

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		
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 because it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) and 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) and 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: 30 JUNE 2015

Start: 7.00pm

Finish: 8.35pm

PRESENT:

Councillors: Bullock (Chairman)

Mrs Baybutt	Mee
Blane	Pendleton
Devine	Pryce-Roberts
Dereli	Pope
J Hodson	Whittington
	Wynn

Officers: Borough Treasurer (Mr M Taylor)
Borough Solicitor (Mr T Broderick)
Audit Manager (Mr M Coysh)
Principal Member Services Officer (Mrs S Griffiths)

In attendance: Paul Thompson of Grant Thornton (External Auditors)

1. APOLOGIES

There were no apologies for absence.

2. MEMBERSHIP OF THE COMMITTEE

In accordance with Council Procedure Rule 4, the Committee noted the termination of membership of Councillors Gagen, G Hodson and L Hodson and the appointment of Councillors Devine, J Hodson and Wynn 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 24 March 2015 be approved as a correct record and signed by the Chairman.

5. GRANT THORNTON UPDATE REPORT AND FEE LETTER

In a report circulated and contained on pages 7 – 22 of the Book of Reports the Borough Treasurer submitted an update from the External Auditors on progress in delivering their responsibilities against their audit plan; a summary of emerging national issues and developments and a number of challenge questions for the Committee to consider.

Consideration was also given to the External Auditors fee letter which provided details of the planned audit fee for 2015/16, the scope of work covered by the fee and an audit timetable.

The Chairman invited Paul Thompson from Grant Thornton (External Auditors) to present the report and fee letter to the Committee.

Comments and questions were raised in respect of the following:-

- Welfare reform
- Local Authority Trading Companies
- Calculation of audit fees

RESOLVED That the update report and fee letter be noted.

6. GRANT THORNTON ASSURANCE LETTER

Consideration was given to the report of the Borough Treasurer as contained on pages 23 – 32 of the Book of Reports which provided a proposed response to a letter from the External Auditors requesting information on how the Committee gains assurance over management processes and arrangements.

RESOLVED That the proposed response to the letter set out in Appendix 2 be approved subject to the following amendment:-

“Proposed Response Point R – Final paragraph add “since” before “1st April 2014”.

7. INTERNAL AUDIT ACTIVITY - QUARTERLY UPDATE

The Borough Treasurer reported upon progress against the 2015/2016 Internal Audit Plan as circulated on pages 33 to 46 of the Book of Reports.

The Audit Manager advised that 18% of the items were currently in progress compared with 19% for the same period in 2014/15 and indicated that more audits would be undertaken this year than in the previous year.

Comments and questions were raised in respect of the following:-

- Housing benefit and Council tax support assessment processes
- Payroll (variations to pay)
- Treasury management (BRRD Directive – Bail-in) (Investments)

RESOLVED That progress in the year to date be noted.

8. INTERNAL AUDIT ANNUAL REPORT 2014-15

The Borough Treasurer presented the 2014-15 Internal Audit Annual Report as contained on pages 47 – 54 of the Book of Reports.

RESOLVED That the Internal Audit Annual Report for 2014-15 be noted.

9. ANNUAL GOVERNANCE STATEMENT

Consideration was given to the Council's Annual Governance Statement for 2014/15 as contained on pages 55 – 74 of the Book of Reports.

Comments and questions were raised in respect of the following:

- Business Plan 2015-18
- Reporting of decisions taken under delegated authority

RESOLVED That the Annual Governance Statement 2014/2015 as set out in Appendix 1 to the report, be approved and commended to the Leader and Managing Directors for signature.

10. STATEMENT OF ACCOUNTS

The Borough Treasurer provided details on the preparation of the Statement of Accounts for the year ended 31 March 2015 as contained on pages 75 – 76 of the Book of Reports.

RESOLVED A. That the report be noted.

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

11. REVISED CONTRACTS PROCEDURE RULES

Consideration was given to the report of the Borough Solicitor as circulated and contained on pages 77 – 126 of the Book of Reports on proposed revisions to the Contracts Procedure Rules due the requirements of the Public Contracts Regulations 2015 and associated implications for the Council.

RESOLVED That the Contracts Procedure Rules set out in Appendix A to the report be submitted to Council for approval.

12. REGULATION OF INVESTIGATORY POWERS ACT QUARTERLY MONITORING OF USE OF POWERS

In relation to the quarterly monitoring of activity under the Regulation of Investigatory Powers Act 2000 (RIPA) the Borough Solicitor reported that there was no relevant activity to bring to the attention of the Committee.

RESOLVED That the update be noted.

13. WORK PROGRAMME

Consideration was given to the Committee’s work programme as set out at page 127 of the Book of Reports.

It was proposed that future topics for training sessions would be Regulation of Investigatory Powers (RIPA) for March 2016 and an in-depth session on the Council’s Accounts for June 2016.

RESOLVED A. That the topics for the following training sessions be approved.
 24 March 2016 – RIPA
 June 2016 – Council’s Accounts
 B. That the Work Programme as revised (taking account of A. above) be approved.

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 CHAIRMAN



AGENDA ITEM: 5

AUDIT AND GOVERNANCE COMMITTEE:

29 September 2015

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)**

SUBJECT: GRANT THORNTON - AUDIT PLAN FINDINGS REPORT

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

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

2.0 RECOMMENDATION

2.1 That the report be noted.

3.0 BACKGROUND

3.1 A report on the Statement of Accounts for 2014-15 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 months 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 from this audit in a report to Members.

4.0 AUDIT FINDINGS

- 4.1 At the time of writing this report the external auditors had almost completed their audit on the accounts, and the results of this work are set out in the Appendix. This shows that it is expected that the Council will receive an unqualified opinion on its accounts, and certifies that the accounts provide a true and fair view of the financial position and financial performance of the Council.
- 4.2 Representatives of Grant Thornton will attend the Committee meeting to present their findings and answer any questions that Members may have on the audit of 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 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.

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 – Grant Thornton Audit Findings Report (To follow)



AGENDA ITEM: 6

AUDIT AND GOVERNANCE COMMITTEE:

29 September 2015

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)**

SUBJECT: APPROVAL OF STATEMENT OF ACCOUNTS

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.

3.0 BACKGROUND

3.1 A report on the Statement of Accounts for 2014-15 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 this 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 30th 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 the accounts have been properly prepared 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 A copy of the unaudited annual accounts was sent to all Members after the last meeting of this Committee in June. The external auditors have presented their findings from their audit of these accounts in a separate report elsewhere on the agenda. Their report identifies a small number of changes to the accounts and that it is expected that an unqualified opinion will be provided on them. A full copy of the statement incorporating these amendments is contained in Appendix 2. Members are now asked to approve the Statement 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 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.

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)



**Directorate of People and Places
Corporate Services**

**Marc Taylor
Borough Treasurer**

**PO Box 16 · 52 Derby Street
Ormskirk · West Lancashire L39 2DF**

Telephone: 01695 577177

Website: www.westlancons.gov.uk

Fax:

Email: marc.taylor@westlancons.gov.uk

Date: 29/9/2015

Your ref:

Our ref: MT /GE76

Please ask for: Marc Taylor

Direct dial no: 01695 585092

Extension: 5092

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

29th September 2015

Dear Karen,

West Lancashire Borough Council
Financial Statements for the year ended 31 March 2015

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 2015 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.

Gill Rowe LL.B (Hons) Solicitor
Managing Director (People and Places)

Kim Webber B.Sc., M.Sc.
Managing Director (Transformation)

- 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 for IAS19 disclosures 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 arise in the UK or overseas, 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 We have not adjusted the misstatements brought to our attention in the Audit Findings report, which are considered to be immaterial to the results of the Council and its financial position at the year-end. 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 29th September 2015.

Signed on behalf of the Council

Name: Marc Taylor

Position: Borough Treasurer

Date: 29 September 2015



AGENDA ITEM: 7

AUDIT AND GOVERNANCE COMMITTEE:

29 September 2015

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)**

SUBJECT: INTERNAL AUDIT ACTIVITY – QUARTERLY UPDATE

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 To advise of progress against the 2015/16 Internal Audit Plan.
- 1.2 To summarise audit work completed since the previous update.

2.0 RECOMMENDATION

- 2.1 That Members note progress in the year to date.

3.0 BACKGROUND

- 3.1 This committee approved the 2015/16 Internal Audit Plan and the Internal Audit Manager brings written updates on progress against it to each meeting of this Committee.
- 3.2 The report summarises progress to late September. This work will inform the overall opinion in the Internal Audit Annual Report that will be presented to this Committee just after the end of the financial year.
- 3.3 The appendix reports assurance provided by work concluded in the period and updates Members on any issues previously drawn to this Committee's attention.

4.0 INTERNAL AUDIT ACTIVITY TO DATE

- 4.1 An appendix summarising progress to date and any significant issues arising is attached and the Internal Audit Manager will attend the meeting to present the report should Members have any questions.
- 4.2 Progress against the plan to date is satisfactory with 36% of audits in progress compared to 38% for the same period in the previous year.

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 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 achievement of the Council's objectives are being properly managed.

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 A - Internal Audit Quarterly Activity Update.

APPENDIX A

INTERNAL AUDIT QUARTERLY UPDATE

1.0 Summary of progress 2015/16

- 1.1 Due to publication requirements this report is compiled before the end of the quarter and the Audit Manager will update members verbally on the current position at the meeting.
- 1.2 10 of the 28 items on the original plan are currently in progress. This is approximately 36% and compares with 38% for the same period in 2014/15.

2.0 Internal Audit 2015/16 second quarter activity update

Title	Position
Contract Procurement	In progress
National Fraud Initiative	In progress
Licensing	In progress
Icon cash receipting	In progress
Benefits	In progress
Technical Services	In progress
Community Infrastructure Levy	In progress
Leisure	In progress
Council Tax	In progress
NNDR	In progress

Summary	
Work complete	0
Work in progress	10
Work not yet commenced	18
Total	28

3.0 Assurance rating system

- 3.1 This report records the level of assurance provided by internal audit work. The following categories are 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.

- 3.2 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.
- 3.3 Internal audit's role is to evaluate and improve the effectiveness of risk management and control processes.
- 3.4 It is important to recognise that the scope of the work in each area examined defines the limits of the assurance which can be provided and to give context to the assurance provided each piece of work is summarised in the reports set out below

4.0 Assurance reports:

4.1.1 BACS

BACS, (formerly Bankers' Automated Clearing Services) is a scheme for the electronic processing of financial transactions within the United Kingdom. The processes for initiating BACS runs in respect of outgoing payments and incoming payments via Direct Debit were examined and documented.

4.1.2 Objectives

To record and evaluate the internal controls used to regulate BACS processes.

4.1.3 Observations

- Appropriate checks are in place to ensure data accuracy and completeness throughout the processes.
- Two officers of appropriate status are required to approve and authorise BACS payment runs.
- Payments over agreed limits must be approved by an authorised officer within the Financial Services team.
- Appropriate records are maintained in respect of individual creditor transactions and payment transmissions.

4.1.4 Assurance

The Internal audit work carried out in the year provides **substantial** assurance. BACS transactions are controlled appropriately by checking input totals at the data processing stage, suitable segregation of duties, the presence of an effective audit trail, and robust authorisation procedures throughout.

4.2 Transport

Review of arrangements for the management of the Council's vehicle fleet through examination of the operation of the Transport contract and associated activities.

4.2.1 Objectives

Establish whether:

- Adequate arrangements are in place to monitor and manage the work completed under the contract
- Inspection and maintenance records comply with legal requirements
- Arrangements incorporate appropriate controls on expenditure

4.2.2 Observations

Appropriate arrangements are in place to liaise with the contractor at strategic and operational levels.

Vehicle inspection and maintenance records satisfy legal requirements.

The cost of regular maintenance and inspections is fixed by the contract.

Variable costs arise from changes to the makeup of the fleet itself or damage to vehicles (as opposed to normal wear and tear) which is not covered in the base contract price.

Changes to legislation and operational requirements have led to changes to the specification of the fleet over time. New vehicle prices are dependent on the individual specification and the base price of the fleet has therefore altered incrementally in line with these changes since the initial tender exercise.

Repairs for damage to vehicles on top of normal wear and tear e.g. caused by accident are checked and authorised by the Transport Manager on a case by case basis. With these being the only significant regular variable costs under the contract the transport manager scrutinises these individually before accepting or rejecting the cost of the works.

Overall, controls on costs arising from the contract were found to be adequate but some improvements to the administration of approval procedures were agreed during the course of the audit

4.2.3 Assurance

Inspection and maintenance records comply with legal requirements and arrangements incorporate appropriate controls on expenditure. The work carried out provides **substantial** assurance that adequate controls have been implemented to control work completed under the Transport contract.

4.3 Rents

The QL housing system is used for most aspects of the general management of the Council's Housing Stock. This exercise examined key controls relating to rental income

4.3.1 Objectives

- Review reconciliation of the QL Rents system to Icon cash receipting and the General Ledger.
- Trace a sample of payments through QL to the Ledger and test the quality of audit trail to individual rent accounts.
- Review recovery procedures within QL and test a sample of accounts in arrears to ensure appropriate recovery action is being taken.

4.3.2 Observations

A reconciliation spreadsheet is updated with debits, adjustments and receipts each week using a 'Balance Summary' report from QL. Entries are also included for rent refunds, housing benefit payments and VAT chargeable on garages. The spreadsheet is reconciled to the relevant GL cost centre and cash transaction listings.

A sample of payments selected at random from a cash transaction listing were traced to the relevant tenant's account within QL and the total for the day agreed to the General Ledger.

Arrears recovery is progressed through the QL rents module. While there is a set recovery path programmed into QL officers have the ability to override this for example if arrangements are made to make payment, benefit is pending or there are vulnerability factors to consider. Five accounts were selected at random from a system report of all accounts in arrears and a case history obtained for each one. The audit trail of activity for these accounts was compared to agreed arrears recovery procedures and process maps.

New working methods are currently being introduced for arrears monitoring and Internal Audit will revisit these areas at the next scheduled audit to provide assurance that they are working effectively.

4.3.3 Assurance

The Internal audit work carried out in the year provides **substantial** assurance. The audit trail from payment through to the QL and GL systems was satisfactory. Reconciliation of rent payments to the QL Housing Management System and the General Ledger was effective and up to date. Arrears cases were following approved recovery procedures appropriately.

4.4 Property Management (non HRA)

Review of property management for corporate buildings (non HRA)

4.4.1 Objectives

To review the administration of “non HRA” property services and to document and review significant systems in use

4.4.2 Observations

The section is responsible for general maintenance and cleaning of corporate buildings including sheltered accommodation. In addition to the fabric of the buildings the service covers maintenance of services such as air conditioning, heating, fire alarms, emergency lighting, door entry controls and Intruder alarms etc.

Cleaning is provided by an in-house team. Servicing and repair works are carried out under contract.

The Facilities Manager and Public Buildings Maintenance Officer are responsible for determining specifications, contract renewal frequencies and for preparation of tender documentation.

The Property Maintenance budget is £1.3m. Analysis evidenced satisfactory budgetary control overall in 2014/15 although some overspends were apparent, particularly in relation to cleaning consumables. Controls have recently been improved to reduce stock held with the objective of reducing future spending in this area.

Planned works are programmed through the year but some miscellaneous tasks undertaken by the section are not incorporated into existing schedules. Examples include duties relating to Elections, Mayoral engagements, Scout patrols, Remembrance Day and power washing of Derby St and Robert Hodge Centre 3 times a year.

The section raise orders for response works under the contract and these are coded to the appropriate building through the QL system. An estimate is entered for each job and the order emailed to the contractor. Invoices are processed through Housing’s D100 creditor batch payment process. Any items not covered under existing contracts are raised through the Radius purchasing system as are miscellaneous items such as Utility bills.

4.4.3 Assurance

Internal audit’s work provides **substantial** assurance that “Non HRA” Property Services is meeting its overall objectives with QL being used effectively to administer reactive and planned works.

5.0 Update on significant issues from previous reports

5.1 Revenues reconciliations

The lack of reconciliations of NNDR and Council Tax to Icon postings and the General Ledger following the implementation of the Northgate revenues system have been the subject of previous reports to this committee.

Regular reconciliations of the NNDR and Council Tax system to Icon and the General Ledger are now taking place.

The new reconciliation process will be examined as part of internal audit's work in revenues and benefits this year and the results will be reported to this Committee in due course

5.2 Payroll – variations to pay

The 2014/15 payroll audit provided only limited assurance in relation to the system for initiating payroll variations. An action plan was agreed with management to improve controls. The agreed actions are being progressed and the revised system is due to be rolled out corporately in the next few weeks following final approval at DSH. The new system will be reviewed as part of the 2015/16 payroll audit.

6.0 Conclusion

- 6.1 The 2014/15 plan was completed with all work carried out as planned and with this update it has now all been reported to this committee. Progress against the 2015/16 plan to date is satisfactory and it is anticipated that internal audit coverage in the year will be sufficient to enable an adequate assessment of the adequacy and effectiveness of the Council's overall framework of governance, risk management and control.



AGENDA ITEM: 8

AUDIT AND GOVERNANCE COMMITTEE:

29 September 2015

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)**

SUBJECT: REVIEW OF FRAUD, BRIBERY AND CORRUPTION ISSUES

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.

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.

3.2 The types of fraud experienced by local authorities – which include benefits, housing tenancy, payroll, procurement, council tax discounts etc - demonstrate 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).

- 3.3 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, now undertaken by TEICCAF (The European Institute for Combating Corruption and Fraud) is also completed each year, which helps to assist with gauging the overall national levels of fraud in local government.

5.0 FRAUD DEVELOPMENTS

- 5.1 Professional counter fraud bodies, institutes and other concerned stakeholders from across the public and private sector, including the former Counter Fraud Team of the Audit Commission, have come together to form TEICCAF. TEICCAF is an umbrella organisation for public and voluntary sector organisations, counter fraud professionals, professional bodies and private sector firms.
- 5.2 The Audit Commission was responsible for producing a yearly document called “Protecting the Public Purse” commenting on current fraud risks facing local government and also containing a self-assessment checklist for Councils to evaluate their current arrangements on fraud and corruption. TEICCAF have confirmed that they will continue to provide a similar document each year with the 2015 version just released this summer entitled ‘Protecting the English Public Purse’.
- 5.3 The Government has now created a Single Fraud Investigation Service (SFIS) which aims 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
- 5.4 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 this initiative the Council’s Benefit Fraud team has been transferred to the new organisation to continue to investigate housing benefit fraud. The responsibility to investigate Council tax support fraud will remain with the Council, and new arrangements have been put into place for this purpose, which will be monitored over the next 12 months to ensure that they continue to be effective.
- 5.5 In 2014 CIPFA launched its Counter Fraud Centre to help fight fraud across local and central Government by providing tools and training for counter fraud staff. A global risk register is also under development aimed at collating the most common fraud risks faced by public bodies which will help identify emerging fraud threats and strategies to combat them. Current significant risk areas include Housing tenancy fraud, Procurement fraud and Right to buy fraud.

6.0 REVIEW OF CURRENT ARRANGEMENTS

- 6.1 The Council’s Anti-fraud, Corruption and Bribery policy was last updated in September 2012. This policy has been reviewed this year to confirm it is still up-to-date and that no changes are required to be made.

- 6.2 Over the previous 12 months there were 45 cases of potential benefit fraud identified, totalling £145,581. There were no other cases of fraud, bribery or corruption that were identified across the Council.
- 6.3 The 'Protecting the public purse' fraud self-assessment checklist is completed each year 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.
- 6.4 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. Members are now asked to consider and endorse this Plan.
- 6.5 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.

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.

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://webarchive.nationalarchives.gov.uk/20150421134146/http://www.audit-commission.gov.uk/2014/10/highest-value-of-fraud-detected-by-councils-since-audit-commission-turned-the-spotlight-on-25-years-ago/>

CIPFA Counter Fraud Centre

Available at the following web address:

[Counter Fraud Centre | CIPFA](#)

TEICCAF

Available at the following web address:

[TEICCAF | The European Institute for Combatting Corruption And Fraud](#)

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 – Fraud Self-Assessment Checklist

Appendix 2 – Counter Fraud Plan

APPENDIX 1 - SELF ASSESSMENT OF ANTI FRAUD AND CORRUPTION ISSUES

General	Yes	No	Comments/ Action
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"> • Anti Fraud, Bribery and Corruption Policy • Counter Fraud Plan • Whistle Blowing Policy • Anti Money Laundering Policy • Contract Procedure Rules • Financial Regulations • Internal Audit Plan
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 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 Finance Portfolio Holder
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 Internal Audit is 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"> • new staff (including agency staff) • existing staff • elected members; and • our contractors? 	Yes		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. 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. There are standard terms and conditions included in purchase orders and in contracts covering fraud, corruption and whistle blowing arrangements.
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 (LAIOG) 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.

General (continued)	Yes	No	Comments/Action
10. Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?	Yes		The Council has protocols in place with 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 taxi 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 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 2015 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		The Anti-Fraud, Bribery and Corruption Policy sets out protocols for reporting and recording fraud
15. Do we have effective whistleblowing arrangements? In particular are staff aware of our whistleblowing arrangements, have confidence in the confidentiality of those arrangements and confident that any concerns raised will be addressed?	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.

Fighting fraud with reduced resources	Yes	No	Comments / Actions
17. Are we confident that we have sufficient counter-fraud capacity and capability to detect and prevent fraud once SFIS has been fully implemented?	Yes		New arrangements have been put into place following the implementation of SFIS which will be kept under review over the next 12 months to ensure that they are effective
18. Did we apply for a share of the £16 million challenge funding from DCLG to support councils in tackling non-benefit frauds after the SFIS is in place?		No	An application for funding from this source was not submitted
19. If successful are we using the money effectively?			
Current risks and issues	Yes	No	Comments / Actions
Housing Tenancy			
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 take proper action to 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 on applications. Any significant issues raised by neighbours are followed up by conducting interviews. Any suspected false tenancy applications will be actively pursued.
Procurement			
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 in line with best practice?	Yes		The Contract Procedure Rules were reviewed and updated in July 2015. Financial Regulations are also reviewed and updated to reflect best practice. Procurement Practice Notes are also produced to address emerging issues and to provide additional guidance. These are currently being updated.

Recruitment	Yes	No	Comments / Actions
<p>24. Are we satisfied our recruitment procedures achieve the following:</p> <ul style="list-style-type: none"> • Do they prevent us from employing people working under false identities? • Do they confirm employment references effectively? • Do they ensure applicants are eligible to work in the UK? • Do they require agencies supplying us with staff to undertake the checks that we require? 	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 Scotland checks, in certain posts Disclosure and Barring Scheme, employee references, and eligibility to work in this country.</p>
Personal Budgets			
<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>			
Council Tax Discount			
<p>27. Do we take proper action to ensure that we only award discounts and allowances to those who are eligible?</p>	Yes		<p>The Council Tax section checks discounts and allowances when they are first claimed.</p> <p>A Lancashire wide data matching exercise on single person discounts was carried out in 2014/15. This involved matching Council tax data with data from other sources to identify where there may be more than one adult living in a home. A proposal regarding a structured programme of annual reviews of all discounts and exemptions to ensure that all eligibility is reviewed and confirmed on a regular basis, together with a more detailed evidenced based process for all new applications, is currently being considered.</p> <p>Data matching work, including NFI, is also undertaken to ensure that this area is effectively controlled.</p>

Housing Benefit	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"> • National Fraud Initiative? • Department of Work and Pensions Housing Benefit Matching Service? • Internal data matching? • Private sector data matching? 	Yes		The responsibility for Housing Benefit Fraud was transferred to SFIS from 1.8.15
Other Fraud Risks	Yes	No	Comments / Actions
<p>29. Do we have appropriate and proportionate defences against the following fraud risks?</p> <ul style="list-style-type: none"> • Business Rates • Right to Buy • Social fund and local welfare assistance 	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"> • Council Tax reduction • Schools • Grants 			<p>New arrangements have been put in place in this area following the transfer of responsibility for Housing Benefit Fraud to SFIS.</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 statements, annual report, business plan, H&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>

<ul style="list-style-type: none">• No recourse to public funds			<p>As part of any housing application from a foreign national their immigration status is confirmed and whether they have recourse to public funds. In addition documentation re dependants e.g. child benefit, birth certificate, passports etc. is obtained. Whilst a lot of applications are from foreign nationals the vast majority are from workers from EEA states who are currently eligible for social housing. There are very few from other countries where immigration status checks are required</p>
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**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.

	Main means to achieve effectiveness	Target date	Lead Officer	Further action required
FRAUD REFERRALS & WHISTLEBLOWING				
Improve fraud referral	Circulate Anti-fraud, bribery and corruption policy to all staff and Members	Every time reviewed	BT	
	Circulate Anti Money Laundering Policy and Whistleblowing Code to all staff and Members	Every time reviewed	BT	
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.
FRAUD INVESTIGATION				
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.
DETERRENCE / PUBLICITY				
Reported publicity	Investigation activity and outcomes, including prosecutions, publicly reported via press releases and website	Ongoing	Relevant Manager	Liaison with Communications and Consultation Unit
Counter-fraud culture	Put updated corporate Counter Fraud plan in place	Ongoing	DSH	Maintain and develop corporate consideration of fraud and corruption issues

	Main means to achieve effectiveness	Target date	Lead Officer	Further action required
PARTNERSHIP WORKING				
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. National Crime Agency for Money Laundering reporting.
FRAUD AWARENESS TRAINING				
Fraud awareness for new staff	Ensure fraud, bribery and corruption details in the induction material for new staff is kept up to date and accurate		BT	
Fraud awareness training for relevant staff	Investigate use of fraud awareness e-learning training material	Ongoing	BT	
KEY ISSUES				
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
REPORTING				
Audit and Governance Committee	Receive regular reports on counter-fraud arrangements	Ongoing	BT	Regular reporting of issues to Audit and Governance Committee
TEICCAF Annual Fraud and Corruption survey	Report on numbers and types of fraud and emerging issues	Annual	BT	

	Main means to achieve effectiveness	Target date	Lead Officer	Further action required
Portfolio holder	Receive reports of counter fraud activity as and when required	Ongoing	IAM BT	Regular reporting

NOTE

This plan does not include measures in relation to Revenues, Benefits and IT Services which are considered through a separate process

Lead Officers

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



AGENDA ITEM: 9

**STANDARDS COMMITTEE:
17 SEPTEMBER 2015**

**AUDIT AND GOVERNANCE
COMMITTEE: 29 SEPTEMBER 2015**

**Report of: Managing Director People and Places, Borough Treasurer and
Borough Solicitor**

Contact for further information: Mr M Coysh (Extn. 2603)

(E-mail: mike.coysh@westlancs.gov.uk)

Mr M Jones (Extn.5025)

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**SUBJECT: FRAMEWORK FOR DELIVERING GOOD GOVERNANCE IN LOCAL
GOVERNMENT**

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To advise Members of the consultation currently being undertaken by the CIPFA/SOLACE Joint Working Group on Good Governance in Local Government (the Working Group) on a revised framework for delivering good governance in local government.

2.0 RECOMMENDATIONS TO STANDARDS COMMITTEE

2.1 That the consultation on the revised draft 'Delivering Good Governance in Local Government: a Framework' by the CIPFA/SOLACE Joint Working Group, attached at Appendix 1, be noted.

2.2 That the response, attached at Appendix 2, be agreed at the meeting as the Councils response to the document.

3.0 RECOMMENDATIONS TO AUDIT AND GOVERNANCE COMMITTEE

3.1 That the Standards Committee's decision at Appendix 3, be noted.

4.0 BACKGROUND

- 4.1 Lawyers in Local Government (LLG) recently advised that the Working Group, on which the LLG is represented, were consulting on a revised draft 'Delivering Good Governance in Local Government: a Framework' (the Framework) for consultation, attached at Appendix 1, and requested that this be taken to audit/standards committees, as appropriate.
- 4.2 The Audit and Governance Committee is not due to meet until 29 September after the consultation deadline (28 September 2015).

5.0 FRAMEWORK FOR DELIVERING GOOD GOVERNANCE IN LOCAL GOVERNMENT

- 5.1 The Working Group writes "The main principle underpinning the development of a new Framework continues to be that local government is developing and shaping its own approach to governance, taking account of the environment in which it now operates.
- 5.2 The Framework builds on the *International Framework: Good Governance in the Public Sector (CIPFA/IFAC 2014)*. The *International Framework* places sustainable economic, societal and environmental outcomes as a key focus for governance processes and structures. It emphasises the importance of considering the longer term and the links between governance and public financial management – all key considerations for local authorities in today's climate.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 Promoting and maintaining good practice in governance promotes high ethical Standards and contributes to achievement of the Council's objectives. There are no significant sustainability impacts.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There are no significant resource implications arising from this report.

8.0 RISK ASSESSMENT

- 8.1 There are no risks to the Council's business objectives arising from this consultation. Reviewing best practice in governance contributes to the maintenance of effective risk management procedures in the Council.

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 and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix 1: Delivering Good Governance in Local Government: a Framework – Consultation July 2015.

Appendix 2: Response of the Council (*to the above consultation document*)

Appendix 3: Minute of the Standards Committee 17 September 2015 (Audit and Governance Committee only) – *to follow*

Delivering Good Governance in Local Government: a Framework

Consultation

July 2015

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's qualifications are the foundation for a career in public finance. We also champion high performance in public services, translating our experience and insight into clear advice and practical services. Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance.

SOLACE (Society of Local Authority Chief Executives and Senior Managers) is the representative body for senior strategic managers working in the public sector. We are committed to public sector excellence. We provide our members with opportunities for personal and professional development and seek to influence the debate about the future of public services to ensure that policy and legislation reflect the experience and expertise of our members.

CONSULTATION QUESTIONS

We are seeking views on the draft Framework. In particular we would welcome comments on the following :

1. Would this framework *Good Governance in Local Government* assist you in developing and modernising your own local code of governance/governance arrangements ?
2. Would this draft Framework assist you in establishing governance arrangements for collaborative working (alternative delivery vehicles, partnerships etc) ?
3. Are there any parts of the Framework that you would find difficult to follow/comply with ?
4. Have we got the terminology right, with particular reference to collaborative working ? If not, how could it be improved ?
5. Principle E looks at the relationship between members and officers. Have we got the tone and balance right ? If not, how could it be improved ?
6. Is any further guidance is required with regard to the development of a local code ?
7. What further guidance is required with regard to the preparation of the annual governance statement ?
8. Are there any other aspects of governance that are not in the draft Framework which you believe should be addressed ?
9. How might the Framework be improved ?
10. Are there any other issues or areas that are not in the draft Framework which you believe should be addressed in the guidance note?
11. It is envisaged that the revised Framework would apply from the financial year 2015/2016. Please could you let us know if you have any concerns regarding the proposed timetable ?

GUIDANCE

It is our intention to develop separate guidance notes for English, Scottish and Welsh local authorities and for the Police in England and Wales to accompany the revised Framework. The guidance notes will include:

- How the revised Framework can be mapped to the 2007 Framework
- A glossary of terms
- Examples of good practice/case studies
- Examples of the types of systems, processes and documentary evidence that might be cited by an authority to demonstrate compliance with best practice
- The principles underlying who should be nominated by the authority to take responsibility for the review on its behalf and the scope given
- Signposts to other useful tools and sources of guidance available to local authorities for self assessment purposes.

We would be very pleased to be made aware of specific examples of good practice/case studies that might be included in the guidance notes.

TIMETABLE

Responses and offers to assist with case study material should be sent by **Monday 28th September 2015** to : Kerry Ace. Email kerry.ace@cipfa.org

THE WORKING GROUP

CIPFA and SOLACE have drawn together the following members of the Joint Working Group and are grateful to them and to their employing organisations for their time and assistance in preparing this document.

MEMBERS

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Observer

Shehla Husain	<i>DCLG</i>
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INTRODUCTION

Local authorities are set for further reductions in government funding over the course of this Parliament. To cope in this time of unprecedented change, they will need to continue to adapt the way in which they operate. Local authorities have responded to austerity through increased collaboration; developing their role as 'enablers' and making further use of alternative delivery vehicles (ADVs) for public service provision.

Authorities will need to make difficult decisions which may mean that certain services can no longer be provided, but in doing this they will need to communicate effectively with their communities, service users, stakeholders and individuals to ensure that the most vulnerable citizens continue to be protected. At the same time, local government has been undergoing significant change and the environment in which it works is increasing in complexity. In addition to economic and financial challenge, the integrated health and social care programme, devolution, the Localism Act, the Police Reform and Social Responsibility Act and other key legislation have brought new roles, opportunities and greater flexibility for authorities.

The introduction of new responsibilities and the development of new collaborative structures and ways of working provide challenges for ensuring transparency, demonstrating accountability and, in particular, for managing risk. Whether working with other public sector bodies, the third sector or private sector providers, local authorities must establish robust governance arrangements at the outset. These should include a shared view of expected outcomes supported by effective mechanisms for control and risk management thereby ensuring that the public purse is properly protected.

REVIEW OF THE CIPFA/SOLACE FRAMEWORK

It is therefore crucial that leaders and chief executives keep their governance arrangements up to date and relevant and in response, CIPFA and SOLACE, are undertaking a fundamental review of the Framework: Delivering Good Governance in Local Government to ensure that it remains 'fit for purpose'. The main principle underpinning the development of the new Framework continues to be that local government is developing and shaping its own approach to governance, taking account of the environment in which it now operates.

The revised Framework (consultation draft) developed by the CIPFA/SOLACE Joint working Group on Good Governance in Local Government builds on the *International Framework : Good Governance in the Public Sector (CIPFA/IFAC 2014)*. The *International Framework* places sustainable economic, societal and environmental outcomes as a key focus for governance processes and structures. It emphasises the importance of considering the longer term and the links between governance and public financial management – all key considerations for local authorities in today's climate.

The core principles and sub principles from the *International Framework* have been adapted for the local government context and translated into a series of expected behaviours and outcomes which demonstrate good governance in practice. The principles in the consultation draft form a standard for good governance and a shared understanding of what constitutes good governance across local government.

Whatever form of arrangements are in place, authorities are urged to test their governance structures against the principles contained in the Framework by:

- reviewing existing governance arrangements
- developing and maintaining an up-to-date local code of governance including arrangements for ensuring ongoing effectiveness
- reporting publicly on compliance with their own code on an annual basis and on how they have monitored the effectiveness of their governance arrangements in the year and on planned changes.

The term 'local code' essentially refers to the governance structure in place as there is an expectation that a formally set out local structure should exist, although in practice it may consist of a number of local codes or documents.

The Framework principles are intended to be applicable to all local authorities and associated organisations and systems ie combined authorities, joint boards, partnerships and other vehicles established through which authorities now work. However, a one-size-fits-all approach to governance is inappropriate. Not all parts of the Framework will be directly applicable to all types and size of structures and it is therefore up to different authorities and organisations to put the Framework into practice in a way that reflects their structures and is proportionate to their size.

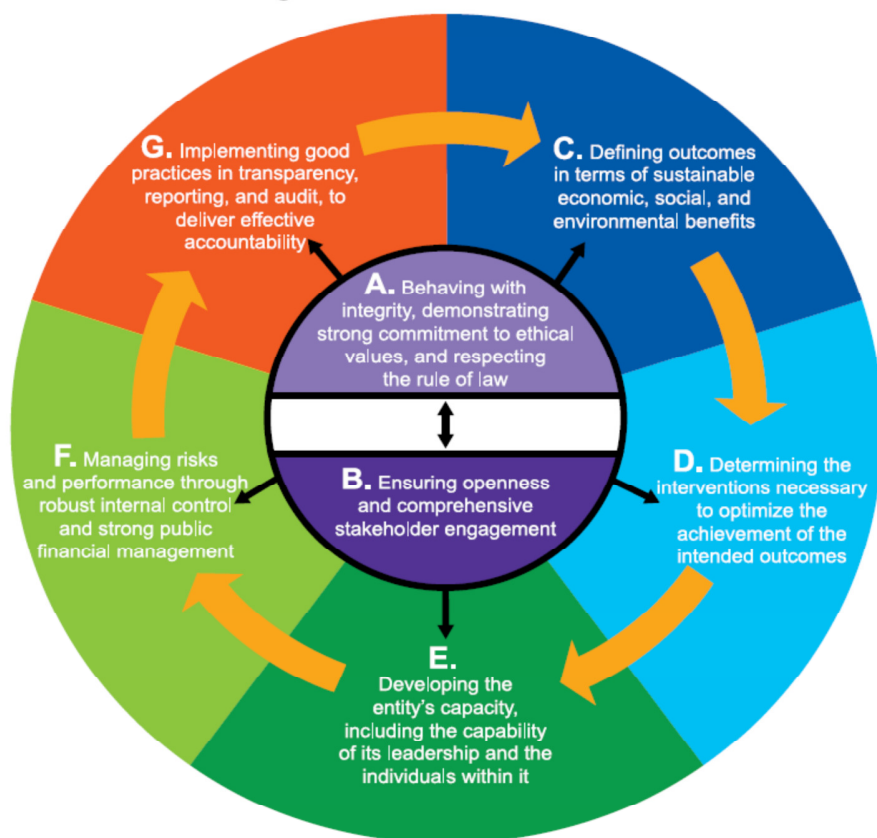
It is also crucial that the Framework is applied in a way that demonstrates the spirit and ethos of good governance which cannot be achieved by rules and procedures alone.

THE PRINCIPLES OF GOOD GOVERNANCE – APPLICATION

Defining the core principles and sub principles of good governance

The diagram from the *International Framework*, below illustrates how the various principles for good governance in the public sector relate to each other. Principles A and B permeate implementation of principles C to G. The diagram also illustrates that good governance is dynamic, and that an entity as a whole should be committed to improving governance on a continuing basis through a process of evaluation and review.

Achieving the Intended Outcomes While Acting in the Public Interest at all Times



To achieve good governance, each local authority should be able to demonstrate that its governance structures are consistent with the core and supporting principles contained in this Framework. It should therefore develop and maintain a local code of governance/governance arrangements reflecting the behaviours and outcomes set out in the next section.

Defining governance

"Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.

To deliver good governance in the public sector, both governing bodies¹ and individuals working for public sector entities must try to achieve their entity's objectives while acting in the public interest at all times.

Acting in the public interest implies primary consideration of the benefits for society, which should result in positive outcomes for service users and other stakeholders. "

(International Framework: Good Governance in the Public Sector, CIPFA/IFAC, 2014)

Principles for Good Governance in Local Government

The core principles and sub principles set out overleaf are taken from *International Framework: Good Governance in the Public Sector (CIPFA/IFAC)*. In turn, they have been translated into a local government context.

It is up to **each local authority or local government organisation to** :

- set out its commitment to the principles of good governance included in this Framework
- determine its own governance structure, or local code, underpinned by these principles
- ensure that it operates effectively in practice.

¹ In local government, the governing body is the full council or authority. In the Police, Police and Crime Commissioners (PCCs) and Chief Constables (CCs) are corporations sole and are jointly responsible for governance.

Principles and sub principles	Behaviours and outcomes that demonstrate good governance in practice
Acting in the public interest requires:	This commitment will require :
<p>A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law</p> <p>Local government organisations are accountable not only for how much they spend, but also for how they use the resources under their stewardship. This includes accountability for outputs, both positive and negative, and for the outcomes they have achieved. In addition, they have an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. It is essential that, as a whole, they can demonstrate the appropriateness of all their actions and have mechanisms in place to encourage and enforce adherence to ethical values and to respect the rule of law.</p>	<p>Behaving with integrity</p> <ul style="list-style-type: none"> • Ensuring members and officers behave with integrity • Ensuring members and officers lead a culture where acting in the public interest is the norm • Ensuring members take the lead in establishing specific values² for the organisation and its staff and that they are communicated and understood • Ensuring members and officers lead by example and demonstrate the organisation's values through their own thinking and behaviours and use them as a guide to decision making and other actions • Demonstrating and communicating values through appropriate policies/processes such as codes of conduct and policies dealing with whistle blowing and conflicts of interest and reviewing such policies and on a regular basis to ensure that they are operating effectively <p>Demonstrating strong commitment to ethical values</p> <ul style="list-style-type: none"> • seeking to understand , monitor and maintain the organisation's ethical performance • underpinning personal behaviour with ethical values and ensuring they permeate all aspects of the organisation's operation for example, procurement and staff appointments

² These should build on The Nolan Principles – *The Seven Principles of Public Life*

	<p>Respecting the rule of law</p> <ul style="list-style-type: none"> ensuring members and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations creating the conditions to ensure that the statutory officers and other key post holders are able to fulfil their responsibilities striving to use the authority's full powers for the benefit of its citizens, its communities and other stakeholders Dealing with breaches of legal and regulatory provisions effectively Ensuring corruption and misuse of power are dealt with effectively
<p>B. Ensuring openness and comprehensive stakeholder engagement</p> <p>Local authorities are run for the public good, they therefore should ensure openness in their activities. Clear, trusted channels of communication and consultation should be used to engage effectively with all groups of stakeholders, such as individual citizens and service users, as well as institutional stakeholders.</p>	<p>Openness</p> <ul style="list-style-type: none"> Demonstrating, documenting and communicating the organisation's commitment to openness making decisions that are open³ about actions, plans, resource use, forecasts, outputs and outcomes providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, that they are clear about the impact and consequences of those decisions <p>Engaging comprehensively with</p>

³ The presumption is for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential should be provided

	<p>institutional stakeholders⁴</p> <ul style="list-style-type: none"> • effectively engaging with stakeholders to ensure that outcomes are achieved successfully and sustainably • developing formal and informal collaborative arrangements with other institutional stakeholders (such as other public sector bodies, third sector or private sector entities) to allow for resources to be used more efficiently and outcomes achieved more effectively • defining the purpose, objectives and intended outcomes for each stakeholder relationship • using formal and informal consultation and engagement to determine the most appropriate and effective interventions <p>Engaging stakeholders effectively, including individual citizens and service users</p> <ul style="list-style-type: none"> • establishing a clear policy on the type of issues that the organisation will meaningfully consult with or involve individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes. • collecting and evaluating the views and experiences of citizens, service users and organisations of different backgrounds • implementing effective feedback mechanisms for those consultees in order to demonstrate what has changed
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⁴ The other entities a public sector entity needs to work with to improve services and outcomes or for accountability reasons

	<p>as a result</p> <ul style="list-style-type: none"> • balancing feedback from more active stakeholder groups with other stakeholder groups to ensure that no one group becomes too dominant • taking account of the interests of future generations of tax payers and service users to ensure intergenerational equity
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Principles and sub principles	Behaviours and outcomes that demonstrate good governance in practice
<p>In addition to the overarching requirements for acting in the public interest in principles A and B, achieving good governance in the local government also requires effective arrangements for:</p>	<p>This commitment will require :</p>
<p>C. Defining outcomes in terms of sustainable economic, social, and environmental benefits</p> <p>The long-term nature and impact of many of local government's responsibilities mean that it should define and plan outcomes and that these should be sustainable. Decisions should further the authority's purpose, contribute to intended benefits and outcomes, and remain within the limits of authority and resources. Input from all groups of stakeholders, including citizens, service users, and institutional stakeholders, is vital to the success of this process and in balancing</p>	<p>Defining outcomes</p> <ul style="list-style-type: none"> • having a clear vision - an agreed formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators • ensuring the vision statement provides the basis for the organisation's overall strategy, planning and other decisions • specifying the intended impact on, or changes for, stakeholders including individual citizens and service users. It could be immediately or over the course of a year or longer

<p>competing demands when determining priorities for the finite resources available</p>	<ul style="list-style-type: none"> • delivering defined outcomes on a sustainable basis within the resources that will be available • developing and publishing sustainability indicators in terms of economic, social and environmental benefits as a means of measuring whether intended outcomes have been achieved • identifying and managing risks to the achievement of outcomes as part of delivering goods and services • managing expectations effectively with regard to determining priorities and making the best use of the resources available <p>Sustainable economic, social and environmental benefits</p> <ul style="list-style-type: none"> • considering and balancing the combined economic, social and environmental impact of policies, plans and decisions when taking decisions about service provision • taking a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the authority's intended outcomes and short-term factors such as the political cycle or financial constraints • determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits , through consultation where possible, in order to ensure appropriate trade offs • ensuring equality of access
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D. Determining the interventions necessary to optimize the achievement of the intended outcomes

Local authorities achieve their intended outcomes by providing a mixture of legal, regulatory, and practical interventions. Determining the right mix of interventions is a critically important strategic choice and authorities have to make to ensure they achieve their intended outcomes. They need robust decision-making mechanisms to ensure that their defined outcomes can be achieved in a way that provides the best trade-off between the various types of resource inputs while still enabling effective and efficient operations. Decisions made need to be reviewed continually to ensure that achievement of outcomes is optimized.

Determining interventions

- Ensuring decisions makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and including the risks associated with those options
- Ensuring best value is achieved however the authority's services are provided

Planning interventions

- Establishing and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets
- Simultaneously engaging with internal and external stakeholders in determining how services and other interventions can best be delivered
- Considering and monitoring risks facing each partner when working collaboratively including shared risks
- Ensuring arrangements are flexible/agile so that the mechanisms for delivering outputs can be adapted to changing circumstances
- Establishing appropriate KPIs as part of the planning process in order to assess how the performance of services and projects is to be measured
- Ensuring the organisation has the capacity to generate the information required to review service quality regularly
- Preparing budgets in accordance with organizational objectives, strategies and the medium term financial plan
- Informing medium and long term resource planning by realistic estimates of

	<p>expenditure and revenue, aiming to develop a sustainable funding strategy that fully supports future expenditure and liabilities in accordance with available funding</p> <ul style="list-style-type: none"> • Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts <p>Optimizing achievement of intended outcomes</p> <ul style="list-style-type: none"> • Ensuring the medium term financial strategy integrates and trades off service priorities, affordability and other resource constraints • Ensuring the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term • Ensuring the medium term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimizing resource usage • Ensuring the achievement of 'social value' through service planning and commissioning
<p>E. Developing the entity's capacity, including the capability of its leadership and the individuals</p>	<p>Developing the entity's capacity</p> <ul style="list-style-type: none"> • Ensuring the capabilities of senior management enable the authority to

<p>within it</p> <p>Local authorities need appropriate structures and leadership, as well as people with the right skills, appropriate qualifications and mindset, to operate efficiently and effectively and achieve their intended outcomes within the specified periods. The authority must ensure that it has both the capacity to fulfil its own mandate and to make certain that there are policies in place to guarantee that its management has the operational capacity for the entity as a whole. Because both individuals and the environment in which an authority operates will change over time, there will be a continuous need to develop its capacity as well as the skills and experience of individual staff members. Leadership in local government entities is strengthened by the participation of people with many different types of backgrounds, reflecting the structure and diversity of their communities</p>	<p>respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks</p> <ul style="list-style-type: none"> • Reviewing operations and performance on a regular basis to ensure their continuing effectiveness and enable organizational learning • Improving resource use through appropriate application of benchmarking and other options in order to determine how the authority's resources are allocated so that outcomes are achieved effectively and efficiently • Developing and maintaining robust procurement policies and procedures which place emphasis on the organisation's ethical values and objectives and deliver cost effective goods and services <p>Developing the entity's leadership</p> <ul style="list-style-type: none"> • Ensuring a constructive relationship exists between members and officers by setting out a clear statement of the respective roles and responsibilities of the executive, of the executive's members individually and the authority's approach to putting this into practice • Clarifying roles and responsibilities of authority members and management at all levels • Developing protocols to ensure that elected and appointed leaders negotiate their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained • publishing a statement that specifies the types of decisions delegated to the
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	<p>executive and those reserved for the collective decision making of the authority</p> <ul style="list-style-type: none"> • ensuring the leader and the chief executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads the authority in implementing strategy and managing the delivery of services and other outputs set by members and each provides a check and a balance for each other's authority • appointing a senior officer (the S151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts and maintaining an effective system of internal financial control • appointing a senior officer (usually the monitoring officer) is responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with • ensuring members and senior officers have the appropriate skills, knowledge resources and support to fulfil their roles and responsibilities • ensuring members are independent of management and free from relationships that would materially interfere with their role • ensuring members receive appropriate induction tailored to their role and ongoing training and development • developing members skills and ensuring that they are able to update their knowledge on a continuing basis • reviewing individual member performance on a regular basis and considering any
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	<p>training or development needs as well as taking account of their attendance record</p> <ul style="list-style-type: none"> • Regularly assessing skills required by members and making a commitment to fill gaps • Encouraging a wide range of people stand for election and that there are career structures in place to encourage participation and development • taking steps to consider the leadership's own effectiveness and ensuring leaders are open to constructive feedback from peer review and inspections • ensuring personal, entity and system-wide development through shared learning <p>Developing the capability of individuals within the entity</p> <ul style="list-style-type: none"> • implementing appropriate human resource policies and ensuring that they are working effectively • creating an environment where staff can perform well and ideas and suggestions are welcomed • ensuring staff have realistic job descriptions so that their core responsibilities can be carried out effectively and senior managers' core responsibilities are not compromised by having too wide a portfolio of duties. • Appointing and promoting all staff based on merit • Ensuring all new staff receive induction tailored to their role and subsequent training and development matching individual and organisational requirements • Holding staff to account through regular
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	<p>performance reviews which take account of training or development needs</p> <ul style="list-style-type: none"> • Considering how benefits, personal development opportunities and potential career progression can promote an engaged and competent work force • Ensuring arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing
<p>F. Managing risks and performance through robust internal control and strong public financial management</p> <p>Local authorities need to ensure that the entities and governance structures that they oversee have implemented—and can sustain—an effective performance management system that facilitates effective and efficient delivery of planned services. Risk management and internal control are important and integral parts of a performance management system and crucial to the achievement of outcomes. They consist of an ongoing process designed to identify and address significant risks involved in achieving outcomes.</p> <p>A strong system of financial management is essential for the implementation of policies and the achievement of intended outcomes, as it will enforce financial discipline, strategic allocation of resources, efficient service delivery and accountability.</p>	<p>Managing risk</p> <ul style="list-style-type: none"> • Recognising that risk management is an integral part of all activities and must be regarded as a continuous process • Implementing robust and integrated risk management arrangements and ensuring that they are working effectively <p>Managing performance</p> <ul style="list-style-type: none"> • Monitoring service delivery effectively including planning, specification, execution and independent post implementation review • Ensuring at all levels, those making decisions are presented with relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook • Ensuring an effective scrutiny or oversight function is in place which encourages constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the

	<p>authority's performance and that of any organization for which it is responsible</p> <ul style="list-style-type: none"> • providing members and senior management with regular reports on service delivery plans and on progress towards outcome achievement • ensuring there is consistency between specification stages (such as budgets) and post implementation reporting (eg financial statements) <p>Robust internal control</p> <ul style="list-style-type: none"> • Aligning the risk management strategy and policies on internal control with achieving the authority's objectives • Evaluating and monitoring the authority's risk management and internal control on a regular basis • Ensuring effective counter-fraud and anti-corruption arrangements are in place • Ensuring additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor • Ensuring an audit committee or equivalent group or function which is independent of the executive provides a further source of assurance regarding the authority's arrangements for managing risk and maintaining an effective control environment <p>Managing Data</p>
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	<ul style="list-style-type: none"> • Ensuring effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to ensure the security of personal data used • Reviewing and auditing regularly the quality and accuracy of data used in decision making and performance monitoring • Ensuring effective arrangements for sharing data with other bodies are in place <p>Strong public financial management</p> <ul style="list-style-type: none"> • Ensuring the authority's financial management supports both long term achievement of outcomes and short-term financial and operational performance • Ensuring well-developed financial management is integrated at all organizational levels of planning and control, including management of financial risks and controls
<p>G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability</p> <p>Accountability is about ensuring that those making decisions and delivering services are answerable for them. Effective accountability is concerned not only with reporting on actions completed, but also ensuring that stakeholders are able to understand and respond as the organisation plans and carries out its activities in a transparent manner. Both external and internal audit contribute to effective accountability.</p>	<p>Implementing good practice in transparency</p> <ul style="list-style-type: none"> • Writing and communicating reports for the public and other stakeholders in an understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate • Striking a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny whilst not being too onerous for the authority to provide and for users to understand <p>Implementing good practices in reporting</p>

	<ul style="list-style-type: none"> • Reporting at least annually in a timely manner to demonstrate to stakeholders in an understandable way on issues including how the authority is performing, whether it is delivering value for money and the stewardship of its resources • Ensuring members and senior management own the results • Assessing the extent that the authority is applying the principles contained in this Framework and publishing the results on this assessment including an action plan for improvement and evidence to demonstrate good governance in action • Ensuring the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other, similar entities • Publishing separately an assessment of governance arrangements for jointly managed organisations <p>Assurance and effective accountability</p> <ul style="list-style-type: none"> • Ensuring that an effective external audit service is in place and acting on recommendations made for corrective action • Ensuring an effective internal audit service with direct access to members is in place which provides assurance with regard to the authority's governance arrangements and recommendations are acted upon • Welcoming peer challenge, reviews and inspections from regulatory bodies and implementing recommendations.
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ANNUAL REVIEW AND REPORTING

Delivering Good Governance in Local Government: Framework urges local authorities to prepare a governance statement in order to report publicly on the extent to which they comply with their own code of governance on an annual basis, including how they have monitored and evaluated the effectiveness of their governance arrangements in the year, and on any planned changes in the coming period. The process of preparing the governance statement should itself add value to the effectiveness of the corporate governance and internal control framework.

The annual governance statement should provide a brief communication regarding the review of governance that has taken place and the role of the governance structures involved (such as the authority and the audit and other committees). It should be high level, strategic and written in an open and readable style. It should be focused on outcomes and value for money and relate to the authority's vision for the area. As a matter of best practice, the annual governance statement should normally be approved at the same time as, and certainly no later than, the statement of accounts.

The preparation and publication of an annual governance statement in accordance with *Delivering Good Governance in Local Government: Framework* fulfils the statutory requirement for a local authority to conduct a review at least once in each financial year of the effectiveness of its system of internal control and to include a statement reporting on the review with its statement of accounts.

Appendix 2

Response to consultation on the revised CIPFA / SOLACE Framework for Delivering Good Governance in Local Government

The CIPFA / SOLACE joint working group on good governance in local government are seeking views on the draft Framework. In particular we would welcome comments on the following:

1. Would this Framework Good Governance in Local Government assist you in developing and modernising your own local code of governance/governance arrangements?

Yes, this will be a useful tool for reviewing existing and proposed governance arrangements.

2. Would this draft Framework assist you in establishing governance arrangements for collaborative working (alternative delivery vehicles, partnerships etc.) ?

Yes, this will be a useful tool for reviewing existing and proposed governance arrangements for collaborative working.

3. Are there any parts of the Framework that you would find difficult to follow/comply with?

No, the Framework is generally a good fit with the Council's existing arrangements.

4. Have we got the terminology right, with particular reference to collaborative working? If not, how could it be improved?

The terminology is right in that it appears flexible enough to accommodate a wide variety of collaborative working platforms.

5. Principle E looks at the relationship between members and officers. Have we got the tone and balance right? If not, how could it be improved?

The Council agrees that it is important that the Framework emphasises the need for authorities to build constructive and appropriate relationships between members and officers setting out their respective roles and responsibilities clearly. The tone and balance are right.

6. Is any further guidance required with regard to the development of a local code?

No

7. What further guidance is required with regard to the preparation of the annual governance statement?

None

8. Are there any other aspects of governance that are not in the draft Framework which you believe should be addressed?

No

9. How might the Framework be improved?

We have no suggestions for improvement given that we agree that local government must continue to develop and shape its own approach to governance in the current environment and believe that the principles on which the draft Framework is based are sound.

10. Are there any other issues or areas that are not in the draft Framework which you believe should be addressed in the guidance note?

No

11. It is envisaged that the revised Framework would apply from the financial year 2015/2016. Please could you let us know if you have any concerns regarding the proposed timetable?

Given the likely timescale for finalisation of the Framework and guidance we believe it should apply from 2016/17.



AGENDA ITEM: 10

**AUDIT AND GOVERNANCE
COMMITTEE:
29 SEPTEMBER 2015**

**CABINET:
10 NOVEMBER 2015**

Report of: Managing Director (People and Places)

Relevant Head of Service: Borough Solicitor

Relevant Portfolio Holder: Councillor I Moran

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**SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT – ANNUAL
SETTING OF POLICY AND REVIEW OF USE OF POWERS**

Borough Wide Interest

1.0 PURPOSE OF THE REPORT

1.1 To report on the Council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA) and to present a revised RIPA Policy document for approval.

2.0 RECOMMENDATIONS

- 2.1 That the Council's RIPA activity be noted.
- 2.2 That the revised RIPA Policy document be approved.

3.0 BACKGROUND

3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) came into force in 2000. Both the legislation and Home Office Codes of Practice strictly prescribe the situations in which and the conditions under which councils can use their RIPA powers. All authorities are required to have a RIPA policy and procedure that they adhere to in using their RIPA powers.

- 3.2 The Council's current approved RIPA Policy is made available to officers and members on the Council's Intranet. It is a working document to assist investigating and co-ordinating officers within the Council. Paragraph 5 of the 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 minor offence would not in all likelihood be proportionate). If it fails either test, authorisations should not be granted.
- 3.3 The Council's updated RIPA Policy is annexed in Appendix 1. This reflects guidance which has been introduced in accordance with the following Codes of Practice: the Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Code of Practice) Order 2014; the Regulation of Investigatory Powers (Covert Human Intelligence Sources: Code of Practice) Order 2014 and the Acquisition and Disclosure of Communications Data Code of Practice 2015.
- 3.4 The guidance introduced by the 2014 Codes of Practice relates to the use of social media in investigations, and it is noted that in certain circumstances, the use of social media sites, or using the internet for research in other ways could need authorisation as directed surveillance or use of a covert human intelligence source. The guidance in the 2015 Code of Practice follows the passage of the Data Retention and Investigatory Powers Act 2014 which revoked all accreditation that enabled Local Authorities to acquire communications data and placed the responsibility with the National Anti-Fraud Network (NAFN) to provide the SPoC (single point of contact) service.

4.0 MONITORING OF RIPA ACTIVITY

- 4.1 In the last quarter and in the last 12 months no covert surveillance has been authorised.
- 4.2 As Senior Responsible Officer I proactively seek 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 should be sought by Authorising Officers in appropriate cases. Further notification of requirements in relation to the use of social media is to be given to relevant officers.
- 4.3 A programme of training is in place and a RIPA guidance note is circulated within the Council at regular intervals to raise awareness. Officers were notified of the new requirements following the issue of the Codes of Practice as regards the use of CHIS and Covert Surveillance of Property Interference.

5.0 THE RIPA POLICY

5.1 The RIPA Policy is approved by Cabinet each year. Officers ensure the use of RIPA is consistent with the Council's Policy and regularly report on activity.

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 FINANCE AND RESOURCE IMPLICATIONS

7.1 There are no additional significant financial and resource implications arising from this report.

8.0 RISK ASSESSMENT

8.1 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.

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 - Updated Policy

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.5 - 2015

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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.
- 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 In certain circumstances, use of social media sites such as Facebook, or using the internet in other ways could need authorisation as directed surveillance. The Office of Surveillance Commissioners has given guidance on when the use of social media and the internet might need authorisation on RIPA. The guidance can be read at appendix 4.

2.5 Surveillance Threshold

2.5.1 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.

2.5.2 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.

2.5.3 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.

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

2.6 The Council cannot undertake intrusive surveillance.

2.6.1 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.

2.7 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.

2.7.1 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.

2.7.2 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.

2.7.3 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.

2.7.4 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.

2.7.5 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.**

2.7.6 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).

3.7 In certain circumstances, use of social media sites such as Facebook, or using the Internet for research in other ways could need authorisation as the use of a covert human intelligence source. The guidance can be read at appendix 4.

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 Following the passage of the Data Retention and Investigatory Powers Act 2014 the Home Office has revoked all accreditation which enabled local authority staff to acquire communications data with effect from 1 December 2014. The Council is now required to use the National Anti-Fraud Network's (NAFN's) Single Point of Contact services to acquire communications data under RIPA, if approved by a magistrate. The Acquisition and Disclosure of Communications 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.

4.4 The accredited SPoCs at NAFN will scrutinise the applications independently. They will provide advice to applicants and designated persons ensuring the Council acts in an informed and lawful manner.

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 paragraphs 3.85, 3.86 and 3.87.) 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 3.23. 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 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 application 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	
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Applicants name and Job Title (manager responsible)	
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Service and Section	
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Applicant's address and Contact Number	
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Identity of 'Target'	
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Authorising Officer and Job Title; (in line with delegation scheme)	
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Date of Authorisation	
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Whether confidential information is likely to be reviewed as a consequence of the investigation/operation	
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The date the authorisation was cancelled	
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Whether the authorisation is renewed.	
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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

Kim Webber, Managing Director of Transformation
xx

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

Bob Livermore, Assistant Director Housing & Regeneration
*

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

Dave Tilleray, Assistant Director Community Services *

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

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.

The Office of Surveillance Commissioner's Guidance

Covert surveillance of Social Networking Sites (SNS)

The fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the SNS being used works. Authorising Officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as "open source" or publicly available; the author has a reasonable expectation of privacy if access controls are applied. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. Repeat viewing of "open source" sites may constitute directed surveillance on a case by case basis and this should be borne in mind.

Providing there is no warrant authorising interception in accordance with section 48(4) of the 2000 Act, if it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than mere reading of the site's content).

It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without authorisation. Using photographs of other persons without their permission to support the false identity infringes other laws.

A member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).

Audit & Governance Committee Work Programme – 29 September 2015

Date	Training (commencing 6.30pm)	Items
January 2016	Housing Options Process	<ol style="list-style-type: none">1. Internal Audit Activities – Quarterly Update2. Regulation of Investigatory Powers Act quarterly monitoring of use of powers3. Grant Thornton Annual Audit Letter4. Grant Thornton Certification Letter5. Treasury Management
March 2016	Regulation of Investigatory Powers (RIPA)	<ol style="list-style-type: none">1. Local Code of Governance2. Internal Audit Activities – Quarterly Update3. Internal Audit Plan 2016/174. Regulation of Investigatory Powers Act quarterly monitoring of use of powers5. Grant Thornton – Audit Plan6. Risk Management Framework
June 2016	Council's Accounts	<ol style="list-style-type: none">1. Internal Audit Activities – Annual report2. Internal Audit Activities – Quarterly Update3. Annual Governance Statement4. Statement of Accounts5. Regulation of Investigatory Powers Act Quarterly Monitoring of Use of Powers6. Risk Management Framework
September 2016		<ol style="list-style-type: none">1. Grant Thornton – Audit Findings Report2. Approval of Statement of Accounts3. Internal Audit Activities – Quarterly Update4. Regulation of Investigatory Powers Act Annual and Quarterly Monitoring Use of Powers5. Annual Review – Anti-Fraud, Bribery and Corruption Policy6. Risk Management Framework