

**Notice of Meeting**

**AUDIT AND STANDARDS COMMITTEE**

**Tuesday, 6 December 2022 - 7:00 pm**  
**Council Chamber, Town Hall, Barking**

**Members:** Cllr Princess Bright (Chair); Cllr Rocky Gill (Deputy Chair); Cllr Dorothy Akwaboah, Cllr Josie Channer, Cllr Manzoor Hussain, Cllr Margaret Mullane, Cllr Adegboye Oluwole and Cllr Muazzam Sandhu

**Independent Member** (for audit matters only): Stephen Warren

**By Invitation:** Lisa Blake, Kirsty Slater, Duncan Wallace and David Eagles

Date of publication: 28 November 2022

Fiona Taylor  
Acting Chief Executive

Contact Officer: Yusuf Olow  
Tel. 020 3911 7919  
E-mail: [yusuf.olow@lbbd.gov.uk](mailto:yusuf.olow@lbbd.gov.uk)

---

Please note that this meeting will be webcast via the Council's website. Members of the public wishing to attend the meeting in person can sit in the public gallery on the second floor of the Town Hall, which is not covered by the webcast cameras. To view the webcast online, click [here](#) and select the relevant meeting (the weblink will be available at least 24-hours before the meeting).

**AGENDA**

- 1. Apologies for Absence**
- 2. Declarations of Interest**
- 3. Minutes - To confirm as correct the minutes of the meetings held on 12 October 2022 (Pages 3 - 8)**
- 4. Audit 2019/20 Completion Update (Pages 9 - 10)**
- 5. Standards Complaint Update (Pages 11 - 13)**
- 6. Corporate Risk Register Update (Pages 15 - 21)**

7. **Internal Audit Report 2022/23- Q1 and Q2 (Pages 23 - 33)**
8. **Review of Counter Fraud Policies (Pages 35 - 131)**
9. **Counter Fraud 2022/23 Qtr 2 Report (Pages 133 - 138)**
10. **Work Programme 2022/23 (Pages 139 - 140)**
11. **Any other public items which the Chair decides are urgent**
12. **To consider whether it would be appropriate to pass a resolution to exclude the public and press from the remainder of the meeting due to the nature of the business to be transacted**

#### **Private Business**

The public and press have a legal right to attend Council meetings such as the Audit and Standards Committee, except where business is confidential or certain other sensitive information is to be discussed. The list below shows why items are in the private part of the agenda, with reference to the relevant legislation (the relevant paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 as amended). ***There are no such items at the time of preparing this agenda.***

13. **Any other confidential or exempt items which the Chair decides are urgent**

## Our Vision for Barking and Dagenham

# **ONE BOROUGH; ONE COMMUNITY; NO-ONE LEFT BEHIND**

## Our Priorities

### **Participation and Engagement**

- To collaboratively build the foundations, platforms and networks that enable greater participation by:
  - Building capacity in and with the social sector to improve cross-sector collaboration
  - Developing opportunities to meaningfully participate across the Borough to improve individual agency and social networks
  - Facilitating democratic participation to create a more engaged, trusted and responsive democracy
- To design relational practices into the Council's activity and to focus that activity on the root causes of poverty and deprivation by:
  - Embedding our participatory principles across the Council's activity
  - Focusing our participatory activity on some of the root causes of poverty

### **Prevention, Independence and Resilience**

- Working together with partners to deliver improved outcomes for children, families and adults
- Providing safe, innovative, strength-based and sustainable practice in all preventative and statutory services
- Every child gets the best start in life
- All children can attend and achieve in inclusive, good quality local schools
- More young people are supported to achieve success in adulthood through higher, further education and access to employment
- More children and young people in care find permanent, safe and stable homes
- All care leavers can access a good, enhanced local offer that meets their health, education, housing and employment needs
- Young people and vulnerable adults are safeguarded in the context of their families, peers, schools and communities

- Our children, young people, and their communities' benefit from a whole systems approach to tackling the impact of knife crime
- Zero tolerance to domestic abuse drives local action that tackles underlying causes, challenges perpetrators and empowers survivors
- All residents with a disability can access from birth, transition to, and in adulthood support that is seamless, personalised and enables them to thrive and contribute to their communities. Families with children who have Special Educational Needs or Disabilities (SEND) can access a good local offer in their communities that enables them independence and to live their lives to the full
- Children, young people and adults can better access social, emotional and mental wellbeing support - including loneliness reduction - in their communities
- All vulnerable adults are supported to access good quality, sustainable care that enables safety, independence, choice and control
- All vulnerable older people can access timely, purposeful integrated care in their communities that helps keep them safe and independent for longer, and in their own homes
- Effective use of public health interventions to reduce health inequalities

## **Inclusive Growth**

- Homes: For local people and other working Londoners
- Jobs: A thriving and inclusive local economy
- Places: Aspirational and resilient places
- Environment: Becoming the green capital of the capital

## **Well Run Organisation**

- Delivers value for money for the taxpayer
- Employs capable and values-driven staff, demonstrating excellent people management
- Enables democratic participation, works relationally and is transparent
- Puts the customer at the heart of what it does
- Is equipped and has the capability to deliver its vision

## MINUTES OF AUDIT AND STANDARDS COMMITTEE

Wednesday, 12 October 2022  
(7:00 - 8:05 pm)

**Present:** Cllr Princess Bright (Chair), Cllr Rocky Gill (Deputy Chair), Cllr Dorothy Akwaboah, Cllr Josie Channer, Cllr Manzoor Hussain, Cllr Adegboyega Oluwole and Cllr Muazzam Sandhu

**Also Present:** Stephen Warren

**Apologies:** Cllr Dominic Twomey

### 10. Declarations of Interest

The Independent Advisor (IA) disclosed that he was engaged as a consultant to Public Sector Audit Appointments (PSAA), which appoints the Council's external auditor. The IA disclosed that he had advised on the financial evaluation on the forthcoming tender, and the potential impact on the time that would be required as a result of changes in auditing and accounting standards requirements.

The IA assured the Committee that this did not directly affect Barking and Dagenham Council or the appointment of an external auditor. The Chair agreed that this was not a disqualifying interest and permitted the IA to continue to participate in the meeting.

### 11. Minutes - To confirm as correct the minutes of the meetings held on 20 July 2022

The Chair requested an update on the actions referred to in the minutes. The Senior Governance Officer (SFO) disclosed that since the last meeting, the Head of Assurance reported that one of the four agreed actions had been implemented and a Parking Strategy report was submitted to the 12 July 2022 Cabinet, setting out the Controlled Parking Zone benefits realised to date and the Council's approach to future projects.

The three other actions, that related to Complaints, were outstanding and the Committee would receive an update at the next meeting taking place on 6 December 2022.

The IA asked that the minutes be amended to show that *'the IA assured the Committee that this did not **directly** affect Barking and Dagenham Council or the appointment of an external auditor.'*

Subject to the amendment, the minutes of the meeting held on 20 July 2022 were confirmed as correct.

### 12. Standards Complaints Update

The Head of Law (HoL) updated the Committee.

All complaints highlighted to the Committee at the previous meeting had now been closed. The complaints had been closed owing to lack of evidence or had been deemed vexatious. The Monitoring Officer had agreed to the closure of the complaints.

The Committee noted the update.

### **13. Audit Accounts 2019/20 Status Report**

BDO's representatives updated the Committee.

An overview on the status of the audit was provided to the Committee. BDO said that the audit was ongoing, and progress had been made since BDO last attended the Committee on 7 March 2022.

There was a pause during May and June 2022, owing to priority being given to NHS audits. When the audit resumed, a new team was introduced to address sections of the audit that were incomplete or where concerns had been raised. These mostly related to Property, Plant and Equipment, as well as to the Group Consolidation Process.

BDO explained that the Audit Manager dealing with the Audit went on sick leave and subsequently tendered their resignation. This presented an unforeseen challenge which further delayed the audit during July and August 2022. BDO appointed two new auditors, Kirsty Slater and Duncan Wallace, to take over the management of the audit. BDO emphasised that both auditors were already scheduled to oversee the 2020/21 audit but would now also oversee the remainder of the 2019/20 audit.

BDO said that it was confident that the audit would be completed by January 2023. However, caution was expressed in relation to accounting for infrastructure assets. All local authority auditors were still awaiting the decision on an amended accounting treatment, after the generally accepted public sector practice of not writing out the carrying amount of replaced highway infrastructure components, and those components which were fully depreciated in the balance sheet, was highlighted as contrary the Auditing Code Requirement. BDO said that they understood that the Code would be amended to apply retrospectively but this still awaited confirmation.

The Committee, noting that previous assurances in relation to audit completion had not been met, asked why the Committee should have confidence in the latest assurance. BDO responded that the 2019/20 audit began later than planned owing to issues with the previous audit and that, whilst a root cause analysis was undertaken to avoid a repeat of issues with the 2018/19 audit, some of the issues re-emerged in the 2019/20 audit. BDO added that audits were planned in advance and resourcing was allocated based on the plan. Therefore, when unexpected issues emerged, it could affect resource allocation. In the case of the 2019/20 audit, other issues emerged with staff resources owing to illness and leave. BDO also emphasised the nationwide backlog in the delivery of public sector audits and, in common with other public sector auditors, BDO's audits of local authorities had also suffered delays.

As part of the review, areas requiring completion were identified, as well as the staff resources and time required to complete the audit. BDO acknowledged that it could not give an absolute guarantee regarding completion but that it was confident that, having reviewed resource allocations required to complete the audit and allocated accordingly, the draft audit report would be ready by January 2023. BDO was prioritising older outstanding audits and this would benefit Barking and Dagenham Council.

In response to further questioning, BDO said that, given previous issues, there were contingency plans in the event of issues with resourcing

The Strategic Director of Finance and Resources (SDFR) explained to the Committee that the Council was striving to improve audit working papers, and that the new financial IT system would assist in preparation of the accounts. The SDFR added that the audit of the group accounts was complicated which had contributed to the audit delays. Council subsidiaries had lacked resources to meet the audit deadline set by Companies House. This had required resources from the Council, which reduced resources to assist auditors, as the consequences for not meeting the Companies House deadline for subsidiaries were fines or being struck off. This was not the case for local authority audits.

Steps had been taken to address the issues with the subsidiaries and they now had the resources to meet the Companies House deadline in November 2022. The Committee asked that a briefing note on the subsidiaries be sent offline to Committee members, unless a formal report was provided at the next meeting.

The Committee also enquired about Thurrock Council, the running of which was taken over by a commissioner appointed by the Government, owing to concerns relating to its debt and general financial risk level. The Committee noted that Barking and Dagenham Council had a relationship with Thurrock Council and sought BDO's view on whether the Council's financial arrangements resembled Thurrock Council or risked doing so.

BDO responded that it was not a risk in the 2019/20 audit but that in the 2020/21 audit, consideration would be given to the Council's exposure to the crisis in Thurrock as well as to any lessons learned from Thurrock's financial problems that could be applied to the Council.

BDO and the SDFR clarified that this did not mean that past financial problems at Croydon and Slough councils, among others, had not been considered in the planning of previous audits; however, it was important not to draw comparisons where none were justified or where strategies differed. The SDFR stated that the increasingly challenging economic situation would be factored into the Council's spending plans. The SFDR also stressed that the Council maintained adequate reserves.

The SDFR then clarified that the issues with Thurrock related to the use of short-term loans from other local authorities to fund longer-term investment, which it was now having to convert to long-term loans at a higher cost. In contrast, Barking and Dagenham Council had borrowed long-term and at relatively low rates of interest. The SDFR said that the majority of the Council's loans were from the Public Works Loan Board, whose rates were based on the Gilt rate. The rate had risen from 2%

to 5.5%; however, the SDFR emphasised that existing borrowing was on a fixed rate so the increase would not immediately affect the Council. However, the SDFR warned that future interest rates on borrowing would be higher and that this was something that the Council would have to consider going forward.

Barking and Dagenham Council did provide short-term loans to other councils and organisations where money was available, and a return could be made. However, such loans required approval by the Cabinet and had to comply with the Treasury Management policy.

Following further questioning, it was disclosed that most Council investment was in housebuilding and estate regeneration via Reside and BeFirst. There was debt relating to the Housing Revenue Account, though this was connected to borrowing for capital purposes. The Council was prohibited from borrowing for day-to-day expenditure.

The Chair emphasised the importance of learning from the issues that emerged during 2019/20, in order to ensure that the audit for 2020/21 was much smoother. BDO said that an action plan from the previous root cause analysis had been drawn up and that this plan could be updated to incorporate issues that emerged and to address situations where new approaches had not delivered the desired outcomes.

The Principal Accountant (PA) updated the Committee on the actions being taken by the Council to assist the auditors, including weekly meetings with BDO and to set targets for responding to BDO queries. The PA indicated that the March 2023 sign off by the Committee was later than anticipated, noting that the completion target was January 2023. The Chair suggested, and the Committee and BDO agreed, that an additional meeting be held in February 2023 to receive the auditor's report prior to completion of the audit.

Following questioning by the IA, the PA confirmed that spreadsheets were used in the preparation of group accounts and not consolidation software. The SDFR explained that a new financial IT system, that was introduced in April 2022, would be used to prepare group accounts and assist audits going forward.

The IA observed that BDO had opted not to bid for work from PSAA from 2023/24. The IA asked about the capacity of BDO to deliver its outstanding work under the existing contract. BDO explained that having undertaken a strategic review of its operations and the challenges in the local authority audit market, it had concluded that it was optimal not to undertake new local government contracting activity and to focus on existing contracts. BDO did not intend to permanently withdraw from local authority contracts but noted that its staff were dealing with a substantial backlog that placed additional pressure on them.

The Committee noted the Audit Status Report.

#### **14. Work Programme 2022/23**

BDO requested that the workplan be updated to include the 2020/2021 audit plan for the meeting taking place on 6 March 2023.



The IA recommended that an audit progress update be included as an item for the meeting on 6 December 2022 and that the additional meeting, scheduled for February 2023, be added to the work programme.

The Committee agreed to the proposals.

This page is intentionally left blank

**AUDIT AND STANDARDS COMMITTEE****6 December 2022**

<b>Title:</b> Council's Accounts Audit Update - 2019/20 and Subsidiaries' accounts audit – 2021/22	
<b>Report of the Chief Financial Officer</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Author:</b> Thomas Mulloy, Chief Accountant	<b>Contact Details:</b> E-mail: <a href="mailto:Thomas.Mulloy@lbbd.gov.uk">Thomas.Mulloy@lbbd.gov.uk</a>
<b>Accountable Director:</b> Philip Gregory, Chief Financial Officer (Section 151 Officer)	
<b>Accountable Strategic Leadership Director:</b> Philip Gregory, Chief Financial Officer (Section 151 Officer)	
<b>Summary</b>	
This report is to note an update regarding the external audit of the Council's Statement of Accounts 2019/20. And to update on the latest regarding 2021/22 accounts audits of the Council's subsidiaries.	
<b>Recommendation(s)</b>	
The Audit and Standards Committee is recommended to note the contents of this report.	
<b>Reason(s)</b>	
It is a statutory obligation for the Council's Statement of Accounts to be produced and audited, and that the Statement of Accounts and the Annual Governance Statement must be approved by a Committee of the Council	

**1. Introduction and Background**

- 1.1 At the last meeting of the Committee, BDO provided a timetable to the Committee for completing the 2019/20 audit which has been beset by delays. The plan was to complete the audit by January 2023 and to present it to the Committee at a specially convened meeting on 7 February 2023. BDO will be providing a verbal update to the Committee on the progress in meeting the deadlines that were set out.
- 1.2 Although the 2019/20 accounts audit of the Council and its Group Accounts is still on-going, the individual 2021/22 accounts audits of the Council's subsidiaries are progressing well. The subsidiaries can be categorised as follows:

### **1.2.1 Barking & Dagenham Trading Partnership (BDTP Group)**

Testing is largely completed. A Board meeting for BDTP is scheduled on 14<sup>th</sup> December with a view of signing and filing within December.

### **1.2.2 Reside Entities including BD Giving (Charity)**

The audits are progressing well and they are nearing completion of the majority of the entities. The intention is to complete and file the accounts by the Companies House deadline of 31 December 2022. However, one entity may struggle to be completed – B&D Reside Regeneration LLP.

### **1.2.3 Be First (Regeneration) Ltd and Be First Developments (Muller) Ltd**

An audit committee meeting is scheduled on 1 December 2022. All being well it is anticipated that both will be signed at the Board meeting a week later and filing within December.

### **1.2.4 B&D Energy Ltd**

The audit is in its final stages, and the intention is to sign off at the next Board meeting on 13 December 2022, and file at Companies House shortly afterwards.

## **2. Financial Implications**

*Implications completed by: Thomas Mulloy, Chief Accountant*

- 2.1 Other than the audit fees previously mentioned in the Audit Plan, there are no financial implications arising from the report.

## **3. Legal Implications**

*Implications completed by: Dr Paul Feild, Senior Governance Lawyer*

- 3.1 The Chief Financial Officer has a statutory duty, under Section 151 of the Local Government Act 1972, to ensure that there are proper arrangements in place to administer the Council's financial affairs. An essential component of sound administration is a sound audit function.
- 3.2 The Local Audit and Accountability Act 2014, established a new audit regime. Local Authorities must appoint a local auditor which in carrying out its' role must be satisfied that the authority has:
- made proper arrangements for securing economy, efficiency and effectiveness in its use of resources;
  - in its accounts comply with the requirements of the enactments that apply to them;
  - observed proper practices in the preparation of the statement of accounts and that the statement presents a true and fair view.
- 3.3 This is supported by the Code of Audit Practice, published by the NAO, which requires auditors to 'take into account their knowledge of the relevant local sector as a whole, and the audited body specifically, to identify any risks that, in the auditor's judgement, have the potential to cause the auditor to reach an inappropriate conclusion on the audited body's arrangements.'

**Public Background Papers Used in the Preparation of the Report: None**

**AUDIT AND STANDARDS COMMITTEE**

6 December 2022

<b>Title: Complaints Update</b>	
<b>Report of the Monitoring Officer</b>	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Dr. Paul Feild Principal Standards & Governance Lawyer	<b>Contact Details:</b> Tel: 0208 227 2638 E-mail: <a href="mailto:paul.feild@lbbd.gov.uk">paul.feild@lbbd.gov.uk</a>
<b>Accountable Director:</b> Alison Stuart, Chief Legal Officer and Interim Monitoring Officer	
<b>Accountable Strategic Leadership Director:</b> Fiona Taylor, Interim Chief Executive	
<p><b>Summary:</b></p> <p>This report is to provide the Committee with an update of complaints against Members of the Council, their status, outcome and actions taken.</p> <p>On 1 July 2012 the Assembly adopted, as required by the Localism Act 2011, a new local Code of Conduct and Complaint Procedure.</p> <p>In accordance with the Code, the Monitoring Officer conducts an initial assessment of complaints about Members of the Council against approved criteria and may consult with the Independent Person and try to resolve matters informally if possible or appropriate. If the complaint requires further investigation or referral to the Audit and Standards Committee there may still be a hearing of a complaint before its Sub-Committee.</p>	
<p><b>Recommendation(s)</b></p> <p>The Audit and Standards Committee is recommended to note the report.</p>	
<p><b>Reason(s)</b></p> <p>For continued good governance and to ensure that the Standards Committee is aware of complaints against Members of the Council.</p>	

**1. Options Appraisal**

1.1 This report is for information only.

**2. Consultation**

2.1 This report is for information only.

### **3. Financial Implications**

3.1 There are no financial implications associated with this report.

### **4. Legal Implications**

Implications completed by: Dr. Paul Feild  
Principal Standards & Governance Lawyer

4.1 It is a legal requirement that the Council promotes and maintains high standards of conduct by Members and Co-opted Members of the authority. The Audit and Standards Committee contributes to this duty by receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Code of Conduct for Members. Additionally, the Committee advises on training of Members on matters relating to the Code as well as receiving referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority's assessment criteria.

4.2 This report furthers those objectives by providing timely updates to the Audit and Standards Committee with regard to the operation of the Code of Conduct.

#### **Background Papers Used in the Preparation of the Report:**

- The Council Constitution

**List of appendices: Appendix A – Schedule of Complaints received.**

**Member Complaints – Monitoring Officer Rolling Record - December 2022**

<b>Ref:</b>	<b>Receipt of Complaint</b>	<b>Member(s)</b>	<b>Complainant</b>	<b>Nature of Complaint</b>	<b>Investigation</b>	<b>Standards Hearing</b>	<b>Outcome</b>	<b>Status (Open/closed)</b>
MC 6/22	Oct 2022	Two Members	Officer Be First	Indicative matter of breach of the Code of Conduct	Fact finding process commenced	To be determined in due course	Not applicable	Open
MC 7/22	Oct 2022	Single Member	Member of Public	Code of Conduct – Complainant's Opinion of on-line content	Informal approach	No	Complaint Form supplied and not completed by complainant so Monitoring Officer dismissed the Complaint for want of evidence.	Closed
MC 8/22	Oct 2022	Single Member	Member of Public	Code of Conduct – Complainant's Opinion of of a press feature	Informal approach	No	Complaint Form supplied and not completed by complainant so Monitoring Officer dismissed the Complaint for want of evidence.	Closed

This page is intentionally left blank



## AUDIT & STANDARDS COMMITTEE

6 December 2022

<b>Title:</b> Corporate Risk Register Update	
<b>Report of the Head of Assurance</b>	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Christopher Martin, Head of Assurance	<b>Contact Details:</b> Tel: (020) 8227 2174 E-mail: <a href="mailto:Christopher.Martin@lbbd.gov.uk">Christopher.Martin@lbbd.gov.uk</a>
<b>Accountable Strategic Leadership Director:</b> Philip Gregory - Strategic Director, Finance & Investments	
<b>Summary:</b> This report provides an update on the Corporate Risk Register.	
<b>Recommendation:</b> Assurance Group is asked to note the contents of the report.	

### 1 Background

- 1.1. It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- 1.2. Risk management is concerned with evaluating the measures in place, and the actions needed, to identify and control risks effectively. The objectives are to secure the Council's assets and to ensure the Council's continued financial and organisational wellbeing.
- 1.3. Risk offers both significant potential positive and negative impacts on delivery and reputation and it therefore follows that a key organisational challenge facing the Council is embedding risk as part of the organisation's decision making process both in day to day operational situations and at the strategic level.

### 2. Risk Management

- 2.1. The LBBB Risk Management vision is that the Council will have a robust system of risk management in place to identify, assess and manage the key risks in the Borough that may prevent it achieving the priorities identified in the Corporate Plan. Effective risk management is a key management tool for LBBB that is used to understand and optimise the benefits it can generate from calculated risk taking, as well as helping to avoid and manage unwanted surprises.

- 2.2. This report provides an update on how strategic risk continues to be monitored and managed. Details of the process are set out in the LBBB Risk Management Approach which was approved by Cabinet on 17<sup>th</sup> September 2019.
- 2.3. The Council's approach to corporate risk management is to embed risk ownership across the organisation so that it is the responsibility of all managers and teams to manage risk. The Council's Head of Assurance is responsible for Risk Management strategy, advice and support but is not responsible for managing risks outside of his direct service remit.
- 2.4. Directors and Heads of Service ensure that risks within their area are recorded and managed appropriately, in line with the risk management framework. The Corporate Assurance Board regularly review and monitor the approach to risk management.
- 2.5. Risk Registers will form part of the service plans and are designed to be dynamic documents, being updated regularly. The Corporate Risk Register covers risks which affect our ability to achieve long-term Council objectives. Risks can be escalated from service risks up to the Assurance Group for inclusion in the Corporate Risk Register or moved down as required.

### 3. Corporate Risks

- 3.1. The Head of Assurance led a Risk Management Workshop with the Council's Senior Leadership Team in September to fundamentally review the strategic corporate risks that may prevent LBBB from achieving our objectives. This section sets out the revised wording for each risk and provides a summary of progress being made in moving towards the desired level of risk for each entry in the Corporate Risk Register.
- 3.2. There were 14 Corporate Risks at the last review and 13 this time. The wording of most risks has been updated to remain current but the themes remain fundamentally similar. There has been one risk removed from the Corporate Risk Register (CR.14 – Enterprise Resource Planning system) as the new system has now in the whole been implemented and is no longer considered a corporate risk.
- 3.3. Each Risk Owner has reviewed their wording for accuracy and relevance and assessed their risk for the following:
  - Gross Risk (the impact and likelihood of the risk with no controls in place);
  - Net Risk (the impact and likelihood of the risk with current controls in place); and
  - Target Risk (the impact and likelihood of the risk, once all further actions have been implemented).
- 3.4. There are 13 Corporate Risks with results as follows:

**CR.1 Population Change** (Alex Powell - Chief Strategy Officer) An inability to understand how the population of Barking and Dagenham is changing and developing, could mean LBBB does not having the required social infrastructure to meet the needs of its community, resulting in unsatisfied residents and reputational damage.

Gross Risk	Net Risk	Target Risk
Amber	Green	Green

**CR.2 Financial Management** (Philip Gregory – Strategic Director, Finance & Investment) Unrealistic financial modelling of demand, inflation and income and a failure to manage within budget may lead to the Authority’s funding model no longer being sufficient, resulting in an inability to provide key services and severe reputational damage.

Gross Risk	Net Risk	Target Risk
Red	Amber	Green

**CR.3 Significant Incident in the Community** (Fiona Taylor – Acting Chief Executive) A significant incident in the local community, may lead to significant disruption and impact on Council services and property, leading to financial and reputational loss.

Gross Risk	Net Risk	Target Risk
Amber	Green	Green

**CR.4 Safeguarding Failures** (Elaine Allegretti – Strategic Director, Children & Adults) - Inappropriate application of protocol and procedures, could result in death or serious injury of a child or vulnerable adult, resulting in loss of public faith, reputational damage, high financial costs and challenge and scrutiny from governing bodies.

Gross Risk	Net Risk	Target Risk
Red	Red	Red

**CR.5 Civil Society** (Rhodri Rowlands - Director of Community, Participation and Prevention) An unsupported Civil Society may mean the Authority is unable to sufficiently reduce demand for its own services, leading to dissatisfied residents, increased costs and ultimately a failure to meet performance targets.

Gross Risk	Net Risk	Target Risk
Amber	Amber	Green

**CR.6 Investment Decisions** (Philip Gregory - Strategic Director, Finance & Investment) Numerous factors could lead to unviable investment decisions being made, resulting in both financial and reputational damage to the Council, in addition to affecting the progress of developments to the council’s physical infrastructure.

Gross Risk	Net Risk	Target Risk
Amber	Green	Green

**CR.7 Economic Downturn** (Philip Gregory - Strategic Director, Finance & Investment) A large shock to the UK economy or a significant economic downturn could impact the Authority's ability to obtain the ambitious financial returns it requires from its companies, reduce income from other sources leading to constraints on its available funding and having an impact the pension fund. Risk Direction of Travel – no change

Gross Risk	Net Risk	Target Risk
Red	Amber	Green

**CR.8 Contract Management** (Abi Gbago – Strategic Director, Inclusive Growth) - The lack of the right resources and skills in the Authority to manage its major contracts may mean that the contracts do not deliver on the agreed objectives, leading to a failure to deliver services to residents and significant financial loss.

Gross Risk	Net Risk	Target Risk
Amber	Green	Green

**CR.9 Information Security** (Philip Gregory - Strategic Director, Finance & Investment) A data handling error by a member of staff or a contractor, could lead to the exposure of a substantial amount of residents' information to unauthorised individuals, resulting in significant reputational damage, investigations by the ICO and other bodies and potential fines.

Gross Risk	Net Risk	Target Risk
Red	Amber	Amber

**CR.10 Recruitment & Retention of Staff** (Fiona Taylor – Acting Chief Executive) Conditions in the labour market may make it difficult to recruit and retain suitable experienced staff across all levels of the organisation. This could potentially lead to impacts on service delivery, statutory responsibilities, financial costs if roles have to be covered by interims and could lead to a significant loss of knowledge within the Authority.

Gross Risk	Net Risk	Target Risk
Amber	Green	Green

**CR.11 Vision & Cultural Change** (Fiona Taylor – Acting Chief Executive) LBBD leadership not clearly articulating and communicating the Council's new

Corporate Plan and vision to staff may lead to confusion amongst officers and partners resulting in the Council being unable to deliver on its priorities.

Gross Risk	Net Risk	Target Risk
Amber	Green	Green

**CR.12 Cyber Security Compromise** (Philip Gregory - Strategic Director, Finance & Investment) A successful cyber security attack on the Council’s systems could disrupt the Council’s ability to deliver its service commitments and result in a large-scale data loss, breach or compromise with significant financial consequences.

Gross Risk	Net Risk	Target Risk
Red	Amber	Green

**CR.13 Statutory Health and Safety Requirements** (Lone Menville – Strategic Director, My Place) - Failure to comply with all relevant statutory health and safety requirements could lead to unsafe living conditions for tenants, resulting in potential injury or death.

Gross Risk	Net Risk	Target Risk
Red	Red	Green

3.5. The Net Risk for each of the 14 corporate risks (i.e. the impact and likelihood of the risk with current controls in place) has been plotted on the matrix below for identification of their relative current concern:

LIKELIHOOD	High				
	Medium		5	7	4 13
	Low		1 6 8 10	2	9 12
	Very Low	11		3	
		Minor	Major	Significant	Critical
		IMPACT			
		<b>Net Risks</b>			

#### 4. Financial Implications

*Implications completed by: Katherine Heffernan, Group Manager - Finance*

4.1. Risk Management is an integral part of good management and should be embedded in the day to day work of all Council officers and managers and delivered within existing resources. In addition, there are specific fully funded posts within the Finance service that support this work. There are no further financial implications arising from this report.

#### 5. Legal Implications

*Implications completed by: Dr Paul Feild, Senior Governance Solicitor*

5.1. To reiterate the main body text of this report, risk management is a key role for the organisation across the board for Members, Chief Officers and the teams. As an example, local authorities have a specific leadership role to plan for, be prepared and able to take action to respond to an emergency under the Civil Contingencies Act 2004.

5.2. Furthermore, if a risk is identified and reasonable measures are not taken to mitigate its likelihood of occurrence and if it is preventable, such as for example a tree on the highway was dangerously leaning over, the Council should take action and cut it down before it causes harm. To fail to do so could lead to legal

liability to pay compensation for negligence and the reputational damage in not having taken steps to reduce the risk of occurrence and the magnitude of an event. To carry out risk assessments and to devise and implement risk occurrences, elimination and mitigation is therefore a core activity for management.

**6. Public Background Papers Used in the Preparation of the Report:** None

**7. Appendices:** None

This page is intentionally left blank



**AUDIT & STANDARDS COMMITTEE****6 December 2022**

<b>Title:</b> Internal Audit Report 2022/23 Q1 and Q2 (April to September 2022)	
<b>Report of the Head of Assurance</b>	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Christopher Martin, Head of Assurance	<b>Contact Details:</b> Tel: (020) 8227 2174 E-mail: <a href="mailto:Christopher.Martin@lbbd.gov.uk">Christopher.Martin@lbbd.gov.uk</a>
<b>Accountable Strategic Leadership Director:</b> Philip Gregory - Strategic Director, Finance & Investments	
<b>Summary:</b> This report brings together all aspects of Internal Audit work undertaken to date during 2022/23. The report details audit progress and results to 30 September 2022 and includes details of the overdue high-risk recommendations outstanding and actions being taken by management to address these.	
<b>Recommendation:</b> The Audit & Standards Committee is asked to note the contents of the report.	

**1. Risk and Compliance Audits 2022/23**

- 1.1. The risk and compliance audit plan has had five new audits added to the plan since the start of the year with one being removed. This is detailed in Section 1.
- 1.2. At the end of Q2, 13% of the plan of risk and compliance audits were at least at draft report stage. This falls short of the target for the end of Q2 which is for 25% of audits to be at draft stage but the plan as a whole remains on track for 100% delivery by the prescribed deadline.

**2. School Audits 2022/23**

- 2.1. An exercise has been completed to risk assess the schools in the Borough to inform a risk-based schools' audit plan and work is now underway against this plan.
- 2.2. The 55 days allocated to schools' audits has been split amongst 10 schools and the follow-up work.
- 2.3. Internal Audit work with Headteachers where appropriate to determine the best time in the academic year to carry out each audit. Most are booked to take place during the spring term so at the end of Q2 only one of the school audits had been completed. Whilst this falls short of the target for the end of Q2 which is for 25%

of audits to be at draft stage the plan remains on track for 100% completion by March 2023.

### **3. Outcomes of the Internal Audit work**

- 3.1. Seven draft reports have been issued since the start of the year, six from the risk and compliance plan and one school. Six of these have progressed to the final report stage with all of these being awarded either reasonable or substantial assurance opinions.

### **4. Progress in implementation of Internal Audit recommendations as at 30 September 2022**

- 4.1. Internal Audit tracks management progress in implementing all critical and high-risk findings by way of a chase up or follow up to the audit client accordingly.
- 4.2. There is 1 outstanding overdue high-risk finding as at 30 September 2022.
- 4.3. There are no critical findings outstanding.

### **5. Legal Implications**

*Implications completed by: Dr Paul Feild, Senior Governance Solicitor*

- 5.1. The Local Audit and Accountability Act 2014 (the '2014 Act') requires that the Council as a relevant body must have its accounts audited. The procedure is set out in the Accounts and Audit Regulations 2015 (the 'Regulations'). Regulation 9 sets out a timetable and requires certification by the Council's responsible finance officer of the statement and then consideration by a committee to consider the statement and approve by resolution.

### **6. Financial Implications**

*Implications completed by: Katherine Heffernan, Group Manager – Service Finance*

- 6.1. Internal Audit is fully funded as part of the Council's Finance Service. It is a key contribution to the overall management and control of the Council and its stewardship of public money. The recommendations and improvements as a result of its findings will be implemented from within existing resources. There are no further financial implications arising from this report.

### **7. Other Implications**

- 7.1. Risk Management – The internal audit activity is risk-based and therefore support effective risk management across the Council.
- 7.2. No other implications to report

### **8. Public Background Papers Used in the Preparation of the Report: None**

## 9. Appendices

<b>Appendix</b>	<b>Content</b>
1	Internal Audit 2022/23 Q2 update
2	Revised Internal Audit Plan 2022/23

## Appendix 1: Internal Audit 2022/23 Q2 update

### 1. Progress against Internal Audit plan 2022/23 as at 30 September 2022

#### Risk and compliance audits

1.1. The following tables detail the changes to the 2022/23 audit plan made in the first two quarters of the year, April to September 2022:

<b>Added</b>	<b>Removed</b>	<b># of 2022/23 audits as at end of Q2</b>
5	1	45

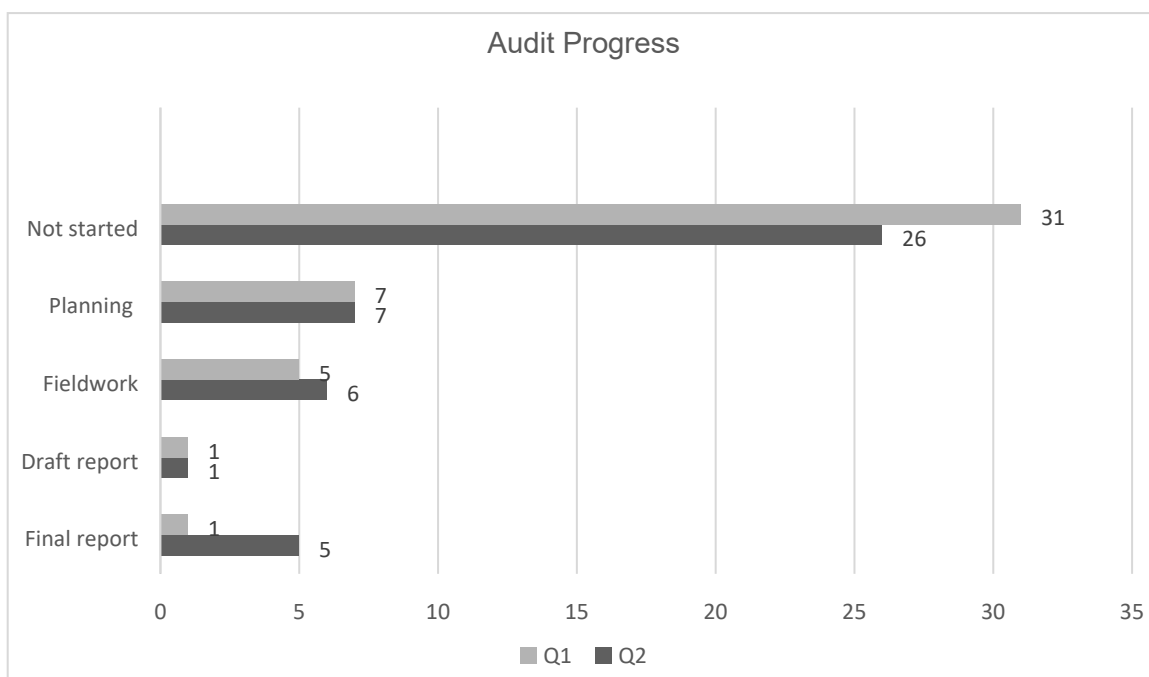
<b>Audit title</b>	<b>Change</b>	<b>Rationale for change</b>
Mayor's Charity Account	Added	Finance request
BDMS Charging Controls	Added	Request of Corporate Strategy Group
Subletting Leaseholders	Added	No Assurance 2021/22
Supporting Families Programme	Added	Assurance work given potential change in the claiming process
Cyber Essential Plus	Added	Revised government benchmark
Server Virtualisation & Management	Deleted	Reliance on virtual machines (and therefore risk) reduced

The revised internal audit plan is detailed at Appendix 2.

1.2. The table and graph below indicate the progress made against the 2022/23 audit plan as at 30 September 2022.

<b>Not started</b>	<b>Planning</b>	<b>Fieldwork</b>	<b>Draft report</b>	<b>Final report</b>
26	7	6	1	5

Audits identified as 'not started' in the table above will enter the planning and delivery stages during Quarters 3 & 4.



1.3. All the five audits that have reached the final report stage during Quarters 1 and 2 were awarded either substantial or reasonable assurance opinions.

### **School Audits**

1.4. Historically, schools within the Borough were audited on a cyclical basis of once every three years using a standard scope and approach for all schools. These audits and the risk assessment had previously been fully outsourced to Mazars.

1.5. In recent years the Head of Assurance has undertaken a risk assessment to inform a risk-based approach to school audits. This has now been completed and the output of this work makes up the proposed school audit plan for 2022/23.

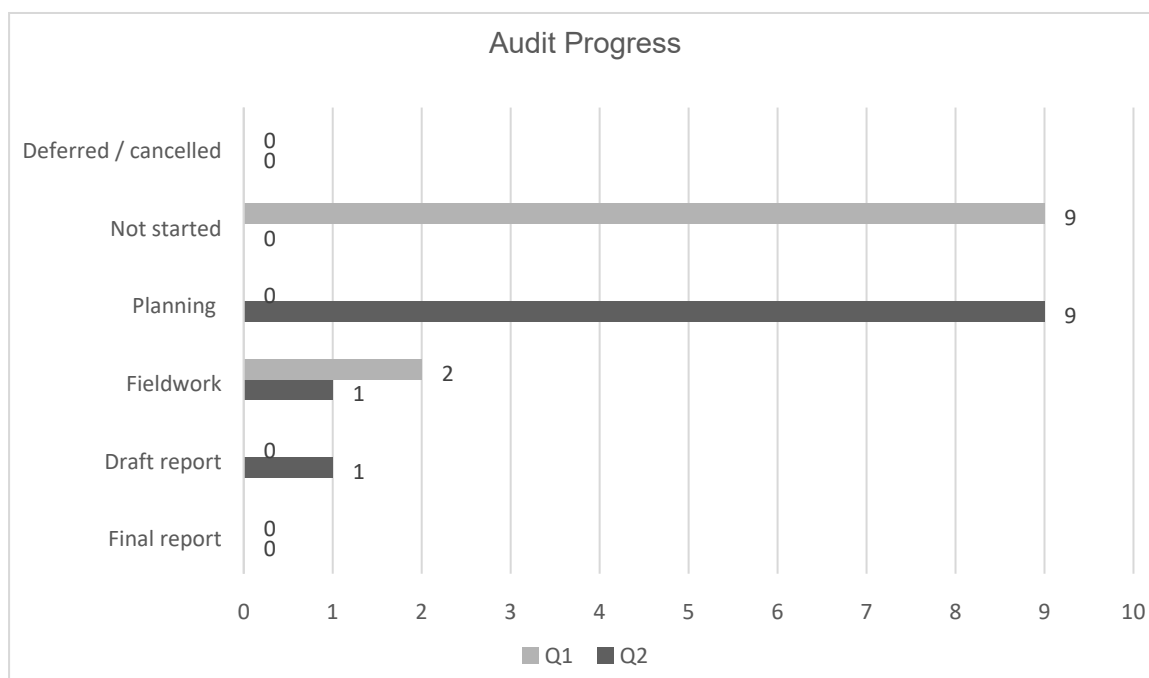
1.6. The following table details the allocation of the 55 school audit days for the year:

School	Days
William Ford School	5
All Saints Catholic School	5
Rush Green Primary School	5
St Vincent's Catholic Primary School	5
William Bellamy Primary School	5
Dorothy Barley Infant School	5
Eastbrook Comprehensive School	5
Henry Green Primary School	5
John Perry Primary School	5
Northbury Primary School	5
Follow-ups	5

The current Internal Audit plan is detailed at Appendix 2.

1.7. The table and graph below indicate the progress made against the 2022/23 schools audit plan as at 30 September 2022.

Not started	Planning	Fieldwork	Draft report	Final report
0	9	1	1	0



## 2. Progress in implementation of audit findings as at 30 September 2022

2.1. The table below summarises the high-risk findings, as at 30 September 2022, that have reported as final, been implemented, are outstanding and are beyond their due date:

	Reported	Implemented	Outstanding	Beyond due date
2019/20	34	34	0	0
2020/21	21	21	0	0
2021/22	29	17	12	1
2022/23	0	0	0	0
<b>Total:</b>	<b>84</b>	<b>62</b>	<b>22</b>	<b>1</b>

2.2. The current progress in implementing the overdue high-risk recommendations has been reported by management to be as detailed in the following table:

Finding	Agreed Action	Latest progress as reported by management
<b>2021/22 – Council Tax – Limited Assurance</b>		
<p>Internal Audit established that procedures are in place for all key areas of Council Tax. However, it was identified that the following procedures have not been updated since 2016:</p> <ul style="list-style-type: none"> <li>• Valuations;</li> <li>• Billing;</li> <li>• Collections;</li> <li>• Debt recovery</li> <li>• Write off.</li> </ul> <p>Audit also identified that the Refunds, Discounts &amp; Disregards and Exemptions procedures have not been updated in the previous 12 months.</p> <p>A review of the content of the procedures identified that:</p> <ul style="list-style-type: none"> <li>• The valuations procedure does not contain an up to date process for receiving information regarding new or altered properties</li> <li>• The Refunds and Write Off procedures do not contain approved values which can be authorised by supervisors, managers and service heads.</li> </ul>	<p>There are approximately 80 procedures to review. To realistically manage these moving forward will require a rolling review whereby procedures are prioritised dependent on risk.</p> <p>A plan is in place where the service are reviewing approximately 6/7 every month, starting with those highlighted as urgently requiring review.</p> <p>Agreed date: 31 July 2022</p>	<p>The service are now required to administer a new Energy Rebate Scheme which was not anticipated at the time the audit was conducted and timescales agreed. As a result the original schedule has required amending although most major policies have now been reviewed.</p> <p>Revised Date: 31 January 2023</p>

### 3. Internal Audit performance as at 30 September 2022

Purpose	Target	Performance & RAG Status	What it measures
<b>Output Indicators (Efficiency)</b>			
% of 2022/23 Audit Plan completed (Audits at draft report stage)	>25% by 30/9/22	13% - RED	Delivery measure
	>50% by 31/12/22	N/A	
	>80% by 31/3/23	N/A	
	100% by 31/5/23	N/A	
Meet standards of Public Sector Internal Audit Standards	Substantial assurance or above from annual review	Confirmed * - GREEN	Compliant with professional standards
<b>Outcome Indicators (Effectiveness - Adding value)</b>			
High Risk Recs not addressed within timescale	<5%	12.5% - AMBER	Delivery measure
Overall Client Satisfaction	> 85% ratings excellent, good or adequate (i.e. not rated poor)	100% – GREEN	Customer satisfaction

\*Internal Audit for 2022/23 is being provided by a combination of the in-house team, Mazars LLP and PwC LLP. All teams have confirmed ongoing compliance with the Public Sector Internal Audit Standards.



## Appendix 2: Revised Internal Audit plan 2022/23 as at 30 September 2022

1.1. The Internal Audit plan 2022/23 was approved by the July 2022 Audit and Standards Committee.

1.2. The following audits have occurred or are in progress as at the end of Q2:

<b>Audit title</b>	<b>Audit objective</b>	<b>Status at 30 September 2022</b>
<b>Risk and Compliance</b>		
Mayor's Charity Account	To review the integrity of the 2021/22 accounts	Final Report issued Q1 – Substantial Assurance
Trading Standards	Discharge of statutory duties	Final Report issued Q2 – Substantial Assurance
Electoral Program	Accuracy of government returns	Final Report issued Q2 – Reasonable Assurance
Waste Collections - Trade Waste	Identification of customers and costs, collections of waste	Final Report issued Q2 – Substantial Assurance
Planning for School Places	Adequacy of planning process and link to Inclusive Growth strategy	Final Report issued Q2 – Substantial Assurance
Leasehold Management Service Charges	Controls around ensuring that the right leaseholders are charged the right amounts	Draft Report issued Q2
Homelessness	Prevention strategy and statutory obligations	Work in Progress
Licencing	Compliance with regulation, issuing of licences	Work in Progress
Housing Register & Allocation Review	Process to joining register and allocation to tenants	Work in Progress
BDMS Charging Controls	Review of cost governance at BDMS	Work in Progress
Right to Buy Valuations	Risk and control review to ensure fair asset valuations	Work in Progress
Pension Fund Investments	Controls around high value & high risk area	Work in Progress
<b>Schools</b>		
William Ford	School probity review of whole business area	Draft Report issued Q2
School Follow-ups	Review of prior year work	Work in Progress

1.3. The audits planned for the remainder of 2022/23 are set out below. The plan details the draft audit title and draft audit objective:

<b>Audit Title</b>	<b>Days</b>	<b>Focus of Scope</b>
<b>Finance</b>		
General Ledger & Budgetary Control	20	Key Financial System – control design & effectiveness
Capital Programme / Budgeting	15	Key Financial System – control design & effectiveness
<b>Inclusive Growth</b>		
Accounts Payable	20	Key Financial System – control design & effectiveness
<b>Law, Governance &amp; Organisational Change</b>		
Payroll & Expenses	20	Key Financial System – control design & effectiveness
Enforcement service - bailiff system implementation	15	New system – control design and effectiveness
Regulatory Services - Health & Safety	15	Statutory duty under Section 18 of the Health and Safety at Work Act 1974 to 'make adequate provision' for health and safety enforcement
Sickness & Absence Management	10	Workplace culture and corporate approach to driving down sickness
Right to Work in UK - Post Brexit (EU Citizens)	10	Recent legislation requirements
<b>Community Solutions</b>		
Accounts Receivable	15	Key Financial System – control design & effectiveness
Direct Payments	15	Policies and procedures for administering scheme and monitoring of client activity
Domestic Violence Service	15	Review of resources and systems dealing with demand
<b>My Place</b>		
Fire Safety Compliance Management	60	Control design and implementation
Workshop	12	Procedural compliance
Passenger Transport	12	Authorisation of drivers and safety of service users
Waste Management - Health & Safety	12	Control effectiveness – safety of operatives and residents
Housing Void Management	15	Recording and turnaround of properties
Be First - Reside - My Place Relationship	15	Governance and scrutiny of relationships

Housing Rent Setting Review	10	Rents setting control effectiveness
<b>People and Resilience</b>		
Adult Care Deferred Payments	15	Verification of agreements and recovery of amounts
Special Education Needs & Disability	15	Focus on areas highlighted by Ombudsman
Early Help KPI Monitoring & Reporting	15	Control design of revised system
LAC Savings Accounts continued	10	Supporting service with changing practices
<b>Strategy and Culture</b>		
ERP Post Implementation Review	15	Review of green lighting and system amendments
Geographical Information System Review	15	New system – control design and implementation
Server Virtualisation & Management	15	New system – control design and implementation
<b>Schools</b>		
All Saints Catholic School	5	School probity review of whole business area
Rush Green Primary	5	School probity review of whole business area
St Vincent's Catholic Primary S	5	School probity review of whole business area
William Bellamy Primary	5	School probity review of whole business area
Dorothy Barley Infant	5	School probity review of whole business area
Eastbrook Comprehensive	5	School probity review of whole business area
Henry Green Primary	5	School probity review of whole business area
John Perry Primary	5	School probity review of whole business area
Northbury Primary	5	School probity review of whole business area
<b>Council Owned Companies</b>		
Be First	15	Special Purpose Vehicles

This page is intentionally left blank

**AUDIT & STANDARDS COMMITTEE****6 December 2022**

<b>Title:</b> Review of Key Counter Fraud Policies & Strategy 2022	
<b>Report of the Head of Assurance</b>	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Kevin Key, Counter Fraud and Risk Manager	<b>Contact Details:</b> Tel: (020) 8227 2850 E-mail: <a href="mailto:Kevin.Key@lbbd.gov.uk">Kevin.Key@lbbd.gov.uk</a>
<b>Accountable Strategic Leadership Director:</b> Philip Gregory - Strategic Director, Finance & Investments	
<b>Summary:</b>  To ensure proper arrangements to administer the Council's financial affairs, the Council has adopted key policies and a strategy to combat fraud and irregularity. These policies were approved by Cabinet and to further strengthen their importance, as part of robust governance, recommended for review annually.	
<b>Recommendation:</b> The Audit & Standards Committee is recommended to:  (i) note the Council's updated Counter Fraud Policies and Strategy; and (ii) commend its principles to school governing bodies, and where appropriate to other stakeholders, including partnerships, arm-length organisations, and to contractors.	

**1. Introduction**

- 1.1. The Counter Fraud Team maintains a suite of counter fraud policies and a strategy to support the Council's strong stance against fraud, thus maintaining proper arrangements for stewardship of the Council's finances and assets.
- 1.2. The policies were initially approved by Cabinet in January 2012 and in line with the Council's robust stance on governance are to be reviewed annually by the Audit and Standards Committee. This report sets out the latest versions and a summary of their purpose.
- 1.3. In the spirit of continuous improvement, all policies have been reviewed and appropriate changes made to reflect any role changes or transfer of responsibility. The bulk of the changes this year affect the Whistleblowing and Anti-Bribery Policies. All other changes are deemed minor. All policies have been shared with colleagues within Legal, HR, staff networks and Trade Unions who have consulted on proposed amendments.

- 1.4. In order to assist Members to identify the changes that have been made, the policies appended to this report are showing tracked changes.
- 1.5. These policies apply to all officers of the Council and they will also be promoted to and where applicable applied by the Council's partners such as the Council owned companies, contractors and schools.

## 2. Purpose of the Policies/Strategy

- 2.1 A brief description is set out in the table below. The latest version is set out in the Appendices to this report.

Appendix	Document	Brief Description
A	Counter Fraud Strategy	Sets out the Council's commitment to reducing opportunities for fraud and corruption across all council services and taking the strongest possible action against those who seek to defraud the Council.
B	Counter Fraud Policy including Fraud Response Plan	Sets out how the Council responds to fraud and the changing risk profile of fraud and Includes guidance on what to do if an employee suspects fraud.
C	Prosecution Policy	Sets out the Council's approach to seeking redress/sanction against those who seek to defraud the Council, linking to the Disciplinary rules where the perpetrator is a member of staff
D	Money Laundering Policy	Sets out the Council's commitment to ensuring compliance with the requirements of the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 & 2012 and Chartered Institute of Public Finance and Accountancy (CIPFA) guidance for Local Authorities on Money Laundering.
E	Whistleblowing Policy	In accordance with the Public Disclosure Act 1998 (as amended by the Enterprise and Regulatory Reform Act 2013), sets out how workers can raise serious or sensitive concerns about other members of staff, suppliers, or people who provide services with protection from harassment, victimisation or bullying as a result of them raising concerns.
F	Regulation of Investigatory Powers Policy	Sets out rules and procedures for undertaking and gaining authorisation for covert surveillance in accordance with the RIPA Act 2000 (as amended by the Protection of Freedoms Act 2012) and

		compliant with Human Rights & Data Protection Legislation
G	Anti-Bribery Policy	Sets out the Council's commitment to the prevention, deterrence and detection of bribery and to raise awareness with relevant officers linking with the already in place Employee Code of Conduct and rules on accepting gifts and hospitality

### 3. Raising Awareness

- 3.1 Counter Fraud Policies and the Strategy are made available on the Council website and staff intranet. Awareness raising, training and briefings are also targeted at specific groups of staff through channels such as face to face, e-bulletins/e-learning and posters on staff notice boards and computer screens.

### 4. Financial Implications

*Implications completed by: Katherine Heffernan, Group Manager - Finance*

- 4.1 The maintenance and regular review of appropriate anti-fraud and related policies is a key part of the Council's overall approach to robust control and strong financial management. The Council has an Audit and Assurance service which is fully funded and the application of the policies can be delivered from existing resources.

### 5. Legal Implications

*Implications completed by: Dr Paul Feild, Senior Governance Solicitor*

- 5.1 The Accounts and Audit (England) Regulations 2015 require that:  
A [local authority] must ensure that it has a sound system of internal control which—facilitates the effective exercise of its functions and the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective; and includes effective arrangements for the management of risk.
- 5.2 Furthermore the Director of Finance has a statutory duty, under Section 151 of the Local Government Act 1972, to ensure that there are proper arrangements in place to administer the Council's financial affairs.
- 5.3 Counter Fraud practices set out in this report address the need to counter fraud, money laundering, bribery and the proceeds of crime. The Council's policies guide on the investigatory and prosecution process. In formulating the policies it addresses the issue of corruption and bribery. Corruption is the abuse of entrusted power for private gain. The Bribery Act 2010 defines bribery as "the inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages whether monetary or otherwise".

5.4 The Local Government Act 1972 provides the Council with the ability to investigate and prosecute offences committed against it. We will enhance our provision further by making best use of existing legislation, for example the Proceeds of Crime Act 2002, to ensure that funds are recovered, where possible by the Council.

## **6.0 Other Implications**

6.1 Risk Management – Counter Fraud activity is risk-based and therefore supports effective risk management across the Council.

6.2 No other implications to report

### **List of appendices:**

- A – Counter Fraud Strategy 2022
- B – Counter Fraud Policy including Fraud Response Plan 2022
- C – Prosecution Policy 2022
- D – Money Laundering Policy 2022
- E – Whistleblowing Policy 2022
- F – Regulation of Investigatory Powers Policy 2022
- G – Anti-Bribery Policy 2022



# Assurance Group

# Counter Fraud Strategy

2022

Date Last Reviewed:	June 2022
Approved by:	Audit & Standards Committee
Date Approved:	TBA
Review Date:	June 2023
Document Owner:	Head of Assurance

## Counter Fraud Objective

To create a culture and organisational framework, through a series of comprehensive and inter-related procedures and controls, which maximises the deterrence of fraud, minimises the incidence & impact of fraud against the Council, and ensures, through professional investigation, effective outcomes including sanctions and redress against those who defraud the Council. The Strategy is based on the following principles:

### **Acknowledge responsibility**

The Council has ensured that fraud risks are managed effectively across the whole organisation.

### **Identify risks**

We use fraud risk to understand specific exposures, changing patterns in fraud and corruption threats and the potential consequences to the Council and its service users.

### **Develop a strategy**

We have set out the Council approach to managing fraud risks and defining responsibilities for action.

### **Provide resources**

We have appropriate resources to support the counter fraud strategy.

### **Take action**

We have a suite of policies to support the counter fraud strategy and act to deter, prevent, detect and investigate fraud.

## Links to Corporate Objectives

The [Borough Manifesto](#) sets out the long-term, 20-year vision for the future of Barking and Dagenham. It describes how the council, our partners and the whole community are working together to realise our shared vision of a more powerful, resilient, connected community; 'one borough; one community; no-one left behind'. To achieve the Vision, the Council's priorities are:

1. Inclusive Growth - Harnessing the growth opportunity that arises from our people, our land and our location in ways that protect the environments and enhance prosperity, wellbeing and participation for all residents.
2. Participation and Engagement - Empowering residents by enabling greater participation in the community and in public services.
3. Prevention, Independence and Resilience - Children, families and adults in Barking and Dagenham living safe, happy, healthy and independent lives.
4. Well-run Organisation - Focusing on the efficient and effective operation of the council itself.

This Strategy ensures resources are correctly applied in the provision of high-quality services and initiatives that deliver these Corporate priorities.

## Resources & Skills

The Assurance Group will investigate all issues of suspected fraud and irregularity and promote the counter fraud agenda through proactive and preventative activities.

All investigators are professionally accredited and undertake appropriate continuous professional development. The authority for the Assurance Group to investigate is enshrined in the Council's Constitution and Financial Regulations which provide authority to have access to all records, and to all council premises.

Investigations into allegations of housing fraud allow the provision of powers under Section 4 of the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014 as appointed Authorised Officers.

The Assurance Group has access to an Accredited Financial Investigator to enable redress under the Proceeds of Crime Act (POCA). Any monies recovered will be used to further promote counter fraud across the Council.

## Responsibility

The Assurance Group will champion the tough stance against fraud and promote counter fraud across the council, its Members, employees, contractors, partner agencies and service users. Professional investigators will work in accordance with relevant codes of practice and Council policies, while always maintaining confidentiality, complicity with the employee code of conduct and guidelines of relevant legislation.

## Liaison

The Assurance Group will utilise all methods available to detect fraud. Arrangements are in place to actively participate in the National Fraud Initiative (NFI) as well as continuing to develop and support initiatives that involve the exchange of information and data matching between the Council and other agencies.

In addition, we will work with colleagues in other Local Authorities and utilise counter fraud networks such as the London Boroughs Fraud Investigators Group (LBFIG), London Audit Group (LAG) and the Chartered Institute of Public Finance & Accountancy (CIPFA) Counter Fraud Centre.

## Taking Action and Supporting Polices

### Deterrence

We will publicise our counter fraud measures to promote the deterrent message, including the effectiveness of controls including the governance framework, arrangements that are in place to detect fraud, the professionalism of those who

investigate fraud, the Council’s success in applying proportionate sanctions and the prompt, effective recovery of losses.

Prevention

The Assurance Group works to support management in assessing compliance with the Council’s policies and ensuring that adequate levels of internal control are included in operational procedures. The Assurance Group will advise and promote awareness on the importance of considering fraud risks as part of good governance arrangements as well as managing the changing risk profile of fraud in order to tackle new areas.

Detection

In addition to maintaining channels for the report of fraud, the Assurance Group will proactively use all legal and cost-effective means to detect fraud, including working with other organisations and participating in national data matching schemes.

Investigation

We will investigate all allegations of fraud in line with our policies and adhering to relevant legislation. Outcomes from investigations will include recommendations as well as necessary changes to systems and procedures to ensure that similar frauds will not recur.

Recovery and Sanctions

Where fraud is identified, we will seek to recover losses and prosecute or apply other sanctions to perpetrators. Where fraud by employees is indicated, then action will be taken in accordance with the Council’s disciplinary procedures. This may be in addition to any civil recovery action or sanctions.

Redress

Compensation, or confiscation, under proceeds of crime legislation will be sought wherever appropriate in accordance with the Prosecution Policy. Our aim is to ensure that those who seek to defraud the Council do not profit from their criminal activity.

Policies

All Counter Fraud work will be undertaken in accordance with relevant policies as follows:

Counter Fraud Policy including Fraud Response Plan	Our commitment to reducing opportunities for fraud and corruption across our services and taking the strongest possible action against those who seek to defraud us.
Prosecution Policy	Our approach to seeking redress/sanction against those who seek to defraud the Council.
Money Laundering Policy	Our commitment to complying with the requirements of the Terrorism Act 2000, Proceeds of Crime Act 2002, Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (referred to in this guidance as ‘the Regulations’), Criminal Finances Act 2017, Terrorist Asset-Freezing Act 2010, Anti-terrorism, Crime and Security Act 2001,

	Counter terrorism Act 2008, Schedule 7 and the Economic Crime (Transparency and Enforcement) Act 2022
Whistleblowing Policy	Our commitment to the Public Disclosure Act 1998 and supporting employees who raise concerns about various serious issues.
Regulation of Investigatory Powers Policy	Our commitment to adhering to RIPA 2000 in relation to covert surveillance.
Anti Bribery Policy	Our commitment to the Bribery Act 2010

**Commented [KK1]:** Amended as per advice from Dr Paul Feild

### Review & Assessment/Quality Assurance

The strategy and associated policies will be reviewed annually and assessed against best practice across local authorities. The outcomes from counter fraud work will be periodically reported to Members of the Audit & Standards Committee and outcomes assessed to evaluate success.

This page is intentionally left blank

# Assurance Group

# Counter Fraud Policy

2022

Date Last Reviewed:	June 2022
Approved by:	Audit & Standards Committee
Date Approved:	TBA
Review Date:	June 2023
Document Owner:	Head of Assurance

## The Council's commitment to the Counter Fraud Policy

The London Borough of Barking & Dagenham, "the Council", carries out its responsibilities and delivers high quality services to the local community. The immense variety of service provision places the Council at risk of loss from fraud perpetrated both internally and externally. The Council takes a tough stance against Fraud and considers this Policy, and associated strategy, to be an integral part of our approach.

## What are the aims and requirements of the Policy?

Where Fraud is found to occur, in any form, it will be dealt with rigorously in a controlled manner in accordance with the principles in the Counter Fraud Policy. It will be investigated fully, and the Council will take the most appropriate action to deal with all offenders, including Members, employees, contractors, agency , consultants, suppliers and partners.

## Who is governed by this Policy?

The Counter Fraud Policy applies to all employees including, and not limited to, temporary employees, sessional employees, consultants and contractors. It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes and sheltered accommodation as well as anyone who seeks to commit fraud against the Council.

The council has also established Council-owned companies in the areas of sustainable energy, housing and regeneration, school improvement, home and traded services. These companies are wholly owned by the council (or, in the case of the Barking and Dagenham School Improvement Partnership, by the Council and schools), and pursue the priorities of the community but operate within the private sector. Each company is subject to a Shareholder Agreement (or Member Agreement in the case of BDSIP) that sets out the terms and conditions on which the Council will participate in the Company as its shareholder. Day-to-day management of the companies and any subsidiaries is vested in the directors of those companies. It is expected that these companies will have a sound basis of internal control and take on the primary responsibility for the prevention and detection of fraud, but that as the companies are owned by the Council and inextricably linked both financially and reputationally, it stands to reason that the overarching principle of the Council's Counter Fraud Policy should apply.

## Executive Summary

The Counter Fraud Policy makes clear the Council's commitment to reducing opportunities for fraud and taking the strongest possible action against those who seek to defraud the Council.



## Contents

<b><u>Title</u></b>	<b><u>Page No.</u></b>
Counter Fraud Policy	1
The Counter Fraud culture and deterrence	1
Prevention – Managing the risk of fraud	2
Managers, Contractors, Employees & Members	2
Detection and Investigation	4
Recovery, Sanction and Redress	5
Definitions	5
Further support & Guidance	7
Appendix 1 – Fraud Response Plan	8

# Counter Fraud Policy

## Counter Fraud Policy

The council is responsible for the proper administration of its finances. This not only includes direct income and expenditure but also monies administered on behalf of the Government, our clients and for which the Council is the responsible accountable body. Anyone can potentially commit fraud, both inside and outside the organisation, and this can be targeted on all sources of income and expenditure and our valuable assets.

The Council aims to set high standards of service provision and is committed to upholding the reputation of the Authority and maintaining public confidence in its integrity. The expectation is that Members (Elected Councillors) and employees, at all levels, will adopt the highest standards of propriety and accountability and will lead by example. That same expectation is extended to individuals and organisations that encounter the Authority insofar they will act with integrity and without intent, or actions, involving fraud.

To achieve its aims and objectives the Council will therefore take a firm stance against any individual, group or organisation committing acts constituting theft, fraud, corruption, financial irregularity or malpractice (or other form of wrongdoing), whether it is attempted against, from or within the Council. In fulfilling our responsibilities to protect the public funds we administer; the Authority recognises the responsibilities placed upon it by statute and will actively promote this Policy which is designed to:

- Promote standards of honest and fair conduct
- Encourage prevention of fraud
- Maintain strong systems of internal control
- Promote detection
- Take a tough stance against fraud and bring to justice all persons who commit acts of fraud against the Council
- Recover any losses incurred by the Council

## The Counter Fraud Culture and Deterrence

The culture of the organisation is one of honesty, openness and opposition to fraud. Members play a key role in maintaining and promoting this culture. Specifically, the Audit & Standards Committee is responsible for promoting high standards of conduct by Members, employees, its contractors and partners.

Members have a duty to ensure that Council assets are adequately safeguarded from fraud and abuse and to ensure that the Council's powers, duties and responsibilities are exercised in an open fair and proper manner to the highest standards of probity.

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

Members of the public are also able to report concerns to appropriate Council officers or relevant external agencies such as the Police, External Audit and the Local Government Ombudsman.

The Public Interest Disclosure Act 1998 provides protection for those who voice genuine and legitimate concerns through the proper channels. The Council has adopted a Whistleblowing Policy to ensure a defined route to bring alleged instances of fraudulent, unlawful or otherwise improper conduct to the Council's attention. As well as the Whistleblowing Officer, this can involve the Counter Fraud Team, or the employee's line manager or Divisional Director or, if more appropriate, an officer external to the individual's department.

An ongoing proactive programme of work, including counter fraud awareness training and support, will be undertaken each year, using a risk-based approach to prioritise areas inherently at risk from fraud, outcomes from which will be publicised as appropriate. A pound lost through fraud is a pound that is stolen from Barking and Dagenham residents and reduces the amount available to spend on delivering services to residents.

The underlying message is that this Council will not tolerate fraudulent activity, whether actual or attempted.

### **Prevention – Managing the Risk of Fraud**

Fraud is costly in terms of financial loss and reputational risk. The risk of loss can be reduced through robust preventive measures and procedures such as: Internal Control systems, Standing Orders & Financial Regulations, an Employee Code of Conduct, Disciplinary Rules and a Members Code of Conduct

The Finance Director (S151 Officer) has been delegated powers to control and regulate the Council's finances. These include the promotion of systems and practices to minimise the risk of fraud. An important part of the control framework is the maintenance of an effective internal and external audit of the Council's finances that operate to the best practice standards at any given time.

### **Managers, Contractors, Employees & Members**

The effective eradication of fraud starts with managers. It is the responsibility of all Council managers to ensure that they manage the risk of fraud within their respective work areas. Managers are expected to be fully conversant with fraud risks (internal and external) and maintain robust controls within their service areas to mitigate these, and when considering the risk of fraud, should take the following steps:

#### ***Identify the risk areas***

Managers must establish which parts of the service are most vulnerable to fraud e.g. letting or managing contracts, handling cash, allocating or distributing grants, ordering equipment, paying invoices and validating documentary evidence. Other risks include assessing declared employee interests and considering whether such interests conflict with the Council's interests or would undermine public confidence in the Council.

***Conflicts of Interest***

Managers must ensure that employees understand what amounts to a conflict of interest and the need to disclose all actual or perceived conflicts of interest. This will include any interests, dealings, shareholdings, family or longstanding relationship/friendship in any business which is either a competitor, customer or supplier,

***Allocate responsibility for the risk***

Managers must identify who has responsibility for managing each risk and ensure that the officer concerned has adequate training, support and expertise to manage the risk effectively.

***Identify the need for controls***

Managers must evaluate the adequacy of existing controls and establish what further controls or changes are required to reduce or eliminate the risk of fraud. In addition, managers should utilise internal audit reports, internal investigation findings, and any other resource to help ensure that there is full compliance with the Regulatory Framework, local procedures and any relevant legislation.

***Implement the revised controls effectively***

Managers must ensure that the revised controls are cost effective and that written procedures are updated, informing employees and customers of any changes that affect them. Employees will need to be trained in the use of revised controls and procedures. Managers must also identify any continued weaknesses and adjust as necessary.

***Evaluate the effectiveness of controls***

Managers should periodically assess the effectiveness of the controls and evaluate whether the risk of fraud has been eliminated or reduced. Advice and support on managing risk, evaluating possible conflicts of interest, or the development or evaluation of controls can be obtained from the Assurance Group.

Any system weaknesses identified as a result of fraud investigations will be reported to the relevant Head of Service and Director, as well as the Head of Assurance, and addressed through an agreed action plan. The relevant Head of Service will be responsible for implementing the action plan. Internal Audit can take on a monitoring role, addressing failures to implement recommendations to the relevant Senior Manager in addition to reporting major system failures, remedial action plans and instances of non-compliance to the Audit & Standards Committee.

**Contractors**

It is expected that the Council's contractors, and partners, will have adequate controls in place to minimise fraud. We will however raise fraud awareness with our partners as deemed necessary to help them implement robust controls to protect the funds/assets they administer.

Contractors and partners are also expected to have adequate recruitment procedures in place covering requirements under the Immigration and Nationality Act, disclosure

& barring checks and stringent vetting in relation to employment history and references. This expectation will form part of all contract terms and conditions.

## **Employees - Recruitment and Conduct**

It is recognised most employees are conscientious and hardworking and whose conduct is beyond reproach. However, where it becomes evident fraud has taken place, action will be taken in accordance with the Council's Disciplinary Rules. Fraud is a specific instance of gross misconduct and will therefore be treated very seriously. It could involve criminal or civil proceedings as appropriate.

The Council recognises that a key preventative measure is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, in terms of their propriety and integrity. Temporary and agency employees will be treated in the same way.

Employee recruitment is required, therefore, to be in accordance with the Council's recruitment and selection policies and written references of potential employees must, wherever practicable, be obtained before employment offers are made. Criminal records will be checked and disclosed prior to appointment in accordance with the Council's Policy.

Employees of the Council are expected to follow the Employees' Code of Conduct and any other Code related to their personal Professional Body.

Employees must comply with their statutory obligations regarding pecuniary interest in Contracts relating to the Council or fees and rewards other than proper remuneration. They are also required to declare any interests which they have that might be seen to conflict with the impartial performance of their duties.

## **Members**

Members are expected to conduct themselves in a way that is beyond reproach, above suspicion and fully accountable by acting in a manner that sets an example to the community they represent and employees who implement their policy objectives.

Members are required to operate within the Council Constitution and Member Code of Conduct with the Standards Committee taking on responsibility of advising and training members relating to these codes. These matters are specifically brought to the attention of Members are also made aware of the declaration and registration of potential areas of conflict between Members' Council duties and responsibilities and any other areas of their personal or professional lives.

### **Detection and Investigation (to be read alongside the Fraud Response Plan)**

While the council has preventative internal control systems which are generally sufficient in themselves to deter fraud, it is often the alertness of employees, Members and the public that enables detection to occur and the appropriate action to take place when there is evidence that fraud may be in progress.

Employees must report any suspected cases of fraud to the appropriate manager, or, if necessary, direct to the Counter Fraud & Risk Manager. The Fraud Response Plan appended to this policy provides guidance on what to do when an individual suspects fraud has, or is, taking place.

Reporting cases in this way is essential to the Counter Fraud Policy and makes sure that suspected cases of fraud are investigated properly, a standard process is followed and all connected persons, and the Council's interests, are protected.

The Counter Fraud Team is at the forefront of the Council's fight against fraud and will examine all allegations of theft, fraud and financial malpractice, corruption and behaviour likely to adversely impact on the finances or integrity of the Council, its Members and employees. This extends to allegations against organisations funded by the Council or those with whom the council has a contract and those who receive council services.

It is expected that the Council's partners will provide full and unrestricted access to their financial records relating to the council finances and the co-operation of their employees with any investigation. In addition, personnel records of any person suspected of involvement in fraud against the council will also be made available to the Counter Fraud Team as necessary.

Referral to the Police will be undertaken in consultation with the Head of Assurance and in accordance with the Council's Prosecution Policy, alongside any need to obtain further evidence or in cases, such as serious organised crime, where the matter cannot be pursued in house. In cases involving Members, the Monitoring Officer would be consulted over matters of Police involvement. Complaints of misconduct under the Members Code of Conduct will be dealt with in accordance with the Audit and Standards Committee's arrangements.

## **Recovery, Sanction and Redress**

The strongest available sanctions will be applied to all who commit fraud against the Council, its clients or the public purse. This may include disciplinary action, prosecution and civil proceedings or a combination of all three. Where appropriate to do so, recovery of losses/compensation will be sought and confiscation of proceeds of crime pursued in accordance with relevant legislation. This also applies to employees who defraud or steal from the Council's clients. Disciplinary action will also be taken against employees found to have committed fraud against other Local Authorities, or any other agency administering public funds. The decision regarding sanctions will be taken on a case-by-case basis having regard to the Disciplinary Rules and Prosecution Policy.

Contractors, or partner organisations, will be expected to take appropriate action against the individual(s) concerned with the ability to request removal of employees considered in contract terms.

Sanctions imposed in relation to cases of fraud involving Members, will be imposed by the Standards Committee in accordance with powers bestowed under appropriate Regulations.

## Definitions

### What is Theft?

Under section 1 of the Theft Act 1968 “A person is guilty of theft if: he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.”

Examples include stealing property belonging to the council or which has been entrusted to it, such as cash, equipment, vehicles and data as well as stealing property belonging to our employees or Members whilst on council premises.

Under section 24A of the Theft Act 1968, a person is also guilty of dishonestly retaining a wrongful credit where, for example, they do not report and repay an overpayment of salary or advance which they know to have been paid in error.

### What is Fraud?

The Fraud Act 2006 introduced the first statutory definition of fraud. This can be committed in one of three ways where a person acts dishonestly intending to make a gain for himself or another, to cause loss to another or expose another to the risk of loss. This is defined as follows within the Act;

- Where a person makes a false representation (section 2).
- Where a person fails to disclose to another information which he is under a legal duty to disclose (section 3).
- Where a person occupies a position which he is expected to safeguard, or not to act against the financial interest of a person, he abuses that position. Council employees occupy such a position (section 4).

Fraudulent acts may arise from:

- Systems Issues – where a process/system exists which is prone to abuse by either employees or members of the public
- Financial Issues - where individuals or companies have fraudulently obtained money from the Council such as falsification of expense claims, theft of cash and alteration of records to conceal deficiencies, falsification of invoices for payment or failure to account for monies collected.
- Equipment Issues - where Council equipment is used for personal reasons such as the personal use of council vehicles.
- Resource Issues - where there is a misuse of resources such as theft of building materials or working in a private capacity during contracted hours or whilst sick.

### What is Corruption?

Corruption is defined as the abuse of a position of trust to gain an undue advantage for oneself or another. Corruption can occur in tendering and awarding of contracts, appointment and reward of external consultants, awarding permissions, planning consents and licenses.

### What is Bribery?

Bribery is defined as a financial or other advantage that is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such an advantage would constitute the improper performance of such an activity. This area is covered in greater depth by the Bribery Act Policy.

**Further Support & Guidance**

- If there are any questions about these procedures, the Counter Fraud and Risk Manager can be contacted on 020 8227 2850, [caft@lbbd.gov.uk](mailto:caft@lbbd.gov.uk) or by visiting our intranet pages.



The London Borough of Barking and Dagenham is committed to developing a culture of honesty and a tough stance against fraud.

The purpose of this document is to demonstrate and set out the procedures to be followed where theft, fraud or corruption is suspected or detected. It is part of the Council's overall Counter Fraud Policy. It therefore applies to all Members (elected Councillors) and all personnel whether employees of the London Borough of Barking and Dagenham, consultants, agency or contractors or one of the Council's owned companies.

It also provides a framework for responding that enables evidence to be gathered and collated in a way which facilitates an informed initial decision and ensures that any evidence gathered will have been lawfully obtained and will be admissible if the matter proceeds to criminal or civil action.

This document is not an investigation procedure for employees. If you suspect fraud it is vital that you follow the guidance in this plan and report your suspicions to the Assurance Group. Neither does this document provide guidance on fraud prevention. It is quite simply a brief guide on "what to do if you become aware of fraud" and tells you how the Council will respond to suspected or actual occurrences of fraud.

### **Roles & Responsibilities in Respect of Fraud**

All employees and Members have duties under the Council's Corporate Governance arrangements to prevent and detect occurrences of fraud and have a responsibility to ensure compliance with relevant legislation in discharging these duties.

The Assurance Group will maintain a log of all reports, detail actions taken, and conclusions reached, and report periodically to Members of the Audit & Standards Committee.

The Assurance Group will ensure a consistent approach to the conduct of any investigations into matters reported and that proper records of each investigation are kept from the outset, including accurate notes of when, where and from whom evidence was obtained, and by whom.

Where an employee is to be investigated, the relevant Chief Officer and Departmental Human Resources Officer will be informed. Normally, the employee's line manager will also be informed unless this is deemed to be inappropriate given the circumstances of the case.

If a suspicion is reported to a manager, they must pass that suspicion on to the Assurance Group immediately. Any delay could compromise subsequent investigations.

### **What should employees do if they suspect fraud?**

Employees are often the first to become aware that there is something seriously wrong within the Council.

If you suspect or become aware of fraud or any other illegal act against the Council, you must never investigate the matter yourself.

Your concerns should immediately be brought to the attention of the Counter Fraud and Risk Manager using the contact details in this Policy.

If you feel unable to express concerns openly and wish to report concerns in confidence, you may do so in accordance with the Council's Whistleblowing Policy without having to worry about being victimised, discriminated against or disadvantaged in any way as a result.

**When you become aware that there may be a problem you should:**

- Make an immediate written note of your concerns, details of any telephone or conversations you have heard or documents you have seen, and note the date, time, and names of the people involved. These notes should be signed, timed and dated. Timeliness is important because the longer you delay writing up the notes, the greater the chances of recollections becoming distorted and the case being weakened
- Pass any documents that would normally come into your possession immediately to the Counter Fraud Group Team if this can be done without alerting suspicions

**You should not:**

- Ignore the concerns or be afraid of raising them. You will not suffer recriminations from your employer because of voicing a reasonably held suspicion
- Approach individuals yourself or convey your suspicions to other colleagues, except those authorised to deal with the matter. There may be an innocent explanation that resolves your concerns. If you have any doubts about who to consult, speak to the Assurance Group Officers first
- Investigate the matter yourself. There are special rules relating to the gathering of evidence for use in criminal cases. Attempts to gather evidence by persons who are unfamiliar with these rules may jeopardise or undermine the case
- Discuss it with anyone else after you have reported your suspicions

**What should a member of the public, or partner, do if they suspect fraud?**

The Council encourages members of the public who suspect fraud to contact the Assurance Group in the first instance. Suspicions or identified instances of fraud or other wrongdoing against the Council can be reported via a confidential hotline number.

**How will allegations of fraud be dealt with by the Council?**

The Counter Fraud Team operates independently of other Council services but will pool resources with other stakeholders such as Internal Audit to provide a joined-up approach to prevention, detection, investigation and prosecution of fraud within the Council.

When allegations are received from employees, or the public, the Assurance Group will establish at an early stage the action to be taken by the Council; this may depend on the nature of the allegation. The matters raised may be investigated internally, however, allegations of wrongdoing involving a criminal act may shape the way the investigation is handled and by whom.

Within five working days of a concern being received, the responsible officer will write to the complainant acknowledging that the concern has been received. Details of the investigation and outcomes will not be divulged due to privacy and data protection concerns.

If it appears that a criminal act has occurred or where there is evidence of fraud, the Council's prosecution team or the police may be invited to become involved in accordance with the Council's Prosecution Policy.

All employees must cooperate fully with any internal enquiry alongside those from the police or other external body.

Where the Council's prosecution team or police are unable to progress a criminal prosecution, e.g. because the test in the Code for Crown Prosecutors is not met, legal opinion will be sought as to the expediency of civil action particularly in relation to recovering losses.

Alongside any criminal investigation, an internal investigation will be undertaken to:

- Determine the facts
- Consider if the allegation should be dismissed or
- What action should be taken against any employee found culpable
- Consider what action may be taken to recover any losses to the Council which could include civil action
- Identify whether the Council's systems, controls or procedures need to be improved
- If the outcome of an investigation is that a recommendation is made to refer the employee to a disciplinary Hearing, the Assurance Group Officers will advise the appropriate Service Manager and/or Director and liaise with the Human Resources section to determine the next steps.

A fraud log will be completed detailing every action taken during the investigation, this will include the dates and times that each action undertaken was carried out.

### **How we gather and deal with evidence**

The Assurance Group will normally manage investigations and will be responsible for gathering evidence and will seek to establish whether there is any physical evidence that fraud has occurred and collect such evidence, recording the time and place that the evidence was obtained.

Where there are reasonable grounds for suspicion that a criminal offence has been committed, the Council's prosecution team or the police may become involved at an

early stage however the Assurance Group may still undertake part, or all, of the investigation on their behalf. All employees MUST co-operate with the internal investigation process. Failure to co-operate with an investigation constitutes a disciplinary offence.

If appropriate, and in accordance with Human Resources policies and their agreement, suspension of officers will be considered to ensure unfettered progress of investigations. It should be noted that suspension is a neutral act and in no way implies guilt of the officer.

It is important, from the outset, to ensure that evidence is not contaminated, lost or destroyed. Wherever possible original documents should be retained, secured and handled as little as possible. Under no circumstances should they be marked in any way. Computer data must also be secured and should not be viewed by anyone who is not appropriately trained.

All evidence will be obtained lawfully, properly recorded and retained securely in accordance with all relevant legislation.

The outcomes of significant internal investigations may be reported to Assurance Board and the Audit & Standards Committee.

### **Conducting interviews**

Interviews will be conducted in a fair and proper manner and in accordance with the Council's Disciplinary Rules. Documentary evidence will be gathered before any interviews are conducted and if it is established there are any witnesses to the events, the Assurance Group will seek to interview and obtain written statements. File notes of all actions and discussions will be maintained. The veracity of the information provided by witnesses and/or other evidence documentary or otherwise will determine whether the employee should be interviewed. Where there is a possibility of subsequent criminal action, interviews may be conducted under caution in compliance with relevant legislation.

### **Closing the investigation**

The investigation will be concluded by deciding whether there is a case to answer and by making recommendations as to appropriate action in a written report to the relevant manager and/or Director as well as offering recommendations to systems and procedures where appropriate.

All matters investigated will be dealt with in accordance with the Council's Disciplinary Rules and Code of Conduct for employees. Management will seek advice from Human Resources to establish the correct procedure to progress the matter through the Council's disciplinary framework and, where appropriate and in line with policy, referral to a Disciplinary Hearing.

## Assurance Group

# The Fraud Prosecution Policy

2022

Date Last Reviewed:	June 2022
Approved by:	Audit & Standards Committee
Date Approved:	TBA
Review Date:	June 2023
Document Owner:	Head of Assurance

## The Council's commitment to the Prosecution Policy

The London Borough of Barking & Dagenham is committed to the protection of public funds through its action against fraud and has adopted a tough stance to fraud and wrongdoing perpetrated against it. The Council will seek application of the strongest possible sanctions against those found to have perpetrated fraud against it.

## What are the aims and requirements of the policy?

The aim of this prosecution policy is to deter fraud against the Council. This policy sets out the range of sanctions that may be applied where fraud and wrongdoing is identified and the circumstances relevant to their application.

## Who is governed by this Policy?

This policy applies to council employees, employees of the Councils owned companies, contractors and members of the public found to have committed fraud and other wrongdoing against the Council. Disciplinary action will also be taken against Council employees found to have committed fraud against other local authorities or any other agency administering public funds.

## Executive Summary

The London Borough of Barking & Dagenham is committed to the protection of public funds through its action against fraud.

In order to reinforce the deterrence message, where fraud and wrongdoing is identified the Council will take disciplinary action (in the case of employees), civil action or criminal sanctions or a combination of all three in parallel, in accordance with this policy. All references to fraud in this document include any other type of fraud related offences as defined in the Counter Fraud policy.

## Contents

<b><u>Title</u></b>	<b><u>Page No.</u></b>
Fraud Prosecution Policy	1
Fraud Sanctions & Redress	2
Publicity	3
Further Support & Guidance	3
	4

# Fraud Prosecution Policy

The London Borough of Barking and Dagenham is committed to preventing fraud wherever possible. All allegations of fraud will be taken seriously.

Where fraud is found to occur, in any form, it will be dealt with rigorously in a controlled manner in accordance with the principles in the Counter Fraud Strategy. It will be investigated fully, and the London Borough of Barking and Dagenham will prosecute all offenders, where appropriate, including Members, employees, contractors and external partners, in accordance with this policy and legal guidelines.

This procedure will be operated in conjunction with the London Borough of Barking and Dagenham's disciplinary procedures and all employees will be subject to disciplinary action as well as any prosecution process.

Where there is clear evidence that a fraudulent, or corrupt, act has been committed the following will be considered before a case is considered for prosecution:

- The seriousness of the case
- The level of evidence available
- The level of money or misappropriated assets involved
- Whether the public interest will be served

In assessing a case for prosecution, the following stages will be applied:

- **The Evidential Stage:** To ensure sufficiency of evidence to provide a realistic prospect of conviction
- **The Public Interest Stage:** To determine whether it would be in the public interest to proceed

A prosecution will usually be pursued unless there are public interest factors against prosecution which clearly outweigh those tending in favour. To pass the public interest stage, the Assurance Group will balance carefully and fairly the public interest criteria as detailed in 'The Crown Prosecution Service's Code for Crown Prosecutors 2018' against the seriousness of the offence.

The public interest criterion includes:

- The likely sentence (if convicted)
- Whether the offence was committed as a result of genuine mistake or misunderstanding
- Any previous convictions and the conduct of the defendant

The Council will in most instances prosecute where the fraud perpetrated:

- was not a first offence

- was planned
- was undertaken by an officer in a position of authority or trust and he or she took advantage of this, or
- involved more than one person

The full tests the council will apply in considering a case for prosecution are set out in “

## Fraud Sanctions & Redress

With respect to a prima facie case of fraud, an appropriate combination of the following three sanctions may be applied:

- **Disciplinary Action** - Application of this sanction is normally internal disciplinary action but may involve a referral to the relevant professional organisation from which professional disciplinary action could ensue
- **Civil Action** – to recover money, interest and costs where it is cost effective and desirable for the purpose of deterrence, it may be decided that civil redress is the most appropriate course of action. In such instances the council’s legal services team will utilise civil law to recover any losses
- **Criminal Sanction** - fines, imprisonment, and compensation orders with or without police involvement

Where it is decided that a criminal prosecution is to be pursued, the Assurance Group will brief the most appropriate Chief Officer, however, the option to prosecute may also be determined by the police in some instances.

Managers should not notify the police directly, except in an emergency to prevent further loss, or where it is necessary for the police to examine an area before it is disturbed by employees or members of the public.

In instances where an investigation reveals either numerous cases of fraudulent activity, significant value, or breaches of the employee code of conduct (and/or disciplinary rules) the option of pursuing a series of sanctions (parallel sanctions) may be chosen.

The individual or parallel sanctions that are to be applied will be the decision of the Assurance Group following consultation with the Counter Fraud & Risk Manager and Legal Services.

In instances where parallel sanctions are applied, for example, internal disciplinary and criminal sanctions, the Assurance Group will carry out an investigation with a view to criminal prosecution, whilst simultaneously conducting an internal investigation under the Disciplinary Procedure.

The Assurance Group will provide evidence to Human Resources in order that an internal investigation and disciplinary hearing can be taken forward with respect to





## The Evidential Stage

We must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge\*. We must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

We have found that there is a realistic prospect of conviction based on the objective assessment of the evidence, including the impact of any defence and any other information that the suspect has put forward or on which they might rely. It means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a different test from the one that the criminal courts themselves must apply. A court may only convict if it is sure that the defendant is guilty.

When deciding whether there is sufficient evidence to prosecute, We will ask ourselves the following:

Can the evidence be used in court  
Are there any questions on the admissibility of the evidence

Is the evidence reliable?

We will consider whether there are any reasons to question the reliability of the evidence, including its accuracy or integrity.

Is the evidence credible?

We will consider whether there are any reasons to doubt the credibility of the evidence.

Is there any other material that might affect the sufficiency of evidence?

We must consider at this stage and throughout the case whether there is any material that may affect the assessment of the sufficiency of evidence, including examined and unexamined material in the possession of the police, and material that may be obtained through further reasonable lines of inquiry.

## The Public Interest Stage

In every case where there is sufficient evidence to justify a prosecution or to offer an out-of-court disposal, prosecutors must go on to consider whether a prosecution is required in the public interest.

It has never been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.

When deciding the public interest, we will consider each of the questions set out below to identify and determine the relevant public interest factors tending for and against prosecution. These factors, together with any public interest factors set out in relevant guidance or policy issued by the DPP, should enable prosecutors to form an overall assessment of the public interest.

The explanatory text below provides guidance to us when addressing each particular question and determining whether it identifies public interest factors for or against prosecution. The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.

It is quite possible that one public interest factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against prosecution in a particular case, prosecutors should consider whether nonetheless a prosecution should go ahead and those factors put to the court for consideration when sentence is passed.

We will consider how serious is the offence committed.

The more serious the offence, the more likely it is that a prosecution is required. When assessing the seriousness of an offence, we should include in our consideration the suspect's culpability and the harm caused, by asking themselves the following questions.

What is the level of culpability of the suspect?

The greater the suspect's level of culpability, the more likely it is that a prosecution is required.

Culpability is likely to be determined by:

- i. the suspect's level of involvement;
- ii. the extent to which the offending was premeditated and/or planned;
- iii. the extent to which the suspect has benefitted from criminal conduct;
- iv. whether the suspect has previous criminal convictions and/or out-of-court disposals and any offending whilst on bail or whilst subject to a court order;
- v. whether the offending was or is likely to be continued, repeated or escalated;
- vi. the suspect's age and maturity (see paragraph d below).

A suspect is likely to have a much lower level of culpability if the suspect has been compelled, coerced or exploited, particularly if they are the victim of a crime that is linked to their offending.

We should also have regard to whether the suspect is, or was at the time of the offence, affected by any significant mental or physical ill health or disability, as in some circumstances this may mean that it is less likely that a prosecution is required. However, prosecutors will also need to consider how serious the offence was, whether the suspect is likely to re-offend and the need to safeguard the public or those providing care to such persons.

What are the circumstances of and the harm caused to the victim?

The circumstances of the victim are highly relevant. The more vulnerable the victim's situation, or the greater the perceived vulnerability of the victim, the more likely it is that a prosecution is required. This includes where a position of trust or authority exists between the suspect and victim. A prosecution is also more likely if

the offence has been committed against a victim who was at the time a person serving the public. It is more likely that prosecution is required if the offence was motivated by any form of prejudice against the victim's actual or presumed ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or if the suspect targeted or exploited the victim, or demonstrated hostility towards the victim, based on any of those characteristics.

We will also need to consider if a prosecution is likely to have an adverse effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence, the availability of special measures and the possibility of a prosecution without the participation of the victim.

We should take into account the views expressed by the victim about the impact that the offence has had. In appropriate cases, this may also include the views of the victim's family. However, we do not act for victims or their families in the same way as solicitors act for their clients, and prosecutors must form an overall view of the public interest.

What was the suspect's age and maturity at the time of the offence?

The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18. The best interests and welfare of the child or young person must be considered, including whether a prosecution is likely to have an adverse impact on their future prospects that is disproportionate to the seriousness of the offending. We must have regard to the principal aim of the youth justice system, which is to prevent offending by children and young people. We must also have regard to the obligations arising under the United Nations 1989 Convention on the Rights of the Child. We should consider the suspect's maturity, as well as their chronological age, as young adults will continue to mature into their mid-twenties. As a starting point, the younger the suspect, the less likely it is that a prosecution is required. However, there may be circumstances which mean that, notwithstanding the fact that the suspect is under 18 or lacks maturity, a prosecution is in the public interest. These include where:

- i. the offence committed is serious;
- ii. the suspect's past record suggests that there are no suitable alternatives to prosecution; and
- iii. the absence of an admission means that out-of-court disposals that might have addressed the offending behaviour are not available.

What is the impact on the community?

The greater the impact of the offending on the community, the more likely it is that a prosecution is required. The prevalence of an offence in a community may cause particular harm to that community, increasing the seriousness of the offending. Community is not restricted to communities defined by location and may relate to a group of people who share certain characteristics, experiences or backgrounds, including an occupational group. Evidence of impact on a community may be obtained by way of a Community Impact Statement.

Is prosecution a proportionate response?

In considering whether prosecution is proportionate to the likely outcome, the following may be relevant:

The cost to the council and the wider criminal justice system, especially where it could be regarded as excessive when weighed against any likely penalty. Prosecutors should not decide the public interest on the basis of this factor alone. It

is essential that regard is also given to the public interest factors identified when considering the other questions in this guide but cost can be a relevant factor when making an overall assessment of the public interest.

Cases should be prosecuted in accordance with principles of effective case management. For example, in a case involving multiple suspects, prosecution might be reserved for the main participants in order to avoid excessively long and complex proceedings.

Do sources of information require protecting?

In cases where public interest immunity does not apply, special care should be taken when proceeding with a prosecution where details may need to be made public that could harm sources of information, ongoing investigations, international relations or national security. It is essential that such cases are kept under continuing review.

This page is intentionally left blank

# Assurance Group

# Money Laundering Policy

2022

Date Last Reviewed:	June 2022
Approved by:	Audit & Standards Committee
Date Approved:	TBA
Review Date:	June 2023
Document Owner:	Head of Assurance

## The Council's commitment to the Money Laundering Policy

London Borough of Barking & Dagenham, takes a tough stance to fraud perpetrated against it and as such will be taking a proactive approach to the prevention, detection and reporting of suspected money laundering incidents.

## What are the aims and requirements of the policy?

The policy has the aim to enable suspicious transactions to be recognised and reported to law enforcement agencies to deter and disrupt such practices.

## Who is governed by this Policy?

The Money Laundering Policy applies to all employees including, and not limited to, temporary employees, sessional employees and contractors. The policy also applies to anyone employed via one of the Council's wholly owned companies. A failure to comply with this policy could be damaging to the finances and reputation of the Council.

## Executive Summary

This Money Laundering Policy sets out the Council's commitment to ensuring compliance with the requirements of the Terrorism Act 2000, Proceeds of Crime Act 2002, Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (referred to in this guidance as 'the Regulations'), Criminal Finances Act 2017, Terrorist Asset-Freezing Act 2010, Anti-terrorism, Crime and Security Act 2001, Counter terrorism Act 2008, Schedule 7 and the Economic Crime (Transparency and Enforcement) Act 2022 and Chartered Institute of Public Finance and Accountancy (CIPFA) guidance for Local Authorities on Money Laundering.

Commented [KK1]: Changed as per advice from Dr Paul Feild

## Contents

Title	Page No.
What is Money Laundering?	1
What is the legal definition?	1
What is the legislation?	1
How can suspicious activity be identified?	2
What are the areas at risk of Money Laundering?	2
Reporting of Money Laundering	2
Further support & guidance	3



# Money Laundering Policy

Our policy is to prevent, wherever possible, the Authority and its employees being exposed to money laundering; to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially regarding the reporting of actual or suspected cases. It is every employees responsibility to be vigilant.

## What is Money Laundering?

Money Laundering is the term used for several offences involving the proceeds of crime. It is the process by which the identity of “dirty” money (i.e. the proceeds of crime and the ownership of those proceeds) is changed so that the proceeds appear to originate from legitimate “clean” sources.

Some areas of the Council’s activities are thought to be particularly vulnerable to attempts to launder money and it can simply involve receiving payment for goods or services with “dirty” money – usually, but not limited to, cash. The legislation includes possessing, or in any way dealing with, or concealing, the proceeds of any crime.

## What is the legal definition?

Money Laundering is defined as:

- concealing, disguising, converting, transferring or removing criminal property from England, Wales, Scotland or Northern Ireland
- being involved in an arrangement which a person knows or suspects it facilitates the acquisition, retention, use or control of criminal property
- acquiring, using or possessing criminal property
- when a person knows or suspects that money laundering activity is taking place (or has taken place), or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, they must disclose this as soon as practicable or risk prosecution

## What is the legislation?

There is now a complete suite of money laundering control and anti organised crime legislation, being the Terrorism Act 2000, Proceeds of Crime Act 2002, Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (referred to in this guidance as ‘the Regulations’), Criminal Finances Act 2017, Terrorist Asset-Freezing Act 2010, Anti-terrorism, Crime and Security Act 2001, Counter terrorism Act 2008, Schedule 7 and the Economic Crime (Transparency and Enforcement) Act 2022.

Offences under the Proceeds of Crime Act, and Money Laundering Regulations, can attract penalties of unlimited fines and up to 14 years’ imprisonment.

**Commented [KK2]:** Changed as per advice provided by Dr Paul Feild

## How can suspicious activity be identified?

Employees dealing with transactions which involve income for goods and services, particularly where large refunds may be made, or large amounts of cash are received, will need to consider issues such as:

For new customers:

- is checking their identity proving difficult?
- is the individual reluctant to provide details?
- is there a genuine reason for using the services provided?
- is the customer attempting to introduce intermediaries to either protect their identity or hide their involvement?
- is the customer requesting a large cash transaction?
- is the source of the cash known and reasonable?

For regular and established customers:

- is the transaction reasonable in the context of the service provider's normal business?
- is the size or frequency of the transaction consistent with the normal activities of the customer?
- has the pattern of the transaction changed since the business relationship was established?

## What are the areas at risk of Money Laundering?

Where a need is identified, advice will be provided to managers to enable them to provide more targeted training. Possible examples relating to the Council include:

- Conveyancing, including Housing Right-to-Buy transactions
- Payments in excess of £10,000
- Refunds of large overpayments to accounts such as Council Tax, hire fees etc.
- Suspiciously low tenders

Generally, for the types of transactions the Council is involved with which are at risk in relation to Money Laundering, the risk is mitigated because these transactions will be with large, well-known companies who will be represented by their solicitors who have their own professional duties regarding the Money Laundering Regulations. Conversely, where we have similar transactions with un-represented individuals or bodies this is an area of greater risk and our response will need to reflect this.

## Reporting of Money Laundering concerns

Employees should report any suspicions to the Director Finance and Investments (Section 151 Officer), Counter Fraud & Risk Manager or Service Manager Financial Investigations & Trading Standards as soon as they arise. Suspicions may be reported informally by telephone or email and the responsible officer will seek to establish the

facts of the case, investigate the matter fully and determine whether a formal referral to the National Crime Agency (NCA) is appropriate.

### Further Support & Guidance

If there are any questions about these procedures, the Counter Fraud and Risk Manager can be contacted on 020 8227 2850, [caft@lbbd.gov.uk](mailto:caft@lbbd.gov.uk) or by visiting our intranet pages.

This page is intentionally left blank

# Assurance Group

# Whistleblowing Policy

2022

Date Last Reviewed:	June 2022
Approved by:	Audit & Standards Committee
Date Approved:	TBA
Review Date:	June 2023
Document Owner:	Head of Assurance

## The Councils commitment to the Whistleblowing Policy

This Whistleblowing Policy sets out the Council's commitment to ensuring compliance with the requirements of the Public Interest Disclosure Act 1998 as amended by the Enterprise and Regulatory Reform Act 2013. The council has designated the Head of Assurance as the Whistleblowing Officer.

## What are the aims and requirements of this policy?

The Council wishes to encourage and enable employees, and persons providing services on behalf of or to the council, to raise serious concerns within the Council rather than overlooking the issue or 'blowing the whistle' outside.

For that reason, this policy has been put in place to make sure that if you want to come forward and raise any concern within the remit of this policy, you can do so with confidence and without having to worry about being victimised, discriminated against or disadvantaged in any way as a result.

## Executive Summary

Sometimes employees, and those who contract with the council, are the first to spot that something is wrong and putting the council and/or its residents at risk but are reluctant to act for fear of not being taken seriously, that their concerns may not be justified or that they may be victimised for speaking out.

Legislation is in place to protect those that raise legitimate concerns in the public interest and in the right way.

This policy sets out the concerns that are dealt with under the whistleblowing procedure, the way in which you may raise concerns and how the Council will respond to those concerns.

## Contents

<b><u>Title</u></b>	<b><u>Page No.</u></b>
What is Whistleblowing	1
Who is covered by this policy?	1
What types of actions are covered by the policy?	2
What is not covered by the policy?	3
Protecting you	3
How to raise a concern	3
How we respond to your concerns	5
Untrue Allegations	6
Further Support & Guidance	6

# Whistleblowing Policy

It is our policy is to promote a culture of openness and a shared sense of integrity throughout the Council by inviting employees to act responsibly in order to uphold the reputation of the Council and maintain public confidence.

## What is whistleblowing?

Whistleblowing is the reporting of suspected, or ongoing, wrongdoing at work.

We are committed to being open, honest and accountable. For this reason, concerns about malpractice and impropriety are taken very seriously. We want you to be able to raise any concerns that the interests of others and the Council (and therefore residents of Barking and Dagenham) are at risk.

Commented [KK1]: Duplication of above section

This is because Employees may be the first to spot anything that is seriously wrong within the council, however, they might not say anything because they think this would be disloyal, or they might be worried that their suspicions are not justified. They may also be worried that they, or someone else, may be victimised.

That is why we have produced this whistleblowing policy to help employees , including agency workers and contractors (and those working within our council-owned companies), to contact us with concerns. This policy has been put in place to make sure that if you want to come forward and raise any concern which you feel relate to illegal, improper or unethical conduct, you can do so with confidence and without having to worry about being victimised, discriminated against or disadvantaged in any way as a result.

## Who is covered by this policy?

The whistleblowing policy applies to all employees including those in schools as well as anyone designated as casual, temporary, agency, contractors, consultants, authorised volunteers or work experience.

It also covers those working for suppliers/providing services under a contract with the Council where this or an equivalent whistleblowing policy is in force. This would include Council-owned companies that are wholly owned by the council but operate within the private sector.

As the companies are owned by the Council and inextricably linked both financially and reputationally, it stands to reason that the overarching principle of the Council's Whistleblowing Policy should apply. Any allegations made via the Council's Whistleblowing procedure are reported directly to the Assurance Group and any allegations made via the companies themselves should be immediately referred by way of the most appropriate communication. The Assurance Group will keep the Chief Executive of each company aware of any allegation and investigation as appropriate.

To ensure your concern is treated as whistleblowing, you must identify yourself and the policy is in place to encourage this. We will consider anonymous allegations, but by remaining anonymous means it is more difficult for us to clarify points or ask for further information.

### What types of action are covered by the policy?

The policy is intended to deal with serious or sensitive concerns about wrongdoings that are in the public interest – referred to as public interest disclosures. Your concern may be about colleagues, people who work directly for the Council, suppliers, or people who provide services to the public for us.

When you raise a concern under the whistleblowing policy it must be in the reasonable belief that it is in the public interest to do so. Depending on the concern it is possible that other policies held by the Assurance Group will also be followed.

Examples of concerns that may be in the public interest are suspected, or ongoing actions, that fall into the following categories; (the list of actions under each category is not exhaustive)

#### **Criminal Offences**

- Misuse of Council funds or Improper or unauthorised use of Council money
- Other fraud or corruption
- Bribery
- An unlawful act
- A person abusing their position for any unauthorised use or for personal gain

#### **Failure to comply with legal obligations**

- A person deliberately not keeping to a Council policy, official code of practice or any law or regulation
- A person being discriminated against because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation

#### **Actions which endanger the health or safety of any individual**

- Service users, children or students, particularly children and adults in our care being **abused** or neglected
- Any other danger to health and safety

**Commented [KL2]:** Maybe it should say abused or neglected?

#### **Actions which cause damage to the environment**

- The environment being damaged (for example, by pollution)

#### **Actions which are intended to conceal any of the above**

- Other wrongdoing including instances where attempts have been made to conceal or cover up wrongdoing



### What is not covered by the policy?

You cannot use this policy to deal with serious or sensitive matters that are covered by other procedures, for example:

- Employee complaints about their contract of employment as these are dealt with through our Grievance or Managing Performance at Work procedures.
- Customers' complaints about our services as these are dealt with through our Corporate Complaints Procedure.
- Allegations against Councillors; these should be sent in writing to: Monitoring Officer, Law & Governance, London Borough of Barking and Dagenham, Barking Town Hall, 1 Town Square, Barking IG11 7LU. Write "Private and Confidential" on your envelope. Alternatively, a complaint form and other information is available at:  
<https://www.lbbd.gov.uk/council/councillors-and-committees/councillors/complaints-about-councillors/how-to-complain-about-a-councillor/>

You also cannot use this policy to raise issues that have already been settled through other procedures, for example, matters previously resolved under the Council's Disciplinary Rules procedures.

### Protecting you

If your allegation is true, you have nothing to fear. But we understand that deciding to blow the whistle is not easy.

When you make a protected disclosure, you have the right not to be dismissed, victimised or subjected to any other detriment. Therefore, we will not tolerate any harassment or victimisation of a whistleblower and will treat such actions as a serious disciplinary offence which will be dealt with under the council Disciplinary Procedure.

We will do our best to protect your identity and keep your concerns confidential if this is what you want.

There may be occasions when you will need to provide statements of evidence for us to conclude the investigation. In this case, we will not reveal your name or position without your permission or unless we must do so by law; for example, if the evidence is required in Court then your anonymity may be subject to the decision of the Courts.

If you work for the Council, you should also know that any allegation you make will not influence, or be influenced by, any unrelated disciplinary action against you or any redundancy procedures that may affect you. Support is available for colleagues through the Employee Assistance Program.

**Commented [KL3]:** I wonder whether here or anywhere else we should state what other support is available to the person like EAP?

The earlier you raise a concern, the easier it will be to take effective action. You should first raise your concern with your immediate Supervisor or Manager (obviously, this will depend on the seriousness and sensitivity of the matter, and who is suspected of the wrongdoing). Alternatively, you may also raise concerns with your Head of Service or Director. Concerns that involve financial malpractice should always be raised with Officers within the Assurance Group.

### Safeguarding Children and Adults

Please note that any concerns that relate to professionals who:

- behaved in a way that has harmed, or may have harmed a child or adult who has care and support needs and unable to protect themselves against neglect or abuse;
- possibly committed a criminal offence against, or related to, a child or adult who has care and support needs and unable to protect themselves against neglect or abuse;
- behaved towards a child or adult who has care and support needs and unable to protect themselves against neglect or abuse; in a way that indicates they may pose a risk of harm to them.

Where the concern involves children please refer the matter to the Local Authority Designated Officer (LADO). The LADO can be contacted on [lado@lbbd.gov.uk](mailto:lado@lbbd.gov.uk) and they will determine what further action should be taken.

Where the concern involves adults please refer to the Local Authority Person in Position of Trust (PIPOT) by sending an email to: [safeguarding.adults@lbbd.gov.uk](mailto:safeguarding.adults@lbbd.gov.uk) to request a referral form for this purpose or request that someone call you back to discuss the matter.

### How to raise a concern

If you prefer, or you do not work for the Council, you can contact the Assurance Group directly in any of the following ways:

- By writing to the Assurance Group at London Borough of Barking and Dagenham, 2<sup>nd</sup> Floor Barking Town Hall, 1 Town Hall Square, Barking IG11 7LU (write 'Private and Confidential' on your envelope)
- By phoning the Whistleblowing line on 020 4511 0103. You can leave a confidential voice-mail message 24 hours a day. During office hours the line is

monitored and you will be able to speak directly with a member of the Assurance Group.

- By sending an e-mail to: [Whistle.Blowing@lbbd.gov.uk](mailto:Whistle.Blowing@lbbd.gov.uk)

To maintain confidentiality, you are advised not to copy other people into your message to the whistleblowing mailbox.

If for, whatever reason, you feel your concerns cannot be reported by way of the above reporting options, you can contact the council's Whistleblowing Officer via the following methods:

- Post – Christopher Martin, Head of Assurance, London Borough of Barking and Dagenham, Barking Town Hall, 1 Town Square, Barking IG11 7LU (write 'Private and Confidential' on your envelope)
- Email – [Christopher.martin@lbbd.gov.uk](mailto:Christopher.martin@lbbd.gov.uk)
- Phone - 020 8227 2174

If you are putting your concerns in writing it is best to give as much information as possible, such as:

- The reason why you are concerned about a situation
- any relevant names, dates, places and so on
- Background information
- What you personally witnessed or extent to which you have experienced the problem. If possible, you should provide documentary evidence.

You are strongly encouraged to raise your concerns in one of the ways set out above, but if you feel you are unable to raise the matter internally, or feel unsatisfied with any action we take, you could contact our external auditor, the National Audit Office or contact an organisation called Protect - *formerly Public Concern at Work* for independent advice and support. Protect can be contacted via the following means;

**Address:**

The Green House  
244-254 Cambridge Heath Road  
London E2 9DA

Protect Advice Line: 020 3117 2520

Complete a Protect contact form: <https://protect-advice.org.uk/contact-protect-advice-line/>

## How we respond to your concerns

Within 10 working days of you raising a concern, the Whistleblowing Officer, or designated investigator, will:

- acknowledge that we have received your concern
- explain how we will handle the matter; and



Assurance Group

# The Regulation of Investigatory Powers Act Policy

2022

Date Last Reviewed:	June 2022
Approved by:	Audit & Standards Committee
Date Approved:	TBA
Review Date:	June 2023
Document Owner:	Head of Assurance

## Purpose

(For text in **bold**, see glossary of terms – Appendix 1)

The RIPA Policy covers the proper conduct of crime prevention activities that involve use of covert **directed surveillance**, **covert human intelligence sources** or the accessing of **communications data**. Application of the policy ensures that the Council is operating in accordance with the RIPA Act 2000 (the 2000 Act) as amended by the Protection of Freedoms Act 2012 (the 2012 Act). This policy sets out the Council's approach; it details the checks and balances in place to ensure that any use of covert techniques is lawful, necessary and proportionate. Employees found to have breached the Acts or the Council's Code of Practice are deemed to have breached the Council's Employee Code of Conduct and will be liable to disciplinary action.

## Related Documents

The Act must be considered in tandem with associated legislation including the Human Rights Act (HRA) as well as the General Data Protection Regulation (GDPR). Investigations should be conducted in accordance with all investigative legislation, the Council's Counter Fraud Strategy and the Counter Fraud Policy.

## Who is Governed by this Policy

The RIPA Policy covers all council employees and those working on behalf of the Council who are engaged in prevention and detection activities which involve the use of surveillance, accessing communications data or use of covert human intelligence sources.

## Executive Summary

Regulation of a Local Authority's use of surveillance, use of covert human intelligence sources and accessing of communications data is set out in the RIPA Act 2000 as amended by the Protection of Freedoms Act 2012.

Local Authorities' abilities to use these investigation methods are restricted in nature and may only be used for the prevention and detection of serious crime or disorder. Local Authorities are not able to use **intrusive surveillance**. Powers relating to **directed surveillance** were amended by the Protection of Freedoms Act 2012 and the RIPA (Directed Surveillance and CHIS) (Amendment) Order 2012 to limit usage to the purpose of preventing or detecting a criminal offence where the potential punishment is a maximum term of at least 6 months of imprisonment or involving potential offences involving underage sales of tobacco and alcohol.

The RIPA (Communications Data) order came into force in 2004. It allows Local Authorities to acquire **communications data**, namely service data and subscriber details for limited purposes. This order was updated by The Regulation of Investigatory Powers (Communications Data) Order 2010.

The Act also directs how applications will be made and how, and by whom, they may be approved, reviewed, renewed, cancelled and retained.

The purpose of Part II of the Act is to protect the privacy rights of anyone in a Council's area, but only to the extent that those rights are protected by the Human Rights Act. A public authority such as the Council can infringe those rights, if it does so in accordance with the rules, which are contained within Part II of the Act. Should the public authority not follow the rules, the authority loses the impunity otherwise available to it. This impunity may be a defence to a claim for damages or a complaint to supervisory bodies, or as an answer to a challenge to the admissibility of evidence in a trial.

Further, a Local Authority may only engage the Act when performing its 'core functions'. For example, a Local Authority may rely on the Act when conducting a criminal investigation as this would be considered a 'core function', whereas the disciplining of an employee would be considered a 'non-core' or 'ordinary' function.

In line with the Code of Practice issued by Central Government associated with the 2012 Act, LBBD will only use covert surveillance under RIPA powers where it is proportionate and necessary to do so, and only in the investigation of serious criminal offences.

## Contents

	Page
Introduction	1
Directed Surveillance	1
Covert Human Intelligence Sources	3
The Authorisation Process	4
Judicial Authorisation	6
Authorisation Periods	9
Telecommunications Data – NAFN	9
Handling of material and use of material as evidence	10
Training	10
Surveillance Equipment	10
RIPA Record Quality Reviews	10
Data Retention	10
The Inspection Process	11
Resources	11
Further Support and Guidance	11
Appendices	12





## Introduction

It is essential that the Chief Executive, or Head of Paid Service, together with the Directors and the Heads of Service should have an awareness of the basic requirements of RIPA and an understanding of how it might apply to the work of individual service blocks. Without this knowledge at senior level, it is unlikely that any authority will be able to develop satisfactory systems to deal with the legislation. Those who need to use, or conduct, directed surveillance or CHIS on a regular basis will require more detailed specialised training.

## Directed Surveillance

The use of directed surveillance or a CHIS must be necessary and proportionate to the alleged crime or disorder. Usually, it will be a tool of last resort, to be used only when all other less intrusive means have been used or considered.

The Council will conduct its directed surveillance operations in strict compliance with the DPA principles and limit them to the exceptions permitted by the HRA and RIPA, and solely for the purposes of preventing and detecting crime or preventing disorder.

The **Senior Responsible Officer** (SRO) (Appendix 4) will be able to give advice and guidance on this legislation. The SRO will appoint a **RIPA Monitoring Officer** (RMO). The RMO will be responsible for the maintenance of a **central register** that will be available for inspection by the Investigatory Powers Commissioner's Office (IPCO). The format of the central register is set out in Appendix 6.

The use of hand-held cameras and binoculars can greatly assist a directed surveillance operation in public places. However, if they afford the investigator a view into private premises that would not be possible with the naked eye, the surveillance becomes intrusive and is not permitted. Best practice for compliance with evidential rules relating to photographs and video/CCTV footage is contained in Appendix 7. Directed surveillance may be conducted from private premises. If they are used, the applicant must obtain the owner's permission, in writing, before authorisation is given. If a prosecution then ensues, the applicant's line manager must visit the owner to discuss the implications and obtain written authority for the evidence to be used.

This policy does not affect the general usage of the council's CCTV system. However, if cameras are specifically targeted for directed surveillance, a RIPA authorisation must be obtained.

Wherever knowledge of **confidential information** is likely to be acquired or if a vulnerable person or juvenile is to be used as a CHIS, the authorisation must be made by the Chief Executive, who is the Head of Paid Service (or in his absence whoever deputises for them).

Directed surveillance that is carried out in relation to a **legal consultation** on certain premises will be treated as intrusive surveillance, regardless of whether legal privilege applies or not. These premises include prisons, police stations, courts, tribunals and the premises of a professional legal advisor. Local Authorities are not able to use **intrusive surveillance**. Operations will only be authorised when there is sufficient

documented evidence that the alleged crime or disorder exists and when directed surveillance is a necessary and proportionate step to take to secure further evidence.

Low level surveillance, such as 'drive-bys' or everyday activity observed by officers during their normal duties in public places, does not need RIPA authority. If surveillance activity is conducted in immediate response to an unforeseen activity, RIPA authorisation is not required. However, if repeated visits are made for a specific purpose, authorisation may be required. In cases of doubt, legal advice should be taken.

When vehicles are being used for directed surveillance purposes, drivers must always comply with relevant traffic legislation.

### **Necessary**

A person granting an authorisation for directed surveillance must consider *why* it is necessary to use covert surveillance in the investigation *and* believe that the activities to be authorised are necessary on one or more statutory grounds.

### **Proportionate**

The authoriser must also believe the proposed activities are proportionate to what is being sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.

The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.

The following elements of proportionality should therefore be considered:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

## Crime Threshold

The Regulation of Investigatory Powers (Directed Surveillance and CHIS) (Amendment) Order 2012 imposes a 'Crime Threshold' whereby only crimes which are either punishable by a maximum term of at least 6 months' imprisonment (whether on summary conviction or indictment) or are related to the underage sale of alcohol or tobacco can be investigated under RIPA.

The crime threshold applies only to the authorisation of directed surveillance by local authorities under RIPA, not to the authorisation of local authority use of CHIS or their acquisition of CD. The threshold came into effect on 1 November 2012.

A Local Authority **cannot** authorise directed surveillance for preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment.

Thus, LBBD will continue to authorise use of directed surveillance in more serious cases if the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a Magistrate has been granted.

LBBD will also continue to authorise the use of directed surveillance for preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a Magistrate has been granted.

A local authority **may not authorise** the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences.

An Authorising Officer's Aide-Memoire is provided at Appendix 8 to assist Authorising Officers when considering applications for directed surveillance.

## Covert Human Intelligence Sources

A person who reports suspicion of an offence is not a **Covert Human Intelligence Source** (CHIS), nor do they become a CHIS if they are asked if they can provide additional information, e.g. details of the suspect's vehicle or the time that they leave for work. It is only if they establish or maintain a personal **covert relationship** with another person for covertly obtaining or disclosing information that they become a CHIS.

**The Council does not at present use CHIS.** Any consideration of such use can only be considered with prior discussion with the Chief Executive or a deputy nominated by them. While the council does not currently utilise RIPA for the use of test purchases, via Trading Standards, we will ensure all uses of such are fully documented and authorised by the appropriate Senior Officer, including the thought processes followed and decisions and action taken.

For some test purchases, it will be necessary to use a CHIS who is, or appears to be, under the age of 16 (a juvenile). Written parental consent for the use of a juvenile CHIS must be obtained prior to authorisation, and the duration of such an authorisation is 1

month instead of the usual 12 months. The Authorising Officer must be the Chief Executive or Deputy. **NOTE: A juvenile CHIS may not be used to obtain information about their parent or guardian.**

Officers considering the use of a CHIS under the age of 18, and those authorising such activity must be aware of the additional safeguards identified in The Regulation of Investigatory Powers (Juveniles) Order 2000 and its Code of Practice.

A vulnerable individual should only be authorised to act as a CHIS in the most exceptional circumstances. A vulnerable individual is a person who is, or may need, community care services by reason of mental or other disability, age or illness, and who may not be able to take care of themselves. The Authorising Officer in such cases must be the Chief Executive, who is the Head of Paid Service, or in their absence whoever deputises for them.

Any deployment of a CHIS should consider the safety and welfare of that CHIS. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that an appropriate bespoke risk assessment is carried out to determine the risk to the CHIS of any assignment and the likely consequences should the role of the CHIS become known. This risk assessment must be specific to the case in question. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset.

A CHIS handler is responsible for bringing to the attention of a CHIS controller any concerns about the personal circumstances of the CHIS, as far as they might affect the validity of the risk assessment, the conduct of the CHIS, and the safety and welfare of the CHIS.

The process for applications and authorisations have similarities to those for directed surveillance, but there are also significant differences, namely that the following arrangements must be in place always in relation to the use of a CHIS:

1. There will be an appropriate officer of the Council who has day-to-day responsibility for dealing with the CHIS, and for the security and welfare of the CHIS

and

2. There will be a second appropriate officer of the use made of the CHIS, and who will have responsibility for maintaining a record of this use. These records must also include information prescribed by the Regulation of Investigatory Powers (Source Records) Regulations 2000. Any records that disclose the identity of the CHIS must not be available to anyone who does not have a need to access these records.

## The Authorisation Process

The processes for applications and authorisations for directed surveillance and CHIS are similar, but note the differences set out in the CHIS section above. Directed Surveillance & CHIS applications are made using forms in Appendix 5.

The authorisation process involves the following steps:

### **Investigation Officer**

1. The Investigation Officer prepares an application. When completing the forms, Investigation Officers must fully set out details of the covert activity for which authorisation is sought to enable the Authorising Officer to make an informed judgment.
2. A risk assessment must be conducted by the Investigation Officer within 7 days of the proposed start date. This assessment will include the number of officers required for the operation; whether the area involved is suitable for directed surveillance; what equipment might be necessary, health and safety concerns and insurance issues. Care must be taken when considering surveillance activity close to schools or in other sensitive areas. If it is necessary to conduct surveillance around school premises, the applicant should inform the head teacher of the nature and duration of the proposed activity, in advance.
3. The Investigation Officer will pass the application through to one of their service's "gatekeepers" for review.
4. The gatekeeper, having reviewed the application, will forward the request to the RIPA Monitoring Officer or another officer within the Assurance Group. The application will be logged on the central register and assigned a unique reference number. The RIPA Monitoring Officer will then submit the application form to an authorising officer (see Appendix 4) for approval.
5. All applications to conduct directed surveillance (other than under urgency provisions – see below) must be made in writing in the approved format.

### **Authorising Officer (AO)**

6. The AO considers the application and if it is considered complete the application is signed off and returned to the Monitoring Officer who will log the outcome within the central register. This process, along with the initial application and dealings with the Monitoring Officer, can be completed through email.
7. An Authorising Officer's Aide-Memoire is provided at Appendix 8 to assist Authorising Officers when considering applications for directed surveillance.
8. If there are any deficiencies in the application further information may be sought from the Investigation Officer, prior to sign off.
9. Once final approval has been received the Investigation Officer will retain a copy and will create an appropriate diary method to ensure that any additional documents are submitted in good time.

## **Application to Magistrates Court**

10. The countersigned application form will form the basis of the application to the Magistrates Court (see further below)

## **Authorised Activity**

11. Authorisation takes effect from the date and time of the approval from the Magistrates Court.
12. Where possible, private vehicles used for directed surveillance purposes should have keeper details blocked by the DVLA.
13. Consideration should be given to notifying the relevant police force intelligence units of the operation.
14. Before directed surveillance activity commences, the Investigation Officer will brief all those taking part in the operation. The briefing will include details of the roles to be played by each officer, a summary of the alleged offence(s), the name and/or description of the subject of the directed surveillance (if known), a communications check, a plan for discontinuing the operation and an emergency rendezvous point.
15. Evidential notes should be made by all officers engaged in the operation. These documents will be kept in accordance with the appropriate retention guidelines.
16. Where a contractor or external agency is employed to undertake any investigation on behalf of the Council, the Investigation Officer will ensure that any third party is adequately informed of the extent of the authorisation and how they should exercise their duties under that authorisation.

## **Conclusion of Activities**

17. As soon as the authorised activity has concluded the Investigation Officer will complete a Cancellation Form (Appendix 5).
18. Originals of the complete application, any review or renewal & the cancellation forms will be retained with the central register. Should the forms have been completed electronically, the Monitoring Officer will retain all correspondence.

## **Judiciary Authorisation**

Under sections 37 and 38 of the Protection of Freedoms Act 2012 a local authority who wishes to authorise the use of directed surveillance or the use of a CHIS under RIPA will need to obtain an order approving the grant or renewal of an authorisation from a JP (a District Judge or lay magistrate) before it can take effect.

The acquisition of **Communications Data** (CD) by Local Authorities was also required but in June 2019 the process changed. The Home Office transitioned all public authorities from RIPA to IPA and this will impact on the communications data

acquisition regime. The IPA introduced independent authorisation of CD requests through the setting up of the Office for CD Authorisations (OCDA). From June 2019, all CD applications must be authorised by OCDA replacing the need to gain judicial approval.

If the JP is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate, he/she will issue an order approving the grant or renewal for the use of the technique as described in the application.

The judicial approval mechanism is in addition to the existing authorisation process under the relevant parts of RIPA as outlined above. The current process of assessing the necessity and proportionality, completing the RIPA authorisation/application form and seeking approval from an authorising officer/designated person will therefore remain the same.

The appropriate officer from LBBDD will provide the JP with a copy of the original RIPA authorisation and the supporting documents setting out the case. This forms the basis of the application to the JP and should contain all information that is relied upon.

The original RIPA authorisation should be shown to the JP but also be retained by LBBDD so that it is available for inspection by the Commissioners' officers and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT). The court may also wish to take a copy.

Importantly, the appropriate officer will also need to provide the JP with a partially completed judicial application form.

Although the officer is required to provide a summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well.

The order section of the form will be completed by the JP and will be the official record of the JP's decision. The officer from LBBDD will need to obtain judicial approval for all initial RIPA authorisations and renewals and will need to retain a copy of the judicial application form after it has been signed by the JP. There is no requirement for the JP to consider either cancellations or internal reviews.

The authorisation will take effect from the date and time of the JP granting approval and LBBDD may proceed to use the techniques approved in that case.

It will be important for each officer seeking authorisation to establish contact with the HM Courts & Tribunals Service (HMCTS) administration at the magistrates' court. HMCTS administration will be the first point of contact for the officer when seeking a Judiciary approval. LBBDD will need to inform HMCTS administration as soon as possible to request a hearing for this stage of the authorisation.

On the rare occasions where out of hours' access to a JP is required then it will be for the officer to make local arrangements with the relevant HMCTS legal team. In these cases, we will need to provide two partially completed judicial application forms so that

one can be retained by the JP. They should provide the court with a copy of the signed judicial application form the next working day.

In most emergency situations where the police have power to act, then they can authorise activity under RIPA without prior JP approval. No RIPA authority is required in immediate response to events or situations where it is not reasonably practicable to obtain it (for instance when criminal activity is observed during routine duties and officers conceal themselves to observe what is happening).

Where renewals are timetabled to fall outside of court hours, for example during a holiday period, it is the local authority's responsibility to ensure that the renewal is completed ahead of the deadline. Out of hours' procedures are for emergencies and should not be used because a renewal has not been processed in time.

The hearing is a 'legal proceeding' and therefore our officers will be sworn in and present evidence or provide information as required by the JP. The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation and the judicial application form. He/she may have questions to clarify points or require additional reassurance on specific points.

The attending officer will need to be able to answer the JP's questions on the policy and practice of conducting covert operations and the detail of the case itself. This does not, however, remove or reduce in any way the duty of the authorising officer to determine whether the tests of necessity and proportionality have been met. Similarly, it does not remove or reduce the need for the forms and supporting papers that the authorising officer has considered, and which are provided to the JP to make the case.

It is not LBBD's policy that legally trained personnel are required to make the case to the JP. The forms and supporting papers must by themselves make the case. It is not enough for the local authority to provide oral evidence where this is not reflected or supported in the papers provided. The JP may note on the form any additional information he or she has received during the hearing but information fundamental to the case should not be submitted in this manner.

If more information is required to determine whether the authorisation has met the tests, then the JP will refuse the authorisation. If an application is refused the local authority should consider whether they can reapply, for example, if there was information to support the application which was available to the local authority, but not included in the papers provided at the hearing.

The JP will record his/her decision on the order section of the judicial application form. HMCTS administration will retain a copy of the local authority RIPA authorisation and the judicial application form. This information will be retained securely. Magistrates' courts are not public authorities for the purposes of the Freedom of Information Act 2000.

## Authorisation periods



The authorisation will take effect from the date and time of the JP granting approval and LBBD may proceed to use the techniques approved in that case.

A written authorisation (unless renewed or cancelled) will cease to have effect after 3 months. Urgent oral or written authorisations, unless renewed, cease to have effect after 72 hours, beginning with the time when the authorisation was granted.

Renewals should not normally be granted more than seven days before the original expiry date. If the circumstances described in the application alter, the applicant must submit a review document before activity continues.

As soon as the operation has obtained the information needed to prove, or disprove, the allegation, the applicant must submit a cancellation document and the authorised activity must cease.

CHIS authorisations will (unless renewed or cancelled) cease to have effect 12 months from the day on which authorisation took effect, except in the case of juvenile CHIS which will cease to have effect after one month. Urgent oral authorisations or authorisations will unless renewed, cease to have effect after 72 hours.

## Telecommunications Data - NAFN

The RIPA (Communications Data) Order 2003 allows Local Authorities to acquire limited information in respect of subscriber details and service data. It does NOT allow Local Authorities to intercept, record or otherwise monitor communications data.

Applications to use this legislation must be submitted to a Home Office accredited Single Point of Contact (SPOC). The Council uses the services of NAFN (the National Anti-Fraud Network) for this purpose.

Officers may make the application by accessing the NAFN website. The application will first be vetted by NAFN for consistency, before being forwarded by NAFN to the Council's Designated Persons for the purposes of approving the online application. The Council will ensure that Designated Persons receive appropriate training when becoming a Designated Person.

The Council's Designated Persons are presently the Operational Director, Enforcement Services Division and the Director of Public Health. NAFN will inform the Designated Person once the application is ready to be reviewed by the Designated Persons.

The relevant Designated Person will then access the restricted area of the NAFN website, using a special code, to review and approve the application. When approving the application, the Designated Person must be satisfied that the acquiring of the information is necessary and proportionate. Approvals are documented by the Designated Person completing the online document and resubmitting it by following the steps outlined on the site by NAFN. This online documentation is retained by NAFN who are inspected and audited by the Investigatory Powers Commissioner Office.

When submitting an online application, the officer must also inform the relevant Designated Person, in order that they are aware that the NAFN application is pending.

### Handling of material and use of material as evidence

Material obtained from properly authorised directed surveillance or a CHIS may be used in other investigations. Arrangements in place for the handling, storage and destruction of material obtained using directed surveillance, a CHIS or the obtaining or disclosure of communications data must ensure compliance with the appropriate data protection requirements and any relevant Corporate Procedures relating to the handling and storage of material.

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 period and subject to review.

### Training

Officers conducting directed surveillance operations, using a CHIS or acquiring communications data along with Authorising Officers, the Senior Responsible Officer and the RIPA Monitoring Officer must be suitably qualified or trained.

The Senior Responsible Officer in conjunction with the RIPA Monitoring Officer is responsible for arranging suitable training for those conducting surveillance activity or using a CHIS.

All training will take place at reasonable intervals as determined by the Senior Responsible Officer, but it is envisaged that an update will usually be necessary following legislative or good practice developments.

### Surveillance Equipment

All mobile surveillance equipment should be securely held and suitability for use and discussions had with the relevant service block to ensure the most appropriate equipment is used on any surveillance operation.

### RIPA Record Quality Reviews

To ensure directed surveillance authorisations are being conducted in accordance with Council policy, a system of internal quality assurance has been put in place. The Audit & Select Committee will receive quarterly summaries on the Council's use of RIPA.

### Data Retention

Any data gathered as part of the investigative process, alongside that of RIPA and covert activity, will be securely stored and retained for the shortest required time, in line with any legislation and our own retention schedules. This includes any information that may be disseminated (**no wider than is absolutely necessary**)

through joint investigations, and will include direction on the requirement to keep the data secure and ensure adequate data retention policies and procedures are in place.

## The Inspection Process

The Investigatory Powers Commissioner's Office (IPCO) will make periodic inspections during which the inspector will interview a sample of key personnel, examine RIPA and CHIS applications and authorisations, the central register and policy documents. The inspector will also make an evaluation of processes and procedures.

The last inspection undertaken at LBBD was April 2020.

## Resources

The latest Codes of Practice for RIPA can be found on the GOV.UK website at:

<https://www.gov.uk/government/collections/ripa-codes>

Further information can be found on the Investigatory Powers Commissioner's Office website & via the Home Office website:

<https://www.ipco.org.uk/>

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/>

### Relevant Acts:

Regulation of Investigatory Powers Act 2000:

<http://www.legislation.gov.uk/ukpga/2000/23/contents>

Protection of Freedoms Act 2012:

<http://www.legislation.gov.uk/ukpga/2012/9/contents/enacted>

Human Rights Act 1998:

<http://www.legislation.gov.uk/ukpga/1998/42>

General Data Protection Regulation:

<https://www.eugdpr.org/eugdpr.org.html>

## Further Support & Guidance

If there are any questions about these procedures, the Counter Fraud and Risk Manager can be contacted on 020 8227 2850, [caft@lbbd.gov.uk](mailto:caft@lbbd.gov.uk) or by visiting our intranet pages.

### **GLOSSARY OF TERMS** (For full definitions, refer to the Act)

#### **Central Register**

The primary record of RIPA & CHIS applications, reviews, renewals, and cancellations and where original documents are stored.

#### **Collateral intrusion**

The likelihood of obtaining private information about someone who is not the subject of the directed surveillance operation.

#### **Communications Data**

Information on the communication's origin, destination, route, time, date, size, duration, or type of underlying service but not the content.

#### **Confidential information**

This covers confidential journalistic material, matters subject to legal privilege, and information relating to a person (living or dead) relating to their physical or mental health; spiritual counselling or which has been acquired or created in the course of a trade/profession/occupation or for the purposes of any paid/unpaid office.

#### **Covert Human Intelligence Source**

A person who establishes or maintains a personal or other relationship for the covert purpose of using such a relationship to obtain information or to provide access to any information to another person or covertly discloses information

#### **Covert relationship**

A relationship in which one side is unaware of the purpose for which the relationship is being conducted by the other.

#### **Directed Surveillance**

Surveillance carried out in relation to a specific operation which is likely to result in obtaining private information about a person in a way that they are unaware that it is happening.

#### **Intrusive Surveillance**

Surveillance which takes place on any residential premises or in any private vehicle. A Local Authority cannot use intrusive surveillance.

#### **Legal Consultation**

A consultation between a professional legal adviser and his client or any person representing his client, or a consultation between a professional legal adviser or his client or representative and a medical practitioner made in relation to current or future legal proceedings.

**Monitoring Officer (MO)**

The Monitoring Officer has the day to day responsibility to maintain a central and up-to-date record of all authorisations (Central Register) and arrange appropriate training.

**Residential premises**

Any premises occupied by any person as residential or living accommodation, excluding common areas to such premises, e.g. stairwells and communal entrance halls.

**Reviewing Officer (RO)**

The Head of Legal Services has been designated as the Reviewing Officer. The role is responsible for ensuring an oversight to the RIPA policy, an Authorising Officer as well as counter signatory in cases of non-RIPA applications.

**Senior Responsible Officer (SRO)**

The SRO is responsible for the integrity of the processes for the Council to ensure compliance when using Directed Surveillance or CHIS.

**Service data**

Data held by a communications service provider relating to a customer's use of their service, including dates of provision of service; records of activity such as calls made, recorded delivery records and top-ups for pre-paid mobile phones.

**Surveillance device**

Anything designed or adapted for surveillance purposes.

**The Human Rights Act 1998**

Key Articles of Schedule 1 of the Human Rights Act relevant to RIPA:

**ARTICLE 6 RIGHT TO A FAIR TRIAL**

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
  - a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - b. to have adequate time and facilities for the preparation of his defence;
  - c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
  - d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

**ARTICLE 8 RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

If it is proposed that directed surveillance evidence is to be used in a prosecution, or other form of sanction, the subject of the surveillance should be informed during an interview under caution

### General Data Protection Regulations 2018

The eight principles of the Act relating to the acquisition of personal data need to be observed when using RIPA. To ensure compliance, the information must:

- Be fairly and lawfully obtained and processed
- Be processed for specified purposes only
- Be adequate, relevant and not excessive
- Be accurate
- Not be kept for longer than is necessary
- Be processed in accordance with an individual's rights
- Be secure
- Not be transferred to non-European Economic Area countries without adequate protection.

Under the GDPR, the data protection principles set out the main responsibilities for organisations. Article 5 of the GDPR requires that personal data shall be:

- a) processed lawfully, fairly and in a transparent manner in relation to individuals;
- b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
- c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals; and
- f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.”

Article 5(2) requires that: “the controller shall be responsible for, and be able to demonstrate, compliance with the principles.

## Appendix 4

### Key RIPA Officers

Authorisation of RIPA applications where there is a likelihood of obtaining Confidential Information can only be given by the Chief Executive or deputy.

Only the Chief Executive, as Head of Paid Service or their deputy, can authorise the use of a vulnerable person or a juvenile to be used as a Covert Human Intelligence Source.

#### Principal RIPA Officers

Fiona Taylor Senior Responsible Officer (SRO)	Interim Chief Executive
Kevin Key RIPA Monitoring Officer (MO)	Counter Fraud & Risk Manager, Assurance Group
Alison Stuart? Reviewing Officer (RO)	Interim Chief Legal Officer & , Monitoring Officer

#### Authorising Officers

Fiona Taylor	Interim Chief Executive & SRO
Alison Stuart? (RO)	, Interim Chief Legal Officer & Monitoring Officer
Matthew Cole	Director of Public Health
Andy Opie	Operational Director of Enforcement Services

#### Appointment of designated "Gatekeepers"

Simon Scott	Principal Investigator, Assurance Group
Jaiyesh Patel	Principal Investigator, Assurance Group

**Commented [MC1]:** Do we need to think about adding the others moving forward?



**Judicial Oversight – LBBD Council’s Authorised Applicants**

**I certify that the appropriate training has been provided, and that employees have been appointed under Section 223(1) of the Local Government Act 1972 to appear for the Authority and are approved applicants in accordance with section 223(1) Local Government Act 1972.**

**As Monitoring Officer, I will keep up to date records of employees eligible to submit RIPA applications. In addition, all Gatekeepers have attended training and are approved for the purpose of making applications.**

Kevin Key  
Counter Fraud and Risk Manager  
RIPA Monitoring Officer  
June 2022



Unique Reference Number	
-------------------------	--

**RIPA Application Form**

**Part II of the Regulation of Investigatory Powers Act 2000**

**Application for Authorisation for Directed**

**Surveillance**

<b>Public Authority</b> <i>(including full address)</i>			
<b>Name of Applicant</b>		<b>Unit/Branch /Division</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Investigation/Operation Name (if applicable)</b>			
<b>Investigating Officer (if a person other than the applicant)</b>			

**1. Give name and rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 No. 521. The exact position of the Authorising Officer should be given.**

**2. Describe the purpose of the specific operation or investigation.**

**3. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, recorder) that may be used.**

**4. The identities, where known, of those to be subject of the directed surveillance.**

- **Name:**
- **Address:**
- **DOB:**
- **Other information as appropriate:**

**5. Explain the information that it is desired to obtain as a result of the directed surveillance.**

**6. Identify on which grounds the directed surveillance is necessary under Section 28(3) of RIPA. Delete those that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on (SI 2010 No.521).**

**NB: UNDER SECTION 28 OF RIPA, THE ONLY GROUND AVAILABLE TO THE COUNCIL IS: “FOR THE PURPOSE OF PREVENTING OR DETECTING CRIME OR OF PREVENTING DISORDER”.**

**THIS APPLICATION MUST BE REJECTED, IF THIS GROUND IS NOT RELEVANT TO THE PROPOSED SURVEILLANCE.**

**7. Explain why this directed surveillance is necessary on the grounds you have identified [Code paragraph 3.3].**

**8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 3.8 to 3.11.]  
Describe precautions you will take to minimise collateral intrusion.**

**9. Explain why this directed surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means [Code paragraphs 3.4 to 3.7]?**

**10. Confidential information [Code paragraphs 4.1 to 4.31].**

INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION:

--

**11. Applicant's Details**

<b>Name (print)</b>		<b>Tel No:</b>	
<b>Grade and Rank or position</b>		<b>Date</b>	
<b>Signature</b>			

**12. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW– in this and the following box.]**

I hereby authorise directed surveillance defined as follows: [*Why is the surveillance necessary, Whom is the surveillance directed against, Where and When will it take place, What surveillance activity/equipment is sanctioned, How is it to be achieved?*]

--

**13. Explain why you believe the directed surveillance is necessary [Code paragraph 3.3].  
Explain why you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out [Code paragraphs 3.4 to 3.7].**

--

**14. (Confidential Information Authorisation.) Supply detail demonstrating compliance with Code paragraphs 4.1 to 4.31.**

--

<b>Date of first review</b>	
-----------------------------	--

**Programme for subsequent reviews of this authorisation: [Code paragraph 3.23]. Only complete this box if review dates after first review are known. If not or inappropriate to set additional review dates then leave blank.**

--

<b>Name (Print)</b>		<b>Grade and Rank/Position</b>	
---------------------	--	--------------------------------	--

<b>Signature</b>		<b>Date and time</b>	
------------------	--	----------------------	--

<b>Expiry date and time [ e.g.: authorisation granted on 1 April 20016 - expires on 30 June 2016, 23:59]</b>	
--	--

**15. Urgent Authorisation [Code paragraph 5.9]: Authorising officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given.**

--

**16. If you are only entitled to act in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully qualified authorising officer.**

--

<b>Name (Print)</b>		<b>Grade and Rank or position</b>	
<b>Signature</b>		<b>Date and Time</b>	
<b>Urgent authorisation Expiry date:</b>		<b>Expiry time:</b>	
<i>Remember the 72-hour rule for urgent authorities – check Code of Practice.</i>		e.g. authorisation granted at 5pm on June 1 <sup>st</sup> expires 4.59pm on 4 <sup>th</sup> June	

**RIPA Renewal Form****Part II of the Regulation of Investigatory Powers Act 2000****Renewal of a Directed Surveillance Authorisation**

<b>Public Authority</b> <i>(including full address)</i>	
--	--

<b>Name of Applicant</b>		<b>Unit/Branch /Division</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Investigation/Operation Name (if applicable)</b>			
<b>Renewal Number</b>			



**Details of renewal:**

<b>1. Renewal numbers and dates of any previous renewals.</b>	
<b>Renewal Number</b>	<b>Date</b>
<b>2. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.</b>	
<b>3. Detail the reasons why it is necessary to continue with the directed surveillance.</b>	
<b>4. Detail why the directed surveillance is still proportionate to what it seeks to achieve.</b>	
<b>5. Indicate the content and value to the investigation or operation of the information so far obtained by the directed surveillance.</b>	
<b>6. Give details of the results of the regular reviews of the investigation or operation.</b>	

--

7. Applicant's Details			
<b>Name (Print)</b>		<b>Tel No</b>	
<b>Grade/Rank</b>		<b>Date</b>	
<b>Signature</b>			

8. Authorising Officer's Comments. <u>This box must be completed.</u>

9. Authorising Officer's Statement.			
<p>I, [insert name], hereby authorise the renewal of the directed surveillance operation as detailed above. The renewal of this authorisation will last for 3 months unless renewed in writing.</p> <p>This authorisation will be reviewed frequently to assess the need for the authorisation to continue.</p>			
<b>Name (Print)</b>	-----	<b>Grade / Rank</b>	-----
<b>Signature</b>	-----	<b>Date</b>	-----
<b>Renewal From:</b>	<b>Time:</b>	<b>Date:</b>	
<b>Date of first review.</b>			
<b>Date of subsequent reviews of this authorisation.</b>			

Unique Reference Number	
-------------------------	--

## RIPA Review Form

### Part II of the Regulation of Investigatory Powers Act 2000

#### Review of a Directed Surveillance authorisation

<b>Public Authority</b> <i>(including address)</i>			
<b>Applicant</b>		<b>Unit/Branch /Division</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Operation Name</b>		<b>Operation Number*</b> <small>*Filing Ref</small>	
<b>Date of authorisation or last renewal</b>		<b>Expiry date of authorisation or last renewal</b>	
		<b>Review Number</b>	

**Details of review:**

1. Review number and dates of any previous reviews.	
Review Number	

**2. Summary of the investigation/operation to date, including what private information has been obtained and the value of the information so far obtained.**

--

**3. Detail the reasons why it is necessary to continue with the directed surveillance.**

--

**4. Explain how the proposed activity is still proportionate to what it seeks to achieve.**

--

**5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring.**

--

**6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information.**

--

7. Applicant's Details			
<b>Name (Print)</b>		<b>Tel No</b>	
<b>Grade/Rank</b>		<b>Date</b>	
<b>Signature</b>			

8. Review Officer's Comments, including whether or not the directed surveillance should continue.

9. Authorising Officer's Statement.			
I, [insert name], hereby agree that the directed surveillance investigation/operation as detailed above [should/should not] continue [until its next review/renewal] [it should be cancelled immediately].			
<b>Name (Print):</b>	-----	<b>Grade / Rank</b>	-----
<b>Signature:</b>	-----	<b>Date:</b>	-----

<b>10. Date of next review</b>	
--------------------------------	--

**RIPA Cancellation Form****Part II of the Regulation of Investigatory Powers Act 2000****Cancellation of a Directed Surveillance authorisation**

<b>Public Authority</b> <i>(including full address)</i>	
--	--

<b>Name of Applicant</b>		<b>Unit/Branch/Division</b>	
<b>Full Address</b>			
<b>Contact Details</b>			
<b>Investigation/Operation Name (if applicable)</b>			

**Details of cancellation:****1. Explain the reason(s) for the cancellation of the authorisation:**

--

**2. Explain the value of surveillance in the operation:**

--

**3. Authorising officer's statement.**

I, **[insert name]**, hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.

<b>Name (Print)</b> .....	<b>Grade</b> .....
<b>Signature</b> .....	<b>Date</b> .....

**4. Time and Date of when the authorising officer instructed the surveillance to cease.**

<b>Date:</b>		<b>Time:</b>	
--------------	--	--------------	--

<b>5. Authorisation cancelled.</b>	<b>Date:</b>	<b>Time:</b>
------------------------------------	--------------	--------------

Forms can also be obtained from the Assurance and Counter Fraud Group at:  
[caft@lbbd.gov.uk](mailto:caft@lbbd.gov.uk)

Or can be printed of and completed as required from the GOV.UK website at:

[RIPA Application for Directed Surveillance](#)

[Renewal of a Directed Surveillance Authorisation](#)

[Review of a Directed Surveillance Authorisation](#)

[Cancellation of a Directed Surveillance Authorisation](#)

### **Central Register**

A central register will be maintained by the RIPA Monitoring Officer. The register will contain details of all RIPA and CHIS applications (whether approved or not) and all reviews, renewals and cancellations.

Each operation will be given a unique reference number (URN) from which the year of the operation may be readily identified.

The register will also contain the following information:

- The name of the applicant
- The name of the subject of the surveillance or CHIS activity (for internal enquiries a pseudonym may be used)
- The date and time that the activity was authorised
- The date and time of any reviews that are to be conducted
- The date and time of any renewals of authorisations
- The date and time of the cancellations of any authorisations

Kept in conjunction with the register will be details of the training and updates delivered to authorising officers, a list of authorising officers, a copy of the RIPA policy and copies of all relevant legislation.

The original of all documents will also be held with the register, which will be available for inspection by the Investigatory Powers Commissioners Office.

The register will form the basis of statistical returns of RIPA usage by the Council which are periodically compiled.



### Best practice regarding photographic and video evidence

Photographic or video evidence can be used to support the verbal evidence of what the officer conducting surveillance actually saw. There will also be occasions when video footage may be obtained without an officer being present at the scene. However, if it is obtained, it must be properly documented and retained in order to ensure evidential continuity. All such material will be disclosable in the event that a prosecution ensues.

Considerations should be given as to how the evidence will eventually be produced. This may require photographs to be developed by an outside laboratory. Arrangements should be made in advance to ensure continuity of evidence at all stages of its production. A new film, tape or memory card should be used for each operation.

If video footage is to be used, start it with a verbal introduction to include day, date, time and place and names of officer's present. Try to include footage of the location, e.g. street name or other landmark so as to place the subject of the surveillance.

A record should be maintained to include the following points:

- Details of the equipment used
- Name of the officer who inserted the film, tape or memory card into the camera
- Details of anyone else to whom the camera may have been passed
- Name of officer removing film, tape or memory card
- Statement to cover the collection, storage and movement of the film, tape or memory card
- Statement from the person who developed or created the material to be used as evidence

As soon as possible the original recording should be copied, and the master retained securely as an exhibit. If the master is a tape, the record protect tab should be removed once the tape has been copied. Do not edit anything from the master. If using tapes, only copy on a machine that is known to be working properly. Failure to do so may result in damage to the master.

Stills may be taken from video. They are a useful addition to the video evidence.

#### ***Checklist 6: Compiling an Audit Trail for Digital Images***

in the National Policing Improvement Agency's document:

"PRACTICE ADVICE ON POLICE USE OF DIGITAL IMAGES which is available at:

<http://library.college.police.uk/docs/acpo/police-use-of-digital-images-2007.pdf>

provides a list of what information should be included (with date and time of action) in order to make the evidence admissible.

**Authorising Officer's Aide-Memoire**

<p><b>Has the applicant satisfactorily demonstrated proportionality?</b>          Court will ask itself should (not could) we have decided this was proportionate.          Is there a less intrusive means of obtaining the <b>same</b> information?          What is the risk – to the authority (loss), to the community of allowing the offence to go un-investigated? What is the potential risk to the subject?          What is the least intrusive way of conducting the surveillance?          Has the applicant asked for too much? Can it safely be limited?          Remember – Don't use a sledge-hammer to crack a nut!          YOUR COMMENTS</p>	<p><b>Yes</b></p>	<p><b>No</b></p>
--	-------------------	------------------

<p><b>Has the applicant satisfactorily demonstrated necessity?</b>          What crime is alleged to be being committed?          Has the applicant described it in full?          Is surveillance necessary for what we are seeking to achieve?          Does the activity need to be covert, or could the objectives be achieved overtly?          YOUR COMMENTS</p>	<p><b>Yes</b></p>	<p><b>No</b></p>
--	-------------------	------------------

<p><b>What evidence does applicant expect to gather?</b>          Has applicant described:              (a) what evidence he/she hopes to gain,              and              (b) the value of that evidence in relation to THIS enquiry?          YOUR COMMENTS</p>	<p><b>Yes</b></p>	<p><b>No</b></p>
--	-------------------	------------------

<p><b>Is there any likelihood of obtaining confidential information during this operation?</b>  <b>If “Yes” operation must be authorised by the Chief Executive or in their absence their deputy.</b></p>	<p><b>Yes</b></p>	<p><b>No</b></p>
---	-------------------	------------------

<p><b>Have any necessary risk assessments been conducted before requesting authorisation?</b> Detail what assessment (if any) was needed in this particular case. In the case of a CHIS authorization an appropriate bespoke risk assessment must be completed.</p>	<p><b>Yes</b></p>	<p><b>No</b></p>
---	-------------------	------------------

<p>When applying for <b>CHIS</b> authorisation, have officers been identified to:</p> <ul style="list-style-type: none"> <li>a) have day to day responsibility for the CHIS (a handler)</li> <li>b) have general oversight of the use of the CHIS (a controller)</li> <li>c) be responsible for retaining relevant CHIS records, including true identity, and the use made of the CHIS.</li> </ul>	<p><b>Yes</b></p>	<p><b>No</b></p>
--	-------------------	------------------

<p><b>Have all conditions necessary for authorisation been met to your satisfaction?</b>  GIVE DETAILS</p>	<p><b>Yes</b></p>	<p><b>No</b></p>
--	-------------------	------------------

<p><b>Do you consider that it is necessary to place limits on the operation?</b>  <b>IF YES, GIVE DETAILS (e.g. no. of officers, time, date etc.) and REASONS</b></p>	<p><b>Yes</b></p>	<p><b>No</b></p>
---	-------------------	------------------

**Remember to diarise any review dates and any subsequent action necessary by you and/or applicant. Return copy of completed application to applicant and submit original to the Assurance and Counter Fraud Group. Retain copy.**

## Open Source

Investigators make much use of the internet to assist with their enquiries. Many of the checks completed could be considered 'open source' that are unlikely to amount to either Directed Surveillance or the use of a CHIS. However, consideration must be had for certain circumstances where RIPA authorisation may be deemed appropriate.

### a. Normal Use

When an investigator makes normal checks on the internet, accessing information held within the public domain, on a single occasion, this would be considered acceptable and within the bounds of normal usage. Full records must be kept taking into consideration the expectations of the Criminal Procedure and Investigations Act. Throughout an investigation, it would be appropriate for an investigator to make ***occasional*** further checks. If, on the other hand, it becomes apparent that regular checks are taking place to monitor someone's activities, this may constitute Directed Surveillance.

### b. Directed Surveillance

When regular checks of the same pages occur, in order to monitor activity, this may be Directed Surveillance. Should this be happening, consideration should be had for the use of RIPA.

### c. Covert Human Intelligence Source

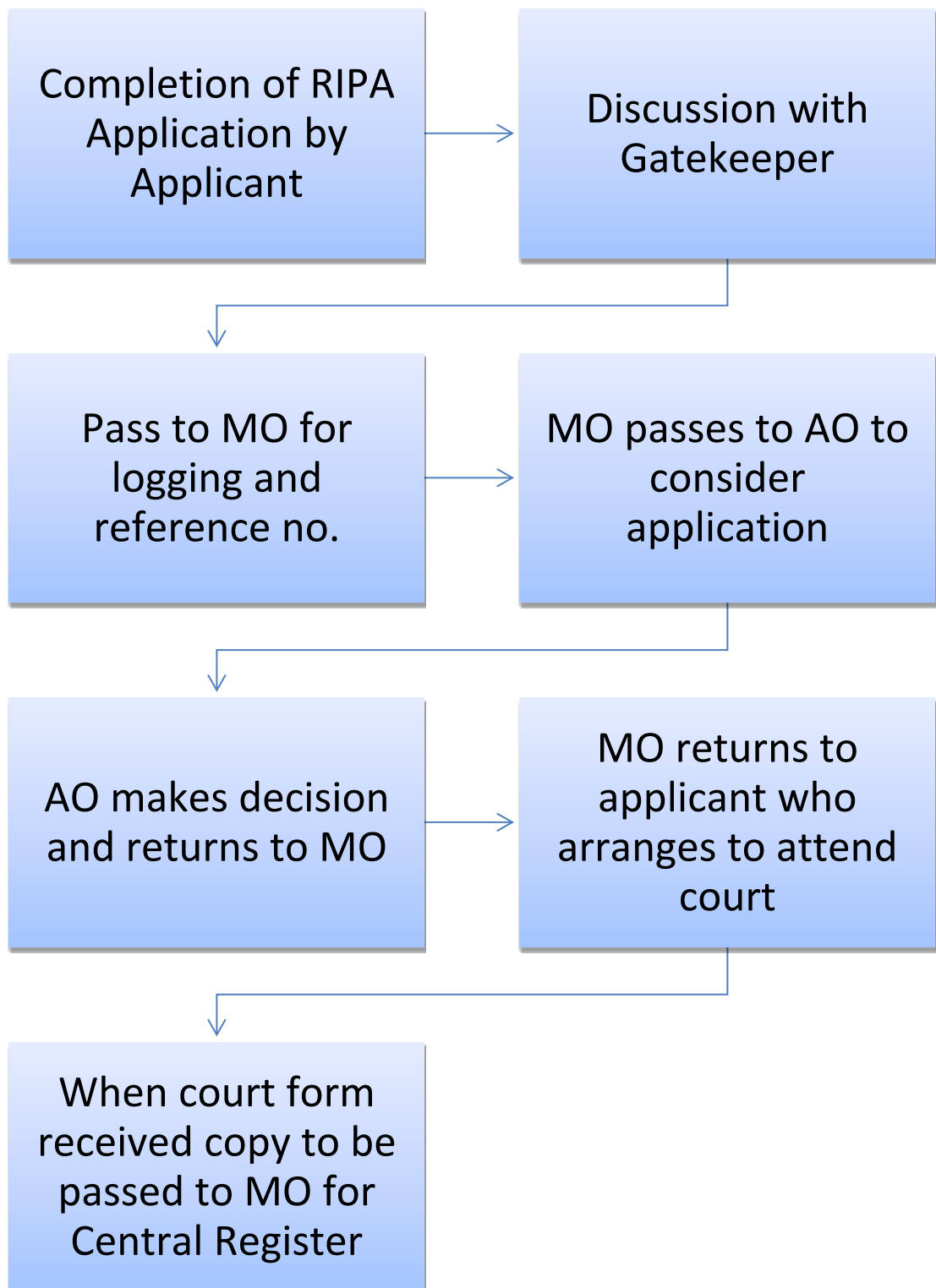
Looking at publicly available pages is considered 'Open Source' but should a decision be made to request access to view page then the situation changes. In order to access specific information a personal or other relationship would have to be created or maintained potentially amounting to the use of a CHIS. An example where this is likely is sending a friend request within Facebook.

## EXCEPTION

Should you use an identity that is overt (such as LBBB Fraud Investigations or LBBB trading Standards) to send the request from, in this instance, it would be classed as monitoring and not Directed Surveillance/CHIS.

Officers are encouraged to follow the procedures of this policy (either RIPA or Non-RIPA) should the above circumstances present themselves.

## Flow Chart for RIPA Applications



This page is intentionally left blank

# Assurance Group

# Anti-Bribery Policy

2022

Date Last Reviewed:	June 2022
Approved by:	Audit & Standards Committee
Date Approved:	TBA
Review Date:	June 2023
Document Owner:	Head of Assurance

## The Council's commitment to the Policy

The Council is committed to carrying out its business and relationships professionally and with integrity and ensuring compliance with the requirements of the Bribery Act 2010. Bribery results in substantial financial loss to the public purse and undermines trust in public sector organisations. The Council is committed to the prevention, detection and deterrence of bribery. We take a zero-tolerance approach to acts of bribery and any employee who breaches this policy will face disciplinary action, which could result in dismissal for gross misconduct. We may also look to prosecute those found to have been involved in acts of bribery. Any non-employee who breaches this policy may also have action taken against them,

## What are the aims and requirements of the legislation?

Where Bribery is found to occur, in any form, it will be dealt with rigorously in a controlled manner in accordance with the principles in the Bribery Act policy. It will be investigated fully, and the London Borough of Barking and Dagenham will prosecute all offenders where appropriate including, Members, employees, contractors and external partners.

## Who is governed by this Policy?

The Bribery Act policy covers everyone working for us, or on our behalf, in any capacity including all permanent employees, temporary agency employees, contractors, members of the council, volunteers, interns, third-party representatives, consultants or any other person associated with the Council. It also includes anyone employed within any of the Council owned companies.

## Contents

<b><u>Title</u></b>	<b><u>Page No.</u></b>
The Bribery Act 2010 including the Aim and Scope of this policy	1
What are adequate procedures?	2
What are the principles?	2
Golden Rules	3
Employee Responsibilities	4
Reporting a concern	4
Further support and guidance	5



# The Bribery Act 2010

Bribery is offering, promising, giving or accepting any financial or other advantage, to induce the recipient or any other person to act improperly in the performance of their functions, or to reward them for acting improperly, or where the recipient would act improperly by accepting the advantage.

This would include attempts to influence decisions by local authorities or elected representatives on matters such as planning consent, school admissions or the award of contracts.

An advantage includes money, gifts, loans, fees, hospitality, services, discounts, the award of a contract or any other advantage or benefit.

A person acts improperly where they act in breach of an expectation of good faith, impartiality, or trust.

Bribery is a serious criminal offence with a maximum sentence of ten years' imprisonment and/or an unlimited fine.

The council can be held criminally responsible for failing to prevent bribery if a person associated with the council bribes another person unless the council has in place adequate procedures to prevent this.

It is also illegal to bribe a foreign public official.

## The aim of this policy

This policy provides a framework to allow those working for the Council, or on its behalf, to understand and put into place arrangements to prevent bribery. It demonstrates that the council has implemented adequate procedures to prevent bribery by persons associated with the Council. It will work with related policies, and other documents, to identify and report when this policy is breached and aims to ensure that everyone:

- always acts with integrity and protects the council's resources which they are responsible for; and
- keeps to the spirit, and letter, of the laws and regulations that cover our work

## Scope of this policy

This policy applies to all our activities. All levels of the council are responsible for controlling the risk of bribery. We encourage schools, suppliers and other organisations we work with to adopt policies that are consistent with the principles set out in this policy.

The Anti-Bribery policy applies to and covers everyone working for us, or on our behalf (including the Council's owned companies), all permanent employees, temporary

agency , contractors, members of the council, volunteers and consultants. Everyone, at all levels of the council, has a responsibility to control the risk of bribery occurring.

## What are “adequate procedures”

For this council to show that we take the Bribery Act seriously, we need to show we have adequate procedures in place designed to prevent bribery. Whether our procedures are adequate will be for the courts to decide. Our procedures need to be in proportion to the level of risk of bribery in our organisation. Individual organisations can refer to six principles to decide whether their procedures are in proportion to the level of risk. These principles are not prescriptive. These principles are intended to be flexible, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national organisations. The detail of how an organisation applies these principles will be different depending on the organisation, but the outcome should always be effective Bribery Act procedures.

## What are the principles?

### **1. Proportionate procedures**

The Council’s procedures to prevent bribery by a person associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the Council’s activities. The procedures are clear, practical, accessible and effectively put into place and enforced.

### **2. Commitment at the top levels of our organisation**

Our Cabinet and Senior Leadership Team are committed to preventing bribery by the people associated with us. They help create a culture in our organisation where bribery is never acceptable.

### **3. Risk assessment**

We regularly assess how and to what extent we will be exposed to potential risks of bribery as part of a wider fraud risk assessment. We keep a record of the assessment, which includes financial risks and also other risks such as damage to our reputation.

### **4. Due diligence**

We apply due diligence procedures in relation to people who provide services for or on behalf of our organisation to reduce the risks of bribery. This would include carrying out checks on such organisations or companies and ensuring that they have similar anti bribery processes in place.

### **5. Communication (including training)**

We aim to make sure that our policies and procedures to prevent bribery are understood throughout our organisation. We do this through communication inside and outside of our organisation, including training.

### **6. Monitoring and review**

We monitor and review the procedures designed to prevent bribery and make improvements where they are needed. The Monitoring Officer and Counter Fraud & Risk Manager will oversee this. We are committed to putting these principles into place

as, should we be found guilty of an offence under section 7 of the Act, we can be fined an unlimited amount.

### **Facilitation payments**

Facilitation payments are unofficial payments made to public officials in order to get them to take certain actions or take actions more quickly. Facilitation payments are illegal under the Bribery Act 2010 and we will not tolerate them.

### **Gifts and hospitality**

This policy is in line with our gifts and hospitality policy (this can be read on the Council Intranet). The gifts and hospitality policy makes it clear that if members of the council or employees are offered gifts, in their council role, they should not accept anything with more than a token value (examples of things that are of token value include bottles of wine, boxes of chocolates, flowers, pens, calendars and diaries), with a minimal value. All Gifts and Hospitality should be reported to managers who can advise whether any further, formal reporting, needs to happen.

### **Public contracts and failure to prevent bribery**

Under the Public Contracts Regulations 2015, persons are to be excluded from consideration to be awarded public contracts if they have been convicted of a corruption offence. Organisations that are convicted of failing to prevent bribery are not automatically barred from competing for public contracts. This is a complex area and procurement advice must be sought where verification has revealed conviction(s) relating to bribery, fraud and other specified unlawful activities within the Regulations. However, we can exclude organisations convicted of this offence from competing for contracts with us. We will include standard clauses in our commercial contracts forbidding bribery and corruption.

## **Golden Rules**

**We will not tolerate bribery** and those covered by the policy must not:

- give, promise to give, or offer a payment, a gift or hospitality with the expectation or hope that they will receive a business advantage, or to reward a business advantage that they have already been given
- give, promise to give, or offer a payment, a gift or hospitality to a government official or representative to speed up a routine procedure
- accept a payment from another person or organisation if they know or suspect that it is offered with the expectation that it will give them a business advantage
- accept a gift or hospitality from another person or organisation if they know or suspect that it is offered or provided with an expectation that they will provide a business advantage in return
- act against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy; or
- take part in activities that break this policy

**We are committed to:**

- setting out a clear Bribery Act policy and keeping it up to date
- making all employees aware of their responsibility to always keep to this policy

- training employees so that they can recognise and avoid the use of bribery
- encouraging our employees to be aware and to report any suspicions of bribery
- providing our employees with information on suitable ways of telling us about their suspicions and making sure we treat sensitive information appropriately
- investigating alleged bribery and helping the police and other authorities in any prosecution that happens because of the alleged bribery
- taking firm action against any people involved in bribery; and
- including appropriate clauses in contracts to prevent bribery

## Employee Responsibilities

All the people who work for us or are under our control are responsible for preventing, detecting and reporting bribery and other forms of corruption. All employees must avoid activities that break this policy and must:

- make sure they read, understand and keep to this policy; and
- tell us as soon as possible if they believe or suspect that someone has broken this policy, or may break this policy in the future

Anyone covered by the policy found to break it will face disciplinary action, potentially leading to dismissal for gross misconduct and/or may also face civil and/or criminal prosecution.

## Reporting a concern

We all have a responsibility to help detect, prevent and report instances of bribery. If anyone has a concern about suspected bribery or corruption, they should speak up. The sooner they act, the sooner the situation can be dealt with. There are several ways of informing about any concerns including talking to a line manager first or one of the contacts listed in the Whistleblowing Policy if this is more appropriate.

Those reporting concerns do not have to give us their name. Upon receiving a report about an incident of bribery, corruption or wrongdoing, action will be taken as soon as possible to assess the situation. There are clear procedures for investigating fraud and these will be followed in any investigation of this kind. In some circumstances, we will have to consider reporting the matter to the Police and/or other agency.

Employees that refuse to accept or offer a bribe, or those who report concerns or wrongdoing can understandably be worried about what might happen as a result. To encourage openness, anyone who reports a genuine concern in the public interest will be supported under this policy, even if they turn out to be mistaken. There is a commitment to making sure nobody is treated badly because they have refused to take part in bribery or corruption, or because they have reported a concern.

## Further Support & Guidance

If there are any questions about this policy, the Counter Fraud and Risk Manager can be contacted on 020 8227 2850, [caft@lbbd.gov.uk](mailto:caft@lbbd.gov.uk) or by visiting our intranet pages.

This page is intentionally left blank

**AUDIT & STANDARDS COMMITTEE****6 December 2022**

<b>Title:</b> Counter Fraud Quarter 2 Report	
<b>Report of the Head of Assurance</b>	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
<b>Report Author:</b> Kevin Key, Counter Fraud and Risk Manager	<b>Contact Details:</b> Tel: (020) 8227 2850 E-mail: <a href="mailto:Kevin.Key@lbbd.gov.uk">Kevin.Key@lbbd.gov.uk</a>
<b>Accountable Strategic Leadership Director:</b> Philip Gregory - Strategic Director, Finance & Investments	
<b>Summary:</b>  This report brings together all aspects of Counter Fraud work undertaken to date during 2022/23. The report details progress to 30 September 2022.	
<b>Recommendation:</b>  The Audit & Standards Committee is asked to note the contents of the report.	

**1. Summary of counter fraud work undertaken for Quarter 2 2022/23**

1.1 The tables below indicate the level of work completed in the two separate areas for which the team are responsible: Housing Investigation and Corporate Fraud.

**2. Corporate Fraud Activity including Whistleblowing**

2.1 The update on corporate fraud activity for Quarter 2, along with the annual totals, is set out below. The team receives many referrals throughout each quarter and log and assess each case independently. A decision is then made as to what the best course of action is to deal with the referral. This means either the team will open an investigation, refer to another service block of the council or arrange for the matter to be referred to a specific manager for action.

**2.2 Quarter 2 2022/23 Fraud referrals incl. whistleblowing**

	21/22 Total	22/23 Total	Q2
Cases Outstanding from last quarter			22
Referrals received in Period	198	54	37
Cases accepted for investigation	50	37	22

Referred to other service block within LBBB	102	3	1
Data Protection Requests received from other Local Authorities, the Police and outside agencies	30	45	14
Cases closed following investigation	42	35	25
<b>Ongoing Corporate Fraud Investigations:</b>			19

2.3 For 2022/23 the recording remains an accurate representation of the work undertaken, outlining a true reflection of what action is being taken on every referral received. We also still report on all referrals made directly to the Police and/or Action Fraud.

2.4 The referrals received relate to the number of cases that are sent through to the Fraud email inbox or where contact is made directly with members of the team. All contact is logged and assessed accordingly. Considering the scope of what could be considered as fraud, many referrals are sent through in the belief that fraud has been committed, but following assessment, found to be incorrectly sent to us.

We receive requests that relate specifically to CCTV, Subject Access, Freedom of Information and Data Protection as well as referrals relating to Housing Benefits, Council Tax, Department for Work & Pensions, Complaints, Parking Enforcement, Housing services, noise nuisance, Housing Association properties, Planning, Private Sector Licencing, Police matters and Trading Standards. In short, if there is any consideration of fraud we are likely to receive a referral.

2.5 Outcomes – Quarter 2 and yearly totals

	21/22 Total	22/23 Total	Q2
Disciplinary Action/Resigned during	4	6	4
Referred for Management action/Advice Given	11	4	4
No fraud found/Not proven/NFA	19	17	10
Proactive Exercise	N/A	7	7
Referred to Police/Action Fraud/Covid Fraud	8	1	0

### 3. Summary of Quarter 2 key issues

3.1 Following the Team's successful prosecution of Mr G in January 2022, August saw the recovery of Mr G's 2-bedroom flat that he had been subletting. The delay in recovering the property was due to the extended notice periods required by the Court due to Covid, as well as Mr G's subtenants refusing to leave. An eviction warrant was obtained, and officers attended to secure the property. The subtenants had left and were subsequently supported by the Housing option Team to secure new accommodation.



3.2 The team recovered 4 properties in the quarter. Outlined below is a summary of those who were given the properties that were being sublet or not used in the correct way.

<b>Property type</b>	<b>Who was rehoused into the property</b>	<b>Contact from Tenant or Subtenant if applicable</b>
1 Bed Flat	Still Void	No contact with LBBB from tenant. Subtenants moved on without ever meeting with Counter Fraud Team.
2 Bed flat	Still void	No contact with LBBB. Subtenant was assisted with accommodation through Housing Options Team
4 Bed House	Homeless applicant housed into the property with their family	No contact with LBBB from the tenant. Subtenants moved to alternative accommodation themselves.
1 Bed Flat	Block is being demolished and no one will be rehoused into the property	LBBB have saved on costs associated with decant

3.3 As part of a commitment to be more transparent about how we deal with employees, outlined below is a summary of the 4 cases within quarter 2 that the Counter Fraud Team dealt with;

<b>Service</b>	<b>Allegation</b>	<b>Outcome</b>
My Place	Gross Misconduct	Dismissed with notice following Disciplinary Hearing
My Place	Gross Misconduct	Dismissed without notice following Disciplinary Hearing
My Place	Abuse of Position/Gross Misconduct	Resigned prior to Hearing
Enforcement Services	Theft	Resigned prior to hearing

#### **4. Regulation of Investigatory Powers Act**

4.1 The Regulation of Investigatory Powers Act regulates surveillance powers, thus ensuring robust and transparent frameworks are in place to ensure its use only in justified circumstances. It is cited as best practice that Senior Officer and Members maintain an oversight of RIPA usage.

4.2 The last inspection of RIPA was undertaken by the Investigatory Powers Commissioner's Office in April 2020. The report was favourable, and all recommendations have been implemented.

4.3 Training was also provided to over 90 staff and managers, across all service blocks, at the beginning of the year to ensure as many people were aware of RIPA and the processes we have in place regarding this. By providing this up-to-date training, the expectation is in place that for any use of covert surveillance, RIPA should be considered.

4.4 The current statistics are set out below following review of the central register, held by the Counter Fraud & Risk Manager. As per previous guidelines, RIPA authority is restricted only to cases of suspected serious crime and requires approval by a Magistrate.

(a) Directed Surveillance

The number of directed surveillance authorisations granted during Quarter 2, July – September 2022, and the number in force on 30 September 2022

Nil granted. Nil in Force.

(b) Communications Information Requests

The number of authorisations for conduct to acquire communications data during Quarter 2, July – September 2022.

Nil granted. Nil in force.

## 5. Housing Investigations

5.1 Members are provided specific details on the outcomes from the work on Housing Investigations. For 2022/23, outcomes are set out below.

5.2 Quarter 2 2022/23 Housing Investigations:

<b>Caseload</b>	21/22 Total	22/23 Total	Q2
Open Cases brought forward			55
New Cases Added	156	136	47
Cases Completed	139	128	58
Open Cases			44

<b>On Going Cases - Legal Action</b>	Q2
Total Corporate cases	5
Total Housing cases for recovery	6

<b>Outcomes - Closed Cases</b>	21/22 Total	22/23 Total	Q2
Convictions	1	1	0
Properties Recovered	6	8	4
Successions Prevented & RTB stopped/agreed	41	21	7

Savings (FTA, SPD CTax, RTB, Decant)	£444,639	£189,555	£45,185
Other Potential Fraud prevented/Advice given/passed to appropriate service block incl Apps cancelled	42	42	31
No further action required/insufficient evidence/not proven	37	24	11
Proactive Exercise cases	n/a	33	5

5.3 In addition to the above other checks are routinely carried out and information provided to others. Below is an indication of the level of work undertaken.

	21/22 Total	22/23 Total	Q2
Education Checks	371	311	151
Right to Buy initial checks	258	252	152

(Education checks relate to assisting admissions in locating children or families to free up school places or confirm occupancy and RTB checks are the early-stage checks undertaken to ensure occupancy and the legitimate tenant/s are entitled to continue with the RTB process to purchase their property).

## 6. Financial Issues

*Implications completed by: Katherine Heffernan, Group Manager Service Finance*

6.1 The team is fully funded and there are no financial implications impacting on this report.

## 7. Legal Issues

*Implications completed by: Dr Paul Feild, Senior Governance Solicitor*

7.1 The Accounts and Audit (England) Regulations 2015 section require that: a relevant authority must ensure that it has a sound system of internal control which—facilitates the effective exercise of its functions and the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective; and includes effective arrangements for the management of risk.

7.2 Furthermore the Director of Finance has a statutory duty, under Section 151 of the Local Government Act 1972 and Section 73 of the Local Government Act 1985, to ensure that there are proper arrangements in place to administer the Council's financial affairs.

7.3 Counter Fraud practices set out in this report address the need to counter fraud, money laundering, bribery and the proceeds of crime. The Council's policies guide on the investigatory and prosecution process. In formulating the policies it addresses the issue of corruption and bribery. Corruption is the abuse of entrusted power for private gain. The Bribery Act 2010 defines bribery as "the inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages whether monetary or otherwise".

7.4 The Local Government Act 1972 provides the Council with the ability to investigate and prosecute offences committed against it. We will enhance our provision further by making best use of existing legislation, for example the Proceeds of Crime Act 2002, to ensure that funds are recovered, where possible by the Council.

**8. Public Background Papers Used in the Preparation of the Report: None**

**9. Appendices: None**

## Audit and Standards Committee - Work Programme 2022/23

**Chair: Councillor Princess Bright**

Meeting	Agenda Items	Lead Officer	Reports deadline
7 February 2023	Audit Completion Report 2019/20 Annual Governance Statement	BDO Christopher Martin	5pm 26 February
6 March 2023	External Audit Plan 2020/21 Draft Committee Annual Report 2021/22 Committee Terms of Reference Review Standards Complaints update Work Programme	BDO Governance Officer Governance Officer Paul Feild Governance Officer	5pm, 24 February

### Rescheduled Items

Audit Completion Report 2019/2020

BDO External Audit Plan 2021/2022

Draft Annual Report of the Audit and Standards Committee

### Meeting dates in the 2022-23 Municipal Year;

- 20 July 2022
- 11 October 2022
- 6 December 2022
- 6 March 2023

Additional meeting scheduled for 7 February 2023.