

Notice of Meeting

AUDIT AND STANDARDS COMMITTEE

Wednesday, 4 October 2023 - 7:00 pm
Council Chamber, Town Hall, Barking

Members: Cllr Princess Bright (Chair); Cllr Mohammed Khan (Deputy Chair); Cllr Dorothy Akwaboah, Cllr Josie Channer, Cllr Rocky Gill, Cllr Margaret Mullane, Cllr Adegboyega Oluwole and Cllr Muazzam Sandhu.

Independent Member (for audit matters only): Stephen Warren

By Invitation: Lisa Clampin, Suzi Wiseman and David Eagles

Date of publication: 26 September 2023

Fiona Taylor
Chief Executive

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AGENDA

- 1. Apologies for Absence**
- 2. Declarations of Interest**
- 3. Minutes - To confirm as correct the minutes of the meetings held on 28 June 2023 (Pages 3 - 6)**
- 4. Complaints Update (Pages 7 - 9)**
- 5. Council's Accounts Audit Update - 2019/20, Subsidiaries' accounts audit - 2022/23 and Progress on Accounts Closure - 2022/23 (Pages 11 - 13)**
- 6. Update on External Audit Delivery (Pages 15 - 29)**

7. **2018/19 Audit Fees (Pages 31 - 36)**
8. **Internal Audit Performance - External Quality Assessment (Pages 37 - 59)**
9. **Review of Key Counter Fraud Policies & Strategy 2023 (Pages 61 - 158)**
10. **Work Programme 2023/24 (Page 159)**
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, 28 June 2023
(7:00 - 7:50 pm)

Present: Cllr Princess Bright (Chair), Cllr Mohammed Khan (Deputy Chair), Cllr Dorothy Akwaboah, Cllr Josie Channer and Cllr Adegboyega Oluwole; Stephen Warren

Also Present: Lisa Clampin

Apologies: Cllr Rocky Gill, Cllr Margaret Mullane and Cllr Muazzam Sandhu

1. Declarations of Interest

There were no declarations of interest.

2. Minutes (9 May 2023)

The minutes of the meeting held on 9 May 2023 were confirmed as correct, subject to an amendment to Minute 32 to reflect that the delay to the submission of accounts to Companies House related to one of the subsidiary accounts, and not the entire Group accounts.

3. Customer Feedback Team Annual Report

The Head of Customer Contact (HCC) presented the Customer Feedback Team's Annual Report covering the 2022 calendar year.

The HCC advised that there had been a decrease of 18% in complaints received in 2022 compared to 2021, although acknowledged that only 76% of complaints were answered within 10 working days, which was less than the corporate target of 90%.

There had been a 26% increase in complaints in relation to Social Care compared to the previous year, which was attributed to heightened awareness among service users of the complaint's procedure.

The HCC outlined the proposals and actions for improvement, which included the launch of a partnership with BD Group to enable residents to report non-urgent repairs via a self-service system, while MyPlace was also focusing on defect management post warranty. The HCC also referred to the need for greater clarity on the reasoning behind policy decisions, with succession to tenancies a particular example. Furthermore, closer cooperation was needed between landlord services officers and BDMS, as residents were often inconvenienced where there was disagreement on works, and letters to residents needed to be clearer, avoid jargon and, where appropriate, be translated.

The Committee noted the update.

4. Complaints Update

The Committee received and noted the Monitoring Officer's Complaints Update report. The Chair also confirmed that the Monitoring Officer had provided a statement responding to a query made at the last meeting relating to the Local Government Ombudsman (LGO).

5. Council's Accounts Audit Update - 2019/20, Subsidiaries' accounts audit - 2021/22 and Progress on Accounts Closure - 2022/23

The BDO representative updated the Committee on the position relating to the external audit of the Council's and its companies' accounts.

The Council published draft Accounts for 2021/20 in August 2020, but these were not complete as the Group Accounts were still outstanding. Consequently, BDO could not fully commence its audit until the Group Accounts were received, which was not the case until February 2021, by which time 50% of the time allocated to the audit had elapsed.

The BDO representative recalled that the interim audit completion report, which was presented to the Committee in March 2022, reminding the Committee that:

- The draft financial statements were not materially accurate,
- There were 13 misstatements that were corrected, of which three were material,
- There were 10 unadjusted misstatements at that point; and
- There was still no resolution to the accounting treatment of infrastructure assets by the Financial Reporting Council (FRC) and Chartered Institute of Public Finance Accountancy (CIPFA).

CIPFA issued a bulletin in January 2023 explaining to councils what was required to respond to the temporary solution on infrastructure accounting. Infrastructure assets being material. To date BDO had not received the infrastructure assets working papers from the Council and the BDO representative emphasised that they could only audit what had been received, adding that receipt of information was only the beginning as enquiries had to be made, responses received, eliciting further enquiries.

BDO acknowledged that there had been some issues on their side with staffing owing to illness whilst the issues with infrastructure assets, which was a national problem beyond the power of BDO or the Council, had contributed to delays during 2022 before issue of the January 2023 solution.

BDO emphasised that material misstatements and non-compliance with the code of local authority accounting by the Council had also contributed to the delay, and that there had been incomplete information provided.

The fieldwork had been largely completed, though there were still issues relating to property, plant and equipment (PPE). It was noted that the CIPFA solution to accounting for infrastructure would require sensitivity analysis and determining a new method for calculating the useful economic life for PPE, which the Finance team had not been previously required to do.

BDO indicated that, provided there were no further issues relating to misstatements and document submission, the 2019/20 audit should be completed by November 2023. The Chair indicated that an additional meeting would need to be scheduled to consider the report, but this would not be confirmed until the position was updated by BDO at the next meeting of the Committee in October 2023.

BDO then outlined their indicative plans for the 2020/21, 2021/22 and 2022/23 audits stressing that this would depend on resourcing at both BDO and the Council. The aim was to start the 2020/21 in early 2024. The next audit would commence immediately thereafter, and it was intended that all three audits would be completed by mid-2025. BDO cautioned that these timelines would need to be kept under constant review.

Following a request by the Committee, the Strategic Director of Finance and Investment (SDFI) explained that the subsidiaries, which were independent of the Council, do add complications and time delays as they need to provide their accounts which are then used to create the Group Accounts. The SDFI acknowledged that there had been delays caused by the Council, such as providing working papers, and these were being addressed. In response to further questioning, the SDFI added that there were new procedures in place regarding the production of the Group Accounts, however where issues arose such as staffing for example, there would be delays to the process. That said, he felt that the process had been improved and added that, as subsidiary companies were subject to Companies House, they faced legal sanctions if accounts were late.

The Chief Accountant (CA) echoed the SDFI's comments, adding that the fieldwork relating to the Group Accounts had now been completed and that the outstanding issues related to PPE. He stated that the draft accounts for 2020/21, 2021/22 and 2022/23 had been published, however for 2022/23 the subsidiaries had still not completed their accounts and therefore the draft Group Accounts had not been completed.

The Committee noted the update.

6. Counter Fraud Annual Report

The Head of Assurance (HoA) presented the Counter Fraud Annual Report for 2022/23.

It was noted that 174 corporate fraud referrals were received in 2023/23, which was 24 less than the previous year. Of the 174 referrals:

- 76 cases were accepted for investigation; and
- 84 were referred to other services for investigation.

There had been 111 counter fraud-related data protection requests from other local authorities, the Police and other agencies, 74 of which were closed following the conclusion of investigations while 16 were ongoing. The HoA also advised on the outcomes from the investigations.

In relation to housing-related investigations, the Council had recovered 11 properties that were being sub-let or being improperly used, which was an 83% increase on the previous year. The recovery action represented a saving of almost £1 million.

In response to questions from the Committee, the HoA clarified that where action was taken to repossess the property, the Council must satisfy the Courts that the property was being used in violation of the tenancy agreement. It was noted that sub-tenants displaced as a result of action were offered advice and guidance where appropriate, although the HoA confirmed that the offer was not always taken up.

The Committee noted the update.

7. Work Programme 2023/24

The Committee noted the work programme.

AUDIT AND STANDARDS COMMITTEE

4 October 2023

Title: Complaints Update	
Report of the Monitoring Officer	
Open Report	For Information
Wards Affected: None	Key Decision: No
Report Author: Dr. Paul Feild Principal Standards & Governance Lawyer	Contact Details: Tel: 0208 227 2638 E-mail: paul.feild@lbbd.gov.uk
Accountable Director:	Alison Stuart, Chief Legal Officer and Interim Monitoring Officer
Accountable Strategic Leadership Director: Fiona Taylor, Chief Executive	
Summary:	
<p>This report provides 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. 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 in order to 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>	
Recommendation(s)	
The Audit and Standards Committee is recommended to note the report.	
Reason(s)	
For continued good governance and to ensure that the Standards Committee is aware of complaints against Members of the Council.	

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 Field, 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 - October 2023

Ref:	Receipt of Complaint	Member(s)	Complainant	Nature of Complaint	Investigation	Standards Hearing	Outcome	Status (Open/closed)
MC 6/22	Oct 2022	Two Members	Officer	Indicative matter of breach of the Code of Conduct	Fact finding Completed	No	Monitoring Officer considered that the circumstances of the matter is that it should not proceed further and recommendations were made.	Open
MC 2/23	June 2023	Two Members	Citizen	Indicative matter of breach of the Code of Conduct	Matter dismissed	No	The Monitoring officer considered the complaint against the two Councillors in its current form and made an evaluation. There was no evidence to establish any proof of a breach of the Code of Conduct. So applying the Councils Complaints Management Rules she determined it did not meet the public interest and so shall not proceed further and be dismissed.	Closed

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AUDIT AND STANDARDS COMMITTEE**4 October 2023**

Title: Council's Accounts Audit Update - 2019/20, Subsidiaries' accounts audit – 2022/23 and Progress on Accounts Closure – 2022/23	
Report of the Chief Financial Officer	
Open Report	For Information
Wards Affected: All	Key Decision: Yes
Report Author: Thomas Mulloy, Chief Accountant	Contact Details: E-mail: Thomas.Mulloy@lbbd.gov.uk
Accountable Director: Jo Moore, Interim Strategic Director – Finance and Investments (Section 151 Officer)	
Accountable Strategic Leadership Director: Jo Moore, Interim Strategic Director – Finance and Investments (Section 151 Officer)	
Summary	
<p>This report is to note an update regarding the external audit of the Council's Statement of Accounts 2019/20 and the subsidiaries' 2022/23 accounts, as well as an update on the latest regarding 2022/23 accounts closure of the Council's Accounts.</p> <p>Currently there is a proposal of a potential backstop being discussed. This will help clear the backlog and help get local authorities back on track with their draft accounts' publication along with timely external audits. This proposal will likely come into effect for FY 23/24 accounts.</p>	
Recommendation(s)	
The Audit and Standards Committee is recommended to note the contents of this report.	
Reason(s)	
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 detailed timetable relating to the completion of the 2019/20 audit and this was further outlined at a subsequent meeting. The plan was for BDO to resume their audit on the week commencing 4 September 2023.

2. Accounts Audit Update – 2019/20

- 2.1 Further to the background, the plan was to ensure BDO had all the information they need to complete their fieldwork. This included the following areas:
- Responses to outstanding PPE queries
 - Detailed working paper to address the national issue of Infrastructure Assets
- 2.2 Both of the above working papers and responses were provided to BDO by end of July 2023. The intention was for BDO to focus on these two outstanding areas in the first week of their audit visit (w/c 4 September 2023). This would be key in terms of hitting their planned deadline.
- 2.3 During w/c 4 September 2023, BDO did not resume their audit. After chasing on a couple of occasions, an email was received late on 5 September 2023 confirming a further delay due to an NHS audit overrun. This was disappointing as the Council did not receive advance notice. No alternative or revised timetable was provided.
- 2.4 Also in the email was a proposed meeting on w/c 18 September to discuss a revised timetable. A Teams call was arranged on Thursday 21 September to discuss the next steps. At the meeting, it was confirmed that BDO resourcing lead would meet on Friday 22 September to discuss resourcing plans for the next few months. At this stage, there are no concrete plans as to when the audit of FY2019/20 accounts will resume.

3. Subsidiaries Update

- 3.1 All subsidiaries are required to have their accounts signed off by an external auditor and then filed at the Companies House by 31 December deadline. At the time of this report, the subsidiaries are on track to achieve the deadline.
- 3.2 The Council intends to report the final and audited outturn for each subsidiary to this Committee early in the New Year.

4. Progress on Accounts Closure – 2022/23

- 4.1 Draft Statement of Accounts 2022-23 for the Council's single entity is now completed. The Group Accounts however are still outstanding and will be produced as soon as the audits of the subsidiaries are concluded.
- 4.3 Subject to the proposed backstop solution (as outlined below), the Council's finance team is keen to get back to the usual cycle of producing the Council's Draft Statement of Accounts by the usual deadline with the aim of having its accounts audited by the national deadline.

5. Proposed backstop solution

- 5.1 DLUHC is working with the NAO to propose a workable solution to help reduce the backlog of outstanding audits across the country. This is so that auditors can move onto auditing the most up to date financial information.

- 5.2 One possible solution is to issue a qualified opinion or, in some cases, disclaimer opinion in order to allow the system to be reset. There remain questions as to how workable this proposed solution is. For example, it will be tricky to apply the above opinion to the Value for Money aspect of the annual audit.
- 5.4 The Council is committed to work constructively with the auditors to find a clear way forward.

6. Financial Implications

Implications completed by: Thomas Mulloy, Chief Accountant

- 6.1 The Council has been charged an additional fee of £302k for the work carried out in the external audit of the Statement of Accounts 2018-19. This will need to be accrued in the accounts. BDO will need approval from PSAA prior to the charge being invoiced to the Council.
- 6.2 No additional fee has been charged for the external audit of the Statement of Accounts 2019-20. The budget set for the work was £128k.

7. Legal Implications

Implications completed by: Dr Paul Feild, Senior Governance Lawyer

- 7.1 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.
- 7.2 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, and
 - Observed proper practices in the preparation of the Statement of Accounts and that the Statement presents a true and fair view.
- 7.3 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

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AUDIT AND STANDARDS COMMITTEE**4 October 2023**

Title: Update on external audit delivery	
Report of the Appointed Auditor, Lisa Blake	
Open Report	For Information
Wards Affected: All	Key Decision: No
Report Author: Lisa Blake, Partner, BDO	Contact Details: E-mail: Lisa.Blake@bdo.co.uk
Accountable Director: Jo Moore, Interim Chief Financial Officer (Section 151 Officer)	
Accountable Strategic Leadership Director: Fiona Taylor, Chief Executive	
Summary	
This report is to update the Committee on the status of the 2019/20 audit of the Council's Statement of Accounts and proposals regarding the delivery of the audits of the Statement of Accounts for the 2020/21, 2021/22 and 2022/23 financial years.	
Recommendation(s)	
The Audit and Standards Committee is recommended to note the report.	
Reason(s)	
It is a statutory obligation for the Council's Statement of Accounts to be produced and audited, and the Statement of Accounts and the Annual Governance Statement must be approved by a Committee of the Council.	

1. Introduction and Background

- 1.1 The 2019/20 audit commenced fully in February 2021, when the complete set of draft accounts for audit, including group accounts, were provided by the Council.
- 1.2 To date BDO has brought the following written reports to this Committee, outlining the status and findings of the audit work completed so far:
- Interim Audit Completion Report (7 March 2022)
 - Audit Status Report (12 October 2022)
 - Audit progress report & indicative timeline for future audits (28 June 2023)
- 1.3 Key matters reported in March 2022 included:
- Improvements in working papers provided for audit compared to previous years but, as in the previous year, there were significant delays in the Council providing auditable (complete and accurate) group accounts and supporting working papers for audit.

- Material misstatements in the draft Statement of Accounts received for audit in the areas of the valuation of land and buildings (£27.4m) and overstatement of recharges (£49.7m).
 - Non-compliance with the Code of Accounting Practice on Local Authority Accounting in respect of asset classification (HRA assets misclassified as assets under construction £7.9m) and impairment of receivables (NNDR provision £2m)
 - Nine in-year unadjusted non-trivial misstatements and ten adjusted non-trivial misstatements identified, in addition to the material misstatements noted above.
 - Six significant deficiencies in the Council's internal control environment, including in the internal quality review processes applied to the draft Statement of Accounts before publication.
- 1.4 In October 2022 we reported that a combination of continued difficulties in obtaining satisfactory evidence from the Council to support the audit, the unplanned long-term sickness and resignation of the Audit Manager and other BDO resourcing challenges had caused delays in progress over the summer. There had been no material change to the audit findings previously reported.
- 1.5 In addition, we reported that a technical issue had been identified that affected, nationally, all local authorities with material infrastructure assets on the balance sheet, of which the Council is one. This matter required engagement of audit suppliers, the National Audit Office (NAO), the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Financial Reporting Advisory Board to determine an accounting solution for local authorities to implement.
- 1.6 Our revised timeline for bringing the audit to a conclusion was given as January 2023 with a view to reporting to Committee in March 2023. This would be, in part, dependent upon an accounting solution for infrastructure assets being issued and the Council's working papers for implementing the solution being received and audited by the end of 2022. The infrastructure assets accounting solution (CIPFA Bulletin 12) was not issued until January 2023.
- 1.7 In June 2023, we confirmed that the audit had continued to progress but was not yet complete with the key matters outstanding being:
- Response to audit queries raised in May relating to property, plant and equipment
 - Manager review of the property, plant and equipment audit fieldwork once complete, and clearance of any review points raised
 - Clearance of review points on other completed audit fieldwork
 - Partner and Quality Assurance reviews of audit fieldwork and audit team clearance of any points raised
 - Receipt of the Council's working papers and revised Statement of Accounts in respect of the infrastructure assets accounting solution (CIPFA Bulletin 12 requirements), and
 - Subsequent audit of the infrastructure assets and review of that audit fieldwork.
- 1.8 On the assumption that we received the Council's infrastructure assets working papers before September (these were duly received in July), our June report proposed that the audit would re-commence in September, be finalised in October,

reported to management in November and the final audit results received by the Committee at its meeting scheduled for 26 January 2024.

2. 2019/20 Audit Update

- 2.1. Since the last Committee meeting, we have received all outstanding working papers and audit query responses referred to above. We have also met with the Council's Finance team to discuss their infrastructure assets working papers, our audit approach and our experiences from work done in other local authorities in this area.
- 2.2. Delays in completion of NHS audits since the last Committee significantly reduced the capacity of the BDO Audit Manager and partner to oversee the re-commencement of the Council's audit in September, and the planned audit senior was retained on NHS audit work, delaying the re-commencement of the Council's audit.
- 2.3. We met with the Interim Strategic Director, Finance & Investments (S151 Officer) and the Chief Accountant on 21 September to discuss this further. At that time our resourcing team were working through the re-scheduling of our local government work across the BDO portfolio so it was not possible to provide new dates for audit.
- 2.4. We are mindful of the need to progress the infrastructure assets accounting audit work and outstanding property, plant and equipment audit work as quickly as possible and, ideally, before the end of October, with the aim of still being in a position to report the final audit results before the end of 2023.
- 2.5. Although, at the time of writing, it is not possible to confirm the full picture of the rescheduled audit dates, we can confirm that the infrastructure assets audit will begin in the week commencing 2 October 2023.
- 2.6. Senior audit team reviews will re-commence at the beginning of November.
- 2.7. We will share a fully revised timeline for audit completion as soon as it is available.

3. Delivery of the 2020/21, 2021/22 and 2022/23 Council and Pension Fund Audits

- 3.1 Our report to the last meeting of this Committee included an indicative timeline for the delivery of the remaining audits for which BDO is the Appointed Auditor. It showed that it would be 2025 before all 6 audits were completed, if all things remained the same.
- 3.2 On 18 July 2023 Lee Rowley MP, Parliamentary Under-Secretary of State for Local Government and Building Safety, issued a letter to all local authority Chief Executives, Chief Financial Officers and Leaders and local audit firm Partners. The Letter (Appendix 1) and its accompanying Cross-System Statement (Appendix 2) provided an update on work being done by Department of Levelling Up Housing and Communities (DLUHC) officials and the Financial Reporting Council (FRC) to *“address the significant backlog of local audits in England and develop a sustainable solution to the timeliness challenges which the sector has faced in recent years.”*
- 3.3 The proposals outlined within these documents, if implemented, will fundamentally change local audit delivery plans and supersede our previously communicated delivery plans. Amongst other things, there is a proposal to implement a series of statutory deadlines (commonly being referred to as ‘backstop dates’) for clearing

the delayed audits for financial years 2015/16 to present. When a backstop date is reached, the auditor would be required to provide as much audit assurances as possible from the work completed by that time for any incomplete audits, including any not yet started.

- 3.4 Where full assurance cannot be given by the backstop date, this will likely result in some form of qualification of the audit opinion, for example, a limitation of scope or disclaimer.
- 3.5 A number of working groups have been set up, in which BDO participates along with other audit firms, the NAO, CIPFA, FRC, PSAA and other stakeholders, to develop an agreed approach and supporting mechanisms that will facilitate DLUHC's aim to address the local audit backlog swiftly.
- 3.6 This work is still being done and backstop dates are just one aspect of the full suite of solutions being considered.
- 3.7 There has been no documented output on agreed solutions from the working groups to date, but DLUHC and the FRC communicated the following intended backstop dates in a seminar held on 1 August 2023:
- 31 December 2023 for audits prior to and including 2019/20
 - 31 March 2024 for 2020/21 and 2021/22 audits
 - 30 September 2024 for 2022/23 audits
- 3.8 While these dates have yet to be confirmed as the agreed backstop dates (there is not yet any legislation or auditing 'infrastructure' in place to facilitate this and dates cannot be confirmed until there is), we recognise the additional urgency this creates for the open 2019/20 audit to be completed before the end of the year and are factoring this in to our resource re-scheduling.

4. Financial Implications

Implications completed by: Lisa Blake, Partner, BDO

- 4.1 The audit of the infrastructure assets accounting solution is extended scope work that will result in additional fees. This cannot be determined until the work is complete but will be discussed with the Interim Strategic Director, Finance & Investments (S151 Officer) before submission to Public Sector Audit Appointments Limited as a proposed scale fee variation.

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

List of appendices:

Appendix 1: Minister Rowley Letter to the Sector regarding Local Audit (18 July 2023)

Appendix 2: Local Audit Delays Cross-System Statement



Department for Levelling Up,
Housing & Communities

Lee Rowley MP

*Parliamentary Under-Secretary of State for Local
Government and Building Safety*

To: Local Authority Chief Executives, Local Authority
Leaders and
Chief Financial Officers in England, and
Local Audit Firm Partners

***Department for Levelling Up, Housing and
Communities***

Fry Building
2 Marsham Street
London
SW1P 4DF

18 July 2023

Dear Chief Executive / Chief Financial Officer / Local Authority Leaders / Local Audit Firm Partners,

This letter comprises an update on work since the Spring that DLUHC officials, along with Financial Reporting Council (FRC) colleagues, have undertaken to address the significant backlog of local audits in England and develop a sustainable solution to the timeliness challenges which the sector has faced in recent years. At the time of writing, only 27% of local audits have been completed for the financial year 2021-22. The combined total of outstanding local audits dating back to 2015-16 is now totalling nearly 520.

The attached paper derives from the recent work and outlines a proposed approach to resolving these issues, which has been agreed in principle with key partners across the local audit system. As Leaders of Local Authorities, Chief Executive Officers and Chief Financial Officers, you and your finance teams, alongside your auditors and Key Audit Partners, are critical to delivering high-quality financial reporting and audit in the public interest. As the paper suggests, decisive and concerted action is required to deal with the challenges in the local audit system. I would very much welcome your support in these endeavours and DLUHC officials will continue to engage with you as these proposals are further developed.

In summary, we are proposing that the National Audit Office (NAO) and DLUHC set a series of statutory deadlines for accounts preparers and auditors to clear the backlog of delayed audits for financial years 2015/16 to present. Auditors would then be required to provide as much assurance as possible for these outstanding years, reporting as normal any significant concerns they have on an organisation's financial controls and financial reporting, as well as financial resilience, governance and risk. Where necessary, it is intended that auditors would need to limit their opinion, making clear to the user of the accounts where full evidence hasn't been confirmed, and which the auditor is therefore unable to provide assurance over. Auditors' statutory duty to report on value for money (VfM) arrangements and their statutory audit powers (such as the power to make statutory recommendations or produce Public Interest Reports where necessary) will remain a high priority.

It will be the case that these deadlines may result in qualifications and disclaimers of opinion in the short term for a number of local bodies. We believe that these steps are necessary to reset the system and to restore the assurance which is provided by timely annual audits. Whilst further detailed work is needed across the Summer, there is broad consensus across the system that without any action being taken,

delays will continue for a number of years, and in that scenario, when the delayed audits are reported they will offer little if any assurance about the current position. In the meantime, there is a heightened risk of auditors not identifying and reporting on important, more current issues. We must ensure the capacity of the sector is focused on the most recent position as soon as possible.

It is critical that a repeat of the backlog is avoided in the future. Work across the local audit system must therefore be sustainable and ensure proportionate financial reporting requirements, auditing requirements and regulatory requirements are in place.

The Comptroller & Auditor General (C&AG) is therefore considering changes to the Code of Audit Practice on certain balances in the accounts to prevent continued local audit delays while a broader solution is sought. Potential changes would be time limited and would need to be supported by wider changes to standards and regulation. The C&AG will of course keep the Code of Audit Practice under review and will consider the effectiveness and operation of any changes made to the Code. This would inform a wider review of the measures to clear the backlog outlined above.

To support this broader work, it is important that the accounting framework set through the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Local Authority Accounting carefully balances the need for adherence to financial standards against the needs of the users of local authority financial information, including ensuring the accounts are still useful and valuable to the taxpayer. CIPFA is therefore exploring changes to the Code for the medium and long term, in order to enable a more proportionate approach to the accounting requirements for local authority non-investment assets and pension valuations for a local authority context.

CIPFA has already made a temporary adjustment to the Accounting Code on the reporting requirements for valuation of local authority infrastructure assets, to support amendments to regulation made by DLUHC in December 2022. However, clearly a long-term solution needs to be developed. This will take longer than the current temporary measures (both legislative and Code based) allow. As such, DLUHC will seek to extend the changes made to legislation last year and CIPFA will consider whether the current amendments to the Code can be extended in tandem.

In terms of ongoing regulatory requirements, the FRC has committed to set out annually its planned regulatory programme, areas of focus and how its inspection activity serves the public interest. As part of this work, the FRC intends to clearly set out how its inspection activity will review auditors' work on operational assets and pensions valuation, the rationale for doing so and examples of good practice. The FRC's inspection activity will continue to review compliance with auditing and ethical standards, any revised Code of Audit Practice and associated guidance. The FRC is also working with auditors, practitioners and regulatory bodies to consider whether changes to the level of audit materiality may be beneficial. This work is expected to conclude before the end of the year.

The Levelling Up, Housing and Community Committee is conducting an inquiry into Local Financial Reporting and Audit. I gave evidence to the Committee on 17 July and I have shared a copy of the enclosed cross-system statement with the Committee Chair.

The proposals will be subject to further work and engagement across the system over the Summer, including with Section 151 Officers, Chief Executive Officers, elected representatives, the Local Government Association and audit firms. We look forward to discussing this further with you in the coming weeks and will ensure that there are arrangements in place to engage all parts of the local audit sector, including the range of local bodies. Subject to the conclusion of the appropriate details, we anticipate changes to the relevant codes and standards will be made in time for implementation to begin by the end of December 2023.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Lee', is centered at the top of the page.

LEE ROWLEY MP

Parliamentary Under-Secretary of State for

Local Government and Building Safety

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LOCAL AUDIT DELAYS – CROSS-SYSTEM STATEMENT ON PROPOSALS TO CLEAR THE BACKLOG AND EMBED TIMELY AUDITS

Introduction

1. There has been a deterioration in the timeliness of local audit since 2017/18, with delays compounding during the COVID-19 pandemic, leading to a persistent and significant backlog of audit opinions. Since November 2020, the Department for Levelling Up, Housing and Communities (DLUHC) has implemented a wide range of measures to improve timeliness and the wider local audit system as part of its response to Sir Tony Redmond's *Independent Review of local financial reporting and audit*.¹ In addition, in December 2021 DLUHC published a further package of measures to improve local audit delays, which went beyond Sir Tony Redmond's original recommendations.
2. We recognise that fuller action is required. This note sets out a range of broad proposals and actions, agreed in principle with key partners across the local audit system, to address the backlog of local audits in England. Local audit is both a vital and independent source of assurance and a key element of the checks and balances within the local accountability framework, and we must collectively ensure that the local audit system is on a strong and sustainable footing for the future. There exists a shared resolve and commitment amongst the organisations referenced in this document to take action now to tackle the exceptional circumstances of the current backlog and ensure a return to timely delivery of high-quality financial reporting and external audit in local bodies,² in order to provide the vital accountability and assurance needed for local people and their elected representatives.
3. Further engagement and cross-system work will be needed this Summer to finalise the proposals outlined in this statement. Following this, we anticipate changes to the relevant codes and standards will be made in time for implementation to begin by the end of December 2023.

Context

4. Local audit completion for the financial year 2021/22 remains at approximately 27 percent, with the combined total of outstanding local audits dating back to 2015/16 now totalling nearly 520. This is clearly unacceptable. There is consensus across the system that there is now no alternative but to take collective action to resolve the backlog. Restoring timely audit and financial reporting will improve local accountability, strengthen the government's ability to identify warning signs of potential failure in local bodies and provide assurance to local residents about financial management and governance.
5. DLUHC, working with the Financial Reporting Council (FRC) as it prepares to commence the shadow system leadership role, has led urgent cross system work over the Spring - involving auditors, Section 151 Officers, regulators, government departments and other key stakeholders – to find a solution to reset the system.

ADDRESSING THE LOCAL AUDIT BACKLOG: PROPOSITION

6. Working together, the National Audit Office (NAO) and DLUHC intend to set a series of statutory deadlines for accounts preparers and auditors to clear the backlog of delayed

¹ [Local authority financial reporting and external audit: independent review - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/local-authority-financial-reporting-and-external-audit-independent-review)

² Local bodies include councils but also other relevant authorities as defined under the Local Audit and Accountability Act (2014)

audits for financial years 2015/16 to present. Auditors would then be required to provide as much assurance as possible for these outstanding years, reporting as normal any significant concerns they have on an organisation's financial controls, financial reporting as well as financial resilience, governance and risk. Where necessary, it is intended that auditors would need to limit their opinion and make clear to the users of the accounts those aspects or sections of a set of accounts which are not supported by sufficient, appropriate evidence, and which the auditor is unable to provide assurance over. Auditors' statutory duty to report on value for money (VfM) arrangements and their statutory audit powers (such as the power to make statutory recommendations or produce Public Interest Reports where necessary) are an important mechanism for assurance and for identifying areas of concern at an early stage, allowing councils to address them. Under these proposals this will remain a high priority.

7. These deadlines may result in qualifications and disclaimers of opinion in the short term for a number of local bodies. We believe that these steps are necessary to reset the system and to restore the assurance which is provided by timely annual audits. Whilst further detailed work is needed across the Summer, including to mitigate any unintended consequences of these measures, there is broad consensus from organisations referenced in this document that without any action being taken, the delays will continue for a number of years, and in that scenario, when the delayed audits are reported, they will offer little if any assurance about the current position. In the meantime, there is a heightened risk of auditors not identifying and reporting on important, more current issues. We must ensure the capacity of the sector is focused on the most recent position as soon as possible.
8. Where an auditor has to issue a disclaimer of opinion, however, there will still be a need to audit the opening balances of the subsequent set of accounts, as the prior year figures will not be covered by an unqualified auditor's opinion. The Department is seeking to ensure that work to clear the backlog of accounts takes place within a limited window of time. It will therefore consider measures to address any knock-on effects of the proposals which may impact the audit of opening balances within the accounts for future years and ensure the burden of auditing opening balances does not risk creating further delays. An important consideration will be ensuring there is appropriate assurance in place for opening balances for the start of the new contract period for the 99% of local bodies which have opted in to Public Sector Audit Appointments Limited's (PSAA) scheme.

Commitments by system partners

9. The **National Audit Office** is considering the development of a replacement Code of Audit Practice to give effect to the changes outlined above. This would include a requirement on auditors to issue the audit opinion for specific financial years in line with new statutory deadlines set out in legislation for the relevant authority. Auditors' statutory requirement to report on value for money arrangements would remain unchanged. Auditors would also be expected to facilitate a smooth transition during the contract handover period for the 2023/24 contracts. As part of this work the NAO will be establishing a specific Programme Board to provide the necessary governance to deliver a replacement Code of Audit Practice by the end of the year including the necessary consultation and Parliamentary process.
10. Alongside this **DLUHC** is considering whether legislative change is needed to:
 - a. set new statutory deadlines for local bodies to publish accounts to mirror the proposed changes to the Code of Audit Practice.

- b. address any knock-on effects of the proposals which may impact the audit of opening balances within the accounts for future years.
11. Under these proposals the **Chartered Institute of Public Finance and Accountancy (CIPFA)** would issue guidance to support accounts preparers to follow any amended regulations which set out new statutory deadlines, provided the authority is in receipt of the appropriate audit findings report from the auditor. CIPFA would also set out how Section 151 Officers should approach their responsibilities to certify the accounts in light of potential qualifications or disclaimers which may result from these proposals.
 12. To support these changes, the **Financial Reporting Council (FRC)** will publish guidance on its regulatory approach to Major Local Audits³ (MLAs), articulating the importance of timeliness and compliance with statutory deadlines as an additional measure of audit quality. It will work with the NAO on the development of guidance where necessary to assist with the application of standards for these audits, including the need to meet the statutory dates. Local auditors will be required to have regard to and follow the NAO's guidance. The FRC's inspection activity would review auditors' compliance with auditing standards, the Code and relevant NAO guidance.
 13. The FRC will use its broader supervisory role to ensure commitment from audit firm leaders to implement the policy measures and the steps that are being taken to meet the timetables for concluding historical audits. This route will be used to escalate any pervasive concerns the FRC has gathered on an audit firm's resilience, risk management and ability to deliver timely local audits and address their part of the backlog.
 14. Under these proposals the FRC intends not to undertake routine audit quality reviews and inspections of MLAs for the historic audits up to the end of the 2021/22 financial year (though FRC will continue to inspect audit firms which deliver NHS audits). FRC will only conduct quality review inspections for historical audits where there is a clear case in the public interest to do so. The FRC will suspend the decision on the timing, scope, and coverage of inspections for the 2022/23 audits until there is confirmation of any revision to the NAO's Code of Audit Practice.
 15. The FRC will need to ensure that its enforcement function is still able to appropriately gather information and evidence to determine whether, in the public interest, there should be an investigation into accounting or auditing issues where there are significant financial and governance failures.
 16. The **Institute of Chartered Accountants in England and Wales (ICAEW)** is responsible for the inspection and regulation of non-Major Local Audits.⁴ The ICAEW proposes that its regulatory response to these measures will be consistent with the planned action of the FRC, as set out above.
 17. **PSAA** is responsible for appointing an auditor and setting scales of fees for local bodies that have chosen to opt-in to its national scheme. A small number of authorities are not opted-in to PSAA's scheme and appoint their own auditors independently. Under these proposals, PSAA anticipates that it will need to determine final fees for opted-in authorities for the historic periods on a case-by-case basis. Its guiding principle in this will remain that if auditors have worked in good faith to meet the requirements of the Code of Audit Practice in place at the time the work was conducted, then they are due the appropriate fee for the

³ An audit of a local government body or NHS body with income or expenditure of at least £500m or a local authority pension scheme with at least 20,000 members or gross assets in excess of £1bn.

⁴ ICAEW's Quality Assurance Department (QAD) is responsible for reviewing local audits conducted under the Local Audit and Accountability Act that are not major local audits.

work done, and the body is due to pay the applicable fee, including where there is a disclaimer or qualified opinion. Conversely, if an auditor has collected audit fees in part or in full, and a change in requirements means that the total work done represents less than the fee already collected, then the auditor must return the balance and refund the body the appropriate amount – this ensures that the bodies pay only for work that has been done.

18. A number of **audit firms** with responsibility for local audits from 2015 have been a party to the development of these proposals, and under these plans would work with DLUHC, FRC and NAO on their professional commitment to the steps they would take to ensure successful implementation of the measures to clear the backlog. Such a commitment, underpinned by the auditors' professional duty to be independent and deliver consistent high-quality and timely work, would be welcomed by all parties within the system. Audit firms will of course need to operate in accordance with any changes to the Code of Audit Practice as well as continuing to fulfil their existing statutory duties.
19. **Chief Executive Officers, Section 151 Officers and Audit Committees** also play a critical role in delivering high-quality financial reporting. DLUHC will continue to engage Section 151 Officers and the wider sector as proposals are further developed over the Summer.
20. Under these proposals, Section 151 Officers will be expected to work with Audit Committee members (or equivalent) to approve the final accounts by the statutory deadline in order for the audit opinion to be issued at the same time. In addition, Chief Executives, Section 151 Officers, local authority Leaders and Chairs of Audit Committees should alert the auditor to significant organisational risks, critical decisions and changes in financial sustainability, and also where they have identified concerns on systems of financial control, financial reporting and capacity and capability to produce high-quality financial reporting on time. Where there are significant resilience risks, they should alert the auditor of the options, choices and alternatives that are being considered.
21. We will work with the **Local Government Association (LGA)** over the Summer, including to engage its members on these proposals. Under these proposals the LGA will support councils to understand their role in relation to external audit and that of auditors, and help councils communicate those messages to elected members and officers as necessary. The Department will also continue to engage with Section 151 Officers and treasurers' societies, in addition to representatives from the range of authorities impacted by these proposals.

LONGER TERM CHANGE

22. In order to prevent a recurrence of the backlog, it is essential that underlying issues which may have driven delays are addressed. Work will therefore progress with a number of organisations including the FRC, the NAO, CIPFA and the LGA to devise an escalated reporting framework for audit firms and local bodies to resolve issues ahead of statutory deadlines. We will also look to publish a list of local bodies and audit firms which meet statutory deadlines and those which do not.
23. Other underlying challenges will also continue to be addressed. The FRC is already leading work across the system to improve competition, capability and supply within the audit market. The FRC, supported by DLUHC, is committed to producing a workforce strategy by the end of the 2023 calendar year, which will identify gaps and barriers across the local audit system that are hindering the development of future capacity and agree actions and solutions to unblock these with stakeholders.

Local financial reporting, auditing and regulatory requirements

24. It is critical that a repeat of the backlog is avoided in the future. Work across the local audit system must therefore be sustainable and ensure proportionate financial reporting requirements, auditing requirements and regulatory requirements are in place.
25. Although reporting and disclosure requirements required by the Code of Practice on Local Authority Accounting have not changed for many years, there is a perception that both audit and regulatory expectations relating to the audit of non-investment assets have increased significantly in recent years. As a result, both account preparers and auditors frequently engage specialist valuers to provide the level of assurance which is thought to be necessary. In his review, Sir Tony Redmond noted a lack of consensus within the system over how to address this.
26. Local authority financial reporting must balance the need for adherence to financial standards against the needs of the users of local authority financial information, including ensuring the accounts are still useful and valuable to the taxpayer. Where reporting, auditing and regulatory standards combine to create pressures which delay timely reporting and audit, this should be addressed by responsible organisations across the local audit system. Doing so is vital in ensuring the delicate balance between high-quality financial reporting and user value is maintained.
27. There is also a question as to whether the level of work required for the current reporting and disclosures obligations on account preparers, which then require audit and oversight, is proportionate to their value to the user of the accounts, given the potential financial or governance risks are relatively low. All system participants therefore need to consider whether this work is proportionate to risk and a wise use of taxpayers' money, and will do so in the coming months.
28. Local authority accounts are consolidated within the statutory Whole of Government Accounts, which are prepared in accordance with International Financial Reporting Standards (as adapted and interpreted for the public sector). Since 2010 these standards have been reflected in the Code of Practice on Local Authority Accounting, which is independently set by CIPFA and passed by the CIPFA LASAAC⁵ board, under the advice of the Financial Reporting Advisory Board (FRAB) - an independent advisory board.
29. In light of these issues, the **Comptroller & Auditor General (C&AG)** is considering changes to the Code of Audit Practice relating to certain balances in the accounts to prevent continued local audit delays while a broader solution is sought. The C&AG is taking this action under the requirement of the 2014 Local Audit and Accountability Act that he should keep under review whether the existing Code continues to embody best professional practice with respect to the standards, procedures and techniques to be adopted by local auditors. As such, it reflects the seriousness with which he views the current delays in the local audit system. Potential changes would be time limited and would need to be supported by wider changes to standards and regulation.
30. The NAO has established a dedicated programme board, supported by at least three working groups, to develop the potential changes and related technical questions with stakeholders. A range of mechanisms will be considered to allow auditors to discharge their responsibilities to gather sufficient, appropriate and reliable audit evidence in accordance with International Standards on Auditing (ISAs).

⁵ Local Authority (Scotland) Accounts Advisory Committee

31. The C&AG, as he is required to do by the Local Audit and Accountability Act 2014, will keep the Code of Audit Practice under review and will consider the effectiveness and operation of any changes made to the Code. This would inform a wider review of the measures to clear the backlog outlined above.
32. **His Majesty's Treasury (HMT)** is conducting a thematic review of the valuation of non-investment assets such as roads and office buildings for financial reporting purposes across the public sector. The review is seeking to evaluate the advantages and disadvantages of the current valuation regime and consider the appropriate measurement options.
33. There are advantages to the alignment of central and local government accounting, including allowing local government accounts to be more easily consolidated into the statutory Whole of Government Accounts. As set out above, however, the level of work required by account preparers and auditors must not limit the value of the accounts to the user. **CIPFA** is therefore exploring changes to the Code of Practice on Local Authority Accounting for the medium and long term, in order to enable a more proportionate approach to the accounting requirements for non-investment assets and pension valuations for a local authority context. As a standard setter, CIPFA's guiding principle in approaching any changes to the reporting requirements adopted by the public sector in 2010 will be ensuring that high-quality financial reporting and the utility of financial statements to account users is maintained. As outlined above, any consideration of changes to accounting requirements will be accompanied by a broader set of measures from actors across the system.
34. CIPFA's work will run in parallel to HMT's thematic review. As the body responsible for local government accounting requirements, CIPFA is part of the working group HMT has set up for the review. CIPFA has clearly set out its view on the review's proposals. CIPFA will continue to work with HMT to ensure that any consequential changes to the Government Financial Reporting Manual (FRoM) and the Code of Practice on Local Authority Accounting are considered fully to ensure that the users of local authority accounts are incorporated.
35. In addition, CIPFA has already made a temporary adjustment to the Code on the valuation and reporting requirements for local authority infrastructure assets, to support amendments to regulation made by DLUHC in December 2022. However, clearly a long-term solution needs to be developed. This will take longer than the current temporary measures (both legislative and Code based) allow. As such, DLUHC will seek to extend the changes made to legislation last year and CIPFA will consider whether the current amendments to the Code can be extended in tandem.
36. **The Financial Reporting Council (FRC)** has committed to set out annually its planned regulatory programme, areas of focus and how its inspection activity serves the public interest through alignment with the significant financial, accounting and governance risks facing local bodies. As part of this the FRC expects to clearly set out how its inspection activity will review auditors' work on operational assets and pensions valuation, the rationale for doing so and examples of good practice. FRC inspection activity will continue to review compliance with auditing and ethical standards, any revised Code of Audit Practice and associated guidance.
37. The FRC has also indicated, in principle, that if the audit and reporting requirements for operational asset and pensions valuations are revised, its intention will be to update the inspection approach to reflect the changes in these areas.
38. The FRC's Audit & Assurance Sandbox initiative is taking forward a specific policy discussion on the application of materiality by local authority auditors. The Sandbox brings together groups of auditors, practitioners, regulatory bodies and interested parties to explore, identify and develop solutions to specific technical and policy issues. The

materiality discussions are expected to conclude before the end of the year. Next steps could include, for instance, the FRC determining whether additional guidance is required to support how auditors set materiality levels for local bodies in line with auditing standards or working with those local audit suppliers who decide to set a different basis of materiality without such guidance.

Conclusion

39. The local audit system, which comprises all of the organisations listed above, recognises the need to restore the timeliness of financial reporting and audit in local government. That is why all system partners have made clear proposals to reduce the backlog of local audits in England which are detailed in this statement. The Government will continue to work with the FRC and all key partners across the system to continue this ambitious programme of work over the Summer. As noted above, this will include consideration of longer-term changes in order to create a more sustainable local audit system for the future.

14 July 2023

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AUDIT AND STANDARDS COMMITTEE**4 October 2023**

Title: 2018/19 Audit Fees	
Report of the Appointed Auditor, Lisa Blake	
Open Report	For Information
Wards Affected: All	Key Decision: No
Report Author: Lisa Blake, Partner, BDO	Contact Details: E-mail: Lisa.Blake@bdo.co.uk
Accountable Director: Jo Moore, Interim Strategic Director, Finance & Investments (S151 Officer)	
Accountable Strategic Leadership Director: Fiona Taylor, Chief Executive	
Summary This report is to update the Committee on the additional audit fees agreed with Philip Gregory, former Strategic Director, Finance & Investments (S151 Officer) in July 2023.	
Recommendation(s) The Audit and Standards Committee is recommended to note the report.	
Reason(s) It is a requirement for final audit fees to be agreed with the Section 151 Officer and reported to those charged with governance. Fees agreed for the extended scope of an audit must then be submitted to Public Sector Audit Appointments Limited (PSAA) as a proposed scale fee variation for their approval.	

1. Introduction and Background

- 1.1 The 2018/19 audit was signed in October 2020.
- 1.2 Our Audit Completion Report (September 2020) highlighted that the quality of the draft accounts and documentation presented for audit was poor, particularly in respect of group consolidation which was complex and had been done by the Council for the first time that year. There had been difficulties obtaining appropriate evidence to support the figures in the Statement of Accounts in a number of areas which had caused delays and there were a significant level of errors identified during the audit, including prior period adjustments, resulting in extended scope work, increased audit sampling and an exponentially high level of input being required by the senior members of the audit team.
- 1.3 This report also stated that as a result of these issues additional fees would be required and that we would discuss this with management.

2. 2018/19 Agreed Audit Fees

- 2.1 In the first quarter of 2021 the audit and finance teams participated in a root cause analysis process to identify how lessons could be learned and improvements made to facilitate the accounts production and audit processes in future years. The results of this were reported to the May 2021 Committee by Philip Gregory, Strategic Director, Finance & Investments (S151 Officer).
- 2.2 After this process was completed a number of discussions were held regarding additional fee proposals and the specific areas where, for example, additional work had been required or a higher level of senior audit team and specialist input had been required in response to technical matters such as prior period adjustments.
- 2.3 The additional fees agreed total £301,990 and the report appended provides the context for them and comparison to the scale fee and the fees charged in the previous year by your previous Appointed Auditor.
- 2.4 PSAA are responsible for appointing external auditors and under the terms of the appointment they set the scale of fees to be charged and require that proposals to vary fees from the scale fee are submitted to them for approval.
- 2.5 We have notified PSAA of the proposed scale fee variation, starting the formal process for seeking their approval to bill those fees.

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

List of appendices:

Appendix 1: 2018/19 Audit Fees



2018/19 AUDIT FEES

London Borough of Barking & Dagenham

18 July 2023

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EXECUTIVE SUMMARY



This report includes the final fee information for the 2018/19 audit.

The final results of the 2018/19 audit were reported to the Audit and Standards Committee (ASC) on 21 September 2020 in our Audit Completion Report. In this report, and in our 2019/20 Audit Plan presented to the ASC on 18 January 2021, we highlighted that the scale fee set by Public Sector Audit Appointments Limited (PSAA) was insufficient to cover the significant amount of additional audit procedures and reporting time required to deliver the audit, as a result of the number of significant risks and errors identified, including a number of prior period adjustments.

Since that time we have:

- ▶ Completed a detailed Root Cause Analysis process exploring the contributing factors to the number of issues identified during the audit and length of time to complete the audit
- ▶ Agreed an action plan with the finance team for securing improvements to accounts preparation and audit processes
- ▶ Reported the results of the RCA and the key actions to the ASC (18 January 2021)
- ▶ Discussed the audit fee implications at a granular level with the Strategic Director, Finance and Investment (S151 Officer) and agreed the appropriate level of additional scope audit work with him.

KEY ISSUES REPORTED FOR 2018/19

Adjusted and unadjusted errors:

There were 42 adjustments made to the draft 2018/19 Statement of Accounts as a result of the audit. These had a net impact on the reported results of the Council of £70.4 million. Of these, 8 were individually material (materiality was £11 million).

A further 23 unadjusted misstatements were reported to ASC.

Prior period adjustments:

In addition to in-year errors, 3 prior period adjustments were required as a result of matters identified during the audit:

- dedicated schools grant had been double counted in the year (£176.8 million) and £168.1 million had also been double counted in the 2017/18 financial statements
- correction of over receipting of purchase orders resulting in misstatement of creditors in the year (£877, 000) and £10.5 million relating to prior years
- correction of historical capital spend which had not been correctly reclassified when assets became operational to the value of £31.8 million.

Significant deficiencies in internal control:

We reported 7 significant deficiencies in internal control, a number of which resulted in the need for our audit strategy to be amended to include an increased level of substantives procedures and sample sizes to be necessary in order to gain the required level of assurance to support the audit opinion. We issued an ISA265 letter to the ASC (22 October 2019) highlighting significant weaknesses in the effectiveness of the arrangements for preparing a materially accurate Statement of Accounts.

Additional audit procedures:

A significant level of additional audit procedures were required in a significant number of areas, including:

- Opening balances in respect of non current asset valuations
- Valuation and classification of property, plant and equipment
- Consolidation of group accounts, which had been done by the Council for the first time and was the source of numerous errors and technical accounting issues.

FEES

	2018/19 Actual £	2018/19 Planned £	2017/18 Actual £
Audit fee			
Code audit fee: Consolidated Group and Council financial statements and use of resources ¹	390,114	127,801	165,975
Group consolidation audit fee ²	39,677	N/A	N/A
Audit fees	429,791	127,801	165,975
Non-audit assurance services			
Fees for reporting on government grants:			
Housing benefits subsidy claim	19,800	19,800	34,354
Pooling of housing capital receipts return	3,250	3,250	5,750
Teachers' pensions return	3,250	3,250	2,900
Fees for other non-audit services	26,300	26,300	43,004
Total fees	456,091	154,101	208,979

¹ Additional fees of £262,313 in respect of the substantial amount of additional scope audit procedures, and increase in associated Manager and Partner time, required to address the audit risk profile of the Council and the volume of errors, significant deficiencies in internal control and other issues identified as part of the audit. These are summarised on the previous page and the detail previously reported to the Audit and Standards Committee. These fees have been discussed and agreed with the Strategic Director, Finance and Investment (S151 Officer).

² In 2018/29 the Council consolidated the group accounts for the first time. The scale fee set by PSAA does not include an amount for the audit of the group consolidation and we have agreed £39,677 for this first year. Although this will be a recurrent addition to the scale fee, there were a significant number of errors identified as part of the audit of the group consolidation in 2018/19 and we do not anticipate the same level of misstatements to recur in future years. For this reason we proposed and agreed a recurrent fee of £23,581 for group consolidation work, on the assumption that the group accounts and working papers received in future years will be of good quality and free from material misstatement.

There is a requirement for all additional fees to be approved by PSAA before they can be invoiced. This will be the next step in the process.



PROGRESS SINCE 2018/19

Root cause analysis

- ▶ The RCA process and the action plan implemented subsequently has led to improvements in the accounts preparation processes.
- ▶ While the timing of the RCA and action planning was after the 2019/20 Statement of Accounts had been prepared, so not all actions could be implemented for 2019/20, a number of actions were implemented retrospectively.
- ▶ While there are still reportable matters arising from the 2019/20 audit, some of which are material, there have so far been fewer errors identified and no prior period adjustments (as reported in our reports to the ASC in March & October 2022).

FOR MORE INFORMATION:

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Audit & Standards Committee

4 October 2023

Title: Internal Audit Performance - External Quality Assessment	
Open Report	For information & discussion
Wards Affected: None	Key Decision: No
Report Authors: Christopher Martin (Head of Assurance)	Contact Details: Christopher.Martin@lbbd.gov.uk 07870278188
Accountable Director: Jo Moore, Interim Strategic Director, Finance & Investment	
<p>Summary</p> <p>Public Sector Internal Audit Standard 1312 requires that each audit service undergoes an external assessment at least once every five years by a qualified, independent assessor. LBBd have opted into the London Audit Group's peer assessment process. The attached report was prepared by the Corporate Head of Audit, Anti-Fraud and Risk Management for the London Borough of Hackney and concludes that LBBd's Internal Audit service 'generally conforms' to the Standards, the highest grading achievable.</p> <p>The report details the 1 (of 144) areas of partial conformance and makes 7 low priority recommendations for consideration that the Head of Assurance has accepted.</p>	
<p>Recommendation(s)</p> <p>The Audit & Standards Committee is asked to note the contents of the report.</p>	

1 Background

- 1.1 The Public Sector Internal Audit Standards were adopted by the UK public sector from 1st April 2013. These Standards are derived from the International Professional Practices Framework created by the Institute of Internal Audit with additional obligations relevant to public sector services added on the recommendation of the Internal Audit Standards Advisory Board. The Standards were revised in 2017 and further changes are currently out for consultation.
- 1.2 These Standards created, for the first time, an obligation for each Internal Audit service to undertake an annual review of conformance (Standard 1311) and, at least every five years, an external assessment conducted by a qualified, independent assessor (Standard 1312). There is no set, uniform approach to undertaking an assessment. Rather, the Standards allow for the participants to tailor the approach as necessary, in consultation with Members and Senior Management.

- 1.3 The requirement for a fresh external quality assessment fell due in 2022/23. The Head of Assurance agreed to take part in the London Audit Group's peer review process to secure the required assessment. In this process, the London Audit Group (comprising Heads of Audit from across London Boroughs) co-ordinate the assessments of participating councils so that each council receives and provides one assessment. LBBB was assigned an assessment led by the London Borough of Hackney and will, in turn, deliver an assessment of another Borough to be decided.
- 1.4 LBBB's assessment was led by Michael Sheffield, Corporate Head of Audit, Anti-Fraud and Risk Management at Hackney. The fieldwork took place during the spring of 2023 with the report finalised in July 2023.

2 External Quality Assessment Report Findings

- 2.1 The assessment concludes that LBBB generally conforms to the Standards. This is the top of a three-point scale used in the Public Sector Internal Audit Standards that also includes 'partially conforms' and 'does not conform' as possible outcomes.
- 2.2 The assessment considered 144 discrete points of conformance and concluded that LBBB conformed with 143. The area picked out as demonstrating 'partial conformance' is detailed in the report, along with recommendations for remedial action.
- 2.3 The full report, including the Head of Assurance response to the recommendations, is at Appendix A.

3 Legal Implications

Implications completed by: Dr Paul Feild, Senior Governance Solicitor

- 3.1 In seeking an External Quality Assessment, the Council remains in conformance with the Public Sector Internal Audit Standards and Regulation 5 of the Accounts and Audit Regulations 2015.

4 Financial Implications

Implications completed by: Katherine Heffernan, Head of Service Finance

- 4.1 No direct implications. As part of our involvement in the London Audit Group peer review scheme, the Head of Assurance is now committed to undertaking a review of another London Borough. This review is accounted for within the approved Internal Audit Plan.

5 Other Implications

- 5.1 **Risk Management** – The internal audit activity is risk-based and therefore support effective risk management across the Council.

5.2 No other implications to report

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

7 List of appendices:

Appendix A: External Quality Assessment Report

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London Borough of Barking & Dagenham

Final Report: Internal Audit Performance External Quality Assessment

Date: 31 July 2023

Report Author(s):

Michael Sheffield
Corporate Head of Audit, Anti-Fraud and Risk Management
London Borough of Hackney

Ademola Ayinde
Internal Audit Manager
London Borough of Hackney

Introduction

The Public Sector Internal Audit Standards (PSIAS) require an external quality assessment be undertaken at least every five years, although more frequent assessments may take place. The PSIAS apply to all public sector internal audit service providers, whether in-house, shared services or outsourced.

Standard 1312 states:

External assessments must be conducted at least once every five years by a qualified, independent assessor or assessment team from outside the organisation.

The standards and interpreting guidance go on to clarify that the external assessor must conclude as to conformance with the Code of Ethics and the Standards. The lead assessor must demonstrate competence in the professional practice of internal auditing and the external assessment process. Neither the lead assessor or any members of the assessment team should have an actual or perceived conflict of interest and they must not be a part of, or under the control of, the organisation to which the internal audit activity belongs. The scope of the assessment must be agreed with an appropriate sponsor, such as the Director of Finance or the Chair of the Audit Committee.

Across London, the London Audit Group has organised a system of independently validated assessments. It has been agreed that self-assessments will be completed and that these will be validated by suitably qualified individuals or teams from other members of the group.

This review of internal audit's performance at the London Borough of Barking & Dagenham has been led by Michael Sheffield, Corporate Head of Audit, Anti-Fraud & Risk Management at London Borough of Hackney, who is appropriately qualified, independent and has no actual or perceived conflicts of interest. The terms of reference for this assessment were discussed and agreed with Christopher Martin, Head of Assurance at London Borough of Barking & Dagenham.

Conclusion

Based on the self-assessment, supporting evidence and independent validation it is the view of the lead assessor that the internal audit service for the London Borough of Barking & Dagenham **generally conforms with the Public Sector Internal Audit Standards**. Definitions of all the ratings are detailed in Appendix A.

Generally Conforms	The relevant structures, policies, and procedures of the internal audit service, as well as the processes by which they are applied, at least comply with the requirements of the section in all material respects.
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Key Observations

This assessment has identified several areas where the PSIAS requirements are not met in full, the priority rating to address each item has been rated as low and the cumulative effect of these observations is that the service overall is considered in our opinion to be generally conforming with the standards.

It is also our opinion that the observations set out here are relatively straightforward to address, and the identification of seven areas for minor improvement should be viewed in the context of the 130+ standard categories that PSIAS incorporates.

Code of Ethics

At the time of the review all in-house internal audit staff had completed the London Borough of Barking & Dagenham corporate declaration of interest return. This goes some way to providing assurance that internal audit staff do not have external interests that are in conflict with the Council's priorities and good governance arrangements.

The requirements of PSIAS extend beyond the corporate process to ensure that audit engagements are carried out in a way that does not compromise objectivity, and that individual auditors are aware of the ethical standards within which they must operate.

During the review we were advised that management assurance on auditor ethics and standards was also provided by careful consideration of work allocations, and the awareness of individual circumstances that is possible within a small in-house team. While recognising these as valid points, a recommendation has been made to adopt a supplementary declaration process for the audit team as a means to demonstrate this requirement has been met in full. Since the assessment meeting took place we note that a new declaration process has been introduced and this has been completed by all staff.

Promoting Organisational Improvement

The PSIAS set out a list of principles at Section 5, including that Internal Audit should promote organisational improvement.

It was noted that the most significant audit recommendations (those assessed as 'high' or 'critical' priority) are reported to the Audit & Standards Committee in full along with statistical information to demonstrate how successful management has been in implementing agreed recommendations. A lot of detail is provided to the Board about these risks which is commendable.

Recommendations that are identified through audit work which are assessed as 'Medium' priority are monitored and followed up by the Internal Audit team, but management progress toward implementing these is not reported to the Audit &

Standards Committee, with the intention that the Committee's attention is focussed at the most important issues. During the PSIAS review meeting (February 2023) information was reviewed which indicated that 30% of 2021/22 medium recommendations had not been fully implemented. While it is quite possible that there are valid reasons for some recommendations not being put in place (for example, changes to systems, alternative controls are introduced, etc.), it is also possible that greater value could result from the same amount of audit work by including some information about the medium priority recommendations to the Committee.

To maximise the benefit from limited audit resources we have recommended that consideration should be given to some level of performance information about medium priority recommendations being provided to the Audit & Standards Committee as part of the regular update report. It could be that statistical data is preferable to the level of detail that is provided for the higher priority recommendations.

1230 Continuing Professional Development

Audit staff are required to be professionally qualified and to undergo a process of continuing professional development to ensure that skills remain up to date.

Our review was provided with evidence of the training that is currently underway for one team member, and assurance that CPD is in place was demonstrated by providing records from professional bodies that staff belong to. It was observed that there was not a formal record of the training that all staff have undertaken which could be helpful to more easily identify potential strengths and weaknesses across the team, highlight where future training could be most beneficial and more easily satisfy the specific PSIAS requirement to maintain a training record.

1300 Quality Assurance & Improvement Programme

Ongoing internal performance monitoring of the internal audit function is required to enable an assessment against the PSIAS standards and also identify any areas for improvement. In addition, an external assessment should take place every 5 years.

In common with the majority of local authority audit services, there has been an extended gap since the last external review of the London Borough of Barking & Dagenham internal audit service because of the pandemic. Measures are in place to ensure that the service is delivered in a way that recognises the required standards, for example, there is an internal audit manual which provides guidance on how assignments should be carried out, this had been updated within the last year. An internal assessment has been undertaken recently ahead of this review, but it did not identify any non-conformity against the large number of considerations that PSIAS requires.

A Quality Assurance and Improvement Plan (QAIP) is in place which sets out the controls that are in place to provide assurance that the service remains at a high level of quality, although it does not refer to an improvement plan, possibly because the most recent internal assessment did not identify any non-conformance with the PSIAS.

The inclusion of an improvement plan would ensure that management action to further improve the service is targeted at the areas which will have the most benefit and help to ensure that any work is prioritised.

2200 Engagement Planning

Pre-audit meeting

The audit manual sets out the process for planning individual audit assignments, including a pre-audit meeting which will inform the work programme (for example, the objectives, scope, timing and resources that will be needed).

Our review identified that the scoping meeting does not always take place, for example, if the audit is very routine such as a review of a system that is regularly audited. Related to this, notes of the scoping meeting are not always kept on file, unless information material to the audit arises from the process.

In our opinion the pre-audit meeting is a helpful part of the audit process and should be encouraged. Although it is not explicitly required under PSIAS, it does support the PSIAS requirement to plan the engagement and is likely to increase management buy-in to individual audits. If there are situations where management is satisfied that the pre-audit meeting will not add value then these should be set out in the audit manual.

Audit work plan

The audit work plan is a document to set out how the audit work will achieve the objectives set out in the terms of reference. The London Borough of Barking & Dagenham internal audit management team confirmed that there is an expectation that a work plan should always be prepared but we noted that the internal audit manual allows for an exception whereby more experienced auditors may not need to produce this document.

The internal audit manual should be updated to reflect the reasonable management requirement that a work plan is always prepared for every engagement, even if this is by way of a template document for repeat areas of work.

Summary Assessment

Statement	Generally Conforms	Partially Conforms	Does not Conform
Mission of Internal Audit			
Does the internal audit activity aspire to accomplish the Mission of Internal Audit as set out in the PSIAS?	✓		
Definition of Internal Auditing			
Is the internal audit activity independent and objective?	✓		
Does the internal audit activity use a systematic and disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes within the organisation?	✓		
Core Principles			
Does the internal audit activity conform with the PSIAS by demonstrating integrity?	✓		
Does the internal audit activity conform with the PSIAS by demonstrating competence and due professional care?	✓		
Does the internal audit activity fully conform with the PSIAS by being objective and free from undue influence (independent)?	✓		
Does the internal audit activity fully conform with the PSIAS by being aligned with the strategies, objectives, and risks of the organisation?	✓		
Is the internal audit activity appropriately positioned and adequately resourced?	✓		
Does the internal audit activity demonstrate quality and continuous improvement?	✓		
Does the internal audit activity communicate effectively?	✓		
Does the internal audit activity provide risk-based assurance, based on adequate risk assessment?	✓		
Is the internal audit activity insightful, proactive, and future-focused?	✓		
Does the internal audit activity promote organisational improvement?	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
Code of Ethics			
Do internal auditors display integrity?	✓		
Do internal auditors display objectivity?	✓		
Do internal auditors display due respect and care by maintaining confidentiality?	✓		
Do internal auditors display competency?	✓		
Do internal auditors, whether consciously or through conformance with organisational procedures and norms, have due regard to the Committee on Standards of Public Life's <i>Seven Principles of Public Life</i> ?	✓		
Attribute Standards			
Does the internal audit charter conform with the PSIAS by including a formal definition of the purpose, authority and responsibility of the internal audit activity?	✓		
Does the internal audit charter conform with the PSIAS by clearly and appropriately defining the terms 'board' and 'senior management' for the purposes of the internal audit activity?	✓		
Internal Audit Charter.	✓		
Does the CAE periodically review the internal audit charter and present it to senior management and the board for approval?	✓		
Does the CAE have direct and unrestricted access to senior management and the board?	✓		
Are threats to objectivity identified and managed?	✓		
Does the CAE report to an organisational level equal or higher to the corporate management team? Does the CAE report to a level within the organisation that allows the internal audit activity to fulfil its responsibilities?	✓		
Does the CAE's position in the management structure: Provide the CAE with sufficient status to ensure that audit plans, reports and action plans are discussed effectively with the board? Ensure that he or she is sufficiently senior and independent to be able to provide a credibly constructive challenge to senior management?	✓		
Does the CAE confirm to the board, at least annually, that the internal audit activity is organisationally independent?	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
Is the organisational independence of internal audit realised by functional reporting by the CAE to the board?	✓		
Does the CAE communicate and interact directly with the board?	✓		
Where the CAE has roles or responsibilities that fall outside of internal auditing, are adequate safeguards in place to limit impairments to independence or objectivity? Does the board periodically review these safeguards?	✓		
Do internal auditors have an impartial, unbiased attitude?	✓		
Do internal auditors avoid any conflict of interest, whether apparent or actual?	✓		
Do internal auditors avoid any conflict of interest, whether apparent or actual?	✓		
If there has been any real or apparent impairment of independence or objectivity, has this been disclosed to appropriate parties?	✓		
Does review indicate that work allocations have operated so that internal auditors have not assessed specific operations for which they have been responsible within the previous year?	✓		
If there have been any assurance engagements in areas over which the CAE also has operational responsibility, have these engagements been overseen by someone outside of the internal audit activity?	✓		
Is the risk of over-familiarity or complacency managed effectively?	✓		
Have internal auditors declared interests in accordance with organisational requirements?		✓	
Where any internal auditor has accepted any gifts, hospitality, inducements or other benefits from employees, clients, suppliers or other third parties has this been declared and investigated fully?	✓		
Does review indicate that no instances have been identified where an internal auditor has used information obtained during the course of duties for personal gain?	✓		
Have internal auditors disclosed all material facts known to them which, if not disclosed, could distort their reports or conceal unlawful practice, subject to any confidentiality agreements?	✓		
If there has been any real or apparent impairment of independence or objectivity relating to a proposed consulting services engagement, was this disclosed to the engagement client before the engagement was accepted?	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
Where there have been significant additional consulting services agreed during the year that were not already included in the audit plan, was approval sought from the board before the engagement was accepted?	✓		
Does the CAE hold a professional qualification, such as CMIIA/CCAB or equivalent? Is the CAE suitably experienced?	✓		
Is the CAE responsible for recruiting appropriate internal audit staff, in accordance with the organisation's human resources processes?	✓		
Does the internal audit activity collectively possess or obtain the skills, knowledge and other competencies required to perform its responsibilities?	✓		
Do internal auditors have sufficient knowledge to evaluate the risk of fraud and anti-fraud arrangements in the organisation?	✓		
Do internal auditors have sufficient knowledge of key information technology risks and controls?	✓		
Do internal auditors have sufficient knowledge of the appropriate computer-assisted audit techniques that are available to them to perform their work, including data analysis techniques?	✓		
Do internal auditors exercise due professional care?	✓		
Do internal auditors exercise due professional care during a consulting engagement?	✓		
Has the CAE defined the skills and competencies for each level of auditor? Does the CAE periodically assess individual auditors against the predetermined skills and competencies?	✓		
Do internal auditors undertake a programme of continuing professional development?	✓		
Has the CAE developed a QAIP that covers all aspects of the internal audit activity and enables conformance with all aspects of the PSIAS to be evaluated?	✓		
Does the QAIP include both internal and external assessments?	✓		
Does the CAE ensure that audit work is allocated to staff with the appropriate skills, experience and competence?	✓		
Do internal assessments include ongoing monitoring of the internal audit activity?	✓		
Does ongoing performance monitoring contribute to quality improvement through the effective use of performance targets?	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
Are the periodic self-assessments or assessments carried out by people external to the internal audit activity undertaken by those with a sufficient knowledge of internal audit practices?	✓		
Does the periodic assessment include a review of the activity against the risk-based plan and the achievement of its aims and objectives?	✓		
Has an external assessment been carried out, or is one planned to be carried out, at least once every five years?	✓		
Has the CAE properly discussed the qualifications and independence of the assessor or assessment team with the board?	✓		
Has the CAE agreed the scope of the external assessment with an appropriate sponsor, such as the chair of the audit committee, the CFO or the chief executive?	✓		
Has the CAE reported the results of the QAIP to senior management and the board?	✓		
Has the CAE included the results of the QAIP and progress against any improvement plans in the annual report?	✓		
Has the CAE stated that the internal audit activity conforms with the PSIAS only if the results of the QAIP support this?	✓		
Has the CAE reported any instances of non-conformance with the PSIAS to the board?	✓		
If appropriate, has the CAE considered including any significant deviations from the PSIAS in the governance statement and has this been evidenced?	✓		
Performance Standards			
Has the CAE determined the priorities of the internal audit activity in a risk-based plan and are these priorities consistent with the organisation's goals?	✓		
Does the risk-based plan set out how internal audit's work will identify and address local and national issues and risks?	✓		
Does the risk-based plan set out the: Audit work to be carried out?	✓		
Does the CAE review the plan on a regular basis and has he or she adjusted the plan when necessary in response to changes in the organisation's business, risks, operations, programmes, systems and controls?	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
Is the internal audit activity's plan of engagements based on a documented risk assessment?	✓		
In developing the risk-based plan, has the CAE also given sufficient consideration to: Any declarations of interest (for the avoidance for conflicts of interest)? The requirement to use specialists, eg IT or contract and procurement auditors? Allowing contingency time to undertake ad hoc reviews or fraud investigations as necessary? The time required to carry out the audit planning process effectively as well as regular reporting to and attendance of the board, the development of the annual report and the CAE opinion?	✓		
In developing the risk-based plan, has the CAE consulted with senior management and the board to obtain an understanding of the organisation's strategies, key business objectives, associated risks and risk management processes?	✓		
Does the CAE take into consideration any proposed consulting engagement's potential to improve the management of risks, to add value and to improve the organisation's operations before accepting them?	✓		
Has the CAE communicated the internal audit activity's plans and resource requirements to senior management and the board for review and approval? Has the CAE communicated any significant interim changes to the plan and/or resource requirements to senior management and the board for review and approval, where such changes have arisen?	✓		
Has the CAE communicated the impact of any resource limitations to senior management and the board?	✓		
Does the risk-based plan explain how internal audit's resource requirements have been assessed?	✓		
Has the CAE planned the deployment of resources, especially the timing of engagements, in conjunction with management to minimise disruption to the functions being audited, subject to the requirement to obtain sufficient assurance?	✓		
If the CAE believes that the level of agreed resources will impact adversely on the provision of the internal audit opinion, has he or she brought these consequences to the attention of the board?	✓		
Has the CAE developed and put into place policies and procedures to guide the internal audit activity?	✓		
Does the risk-based plan include an adequately developed approach to using other sources of assurance and any work that may be required to place reliance upon those sources?	✓		
Does the CAE report periodically to senior management and the board on the internal audit activity's purpose, authority, responsibility and performance relative to its plan?	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
Where an external internal audit service provider acts as the internal audit activity, does that provider ensure that the organisation is aware that the responsibility for maintaining and effective internal audit activity remains with the organisation?	✓		
Does the internal audit activity assess and make appropriate recommendations to improve the organisation's governance processes?	✓		
Has the internal audit activity evaluated the design, implementation and effectiveness of the organisation's ethics-related objectives, programmes and activities?	✓		
Has the internal audit activity assessed whether the organisation's information technology governance supports the organisation's strategies and objectives?	✓		
Has the internal audit activity evaluated the effectiveness of the organisation's risk management processes?	✓		
Has the internal audit activity evaluated the risks relating to the organisation's governance, operations and information systems?	✓		
Has the internal audit activity evaluated the potential for fraud and also how the organisation itself manages fraud risk?	✓		
Do internal auditors address risk during consulting engagements consistently with the objectives of the engagement?	✓		
Do internal auditors successfully avoid managing risks themselves, which would in effect lead to taking on management responsibility, when assisting management in establishing or improving risk management processes?	✓		
Has the internal audit activity evaluated the adequacy and effectiveness of controls in the organisation's governance, operations and information systems	✓		
Do internal auditors utilise knowledge of controls gained during consulting engagements when evaluating the organisation's control processes?	✓		
Do internal auditors develop and document a plan for each engagement?	✓		
Do internal auditors consider the following in planning an engagement, and is this documented: objectives, controls, risks, resources, operations, risk mitigation, adequacy, effectiveness, improvements?	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
Where an engagement plan has been drawn up for an audit to a party outside of the organisation, have the internal auditors established a written understanding with that party?	✓		
For consulting engagements, have internal auditors established an understanding with the engagement clients	✓		
Have objectives been agreed for each engagement?	✓		
Have internal auditors ascertained whether management and/or the board have established adequate criteria to evaluate and determine whether organisational objectives and goals have been accomplished?	✓		
Do the objectives set for consulting engagements address governance, risk management and control processes as agreed with the client?	✓		
Is the scope that is established for each engagement generally sufficient to satisfy the engagement's objectives?	✓		
Where significant consulting opportunities have arisen during an assurance engagement, was a specific written understanding as to the objectives, scope, respective responsibilities and other expectations drawn up?	✓		
For each consulting engagement, was the scope of the engagement generally sufficient to address any agreed-upon objectives?	✓		
Have internal auditors decided upon the appropriate and sufficient level of resources required to achieve the objectives of each engagement	✓		
Have internal auditors developed and documented work programmes that achieve the engagement objectives?	✓		
Do internal auditors generally identify (sufficient, reliable, relevant and useful) information which supports engagement results and conclusions?	✓		
Have internal auditors generally based their conclusions and engagement results on appropriate analyses and evaluations?	✓		
Have internal auditors generally remained alert to the possibility of the following when performing their individual audits, and has this been documented: Intentional wrongdoing? Errors and omissions? Poor value for money? Failure to comply with management policy? Conflicts of interest?	✓		
Have internal auditors documented the relevant information required to support engagement conclusions and results?	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
Does the CAE control access to engagement records?	✓		
Are all engagements properly supervised to ensure that objectives are achieved, quality is assured and that staff are developed?	✓		
Do the communications of engagement results include the following: The engagement's objectives? The scope of the engagement? Applicable conclusions? Recommendations and action plans, if appropriate?	✓		
Do internal auditors generally discuss the contents of the draft final reports with the appropriate levels of management to confirm factual accuracy, seek comments and confirm the agreed management actions?	✓		
If recommendations and an action plan have been included, are recommendations prioritised according to risk?	✓		
Subject to confidentiality requirements and other limitations on reporting, do communications disclose all material facts known to them in their audit reports which, if not disclosed, could distort their reports or conceal unlawful practice?	✓		
Where appropriate, do engagement communications acknowledge satisfactory performance of the activity in question?	✓		
When engagement results have been released to parties outside of the organisation, does the communication include limitations on the distribution and use of the results?	✓		
Where the CAE has been required to provide assurance to other partnership organisations, or arm's length bodies such as trading companies, have the risks of doing so been managed effectively, having regard to the CAE's primary responsibility to the management of the organisation for which they are engaged to provide internal audit services?	✓		
Are internal audit communications generally accurate, objective, clear, concise, constructive, complete and timely?	✓		
If a final communication has contained a significant error or omission, did the CAE communicate the corrected information to all parties who received the original communication?	✓		
Do internal auditors report that engagements are 'conducted in conformance with the PSIAS' only if the results of the QAIP support such a statement?	✓		
Where any non-conformance with the PSIAS has impacted on a specific engagement, do the communication of the results disclose the following: The principle or rule of conduct of the <i>Code of Ethics</i> or <i>Standard(s)</i> with	✓		

Statement	Generally Conforms	Partially Conforms	Does not Conform
which full conformance was not achieved? The reason(s) for non-conformance? The impact of non-conformance on the engagement and the engagement results?			
Has the CAE determined the circulation of audit reports within the organisation, bearing in mind confidentiality and legislative requirements?	✓		
Has the CAE communicated engagement results to all appropriate parties?	✓		
Before releasing engagement results to parties outside the organisation, did the CAE: Assess the potential risk to the organisation? Consult with senior management and/or legal counsel as appropriate? Control dissemination by restricting the use of the results?	✓		
Where any significant governance, risk management and control issues were identified during consulting engagements, were these communicated to senior management and the board?	✓		
Has the CAE delivered an annual internal audit opinion?	✓		
Does the communication identify the following: The scope of the opinion, including the time period to which the opinion relates? Any scope limitations? The consideration of all related projects including the reliance on other assurance providers? The risk or control framework or other criteria used as a basis for the overall opinion?	✓		
Does the annual report incorporate the following: annual opinion, summary of work, qualifications, impairments, comparisons, conformance with PSIAIS, results of the QAIP, progress against improvement plans, summary of performance?	✓		
Where issues have arisen during the follow-up process (for example, where agreed actions have not been implemented), has the CAE considered revising the internal audit opinion?	✓		
Does the internal audit activity monitor the results of consulting engagements as agreed with the client?	✓		
If the CAE has concluded that management has accepted a level of risk that may be unacceptable to the organisation, has he or she discussed the matter with senior management?	✓		

Appendix A – Definitions

Generally Conforms	The relevant structures, policies, and procedures of the internal audit service, as well as the processes by which they are applied, at least comply with the requirements of the section in all material respects.
Partially Conforms	The internal audit service falls short of achieving some elements of practice but is aware of the areas for development. These will usually represent significant opportunities for improvement in delivering effective internal audit.
Does Not Conform	The internal audit service is not aware of, is not making efforts to comply with, or is failing to achieve many/all of the objectives and practice statements within the section or sub-sections. These deficiencies will usually have a significant negative impact on the internal audit service's effectiveness and its potential to add value to the organisation. These will represent significant opportunities for improvement, potentially including actions by senior management or the Audit Committee.

Appendix B – Action Plan

No.	Finding	Recommendation	Management response	Priority rating
1.	At the time of the review there was no local declaration of interest process in place to ensure that Internal Audit staff reported conflicts of interest specific to their auditing responsibilities, and also conformance with the code of ethics. Internal Audit staff did complete the corporate DoI process.	Management promptly adopted a local DoI process when this point was raised during the review meeting and all staff have since completed a declaration. The local DoI should continue to be completed annually.	The requirement as far as we understand it is that internal auditors declare interests in accordance with organisational requirements, which we believe that we have conformed with.	Low
2.	Medium risks are monitored and followed up by the Internal Audit team, but they are not reported to the Audit & Standards Committee (the intention is to focus the Committee's attention at the most important issues). During the PSIAS interview (February 2023) information was reviewed which indicated that 30% of 2021/22 medium	Statistical information about the status of outstanding medium recommendations should be reported to the Audit & Standards Committee to highlight management progress toward implementing agreed recommendations to improve the control environment.	Agreed to be implemented	Low

	recommendations had not been fully implemented.			
3.	While staff do receive training there is no formal record of this.	Consideration should be given to maintaining a record of all training undertaken by staff. This would help to ensure that individuals and the service collectively have the competencies required as the service evolves.	Agreed to be implemented	Low
4.	In common with the large majority of local authority audit services, there has been an extended gap since the last external review because of the pandemic.	External Assessments should be carried out every five years. The findings of internal and external assessments should be communicated to the Audit & Standards Committee.	Agreed to be implemented	Low
5.	The most recent internal assessment did not identify any non-conformity against the large number of considerations that PSIAS requires. Possibly as a result of this there are no improvement actions set out in the current Quality and Assurance Improvement Plan (QAIP).	Consideration should be given to including an improvement plan in the QAIP to include any agreed actions from this report, and any other improvement measures that the Head of Assurance identifies.	Agreed to be implemented	Low

6.	<p>Scoping meetings do not take place for some standard audits, for example, a review of a system that is audited regularly.</p> <p>Notes of the scoping meeting are not always kept on file - this would only happen if material information arises from the scoping meeting.</p>	<p>The pre-audit meeting ensures that relevant management have engagement with the proposed audit work, and allows the auditor to clarify or obtain further information for the audit brief.</p> <p>Ordinarily, a pre-audit meeting should be held and the minutes or notes should be documented and retained on file.</p> <p>Any circumstances under which a pre-audit meeting will not add value to the audit process should be identified and set out in the internal audit manual.</p>	Agreed to be implemented	Low
7.	<p>The Audit Manual provides an explanation of the importance of the audit work programme but also states that more experienced auditors may not need to produce this document - this is contrary to management expectations that were provided as part of the review.</p>	<p>The Audit Manual should be updated to reflect management requirements, and the change should be communicated to staff.</p>	Agreed to be implemented	Low

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Audit & Standards Committee

4 October 2023

Title: Review of Key Counter Fraud Policies & Strategy 2023	
Report Author: Kevin Key, Counter Fraud & Risk Manager Tel: 020 8227 2850, E-mail: kevin.key@lbbd.gov.uk	
Wards Affected: None	For Information
	Key Decision: No
Accountable Director: Jo Moore, Interim Strategic Director Finance & Investment	
<p>Summary: 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.</p>	
<p>Recommendation:</p> <p>The Audit & Standards Committee is recommended to:</p> <ul style="list-style-type: none"> (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 Assurance 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 counter fraud and risk are to be reviewed annually for approval by the Audit and Standards Committee. This report sets out the latest versions and a summary of their purpose.
- 1.3. Changes have been made to all policies to reflect the Council's new Corporate Plan and to clarify the anti-fraud culture expected of our stakeholders. Changes have also been made to some definitions in line with external guidance and to job titles to reflect current ways of working. All changes made at this iteration of the policies have been subject to consultation with Legal, HR, staff networks and Trade Unions.
- 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 as requested at the meeting of the Audit and Standards Committee in November 2020.

- 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
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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, Head of Service 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 2023
- B – Counter Fraud Policy including Fraud Response Plan 2023
- C – Prosecution Policy 2023
- D – Money Laundering Policy 2023
- E – Whistleblowing Policy 2023
- F – Regulation of Investigatory Powers Policy 2023
- G – Anti-Bribery Policy 2023

Appendix A

Assurance Group **Counter Fraud Strategy**

2023

Date Last Reviewed:	June 2023
Approved by:	Audit & Standards Committee
Date Approved:	TBC
Review Date:	June 2024
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. Residents are supported during the current Cost of Living Crisis.
2. Residents are safe, protected, and supported at their most vulnerable.
3. Residents live healthier, happier, independent lives for longer.
4. Residents prosper from good education, skills development, and secure employment.
5. Residents benefit from inclusive growth and regeneration.
6. Residents live in, and play their part in creating, safer, cleaner, and greener neighbourhoods.
7. Residents live in good housing and avoid becoming homeless.

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.

Investigators are authorised to exercise powers to require information pursuant to Section 4 of the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014 in cases of suspected social housing fraud.

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

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.

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APPENDIX B

Assurance Group

Counter Fraud Policy

2023

Date Last Reviewed:	June 2023
Approved by:	Audit & Standards Committee
Date Approved:	TBC
Review Date:	June 2024
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

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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 Strategic Director of Finance and Investment (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.

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?

A bribe is a financial or other advantage offered, promised, requested or given to induce a person to perform a relevant function or activity improperly, or to reward them for doing so. Bribery includes offering, promising, giving, accepting or seeking a bribe.

This area is covered in greater depth by the Anti-Bribery 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 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.

APPENDIX C

Assurance Group

The Fraud Prosecution Policy

2023

Date Last Reviewed:	June 2023
Approved by:	Audit & Standards Committee
Date Approved:	TBC
Review Date:	June 2024
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 associated offences. 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 prevent and 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.

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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 case will be considered for prosecution.

In assessing whether to start a prosecution the Council will apply The Full Code Test in the Code for Crown Prosecutors, as revised from time to time. This is a two stage process and will be applied after pursuing all reasonable lines of enquiry and any further evidence or material is unlikely to affect the application of the Test.

- **The Evidential Stage: is there sufficient evidence to provide a realistic prospect of conviction?**
- **The Public Interest Stage: is it in the public interest to prosecute or to offer an out-of-court disposal?**

If a case passes the evidential stage, a prosecution will usually be pursued unless there are public interest factors against prosecution which clearly outweigh those tending in favour.

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

- was not a single incident
- is of high value
- was planned
- was carried out by an officer in a position of authority or trust and he or she took advantage of this
- involved more than one person

Details of how the Council will apply the 2 stage Test can be found at the end of this document.

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 evidence given. The advantage of this approach is that all appropriate action is taken at the earliest opportunity.

The Council believes fair and effective prosecution is essential in order to protect public funds and deter fraudulent activity.

Irrespective of the sanctions pursued for general fraud, the council will use all measures available to it to recover any money lost due to fraudulent activity.

In respect to criminal redress, this will be sought through the application for a Compensation Order to the Courts. This Order will not only outline the losses sustained by the council through fraud but also the investigation costs.

In respect of Internal Disciplinary, the council has a responsibility, following the outcome of its investigation, to initiate an appropriate procedure aimed at recovering all monies identified as being lost or misappropriated through fraud.

The mechanism by which misappropriated monies are to be repaid will normally be established and agreed prior to any sanction being applied and may be managed through utilisation of procedures such as deduction from salary or debtor invoicing as well as the recovery of losses from pension entitlements where appropriate.

Where the above mechanisms fail to recover any monies owed to the council, following advice from Legal Services, the Assurance Group will consider the option of civil redress.

Civil redress is available to the council in all instances where initial attempts to recover the loss, such as deduction from salary or debtor invoicing, have failed. In such instances, if considered appropriate, Legal Services will make an application either to the Small Claims or County Court - depending on the value to be recovered.

Where other fraudulently obtained assets are found, action under Proceeds of Crime legislation will also be considered utilising Accredited Financial Investigator resources.

Publicity

Assurance Group officers will seek to publicise successfully prosecuted cases, with the aim to deter others and thereby to prevent further frauds.

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 or by visiting our intranet pages.

Stages the council will apply in considering a case for prosecution

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.

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APPENDIX D

Assurance Group

Money Laundering Policy

2023

Date Last Reviewed:	June 2023
Approved by:	Audit & Standards Committee
Date Approved:	TBC
Review Date:	June 2024
Document Owner:	Head of Assurance

The Council's commitment to the Money Laundering Policy

The London Borough of Barking & Dagenham, is committed to taking strong measures to prevent the use of its services for money laundering and terrorist financing. The Council takes 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 of alerting all those to whom it applies to understand legislative and regulatory obligations and 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.

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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 offences include:

- 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
- making a disclosure that is likely to prejudice a money laundering investigation, or to falsify, conceal, destroy or otherwise dispose of documents relevant to the investigation or cause or permit another do so, knowing or suspecting an investigation is under way or planned.
- entering into or becoming concerned in an arrangement which facilitates the retention or control by or on behalf of terrorist property by concealment, removal from the jurisdiction, transfer to nominees or in any other way.
- failing to disclose an offence of laundering terrorist property.

Commented [KM1]: This does not apply to local authorities

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 2002 and the Terrorism Act 2000, can attract penalties of unlimited fines and up to 14 years' imprisonment.

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 or by visiting our intranet pages.

APPENDIX E

Assurance Group

Whistleblowing Policy

2023

Date Last Reviewed:	June 2023
Approved by:	Audit & Standards Committee
Date Approved:	TBC
Review Date:	June 2024
Document Owner:	Head of Assurance

The Councils commitment to the Whistleblowing Policy

The Council is committed to creating a climate of openness and transparency in which individuals can report wrongdoing against the Council without fear of being victimised. The Council recognises that whistleblowing plays an important role in safeguarding the effective delivery of public services, protecting Council finances and ensuring value for money.

What are the aims and requirements of this policy?

The purpose of this policy is to encourage and enable employees, and persons providing services on behalf of or to the council, to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and independently investigated as appropriate, and their confidentiality will be respected.

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.

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.

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.

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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.

The Public Interest Disclosure Act 1998, as amended, provides protection for employees who raise concern about wrongdoing which are reasonably believed to be true and are in the public interest. Examples of public interest disclosures are set out below.

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.

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

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.lbdd.gov.uk/council-and-democracy/councillors-and-committees/councillors/complaints-about-councillors>

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.

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;

should be referred to the Local Authority Designated Officer (LADO). The LADO can be contacted on 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 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, 2nd 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

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@lbdd.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 independent investigator, will:

- acknowledge that we have received your concern
- explain how we will handle the matter; and
- tell you what support is available to you

It is difficult to set further timescales as they depend on the nature of the allegation and the type of investigation we need to carry out.

The way we deal with the concern will depend on what it involves. If we need to take urgent action, we will do this before carrying out any investigation. We will first make enquiries to decide whether we should carry out an investigation and, if so, how we should go about it. Throughout all our enquiries and any investigation, our main concerns will be ensuring complete independence and putting the interests of the public first.

Untrue Allegations

If you make an allegation which you believe is true, but it is not confirmed by our investigation, we will not take any action against you.

However, if the investigatory process finds you have made an allegation which you know is untrue; we will take appropriate disciplinary or legal action against you.

Further Support & Guidance

If there are any questions about these procedures, the Monitoring Officer can be contacted on 020 8227 2174; alternatively, the Counter Fraud and Risk Manager can be contacted on 020 8227 2850, caft@lbbd.gov.uk or by visiting our intranet pages.

APPENDIX F

Assurance Group

The Regulation of Investigatory Powers Act Policy

2023

Date Last Reviewed:	June 2023
Approved by:	Audit & Standards Committee
Date Approved:	TBC
Review Date:	June 2024
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 relevant legislation. 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, LBBB 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.

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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 their 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 LBBB 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 LBBB 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 LBBB 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 LBBB 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. LBBB 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 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.

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

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	
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RIPA Application Form

Part II of the Regulation of Investigatory Powers Act 2000

Application for Authorisation for Directed

Surveillance

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

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

Name (print)		Tel No:	
Grade and Rank or position		Date	
Signature			

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.

--

Date of first review	
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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.

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Name (Print)		Grade and Rank/Position	
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Signature		Date and time	
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Signature		Date and time	
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Signature		Date and time	
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Expiry date and time [e.g.: authorisation granted on 1 April 20016 - expires on 30 June 2016, 23:59]	
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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.

--

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

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

Public Authority <i>(including full address)</i>	
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Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Renewal Number			

Details of renewal:

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

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

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>			
Name (Print)	-----	Grade / Rank	-----
Signature	-----	Date	-----
Renewal From:	Time:	Date:	
Date of first review.			
Date of subsequent reviews of this authorisation.			

Unique Reference Number	
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RIPA Review Form

Part II of the Regulation of Investigatory Powers Act 2000

Review of a Directed Surveillance authorisation

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

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			
Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

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].			
Name (Print):	-----	Grade / Rank	-----
Signature:	-----	Date:	-----

10. Date of next review	
--------------------------------	--

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

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

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

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

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2. Explain the value of surveillance in the operation:

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3. Authorising officer's statement.

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

Name (Print)	Grade
Signature	Date

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

Date:		Time:	
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5. Authorisation cancelled.	Date:	Time:
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Forms can also be obtained from the Assurance and Counter Fraud Group at:
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>Has the applicant satisfactorily demonstrated proportionality? Court will ask itself should (not could) we have decided this was proportionate. Is there a less intrusive means of obtaining the same 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>Yes</p>	<p>No</p>
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<p>Has the applicant satisfactorily demonstrated necessity? 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>Yes</p>	<p>No</p>
--	-------------------	------------------

<p>What evidence does applicant expect to gather? 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>Yes</p>	<p>No</p>
--	-------------------	------------------

<p>Is there any likelihood of obtaining confidential information during this operation? If “Yes” operation must be authorised by the Chief Executive or in their absence their deputy.</p>	<p>Yes</p>	<p>No</p>
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<p>Have any necessary risk assessments been conducted before requesting authorisation? 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>Yes</p>	<p>No</p>
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<p>When applying for CHIS authorisation, have officers been identified to:</p> <ul style="list-style-type: none"> a) have day to day responsibility for the CHIS (a handler) b) have general oversight of the use of the CHIS (a controller) c) be responsible for retaining relevant CHIS records, including true identity, and the use made of the CHIS. 	<p>Yes</p>	<p>No</p>
--	-------------------	------------------

<p>Have all conditions necessary for authorisation been met to your satisfaction? GIVE DETAILS</p>	<p>Yes</p>	<p>No</p>
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<p>Do you consider that it is necessary to place limits on the operation? IF YES, GIVE DETAILS (e.g. no. of officers, time, date etc.) and REASONS</p>	<p>Yes</p>	<p>No</p>
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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

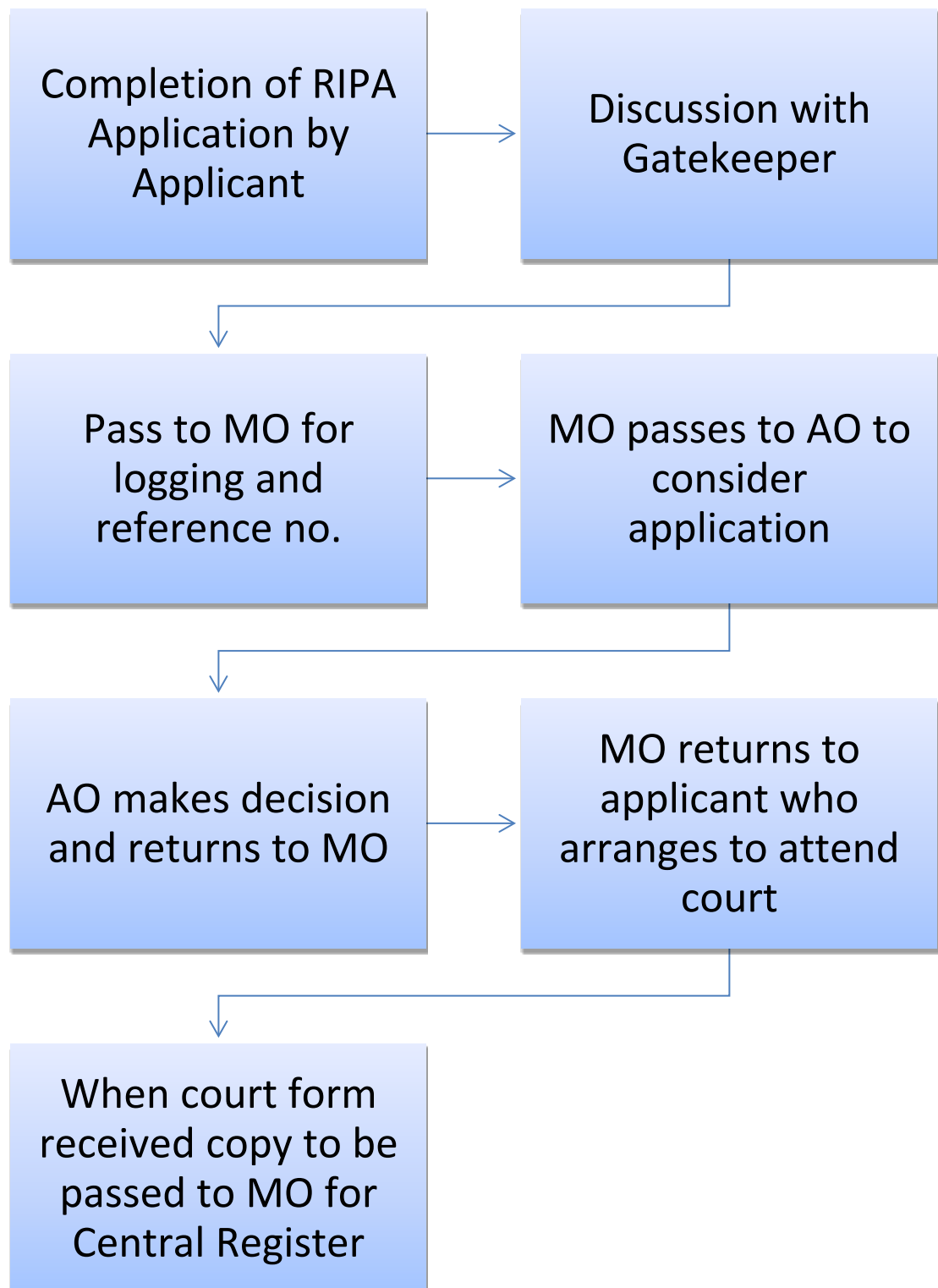
Looking at publicly available pages is considered 'Open Source' but should a decision be made to request access to view page then the situation changes. In order to access specific information a personal or other relationship would have to be created or maintained potentially amounting to the use of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



APPENDIX G

Assurance Group

**Anti-Bribery
Policy**

2023

Date Last Reviewed:	June 2023
Approved by:	Audit & Standards Committee
Date Approved:	TBC
Review Date:	June 2024
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?

To ensure the Council conducts its business to the highest legal and ethical standards. The Council will not be party to corruption or bribery in any form. All of us must work together to ensure that it is untainted by bribery or corruption. This policy is a crucial element of that effort. 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

<u>Title</u>	<u>Page No.</u>
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

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. The Council is committed to the six principles for bribery prevention issued by the Ministry of Justice.

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 Anti-Bribery 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.

Managers should contact the Counter Fraud and Risk Manager immediately upon being notified by an employee of an allegation of bribery, fraud or corruption.

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

Audit and Standards Committee - Work Programme 2023/24

Chair: Councillor Princess Bright

Meeting	Agenda Items	Lead Officer	Reports deadline
22 January 2024	Updates re: 2020/21, 2021/22 and 2022/23 external Audit Report timetable(s) Standards Complaints Update Risk Management Update Internal Audit Q1/Q2 Update Counter Fraud Q1/Q2 Update Committee ToR Review (Subsidiary companies accounts)	BDO Paul Feild Chris Martin Christopher Martin Christopher Martin Jo Moore	5pm, 10 January 2024
26 March 2024	Updates re: 2020/21, 2021/22 and 2022/23 external Audit Report timetable(s) Standards Complaints update Internal Audit Q3 Update Counter Fraud Q3 Update Internal Audit Charter, Strategy & Plan 2024/25	BDO Paul Feild Christopher Martin Christopher Martin Christopher Martin	5pm, 14 March 2024

Meeting dates in the 2023-24 Municipal Year

- 28th June 2023
- 4th October 2023
- Nov/December 2023 (TBC for final Audit Completion Report 2019/20)
- 22nd January 2024
- 26th March 2024

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