

Agenda



Audit Committee

| | |
|-------------------|--|
| Date | Thursday, 21 March 2013 at 7:00 pm |
| Venue | Town Hall, St Annes |
| Committee members | Councillor John Singleton JP (Chairman) Councillor Brenda Ackers (Vice-Chairman) Councillors Ben Aitken, Christine Akeroyd, Leonard Davies, Kath Harper, Howard Henshaw, Linda Nulty, Louis Rigby |

| Item | | Page(s) |
|------|--|---------|
| 1 | Declarations of Interest: Any member needing advice on Declarations of Interest should contact the Monitoring Officer before the meeting. | 1 |
| 2 | Confirmation of Minutes: To confirm the minutes of the previous meeting held on 30 January 2013 as a correct record. | 1 |
| 3 | Substitute Members: Details of any substitute members notified in accordance with council procedure rule 24.3. | 1 |
| 4 | Corporate Governance Improvement Plan 2012/13 | 3 – 6 |
| 5 | Constitution | 7 – 10 |
| 6 | Internal Audit Plan 2013 - 2014 | 11 – 16 |
| 7 | High Priority Actions (Update) | 17 – 20 |
| 8 | Annual Review of Counter Fraud Policies | 21 – 82 |

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| 9 | Planning Code | 83 – 93 |
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The code of conduct for members can be found in the council's constitution at www.fylde.gov.uk/council-and-democracy/constitution

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REPORT



| REPORT OF | MEETING | DATE | ITEM NO |
|--------------------------|-----------------|---------------|---------|
| RESOURCES DIRECTORATE | AUDIT COMMITTEE | 21 MARCH 2013 | 4 |

CORPORATE GOVERNANCE IMPROVEMENT PLAN 2012/13

Public Item

This item is for consideration in the public part of the meeting.

Summary

The Audit Committee is charged with adopting the Annual Governance Statement and monitoring the progress in fulfilling the Corporate Governance Improvement Plan actions. At the last meeting of the Committee a monitoring report was considered. The Committee requested on outstanding issues.

Recommendation

1. The Committee notes the latest position.

Reasons for recommendation

The report indicates the current situation

Alternative options considered and rejected

This report is for information and comment only

Cabinet Portfolio

Finance & Resources

Councillor Karen Buckley

Continued....

Report

1. At its last meeting, the Committee considered an update on the achievement of the actions in the Corporate Governance Action Plan.
2. An update was required on outstanding actions and an updated action plan is attached.

| Report Author | Tel | Date | Doc ID |
|----------------|----------------|----------------|--------------|
| Tracy Morrison | (01253) 658521 | Date of report | 6 March 2013 |

| List of Background Papers | | |
|--|------|--|
| Name of document | Date | Where available for inspection |
| Delivering Good Governance in Local Government | 2007 | All background papers or documents can be obtained from Savile Sykes – Head of Internal Audit on 01253 658413 or e-mail saviles@fylde.gov.uk |

Attached documents

1. Corporate Governance Improvement Plan 2012/13.

| IMPLICATIONS | |
|---|---|
| Finance | Good governance ensures development of the capacity and capability of the Council to be financially effective and efficient |
| Legal | No specific implications |
| Community Safety | No specific implications |
| Human Rights and Equalities | No specific implications |
| Sustainability and Environmental Impact | No specific implications |
| Health & Safety and Risk Management | Good governance encourages informed and transparent decisions which are subject to effective risk management |

APPENDIX 1
Corporate Governance Improvement Plan 2012/13

| SIGNIFICANT GOVERNANCE ISSUES | | AGREED IMPROVEMENT PLAN | | | |
|---|--|-------------------------|--------------------|----------|---|
| Objective | Actions | Officer | Date | Status | Comment |
| AGS 1. Deliver effective staff appraisals to 100% of workforce as part of the corporate performance management framework, to provide feedback to employees, counselling and professional development opportunities. | 1. Develop and pilot an effective and targeted employee performance appraisal model for use across the whole Council | AO | Sep 12 | Complete | An effective employee performance appraisal model has been developed and the piloting phase is almost completed |
| | 2. Complete the roll-out process such that the standard employee performance appraisal model is delivered to 100% of the Council's workforce. | AO | Mar 13 | Complete | Appraisals implemented and no evidence of failure to implement |
| AGS 2. Equalities training and guidance will be provided for all employees to help maintain a positive and inclusive culture throughout the workforce and to ensure that corporate practices and the services continue to meet the needs of all citizens. | 3. Develop and deliver a targeted programme of equalities training and guidance for all staff | IC | Mar 13 | Complete | Equality Act Starter Kit adopted as a corporate training tool and being rolled out to managers with the intention that they will cascade this down amongst their teams. |
| AGS 3. Procurement arrangements will be reviewed and enhanced to achieve best value and effective use of resources. | 4. Develop and upgrade the Procurement Strategy to achieve best value and effective use of resources subject to review by scrutiny with recommendations to Cabinet | IC | Nov 12 | Complete | Strategy developed and updated |
| AGS 4. Review of Codes of Conduct for both members (in light of the new standards framework) and officers with appropriate training/guidance. | 5. Adopt a revised Code of Conduct for Members in accordance with prevailing regulations/guidance and provide appropriate training/guidance | TM | Jul 12 | Complete | Revised Code of Conduct adopted by Council on 30 July 2012 |
| | 6. Review and refresh the Code of Conduct for Officers in line with current best practice and provide appropriate training/guidance for all staff | IC | Mar 13 | Complete | Review of code completed. No further changes required. |
| AGS 5. Upgrade the Communications Strategy to protect and enhance the Council's reputation and through high quality communications strengthen links with local people, service users, partner organisations and staff | 7. Review and upgrade the corporate Communications Strategy to ensure high quality communications are an integral part of the work of all staff | NG | (Dec 12) Feb 13 | Complete | Draft prepared for presentation to Management Team |

APPENDIX 1
Corporate Governance Improvement Plan 2012/13

| SIGNIFICANT GOVERNANCE ISSUES | | AGREED IMPROVEMENT PLAN | | | |
|---|---|-------------------------|--------|----------|--|
| Objective | Actions | Officer | Date | Status | Comment |
| AGS 6. In agreement with Blackpool Council, achieve further refinements to reporting capabilities on the revenues and benefits Academy system as to the frequency, format and details of all reports required | 8. Secure agreement with the Revenues and Benefits Shared Service Team concerning the Council's reporting requirements and set agreed timescales for implementation | POD | Apr 12 | Complete | |
| AGS 7. Business Continuity arrangements will be reviewed and refreshed to ensure that contingency plans remain robust in light of any emergency which may face the Council | 9. Review and refresh the Business Continuity arrangements to ensure that contingency plans remain robust | AW | Mar 13 | Complete | Action brought forward from 2011/12 CGIP Revised Action Plan agreed by Strategic RM Group. Review completed and Plan refreshed to reflect the new management structure. |
| AGS 8. Review and refine the project management framework to achieve a consistency of approach and best practice across all Council departments in the delivery of key business objectives | 10. Review and refine the project management framework to meet the Council's requirements in accordance with prevailing best practice | AS | May 12 | Complete | |

REPORT



| REPORT OF | MEETING | DATE | ITEM NO |
|-----------------------|-----------------|---------------|---------|
| RESOURCES DIRECTOR | AUDIT COMMITTEE | 21 MARCH 2013 | 5 |

CONSTITUTION

Public/Exempt item

This item is for consideration in the public part of the meeting.

Summary

The Audit Committee's terms of reference includes responsibility for advising the Council on changes to the Constitution.

Under a local convention, the Council's budget meetings have been run for the last several years following a local 'convention' which deviates from the Council's procedural standing orders. For the budget Council meeting held on the 4th March 2013, the Council agreed to waive standing orders to the extent of allowing the convention to continue. However, it more desirable that this 'convention' is formalised and added to the Council's Constitution as the agreed procedure for budget Council meetings.

Recommendation/s

1. Recommend that the council adopts the attached procedure for its budget council meetings as a part of its constitution.

Cabinet portfolio

The item falls within the following Cabinet Portfolio: Corporate Resources and Finance (Councillor Karen Buckley).

Report

Background

1. The Audit Committee's Terms of Reference includes responsibility for advising the Council to changes in the Constitution.

2. Under a local convention, by agreement of the political groups, the Council's Budget meetings have been run according to the procedure outlined in the attached appendix.
3. It is desirable that this informal convention is formalised.
4. The Audit Committee is requested to consider recommending the adoption of this procedure formally to the Council.

| | |
|-------------------------------------|--|
| | |
| Finance | None |
| Legal | Any amendments to the Council's Constitution requires Council approval |
| Community Safety | None |
| Human Rights and Equalities | None |
| Sustainability | None |
| Health & Safety and Risk Management | None |

| REPORT AUTHOR | TEL | DATE | DOC ID |
|----------------|----------------|--------------|--------|
| Tracy Morrison | (01253) 658521 | 6 March 2013 | |

| LIST OF BACKGROUND PAPERS | | |
|---------------------------|------|--|
| NAME OF DOCUMENT | DATE | WHERE AVAILABLE FOR INSPECTION |
| Council constitution | | Town Hall, St Annes, or www.fylde.gov.uk |

Full Council Budget Meeting – Monday 4 March 2013

The **Leader of the Council** will make his budget presentation to the Council. There is no time limit on this presentation.

The **Portfolio Holder for Finance and Resources** will then **Move** a Motion (**the Substantive Motion**) to recommend all the Council Tax resolutions and speak to the same. There is no time limit on the moving and speaking to this motion by the Portfolio Holder.

Once this is **seconded** the **following process will be followed**:

The **Mayor** will at this point ask the Leader of the Opposition and non-aligned members to indicate whether they will be presenting an alternative budget or whether they will be moving any amendments (an indication will be given but the amendments (if any) will not be tabled until the moving, seconding and full debate on the budget proposals has run its course). Amendments from any other member will be heard after the debate on the substantive motion or amendments from the Leader of the Opposition and non aligned members have been concluded.

- The **Substantive Motion** will then be debated when any member can indicate to speak on the Motion being put. No speech by a member may exceed 10 minutes and each speaker may speak only once (12.5).
- **If there is no Amendment** moved then the Portfolio Holder for Finance and Resources, as mover of the original motion, will have a right to reply at the end of the debate immediately before the **Motion** is put to the vote (12.6).
- **However, if the Leader of the Opposition indicated that she would be presenting an alternative budget/moving an amendment she is invited to do so and there is no time limit, in line with the convention agreed for the Leader and Portfolio Holder.** No speech by any other member may exceed 5 minutes, and each speaker may speak only once (12.7.d). The Portfolio Holder for Finance and Resources, as the mover of the original Motion, has the right of reply at the close of the debate on the Amendment, but may not otherwise speak on it (12.7.e). This applies to all further amendments
- **The Mover of an Amendment** has no right of reply on his or her Amendment (12.8).
- **The Secunder of a Motion or Amendment** can reserve the right to speak for a later period in the debate (12.3 and 12.7.b).
- **If the first Amendment is lost** then subsequent Amendments may be moved to the original Motion firstly by any non-aligned members and then any other members (12.7.g).

- **If an Amendment is carried** the Motion as amended takes the place of the original Motion. This becomes the substantive Motion to which any further amendments are moved (12.7.f).
- The **Motion** must be **Seconded** and any **Amendments** must be **Moved, Seconded and voted upon**.
- In the event of all the amendments being lost **the original Motion will be put**.

The rules of debate for moving and amending motions will be in line with those set out in paragraph 12 of the constitution (rules of debate procedure rules).

| |
|--|
| STANDING NOTE ON DISORDERLY CONDUCT |
|--|

A. BY A MEMBER OF THE COUNCIL

In the event of disorderly conduct at the meeting by a member of the Council, the provisions of the Council Procedure Rules apply as follows:

MEMBER'S CONDUCT

Member not to be heard further

If a member persistently disregards the ruling of the [Mayor] by behaving improperly or offensively or deliberately obstructs business, the [Mayor] may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

B. BY MEMBERS OF THE PUBLIC

In the event of disorderly conduct at the meeting by a member of the public, the provisions of the Council Procedure Rules apply as follows:

1. If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.
2. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared and may adjourn the meeting as felt necessary.

REPORT



| REPORT OF | MEETING | DATE | ITEM NO |
|--------------------------|-----------------|---------------|---------|
| RESOURCES DIRECTORATE | AUDIT COMMITTEE | 21 MARCH 2013 | 6 |

INTERNAL AUDIT PLAN 2013-2014

Public Item

This item is for consideration in the public part of the meeting.

Summary

The terms of reference for the Audit Committee include approving but not directing internal audit's plan. This report outlines the Internal Audit Plan for the financial year 2013-14 and briefly describes the methodology used in its production.

Recommendation

The Committee approves the Annual Internal Audit Plan 2013-14.

Reasons for Recommendation

The Chartered Institute of Public Finance & Accountancy (CIPFA) Code of Practice for Internal Audit in Local Government requires that Internal Audit should have a plan and that the Audit Committee should approve but not direct it.

Alternative options considered and rejected

No other course of action is advocated.

Cabinet Portfolio

Finance & Resources

Councillor Karen Buckley

Continued....

Report

Introduction

1. This report sets out the audit work plan for the financial year 2013 -14. The work planned takes into account:
 - ♦ Internal Audit's objectives
 - ♦ discussions with managers
 - ♦ key risks identified for 2013-14
 - ♦ the results of previous audits
 - ♦ the resources available
 - ♦ level of risk within each service
 - ♦ the cyclical programme of audit work
2. The work of the team may be broken down into several main services to the Council:
 - ♦ Reviews of Council systems and processes on a risk assessed basis to ensure controls are adequate
 - ♦ Compliance testing to ensure significant financial systems remain 'fit for purpose'
 - ♦ Provision of consultancy and advice to management on request regarding aspects of internal control and/or governance
 - ♦ Fraud investigation, where appropriate, in conjunction with the Investigations team
 - ♦ Follow Up Work to ensure findings are implemented

Planning considerations

3. The Code of Practice requires the Head of Internal Audit to prepare a risk based audit plan. In order to make best use of audit resources, the need for audit reviews in individual areas is considered, based on a risk assessment, which considers:
 - ♦ materiality - the relative value of funds flowing through a system or in the case of non-financial systems the comparative impact on service delivery and the control environment
 - ♦ business risk - the extent to which the system is perceived to be well managed
 - ♦ assurance - a factor to reflect the latest available assurance rating awarded by Internal Audit following an audit review of the area
 - ♦ sensitivity - the external profile of the service
 - ♦ time - a factor to represent the time since the area was last subject to audit

The risk scores are statistically weighted and provide a level of relative risk for each area of work.

4. This risk assessment is then translated into a five year strategic audit plan which shows the planned frequency of audit reviews, and an annual operational plan, which

sets out the areas to be covered in the current year, taking into account resource constraints.

5. Planned audit work has been discussed with the Chief Executive and all members of Management Team, in particular the Section 151 Officer, to ensure wherever possible their major concerns are being addressed.

Other Elements

5. Key financial systems are audited on an ongoing basis, such that each main system is reviewed in alternate years. Usually the follow up work is completed in the succeeding year so that annual coverage is maintained.
6. In addition to those activities identified as a result of the above process some other areas are also reviewed annually - these include corporate governance and anti-fraud activities. These topics are not subject to the risk assessment process.
7. It should also be emphasised that within the dynamic environment that the Council operates, business risks are prone to change and the plan is not intended to be regarded as rigid. Areas for review can and will emerge in-year.
8. Consequently a contingency provision has also been included in the plan to cover changes in circumstances after the completion of the risk assessment, such as specific management requests for audit, ad hoc work, on-demand tasks and special investigations. This recognises that the plan, whilst produced on an acknowledged risk basis, remains a flexible document.
9. There are a number of audit reviews from 2012-13 that will be ongoing at the end of March 2013 and the days to complete these are also included in the current year's plan.

Conclusion

The Audit Plan for the 2013/14 financial year is attached as an Appendix.

Risk Assessment

This item is for information only and makes no recommendations. Therefore there are no risks to address

| Report Author | Tel | Date | Doc ID |
|---------------|----------------|---------------|--------|
| Savile Sykes | (01253) 658413 | 21 March 2013 | |

| List of Background Papers | | |
|---------------------------|------|--------------------------------|
| Name of document | Date | Where available for inspection |

| | | |
|--------------------------------|--|---|
| Internal Audit Plan 2013-14 | | All background papers or copies can be obtained from Savile Sykes, Head of Internal Audit on 658413 or email saviles@fylde.gov.uk |
|--------------------------------|--|---|

Attached documents

1. Internal Audit Plan 2012-13

| IMPLICATIONS | |
|---|--|
| Finance | Key financial systems are subject to a full system based audit every two years. |
| Legal | None arising directly from the report |
| Community Safety | None arising directly from the report |
| Human Rights and Equalities | None arising directly from the report |
| Sustainability and Environmental Impact | None arising directly from the report |
| Health & Safety and Risk Management | The agreement of an annual audit plan will assist the Council to put in place an appropriate control framework and effective internal controls that provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations. |

**FYLDE BOROUGH Council
Internal Audit Plan 2013/2014**

| Main Financial Systems | Days | Sub Totals |
|---|-------------|-------------------|
| Cash Collection | 20 | |
| Council Tax/Business Rates | 20 | |
| Council Tax FCAT | 22 | |
| Main Accounting | 20 | |
| Non-Domestic Rates FCAT | 22 | |
| Treasury Management | 20 | |
| Slippage (Payroll) | 11 | 135 |
| Planned Reviews | | |
| Development Man – PAS Action Plan | 14 | |
| Mayoralty | 16 | |
| Procurement | 18 | |
| Trade Refuse | 18 | |
| Vehicle & Plant | 18 | |
| Slippage (Car Allowances & Expenses) | 15 | 99 |
| Corporate Governance | | |
| Annual Governance Review | 8 | |
| Audit Committee – Review of Effectiveness | 2 | |
| Internal Audit – Review of Effectiveness | 3 | |
| Business Continuity | 16 | |
| Individual Voter Registration Project | 16 | 43 |
| Performance Indicators | | |
| Sickness Absence Data Quality Review | 8 | 8 |
| Computer Audit | | |
| Contract Management | 13 | |
| IT Service Management | 20 | 33 |
| Anti-Fraud | | |
| National Fraud Initiative | 10 | |
| Prevention of Fraud & Corruption | 2 | 12 |
| Follow Up Work | | |
| Updating Action Plans/Following Up | 21 | 21 |
| Other Audit Work | | |
| Authorisation Schedules | 4 | |
| Cancelled/Replacement Cheques | 10 | 14 |
| Communication/Consultancy | | |
| General Consultancy/Advice | 25 | |
| IA Communication/Liaison | 25 | 50 |
| Reactive Work | | |
| Contingency | 45 | 45 |
| TOTAL AUDIT WORK | 460 | 460 |

APPENDIX 1

Audit Team

| | | |
|-----------------------------|-----|-----|
| Management & Administration | 133 | 133 |
|-----------------------------|-----|-----|

Non-Audit Work

| | | |
|----------------------------------|----|----|
| Benefit Fraud Monitoring/Liaison | 7 | |
| Controlled Stationery | 3 | |
| Corporate & Democratic Core | 18 | |
| Directorate Matters | 5 | |
| Risk Services - Management | 5 | |
| Other | 8 | 46 |

| | | |
|-----------------------------|------------|------------|
| TOTAL DAYS ALLOCATED | 639 | 639 |
|-----------------------------|------------|------------|

REPORT

| REPORT OF | MEETING | DATE | ITEM NO |
|---------------------------|-----------------|---------------|---------|
| HEAD OF INTERNAL AUDIT | AUDIT COMMITTEE | 21 MARCH 2013 | 7 |

HIGH PRIORITY ACTIONS (UPDATE)

Public Item

This item is for consideration in the public part of the meeting.

Summary

At its meeting in January 2013 the committee considered the Internal Audit Interim Report for 2012/13. The Head of Internal Audit was requested provide a further report concerning the high priority actions identified. This report sets out the current position.

Recommendations

The Committee notes the latest position with regard to each of the high priority actions agreed by management but not implemented as previously reported.

Reasons for recommendation

The report indicates the current situation.

Alternative options considered and rejected

This report is for information and comment only.

Cabinet Portfolio

The item falls within the Finance & Resources portfolio (Councillor Karen Buckley)

Continued....

Background

1. At the January 2013 meeting of the Audit Committee, the Internal Audit Interim Report outlined the position with regard to high priority action agreed by managers. The Committee noted that three issues remained unresolved - one concerning IT system upgrades, the second in relation to car park penalty notice arrangements and the third relating to quotations for housing grants work. At the time of the committee meeting the revised implementation dates for the first and third actions had not been passed.
2. The table below sets out the issues, the responsible Directorates and the position or date for resolution as indicated at the January meeting.

Table: High Priority Risks Identified

| Risk | Director | Resolution Date |
|--|-------------|------------------|
| Previous Years' Risks | | |
| 1 Annual system upgrades and bug fixes were not carried out as required by contract terms | Resources | Jan 11 Feb 13 |
| 2 Arrangements for penalty notice administration will be reviewed and updated in a signed contract and retained | Development | Mar 12 Jun12 |
| 2012/13 Risks | | |
| 3 Two quotations from suitable contractors will be sought for housing grant work, except in the case of stair lift installations | Development | Jul 12 Jan 13 |

3. The Committee requested the Head of Internal Audit to provide a further report outlining the current position. This report set out the situation as at 6 March 2013.

Current Position

4. The first of the issues in relation to IT upgrades was originally reported as implemented subject to evidential review but additional verification work undertaken suggested this was not the case. Although it has been confirmed that this action has not been fully completed, the newly appointed manager has invited Information Asset Administrators to a meeting on 11 March 2013 to discuss a revised approach to IT system upgrades, their roles and responsibilities and has prepared a procedure note to support this new process, which once agreed will also be circulated to Information Asset Owners.
5. With regard to the car parking issue, as previously reported the formal contract with the service provider was obtained, but the document had not been signed by either party. The contract was drawn up jointly by eight Lancashire Councils in 2009 and it is unclear why a formal sign-off was not undertaken at the time. In the circumstances the present responsible car parking manager is reluctant to sign the contract. On further consideration we do not think that this action can be implemented as originally envisaged and consequently we will no longer pursue the issue.
6. The concern in relation to housing grants work was the need for competitive quotations to be obtained from contractors except in the case of specialist work, such as the installation of chair-lifts. For work of a non-specialist nature, we understand that two quotations are normally required for grant work undertaken in properties in the private housing sector.

In respect of adaptations in the social housing sector, predominantly within New Fylde Housing properties, work is undertaken in accordance with an agreed set of prices and schedules. These prices were agreed about three years ago following a competitive and assessment process where contractors were invited to quote. To date, these agreed prices have not increased. We understand that there is currently only one external contractor approved to undertake work in New Fylde Housing properties in accordance with these agreed prices. In order to confirm the robustness of the agreed prices and schedules, the Housing service sent seven schedules to a number of different contractors in July 2012. Only three contractors responded, two of which said they would be willing to give prices but only after a viewing of the property and the work required, and one contractor did provide prices for each schedule which when reviewed were broadly similar to the existing agreed prices. Whilst the responses from the contractors did not lead itself to any firm conclusions about the competitiveness of the pricing schedules, the Housing service feel that these prices continue to be reasonable and will provide a benchmark by which adaptations in the wider private sector can also be judged. However, the service accepts that other options perhaps need to be considered and explored in order to confirm the competitiveness of these prices.

Risk Assessment

This item is for information only and makes no recommendations. Therefore there are no risks to address arising from it. The implementation of agreed high priority actions will address system risks already identified to management.

| Report Author | Tel | Date | Doc ID |
|---------------|----------------|----------|--------|
| Savile Sykes | (01253) 658413 | 21/03/13 | |

| List of Background Papers | | |
|-------------------------------|----------|---|
| Name of document | Date | Where available for inspection |
| Internal Audit Interim Report | 30/01/13 | All background papers or copies can be obtained from Savile Sykes – Head of Internal Audit on 01253 658413 or e-mail saviles@fylde.gov.uk |

| IMPLICATIONS | |
|--------------|--|
| Finance | The Accounts and Audit Regulations 2003 require the Council to ensure that its financial management is adequate and effective and that it has a sound system of internal control which facilitates the effective exercise of its functions and which includes arrangements for the management of risk. |
| Legal | No specific implications |

| | |
|---|--|
| Community Safety | No specific implications |
| Human Rights and Equalities | No specific implications |
| Sustainability and Environmental Impact | No specific implications |
| Health & Safety and Risk Management | Internal audit work covers key areas of risk and should therefore strengthen the internal control framework. |

REPORT

| REPORT OF | MEETING | DATE | ITEM NO |
|----------------|-----------------|---------------|---------|
| INTERNAL AUDIT | AUDIT COMMITTEE | 21 MARCH 2013 | 8 |

ANNUAL REVIEW OF COUNTER FRAUD POLICIES

Public Item

This item is for consideration in the public part of the meeting.

Summary

The Audit Committee's terms of reference include the adoption and approval of counter fraud policies, which include the Anti-fraud & Corruption Policy and Strategy, the Whistleblowing Policy, the Anti-Money Laundering Policy, Anti-Bribery Policy, Sanction & Prosecution Policy and the Forensic Readiness Policy. Together these policies create an integrated approach to tackling fraud.

Recommendation

1. The Committee approves the policy documents attached as Appendices to this report and the amendments described.

Reasons for recommendation

To ensure that the Council has in place the key elements of the corporate approach to fraud and corruption in support of the zero tolerance culture.

Alternative options considered and rejected

No other course of action is advocated.

Cabinet Portfolio

Finance & Resources

Councillor Karen Buckley

Continued....

Introduction

The Audit Committee's terms of reference and the work plan include the approval of counter fraud policies. It was agreed in March 2010 that an annual review would take place as part of the committee's work plan to avoid dealing with this important area in a piecemeal fashion.

All counter fraud policies were approved by the committee twelve months ago with the exception of the Sanction and Prosecution Policy, which was amended to reflect prevailing legislation and approved in January 2013. In order to ensure that an effective and up-to-date framework for countering fraud and corruption is maintained a further comprehensive review of all the following policies and strategies has been undertaken:

- ♦ Anti-fraud and Corruption Policy
- ♦ Anti-fraud and Corruption Strategy
- ♦ Whistleblowing Policy
- ♦ Anti-Bribery Policy
- ♦ Anti-Money Laundering Policy
- ♦ Forensic Readiness Policy

The policies have been refreshed to reflect the following relevant changes to legislation and corporate arrangements as follows:

Protection of Freedoms Act 2012

The new arrangements introduced by the Protection of Freedoms Act 2012 impact on the use of covert surveillance by local authorities under the Regulation of Investigatory Powers Act 2000 (RIPA). The main changes are:

- ♦ Before an authorisation for covert surveillance can take effect under RIPA an order must be obtained from a JP (a District Judge or lay magistrate) approving the grant or renewal of an authorisation or notice
- ♦ This does not, however, remove or reduce in any way the duty of the authorising officer designated by the Council to determine whether the tests of necessity and proportionality have been met. Similarly, it does not remove or reduce the need for the necessary RIPA forms and supporting papers that the authorising officer has considered and which are provided to the JP to make the case
- ♦ The JP must be satisfied that the statutory tests have been met and that the use of the surveillance is necessary and proportionate. In addition, the JP must be satisfied that the Council officer who granted the authorisation was an appropriate designated person within the local authority. In such case s/he will issue an order approving the grant or renewal for the use of the technique as described in the application

Localism Act 2011

By the Localism Act, the Government abolished the Standards Board regime and the former arrangements for investigation of complaints against councillors by the local Standards Committee. Instead, the Council has drawn up its own code for about councillors' conduct.

Gifts & Hospitality

During the year new arrangements have been adopted in the Officer's Code of Conduct for Gifts & Hospitality, which make it clear that:

- ♦ a significant gift should never be accepted from an existing contractor or supplier and employees should never accept hospitality from a prospective contractor

- employees should only accept a gift or hospitality if they are satisfied that doing so would not compromise any purchasing, planning or other Council decision
- employees should ensure that they do not accept a gift or hospitality which could call their integrity or that of the Council into question
- the higher the value, the more difficult it would be to accept without casting doubt on an employee's own or the Council's integrity

All the above policies have been refreshed to reflect the above changes but there are no other significant amendments requiring committee approval.

Risk Assessment

There are some minor risks associated with the actions referred to in this report. Where necessary directorate operational risk registers can accommodate these.

| Report Author | Tel | Date | Doc ID |
|---------------|----------------|---------------|--------|
| Savile Sykes | (01253) 658413 | 21 March 2013 | |

| List of Background Papers | | |
|--|------|---|
| Name of document | Date | Where available for inspection |
| BSI Whistleblowing Arrangements Code of Practice | 2008 | All background papers or copies can be obtained from Savile Sykes, Head of Internal Audit on 658413 or email saviles@fylde.gov.uk |
| Money Laundering Regulations 2007 Act | 2007 | |
| Bribery Act | 2010 | |
| Localism Act | 2011 | |
| Protection of Freedoms Act | 2012 | |
| Officers' Code of Conduct | 2012 | |

Attached documents

- 1 Anti-Bribery Policy
- 2 Anti-Fraud & Corruption Policy
- 3 Anti-Fraud & Corruption Strategy
- 4 Forensic Readiness Policy
- 5 Money Laundering Policy
- 6 Whistleblowing Policy

| IMPLICATIONS | |
|---|---|
| Finance | The policies seek to minimise the financial impact of fraud and corruption and support the public stewardship of funds. |
| Legal | The policies assist in good governance and the probity of Council actions and decision-making. Where appropriate the policies will ensure the Council is compliant with prevailing legislation and regulations. |
| Community Safety | None arising directly from the report |
| Human Rights and Equalities | None arising directly from the report |
| Sustainability and Environmental Impact | None arising directly from the report |
| Health & Safety and Risk Management | The policies seek to address the risk of the Council being a victim to fraud and corruption. If controls have proved ineffective or breached deliberately, the Whistleblowing Policy supports the reporting of malpractice. |

ANTI-BRIBERY POLICY

POLICY STATEMENT

Bribery is a criminal offence. It is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. The Council and its staff do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. The Council and its staff do not, and will not, engage indirectly in or otherwise encourage bribery.

The Council is committed to the prevention, deterrence and detection of bribery. The Council has zero-tolerance towards bribery. The Council aims to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

1 THE POLICY

1.1 Objective of this policy

This policy provides a coherent and consistent framework to enable the Council's employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

The Council requires that all personnel, including those permanently employed, temporary staff, agency staff and contractors:

- ♦ act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible
- ♦ comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities

1.2 Scope of this policy

This policy applies to all of the Council's activities. For partners, joint ventures and suppliers, the Council will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all directorates and corporate functions.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

1.3 The Council's commitment

The Council commits to:

- ♦ Setting out a clear anti-bribery policy and keeping it up to date
- ♦ Making all employees aware of their responsibilities to adhere strictly to this policy at all times
- ♦ Training all employees so that they can recognise and avoid the use of bribery by themselves and others
- ♦ Encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- ♦ Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- ♦ Taking firm and vigorous action against any individual(s) involved in bribery
- ♦ Providing information to all employees to report breaches and suspected breaches of this policy
- ♦ Including appropriate clauses in contracts to prevent bribery.

1.4 The Bribery Act

There are four key offences under the Act:

- ♦ bribery of another person
- ♦ accepting a bribe
- ♦ bribing a foreign official
- ♦ failing to prevent bribery

The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.

There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. This is what is known as a "strict liability" offence. This means that there is no need to prove negligence or management complicity. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

2 ANTI BRIBERY PROCEDURES

2.1 The Council's procedures cover six principles:

Proportionality

The Council has procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced by the Council and to the nature, scale and complexity of the Council's activities. They are also clear, practical, accessible, effectively implemented and enforced.

Top level commitment

The Chief Executive and Directors are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

Risk Assessment

The nature and extent of the Council's exposure to potential external and internal risks of bribery on its behalf by persons associated with it is periodically assessed. This includes financial risks but also other risks such as reputational damage.

Due diligence

The Council takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

Communication (including training)

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

Monitoring and review

Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary.

The Council is committed to proportional implementation of these principles.

2.2 Bribery is not tolerated

It is unacceptable to:

- ♦ give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- ♦ give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- ♦ accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- ♦ accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- ♦ retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- ♦ engage in activity in breach of this policy

Bribery is a serious offence against the Authority and employees will face disciplinary action if there is evidence that they have been involved in this activity, which could result in summary dismissal for gross misconduct. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

2.3 Facilitation payments

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

2.4 Gifts and hospitality

This policy is not meant to amend the existing Gifts and Hospitality procedures already in place. These arrangements, which form part of the Officer's Code of Conduct, make it clear that:

- ♦ a significant gift should never be accepted from an existing contractor or supplier and employees should never accept hospitality from a prospective contractor
- ♦ employees should only accept a gift or hospitality if they are satisfied that doing so would not compromise any purchasing, planning or other Council decision
- ♦ employees should ensure that they do not accept a gift or hospitality which could call their integrity or that of the Council into question
- ♦ although the Code sets no absolute limit to the value of gifts and hospitality that may be accepted, employees are reminded that the higher the value, the more difficult it would be to accept without casting doubt on an employee's own or the Council's integrity

2.5 Staff responsibilities

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy.

Employees must:

- ♦ read, understand and comply with this policy
- ♦ raise concerns as soon as possible as the result of any suspicion that a conflict with this policy has occurred, or may occur in the future.

2.6 Raising a concern

The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. It is important that each and every member of staff knows how they can raise concerns.

All employees have a responsibility to help detect, prevent and report instances of bribery. The proper vehicle for raising a concern regarding a suspected instance of bribery or corruption is the Whistleblowing Policy.

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, the Council will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.

3. CORPORATE FRAMEWORK

3.1 Other Relevant Policies

This Policy forms an important part of the Council's approach to dealing with fraud and corruption by setting the scope, culture and standards of the Council, as part of the corporate framework.

The corporate framework requires a whole range of high level component parts if it is to contribute to the Council having an effective counter-fraud strategy. A range of documents have been issued to reinforce this, including:

- ♦ Anti-fraud and Corruption Policy
- ♦ Anti-fraud and Corruption Strategy
- ♦ Whistleblowing Policy
- ♦ Anti-Bribery Policy
- ♦ Anti-Money Laundering Policy
- ♦ Contract Procedures and Financial Regulations
- ♦ Codes of Conduct for members and employees
- ♦ Disciplinary Procedure
- ♦ Recruitment Policy

3.2 Review

This policy is available to all Council employees via its inclusion in the Corporate Policies and Strategies page on the Intranet. Copies of the Policy are available for reference by staff on request.

It may also be made available on request to any interested external parties. This could include contractors, partners and other external stakeholders.

The Director of Resources or his/her nominated representative will review the Policy on an annual basis. Any need for change will be reported to the Audit Committee for approval.

The next review date for this Policy is March 2014.

ANTI-FRAUD & CORRUPTION POLICY

Policy Statement

The Council has zero tolerance towards fraud, corruption and abuse of position for personal gain, and is committed to securing effective methods of prevention, detection and investigation. The Council will promote an environment that actively encourages the highest principles of honesty and integrity.

1 Introduction

1.1 The Council is determined to maintain its reputation as an Authority which will not tolerate fraud, corruption or abuse of position for personal gain, wherever it may be found in any area of Council activity.

1.2 The purpose of this Policy is to set out for both elected members and employees the main principles for countering fraud and corruption.

1.3 The Policy statement includes:

- ♦ definition of fraud and corruption;
- ♦ scope of the policy;
- ♦ culture and stance against fraud and corruption;
- ♦ standards of behaviour;
- ♦ how to raise concerns and report malpractice;
- ♦ corporate framework;
- ♦ responsible officer.

1.4 Both elected members and officers should play a key role in counter-fraud initiatives. This includes providing a corporate framework within which counter-fraud arrangements will flourish, and the promotion of an anti-fraud culture across the whole of the Council. This should provide a sound defence against internal and external abuse of public funds.

1.5 The Anti-Fraud & Corruption Policy is supported by a complementary Anti-fraud & Corruption Strategy designed to bring into practical effect the provisions of this policy. The Strategy is a comprehensive series of inter-related procedures devised to deter, frustrate, or take effective action against any attempted fraudulent or corrupt acts affecting the Council.

1.6 The Director of Resources has been designated to champion the Anti-fraud and Corruption Policy and is tasked with securing strong political and executive support for work to counter fraud and corruption and monitoring the effectiveness of the Council's arrangements.

2 Definitions

2.1 The relevant definitions are as follows;

- ♦ Fraud is the "intentional distortion of financial statements or other records by persons internal or external to the organisation, which is carried out to conceal the

misappropriation of assets or otherwise for gain". The term is used to describe such acts as deception, forgery, extortion, theft, embezzlement and misappropriation.

- ♦ Corruption is the "offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person". The term is generally used to describe bribery or any activity that may be perceived as creating a conflict of interests.

2.2 This policy also covers the failure to disclose an interest in order to gain financial or other pecuniary gain.

3 Scope

3.1 This policy is directed against fraud and corruption whether it is attempted or perpetrated against the Council from outside or from within its own structure or workforce.

3.2 The policy applies to elected members, co-opted members of committees, and all employees of the Council, whether full time, part time, permanent, temporary or casual. It also applies to individuals working for the Council on a voluntary or unpaid basis.

3.3 The Council expects that all individuals and organisations it deals with, including suppliers, contractors and service providers, will act with integrity and without thought or actions involving fraud or corruption. Wherever relevant, the Council will include appropriate clauses in its contracts about the consequences of fraudulent and corrupt acts. Evidence of such acts will most likely to lead to a termination of the particular contract and may lead to prosecution.

3.4 Although this policy specifically relates to fraud and corruption, it equally applies to all financial malpractice. This includes a wide range of irregularities and criminal acts, including theft of property; false accounting; obtaining pecuniary advantage by deception; bribery; computer abuse and computer crime.

3.5 The Anti-Fraud & Corruption Policy is commended to the Council's partner organisations where comprehensive arrangements are not in place, with the expectation that it will be applied either wholly or as the basis for their own local version.

4 Culture and Stance against Fraud & Corruption

4.1 The culture of the Council is one of openness, probity and accountability in all its affairs. It is determined to maintain a resolute stance in opposition to fraud and corruption. This determination applies whether fraud is attempted against the Council from outside or from within its own workforce

4.2 Both members and employees at all levels play an important role in creating and sustaining this culture. The Council expects that they will lead by example in ensuring adherence to legal requirements, standing orders, contract procedure rules, financial regulations, codes of conduct, procedures and practices.

4.3 As part of this culture the Council positively encourages members, employees and those outside the authority who are providing, using or paying for public services, to raise concerns regarding fraud and corruption. The Council will provide clear routes by which concerns can be raised.

4.4 The Council also has in place two Committees whose monitoring roles are relevant:

- ♦ The Audit Committee, which ensures that adequate arrangements are established and operating to deal with situations of suspected or actual wrongdoing, fraud and corruption.
- ♦ The Standards Committee, which is responsible to the Council for promoting and maintaining high standards of conduct by members of the Council. It advises the Council on the adoption, revision and promotion of the Members' Code of Conduct and the procedures associated with the Code.

4.5 Senior management will deal firmly with those who defraud the Council, or who are corrupt. The Council, including members and senior management, will be robust in dealing with financial malpractice.

4.6 When fraud or corruption has occurred because of a breakdown in the authority's systems or procedures, managers will ensure that appropriate improvements in systems of control are implemented to prevent a reoccurrence.

4.7 The Council acknowledges and welcomes the high degree of external scrutiny of its affairs by a variety of bodies such as the Audit Commission, inspection bodies, the Local Government Ombudsman and HM Revenue & Customs. The importance of these bodies in highlighting any areas where improvements can be made is recognised.

5 Links to Corporate Vision and Objectives

5.1 The Council has adopted a Corporate Plan that sets out the Council's Vision and identifies four key corporate objectives required to achieve it. The corporate vision is to work with partners to provide and maintain a welcoming, inclusive place with flourishing communities through four corporate objectives:

- ♦ The promotion and enhancement of the natural and built environment
- ♦ The promotion of cohesive communities
- ♦ The promotion of a thriving economy
- ♦ Meeting the expectations of our customers

5.2 The Council's Vision is reliant on a robust anti-fraud and corruption policy:

- ♦ Partnership working requires a clear and consistent counter fraud commitment from all partners to secure value for money and mutual assurance

5.3 All four of the corporate objectives are partly dependent on strong anti-fraud and corruption arrangements:

- ♦ Enhancement of the natural and built environment requires public confidence in the integrity and objectivity of the Council's planning and tendering arrangements
- ♦ Clear community leadership demands a robust anti-fraud culture so that the Council's reputation is protected and public confidence is maintained

- ♦ Work to promote the local economy must be seen to be unbiased and impartial in its application across the business community taking account of all sectors
- ♦ Meeting the expectations of our customers requires that there are strong arrangements in place to combat fraud and corruption.

6 Standards of Behaviour

6.1 The Council supports the seven principles of public life proposed by the Nolan Committee on Standards in Public Life. These principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

6.2 The Council expects holders of public office and its employees to:

- uphold the law, and act on all occasions to preserve public confidence in the Council;
- assist the Council to act as far as possible in the interests of the whole community it serves;
- take decisions solely in pursuit of the Council's official functions and in the public interest, disregarding private and personal interest;
- avoid any financial or other obligation to outside persons or organisations that might influence them or be perceived to influence them in carrying out their duties;
- record all gifts and hospitality received in connection with Council business, and to refuse gifts and hospitality that might appear to influence them, or where to accept might bring discredit upon the Council;
- make public appointments, award contracts, and confer other benefits on merit in accordance with Council policy and guidelines;
- be as open as possible about all the decisions and actions they take;
- be accountable to the public and accept reasonable public scrutiny, only restricting information when the wider public interest *clearly* demands;
- ensure that confidential material, including information about individuals, is handled responsibly and in accordance with Council policy and guidelines;
- use and apply Council resources prudently and in accordance with the law
- declare any private interest that is relevant or may be perceived as relevant to their public duties;
- take positive steps to resolve any possible conflicts of interest in a way that maintains public confidence;
- treat members and employees in a way that engenders mutual respect at all times;
- promote these standards of behaviour by leadership and example.

7 Raising Concerns

7.1 Members and employees are an important element in the Council's stance against fraud and corruption, and they are positively encouraged and expected to raise any concerns that they may have on these issues where they are associated with the Council's activity.

7.2 Members raising concerns should contact the Chief Executive, the Monitoring Officer or the Section 151 Officer.

7.3 Employees will often be the first to see or suspect something, which may be fraudulent or corrupt. They should normally raise concerns through their immediate

manager, however it is recognised that they may feel inhibited in certain circumstances. In this case, employees should contact the Chief Executive, the Monitoring Officer, Section 151 Officer, or alternatively Internal Audit.

7.4 The Council's 'Whistleblowing Policy' gives further details on how to raise concerns in confidence. It also details the support and safeguards that are available to those who raise concerns.

7.5 There is, of course, a need to ensure that any investigation process is not misused, therefore, any internal abuse, such as raising malicious or vexatious allegations, may be dealt with as a disciplinary matter.

7.6 The Council encourages members of the public who suspect fraud, corruption or other financial malpractice to contact the Chief Executive or Internal Audit in the first instance.

7.7 The Council accepts that those people who do raise concerns are entitled to be assured that the matter has been properly addressed. Therefore, subject to legal constraints, they will receive information about the outcome of any investigation.

7.8 The Council's Anti-Fraud and Corruption Strategy ensures that a consistent approach is applied to any investigation following discovery or notification of an irregularity. This strategy sets out the Council's procedures for undertaking investigations in relation to fraud, corruption and financial malpractice.

8 Corporate Framework

8.1 This Policy forms an important part of the Council's approach to dealing with fraud and corruption by setting the scope, culture and standards of the Council, as part of the corporate framework.

8.2 The corporate framework requires a whole range of high level component parts if it is to contribute to the Council having an effective counter-fraud strategy. A range of documents have been issued to reinforce this, including:

- ♦ Anti-Fraud & Corruption Policy
- ♦ Anti-Fraud & Corruption Strategy
- ♦ Anti-Bribery Policy
- ♦ Whistleblowing Policy
- ♦ Sanction & Prosecution Policy
- ♦ Money Laundering Policy
- ♦ Forensic Readiness Policy
- ♦ Contract Procedures and Financial Regulations
- ♦ Codes of Conduct for members and employees
- ♦ Disciplinary Policy and Procedure
- ♦ Recruitment Policy

8.3 Within the overall corporate framework there are a number of key people and measures that can help in the prevention of fraud and corruption, and these are:

- Members of the Council
- Employees of the Council
- Managers and Supervisors
- Internal Auditors

- External Auditors
- Benefit Fraud Service
- Money Laundering Reporting Officer
- Sound internal control systems, procedures and reliable records
- Effective induction and training
- Combining with others to prevent and combat fraud

8.4 The Council's policies, systems, instructions and guidelines, together with the roles and responsibilities of key personnel, are designed to limit acts of fraud and corruption. All such elements in the corporate framework will be kept under review to ensure that they keep pace with developments in anti-fraud and corruption techniques and advice.

9 Responsible Officer

9.1 Section 151 of the Local Government Act 1972 and Section 4 of The Accounts and Audit Regulations 1996, designate the 'Responsible Financial Officer' as liable for ensuring that the Council has control systems and measures in place to enable the prevention and detection of inaccuracies and fraud. This Policy helps towards discharging part of this responsibility.

9.2 Accordingly the Section 151 Officer will take overall responsibility for the maintenance and operation of this Policy.

9.3 The Council considers that the policy is fundamental to maintaining public confidence in the administration of its financial affairs. To this end the Anti-fraud and Corruption Policy will be continuously monitored and, if necessary, updated on an annual basis.

9.4 The next review date for this Policy is March 2014.

ANTI-FRAUD & CORRUPTION STRATEGY

GENERAL PROVISIONS

1. CORPORATE GOVERNANCE

1.1 The Council has, and is continuing to develop a corporate governance framework that seeks to manage risk in order to minimise the incidence of fraud, corruption, and other adverse events within the Authority. Much of the corporate governance framework is actually incorporated within the Constitution of the Council and includes all the following elements:

- ♦ Audit Committee
- ♦ Standards Committee
- ♦ Scrutiny Committees
- ♦ Regulatory Committees
- ♦ Standing Orders
- ♦ Financial Regulations
- ♦ Contract Procedure Rules
- ♦ Access to Information Procedure Rules
- ♦ Budget & Policy Framework Procedure Rules
- ♦ Executive Procedure Rules
- ♦ Members & Officers Codes of Conduct
- ♦ Protocol on Member / Officer Relations
- ♦ Members Allowances Scheme

1.2 In addition to the above constitutional provisions, the Council has the following policies and procedures in place:

- ♦ Risk Management Framework
- ♦ Disciplinary Procedure
- ♦ Monitoring Officer Arrangements
- ♦ Registers of Interests
- ♦ Registers of Hospitality, Gifts & Entertainment
- ♦ IT Security Policy
- ♦ Local Code of Conduct in Planning Matters
- ♦ Anti-fraud and Corruption Policy
- ♦ Housing Benefit and Council Tax Benefit Sanction & Prosecution Policy
- ♦ Money Laundering Policy
- ♦ Whistleblowing Policy
- ♦ Gifts and Hospitality Policy
- ♦ Data Protection & Freedom of Information Policies and Procedures

1.3 1.6 The Director of Resources has been designated to champion the Anti-fraud and Corruption Strategy and is tasked with securing strong political and executive support for work to counter fraud and corruption and monitoring the effectiveness of the Council's arrangements.

2. CONTENTS OF THE STRATEGY

2.1 Inevitably however, breaches of the law, policy or formal procedure do occur. This Strategy has therefore been produced to establish the Council's determination to ensure that serious concerns are properly raised and addressed in full compliance with the Public Interest Disclosure Act 1998.

2.2 The Strategy establishes the Council's specific approach towards the prevention, detection, notification and investigation of fraud and corruption and summarises the responsibilities of members, managers and officers in this respect.

2.3 The Strategy covers all allegations of fraud or corruption committed against the Council whether they are perpetrated by members, officers, agency staff, partners, contractors or the general public (benefit fraud)

2.4 The Strategy gives specific advice and guidance to officers of the Council who undertake or have an interest in investigations. It aims to clarify the roles and responsibilities of all interested parties, including the Chief Executive, Monitoring Officer, Section 151 Officer, Directors, Head of Human Resources and external agencies including the Police. In particular, the Strategy seeks to direct and co-ordinate investigations under the direction of:

- ♦ Service Directors (in accordance with Financial Regulations)
- ♦ Head of Human Resources (under the Council's Disciplinary Procedure)
- ♦ Monitoring Officer (in accordance with the Local Government Act 2000).

3. OTHER CORPORATE PROCEDURES

3.1 This Strategy supplements the Council's Whistleblowing Policy, which encourages officers, members and contractors to disclose any matter which gives them cause for concern and provides guidance on how such matters should be reported. The Strategy is also intended to supplement the Council's Financial Regulations and Disciplinary Policy and Procedure, each of which already provides a degree of advice on the conduct of investigations

3.2 Financial Regulations state that Service Directors shall notify the Head of Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting the Service Director should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

3.3 Whenever an alleged irregularity occurs, this Strategy should always be read in conjunction with the Council's Disciplinary Procedure.

3.4 In general, irregularities that do not involve fraud, a breach of Financial Regulations or do not have a direct financial basis will not normally be investigated with assistance from the Internal Audit Team (for example breaches of the Council's policies on leave and sickness absence). These will normally be pursued directly by the respective Service Director under the Disciplinary Procedure.

3.5 Where an irregularity does involve fraud or has a financial basis Internal Audit will normally support the investigation. The Internal Audit investigative work and report is used as the basis of (or in support of) the management / disciplinary case, which remains the responsibility of the Service Director under the arrangements laid down in the Disciplinary Procedure.

4. LEGAL COMPLIANCE

4.1 The drafting of this Strategy also reflects the need to ensure conformity with the following legal developments:

4.2 Regulation of Investigatory Powers Act (RIPA) 2000

Any investigations that involve directed surveillance or the use of covert intelligence sources must take account of RIPA. RIPA was introduced in parallel with the Human Rights Act, which (amongst other things) sought to ensure rights to privacy and a fair trial. RIPA makes lawful certain actions by public authorities provided that they are properly authorised.

4.3 Protection of Freedoms Act 2012

Under the terms of this Act local authority authorisations and notices under RIPA will only be given effect once an order has been granted by a justice of the peace. Additionally, the use of directed surveillance under RIPA by local authorities is limited to the investigation of crimes which attract a six month or more custodial sentence.

4.4 Localism Act 2011

Under this legislation any allegation made against members of the Council should be referred to the Monitoring Officer in the first instance. Any such allegations that are brought to the attention of the Chief Executive, Section 151 Officer, Service Director or Head of Human Resources should be referred directly to the Monitoring Officer.

FRAUD PREVENTION

5. THE ROLE OF MEMBERS

5.1 As elected representatives, all Members of the Council have a duty to the citizens of Fylde to protect the assets of the Council from all forms of abuse. This is done through the formal adoption of the Anti-Fraud & Corruption Policy and by compliance with the Code of Conduct for Members.

5.2 In addition the Accounts and Audit Regulations 2003 require every local authority to "maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices". Members have a duty to provide sufficient resources to ensure that the system of internal audit is "adequate" and "effective".

6. THE ROLE OF THE STATUTORY OFFICERS

6.1 The Council's Monitoring Officer has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council's actions do not give rise to illegality or maladministration. The Monitoring Officer also encourages the promotion and maintenance of high standards of conduct within the council, particularly through the provision of support to the Standards Committee.

6.2 Section 151 of the Local Government Act 1972 places a statutory responsibility on the Council to appoint one of its officers as 'Section 151 Officer' to ensure the proper administration of the Council's financial affairs. To this end, the Section 151 Officer will advise all members and staff regarding financial propriety, probity and budgetary issues. The Section 151 Officer role is very much supported by the work undertaken by Internal Audit.

7. THE ROLE OF MANAGEMENT

7.1 Management at all levels are responsible for ensuring that their staff are aware of the authority's Constitution, Financial Regulations, Standing Orders, Codes of Conduct (including the related policies, protocols, codes and procedures) and that the requirements of each are being met in their everyday business activities. They are also responsible for ensuring that appropriate procedures are in place to safeguard the resources for which they are responsible.

7.2 Managers are also expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities and adhere to the Whistleblowing Policy when applicable.

7.3 It is vital that managers are alert to potential problems in their work areas and that adequate and effective safeguards are in place to prevent financial irregularities. However, Service Directors and their managers should also satisfy themselves that checks are in place at the appropriate levels, so that in the event of a breach any irregularity would be picked up promptly, so minimising any loss to the authority. Internal Audit can provide advice and assistance in this area.

7.4 Special arrangements may apply where employees are responsible for cash handling or are in charge of systems that generate payments. Service Directors and their managers should ensure that adequate and appropriate training is provided for staff and that supervisory checks are carried out from time to time to ensure that proper procedures are being followed.

7.5 The references and qualifications of all proposed new employees should be thoroughly checked prior to a position being offered to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff.

8. THE ROLE OF EMPLOYEES

8.1 Employees are responsible for ensuring that they follow the instructions given to them by management particularly in relation to the safekeeping of the assets of the authority. They may be required to disclose information about their personal circumstances in accordance with the authority's Constitution.

8.2 Employees are expected to be alert to the possibility that fraud and corruption may exist in the workplace and are under a duty to share with management any concerns they may have. Employees are protected under the Whistleblowing Policy, where required, regarding any concerns they raise in good faith.

9. THE ROLE OF INTERNAL AUDIT

9.1 The Internal Audit Team plays a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud. The Team assists in the investigation of cases of suspected financial irregularity and carries out fraud searching exercises to establish whether irregularities have occurred and to recommend changes in procedures to prevent further losses to the authority. The Internal Audit Team provides advice and assistance to all Service Directors.

9.2 The responsibility for the detection of financial irregularities rests solely and exclusively with management. Internal Audit will advise and assist management in fulfilling their responsibility for preventing irregularities and will investigate cases where irregularities are thought to have taken place. There may be circumstances of course, where auditors detect fraud as a result of the work that they are undertaking or as a result of specific fraud searching exercises.

10. THE ROLE OF THE BENEFIT FRAUD SERVICE

10.1 The Benefit Fraud Service plays a major role in the deterrence of benefit fraud, for example through the application of the Council's Housing Benefit and Council Tax Benefit Sanction & Prosecution Policy.

10.2 A further objective is the detection of fraud, by investigating allegations of Housing Benefit and Council Tax Benefit fraud. Both pro-active (specific fraud searching exercises) and reactive investigations (upon receipt of a referral) are carried out.

11. THE ROLE OF EXTERNAL AUDIT

11.1 Independent external audit is an essential safeguard of the stewardship of public money. This role is delivered through carrying out of specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditor's function to prevent fraud and irregularity, but the integrity of public funds is at all times a matter of general concern.

11.2 External auditors are always alert to the possibility of fraud and irregularity and will act without due delay if grounds for suspicion come to their notice. The external auditor may review the Council's arrangements in respect of preventing and detecting fraud and irregularities and arrangements designed to limit the opportunity for corrupt practices.

12. THE ROLE OF RISK MANAGEMENT

12.1 A methodology for identifying, assessing and managing fraud risk within the Council has been developed as part of the Risk Management process. This methodology is applied to both the strategic risks of the Council and as part of the routine service and project planning processes.

13. ROLE OF PARTNERS, CONTRACTORS AND SUPPLIERS

13.1 All organisations associated with the Council are expected to take a proactive role in ensuring the occurrence of fraud and corruption is minimised regarding any

dealings with the Council. The standards expected are often set out through legal agreements, which specify the requirements of the Council, when setting up partnerships and other contractual arrangements.

13.2 In the interests of good working relationships and continued dealings with the Council, all associated organisations have a duty to be vigilant regarding the possibility of fraud, irregularity and corruption with a view to reporting any suspicions in accordance with the principles stemming from the Council's own policies, procedures and standards.

13.3 The Council's Anti-Fraud & Corruption Policy is commended to the Council's partner organisations where comprehensive arrangements are not in place, with the expectation that it will be applied either wholly or as the basis for their own local version.

14. ROLE OF THE PUBLIC

14.1 Whilst this strategy is primarily aimed at those within or directly associated with the Council, the public has a role to play in that they should be honest in their dealings with the Council and inform appropriate members and/or officers of the Council if they feel that fraud and / or corruption may have occurred.

15. DETERRENCE

15.1 Fraud and corruption are serious offences against the authority and employees may face disciplinary action and / or prosecution, benefit claimants may be subject to a sanction or prosecution, if there is sufficient evidence that they have been involved in these activities. This is designed to deter others from committing offences against the authority.

15.2 There are also other specific ways in which the Council seeks to deter potential wrongdoers from committing or attempting fraudulent or corrupt acts. These include:

- ♦ Publicising that the Council is firmly against fraud and corruption at appropriate opportunities and will take stern action against perpetrators (e.g. dismissal of employees, prosecution of offenders, termination of contracts etc).
- ♦ Acting robustly and decisively when fraud and / or corruption are suspected and, if proven, being committed to viewing cases seriously and taking action as appropriate bearing in mind all relevant factors of each case.
- ♦ Taking action to identify accurately the nature and scale of losses incurred following investigations of fraud and corruption.
- ♦ Always seeking to maximise recoveries for the Council, through agreement, repayment, court action, penalties, insurance etc.
- ♦ Actively monitoring proceedings for the recovery of loss.
- ♦ Referring appropriate investigative cases to the Police if there is sufficient evidence that criminal offences above a nominal level are likely to have occurred.
- ♦ Where appropriate, publicising the results stemming from investigations into suspected cases of fraud and corruption as a deterrent to potential fraudsters.

16. NATIONAL FRAUD INITIATIVE (NFI)

16.1 The National Fraud Initiative (NFI) exercise is organised by the Audit Commission and is usually carried out every 2 years. The Council actively takes part in the initiative as it forms part of a continuous attempt to identify fraud. NFI is about matching information contained within the Council's computer systems against information contained within other organisations' systems, for example, payroll, student awards and pensions, the main aims being to identify fraudulent benefit claims, discounts and concessions, and to detect cases of sub-letting or dual tenancies.

16.2 At Fylde, NFI is co-ordinated by the Internal Audit Team working principally with the Benefit Fraud Service and the Revenues and Benefit Service. The key tasks are:

- ♦ ensuring that data is submitted on time in the required format;
- ♦ performing an initial review of the results;
- ♦ liaising with other participating organisations;
- ♦ passing any suspected fraudulent cases to the appropriate officers for investigation.

17. HOUSING BENEFIT MATCHING SERVICE (HBMS)

17.1 This data matching exercise is organised by DWP and is carried out monthly. The Council actively takes part in the initiative as it forms part of a continuous attempt to identify benefit fraud. HBMS involves matching information contained within the Council's Benefits system against data of other benefits.

18. NATIONAL ANTI-FRAUD NETWORK (NAFN)

18.1 Membership of the National Anti-Fraud Network (NAFN) is available to all local authorities in England & Wales and exists to provide individual councils with a variety of fraud intelligence and information sharing services. NAFN also has links with a variety of external agencies that supply information in order to prevent and detect fraud. These include the Credit Industry Fraud Avoidance System (CIFAS), the Police, Immigration Service, Contributions Agency, the University & Colleges Admissions Service (UCAS) and some utility companies.

18.2 NAFN is organised into 5 regional areas, Fylde belonging to the Northern Region. The Council's key contact for the NAFN is the Benefits Fraud Service, due to the nature of the investigations it undertakes.

19. NATIONAL BENEFIT FRAUD HOTLINE

19.1 The National Benefit Fraud Hotline 0800 328 6340 is publicised extensively, including through the Council web site to encourage members of the public to report potential fraudsters, anonymously or otherwise.

20. DEFINING SUCCESS

20.1 The focus of the Anti-fraud & Corruption Strategy must be concentrated on the clear arrangements described above to counter the incidence of fraud and corruption. Success in fraud deterrence, prevention and detection are based upon the anti-fraud framework defined in the CIPFA Fraud Standards:

- ♦ Adopting the right strategy
- ♦ Accurately identifying the risks
- ♦ Creating and maintaining a strong structure
- ♦ Taking action to tackle the problem

Key performance measures have been developed as part of this strategy and are attached as Appendix 1.

REPORTING ALLEGATIONS AND WHISTLEBLOWING

21. NORMAL REPORTING LINES

21.1 Irregularities regarding the general public, officers, or members may come to light in a variety of circumstances. These include:

- ♦ Data-matching (National Fraud Initiative)
- ♦ The results of routine Internal Audit work;
- ♦ Complaints by members of the public or other third parties (e.g. DWP);
- ♦ Whistle-blowing by members of staff;
- ♦ Normal benefit assessment process;
- ♦ Specific fraud searching exercises by both the Internal Audit Team and Benefit Fraud Service;
- ♦ Benefit fraud hotline.

21.2 Any member of staff who discovers circumstances that may involve an irregularity should normally report the matter to their line manager. Thereafter, line managers should immediately inform their Service Director.

21.3 If the suspected irregularity is in respect of financial transactions or in any matter affecting property, cash, stores, remuneration, allowances, purchases or contracts, Service Directors should report the matter to the Head of Internal Audit (in accordance with the Council's Financial Regulations). The Head of Internal Audit will in turn inform the Section 151 Officer who should advise the Chief Executive of all significant cases.

21.4 If the suspected irregularity is in respect of benefit fraud by a member of the public the matter should be reported to the Benefit Fraud Service. If it relates to an Officer it should be reported to the Head of Internal Audit, but if it involves a Member the matter should be passed to the Monitoring Officer.

21.5 In other instances Service Directors should consult the Head of Human Resources as to whether the Disciplinary Procedure should be invoked.

21.6 Service Directors are responsible for managing the discipline of employees in their respective directorates and in most circumstances they will act as the disciplining officer for the purposes of the Disciplinary Procedure (although this may be delegated to other senior officers). Service Directors should nominate another officer to carry out an investigation – the “Investigating Officer”. The Investigating Officer will usually be a manager within the relevant directorate with the power to suspend the suspected employee/s if necessary.

21.7 In order to ensure independence in this process it may be necessary for the Service Director to appoint an Investigating Officer from another directorate to act as the Investigating Officer. The Council will arrange training for all those who may be required to perform either of these roles.

21.8 The Investigating Officer will be advised by the Internal Audit Team. This may involve Internal Audit undertaking much of the investigation work and providing the Investigating Officer with evidence for a formal report.

21.9 In all cases, no one having any part to play in reaching a decision about any matter raised through the reported suspicion will take any part in the conduct of the investigation.

22. ALLEGATIONS AGAINST SENIOR OFFICERS AND MEMBERS

22.1 It may become necessary to investigate allegations made against senior officers or members. In these cases, if the alleged irregularity involves:

- ♦ A Head of Service - the responsible Service Director should be notified directly.
- ♦ A Service Director - the Chief Executive should be notified directly.
- ♦ The Chief Executive - the incident should be reported in the first instance to the Section 151 Officer, who should inform the Leader of the Council.
- ♦ An elected member - the incident should be reported to the Monitoring Officer who should in turn inform the Chief Executive and Leader of the Council. The Monitoring Officer should then complete the process adopted by the Council for determining complaints against members.

22.2 The officers designated below shall perform the functions of disciplining officer and Investigating Officer in the cases of alleged irregularities involving line managers or Service Directors.

| Officer Suspected | Disciplining Officer | Investigating Officer |
|--------------------------|---|--------------------------------------|
| Head of Service | Service Director of the service concerned | Service Director for another service |
| Service Director | Chief Executive | Service Director for another service |

22.3 In respect of alleged irregularities involving the Chief Executive, the allegation shall be considered by an independent person and then in accordance with his/her terms and conditions of employment.

22.4 In respect of alleged irregularities involving an elected member, including the Leader of the Council, the matter shall be dealt with in accordance with the procedures for the time being specified by legislation or official guidance.

INTERNAL INVESTIGATIONS PROCEDURE

23. THE PROCEDURE IN OUTLINE

23.1 The Council's Internal Investigations Procedure largely covers investigations into officers and members of the authority. It is however acknowledged that various forms of investigation are undertaken in other areas of Council business, for example housing and council tax benefits, health & safety, planning, environmental services, and corporate complaints. The procedure is designed to support and supplement the separate arrangements that already exist in these areas.

24. INVESTIGATION – OFFICERS

24.1 Investigations are necessary in order to:

- ♦ Find out the facts before taking any form of action;
- ♦ Apply appropriate sanctions;
- ♦ Eliminate innocent people from unjustified suspicion;
- ♦ Improve systems, procedures and controls;
- ♦ Recover losses;
- ♦ Prevent and deter.

24.2 The first stage of any potential investigation is to establish whether the matter under consideration actually constitutes an irregularity (and if so who should investigate). Any irregularity that involves the use of deception to obtain an unjust or illegal financial advantage may be classed as a fraud.

24.3 Irregularities fall within the following broad categories:

- ♦ **Theft** – the dishonest taking of property belonging to another, with the intention of permanently depriving the owner of its possession. This may also involve the use of deception.
- ♦ **Fraud** – the Fraud Act 2006 introduced a general offence of “fraud” which may be committed in three ways: by making a false representation, by failing to disclose information or by an abuse of position. In each case it is not necessary to prove that an individual has actually gained from their action simply that there was an intention to gain from their behaviour, cause loss or expose the Council to the risk of loss.
- ♦ **Bribery and corruption** – involves the offering and acceptance of a reward, for performing an act, or for failing to perform an act, which leads to gain for the person offering the inducement. This could occur in connection with contracts, consultancy engagements, purchasing and appointment of staff.
- ♦ **False accounting** – falsification, fraudulent amendment or destruction of documents in order to distort the true nature of a transaction.
- ♦ Failure to observe or breaches of:
 - **external regulations** for example Health and Safety Regulations
 - **Constitution of the Council** including Standing Orders, Financial Regulations and Codes of Conduct
 - **Council policies and procedures** especially personnel policies and procedures relating to recruitment & selection, annual leave and sickness absence
 - **directorate procedures**
 - **management instructions**

24.4 Whilst the potential for irregularity is present across the full spectrum of activity in any local authority, certain areas are, by their very nature accepted as being of higher risk than others. These areas include:

- ♦ Cash Handling;
- ♦ Tendering & Award of Contracts;
- ♦ Appointing External Consultants;
- ♦ Appointing Staff;
- ♦ The External, Pecuniary Interests of Members / Officers;
- ♦ Gifts & Hospitality;
- ♦ Claims for Allowances and Expenses;
- ♦ Awarding Licences / Planning Consent / Land Valuations, etc;
- ♦ Purchasing.

24.5 The following paragraphs explain the procedures to be followed in Internal Audit-assisted investigations, however, the principles apply equally to other investigations, including those under the direction of the Head of Human Resources / Disciplinary Procedure.

24.6 Where allegations are reported to the Head of Internal Audit, the Internal Audit Team will undertake a brief initial assessment of the circumstances and will recommend whether to:

- ♦ Take no further action;
- ♦ Refer the matter to the Service Director;
- ♦ Consult with the Head of Human Resources;
- ♦ Initiate a Preliminary Investigation;
- ♦ Other (e.g. some combination of the above).

24.7 If the initial assessment highlights matters of a minor nature, Service Directors may be asked to investigate them within their own directorates with ongoing advice and assistance from Internal Audit as necessary. In these instances, Internal Audit should be kept advised as to progress.

24.8 If the initial assessment highlights more serious matters that Internal Audit considers should not be dealt with exclusively by the Service Director, Internal Audit will support the designated Investigating Officer in the conduct of the investigation as necessary.

24.9 The investigation will normally be carried out by a team comprised of the Investigating Officer together with one or more Internal Auditors, and where appropriate a member of Human Resources or other relevant officers. In any event the Head of Human Resources would normally be consulted regarding potential disciplinary proceedings.

24.10 The appropriate Service Director would normally be informed of an investigation unless the allegation either directly involved or may implicate the said Service Director, or where the Service Director might be a material witness.

24.11 The preliminary investigation must be carried out with the utmost confidentiality and as much relevant information as possible should be gathered before alerting or approaching suspected parties.

24.12 The Investigating Officer should not necessarily restrict their enquiries solely to the specific allegation(s) made. The premise to be followed is that if a person is alleged to have committed an offence in one sphere of their activities, they may well have committed offences in any other area of their responsibilities where the opportunity arose. Therefore the full extent of possible irregularity should be determined.

25. INVESTIGATION – MEMBERS

25.1 These will be carried out in accordance with the procedures adopted by the Council and under the supervision of the Monitoring Officer.

26. RECORD KEEPING / EVIDENCE / CONFIDENTIALITY

26.1 When the Head of Internal Audit is notified of a suspected fraud, an entry will be made into the Special Investigation Register. All entries into the Register will be sequentially referenced, so there is a continuous record of all entries. The Register will only be available to the:

- ♦ Chief Executive;
- ♦ Monitoring Officer;
- ♦ Section 151 Officer;
- ♦ Internal Audit;
- ♦ External Auditor.

26.2 When the preliminary investigation work is performed a file should be opened and updated on an ongoing basis as the matter is progressed, incorporating the details / results of the enquiries carried out, including all meetings, interviews and telephone discussions. The file should also contain any records, papers, workings or other forms of evidence that may later form the basis of any report that is deemed necessary.

26.3 It is essential that all available evidence relating to the fraud be preserved without alerting the alleged perpetrator to official suspicions. In all cases procedures followed must ensure full compliance with RIPA and PACE with regard to obtaining and documenting evidence, so that the evidence obtained remains admissible in a court of law.

26.4 The most common forms of evidence and a brief note of how they should be preserved are given below:

- ♦ **Original documents** - Original documents should be obtained and retained. The documents should be handled as little as possible and should be put in a protective folder. Under no circumstances should they be marked in any way. All original documents should be given to the Head of Internal Audit for review and preparation as evidence. A record of all documents should be maintained, detailing how, when and where they were obtained. All copies of original documents or screen images should be formally certified as a true copy with the date of copying.
- ♦ **Desk Search** - If an employee is under suspicion then their desk/work station can be searched. However any such search must be undertaken by two managers lead by the Head of Internal Audit. Under PACE conditions the

contents of the desk/work station should be listed and the list should be signed by both officers as being a true record of what was found.

- ♦ Computer based data - When potential evidence may be held on a computer or other digital storage device such as a personal organiser, palmtop computer, portable media player or mobile phone, the equipment should be secured by the Head of Internal Audit in accordance with the Forensic Readiness Policy and Good Practice Guide for Computer-Based Electronic Evidence issued by the Association of Chief Police Officers (ACPO). Under no circumstances should any computer or other digital device thought likely to contain evidence be powered down or access/download be attempted by individuals not appropriately trained.
- ♦ **Video evidence** - There may be CCTV based evidence available. If it is suspected that a camera system may have information of value, the hard copy media should be secured by the Head of Internal Audit in accordance with the Good Practice Guide for Computer-Based Electronic Evidence issued by ACPO. Under no circumstances should any video evidence download be attempted by individuals not appropriately trained.

26.5 Whenever a person is suspended from work they should be asked to remove all personal belongings from their desk/workspace and be informed that the desk/workspace may be examined. Under no circumstances should an employee once suspended be allowed to access their files or computer records, any remote access or phone-in links should be terminated immediately the suspension decision is taken.

26.6 Full security of investigatory records (both manual and computerised) must be maintained at all times. The Chief Executive may authorise disclosure of investigation reports and associated documentation to third parties solely for the purposes of obtaining legal, employment, medical, financial, technical, or other professional advice whatsoever in relation to the case.

26.7 In general terms, all those engaged in investigation work should maintain secrecy and confidentiality throughout. This is because:

- ♦ Allegations / suspicions of fraud may turn out to be unfounded and if secrecy and confidentiality have been maintained this will prevent considerable embarrassment to both the accused officer and the authority.
- ♦ Investigations are of immediate interest to employees, members of the public and the media. Careless talk can generate rumours which quickly obtain wide circulation
- ♦ Where fraud had occurred, breaches of confidentiality could alert the suspect and result in them having an opportunity to cover their tracks or destroy material evidence or otherwise frustrate the investigative process.

27. POLICE INVOLVEMENT

27.1 The police are expert at investigating fraud and referring cases to the Crown Prosecution Service for criminal proceedings. They can also advise on the likely outcome of any intended prosecution. The relevant Service Director will have sole responsibility for requesting police involvement after consultation with the Chief Executive.

27.2 Any such request for police involvement will normally follow a report by the Investigating Officer to management indicating that there is a potential criminal case.

27.3 Where an irregularity is reported to the Police and the suspected perpetrator(s) are known, he/she/they should normally be suspended from duty in order to facilitate the forthcoming investigation.

27.4 If the Police decide that a formal investigation is necessary, the Investigating Team and all other employees will co-operate fully with any subsequent requests or recommendations. All contact with the police following their initial involvement will usually be through the Investigating Officer.

27.5 The Council will normally defer inquiries of their own into matters other than the protection of Council property and the preservation of evidence, until the Police enquiries are complete. The Council will then review the matter in the light of the outcome of the Police enquiries.

27.6 The fact that a Police investigation has not resulted in prosecution should not necessarily prevent the internal investigation proceeding. It should be recognised that the standard of evidence required for a disciplinary offence is on the "balance of probabilities" and is less than that required for a criminal offence which has to be proved "beyond reasonable doubt".

28. SURVEILLANCE

28.1 Any investigations that involve directed surveillance or the use of covert intelligence sources must take account of the Regulation of Investigatory Powers Act 2000, the Protection of Freedoms Act 2012 and Council procedures.

28.2 The key provisions of RIPA are:

- ♦ Surveillance must be appropriate for the advancement of the investigation.
- ♦ An application for authorisation for directed surveillance must be made in writing.
- ♦ Authorisation must be given in advance by prescribed persons, formally nominated by the authority for this purpose.
- ♦ Authorisations must be given in writing using designated forms and can only be given on one of the grounds specified in the Act as "for the purposes of preventing or detecting crime or of preventing disorder".
- ♦ Applications should contain sufficient detail to enable the authorised officer(s) to make an objective assessment. The reasons for granting / not granting authorisation should be noted on the application.
- ♦ The authorised activity must be reasonable, proportionate and necessary.
- ♦ A central record must be maintained of ongoing and completed surveillance operations.
- ♦ Authorisations are valid for a period of 3 months only. Designated renewal forms must be completed / authorised if the surveillance is to continue. The authorising officer must question the validity of any surveillance lasting more than 3 months.
- ♦ Once surveillance ceases to be necessary, designated cancellation forms should be completed / authorised.

28.3 The Authority's formally agreed list of prescribed persons is as follows:

- ♦ Chief Executive
- ♦ Service Directors (in connection with directorate activities)

28.4 The Monitoring Officer has an overall responsibility to oversee the operation of the system of giving authorisations. The Monitoring officer should also be consulted for advice whenever it is unclear whether RIPA applies to a given situation.

28.5 Copies of the forms issued by the above prescribed persons must be passed to the Monitoring Officer to be retained in a central control register as they may be required as evidence at some future date.

28.6 The key provisions of the Protection of Freedoms Act 2012 are:

- ♦ Before an authorisation can take effect an order must be obtained from a JP (a District Judge or lay magistrate) approving the grant or renewal of an authorisation or notice
- ♦ This does not, however, remove or reduce in any way the duty of the authorising officer to determine whether the tests of necessity and proportionality have been met. Similarly, it does not remove or reduce the need for the forms and supporting papers that the authorising officer has considered and which are provided to the JP to make the case
- ♦ The JP must be satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate. In addition, the JP must be satisfied that the person who granted the authorisation was an appropriate designated person within the local authority. In such case s/he will issue an order approving the grant or renewal for the use of the technique as described in the application.

29. INVESTIGATORY INTERVIEWS – OFFICERS

29.1 During the course of an investigation it is often necessary to question the employee under suspicion in order to establish facts. Under the Council's Disciplinary Procedure, such investigatory interviews are normally conducted by the nominated "Investigating Officer", but s/he may be assisted by a member of the Internal Audit Team if Internal Audit is involved in the investigation.

29.2 All interviews must be arranged with prior notice under the terms of the Council's Disciplinary Procedure and must be attended by:

- ♦ the Investigating Officer
- ♦ a representative of Internal Audit, normally a member of the Investigating Team
- ♦ a representative of Human Resources, sometimes a member of the Investigating Team

29.3 The employee may also be accompanied at the investigatory interview but a failure on the part of the interviewee to obtain a suitable companion after the standard period of notice does not provide sufficient reason for the interview not to proceed.

29.4 Interviews should be held in a private, neutral space at a reasonable time of day. Prior to the interview, the interviewing officers will obtain all relevant facts pertinent to the investigation and prepare a structured set of interview notes, setting out the information required and questions to be asked.

29.5 It should be made clear at the outset what the purpose of the investigatory interview is and that the interviewee's representative may not answer questions on his / her behalf.

29.6 A record of the questions asked and detailed records of the responses received must be made. Recording equipment should be used to ensure accuracy and for the avoidance of disputes. Care should be taken in framing the questions and no action that could be construed as duress by the interviewee must take place.

29.7 If the alleged irregularity is of a criminal nature and there is the possibility of criminal charges being laid against an individual, suspect employees should not be interviewed before formal consideration of whether to request police involvement. In most cases, it is preferable for the Police to conduct such interviews.

29.8 If it is the intention to question a person suspected of committing a criminal offence, that person must be formally cautioned before further questioning takes place.

29.9 Interviewees should be provided with two copies of the interview transcript, which they should be asked to sign and date (including any suggested corrections or amendments) and return one copy to Investigating Officer.

30. INVESTIGATORY INTERVIEWS – MEMBERS

30.1 These will be carried out in accordance with the procedures adopted by the Council and under the supervision of the Monitoring Officer.

31. INVESTIGATORY INTERVIEWS – BENEFIT CLAIMANTS

31.1 If a benefit fraud allegation is substantiated and is potentially a prosecution case the interviews will be carried out formally under caution in accordance with PACE.

31.2 If a claimant is also in receipt of other benefits the DWP's Benefit Fraud Service will be contacted to invite them to be involved in the investigatory interview.

32. SUSPENSION

32.1 At the outset or during the course of an investigation it may become necessary to consider suspending the alleged perpetrator(s) from carrying out their normal duties. Under the Council's Disciplinary Procedure, depending on the circumstances of the case the employee may be:

- ♦ Required to remain in their own post on restricted duties.
- ♦ Required to work in any other position within the Council.
- ♦ Suspended from all duties and required to remain away from work.

32.2 The Disciplinary Procedure contains guidance on the circumstances under which suspension is appropriate and the process that must be followed.

32.3 A key concern for the Investigating Officer is to protect the integrity of any unsecured evidence and to prevent any influence the suspect(s) might bring to bear

on associates. If this is considered to be a material threat, the Investigating Officer should recommend suspension to the Service Director / Senior Officer concerned (in consultation with the Head of Human Resources).

32.4 Where the suspension requires an employee to remain away from work, the manager should (with possible assistance from Customer Service Attendants or other appropriate officers):

- ♦ Escort the employee to his / her workstation.
- ♦ Allow the employee to remove any personal possessions.
- ♦ Ensure that nothing material to the investigation is removed (e.g. diaries).
- ♦ Prevent access to files or computer records.
- ♦ Require the employee to hand over any keys, identity cards, passes, Council purchasing cards, trade cards, Council laptop, mobile phone etc.
- ♦ Escort the employee from the premises.

32.5 If considered necessary in the circumstances of the investigation, the Service Director should arrange for:

- ♦ Immediate termination any remote access or phone-in links
- ♦ Prompt changing of door access codes to prevent unauthorised entry to Council premises by the suspended employee.

33. INVESTIGATION REPORTING - OFFICERS

33.1 At the end of the preliminary investigation, the Investigating Officer must decide whether there is a case to be answered and, therefore, if it should proceed to a disciplinary hearing. If it is to proceed, s/he must produce a written Preliminary Investigation Report in conjunction with Human Resources.

33.2 If any or all of the investigation is undertaken by the Internal Audit Team, a representative of Internal Audit will also assist with the Preliminary Investigation Report.

33.3 The Preliminary Investigation Report should contain:

- ♦ Background to the case
- ♦ Full details of the investigation process followed;
- ♦ A summary of the evidence obtained;
- ♦ The potential nature of the offences (if any) committed;
- ♦ Recommendations as to Police referral (where appropriate);
- ♦ Recommendation as to the requirement for a disciplinary hearing

33.4 All reports should be factual, impartial and, unless absolutely necessary contain no opinion.

33.5 With regard to whistle blowing considerations under the Public Interest Disclosure Act, in certain circumstances the names of witnesses may be deleted in a report and provided in a separate covering sheet. However although protection is guaranteed to witnesses, they cannot (other than in exceptional circumstances) be guaranteed anonymity as they may be required to give oral evidence at a future hearing, appeal, tribunal or in court.

33.6 The investigation may also reveal weaknesses in systems, procedures or internal control that need to be rectified for the future. At an appropriate stage, a separate Internal Audit Report will be issued to the relevant Service Director detailing such weaknesses together with corresponding recommendations for corrective action.

34. INVESTIGATION REPORTING - MEMBERS

34.1 These will be carried out in accordance with the procedures adopted by the Council and under the supervision of the Monitoring Officer.

35. INVESTIGATION REPORTING – BENEFIT CLAIMANTS

35.1 At the conclusion of the benefit fraud investigation a report will be produced, this will be passed to the Housing Benefit Head of Service for the calculation of the overpayment and claim of subsidy, and to the Benefit Fraud Service to review the case.

35.2 Subsequently a report will be presented to the Director of Resources or his/her nominated representative making recommendations on the appropriate sanction, taking into account all relevant factors, for approval in accordance with the Council's Sanction and Prosecution Policy for Housing Benefit and Council Tax Benefits.

36. HEARINGS & APPEALS – OFFICERS

36.1 The Council's detailed rules on disciplinary hearings and appeals are contained in the Disciplinary Procedure. Where an investigation has been undertaken (partially or wholly) by the Internal Audit Team, Internal Audit may provide the following services:

- ♦ Advising management on how they might approach a disciplinary case that is based on the results of an Audit or joint Audit / management investigation.
- ♦ Advising management on how to formulate disciplinary charges.
- ♦ Advising management on how to put together a disciplinary package of evidence.
- ♦ Attending the disciplinary interview (and possible appeals) as a witness.

36.2 Internal Audit only provides evidence to a disciplinary hearing and has no other influence on the Disciplinary Panel's decision.

36.3 Where the investigation is into matters of a potentially criminal nature, the Police would normally have been informed at an earlier stage. However, in certain circumstances it may have been decided to proceed with the internal investigation before contacting the Police. Under these circumstances the Investigating Officer should inform the Service Director / Head of Human Resources once it becomes clear that a criminal offence has been committed. They would in turn review the issue of Police referral.

36.4 In any event, after the internal investigation is completed and if the matter proceeds to a Disciplinary hearing, the disciplining officer should ensure that the Service Director / Head of Human Resources are informed of any potentially criminal

offence. The issue of Police referral is a matter for the Service Director and/or Head of Human Resources to decide (in conjunction with the Chief Executive).

36.5 It should also be borne in mind that where actual losses have occurred, if an insurance claim is to be pursued the matter must first be reported to the Police and a crime number obtained. This number needs to be inserted on actual claim form.

37. HEARINGS & APPEALS – MEMBERS

These will be carried out in accordance with the procedures adopted by the Council and under the supervision of the Monitoring Officer.

38. HEARINGS & APPEALS – BENEFIT CLAIMANTS

38.1 These will be undertaken in accordance with the Housing Benefit and Council Tax Benefit Sanction & Prosecution Policy.

39. LOSS RECOVERY

39.1 Where actual losses have occurred the relevant Service Director must take action to identify accurately the nature and scale of losses incurred following investigations of fraud and corruption.

39.2 It may be possible to recover them (wholly or in part) via an insurance claim, in which case the Police must first be contacted for a crime number for insertion on the actual claim form.

39.3 The Council's policy for recovering uninsured losses from the perpetrators of fraud is to do so in all cases seeking to maximise recoveries through agreement, repayment, court action and any other available penalties, including applying for monies to be recovered from the Pension Fund and via applications under the Proceeds of Crime (POCA) legislation. All options should be considered and none should be regarded as mutually exclusive.

39.4 Court action to recover losses should normally be undertaken where, having considered all the available evidence, the Head of Governance takes the view that recovery action through the Courts is likely to succeed and it is financially beneficial to proceed, taking into account the costs of legal proceedings.

39.5 Whatever methods are used to recover losses incurred, the relevant Service Director must actively monitor recovery progress as part of standard procedure and as a key measure of performance in relation to this strategy.

39.6 Directions in respect of the recovery of overpaid benefits will proceed in accordance with the Council's Sanction and Prosecution Policy for Housing Benefit and Council Tax Benefits.

40. REVIEW

40.1 The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption and is determined to ensure that these arrangements keep pace with any future developments, in both prevention and detection techniques, regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.

40.2 To this end, the Council will maintain a continuous overview of such arrangements, including this Strategy, through the roles of the Monitoring Officer and Section 151 Officer.

40.3 The next review date for this Policy is March 2014.

APPENDIX 1

DEFINING SUCCESS – Key performance indicators

| Ref | Performance Indicator | Responsibility |
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| ADOPTING THE RIGHT STRATEGY | | |
| 1 | The Council's anti-fraud policies are reviewed and updated on an annual basis | Head of Internal Audit |
| 2 | The Council's Whistleblowing Policy complies with best practice and the British Standard on Whistleblowing | Head of Internal Audit |
| 3 | The Administrative Agreement for the Benefit Fraud shared service is actively monitored on an ongoing basis | Head of Internal Audit |
| ACCURATELY IDENTIFYING RISKS | | |
| 4 | The Internal Audit and Benefit Fraud Service undertake a range of proactive anti-fraud and corruption work | Head of Internal Audit |
| 5 | The Risk Management Strategy takes account of fraud both strategically and operationally within the Council and in respect of significant partnerships and contractual relationships | Risk Management Officer |
| CREATING AND MAINTAINING A STRONG STRUCTURE | | |
| 6 | The Internal Investigations Procedure is robustly applied in all cases | Head of Internal Audit |
| 7 | All concerns raised through the Whistleblowing process are investigated to establish whether there is a genuine case to answer | Head of Internal Audit/Benefit Fraud Service |
| 8 | A safe recruitment strategy is operating to ensure all new employees meet reference, qualification and legal status requirements | HR Contract Liaison Officer |
| TAKING ACTION TO TACKLE THE PROBLEM | | |
| 9 | Overall employee awareness levels about the Council's counter fraud culture and arrangements are high | Head of Governance |
| 10 | Cases of fraud and corruption against the Council that result in criminal prosecution are widely publicised | Benefit Fraud Service |
| 11 | The hotline telephone number is advertised widely across the Council, on the website and on benefit documentation | Benefit Fraud Service |
| 12 | The Council participates actively in the biennial National Fraud Initiative and investigates all high risk cases identified | Head of Internal Audit |
| 13 | Where a fraud has occurred, management makes suitable changes to systems and procedures in order to minimise the potential for similar frauds | Head of Internal Audit |
| 14 | The Benefit Fraud service achieves its defined annual targets for sanctions and overpayments identified | Benefit Fraud Service |
| 15 | The Council is effective in recovering any losses | Service Directors |

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| | incurred by fraud and corruption | |
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| Title: | Forensic Readiness Policy |
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1. Policy Summary

1.1 Forensic Readiness is the achievement of an appropriate level of capability by an organisation in order for it to be able to collect, preserve, protect and analyse digital evidence so that this evidence can be effectively used in any legal matters, in disciplinary matters, in an employment tribunal or in a court of law.

1.2 The Forensic Readiness Policy has been created to:

- Allow consistent, rapid investigation of major events or incidents with minimum disruption to Council business;
- Enable the pro-active and comprehensive gathering and storage of evidence in advance of that evidence actually being required;
- Enable the Council to gather computer based evidence for investigative purposes in such a manner that it is admissible for formal dispute or legal process;
- Demonstrate due diligence and good governance of the Council's information assets;

1.3 This policy is to be made available to all Council staff and must be observed by all members of staff, in particular:

- Information Asset Owners and Assistants;
- Data Protection officer(s);
- ICT professionals;
- Internal Auditors; and
- employees who may be involved in the recovery of computer equipment and other electronic devices for investigative purposes and the storage of such equipment and devices

1.4 Related Council Policies include:

- Computer Security Policy
- Mobile Phone Policy
- Server Back Up Procedures
- Data Retention Policy
- Data Protection Policy
- Data Quality Policy
- Anti-Fraud & Corruption Policy

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1.5 Related legislation and national guidance includes:

- The Data Protection Act 1998
- The Human Rights Act 1998
- The Computer Misuse Act 1990
- Freedom of Information Act 2000
- Regulation of Investigatory Powers Act 2000
- Criminal Investigation and Procedures Act 1996

1.6 This policy is for cascading from the Senior Information Risk Owner to Information Asset Owners and to Information Asset Administrators.

1.7 The Council aims to design and implement services, policies and measures that meet the diverse needs of our borough, stakeholders and workforce, ensuring that none are placed at a disadvantage over others.

1.8 Monitoring compliance and effectiveness will be achieved through annually reviewing Information Asset Owners plans, and ultimately through the auditing of actual incidents where forensic evidence is required.

2. Policy Introduction

2.1 The Council has endorsed the introduction of forensic readiness into the business processes and functions of the Council in order to maximise its potential to use digital evidence. This decision reflects the high level of importance placed upon minimising the impacts of information security events and safeguarding the interests of stakeholders, staff and the Council itself.

2.2 The Council recognises that the aim of forensic readiness is to provide a systematic, standardised and legal basis for the admissibility of digital evidence that may be required for formal dispute or legal process. In this context, digital evidence may include information in the form of log files, emails, CCTV, back-up data, removable media, desktop computers, portable computers, network and telephone records amongst others that may be collected in advance of an event or dispute occurring.

2.3 The Council acknowledges that forensic readiness provides a means to help prevent and manage the impact of important business risks. Evidence can support a legal defence, it can verify and may show that due care was taken in a particular transaction or process, and may be important for internal disciplinary actions.

3. Policy Definitions

3.1 Forensic readiness is the ability of an organisation to make use of digital evidence when required. Its aim is to maximise the organisation's ability to gather and use digital evidence whilst minimising disruption and/or cost.

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3.2 Forensic readiness addresses a number of key business risks by providing evidence to detect and deter crime such as fraud, information theft, internet abuse, and by preparing an organisation for the use of digital evidence either in its own defence or for effective use in all types of disputes – criminal, civil, employment and disciplinary.

4. Policy objectives

4.1 The Forensic Readiness Policy has been created to:

- Protect the Council, its staff and its stakeholders through the availability of reliable digital evidence gathered from its systems and processes;
- Allow consistent, rapid investigation of major events or incidents with minimum disruption to Council business;
- Enable the pro-active and comprehensive planning, gathering and storage of evidence in advance of that evidence actually being required;
- Ensure that the council have systems and audit trails in place to allow evidence to be gathered routinely;
- Demonstrate due diligence and good governance of the Council's information assets;
- Enable the Council to gather computer based evidence for investigative purposes in such a manner that it is collected, documented, preserved and examined as evidence suitable for a wide range of scenarios, for example:
 - information compromise;
 - accidents and negligence;
 - corporate disputes;
 - disagreements, deceptions and malpractice;
 - financial crime e.g. fraud, money laundering;
 - content abuse;
 - privacy invasion and identity theft; and
 - employee disciplinary issues

5. Policy Statements

5.1 The Chief Executive has the ultimate accountability for the implementation of this policy.

5.2 The Senior Information Risk Owner (SIRO) is responsible for coordinating the development and maintenance of forensic readiness policy procedures and standards for the Council.

5.3 The SIRO is responsible for the ongoing development and day-to-day management of the Forensic Policy within the Council's overall information governance regime.

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5.4 The ICT team is responsible for providing the technical expertise and resource in forensic readiness, and for supporting the Information Asset Owners (IAOs) in producing robust forensic readiness planning for systems under their control.

5.5 Procedures and process documents will be kept up to date.

5.6 Information Asset Owners will ensure that forensic readiness planning is adequately considered and documented for all information assets where they have been assigned 'ownership'

5.7 Goals for forensic planning include:

- The ability to gather digital evidence without interfering with business processes;
- Prioritising digital evidence gathering to those processes that may significantly impact the Council, its staff and its stakeholders;
- Allowing investigation to proceed at a cost in proportion to the incident or event;
- Minimising business disruptions to the Council;
- Ensuring digital evidence makes a positive impact on the outcome of any investigation, disciplinary, dispute or legal action.

5.8 Forensic readiness plans shall include specific actions with expected completion dates and submitted to the SIRO for review.

5.9 The SIRO shall advise the Chief Executive and the Council on forensic readiness planning and provide periodic reports and briefings on progress as necessary.

6. Forensic Readiness Process

6.1 Each system maintained by the Council will include, as part of its documentation details of its 'Forensic Readiness'. The section on 'Forensic Readiness' will contain:

- Details of the audit logs / system logs maintained including their name & location within the system;
- Who has access to the logs and their level of access;
- How long the log is to be retained and details of archived logs if required;
- Additional evidence that may be used, where it is stored and who has access.

6.2 Forensic readiness evidence for each system will be reviewed either every 12 months as part of the systems risk assessment cycle (high risk systems) and on a rolling three year programme (low risk systems).

6.3 In addition, each time there is a significant incident or event involving the system, this will trigger further assessment to review risk / identify or update requirements for additional forensic (digital) evidence collection. This will ensure that all systems are

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kept up to date with evidence that is pro-actively gathered and preserved to support investigation should an incident occur.

6.4 Some incidents are potentially suspicious. It is essential that Information Asset Owners, advised by ICT Services, define to those monitoring the data what they want to prevent and what triggers should provoke suspicion, whether heightened monitoring is required, and whether any additional security measures should be taken as a precaution.

6.5 Suspicious incidents can occur in countless ways, so it is impractical to develop comprehensive procedures with step-by-step instructions for handling every incident. Consequently arrangements should be in place to handle any type of incident and more specifically to handle common incident types. The primary suspicious incident categories are listed below:

- Denial of Service—an attack that prevents or impairs the authorised use of networks, systems, or applications by exhausting resources
- Malicious Code—a virus or other code-based malicious entity that successfully infects a host
- Unauthorised Access—a person gains logical or physical access without permission to a network, system, application, data, or other IT resource
- Inappropriate Usage—a person violates acceptable use of any network or computer policies
- Multiple Component—a single incident that encompasses two or more incidents.

7. Records Management

7.1 To ensure that evidence sources provides assurance to the organisation, records and evidence must provide accurate and reliable information. These need to meet standards and requirements as set out in this policy.

7.2 Audit logs record user activities, exception and information security events. These logs must be produced and kept for an agreed period determined by the SIRO and responsible IAO for each system or network device in accordance with best practice and for a minimum for six months, to assist any investigations and access control monitoring. Audit Logs will typically include, but may not be limited to:

- user IDs
- date, time and details of key events
- successful login / logout,
- unsuccessful login / logout,
- unauthorised application access (where applicable),
- file access attempts to protectively marked information
- privileged system changes.
- network addresses and protocols

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- details of where audit logs are stored and their retention period will be found in each system's documentation.

7.3 All logs must be protected against tampering or alteration and controls will be put in place to ensure this.

7.4 Retention and storage of audit logs needs to be secure. Where personal identifiable data may found within the logs they will be accessed on a need to know basis.

7.5 The clocks of all information systems should be synchronised to an agreed standard time source with the correct format for date and time (where possible date in UK format) in 24 hour clock i.e. Day/Month/Year; Hour:Minute.

8. Recovery of Computer Based Electronic Evidence

8.1 Principles

8.1.1 The Association of Chief Police Officers has developed four principles applicable to the recovery of computer based electronic evidence, which are recognised as the foundation of best practice in this field. The Council acknowledges these principles and seeks to ensure that, as far as possible, practices used by Council employees in the recovery of computer based electronic evidence, are consistent with them.

- *Principle 1:* No action taken in securing computer based electronic evidence by Council employees or other acting on behalf of the Council should change data held on a computer or storage media which may subsequently be relied upon in criminal, civil, employment or disciplinary proceedings.
- *Principle 2:* In exceptional circumstances, where a person finds it necessary to access original data held on a computer or on storage media, that person must be competent to do so and be able to give evidence explaining the relevance and the implications of their actions.
- *Principle 3:* An audit trail or other record of all processes applied to computer based electronic evidence should be created and preserved. An independent third party should be able to examine those processes and achieve the same result.
- *Principle 4:* The person in charge of an investigation has overall responsibility for ensuring that the law and these principles are adhered to in respect of the matter under investigation.

8.2 Recovery Process

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- 8.2.1 Computer based evidence is fragile and can be altered, damaged or destroyed by improper handling or improper examination. For this reason, special precautions must be taken to document, collect, preserve and examine this type of evidence. The approved process, which must be followed in all cases, is described in Appendix 1 to the Policy.

9 Evidence Retrieval

9.1 The retrieval and analysis of computer based electronic evidence is a specialised field and only to be undertaken by persons with the requisite training, experience and independence. In general, it is not the Council's intention that this should be done in-house.

9.2 The Head of Internal Audit should arrange for the collection, examination and analysis of data and the reporting thereon by suitably qualified forensic practitioners.

10 Training and Awareness

10.1 All users need to be aware of what to do when a suspicious incident happens. Some staff, such as Information Asset Owners and Administrators will require more specialised training to ensure that they are competent to perform their role relating to the handling and preservation of the evidence. They must be able to fully understand the process of any investigations and the relationships and necessary communication with internal and external parties.

10.2 Internal auditors need to be aware of arrangements for reporting incidents where forensic evidence may be required.

10.3 Information governance and security training will be delivered to meet business requirements in relation to forensic readiness.

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APPENDIX 1

GUIDANCE FOR THE COLLECTION OF COMPUTER BASED ELECTRONIC EVIDENCE

This guide is based on the Association of Chief Police Officers' Good Practice Guide suggests methods that will help preserve the integrity of such evidence for effective use in all types of disputes – criminal, civil, employment and disciplinary. These general principles must be followed to ensure the best chance of evidence being recovered in an uncontaminated and therefore acceptable manner. Failure to do so may render it unusable or lead to an inaccurate conclusion.

1. Desktop and laptop computers

1.1 The majority of computers to be secured from offices for the purposes of investigation are desktop or laptop PCs. These machines usually consist of a screen, key board and main unit, with slots for disks, CDs or other storage devices.

1.2 With desktop and laptop computers the essential concern is not to change the evidence on the hard disk and to produce an image which represents its state exactly as it was when seized.

Devices switched off:

- Secure the area containing the equipment and do not permit anyone to touch the equipment or power supply
- Make sure the computer is switched off
- Don't in any circumstances switch the computer on – some laptop computers power on if the lid is opened
- Remove the battery from laptop computers
- Unplug devices from power points
- Photograph or film all the components *in situ*
- Securely label, sign and date all the components
- Label the ports and cables so that the computer may be reconstructed at a later date
- Record the unique identifiers/IT Asset Numbers for each element of the computer – the main unit, screen, keyboard and any other ancillary equipment
- Search the area for notebooks or pieces of paper with passwords on, which may be stuck close to the equipment
- Ask the equipment user for any passwords that may be relevant and if these are given, record them accurately
- Carefully remove the equipment and place in appropriate evidence bags, which should be secured with a plastic, numbered seal
- Record the contents and seal number for each bag

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Devices switched on:

- Secure the area containing the equipment and do not permit anyone to touch the equipment or power supply
- Record what is on the screen by photograph and by making a written note of the content
- Do not touch the keyboard or click the mouse but if the screen is blank or displays a screen saver, move the mouse to test if the screen restores and if so photograph and note its content, and record the time and use of the mouse
- Without closing down any programs, remove the power supply cable from the end attached to the computer and not the end attached to the socket
- Remove all other connection cables leading from the computer to other devices or sockets
- Photograph or film all the components *in situ*
- Securely label, sign and date all the components
- Label the ports and cables so that the computer may be reconstructed at a later date
- Record the unique identifiers/IT Asset Numbers for each element of the computer – the main unit, screen, keyboard and any other ancillary equipment
- Search the area for notebooks or pieces of paper with passwords on, which may be stuck close to the equipment
- Ask the equipment user for any passwords that may be relevant and if these are given, record them accurately
- Carefully remove the equipment and place in appropriate evidence bags, which should be secured with a plastic, numbered seal

1.3 It has to be accepted that the action of disconnecting a computer may mean a small amount of evidence is unrecoverable if it has not been saved but the integrity of the evidence present will be preserved.

What should be secured?

- Main unit – the box to which the monitor and keyboard are attached
- Monitor, keyboard and mouse
- Leads including power cables
- Hard disks not fitted inside the computer
- Dongles – small connectors with some memory
- Modems
- Other external devices
- Digital cameras
- Floppy disks
- CDs
- DVDs
- Memory sticks and cards

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- Printers
- Printed paper
- Anything that may contain a password

2. Personal Digital Assistants

2.1 A personal digital assistant (PDA), also known as a tablet or smart phone is a mobile device that functions as a personal information manager. Current PDAs have the ability to connect to the internet. Touch screen PDAs intended for business use, include devices such as the BlackBerry and the Apple iPhone. Some other examples of PDAs include Apple iPod, HTC TyTN PDA Phone, Palm Tungsten TX and HP iPaq. Consult IT to determine which devices are currently in use.

2.2 With a PDA there is no hard disk and the concern is to change the evidence in the main memory as little as possible.

PDA switched off:

- Secure the area containing the equipment and do not permit anyone to touch the equipment
- Don't in any circumstances switch the computer on
- Where the PDA is fitted with only a rechargeable battery the mains adaptor should be fitted to the device, which subsequently should be kept on charge
- Place the PDA in a sealed envelope with the adaptor cable, if fitted, passing through it
- Place the sealed envelope in an appropriate evidence bag, which should be secured with a plastic, numbered seal with the adaptor cable, if fitted, passing through it
- Record the contents and seal number for each bag

PDA switched on:

- Secure the area containing the equipment and do not permit anyone to touch the equipment
- Do not press Reset or remove the batteries under any circumstances as this can result in the loss of all information held on the device
- Switch off the device to preserve the battery life
- Make a note of the time and date of the action
- Where the PDA is fitted with only a rechargeable battery the mains adaptor should be fitted to the device, which subsequently should be kept on charge
- Place the PDA in a sealed envelope with the adaptor cable, if fitted, passing through it
- Place the sealed envelope in an appropriate evidence bag, which should be secured with a plastic, numbered seal with the adaptor cable, if fitted, passing through it
- Record the contents and seal number for each bag

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What should be secured?

- PDA
- Power leads and adaptor cables
- Memory sticks and cards
- Mobile phones

2.3 Be careful only to seize devices that have been provided by the Council for business purposes.

3. Personnel

3.1 The removal of computer equipment for investigative purposes must be carried out by or in the presence of two members of the Internal Audit team as a minimum. With a planned operation the Head of Internal Audit should consider obtaining the services of persons who have had appropriate formal training and are experienced in the seizure of computer equipment.

3.2 When it is proposed to secure computer equipment, preliminary planning is essential and as much information as possible should be obtained in advance about the type and location of any computer equipment allocated to or used by the employee under investigation.

3.3 It is essential that all personnel attending are adequately briefed, not only in respect of the logistics and equipment expected to be present, but also about this guidance and the means of safeguarding computer based electronic evidence.

4. Records

4.1 A record of all the steps and actions taken when computer equipment is secured must be completed contemporaneously, usually by a member of Internal Audit. The information to be recorded includes:

- Details of all persons present where computer equipment is present
- Details of all computer equipment – make, model, serial number, IT asset reference
- Display details and connected peripherals
- Remarks/comments/information offered by user(s) of equipment
- Actions taken at scene showing time

5. What to Take

5.1 The following is a list of equipment that might be useful for the proper dismantling of computer equipment as well as for its packaging and removal.

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- Appropriate tools such as screwdrivers (flathead and crosshead), small pliers and wire cutters for the removal of cable ties
- Adhesive labels and tapes to mark and identify individual components
- Tie-on labels for evidence bags
- Paper sacks and envelopes for securing equipment
- Evidence bags capable of being secured with plastics ties
- Plastic ties for securing evidence bags
- Camera to photograph items *in situ* and any on-screen displays

6. Storage

6.1 The computer equipment should be stored at normal room temperature without being subject to any extremes of humidity and free from magnetic influence, such as radio receivers. Equipment powered by batteries should not be allowed to become flat, or internal data will be lost.

6.2 It is essential that equipment stored pending investigation is held securely in a locked receptacle. Only members of the Internal Audit team should have access to the equipment. Under no circumstances should the security seals be removed from evidence bags before the equipment is handed over for evidence removal.

6.3 The equipment should not be passed from the control of Internal Audit unless it is at the request of the:

- Chief Executive,
- Director of Resources, or
- Head of Internal Audit

7. Evidence Retrieval

7.1 Generally the retrieval of computer based electronic evidence will not be undertaken in-house. The Head of Internal Audit should arrange for the collection, examination and analysis of data and the reporting thereon by suitably qualified forensic practitioners.

7.2 The Head of Internal Audit must brief the person(s) appointed to undertake the recovery process concerning the matter under investigation to the extent that data analysis highlights all pertinent evidence with probative value to the case.

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ANTI-MONEY LAUNDERING POLICY

1 Introduction

- 1.1 Money laundering can be defined as “a process that makes money with an illegal origin appear legal so that it may be used”. Legislation concerning money laundering (Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 and 2007) broadened the definition of money laundering and increased the range of activities included within the statutory framework. As a result, the obligations impact on wide areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.

2 Scope of the Policy

- 2.1 This Policy applies to all officers and elected members of the Council. The Policy sets out the procedures which must be followed to enable the Council to comply with its legal obligations. Within this policy the term employees refers to all employees and elected members.
- 2.2 Failure by an employee to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

3 Purpose

- 3.1 This policy has been written so as to enable the Council to meet the anti-money laundering legal requirements in a way that is proportionate to the very low risk to the Council of contravening the legislation.
- 3.2 The purpose of this policy is to make all aware of their responsibilities and the consequences of non compliance with this policy.
- 3.3 Potentially any employee could be contravene the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This Policy sets out how any concerns should be raised.
- 3.4 Whilst the risk to the Council of contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities. Serious criminal sanctions may be imposed for breaches of the legislation.

4 Definitions

- 4.1 Money laundering is the disguising of the source of money, either in cash, paper or electronic forms. This may be in order to conceal that the money has originated from crime or it may be to conceal the source of money that is used in the pursuit of further crime.
- 4.2 Money laundering is highly sophisticated. The conversion of cash into a non cash form of money is only the first step and it is likely that there will follow a complex series of transactions intended to hide the trail from any investigator. Consequently money laundering is not restrict simply to cash transactions..
- 4.3 Possible indicators of money laundering are:

- ♦ any large cash deposits or payments
- ♦ large overpayments of fees or money on account
- ♦ if the source or destination of funds differs from the original details given by the client
- ♦ if the client cancels transactions without good reason and requests a cheque for previously deposited funds
- ♦ if information about the client reveals criminality or association with criminality
- ♦ if there is more than one solicitor/conveyancer used in the sale or purchase of a property or land or if there is unexplained and unusual geographic use of the solicitor in relation to a property's location
- ♦ if the buyer's or seller's financial profile does not fit, particularly in relation to property transactions
- ♦ if there are over complicated financial arrangements

4.4 The Money Laundering regulations require organisations conducting relevant business to adopt certain procedures to help control the transfer of money and assets for the purposes of benefiting from criminal activity.

4.5 Not all of the Council's business is relevant and it will mainly be those officers conducting accountancy, cashiering, income and debtor services, and property transactions who will be carrying out relevant business. Examples include the following activities:

- ♦ accepting substantial cash payments, particularly those in excess of £10,000
- ♦ accepting deposits in advance of a service being delivered
- ♦ arranging and managing investments and loans
- ♦ legal services in connection with financial or property transactions
- ♦ formation and management of joint companies, trusts or other business models
- ♦ collection or refund of money to/from debtors

5 The Money Laundering Reporting Officer

5.1 The Section 151 Officer is the Money Laundering Reporting Officer (MLRO), that is the officer nominated to receive disclosures about money laundering activity within the Council.

5.2 The Accountancy Services Manager and Senior Accountants are the contacts authorised by the MLRO to facilitate these procedures and act on behalf of the MLRO when considering whether a disclosure needs to be made.

6 Disclosure Procedure

6.1 Where an employee knows or suspects that money laundering activity is taking/has taken place, or becomes concerned about their involvement in a matter that may amount to a money laundering, they must disclose this as soon as practicable to the MLRO or authorised contacts. The disclosure should be within "hours" of the information coming to the attention of the employee, as opposed to weeks or months later. An employee who fails to make such a disclosure may be liable to prosecution.

6.2 The disclosure should be made using the disclosure forms attached in Appendix 1. The form must include as much detail as possible.

6.3 Once a report has been made to the MLRO the employee concerned must comply with the following:

- ♦ The employee must follow any directions given by the MLRO. This may include continuing with the transaction in order to avoid raising any suspicion that money laundering has been suspected.
- ♦ The employee must co-operate with the MLRO and the Serious Organised Crime Agency (SOCA) during any subsequent investigation
- ♦ The employee must not make any further enquiries or investigate the matter themselves in order not to compromise the official investigation
- ♦ The employee must not voice any suspicions to persons suspected of money laundering as this may constitute a criminal offence
- ♦ The employee must not make any reference on a client file to making a report to the MLRO

7.0 Duties of the Money Laundering Reporting Officer

7.1 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. The MLRO should also advise the employee making the disclosure of the timescale within which a response will be made.

7.2 The MLRO will consider the report and any other available internal information, for example:

- reviewing other transaction patterns and volumes
- the length of any business relationship involved
- the number of any one-off transactions and linked one-off transactions
- any identification evidence held;

and undertake such other reasonable inquiries considered appropriate in order to ensure that all available information is taken must be being made in such a way as to avoid any appearance of tipping off those involved. The MLRO may also need to discuss the report with the employee making the disclosure.

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

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to suspect that is the case; and
- whether he needs to seek consent from the SOCA for a particular transaction to proceed.

7.4 Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the SOCA on their standard report form and in the prescribed manner to the SOCA.

7.5 Where consent is required from the SOCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the SOCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the SOCA.

- 7.6 All disclosure reports referred to the MLRO and reports made by him to the SOCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.
- 7.7 The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the SOCA.

8.0 Client Identification Procedure

- 8.1 The client identification procedure must be carried out by employees before any business is undertaken for or with a client or third party under any of the following circumstances, when the Council:
- a) is about to form an ongoing business relationship with a client or third party
 - b) undertakes a one-off transaction involving payment by the client or third party of £10,000 or more in cash
 - c) undertakes a series of linked one-off transactions involving total payment by the client or third party, or their associate(s) of £10,000 or more in cash
 - d) undertakes a one-off transaction or a series of linked one-off transactions involving payment by or to the client or third party, or their associate(s) of £10,000 or more
 - e) believes or suspects that a one-off transaction (or a series of them) involves money laundering;
- 8.2 In the above circumstances, staff in the relevant service team of the Council must obtain satisfactory evidence of the identity of the prospective client or third party, as soon as practicable after instructions are received (unless evidence of the client's identity has already been obtained). This applies to existing clients, as well as new ones.
- 8.3 Any employee involved in relevant business should ensure the client or third party provides satisfactory evidence of their identity personally, through a current passport/photo driving licence plus two other recent documents with their name and address, for example, a utility bill, mortgage/building society/bank documents, pension/benefits book.
- 8.4 In any circumstances where the client or third party cannot be physically identified the employee should be aware that
- (a) there is greater potential for money laundering where the client or third party is not physically present when being identified
 - (b) if satisfactory evidence is not obtained the relationship or transaction should not proceed
 - (c) if the client acts or appears to act for another person, reasonable measures must be taken for the purposes of identifying that person as well
- 8.5 In the case of corporate identity, this may be established through company formation documents or a company search via Companies House. In addition, it would be prudent to seek additional evidence of the identity of key individuals within the organisation itself.
- 8.6 In the case of further instructions from an existing client not well known to the Council, it would be prudent to seek up-to-date evidence of identity.

- 8.7 If there is an unjustified delay in providing the evidence of identity requested from the client or third party or where the client or third party refuses to provide such evidence a disclosure should be made to alert the MLRO.

9.0 Record Keeping Procedures

- 9.1 Each service team of the Council conducting relevant business must maintain records of:
- ♦ client identification evidence obtained, which must be kept for 5 years from the completion of the transaction
 - ♦ details of all relevant business transactions carried out for such clients for at least five years from the completion of the transaction. This is so that the records may be used as evidence in any subsequent investigation by the authorities into money laundering.
- 9.2 The client identification records must provide an audit trail for use during any subsequent investigation. Records should distinguish the client and the relevant transaction and record in what form any funds were received or paid. In practice, each service team of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

10.0 Reviewing the Policy

- 10.1 Internal Audit will undertake an annual review of the policy to assess the adequacy of its operation and compliance with legislation. Internal Audit will also refresh the policy to reflect any changes to the Council's corporate structure or the responsibilities of individual officers.
- 10.2 The next review date for this Policy is March 2014.

WHISTLEBLOWING POLICY

1 Introduction

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns without fear of reprisals. This policy document makes it clear that you can do so without the fear of victimisation, subsequent discrimination or disadvantage.
- 1.3 This Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem and before raising the matter outside the Council.
- 1.4 These procedures are in addition to the Council's complaints procedures and other reporting procedures that may apply in some departments. Employees are responsible for making service users aware of the existence of these procedures.

2 Aims and Scope of the Policy

- 2.1 This Whistleblowing Policy aims to:
 - ♦ encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
 - ♦ provide avenues for you to raise concerns and receive feedback on any action taken
 - ♦ allow you to take the matter further if you are dissatisfied with the Council's response; and
 - ♦ reassure you that you will be protected from reprisals or victimisation for whistleblowing in good faith
- 2.2 All employees have a moral responsibility to report improper acts and omissions. In some circumstances failure to raise such concerns may amount to a breach of contract or breaking the law.
- 2.3 There are existing procedures in place to enable you to lodge a grievance relating to your own employment or a collective grievance held by more than one employee about a particular issue concerning their employment. Some of the more common issues that might give rise to a grievance include:
 - ♦ the application of terms and conditions of employment;
 - ♦ Health and Safety;
 - ♦ relationships at work;

- ♦ working practices not covered by the job description;
- ♦ fair and equitable treatment.

2.4 This Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures. These may include:

- ♦ conduct that may be an offence or break the law;
- ♦ failure to comply with a legal obligation;
- ♦ miscarriage of justice;
- ♦ unauthorised use of public funds;
- ♦ offering, taking or soliciting bribes
- ♦ possible fraud or corruption;
- ♦ misreporting performance data;
- ♦ health and safety risks in the workplace;
- ♦ dumping damaging material in the environment;
- ♦ sexual harassment or physical abuse;
- ♦ unethical conduct; and
- ♦ deliberate covering up of information relating to any of the above

2.5 That concern may be about any aspect of service delivery, or the conduct of employees or members of the Council, or others acting on the Council's behalf. It may be something that:

- ♦ is unlawful; or
- ♦ makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- ♦ is against the Council's Standing Orders, regulations or policies; or
- ♦ falls below established standards or practice; or
- ♦ amounts to improper conduct.

2.6 The people best placed to raise a concern before any serious damage is done often fear they have the most to lose if they do speak up. The Council is keen to avoid a culture of silence by supporting honesty and encouraging openness. This will ensure the Council is better able to:

- ♦ deter wrongdoing;
- ♦ pick up potential problems early;
- ♦ enable critical information to get to the people who need to know and can address the issue;
- ♦ demonstrate to stakeholders, regulators and the courts that they are accountable and well managed;
- ♦ reduce the risk of anonymous and malicious leaks;
- ♦ minimise costs and compensation from accidents, investigations, litigation and regulatory inspections; and
- ♦ maintain and enhance its reputation.

3 Who is Covered by the Policy?

3.1 All employees of the Council may use this policy. This includes both permanent and temporary staff, and elected members. It covers agency staff and staff seconded to a third party. Any concerns relating to the third party, if relevant to the employee's secondment can also be raised under this policy.

- 3.2 Contractors working for the Council on Council premises, for example, agency staff, consultants, builders and maintenance staff, may use the policy to make the Council aware of any concerns with regard to any contractual or other arrangements with the Council. It also covers suppliers and those providing services under a contract with the Council in their own premises

4 Harassment or Victimisation

- 4.1 The Council is committed to good practice and high standards and wants to be supportive of employees who make the decision to report a concern. Employees who raise concerns in good faith have nothing to fear since they are fulfilling their responsibility to their employer and to those for whom they are providing a service.
- 4.2 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate bullying, harassment or victimisation, including informal pressure, and will take appropriate action to protect you when you raise a concern in good faith. This could include disciplinary action against the perpetrator, which may lead to dismissal.
- 4.3 You must report any retaliation, which could include but is not limited to:
- ♦ frequent and undesirable changes in work assigned;
 - ♦ unsubstantiated disciplinary action
 - ♦ unjust denial of promotion or transfer
 - ♦ physical and verbal abuse
 - ♦ deliberate exclusion and isolation
- 4.4 This does not mean that if you are already the subject of a disciplinary investigation for alleged malpractice or redundancy procedures, that those procedures will be halted as a result of your whistleblowing.

5 Confidentiality

- 5.1 The best situation if you had a whistleblowing concern would be if you felt it was safe and acceptable to raise the concern openly, where those involved know what the issue is and who has raised it. This openness makes it easier for the Council to assess the issues, to work out how to investigate the matter, to get more information, to understand any hidden agendas, to avoid witch hunts and to minimise the risk of a sense of mistrust developing.
- 5.2 While openness is the ideal, in practice you may have reason to feel anxious about your identity being revealed, particularly at the outset. Consequently where you raise a concern outside of line management the assumption will be that the contact is made in confidence.
- 5.3 The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence, particularly if the Police or External Auditors become involved. In order to take effective action,

the Council will need proper evidence which may be required to withstand examination in disciplinary proceedings, courts or tribunals.

- 5.4 If it does become necessary to reveal your identity, you will be advised before this action is taken. If there is an unauthorised disclosure of your identity without your prior knowledge, disciplinary action may be taken against the person breaching the confidentiality arrangements.
- 5.5 Even though your name will not be revealed without prior notification, this cannot guarantee that others will not try to deduce the identity of the whistleblower. In addition, if you have already voiced the concern to colleagues or your manager, others may assume you are the source of any disclosure made higher up in the organisation.

6 Anonymous Allegations

- 6.1 This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful. They are difficult to investigate since it is impossible to liaise with the employee to seek clarification or more information, to assure them or to give them feedback.
- 6.2 Anonymous allegation will be considered at the discretion of either the Chief Executive or Monitoring Officer. In exercising this discretion, the factors taken into account would include:
 - ♦ the seriousness of the issues raised
 - ♦ the credibility of the concern; and
 - ♦ the likelihood of confirming the allegation from attributable sources.

7 Untrue Allegations

- 7.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make a frivolous, malicious or vexatious allegation that is for no other purpose than to cause trouble or annoyance or without good reason to discredit the Council, any member or officer, an investigation will take place to determine whether disciplinary action is taken.

8 How To Raise A Concern

- 8.1 As a first step, you should normally raise concerns with your immediate line manager or supervisor. In most cases the matter will be dealt with at that stage. You may wish to consider discussing your concern with a colleague in some circumstances, as it can be easier to raise concerns if there is more than one witness.
- 8.2 If you feel unable to raise the matter with your line manager, or if your line manager does not take appropriate action to resolve the issue, you should approach a more senior manager or your director. However, this depends on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.

- 8.3 For example, if you believe that a senior manager is involved, you should approach the:
- ♦ Chief Executive;
 - ♦ Section 151 Officer;
 - ♦ Monitoring Officer; or
 - ♦ Head of Internal Audit.
- 8.4 Managers have a responsibility to ensure that concerns are taken seriously and must ensure that the action necessary to resolve a concern is taken promptly. Employees should be kept advised of progress. A whistleblower has the status of a witness not a complainant.
- 8.5 Concerns are better raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reasons why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer.
- 8.6 The earlier you express the concern, the easier it is to take action.
- 8.7 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.
- 8.8 Advice and guidance on how matters of concern may be pursued can be obtained from:
- A local Trade Union official
- Allan Oldfield - Chief Executive on extension 8500
E-mail: allano@fylde.gov.uk
- Paul O'Donoghue – Section 151 Officer on extension 8566
E-mail: paul.o'donoghue@fylde.gov.uk
- Tracy Morrison – Monitoring Officer on extension 8521
E-mail: tracys@fylde.gov.uk
- Savile Sykes – Head of Internal Audit on extension 8413
E-mail: saviles@fylde.gov.uk
- Dean Francis – Senior Auditor on extension 8416
E-mail: deanf@fylde.gov.uk
- Carmel McKeogh – Head of Human Resources on extension 318031
E-mail: carmel.mckeogh@blackpool.gov.uk
- 8.9 You may invite a companion, who may be from your trade union or professional association, or a friend or a legal representative to raise a matter on your behalf. You may also have such a companion to represent you at any meeting that is held relating to your concern.

9 How The Council Will Respond

- 9.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 9.2 The action taken by the Council will depend on the nature of the concern. The Council could decide that the matters raised might:
- ♦ be investigated internally by management and/or internal audit through the disciplinary process
 - ♦ be investigated under another procedure
 - ♦ be reported to the Monitoring Officer
 - ♦ be referred to the Police
 - ♦ be referred to the external Auditor
 - ♦ form the subject of an independent inquiry
- 9.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, is the public interest. Concerns or allegations, which fall within the scope of specific procedures (for example racial discrimination issues, members conduct, IT security breach), will normally be referred for consideration under relevant procedures.
- 9.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 9.5 Within fifteen working days of a concern being received, your immediate manager, the Chief Executive or relevant officer, depending upon whom you have approached and the circumstances of the case, will contact you:
- ♦ acknowledging that the concern has been received
 - ♦ indicating how it is proposed to deal with the matter if possible at such an early stage
 - ♦ giving an estimate of how long it will take to provide a final response if possible at such an early stage
 - ♦ telling you whether any initial enquiries have been made, and
 - ♦ telling you whether further investigations will take place, and if not, why not.
- 9.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.
- 9.7 If you would like an update or feedback at any time the Council encourages you to contact the person you approached. While the Council will provide as much feedback as it properly can, due to legal obligations of confidentiality, it may not be able to fully provide feedback on the outcome of any disciplinary action taken. Where this is the case the Council will make clear to the whistleblower that they were right to raise the concern.

- 9.8 Any further evidence that the wrongdoing is continuing or that the whistleblower feels anxious about some perceived or actual reprisal should be reported to your contact.
- 9.9 When any meeting is arranged, off-site if you so wish, you have the right to be accompanied by your chosen companion. This may be a trade union representative or work colleague but cannot be someone involved in the area of work to which the concern relates.
- 9.10 The Council will do what it lawfully can to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure. The Council cannot provide legal representation for you. Where appropriate, counselling may be provided through Human Resources.
- 9.11 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations. However, this will not include details of any disciplinary action, which will remain confidential to the individual concerned.
- 9.12 The Head of Internal Audit maintains a record of concerns raised and the outcomes, but not in a form that may endanger your confidentiality, and will report as necessary to the Council

10 How The Matter Can Be Taken Further

- 10.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:
- ♦ the Confidential Public Interest Disclosure Line 0845 052 2646
 - ♦ the Lancashire Constabulary 0845 1 25 35 45
 - ♦ the independent charity Public Concern at Work 020 7404 6609
 - ♦ Information Commissioner 01625 545745
 - ♦ Health & Safety Executive 01772 836200
 - ♦ Local Government Ombudsman 01904 633269
 - ♦ UNISON whistleblowing hotline 0800 597 9750
- 10.2 Some of these organisations can give you free confidential advice about how to raise a concern about serious malpractice at work. For example, Public Concern At Work will give practical advice to those who have a concern but may be unsure whether to report the matter or remain silent.
- 10.3 It is stressed that this list is not exhaustive and you are free to contact any organisation that you feel will be able to deal properly with your concerns.
- 10.4 This may include:
- ♦ your local Councillor
 - ♦ your solicitor
 - ♦ other relevant professional/regulatory bodies.

- 10.5 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with your contact point about that.
- 10.6 It will be safe to raise a concern with any of the above provided that:
- ♦ you make the disclosure in good faith
 - ♦ you reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
 - ♦ you do not make the disclosure for the purposes of personal gain.
- 10.7 If you make allegations that you have no grounds to believe are true, or maliciously or for personal gain then you could face defamation proceedings or a prosecution for wasting police time. If you decide to address your concerns by going to the press or the media then you may face defamation proceedings if your allegations are unfounded.

11 The Law

- 12.1 This policy has been written to take account of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act's provisions. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concerns about, health and safety at work. Further information on this legislation can be obtained from the Council's Head of Governance.

13 Reviewing the Effectiveness of the Policy

- 13.1 The Director of Resources (as Monitoring Officer) has overall responsibility for the maintenance and operation of this policy. The impact and effect of the policy will be judged annually against the British Standards Institute (BSI) Whistleblowing Arrangements Code of Practice.
- 13.2 The next review date for this Policy is March 2014.

REPORT



| REPORT OF | MEETING | DATE | ITEM NO |
|--------------------------|-----------------|---------------|---------|
| RESOURCES DIRECTORATE | AUDIT COMMITTEE | 21 MARCH 2013 | 9 |

PLANNING CODE

Public/Exempt item

This item is for consideration in the public part of the meeting.

Summary

The report sets out a suite of revisions to update and refresh the present member/officer protocol for planning. The revisions take into account changes made by the Localism Act 2011 and restate the roles of members and officers in the planning process.

Recommendation/s

1. Recommend that the council adopts the revised Member/Officer Protocol for Planning as set out with this report to replace the existing protocol as part 5d of its constitution.

Cabinet portfolio

The item falls within the following cabinet portfolio[s]: Planning & Development: (Councillor Trevor Fiddler).

Report

Background

1. In July 1997, the Committee on Standards in Public Life (Nolan Committee) published Standards of Conduct in Local Government in England, Scotland and Wales. Recommendation 35 said that "Planning committees should consider whether their procedures are in accordance with best practice, and adapt their procedures, if necessary, setting them out in a code available to councillors, council staff and members of the public."

Continued....

2. Fylde subsequently adopted a local code of good practice in planning matters. The code is now known as the Member/Officer Protocol for Planning. Apart from minor changes in wording, the protocol has been in its present form for at least ten years. The code appears as part 5d of the council's constitution.
3. The passage of time, changes to the wider ethical framework and particular issues in connection with the decision-making process in planning have made it appropriate to look again at the protocol and recommend changes for the Audit Committee to consider recommending to the council.

The proposals

4. Proposals for a revised protocol have been worked up through a process involving input from the chairman and vice-chairman of the Development Management Committee, the portfolio holder for Planning and Development, the Monitoring Officer, the Director of Development Services and other officers from the Resources and Development Services directorates. The proposed new protocol is set out below, showing the proposed changes from the existing one.
5. Some of the changes are intended to correct outdated references to the previous ethical framework, which has been replaced by changes under the Localism Act 2011. Other changes are intended to restate and reinforce the distinct but complementary roles of members and officers at Development Management Committee. Paragraphs 8 and 10 of the proposed revised protocol are the core parts dealing with those roles.
6. Paragraph 8 sets out the role of officers in providing information, giving impartial and professional advice, and assisting members to articulate and record their decisions. Paragraph 10 sets out the role of members as decision-makers and the parameters and processes within which they must operate.

Procedure

7. The committee is asked to consider the proposed revised protocol and, with any changes it feels appropriate, recommend that the council adopt it to replace the current version of the protocol in the constitution.

| IMPLICATIONS | |
|-----------------------------|--|
| Finance | No financial implications |
| Legal | A breach of the protocol may be relevant in determining whether a member or officer has breached the wider code of conduct that applies to them. |
| Community Safety | No implications. |
| Human Rights and Equalities | The code is compatible with the European Convention on Human Rights |
| Sustainability | No implications |
| Health & Safety and Risk | No implications |

| | |
|------------|--|
| Management | |
|------------|--|

| REPORT AUTHOR | TEL | DATE | DOC ID |
|---------------|----------------|-----------------|--------|
| Ian Curtis | (01253) 658506 | February 8 2013 | |

| LIST OF BACKGROUND PAPERS | | |
|--|-----------------|---|
| NAME OF DOCUMENT | DATE | WHERE AVAILABLE FOR INSPECTION |
| Member/Officer Protocol for Planning | July 2012 | Within the constitution at www.fylde.gov.uk/council/constitution Town Hall, Lytham St Annes |
| Draft revision of the Member/Officer Protocol for Planning | February 8 2013 | Town Hall, Lytham St Annes, and attached below |

Attached documents

1. Draft revision of the Member/Officer Protocol for Planning

Appendix 7 Planning Code

1. INTRODUCTION

- 1.1 ~~The This~~ Local Code of Good Practice represents the standard against which the conduct of [members](#) and [officers](#) will be judged. Failure to follow ~~the this~~ Local Code of Good Practice without good reason may be taken into account in investigations into possible maladministration by the Council and might result in allegations that a member ~~or officer~~ has breached the ~~statutory council's~~ local [code of conduct that applies to them](#).
- 1.2 ~~The This~~ Local Code of Good Practice is concerned primarily with the integrity of the planning system and the conduct of members of the [Development Management Committee](#) and officers in its processes and procedures. However, it equally applies to members of the [executive](#) and all other members of the Council when dealing with planning issues.

2 THE GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 2.1 Instructions to officers may only be given through a Council or Committee resolution ~~or through a formal decision made by an individual executive member, and cannot be given by individual members~~ [Individual members cannot otherwise give instructions](#).
- 2.2 Each Councillor ~~has given a written undertaking that they will~~ [is obliged to](#) observe the Council's local code of conduct ~~as required by the Local Elections (Declaration of Acceptance of Office) Order 2001 adopted under the Localism Act 2011~~.
- 2.3 [Each officer is obliged to observe the Officers' Code of Conduct](#)
- ~~2-32.4~~ Officers who are Chartered Town Planners will [also](#) be guided in their conduct by the Royal Town Planning Institute's (RTPI) [Code of Professional Conduct](#).
- ~~2-42.5~~ The Conduct of Council business will be governed by the [council procedure rules](#).
- ~~2-52.6~~ While Councillors have a special duty to their ward constituents, their overriding duty is to the whole community. Councillors must represent their constituents as a body and vote in the interests of the whole Borough.
- ~~2-62.7~~ [Members](#) must take account of views expressed but, as required by ~~paragraph 6.1 paragraph 6.(a)~~ of the [code of conduct](#), must not ~~in their official capacity, or in any other circumstances,~~ use their position as a member, improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.
- ~~2-72.8~~ Councillors should be cautious about accepting gifts and hospitality. Under [paragraph 8.1.1-813\(c\)](#) of the [members'](#) code of conduct, a councillor ~~will~~ [may](#) have ~~a personal~~ interest in any business of the authority where it relates to or is likely to affect the interests of any person from whom the councillor has received a gift or hospitality with an estimated value of at least £25, and will need to register that interest ~~under paragraph 13.2 of the code~~.¹

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¹ Wording changed to reflect the present code of conduct following council meeting on 25 July 2011

~~2.82.9~~ ~~Officers~~ must always act impartially. With regard to hospitality, if hospitality is offered by anyone with an interest in a planning proposal it should, if possible, be politely declined. ~~An officer must never accept hospitality valued at above £25²~~. If hospitality ~~is~~ is accepted, it should be declared in the ~~directorates council's~~³ Register of Gifts and Hospitality.

3 TRAINING

3.1 The Council acknowledges the importance of training for members, particularly initial training for members when first serving on the Development Management Committee. Training will be provided, and members will be updated on changes in legislation, procedure and national policy in relation to planning matters.

3.2 ~~If a member of the Development Management Committee consistently fails to undertake training, their group leader will be asked to remove them from the committee.~~

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4 DECLARATION OF INTERESTS

Members must follow scrupulously the requirements placed upon them as laid down by ~~the Local Government Localism Act 2000-2011 (including regulations made under it)~~ and the council's code of conduct in relation to the registration and declaration of interests.

5 DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS AND COUNCIL DEVELOPMENTS

- 5.1 It is legitimate for former and serving members and officers (and their close friends and relatives) to submit planning applications or development plan proposals. The council may also submit planning applications or proposals for its own land. They, i.e. members, officers or the council itself, may also own or have an interest in land for which a planning application or development plan proposal is made by a third party. To ensure that all of these applications and proposals are handled in a way that gives no grounds for accusations of favouritism, the following will apply.
- 5.2 Proposals for the council's own development should be treated in the same way as those by private developers, in accordance with circular ~~129/1992~~, particularly in relation to the officers' advice.
- 5.3 Serving members who submit their own proposal to the council, or who act as agents for people pursuing a planning matter within this authority's area, or own or have an interest in land for which a planning application or development plan proposal is made by a third party should play no part in the decision-making process for the proposal.
- 5.4 Similarly, serving officers who submit a planning application or proposal to the council, or own or have an interest in land for which a planning application or development plan proposal is made by a third party should play no part in the decision-making process of that application or proposal.
- 5.5 The council's monitoring officer should be informed of proposals submitted by members or officers and should certify that the application has been processed normally.

² Sentence added and subsequent wording adjusted following council meeting on 25 July 2011

³ Wording changed following council meeting of 24 November 2008

- 5.6 Applications or proposals by the council, by (or on behalf of) serving members and officers (including members of their family or any person with whom they have a close association)⁴ or by a third party involving land which ~~or~~ they may own or have an interest in will be reported to the [Development Management committee](#) for determination.
- 5.7 For the purposes of paragraph 5.6, a serving member or officer includes anyone ~~who who is a relevant person (as defined in paragraph 8.2 of the members' code of conduct) in respect is a member of the family~~ of that member or officer ~~or is a person with whom they have a close association~~.⁵

6 LOBBYING OF AND BY MEMBERS

- 6.1 Members of the council, and importantly those members serving on the Development Management committee when being lobbied about a particular planning application/issue should take care about expressing an opinion which may be taken as indicating they have closed their mind to further arguments on the application/issue⁶.
- 6.2 Additionally, [members](#) should restrict themselves to giving procedural advice including suggesting to those who are lobbying that they should speak or write to the Director of Strategic Development Services⁷ in order that their ~~opinion~~ [observations](#) can be included in the relevant report to committee.
- 6.3 Given that the point at which a decision on a planning application is made cannot occur before the Development Management committee meeting, when all available information is to hand, and has been duly considered, any political group meeting prior to the committee meeting should not be used to decide how members should vote.
- 6.4 Members should avoid organising support for or against a planning application, and avoid lobbying other members.
- 6.5 Members should not put any pressure on [officers](#) for a particular recommendation and, as required by the [code of conduct](#), should not do anything which compromises, or is likely to compromise, their impartiality.

7 PRE-APPLICATION DISCUSSIONS

- 7.1 The council encourages, in accordance with the advice of ~~the Audit Commission~~ [auditors](#) and the National Planning Forum, early discussions between a potential applicant and council representatives⁸ prior to the submission of an application.
- 7.2 Pre-application discussions can involve councillors as well as officers, applicants and their representatives.⁹

⁴ Words in brackets added following council meeting of 25 July 2011

⁵ Added following council meeting on 26 July 2010

⁶ Wording changed following council meeting of 24 November 2008

⁷ Designation changed following council meeting of November 24 2008

⁸ Wording changed following council meeting of November 24 2008

⁹ Sub-paragraph inserted following council meeting of November 24 2008

Appendix 7 – Planning Code

- 7.3 Administrative arrangements for pre-application discussions should be made by officers. Except for any site visit, discussions should take place at council offices.¹⁰
- 7.4 In order for such meetings not to become, or be seen to become, part of a lobbying process, the following guidelines should be followed.
- 7.5 It should always be made clear at the outset that the discussion will not bind the council to making a particular decision and that any views expressed are personal and will in any case be provisional.
- 7.6 No firm or final view can be offered in such early discussions since by the very nature of such meetings, not all relevant information will be to hand, nor will formal consultations with statutory bodies and interested parties be to hand.
- 7.7 Advice given by officers should be based upon the [Development Plan](#) and other material planning considerations. There should be no significant difference of interpretation of planning policies amongst planning officers. In addition, all officers taking part in such discussions should make it clear whether or not they ~~are expect to be~~ the decision-maker.
- 7.8 Councillors can ask questions to better inform themselves about the proposed development, and can give their opinions about potential public and political reaction to the proposals.¹¹
- 7.9 ~~Planning officers should prepare Aa~~ written note ~~should always be made~~ of pre-application discussions where members are present, and of any contentious or potentially contentious meetings, or of similarly contentious or potentially contentious telephone conversations.¹²
- 7.10 ¹³When plans or documentary material have been left with the council for comments, a letter may be sent confirming the officers' provisional views on such material.
- 7.11 Care must be taken to ensure that advice is not partial, nor seen to be.

8 ~~DEVELOPMENT MANAGEMENT COMMITTEE: OFFICERS' REPORT TO THE COMMITTEE~~

- 8.1 ~~Officers who serve the Development Management Committee can only act in accordance with collective decisions of the Committee, not instructions of individual members of the committee.~~
- 8.2 ~~In advising and assisting elected members in their determination of planning applications, officers should:~~
- 8.2.1 ~~Offer impartial and professional advice;~~
- 8.2.2 ~~interpret planning policies consistently;~~
- 8.2.3 ~~Prepare written reports which include:~~
- 8.2.3.1 ~~a brief written description of the proposed development and the relevant site history or related history~~

¹⁰ Sub-paragraph inserted and subsequent sub-paragraphs renumbered following council meeting of November 24 2008

¹¹ Sub-paragraph inserted and subsequent sub-paragraphs renumbered following council meeting of November 24 2008

¹² Wording changed following council meeting of 24 November 2008

¹³ Words deleted following council meeting of 24 November 2008

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Appendix 7 – Planning Code

8.2.3.2 a clear and accurate analysis of the issues in the context of the relevant development plan policies and all other material considerations

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8.2.3.3 the substance of any observations, representations, objections, or views of all those who have been consulted or who have made comments, whether or not such observations are considered to be material

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8.2.3.4 a clear written recommendation of action and, where that recommendation is contrary to the development plan, the material considerations which justify the departure

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8.2.3.5 all necessary information for the decision to be made;

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8.2.4 Assist members to articulate and record their decisions and reasons for their decisions, even if the officer disagrees with them (but this does not extend to suggesting reasons where a proper planning reason for a proposed decision has not emerged in discussion); and

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8.2.5 Advise on appropriate drafting for conditions that members wish to add or amend.

8.3 To ensure that all procedures are strictly followed procedural guidance will be given by the Director of Resources¹⁴ or her representative in attendance at each meeting of the Development Management committee.

~~8.1 Reports should be accurate and contain a brief written description of the proposed development; the substance of written views submitted by consultees, objectors and others with an interest in the proposal; the relevant site history or related history.~~

~~8.2 The report should include a clear exposition of the relevant development plan policies and proposals, in order that the council's statutory duty under section 38(6) of the Planning and Compulsory Purchase Act 2004 can be considered. Other material planning considerations should also clearly be set out.~~

~~8.3 Reports should have a written recommendation; oral reporting (except to update a report where necessary) should be rare, only when necessary in view of the urgency of the item, and should be carefully minuted when it does occur.~~

~~8.4 The reports should have a clear reasoning which itself clearly justifies the recommendation.~~

~~8.5 If the report has a recommendation which is contrary to the provisions of the development plan, the material considerations which justify this must be clearly stated.~~

9 PUBLIC SPEAKING AT THE DEVELOPMENT MANAGEMENT COMMITTEE

In accordance with the public speaking protocol, applicants, objectors/supporters will not be permitted to speak at any meeting of the Development Management committee on any matter application placed before the committee for consideration except upon the invitation of the chairman and in accordance with any procedure applied by the committee. These arrangements reflect national best practice and are intended to provide more open, transparent and informed decision making.

¹⁴ Designation changed following council meeting on 28 November 2011

10 DEVELOPMENT MANAGEMENT COMMITTEE: MEMBERS

In making decisions on planning applications and planning matters, members should:

- 10.1 Act fairly and openly and without prejudice.
- 10.2 take care about expressing an opinion which may be taken as indicating they have closed their mind to further arguments.
- 10.3 Not accept or seek to impose group discipline, whether in the form of a party whip or otherwise
- 10.4 Use the officer presentation, questions and debate to test any provisional view that they have formed
- 10.5 Give the officers the opportunity to explain the implications of the decision where the members are minded to take a decision contrary to the officers recommendation, particularly where that decision would be contrary to the Development Plan policies.
- 10.6 Analyse all relevant development plan policies and other material considerations and, where the development plan is relevant, determine each application in accordance with the development plan unless material considerations indicate otherwise.
- 10.7 Ensure that clear, precise reasons for their decisions, based on material planning considerations, are clearly recorded, particularly where the committee's decision conflicts with officer recommendations and, where the decision is not in accordance with the development plan, that the reasons that justify overriding the development plan are clearly demonstrated and explained.

~~10 DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE DEVELOPMENT PLAN~~

- ~~10.1 Adequate weight should always be given to the development plan¹⁵. The law requires that where the development plan is relevant, decisions should be taken in accordance with the development plan unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004).~~
- ~~10.2 Where the council intends or is minded to approve an application which is not in accordance with the development plan, the material considerations which lead to this conclusion must be clearly identified and how they justify overriding the development plan must be clearly demonstrated.~~
- ~~10.3 If the officers' report recommends approval of an application which is a departure from the development plan, the justification for this should be included, in full, in the report.~~
- ~~10.4 If the Development Management committee takes a decision contrary to the officers' recommendation (whether for approval or refusal), a detailed minute of the committee's reasons should be made and a copy placed on the application file.~~
- ~~10.5 Where the Development Management committee is minded to take a decision contrary to the officers' recommendation, particularly where that decision would be contrary to development plan policies, the officers should be given the opportunity to explain the implications of the contrary decision.~~

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¹⁵ Reference to structure and local plans replaced by references to the development plan following council meeting of 22 November 2011

~~10.6 Where the committee is minded to approve an application which is a material departure from the development plan, the application should be advertised in accordance with the requirements of the Town and Country Planning (General Development Procedure) Order 1995 and (where the scale and nature of the proposal require it) be referred to the Secretary of State.~~

~~10.7 The substance of conditions and reasons for refusal where members depart from the recommendations of officers should be made clear during the relevant committee meeting although detailed wording may be delegated to officers in consultation, if deemed necessary, with the chairman and vice chairman of the committee.~~

~~10.8 To ensure that all procedures are strictly followed procedural guidance will be given by the Director of Resources¹⁶ or her representative in attendance at each meeting of the Development Management committee.~~

11 SITE VISITS

11.1 The council's code of conduct applies as much to site visits as to any other area of conduct.

11.2 Organised committee site visits to application sites will be held where the committee has, by a majority, requested such a visit or where requested by officers, in consultation with the chairman or vice chairman of the committee.

11.3 Site visits should only be held:

11.3.1 Where the expected benefit is substantial; and/or

11.3.2 The impact of the proposed development is difficult to visualise from the plans and supporting material, including photographs/video footage taken by officers; and

11.3.3 There is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.

~~11.4~~ Site visits will be primarily to view the site and appreciate how the proposed development relates to the site and its surroundings. An officer(s) would be in attendance with the members.

~~11.4~~ No discussion of the case will take place as the site visit is purely to assess the effect of the proposed development on the surroundings. However, members may ask factual questions to confirm their understanding of physical features of the site or its surroundings.

~~11.5~~ In order to avoid lobbying and to maintain impartiality, the applicant/agent, supporters and objectors would not normally be invited to site meetings nor would they be permitted to speak on the merits or otherwise of the proposal.

~~11.6~~ 11.5 Planning applications will not be determined at site visits but will be reported back to the Development Management committee (following the site visit) for determination in the normal way.

~~11.7~~ 11.6 It is not expected that members will make personal site visits. Exceptionally, members who wish to view sites prior to a meeting of a committee, other than

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¹⁶ Designation changed following council meeting on 28 November 2011

authorised and arranged visits in accordance with 11.2 to 11.6 should bear in mind at all times that the sole purpose is to view the site and its surroundings.

- | ~~11.8~~11.7 If an applicant/agent or objector is present at the time of the visit, [members](#) should explain the purpose is to see the site and surroundings, and not to hear representations, and should not offer any opinion whatsoever and in particular should not indicate that they have already made up their mind on the application/issue.
- | ~~11.9~~11.8 A member should declare at the Development Management committee at which the application is considered that a personal site visit has been made by them which has resulted in contact with the applicant, agent or objector.

12 REVIEW OF DECISIONS

- 12.1 The Development Management committee, in accordance with the views of the [Audit Commission](#) and the National Planning Forum, will review its decisions from time to time.
- 12.2 In particular, the committee will examine the way development which has been permitted has turned out and will have an organised tour of selected recent developments, at least annually.
- | 12.3 Following the consideration of such developments, ~~the committee~~[officers and members](#) will be encouraged to review the good and bad points of permitted schemes and decide whether such review gave rise to the need for any policies or practices to be reconsidered.

13 COMPLAINTS

All complaints received will be dealt with by way of the council's approved complaints procedure.

Audit Committee



| | |
|--------------------|--|
| Date: | Wednesday, 30 January 2013 |
| Venue: | Town Hall, St. Annes |
| Committee members: | Councillor John Singleton (Chairman) Councillor Brenda Ackers (Vice Chairman) Councillors Ben Aitken, Leonard Davies, Kath Harper, Howard Henshaw, Julie Brickles, Louis Rigby |
| Other Councillors: | None |
| Officers: | Paul O'Donoghue, Ian Curtis, Andrew Wilsdon, Savile Sykes and Paul Rogers |
| Other Attendees: | Jillian Burrows and Matthew Geddis (KPMG) |

1. Declarations of interest

Members were reminded that any interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Localism Act 2011. No declarations were made.

2. Confirmation of minutes

RESOLVED: To approve the minutes of the Audit Committee meeting held on 14 November 2012 as a correct record for signature by the Chairman.

3. Substitute members

The following substitutions were reported under Council procedure rule 25:

Councillor Julie Brickles for Councillor Linda Nulty .

4. Audit Plan – KPMG

Jillian Burrows, representing KPMG, presented the Audit Plan for the forthcoming financial year. She informed members that the report covered the various elements of their audit responsibilities, the approach to financial statements and value for money. In taking members through the various sections in the report she drew members' attention to the approach on the various elements that KPMG would be undertaking in the audit plan and the impact on audit set out on page 15. Members were reminded that their planned audit fee for 2012/13 would be reduced by 40 per cent compared to fee for 2011/12. She emphasised that which was in line with the government's commitment to reduce the

burden on public bodies in terms of the audit process. She emphasised that the Audit Commission gave specific guidelines about what is included and excluded in the fee and any variances needed to be ratified by the Commission. In reply to a member's question, she informed the committee that the fee reduction reflected a change in audit practice across local government and the National Health Service. The Council, however, would still receive the same level of input from KPMG.

Councillor John Singleton, Chairman, referred to the Local Authority Mortgage Scheme indicated as a risk. He asked Ms Burrows if KPMG had audited any other Councils who had implemented the scheme and had those councils encountered any problems. Ms Burrows advised that they had audited other councils who had implemented the scheme and no problems had come to light.

Following discussion, it was RESOLVED that the KPMG Audit Plan for 2012-13 which is in line with previous years, be noted.

5. Certificate of Grants and Returns 2011/12

Matthew Geddes, representing KPMG, presented the report which summarised the key outcomes from the certification work on the Council's 2011-12 Grants and Returns and showing where either audit amendments were made as a result of their work or where KPMG had to qualify the audit certificate. He emphasised there was a need to make just one amendment which was to the NNDR return in the sum of £401.32. He noted that given that the value of the return was over £21.8m this amendment was not significant. He also drew members' attention to the overall fee that would be decreasing on the previous year by £5,455.

Councillor John Singleton, Chairman, was pleased to note that there were no priority recommendations emanating from the work carried out by KPMG.

Following discussion, it was RESOLVED to note the KPMG report on the Certificate of Grants and Returns 2011-12.

6. Corporate Governance Improvement Plan 2012/13

Ian Curtis, Head of Governance, presented an update report regarding the Corporate Governance Improvement Plan 2012/13. Members were reminded that the Audit Committee was charged with adopting the Annual Governance Statement and monitoring the progress in fulfilling the Corporate Governance Improvement Plan.

The report detailed the progress on achieving the actions set out and the most recent performance plan. Mr Curtis drew members' attention to those actions which had not been completed. He referred to AGS 2 relating to equalities training and guidance and explained to the committee how this would be rolled out to employees with a completion date shortly after the end of March. Action 6 relating to AGS 4 relating to the Codes of Conduct had now been completed. Following the staffing restructure, there was a view that the Codes of Conduct for both members and officers would need to be reviewed but on review further changes were not necessary. Finally, AGS 7 regarding the Business Continuity arrangements was well under way. This action had taken longer than was expected due to the extensive corporate restructure. Following the restructure, the arrangements had been revisited to ensure that they were sound and robust.

Discussion ensued regarding the need for urgent maintenance to the Town Hall in view of the recent damage caused by storms. The view was that the Town Hall should be

maintained so as not to pose any threat to the public or employees. Councillor John Singleton, Chairman, suggested that the matter should be drawn to the attention of the appropriate Committee and Portfolio Holder responsible for such matters.

Councillor Singleton drew attention to the fact that objectives AGS 2 and AGS 7 had been brought forward from last year. He requested that there should be an update on these at the March meeting.

After discussion it was RESOLVED that

- (1) the Committee approves the Corporate Governance Improvement Plan and requests that an update be presented to the March meeting regarding progress on objectives AGS 2 and AGS 7.
- (2) the appropriate Committee and Cabinet Portfolio Holder be informed of this committee's concern in respect of Town Hall maintenance issues in view of recent storms and the need for the building to properly maintained following those storms.

7. Regulation of Investigatory Powers Act 2000: Authorisations

Ian Curtis, Head of Governance, presented a report on the above. The Committee was reminded that Councillors are obliged to review the use of covert surveillance and covert human intelligence sources by the council at least quarterly. In the quarters to September and December 2012, there were no authorised operations.

It was RESOLVED that the Committee note the information in the report.

8. Strategic Risk 2012/2013

Andrew Wilsdon, Risk and Emergency Planning Officer, presented a report which summarised the work undertaken in completing the Strategic Risk Actions contained in the 2012-2013 Risk Register. In taking members through each section of the report, he drew members' attention to the table on page 48 and to the fact that the first seven of the risks contained in the table were regarding the accommodation project and had been delayed due to the sale of three properties not being completed. The reasons for the remaining two issues under Planning/LDF and Water Management not being completed were due to outside organisations being involved, as shown in the table, and were matters which were beyond this Council's control. Other than the non completed actions shown in the table, the other actions had been completed.

With regard to a member's query about the delays for the sale of Council property, costs involved and concerns about the fabric of the Town Hall, Councillor John Singleton, Chairman, informed the committee that he had been assured by the Chief Executive that matters were progressing regarding the sale as quickly as possible. Members were of the view that if progress on the accommodation project was to be delayed long term, the repairs to the Town Hall would need urgent consideration.

After discussion, it was RESOLVED that, subject to the comments in (1) and (2) below being passed to the Cabinet Portfolio Holder and /or the Strategic Risk Management Group, progress made on completing the Strategic Risk Actions for 2012-2013 be noted and that the actions be further reviewed at the June meeting.

- (1) the committee's concern regarding the mounting costs of the accommodation project due to the delays in the sale of the property involved.

- (2) if progress on the accommodation project is to be delayed long term, consideration be given to urgent repairs to the Town Hall.

9. Internal Audit Interim Report 2012/2013

Savile Sykes, Head of Internal Audit, presented a report which summarised the work undertaken by internal audit from April to December 2012 and performance information for the same period. In taking the committee through the various sections of the report, with regard to the assurance levels in table 2, he emphasised that the majority were Substantial assurances with one audit area being given Full assurance. He referred to the High Priority Risks set out in Table 3 and advised the committee of the reasons why three risk actions had not been completed. With regard to Table 3, he informed members of the following update on the car parking figures:

Number Implemented 16

% Implemented 80

The totals were, therefore, amended accordingly showing that the overall implementation rate had increased to 83 per cent which was still lower than the five year average implementation rate of 86 per cent. An update on those high priorities which had not been addressed would be given at the next meeting.

Mr Sykes advised members that since the report had been written, two areas in the Performance Indicator Results in Table six needed updating as follows:

Current to 31/12/12

IA4 83%

IA6 84%

Mr Sykes referred to Table seven and drew attention to the Housing and Tax Benefits and also the Localised Support for Council Tax areas which had overrun and the reasons for the overrun.

In response to a member's query on adequate controls in relation to the risk of exposure to significant loss in car parks and fuel and payments areas, Mr Sykes assured the committee that he was satisfied that adequate controls were in place. With regard to controls in relation to cheque protocols, both Mr Sykes and Paul O'Donoghue advised that a number of controls were in place relating to the authorisation of invoices prior to cheque production, and that these were adequate.

Councillor John Singleton, Chairman, expressed concern about the non completion of the IT upgrades and the car park penalty notice arrangements. Mr Sykes advised that the actual upgrades had taken place, and that the non completion with regard to IT upgrades was because robust protocols were not in place to ensure that future upgrades would be completed in accordance with contract requirements.

It was RESOLVED subject to (1) below to note the Internal Audit Interim Report.

- (1) the committee to review at the March meeting high priority actions not implemented by the agreed date and, in particular, those relating to IT upgrades and car park penalty notice arrangements arising from audits undertaken in 2011.

10. Sanction & Prosecution Policy

Savile Sykes, Head of Internal Audit, presented a report regarding the Sanction & Prosecution Policy. The Policy attached to the report as an Appendix, had been amended

to reflect changes required by the Welfare Reform Act 2012 with regard to Administrative Penalties. He referred to the administrative penalty described in paragraph 3.3 in the policy attached to the report and advised that the financial penalty statutorily determined percentage had increased from 30 to 50 per cent and that the cooling off period referred to in paragraph 6.2 had been reduced to 14 days.

With regard to Chairman's query, Mr Sykes indicated that he would inform him of those cases where penalties had been issued and no payment had been received.

After discussion it was RESOLVED that the Committee approves the policy documents attached as an Appendix to the report and the amendments described.

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