

Public Document Pack

Date of meeting Monday, 15 April 2013
Time 7.00 pm
Venue Committee Room 1, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Nick Lamper
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Audit and Risk Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Apologies
- 2 **MINUTES OF LAST MEETING** (Pages 1 - 4)
Held on 18 February 2013, to be signed as a correct record.
- 3 **Declarations of Interest**
- 4 **Corporate Risk Management Report: January - March 2013** (Pages 5 - 16)
- 5 **Review of the Council's Anti-Fraud and Anti-Corruption Framework** (Pages 17 - 62)
- 6 **Anti-Money Laundering Policy** (Pages 63 - 78)
- 7 **Audit Commission Report - Protecting the Public Purse 2012** (Pages 79 - 88)
- 8 **Code of Corporate Governance** (Pages 89 - 100)
- 9 **Regulation of Investigatory Powers Act 2000 - Revised Policy Document** (Pages 101 - 122)
- 10 **Urgent Business**

Members: Councillors Waring (Chair), Jones, Loades, Mrs Peers, Stringer (Vice-Chair) and Turner

Members of the Council: If you identify any personal training/development requirements from the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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AUDIT AND RISK COMMITTEE

7.00 pm, Monday, 18 February 2013

Present:- Councillor Paul Waring – in the Chair

Councillors Loades, Jones, Mrs Peers, Turner and Stringer

Independent member:- Phil Butters

In attendance:- Kelvin Turner (Executive Director, Resources and Support Services), Dave Adams (Executive Director, Operational Services), Mark Bailey (Head of Business Improvement and Partnerships), Liz Dodd (Audit Manager), Nick Lamper (Senior Member Services Officer) and David Jenkins (Engagement Manager, Grant Thornton (external auditors))

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF PREVIOUS MEETING

Resolved: That the minutes of the meeting held on 5 November 2012 be approved as a correct record and signed by the chairman.

4. MANAGEMENT REVIEW OF THE IMPACT OF THE RE-STRUCTURING OF THE PARK ATTENDANT SERVICE

A report was submitted outlining the impact of the restructuring of the Park Attendant Service, which had successfully delivered savings of £100,000 per annum in 2011/12 and 2012/13.

The report set out the advantages and disadvantages of the restructured service, the impact on income for tennis and bowls, and a number of options for collection of tennis fees. It identified the preferred option as engaging a club to assist with the management of Westlands Sportsground.

The committee discussed the various options and further variations of them.

Resolved: That the following approaches be explored further:-

- (a) The possibility of operating an electronic entry system;
- (b) Further advertising and promotion opportunities; and
- (c) The engagement of a club or community centre to assist with the management of Westlands Sportsground (including approaching the Lawn Tennis Association, David Lloyd Leisure and Whitfield Community Centre).

5. CORPORATE RISK MANAGEMENT REPORT OCTOBER TO DECEMBER 2012

A report was submitted providing an update on progress in enhancing and embedding risk management for the period October to December 2012, including progress in managing the identified corporate risks.

Mark Bailey, Head of Business Improvement and Partnerships, answered members' questions and provided further information on individual risks.

Resolved:

- (1) That the progress made in managing the risks identified within the Strategic, Operational, Project and Partnership Risk Registers be noted;
- (2) That training be provided for members in addition to officers in respect of risk 4 (breach of Data Protection Act); and
- (3) That clarification be sought in relation to the precise nature of the risks and consequences in respect of risks 6 and 7 (failure to establish robust processes to dispose of surplus land and buildings, and inability to implement outcomes from the Stock Condition Survey) from the risk owners and this information be provided to members of the committee.

6. ADOPTION OF INTERNAL AUDIT HIGH RISK RECOMMENDATIONS AND SUMMARY OF ASSURANCE - 1 OCTOBER TO 31 DECEMBER 2012

A report was submitted on outstanding high risk recommendations for the third quarter of 2012/13, summarising these by Directorate and calendar month.

It was noted that more detailed reports were also submitted to the chair and vice-chair on a monthly basis.

Resolved:

- (1) That the actions taken and levels of assurance be noted; and
- (2) That the report for the fourth quarter be adapted to present a summary of the more detailed information provided to the chair and vice-chair, and to identify any recurring themes.

7. INTERNAL AUDIT PROGRESS REPORT - QUARTER 3 2012/13

A report was submitted on the work undertaken by the Internal Audit team during the third quarter of 2012/13 and identifying key issues raised.

Resolved: That the work undertaken be noted.

8. INTERNAL AUDIT PLAN 2013/14

A report was submitted seeking the committee's approval of the proposed Internal Audit Plan for 2013/14 and the reporting arrangements for performance against the plan.

Resolved: That the proposed plan and reporting arrangements be approved.

9. REVIEW OF THE INTERNAL AUDIT STRATEGY 2013 TO 2016 AND THE INTERNAL AUDIT SECTION TERMS OF REFERENCE

A report was submitted seeking the committee's approval of the revised Internal Audit Strategy and Terms of Reference, which had been revised as part of the audit planning process for 2013/14.

The documents had been reviewed and updated to reflect the revised Public Sector Internal Audit Standards which would come into effect on 1 April 2013. The CIPFA guidance on the application of the new standards was still awaited and, if necessary, a further report could be placed before the committee once the guidance had been published.

Resolved: That the revised Internal Audit Strategy 2013-16 and Internal Audit Terms of Reference be approved.

10. PLANNED AUDIT FEE 2012/13

A report was presented to enable the committee to consider the planned audit fee for 2012/13.

David Jenkins, the Engagement Manager from the external auditors, Grant Thornton, attended the meeting and presented the proposals.

Resolved: That the planned audit fee for 2012/13 be approved.

11. CERTIFICATION WORK REPORT 2011/12

A report was submitted along with Grant Thornton's Annual Report in respect of the Certification of Claims for the Borough Council for 2011/12.

David Jenkins, the Engagement Manager from the external auditors, Grant Thornton, attended the meeting and presented the report.

Resolved: That the Annual Report on the Certification of Claims be received.

12. URGENT BUSINESS

There was no urgent business.

COUNCILLOR PAUL WARING
Chair

The meeting concluded at 8.20 pm.

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REPORT OF THE EXECUTIVE MANAGEMENT TEAM TO THE AUDIT AND RISK COMMITTEE

15 April 2013

CORPORATE RISK MANAGEMENT REPORT FOR THE PERIOD January to March 2013

Submitted by: Head of Business Improvement and Partnerships

Portfolio: Communications, Transformation and Partnerships

Ward(s) affected: All

Purpose of the Report

To provide an update to Members of the progress made by the Council in enhancing and embedding risk management for the period January to March 2013, including progress made in managing the identified corporate risks.

Recommendations

The Committee is asked to:-

- (a) Scrutinise the progress that has been made in managing the risks identified within the Strategic, Operational, Project and Partnership Risk Registers where applicable.**
- (b) Note the new risks that have been identified between January and March 2013.**
- (c) Identify, as appropriate, risk profiles to be scrutinised in more detail as part of your responsibility at the next meeting.**

Reasons

The risk management process previously adopted by the council has been reviewed to incorporate changes in the way the council works and to provide continuity and streamlined reporting of risks to the necessary stages so that it becomes further embedded at each level of the authority. This will further develop the identification of key risks that potentially threaten the delivery of the corporate priorities. The new strategy will provide a formal and proportionate framework to manage these identified risks and thus reduce the council's exposure.

To assist the council in its corporate ambition of being an excellent council by helping deliver effective corporate governance, this proactive approach also helps demonstrate good risk management in terms of evidencing that effective risk management is further embedded with the corporate business processes.

1. Background

- 1.1 The council monitors and manages all its risks through the various risk profiles contained within GRACE (Governance Risk and Control Environment) – the council's software for recording and managing risk.

The council currently reviews its High Red 9 risks at least monthly and its Medium Amber risks at least quarterly.

The last review of these risks was reported to your Committee in February 2013.

Risk owners are challenged by the Risk Champions in respect of controls, further actions, ratings and emerging risks and challenge reasons for inclusion or non-inclusion and amendment of these.

Projects are managed to a high level in relation to risk and are reviewed in accordance with the risk management strategy – monthly.

2. **Issues**

2.1 **Strategic, Operational, Project and Partnership Risk Registers (Appendices)**

The Council regularly reviews and refreshes its risk registers in accordance with the risk management strategy. This is co-ordinated by the Strategic Risk Champion who works closely with the Directors, Operational Risk Champions and the Risk Owners.

The risk map below shows the descriptions of the ratings, for ease of use.

L I K E L I H O O D	High 3	7 Amber	8 Amber	9 High Red
	Medium 2	4 Green	5 Amber	6 Amber
	Low 1	1 Green	2 Green	3 Amber
		Low 1	Medium 2	High 3
IMPACT				

Appendix A now highlights the Council's most significant risks, with the risks that fall into the top line of the ratings only, being reported.

2.2 **Horizon Scanning**

At the last meeting it was reported that legislative developments will be provided for the Committee every six months, unless otherwise requested.

In light of this change, an update on legislation will be provided at the July 2013 and February 2014 meetings of the Committee.

Members are asked to nominate any areas of legislation they might wish to consider at these meetings and to consider whether they wish to receive further information on these identified areas.

2.3 **Issues from last meeting**

At the last meeting Members required clarification and expansion of current positions or progress comments against some of the lines. Below is the result:

Item 5 – Kidsgrove Sports Centre

An external body has been commissioned to challenge the options appraisal (as detailed in a [report to Cabinet on 14th November 2012](http://modern.gov.newcastle-staffs.gov.uk/documents/s5514/Kidsgrove%20Sports%20Centre.pdf) (<http://modern.gov.newcastle-staffs.gov.uk/documents/s5514/Kidsgrove%20Sports%20Centre.pdf>)). It is envisaged that this will enable Sport England to make a decision on whether to support a bid. The next step

will then be a Cabinet report to Newcastle under Lyme B.C. members, detailing the options available, for them to make a decision on the way forward.

The overall ownership of the sports centre falls to Staffordshire County Council, with the repairs and maintenance of the fabric of the building falling under the remit of the school board. The key issue here is that the existing building is coming to the end of its useful life (with no guarantee of another significant failure not occurring, resulting in closure or part closure of the building) and requires significant investment of £4-6M although currently funding is yet to be identified.

Item 6 – Failure to establish robust processes to dispose of land and buildings – should this risk be focused on loss of revenue not on processes?

This risk originally reflected the Council not having an Asset Management Strategy. This is now not the case, as a new Asset Management Strategy for 2013-2016 has now been approved, and takes into account all aspects of disposal of land and buildings.

Item 7 – Stock condition survey - more detail around the repairs schedule and also whether the risk is correctly focused - should the risk be focused on the actual implications of not doing the repairs, i.e. what is happening to the building etc?

In relation to the stock condition survey, the risk is focussed on the legal implications of not carrying out a repair or maintenance of an item, whilst having a view in relation to the proposals for any building.

Therefore, any RAG rating for a repair in the stock condition survey which is coloured red means that the work *has* to take place in a property for Health and Safety or legal reasons for which the Council would be liable should anything go wrong.

Amber means a repair does not constitute an immediate issue but it is an early warning that if it is not addressed in the next 24 months, it will fall in to the red category whilst green means it is advisable to have the work carried out but there is no immediate legal implication of not doing so.

The condition survey as a whole is based upon taking a pro-active pre-planned maintenance approach whereby it advises which work should be carried out when, in order to ensure that the property condition does not deteriorate.

However, it is recognised that the availability of capital funds is limited and therefore each repair is reviewed annually to ensure that the risk is managed so that capital funds are allocated to areas of most urgent need.

It is also recognised that in using this approach, if recommended work is not carried out as planned this will result in the condition of a property deterioration and a repair which rated as green in year 1 could end up being red by year 5 and each repair risk is reviewed annually on this basis.

Any proposals for a particular building will be taken in to account as part of this process and if for example a building is due to be demolished which requires urgent electrical safety work carried out, the risk is managed by disconnecting the electricity rather than spending money on repairs.

Item 12 – Keele Golf Course – can an update on the situation be provided?

The current tenant, Keele Golf Centre Limited (KGCL) proposes to enter into a 'Company Voluntary Arrangement' whereby it will be wound up and the leases under which it rents the centre from the Council will be surrendered. KGCL advise that FRP Advisory LLP, (Recovery & Insolvency Specialists) has been appointed to deal with matters.

A number of options are currently being considered around the future of the facility, and the County Council's Legal Services are dealing with matters on behalf of the Borough Council.

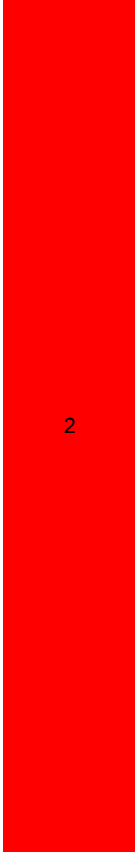
Notice has since been received that with effect of 21 March 2013, KGCL did enter into the Company Voluntary Arrangement.

3. **Outcomes Linked to Corporate and Sustainable Community Priorities**
- 3.1 Good risk management is key to the overall delivery of Council and local improvement priorities.
4. **Legal and Statutory Implications**
- 4.1 The Accounts and Audit (England) Regulations 2011, state that:

*“The relevant body **is** responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control, which facilitates the effective exercise of that body’s functions and which includes arrangements for the management of risk”*
5. **Equality Impact Assessment**
- 5.1 There are no differential equality impact issues in relation to this report.
6. **Financial and Resource Implications**
- 6.1 None where actions are to be taken in order to mitigate the risks as these will be met from within existing budgets. Where this is not possible, further reports will be submitted to Members.
7. **List of Appendices**
Appendix A
8. **Background Papers**
Kingsgrove Sports Centre - report to Cabinet, 14th November 2012

High 9 risks
 Medium 7 & 8 risks
 Risks to be deleted from next 1/4 profile
 Risk reduced from last 1/4 profile
 New risks

Appendix A Risks and Action Plan Risk Identified	Profile	Action Required to Address Risk	Target Date	Risk Category	Current position / progress	Status	Status	Current Rating
		in order to reduce the risk	for action completion	Strategic, Operational, Project	as at 26/03/2013	as at Sept 12	as at Dec 12	as at March 13
1 Reputational damage	Chief Executive	The Council has an ongoing responsibility to ensure that services are delivered to the highest quality and all citizens are treated with courtesy. The Council seeks to keep citizens and others informed of decisions made and the reasons for these decisions and also seeks to make the public aware of any work which has been completed, together with clear plans of upcoming decisions and priorities for investment. The Council has made a conscious effort to be transparent and open at all times.		Strategic	Although this is identified as a risk, reputation damage is normally a consequence of other risks that have occurred. There are numerous controls in place in this profile, however if this did occur, the impact and likelihood of it happening has resulted in the High Red 9 rating. There is of course an opportunity to positively publicise any successes that the council has, whether through prosecutions for benefit cheats, fraudulent insurance claims, savings made on settling insurance claims, the quick response to complaints and insurance claims, whereas in the past, these may not have been voiced.	I = 3 L = 3 High 9	I = 3 L = 3 High 9	I = 3 L = 3 High 9



Appendix A Risks and Action Plan Risk Identified	Profile	Action Required to Address Risk in order to reduce the risk	Target Date for action completion	Risk Category Strategic, Operational, Project	Current position / progress as at 26/03/2013	Status as at Sept 12	Status as at Dec 12	Current Rating as at March 13
2 Potential Claims growth	Chief Executive	The Council has robust systems in place both to deal with claims when they happen and also to prevent, where possible, the circumstances where claims could arise. In doing so, the Council has in place policies and procedures designed to enhance safety at work and also to advise staff and others when driving or operating machinery. The Council checks, on a regular basis, that it is up to date on best practice in this area and that systems reflect changes in the local, national or international environments		Strategic	Reporting of incidents/accidents is completed on Target100 Health and Safety system and the Council's Business Improvement Officer (Risk and Insurance) collates information monthly to pass to the Council's claims handlers. This then allows for a more robust and faster way to investigate a potential claim by having investigations take place earlier whilst things are clearer in people's minds. However, with the new Jackson Reform being implemented, some areas that are changing may initially increase the number and frequency of claims. The introduction of "fixed costs" may cause claimant solicitors to pursue "clients" before the implementation date of October 2013. Claimant solicitors will have to bear a set rate for their charges, rather than allowing them to delay settlement of the claim, and obtaining a 100% success fee, which they are entitled to at present.	I = 3 L = 3 High 9	I = 3 L = 3 High 9	I = 3 L = 3 High 9

Appendix A									
Risks and Action Plan Risk Identified	Profile	Action Required to Address Risk	Target Date	Risk Category	Current position / progress	Status	Status	Current Rating	
		in order to reduce the risk	for action completion	Strategic, Operational, Project	as at 26/03/2013	as at Sept 12	as at Dec 12	as at March 13	
3	Overall budget realisation fails	Resource & Support Services	Whilst elements of this item are outside the Council's direct control, a range of systems are in place designed to ensure that information is received and understood quickly and efficiently and appropriate actions taken (through planning and reviewing the Council's financial position on a regular basis) and that contingencies are in place to counter any issues which occur.	Strategic	Numerous controls in place to deal with this internally such as monthly budget reports, MTFS continually reviewed, contingency fund available, realistic increases included in base figures	I = 3 L = 3 High 9	I = 3 L = 3 High 9	I = 3 L = 3 High 9	
4	Breach of Data Protection Act	Resource & Support Services	A module is being designed to sit on the Staffordshire e-learning portal, to enable the review/refresher training of all staff and members to be undertaken and monitored, with HR being the first to use, then roll-out through the rest of the council throughout the year.	Mar-14	Strategic	This risk is currently being controlled - various training sessions have taken place with all staff, guidelines are available, data protection and information security training has taken place, however the overall impact and likelihood ratings have remained high.	I = 3 L = 3 High 9	I = 3 L = 3 High 9	I = 3 L = 3 High 9

Appendix A								
Risks and Action Plan Risk Identified	Profile	Action Required to Address Risk	Target Date	Risk Category	Current position / progress	Status	Status	Current Rating
		in order to reduce the risk	for action completion	Strategic, Operational, Project	as at 26/03/2013	as at Sept 12	as at Dec 12	as at March 13
5	Failure to secure external funding from other bodies	Kidsgrove Sports Centre	1. Options appraisal to be challenged by an external body	Jun-13	Project	An external body has been commissioned to challenge the options appraisal, which will enable Sport England to make a decision on whether to support a bid, but only at a small percentage to a maximum of 10% overall build/refurbishment costs	I = 3 L = 3 High 9	I = 3 L = 3 High 9
6	Failure of the council to establish robust processes to dispose of surplus land and buildings	Asset Management Strategy	A draft list of surplus land to be approved as part of the decision making process in the Asset Management Strategy	Jan-13	Operational	The draft list has been approved as part of the decision making process, however the Site Allocation Process needs to be approved before any further action can be taken to dispose of the land and buildings. Once this is received, marketing can start for the disposal of such.	I = 3 L = 3 High 9	I = 3 L = 3 High 9

Appendix A									
Risks and Action Plan Risk Identified	Profile	Action Required to Address Risk	Target Date	Risk Category	Current position / progress	Status	Status	Current Rating	
		in order to reduce the risk	for action completion	Strategic, Operational, Project	as at 26/03/2013	as at Sept 12	as at Dec 12	as at March 13	
7	Inability to implement outcomes from the Stock Condition Survey due to lack of finance	Asset Management Strategy	Report outcome of Stock Condition Survey to Capital Programme Review Group	Nov-12	Operational	The outcome report has been received by the Capital Programme Review Group. The urgent items are covered by the 3 year Capital Works Programme and this should allow for the repairs to be undertaken. There is however an annual review of the Works Programme to assess if there is a need to change priorities.	I = 2 L = 3 Medium 8	I = 2 L = 3 Medium 8	I = 2 L = 3 Medium 8
8	Increase in Fees and Charges does not result in higher income levels	Balances / Contingency Reserve 2012/13	An in-depth review of levels of fees and charges has been carried out, using data from local authorities across the country and this has been tested against local knowledge of usage and demand to produce as realistic a set of fees and charges as possible. In addition, care has been taken to set realistic targets for income as part of the overall annual budget setting exercise.		Project	The control measures in place currently secure this risk as it is, however if any issues arise it is monitored as part of the financial system	I = 2 L = 3 Medium 8	I = 2 L = 3 Medium 8	I = 2 L = 3 Medium 8



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Appendix A Risks and Action Plan Risk Identified	Profile	Action Required to Address Risk in order to reduce the risk	Target Date for action completion	Risk Category Strategic, Operational, Project	Current position / progress as at 26/03/2013	Status as at Sept 12	Status as at Dec 12	Current Rating as at March 13
Fall in interest rates reduces income to the Council	Balances / Contingency Reserve 2012/13	As interest rates are set outside the direct control of the Council, care has been taken to reflect the potential for changing levels of interest rates as part of the Council's Treasury Management Strategy. Projections have therefore been included in the Council's budget plans which reflect the ongoing position regarding interest rates and this has been independently analysed. The Council has also included contingencies in its budget plans to reflect possible changes to interest rates, although the ongoing historically low levels of interest rates means that it is likely that any changes will only result in rises rather than falls in the short to medium-terms.		Project	This risk is somewhat out of the control of the council due to the fact that the interest rates are set by the limited number of organisations that the council is authorised to invest with. The council also has to be mindful of the need to safeguard the Capital invested which is the prime consideration in accordance with the Council's Treasury Management Strategy. The amounts to be invested are also limited compared to past historic years and with interest rates being low, the amounts available for investment are much reduced.	I = 2 L = 3 Medium 8	I = 2 L = 3 Medium 8	I = 2 L = 3 Medium 8

Appendix A									
Risks and Action Plan Risk Identified	Profile	Action Required to Address Risk	Target Date	Risk Category	Current position / progress	Status	Status	Current Rating	
		in order to reduce the risk	for action completion	Strategic, Operational, Project	as at 26/03/2013	as at Sept 12	as at Dec 12	as at March 13	
10	Abuse of email facility	Fraud Awareness	The updated online fraud and corruption data package now contains an elearning training module on misuse of time and resources on email and internet facilities. Roll out then needs to be done to all staff	Mar-13	Operational	The control measures in place currently secure this risk as it is. The rating is low impact, high likelihood but the mailmeter reports sent to Heads of Service allow the corrective measures when required, to be implemented in line with the disciplinary procedures of the council.	I = 1 L = 3 Medium 7	I = 1 L = 3 Medium 7	I = 1 L = 3 Medium 7
11	Current provider of remote access is unable to deal with council requirements	ICT Services	Complete a full procurement exercise to obtain a replacement service	Sep-13	Operational	Currently the council is working with the provider to delivery the required remote/homeworking solution, however the requirements of the council are such that development is needed. If the encumbant provider cannot develop our requirements, this will lead to a reduction in flexibility and staff morale, lack of compliance with Council homeworking policy and ultimately will impact on business continuity in a disaster recovery situation.			I = 2 L = 3 Medium 8

Restrictions in staying with current telephony provider	Telephony consolidation contract	Look to develop current contract with provider to enable "movement" in the council's requirements	Jun-13	Project	There is resilience in place for the telephony and internet requirements however for future development the need for another type of "feed" into the Civic Offices and Kidsgrove is required. This will ultimately enable the council, should it so desire, to move premises whilst still ensuring access to staff and public to their normal services. A report has been sent to Cabinet to establish if a waiver can be made from Standing Orders to enable officers not to undertake a full procurement exercise for the telephony service			I = 1 L = 3 Medium 7
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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE AUDIT & RISK COMMITTEE

Date 15 April 2013

HEADING **Review of the Councils Anti Fraud & Anti Corruption Framework**

Submitted by: **Audit Manager**

Portfolio **Finance and Budget Management**

Ward(s) affected **All**

Purpose of the Report

Theft, fraud, corruption and bribery are all criminal offences; the council is committed to the highest standards of integrity and will not tolerate them in any form. By having an anti fraud and anti corruption framework in place this demonstrates our zero approach to tolerance, it is important that the existing framework is constantly reviewed and updated to take into account new legislation, procedures and best practice.

Recommendation

That the Anti-Fraud and Anti-Corruption Framework, the Whistleblowing Policy and the Fraud Response Plan be approved

Reasons

These policies are reviewed on an annual basis to ensure that they remain relevant for the forthcoming financial year. There have been no new legislative changes since the last review and therefore the policies remain unchanged.

1. Background

- 1.1 Fraud has a serious impact on all parts of the economy and costs the UK around £73 billion per year.¹ The cost of fraud to the public sector equates to £20.3 billion of which £2.2 billion relates to local government.
- 1.2 This £2.2 billion attributable to fraud loss in local government can be broken down further and includes;
 - £900m in housing tenancy fraud,
 - £890m in procurement fraud,
 - £153m in payroll fraud,
 - £131m in council tax discounts and exemptions,
 - £46m in 'blue badge' fraud,
 - £41m in grant fraud and
 - £5.9m in pension fraud,

¹ National Fraud Authority Report 2012

All of which is public money that could be better spent delivering public services. This coupled with the budget constraints that also face the public sector is another reason why we need a strong anti fraud culture that is driven throughout the organisation.

- 1.3 The policies that this Council has in place demonstrate our commitment to the prevention and detection of Fraud and Corruption and to ensure the highest possible standards of openness, probity and accountability. We encourage people with serious concerns about any aspect of the Council's work to come forward and voice those concerns. The Whistle-blowing Policy is intended to encourage and enable people with concerns about a potential fraud or corruption, in any aspect of the Council's work, to raise these with the Council rather than overlooking a problem or raising them with external bodies first.
- 1.4 The Anti- Fraud & Anti-Corruption Framework, the Whistleblowing Policy and Fraud Response Plan are approved annually as part of the Council's Constitution.
- 1.5 The prevention of fraud and protection of the public purse is everyone's business and it is important that all staff know how to recognise a fraud, how to prevent it and more importantly what to do if they suspect they have come across a fraud.
- 1.6 The Anti-Fraud and Anti-Corruption Framework, Whistleblowing Policy and Fraud Response Plan are a range of policies in place that are designed to limit as far as possible the opportunities to commit fraudulent acts, enable such acts to be detected at an early stage and then deal with any subsequent investigations in a prompt, thorough and professional manner.

2. **Issues**

- 2.1 The Council is committed to protecting public funds and ensuring that all Council activities are carried out in accordance with the principles of openness, honesty and integrity. These documents demonstrate that it proactively shows a commitment to deterring fraud and corruption and this is actively promoted throughout the organisation.
- 2.2 In order to demonstrate this commitment the Council has an annual subscription with Public Concern at Work an independent legal charity with over 10 years experience of running a confidential helpline for employees and members. Public Concern at Work has given practical, confidential advice on over 2500 whistleblowing concerns. Their approach is that any concerns that an employee or member has can be raised openly and that the organisation then has an opportunity to investigate and address the concern.
- 2.3 A Fraud Awareness Guide is available for all Managers; this guide outlines the Borough Council's commitment to the protection of public funds and the necessity for harnessing resources in order to minimise losses arising from fraudulent conduct. The guide gives details of;
 - The identification of the types of fraud,
 - How fraud occurs,
 - Examples of behaviour that might indicate fraud,
 - Indicators of potential fraud in a system,
 - Advice to management and staff re:fraud and corruption, and
 - Reporting of conduct that may be fraudulent

Within the guide is also a Self Assessment checklist for managers to complete for their own service area which will enable them to undertake an assessment of any key areas of risk within their own area.

- 2.4 As part of the Council's on going commitment to raising Fraud Awareness a campaign is in the process of being planned for summer 2013. This campaign will utilise a toolkit produced by the National Fraud Authority and will involve briefings to staff, posters and the use of an on-line training package.
- 2.5 In November 2012, the Audit Manager attended a 2 day accredited counter fraud loss measurement training course in Manchester. This training was aimed at providing a tool to identify the amount of fraud and error within an organisation. Since completing the training this has been applied to an area within the procurement process, and whilst there was no apparent fraudulent activity identified within the sample selected a number of errors/inconsistencies were identified where efficiencies and improvements can be made. It is intended to complete similar exercises on an annual basis as part of the audit plan.

3. **Options Considered**

- 3.1 To review and adopt these documents ensures and demonstrates that the Council will act with integrity and responsibility in the management and spending of the Publics money.
- 3.2 Not to adopt these policies would leave the Council open to criticism of not being committed to maintaining high standards in the avoidance and detection of fraud and corruption.

4. **Proposal**

That the Anti- Fraud & Anti-Corruption Framework shown as Appendix A the Whistleblowing Policy shown as Appendix B and the Fraud Response Plan shown as Appendix C be approved in there revised forms

5. **Reasons for Preferred Solution**

As option 3.1 above.

6. **Outcomes Linked to Corporate Priorities**

The strategies demonstrate that the Council is committed to ensuring the best use of resources and enable the prevention and detection of fraud and corruption at the earliest opportunity. Therefore contributing to it's Corporate Priority of achieving excellence.

7. **Legal and Statutory Implications**

This report raises no new legal or statutory implications.

8. **Equality Impact Assessment**

There are no differential equality impact issues identified from the proposal.

9. **Financial and Resource Implications**

The cost of an annual subscription to Public Concern at work is £250 per annum plus ten pence per employee, which based on 600 employees makes the total subscription, cost £310.

10. **Major Risks**

The risk of not having these strategies in place would mean that staff have no guidance on what to do in the event that they may suspect that fraud or corruption is being committed. This in turn may hamper any investigation required to yield a satisfactory conclusion.

The existence of these policies mean that staff are informed and given guidance on what actions they should take if they suspect that a fraud is being committed.

Formal risk assessments in respect of Fraud Awareness and the Bribery Act have been completed.

11. **Key Decision Information**

Not applicable

12. **Earlier Cabinet/Committee Resolutions**

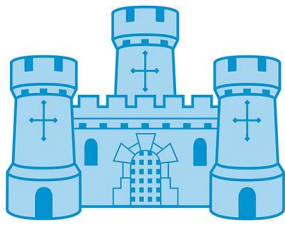
Approval of current Council Constitution – Minute 13, Council, 16 May 2012 and minute 10, Council, 11 July 2012.

14. **List of Appendices**

Appendix A Anti-Fraud and Anti-Corruption Framework
Appendix B Whistleblowing Policy
Appendix C Fraud Response Plan
Appendix D Fraud Risk Assessment
Appendix E Bribery Act Risk Assessment

15. **Background Papers**

Internal Audit Files



NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

ANTI-FRAUD & ANTI-CORRUPTION FRAMEWORK

April 2013

NEWCASTLE UNDER LYME BOROUGH COUNCIL

**ANTI-FRAUD AND ANTI-CORRUPTION
FRAMEWORK**

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ANTI-FRAUD AND ANTI-CORRUPTION FRAMEWORK

1.0 INTRODUCTION

Theft, fraud, corruption and bribery are criminal offences. Newcastle Borough Council is committed to protect public funds and ensure that all Council activities are carried out in accordance with the principles of openness, honesty and integrity. The Council has a zero tolerance of such offences and offenders.

In carrying out its functions and responsibilities the Council is fully committed to deterring theft, fraud, corruption and bribery whether it is attempted on or from within the Council; and is committed to an effective anti-fraud and corruption strategy designed to:-

- limit, as far as possible, the opportunities to commit fraudulent acts – **prevention**;
- enable any such acts to be **detected** at an early stage; and
- deal with any subsequent **investigations** in a prompt, thorough and professional manner.

2.0 OUR POLICY

Newcastle Borough Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor will it accept bribes or improper inducements, or allow employees or elected members to do so.

Using a third party as a conduit to channel bribes to others is also a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery, nor does it wish to be associated with any organisation that does or has done so. Specifically, this extends to our agents, suppliers, contractors and partner organisations, whether such criminal conduct is associated with business on the Council's behalf or not.

Where there is evidence of theft, fraud, corruption and bribery, the Council will investigate the matter promptly, and will take all appropriate actions to deal with the perpetrators.

This includes, but is not confined to, taking disciplinary action against employees and elected members, and pursuing criminal prosecution on all possible occasions. The Council will not be deterred by threats of adverse publicity or to persons or property, and will publicise cases of successful legal action against perpetrators.

This policy can only be varied with the collective written agreement of the Chief Executive, the Section 151 Officer and the Monitoring Officer.

The Council and all elected members and employees will comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the

Council operates.

All employees and elected members must follow the policy, and do everything they can to support and promote it. In doing so, they may find the Nolan Principles a valuable aid – see Appendix A.

Different rules and procedures apply to benefits fraud.

There are also specific provisions for money laundering, because of the legal requirement to report this to the Serious and Organised Crime Agency in a closely-defined way.

3.0 OUR STRATEGY

The Council's strategy for implementing its policy consists of five elements:

1 Prevention:

Rules and procedures that make it hard for wrongdoing to take place;

An open, honest culture (explicitly based on the Nolan Principles: see Appendix A) which encourages good behaviours and discourages bad practice;

2 Detection:

Systems that include strong internal checks;

Staff who are alert to the possibility of wrongdoing, and know how to respond to it to minimise losses and maximise the chance of effective action against the perpetrators;

A whistleblowing procedure that allows employees and others to report concerns about the Council;

3 Investigation:

A fraud response plan that sets out how the Council will address any suspected fraud professionally, fairly, efficiently and effectively;

4 Recovery:

The Council will recover losses from perpetrators where possible, and inform insurers under any relevant policy.

5 Retribution:

Procedures to act promptly and effectively to deal with all perpetrators

4.0 EXPECTED BEHAVIOUR

Members and employees must lead by example, acting with integrity at all times and following all legal requirements, rules, procedures and good practice. The Nolan Principles (Appendix A) provide an excellent structure for all actions.

Members and employees must report suspected fraud, corruption or other irregularity **immediately** to the Audit Manager. The only exception is benefits fraud, which they should report to the Benefits Fraud Officer

APPENDIX A

The Council expects all individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act with integrity in all dealings with the Council. It will consider what actions are appropriate where they fail to do so, including cancelling contracts.

5.0 CULTURE

All managers must promote an environment in which employees know and understand that dishonest acts will be detected and investigated. They must therefore:

- Always behave in line with the Nolan Principles.
- Participate in in-house training covering fraud, fraud detection and fraud prevention.
- Ensure staff understand that internal controls are designed and intended to prevent and detect fraud.
- Encourage staff to report suspected theft, fraud, corruption or money laundering directly to those responsible for investigation.
- Provide employees with an environment in which they can report suspicions of wrongdoing without fear of retribution.

The Internal Audit and Human Resources Sections will provide support to achieve this.

6.0 IDENTIFYING PROBLEMS

The essence of many theft, fraud, corruption and bribery issues is that no-one recognises them happening. And it can be difficult to be vigilant and observant while being a good and supportive colleague.

In the best organisations, there is a very open culture, in which every employee, at every level, welcomes challenge and curiosity. The most junior staff can ask the most senior why they are doing things in a particular way, and the senior colleague willingly explains because this encourages engagement and learning throughout the organisation.

Appendix 2 gives a number of common fraud indicators. None of them prove wrongdoing – though all are cause for managerial concern. An employee who never takes a holiday may be concealing fraud: but, equally, they may be struggling with parts of their job, and desperately need support.

Therefore, managers finding any of these behaviours should be concerned, and should probe the issues – but they should not assume that fraud or corruption are involved. There may simply be problems to work on and resolve.

Again, in the best organisations, managers treasure their employees, and work hard to support them and enable them to do their jobs and develop themselves to their fullest potential.

7.0 REPORTING SUSPICIONS

If any employee suspects that theft, fraud, corruption or bribery are happening within the Council, or in any activity where the Council has a leading role or responsibility, they should report their suspicions, either to their line manager or

through the Council's Whistleblowing Procedure.

Managers should report all such cases to the Audit Manager, and accept advice on the steps to take over the suspicions in accordance with the fraud response plan.

8.0 INVESTIGATION

All investigations will be carried out in accordance with the Fraud Response Plan, unless they relate to Benefits fraud or money laundering, in which case these will be dealt with in accordance the specific guidance that relates specifically to these areas of work.

9.0 IMPLEMENTING THIS FRAMEWORK

The Chief Executive is ultimately responsible for preventing and detecting theft, fraud, and corruption.

The Corporate Governance Working Group, led by the Section 151 Officer is responsible for developing, reviewing and maintaining an anti-fraud and corruption policy, and for advising on effective internal controls to prevent wrongdoing.

The Chief Executive, Executive Directors and Heads of Service must ensure that all staff follow this strategy, supported by the Council's Internal Audit and Human Resources functions.

The Audit Manager will report on compliance to the Audit and Risk Committee.

All managers are responsible for preventing and detecting fraud. They must, with support from Internal Audit and Human Resources, ensure that they operate effective mechanisms in their area of control to:

- Prevent theft, fraud and corruption
- Promote employee awareness (All staff have a responsibility to prevent, detect and report on any fraud or suspected fraud)
- Assess the risk of fraud
- Take prompt action in line with the Fraud Response Plan when they suspect or are alerted to possible theft, fraud or corruption

There are a number of policies already in place within the Council for preventing, detecting, managing and reporting theft, fraud and corrupt conduct; these include but are not limited to:

- Codes of Conduct for employees and members
- Standing Orders
- Financial Regulations
- Registers of Interests, Gifts and Hospitality
- Disciplinary Rules and Procedures
- The Whistle-blowing Policy
- Fraud Response Plan
- Procurement Strategy
- Risk Management Strategy

APPENDIX A

- Recruitment procedures (pre-employment vetting, references, etc)
- Anti Money Laundering Policy
- Information Security Management Policies

Copies of all the policies listed above are available on the Councils intranet under the A-Z of strategies and policies.

10 REVIEW AND DEVELOPMENT OF THIS FRAMEWORK

It is important to keep this framework up-to-date with developments in the law and professional practice. The Audit Manager will therefore coordinate at least an annual review, and report this to the Audit and Risk Committee.

Should any urgent need arise that requires updates to the existing framework then, this will be conducted promptly rather than at the year end.

Appendix A – Nolan Principles

The seven principles of public life;

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

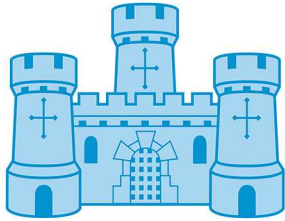
These principles apply to all aspects of public life. The Nolan Committee set them out for the benefit of all who serve the public in any way.

Appendix B – Possible indicators of Fraud

Listed below are a number of common fraud indicators. None of them prove wrongdoing – though all are cause for managerial concern;

- unusual employee behaviour (e.g. a supervisor who opens all incoming mail, refusal to comply with normal rules and practices, fails to take leave, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regular long hours working, job dissatisfaction/ unhappy employee, secretiveness or defensiveness),
- Key documents missing (e.g. invoices, contracts),
- Inadequate or no segregation of duties,
- Absence of controls and audit trails,
- Inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation),
- Excessive variations to budgets or contracts,
- Bank and ledger reconciliations are not maintained or cannot be balanced,
- Excessive movements of cash or transactions between accounts,
- Numerous adjustments or exceptions,
- duplicate payments or large payments to individuals,
- Unauthorised changes to systems or work practices,
- lack of rotation of duties,
- Policies not being followed,
- Post Office boxes as shipping addresses,
- Lowest tenders or quotes passed over with minimal explanation recorded,
- splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval,
- Vague specifications,
- Excessive hours worked by key staff, and
- lack of common sense controls such as changing passwords frequently, requiring two signatures on cheques or restricting access to sensitive areas.

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NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

WHISTLEBLOWING POLICY

April 2013

NEWCASTLE UNDER LYME BOROUGH COUNCIL

WHISTLEBLOWING POLICY

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WHISTLEBLOWING POLICY

1. WHAT TO DO IF YOU SUSPECT FRAUD OR CORRUPTION

Newcastle Borough Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it encourages employees and others working with us to raise any concerns they may have about any aspect of the Council's work and come forward and voice those concerns.

We recognise that individuals will sometimes want to express their concerns in confidence.

We would rather be made aware of a problem and deal with it than allow it to lie and become worse.

Council employees and others can raise serious concerns within the Council without fear of reprisal or victimisation. This is usually preferable to any external route.

This policy applies to all employees, agency workers and contractors working on Council premises (for example, cleaners, builders and drivers). It also covers suppliers and those providing services under a contract with the Council in their own premises.

2. AIMS AND SCOPE OF THE POLICY

2.1 This policy aims to:

- 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 whistle blowing.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your concerns. That concern may be about something which:-

- is unlawful,
- is against the Council's Standing Orders, Financial Regulations or other policies,
- falls below established standards or practices, or
- amounts to improper conduct.

2.3 This policy supports the Councils Anti-Fraud and Anti Corruption Framework.

3 SAFEGUARDS

3.1 HARASSMENT OR VICTIMISATION

The Council recognises that a 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 harassment or victimisation and will take action to protect you when you raise a concern.

3.2 CONFIDENTIALITY

The Council will treat all concerns in confidence, and if you wish to remain anonymous we will make every effort to keep your identity confidential. However, in certain cases, we may not be able to deal with an issue unless you are prepared to be a witness.

3.3 ANONYMOUS ALLEGATIONS

This policy encourages you to put your name to an allegation. Concerns expressed anonymously are much less powerful, but they will be considered in an appropriate manner.

In exercising this discretion, the factors to be 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.

4.0 NOTIFYING A RESPONSIBLE PERSON OF YOUR CONCERNS

4.1 You can raise any concerns initially with Internal Audit on 01782 742122. Correspondence should be addressed to the Audit Manager, Newcastle under Lyme Borough Council, Civic Offices, Newcastle under Lyme, Staffordshire, ST5 2AG and marked 'private and confidential'. Concerns may also be sent to 'whistleblowing@newcastle-staffs.gov.uk'.

4.2 Concerns are best 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 reason why you are particularly concerned about the situation. If you do not feel able to put your particular concern in writing, you can telephone or meet with an Auditor. The Auditor notified of individuals concerns must record those concerns taking a statement where they feel it appropriate.

4.3 The earlier you express the concern, the easier it is to take action, and although you will not be expected to prove the truth of the allegation, you will need to be able to demonstrate to the person contacted that there are sufficient grounds for your concern.

4.4 Disclosures may lead to disciplinary procedures and criminal investigations.

5.0 RESPONDING TO YOUR CONCERNS

- 5.1 The Council will, where possible, protect the identity of a notifying individual and not reveal their source at any time during the investigation
- 5.2 The action taken by the Council will depend on the nature of the concern. The matters raised may:-
- be investigated internally,
 - be referred to the Police,
 - be referred to the external auditor, or
 - form the subject of an independent investigation.
- 5.3 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. Concerns or allegations which fall within the scope of specific procedures (for example suspected housing benefit fraud) will normally be referred for consideration under those procedures.
- 5.4 Some concerns may be resolved by agreed action without the need for an investigation.
- 5.5 Within 10 working days of a concern being received, the Council will write to you:-
- acknowledging that the concern has been received,
 - indicating how it proposes to deal with the matter,
 - giving an estimate of how long it will take to provide a final response,
 - telling you whether any initial enquiries have been made, and
 - telling you whether further investigations will take place, and if not, why not.
- 5.6 The amount of contact between the officers considering the issues and you, will depend upon 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.
- 5.7 The Council may ask you to attend a meeting to explore the issues surrounding the concern raised.
- 5.8 The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern
- 5.9 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.

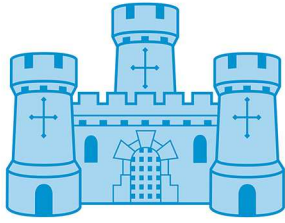
6.0 HOW THE MATTER CAN BE TAKEN FURTHER

- 6.1 This policy is intended to provide you with an avenue to raise concerns with the Council. The Council hopes that you will have confidence in using the Whistle-blowing procedure, however, 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 District Auditor, Audit Commission, 2nd Floor, No. 1 Friarsgate, 1011 Stratford Road, Solihull, West Midlands, B90 4EB, or the Police.
- Public concern at work, 0207 404 6609 are a registered charity set up to give free independent advice to anyone who may have concerns. They have qualified legal staff to give help and advice.

7.0 THE RESPONSIBLE OFFICER

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. A record will be maintained of all concerns raised together with the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.



NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

FRAUD RESPONSE PLAN

April 2013

1. Introduction

- 1.1 The Fraud Response Plan defines the way that Newcastle Borough Council applies its various policies and procedures to suspected theft, fraud and corruption.
- 1.2 It fits in with various other documents, most notably the Policy and procedure on theft, fraud, corruption and bribery.
- 1.3 The procedures for dealing with suspected money laundering are different from other problems – see the Money Laundering policy and procedure for the necessary actions.
- 1.4 Different rules also apply to Benefits Fraud – see item 2.4 below.
- 1.5 The aim of this Plan is to provide a toolkit for dealing with problems, and rapid access to expert advice. This fraud response plan guides managers on how to react to suspicions of fraud, theft, corruption and bribery.
- 1.6 Additionally, it gives an outline of how investigations will be progressed, and managers' possible role in this. The latter part is intended to give a feel for how matters will progress to give confidence in the process. It is not a D-I-Y guide to fraud investigation!
- 1.7 Any suspected frauds at Newcastle Borough Council should be reported to the **Audit Manager** at the earliest opportunity.

2. Purpose of the Fraud Response Plan

- 2.1 The Fraud Response Plan is designed to ensure timely and effective action in the event of suspected fraud to:
 - minimise fraud by taking prompt action
 - prevent further losses where fraud has occurred
 - manage consequences for other staff, including sudden changes in workload, altered duties and adverse staff reactions to investigation work
 - maximise recovery of losses
 - identify the perpetrators and maximise the success of any disciplinary and legal action taken
 - ensure the accuracy and integrity of evidence for successful disciplinary and court action
 - manage any adverse publicity for the organisation
 - maximise positive publicity when frauds are discovered and dealt with effectively
 - identify lessons to be learned to improve fraud management
 - ensure a fair and consistent response to suspected frauds
 - deter others from fraud that they may be contemplating

The dealing with a suspected fraud

- 2.2 Senior managers have a primary responsibility for preventing, detecting and investigating.

APPENDIX C

- 2.3 However, it is always vital that evidence is preserved and suspicions are not aroused, and **the first action must always be to contact the Audit Manager (ext. 2122 or 01782 742122) for advice and support.**

This will allow the Audit Manager to:

- provide initial advice on investigation process and procedure;
 - collate the information with all other known issues, which may suggest specific approaches to investigation;
 - jointly with Human Resources, decide on actions needed in relation to any employee potentially involved (such as suspension to protect evidence), and agree these with the head of service;
 - log the event in the Council's Fraud Register
 - report appropriately to Chief Executive, Section 151 Officer, the Monitoring Officer and Executive Management Team.
- 2.4 The only exception to this is where the matter is clearly related to the benefits system. In such cases, refer the matter direct to the Benefits Fraud section, who will handle the whole case.
- 2.5 If the Audit Manager identifies that a suspicion raised under this procedure may relate to money laundering, the Audit Manager will take the necessary actions under the Anti-money laundering policy and procedure, and advise the manager accordingly.

Initial enquiries

- 2.6 Where it is appropriate to do so, the Audit Manager may advise the manager to make discreet initial enquiries promptly to determine if there actually does appear to be an irregularity, provided that;
- they can do so **without alerting the perpetrator** to the investigation; and
 - they have sufficient experience to do so.

During this initial enquiry the manager should:

- determine the factors that gave rise to the suspicion
 - examine the factors to determine whether a genuine mistake has been made or whether an irregularity has occurred
 - make a written record of the alleged irregularity (access to this document should be restricted e.g. not held in an 'open area' of the network)
 - secure any relevant documentation/records (if this can be done without alerting the perpetrator)
- 2.7 The manager **should not** interview staff at this stage.

Scope of the investigation

- 2.8 The manager, Human Resources and the Audit Manager will agree the way forward, in consultation with the Section 151 Officer, the Monitoring Officer and the head of service.

APPENDIX C

- 2.9 They will consider whether to involve other agencies at this point (e.g. Police, HM Revenue & Customs, Audit Commission, the Department for Work and Pensions, the National Anti-Fraud Network, the Serious and Organised Crime Agency, and other councils). Such contact will be through the Audit Manager, at least initially.
- 2.10 The Internal Audit Team will usually conduct all fraud investigations. However, where the Audit Manager is confident that an investigation can be undertaken by the service (i.e. staff have the experience and ability to complete the investigation successfully, and are clearly not involved in the irregularity) the Audit Manager will provide advice and guidance to the nominated Investigating Officer.
- 2.11 The Audit Manager will consult the relevant people to determine the next steps. The exact format is fluid – it is sometimes appropriate to convene a meeting, and on other occasions it will be sensible to hold a series of one-to-one meetings or 'phone calls.

As a minimum, consultations will involve:

- the manager
- the Section 151 Officer
- the Head of Human Resources
- the Head of Service

Additionally, they may consult:

- the police
- the Chief Executive
- the Head of Communications
- Her Majesty's Revenues and Customs
- External Audit
- any other relevant person or body

Often, the initial consultations will define the list of further consultees, and the list will remain fluid and subject to revision as the investigation develops.

The consultations will include specific consideration of whether it is necessary to suspend one or more employees to protect evidence, colleagues or assets.

Conducting the investigation

- 2.12 Whilst conducting the investigation, the Audit Manager will ensure:-
- The investigation is completed promptly.
 - compliance with legislation on interviewing (Police and Criminal Evidence Act, PACE) and surveillance (Regulation of Investigatory Powers Act, RIPA). However, it is not normally necessary, even when there may be a criminal offence, to conduct interviews under PACE rules. The police can re-interview witnesses and suspects later on in the process.
 - All evidence is recorded, ensuring that it is sound and adequately supported (see further guidance below).
 - written records of all fact-finding meetings are retained.
 - Any Email correspondence relating to the investigation is discreet and use an agreed 'case name' rather than real names or locations. All sensitive

APPENDIX C

attachments should be password protected (or, preferably, not emailed). Emails will be protectively marked *Protect – Staff*

- All evidence is held and stored securely, with appropriate restriction to access (both manual and electronic documentation) (see further guidance below).
 - confidentiality and discretion is maintained throughout, information will only be shared on a “need to know” basis. In particular, be mindful that senior officers may need to hear disciplinary cases, and therefore should not know details of cases.
 - Where appropriate, contact other enforcement agencies e.g. Police, HM Revenue & Customs. This should be always enacted via Internal Audit as they have established lines of communication and referral protocols.
 - Investigators must not accept any offer of repayment of money or resignation at any stage, as this could prejudice the investigation. Any such offers should, however, be recorded in interview notes, and passed on to the head of service for consideration (in conjunction with the HR Manager).
- 2.13 The Council has the right to suspend any employee involved pending the outcome of an investigation. Suspension does not imply guilt but suspension can prevent the removal or destruction of vital evidence. When suspects are not suspended, supervision will usually need to be increased. Advice will always be sought from Human Resources on suspensions and any subsequent disciplinary action.
- 2.14 The Internal Audit Manager will report losses to the Council’s Insurance Team at the earliest stage.
- 2.15 Some organisations always delay internal disciplinary procedures pending police action on criminal offences, and dismiss employees after a court case. Explicitly, Newcastle Borough Council will pursue disciplinary matters at once, in order to remove wrongdoers from the payroll as rapidly as is possible using proper process.
- 2.16 This is because we cannot afford to pay people to sit at home and be investigated over an extended period.
- 2.17 Additionally, the Council recognises that many theft, fraud, corruption and bribery matters will involve clear gross misconduct matters which will not constitute prosecutable crimes, because of the definition of crimes under relevant acts, and because of levels of evidence.

Key objectives at this stage;

- 2.18 Prevent further losses.
- 2.19 Secure evidence of the fraud to allow the Council to pursue successful disciplinary action and prosecution.
- 2.20 Assess the likely extent of losses.
- 2.21 Recover funds where possible.

Next steps

- 2.22 Report the results of the initial enquiry to Internal Audit. They may give further advice on more work needed, or other actions to be taken. As before, this may be in consultation with a variety of other employees and external agencies.
- 2.23 Give Internal Audit the evidence that you have collected and tell them what you have already done (e.g. suspended employees, changed procedures or impounded IT equipment).
- 2.24 Internal Audit or the police may carry out further investigations, if the case is more complex than it appeared at first.

3. Evidence

It is essential that evidence is preserved and retained securely, the following steps should be followed;

- Remove all relevant original documents and store them securely. Record the date of removal, any noteworthy circumstances, and where they are stored. Replace documents needed for everyday use (e.g. till rolls and receipt books) with new ones to prevent unnecessary disruption to services. **Original documents and certified copies** provide the best evidence
- For computer systems, consider access rights, and change or suspend access to preserve evidence. (See below for more on ICT evidence.)
- In all cases, take care not to compromise evidence by doing or allowing anything that may deface or alter the evidence, particularly in ways that may alter the evidential value (such as punching filing holes that chop out a date or signature).
- You must also take care that evidence is always secure, so that there is no opportunity for damage or changes. This is known as preserving the chain of evidence. If there is a break, such as leaving a document out on a desk unattended, it could compromise a prosecution.
- Where you have to use a copy, endorse it as a copy and, if possible, certify it (i.e. sign and date on the back) as a true copy of the original, preferably by the person who took the copy from the original source document. Use of copies is increasingly common with document management systems, where documents are scanned and then destroyed.
- Minimise handling of documents to protect forensic evidence, such as fingerprints. Put them in clear plastic wallets to protect them, and to avoid the need to punch filing holes in them. This avoids the possibility of damaging key pieces of evidence.
- **Information held on IT equipment** provides evidence of the records at a particular time and may demonstrate that a fraud has been committed. It is important that the IT equipment is secured as soon as possible. Please contact the **Audit Manager** for advice in relation to this. Any printouts of data and exception reports can be useful, so should be retained, these together with hard copies should be timed, dated and signed by the investigator.

APPENDIX C

- Suspend suspects and prevent their access to Council buildings, remove their access rights to IT networks and systems and change all relevant passwords, PIN numbers etc.
- **Physical evidence** is necessary when the investigation arises from an apparent discrepancy in cash, stores or other assets. A physical count of the cash, stores or assets is necessary to record the actual value of the cash/stores present at a fixed point in time.
- All **cash** held by the person should be counted at the same time (to prevent the same cash being presented more than once to cover a shortage). The cash count should include a detailed analysis of cash by denomination and any cheques, receipts and IOUs. The count should be checked by two people and the results signed and dated by both.
- Ask the employee under investigation if there is any more cash (e.g. at their home) and check this immediately to prevent subsequent reinstatement.
- All **stocks and stores** need to be counted if there is a suspicion of theft of assets. A full stock check, including opening all boxes to ensure they contain the goods they are supposed to, should be undertaken. Stock totals should be signed and dated by two investigators. If there are similar stores in other locations controlled by the suspect, then these need to be checked simultaneously to avoid stocks being moved between different stores to hide discrepancies.
- **Observation and surveillance** can be used to identify exactly what is happening to physical assets (e.g. stores being loaded into private cars). **Seek guidance from Internal Audit before any surveillance**, who will also consult the Council's Legal service. Specific surveillance must be proportionate, and authorised under the Regulations of Investigatory Powers Act 2000 (RIPA).
- Relevant **CCTV footage** may be available. In addition, if any form of access system is in use, it may establish who was where and when.
- If videos are to be used in evidence they should have the date and time continuously displayed. For the same reasons as for IT equipment, preserve the original tape intact as evidence for possible use in court and disciplinary hearings. Make a copy of the video and only view the copy during the investigation.

4. Lack of evidence

- 4.1 The Council will not investigate allegations that are unsupported by evidence.
- 4.2 This is because pursuing vague, mischievous or malicious allegations of theft, fraud, corruption and bribery would waste time on unnecessary and unfocussed investigations, and could lead to suspension of innocent staff, undermining corporate culture and morale.

5. Review outcomes

- 5.1 The Audit Manager will meet regularly with managers to review progress and determine further actions needed. Consultation with other officers will be undertaken as and when this is necessary. They will report progress to all relevant officers.

APPENDIX C

- 5.2 The Council's policy is to refer theft, fraud or corruption to the police for investigation and prosecution whenever possible. However, it's important to remember that the evidence for a successful prosecution must prove a case beyond all reasonable doubt, while disciplinary cases (including dismissal for gross misconduct) are decided on the balance of probabilities.
- 5.3 The Audit Manager will consult the Section 151 Officer, the Monitoring Officer, Head of Service, and the Human Resources Manager to determine whether any matter should be referred to the Police for criminal investigation.
- 5.4 The Head of Service must remedy control weaknesses identified during the course of an investigation. Internal Audit will provide advice and support on effective controls, and will ultimately include these in a report (though implementation should not be delayed until the report is issued!)
- 5.5 The Audit Manager will cascade general points, issues and advice wider across the Council.
- 5.6 Internal Audit will record all final outcomes on the theft, fraud, corruption and bribery register. This information informs future prevention strategies, and is used in reporting fraud and corruption at the Council.
- 5.7 In all cases the Council's insurers should be informed of actual losses as soon as these have been firmly established. It is sensible to keep External Audit informed. Media and Communications will be kept informed that publicity can be properly managed.

6. Recover losses

- 6.1 There are a variety of methods which can be used to recover losses. Methods used depend upon the extent of the losses, the seriousness of the fraud/corruption and whether the response is disciplinary action, legal action or both.
- 6.2 If the case is going to court, the Council can seek a compensation order.
- 6.3 Some cases will be covered by the Council's fidelity guarantee insurance.
- 6.4 The question should not be **whether** the Council can recover the loss, but **how** it will do so.

7. Contact numbers

Internal Audit – 01782 742122
Public Concern at Work – 0207 404 6609

Risks, controls and actions - Fraud

as at 25/03/13

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness										
Abuse of email	Staff using email for personal use or sending inappropriate email	Misappropriation of Council time. Reputation damage.	Acceptable use policy signed by staff Code of Conduct for Officers and Members Information Security Policies	Acceptable use policy signed by staff Email policy. Software blocking of certain words & sites. The Authority has a suite of 10 Information Security Policies based on professional guidance and best practice to ensure compliance with BS7799 or ISO equivalent.	1	3	7	Roll out of elearning training module for misuse of time and resources Roll out E Learning Training Module Regular review of mailmeter reports	31/03/13 27/09/13 31/03/10	Dodd, Liz (Audit Manager) Dodd, Liz (Audit Manager) Dodd, Liz (Audit Manager)
Postal voting fraud	Voting fraud for elections	Elections become null and void. Financial implications. Reputation damage. Resource issues.	Registrations and applications vetted Review of process Training of staff for postal opening Electoral Commission checks undertaken	Mail meter reports sent to Heads of Service More than 5 postal votes sent to an individual address are vetted and scanned into a signature recognition process Review of process Staff are trained to deal with suspected cases of impersonation, and to follow the advice of the electoral commission in taking appropriate measures Electoral Commission check applications downloaded from their website - they track the computers and numbers of applications printed	3	2	6			
Theft of income	Theft of income generally, from all income streams	Misappropriation of funds. Criminal investigation. Reputation damage.	Issue of receipts for income Two people open post CRB checks undertaken References taken for new employees Regular independent reconciliation of income taken to income expected Regular banking and banking checks	Issue of receipts for income Two people open post Checks for all new staff and then every three years - cost £32 - £36. References taken for new employees Reconciling of income anticipated to income received Regular banking of income to prevent a build up of cash. Bulk checks of cash prior to banking independent check of bankings	2	2	5	Consider roll out of CRB to other depts.	31/03/10	Durrant, Richard (Head of Human Resources)

Risk Count: 34

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness			Compliance with cash handling instructions and financial regulations	Training in cash handling instructions issued to staff. Financial regulations detailing council procedures						
			Income collection systems - separation of duties	There is separation of duties and responsibilities in all income collection systems						
Fraudulent benefit claims	Fraudulent benefit claims for housing and council tax benefit. Fraudulent benefit claims by NBC staff	Misappropriation of funds. Criminal investigation. Reputation damage.	Verification by benefit assessors	Verification by benefit assessors in line with guidelines	2	2	5	Review resource allocation in respect of fraud investigation	31/03/13	Baker, Dave (Head of Revenues & Benefits)
			Checks of details by verification framework officers	Checks of details by verification framework officers						
			Benefit investigators	A trained benefit investigator deals with fraud in Benefits. They link directly with DWP.						
			Fraud awareness training to all staff	Fraud awareness training to all staff						
			National Fraud Initiative (NFI)	The Authority participates in the National Fraud Initiative e.g benefit claim matches are identified and investigated, cheques are security printed to comply with APACS standard. A copy also goes to Payroll.						
Failure to recover money	Failure to recover money due to suppressing debtor or equivalent accounts	Misappropriation of funds. Criminal investigation. Reputation damage.	Laid down procedures	Laid down procedures for suppression of recovery action	2	2	5	Process to be looked at for BACS	31/05/13	Baker, Dave (Head of Revenues & Benefits)
			Exception reporting	Duplicate payment schedule identifies any cheque numbers that have already been presented				Regular review of systems	31/12/09	Baker, Dave (Head of Revenues & Benefits)
			Debtors system - separation of responsibilities	Separation of responsibilities for debtor accounts				Review of trade refuse rounds	31/03/10	Tait, Roger (Head of Operations)
			Recovery procedures exception reporting	Recovery procedures exception reporting						
Fraudulent letting or extension of contracts	Fraudulent letting or extension of Council contracts due to collusion or corruption	Criminal investigation. Reputational damage. Possible breach of OJEC rules. Third Party involvement.	Central register of contracts is maintained by the Procurement Officer	Procurement professionals being involved in all major contract letting who work to a strict code of ethics	3	1	3	Remind staff to involve procurement officer when letting or extending contracts	31/12/09	Sowerby, Simon (Business Improvement Manager)
			Code of Conduct for Officers and Members	Email policy. Software blocking of certain words & sites.						
			Procurement Officer in post	Procurement Officer in post						
			Procurement toolkit	Procurement toolkit in place for staff to utilise with assistance from Procurement Officer						
			IDeA training	IDeA training						

Risk Count: 34

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness			Standing Orders	Standing Orders in respect of contracts						
			Financial Regulations	Compliance with Financial Regulations						
			Final Account Audit undertaken	Internal audit to audit contracts as per all financial regulations						
			Procurement Briefings	Briefing session are delivered to all staff have a responsibility for any procurement matters						
			Anti-Fraud and Anti-Corruption Policy	Anti-Fraud and Anti-Corruption Policy						
Unauthorised access to computer systems for fraudulent use	Staff can gain inappropriate access to computer systems and alter data for personal gain	Loss of data. Corruption of data. Financial gain. Reputational damage. Failure to work. Loss of Government Connects authorisation. Criminal investigation.	Network security policy	Network security policy owned by IT. This covers overall access.	3	1	3	Elearning tool to refresh on annual basis	31/05/10	Dodd, Liz (Audit Manager)
			Training - on computer security	Training for users on how to avoid others obtaining unauthorised access - turning off PC's, password protected screensavers, complex password protection, access control.				Access controls audited annually	31/12/09	Dodd, Liz (Audit Manager)
			Access controls	Controls and passwords on systems						
			Information Security Policies	The Authority has a suite of 10 Information Security Policies based on professional guidance and best practice to ensure compliance with BS7799 or ISO equivalent.						
Corruption in sale of land	Receiving personal gain for sale of land	Abuse of position. Abuse of public office. Criminal investigation. Financial implications. Officers open to bribery & corruption.	Valuations of land for sale	Valuations of land for sale	3	1	3	Consider CRB checks for Assets staff	31/03/10	Durrant, Richard (Head of Human Resources)
			Financial Regulations	Compliance with Financial Regulations						
			Standing Orders	Standing Orders in respect of contracts						
			Capital Asset Accountant	Capital Asset Accountant						
			Capital Asset Working Group	Capital Asset Working Group						
			Cabinet approval of sale of land	Management / member approval of sale of land						
			Robust screening process	Robust screening process						
Falsification of performance indicators	Incorrect or manipulated data is used to produce performance indicators	Public perception reduced. Reputation damage. Inaccurate benchmarking measurements used.	Independent check of performance indicator statistics / data	Independent check of performance indicator statistics / data (data auditing)	3	1	3			

Risk Count: 34

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness			Password protected performance system	CorVu system in place that is protected Corvu system no longer used by the authority. Spreadsheets are now maintained by the Business Improvement Officer (Procurement & Performance)						
Fraudulent invoices or claims from contractors	Fraudulent invoices paid by the Authority	Misappropriation of funds. Criminal offences. Reputational damage.	Agresso purchase order processing Training for budget holders Financial Regulations Creditors system - separation of duties / responsibilities Budget monitoring Contract monitoring Annual core system audit National Fraud Initiative (NFI) Large cheques have to be signed individually Regular software checks done re valid list of suppliers.	Allowing approval from manager up front. Training for budget holders Compliance with Financial Regulations Separation between goods being received, invoices paid and authorised certification system Budget monitoring by budget holders, management and Accountancy Contract monitoring through contract register and authorisation etc. This is a core system as decided by External Audit. This is audited annually by Internal Audit The Authority participates in the National Fraud Initiative e.g benefit claim matches are identified and investigated, cheques are security printed to comply with APACS standard. A copy also goes to Payroll. Large cheques have to be signed individually Regular software checks done re valid list of suppliers.	3	1	3	Software check done annually to look at internal system	31/12/09	Hilton, Jeanette (Head of Customer & ICT Services)
Fraudulent Bank Notes	Fraudulent Bank Notes	Loss of income to the Council	Scan Coin Machines have detection facilities in place UV Marker pens in use	Scan coin machines have detection facilities in place UV marker pens in use	1	3	7	On Line Training - via SafeVoice	28/06/13	Dodd, Liz (Audit Manager)
Fraudulent use of Corporate Credit Cards	Credit cards used for personal use	Misappropriation of funds. Criminal investigation. Reputation damage.	Training - on Corporate Credit Card system Compliance with Credit Card procedures	Procedures for card holders and secretaries Compliance with Credit Card procedures	1	2	4			

Risk Count: 34

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness										
			Review of policies	A review of control processes, in conjunction with management and HR						
			Monthly review of transactions and suppliers	Monthly review of transactions and suppliers by financial control, who review the nature of the transaction, and the types of supplier used.						
			Responsibilities formally allocated and agreed by cardholder	Credit card holders sign an agreement detailing their responsibilities						
			Credit Card - regular review of procedures by Internal Audit	As part of the Audit Plan, Internal Audit review the Credit Card policies, procedures and systems for effectiveness and compliance with statutory and professional guidance and best practice.						
				Procedures updated: February 2013						
			Credit Card - separation of duties	Bills are paid by accounts payable.						
				Procedures updated: February, 2013 - It is the responsibility of Authorised Users to complete the Credit Card Payment Authorisation (CCPA) form and to have it approved by the relevant Budget Holder and also by the Cardholder, in the spaces indicated. In the absence of the Cardholder, the form may be approved by an Authorised User, provided that the approver and the person who completed the form are not the same person.						
			£5,000 limit per month per corporate credit card	£5,000 limit per month per corporate credit card.						
				Procedures updated February, 2013: The upper limit of a card will be determined by the Chief Executive in consultation with the Executive Director (Resources and Support Services) but may not be greater than £5,000 per month per card.						

Risk Count: 34

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness										
Fraudulent use of investment money	Fraudulent use of investment money by Treasury Management staff	Insurance implications. Increase cost in insurance premium. Abuse in position. Abuse of public office. Financial implications. Reputation damage.	Annual audit of treasury management Treasury Management meetings Fidelity guarantee insurance for designated officers Treasury Management - statutory / professional guidance Use of Broker and Treasury Management advisors Carry out periodic reconciliations Separation of responsibilities for investments	Annual audit of treasury management Treasury Management meetings happen weekly Fidelity guarantee insurance for designated officers The Authority's policies, procedures and systems comply with and are based on statutory and professional guidance and best practice Use of Broker and Treasury Management advisors Carry out periodic reconciliations Separation of responsibilities for investments	2	1	2			
Fraudulently using external funding	Misuse or fraudulent use of external funding or fraudulent claim forms sent to external funding bodies	Reputation damage. Financial assistance would be cut off. Budgetary implications. Failure to deliver projects. Service delivery reduced.	Budget monitoring External funding - separation of duties Newcastle Borough Council acts on lessons learnt Financial Regulations Standing Orders Independent verification of grant conditions Audit undertaken	Budget monitoring by budget holders, management and Accountancy Checks undertaken by external funding team and accountancy Newcastle Borough Council acts on lessons learnt Compliance with Financial Regulations Standing Orders in respect of contracts Independent verification of grant conditions Audit undertaken by internal and external audit & funding bodies if necessary	2	1	2	Ensure staff apply the Third Sector Commissioning Framework principles to grant funding Train staff in how to pay out grants Train staff in correct external funding / grant procedures and processes for claiming grants	31/03/10 31/03/10 30/09/09	Sowerby, Simon (Business Improvement Manager) Sowerby, Simon (Business Improvement Manager) Roberts, Dave (Head of Finance)
Theft or misuse of the Authority's information	Theft or misuse of information, including personal data, credit card details and sensitive political information	Failure to work. Loss of Government Connects authorisation. Loss of data. Corruption of data. Financial gain. Reputational damage.	Clear desk policy Confidential information locked away Confidentiality clauses Encrypted memory sticks Access controls Saving data to servers Firewalls	Clear desk policy Confidential information locked away Confidentiality clauses Proper control of memory sticks Controls and passwords on systems Saving data to servers Firewalls	2	1	2	Work to meet requirements of PCI Training to be organised in data protection, copyright etc Control procedures to be written up in relation to visitors and meetings etc Strong 2 factor authentication	31/12/11 31/12/09 31/12/09 30/04/10	Baker, Dave (Head of Revenues & Benefits) Clisby, Paul (Head of Central Services) Hilton, Jeanette (Head of Customer & ICT Services) Whale, Cyd

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner	Risk Count:
Fraud Awareness			Information Security Policies	The Authority has a suite of 10 Information Security Policies based on professional guidance and best practice to ensure compliance with BS7799 or ISO equivalent.				Third party contracts in place for supply of OS data	31/12/09	Hilton, Jeanette (Head of Customer & ICT Services)	34
			Managing Information Risks risk assessment	Managing Information Risks risk assessment							
			Information Security Working Group	Information Security Working Group chaired by Esecutive Director - Resource & Support Services							
			Connected to Government Secure Intranet	Connected to Government Secure Intranet (gsi)							
			Inspire directive for sharing of data across EU	Inspire directive for sharing of data across EU							
			Metadata to ISO standards. Use of data for application.	Metadata to ISO standards. Use of data for application.							
Fraudulent use of council vehicles	Using Council vehicles for non council business	Breach of insurance cover. Criminal investigation. Reputation damage. Financial implications.	Vehicle logs	Vehicle logs maintained for each vehicle detailing journeys	2	1	2				
			Staff awareness of insurance implications	Staff awareness of insurance implications							
			Driving at work policy	Driving at work policy given to all employees with a driver risk assessment for them to complete							
Inappropriate receipts of gifts / hospitality	Officers receiving inappropriate gifts / hospitality	Officers open to bribery and corruption. Reputational damage.	Code of Conduct for Officers and Members	Email policy. Software blocking of certain words & sites.	1	1	1				
			Manager approval Register of Interests	Manager approval There is a central register for gifts and hospitality, and each Directorate keeps it's own register of outside interests and works for staff							
			Audit undertaken	Audit undertaken by internal and external audit & funding bodies if necessary							
			Staff informed of process	Staff made aware of what, when and how to record							
			Annual reminders	Annual reminders							
Theft or sale of official stocks / equipment	Theft or sale of official stocks / equipment for personal gain	Misappropriation of funds. Criminal investigation. Reputation damage. Loss of data. Corruption of data. Financial gain. Failure to work. Loss of Government Connects authorisation.	Regular independent checks of stocks / equipment across the council	Regular independent checks of stocks / equipment across the council	1	1	1	ICT to produce work programme to security mark all ICT equipment	31/12/09	Whale, Cyd	

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness			Stock records maintained across all service areas within the council	Stock records maintained across all service areas across the council						
			Inventory of all ICT items (numbered) PCs are tagged/marked	Secure numbered inventory in place with periodic reviews PCs memory sticks, cameras are tagged/marked, security inbuilt in phones traceable through IP address.						
			Annual inventory checks	Annual inventory checks						
			Physical security	Equipment is secured in establishments and where necessary locked away. Ground floor offices have shutters on windows.						
Misappropriation of funds	Misappropriation of funds for services provided e.g. handyman, trade refuse, pest control	Abuse of position. Abuse of public office.	Minimising cash payments by debit card and direct payment methods Regular independent reconciliations of funds Cash secured Cash and income collection - separation of duties Budget monitoring	Minimising cash payments by debit card and direct payment methods Regular independent reconciliations of funds Cash secured Cashing up and banking duties separated Budget monitoring by budget holders, management and Accountancy	1	1	1	Documented clear work procedures to be produced	31/12/11	Heads of Service
			Whistleblowing policy Financial Regulations	Whistleblowing policy Compliance with Financial Regulations						
Fraudulent payments for personal gain	Payments made by BACS or CHAPS for personal gain	Misappropriation of funds. Criminal investigation. Reputation damage.	Independent reconciliations Approval process Budget monitoring	Independent reconciliations Approval process Budget monitoring by budget holders, management and Accountancy	1	1	1			
Fraudulent car loans	Employees claiming fraudulent car loans from the Authority.	Misappropriation of funds. Criminal investigation. Reputation damage.	Clear procedures for car loan applications Car Loans - separation of duties Affordability check	Clear procedures for car loan applications Separation of responsibilities for approving car loans. Authorisation required by Chief Executive, Executive Director and Head of Central Services as part of the application process. Direct payment of loan taken from salary each month	1	1	1			

Risk Count: 34

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner	Risk Count:	34
Fraud Awareness												
Money laundering	Payments by proceeds of crime	Criminal investigation. Reputation damage. Financial implications.	Money Laundering - statutory / professional guidance	The Authority's policies, procedures and systems comply with and are based on statutory and professional guidance and best practice	1	1	1	Money laundering training to be rolled out to staff	30/09/09			
			Audit review procedures and recommendations made	Audit review procedures and recommendations made								
			Cashiers audit	Review of payments of over £5000 in cash								
Agency staff claiming hours not worked	Agency staff submitting inaccurate timesheets or claiming hours they have not worked	Misappropriation of funds. Criminal investigation. Reputation damage.	Line manager checks hours worked	Line manager checks hours worked	1	1	1					
			Use of timekeeper system	Use of timekeeper system								
			HR involvement	HR involvement								
Theft from vulnerable people	Theft by staff from vulnerable people e.g. almshouses, welfare funeral homes	Misappropriation of funds. Criminal investigation. Reputation damage. Abuse of position. Abuse of public office.	CRB checks undertaken	Checks for all new staff and then every three years - cost £32 - £36.	1	1	1					
			Code of Conduct for Officers and Members	Email policy. Software blocking of certain words & sites.								
			Receipts given for valuables	Receipts given for valuables								
			Proper and safe handover procedures	Proper and safe handover procedures								
Theft of cash in transit	Theft of cash whilst being transferred from one establishment to another	Misappropriation of funds. Criminal investigation. Reputation damage.	Reducing cash transactions	Encourage people to pay by debit card or direct debit	1	1	1	Produce insurance risk assessment for process	30/09/09	Thornhill, Roger (Corporate Risk & Insurance Manager)		
			Audit review procedures and recommendations made	Audit review procedures and recommendations made								
			Cash in transit - staff training	Cash in transit - staff training								
			Varying routes and drop off points, times etc	Varying routes and drop off points, times etc								
			Cybertrack phone issued to relevant staff	Cybertrack phone issued to relevant staff - there is an emergency button in case of attack etc								
			Handled by securicor / G4S	Handled by securicor / G4S								
Subletting of NBC properties	Letting of NBC properties for personal gain	Abuse of position. Abuse of public office. Criminal investigation.	Accurate details of premises to let	Accurate details of premises to let	1	1	1					
			Clear instructions to staff	Clear instructions to staff								
			Reconciliation of income	Reconciliation of income								
			Management checks of properties	Management checks of properties								

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner	
Risk Count: 34											
Fraud Awareness	Abuse of telephones	Abuse of landline phones and mobile phones by staff	Misappropriation of funds. Criminal investigation. Reputation damage. Misappropriation of Council time.	Mobile phone provider System in place for identifying personal calls and text messages Telephone usage policy (corporate) in place Register of Interests	Monthly reports provided by Smith Bellaby System in place for identifying personal calls and text messages Telephone usage policy (corporate) in place There is a central register for gifts and hospitality, and each Directorate keeps it's own register of outside interests and works for staff	1	1	1	Regular reports to management to be produced	31/01/10	Whale, Cyd
Abuse of postage system	Abuse of postage and franking system by staff	Misappropriation of funds. Criminal investigation. Reputation damage.	Management check of postage costs Budget monitoring Protocols set for handling of post	Regular telephone reports to management Monthly recharges done re postage costs to departments - would show on heads of service budget reports - any anomalies would show. Budget monitoring by budget holders, management and Accountancy Protocols set for handling of post. Postal procedures updated: February, 2013.	1	1	1				
Abuse of internet	Staff using internet for personal use and viewing inappropriate sites	Misappropriation of Council time. Reputation damage.	Acceptable use policy signed by staff Code of Conduct for Officers and Members Websense categories for certain web pages	Acceptable use policy signed by staff Email policy. Software blocking of certain words & sites. Websense categories for certain web pages	1	1	1	Internet reports to be produced	31/05/10	Whale, Cyd	
Payments to ghost employees	Payments to fictitious employees via payroll	Misappropriation of funds. Criminal investigation. Reputation damage.	Budget monitoring Payroll - Separation of duties Review of payroll processes Review of payroll system Recruitment policy and process	Budget monitoring by budget holders, management and Accountancy Separation and authorisation of setting new employees on the payroll These are reviewed as part of the restructure - creation of posts on establishment The payroll system is subject to regular review and at times when there is a restructure within the Authority including establishment structure Recruitment policy and process	1	1	1	Implementing recommendations of HR audit - separation of duties	07/12/09	Durrant, Richard (Head of Human Resources)	

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness			Audit undertaken	Audit undertaken by internal and external audit & funding bodies if necessary						
			NFI checks completed annually	NFI checks completed annually						
Fraudulently trading for personal gain	Officers working for personal gain, including unauthorised work and private work. Abuse of position	Misappropriation of funds. Criminal investigation. Reputation damage. Abuse of position. Abuse of public office.	Code of Conduct for Officers and Members	Email policy. Software blocking of certain words & sites.	1	1	1			
			National Fraud Initiative (NFI)	The Authority participates in the National Fraud Initiative e.g benefit claim matches are identified and investigated, cheques are security printed to comply with APACS standard. A copy also goes to Payroll.						
			Register of Interests	There is a central register for gifts and hospitality, and each Directorate keeps it's own register of outside interests and works for staff						
			Checks by management	Checks done on email by Managers						
HR policies do not deter fraudulent behaviour	Not enough preventative controls or proactive action taken to deter fraud	Insurance implications. Financial implications. Criminal investigation. Reputation damage.	Review of policies	A review of control processes, in conjunction with management and HR	1	1	1			
			Disciplinary process	Disciplinary process to be followed, to act as a deterrent to others						
			Relevant stakeholders involved in review of processes	Relevant stakeholders including internal audit, are involved in review of processes						
			Anti-Fraud and Anti-Corruption Policy	Anti-Fraud and Anti-Corruption Policy						
			Whistleblowing policy	Whistleblowing policy						
			Managers Guide on Fraud	Managers Guide on Fraud						
			Related policies in place	Related policies in place - fraud & corruption, whistleblowing, corporate induction						
Fraudulent job application forms	Information contained in job application forms is fraudulent e.g. qualifications, job history, CRB checks	Inappropriate appointment. Security implications. Insurance implications. Financial implications. Criminal investigation. Reputation damage.	Obtain evidence of qualifications	Obtain evidence of qualifications	1	1	1	New policy linked to GCSX	30/09/10	Durrant, Richard (Head of Human Resources)
			Obtain references	Obtain references						
			HR involvement	HR involvement						
			Recruitment policy and process	Recruitment policy and process						
			Identity checks carried out	Identity checks carried out						

Risk Count: 34

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Fraud Awareness										
Fraudulent non attendance at work	Employees fraudulently not attending work e.g. fraudulent sick leave, extra holidays, flexitime, evening and weekend work, remote working	Abuse of contract. Abuse of public office. Abuse of position.	Checks of time by management Reconciliation of leave Compliance with management of attendance policy for sickness Review of management of attendance policy Audit of management of attendance Occupational Health to assist return to work Whistleblowing policy	Checks of time by management Management reconciliation of leave taken to leave cards and time recording system Compliance with management of attendance policy for sickness Review of management of attendance policy Audit of management of attendance Occupational Health to assist return to work Whistleblowing policy	1	1	1			

Risk Count: 34

Risks, controls and actions - Bribery

as at 25/03/13

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner	Risk Count:
Bribery Act 2010											6
Transaction risk	E.g. charitable or political contributions, licences and permits, and transactions relating to public procurement	Financial implications, reputational damage, adverse publicity, imprisonment, disbarred from public procurement	Standing Orders Financial Regulations Procurement Framework Third Sector commissioning framework Policies reviewed annually Member Code of conduct Employee Code of conduct Code of Corporate Governance Anti Fraud & Anti corruption Framework Anti Money Laundering Policy Whistle Blowing Policy On-Line Training facility	Meritic Fraud & Corruption package updated to incorporate the Bribery Act, Procurement Fraud and Misues & Abuse of Time & Resources on email/internet. Procurement Briefings Briefings delivered to all staff involved in the requisition and purchasing of any good/service within the authority - briefings covered requirements under SOFR and also implications of the Bribery Act. Briefings also covered as part of the corporate induction process.	3	1	3	Training	30/04/12	Turner, Kelvin (Executive Director - Resource & Support Services)	

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner	Risk Count:
Bribery Act 2010 Country risk	High level corruption, an absence of effectively implemented anti-bribery legislation and a failure of foreign government, media, local business community and civil society effectively to promote transparent procurement and investment policies	financial implications, reputational damage, adverse publicity, imprisonment, disbarred from public procurement	Standing Orders Financial Regulations Procurement Framework Treasury Management Policy Policies reviewed annually Member Code of conduct Employee Code of conduct Code of Corporate Governance Anti Fraud & Anti corruption Framework Anti Money Laundering Policy Whistle Blowing Policy On-Line Training facility	Meritic Fraud & Corruption package updated to incorporate the Bribery Act, Procurement Fraud and Misues & Abuse of Time & Resources on email/internet. Briefings delivered to all staff involved in the requisition and purchasing of any good/service within the authority - briefings covered requirements under SOFR and also implications of the Bribery Act. Briefings also covered as part of the corporate induction process.	3	1	3	Training	30/04/12	Turner, Kelvin (Executive Director - Resource & Support Services)	6
Business opportunity risks	High value projects or projects involving many contractors or intermediaries; Projects which are not apparently undertaken at market prices, or do not have a clear legitimate objective	financial implications, reputational damage, adverse publicity, imprisonment, disbarred from public procurement	Procurement Framework Standing Orders Financial Regulations Project Management based on Prince 2 Review of Project management methodology Member Code of conduct Employee Code of conduct		3	1	3	Training	30/04/12	Turner, Kelvin (Executive Director - Resource & Support Services)	

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Bribery Act 2010			Code of Corporate Governance Anti Fraud & Anti corruption Framework Anti Money Laundering Policy Whistle Blowing Policy On-Line Training facility	Meritic Fraud & Corruption package updated to incorporate the Bribery Act, Procurement Fraud and Misues & Abuse of Time & Resources on email/internet.						
			Procurement Briefings	Briefings delivered to all staff involved in the requisition and purchasing of any good/service within the authority - briefings covered requirements under SOFR and also implications of the Bribery Act. Briefings also covered as part of the corporate induction process.						
Business partnership risks	E.g. use of intermediaries in transactions with foreign public officials; consortia or joint venutre partners; and relationships with polictically exposed persons where the proposed business relationship involves or is linked to, a prominent public official	financial implications, reputational damage, adverse publicity, imprisonment, disbarred from public procurement	Partnership Code of Practice Procurement Framework Standing Orders Financial Regulations Member Code of conduct Employee Code of conduct Anti Fraud & Anti corruption Framework Anti Money Laundering Policy Whistle Blowing Policy Code of Corporate Governance On-Line Training facility	Meritic Fraud & Corruption package updated to incorporate the Bribery Act, Procurement Fraud and Misues & Abuse of Time & Resources on email/internet.	3	1	3	Training	30/04/12	Turner, Kelvin (Executive Director - Resource & Support Services)

Risk Count: 6

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner	Risk Count:
Bribery Act 2010			Procurement Briefings	Briefings delivered to all staff involved in the requisition and purchasing of any good/service within the authority - briefings covered requirements under SOFR and also implications of the Bribery Act. Briefings also covered as part of the corporate induction process.							6
Internal risks	Lack of clarity in the organisations policies on and procedures for hospitality and promotional expenditure and political or charitable contributions; Deficiencies in employee training, skills and knowledge; Bonus culture that rewards excessive risk taking; Lack of clear financial controls; Lack of clear anti-bribery message from the top-level management	financial implications, reputational damage, adverse publicity, imprisonment, disbarred from public procurement	Member Code of conduct Employee Code of conduct Code of Corporate Governance Financial Regulations Standing Orders Anti Fraud & Anti corruption Framework Anti Money Laundering Policy Whistle Blowing Policy Procurement Framework Partnership Code of Practice Third Sector commissioning framework On-Line Training facility	Meritic Fraud & Corruption package updated to incorporate the Bribery Act, Procurement Fraud and Misues & Abuse of Time & Resources on email/internet.	3	1	3	Training	30/04/12	Turner, Kelvin (Executive Director - Resource & Support Services)	
			Procurement Briefings	Briefings delivered to all staff involved in the requisition and purchasing of any good/service within the authority - briefings covered requirements under SOFR and also implications of the Bribery Act. Briefings also covered as part of the corporate induction process.							

Risk Identified	Description	Potential Consequences	Control Measure	Description	Final Impact	Final Likelihood	Final Risk Rating	Further Action Required	Target Date	Owner
Bribery Act 2010										
Sectoral risks	Sectors are higher risk than other - higher risk sectors include the extractive industries and the large scale infrastructure sector	financial implications, reputational damage, adverse publicity, imprisonment, disbarred from public procurement	Standing Orders Financial Regulations Procurement Framework Member Code of conduct Employee Code of conduct Code of Corporate Governance Anti Fraud & Anti corruption Framework Anti Money Laundering Policy Whistle Blowing Policy		2	1	2			

Risk Count: 6

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
AUDIT & RISK COMMITTEE**

Date 15 April 13

<u>HEADING</u>	Anti Money Laundering Policy
<u>Submitted by:</u>	Audit Manager
<u>Portfolio</u>	Finance and Budget Management
<u>Ward(s) affected</u>	All

Purpose of the Report

The Anti Money Laundering Policy outlines the Council's commitment to creating an anti-fraud culture, and maintaining high ethical standards in its administration of public funds.

Recommendations

- a) **That the Anti Money Laundering Policy be approved.**

Reasons

The public is entitled to expect the Council to conduct its affairs with integrity, honesty and openness, and to demand the highest standards of conduct from those working for it. This policy is reviewed and updated as necessary on an annual basis.

1. **Background**

- 1.1 The Council has a suite of policies in place that demonstrates our commitment to the prevention and detection of Fraud and Corruption and to ensure the highest possible standards of openness, probity and accountability. This policy forms part of this suite.
- 1.2 The Anti-Money Laundering Policy is designed to limit as far as possible the opportunities to commit fraudulent acts, enable such acts to be detected at an early stage and then deal with any subsequent investigations in a prompt, thorough and professional manner. It also recognises its responsibilities under the various legislation including the Terrorism Act 2000, Proceeds of Crime Act 2002, Money Laundering Regulations 2007 and Fraud Act 2006, and subsequent regulations.
- 1.3 Money laundering is a general term for any method of disguising the origin of "dirty" or criminal money. This money may be the proceeds of any criminal activity including terrorism, drugs trafficking, corruption, tax evasion, and theft. The purpose of money laundering is to hide the origin of the dirty money so that it appears to have come from a legitimate source. Unfortunately no organisation is safe from the threat of money laundering, particularly where it is receiving funds from sources where the identity of the payer is unknown. It is, therefore,

possible that the Council may be targeted by criminals wishing to launder the proceeds of crime.

2. **Issues**

- 2.1 The Council is committed to protecting public funds and to ensure that all Council activities are carried out in accordance with the principles of openness, honesty and integrity. This document demonstrates that it proactively shows a commitment to deterring fraud and corruption and this is actively promoted throughout the organisation.
- 2.2 Guidance is available for all Managers; this guide outline's the Borough Council's commitment to the Anti Money Laundering Policy. The guide gives details of what to look for and what to do in the event that they suspect any form of suspicious transaction.
- 2.3 Training has previously been provided with regards to the guidelines that were in place, further training will be provided on the policy and a copy will be made available to all staff via the intranet.

3. **Options Considered**

- 3.1 To review and adopt this document ensures and demonstrates that the Council will act with integrity and responsibility in the management and spending of the Public's money.
- 3.2 Not to adopt this policy would leave the Council open to criticism of not being committed to maintaining high standards in the avoidance and detection of fraud and corruption.

4. **Proposal**

That the Anti- Money Laundering Policy shown at Appendix A be approved

5. **Reasons for Preferred Solution**

As option 3.1 above.

6. **Outcomes Linked to Corporate Priorities**

The strategies demonstrate that the Council is committed to ensuring the best use of resources and enable the prevention and detection of suspected money laundering at the earliest opportunity, therefore contributing to its Corporate Priority of achieving excellence.

7. **Legal and Statutory Implications**

This report raises no new legal or statutory implications.

8. **Equality Impact Assessment**

There are no differential equality impact issues identified from the proposal.

9. **Financial and Resource Implications**

There are no finance or resource implications arising from the adoption of the Anti Money Laundering Policy, any training to be delivered will be met from existing staff resources.

10. **Major Risks**

The risk of not having this policy in place would mean that staff have no guidance on what to do in the event that they may suspect money laundering. This in turn may hamper any investigation required to yield a satisfactory conclusion.

The existence of this policy means that staff are informed and given guidance on what actions they should take if they suspect that a suspicious transaction is taking place.

11. **Key Decision Information**

Not applicable

12. **Earlier Cabinet/Committee Resolutions**

Not applicable

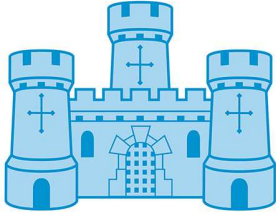
14. **List of Appendices**

Appendix A Anti Money Laundering Policy

15. **Background Papers**

Internal Audit Files

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NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

Anti-Money Laundering Policy

April 2013

NEWCASTLE UNDER LYME THE COUNCIL

MANAGING THE RISK OF FRAUD

ANTI- MONEY LAUNDERING POLICY

1. Foreword

- 1.1 The public is entitled to expect the Council to conduct its affairs with integrity, honesty and openness, and to demand the highest standards of conduct from those working for it. This Anti-Money Laundering Policy outlines the Council's commitment to creating an anti-fraud culture, and maintaining high ethical standards in its administration of public funds. It also recognises its responsibilities under the various legislation including the Terrorism Act 2000, Proceeds of Crime Act 2002, Money Laundering Regulations 2007 and Fraud Act 2006, and subsequent regulations.

2. Money Laundering

- 2.1 Money laundering is a general term for any method of disguising the origin of "dirty" or criminal money. This money may be the proceeds of any criminal activity including terrorism, drugs trafficking, corruption, tax evasion, and theft. The purpose of money laundering is to hide the origin of the dirty money so that it appears to have come from a legitimate source. Unfortunately no organisation is safe from the threat of money laundering, particularly where it is receiving funds from sources where the identity of the payer is unknown. It is, therefore, possible that Council may be targeted by criminals wishing to launder the proceeds of crime.
- 2.2 In addition, it is possible that the proceeds of crime may be received from individuals or organisations who do not realise that they are committing an offence. It is no defence for the payer or the recipient to claim that they did not know that they were committing an offence if they should have been aware of the origin of the funds. All staff therefore dealing with the receipt of funds or having contact with third parties from whom funds may be received need to be aware of the possibility of money laundering taking place.
- 2.3 Under the various legislation, if staff assist an individual to launder funds from a criminal source, they may be guilty of an offence, and if found guilty could be subject to a fine or a prison sentence up to 14 years. It is important therefore that staff are aware of the rules and procedures that the Council has in place to ensure that they comply with the relevant legislation and approach taken by the Council as set out in this policy.
- 2.4 The Money Laundering Regulations require us to carry out 'Customer Due Diligence (CDD)'. Staff should therefore be alert to where NULBC may be targeted by individuals trying to launder the proceeds of crime; avoid alerting anyone dealing with NULBC that they have a suspicion that they may be attempting to launder, or have laundered, the proceeds of crime; and to report any suspicions of money laundering¹.

1

¹¹ Any suspicions should be reported to the Money Laundering Compliance Officer – see paragraph 2.12

- 2.5 Training will be provided to all relevant staff regarding money laundering to assist them in their awareness of how money laundering could take place and the appropriate method of dealing with this. In effect, any areas where money changes hands could therefore be at risk of money laundering attempts, i.e. Application fees for taxi licences, planning applications, payment of housing benefits etc.
- 2.6 The Council already has procedures in place to limit the amount of cash that it receives, with other payment methods being made available. To ensure however that the system is manageable, if a cash payment of less than £2,000 is received; no identification checks will be needed.
- 2.7 Where the £2,000 limit is exceeded, officers dealing with the matter will need to establish the identity of the individual/company involved to seek to ensure that the risk of receiving the proceeds of crime can be minimised.
- 2.8 For individuals, their passport or photo driving licence should be provided, together with one of the following:
- Utility bills i.e. electricity, water etc. however mobile phone bills are not acceptable
 - Mortgage/building society/bank statements
 - Credit card statements
 - Pension or benefit books
- If passport or photo driving licence is not available, then two of the other items listed above will need to be produced.
- 2.9 For companies, a Companies House Search should be undertaken to confirm the existence of the company and identify who the directors are. Personal identification should then be obtained for the representatives of the company together with proof of their authority to act on behalf of the company. Care should be taken if it becomes clear that the individual has only recently become a director of the company or if there has been a recent change in the registered office.
- 2.10 For any other type of organisation, for example a sole trader or partnership, personal identification should be obtained for the individuals together with documents indicating their relationship to the organisation.
- 2.11 Copies of any evidence provided in support of the identification of an individual or organisation should be kept on a central file so that it can be referred to later if necessary. Records should be kept for 5 years after the end of the transaction.

Money Laundering Reporting Officer (“MLRO”)

- 2.12 The Council’s Money Laundering Reporting Officer (“MLRO”) is the Executive Director (Resources and Support Services), Kelvin Turner. In the absence of the MLRO, Head of Finance, Dave Roberts deputises.

Procedure for Reporting Suspicious Transactions

- 2.13 Any suspicious transactions which staff may become aware of in the course of their work must be reported to the Money Laundering Reporting Officer immediately using the Council's Internal Disclosure Form (see Appendix 2). Failure to make the appropriate report immediately will be regarded as gross misconduct and may result in dismissal without notice or pay in lieu of notice.
- 2.14 It is imperative that, if staff have a suspicion concerning an individual or organisation with which they are dealing that they do not alert them to that suspicion i.e. that no "tipping off" is done. Staff must, therefore, **not** make them aware that an internal disclosure report may be made. Once the report is made, the cash/cheques/other form of payment from this source should not be banked until clearance has been received from the MLRO. Such clearance may take up to seven days from the time when the initial report to the Money Laundering Compliance Officer is made.
- 2.15 If the funds are banked in this period without getting clearance from the MLRO that staff members runs the risk of a fine and/or imprisonment for up to 14 years.

Additional Guidance

- 2.16 If you require any additional information or guidance in relation to the contents of this policy and your responsibilities please contact either the MLRO or his deputy. An Aide Memoir has been prepared – Appendix 3, which can be used as a brief reminder to staff of their responsibilities.

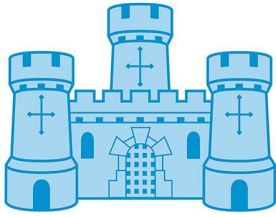
3. Conclusions

- 3.1 The Council has put into place a number of arrangements to protect itself from the risk of money laundering. However in the current climate of change there are issues that will increase this risk. Changes in structure, changes in systems and the turnover of staff all contribute to our exposure to the risk of money laundering. To mitigate against this risk the Council will regularly review arrangements.
- 3.2 The Money Laundering Policy provides a framework for preventing and tackling money laundering acts against the Authority. The approval of the Policy by the Audit and Risk Committee, on behalf of the Council, demonstrates the Council's commitment to protecting public funds. Having made this commitment, it is imperative that the MLRO puts in place arrangements for disseminating the Policy and promoting money laundering awareness, throughout the Council.

Role of the Money Laundering Reporting Officer – “MLRO”

The duties of the Money Laundering Reporting Officer are:

- To ensure that the Council complies with the requirements of the Money Laundering Regulations 2007 and the Proceeds of Crime Act 2002.
- To ensure that all relevant staff are aware of and comply with the Council's Money Laundering Policy.
- To ensure that the Council properly identifies all third parties dealing with the Council where there is a higher risk of the Council receiving the proceeds of crime and to ensure that copies of any documents taken as proof of evidence are kept on a central file by the Council.
- To ensure that all relevant staff receives training on how to identify, deal with and prevent money laundering.
- To ensure that all necessary disclosures to the Serious Organised Crime Agency (SOCA) are made and that they are made as soon as practically possible after the suspicion has been raised.
- To decide whether a suspicious transaction report requires a disclosure to be made to SOCA.
- To liaise with SOCA regarding the outcome of the disclosure and update staff accordingly.



NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

MONEY LAUNDERING – INTERNAL REPORTING FORM

Money laundering legislation requires all individuals within the Council to report any knowledge or suspicions that they might have of money laundering (as defined in the Proceeds of Crime Act 2002) to the Council’s Money Laundering Reporting Officer. To assist individuals the following pro forma has been developed. Particular circumstances may require different information to be disclosed and this should be fully explained, if applicable.

Instructions for Completion

It is your legal duty and a requirement of your employment with Newcastle under Lyme The Council that you report any suspicion concerning proceeds of crime to:

**Money Laundering Reporting Officer
 Newcastle under Lyme The Council
 Civic Offices
 Merrial Street
 Newcastle under Lyme
 Staffordshire
 ST5 2AG**

This should be marked **URGENT – **RESTRICTED** TO THE ADDRESSEE ONLY.**

You are also reminded that “**Tipping-Off**” is a criminal offence. You should therefore avoid discussing the content of this report with anyone other than the Money Laundering Reporting Officer.

Date of Report:		Date suspicion first aroused:	
Prepared by: Name & Dept			
Disclosure Type:	(i.e. connections to crime/drugs/terrorism)		

Main Subject (Person)

Surname:		Forename(s):		Title:	
Date of Birth:		Gender:			
Occupation:		Employer			
Address (in full)		Postcode	Home/Business/Registered	Current/Previous	

Or**Main Subject (Company)**

Company Name:		Company No:			
Type of Business:		VAT No:			
Country of Reg:					
Address (in full)		Postcode	Home/Business/Registered	Current/Previous	

Bank Account Details

Account Name		Sort Code:	
Opened:		Account No:	
Closed:		Balance	

Other Information

Any knowledge/evidence held to confirm identification and/or address, i.e. passport/driving licence etc:

Connected Subject Person (if any)

Surname:		Forename(s):		Title:	
Date of Birth:		Gender:			
Occupation:		Employer			
Address (in full)		Postcode	Home/Business/Registered	Current/Previous	

Or

Connected Subject Company (if any)

Company Name:		Company No:			
Type of Business:		VAT No:			
Country of Reg:					
Address (in full)		Postcode	Home/Business/Registered	Current/Previous	

Bank Account Details

Account Name		Sort Code:	
Opened:		Account No:	
Closed:		Balance	

Other Information

Any knowledge/evidence held to confirm identification and/or address, i.e. passport/driving licence etc:

Reason for the Suspicion

Please tick any or all of the following which might apply

- | | | | | | |
|-------------|--------------------------|------------------------------|--------------------------|-----------|--------------------------|
| Drugs | <input type="checkbox"/> | Personal Tax Fraud | <input type="checkbox"/> | VAT Fraud | <input type="checkbox"/> |
| Crime | <input type="checkbox"/> | Company Tax Fraud | <input type="checkbox"/> | | |
| Immigration | <input type="checkbox"/> | Tobacco/Alcohol Excise Fraud | <input type="checkbox"/> | | |

Following on from above, please set out the reason for the suspicion.

Please continue on separate sheet if required

Names of all other colleagues (principals & staff) who have been involved with the case

Declaration

The above is an accurate account of the facts that are available to me at the time of making the report. If I become aware of additional and/or changes in the information provided I will disclose these to the Money Laundering Reporting Officer in a timely manner. I am aware of the risks and penalties regarding "tipping-off" or frustrating in any way an investigation of the above or related matters by the authorities.

Signed: _____

Date: _____

Name in
Full: _____

Position: _____

MONEY LAUNDERING AVOIDANCE AIDE MEMOIR

1. No member of staff must accept cash of more than £2,000 from any member of the public.
2. If you are offered cash of more than £2,000 you should advise the person offering it to you that it is not Council policy to accept large amounts of cash of more than £2,000 and that you need to obtain guidance from a senior member of staff. You should then contact the Money Laundering Reporting Officer to obtain authorisation to take cash, if appropriate.
3. Any large cash sums should not be banked in the first instance. The Money Laundering Reporting Officer should be contacted to seek guidance as to how to deal with the funds. Forms to report the matter are included in the policy document at Appendix 2.
4. Whilst it is not acceptable to be suspicious of all cash based businesses, anyone whom you know to be associated with such a business should be dealt with using a higher degree of scepticism. If you have any reason to suspect the source of their funds then you should contact the Money Laundering Reporting Officer to discuss your concerns, even if the payment is not received in cash.
5. If you receive a complaint from a member of the public in relation to possible criminal activity being carried out by someone who may be a customer of the Council (i.e. a Council Tax or Business Rates payer, rent payer, licensee etc) you must pass this on to the Money Laundering Reporting Officer.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
AUDIT & RISK COMMITTEE**

Date 15 April 2013

1. **HEADING** Audit Commission Report – Protecting the Public Purse 2012
- Submitted by:** Liz Dodd, Audit Manager
- Portfolio:** Finance and Budget Management
- Ward(s) affected:** All

Purpose of the Report

To inform Members of the report published by the Audit Commission in November 2012 entitled 'Protecting the Public Purse 2012'.

Recommendations

That the report be noted

Reasons

The publication reports on the key risks and pressures facing Councils and identifies good practice in fighting fraud and identifies where we should be reviewing our current arrangements.

1. **Background**

This is the fourth report produced by the Audit Commission in relation to the key fraud risks and pressures facing local authorities and identifies good practice in fighting fraud. The first report of this type was published in September 2009.

The prevention and detection of fraud and protection of the public purse is everyone's business and as part of this report the Audit Commission are urging local authorities to review existing policies, procedures and arrangements that are currently in place to prevent and deter fraud from occurring.

A full copy of the report can be made available upon request. The report also included a checklist to be used by local authorities to review and assess their current arrangements. This checklist has been completed and an action plan has been drawn up of the steps that are now required to reinforce the current arrangements that are already in place. A copy of this checklist can be found at Appendix A.

2. **Issues**

- 2.1 The Authority already has a set of policies and procedures in place, that help to prevent and deter fraud occurring. These policies are reviewed annually against best practice and ensure

that as an organisation we proactively encourage all officers and members to raise any concerns that they may have.

2.2 There is also 'A Fraud Awareness Guide' that is made available to Managers; this guide outlines the Council's commitment to the protection of public funds and the necessity for harnessing resources in order to minimise losses arising from fraudulent conduct. The guide gives details of;

- The identification of the types of fraud,
- How fraud occurs,
- Examples of behaviour that might indicate fraud,
- Indicators of potential fraud in a system,
- Advise to management and staff re:fraud and corruption, and
- Reporting of conduct that may be fraudulent

Managers are asked to complete and review this Self Assessment checklist for their own service area on an annual basis; these completed checklists are then used to help inform the audit planning process.

2.3 The council also has also committed to a 'Fraud Awareness Campaign' to be run in June 2013, this campaign makes use of a toolkit which has been developed by the National Fraud Authority and includes staff briefings, posters and an on line training package.

3. **Options Considered** (if any)

3.1 To review our current arrangements against this report and checklist ensures and demonstrates that the Council will act with integrity and responsibility in the management and spending of the Publics money.

3.2 Not to review our current procedures and policies could leave the Council open to criticism of not being committed to maintaining high standards in the avoidance and detection of fraud and corruption.

4. **Proposal**

4.1 That the report together with the completed checklist and action plan be noted.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

The adoption of the guidance provided in the report and completion of the checklist and action plan arising from this helps to demonstrate that the Council is committed to ensuring the best use of resources and enable the prevention and detection of fraud and corruption at the earliest opportunity, therefore contributing to its Corporate Priority of achieving excellence

6. **Legal and Statutory Implications**

This report raises no new legal or statutory implications.

7. **Equality Impact Assessment**

There are no differential equality impact issues identified from the proposal.

9. **Financial and Resource Implications**

There are no financial or resource implications have been identified at this point in time, any issues that arise from the action plan will be brought back to a later committee.

10. **Major Risks**

A full risk assessment in respect of Fraud has been completed and can be found at Appendix B

11. **Key Decision Information**

None

12. **Earlier Cabinet/Committee Resolutions**

None

13. **Recommendations**

That the report be noted

14. **List of Appendices**

Completed Checklist
Risk Assessment

15. **Background Papers**

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**PROTECTING THE PUBLIC PURSE 2012 – CHECKLIST FOR THOSE
RESPONSIBLE FOR GOVERNANCE**

		Yes	No	Comments
General				
1.	Do we have a zero tolerance policy towards fraud?	√		The authority has a zero tolerance to Fraud, this is demonstrated in the policies detailed below.
2.	Do we have the right approach, and effective counter-fraud strategies policies and plans? Have we aligned our strategy with 'Fighting Fraud Locally'?	√		There is a range of polices in place; Anti Fraud and Anti Corruption Framework Whistle blowing Policy, Fraud Response Plan, and Anti Money Laundering Policy. These have been reviewed and aligned with the Fighting Fraud Locally strategy.
3.	Do we have dedicated counter-fraud staff?		√	There are dedicated resources only in respect of Housing and Council Tax Benefit Fraud,
4.	Do counter fraud staff review all the work of our organisation?		√	There is no dedicated resource that covers all aspects of the organisation. Any cases that arise and investigations that take place are usually completed by Internal Audit. Dependant upon the nature of the investigation this may be referred to outside organisations such as the Police. In addition we have an informal arrangement in place for sharing services with a neighbouring authority to assist with resources in the event of a large scale investigation etc.
5.	Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?	√		Feedback is given as part of regular performance monitoring reports and management reports issued following the completion of investigations.

6.	Have we assessed our management of counter-fraud resources against good practice?	√	Best practice ideas and issues arising from investigations are discussed and shared (in confidence) via the Staffordshire Chief Auditors Group this helps to ensure that our current procedures are in line with good practice.
7.	Do we raise awareness of fraud risks with: <ul style="list-style-type: none"> • New staff (including agency staff)? • Existing staff? • Members? • Contractors 	√	Policies are all reviewed annually and briefings have been issued to staff via the monthly corporate briefings and the audit pages on e-voice contain information and guidance to staff. A fraud awareness campaign is in the process of being planned for June 2013, this will involve staff briefings, posters and an on-line training course. In addition a fraud awareness guide is issued to all managers on an annual basis this identifies key areas of risk and requires managers to undertake an assessment and review of their own service areas.
8.	Do we work well with national, regional and local networks and partnerships to ensure we know about current fraud risks and issues?	√	We are Members of the Midlands Fraud Forum and The Local Authority Investigations Officers Group (LAIIOG). In addition the Audit Manager is part of the Staffordshire Chief Auditors basis which meets on a regular basis, there is a standing agenda item in respect of current fraud issues
9.	Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?	√	There are joint working arrangements with the Department of Work and Pensions in respect of Housing Benefits, and in addition we have an Information Sharing Protocol that identifies single points of contacts within partner organisations such as the police to enable information and data to be shared.
10.	Do we identify areas where internal controls may not be performing as intended? How quickly do we take action?	√	There is a risk based audit plan produced on an annual basis. Audits review the controls that are in place and identify any significant weaknesses.
11.	Do we maximize the benefit of our participation in the Audit Commission NFI and receive reports on the matches investigated?	√	Reports provided under the National Fraud Initiative (NFI) are reviewed and appropriate action taken in respect of the findings from these.

12.	Do we have arrangements in place that encourage our staff to raise their concerns about money laundering?	√		There is an Anti Money Laundering Policy together with procedures and guidelines that have been issued to all relevant staff. Training in these procedures has also been delivered.
13.	Do we have effective arrangements for... <ul style="list-style-type: none"> • Reporting fraud • Recording Fraud, and • Whistle-blowing? 	√		We have a Whistle Blowing Policy that is reviewed and updated annually, reminders are issued to all staff and a poster campaign has been used to raise awareness. We also subscribe to Public Concern At Work who are an independent charity that provides a Whistle Blowing hotline for employees to report any concerns
14.	Do we have effective fidelity insurance arrangements?	√		There are adequate insurance arrangements in place that are reviewed annually
Fighting Fraud with reduced resources				
15.	Have we reassessed our fraud risks since the change in the financial climate?	√		Fraud Risk Assessments are completed and reviewed annually to ensure that all risks are constantly reviewed in light of the current economic climate
16.	Have we amended our counter-fraud action plan as a result?	√		Counter Fraud Plans are reviewed and reported annually to Audit & Risk Committee
17.	Have we reallocated staffing as a result?		√	Staff resources are reviewed and monitored and if the need arose for additional resources arrangements are in place with neighboring authorities who could assist with investigations etc.
Current Risks and Issues				
Housing Tenancy				
18.	Do we take proper action to ensure that we only allocate social housing to those who are eligible?	N/A		Not applicable to the Borough Council albeit all applicants are required to provide proof of identity to Aspire Housing as part of the application process.
19.	Do we take effective action to ensure that social housing is occupied by those to whom it is allocated?	N/A		Not applicable to the Borough Council as a non-stock holding authority. The landlord is responsible for enforcing tenancy conditions.
Procurement				
20.	Are we satisfied that procurement controls are working as	√		These are regularly tested as part of routine audits,

Page 86	intended?			should any shortfalls be identified these are reviewed, evaluated and corrective actions agreed.
	21. Have we reviewed our contract letting procedures since the investigations by the Office of Fair Trading into cartels and compared them with best practice?	√		Contract standing orders which contain the contract letting procedures are reviewed on a regular basis. Due consideration is given to guidance from the office of Government Commerce.
Recruitment				
22. Are we satisfied our recruitment procedures achieve the following:	√			These have also been reviewed in the light of the need to fulfill the requirements of the Governments Code of Connection. This code sets out requirements in terms of ensuring the security of the information assets held by the public sector.
	<ul style="list-style-type: none"> • Prevent us employing people working under false identities, • Confirm employment references effectively; • Ensure applicants are eligible to work in the UK; and • Require agencies supplying us with staff to undertake the checks we require? 			
Personal Budgets				
23. Where we are expanding the use of personal budgets for social care, in particular direct payments, have we introduced proper safe guarding proportionate to risk and in line with recommended good practice?	N/A			Not applicable
24. Have we updated our whistleblowing arrangements, for both staff and citizens, so that they may raise concerns about the financial abuse of personal budgets?	N/A			Not applicable in respect of Personal Budgets, however the Councils Whistleblowing policy does apply to everyone and is available on the Councils website.
Council Tax				
25. Are we effectively controlling the discounts and allowances we give to council taxpayers?	√			There are systems and procedures in place to deal with discounts and allowances
Housing and Council Tax Benefits				
26. In tackling housing and council tax benefit fraud do we make full use of:	√			The council actively partakes in the NFI, has arrangements in place with the DWP in respect of Housing Benefits Matching Service and shares data internally with other departments/services. At present
	<ul style="list-style-type: none"> • National Fraud Initiative; • Department for Work and Pensions Housing Benefit 			

<p>Matching Service;</p> <ul style="list-style-type: none"> • Internal data matching; and • Private sector data matching? 		<p>there is a project underway with all Staffordshire authorities to share data in respect of Single Persons discount; this project will involve data matching with the private sector.</p>
Emerging Fraud Risks		
<p>27 Do we have appropriate and proportionate defences against emerging fraud risks such as</p> <ul style="list-style-type: none"> • Business Rates; • Right to Buy; • Social Fund and local welfare assistance; • Local Council Tax Support; • Schools, and • Grants. 	√	<p>Fraud risks are regularly reviewed and updated, processes will be reviewed to ensure that controls are in place to address any potential increased risks. The fraud awareness campaign and managers fraud guide also ensure that staff are aware of the risks and that controls are in place to minimize as far as possible our exposure to any new risks.</p>

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE AUDIT & RISK COMMITTEE

Date 15 April 2013

HEADING CODE OF CORPORATE GOVERNANCE

Submitted by: Audit Manager

Portfolio Finance and Budget Management

Ward(s) affected All

Purpose of the Report

To remind Members of the requirements of the Code of Corporate Governance.

Recommendations

- a) That the requirements of the Code of Corporate Governance be noted.
- b) A covering letter signed by the Chair and Vice Chair of the Audit and Risk Committee should be sent to all Members reminding them that a copy of the Code of Corporate Governance is available in the Members area on the Council's Intranet site

Reasons

Good Governance is about how local authorities ensure that they are doing the right things, in the right way, for the right people in an open honest and accountable manner. In adopting the Code of Corporate Governance the authority is able to demonstrate that it is committed to ensuring that Good Governance is delivered in every aspect of its business.

1. Background

- 1.1 Members and senior officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal.
- 1.2 Under the Accounts and Audit Regulations 2011, the Authority is required to produce an Annual Governance Statement (AGS). The AGS emphasises the importance of ensuring that the Authority has in place sound governance arrangements and transparent decision making processes
- 1.3 Alongside this requirement to produce the AGS, the Chartered Institute of Public Finance and Accountancy, (CIPFA) along with the Society of Local Authority Chief Executives (SOLACE) produced a framework for developing and maintaining a local Code of Corporate Governance.

1.4 The CIPFA/SOLACE framework is intended to be followed as best practice for developing and maintaining a local code of governance and for discharging accountability for the proper conduct of public business. The Governance Framework is based on 6 core principles;

- Focusing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area,
- Members and Officers working together to achieve a common purpose with clearly defined functions and roles,
- Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour,
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk,
- Developing the capacity and capability of members and officers to be effective, and
- Engaging with local people and other stakeholders to ensure robust public accountability.

2. **Issues**

2.1 Adoption of the CIPFA/SOLACE Delivering Good Governance Framework, means that the Authority has been able to demonstrate that it has;

- reviewed the Governance arrangements, in line with best practice, and
- the Code of Corporate Governance is regularly reviewed to ensure that remains effective

2.2 The Code of Corporate Governance has been reviewed for the year 2012/13, there have been no updates to the CIPFA/SOLACE framework and therefore no amendments to the Code have been made this time. It is felt that the Code in its present form remains effective in demonstrating that the Council is committed to demonstrating that it delivers good governance in all aspects of its business.

2.3 The AGS which is produced alongside the Statement of Accounts will report publicly the extent to which the Authority is complying with our own Code of Corporate Governance. By producing this statement annually the Authority is able to demonstrate how the effectiveness of the governance arrangements have been monitored and report on any improvements or changes it plans to make in the coming year.

3. **Options Considered**

Not applicable

4. Proposal

4.1 Code of Corporate Governance is provided as Appendix A

5. Outcomes Linked to Corporate Priorities

5.1 The adoption of the Code of Corporate Governance demonstrates that the Authority is complying with the principles of openness and inclusivity, integrity and accountability.

6. Legal and Statutory Implications

6.1 The Local Government Act 1999 places a duty on all local authorities to make arrangements to secure continuous improvement in the way that its functions are exercised, having regard to economy, efficiency and effectiveness. In discharging this overall responsibility the authority is also responsible for putting in place proper arrangements for the governance of its affairs.

6.2 It is also a requirement of The Accounts and Audit Regulations 2011 that the Council 'maintains an adequate and effective system of internal control in accordance with the proper internal audit practices'. Alongside this is the requirement to produce an Annual Governance Statement.

7. Equality Impact Assessment

7.1 There are no differential equality impact issues identified from this proposal.

8. Financial and Resource Implications

8.1 There are no resource implications for the AGS or the adoption of the new Code of Corporate Governance. Any resource requirements identified as a result of any action plans being drawn up to address any issues that arise out of the need to ensure compliance with any part of the Code will be brought to members as separate projects.

9. Major Risks

9.1 If sound governance arrangements are not in place the Authority is unable to demonstrate that it operates its business affairs in an open, honest and transparent way.

9.2 If sound governance arrangements are not in place, the Authority cannot give assurance that the Services being delivered provide value for money for the Council.

9.3 If sound governance arrangements are not in place managers are exposing their systems, processes and procedures to potential abuse from fraud and corruption.

10. Key Decision Information

11.1 Not applicable

11. Earlier Cabinet/Committee Resolutions

12.1 Code of Corporate Governance – minute 724 – Audit and Risk Committee
18 April 2011.

12. List of Appendices

Code of Corporate Governance

13. Background Papers

CIPFA/SOLACE Framework and Guidance Notes – ‘Delivering Good
Governance in Local Government.

Local Government Act 1999

Accounts and Audit Regulations 2011

NEWCASTLE UNDER LYME BOROUGH COUNCIL

CODE OF CORPORATE GOVERNANCE

Introduction

Good Corporate Governance is about how local authorities ensure that they are doing the right things, in the right way, for the right people in a timely inclusive, open, honest and accountable manner. It comprises the systems and processes, and cultures and values, by which local authorities are directed and controlled and through which they account to, engage with and where appropriate lead their communities.

There are four key roles that have been identified as being the business of local authorities;

- To engage in effective partnerships and provide leadership for and with the community,
- To ensure the delivery of high-quality local services whether directly or in partnership or by commissioning,
- To perform a stewardship role which protects the interests of local people and makes the best use of resources, and
- To develop citizenship and local democracy.

In order to demonstrate that the business of local authorities is being conducted to the highest possible standard it needs to develop and maintain six core principles throughout the conduct of all elements of its business. These six core principles are listed below;

- Focusing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area,
- Members and Officers working together to achieve a common purpose with clearly defined functions and roles,
- Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour,
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk,
- Developing the capacity and capability of members and officers to be effective, and
- Engaging with local people and other stakeholders to ensure robust public accountability.

Each of the core principles identified above has a number of supporting principles which are set out in the authorities Code of Corporate Governance, which is shown as Appendix A. The principles are not mutually exclusive, high standards of conduct are expected as part of every aspect of the business.

Newcastle under Lyme Borough Council is committed to ensuring that the principles of good governance flow from a shared ethos or culture, as well as from sound management systems, structures, and processes that are transparent to all its stakeholders. A hallmark of good governance is the development of shared values, which become part of the organisation's culture, underpinning policy and behaviour throughout the organisation, from the governing body to all staff.

By making explicit our high standards of self-governance we aim to provide a lead to potential partners, to the public, private or voluntary sectors and to our citizens. In order to meet this commitment we will aim to observe the Code set out at **Appendix A**.

Appendix A – Code of Corporate Governance

CORE PRINCIPLE 1:	Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area
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This will include:

- (a) **Exercising strategic leadership by developing and clearly communicating the authority’s purpose and vision and its intended outcome for citizens and service users:**

We will demonstrate this by;

- Developing and promoting the authority’s purpose and vision.
- Reviewing on a regular basis the authority’s vision for the local area and its implications for the authority’s governance arrangements.
- Ensuring that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners.
- Publishing an annual report on a timely basis to communicate the authority’s activities and achievements, its financial position and performance.

- (b) **Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning:**

We will demonstrate this by;

- Deciding how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available.
- Putting in place effective arrangements to identify and deal with failure in service delivery.

- (c) **Ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money:**

We will demonstrate this by;

- Deciding how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.

CORE PRINCIPLE 2: Members and officers working together to achieve a common purpose with clearly defined functions and roles

This will include:

- (a) Ensuring effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function:**

We will demonstrate this by;

- Setting out clear statements on the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice.
- Setting out clear statements of the respective roles and responsibilities of other authority members, members generally and of senior officers.

- (b) Ensuring that a constructive working relationship exists between authority members and officers and that the responsibilities of members and officers are carried out to a high standard:**

We will demonstrate this by;

- Determining a scheme of delegation and reserve powers within the construction, including a formal schedule of those matters specifically reserved for collective decision of the authority, taking account of relevant legislation, and ensuring that this is monitored and updated when required.
- Making a chief executive or equivalent responsible and accountable to the authority for all aspects of operational management.
- Developing protocols to ensure that the Leader and Chief Executive (or equivalent) negotiates their respective roles early in the relationship and that a shared understanding or roles and objectives is maintained.
- Making a senior officer (the S151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.
- Making a senior officer (usually the monitoring officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.

- (c) Ensuring relationships between the authority, its partners and the public are clear so that each knows what to expect of the other:**

We will demonstrate this by;

- Developing protocols to ensure effective communication between members and officers in their respective roles.
- Setting out the terms and conditions for remuneration of members and officers and an effective structure for managing the process, including an effective remuneration panel (if applicable).
- Ensuring that effective mechanisms exist to monitor service delivery.
- Ensuring that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated.
- When working in partnership, ensuring that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority.
- When working in partnership:

- ensuring that there is clarity about the legal status of the partnership.
 - ensuring that representatives of organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions.
-

CORE PRINCIPLE 3:	Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour
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This will include:

- (a) Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance:**

We will demonstrate this by;

- Ensuring that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect.
- Ensuring that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols.
- Putting in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.

- (b) Ensuring that organisational values are put into practice and are effective:**

We will demonstrate this by;

- Developing and maintaining shared values including leadership values for both the organisation and staff reflecting public expectations, and communicate these with members, staff, the community and partners.
- Putting in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice.
- Developing and maintaining an effective standards committee.
- Using the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority.
- Pursuing the vision of a partnership, and agreeing a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively.

CORE PRINCIPLE 4: Taking informed and transparent decisions, which are subject to effective scrutiny and managing risk

This will include:

- (a) **Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny:**

We will demonstrate this by;

- Developing and maintaining an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which it is responsible.
- Developing and maintaining open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based.
- Putting in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice.
- Developing and maintaining an effective audit committee (or equivalent) which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee.
- Ensuring that effective, transparent and accessible arrangements are in place for dealing with complaints.

- (b) **Having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs:**

We will demonstrate this by;

- Ensuring that those making decisions whether for the authority or the partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications.
- Ensuring that proper professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately.

- (c) **Ensuring that an effective risk management system is in place:**

We will demonstrate this by;

- Ensuring that risk management is embedded into the culture of the authority, with members and managers at all levels recognising that risk management is part of their jobs.
- Ensuring that effective arrangements for whistle-blowing are in place to which officers, staff and all those contracting with or appointed by the authority have access.

- (d) **Using their legal powers to the full benefit of the citizens and communities in their area:**

We will demonstrate this by;

- Actively recognising the limits of lawful activity placed on them by, for example, the ultra vires doctrine but also strive to utilise their powers to the full benefit of their communities.
- Recognising the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on authorities by public law.

CORE PRINCIPLE 5: Developing the capacity of members and officers to be effective

This will include:

- (a) **Making sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles:**

We will demonstrate this by;

- Providing induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis.
- Ensuring that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority.

- (b) **Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group:**

We will demonstrate this by;

- Assessing the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively.
- Developing skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.
- Ensuring that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs.

- (c) **Encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal:**

We will demonstrate this by;

- Ensuring that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority.
- Ensuring that career structures are in place for members and officers to encourage participation and development.

CORE PRINCIPLE 6: Engaging with local people and other stakeholders to ensure robust public accountability

This will include:

- (a) **Exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships:**

We will demonstrate this by;

- Making clear to themselves, all staff and the community to whom they are accountable and for what.
- Considering those institutional stakeholders to whom the authority is accountable and assess the effectiveness of the relationships and any changes required.
- Producing an annual report on the activity of the scrutiny function.

- (b) **Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning:**

We will demonstrate this by;

- Ensuring clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements and ensure that they operate effectively.
- Holding meetings in public unless there are good reasons for confidentiality.
- Ensuring that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands.
- Establishing a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result.
- On an annual basis, publishing a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.
- Ensuring that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.

- (c) **Making best use of human resources by taking an active and planned approach to meet responsibility to staff:**

We will demonstrate this by;

- Developing and maintaining a clear policy on how staff and their representatives are consulted and involved in decision making.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S REPORT TO
AUDIT AND RISK COMMITTEE**

15TH APRIL 2013

**1. REGULATION OF INVESTIGATORY POWERS ACT 2000 -
REVISED POLICY DOCUMENT**

Submitted by: Head of Central Services and Monitoring Officer

Ward(s) affected: All

Purpose of the Report

To inform Members of the revised Council Policy on the Regulation of Investigatory Powers Act 2000 (RIPA). The purpose of the policy and its associated procedures is to ensure compliance with the requirements of RIPA and the Protection of Freedoms Act 2012 following legislative changes which came into force on 1st November 2012.

RECOMMENDATIONS:

- (a) That the Policy be endorsed and adopted.**
- (b) That a report be submitted to this Committee on an annual basis to update Members on any amendments made to the Policy as a result of recommendations from the Office of the Surveillance Commissioners or future legislative changes to ensure the Policy remains fit for purpose.**
- (c) To receive internal reports following any use by the Council of the Regulation of Investigatory Powers Act 2000.**

Reasons

The Office of the Surveillance Commissioners (OSC) recommends that it is best practice to adopt a policy that covers the use of surveillance and stresses the importance of local authorities reviewing and amending their existing policies in the light of changes introduced on 1st November 2012.

1. Background

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted to provide statutory authority for activities which would otherwise be contrary to Article 8 of the European Convention on Human Rights – the right to respect for private and family life and correspondence.**
- 1.2 The Act provides authority for the interception of correspondence in certain circumstances and also for the carrying out of surveillance.**

- 1.3 Using covert techniques allows a range of public authorities (from the Police and security agencies to local authorities and organisations such as the Office of Fair Trading) to investigate suspected offences without alerting an individual that they are part of that investigation. This can include using hidden cameras to film activity, using telephone records or using people to provide intelligence on others. Such techniques can be a vital way of gathering information. RIPA requires local authorities to use these investigatory techniques only if they are necessary and proportionate.
- 1.4 The changes from 1st November 2012 are the result of a Home Office review of local authorities' access to, and the approvals process for, their use of techniques under RIPA. The Government had concerns around local authority use of covert surveillance in what they viewed to be less serious or trivial investigations, for instance checking whether an individual lives in a school catchment area or dog fouling.
- 1.5 From 1st November 2012 local authorities have been required to obtain judicial approval prior to using covert techniques. Local authority authorisations and notices under RIPA will only be given effect once an order has been granted by a Justice of the Peace in England and Wales, a Sheriff in Scotland and a District Judge (Magistrates' Courts) in Northern Ireland. The Government considered that the benefit of introducing the Magistrate's approval mechanism would ensure that local authority authorisations are subject to independent judicial scrutiny and ensure that local authorities do not use the techniques in trivial cases.
- 1.6 The Borough Council will only carry out covert surveillance where such action is justified and endeavours to keep such surveillance to a minimum. Indeed, no operations have been carried out since 2010. Any officer intending to acquire data covertly will only do so if the evidence or intelligence sought cannot be obtained by any other means.

2. Issues

- 2.1 Before 1st November, a senior officer in an authority could authorise surveillance where necessary 'for the purpose of preventing or detecting crime or preventing disorder'. The element of 'preventing disorder' has now been removed and additionally the grant of authorisation has been made subject to conditions. In summary, directed surveillance covered by RIPA will not now be authorised unless:
 - (a) it is for the purpose of preventing or detecting a criminal offence; and
 - (b) the offence is one punishable by a maximum of at least 6 months imprisonment; or
 - (c) it is one of a number of licensing or similar offences which prevent the sale of tobacco or alcohol to children.
- 2.2 Use of these techniques firstly has to be authorised internally by an authorised officer or a designated person. They can only be used where it is considered **necessary** (e.g. to investigate a suspected crime or disorder) and **proportionate** (e.g. balancing the seriousness of the intrusion into privacy against the seriousness of the offence and whether the information can be obtained by other means).
- 2.3 Local authorities are no longer able to use directed surveillance in some cases where it was previously authorised such as flytipping, taxi plying for hire and dog fouling. But this does not mean that it will not be possible to investigate these areas with a view to stopping offending behaviour. The statutory RIPA Code of Practice on covert surveillance makes it clear that routine patrols, observations at trouble 'hotspots', immediate response to events and overt use of CCTV are all techniques which do not require RIPA authorisation.

2.4 In the light of the changes in legislation, your officers have drawn up a new policy document (Appendix 1 to this report). A training session for all relevant staff on the new legislation was held on 9th November 2012 and a further session was held on 18th March 2013.

2.5 Oversight of the process is carried out by the Office of the Surveillance Commissioners by way of an inspection every couple of years by an Assistant Surveillance Commissioner (a High Court Judge). Such inspections include interviews with key personnel, examination of RIPA applications, authorisations, the central record, policy documents and an evaluation of processes and procedures. Inspection reports are restricted and only seen by the local authorities concerned.

3. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

The revised Policy contributes to the overall ethical wellbeing of the Council, and help to ensure a culture of high ethical standards, which the public and the Council's partners can have confidence in. This will thereby contribute to the Council's priority of transforming our Council to achieve excellence and to demonstrate best practice. Effective enforcement benefits all of the Council's corporate priorities.

4. Legal and Statutory Implications

Any authorisations granted should comply with the requirements of the Human Rights Act, RIPA and the Protection of Freedoms Act 2012 and able to withstand challenge in court.

5. Equality Impact Assessment

The Policy does not have any direct consequences for equality in terms of the protected groups. This applies both to the crime threshold for local authority use of direct surveillance, and the judicial approval for all three covert techniques which may be used by local authorities.

6. Major Risks

There are reputational and legal risks in not implementing the changes properly. The Office of the Surveillance Commissioners (OSC) recommends that it is best practice to adopt a policy that covers the use of surveillance and stresses the importance of reviewing and amending this in the light of the changes introduced on 1st November 2012.

7. Financial Implications

There are none flowing directly from this report although there will be resource required in the light of the new approval mechanism in that a member of the Council's staff will need to present the authorisation to the Magistrate in person. This can be met from existing budgets.

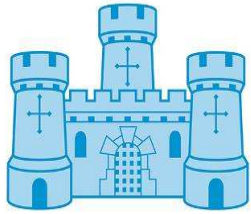
8. Key Decision Information

This is not a key decision.

9. Background documents

The Human Rights Act, RIPA, Protection of Freedoms Act
OSC guidance
Home Office guidance
Codes of Practice

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NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

HUMAN RIGHTS ACT 1998

**REGULATION OF INVESTIGATORY
POWERS ACT 2000 (RIPA) AS AMENDED**

POLICY AND GUIDANCE
ON USE OF RIPA

UPDATED MARCH 2013

INTRODUCTION

The purpose of this policy and associated procedures is to ensure compliance with the requirements of the Regulation of Investigatory Powers Act (RIPA) as amended from 1st November 2012 by the Protection of Freedoms Act 2012.

This Policy takes account of the primary and secondary legislation, Codes of Practice and Guidance issued by the Home Office.

The Senior Responsible Officer (SRO) for the purposes of this policy is the Head of Central Services. The responsibilities of the SRO are set out in the revised (2010) Home Office “Covert Surveillance and Property Interference” Code of Practice paragraphs 3.28 and 3.29:

3.28 It is considered good practice that within every relevant public authority, a Senior Responsible Officer should be responsible for:

- The integrity of the process in place within the public authority to authorise directed surveillance
- Compliance with Part II of the 2000 Act (in relation to covert surveillance that is likely to result in the obtaining of private information) and with the 2010 Code of Practice
- Engagement with the Commissioners and inspectors when they conduct their inspections; and
- Where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by a Commissioner.

3.29 Within local authorities, the Senior Responsible Officer should be a member of the corporate leadership team and should be responsible for ensuring that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of Surveillance Commissioners. Where an inspection report highlights concerns about the standards of authorising officers, the Senior Responsible Officer will be responsible for ensuring the concerns are addressed.

Although no identical provisions are contained in the corresponding “Covert Human Intelligence Sources” Code of Practice, the SRO will also fulfil similar tasks for the use of Covert Human Intelligence Sources (CHIS).

In all cases, officers considering any operations which might or will necessitate a RIPA authorisation should firstly consult the Senior Responsible Officer who will advise accordingly.

LOCAL AUTHORITY USE OF RIPA ('the 2000 Act')

The Borough Council will only carry out covert surveillance where such action is justified and endeavours to keep such surveillance to a minimum. Any officer intending to acquire data covertly will only do so if the evidence or intelligence sought cannot be obtained by any overt other means.

The existing regulatory framework

The 2000 Act sets out a regulatory framework for the use of covert investigatory techniques by public authorities. It does not provide any powers to carry out covert activities. If such activities are conducted by Council officers, then RIPA regulates them in a manner that is compatible with the European Convention on Human Rights (ECHR), particularly Article 8 - the right to respect for private and family life. Interference with that right could only be on the basis of a specified ground and 'in accordance with the law'. Until RIPA was introduced, there was no statutory basis for covert surveillance in England and Wales.

RIPA enables local authorities to interfere with private and family life protected by Article 8 of the ECHR provided it is necessary and proportionate to do so. This may be necessary to enable the Borough Council to effectively investigate and obtain evidence in a range of core regulatory functions that they have a statutory duty to enforce and covers the use of covert surveillance for test purchasing and other enforcement activities. However, powers are now limited under the Protection of Freedoms Act 2012.

The 2000 Act allows three types of covert surveillance - directed (DS), intrusive (IS) and covert human intelligence sources (CHIS)), but limits local authorities to using only DS and CHIS, together with the ability to obtain telecommunications data (but not content) – and **only** for the purpose of preventing or detecting crime or preventing disorder. Local authorities have no power to carry out intrusive surveillance. DS, IS and CHIS are explained later in this document.

Use of these techniques has to be authorised internally by an authorising officer (see below). Covert surveillance can only be used where it is considered **necessary** (e.g. to investigate a suspected crime or disorder) and **proportionate** (e.g. balancing the seriousness of the intrusion into privacy against the seriousness of the offence and whether the information can be obtained by other means).

Local authorities are no longer able to use directed surveillance in some cases where it was previously authorised. For this Council, this included flytipping and taxi plying for hire operations. But this does not mean that it will not be possible to investigate these areas with a view to stopping offending behaviour. The "Covert Surveillance and Property Interference" Code of Practice on covert surveillance makes it clear that routine patrols, observations at trouble 'hotspots', immediate response to events and overt use of CCTV are all techniques which do not require RIPA authorisation (see paras 2.21 et seq).

Local authorities are required to obtain judicial approval prior to using covert techniques. Local authority authorisations under RIPA will only be given effect once an order has been granted by a Justice of the Peace.

Additionally, local authority use of directed surveillance under RIPA will be limited to the investigation of crimes which attract a maximum sentence of six months (or longer) custody, with the exception of certain offences relating to the sale of alcohol and other age restricted products to persons who are under-age.

Surveillance Techniques

Surveillance can be either 'directed' or 'intrusive'. Brief descriptions of these terms are given below. However, local authorities do not have the power to carry out intrusive surveillance.

Surveillance:

Surveillance includes the following (section 48(2) RIPA):

- (a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
- (b) recording anything monitored, observed or listened to in the course of surveillance; and
- (c) surveillance by or with the assistance of a surveillance device.

Directed surveillance:

- (a) is covert – i.e. done in such a way as to be hidden from the subject of investigation
- (b) is likely to result in private information about the subject or any other person (i.e. information relating to a person's private or family life, his/her home or correspondence (whether or not that person is specifically targeted for the purposes of an investigation)).

Intrusive surveillance:

Intrusive surveillance is defined in section 26(3) of the 2000 Act as covert surveillance that:

- (a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and

- (b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device (cameras, tape recorders etc.)

BUT surveillance carried out in relation to residential premises by use of a device (i.e. a camera) which is not in or on the premises is not 'intrusive' (although it will be 'directed') unless it is of the same quality of information as would be obtained if the equipment was situated in the premises.

Behaviour which is not covert surveillance (i.e. it is overt):

- a visit by an authorised member of staff who announces the reason for their visit and requests entry to the premises
- any information obtained as a result of questions to the resident
- any information obtained as a result of observation in the part of the premises to which the officer is invited
- any information obtained as a result of a request to make an inspection
- the recording of a telephone conversation with the agreement of the other party
- entering on to residential premises to take action to address an immediate nuisance is not covert surveillance.

If there is any doubt as to whether an activity is or is not covert surveillance, a precautionary approach should be adopted, legal advice should be sought, and the activity treated as covert surveillance.

Use of Covert Human Intelligence Sources (CHIS)

A person is a covert human intelligence source if he or she:

- a) Establishes or maintains a relationship (which can be a personal relationship or a business relationship, e.g. a contract) with a person either to use the relationship to obtain information or to disclose information obtained as a result of such a relationship
- b) The surveillance is covert if and only if it is carried on in a manner calculated to ensure that one of the parties to the relationship is unaware of the purpose of that relationship.

The circumstances in which the Council may be considered to be using a covert human intelligence source is where a neighbour is requested to provide information about a neighbour and it is information obtained not by personal observation as in the case of neighbour nuisance, but is information obtained

through conversation with the neighbour under investigation such as personal relationships. This means that asking a neighbour for information regarding who is living in a property and the relationship between the parties would be using that person as a covert human intelligence source, which would need special authorisation.

Asking a neighbour to keep records of nuisance suffered by the neighbour would not be using a covert human intelligence source because the neighbour would not be relying on a relationship with the person under investigation to obtain information.

Although it is not likely to occur very often, the Borough Council recognises that it may occasionally have to undertake the use of CHIS activity. As with authorisations for directed surveillance, judicial approval is required before a CHIS can be used.

Any officer contemplating the use of a CHIS should immediately consult the Senior Responsible Officer.

Interception of Communications and Access to Communications Data

Communications data means:

- Who made the communication and when and where they made it

but NOT the content.

It includes the manner in which, and by what method, a person or device communicates with another person or device.

Authorisation can only be given if it is necessary for the purpose of preventing or detecting crime or of preventing disorder.

As an employer, the Council may intercept employees' emails (when sent or received on a Council computer or other electronic device) with the consent of the employee. Consent is not however needed where the purpose is to detect and prevent crime or unauthorised use of the email or internet system.

Under the Regulation of Investigatory Powers (Communications Data) Order 2010 (S.I. 2010/480), a Director, Head of Service, Service Manager or equivalent can authorise access to communications data. Examples of such data are:

- Itemised telephone call records and connections to internet services
- Information about the connection, disconnection and reconnection of services

- Records of registered, recorded or special delivery postal items.

Examples of subscriber information are:

- Who is the subscriber of a particular phone number or email account
- What services a subscriber or account holder has subscribed to, including payment methods
- Addresses for installation and billing.

The use of these powers is subject to a Code of Practice issued by the Home Office. This includes information about:

- a) the form and content of an application
- b) the content of an authorisation or notice
- c) the validity period for an authorisation or notice
- d) the records to be kept.

RIPA provides two different ways of obtaining communications data.

1. An authorisation given by a designated officer. This allows the Council to find out the information itself
2. By a notice served on the service provider which compels it to provide the information.

Any authorisation under section 22 of RIPA for access to communications data will not take effect until approved by a Magistrate in accordance with section 23A.

The tests for necessity and proportionality apply in the same way as for directed surveillance – see below.

AUTHORISATION OF COVERT SURVEILLANCE

The Borough Council is a 'relevant authority' under Section 30 and Schedule 1 (as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (S.I. 2010/521)).

'Authorising Officers' must hold an office, rank or position prescribed by the above order, and these positions are:

- Director
- Head of Service
- Service manager or equivalent.

The Council's Scheme of Delegations specifies the Authorising Officers for the Borough Council as:

Chief Executive

Executive Director (Resources and Support Services)

Executive Director (Regeneration and Development Services)

Executive Director (Operational Services).

Where a covert surveillance operation may result in the obtaining of private information, the Authorising Officer must be the Chief Executive or (in his/her absence, the person acting as the Chief Executive).

Roles of the Applicant and Authorising Officer – these roles are NOT the same

(para. 104, OSC Procedures and guidance)

The role of the applicant is to present the facts of the application for covert surveillance:

- the crime to be investigated;
- the reason why it is proposed to conduct the investigation covertly;
- what covert tactics are requested and why; who the covert surveillance will be focused on; who else may be affected by it; and
- how it is intended to conduct covert surveillance.

To assist the authorising officer's assessment of proportionality, the applicant should provide facts and evidence but it is not the role of the applicant to assert that it is necessary and proportionate – that is the responsibility of the authorising officer. However, the applicant should address and consider why he/she considers that the authorisation being applied for is necessary and proportionate.

The authorising officer's statement should preferably be completed in handwriting as a personal contemporaneous record of the thinking which justified the authorisation.

The tests of necessity and proportionality for Directed Surveillance

Necessity

The action must be **necessary** and the only 'necessary' reason available to a local authority is for the prevention or detection of crime or the prevention of disorder. This is the starting point for determining necessity, but it is further limited by Regulation 7A of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 – S.I. 2012/1500.

Accordingly, any Directed Surveillance must be for the purpose of preventing or detecting conduct which:

- (i) constitutes one or more criminal offences; or
- (ii) is, or corresponds to, any conduct which, if it all took place in England and Wales, would constitute one or more criminal offences.

AND

The offence(s) must be:

- a) An offence which is punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months imprisonment; or
- b) An offence under:
 - (i) Section 146 of the Licensing Act 2003 – sale of alcohol to children
 - (ii) Section 147 of the Licensing Act 2003 – allowing the sale of alcohol to children
 - (iii) Section 147A of the Licensing Act 2003 – persistently selling alcohol to children
 - (iv) Section 7 of the Children and Young Persons Act 1933 – sale of tobacco etc. to persons under 18.

Proportionality

The surveillance is **proportionate** to what is sought to be achieved by carrying out the surveillance e.g. impairs as little as possible the rights and freedoms (of the individual concerned and of innocent third parties); is carefully designed to meet the objectives in question; is not arbitrary, unfair or based on irrational considerations.

The grant of authorisation should indicate that serious consideration has been given to the above points. The authorising officer's statement should include a full account of what is being authorised and how and why the authorising officer is satisfied that the operation is necessary and proportionate. The authorising officer's statement should spell out the five 'W's':

- **WHOM** the surveillance is directed against
- **WHAT** surveillance/activity is sanctioned
- **WHEN** and
- **WHERE** the surveillance/activity will take place; and
- **WHY** it is necessary.

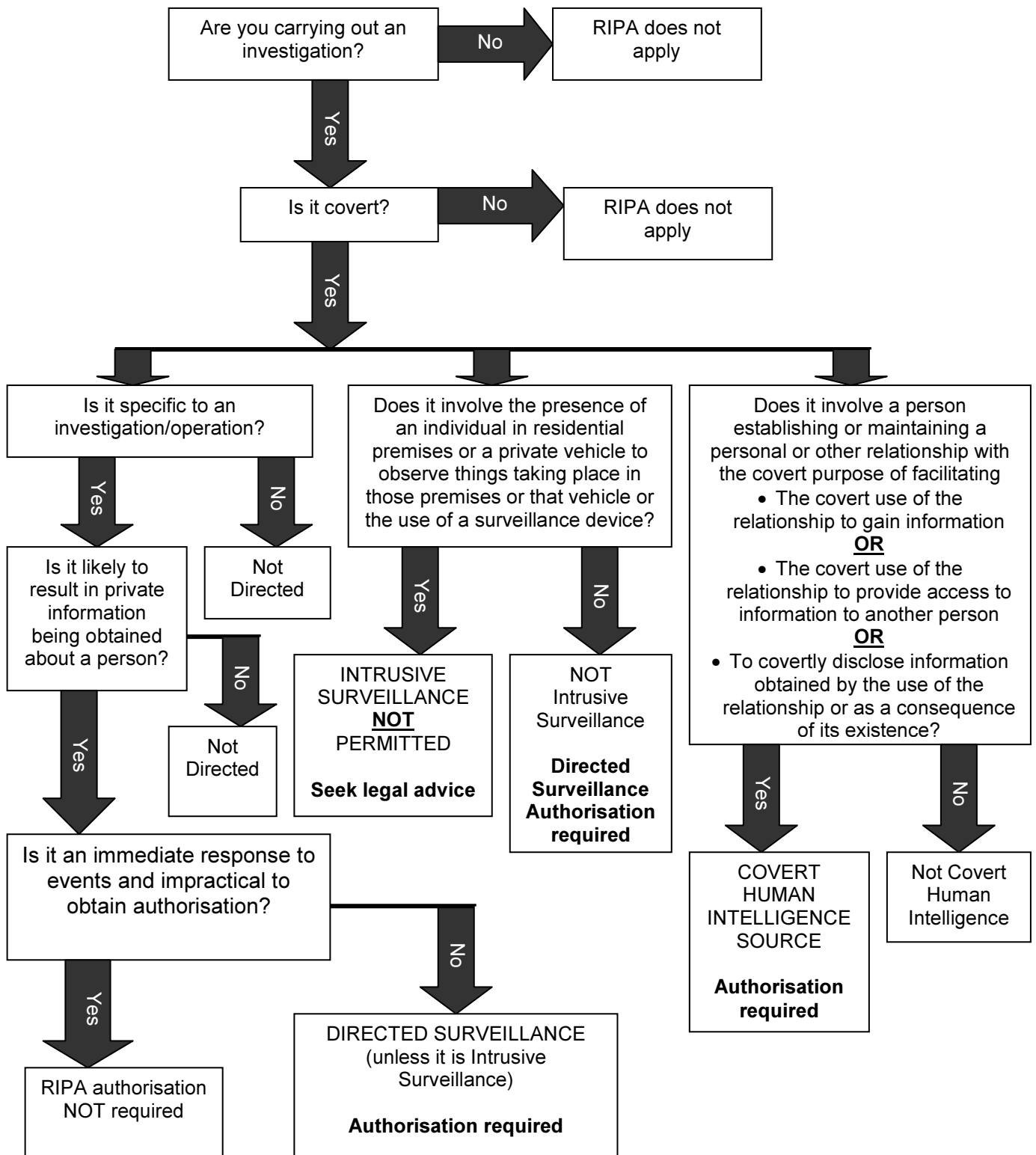
An authorising officer should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable. Where an authorising officer authorises such an investigation or operation, the central record of authorisations should highlight this.

Before authorising applications, the authorising officer should also take into account the risk of obtaining private information about persons who are not subjects of the surveillance or property interference activity (collateral intrusion).

At the point in any investigation where any activity is being contemplated which might amount to covert surveillance such as:

- following someone without their knowledge
- taking photographs of someone without their knowledge
- recording a telephone conversation without the agreement of the other party.

Officers need to consider whether the activities contemplated are covert surveillance and therefore require authorisation. The flowchart below is a guide as to whether authorisation may be needed or not.



If, following the flowchart and Policy, it appears to an investigating officer that an authorisation for either DS or CHIS is required, the appropriate application must be completed on the model form (Appendix A) and submitted to the Authorising Officer.

DS authorisations last for 3 months. CHIS authorisations last for 12 months unless the source is aged under 18 in which case they last for one month. Any can be renewed before they expire by an authorising officer.

It must be recognised that any RIPA authorisation can only be granted for those specified periods of time, even if the surveillance is due to take place on the same or next day, or last for a very short time. All authorisations should be monitored closely by the Authorising Officer to ensure that they are cancelled as soon as they are no longer necessary or proportionate (or in the case of a CHIS, the additional requirements for handler and controller are no longer in place). This is especially important in any short term operations.

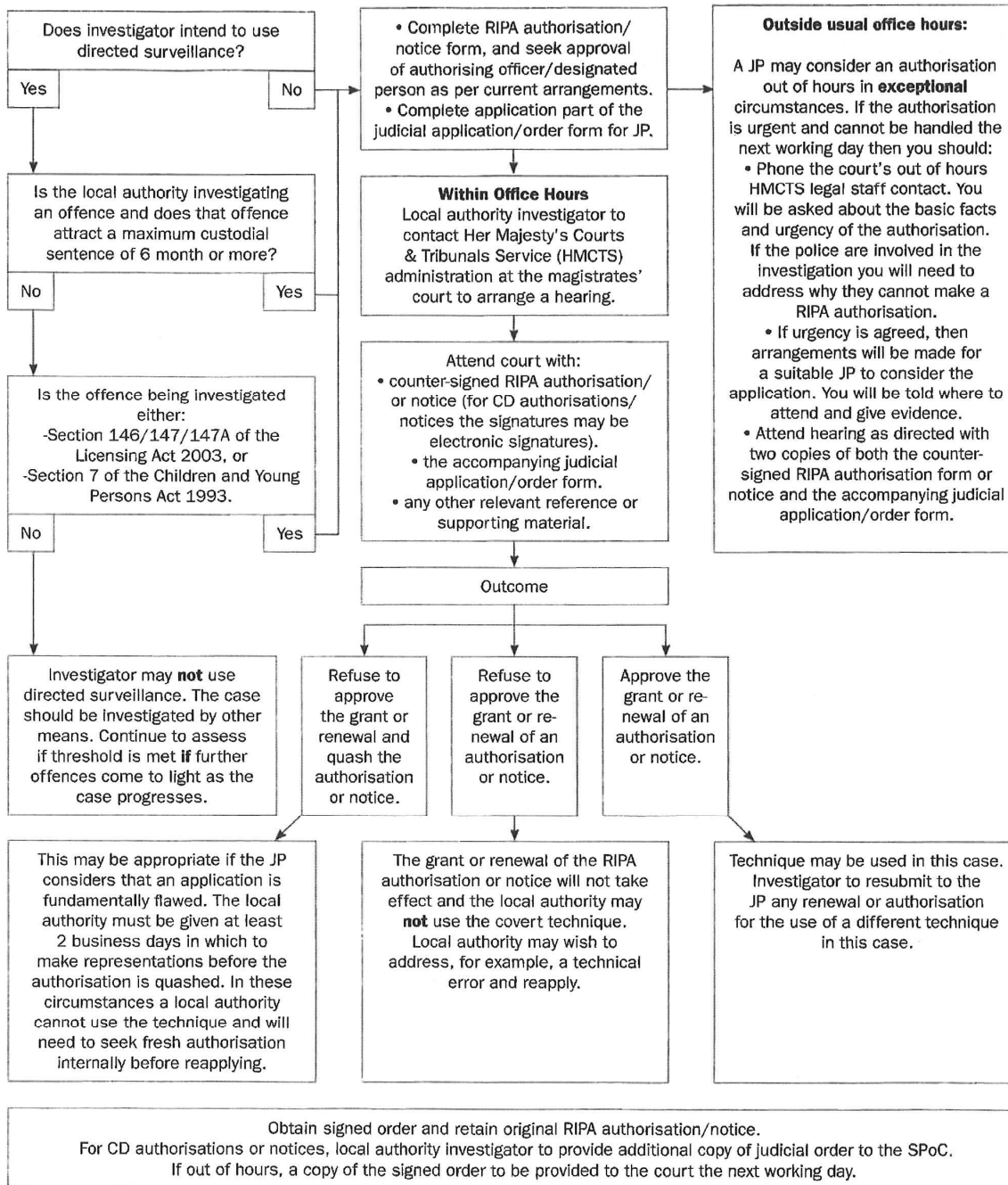
Directed Surveillance Judicial Approval

Once the authorisation has been completed, an application must be made to a single Magistrate under s.32A of the 2000 Act. To bring the directed surveillance authorisation into force, the Magistrate must be satisfied:

- a) That at the time of the grant (by the authorising officer), there were reasonable grounds for believing the authorisation was necessary and proportionate
- b) The Authorising Officer was properly designated; and
- c) That the authorisation is still (i.e. at the time of the application) necessary and proportionate.

The order form for submission to the Magistrate is attached at Appendix B.

A flowchart setting out these steps is set out below:



Directed Surveillance Post Authorisation Activity

Once an authorisation has been approved by the Magistrate, then officers undertaking the investigation will need to carry out the following steps:

- 1) keep a log in the agreed format of all actions undertaken during the surveillance (controlled stationery must be obtained for this purpose)
- 2) all entries in the log must include times, dates, persons present and be signed
- 3) a similar log will need to be kept for any photographs, video and/or sound recordings taken
- 4) authorising officers must ensure compliance with the appropriate data protection requirements and any relevant codes of practice
- 5) a centrally retrievable record of all authorisations must be kept and regularly updated whenever an authorisation is granted, renewed or cancelled. The record is made available to the relevant Commissioner or an Inspector from the OSC upon request. The record is kept securely in the office of the Head of Central Services. However, departments may securely keep their own record of authorisations granted but the original must be placed on the central record. Records should be kept for at least 3 years from the end of the authorisation
- 6) authorisations must be uniquely numbered
- 7) where it is envisaged during the course of an investigation that specific equipment will be used, e.g. camera/sound recording equipment, the request for authorisation should specifically refer to this and be approved in the authorisation
- 8) where the product of surveillance could be relevant to pending or future proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period, commensurate to any subsequent review.

Covert Human Intelligence Source (CHIS)

Authorisation levels are the same as for directed surveillance, i.e. an officer of a relevant authority.

Under Section 30 and Schedule 1 (as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (S.I. 2010/521), the officer must hold an office, rank or position prescribed by this Order.

Authorisation must not be granted unless the Authorising Officer believes it is **necessary** i.e. for the purpose of preventing or detecting crime or of preventing disorder, and **proportionate** to what is sought to be achieved by carrying out the surveillance. As with Directed Surveillance, no other grounds are available.

A CHIS can be used for any purpose of preventing or detecting crime or of preventing disorder. There are no limitations on the type of crime.

With CHIS, there are additional requirements for authorisation. There must be arrangements in place for ensuring (section 29(5) that:

- (a) someone (holding the required office, rank or position for authorising surveillance) has day to day responsibility for dealing with the source and for his/her security and welfare ('handler')
- (b) another has general oversight of the use made of the source ('controller')
- (c) someone has responsibility for maintaining a record of the use made of the source
- (d) the records contain particulars specified by the Secretary of State in the Regulation of Investigatory Powers (Source Records) Regulations 2000 S.I. 2000/2725.

Where the source acts for more than one public authority, only one authority must have responsibility for each of (a) to (d) above.

Additionally, the authorisation must specify:

- The conduct or use of the source
- The person he/she is used against
- The purpose of the investigation/operation involved.

The Secretary of State can prohibit certain conduct or uses of covert sources altogether or impose extra requirements before authorisations are granted.

Under the Regulation of Investigatory Powers (Juveniles) Order 2000 S.I. 2000/2793 - a source under 16 cannot be used to obtain information about his/her parent or anyone having parental responsibility.

Where a source is under 16 someone must have responsibility for ensuring that an appropriate adult is present at meetings (parent, guardian, someone who has assumed responsibility for his/her welfare) or, failing that, anyone over 18 who is not employed by the investigating authority.

Where a source is under 18 no authorisation can be granted unless someone has carried out a risk assessment covering the likelihood of physical and psychological injury arising from the covert activities and is satisfied that the risks:

- are justified
- have been properly explained
- are understood by the source.

CHIS Judicial Approval

Once the authorisation has been completed, an application must be made to a single Magistrate under s.32A of the 2000 Act. To bring the directed surveillance authorisation into force, the Magistrate must be satisfied:

- (a) That at the time of the grant there were reasonable grounds for believing that the requirements of section 29(2) (e.g. necessary, proportionate, plus handler, controller and record keeping in place) and any requirements imposed by section 29(7)(b) (juveniles requirements) were satisfied in relation to the authorisation; and
- (b) The relevant conditions were satisfied in relation to the authorisation (i.e. section 2A(6) properly designated); and
- (c) At the time when the relevant judicial authority is considering the matter, there remain reasonable grounds for believing that the requirements of section 29(2) and any requirements imposed by virtue of section 29(7)(b) are satisfied in relation to the authorisation.

The model forms for renewal and cancellation of authorisations are attached to this document at Appendices C, D and E.

TRAINING

Training is provided on a regular basis for authorising officers and staff who may be involved in RIPA investigations.

Training was held in November 2012 on the new procedures and a further session was held in March 2013 for officers unable to attend in November.

Oversight by the Office of the Surveillance Commissioners

Oversight of the process is carried out by the Office of the Surveillance Commissioners by way of an inspection every couple of years by an Assistant Surveillance Commissioner (a High Court Judge). Such inspections include interviews with key personnel, examination of RIPA applications, authorisations, the central record, policy documents and an evaluation of processes and procedures. Inspection reports are restricted and only seen by the local authorities concerned.

FURTHER GUIDANCE

Relevant legislation:

The Human Rights Act 1998

The European Convention for the Protection of Human Rights and Fundamental Freedoms

Regulation of Investigatory Powers Act 2000

Codes of Practice:

Home Office – www.homeoffice.gov.uk

Office of Surveillance Commissioners

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