
<b>Delivery of savings and service re-design</b>	<p>The Council's outturn position for 2013/14, shows the Council has achieved a small favourable budget variance on both general fund and the housing revenue account. This means the Council has achieved a small surplus for each year of the Public Spending review, while reducing overall spending and keeping Council Tax rises to the lowest in the County.</p> <p>The year-end position reflects the projected outturn based on budget monitoring and reporting in year. The in-year budget reports set out explanations and actions for all variances against budget, whether favourable or unfavourable.</p> <p>In October 2011, the Council commenced a significant shared service arrangement for its IT and Revenues and Benefits functions. The Council has been very mindful of the impacts of this arrangement and have sought assurance over savings through contract management arrangements and agreed access for audit. Monitoring has shown the planned savings have been achieved and performance improving.</p> <p>The Council continues to look for innovative means of providing services through its Major Service Review programme.</p>	<b>Green</b>
<b>Effectiveness of key services</b>	<p>The Council produces quarterly performance data based on key targets in the Business Plan.</p> <p>Comparing Q4 results for 2013 and 2014, overall there has been a small increase in the number of PIs performing better than target and a fall in those performing below target. There has been an increase in the number performing better than previous year.</p>	<b>Green</b>

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# Management of Natural Resources

Area of focus	Summary observations	RAG-Rating
<b>Management of Natural Resources</b>	<p>The Council has a variety of green initiatives in place.</p> <p>Some relate to householders, such as the Green Deal promoting insulation. Others relate to wider sustainability projects for the Council and businesses in the area.</p> <p>Details of the initiatives and the resources available for them are accessible through the Council's website.</p>	<b>Green</b>

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# Appendix 1 – Benchmarking

## **Our approach**

We have made use of the Audit Commission's Financial Ratios Analysis Tool and VfM Profiles Tool to benchmark the authority against its statistical nearest neighbours for relevant KPIs up to and including 2012-13.

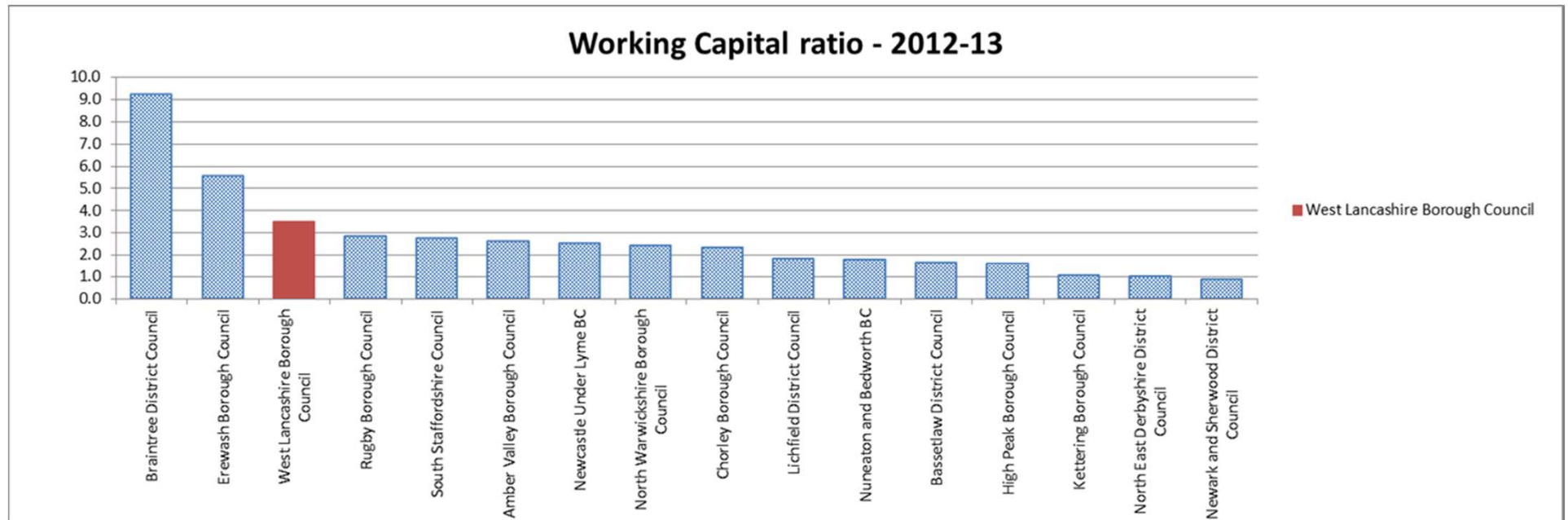
The graphics are based on historic data with the current year information for West Lancashire Borough Council shown for to add context.

The following general principles apply:

- The highest values are nearest to the left-hand axis, the further to the right, the lower the value, the weaker the financial resilience rating.
- The graphs assume a high value means a stronger financial resilience but it do not reflect any other considerations, e.g. whether reserves are actually being used, how closely borrowing matches investment in assets.
- West Lancashire Borough Council data appears as red bars, in the Trend chart for Usable Reserves, it is the solid bars.
- The ratios are expressed as a simple number.
- The peer group used is made up of other District Councils with similar sized populations and tax base.

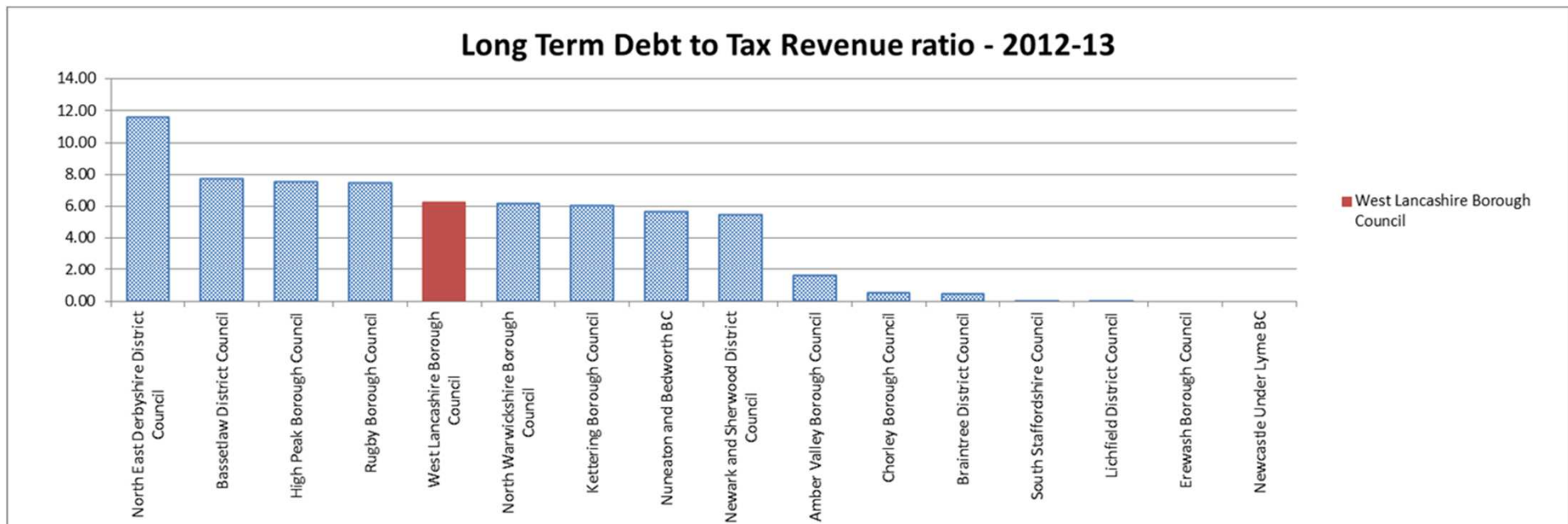
# Working Capital Ratio 2012-13

This is a simple ratio of current assets to current liabilities, the West Lancashire score for 2013 was 3.53, for 2014 it is 3.05. This small fluctuation shows that the Council's position remains stable.



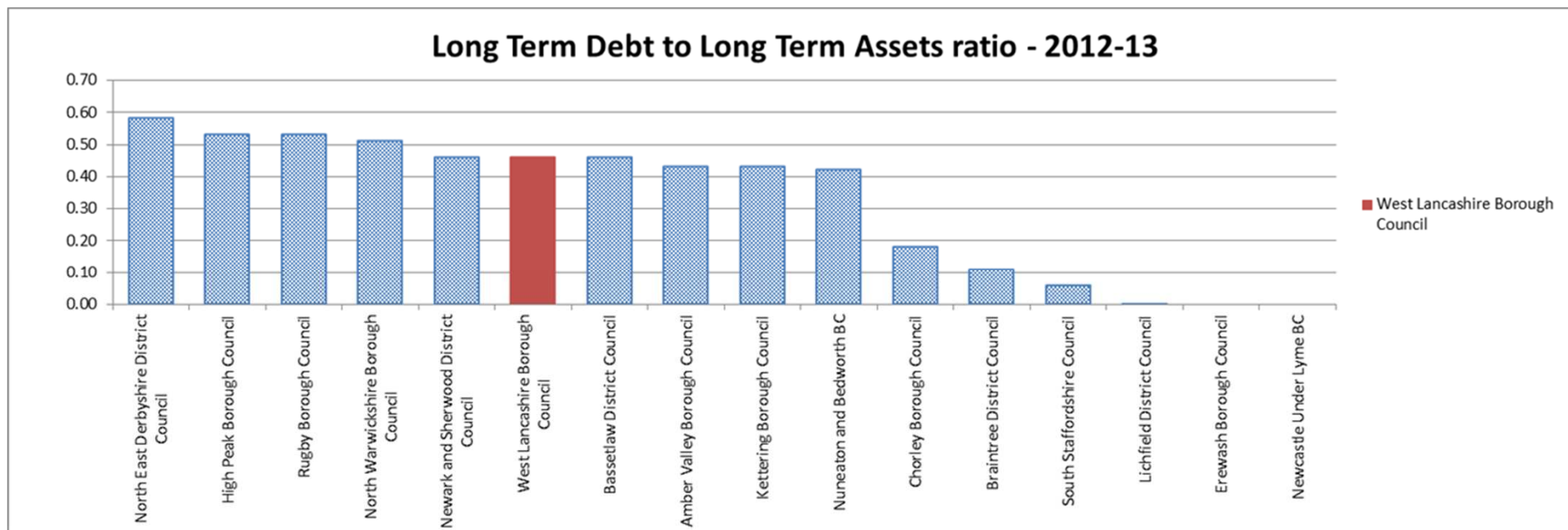
# Long term Debt to Tax Revenue

This shows total borrowings as a ratio of total tax receipts whether from local taxpayers or central government. The West Lancashire ratio for 2013 was 6.27 and for 2014 it is 7.01. This ratio is not directly comparable because the make of in central government funding has changed with the local retention of business rates; the Council continues to meet its treasury management performance targets under the Prudential Code.



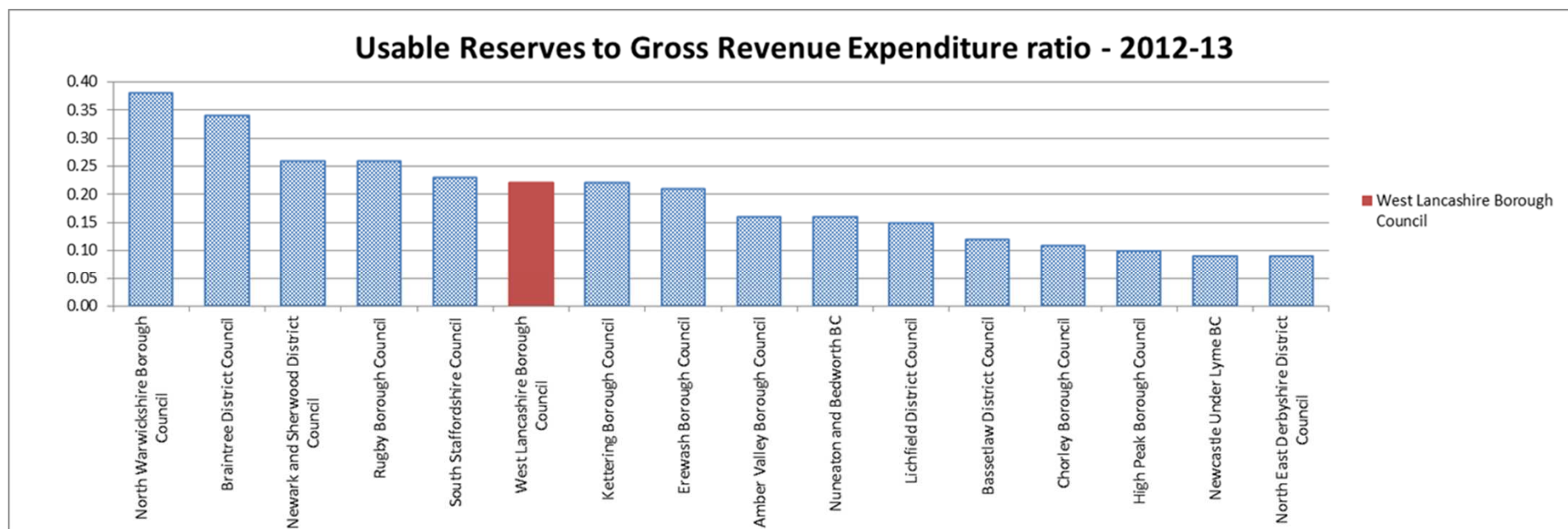
# Long term debt to long term assets

The Council ratio for 2012/13 was 0.46; at the end of March 2014 it was 0.45. The Council took on additional borrowing as part of the self-financing of the Housing Revenue Account. Council's with no Housing stock will have lower debt to assets ratios. Again, this ratio should be considered against the Council meeting its Treasury Management performance targets under the Prudential Code.



# Usable reserves to gross revenue expenditure

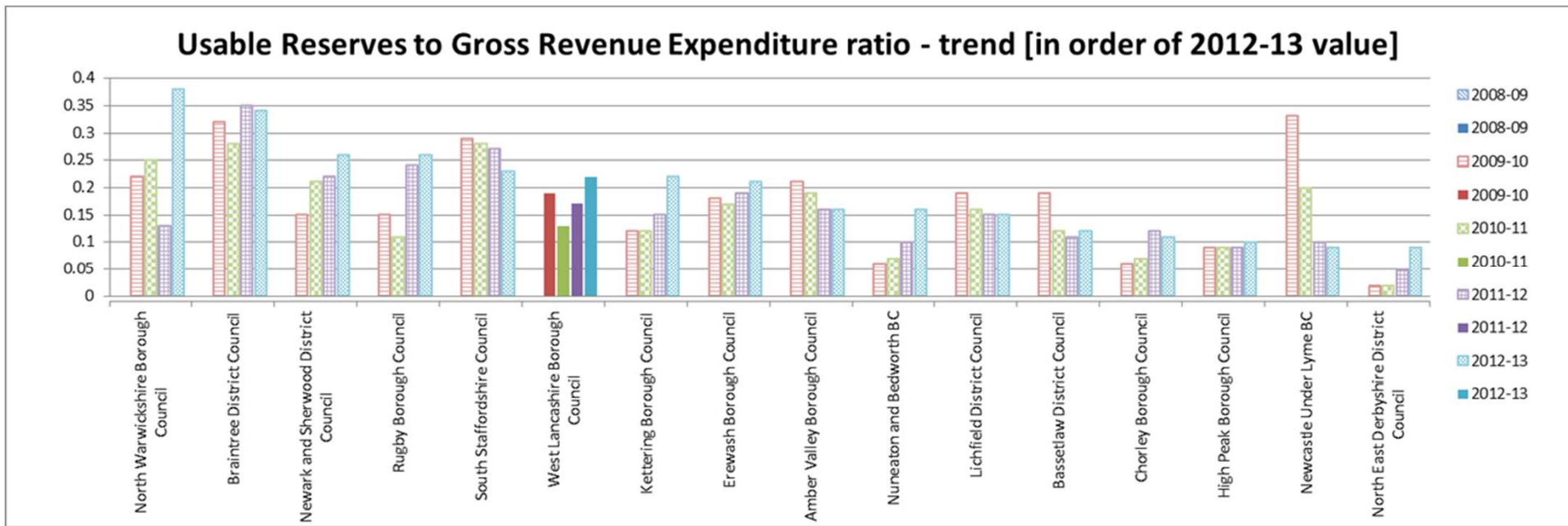
In this context usable reserves includes the H.R.A. and earmarked reserves, on the basis that the Council has discretion over their creation and use. At the end of 2013 the ratio was 0.23 and at the end of March 2014 0.21. Again the small change shows a fundamentally stable position with prudent management of reserves.





# Usable reserves to gross revenue expenditure- trend

This chart shows the reserves ratio over a five year period, the earliest year to the left. This shows two things, first West Lancashire has managed to strengthen it reserves position without reserves becoming unusually high, and second even among similar size Councils there is a great degree of variation in the way reserves are being managed.



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## **AGENDA ITEM: 6**

**AUDIT AND GOVERNANCE COMMITTEE:**

**23 September 2014**

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**Report of: Borough Treasurer**

**Relevant Managing Director: Managing Director (People and Places)**

**Contact for further information: Mr M.Coysh (Extn. 2603)  
(E-mail: [mike.coysh@westlancs.gov.uk](mailto:mike.coysh@westlancs.gov.uk))**

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**SUBJECT: INTERNAL AUDIT ACTIVITIES – QUARTERLY UPDATE**

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Wards affected: Borough wide

### **1.0 PURPOSE OF THE REPORT**

1.1 To advise of progress against the 2014/15 Internal Audit Plan.

### **2.0 RECOMMENDATION**

2.1 That Members note progress in the year to date.

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### **3.0 BACKGROUND**

3.1 Members approved the 2014/15 Internal Audit Plan in March. The Internal Audit Manager brings written reports to each meeting of this Committee to update on progress against the plan.

3.2 This report covers activity against the plan up until early September. The work contained in this report will inform the overall opinion in the Internal Audit Annual Report issued at the year-end.

### **4.0 INTERNAL AUDIT ACTIVITY TO DATE**

4.1 A report summarising progress to date is attached and the Internal Audit Manager will attend the meeting to address any questions Members may have.

4.2 Progress against the plan to date is satisfactory with 38% of audits in progress compared to 44% for the same period in the previous year.

4.3 No significant issues have arisen from Internal Audit's work in the first quarter that would merit being drawn specifically to the attention of the Committee.

## **5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

5.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

## **6.0 FINANCIAL AND RESOURCE IMPLICATIONS**

6.1 All the activity referred to in this report is covered by existing budget provisions.

## **7.0 RISK ASSESSMENT**

7.1 This report summarises progress against Internal Audit's work programme to date. Internal Audit's work is a key source of assurance to this Committee that risks to the Council's objectives are being properly managed.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Appendices**

1. INTERNAL AUDIT QUARTERLY ACTIVITY UPDATE.

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## INTERNAL AUDIT QUARTERLY UPDATE

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### 1.0 Summary of progress

- 1.1 Due to publication requirements this report is compiled in early September and the Audit Manager will update members verbally on progress as at the date of the meeting.
- 1.2 10 of the 26 items on the original plan are currently in progress. This is approximately 38% and compares with 44% for the same period in 2013/14.

### 2.0 Assurance rating system

- 2.1 This quarterly report is in a revised format recording the level of assurance provided by internal audit work. The following categories will be used to record the level of assurance.

**Full assurance:**

there is a sound system of internal control designed to secure objectives and controls are being consistently applied.

**Substantial assurance:**

there is a generally sound system of internal control in place designed to secure objectives and controls are generally being applied consistently. Some weaknesses in the design or operation of the controls put the achievement of particular objectives at risk.

**Limited assurance:**

weaknesses in design or inconsistent application of controls put the achievement of objectives at risk.

**No assurance:**

weak controls or significant non-compliance with controls could result (or have resulted) in failure to achieve objectives.

- 2.2 No system of internal control can eliminate every possible risk and increasing the level of control in a system frequently increases costs. Balancing risk appropriately against the costs of control is management's responsibility.
- 2.3 Internal audit's role is to evaluate and improve the effectiveness of risk management and control processes.

- 2.4 It is important to recognise that the scope of the work and the area examined define the limits of the assurance and for this reason some context will be provided for each piece of work in the form of a summary report. The first of these is set out below

### **3.0 Matters arising from internal audit work**

#### 3.1 Summary report

#### **LCC/BTLS CONTRACT PERFORMANCE MONITORING**

Procedures for compilation of LCC/BTLS contractual performance indicators for all current contractual indicators as identified from the report for April 2014.

##### OBJECTIVES

- To examine all contractual indicators currently applicable to WLBC functions administered by LCC/BTLS and the base data used to compile each.
- Follow the significant steps for each indicator to identify that an adequate audit trail exists.
- Establish the accuracy of reported indicators.
- Confirm adequate documentation is retained to verify the processes for production of the indicators.
- Establish any proposals to amend definitions or targets and whether there are any issues with the operation of the current suite of indicators in use.

##### PERFORMANCE INDICATORS EXAMINED:

###### Benefits

- NI181 – Average number of days to process all items (New claims and changes of circumstances)
- Recovery of housing benefit overpayments (payments received)
- Benefits local authority error overpayments – lower threshold YTD based on initial estimate for 14/15
- Number of benefit fraud sanctions and prosecutions

###### Council Tax and NNDR

- % of Council tax collected for current year
- % of Council tax collected for previous years arrears
- % of NNDR collected for current year

###### Sundry Debtors

- Cash collected and write offs

##### OBSERVATIONS

- Each reported indicator was verified by recalculation and walk-through testing:

- The systems and procedures used to compile the base data for each indicator were examined and an adequate audit trail identified for each.
- Adequate documentation is being retained to verify the processes followed for the production of all the indicators.
- The client had no concerns about the operation of the current suite of indicators. Targets for some of the indicators were under review. One of these is the sundry debtors indicator where consideration was being given to changing to a reportable percentage rather than a monetary value.
- There were no recommendations.

#### ASSURANCE

There is a generally sound system of internal control designed to secure accuracy of reported figures and controls are being applied consistently. The client carries out limited verification of the figures supplied by LCC / BTLS.

This Internal audit work provides **Substantial** assurance that the service objectives for performance monitoring of LCC/BTLS activity will be met by the systems in place.

### **4.0 Action Points Outstanding From Previous Updates**

#### **4.1 Revenues and Benefits reconciliations**

It was previously recommended that robust reconciliation procedures should be put in place. A solution has now been implemented and will be reviewed as part of 2014/15 audits of revenues and benefits which are currently underway.

#### **4.2 Benefits processing**

An increase in the volume of errors in benefit processing was brought to the attention of this Committee in previous internal audit updates. BTLS's Director of Revenues and Benefits attended a previous meeting to report on proposals to improve performance in this area. Internal audit work on benefits has not yet been reported but the early indications are that improvements have been secured.

#### **4.3 Delays to work on Revenues and Benefits**

Improvements to the quality and speed of responses to audit queries in this area have been sustained and this item will be omitted from future reports.

## Internal Audit Second Quarter Activity Update

<b>Title</b>	<b>Position</b>
Benefits	Work in progress
Contract Audit	Work in progress
Performance Monitoring System (BTLS)	Work complete
Community Safety (CCTV)	Work in progress
National Fraud Initiative	Work in progress
Home Care Link	Work in progress
Council Tax	Work in progress
Debtors	Work in progress
NNDR	Work in progress
Creditors	Work in progress

<b>Summary</b>	
Work complete	1
Work in progress	9
Work not yet commenced	16
<b>Total</b>	<b>26</b>

### Conclusion

Progress against the 2014/15 plan to date has been maintained at satisfactory levels and it is anticipated that internal audit coverage will be maintained at levels which will enable an adequate assessment of the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.





## **AGENDA ITEM: 7**

**AUDIT AND GOVERNANCE COMMITTEE:**

**23 September 2014**

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**Report of: Borough Treasurer**

**Relevant Managing Director: Managing Director (People and Places)**

**Contact for further information: Marc Taylor (Extn. 5092)  
(E-mail: [marc.taylor@westlancs.gov.uk](mailto:marc.taylor@westlancs.gov.uk))**

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**SUBJECT: APPROVAL OF STATEMENT OF ACCOUNTS**

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Wards affected: Borough wide

### **1.0 PURPOSE OF THE REPORT**

1.1 To approve a Letter of Representation and the Council's annual Statement of Accounts.

### **2.0 RECOMMENDATIONS**

2.1 That the Letter of Representation set out in Appendix 1 be endorsed.

2.2 That the Statement of Accounts set out in Appendix 2 be approved.

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### **3.0 BACKGROUND**

3.1 A report on the Statement of Accounts for 2013-14 was considered by this Committee at its meeting in June, and subsequently a link to this statement was sent to all Members by e-mail.

3.2 The external auditors have now largely completed their audit on these accounts and details of their findings are contained in a separate report elsewhere on the agenda.

3.3 It is part of the terms of reference of this Committee that it will approve the Council's Statement of Accounts each year. The Accounts and Audit Regulations require that this approval has to take place by 30<sup>th</sup> September.

#### **4.0 LETTER OF REPRESENTATION**

- 4.1 It is standard practice that the Council should provide its External Auditors with a Letter of Representation to confirm a range of issues in relation to the accounts, including the fact that that accounts have been prepared properly and that all relevant information has been provided.
- 4.2 A copy of this Letter is contained in Appendix 1 and Members are asked to consider and endorse this document for signature by the Borough Treasurer.

#### **5.0 APPROVAL OF STATEMENT OF ACCOUNTS**

- 5.1 As a result of the external audit a small number of changes have been made to the Statement of Accounts, and it is expected that an unqualified opinion will be provided on them (essentially this means that the accounts comply with relevant accountancy and statutory regulations). An updated version of the Statement incorporating these changes has been included in Appendix 2, and Members are now asked to approve this document in accordance with the Accounts and Audit Regulations.

#### **6.0 SUSTAINABILITY IMPLICATIONS / COMMUNITY STRATEGY**

- 6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

#### **7.0 RISK ASSESSMENT**

- 7.1 The audit of the Statement of Accounts is part of the overall control framework that is designed to ensure that the Council properly accounts for the use of its assets and resources.

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#### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

#### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

#### **Appendices**

Appendix 1 – Letter of Representation

Appendix 2 – Statement of Accounts (TO FOLLOW)

## APPENDIX 1 – LETTER OF REPRESENTATION

Karen Murray  
Director  
**Grant Thornton UK LLP**  
4 Hardman Square  
Spinningfields  
Manchester M3 3EB

23 September 2014

Dear Karen,

West Lancashire Borough Council - Financial Statements for the year ended 31 March 2014

This representation letter is provided in connection with the audit of the financial statements of West Lancashire Borough Council for the year ended 31 March 2014 for the purpose of expressing an opinion as to whether the financial statements give a true and fair view in accordance with International Financial Reporting.

We confirm that to the best of our knowledge and belief having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

### **Financial Statements**

- i We have fulfilled our responsibilities for the preparation of the financial statements in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in Great Britain ("the Code") as adapted for International Financial Reporting Standards; in particular the financial statements give a true and fair view in accordance therewith.
- ii We have complied with the requirements of all statutory directions and these matters have been appropriately reflected and disclosed in the financial statements.
- iii We acknowledge our responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud.
- iv Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable.
- v We are satisfied that the material judgements used by us in the preparation of the financial statements are soundly based, in accordance with the Code, and

adequately disclosed in the financial statements. There are no further material judgements that need to be disclosed.

- vi We confirm that we are satisfied that the actuarial assumptions underlying the valuation of pension scheme liabilities are consistent with our knowledge. We confirm that all settlements and curtailments have been identified and properly accounted for. We also confirm that all significant retirement benefits have been identified and properly accounted for (including any arrangements that are statutory, contractual or implicit in the employer's actions, that are funded or unfunded).
- vii Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of International Financial Reporting Standards and the code.
- viii All events subsequent to the date of the financial statements and for which International Financial Reporting Standards and the code requires adjustment or disclosure have been adjusted or disclosed.
- ix The financial statements are free of material misstatements, including omissions.
- x We have no plans or intentions that may materially alter the carrying value or classification of assets and liabilities reflected in the financial statements.
- xi We believe that the Council's financial statements should be prepared on a going concern basis on the grounds that current and future sources of funding or support will be more than adequate for the Council's needs. We believe that no further disclosures relating to the Council's ability to continue as a going concern need to be made in the financial statements.

### **Information Provided**

- xii We have provided you with:
  - a. access to all information of which we are aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;
  - b. additional information that you have requested from us for the purpose of your audit; and
  - c. unrestricted access to persons within the Council from whom you determined it necessary to obtain audit evidence.
- xiii We have communicated to you all deficiencies in internal control of which management is aware.
- xiv All transactions have been recorded in the accounting records and are reflected in the financial statements.

- xv We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
- xvi We have disclosed to you all information in relation to fraud or suspected fraud that we are aware of and that affects the Council and involves:
  - a. management;
  - b. employees who have significant roles in internal control; or
  - c. others where the fraud could have a material effect on the financial statements.
- xvii We have disclosed to you all information in relation to allegations of fraud, or suspected fraud, affecting the Council's financial statements communicated by employees, former employees, regulators or others.
- xviii We have disclosed to you all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements.
- xix We have disclosed to you the entity of the Council's related parties and all the related party relationships and transactions of which we are aware.

**Annual Governance Statement**

- xx We are satisfied that the Annual Governance Statement (AGS) fairly reflects the Council's risk assurance and governance framework and we confirm that we are not aware of any significant risks that are not disclosed within the AGS

**Approval**

The endorsement of this letter of representation was minuted by the Council's Audit and Governance Committee at its meeting on 23 September 2014.

**Signed on behalf of the Council**

Name

Position Borough Treasurer

Date 23<sup>rd</sup> September 2014





**AGENDA ITEM: 8**

**CABINET:  
16 September 2014**

**AUDIT AND GOVERNANCE  
COMMITTEE:  
23 September 2014**

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**Report of: Borough Solicitor**

**Relevant Managing Director: Managing Director (People and Places)**

**Relevant Portfolio Holder: Councillor D Westley**

**Contact for further information: Mr T P Broderick (Ext 5001)**  
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**SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT – SETTING OF  
POLICY AND REVIEW OF USE OF POWERS**

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**Borough Wide Interest**

**1.0 PURPOSE OF THE REPORT**

1.1 To review and set the policy for the Regulation of Investigatory Powers Act (RIPA) and review the Council's use of covert surveillance and communications data over the last year.

**2.0 RECOMMENDATIONS TO CABINET**

2.1 That it be noted that for the period from the last annual report to date the Council has not authorised any relevant RIPA activity.

2.2 That the RIPA Guide at Appendix 1 to the report be approved.

**3.0 RECOMMENDATIONS TO AUDIT AND GOVERNANCE**

3.1 That the report be noted.

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**4.0 BACKGROUND**

4.1 The Council employ a number of investigative techniques including surveillance, which assist its regulatory functions. Relevant areas of activity can include investigation by Internal Audit, Benefits Fraud Team, Environmental Health,

Housing, Licensing, CCTV Services and the MAPs Team. Some activities must be undertaken in accordance with the Regulation of Investigatory Powers Act 2000 ("RIPA"). RIPA, its subordinate legislation and Codes of Practice prescribe the type of activities permitted and the procedures required to monitor RIPA activity within the Council.

## **5.0 UPDATE ON COMPLIANCE AND ARRANGEMENTS FOR MONITORING**

- 5.1 The Council has robust systems for internal control (as detailed in the Guidance for Compliance with RIPA (RIPA Guide) and the associated documents entitled 'Guidance on the Completion of the RIPA Authorisation Forms'. (Forms Guidance) which gives officers practical guidance. The Council is also subject to external inspections by the office of Surveillance Commissioners (which monitors the use of directed surveillance and covert human intelligence sources) and the Interception of Communications Commissioner's Office (which monitors the acquisition of communications data). The Council was last inspected by the OSC on 27 June 2013 and received a very favourable report as has previously been reported. The Council also supplies statistical information on the use of RIPA powers on an annual basis to the two offices to inform their annual reports to Parliament.
- 5.2 The Council's approved RIPA Guide is made available on the Council's Intranet at <http://wlintranet/intranet/docs/tpbripaguidelines24040> and is appended to this report at Appendix 1. It is a working document to assist investigating and co-ordinating officers within the Council. Paragraph 5 of the RIPA Guide stresses that grantors must believe the authorised activity is (1) necessary for preventing and detecting crime and (2) is proportionate to what is sought to be achieved in carrying out the surveillance activity (e.g. the 24/7 watching of premises where private individuals may go about their lawful business, for the possibility of gaining collateral evidence for a very minor technical infraction of a byelaw would not in all likelihood be proportionate). If it fails either test, authorisations should not be granted.
- 5.3 The Code requires that Councillors should consider internal reports on the use of RIPA on at least a quarterly basis to ensure that it is being used consistently with the Council's Policy and that the Policy remains fit for purpose. This is reported at each meeting of the Audit and Governance Committee. The Code advises that Councillors should not be involved in making decisions on specific authorisations. It is stressed that the involvement of elected members is not to extend to operational decision making or stipulate in detail how the Council discharges the procedure. The Government's position is that there should be no possibility of political interference in law enforcement operations.
- 5.4 Since the commencement of the Protection of Freedoms Act 2012 has further refined the requirements for granting authorisations. To entitle the grant of an RIPA authorisation the criminal offence which is sought to be prevented or detected must be punishable, whether on summary conviction or on indictment, by a maximum term of at least six months' imprisonment, or would constitute an offence involving the sale of tobacco and alcohol to underage children.
- 5.5 In addition the 2012 Act now requires local authorities to obtain the approval of a Magistrate for the use of any one of the three covert investigatory techniques available to them under RIPA, namely Directed Surveillance, deployment of a



Covert Human Intelligence Source (CHIS) and accessing communications data. This process follows on from the “internal authorisation” procedures.

- 5.6 The practical Forms Guidance available to officers sets out how the Magistrates’ approval process is to be followed. There are currently draft proposals before Parliament for approval which will likely result in further refinement of the Forms Guidance.

## **6.0 MONITORING OF RIPA ACTIVITY**

- 6.1 Since the last annual report no covert surveillance has been authorised.
- 6.2 The Borough Solicitor, as Senior Responsible Officer, proactively seeks to ensure that the use of covert surveillance in this authority is well regulated. Applications for authorisation to use covert surveillance must be rejected when the Authorising Officer is not satisfied that the surveillance is necessary or proportionate and legal advice sought by Authorising Officers in appropriate cases.
- 6.3 A RIPA guidance note is circulated at regular intervals to ensure officers remain aware of requirements and is supplemented by a programme of training.

## **7.0 THE RIPA POLICY**

- 7.1 As a requirement of the RIPA Code of Practice the Council considers its policy in this area on an annual basis, as well as reviewing its use of the powers through quarterly reports to Audit and Governance Committee. The Council’s RIPA Guide forms the Council policy in this area and has been commended in earlier inspections by the regulator. The current version includes minor amendments identified at the last inspection (June 2013). The RIPA Guide is found at Appendix 1.
- 7.2 The RIPA Guide includes provisions regulating the process for Management of CHIS (covert human intelligence sources) by the Borough Solicitor.
- 7.3 As noted, the Forms Guidance provides a step-by-step guide to officers in the use of the policy for relevant activity. These documents are monitored throughout the year to ensure they are up to date and ‘fit for purpose’ and may be amended in accordance with delegated arrangements.

## **8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 8.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

## **9.0 FINANCE AND RESOURCE IMPLICATIONS**

- 9.1 There are no significant financial and resource implications arising from this report.

## **10.0 RISK ASSESSMENT**

10.1 The Council could be in breach of the relevant legislation if it does not follow the procedures set out in the RIPA Orders and Codes. This could result in the inadmissibility of evidence and the possibility of breaches of the Human Rights Act 1990.

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### **BACKGROUND DOCUMENTS**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

#### **Equality Impact Assessment**

This will be considered in relation to any particular authorisation.

#### **Appendices**

Appendix 1 - RIPA Guide

Appendix 2 – Cabinet Minute (for Audit and Governance Committee only) TO FOLLOW

# **WEST LANCASHIRE BOROUGH COUNCIL**

## **Guide for Compliance with the**

### **Regulation of Investigatory Powers Act 2000**

#### **In respect of**

#### **Directed Surveillance, Use of Covert Human Intelligence Sources and Accessing Communications Data**

Version : No.4 - 2014

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# 1 INTRODUCTION

- 1.1. The Regulation of Investigatory Powers Act 2000 (the 2000 Act) regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected consistent with the obligations under The Human Rights Act 1998, while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
- 1.2. West Lancashire Borough Council is therefore included within the 2000 Act framework with regard to the authorisation of Directed Surveillance, the use of Covert Human Intelligence Sources (CHIS) and the obtaining of communications data through a single point of contact (SPOC).
- 1.3 The purpose of this guidance is to:
  - explain the scope of the 2000 Act and the circumstances where it applies
  - provide guidance on the authorisation procedures to be followed.

This continues to be a developing area of law and the Courts are yet to fully define the limits of the powers. This should be borne in mind when considering this Guide.

- 1.4 The Council has had regard to the Codes of Practice on covert surveillance, CHIS and accessing communications data produced by the Home Office in preparing this guidance and each Service should hold copies to which staff can refer. These documents are available at [www.homeoffice.gov.uk/ripa](http://www.homeoffice.gov.uk/ripa).
- 1.5 In summary the 2000 Act requires that when the Council undertakes "directed surveillance", uses a "covert human intelligence source or accesses communications data (defined below at paragraphs 2, 3 and 4 below) these activities must only be authorised by an officer with delegated powers when the relevant criteria are satisfied.
- 1.6 The Managing Directors, Assistant Director Housing & Regeneration, Assistant Director Community Services and Borough Solicitor can authorise these activities (in relation to communications data, they shall be known as Designated Persons and shall seek the advice of the SPOC, see further paragraphs 4 and 5.1.3 below). Such nomination permits officers to grant authority for any purpose under the terms of the 2000 Act across all Council Services and service areas.
- 1.7 **Once an authorisation is granted for the use (or renewal) of directed surveillance, or acquisition of communications data, or covert human intelligence source it cannot take effect without an order approving the grant (or renewal) being obtained from a single Justice of the Peace (Magistrate, District Judge) (under amendments made by the Protection of Freedoms Act 2012, to s.32A and s.32B of the 2000 Act). This order must be sought from the Magistrates' Court, but when the Court is not in session. The arrangements for seeking the order will be made in consultation with Legal Services.**

- 1.8 Authorisation under the 2000 Act gives lawful authority to carry out surveillance and the use of a source. Obtaining authorisation helps to protect the Council and its officers from complaints of interference with the rights protected by Article 8(1) of the European Convention on Human Rights, i.e. the right to respect for private and family life which is now enshrined in English law through the Human Rights Act 1998. This is because the interference with the private life of citizens will be “in accordance with the law”. Provided activities undertaken are also “reasonable and proportionate” they will not be in contravention of Human Rights legislation.
- 1.9 Authorising Officers and investigators within the Local Authority are to note that the 2000 Act does not extend to powers to conduct intrusive surveillance. Investigators should familiarise themselves with the provisions of Sections 3, 4 and 5 of the Code of Practice on Directed Surveillance to ensure a good understanding of the limitation of powers within the 2000 Act.
- 1.10. Deciding when authorisation is required involves making a judgment **and assessing whether specific conditions apply to the investigation target**. Paragraph 3.4 explains this process in detail. If you are in any doubt, seek the advice of an Authorising Officer, if they are in doubt they will seek advice from the Borough Solicitor/Senior Responsible Officer. However, in those cases where there is doubt as to the need for an authorisation it may be safer to consider seeking/granting an authorisation: a broader reading of the application of the Act’s requirements is encouraged.
- 1.11. In the case of CHIS authorisations for vulnerable people or juveniles, or where surveillance involves communication subject to legal privilege, confidential personal information or confidential journalistic material authorisation must be obtained from the Managing Directors only (this should be the Managing Director (Transformation) as Head of the Paid Service (in her absence the Managing Director (People and Places) may act), **together with the necessary application for an order giving effect to authorisation from a Justice of the Peace**.
- 1.12 Only one of the Managing Directors should be requested to authorise directed surveillance involving the covert filming of any Council member or employee to the extent that this falls within RIPA.

## **2. DIRECTED SURVEILLANCE**

2.1 **The Council must apply to a Justice of the Peace for an order that gives effect to the authorisation for the use of directed surveillance prior to undertaking the activity.**

2.2 What is meant by Surveillance?

"Surveillance" includes:

- a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communication;
- b) recording anything monitored, observed or listened to in the course of surveillance; and

- c) surveillance by or with the assistance of a surveillance device.

### 2.3 When is surveillance directed?

Surveillance is 'Directed' for the purposes of the 2000 Act if it is covert, but not intrusive and is undertaken:

- a) for the purposes of a specific investigation or a specific operation.
- b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one is specifically identified for the purposes of the investigation or operation); and
- c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.

### **2.4 Surveillance Threshold**

**2.4.1 Before directed surveillance can be undertaken and the requisite order from a Justice of the Peace applied for, the Council must be satisfied that they are investigating a criminal offence that carries a maximum sentence of 6 months or more imprisonment.**

**2.4.2 The exception to the 6 month sentence threshold is specific offences of sale of alcohol or tobacco to an underage person which does not fall within the Council's range of regulatory activities.**

**2.4.3 During the course of an investigation, should the Council become aware that the criminal activity under investigation falls below the 6 month sentence threshold, then use of directed surveillance should cease.**

**2.4.4 This 6 month sentence threshold does not apply to use of covert human intelligence or communications data techniques.**

**2.5. The Council cannot undertake intrusive surveillance.**

2.5.1 Surveillance becomes intrusive if the covert surveillance:

- a) is carried out in relation to anything taking place on any "residential premises" or in any "private vehicle"; and
- b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device; or
- c) is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle but is carried out without that device being present on the premises or in the vehicle, where the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

2.6 Before any officer of the Council undertakes any surveillance of any individual or individuals they need to assess whether the activity comes within the 2000 Act. In order to do this the following key questions need to be asked.

2.6.1 Is the surveillance covert?

Covert surveillance is that carried out in a manner calculated to ensure that subjects of it are unaware it is or may be taking place.

If activities are open and not hidden from the subjects of an investigation, the 2000 Act framework does not in general apply. However, if there is any doubt in respect of this matter, an officer must consider whether it may be appropriate to seek a RIPA authorisation.

2.6.2 Is it for the purposes of a specific investigation or a specific operation?

For example, are Civic building CCTV cameras which are readily visible to anyone walking around the building covered?

The answer is not if their usage is to monitor the general activities of what is happening in the car park. If that usage, however, changes, the 2000 Act may apply.

For example, if the CCTV cameras are targeting a particular known individual, and are being used in monitoring his activities, that has turned into a specific operation which may require authorisation.

2.6.3 Is it in such a manner that is **likely** to result in the obtaining of private information about a person?

"Private information" is any information relating to a person's private or family life and aspects of business or professional life.

For example, if part of an investigation is to observe a member of staff's home to determine their comings and goings then that would be covered.

If it is likely that observations will not result in the obtaining of private information about a person, then it is outside the 2000 Act framework. However, the use of 'test purchasers' may involve the use of covert human intelligence sources (see later).

If in doubt, it is safer to consider getting authorisation.

2.6.4 Is it undertaken otherwise than by way of an immediate response to event or circumstances where it is not reasonably practicable to get authorisation?

The Home Office gives the example of an immediate response to something happening during the course of an observer's work, which is unforeseeable.

However, if as a result of an immediate response, a specific investigation subsequently takes place that brings it within the 2000 Act framework.

2.6.5 Is the Surveillance Intrusive?



Directed surveillance turns into intrusive surveillance if it is carried out involving anything that occurs on residential premises or any private vehicle and involves the presence of someone on the premises or in the vehicle or is carried out by means of a (high quality) surveillance device.

If the device is not on the premises or in the vehicle, it is only intrusive surveillance if it consistently produces information of the same quality as if it were.

Commercial premises and vehicles are therefore excluded from intrusive surveillance. **The Council is not authorised to carry out intrusive surveillance.**

#### **2.6.6 Does the offence under investigation meet the 6 month threshold?**

### **3 COVERT USE OF HUMAN INTELLIGENCE SOURCE (CHIS)**

3.1 A person is a Covert Human Intelligence Source if:

- a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph b) or c).
- b) he covertly uses such a relationship to obtain information or provide access to any information to another person; or
- c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

3.2. A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of that purpose.

3.3. The above clearly covers the use of professional witnesses to obtain information and evidence. It is not Council practice to use such witnesses. It can also cover cases such as a Council officer making a test purchase when there is a need to cultivate a relationship with the seller, which would not usually be the case.

3.4. There is a risk that an informant may be, or become, a CHIS. A member of the public giving information will be a CHIS if the information which he covertly passes to the authority has been obtained in the course of (*or as a consequence of the existence of*) a personal or other relationship. See paragraph 2.22 of the CHIS Code of Practice, and paragraph 270 of OSC Procedures and Guidance 2011, which refers to the risk of "status drift". When an informant gives repeat information about a suspect or about a family, and it becomes apparent that the informant may be obtaining that information in the course of a family or neighbourhood relationship, alarm bells should begin to ring. It probably means that the informant is in reality a CHIS, to whom a duty of care is owed if the information is then used. In such circumstances officers should refer any such instance for legal advice before acting on the information received from such an informant.

3.5 In this context (of authorising CHIS) ANY information (ie not confined to private information alone) to be gained by the covert manipulation of a relationship will

require authorisation.

**3.6 The Council must apply to a Justice of the Peace for an order that gives effect to the authorisation for the use of covert human intelligence source (see 1.7 above).**

#### **4 COMMUNICATIONS DATA**

4.1 The Council may also access certain communications data under the 2000 Act, provided this, like all other surveillance, is **for the purpose of preventing or detecting crime**.

4.2 Authorisations may be granted by a Designated Person (see 1.6 above) for relevant officers, who shall seek the advice of the Council's SPOC (Single Point of Contact) authorised by the Home Office. The Accessing Communications Revised Draft Data Code of Practice shall be followed at all times. Council staff are not permitted to obtain telecommunications and internet use data other than as provided for by the Act.

**4.3 The Council must apply to a Justice of the Peace for an order giving effect to the authorisation of the use of communications data.**

#### **5. AUTHORISATIONS, RENEWALS AND DURATION**

**5.1 The Council must apply to a Justice of the Peace for an order that gives effect to the authorisation for the use of directed surveillance, communications data and covert human intelligence source (see 1.7 above).**

5.1.1 The Conditions for Authorisation

5.1.2 Directed Surveillance

5.1.1.3 For directed surveillance no officer shall grant an authorisation **and make an application to a Justice of the Peace** for the carrying out of directed surveillance unless he believes:

- a) that an authorisation is necessary for the purpose of preventing or detecting crime and
- b) the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.

5.1.1.4 The onus is therefore on the person authorising such surveillance to satisfy themselves it is:

- a) necessary for the ground stated above and;
- b) proportionate to its aim.

5.1.1.5 In order to ensure that authorising officers have sufficient information to make an informed decision **about whether to make an application to a Justice of the Peace for an order to give effect to any authorisation**, it

is important that detailed records are maintained. As such the forms in the Appendix and the accompanying Guidance on Completing RIPA Authorisation Forms are to be completed where relevant.

It is also sensible to make any authorisation sufficiently wide enough to cover all the means required as well as being able to prove effective monitoring of what is done against that which has been authorised.

An Authorising Officer may partially approve or partially refuse an application for authorisation. If an Authorising Officer does not authorise all that was requested, a note should be added explaining why.

### 5.1.2 Covert Use of Human Intelligence Sources

5.1.2.1 The same principles as Directed Surveillance apply. (see paragraph 5.1.1.3 above)

5.1.2.2 The conduct so authorised is any conduct that:

- a) is comprised in any such activities involving the use of a covert human intelligence source, as are specified or described in the authorisation;
- b) relates to the person who is specified or described as the person to whose actions as a covert human intelligence source the authorisation relates; and
- c) is carried out for the purposes of, or in connection with, the investigation or operation so specified or described.

5.1.2.3 In order to ensure that authorising officers have sufficient information to make an informed decision it is important that detailed records are maintained. As such the forms attached are to be completed where relevant.

It is also sensible to make any authorisation sufficiently wide enough to cover all the means required as well as being able to prove effective monitoring of what is done against that is authorised.

### 5.1.3 Communications Data

Section 22(4) of RIPA allows the Council to request “communications data” from Communication System Providers (CSPs). The access allowed under these powers is limited to telephone, postal and email subscriber and billing information. Any access must be obtained through the use of an authorised single point of contact (SPOC). (See Code on Acquisition and Disclosure of Communications Data para. 3.15 and following.) The Council does not have the right to obtain the content of the communication, but can obtain details of the source and destination of a message. The only ground for Local Authorities is the prevention or detection of crime. CSPs must be provided with a Notice Requiring Disclosure of Communications Data, which must have been duly authorised. The only officers who are allowed to authorise such requests are those accredited by the Home Office (the “Designated Persons” (DPs)). The DP is an individual at the level of Managing Director and Assistant Director and will scrutinise all applications for Communications Data.

The authorisation or grant of a notice to obtain communications data require judicial approval on each occasion.

## 5.2 Further Requirements of the 2000 Act

**5.2.1 An application must be made to the Justice of the Peace for an order that gives effect to the authorisation for the use of Directed Surveillance, Communications Data and CHIS. This process is in addition to the Council's existing authorisation procedure (see 1.7 above).**

5.2.2 In light of the changes to the regime applications for urgent grants or renewal, must be in writing. In the Guidance on Completing RIPA Authorisation Forms document which accompanies this Guide are standard forms, which must be used. Officers must direct their mind to the circumstances of the individual case with which they are dealing when completing the form.

5.2.3 Although it is possible to combine two authorisations in one form the Council's practice is for separate forms to be completed to maintain the distinction between Directed Surveillance and the use of a CHIS.

5.2.4 Authorisations lapse, if not renewed:

- 12 months - if in writing/non-urgent - from date of last renewal if it is for the conduct or use of a covert human intelligence source or
- in all other cases (ie directed surveillance) 3 months from the date of their grant or latest renewal.

5.2.5 Any person entitled to grant a new authorisation can renew subject to judicial approval being obtained an existing authorisation in the same terms at any time before it ceases to have effect.

But, for the conduct of a covert human intelligence source, an Authorised Officer should not renew **or make an application to a Justice of the Peace to renew** unless a review has been carried out and that person has considered the results of the review when deciding whether to renew or not. A review must cover what use has been made of the source, the tasks given to them and information obtained.

5.2.6 The benefits of obtaining an authorisation are described in paragraph 7 below.

5.2.7 Factors to Consider (see further guidance the Guidance on Completing Forms document)

Any person giving an authorisation should first satisfy him/herself that the authorisation is necessary on particular grounds and that the surveillance is proportionate to what it seeks to achieve. The proportionate test involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The activity

will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

- 5.2.8 Particular consideration should be given to collateral intrusion on or interference with the privacy of persons other than the subject(s) of surveillance. Such collateral intrusion or interference would be a matter of greater concern in cases where there are special sensitivities, for example in cases of premises used by lawyers or for any form of medical or professional counselling or therapy.
- 5.2.9 An application for an authorisation should include an assessment of the risk of any collateral intrusion or interference. The authorising officer will take this into account, particularly when considering the proportionality of the surveillance and whether measures to avoid can be stipulated.
- 5.2.10 Those carrying out the covert surveillance should inform the Authorising Officer if the operation/investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation in some other way. In some cases the original authorisation may not be sufficient and consideration should be given to whether a separate authorisation is required.
- 5.2.11 Any person giving an authorisation will also need to be aware of particular sensitivities in the local community where the surveillance is taking place or of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance.

### **Home Surveillance**

- 5.2.12 The fullest consideration should be given in cases where the subject of the surveillance might reasonably expect a high degree of privacy, for instance at his/her home (NB. the Council cannot undertake intrusive surveillance) or where there are special sensitivities.

### **Spiritual Counselling**

- 5.2.13 No operations should be undertaken in circumstances where investigators believe that surveillance will lead them to intrude on spiritual counselling between a Minister and a member of his/her faith. In this respect, spiritual counselling is defined as conversations with a Minister of Religion acting in his/her official capacity where the person being counselled is seeking or the Minister is imparting forgiveness, or absolution of conscience.

### **Confidential Material**

- 5.2.14 The 2000 Act allows in exceptional circumstances for authorisations to gather 'confidential material' (see the definitions in Appendix 1). Such material is particularly sensitive, and is subject to additional safeguards under this code. In cases where the likely consequence of the conduct of a source would be for any person to acquire knowledge of confidential material, the deployment of the

source should be subject to special authorisation (by the Managing Directors).

5.2.15 In general, any application for an authorisation which is likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired. Special care should be taken where the target of the investigation is likely to be involved in handling confidential material. Such applications should only be considered in exceptional and compelling circumstances with full regard to the proportionality issues this raises.

5.2.16 The following general principles apply to confidential material acquired under authorisations:

- Those handling material from such operations should be alert to anything that may fall within the definition of confidential material. Where there is doubt as to whether the material is confidential, advice should be sought from the Borough Solicitor/Senior Responsible Officer before further dissemination takes place;
- Confidential material should not be retained or copied unless it is necessary for a specified purpose;
- Confidential material should be disseminated only where an appropriate officer (having sought advice from the Borough Solicitor/Senior Responsible Officer) is satisfied that it is necessary for a specific purpose;
- The retention or dissemination of such information should be accompanied by a clear warning of its confidential nature. It should be safeguarded by taking reasonable steps to ensure that there is no possibility of it becoming available, or its content being known, to any person whose possession of it might prejudice any criminal or civil proceedings related to the information;
- Confidential material should be destroyed as soon as it is no longer necessary to retain it for a specified purpose;
- Any covert surveillance concerning premises on which legal consultations take place are to be regarded as intrusive surveillance and may not be undertaken by the Council.

### **Combined authorisations**

5.2.17 Although it is possible to combine two authorisations in one form the Council's practice is for separate forms to be completed to maintain the distinction between Directed Surveillance and the use of a CHIS.

5.2.18 In cases of joint working with other agencies on the same operation, e.g. by a Housing Benefit Investigator authority for directed surveillance should be given by the lead agency.

5.2.19. On occasion, several Council Services may be included in the same investigation. One authorisation from the Lead Service should cover all activities.

## **Handling and disclosure of product**

5.2.20 Authorising Officers are reminded of the guidance relating to the retention and destruction of confidential material as described in paragraph 5.2.16 above.

5.2.21 Authorising Officers are responsible for ensuring that authorisations undergo timely reviews and are cancelled promptly after directed surveillance activity is no longer necessary.

5.2.22 Authorising Officers must ensure that the relevant details of each authorisation are sent to the Borough Solicitor/Senior Responsible Officer as described in paragraph 9 below.

5.2.23 The originals of applications for authorisations, reviews, renewals and cancellations for directed surveillance and the use of a CHIS should be submitted to and thereafter retained by the RIPA Co-ordinator, for a period of 3 years and at least between inspections. Copies are to be retained by the authorising officer for a commensurate period. Where it is believed that the records could be relevant to pending or future criminal proceedings, they should be retained for a suitable further period, commensurate to any subsequent review.

5.2.24 Any personal data collected during the course of a covert surveillance operation must be stored as per data protection guidelines set out in the Council's Data Protection Policy below.

- Analysis of data from the operation must be carried out by the officers who carried out the investigation and should be done in a private office to avoid personal material being accessible to other council employees.
- The authorising officer may also be included in analysis of the data collected.
- Data must be kept in a secure environment with limited access.
- Data must be labelled with the reference of the case and the date of collection.
- Data collected which is not appropriate or useful as evidence in the investigation and subsequent formal action must be deleted as soon as this fact is determined or when the case is closed, whichever is the sooner. Consideration of whether or not this material should be destroyed is the responsibility of the senior authorising officer. Care must be taken in this respect, as it must be considered that even if this information is not to be used as evidence, it may be "unused material" for the purposes of criminal proceedings.
- If there is any reason to believe that the data obtained during the course of an investigation might be relevant to that investigation, or to another investigation, or to pending or future civil or criminal proceedings, then it should not be destroyed but retained in accordance with established disclosure requirements and may be disclosed.

5.2.25 There is nothing in the 2000 Act that prevents material obtained through the proper use of the authorisation procedures from being used in other investigations. However, the use outside the Council, of any material obtained by means of covert surveillance and, other than in pursuance of the grounds on which it was obtained, should be authorised only in the most exceptional circumstances.

### 5.3 **The Use of Covert Human Intelligence Sources**

5.3.1 The Council will not normally use an external or professional source for the purpose of obtaining information. It is not the Council's usual practice to seek, cultivate or develop a relationship through an external or professional source although this may occur where circumstances require it. In these circumstances appropriate authorisations must be obtained. It is potentially possible, though highly unlikely, that the role of a Council employee may be that of a source, for example, as contemplated in paragraph 3.3 above, please cross refer for detail.

5.3.2 Nothing in the 2000 Act prevents material obtained by an employee acting as a source being used as evidence in Court proceedings.

5.3.3 The Authorising Officer must consider the safety and welfare of an employee acting as a source, and the foreseeable consequences to others of the tasks they are asked to carry out. A risk assessment should be carried out before authorisation is given. Consideration from the start for the safety and welfare of the employee, even after cancellation of the authorisation, should also be considered.

5.3.4 The Authorising Officer must believe that the authorised use of an employee as a source is proportionate to what it seeks to achieve. Accurate and proper records should be kept about the source and tasks undertaken.

5.3.5 The Council's practice is not to use an employee acting as a source to infiltrate existing criminal activity, or to be a party to the commission of criminal offences, even where this is within the limits recognised by law.

5.3.6 Before authorising the use of an employee as a source, the authorising officer should believe that the conduct/use including the likely degree of intrusion into the privacy of those potentially affected is proportionate to what the use or conduct of the source seeks to achieve. He should also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the operation or investigation (collateral intrusion). Measures should be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those not directly connected with the operation.

5.3.7 Particular care should be taken in circumstances where people would expect a high degree of privacy or where, as a consequence of the authorisation, "confidential material" is likely to be obtained.

5.3.8 Additionally, the Authorising Officer should make an assessment of any risk to an employee acting as a source in carrying out the proposed authorisation.



## 6. REVIEWS

- 6.1. The Home Office Code of Practice on directed surveillance makes specific reference to reviews at paragraph 3.22. It recommends regular reviews be undertaken to see if the need for the surveillance is still continuing. Results of reviews should be recorded in a central record of authorisations (see paragraph 8.1). Reviews should be more frequent when access to confidential information or collateral intrusion is involved. Review frequency should be as often as the authorising officer deems necessary or practicable.
- 6.2. Similar provisions appear at paragraphs 7.1 – 7.2 of the code of practice for CHIS, save that tasks given to the source and information obtained should also be included.
- 6.3. Each authorising officer will therefore determine in each case how often authorisations should be reviewed. They will ensure records of the review will be supplied on the relevant form in Section 9 and send copies to the RIPA Co-ordinator to keep the central register up to date. Good practice requires that this should be done monthly at least.

## 7. RENEWALS

- 7.1. An authorising officer may renew an authorisation before it would cease to have effect if it is necessary for the authorisation to continue for the purpose for which it was given. **An application for a renewal to the Justice of the Peace is also required (see above).**
- 7.2. The Home Office Code of Practice for directed surveillance at paragraph 5.12 - 5.16 refers. A renewal of the authorisation in writing can be made for 3 months. Applications for renewal should detail how many times an authorisation has been renewed; significant changes to the original application for authority; reasons why it is necessary to renew; content and value of the information obtained so far and results of regular reviews of the investigation or operation.
- 7.3. Similar provisions apply in the code of practice for CHIS except that a renewal here can last for a further 12 months, a review must have been carried out on the use of the source and an application should only be made to renew when the initial authorisation period is drawing to an end. Applications to renew a CHIS also should contain use made of the source and tasks given to the source during the previous authorised period.
- 7.4. Each application to renew should be made at least 7 days before the authorisation is due to expire on the relevant form in Appendix 2. A record of the renewal should be kept within the applying service and supplied centrally to the Borough Solicitor/Senior Responsible Officer - see Section 8 to update the central register of authorisations.

## 8. CANCELLATIONS

- 8.1. All authorisations, including renewals should be cancelled if the need for the

surveillance is no longer justified. This will occur in most cases where the purpose for which the surveillance was required has been achieved.

- 8.2. Requesting officers should ensure they inform authorising officers if this is the case before the next review. If, in the opinion of the authorising officer at the next review, the need for surveillance is no longer justified, it must be cancelled.
- 8.3. The cancellation forms at Appendix 2 will be used to record a cancellation; the original will be sent to the RIPA Co-ordinator to update the central register of authorisations and the authorising officer will retain a copy - see Section 8.
- 8.4. The Home Office Codes of Practice for both directed surveillance and CHIS make it clear that authorisations must be cancelled if the original authorising criteria are not met. With CHIS, it must be cancelled if satisfactory arrangements for the source no longer exist. Consideration for the safety and welfare of a source continues after cancellation of any authorisation.

## **9. CENTRAL REGISTER OF AUTHORISATIONS**

- 9.1. The Codes of Practice under the 2000 Act require a central register of all authorisations to be maintained. The Senior Responsible Officer or nominated representative shall maintain this register.
- 9.2. Whenever an authorisation is granted renewed or cancelled the Authorising Officer must arrange for the following details to be forwarded by e-mail to the Senior Responsible Officer or nominated representative. Receipt of the e-mail will be acknowledged.
  - Whether it is for Directed Surveillance or CHIS ;
  - Applicants name and Job Title (manager responsible);
  - Service and Section;
  - Applicant's address and Contact Number;
  - Identity of 'Target';
  - Authorising Officer and Job Title; (in line with delegation scheme)
  - Date of Authorisation.
  - A unique reference number for the investigation or operation
  - 
  - Whether confidential information is likely to be reviewed as a consequence of the investigation /operation.
  - The date the authorisation was cancelled

Details should be provided to the Senior Responsible Officer in respect of when an authorisation is refused.

### **See Appendix 2 for the Form of Notification**

The original of the authorisation should also be provided; the authorising officer should retain a copy. The Managing Directors will review authorisations every 6 months. It is suggested that authorising officers supply these directly.

- 9.3. The original authorisations shall be securely retained within the RIPA Co-ordinator's Service. It is each Service's responsibility to securely retain all copy authorisations within their Service. Authorisations should only be held for as long as it is necessary. Once the investigation is closed (bearing in mind cases may be lodged some time after the initial work) the records held by the Service should be disposed of in an appropriate manner (e.g. shredded).

## **10 CODES OF PRACTICE**

There are Home Office codes of practice that expand on this guidance. All relevant Services hold a copy.

The codes do not have the force of statute, but are admissible in evidence in any criminal and civil proceedings. As stated in the codes, "if any provision of the code appears relevant to a question before any Court or tribunal considering any such proceedings, or to the tribunal established under the 2000 Act, or to one of the commissioners responsible for overseeing the powers conferred by the 2000 Act, it must be taken into account".

Staff should refer to the Home Office Codes of Conduct for supplementary guidance. These should be available to all relevant officers (see earlier).

## **11 BENEFITS OF OBTAINING AUTHORISATION UNDER THE 2000 ACT.**

### **11.1 Authorisation of surveillance and human intelligence sources**

The 2000 Act states that

- if authorisation confers entitlement to engage in a certain conduct and
- the conduct is in accordance with the authorisation, then
- it shall be "lawful for all purposes".

Part II of the 2000 Act does not impose a requirement on public authorities to seek or obtain an authorisation where, under the 2000 Act, one is available (see section 80 of the 2000 Act). Nevertheless, where there is an interference by a public authority with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority, the consequence of not obtaining an authorisation under the 2000 Act may be that the action is unlawful by virtue of section 6 of the Human Rights Act 1998.

Public authorities are therefore strongly recommended to seek an authorisation where the surveillance is likely to interfere with a person's Article 8 rights to privacy by obtaining private information about that person, whether or not that person is the subject of the investigation or operation. Obtaining an authorisation will ensure that the action is carried out in accordance with law and subject to stringent safeguards against abuse.

- 11.2 The 2000 Act states that a person shall not be subject to any civil liability in

relation to any conduct of his which -

- a) is incidental to any conduct that is lawful by virtue of authorisation; and
- b) is not itself conduct for which an authorisation is capable of being granted under a relevant enactment and might reasonably be expected to have been sought in the case in question

## **12. SCRUTINY AND TRIBUNAL**

- 12.1. To effectively "police" the 2000 Act, Commissioners regulate conduct carried out thereunder. The Chief Surveillance Commissioner will keep under review, among others, the exercise and performance by the persons on whom are conferred or imposed, the powers and duties under the Act. This includes authorising directed surveillance and the use of covert human intelligence sources.
- 12.2. A tribunal has been established to consider and determine complaints made under the 2000 Act if it is the appropriate forum. Complaints can be made by persons aggrieved by conduct e.g. directed surveillance. The forum hears applications on a judicial review basis. Claims should be brought within one year unless it is just and equitable to extend that.

The tribunal can order, among other things, the quashing or cancellation of any warrant or authorisation and can order destruction of any records or information obtained by using a warrant or authorisation, and records of information held by any public authority in relation to any person. The Council is, however, under a duty to disclose or provide to the tribunal all documents they require if:

- A Council officer has granted any authorisation under the 2000 Act.
  - Council employees have engaged in any conduct as a result of such authorisation.
  - A disclosure notice requirement is given.
- 12.3 The Senior Responsible Officer will ensure that a quarterly report is submitted to the Council's Audit and Governance Committee and that an annual report is submitted to Cabinet. The reports will include details of the overall number and type of authorisations granted and the outcome of the case, where known. In addition, the reports will provide a breakdown of the same information by service or groups of services, as appropriate. In order to comply with Data Protection and Code of Practice requirements, no specific details of individual authorisations will be provided.
  - 12.4 The RIPA Co-ordinator will maintain and check the central register of all RIPA authorisations, reviews, renewals, cancellations and rejections. It is the responsibility of the authorising officer, however, to ensure the RIPA Co-ordinator receives the original of the relevant forms as soon as possible and in any event within 1 week of authorisation, review, renewal, cancellation or rejection. The authorising officer should retain copies.

12.5 The management structure for RIPA is set out in Appendix 3.

**Definitions from the 2000 Act**

- **“2000 Act”** means the Regulation of Investigatory Powers Act 2000.
- **“Confidential Material”** consists of:
  - a) matters subject to legal privilege;
  - b) confidential personal information; or
  - c) confidential journalistic material.
- **Matters subject to legal privilege**” includes both oral and written communications between a professional legal adviser and his/her client or any person representing his/her client, made in connection with the giving of legal advice to the client or in contemplation of legal proceedings and for the purposes of such proceedings, as well as items enclosed with or referred to in such communications. Communications and items held with the intention of furthering a criminal purpose are not matters subject to legal privilege (see Note A below)
- **“Confidential Personal Information”** is information held in confidence concerning an individual (whether living or dead) who can be identified from it, and relating:
  - a) to his/her physical or mental health; or
  - b) to spiritual counselling or other assistance given or to be given, and

which a person has acquired or created in the course of any trade, business, profession or other occupation, or for the purposes of any paid or unpaid office (see Note B below). It includes both oral and written information and also communications as a result of which personal information is acquired or created. Information is held in confidence if:

- c) it is held subject to an express or implied undertaking to hold it in confidence; or
  - d) it is subject to a restriction on disclosure or an obligation of secrecy contained in existing or future legislation.
- **“Confidential Journalistic Material”** includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.
  - **“Covert Surveillance”** means surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.

- **“Authorising Officer”** means a person designated for the purposes of the 2000 Act to grant authorisations for directed surveillance. (see the Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order) SI 2000/2417.

**Note A.** *Legally privileged communications will lose their protection if there is evidence, for example, that the professional legal adviser is intending to hold or use them for a criminal purpose; privilege is not lost if a professional legal adviser is properly advising a person who is suspected of having committed a criminal offence. The concept of legal privilege shall apply to the provision of professional legal advice by any agency or organisation.*

**Note B.** *Confidential personal information might, for example, include consultations between a health professional or a professional counsellor and a patient or client, or information from a patient’s medical records.*

**Notification to Central Register of Authorisations under RIPA**

Whether it is for Directed Surveillance or CHIS	
Applicants name and Job Title (manager responsible)	
Service and Section	
Applicant's address and Contact Number	
Identity of 'Target'	
Authorising Officer and Job Title; (in line with delegation scheme)	
Date of Authorisation	
Whether confidential information is likely to be reviewed as a consequence of the investigation/operation	
The date the authorisation was cancelled	
Whether the authorisation is renewed.	

A copy of the authorisation shall also be sent (See above, Paragraph 9.2).

A unique reference number for the investigation or operation will be allocated by the Borough Solicitor upon receipt of this notification. This reference must be used in subsequent correspondence regarding this authorisation.





### **APPENDIX 3**

Gill Rowe, Managing Director of People and Places  
xx

Legal Services, Land Charges, Member Services  
Civic Services  
Member Development  
Admin and Elections (Deputy Returning Officer)  
Accountancy  
Treasury Management  
Audit, Insurance  
Risk Management

Kim Webber, Managing Director of Transformation  
xx

Benefits etc, Cashiers  
Communications/Consultation  
Council Tax/NNDR, Creditors  
Customer Services/OR  
HR Partnership, ICT  
Partnership/Performance  
Salaries/Wages, Travel Concessions

Bob Livermore, Assistant Director Housing & Regeneration  
\*

Public Sector Housing Services  
Private Sector Housing Services  
Housing Options & Homelessness  
Housing Strategy, Property Management  
Corporate Health & Safety

Dave Tilleray, Assistant Director Community Services \*

Leisure, Arts and Culture Services  
Environmental Protection, Public Protection &  
Licensing  
Commercial Safety, Community Safety  
Emergency Planning, Technical Services  
Ormskirk Market, Decriminalised Parking

Terry Broderick – Borough Solicitor, Senior Responsible Officer \*  
Supported by Judith Williams – Assistant Solicitor, RIPA Co-ordinator and SPOC  
Co-ordinator  
Sarah Mooney – Legal Assistant/RIPA Register Officer

\* Authorising Officer

xx Authorisations when knowledge of confidential information likely to be acquired or vulnerable individual or juvenile is to be used as a source.

TPBRIPAGUIDELINESVERSION4-2014



## **AGENDA ITEM: 9**

**AUDIT AND GOVERNANCE COMMITTEE:**

**23 September 2014**

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**Report of: Borough Treasurer**

**Relevant Managing Director: People and Places**

**Contact for further information: Marc Taylor (Extn. 5092)  
(E-mail: marc.taylor@westlancs.gov.uk)**

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**SUBJECT: REVIEW OF FRAUD, BRIBERY AND CORRUPTION ISSUES**

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Wards affected: Borough wide

### **1.0 PURPOSE OF THE REPORT**

1.1 To provide a summary of the fraud, bribery and corruption issues facing the Council and the action being taken to deal with them.

### **2.0 RECOMMENDATIONS**

2.1 That the self assessment of Fraud and Corruption issues as set out in Appendix 1 be noted.

2.2 That the Counter Fraud Plan as set out in Appendix 2 be endorsed.

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### **3.0 BACKGROUND**

3.1 The Council has always taken a proactive and steadfast approach to tackling fraud and corruption issues. The importance and profile of this issue has increased in recent years though as a result of the difficult financial climate and reductions in Council funding. This has had a double impact because economic distress can increase the incentive to commit fraud, and at the same time controls to prevent and detect fraud have come under pressure as Councils must reduce their costs as a result of funding reductions. In response to this situation the Audit Commission have published a series of reports entitled "Protecting the Public Purse", which have outline the types of fraud affecting local government and the financial impact they can have.

- 3.2 Fraud in local government accounts for around 11% of total public sector fraud. In 2012 there was an estimated £900 million in housing tenancy fraud, £890 million in procurement fraud, over £153 million in payroll fraud, £131 million in council tax discounts and exemptions fraud, £46 million in 'blue badge' fraud, £41 million in grant fraud and £5.9 million in pension fraud across local government.
- 3.3 The types of fraud experienced by local authorities demonstrates the breadth of services potentially affected and the need for all service areas to remain vigilant and respond proactively to new emerging fraud and corruption issues. Fraud can also either be internal to the Council (for example Members making fraudulent expenses claims, or staff claiming to have qualifications that they do not possess) or external (for example the illegal sub letting of Council housing or fraudulent claims for benefit).
- 3.4 In response to this requirement to remain vigilant, the Council's counter fraud, bribery and corruption arrangements are regularly reviewed to ensure that they remain adequate and that they comply with developments in best practice. This report now provides an update on these arrangements.

#### **4.0 CORPORATE APPROACH**

- 4.1 The Council's approach follows the three principles detailed in the Counter fraud strategy "Fighting Fraud Locally" developed by Local Government for Local Government:
- Acknowledge – acknowledging and understanding fraud risks and committing support and resource to tackling fraud in order to maintain a robust anti fraud response
  - Prevent – preventing and detecting more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti fraud culture
  - Pursue – punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing capability and capacity to investigate fraudsters and developing a more collaborative and supportive law enforcement response
- 4.2 This strategy highlights that no local authority is immune from fraud and that acknowledging this fact is the most important part in developing an appropriate and effective anti fraud response. Recognising fraud must also incorporate a thorough understanding and knowledge about what the fraud problem is, where it is likely to occur, and the scale of potential losses. This can then enable a robust and proportionate fraud response to be developed.
- 4.3 Publicity is also a key tool in tackling fraud and the Council is dedicated to publicising all frauds to create a strong deterrent effect and to encourage the reporting of fraud.
- 4.4 Current potential 'scams' are also regularly circulated to relevant staff to ensure vigilance to bogus claims or transactions. For example, it is well documented that fraudulent companies are regularly targeting local authorities to alter supplier bank account details, so payments are made into the fraudster's bank account

rather than the supplier's account. The Creditor's section is made aware of current issues and remains vigilant to this potential fraud.

4.5 The Council participates in the data matching National Fraud Initiative every year and makes full use of its membership with the National Anti-Fraud Network. The Audit Commission's annual fraud survey is also completed each year, which helps to assist with gauging the overall national levels of fraud in local government.

4.6 Alongside the imminent introduction of Universal Credit the Government is creating a Single Fraud Investigation Service (SFIS) which will have an impact on all Councils. The Government's stated aims in this regard are to:

Bring together the combined expertise of the welfare benefit fraud investigation work undertaken by the Department for Work and Pensions Fraud Investigation Service, Local Authority Benefit fraud investigators, and Her Majesty's Revenues and Customs into a single service

Minimise and prevent fraud and error getting into the benefit system through detection and correction together with punishing and deterring those who have committed fraud

4.7 The creation of SFIS provides an opportunity to strengthen the local fight against fraud with SFIS using its expertise to support local authorities to tackle organised and cross boundary fraud. Under these plans some local authority benefit investigators may transfer to the new organisation but the SFIS will not investigate Council tax support, social housing fraud or other corporate frauds. Prevention and detection in these areas will remain at a local level.

## **5.0 REVIEW OF CURRENT ARRANGEMENTS**

5.1 The Council's Anti-fraud, Corruption and Bribery policy was last updated in September 2012. This policy was reviewed this year to confirm it is still up-to-date with no changes required.

5.2 Over the previous 12 months there were 42 cases of potential benefit fraud identified, totalling £406,907. 30 led to a prosecution with 23 resulting in a guilty outcome. There were also 2 cases of Council Tax Support fraud totalling £371. None of these cases involved staff or elected Members. Benefit fraud is a high risk area for all local authorities, and there is a dedicated Benefit Fraud team in place that deal with these issues. There were no other cases of fraud, bribery or corruption that were identified across the Council.

5.3 The Audit Commission's "Protecting the Public Purse" contains a self assessment checklist for Councils to evaluate their current arrangements on fraud and corruption. This has been presented to this Committee over the last few years and the latest version is included in Appendix 1. In general Managers feel that there are satisfactory arrangements in place to deal with fraud, bribery and corruption issues and no significant weaknesses have been identified.

5.4 Best practice guidance states that Councils should have a Counter Fraud plan in place. This plan should be based on a robust fraud risk assessment focused on areas where there is a high risk of fraud. The latest Counter Fraud plan is set out in Appendix 2 and summarises the existing work programmes of different service areas. Significant new initiatives that have taken place this year include the Lancashire wide Council Tax Single Person Discount data matching exercise, and the planned structured programme to review other Council Tax discounts and exemptions. Members are now asked to consider and endorse this Plan.

5.5 Taking into account all of these factors it can be concluded that the Council's anti fraud and corruption arrangements remain appropriate and fit for purpose. However, the Council is not complacent and the position will be kept under review. Managers will do their utmost to ensure that these issues are tackled as effectively as possible within the resources available.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

6.1 This report supports the Council's commitment to combat crime and the fear of crime by promoting the inclusion of measures to deter, prevent and detect fraud in the design of its own systems and those of its partners and contractors.

## **7.0 RISK ASSESSMENT**

7.1 It is important that the Council monitors and reviews its internal control arrangements for preventing fraud and corruption, particularly in the current difficult financial climate. The measures set out in this report will help to ensure that the Council continues to have an effective anti-fraud, bribery and corruption framework in place.

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### **Background Documents**

Fighting Fraud Locally – The Local Government Fraud Strategy

Available at the following web address:

<http://www.homeoffice.gov.uk/publications/agencies-public-bodies/nfa/fighting-fraud-locally-strategy/strategy-document?view=Binary>

Protecting the Public Purse

Available at the following web address:

<http://www.audit-commission.gov.uk/wp-content/uploads/2012/11/20121107-ppp2012.pdf>

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Appendices**

Appendix 1 – Self Assessment Checklist

Appendix 2 – Counter Fraud Plan

## **APPENDIX 1 - SELF ASSESSMENT OF ANTI FRAUD AND CORRUPTION ISSUES**

<b>General</b>	<b>Yes</b>	<b>No</b>	<b>Comments/ Action</b>
1. Do we have a zero tolerance policy towards fraud?	Yes		The Anti Fraud, Bribery and Corruption policy was revised in September 2012 and is reviewed every year to ensure that it is up to date. There is a Counter Fraud Plan in place that sets out actions being taken to maintain our anti fraud culture including regular reviews of our arrangements. This includes considering new anti-fraud initiatives across the Council on an annual basis.
2. Do we have the right approach, counter fraud strategies, policies and plans? Have we aligned our strategy with Fighting Fraud Locally?	Yes		Relevant documents which have been reported to this Committee, and that reflect current best practice guidance, include: <ul style="list-style-type: none"> <li>• Anti Fraud, Bribery and Corruption Policy</li> <li>• Counter Fraud Plan</li> <li>• Whistle Blowing Policy</li> <li>• Anti Money Laundering Policy</li> <li>• Contract Procedure Rules</li> <li>• Financial Regulations</li> <li>• Internal Audit Plan</li> </ul>
3. Do we have dedicated counter-fraud resources?	Yes		Counter fraud work is built into the processes and procedures of all Council activities where required for example in creditors, payments and in payroll. Creditor staff, for example, are aware of the increase in fraudulent attempts to change supplier bank details and divert funds to false accounts through regular fraud warning emails received from NAFN. There are also specific resources dedicated to tackling fraud including the Benefits Fraud team, Internal Audit time dedicated to the National Fraud Initiative (NFI) scheme, and an Insurance Claims Investigator. Given the size of the authority, counter fraud resources are often not teams or full time staff, but represent a core part of the wider role that staff undertake.
4. Do counter-fraud staff review all of the work of our organisation?	Yes		Our management systems for internal control are designed to prevent and detect fraud and this is an inherent part of the work undertaken by all staff. Examples include Member services staff maintaining and reviewing registers of interests as well as the checks carried out on invoice payments by relevant staff.

General (continued)	Yes	No	Comments/ Action
5. Does a Councillor have portfolio responsibility for fighting fraud across the Council	Yes		This responsibility is allocated to the Portfolio Holder for Resources
6. Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?	Yes		A regular review of specific fraud and corruption issues is reported to this Committee, and these areas are also considered as a component part of other reports such as the Annual Governance Statement and Internal Audit reports.
7. Have we assessed our management of counter-fraud work against good practice?	Yes		The Anti Fraud, Bribery and Corruption Policy has been drawn up to meet best practice requirements and is reviewed regularly to ensure compliance with best practice. The work of the Benefit Fraud team and Internal Audit are also conducted in accordance with good practice requirements and relevant professional Codes. In addition the Council is represented on a variety of networking and practitioner groups where best practice is identified and shared.
8. Do we raise awareness of fraud risks with: <ul style="list-style-type: none"> <li>• new staff (including agency staff)</li> <li>• existing staff</li> <li>• elected members; and</li> <li>• our contractors?</li> </ul>	Yes		<p>Awareness of key policies (code of conduct, whistleblowing, financial regulations etc) are covered in the induction of new staff. Periodic reminders on relevant policies are also sent to all staff to ensure they remain aware of fraud risks. Specific training is arranged for relevant staff while details on emerging issues (such as the latest scams) are circulated by e-mail.</p> <p>There are effective governance arrangements in place that include Member training and providing up to date guidance and protocols for Members as and when required. All Members must also sign up to the Member Code of Conduct that highlights principles of selflessness, honesty and integrity.</p> <p>There are standard terms and conditions included in purchase orders and in contracts covering fraud, corruption and whistle blowing arrangements.</p>
9. Do we work well with national, regional and local networks and partnerships to ensure we know about current fraud risks and issues?	Yes		The Council has an extensive network to identify fraud risks and issues. Membership of the National Anti-Fraud Network (NAFN) and the Local Authorities Investigating Officers Group (LAIIOG) is supplemented by professional support groups such as CIPFA and the IIA, with access to online resources. These networks also include the Lancashire Audit Group and the Lancashire Revenues and Benefits Group which includes active



			participation in Benchmarking/Good Practice sub groups.
<b>General (continued)</b>	<b>Yes</b>	<b>No</b>	<b>Comments/Action</b>
10. Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?	Yes		The Council has joint working arrangements with the Department of Work and Pensions in respect of benefits, and protocols are in place with other organisations to enable information and data to be exchanged where appropriate. The Council also participates in the National Fraud Initiative. This has grown in recent years to include information such as tax licence applications
11. Do we identify areas where internal controls may not be performing as intended? How quickly do we then take action?	Yes		Management and Internal Audit consider the effectiveness of internal control systems on an ongoing basis. External Audit and Inspectorate reports may also identify issues. Action plans are then developed to ensure agreed recommendations are implemented in a timely manner, and these will be monitored to ensure that they are completed.
12. Do we maximise the benefit of our participation in the Audit Commission National Fraud Initiative and receive reports on the matches investigated?	Yes		A report on outcomes is produced at the end of each NFI mapping exercise and information on the findings are included in the Internal Audit Annual Report to Audit and Governance.
13. Do we have arrangements in place that encourage our staff to raise their concerns about money laundering?	Yes		An updated Anti-Money Laundering Policy and Guidance and Procedure Notes were endorsed by Audit and Governance Committee in January 2013 before being issued to all staff. The Policy is reviewed on a regular basis to ensure compliance with best practice
14. Do we have effective arrangements for reporting and recording fraud?	Yes		Details on these arrangements are set out in this report
15. Do we have effective whistleblowing arrangements?	Yes		There is a Whistleblowing Code in place which is regularly reviewed and updated. Details on the Code are periodically circulated to all staff and Members to ensure its provisions are well known and understood
16. Do we have effective fidelity insurance arrangements?	Yes		This issue is covered under our insurance policy, and is seen as relatively low risk as no claims have been made in recent years.

<b>Fighting fraud with reduced resources</b>	<b>Yes</b>	<b>No</b>	<b>Comments / Actions</b>
17. Have we reassessed our fraud risks in the light of the current financial climate?	Yes		The increased risk of fraud in the current environment has been recognised by the Council and a range of measures have been put in place over the past few years to address this position. This includes annual reports on fraud and corruption to this Committee and the development and maintenance of a corporate Counter Fraud plan. Fraud risk assessment is also an integral part of the internal audit annual planning process and both known and emerging risks are considered.
18. Have we amended our counter-fraud action plan as a result?	Yes		The Counter Fraud plan has been drawn up giving specific attention to these issues, and is updated on an annual basis.
19. Have we reallocated staff as a result?			
<b>Current risks and issues</b>	<b>Yes</b>	<b>No</b>	<b>Comments / Actions</b>
20. Do we take proper action to ensure that we only allocate social housing to those who are eligible?	Yes		There is a Choice Based Letting policy in place that ensures that social housing is only allocated to those who require it. This is based upon an assessment and prioritises those most in need.
21. Do we ensure that social housing is occupied by those to whom it is allocated?	Yes		After six weeks a new tenant visit is conducted and the original application is reviewed in more detail. Information is also shared with the rents team and the benefits team on applications. Any issues raised by neighbours are followed up by conducting interviews, asking the benefits team to make an investigation etc. Any suspected false tenancy applications will be actively pursued.
22. Are we satisfied our procurement controls are working as intended?	Yes		Payments are always assessed as being a high risk issue and consequently the controls in this area are comprehensive and well documented. Management review the controls on payments on an ongoing basis and they are also subject to an annual review by Internal Audit.
23. Have we reviewed our contract letting procedures since the investigations by the Office of Fair Trading into cartels and compared them with best practice?	Yes		Contract Procedure Rules and Financial Regulations have both been reviewed and updated to reflect best practice. Procurement Practice Notes are also produced to address emerging issues and to provide additional guidance. These were updated in May 2014

Current risks and issues	Yes	No	Comments / Actions
<p>24. Are we satisfied our recruitment procedures achieve the following:</p> <ul style="list-style-type: none"> <li>• Do they prevent us from employing people working under false identities?</li> <li>• Do they confirm employment references effectively?</li> <li>• Do they ensure applicants are eligible to work in the UK?</li> <li>• Do they require agencies supplying us with staff to undertake the checks that we require?</li> </ul>	Yes		<p>There is a standard checklist of evidence that must be verified before a new employee can start working for the Council, including identity, Disclosure and Barring Scheme, employee references, and eligibility to work in this country.</p>
<p>25. Where we are expanding the use of personal budgets for social care, in particular direct payments, have we introduced proper safeguarding proportionate to risk and in line with recommended good practice?</p>	N/a	N/a	<p>These questions are intended for authorities that have social services responsibilities and so are not relevant to district councils.</p>
<p>26. Have we updated our whistleblowing arrangements, for both staff and citizens, so that they may raise concerns about the financial abuse of personal budgets?</p>			
<p>27. Are we effectively controlling the discounts and allowances we give to council taxpayers?</p>	Yes		<p>The Council tax section checks discounts and allowances when they are first claimed. Periodic reviews then take place to ensure that taxpayers are still entitled to them, requesting and verifying evidence where appropriate.</p> <p>A Lancashire wide data matching exercise on single person discounts is being progressed for 2014/15. This has involved matching Council tax data with data from other sources to identify where there may be more than one adult living in a home where a single person discount is being claimed.</p> <p>A structured programme of annual reviews of all discounts and exemptions to ensure that all eligibility is reviewed and confirmed on a more regular basis is also currently being prepared.</p> <p>Data matching work, including NFI, is also undertaken to ensure that this area is effectively controlled.</p>

Housing and Council tax Benefits	Yes	No	Comments / Actions
<p>28. When we tackle housing and council tax benefit fraud do we make full use of the following:</p> <ul style="list-style-type: none"> <li>• National Fraud Initiative?</li> <li>• Department of Work and Pensions Housing Benefit Matching Service?</li> <li>• Internal data matching?</li> <li>• Private sector data matching?</li> </ul>	Yes		<p>The Council has a detailed Benefits Sanctions and Prosecutions Policy and has a good track record in relation to National and Local Performance Indicators</p>
Emerging Fraud Risk	Yes	No	Comments / Actions
<p>29. Do we have appropriate and proportionate defences against emerging fraud risks?</p> <ul style="list-style-type: none"> <li>• Business Rates</li>   <li>• Right to Buy</li>   <li>• Social fund and local welfare assistance</li> </ul>	Yes		<p>The Business Rates section is aware of these issues, which are not new but are more likely to occur in the current environment. Consequently the existing counter fraud procedures and processes continue to be used but any trends or developments are closely monitored.</p> <p>The Right to Buy section check all tenancy details and dates of tenancies against housing records liaising with other services and authorities when necessary. We also request original documentation at all times e.g. Birth certificates, marriage certificates etc.</p> <p>The responsibility for the Social Fund rests with upper tier authorities rather than district councils.</p>

Emerging Fraud Risk (continued)	Yes	No	Comments / Actions
<ul style="list-style-type: none"> <li>• Local Council tax support</li>   <li>• Schools</li>   <li>• Grants</li> </ul>			<p>The development of our new Local Council Tax Support scheme was given detailed consideration including two separate reports to Council. This scheme operates as a modified version of the previous Council Tax Benefit scheme and consequently the previous counter fraud arrangements continue to apply.</p> <p>This is not relevant to district councils</p> <p>In relation to disabled facilities grants and home repairs assistance grants all applicants are visited at home and must show a form of identification and proof of their income. We ensure that grant is used for the intended purpose by checking the work as it progresses and paying the grant to the contractor directly on satisfactory completion.</p> <p>In relation to Community Chest grants an application form, which includes a Funding Agreement, is completed and signed by the applicant and a copy of their constitution and bank account details must also be provided. A check on the Charity Commissioners website is also made if the applicant is claiming to be a charity.</p> <p>In relation to Annual Grants an application form is completed and signed by the applicant, which includes a declaration that the information/documentation provided is correct and true. A copy of their constitution, financial statement, annual report, business plan, H&amp;S Policy, Equality policy etc., must also be provided to prove they are a bona fide organisation. Monitoring and evaluation is undertaken by the Funding of Voluntary and Other Organisations Working Group.</p>



**WEST LANCASHIRE BOROUGH COUNCIL  
COUNTER FRAUD AND CORRUPTION PLAN**

This plan summarises key measures that will be put in place to prevent and detect fraud, bribery and corruption and to take effective action against any attempted or actual fraudulent act, but is not a comprehensive list of all the procedures that are in place.

	<b>Main means to achieve effectiveness</b>	<b>Target date</b>	<b>Lead Officer</b>	<b>Further action required</b>
<b>FRAUD REFERRALS &amp; WHISTLEBLOWING</b>				
Improve fraud referral	Review and revise as necessary the Anti Fraud, Bribery and Corruption Policy and circulate to all staff and Members	Every time reviewed	BT/BS	
Improve fraud referral	Review as necessary the Anti Money Laundering Policy and Whistleblowing Code and circulate to all staff and Members	Every time reviewed	BT/BS	
Referrals from other agencies	Through partnership working with other agencies Links and protocols	Annual review	IAM TM ADHR	Develop links through the National Fraud Initiative for data matching and through the National Anti-Fraud Network for intelligence sharing.
<b>FRAUD INVESTIGATION</b>				
External data matching	Timely response to NFI data matches Compliance with national reporting requirements	Ongoing	IAM	Regular full participation in NFI in accordance with national guidance, and reports returned in accordance with timetable.
<b>DETERRENCE / PUBLICITY</b>				
Reported publicity	Investigation activity and outcomes, including prosecutions, publicly reported via press releases and website	Ongoing	Relevant Manager	Liaison with Communications and Consultation Unit and BS in particular in relation to the Benefit Fraud Sanctions and Prosecution Policy

	<b>Main means to achieve effectiveness</b>	<b>Target date</b>	<b>Lead Officer</b>	<b>Further action required</b>
Counter-fraud culture	Put updated corporate Counter Fraud plan in place	Ongoing	DSH	Maintain and develop corporate consideration of fraud and corruption issues
<b>PARTNERSHIP WORKING</b>				
Partnerships and links with other external agencies	To undertake joint working	Annual Review	IAM	See referrals from other agencies above but contact with other organisations also established e.g. Serious Organised Crime Agency for Money Laundering reporting.
<b>FRAUD AWARENESS TRAINING</b>				
Fraud awareness for new staff	Review fraud, bribery and corruption details in the induction material for new staff and ensure it is up to date		BT	Complete
Fraud awareness training for relevant staff	Utilise the fraud awareness e-learning training developed by the National Fraud Authority	Ongoing	BT	
<b>KEY ISSUES</b>				
Review of current arrangements to identify areas for improvement	Completion of Fraud and Corruption Self Assessment Checklist	Annual review	DSH	
Monitoring and review of this action plan	Annual report to Audit and Governance Committee	Ongoing	BT	
Payroll controls	Procedures in place Annual internal audit review	Annual review	TM IAM	Check compliance with and effectiveness of existing procedures
Recruitment procedures	Appropriate counter-fraud checks are already in place	Annual Review	TM IAM	Check compliance with and effectiveness of existing procedures
<b>REPORTING</b>				
Audit and Governance Committee	Receive reports on counter-fraud arrangements	Ongoing	BT	Regular reporting of issues to Audit and Governance Committee



	<b>Main means to achieve effectiveness</b>	<b>Target date</b>	<b>Lead Officer</b>	<b>Further action required</b>
Audit Commission Annual Fraud and Corruption survey	Report on numbers and types of fraud and emerging issues	May 2015	BT	
Portfolio holder	Receive updates and briefings on counter fraud activity	Ongoing	IAM BT	

**NOTE**

Revenues, Benefits and IT Services are also subject to further arrangements secured through the contract in addition to the measures outlined above

**Lead Officers**

BT           Borough Treasurer  
BS           Borough Solicitor  
IAM          Internal Audit Manager  
ADHR       Assistant Director Housing and Regeneration  
TM          Transformation Manager  
DSH         Heads of Service





## **AGENDA ITEM: 10**

**AUDIT AND GOVERNANCE COMMITTEE:**

**23 September 2014**

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**Report of: Borough Treasurer**

**Relevant Managing Director: Managing Director (People and Places)**

**Contact for further information: Marc Taylor (Extn. 5092)  
(E-mail: [marc.taylor@westlancs.gov.uk](mailto:marc.taylor@westlancs.gov.uk))**

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**SUBJECT: LOCAL AUDIT AND ACCOUNTABILITY ACT 2014**

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Wards affected: Borough wide

### **1.0 PURPOSE OF THE REPORT**

1.1 To provide a summary of the Local Audit and Accountability Act 2014

### **2.0 RECOMMENDATIONS**

2.1 That the new requirements of the Act be noted.

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### **3.0 BACKGROUND**

3.1 The Local Audit and Accountability bill was published in the House of Lords on 9.5.2013 and received royal assent on 30.1.2014. This Act has a number of components, but this report deals only with the element relevant to this Committee, in relation to the abolition of the Audit Commission and establishing new arrangements for the auditing of local public bodies.

3.2 Under current arrangements it is the Audit Commission that is responsible for appointing the Council's external auditors. However under the new framework within the Act each Council will be responsible for appointing its own auditor following procurement from an open and competitive market (in accordance with OJEU procedures). This new approach is intended to deliver greater localism, decentralisation and transparency, maintain competitive audit fees and uphold high standards of auditing. Councils will be able to appoint their own auditors from 2017/18, and so this change is still some way off.

- 3.3 The government's intention is to mirror, as far as is appropriate, the arrangements for regulation of external audit in the private sector (much of which is set out in the Companies Act 2006) with additional arrangements to reflect the broader scope of the audit of local public bodies.

#### **4.0 IMPLICATIONS FOR THE COUNCIL**

- 4.1 Each Council must appoint an auditor by the end of 31<sup>st</sup> December in the financial year before the financial year which will be covered by the accounts to be audited. The appointment may last for more than one year but a new appointment must be made at least once every five years. Local bodies will be free to procure and/or appoint jointly with any number of local bodies where this allows them to reduce costs and reflects local circumstances.
- 4.2 Each Council must have an auditor panel which will be consulted and their views taken into account when selecting and appointing an auditor. The panel must consist of at least a majority of independent members and must be chaired by an independent member. Its role is to provide advice on the appointment of an auditor and advise the local body on the maintenance of an independent relationship with its auditor to ensure independence is maintained.
- 4.3 Each auditor panel must take account of any guidance the Secretary of State issues in relation to the exercise of its functions, as must the relevant authority in exercising its functions in relation to its auditor panel. The auditor panel may require a member or officer of the Council to attend a meeting of the panel to answer questions.

#### **5.0 COMPLIANCE AND REGULATION**

- 5.1 The chosen auditor must be eligible to audit the Authority's accounts with the required skills, experience and qualifications and must be independent from the body being audited. Qualification to sign an audit report will either be a qualification recognised under Part 42 of the Companies act 2006 or another qualification recognised under the act. The Secretary of State may make regulations setting out the minimum requirements that those other qualifications must meet in order to be recognised for the purposes of local audit.
- 5.2 In local authorities operating executive arrangements (i.e. Leader and Cabinet or Mayor and Cabinet) the full Council, not the executive, must appoint the auditor. The Council must publish a notice within 28 days of making the appointment that: states it has made the appointment; the term of that appointment; who the appointed auditor is; sets out the auditor panel's advice; and if that advice has not been followed, the Council's reasons for not following it.
- 5.3 Various safeguards will be in place to uphold high standards of auditing and to ensure consistency in the nature of audits across local public bodies. Requirements relating to the production of accounts and the process for appointing an independent auditor will be set out in legislation.
- 5.4 The National Audit Office will produce a code of audit practice, supported by detailed guidance, setting out how local auditors should undertake their work and

will also undertake locally focused value for money studies. These functions will be funded separately and clearly accounted for to Parliament. The Financial Reporting Council will become the overall regulator and its costs will be factored into its budgets. There will also be guidance produced by the Chartered Institute of Public Finance and Accountancy relating to the procurement of audit services.

- 5.5 If a body fails to appoint an auditor by 31<sup>st</sup> December the Secretary of State may either direct the relevant authority to appoint a named auditor or appoint an auditor on their behalf. The Secretary of State has the power to make regulations about the resignation or removal of a local auditor from office in terms of what actions are required prior and following removal.

## **6.0 RISK ASSESSMENT**

- 6.1 Ensuring the Council has robust external auditing procedures in place is key to ensuring good corporate governance and transparency. The Council must be prepared for the new regime coming into practice in 2017/18 to ensure an effective auditor panel is in place beforehand and that all appropriate officers and members are aware of the changes in good time.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Appendices**

None



**Audit & Governance Committee Work Programme – 23 September 2014**

<b>Date</b>	<b>Training (commencing 6.30pm)</b>	<b>Items</b>
27 January 2015	TBC	<ol style="list-style-type: none"> <li>1. Risk management Framework</li> <li>2. Internal Audit Activities – Quarterly Update</li> <li>3. Regulation of Investigatory Powers Act quarterly monitoring of use of powers</li> <li>4. Grant Thornton Annual Audit Letter</li> <li>5. Treasury Management</li> </ol>
24 March 2015	TBC	<ol style="list-style-type: none"> <li>1. Grant Thornton Report – Claims and Returns</li> <li>2. Local Code of Governance</li> <li>3. Internal Audit Activities – Quarterly Update</li> <li>4. Internal Audit Plan 2015/16</li> <li>5. Regulation of Investigatory Powers Act quarterly monitoring of use of powers</li> <li>6. Grant Thornton – Audit Plan</li> </ol>
June 2015	TBC	<ol style="list-style-type: none"> <li>1. Internal Audit Activities – Annual report</li> <li>2. Internal Audit Activities – Quarterly Update</li> <li>3. Annual Governance Statement</li> <li>4. Statement of Accounts</li> <li>5. Regulation of Investigatory Powers Act Quarterly Monitoring of Use of Powers</li> </ol>
September 2015	TBC	<ol style="list-style-type: none"> <li>1. Grant Thornton – Audit Plan Findings Report</li> <li>2. Internal Audit Activities – Quarterly Update</li> <li>3. Approval of Statement of Accounts</li> <li>4. Regulation of Investigatory Powers Act Annual and Quarterly monitoring of Use of Powers</li> <li>5. Annual Review - Anti-Fraud, Bribery and Corruption Policy</li> </ol>