Notice of Meeting

PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE

Wednesday, 29 June 2016 - 7:00 pm
Committee Room 2, Town Hall, Barking

Members:  Cllr Dave Miles (Chair); Cllr Rocky Gill (Deputy Chair); Cllr Jeanne Alexander, Cllr Peter Chand, Cllr Elizabeth Kangethe, Cllr James Ogungbose, Cllr Adegboyega Oluwole, Cllr Tony Ramsay and Cllr Phil Waker

Independent Advisor:  vacant

Date of publication: 21 June 2016

Chris Naylor
Chief Executive

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AGENDA

1. Apologies for Absence

2. Declaration of Members' Interests

   In accordance with the Council’s Constitution, Members are asked to declare any interest they may have in any matter which is to be considered at this meeting.

3. Minutes - To confirm as correct the minutes of the meeting held on 22 March 2016 (Pages 3 - 9)

4. Petition re: Closure of the Civic Centre (Pages 11 - 13)

5. Composite Internal Audit & Counter Fraud Annual report - Year 2015/16 (Pages 15 - 33)

6. Review of Key Counter Fraud Policies and Strategy (Pages 35 - 135)

7. Potential shared service for Internal Audit (Pages 137 - 141)
8. Barking Market- Breakdown of Accounts 2015/16 and 2016/17 (Pages 143 - 146)

9. Highways Investment and Reactive Maintenance Update (Pages 147 - 150)

10. Work Programme 2016/17 (Pages 151 - 162)

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 Public Accounts and Audit Select 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).

13. Update on the use of Agency staff, Project workers and Consultants (Pages 163 - 183)

Contains information relating to employees and other individuals (paragraphs 1 and 2)

14. Any other confidential or exempt items which the Chair decides are urgent
Our Vision for Barking and Dagenham

One borough; one community; London’s growth opportunity

Encouraging civic pride

- Build pride, respect and cohesion across our borough
- Promote a welcoming, safe, and resilient community
- Build civic responsibility and help residents shape their quality of life
- Promote and protect our green and public open spaces
- Narrow the gap in attainment and realise high aspirations for every child

Enabling social responsibility

- Support residents to take responsibility for themselves, their homes and their community
- Protect the most vulnerable, keeping adults and children healthy and safe
- Ensure everyone can access good quality healthcare when they need it
- Ensure children and young people are well-educated and realise their potential
- Fully integrate services for vulnerable children, young people and families

Growing the borough

- Build high quality homes and a sustainable community
- Develop a local, skilled workforce and improve employment opportunities
- Support investment in housing, leisure, the creative industries and public spaces to enhance our environment
- Work with London partners to deliver homes and jobs across our growth hubs
- Enhance the borough’s image to attract investment and business growth
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MINUTES OF
PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE

Tuesday, 22 March 2016
(6:10 - 8:30 pm)

Present: Cllr Dave Miles (Chair), Cllr Rocky Gill, Cllr Eileen Keller, Cllr Adegboyega Oluwole, Cllr Tony Ramsay and Cllr Phil Waker

Also Present: Dr Ian Fifield and Phil Johnstone; Cllr Peter Chand, Cllr Dominic Twomey and Cllr Dan Young

Apologies: Cllr Jeanne Alexander

103. Declaration of Members' Interests

There were no declarations of interest.

104. Minutes (3 February 2016)

The minutes of the meeting held on 3 February 2016 were confirmed as correct, with one addition:

Minute 95- Composite Assurance & Counter Fraud Report- Quarters 2 & 3 2015/16 Including Review of Effectiveness of the Internal Audit Service

“With reference to the mini-restructure of the team, Councillor Waker did not agree with the shift of the Group towards preventative work at the expense of reactive investigations”.

105. Petition re: Closure of the Civic Centre

The Select Committee received the report and agreed that this matter would be deferred to its next meeting in June 2016, unless it becomes necessary to call an earlier meeting in the light of a further report, due to be presented in April 2016 on the rationalisation of Council buildings.

The lead petitioner, Andrew Achilleos had been invited to the March meeting and he would be advised of the Select Committee’s latest position in this matter.

106. Addressing Financial Pressures in Children’s Services - The Children’s Social Care Ambition and Finance Efficiency (SAFE) Programme

At its meeting on 21 October 2015, the Select Committee received a report which showed an overview of some key historical data, the current financial position, outline business case for the SAFE programme and benchmarking information.

This updated report presented the progress made to manage spend in Children’s Services and to deliver the Outline Business Case (Appendix 1), presented to the Select Committee on 21 October 2015, for a financial efficiency programme which sought to bring Children’s Services spend almost in line with budgets by March.
The July 2015 revenue budget monitoring report had projected the gross departmental overturn to be £11.6m overspent. The report highlighted a number of mitigating actions to be taken which would reduce the potential end of year overspend to £6.0m. A report to Cabinet in March 2016 was a projected overspend of £5.8m in Children’s Social Care and Complex Needs, mitigated by £300K underspend elsewhere in Children’s Services, with SAFE programme costs at £811K.

The Select Committee asked what were the financial and other risk factors to the SAFE programme and the departmental budget not being brought back into line. The Corporate Director for Children’s Services responded that there was a risk of judicial review if needs were not met; children being left in unsafe positions and financial risks if too many children were in need of out of Borough residential support because we had not been able to intervene quickly enough. The Council had a duty to ensure that children were safe and that any financial risks were reported to them and external auditors. However, there are also corporate risks if spending cannot be managed down because the cost of children’s social care was eating into contingency resources and/or for the Council.

The Select Committee were concerned about the continuing Children’s Services overspend and emphasised that this needed to be reduced. Management were monitoring agency costs in recruitment and team managers were being appointed to deal with this in addition to the work being undertaken across all London Councils. They were also seeking to reduce placement costs. There were two models that would assist management in financial planning, namely, a “demand” model and “financial” model. The latter was almost finalised and this would assist officers in predicting future costs.

The Select Committee considered that there should be a re-balancing of adult and children’s services budgets as the number of children in the borough was continuing to grow. In response, the Corporate Director, Children’s Services stated that there were legal requirements needed from the Care Act which impacted particularly on adult social care, and the adults’ budgets were also under pressure. The Strategic Director for Finance and Investment had a specific responsibility to ensure that budgets were as robust as possible across all areas of the Council’s services in liaison with departmental Chief Officers. It was clear that Members faced tough choices to identify which areas should be protected in a period of prolonged financial austerity.

The Select Committee agreed that a further report would be submitted to them in six months time (September 2016), in order to outline progress to deliver the Social Care Ambition and Financial Efficiency (SAFE) Programme as set out in the Outline Business Case (Appendix 1).

The Select Committee noted the report and the progress made to deliver the business case as detailed in Appendix 2 at agenda item 13.
107. Risk Management Review

This report provided a summary of the current position of Corporate Risks. There were a total of 26 Corporate Risks, the same as at the last report to the Select Committee.

The Select Committee noted the report and requested that, in future, the Corporate Risks Dashboard should be presented in A3 landscape form to ensure that it would be easier to read and review.

108. Internal Audit Charter, Audit Strategy & Audit Plan 2016/17

This report presented the Internal Audit Charter and Internal Audit Strategy. These documents, in accordance with best practice, clearly defined the purpose, authority and responsibility of Internal Audit, set out how the internal audit function supported the Council’s Vision & Priorities and how the service would be delivered and developed.

This report also detailed the proposed Internal Audit activity to be undertaken in line with the Audit Strategy in 2016/17.

The Group Manager (Audit & Counter Fraud) explained that regulations arising from the Local Audit & Accountability Act 2014 required the Council to “undertake an effective internal audit taking into account public sector internal auditing standards”. These standards, amongst other things, included having an up to date audit charter and audit strategy in place.

The revised documents incorporated very minor revisions from last year. The report also sets out the proposed audit plan for 2016/17. The Group Manager advised that the plan had been fully consulted on and researched and therefore represented proper focus in the right areas, striking a balance between involvement with operational controls, strategic risks and, increasingly, during transformational change such as the Ambition 2020 programme. The Group Manager also confirmed that the plan would provide sufficient evidence upon which a Head of Audit assurance opinion can be given which will inform the statutory Annual Governance Statement at year end.

The Select Committee asked for the third paragraph under ‘reporting’ on page ninety of the Audit Strategy to be clarified. To this end, the paragraph has been amended to read “A summary report will be provided to Members of PAASC on a quarterly basis detailing any key themes or emerging issues, report summaries on areas where limited assurance was given or delays in finalisation of reports is experienced, and performance of internal audit in delivery of its service and management’s performance in implementing recommendations, including explanations from managers where implementation deadlines slip or were missed”. Members further requested that future update reports to the Select Committee included where new approaches to seeking assurance had been considered and/or employed by the Audit Section which the Group Manager agreed to do.

The Select Committee also enquired how the Audit Plan was constructed and who had the final say on its content. They sought clarification as to how potential issues of audit interest identified by Members could be fed into the audit plan. In
response, the Group Manager stated that he ultimately determined the plan based on all available evidence and any issues or concerns identified by Members would be channelled through the Strategic Director, Finance & Investment, to be considered whether they warranted audit attention, for which contingency days existed or the plan could be amended.

109. External Audit Plan (LBBD and Pension Fund)

The External Auditors (KPMG) presented their External Audit Plan for 2015/16.

The Select Committee highlighted in particular their concern that the Council exceeding its budget by approximately £6m in 2015/16, compared to £70,000 in 2014/15, which were called “budget overruns”. The overall position was primarily driven by Children’s Services although this had been offset with savings of over £1m from central expenses. The External Auditors would review overall management arrangements that the Council had for budget monitoring, in particular Children’s Services. This would include the processes to mitigate budget overruns in the current year and controls to ensure following years did not experience the same pressures. They noted that the budget overrun identified for the Council in 2015/16 was high compared with other local authorities. The External Auditors assured the Select Committee that a robust approach to this matter was being undertaken.

The Select Committee enquired about the listing of assets i.e. the Housing Revenue Account or General Fund. The External Auditors responded that the lists did not show specific assets for internal funds and that the balance sheet contains all assets of the Council. The External Auditor explained that the decision to account within the general fund or HRA was driven by the current operational use of the asset not any historical purpose or transfer. For example, a Council owned property used as a residence with the authority acting as a social landlord should be accounted for in the HRA but, when it ceases to be used for that specific purpose, it would be accounted for in the general fund. The External Auditor confirmed his agreement to the accounting treatment for the Council’s commercial properties on this basis.

The Select Committee also asked about the possibility of an audit of the Council’s Garages with the potential for this and other areas of income generation of the Council’s assets. In this respect, the External Auditors would discuss this matter with the Strategic Director, Finance & Investment.

110. Barking Market-Breakdown of Accounts

At its meeting on 7 September 2015, the Select Committee received a report confirming the accounts for Barking Market from 2012/13 to 2014/5 together with details of the changes of governance and actions in place following its transfer in-house. This report provided a requested breakdown of charges to the account in the last two trading years.

The anticipated income from the market for 2015/16, compared to the actual income achieved in 14/15 was ambitious. The reason for the income being set at this level was an expectation that the markets would regain the levels of income seen in 2013/14, once it was brought back in-house. The forecasted income for 2015/16 was in line with the income level for 2014/15. Whilst the variance in
income was £80,100 on the projected budget, the actual performance was more consistent with previous year and actually shows a 3% increase compared with 2014/15.

Staff costs had been an ongoing challenge through 2015/16. This was partly due to the costs of transferring existing staff from Charfleets, under their current terms and conditions. This included a profit share arrangement paid to Charfleets and management fee which was 40% and 43% of the turnover in 2013/14 and 2014/15 respectively. This cost included the cost of staffing and some other operational costs not met directly by the market. This represented additional costs to arrange the market transfer.

The Select Committee noted that a more detailed strategy for income generation in 2016/17 was being implemented including greater promotion of the market although this may not become more evident until 2017/18. It was further noted that the substantial increase in internet shopping had had an effect on the market sector.

The Select Committee were particularly concerned about the very large increase in staff costs and wished to know why the overall costs of Barking Market had risen so considerably. They requested that an updated report was submitted to the next meeting in June 2016 which should include:

(a) The 2016/17 Barking Market budget;
(b) An analysis of the Market’s viability;
(c) The further costs for the Barking Market Manager post which had been covered on an interim basis and would be brought to a conclusion on 31 March 2016;
(d) The impact of the reductions shown in the report as part of the strategic direction of the Market (paragraph 1.3.2); and the
(e) Reasons for the significant increase in staff costs;

111. Highways Investment and Reactive Maintenance Update

Further to the report submitted to the last meeting of the Select Committee on 3 February 2016, Members asked for further information relating to a number of points.

The report included information on the following areas:

- Proposed Highways scheduled resurfacing programme 2016/17;
- Completed Highways Investment Programme 2015/16;
- Allocation of Highways Capital spent on non-principle roads 2008-2016;
- Breakdown of reactive works in Mayesbrook Ward 2015/16;
- Breakdown of HRA planned works for completion by 31/03/16;
- Breakdown of HRA planned works for completion 30/05/16;

The report identified that over the last period of years and at the present time, the
The Council did not have a formal condition survey detailing the condition of the network in scope of the borough’s responsibility. Failure to have in place a robust evidence-based approach to determining the programme had led to an annual resurfacing programme being determined using complaint data, strategic or risk based prioritisation and significantly the experience and professional opinion of the borough’s Highways Inspectors. The Council had identified the need for a formal Highways Asset Condition survey and made capital available. Work on the survey undertaken by an independent suitably qualified third party would commence in Quarter 1 2016.

The Select Committee were particularly concerned that no formal process for determining work allocations had been in place over several years, though noting the professional knowledge of the highways team. They noted that this could leave the Council open to potential legal challenges. Officers were working as hard as possible to deal with these long term issues and introduce robust criteria for the future.

The Select Committee were also concerned that their request for 2015/16 criteria for determining the works allocations in highways investment and reactive maintenance had not been included in this report, as requested at their meeting on 3 February 2016. They also requested details when the formal criteria for highways maintenance had ceased.

The Select Committee requested an update report for their next meeting in June 2016 which would identify:

(a) What was the process for determining the works allocations for highways investment and reactive maintenance in 2015/16, and what criteria had been used to inform the decision making?

(b) The criteria that had been in operation since 2006 with a clear explanation when the formal criteria for determining work allocations in highways investment and reactive maintenance had ceased.

112. Update on use of Agency staff, Project workers and Consultants

At its meeting on 1 December 2015, the Select Committee requested data on the use of agency staff, project workers and consultants on a regular basis in order to monitor it more effectively and aligned information to meetings of the Employee Joint Consultative Committee (EJCC). Alongside the individual temporary staff data that was submitted to the EJCC, summarised data of expenditure by service area was included for the last three months to give the Select Committee a more strategic overview.

The Select Committee noted the report and it would receive further updates on a regular basis, scheduled into the work programme for 2016/17.

113. Addressing Financial Pressures in Children’s Services - The Children’s Social Care Ambition and Finance Efficiency (SAFE) Programme- Appendix 2

This confidential appendix was noted and as part of agenda item 5: (Addressing Financial Pressures in Children's Services - The Children's Social Care Ambition and Finance Efficiency (SAFE) Programme)).
114. Vote of thanks

The Chair noted that this was Dr Ian Fifield’s last meeting and accorded thanks to him in his work as Independent Adviser to the Select Committee over the last four years.

The Select Committee wished the Dr Fifield well for the future and the Strategic Director, Finance & Investment confirmed that the post of Independent Adviser would be advertised in due course.
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**PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE**

**29 June 2016**

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<th>Title:</th>
<th>Petition re: Closure of the Civic Centre</th>
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<td>Fiona Taylor, Head of Law and Governance and Monitoring Officer</td>
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**Open Report**

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**For Decision**

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**Report Author:** John Dawe, Democratic Services Group Manager

**Contact Details:**
Tel: 020 8227 2135  
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**Accountable Divisional Director:** Fiona Taylor, Head of Law and Governance and Monitoring Officer.

**Accountable Director:** Chris Naylor, Chief Executive

**Summary**

At the Cabinet on 16 December 2014 following consideration of a range of options, Members agreed a proposal to rationalise the Council’s corporate office portfolio in order to make budget savings which included the planned closure of the Civic Centre and its potential future use as a School. That decision led to the Council being presented with a petition from Jon Cruddas MP opposing the closure, which in accordance with the Council’s Petition Scheme was put before PAASC on 25 March 2015.

The petition called upon the Council to repeal the decision to convert the Civic Centre into a school, on the basis the current decision endangered the quality and accessibility of good public services for the residents of Dagenham.

Seeing the large number of residents who signed the petition and/or completed an accompanying survey, PAASC was of the view that it would not do justice to those concerns by simply rejecting or supporting the terms of the petition, and in those circumstances a decision was deferred pending further information linked to the proposed closure. This included an independent financial evaluation of the costs involved in each option set down in the report, including those not originally short listed. However as there was no budget available to do this work the Cabinet at their meeting on 2 June 2015 were asked to consider the request, whom on balance declined to support the Select Committee’s proposal and provide the necessary funding from the Council’s reserves to commission the evaluation.

This decision as reported to PAASC on 24 June 2015 was challenged by Members’ who having regard to the provisions of the Constitution were of the view that the request for funding should have been referred to the Assembly and not the Cabinet. As a consequence it was decided to seek the Monitoring Officer’s opinion before any further consideration of the matter.
The Monitoring Officer reported back to the Committee in September 2015 that the Constitution stated that funding and expenditure was a Cabinet function as set out in Part 2 Chapter 6 paragraph 2.1(i) and that there was no supplementary provision that permitted the Assembly to make an allocation of resources (Part 2 Chapter 4).

Notwithstanding this the Select Committee decided to seek further independent legal advice or otherwise, as they maintained the view that the request for funding should have been referred to the Assembly for a decision.

At the last meeting on 22 March 2016 it was noted that it had been approaching 12 months since the petition was presented for a decision. However the representative of the lead petitioner was not able to attend, and in the knowledge that a further report was due to be presented to the Cabinet regarding developments as to the future use of the building it was decided to defer a final decision on the matter until this meeting.

The Cabinet at their meeting on 19 April 2016:

considered a further report on the rationalisation of Corporate Office Portfolio and with regard to the Civic Centre, decided that in order to expand the scope for opportunities and contribute to the objective of raising educational attainment in the community, to extend the potential future use of the Civic Centre from the original stated objective of a secondary school to a wider educational use. Importantly the proposal included the intention that any negotiations with potential future users of the building would require that part of the building would continue to be available for civic purposes, such as council meetings.

In the light of this decision Jon Cruddas, MP, the lead petitioner has expressed his thanks to the Council in recognising the strength of local opinion and responding in a positive fashion to residents concerns highlighted through the presentation of the petition.

**Recommendation(s)**

PASSC is asked to note the report and that no further action will be taken in respect of the petition.

**Reason(s)**

The number of signatures on the petition exceeded the threshold of 1500 which triggered a debate at the Public Accounts and Audit Select Committee.

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### 1. Financial Implications

*Implications completed by: Jonathan Bunt, Strategic Director of Finance and Investment*

1.1 There are no direct financial implications associated with this report.
2. Legal Implications

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

2.1 There are no direct legal implications as a result of this report. The Public Accounts and Audit Select Committee in receipt of the Petition is not acting in a statutory scrutiny function. The Constitution provides at Part 2, Chapter 8, paragraph 2.3(a) that it is a locally determined decision that within their terms of reference each Select Committee will be responsible for receiving petitions regarding services within their terms of reference.

Public Background Papers Used in the Preparation of the Report: None
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## Summary:
This report brings together all aspects of audit assurance and counter fraud work undertaken in the 2015/16 financial year, including actions taken by management in response to audit and counter fraud activity, which supports the governance framework of the authority. The report includes the Head of Internal Audit opinion on the internal control environment for 2015/16. The main body of the report also highlights key outcomes from audit & counter fraud work and provides information on wider issues of interest to PAASC as the Council’s Audit Committee. The appendices provide greater detail of the performance of each of the Teams for the period.

### Recommendation(s):
Members are asked to note the contents of the report.

### Reason(s)
The Council’s vision and priorities are underpinned by the theme ‘a well-run organisation’ as set out in the corporate delivery plan. The work of audit & counter fraud supports this theme to ensure the Council meets both its legal responsibilities and the needs of the community.

### 1. Level of Assurance
1.1. The Annual Audit opinion for 2015/16 is that reasonable assurance is given that the internal control environment is operating adequately. The basis of this opinion is set out in Section 4. This opinion supports the review of effectiveness of the Council’s governance as reported in the Annual Governance Statement.

### 2. Executive Summary of work undertaken
2.1. Reactive work undertaken by the Counter Fraud Team continues to deliver positive outcomes. A successful prosecution was obtained in March 2016, resulting in a 1 year custodial sentence and recovery of the property, in a case where it was proven that the applicant had obtained a council property using another person’s identity. The case was reported in the local media to highlight the work of the Counter Fraud Team, raise awareness in the community of how to raise suspicions with the Council and as a deterrent to other potential fraudsters.

2.2. Completion of the Audit Plan has fallen behind target for reasons set out in Appendix 1. However, the performance of the Audit team, in terms of satisfaction with the service provided, and the response of management in implementing recommendations in a timely fashion, remains strong.
3. **Current/Future Key Issues**

3.1. A Fighting Fraud and Corruption Locally 2016–2019 strategy has been produced, developed by local authorities and counter fraud experts. It can be found at [http://www.cipfa.org/services/counter-fraud-centre/fighting-fraud-and-corruption-locally](http://www.cipfa.org/services/counter-fraud-centre/fighting-fraud-and-corruption-locally). Intended as a definitive guide for council leaders, chief executives, finance directors and all those with governance responsibilities, the strategy includes practical steps for fighting fraud, shares best practice and brings clarity to the changing counter fraud and corruption landscape. The Council’s own Counter Fraud Strategy is aligned to this document.

3.2. The Public Sector Internal Audit Standards, which defines the nature of, and basic principles for carrying out, internal audit have been revised and updated in line with international professional practices relating to Internal Audit. The outcome of a review of effectiveness of the internal audit service against these revised standards will be included in a future update report.

3.3. A new governance framework for local authorities, police and fire authorities "Delivering Good Governance in Local Government: Framework (CIPFA/Solace, 2016)" has been published. The framework includes a new definition of governance that stresses how essential it is to have good governance to enable an organisation to achieve its goals and recommends its adoption in 2016/17.

4. **Head of Internal Audit Opinion**

4.1. Internal Audit provides assurance from the work it undertakes in respect to the internal control systems operating within the Council. The Head of Internal Audit opinion is given annually, timed to inform the Council’s Annual Governance Statement, which is published alongside the Annual Financial Accounts. For 2015/16 the Head of Audit is able to give reasonable assurance that the internal control environment within audit’s sphere of coverage is operating adequately, on the basis of work undertaken by Internal Audit, as set out below, and drawing on other assurance sources upon which reliance can be placed and which have not identified any major failings or weaknesses.

4.2. **Core Financial Systems**
Robust key controls within the core financial systems are fundamental to the overall opinion on the final accounts, provided by KPMG as External Auditor, and are therefore a key component in the overall opinion on the system of internal control. A risk based approach has been adopted to auditing these systems as the Managed Audit concept, where the External Auditor places reliance on the work of internal audit in this area, is no longer formally operated.

4.3. **Risk-Based System reviews**
The risk-based approach taken to audits within a relatively small audit plan inevitably focuses of areas of greater inherent and residual risk, and therefore the incidence of limited assurance opinions is not necessarily of concern. Based on the work done in these areas, and the positive response of management, there are no specific/generic concerns in respect of the internal control environment.

4.4. **Compliance**
The general compliance culture of the Authority continues to be one of the Organisational Risks identified on the Corporate Risk Register. Specific compliance reviews undertaken in 2015/16 continue to support efforts being made by management to improve the culture of compliance.
4.5. Schools
Overall, assurance continues to be broadly positive (i.e. more schools in total have achieved substantial rather than limited assurance) and on an improving trend (i.e. a greater percentage of schools achieved substantial assurance from their most recent audit review than their previous review). Issues arising are low level/operational in nature and no material concerns or patterns have been identified.

4.6. Implementation of Recommendations
A robust system is in place to ensure recommendations are addressed in a timely and efficient manner such that associated risks are mitigated. The process allows for one reset of implementation date where events post-audit occur and are deemed outside of the control of managers. Where implementation slips beyond this, reports to this Committee outline the reasons, give the current position and assess the residual risk level. At the time of writing, no recommendations remain outstanding which is reflective of a mostly strong position throughout 2015/16 and, again, of the positive management response to internal audit reports.

4.7. Fraud
The Council deployed sufficient resources to counter fraud in 2015/16. The Corporate Counter Fraud Team have undertaken proactive and preventative work over and above responding to reactive cases and thus continues to demonstrate nationally determined best practice. Resources have been strengthened during 2015/16 to enable action to be taken under proceeds of crime legislation. As well as pursuing specific outcomes against fraudsters, all investigations consider the associated internal control framework. The compliance organisational risk (see 4.4 above) is consistent with findings from counter fraud work, as it has been seen in some cases that control weaknesses were a contributory factor to frauds being able to be perpetrated and/or going undiscovered. However, overall, there are no underlying/common issues arising from the work of the Counter Fraud Team which impacts on the overall opinion on the internal control environment.

5. List of Appendices setting out performance of and outcomes from audit & counter fraud work

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6. **Financial Implications**

   Implications completed by: *Jonathan Bunt, Strategic Director Finance & Investment*

6.1 The Audit & Counter Fraud Teams are fully funded and there are no additional financial implications arising directly from this report. Robust internal controls and preventative counter fraud activity prevents financial loss to the Authority.

7. **Legal Implications**

   Implications completed by: *Eldred Camara- Taylor, Group Manager, Law and Governance*

7.1 This report provides information to Members for noting and does not require decision. There are no further legal comments to add.
Internal Audit Strategy & Charter
The Internal Audit Strategy & Charter were considered by this Committee in March 2016.

Annual Audit Plan 2015/16 Changes
The Annual Audit Plan for 2015/16 was approved by this Committee in March 2015. The plan is flexible to respond to changing risks/priorities as they occur. Since the last update, there have been 2 audits agreed with management as not required (Grants & Prepayment Cards) and 2 audits deferred (Social Care Purchasing Processes & Housing Follow on Issues) into 2016/17.

Resources & Skills
There have been no changes to the method of provision of assurance since the last update to Members.

Progress Against Annual Audit Plan 2015/16
Members are kept up to date with progress in delivering the Audit Plan on a quarterly basis. The Audit Plan is profiled such that activity is skewed towards quarter 4 of the financial year, to enable audits of the core financial systems, which support the External Audit, to be based on sufficient in-year transactions.

The position as at 31st May 2016 is set out in summary, pie chart form and detail on the following pages.
## Summary Progress of Internal Audit Plan 2015/16 as at 31st May 2016

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### Completion of 2015/16 Audit Projects as at 31st May 2016

- **Final**: 60%
- **In draft**: 33%
- **Review**: 5%
- **Fieldwork**: 2%
- **Not Started**: 2%
## Detailed progress of Audit Plan 2015/16 as at 31st May 2016

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| Total Audit Days                   |                     |      |        |             |              |              |                   | 725             |

**Key**

**Status:**
- **TOR**: Terms of reference/scope agreed with manager
- **REVIEW**: Draft report is with Audit Management for quality assurance review
- **DRAFT**: Draft report issued to Senior Manager awaiting their response
- **FINAL**: Final report issued to Senior Manager

**Start date:** Date auditor commenced fieldwork

**Level of Assurance:**
- **Full**: sound system of control designed to achieve the client’s objective and those controls are being consistently applied.
- **Substantial**: a basically sound system, but control weaknesses and/or non-compliance that put some of the client’s objectives at risk.
- **Limited**: weaknesses in the system of controls and level of non-compliance such as to put the client’s objectives at risk.
- **Nil**: Control is generally weak and significant non-compliance leaving the system open to significant error or abuse.

**Reasons for Delays:**
- a Despite repeated reminders, no management response received from the Strategic Director Finance & Investment or Director of Law & Governance
- b Management response was delayed due to new service manager being appointed and subsequent secondment and then long term sickness of the auditor
Outcomes from Internal Audit Work
Members are kept abreast of the key emerging issues from audit work. There have been 3 Limited Assurance reports issued since the last update to Members, summaries of which are set out below.

<table>
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<tr>
<th>Report</th>
<th>Responsible Officer</th>
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<tbody>
<tr>
<td>Elevate Governance</td>
<td>Claire Symonds</td>
</tr>
<tr>
<td><strong>Summary</strong></td>
<td></td>
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<tr>
<td>The Audit reviewed the controls in place over Elevate Supervision &amp; Oversight and was undertaken just prior to the departure of the Head of the Elevate Client Unit.</td>
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<tr>
<td>Management resolved to address the following issues highlighted during the audit review:</td>
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<tr>
<td>- Clarity over the risk appetite aspect of risk management arrangements</td>
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<tr>
<td>- Confirmation that key LBBD policies and procedures have been adopted or equivalent local ones are in place</td>
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<tr>
<td>- Wider reporting of Elevate performance to officer groups and Member committees</td>
<td></td>
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<td>- Provision of evidence to support implementation of previous audit recommendations</td>
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<td>Trade Waste</td>
<td>Tony Ralph (Claire Symonds)</td>
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<tr>
<td><strong>Summary</strong></td>
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<tr>
<td>The audit reviewed the controls in place over LBBD’s collection of refuse service to local businesses for which charges are applied, based upon the quantity of waste collected in terms of the number of sacks or bins used by the client (known as Trade Waste).</td>
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<tr>
<td>Although fundamental service provision was found to be sound, the audit identified a lack of a robust operational plan and a waste management strategy that had not been reviewed since 2006 and thus did not link directly to the Council’s current Vision. In terms of administration, a lack of reconciliation processes and incomplete records limited the ability to identify errors, and thus loss of income to the Council. It was also noted that marketing of the service, to maximise income generation, was only at a very early stage of consideration.</td>
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<tr>
<td>Note under Ambition 2020 service proposals, a Revised approach to trade waste is to be adopted to ensure full cost recovery/no additional expense.</td>
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<td><strong>Summary</strong></td>
<td></td>
</tr>
<tr>
<td>The audit reviewed the adequacy and effectiveness of systems and controls put in place in order to meet objectives with regard to IT security.</td>
<td></td>
</tr>
<tr>
<td>Management resolved to address an issue relating to users of secure mail signing the acceptable usage policy and reporting outcomes of client supervision but felt testing restores of backed up information as low risk, given this was undertaken regularly through live requests. A recommendation that</td>
<td></td>
</tr>
</tbody>
</table>
the council should seek the Cyber Essentials scheme accreditation (a Government backed scheme that provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats and offers a mechanism for organisations to demonstrate that they have taken these essential precautions) was not agreed by management as it is not compulsory and because Penetration tests, which are performed annually, were considered an adequate level of control.
### Implementation of Audit Recommendations

The position on the implementation of all Audit & Counter Fraud Recommendations as at 31st March 2016 is set out below.

<table>
<thead>
<tr>
<th></th>
<th>Adults &amp; Environment</th>
<th>Children’s Services</th>
<th>Housing</th>
<th>Chief Execs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>B/F Total Number of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations</td>
<td>20</td>
<td>1</td>
<td>12</td>
<td>35</td>
<td>68</td>
</tr>
<tr>
<td>outstanding</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>added in Period</td>
<td>6</td>
<td>1</td>
<td>0</td>
<td>9</td>
<td>16</td>
</tr>
<tr>
<td>Recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implemented and</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>cleared after risk</td>
<td>16</td>
<td>1</td>
<td>3</td>
<td>24</td>
<td>44</td>
</tr>
<tr>
<td>based audit follow</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>up or no longer valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Number of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations</td>
<td>10</td>
<td>1</td>
<td>9</td>
<td>20</td>
<td>40</td>
</tr>
<tr>
<td>Outstanding</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OF WHICH:</td>
<td></td>
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</tr>
<tr>
<td>Number of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>where original target</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>date not yet</td>
<td>8</td>
<td>0</td>
<td>1</td>
<td>8</td>
<td>17</td>
</tr>
<tr>
<td>due. (GREEN)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>where original target</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>date reset and not</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>12</td>
<td>18</td>
</tr>
<tr>
<td>yet due (AMBER)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>not implemented by</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>reset target date</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(RED)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OF WHICH:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Number of</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>high risk</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>not implemented by</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>reset target date</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(RED)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

The table clearly shows those whose original target date has yet been reached (GREEN status i.e. there are no issues of concern and action plans are progressing as agreed at the time of the original report), those whose original target date has been reset, but that date has not yet been reached (AMBER status i.e. something has occurred which has impacted on the action plan agreed at the time of the audit report, and which made implementation by the target date not possible, suggesting the need for closer management monitoring of progress) and those which have not been implemented by the reset target date (RED status i.e. the associated risk identified in the original report has not been addressed in a timely fashion). Red status recommendations will result in the responsible Senior Manager reporting to and attending PAASC to explain the reason for the slippage in implementation, the current position and setting out revised action plans to address the outstanding issues and manage the associated risks.

Note, this table will be recast to reflect the new Interim management structure for 2016/17.
High Priority Recommendations
Key focus is placed on high priority recommendations and the residual risks of their non-implementation.

![High Risk Recommendations Where Implementation has Slipped](image)

Implementation of Audit Recommendations - Issues Arising

Responsive Repairs
Date of original Report: June 2015
Recommendations:

<table>
<thead>
<tr>
<th>Priority</th>
<th>High</th>
<th>Medium</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raised</td>
<td>1</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Implemented</td>
<td>0</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Outstanding</td>
<td>1</td>
<td>3</td>
<td>0</td>
</tr>
</tbody>
</table>

Comments of Group Manager (Housing Management - Service Delivery):
Management have progressed implementation of the recommendations and kept audit informed on progress. However some of these require further action and have not yet progressed sufficiently to fully mitigate against the risks identified, impacted by key changes within the Repairs and Maintenance Service – a new Group Manager for the Service started in April 2016 and those staff originally identified as responsible for driving the changes on the audit report have left or are leaving the Council.

The main area of risk in the audit report is linked to job costing and control of work orders, which is an area where improvements are ongoing, but are dependent upon IT and systems upgrades, for which revised implementation dates have been set. Budgets have been split into individual areas for better accountability and more responsibility for managers and supervisors. Each responsible manager is in regular contact with Finance and meeting to track spend against budget. Job costing is to be established as soon as possible to compare and contrast the value and cost of work orders undertaken by the DLO and sub contractors. In addition post inspection processes for works have been adapted to ensure that each supervisor / manager inspects 10 jobs per week for responsive repairs, and all of the voids maintenance works are post inspected.
Some of the updates and improvements will be enhanced by changes that will be introduced as part of the Ambition 2020 programme and linked with Service Improvement. This will enable the opportunity to give greater clarity on job roles and ensure clear delineation between pre inspections / raising of work orders and the post inspection of the work for cost and quality control.
**Internal Audit Performance**

The Internal Audit service is delivered via a “mixed economy”, ensuring the Council benefits from in-house knowledge, skill and experience. This is strengthened by external skill and experience delivered through the Council’s contract with Croydon Council. This is provided at an economic rate, achieved through economies of scale, due to a number of London Boroughs taking up the contract arrangements and ensures the Council always has access to experienced auditors if the need arises. The latest position on performance is set out below.

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Target</th>
<th>Performance &amp; RAG Status</th>
<th>What it measures</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Output Indicators (Efficiency)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% of Audit Plan completed (Audits at Draft Report Stage)</td>
<td>&gt;5% by 30/6</td>
<td>10% (GREEN)</td>
<td>Delivery measure</td>
</tr>
<tr>
<td></td>
<td>&gt;25% by 30/9</td>
<td>36% (GREEN)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&gt;50% by 31/12</td>
<td>50% (GREEN)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&gt;80% by 31/3</td>
<td>70% (RED)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>100% by 31/5</td>
<td>93% (AMBER)</td>
<td></td>
</tr>
<tr>
<td>Meet standards of Public Sector Internal Audit Standards</td>
<td>Substantial assurance or above from annual review</td>
<td>Substantial effectiveness of Internal Audit reported to PAASC Feb 16 (GREEN)</td>
<td>Compliant with professional standards</td>
</tr>
</tbody>
</table>

| **Outcome Indicators (Effectiveness-Adding value)** | | | |
| High Risk Recommendations not addressed within timescales | <5% | As at 31st Mar 2016, 6% of high risk recommendations had not been addressed within the reset timescale set (AMBER) | Delivery measure |
| Overall Client Satisfaction | > 85% satisfied or very satisfied over rolling 12 month period | 85.6% (31 returns) (GREEN) | Customer satisfaction |

**Analysis:**

The percentage of the Audit plan completed to draft stage slipped as at 31st March. This was due to the secondment of 1 of the 2 in-house auditors to the Ambition 2020 Corporate Delivery Unit, arranged at short notice, plus the turnover of staff. The flexibility of the mixed-provision service enabled the shortfall in delivery by the in-house team to be picked up through the Council’s contract with Croydon, albeit there was a lead-in time to commission and resource additional work at short notice.
**Key Counter Fraud Policies**
The Counter Fraud Strategy & Policy is updated and approved annually. PAASC will receive this and associated counter fraud policies for review at this meeting.

**Summary of Corporate Fraud Activity including Whistleblowing**
The update on corporate fraud activity for 2015/16 Quarter 4 is set out below. Note, to ensure efficient use of resources, whilst all cases are logged by the Counter Fraud Team, referred cases will be assessed and the most appropriate method of investigation determined – either undertaken by the Counter Fraud Team, other agencies/sections or by management.

### 2015/16 Quarter 4 Fraud referrals incl. whistleblowing

<table>
<thead>
<tr>
<th>Qtr 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>B/fwd Number of Cases Outstanding</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>Referrals received in Period</td>
</tr>
<tr>
<td>41</td>
</tr>
<tr>
<td>Cases accepted for CFT investigation</td>
</tr>
<tr>
<td>7</td>
</tr>
<tr>
<td>No further Action after initial review/already known</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>Referred to others</td>
</tr>
<tr>
<td>33</td>
</tr>
<tr>
<td>Cases closed In Period</td>
</tr>
<tr>
<td>8</td>
</tr>
</tbody>
</table>

**TOTAL Ongoing Number of CFT Investigations:** 9

### Outcomes – Closed Cases in Quarter 4 2015/16

<table>
<thead>
<tr>
<th>No of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended for disciplinary process</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>Referred for Management action</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>No fraud/No further action</td>
</tr>
<tr>
<td>5</td>
</tr>
</tbody>
</table>

In addition to casework, the Counter Fraud Team act as a point of contact for other investigation bodies e.g. responding to requests for information under the Data Protection Act.

**Regulation of Investigatory Powers Act**
The Regulation of Investigatory Powers Act regulates surveillance powers, thus ensuring robust and transparent frameworks are in place to ensure its use only in justified circumstances. It is cited as best practice that Members maintain an oversight of RIPA usage. The current statistics are set out below. With effect from 1st November 2012, RIPA authority is restricted only to cases of suspected serious crime or offences involving sale of tobacco and alcohol to underage children and will require approval by a Magistrate.

(a) **Directed Surveillance**
The number of directed surveillance authorisations granted during the Quarter Jan – Mar 2016 and the number in force at 31st Mar 2016
Nil granted. Nil in Force as at 31st Mar 2016

(b) Communications Information Requests
The number of authorisations for conduct to acquire communications data (e.g. mobile phone data)
Jan – Mar 2016 NIL
HOUSING INVESTIGATIONS

Members are provided specific details on the outcomes from the work on Housing Investigations. For 2015/16 positive outcomes have been identified as set out below.

Caseload

<table>
<thead>
<tr>
<th>Open Cases (as at 31st Dec 2015)</th>
<th>57</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Cases Added</td>
<td>97</td>
</tr>
<tr>
<td>Cases Completed</td>
<td>103</td>
</tr>
<tr>
<td>Open Cases (as at 31st Mar 2016)</td>
<td>51</td>
</tr>
</tbody>
</table>

On Going Cases - Legal Action

<table>
<thead>
<tr>
<th>Notice Seeking Possession served</th>
<th>2015/16 Quarter 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notices Seeking Possession served</td>
<td>2</td>
</tr>
<tr>
<td>No of Cases - Civil action (recovery of property) only</td>
<td>13</td>
</tr>
<tr>
<td>No of Cases - Criminal action (prosecution of tenant) only</td>
<td>2</td>
</tr>
<tr>
<td>No of Cases - Combined Civil/Criminal action</td>
<td>6</td>
</tr>
</tbody>
</table>

Outcomes - Closed Cases

<table>
<thead>
<tr>
<th>2014/15</th>
<th>2015/16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convictions</td>
<td>0</td>
</tr>
<tr>
<td>Properties Recovered</td>
<td>23</td>
</tr>
<tr>
<td>Successions Prevented</td>
<td>0</td>
</tr>
<tr>
<td>Right To Buy prevented</td>
<td>0</td>
</tr>
<tr>
<td>Savings (Former Tenants Arrears repaid, Single Person Council Tax Discounts removed, RTB, Decant saved)</td>
<td>£10,611</td>
</tr>
<tr>
<td>Other Potential Fraud prevented/passed to appropriate agencies incl MCIL Applications Cancelled</td>
<td>174</td>
</tr>
<tr>
<td>Referral to Others</td>
<td>68</td>
</tr>
</tbody>
</table>
**PROCEEDS OF CRIME ACT INVESTIGATIONS**

Active Cases*

<table>
<thead>
<tr>
<th>Case Type</th>
<th>No of Cases Qtr 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right To Buy</td>
<td>6</td>
</tr>
<tr>
<td>Tenancy Related</td>
<td>2</td>
</tr>
<tr>
<td>Trading Standards</td>
<td>5</td>
</tr>
<tr>
<td>Planning</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
</tr>
</tbody>
</table>

Outcomes

<table>
<thead>
<tr>
<th>Activity</th>
<th>No of Cases Qtr 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restraint Orders Granted</td>
<td>2</td>
</tr>
<tr>
<td>Production Orders Granted</td>
<td>1</td>
</tr>
</tbody>
</table>

* Proceeds of crime issues have been identified and the Accredited Financial Investigator is supporting ongoing investigations towards potential prosecutions
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**PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE**

29 June 2016

<table>
<thead>
<tr>
<th>Title:</th>
<th>Review of Key Counter Fraud Policies &amp; Strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report of:</td>
<td>Group Manager (Internal Audit &amp; Fraud)</td>
</tr>
<tr>
<td>Open</td>
<td>For Discussion</td>
</tr>
<tr>
<td>Wards Affected:</td>
<td>None</td>
</tr>
<tr>
<td>Key Decision:</td>
<td>No</td>
</tr>
<tr>
<td>Report Author:</td>
<td>David Greenfield</td>
</tr>
<tr>
<td>Contact Details:</td>
<td>Tel: 020 8227 2896</td>
</tr>
<tr>
<td></td>
<td>E-mail: <a href="mailto:david.greenfield@lbld.gov.uk">david.greenfield@lbld.gov.uk</a></td>
</tr>
<tr>
<td>Accountable Director:</td>
<td>Jonathan Bunt, Strategic Director Finance &amp; Investment</td>
</tr>
</tbody>
</table>

**Summary:**

In order 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. To further strengthen their importance as part of robust governance, these were approved by Cabinet in January 2012, to be reviewed annually. Accordingly, they are presented to PAASC to note and comment upon.

**Recommendation(s):**

Members are asked to note the Council’s updated Counter Fraud Policies and Strategy

**Reason(s)**

The Council’s vision and priorities are underpinned by the theme ‘a well-run organisation’ as set out in the corporate plan. The work of audit & counter fraud supports this theme to ensure the Council meets both its legal responsibilities and the needs of the community.

1. **Introduction**

1.1. The Internal Audit & Counter Fraud Group maintains a suite of counter fraud policies and a strategy to support the Council’s strong stance against fraud, thus maintaining proper arrangements for the Council’s finances.

1.2. To further strengthen their importance as part of robust governance, these were approved by Cabinet in January 2012, to be reviewed annually.

1.3. They have been reviewed and this report sets out the latest versions, a summary of their purpose and a brief summary of changes made.

1.4. They apply to the Council, and as part of raising fraud awareness will be promoted to and, where applicable, applied by the Council’s partners such as Elevate, 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.

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Document</th>
<th>Brief Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Counter Fraud Strategy</td>
<td>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.</td>
</tr>
<tr>
<td>B</td>
<td>Counter Fraud Policy including Fraud Response Plan</td>
<td>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.</td>
</tr>
<tr>
<td>C</td>
<td>Prosecution Policy</td>
<td>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.</td>
</tr>
<tr>
<td>D</td>
<td>Money Laundering Policy</td>
<td>Sets out the Council’s commitment to ensuring compliance with the requirements of the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 &amp; 2012 and Chartered Institute of Public Finance and Accountancy (CIPFA) guidance for Local Authorities on Money Laundering.</td>
</tr>
<tr>
<td>E</td>
<td>Whistleblowing Policy</td>
<td>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.</td>
</tr>
<tr>
<td>F</td>
<td>Regulation of Investigatory Powers Policy</td>
<td>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 &amp; Data Protection Legislation.</td>
</tr>
<tr>
<td>G</td>
<td>Bribery Act Policy</td>
<td>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.</td>
</tr>
<tr>
<td>H</td>
<td>Proceeds Of Crime Act Policy &amp; Procedures</td>
<td>Sets out how the Council will use the Proceeds of Crime Act 2002 as a primary tool in its efforts to disrupt individual and organised crime and ensure those convicted of an offence are stripped of the benefits of their criminal lifestyle.</td>
</tr>
</tbody>
</table>
3. Summary of Changes

3.1 The following changes have been made:
- Updates to reflect officer designation changes where appropriate
- The Counter Fraud Strategy has been updated, and a Proceeds of Crime Act Policy developed, to reflect the creation of an Accredited Financial Investigator role and the additional powers available.

Otherwise these documents have been reviewed and deemed fit for purpose.

4. Awareness Raising

4.1 Counter Fraud Policies and the Strategy will be made available on the Intranet. Awareness raising, training and briefings will be targeted at specific groups of staff - identified from an ongoing project to refresh of the Council’s fraud risk assessment - through channels such as face to face, e-bulletins/e-learning and posters on staff notice boards.

5. Financial Implications

Implications completed by: Jonathan Bunt, Strategic Director Finance & Investment

5.1 The Audit & Fraud Teams are fully funded and there are no additional financial implications arising directly from this report. A robust counter fraud culture, underpinned by appropriate policies prevents financial loss to the Authority.

6. Legal Implications

Implications completed by: Dr Paul Feild, Senior Governance Solicitor

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

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

6.3 The Policies set out in this report address the need to counter fraud, money laundering, bribery and the proceeds of crime. The policies guide on the investigatory and prosecution process.

6.4 In formulating the policies it address 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”.

6.5 The Local Government Act 1972 provides the Council with the ability to investigate and prosecute offences committed against them. 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.

7. The following people were consulted in the preparation of this report:

- Strategic Director Finance & Investment
- Legal Group Manager
APPENDIX A

COUNTER FRAUD STRATEGY

June 2016
DRAFT

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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:

<table>
<thead>
<tr>
<th>Acknowledge responsibility</th>
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<tbody>
<tr>
<td>The Council has acknowledged its responsibility for ensuring that the risks associated with fraud and corruption are managed effectively across all parts of the organisation.</td>
</tr>
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<table>
<thead>
<tr>
<th>Identify risks</th>
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<tbody>
<tr>
<td>The Council uses fraud risk identification to understand specific exposures to risk, changing patterns in fraud and corruption threats and the potential consequences to the Council and its service users.</td>
</tr>
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<table>
<thead>
<tr>
<th>Develop a strategy</th>
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<tbody>
<tr>
<td>This document sets out the Council approach to managing fraud risks and defining responsibilities for action.</td>
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<table>
<thead>
<tr>
<th>Provide resources</th>
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<tr>
<td>As set out in this document, the Council has appropriate resources to support the counter fraud strategy.</td>
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</table>

<table>
<thead>
<tr>
<th>Take action</th>
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<tbody>
<tr>
<td>The Council has in place a suite of policies to support the counter fraud strategy and take action to deter, prevent, detect and investigate fraud.</td>
</tr>
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</table>

Links to Corporate Objectives

The vision for the Borough is **One borough; one community; London’s growth opportunity**

To achieve the Vision, the Council’s priorities are:

- Encouraging civic pride
- Enabling social responsibility
- Growing the borough

This Strategy ensures resources are correctly applied in the provision of high quality services and initiatives that deliver these Corporate priorities.
Resources & Skills
A fully resourced Counter Fraud Team will investigate all issues of suspected fraud and irregularity and promote the counter fraud agenda of the Council through proactive and preventative activities.

Housing Investigators will investigate allegations concerning council housing with the aim of delivering housing units back to proper use, and preventing misuse of the council housing stock. Housing Investigators are appointed as “Authorised Officers”, and thus can exercise powers, under Section 4 of the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014.

All investigators are professionally qualified and undertake appropriate continuous professional development.

The Counter Fraud Service has access to a qualified Accredited Financial Investigator to enable the option of redress under the Proceeds of Crime Act (poca). Any monies recovered will be used to further promote counter fraud across the council.

The authority for Fraud Investigators to investigate is enshrined in the Council’s Constitution, Financial Rules including the authority to have access to all records, and to all council premises.

Monies obtained under the poca incentivisation scheme will be invested into counter fraud activities.

Responsibility

Counter Fraud Team
The Counter Fraud Team will champion the Council’s tough stance against fraud and promote a counter fraud culture across the council, its Members, staff, contractors, partner agencies and service users. Investigators will work to professional standards and in accordance with relevant codes of practice as well as applying the Council’s policies on equality & diversity and customer care. Investigators will at all times maintain confidentiality, comply with the employee code of conduct and operate within the guidelines of all relevant legislation.

Managers
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) relevant to their service areas. Some services will be predominantly at risk of attack from external sources, for example, Council tax, Housing and Renovation grants.
**Contractors**

It is expected that the Council’s contractors and partners will have adequate controls in place to minimise fraud. We will however, provide fraud awareness training to our community partners as deemed necessary to help them implement robust controls to protect the funds 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**

It is recognised the majority of staff are conscientious and hard working and whose conduct is beyond reproach. 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.

Often, employees are the first to spot that something is wrong and putting the council and/or its residents at risk. In accordance with the Code of Conduct, employees should bring to the attention of the appropriate manager, any impropriety, fraud or breach of procedure. If they 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, they should report their concerns through the channels set out in the Council’s Whistleblowing Policy.

**Members (Elected Councillors)**

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.

Malpractice of any sort will not be tolerated and where evidence indicates malpractice has occurred, a report will be made to the relevant Body.

Members are required to operate within:

- The Council Constitution
- Member Code of Conduct

These matters are specifically brought to the attention of Members and include 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.
Members may become aware of potential fraud through their casework with constituents and their day to day duties as Councillors. Any such issues or concerns should be reported to the Counter Fraud Team at the earliest opportunity.

**Liaison**

The Counter Fraud Team will utilise all methods available to detect fraud. Arrangements are in place to actively participate in the National Fraud Initiative (NFI). We will also continue to develop and support initiatives that involve the exchange of information and systematic data matching between the Council and other agencies on national and local fraud and corruption activity in relation to Local Authorities.

These agencies include:-

- Police
- Department for Works and Pensions
- Her Majesty’s Revenue & Customs
- UK Visas & Immigration
- Pensions Service
- JobCentre Plus

In addition, we will work with colleagues in other Local Authorities and utilise counter fraud networks such as LBFIG, LAG, CIPFA Counter Fraud Centre etc.

**“Taking Action” and Supporting Policies**

**Deterrence**

The Council will publicise its counter fraud measures using appropriate means to promote the deterrent message, for example 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 Counter Fraud Team works with Internal Audit to support management in assessing compliance with the Council’s policies and ensuring that adequate levels of internal check are included in operational procedures. The Counter Fraud Team will advise on counter fraud measures in new systems and promote awareness on the importance of considering fraud risks as part of good governance arrangements. Awareness will be maintained on the changing risk profile of potential fraud and national developments to tackle new areas.

**Detection**

In addition to maintaining channels for the public and officers to report fraud, the Counter Fraud Team 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
All allegations of fraud will be professionally investigated in accordance with the Fraud Response Plan and in adherence to all relevant legislation. Outcomes from investigations will make recommendations for further actions as appropriate - to include disciplinary action, police action, civil recovery - as well as to make any necessary changes to systems and procedures to ensure that similar frauds will not recur.

Recovery and Sanctions
Where the Council identifies fraud then it will seek to recover losses wherever appropriate and prosecute or apply other sanctions to perpetrators, such as those contained within the Prosecution Policy. 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
Redress in the form of 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:

<table>
<thead>
<tr>
<th>Policy</th>
<th>Brief Description</th>
</tr>
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<tbody>
<tr>
<td>Counter Fraud Policy including Fraud</td>
<td>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. Includes guidance on what to do if an employee suspects fraud.</td>
</tr>
<tr>
<td>Response Plan</td>
<td></td>
</tr>
<tr>
<td>Prosecution Policy</td>
<td>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</td>
</tr>
<tr>
<td>Money Laundering Policy</td>
<td>Sets out the Council’s commitment to ensuring compliance with the requirements of the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 &amp; 2012 and Chartered Institute of Public Finance and Accountancy (CIPFA) guidance for Local Authorities on Money Laundering.</td>
</tr>
<tr>
<td>Whistleblowing Policy</td>
<td>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.</td>
</tr>
<tr>
<td>Regulation of Investigatory Powers</td>
<td>Sets out rules and procedures for undertaking and gaining authorisation for covert surveillance in accordance with the</td>
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<tr>
<td>Powers Policy</td>
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</tbody>
</table>
Review & Assessment/Quality Assurance

The strategy will be reviewed annually. The outcomes from counter fraud work will be periodically reported to Members of the Public Accounts & Audit Select Committee and outcomes assessed to evaluate success of the strategy.

Periodically, the Counter Fraud Team procedures will be assessed against best practice as set out in CIPFA’s “Managing the Risk of Fraud and Corruption”.

<table>
<thead>
<tr>
<th>Policy</th>
<th>Description</th>
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<tbody>
<tr>
<td>RIPA Act 2000 (as amended by the Protection of Freedoms Act 2012) and compliant with Human Rights &amp; Data Protection Legislation</td>
<td></td>
</tr>
<tr>
<td>Bribery Act Policy</td>
<td>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</td>
</tr>
<tr>
<td>Proceeds of Crime Act 2002 Policy</td>
<td>Sets out the Council’s approach to applying procedures under proceeds of crime legislation to instigate financial redress against those who defraud the Council</td>
</tr>
</tbody>
</table>

These policies will be reviewed at least annually
Assurance & Counter Fraud

Counter Fraud Policy

June 2016

<table>
<thead>
<tr>
<th>Date Last Reviewed:</th>
<th>June 2015</th>
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<tr>
<td>Approved by:</td>
<td>PAASC</td>
</tr>
<tr>
<td>Date Approved:</td>
<td>draft</td>
</tr>
<tr>
<td>Version Number:</td>
<td>1.1</td>
</tr>
<tr>
<td>Review Date:</td>
<td>June 2017</td>
</tr>
<tr>
<td>Document Owner:</td>
<td>Head of Audit</td>
</tr>
</tbody>
</table>
The Council’s commitment to the Counter Fraud Policy

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 the 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 prosecute all offenders where appropriate including, Members, employees, contractors, agency staff, consultants, suppliers and partners.

Who is governed by this Policy?

The Counter Fraud Policy applies to all staff including and not limited to temporary staff, sessional staff, 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.

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. All references to fraud in this document include any other type of fraud related offence – fraud, theft, corruption, bribery. See definitions at the end of this document.
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<th>Page No.</th>
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<td>The Counter fraud culture and deterrence</td>
<td>1</td>
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<tr>
<td>Prevention – Managing the risk of fraud</td>
<td>3</td>
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<td>6</td>
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<td>Recovery, Sanction and Redress</td>
<td>7</td>
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<tr>
<td>Definitions</td>
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<td>Further support, tools and guidance.</td>
<td>9</td>
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<tr>
<td>Appendix 1 Fraud response plan</td>
<td>10</td>
</tr>
</tbody>
</table>
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 that is 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 of these 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 and expects that Members (Elected councillors) and staff at all levels will adopt the highest standards of propriety and accountability and will lead by example.

The Authority also expects that individuals and organisations that come into contact with the Authority e.g. the public, suppliers and contractors, 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 its responsibilities to protect the public funds it administers against fraud 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 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. In this connection 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 Fraud Teams, or the employee’s line manager or Divisional Director or, if more appropriate, an officer external to the individual’s department.

The underlying message is that this Council will not tolerate fraudulent activity. 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.

An ongoing proactive programme of work 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.

Employees have access to counter fraud awareness materials. Fraud awareness programmes will be targeted at specific groups of staff in the form of presentations, workshops and newsletters.

Additionally, this policy will also be available to all employees, contractors and partners and link to associated policies and guidance, for example:

- Employee Code of Conduct
- Disciplinary Rules
- Whistleblowing Policy
- Bribery Policy
- Money Laundering Policy
- Fraud Prosecution Policy
- Counter Fraud Strategy
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. The Council has a number of key processes and procedures which can assist in the prevention of fraud that include:

- Internal Control systems
- Standing Orders & Financial Regulations
- Employee Code of Conduct
- Disciplinary Rules
- Members Code of Conduct

The Strategic Director Finance & Investment has been delegated, through the Council’s Standing Orders and Financial Regulations, 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 defined in the Accounts and Audit Regulations (2015).

Managers

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. Some services will be predominantly at risk of attack from external sources, for example, Council tax and Housing.

When considering the risk of fraud, managers must 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, validating documentary evidence in support of claims for benefits etc. Other risks include assessing declared staff interests and considering whether such interests conflict with the Council’s interests or would undermine public confidence in the Council.

**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, value for money review findings, external audit reports or findings from other external inspections to help ensure that there is full compliance with the Regulatory Framework, Standing Orders, 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 staff and customers of any changes that affect them. Staff 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**

After a reasonable period of time managers should assess the effectiveness of the controls and evaluate whether the risk of fraud has been eliminated or reduced.

Advice on managing risk, evaluating possible conflicts of interest, or the development or evaluation of controls can be obtained from the Internal Audit or Risk Management Sections.

Any system weaknesses identified as a result of Fraud Investigations will be reported to the relevant service manager as well as the Group Manager (Internal Audit & Fraud) and addressed through an agreed action plan. The relevant Service Manager will be responsible for implementing the action plan. Internal Audit will have 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 Public Accounts & Audit Select 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 community 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 the majority of staff are conscientious and hard working 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 and likely to 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.

Staff recruitment is required, therefore, to be in accordance with the Council’s recruitment and selection policies and, in particular, written references regarding known honesty and integrity 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 (Elected Councillors)

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.

Malpractice of any sort will not be tolerated and where evidence indicates malpractice has occurred, a report will be made to the relevant Body.

Members are required to operate within:

- The Council Constitution
- Member Code of Conduct

These matters are specifically brought to the attention of Members and include 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.
The Standards Committee will advise and train Members on matters relating to the Members’ Code of Conduct. The Committee will monitor the operation of that Code.

**Detection and Investigation**

This section should be read in conjunction with the Fraud Response Plan (Appendix 1).

The array of preventative systems, particularly internal control systems within the Council, has been designed to provide indicators of any fraudulent activity, although generally they should be sufficient in themselves to deter fraud it is often the alertness of employees, Members and the public to indicators of fraud 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 appropriate Counter Fraud Team. 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
- there is a standard process for dealing with all suspected cases of fraud; 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 staff 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.

The Council will utilise the additional powers of Police to obtain evidence or recovery of funds or where the matter cannot be pursued in-house, for example, serious organised crime and money laundering.

Referral to the Police will be undertaken in consultation with the Strategic Director Finance & Investment and in accordance with the Council’s
Prosecution Policy. In cases involving Members, the Standards Committee would determine the issue of Police involvement.

Complaints of misconduct under the Members Code of Conduct will be dealt with in accordance with the 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 staff found to have committed fraud against other Local Authorities, or any other agency administering public funds.

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

The decision to recommend any or all of the above sanctions and redress will be made on a case by case basis, having regard to the Disciplinary Rules and Prosecution Policy.

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

Definitions

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

Examples of theft include stealing any property belonging to the council or which has been entrusted to it (i.e. client funds); including cash, equipment, vehicles and data and can also include the stealing of property belonging to our staff or members whilst on council premises.

Under section 24A of the Theft Act 1968, a person is also guilty of theft where ‘they dishonestly retain a wrongful credit’. For example where they do not report and repay an overpayment of salary or advance.
What is fraud?
The Fraud Act 2006 introduced into statute the first legal definition of fraud.

Fraud is defined as the intention to make a gain for oneself or another or to cause loss to another/expose another to a risk of loss by dishonestly making a false representation, dishonestly failing to disclose to another person information which he/she is under a legal duty to disclose or occupies a position in which he is expected to safeguard or not to act against the financial interests of another person and dishonestly abuses that position.

Fraudulent acts may arise from:

Systems Issues - i.e. where a process /system exists which is prone to abuse by either employees or members of the public e.g. Housing Allocations.

Financial Issues - i.e. where individuals or companies have fraudulently obtained money from the Council. Examples include falsification of expense claims, theft of cash and alteration of records to conceal deficiencies, falsification of invoices for payment, failure to account for monies collected.

Equipment Issues - i.e. where Council equipment is used for personal reasons, for example personal use of council vehicles.

Resource Issues - i.e. where there is a misuse of resources for example 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.

Examples of areas where corruption can occur include tendering and awarding of contracts, appointment and reward of external consultants, awarding permissions, planning consents and licenses.

What is Bribery?
Bribery is defined as a financial or other advantage that is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such an advantage would constitute the improper performance of such an activity.

Types of inducement include cash, “free” holidays, “free” professional services and advice, provision of goods or materials, “free” entertainment such as tickets to sporting events.

This area is covered in greater depth by the Bribery Act Policy.
The latest version of the Counter Fraud Policy and all of our documents can be obtained either by contacting the Counter Fraud Team directly or by visiting our intranet pages.

If you have any comments or feedback to do with this document, we would like to hear from you, so please get in touch and email us at the following address:

caft@lbbd.gov.uk
Appendix 1 Fraud Response Plan

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 staff of the London Borough of Barking and Dagenham, consultants, agency staff or contractors.

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 staff. If you suspect fraud it is vital that you follow the guidance in this plan and report your suspicions to the Counter Fraud Team. 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 staff and Elected 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 Counter Fraud Team will maintain a log of all reports, detail actions taken and conclusions reached and report periodically to Members of the Public Accounts & Audit Select Committee.

The Counter Fraud Team 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 a member of staff is to be investigated, the relevant Chief Officer and Departmental Human Resources Officer will be informed. Normally, the member of staff’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, s/he must pass that suspicion on to the Counter Fraud Team immediately. Any delay could compromise subsequent investigations.
What should staff 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 perpetrated by an employee, or other individual(s) against the Council, there are several avenues through which your concerns should be reported.

Initially your concerns should be brought to the attention of your line manager. Alternatively, the matter may be raised with the Counter Fraud Team who can advise or discuss the matter informally.

You can also report concerns via the Fraud telephone Hotline and/or dedicated email address.

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 Team if this can be done without alerting suspicions; this should include any relevant e-mails

You should not:

- Ignore the concerns or be afraid of raising them. You will not suffer recriminations from your employer as a result of voicing a reasonably held suspicion

- Approach individuals yourself or convey your suspicions to other staff, 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 Counter Fraud Team 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 a partner organisation do if they suspect fraud?

The Council encourages members of the public who suspect fraud to contact the Counter Fraud Team 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 staff or the public the Counter Fraud Team 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 ten 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 sufficient evidence of fraud, the Police will be involved in accordance with the Council’s Prosecution Policy. In most cases, referral to the police will be the normal course of action.

All staff must cooperate fully with police or any other form of external enquiry.

Where the police are unable to progress a criminal prosecution, e.g. because the burden of proof is insufficient to convince the Crown Prosecution Service to proceed, legal opinion will be sought as to the expediency of civil action particularly in relation to recovering losses.

If it appears not to be a criminal matter, 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 staff 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 action should be taken against an employee, the Counter Fraud Team will advise the appropriate service manager and/or Director and liaise with the Human Resources section to determine whether disciplinary action is appropriate for:

- misconduct i.e. negligence or error of judgement
- gross misconduct, i.e. dishonesty

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 Counter Fraud Team 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, the police will be involved at an early stage however the Counter Fraud Team may still undertake part or all of the investigation on behalf of the police. All employees MUST co-operate with the investigation process.

If appropriate, and in accordance with Human Resources policies and with 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.

Failure to co-operate will itself constitute a disciplinary offence.

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 the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996.

The outcomes of significant internal investigations will be reported to the Public Accounts & Audit Select Committee.

**Conducting interviews**

Interviews will be conducted in a fair and proper manner and in accordance with the Council’s Disciplinary Rules.
As much documentary evidence as possible will be gathered before any interviews are conducted. If it is established there are any witnesses to the events the Counter Fraud Team will seek to interview witnesses 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, the police will be consulted and interviews may be conducted under caution in compliance with the Police and Criminal Evidence Act 1984 which governs the admissibility of evidence in court proceedings.

**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 Director as well as improvements to systems and procedures.

Management will seek advice from Human Resources to establish the correct procedure to progress the matter through the Council’s disciplinary framework.

For acts of dishonesty, false accounting, gross negligence, deception, or theft, employees can expect to be dismissed. Employees found to have committed fraud against other organisations responsible for the administration of public funds will be considered to have brought this Council into disrepute and can expect to be dismissed.

All matters investigated will be dealt with in accordance with the Council’s Human Resources Disciplinary Rules and Code of Conduct for Employees.
Assurance & Counter Fraud

The Fraud Prosecution Policy

June 2016

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The Council’s commitment to the Prosecution Policy

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

What are the aims and requirements of the policy?

The aim of this prosecution policy is to deter fraud against the Council.

This policy sets out the range of sanctions that may be applied where fraud and wrongdoing is identified and the circumstances relevant to their application.

Who is governed by this Policy?

This policy applies to council employees, 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 wrong doing is identified the Council will employ disciplinary action (in the case of Staff), 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 offence – fraud, theft, corruption and bribery 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.

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

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

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

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

- **The Evidential Test:** To ensure sufficiency of evidence to provide a realistic prospect of conviction
- **The Public Interest Test:** To determine whether or not it would be in the public interest to proceed

A prosecution will usually be pursued unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. To pass the public interest test, the Counter Fraud Team will balance carefully and fairly the public interest criteria as detailed in ‘The Crown Prosecution Service’s Code for Crown Prosecutors 2010’ against the seriousness of the offence.

The public interest criterion includes:

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

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

- was not a first offence
• was planned
• was undertaken by an officer in a position of authority or trust and he or she took advantage of this, or
• involved more than one person

The full tests the council will apply in considering a case for prosecution are set out in Appendix 1.

**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 Counter Fraud Team will brief the Strategic Director Finance & Investment, Chief Executive or other Director as appropriate. 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 in order to prevent further loss, or where it is necessary for the police to examine an area before it is disturbed by staff 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 Counter Fraud Team following consultation with the Group Manager (Internal Audit & Fraud).
In instances where parallel sanctions are applied, for example, internal disciplinary and criminal sanctions, the Counter Fraud Team will carry out an investigation with a view to criminal prosecution, whilst simultaneously conducting an internal investigation under the Disciplinary Procedure.

The Counter Fraud team will provide sufficient 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.

Where the above mechanisms fails to recover any monies owed to the council, following advice from Legal Services, the Council Fraud Team 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.

Other Redress - the council will also seek recovery of losses from pension entitlements where appropriate.

Where other fraudulently obtained assets are found to be held, confiscation orders under Proceeds of Crime legislation will also be considered utilising Accredited Financial Investigator resources.
Publicity

Counter Fraud officers will seek to publicise successfully prosecuted cases, with the aim to deter others and thereby to prevent further frauds. The final decision to publicise will rest with the Council’s Media & Public Relations Team.

Further Support, Tools & Guidance

The latest version of the Fraud Prosecution Policy and all of our documents can be obtained either by contacting the Counter Fraud Team directly or by visiting our intranet pages.

If you have any comments or feedback to do with this document, we would like to hear from you, so please get in touch and email us at the following address:

caft@lbbd.gov.uk
Assurance & Counter Fraud

Money Laundering Policy
June 2016

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The Council’s commitment to the Money Laundering Policy

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

What are the aims and requirements of the policy?

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

Who is governed by this Policy?

The Money Laundering Policy applies to all staff including and not limited to temporary staff, sessional staff and contractors. A failure to comply 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 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.
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Money Laundering Policy

Our policy is to do all we can to prevent wherever possible the Authority and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. It is every member of staff’s responsibility to be vigilant.

What is Money Laundering?

Money Laundering is the term used for a number of 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. It can simply involve receiving payment for goods or services with “dirty” money – usually cash. For the purposes of the new legislation it now includes possessing, or in any way dealing with, or concealing, the proceeds of any crime.

What is the legal definition?

Money Laundering is defined as:

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

What is the legislation?

The Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 & 2012 places specific obligations on persons who are involved in “relevant business”. Offences under the Proceeds of Crime Act and Money Laundering Regulations 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 (or other income), 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?

Some areas of the Council’s activities are thought to be particularly vulnerable to attempts to launder money. Where a need is identified by the risk assessment, advice will be provided to line managers to enable them to provide more targeted training. This may be provided using in-house resources, or through courses and seminars run by external agencies.

Possible examples relating to the Council include:

- Conveyancing, including Housing Right-to-Buy transactions
- Payments in excess of £10,000 e.g. business rates, business rents, hall hire etc.
- Refunds of large overpayments to accounts e.g. as above, plus: 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, for example the sale of a capital asset, 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**

The Council has nominated the Strategic Director Finance & Investment as the main point of contact for money laundering issues and to act as the nominated Money Laundering Reporting Officer. Staff should report any suspicions to the Strategic Director Finance & Investment immediately as they arise.

Suspicion may be reported informally by telephone or email and the responsible officer will seek to establish the facts of the case and determine whether a formal referral to the National Crime Agency (NCA) is appropriate.

The Money Laundering Reporting Officer, or their delegated officer, will consult with staff as appropriate in order to investigate the matter.

**Further Support, Tools, Training & Guidance**

The latest version of the Money Laundering Policy and all of our documents can be obtained either by contacting the Counter Fraud Team directly or by visiting our intranet pages:

If you have any comments or feedback to do with this document, we would like to hear from you, so please get in touch and email us at the following address:

caft@lbld.gov.uk
# Whistleblowing Policy

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The Council's commitment to the Whistleblowing Policy

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

What are the aims and requirements of this policy?

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

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

Who is governed by this policy?

The whistleblowing policy applies to all staff including those 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.

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 it is less likely that we will conduct an investigation and achieve a successful outcome.

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

**What is whistleblowing?**

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

We are committed to being open, honest and accountable. For this reason, concerns about malpractice and impropriety are taken very seriously. We want you to be able to raise any concerns that the interests of others and the Council (and therefore residents of Barking and Dagenham) are at risk, within the Council rather than overlooking the issue or ‘blowing the whistle’ outside.

This is because members of staff 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 staff, including agency workers and contractors 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 staff including those 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.

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 it is less likely that we will conduct an investigation and achieve a successful outcome.

**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.

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. We may ask you to sign a declaration to ensure you understand this principle.

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

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 race, colour, religion, ethnic or national origin, disability, age, sex, sexuality, class or home life

Actions which endanger the health or safety of any individual
- Service users, children or students, particularly children and adults in our care being mistreated or abused
- 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

Your concern may be about members of staff, people who work directly for the Council, suppliers, or people who provide services to the public for us.

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:

- Staff complaints about their contract of employment. These complaints are dealt with through our Grievance or Managing Performance at Work procedures.
- Customers’ complaints about our services. These complaints are dealt with through our Corporate Complaints Procedure.
- Allegations against councillors. Such allegations should be sent in writing to: The Monitoring Officer, London Borough of Barking and Dagenham, Civic Centre, Dagenham, Essex, RM10 7BN. Write "Private and Confidential" on your envelope.

A complaint form and other information is available on line at: https://www.lbbd.gov.uk/council/councillors-and-committees/councillors/complaints-about-councillors/how-to-complain-about-a-councillor/

Also, you 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 because you have made a disclosure. 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 in order for us to conclude the investigation. In this case we will not reveal your name or position without your permission or unless we have to 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.

**How to raise a concern**

If you work for the Council, you should first raise your concern with your immediate supervisor or Group Manager (but 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 Director.

Note whistle blowing concerns that relate to professionals who:
- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

Will need to refer the concerns to the Local Authority Designated Officer (LADO) in Children Services lado@lbbd.gov.uk, who will determine if a specific child protection investigation is required.

Concerns that involve financial malpractice should always be raised with the Counter Fraud Team.

If you prefer, or you do not work for the Council, you can contact the Counter Fraud Team direct in any of the following ways:

- By writing to the Counter Fraud Team at: Whistleblowing, London Borough of Barking and Dagenham, Ground Floor, Civic Centre Annexe, Dagenham, Essex. RM10 7BN.
  
  (Write 'Private and Confidential' on your envelope)

- By phoning the Whistleblowing line on 020 8227 2541. You can leave a confidential voice-mail message 24 hours a day.

- 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, your concerns can be directed to the council Whistleblowing Officer:
If you are putting your concerns in writing it is best to give as much information as possible - including any relevant names, dates, places and so on. 
You should also provide:

- The reason why you are concerned about a situation
- Background information
- What you personally witnessed or extent to which you have experienced the problem. If possible you should provide documentary evidence.

The earlier you raise a concern, the easier it will be to take effective action.

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 any of the prescribed persons/organisations a list of which, and the issues they are able to deal with, is available on the Department for Business, Innovation & Skills website at www.gov.uk.

You can get independent advice or support from an organisation called Public Concern at Work. Their contact details are:

Public Concern at Work
CAN Mezzanine
7 - 14 Great Dover Street
London SE1 4YR
Phone: 020 7404 6609
E-mail: whistle@pcaw.org.uk

How we respond to your concerns

Within 10 working days of you raising a concern, the Whistleblowing Officer or designated investigator will:
- acknowledge that we have received your concern
- explain how we will handle the matter; and
- 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 concern will be to put 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.
The latest version of the Whistleblowing Policy and all of our documents can be obtained either by contacting the Counter Fraud Team directly or by visiting our intranet pages.

If you have any comments or feedback to do with this document, we would like to hear from you, so please get in touch and email us at the following address:

caff@lbdd.gov.uk
Assurance & Counter Fraud

The Regulation of Investigatory Powers (RIPA) Policy

June 2016

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Purpose

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

The RIPA Policy covers the proper conduct of crime prevention activities that involve use of covert directed surveillance, covert human intelligence sources or the accessing of communications data. Application of the policy ensures that the Council is operating in accordance with the RIPA Act 2000 (the 2000 Act) as amended by the Protection of Freedoms Act 2012 (the 2012 Act). This policy sets out the Council’s approach, in particular, it details the checks and balances in place to ensure that any use of covert techniques is lawful, necessary and proportionate.

Staff 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) and the Data Protection Act (DPA).

Investigations should be conducted in accordance with the Council’s Counter Fraud Strategy & Counter Fraud Policy.

Who is Governed by this Policy

The RIPA Policy covers all council staff 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, has the ability to infringe those rights provided that it does so in accordance with the
rules, which are contained within Part II of the Act. Should the public authority not follow the rules, the authority loses the impunity otherwise available to it. This impunity may be a defence to a claim for damages or a complaint to supervisory bodies, or as an answer to a challenge to the admissibility of evidence in a trial.

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

In line with the Code of Practice issued by Central Government associated with the 2012 Act, LBBD will only use covert surveillance under RIPA powers where it is proportionate and necessary to do so, and only in the investigation of serious criminal offences.
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Appendix 3 – Data Protection Act
Appendix 4 – Key RIPA Officers
Appendix 5 – RIPA Forms
Appendix 6 – The Central Register
Appendix 7 – Best practice for photographic and video evidence
Appendix 8 – RIPA Authorising Officer’s Aide-Memoire
‘It is essential that the Chief Executive, or Head of Paid Service, together with the Directors and the Heads of Units should have an awareness of the basic requirements of RIPA and also an understanding of how it might apply to the work of individual council departments. 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’ (Office of Surveillance Commissioners).

**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 considered to 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 Coordinating Officer (RCO). The RCO will be responsible for the maintenance of a central register that will be available for inspection by the Office of the Surveillance Commissioners (OSC). 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.

The general usage of the council’s CCTV system is not affected by this policy. However, if cameras are specifically targeted for the purpose of directed surveillance, a RIPA authorisation must be obtained.

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

Directed surveillance that is carried out in relation to a legal consultation on certain premises will be treated as intrusive surveillance, regardless of whether legal privilege applies or not. These premises include prisons, police stations, courts, tribunals and the premises of a professional legal advisor. Local Authorities are not able to use intrusive surveillance. Operations will only be authorised when there is sufficient documented evidence that the alleged crime or disorder exists and when directed surveillance is considered to be a necessary and proportionate step to take in order to secure further evidence.

Low level surveillance, such as ‘drive-bys’ or everyday activity observed by officers in the course of 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 at all times 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 the purpose of 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 as long as 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 the purpose of 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 the purpose of covertly obtaining or disclosing information that they become a CHIS.

**The Council does not at present utilise CHIS.** Any consideration of such use can only be considered with prior discussion with the Strategic Director Finance & Investment and/or Director of Law & Governance.

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 be in need of community care services by reason of mental or other disability, age or illness, and who may not be able to take care of themself. 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 take into account 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, insofar 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 at all times 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 will 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. Particular 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 submit the application form to an authorising officer (see Appendix 4) for approval.

4. 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)**

5. The AO will obtain a unique reference number (URN) from the central register before authorising an application.

6. The AO considers the application and if it is considered complete the application is signed off. An Authorising Officer’s Aide-Memoire is provided at Appendix 8 to assist Authorising Officers when considering applications for directed surveillance.

7. If there are any deficiencies in the application further information may be sought from the Investigation Officer, prior to sign off.
8. 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**

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

**Authorised Activity**

10. Authorisation takes effect from the date and time of the approval from the Magistrates Court.

11. Where possible, private vehicles used for directed surveillance purposes should have keeper details blocked by the DVLA.

12. Consideration should be given to notifying the relevant police force intelligence units of the operation.

13. 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.

14. Evidential notes should be made by all officers engaged in the operation. These documents will be kept in accordance with the appropriate retention guidelines.

15. 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**

16. As soon as the authorised activity has concluded the Investigation Officer will complete a Cancellation Form (Appendix 5).

17. Originals of the complete application, renewal & cancellation forms will be retained with the central register.

**Magistrate 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, acquisition of **Communications Data** (CD) and 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. 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 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 LBBD 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. For CD requests the RIPA authorisation or notice may seek to acquire consequential acquisition of specific subscriber information. The necessity and proportionality of acquiring consequential acquisition will be assessed by the JP as part of his consideration.

The original RIPA authorisation should be shown to the JP but also be retained by LBBD 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 brief 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 LBBD 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 LBBD may proceed to use the techniques approved in that case.

It will be important for each officer seeking authorisation to establish contact with HMCTS administration at the magistrates’ court. HMCTS administration will be the first point of contact for the officer when seeking a JP approval. LBBD 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 staff. 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 are able to 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 particular matters.
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 sufficient 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 course of 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.

LBBD will need to provide a copy of the order to the communications SPoC (Single Point of Contact) for all CD requests. SPoCs must not acquire the CD requested until the JP has signed the order approving the grant.

**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 1 month. Urgent oral authorisations or authorisations will unless renewed, cease to have effect after 72 hours.

**Urgency**

The law has been changed so that urgent cases can no longer be authorised orally. Approval for directed surveillance in an emergency must now be obtained in written form. Oral approvals are no
longer permitted. In cases where emergency approval is required an Authorising Officer (AO) must be visited by the applicant with two completed RIPA application forms. The AO will then assess the proportionality, necessity and legality of the application. If the application is approved then the applicant must then contact the out-of-hours HMCTS representative to seek approval from a Magistrate. The applicant must then take two signed RIPA application forms and the judicial approval form to the Magistrate for the hearing to take place.

As with a standard application the test of necessity, proportionality and the crime threshold must be satisfied. A case is not normally to be regarded as urgent unless the delay would, in the judgement of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation. Examples of situations where emergency authorisation may be sought would be where there is intelligence to suggest that there is a substantial risk that evidence may be lost, a person suspected of a crime is likely to abscond, further offences are likely to take place and/or assets are being dissipated in a criminal investigation and money laundering offences may be occurring. An authorisation is not considered urgent if the need for authorisation has been neglected or the urgency is due to the authorising officer or applicant’s own doing.

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 legalisation 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 relevant Head of Service, and the Head of Audit. 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, in order 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 Interception of Communications 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
through the use of 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 Coordinating Officer must be suitably qualified or trained.

The Senior Responsible Officer in conjunction with the RIPA Coordinating 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 discussed with the Security & Investigations or Counter Fraud Teams.

## 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. PAASC will receive quarterly summaries on the Council’s use of RIPA.

## The Inspection Process

The Office of Surveillance Commissioners (OSC) 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.

## Resources

Links to the latest Codes of Practice can be found on the Home Office website [www.gov.uk](http://www.gov.uk).

Further information can be found on the Office of Surveillance Commissioners & Home Office websites:


Relevant Acts:
The latest version of the RIPA Policy and all of our documents can be obtained either by contacting the Counter Fraud Team directly or by visiting our intranet pages.

If you have any comments or feedback to do with this document, we would like to hear from you, so please get in touch and email us at the following address:

caft@lbld.gov.uk
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.

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.

**RIPA Co-Ordinating Officer (RCO)**
The RCO has the day to day responsibility to maintain a central and up-to-date record of all authorisations (Central Register) and arrange appropriate training

**Senior Responsible Officer (SRO)**
The SRO is responsible for the integrity of the processes in order 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.
Appendix 2

The Human Rights Act 1998

Articles of the Human Rights Act relevant to RIPA:
- Article 6 – Right to a Fair Trial
- Article 8 – Right to Privacy

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.
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 individuals rights
- Be secure
- Not be transferred to non European Economic Area countries without adequate protection.
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.

Senior Responsible Officer  Strategic Director Finance & Investment
Co-ordinating Officer  Head of Audit
Authorised Officers  Operations Director: Environment
RIPA Forms

Can be obtained from the Counter Fraud Team caft@lbbd.gov.uk
Central Register

A central register will be maintained by the RIPA Co-ordinating 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 Office of the Surveillance Commissioners.

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 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 officers 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.
<table>
<thead>
<tr>
<th><strong>Has the applicant satisfactorily demonstrated proportionality?</strong></th>
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<tbody>
<tr>
<td>Court will ask itself should (not could) we have decided this was proportionate.</td>
</tr>
<tr>
<td>Is there a less intrusive means of obtaining the <em>same</em> information?</td>
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<tr>
<td>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?</td>
</tr>
<tr>
<td>What is the least intrusive way of conducting the surveillance?</td>
</tr>
<tr>
<td>Has the applicant asked for too much? Can it safely be limited?</td>
</tr>
<tr>
<td>Remember – Don’t use a sledge-hammer to crack a nut!</td>
</tr>
<tr>
<td>YOUR COMMENTS</td>
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<table>
<thead>
<tr>
<th><strong>Has the applicant satisfactorily demonstrated necessity?</strong></th>
</tr>
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<tbody>
<tr>
<td>What crime is alleged to be being committed? Has the applicant described it in full?</td>
</tr>
<tr>
<td>Is surveillance necessary for what we are seeking to achieve?</td>
</tr>
<tr>
<td>Does the activity need to be covert, or could the objectives be achieved overtly?</td>
</tr>
<tr>
<td>YOUR COMMENTS</td>
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<table>
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<tr>
<th><strong>What evidence does applicant expect to gather?</strong></th>
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<tbody>
<tr>
<td>Has applicant described (a) what evidence he/she hopes to gain, and (b) the value of that evidence in relation to THIS enquiry?</td>
</tr>
<tr>
<td>YOUR COMMENTS</td>
</tr>
<tr>
<td>Question</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Is there any likelihood of obtaining confidential information during this operation? If “Yes” operation must be authorized by the Chief Executive.</td>
</tr>
<tr>
<td>Have any necessary risk assessments been conducted before requesting authorization? Details what assessment (if any) was needed in this particular cases. In the case of a CHIS authorization an appropriate bespoke risk assessment must be completed.</td>
</tr>
<tr>
<td>When applying for CHIS authorization, have officers been identified to:</td>
</tr>
<tr>
<td>a) have day to day responsibility for the CHIS (a handler)</td>
</tr>
<tr>
<td>b) have general oversight of the use of the CHIS (a controller)</td>
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<tr>
<td>c) be responsible for retaining relevant CHIS records, including</td>
</tr>
<tr>
<td>true identity, and the use made of the CHIS.</td>
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<tr>
<td>Have all conditions necessary for authorization been met to your satisfaction? GIVE DETAILS</td>
</tr>
<tr>
<td>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 REAASONS</td>
</tr>
</tbody>
</table>
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 Counter Fraud Group. Retain copy.
Assurance & Counter Fraud

The Bribery Act Policy

June 2016

<table>
<thead>
<tr>
<th>Date Last Reviewed:</th>
<th>June 2015</th>
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<td>June 2017</td>
</tr>
<tr>
<td>Document Owner:</td>
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The Council's commitment to the Bribery Act Policy

The council will not condone acts of bribery in any form whether it is in the form of money, gifts or a favour, offered or given to a person in a position of trust to influence that person's views or conduct.

What are the aims and requirements of the legislation?

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

Who is governed by this Policy?

The Bribery Act policy covers everyone working for us, or on our behalf, including all permanent employees, temporary agency staff, contractors, members of the council (including independent members), volunteers and consultants.

Executive Summary

The Bribery Act Policy sets out the Council’s commitment to ensuring compliance with the requirements of the Bribery Act.
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<th>Title</th>
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<td>What are adequate procedures?</td>
<td>2</td>
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<tr>
<td>What are the six principles</td>
<td>2</td>
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<td>Golden Rules</td>
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<td>Employee Responsibilities</td>
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<tr>
<td>Reporting a concern</td>
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<tr>
<td>Further support, tools and guidance</td>
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</table>
The Bribery Act Policy

The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (section 1). It also makes it an offence to ask for, agree to receive, or accept a bribe (section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of getting or keeping business or an advantage in carrying out business. There is also a new corporate offence under section 7 that we will commit if we fail to prevent bribery that is intended to get or keep business or an advantage in business for our organisation. We are no longer able to claim we were not aware of bribery and may be responsible as an organisation, but we will have a defence if we can show we had adequate procedures in place designed to prevent bribery by our staff or by people associated with our organisation. (See ‘What are adequate procedures?’ below for an explanation).

Bribery Act policy statement

Bribery is a criminal offence. We do not offer bribes to anyone for any purpose, and we do not accept bribes.

Using another person or organisation to give bribes to others is a criminal offence. We do not offer bribes indirectly or otherwise engage in bribery.

We are committed to preventing and detecting bribery. We take a tough stance against bribery and aim to ensure this Bribery Act policy is observed throughout the Council.

We will deal with allegations of bribery involving employees under our disciplinary procedure as “gross misconduct”. It is normal practice to dismiss employees without notice in cases where gross misconduct is considered to have taken place.

The aim of this policy

This policy provides a framework to allow those affected by it to understand and put into place arrangements to prevent bribery. It will work with related policies and other documents to identify and report when this policy is breached.

The policy aims to ensure that everyone:

- acts honestly at all times and protects the council’s resources they are responsible for; and
- keeps to the spirit, as well as the letter, of the laws and regulations that cover our work

Scope of this policy

This policy applies to all of our activities. All levels of the council are responsible for controlling the risk of bribery. We will aim to encourage schools, suppliers and other organisations we work with to adopt policies that are consistent with the principles set out in this policy.
The Bribery Act policy applies to and covers everyone working for us, or on our behalf, including all permanent employees, temporary agency staff, contractors, members of the council (including independent members), volunteers and consultants.

This means that everyone at all levels of the council has a responsibility to control the risk of bribery occurring.

**What are “adequate procedures”**

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

**What are the six principles?**

1. **Proportionate procedures**

An organisation’s procedures to prevent bribery by the people associated with it should be in proportion to the risks of bribery it faces and to the nature, scale and complexity of the organisation’s activities. They should include interrogation of data for the purpose of discovering evidence and ensuring personal data is protected. The procedures should also be clear, practical, accessible and effectively put into place and enforced.

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

Our Cabinet and Senior Management 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 include 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 Group Manager (Internal Audit & Fraud) will oversee this.

We are committed to putting these principles into place.

We can also be fined, and if we are found guilty of an offence under section 7, 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, 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 staff 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).

Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2006, a company is automatically and permanently barred from competing for public contracts if it has been convicted of a corruption offence. There are no plans to amend the 2006 regulations to include the crime of failing to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from competing for public contracts. 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

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
• take action 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

Our commitment to action

We are committed to:
• setting out a clear Bribery Act policy and keeping it up to date
• making all employees aware of their responsibility to keep to this policy at all times;
• 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 staff 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, leading to dismissal for gross misconduct and/or may also face civil and 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. For example, talking to a line manager first, or the contacts listed in the Whistleblowing Policy if this is more appropriate.

Those reporting concerns do not have to give us their name. Upon receiving a report about an incident of bribery, corruption or wrong doing, 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. This will be easier and quicker if those reporting concerns decide to give their name. In some circumstances, we will have to consider reporting the matter to the Serious Fraud Office.

Staff 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 and 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.

If there are any questions about these procedures, the Monitoring Officer can be contacted, on 0208 227 2114 or the Group Manager (Internal Audit & Fraud), on 0208 227 2896.

Other relevant policies

- Fraud Prosecution Policy
- Money Laundering Policy
- Whistleblowing Policy
- Counter Fraud Policy
- Employee Code of Conduct
- Rules in respect of Gifts and Hospitality
- Disciplinary Procedure and Disciplinary Rules

Further Support, Tools & Guidance

- The latest version of the Bribery Act Policy and all of our documents can be obtained either by contacting the Counter Fraud Team directly or by visiting our intranet pages

- If you have any comments or feedback to do with this document, we would like to hear from you, so please get in touch and email us at the following address:
  caft@lbdd.gov.uk
Assurance & Counter Fraud

Proceeds of Crime Act Policy & Procedures

June 2016

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<th>Date Last reviewed:</th>
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<td>Document Owner:</td>
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</table>
The councils commitment to the Proceeds of Crime Act Policy

This Policy sets out the Council’s commitment to use the proceeds of crime act as a primary tool in its efforts to disrupt and dismantle individuals and organised crime groups that operate within our jurisdiction.

What are the aims and requirements of this policy?

The Council wishes to ensure that those prosecuted for fraud offences do not profit from the benefit obtained from their criminal activity. Following proper processes, the Council will take appropriate action to confiscate assets and money held where it cannot be evidenced that these were acquired through legitimate means. Additional powers under the act will be used to ensure the comprehensive investigation of relevant cases.

Who is governed by this policy?

The policy applies to Accredited Financial Investigators employed directly or engaged by the London Borough of Barking & Dagenham and those who prosecute cases where proceeds of crime recovery is appropriate.

Executive Summary

The Proceeds of Crime Act 2002 is to be used by the Audit and Counter Fraud Group within Barking and Dagenham Council as a primary tool in its efforts to disrupt and dismantle individuals and organised crime groups that operate within our jurisdiction. The Audit and Counter Fraud Group will also look for opportunities to use the Proceeds of Crime Act 2002 to support its Counter Fraud Strategy. Referrals will be accepted from but not exclusive to Housing and Corporate Fraud, Trading Standards and Planning offences where appropriate and to ensure that those convicted of an offence from which they have benefitted from are stripped of the benefit of that crime. The purpose of this policy is to provide information and guidance on the use of the Proceeds of Crime Act 2002 and the procedures to be adopted by accredited Financial Investigators employed or engaged by the London Borough of Barking & Dagenham.
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- Key Provisions ........................................................................................................................ 8
- Further Support, Tools & Guidance ..................................................................................... 23
Background

The Proceeds of Crime Act 2002 received Royal Assent on 24 July 2002 and was the subject of phased implementation, becoming fully effective on 24 March 2003.

Key Provisions

The Act is broken down into 12 Parts. The following parts are relevant to this Policy;
Part 1 - Introduction
Part 2 – Confiscation (including Restraint) - England & Wales
Part 5 – Cash Seizure
Part 7 – Money Laundering
Part 8 – Investigations

Part 1 – Introduction
The Proceeds of Crime Act 2002 (POCA) extends to all parts of the UK. The Act requires that all Financial Investigators and Financial Intelligence Officers are registered and accredited and that accreditation may relate to all or specific provisions of the Act. Accreditation is bestowed by the National Crime Agency (NCA) Proceeds of Crime Centre (POCC), who is also required to monitor the performance of accredited Financial Investigators and Financial Intelligence Officers, withdrawing the accreditation from any person who contravenes or fails to comply with any condition subject to their accreditation. The NCA POCC ‘Financial Investigators’ Registration, Accreditation and Monitoring Policy’ can be accessed via the Financial Investigation Support System (FISS) gateway.

The Audit and Counter Fraud Group within Barking and Dagenham Council is responsible for its own Financial Investigator and will maintain a financial investigation capability to deal with matters arising. A Senior Authorising Officer (SAO) will take ultimate responsibility for all matters relating to POCA within Audit and Anti-Fraud Group; this will include the management of the Financial Investigator.

Barking and Dagenham is required to nominate a Single Point of Contact (SPOC) to liaise with the NCA POCC in respect of all training, accreditation matters and Joint Asset Recovery.

Part 2 – Confiscation

The legislation
The POCA confiscation legislation came into force on the 24 March 2003. It replaced previous confiscation legislation namely the Criminal Justice Act 1988 and the Drugs Trafficking Act 1994. When an offence has occurred
before the 24 March 2003 or where an offence straddles this date, then the earlier legislation must be used.

Confiscation is conducted in the Crown Court following conviction in the Crown Court or where the case has been committed to the Crown Court for sentence. Where a case is considered suitable for confiscation and the subject has been tried / sentenced in the Magistrates Court then, on application of the Crown, the case can be committed to the Crown Court for specific consideration of confiscation. This includes summary only offences. The confiscation process is mandatory where the prosecutor (Director of Law & Governance) asks the Court to proceed or where the Court itself considers it appropriate to do so.

The expression ‘Confiscation Order’ is a misnomer as the Order itself does not confiscate any specific property but, instead, requires the defendant to pay over a sum of money. This is termed as the ‘Recoverable Amount’.

Confiscation involves the calculation of the benefit obtained by the subject as a result of, or in connection with, their ‘criminal conduct’. ‘Criminal conduct’ is conduct which constitutes an offence in England and Wales or would do if it occurred there. There are two types of ‘criminal conduct’, ‘particular criminal conduct’ and ‘general criminal conduct’.

In certain circumstances the Court must determine whether a subject has a ‘criminal lifestyle’. This determination is purely a formulaic exercise.

Where it is found that a defendant does have a ‘criminal lifestyle’ then the Court is required to make certain assumptions about any property transferred to the subject in the six years before proceedings were commenced; any expenditure incurred by the subject in the six years before proceedings were commenced and, any property held by the subject at any time after the date of conviction, unless it can be shown that making a particular assumption would be incorrect. The accrued value of the assumptions is the subjects benefit from ‘general criminal conduct’.

Where the subject is not found to have a ‘criminal lifestyle’ then the Court must decide whether they have benefited from their ‘particular criminal conduct’, or offences with which they have been convicted.

**Procedure**

In all cases where there is evidence to suggest that a subject has benefited from an offence or offences under investigation, or where they have been charged with an offence listed in Schedule 2 of the Proceeds of Crime Act 2002, it will be the duty of the officer in charge of the investigation to contact the Financial Investigator. They will decide on the suitability of the case for a confiscation investigation and whether the Investigation can be run alongside the original Investigation with the aid of the Financial Investigator.

It will be the responsibility of the Investigating officer in charge of the case to notify the appointed Financial Investigator of the name and contact details of
the relevant prosecutor responsible for the case and full details of all subsequent Court hearings in advance of that hearing. The officer in charge of the case will also provide the Financial Investigator with access to all material considered relevant to the Financial Investigator, including seized material in a timely manner.

Further, the Investigating officer in charge of the case or Barking and Dagenham Legal Services must notify the Senior Appropriate Officer and or Financial Investigator of the confiscation investigation before any ‘Basis of Plea’ is accepted by Barking and Dagenham Council as this is often a means by which defendants and their legal teams mitigate subsequent Confiscation Orders.

As an incentive to law enforcement agencies to pursue confiscation the UK Government currently have a scheme in place, the ‘Asset Recovery Incentivisation Scheme’ (ARIS), whereby 18.75% of all confiscated money is paid to the agency obtaining the Order. This money is paid by the Home Office to the Audit and Counter Fraud Group. Through its POCA Single Point of Contact (SPOC), the Audit and Counter Fraud Group can then draw on this money but it must be used in accordance with Home Office guidelines, namely that it will be utilised in improving asset recovery performance or in tackling crime. In making the application to draw on ARIS money the POCA SPOC must detail, on the relevant form, how they intend to use the money in accordance with the Home Office Guidelines. POCA SPOC will then, on an annual basis, be required to certify that the money has been used in accordance with their initial application.

Before paying any incentivisation money the Home Office reconciles the money received by it to the relevant entry on the Joint Asset Recovery Database (JARD). Access to JARD is granted to individual Financial Investigators by the NCA and controlled by the JARD Single Point of Contact for Local Authorities (SPOC). It is the relevant Financial Investigators responsibility to ensure that JARD records are opened and maintained in accordance with JARD Guidelines.

The Local Authority JARD SPOC is Justin Miller within London Borough of Southwark’s Trading Standard’s Team.

Restraint

The legislation
The POCA permits an application for a Restraint Order to be made to the Crown Court as soon as a criminal investigation has been started, but not concluded, if there is reasonable cause to believe that the alleged offender has benefited from their ‘criminal conduct’ and that there is risk that assets will be dissipated if the Order is not made.¹

The power to apply for a Restraint Order lies only with the prosecutor or an Accredited Financial Investigator with part 2 powers, namely a person who has been authorised to make such applications by the NCA. Where the application is made by an accredited Financial Investigator within Barking and Dagenham Council the application must have been authorised by the prosecutor of Barking and Dagenham Legal Services. The procedure for application for a Restraint Order is set out in the Criminal Procedure Rules.

A Restraint Order prohibits any specified person from dealing with any realisable property held by him whether or not it is described in the Order. It includes property held by a person other than the alleged offender. This could include banks, solicitors etc.

An application for a Restraint Order is made ex parte.

In making an application the Accredited Financial Investigator must compile a written statement outlining the full facts of the case and the reason why the making of such Order is required. A copy of this Statement together with a copy of the Restraint Order must be served as soon as possible after its issue on all relevant persons.

**Procedure**

In all cases where there is reason to believe or suspect that a defendant or person under investigation has benefited from his criminal conduct and there is reason to believe that the person has, or is likely to, dissipate their assets, officers should seek immediate advice from the Financial Investigator. The Financial Investigator will consider the suitability of obtaining a Restraint Order and, where suitable, will make such application with the support of Barking and Dagenham Legal Services and the SAO.

In considering the suitability of the application the Financial Investigator, in conjunction with the officer in charge of the case, should consider any risks to the investigation by making the full and frank disclosure required within the supporting Statement.

Where a Restraint Order is obtained, the Financial Investigator will liaise with the officer in charge of the main investigation to ensure that the Order is served on all relevant persons as soon as possible.

It is the Financial Investigators responsibility to ensure that the Order is properly recorded on JARD.

All Restraint Orders must be signed by the prosecutor (Barking and Dagenham Legal Services) and not a Financial Investigator as there are personal liabilities if the application is made by an individual.

**Part 7 – Money Laundering**

**The legislation**
Money laundering is an act which constitutes and offence under Sections 327, 328 or 329 of the Proceeds of Crime Act, or an attempt, conspiracy or incitement to commit any of those offences, or aiding, abetting, counselling or procuring there commission.²

It is important to remember that the term money laundering is a misnomer as it does not solely relate to money, it relates to 'criminal property'.

‘Criminal property’ is defined as;³
‘Property is criminal property if it constitutes a person’s benefit from criminal conduct or it represents such benefit, and the alleged offender knows or suspects that it constitutes or represents such a benefit’.

‘Criminal conduct’ is defined as;⁴
‘Criminal conduct’ is conduct which constitutes an offence in any part of the United Kingdom or would constitute an offence in any part of the United Kingdom if it occurred there’.

The three principle offences of Money Laundering are;

Section 327 – Concealing the proceeds of criminal conduct
A person commits an offence if he:
  i. Conceals criminal property;
  ii. Disguises criminal property;
  iii. Converts criminal property;
  iv. Transfers criminal property;
  v. Removes criminal property from England and Wales or from Scotland or from Northern Ireland.

Section 328 – Assisting another to retain the benefits of criminal conduct
A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.

Section 329 – Acquisition, use, and possession of the proceeds of crime
A person commits an offence if he:
  i. Acquires criminal property;
  ii. Uses criminal property;
  iii. Has possession of criminal property.

Defences to Money Laundering offences:

² Section 340(11) Proceeds of Crime act 2002
³ Section 340(3) Proceeds of Crime act 2002
⁴ Section 340(2) Proceeds of Crime act 2002
There are a number of statutory defences to the three principle offences of Money Laundering.

A person does not commit an offence if:
   a) He makes an authorised disclosure\(^5\) and (if the disclosure is made before he does the act mentioned) he has the appropriate consent;
   b) He intended to make such a disclosure but had a reasonable excuse for not doing so;
   c) The act is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

Nor does a person commit an offence if;
   a) He knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the UK, and
   b) The relevant criminal conduct-
       (i) Was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and
       (ii) Is not of a description prescribed by an Order made by the Secretary of State.

There is an additional defence in relation to the offence of ‘Acquisition, use, and possession of the proceeds of crime’ under Section 329 where someone has acquired or used or had possession of the said property for adequate consideration.

**Important notes – Money Laundering offences:**

It is vital in any prosecution for a money laundering offence that it can be shown, to the criminal standard, that the property in question constitutes or represents someone’s benefit from an offence and that they either knew or suspected that to be the case.

There are two ways in which the Crown can prove that property derives from crime. Firstly by showing that it derives from conduct of a particular kind or kinds and that conduct is unlawful, or by evidence of the circumstances in which the property is handled which are such as to give rise to the irresistible inference that it can only be derived from crime.\(^6\)

When considering the Section 328 offence of ‘Assisting another to retain the benefits of criminal conduct’ the property in question must be criminal property at the time the person becomes concerned in the arrangement.\(^7\) Where the arrangement facilitates an offence and thus subsequently turns legitimate property into criminal property, alternative offences must be considered.

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\(^5\) Under Section 338 Proceeds of Crime Act 2002
\(^6\) R v Anwoir [2008] 4 All ER 582 EWCA Crim 1354
\(^7\) R v Geary [2010] EWCA Crim 1925
An 'authorised disclosure' is one that is made to the NCA, who then decide whether or not to grant consent for the transaction to proceed. This will always be in writing and on prescribed forms and can be obtained if necessary.

Other offences:
In addition to the three principle money laundering offences outlined above there are a number of additional offences covered by the Act. These offences and various defences are complex and primarily relate to persons involved in the regulated sector. They include;

Failure to disclose knowledge or suspicion of money laundering
A person commits an offence if the following conditions are satisfied:
1. That he knows or suspects, or has reasonable grounds for knowing or suspecting, that another person is engaged in money laundering.
2. That the information or other matter on which his knowledge or suspicion is based, or which gives reasonable grounds for such knowledge or suspicion, came to him in the course of a business in the regulated sector.
3. That he can identify the other person mentioned or the whereabouts of any of the laundered property, or that he believes, or that it is reasonable to expect him to believe that the information or other matter will or may assist in identifying that other person or the whereabouts of any of the laundered property.
4. That he does not make the required disclose to a nominated officer, or a person authorised by the Director General of NCA as soon as is practicable after the information or other matter comes to him.

Tipping off
(1) A person commits an offence if:
(a) The person discloses any matter within (2) below;
(b) The disclosure is likely to prejudice any investigation that might be conducted following the disclosure; and
(c) The information on which the disclosure is based came to the person in the course of a business in the regulated sector.
(2) The matter are that the person or another person has made a disclosure under this Part:
(a) To a constable;
(b) To an officer of revenue and Customs;

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8 Section 330 Proceeds of Crime Act 2002
9 Section 333A Proceeds of Crime Act 2002
(c) To a nominated officer, or

(d) To a member of staff of NCA authorised by the Director General to receive such disclosures.

**Procedure**

Where there is evidence to support a charge of Money Laundering contrary to Sections 327 or 328 which is over and above the evidence proving the original offence these charges should be seriously considered. Where advice is needed to establish whether the act or acts support a charge of Money Laundering the advice of the Financial Investigator should be sought.

When considering offences of Failure to Disclose Knowledge or Suspicion of Money Laundering or Tipping Off it is strongly recommended that advice is sought from the Financial Investigator.

Where a person is charged with an offence contrary to Sections 327 or 328 of POCA they should advise the Financial Investigator immediately as both offences fall within Schedule 2 of POCA 2002 (see above).

**Part 8 – Investigations**

**The legislation**

The primary focus of the powers conferred by Part 8 of the POCA 2002 is the investigation into the proceeds of crime with a view to recovery and confiscation of those proceeds and prosecution for money laundering offences. These extensive powers enable an investigator to obtain information in order to trace criminal property, to monitor the activity of transactions and to identify persons in control of such property. A failure or refusal to comply with Court Orders can result in proceedings for contempt or for specific criminal offences including the offence of ‘Prejudicing an Investigation’ (see below).

The investigative powers contained within POCA 2002 can be granted for the purpose of five different types of POCA investigations. They are;

1. **Confiscation Investigations**
   A confiscation investigation is an investigation into whether a person has benefited from his criminal conduct or the extent or whereabouts of such benefit.

2. **Money Laundering Investigations**
   A money laundering investigation is an investigation into whether a person has committed a money laundering offence. (See definition of a money laundering offence above).

3. **Civil Recovery Investigations**
   A civil recovery investigation is an investigation into whether property is recoverable property or associated property, to determine who holds that property, and its extent and whereabouts.
4. Detained Cash Investigations
A detained cash investigation is an investigation into the derivation of cash detained under the ‘Cash Seizure’ provisions or whether it was intended for use in unlawful conduct.

5. Exploitation Proceeds Investigations
An exploitation proceeds investigation is an investigation for the purposes of the ‘criminal memoirs’ provision of the Coroners and Justice Act 2009.10
The five investigative powers contained within POCA 2002 are;
- Production Orders;
- Search and Seizure Warrants;
- Account Monitoring Orders;
- Customer Information Orders; and
- Disclosure Orders.

Production Orders
The purpose of a Production Order is to obtain material relating to a known person or business, such as account holder details, identity documents used when opening an account, bank statements and correspondence. A Production Order can be extended to grant the power of entry onto premises to obtain access to the material detailed in the Order.11 A Production Order is available for all categories of investigation.

Applications for Production Orders
Applications must be made by an ‘appropriate officer’12 and must state that, a person specified in the application is subject to a money laundering, a confiscation or an exploitation proceeds investigation, or, that the property specified in the application is subject to a civil recovery or a detained cash investigation. The application must state that the Order is sought for the purposes of the investigation; that the Order is sought in relation to material or material of a description, specified in the application; and, that a person specified in the application appears to be in possession or control of the said material. The Order is an order either requiring the person named to produce the material to an appropriate officer for him to take it away, or requiring the person named in it to give an appropriate officer access to it, within the period stated. The period stated must be a period of seven days unless it appears to the judge that a shorter or longer period would be appropriate.13

The general rule is that the application must identify the respondent and be in writing. The Court and the respondent (unless the Court otherwise directs)

10 Schedule 19 of the Coroners and Justices Act 2009.
11 Section 347 Proceeds of Crime Act 2002
12 See Section 378 Proceeds of Crime Act 2002
13 Section 345 Proceeds of Crime Act 2002
must be served with a copy of the application. The applicant must serve any
Order made on each respondent.\(^{14}\)

In making the application the applicant must describe the material that it
seeks; explain why they think the material is in the respondent’s possession
or control; explain why the material is likely to be of substantial value to the
investigation and why it is in the public interest for the material to be
produced. They must also confirm that none of the material is expected to be
subject to legal privilege or excluded material and propose the terms of the
Order and the period within which it should be produced if it is considered that
seven days from the date of the Order is not appropriate.\(^{15}\)

Where an applicant wants the Court to make an Order to grant entry, they
must additionally specify the premises to which entry is sought, explain why
the Order is needed, and propose the terms of the Order.\(^{16}\)

The Court must determine an application for an Order at a hearing (which will
be in private unless the Court directs otherwise) in the applicant’s presence.
The Court must not determine an application in the absence of the respondent
or any other person affected by the Order unless the absentee has had at
least 2 business days in which to make representations, or, the Court is
satisfied that the applicant cannot identify or contact the respondent; it would
prejudice the investigation if the respondent were present; or it would
prejudice the investigation to adjourn or postpone the application so as to
allow the respondent to attend.\(^{17}\)

Where the application includes information that the applicant thinks ought not
be revealed to the recipient the applicant must omit that information from the
part of the application that is served on the respondent or other persons;
identify that information on the Court copy to show that it is only for the Court;
and explain on the Court copy why the applicant has withheld it. A hearing of
an application where information has been withheld from the respondent may
take place, wholly or partially, in the absence of the respondent and any other
person.\(^{18}\)

**Search and Seizure Warrants**
A Search and Seizure warrant is a warrant giving authority to enter and
search the specified premises and to seize and retain any material found
there which is likely to be of substantial value to the investigation. In general
there are two situations where a Search and Seizure warrant will be
necessary: the first is where a Production Order has been made and not
complied with, and there are reasonable grounds for believing that the
required material is on the premises; the second is in circumstances where it
is not possible to make a Production Order.

\(^{14}\) Rule 6.14 Criminal Procedure Rules 2011  
\(^{15}\) Rule 6.15 Criminal Procedure Rules 2011  
\(^{16}\) Rule 6.16 Criminal Procedure Rules 2011  
\(^{17}\) Rule 6.3 Criminal Procedure Rules 2011  
\(^{18}\) Rule 6.21 Criminal Procedure Rules 2011
Applications for Search and Seizure Warrants
Applications must be made by an ‘appropriate officer’ and must state that, a person specified in the application is subject to a money laundering, a confiscation or an exploitation proceeds investigation, or, that the property specified in the application is subject to a civil recovery or a detained cash investigation. The application must also state that the Warrant is sought for the purposes of the investigation; that it is sought in relation to the premises specified in the application; and, that it is sought in relation to material specified in the application.\(^\text{20}\)

Account Monitoring Orders
An Account Monitoring Order, unlike the other investigative tools which are concerned with historical information, allows an investigator to monitor the activity of a particular account held at a financial institution for a period of up to 90 days after the Order is made. It is available for all types of POCA investigation except a ‘detained cash’ investigation.

Applications for Account Monitoring Orders
Applications must be made by an ‘appropriate officer’ and must state that a person specified in the application is subject to a money laundering, confiscation or an exploitation proceeds investigation, or, that the property specified in the application is subject to a civil recovery investigation, and the person specified in the application appears to hold the property. The application must also state that the Order is sought for the purposes of the investigation and that it is sought in relation to account information of the description specified.\(^\text{22}\) Account Monitoring Orders are not available in ‘Detained Cash’ investigations.

‘Account information’ is information relating to an account or accounts held at the financial institution. The application may specify information relating to all accounts held by the person specified in the application; a particular description of accounts held by that person; or a particular account or accounts held by that person.

An Account Monitoring Order requires the named financial institution to provide account information for the period stated to an appropriate officer in the manner, and at or by the time or times, stated in the Order. The application must specify why the information is likely to be of substantial value to the investigation and explain why it is in the public interest for the information to be provided.\(^\text{23}\)

The general rule is that the application must identify the respondent and be in writing. The Court and the respondent (unless the Court otherwise directs)
must be served with a copy of the application. The applicant must serve any Order made on each respondent.\textsuperscript{24}

The Court must determine an application for an Order at a hearing (which will be in private unless the Court directs otherwise) in the applicant’s presence. The Court must not determine an application in the absence of the respondent or any other person affected by the Order unless the absentee has had at least 2 business days in which to make representations, or, the Court is satisfied that the applicant cannot identify or contact the respondent; it would prejudice the investigation if the respondent were present; or it would prejudice the investigation to adjourn or postpone the application so as to allow the respondent to attend.\textsuperscript{25}

Where the application includes information that the applicant thinks ought not be revealed to the recipient the applicant must omit that information from the part of the application that is served on the respondent or other persons; identify that information on the Court copy to show that it is only for the Court; and explain on the Court copy why the applicant has withheld it. A hearing of an application where information has been withheld from the respondent may take place, wholly or partially, in the absence of the respondent and any other person.\textsuperscript{26}

\textbf{Customer Information Orders}

A Customer Information Order requires a financial institution to provide details of any accounts held by a person under investigation. The Order may require all such institutions, or a selection of them, to comply with the Order.

\textbf{Applications for Customer Information Orders}

Applications must be made by an ‘appropriate officer’\textsuperscript{27} and must state that a person (including company of any description) specified in the application is subject to a money laundering, confiscation or an exploitation proceeds investigation, or, that the property specified in the application is subject to a civil recovery investigation, and the person specified in the application appears to hold the property. The application must also state that the Order is sought for the purposes of the investigation and that it is sought against the financial institution or financial institutions specified in the application.\textsuperscript{28} Customer Information Orders are not available in ‘Detained Cash’ investigations.

‘Customer information’ is information whether the person holds, or has held, an account or accounts (or any safe deposit box) at the financial institution (whether solely or jointly with another) and (if so) information as to:-\textsuperscript{29} If the account holder is a person:

\textsuperscript{24} Rule 6.14 Criminal Procedure Rules 2011
\textsuperscript{25} Rule 6.3 Criminal Procedure Rules 2011
\textsuperscript{26} Rule 6.21 Criminal Procedure Rules 2011
\textsuperscript{27} See Section 378 Proceeds of Crime Act 2002
\textsuperscript{28} Section 363 Proceeds of Crime Act 2002
\textsuperscript{29} Section 364 Proceeds of Crime Act 2002
- The account number or numbers (or the number of any safe deposit box);
- The person’s full name;
- Their date of birth;
- Their most recent address and any previous addresses;
- The account (or safety deposit box) opening and closing dates;
- Evidence of identity obtained under Anti-Money Laundering legislation;
- The full details of any joint account holders.

If the account holder is a company:
- The account number or numbers (or the number of any safe deposit box);
- The person’s full name;
- A description of any business which the person carries out;
- The country or territory in which it is incorporated or otherwise established;
- Any VAT number assigned to it;
- Its Registered office and any previous Registered Office;
- The account (or safety deposit box) opening and closing dates;
- Evidence of identity obtained under Anti-Money Laundering legislation;
- The full details of any joint account holders.

The general rule is that the application must identify the respondent and be in writing. The Court and the respondent (unless the Court otherwise directs) must be served with a copy of the application. The applicant must serve any Order made on each respondent.\(^{30}\)

The application must specify why customer information about the person under investigation is likely to be of substantial value to that investigation and explain why it is in the public interest for the information to be provided. It must also propose the terms of the Order.\(^{31}\)

The Court must determine an application for an Order at a hearing (which will be in private unless the Court directs otherwise) in the applicant’s presence. The Court must not determine an application in the absence of the respondent or any other person affected by the Order unless the absentee has had at least 2 business days in which to make representations, or, the Court is

\(^{30}\) Rule 6.14 Criminal Procedure Rules 2011

\(^{31}\) Rule 6.18 Criminal Procedure Rules 2011
satisfied that the applicant cannot identify or contact the respondent; it would prejudice the investigation if the respondent were present; or it would prejudice the investigation to adjourn or postpone the application so as to allow the respondent to attend.\textsuperscript{32}

Where the application includes information that the applicant thinks ought not be revealed to the recipient the applicant must omit that information from the part of the application that is served on the respondent or other persons; identify that information on the Court copy to show that it is only for the Court; and explain on the Court copy why the applicant has withheld it. A hearing of an application where information has been withheld from the respondent may take place, wholly or partially, in the absence of the respondent and any other person.\textsuperscript{33}

**Disclosure Orders**

A Disclosure Order is an Order authorising an ‘appropriate officer’\textsuperscript{34} to give any person the ‘appropriate officer’ considers has relevant information, notice in writing requiring him to answer questions, provide information, or produce documents. A Disclosure Order may only be obtained in relation to confiscation, exploitation proceeds and civil recovery investigations. Relevant information is information (whether or not contained in a document) which the appropriate officer considers to be relevant to the investigation.\textsuperscript{35}

**Applications for Disclosure Orders**

Applications for a Disclosure Order may be made by a ‘the relevant authority’, namely a prosecutor in confiscation cases, or a member of NCA’s staff in an exploitation proceeds or civil recovery investigation. The ‘relevant authority’ may only make an application for a Disclosure Order in relation to a confiscation investigation if it is in receipt of a request to do so from an ‘appropriate officer’.

The application must state that, a person specified in the application is subject to a confiscation or exploitation proceeds investigation, or, that the property specified in the application is subject to a civil recovery or a detained cash investigation and that the Order is sought for the purposes of the investigation.

The general rule is that the application must identify the respondent and be in writing. The Court and the respondent (unless the Court otherwise directs) must be served with a copy of the application. The applicant must serve any Order made on each respondent.\textsuperscript{36}

In making the application the applicant must describe in general terms the information the applicant wants the respondent to provide; explain why the material is likely to be of substantial value to the investigation and why it is in

\begin{itemize}
  \item Rule 6.3 Criminal Procedure Rules 2011
  \item Rule 6.21 Criminal Procedure Rules 2011
  \item See Section 378 Proceeds of Crime Act 2002
  \item Section 357 Proceeds of Crime Act 2002
  \item Rule 6.14 Criminal Procedure Rules 2011
\end{itemize}
the public interest for the material to be produced. He must also confirm that none of the material is expected to be subject to legal privilege or excluded material and propose the terms of the Order.\textsuperscript{37}

Where the application includes information that the applicant thinks ought not be revealed to the recipient the applicant must omit that information from the part of the application that is served on the respondent or other persons; identify that information on the Court copy to show that it is only for the Court; and explain on the Court copy why the applicant has withheld it. A hearing of an application where information has been withheld from the respondent may take place, wholly or partially, in the absence of the respondent and any other person.\textsuperscript{38}

**Procedure**

The Financial Investigator within the Audit and Anti-Fraud Group is responsible for conducting confiscation and money laundering investigations. Section 378 Proceeds of Crime Act 2002 states that an ‘appropriate officer’ includes a constable and an accredited Financial Investigator. However, all applications for a Production Order, Search and Seizure Warrant, Account Monitoring Order or Customer Information Order under this Act will be made by an Accredited Financial Investigator. All applications for a Disclosure Order will be made by Barking and Dagenham Legal Services on application by a Financial Investigator.

**Prejudicing an Investigation**

The Proceeds of Crime Act 2002 also creates a specific offence relating to POCA investigations of Prejudicing an Investigation,\textsuperscript{39} namely:

A person commits an offence if he knows or suspects that an appropriate officer is acting, or proposing to act, in connection with a money laundering investigation, a confiscation investigation, a civil recovery investigation, a detained cash investigation or an exploitation proceeds investigation which is being or is about to be conducted and he:

1) Makes a disclosure which is likely to prejudice the investigation; or

2) Falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which are relevant to the investigation.

A person does not commit an offence if:

He does not know or suspect that the disclosure is likely to prejudice the investigation; and

1) The disclosure is made in the exercise of a function under this Act; or

2) He is a professional legal advisor and the disclosure is to a client (or his representative) in connection with the giving of legal advice to the

\textsuperscript{37} Rule 6.17 Criminal Procedure Rules 2011
\textsuperscript{38} Rule 6.21 Criminal Procedure Rules 2011
\textsuperscript{39} Section 342 Proceeds of Crime Act 2002
client, or to any person in connection with legal proceedings or contemplated legal proceedings.

**Procedure**
Where an officer in charge of an investigation has cause to suspect that the above offence has been committed they should liaise with either the SAO or the Financial Investigator to consider the best course of action.

**Criminal Forfeiture**
In addition to confiscation under the Proceeds of Crime Act 2002 there are further criminal powers to forfeit property which should be considered as a supplement to the Proceeds of Crime Act 2002 when considering how to tackle assets / property held by criminals. In each case the property in question must have been lawfully seized and the defendant must have been found guilty of an offence.

**Financial Investigators**
Accredited Financial Investigators will need to adhere to CPD (Continuing Professional Development) activities which are held on FISS and are monitored by the NCA, failure to do so will lead to suspension on FISS and loss of Financial Investigation powers.

The CPD activities are set bi-monthly via FISS, with a twelve week completion period for each activity. The activities are either ‘Information only’ or ‘Assessed’.

In addition to the activities described above, all those in the CPD system are required to update their CPD ‘Evidence Summary Sheet’ quarterly.

For Corporate and Housing fraud cases, the officer in charge of the case will refer and highlight potential assets, proceeds of crime and money laundering. A referral form will then be completed for Financial Investigation with full details of the case including properties owned, cash in the bank, assets. This referral will then need to be passed to the Financial Investigator for consideration. The Financial Investigator will then liaise with the officer in charge of the case for further financial Investigation.

The Financial Investigator must record all matters arising from a financial Investigation onto the case log and on JARD in a timely manner.

**Further Support, Tools & Guidance**

- The latest version of the Proceeds of Crime Act Policy and all of our documents can be obtained either by contacting the Counter Fraud Team directly or by visiting our intranet pages.

If you have any comments or feedback to do with this document, we would like to hear from you, so please get in touch and email us at the following address:

caft@lbbd.gov.uk
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Title: Potential shared service for Internal Audit

Report of the Strategic Director for Finance & Investment

Open Report For Information

Wards Affected: N/A Key Decision: No

Report Author: Jonathan Bunt Contact Details: jonathan.bunt@lbld.gov.uk

Accountable Director: Jonathan Bunt, Strategic Director for Finance & Investment

Summary

There is a requirement under the Accounts & Audit Regulations 2015 (England & Wales) for local authorities to have an internal audit function and effective internal control is also a responsibility of the Council’s Section 151 Officer. Regulations do not define how the service should be organised or delivered with many shared or joint arrangements in place across London supported by a number of private sector audit firms.

Finance Directors across east London are exploring the potential for a shared internal audit service with four boroughs supportive of taking the proposal on. As a result of having corporate governance and assurance oversight within its remit, this committee is offered the opportunity to identify any issues it would want Cabinet to consider ahead of making a decision.

Recommendation(s)

PAASC is recommended to:

i. Note the proposal to pursue a shared internal audit service with other east London boroughs;

ii. Note the interim management arrangements with London Borough of Redbridge for the service pending the development of a business case for shared services; and

iii. Identify any issues it wishes to be considered by Cabinet when considering any report on the progression of the proposals for shared internal audit.

1. Introduction and Background

1.1 Section 151 of the Local Government Act 1972 – England and Wales requires that every local authority should “make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”. 
1.2 One of the mechanisms by which the S151 Officer responsibilities are discharged is via the internal audit service undertaking reviews and assessments of the control environment. Additionally, the Accounts & Audit Regulations 2015 (England & Wales) features the requirement for internal audit and requires that a “relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control”.

1.3 At Barking & Dagenham, the relatively small internal audit plan, which is agreed annually by PAASC, is delivered by a mixed economy of an in house team complemented by bought in resources from Mazars via the Croydon led framework contract.

1.4 As part of the Council’s voluntary redundancy scheme, the Group Manager, Assurance & Counter Fraud has decided to take the opportunity to leave the Council on 3rd July providing a stimulus to consider how the service is provided. In addition to Internal Audit, the Counter Fraud team, which covers both corporate and housing related fraud, reports in to the Group Manager.

2. Emerging proposal for shared service

2.1 Over recent months, Section 151 Officers across east London have discussed the scope for sharing finance and corporate services across two or more boroughs. Internal Audit was identified at an early stage as a potential service that could be progressed more quickly due to a variety of circumstances across the region including excess and under capacity, recruitment challenges and imminent departures. It was also highlighted as a service currently shared, to some degree, in approximately half of all London boroughs.

2.2 As a result of the discussions, four boroughs, Waltham Forest, Redbridge, Tower Hamlets and Barking & Dagenham, are interested in progressing the business case for a shared service. An initial high level scoping exercise has been completed indicating how the service could be operated and the potential benefits from a shared service:

- Service resilience – a larger shared resource will add capacity and resilience to the service than currently from such a small team.
- Best practice – combining teams into a single resource will enable the sharing of both best practice in internal audit itself and control improvements from undertaking the same audits in each authority. The ambition will be to develop a centre of excellence for internal audit across East London.
- Financial savings – bringing together the management levels across the participating councils will enable financial savings. Given the relatively small size of the team and the audit plan, these are not expected to be significant for Barking & Dagenham.
- Skills shortages – the role of internal audit has evolved in recent years in to a more advisory capacity rather than the focus on controls based testing. This broader skill set, and wider learning opportunities, is more easily delivered within a larger team.
- Career opportunities – internal audit at Barking & Dagenham is a small team with limited career opportunities. By bringing together four teams, the service will be of a size and will deliver a wider range of audit to enable the development of a career path for members of the team.
- Recruitment challenges – specialist internal auditors are at a premium and all councils have experienced challenges in filling vacant roles, often competing for a very small number of candidates. A larger shared service would be better placed to manage these issues and would also be of a scale that could consider the employment of specialist roles that are not justified for an individual authority, e.g. IT audit, contract audit.
- Retender of Mazars contract – the Croydon contract with Mazars expires in March 2018 and authorities are operating in a different environment to when it was originally let five years ago. Whilst Croydon have indicated a willingness to lead on a re-tender, a shared service would be large enough to consider letting its own contract to reflect the specific needs of the partner boroughs.

2.5 The four Councils have agreed to jointly fund the development of a full business case by an individual or organisation independent of all participating authorities and such proposals are currently being sought. It is expected that this will be delivered by the end of the summer and will, assuming it reaches a positive recommendation, form the basis of a recommendation to the Cabinet (or equivalent) of each authority. The Cabinet Member for Finance, Growth & Investment has been regularly briefed on the scope and is supportive of the development of a full business case.

2.6 In the event of the shared service being successful, there is the potential to expand to include additional councils and for any arrangements to incorporate Counter Fraud. It has been decided, partly due to the different arrangements in place at each authority, to keep fraud as a phase two option and to focus attention on internal audit initially.

2.7 Whilst PAASC is not a decision making body, due to its remit on corporate governance and assurance oversight, and the role internal audit plays in fulfilling that, the committee is being invited to comment on the proposal for the shared service. It is then intended to incorporate those comments into the report to Cabinet in the event the business case recommends progression of the shared service, so they are considered as part of any decision making process.

3. **Short term management arrangements**

3.1 As noted in the introduction, the Group Manager – Assurance & Counter Fraud expressed an interest in leaving the Council under the voluntary redundancy initiative. In light of the proposal being explored for shared services, this application was accepted with a final day of service of 3 July 2016.

3.2 Due to the exploration of shared services, the Strategic Director, Finance & Investment, in consultation with the Cabinet Member for Finance, Growth & Investment, has decided on an interim management arrangement for the service with the London Borough of Redbridge.

3.3 Redbridge operate a larger audit plan than Barking & Dagenham and therefore have a larger in house internal audit team. As a result, given the emerging plans, Redbridge are freeing up capacity at Head of Audit and Audit Manager level to support the Barking & Dagenham team. This will provide the team with sufficient management capacity in the interim and will, along with extra audit delivery support from Mazars, will ensure the continued delivery of the audit plan. It is anticipated
that this arrangement will continue to the end of the year while the shared service proposals are being developed.

3.4 To enable this to operate effectively, Legal officers are drafting a Section 113 agreement to support the part time secondments and the Council will be reimbursing Redbridge for the proportion of time spent by their staff working at Barking & Dagenham.

3.5 In the event that the shared service does not progress, the Council will review the service needs for Assurance & Counter Fraud and recruit to the required roles.

4. **Financial Implications** – *Completed by Kathy Freeman, Finance Director*

4.1 The annual budget for the internal audit service is £607k reflecting the relatively small size of the annual audit plan. Since 2012/13, the service has contributed £102k to meeting the Council's budget gap. As noted above, the development of a shared service could deliver some financial savings though, given the size of the current plan and budget, these are expected to be small with greater non financial benefits for the authority. The potential financial saving will be part of the business case to be considered by Cabinet.

4.2 The cost of the interim management arrangement will be contained within the costs of the vacant Group Manager and Assurance Manager roles. Any loss of capacity to deliver the audit plan will be met from the Mazars contract and this cost will also be contained within the overall budget for the service.

5. **Legal Implications**: *Completed by Fiona Taylor, Director of Law & Governance*

5.1 Section 101 of the Local Government Act 1972 permits two or more authorities to discharge their functions jointly as envisaged in this arrangement for the Internal Audit Service. S1(1)b of the Local Authorities (Goods and Services) Act 1970 also permits the provision jointly of any administrative, professional or technical services.

5.2 It is envisaged here that officers will work under s.113 agreements under the 1972 Act which allows an authority to enter into an agreement to place at the disposal of another authority for the purposes of their functions, on such terms as may be provided under the agreement, officers of that authority. Legal Services have been consulted on the agreements and will advise accordingly.

6. **Other Implications**

6.1 **Risk Management** – internal audit is one of the key mechanisms for the management of risk in the Council. As such, it will be essential that there is no loss in the quality or capacity of the service to the Council as part of a shared arrangement and this will need to be considered as part of the assessment of the business case.

6.2 **Staffing Issues** – in the event the participating councils agree to progress a shared service, there will need to be a full consultation with all affected staff in line with the relevant policies for each authority. Additionally, the relevant agreements will need
to be put in place between the councils to enable staff in the shared service to work effectively in each borough.

6.3 **Contractual Issues** – if the shared service is progressed, a clear agreement will be needed between the councils to ensure effective governance of the arrangement.

6.4 **Asset Management Issues** – the shared service will need to consider its accommodation needs and working style to enable it to effectively deliver the requirements of each council. It is anticipated that there would be a small accommodation saving from the development of the shared arrangement unless Barking & Dagenham acts as the host borough.

6.5 **Customer Impact** – internal audit is an internal service working with council departments and it is not anticipated that the end recipients of the service will be impacted by the proposal.

6.6 **Safeguarding Children** – no specific implications.

6.7 **Health Issues** – no specific implications.

6.8 **Crime & Disorder Issues** – no specific implications.

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

8. **List of appendices:** None
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Title: Barking Market-Breakdown of Accounts 2015/16 and 2016/17

Report of the Corporate Director, Adult and Community Services

Open Report For Information

Wards Affected: None Key Decision: No

Report Author: Jonathon Toy, Operational Director Contact Details: jonathon.toy@lbbd.gov.uk

Accountable Director: Claire Symonds, Strategic Director Customer, Commercial & Service Delivery

Summary

At its meeting of 22 March 2016, Members received a report confirming accounts for Barking Market from 2012/13 to 2015/6 together with details of how the finances for the 2016/17 budget will be brought into line. The Select Committee requested that an updated report was submitted to the this meeting to include:

(a) The 2016/17 Barking Market budget;

(b) An analysis of the Market’s viability;

(c) The further costs for the Barking Market Manager post which had been covered on an interim basis and would be brought to a conclusion on 31 March 2016;

(d) The impact of the reductions shown in the report as part of the strategic direction of the Market; and

(e) the reasons for the significant increase in staff costs;

This report covers the above matters.

Recommendation(s)

PAASC to note this report.

1 Barking Market Budget 2016/17

1.1 The following table provides an analysis of the Barking Market Budget for 2016/17. Compared to 2015/16 the figures represent :-

- A realistic income target from the letting market stalls of £815,000
- A reduction of refuse charges of £55,000
- A reduction is staffing costs of £61,900
1.2 The budget table has also been realigned to provide committee members with further clarification in relation to the £359,800 referred to as Support Services in the budget for 15/16. This sum combined council related support costs of £33,400 for services such as IT, finance support and other internal recharges and a net income contribution of £326,400. The forecast column for 16/17 sets this out for clarity.

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1.3 **Analysis of the markets financial viability.**

1.4 There are only three ways which we can influence the viability of the market.

- reduce the costs for cleansing and refuse collection
- ensure that staffing costs are contained and
- maximise the income from pitch fees.

1.5 Steps have already taken place to reduce staffing costs in 2016/17. This relates to one post. Further reductions will be made as the market team is integrated with the council’s Street Enforcement Team, thereby reducing the supervisory costs.

1.6 The overall costs for cleansing and refuse collection remains a challenge, as it is recognised that the market does need to be kept at a satisfactory level of cleanliness. Cost reductions of £55,000 have been achieved for 16/17, and further work will be undertaken during this financial year to assess how the regeneration programme referred to below has improved the management of refuse and improvements in the overall cleansing.

1.7 In terms of income from market stalls, the council is developing a communications plan which will promote the market and develop a number of themed events across...
the year. This campaign will coincide with the completion of the regeneration scheme and the new layout of the market which is anticipated for October 2016. However, a key element of the long term viability of the market is the diversification of goods being sold and the traders operating. The council is increasing the number of itinerant traders who are taking stalls, encouraging those traders who offer something else from clothes and soft furnishing which currently dominate the market. Itinerant traders are charged at a slightly high pitch fee than regular traders.

1.8 It should be highlighted that Barking Market is currently financially viable. The market made a net contribution to the council of £146,401 in 2015/16. Although this was less than the anticipated £326,400, this was still a net financial contribution. The reductions in salaries and cleaning costs in 2016/17 will result in an higher net contribution this financial year.

1.9 **Strategic direction for Barking Market** – The impact of the reductions highlighted in the paragraphs above is aligned to the overall regeneration of Barking Town Centre, including the paving, lighting improvements and improvements to the layout and presentation of the market. It also includes the introduction of a compactor and improved bin storage areas which will reduce waste and refuse costs. Much of these works were undertaken in 15/16 which impacted on the market, the number of stall holders and the resulting income. The reductions in staffing costs in 16/17 primarily relate to the Barking Market Manager Post which will be absorbed within the Street Enforcement Service and the facts that the profit sharing arrangements with Charfleets was concluded in 2015/16.

1.10 A new strategy for the market is being drawn up to ensure the market is able to operate within agreed budget limits and achieve the income target that has been set. The strategy is in its early stages and will be developed in consultation with a range of council services, members, partners and partner agencies. The strategy will focus on increasing the vibrancy of the markets so that it is seen as a destination of choice for both traders and consumers, increasing in commercial viability and will be presented to members in the late Autumn 2016.

1.11 The strategy will include:

- Reducing the staffing costs by bringing terms and conditions in line with the council’s terms and conditions.
- Reducing the internal charges by providing better on site facilities alongside how refuse and street cleansing charges are assessed.
- Stabilising income and developing a medium term strategy that can increase income through events, better communication and diversification of traders.
- Reductions that have already been agreed in these overall charges for refuse and street cleansing for the financial year 2016/17. This represents a reduction of 18% compared to the 2015/16 expenditure.

1.12 **Increase in staffing costs for 15/16.** The increase in staff costs for 2015/16 reflected the transfer of staff from Charfleets to the council. This transfer was made under TUPE. As a result staff were remunerated at the Charfleets terms and conditions for 2015/16. This are being reviewed as part of the establishment of the council’s new Enforcement Service.
1.13 As part of the transfer from Charfleets to LBBD the market was required to demonstrate a surplus of £326,000. This was reflected in the 2015/16 budget as part of the internal charges under Support Services. For clarity it has not been separated and shown under a Contribution line in the table above. Future financial reports will highlight the level of contribution from the market account.

1.14 The Barking Market Managers post was brought to a conclusion on the 31st March 2016. The overall costs for this post in 2015/16 was £62,000 and relates to salary costs.

2 Financial Implications

2.1 The report is for information only, therefore, there are no direct financial implications arising.

2.2 The market is operated as a trading account and should be fully self financing with expenditure met by fees and charges paid by the traders for licence and pitch fees. Costs including administration, cleaning, refuse as well as overheads are charged on a full cost recovery basis to the street trading account. Fees are reviewed on an annual basis as part of the Council’s review of fees and charges, and agreed by Cabinet.

3 Legal Implications

This is a ‘for information only’ report and has no legal implications

Other Implications

Risk Management - No specific implications

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

List of appendices: None
PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE

29 June 2016

Title: Highways Investment and Reactive Maintenance update

Report of the Operational Director, Enforcement Services

Open Report | For Information
---|---

Wards Affected: All | Key Decision: No

Report Author: Sharon Harrington Group Manager Parking Services | Contact Details: sharon.harrington@lbld.gov.uk

Accountable Director: Claire Symonds, Strategic Director, Customer, Commercial and Service Delivery

Summary
At its meeting of March 2016, Members received a report providing a broad analysis of the spend of the highways improvement programme spend between 2008-2016, by ward and a rationale for the decision making of spend in 2016-17.

Members have asked for further clarification on a number of points.

- Clarification on the decision making process for the spend on the highways improvement process
- Clarification on the decision making process for future spend and confirmation that the decision making is transparent

Recommendation(s)
Members are asked to note the contents of the report.

In review of the process it is recommended that a consolidated report on all Highways Improvement to be approved by Cabinet on an annual basis.

Reasons
The councils vision and priorities include the theme, “Growing the Borough” with the objective of “Enhance the borough’s image to attract investment and business growth” and “Support investment in housing, leisure, the creative industries and public spaces to enhance the environment”. The borough’s highways form a key element of the built environment of the borough, driving and enabling growth as well as forming an essential part of the public’s perception of the borough as a place to work and live.

1 Introduction

1.1 The Public Audit and Accounts Committee has received reports in January 2016 and March 2016, summarising the borough Highway spend for the financial years 14/15 and 15/16, the breakdown of spend by ward between 2008-2016 and the rationale for spend in 2016-17.
1.2 This report aims to provide further clarification of the decision making process for spend in previous years. In addition, the report provides members with the decision making process for spend for 2017-18 and subsequent years, which will be intelligence led and transparent.

1.3 There is a documented chronology of decisions that relate to expenditure on planned Highways improvement from 2005. These are as follows:-

- **2005** – An independent Highways conditions survey was completed. The survey identified that approximately 16.9% of unclassified carriageway were at a standard that required a repair. The survey identified a back log of improvements in the region of £80m.

- **2006/7 and 2007/8** – The council made a capital allocation £3m in 2006/7 and £2m in 2007/8 for the maintenance of the public highway.

- **2008** – In February 2008, the then Executive agreed £20m to be committed to support highways maintenance improvements. The spend profile agreed was 2008/9 £6.5m, 2009/10 £6.5m, 2010/11 £4m, 2011/12 £3m. 2008 also saw the creation of the Capital Delivery Unit (CDU). The CDU was established to take the lead in the physical delivery of major investment in highways maintenance. In June 2008, the Executive agreed the appointment of a lead contractor for the delivery of the above programme. This report also set out basis of an area based approach. The rationale for this approach was to incorporate works of other council services and that of external partners within one area of work. It is suggested that an area based approach is more cost effective through better management of resources. The report provided a table of eleven areas with a recommendation that Rose Lane area (Chadwell Heath), Kenneth Road area (Whalebone), Gorseway area (Eastbrook) and Rusholme Avenue area (Heath), be programmed to commence immediately.

- **2009** – In September 2009, the Executive approved to shorten the Highways Investment Programme to 3 years with the capital allocation increased to £10m in 2009/10 and to £3.5m in 10/11. Effectively front loading the programme. In addition it was agreed that a further £1m of investment be made for both 2009/10 and 2010/11. The foreshortened programme was due to the high performance of the contractor and management of the project. The report continued with the area based approach, providing a progress report on the 11 areas, originally identified in the June 2008 report.

- **2012** – In September 2012, Cabinet approved the allocation of £6m to deliver priority highways maintenance works during 2012/13 and 2013/4. This followed an assessment of highway condition where a number of roads were identified as having a Highway Conditions Index of 70+ (very poor) or which were anticipated to deteriorate to this level over the subsequent two year period. The assessment was carried out by the Highways Engineers in Regeneration in association with recommendations from network management. The report to Cabinet continued with the area based approach adopted in 2008 and provided a programme of works as part of the report.
• **2014** – In April 2014 Cabinet approved a one year highways investment programme totalling £4.176m as part of the overall Capital Programme. It also agreed a funding profile investment of £2.408m to deliver priority highway maintenance works on non-principle and unclassified roads. The decision on which road to work on were based on conditional surveys carried out by the councils Highways Engineers, using the same Highways Index methodology as highlighted above. The areas based approach continued to be applied with 8 areas listed for improvements.

• **2015** – In March 2015 Cabinet approved £1.05m for highways improvement. This included £550,000 for carriageway resurfacing and £500,000 for footway resurfacing for 15/16. This agreed expenditure was significantly less than the identified priority resurfacing list compiled by the borough’s highways inspectors, which amounted to £2m. A further £3.2m had been identified as being required for footway resurfacing. This was a significant challenge as it meant that less than half of what had expected in capital expenditure was allocated. The priorities list was effectively halved and the Highways Team used their expertise to prioritise the list. As a result, a list of the most problematic roads was identified and was discussed and reviewed by the relevant Cabinet Member. In October 2015 it was agreed that funding would be identified to undertake a Highways Condition Survey of the whole borough. This will be very helpful in determining any future programmes of work. This is a significant piece of work and will be completed in the summer of 2016.

1.4 The documentation related to the above chronology is available through www.moderngov.barking-dagenham.gov.uk. The chronology provides a clear process for decision making in relation to the Highways Investment Programme between 2006 and 2015.

1.5 In terms of the reactive maintenance works, these are carried out as a result of routine and regular safety inspections across the borough. These inspections are carried out by Highway Inspectors who identify defects that require urgent attention. In addition the Highway Inspectors visit carriageways and footways that are reported by members of the public and ward councillors. This process has been in place throughout the above period 2006/2016.

1.6 The decisions in relation to expenditure formed part of the reports to Cabinet during the above period.

1.7 In terms of the financial year 2015-6 it would have been prudent for the rationale for the area based proposals to have been communicated to wider group of members. There was clearly a basis for the decisions however, due to the fact that this was not articulated, members have been left in a position where they have not been provided with the level of information that provides a transparent process.

1.8 In terms of 2016-17 the decision in relation to the Highways Improvement Programme have been set out in the March 2016 report to PAASC. Three criteria have been set:-

- Proximity to School
- Proximity to Medical Facility
1.9 The allocated spend for the Highways Improvement Programme for 2016/17 is £700,000. To date no works have been undertaken. This is due to the fact that the Highways Engineers are awaiting the findings of the Highways Network Assessment, which will provide a priority list of roads which can then be costed. It is proposed that the outcome of the above is shared with members. Reactive maintenance work continues to be undertaken through repairs identified by the Highways Inspectors.

1.10 In terms for 2017/18 and beyond, the council has commissioned a Highways Condition Survey and a Highways Network Assessment. These two documents will provide the council with a sound evidence base on both the overall conditions of the principle, non principle and unclassified roads in the borough, alongside a clear long term plan for road improvements, maintenance and management.

1.11 The finding and recommendations of these reports will form the evidence based rationale for expenditure for the Highways Improvement Programme for 2017/18 to 2019/20. This will include all expenditure on roads and pavements, which this is only one element.

1.12 The recommendations will be presented to Cabinet in late Autumn 2016. The report will include information on the methodology and list of priority roads. The agreed capital programme expenditure will form part of the Capital Programme proposals in early 2017.

1.13 Information gathered from the Highways Network Assessment is currently being analysed. As part of the report to the PAASC meeting in June a short presentation on the Highways Network Assessment will be provided to committee members.

2 Financial Implications

2.1 The report is for information only, therefore, there are no financial implications arising at this stage. Any future recommendations arising from the Highways Conditions Survey and Highways Network Assessment will form part of the council’s capital programme for 2017/8 and beyond, approved by cabinet.

3 Legal Implications

This is a ‘for information only’ report and has no legal implications.

Other Implications

Risk Management - No specific implications

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

List of appendices: None
1. Introduction and background

1.1 Overview and Scrutiny is a function of local authorities in England and Wales. It was introduced by the Local Government Act 2000 which created separate Executive and Overview and Scrutiny functions within councils.

1.2 Councils operating Executive Arrangements (Cabinet) are required to create an Overview and Scrutiny Committee which is composed of councillors who are not on the Executive Committee (Cabinet) of that Council.
1.3 Overview and Scrutiny is a check and balance on the power of the decision makers. It holds them to account though a process known as call-in and through undertaking reviews.

1.4 Overview and Scrutiny may make recommendations for improvement to Cabinet and, under other legislation, may also make recommendations to other local bodies. Such bodies are under various obligations to respond or have regard to these recommendations such as Health and Police authorities.

1.5 To undertake its work effectively, each scrutiny committee needs to develop a work programme to manage its time.

2. **Public Accounts and Audit Select Committee (PAASC)**

2.1 There are currently four themed select committees plus PAASC which incorporates the Council’s Audit Committee function.

2.2 The principle role of PAASC is to provide independent assurance, and to oversee and improve the Council’s:

- governance and regulation;
- assurance and risk management;
- fraud and corruption prevention;
- performance and compliance;
- sound financial management which achieves value for money; and,
- transparency and open government.

3. **Work Programme Overview**

3.1 Although the work of the Committee is heavy dominated with its statutory audit responsibilities it has a number of scrutiny functions including carrying out reviews into services that fall within its remit as well as looking into areas of under performance or local concern.

3.2 Due to the nature of the business at PAASC the approach adopted by the committee in 2014/15 involved the commissioning of a number of one off reports to allow members to cover a wide number of issues with the advantage of achieving quick wins/outcomes.

3.3 The Committee at this stage have been asked to include a report on the Housing benefits backlog (25 July) and it is intended to provide an information report at that meeting in relation to the Growth Commission with recommendations from other Select Committees. In addition, there will be reports at the meeting on 7 December relating to the Children’s Social Care Annual Report and Adoption and Permanence Annual reports 2015/16.
3.3 The work programme as attached as Appendix A is a document that is subject to change and Members can add, subtract, and defer items as necessary meeting by meeting.

4. Work Programme Considerations

4.1 The following areas form the basis of consideration of the committee’s work programme.

4.2 **Audit Committee Work**

A significant proportion of the committee’s time will be dedicated to undertaking its audit responsibilities. This includes such actions as reviewing the Statement of Accounts and Annual Governance Statement. This work has been scheduled into the work programme as attach and will be added to as necessary at appropriate times throughout the year.

4.3 **Monitoring Previous Reviews**

Monitor any previous work of the Select Committee to ensure that the recommendations are implemented.

4.4 **Ad Hoc scrutiny**

PAASC can commission one-off scrutiny reports into any subject within the Committee’s remit. If Members feel that there is an issue which falls within the remit of the committee that warrants such attention, please notify the Democratic Services Officer responsible for the committee or alternatively raise the matter(s) at meetings so that arrangements can be made to commission reports for presentation at subsequent meetings.

4.5 **In-Depth review**

All select committees should they choose to do so can undertake in depth reviews into any matter within the remit of the committee, and make recommendations to relevant decision makers in accordance with the Council’s Scheme of Delegation.

4.6 When deciding on a topic to review, the PAASC should be mindful of the criteria that make for a good scrutiny subject matter:

- Fall within the Committee’s remit
- Potential impact for significant section(s) of the local community
- Matter of general public concern
- Within the Council and its partners’ power to change or influence
- Key deliverable of a strategic and/or partnership plan
- Key performance area where the Council needs to improve
- Legislative requirement
- Corporate priority
4.7 **Call-in**

Call-in is the process by which decisions of the Cabinet can be challenged before implementation by non-Cabinet Members by referral to scrutiny for further consideration. In the event that a Cabinet decision is called-in Members should be prepared to accommodate the call-in into the PAASC work programme.

There were no call-in reports in the year 2015/16.

*Part B, Article 5A of the Council’s Constitution outlines the responsibility scrutiny has for managing the Call-in process.*

4.9 **Councillor Call for Action (CCfA)**

CCfA provides ward councillors with a way to take up local issues on behalf of the community. However, they are intended to be used only as a last resort, i.e. when a local issue remains unresolved despite having already exhausted all other avenues in trying to reach a resolution.

*Part B, article 5B of the Council’s constitution outlines the responsibility scrutiny has for managing Councillor Calls for Action.*

4.10 **Petitions**

Considering petitions in accordance with the Council’s Petition Scheme which is available on the Council’s web site.

In March 2015 the Committee considered a petition calling on the Council to reverse its decision to convert the Civic Centre into a school. The matter was deferred pending the submission of further information and a request to Cabinet for funding to meet the cost of an independent external evaluation to be carried out of the costs of each option including those not originally shortlisted, togher with a request for a range of further information and statistics. Following Cabinet’s decision in April 2016, a report has been presented to this meeting on the petition and changed circumstances as the Civic Centre is planned to be utilised as a wider educational facility within the community as well as retaining parts of the building for civic use and council meetings.

4.11 **Budget Scrutiny**

At this stage it is not clear how budget scrutiny will be conducted in 2016/17 as it is linked to the wider Ambition 2020

4.12 **Monitoring Performance**

A report on performance against the Corporate Delivery plan is scheduled to be presented on an annual basis.
5. Dates of Formal PAASC Meetings and timings

5.1 The scheduled dates for PAASC meetings in 2016/17 are as follows:

- Wednesday 29 June
- Monday 25 July
- Wednesday 21 September
- Wednesday 7 December
- Wednesday 1 February 2017
- Wednesday 5 April

5.2 The dates take into account a number of factors including statutory deadlines for a range of audit matters including reports from KPMG, the Council’s External Auditors. It also has regard to the summer and winter holiday periods and concludes in March.

5.3 Although the meetings dates for the PAASC are set down in the Council calendar they can be amended with reasonable notice. Moving meetings is however not advisable as re-scheduling inevitably results in clashes with other Member meetings.

5.4 All formal meetings are scheduled at Barking Town Hall which reflects the pending move of meetings owing to the closure of the Civic Centre and the potential for future meetings to be webcast. Committee Room 2 at the Town Hall has been booked for 2016/17 which has recording facilities.

5.5 The Select Committee is asked to agree the start time of meetings for the 2016/17 municipal year.

6. Implications

- Financial

There are no financial implications directly associated with this report.

- Legal

These are no legal implications directly associated with this report.

Appendix A- Proposed work programme 2016/17
This page is intentionally left blank
<table>
<thead>
<tr>
<th>No</th>
<th>Business Items</th>
<th>Officer</th>
<th>Description / Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Petition re: Closure of the Civic Centre</td>
<td>John Dawe</td>
<td>Update on current position</td>
</tr>
<tr>
<td>3.</td>
<td>Review of key Counter Fraud Policies and Strategies</td>
<td>David Greenfield</td>
<td>Annual report</td>
</tr>
<tr>
<td>5.</td>
<td>Highways Investment and Reactive Maintenance Update</td>
<td>Claire Symonds</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Update on the use of Agency staff, Project workers and Consultants</td>
<td>Steve Pearson</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Potential shared service for Internal Audit</td>
<td>Jonathan Bunt</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Work Programme 2016/17</td>
<td>John Dawe</td>
<td>Standard report at the first meeting in the municipal cycle</td>
</tr>
</tbody>
</table>
**PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE**

**25 July 2016**

<table>
<thead>
<tr>
<th>No</th>
<th>Business Items</th>
<th>Officer</th>
<th>Description / Notes</th>
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</thead>
<tbody>
<tr>
<td>2.</td>
<td>Housing Benefit backlog</td>
<td>Jonathan Bunt/Elevate</td>
<td>Requested report</td>
</tr>
<tr>
<td>3.</td>
<td>Debt Management report 2015/16 Q4</td>
<td>Peter Cosgrove</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Growth Commission</td>
<td>Leanna McPherson/Masuma Ahmed</td>
<td>Information report relating to Living and Working, Strong and Safer Communities and Children’s Select Committees</td>
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</tbody>
</table>
# Public Accounts and Audit Select Committee

**21 September 2016**

<table>
<thead>
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<th>Description / Notes</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>Final statement of accounts and Annual Governance statement</td>
<td>Jonathan Bunt</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>ISA 260 External Audit Report 2015/16</td>
<td>KPMG</td>
<td>Regular report</td>
</tr>
<tr>
<td>4.</td>
<td>Addressing Financial Pressures in Children's Services - The Children's Social Care Ambition and Finance Efficiency (SAFE) Programme</td>
<td>Anne Bristow</td>
<td>Six month update</td>
</tr>
<tr>
<td>5.</td>
<td>Risk Management Framework 6 monthly report</td>
<td>Sharon Roots</td>
<td></td>
</tr>
</tbody>
</table>
### PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE

#### 7 December 2016

<table>
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<th>Description / Notes</th>
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<tbody>
<tr>
<td>3.</td>
<td>Agency and Consultancy Update</td>
<td>Steve Pearson</td>
<td></td>
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</tbody>
</table>

**Time:** 19.00 – 21.00  
**Venue:** Committee Room 2, Town Hall, Barking  
**Report Deadline:** 24 November 2016  
**Publication Deadline:** 29 November 2016
## PUBLIC ACCOUNTS AND AUDIT SELECT COMMITTEE

### 1 February 2017

<table>
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<th>Description / Notes</th>
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<tbody>
<tr>
<td>2.</td>
<td>Annual Audit Letter</td>
<td>KPMG</td>
<td>Annual report</td>
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<tr>
<td>3.</td>
<td>Information Governance report</td>
<td>Nick Lane</td>
<td>Annual report</td>
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<tr>
<td>5.</td>
<td>Debt Management inc write offs-6th Monthly Update (April – September)</td>
<td>Peter Cosgrove</td>
<td>Regular monitoring update</td>
</tr>
</tbody>
</table>

**Scrutiny Contact:**
John Dawe | 020 8227 2135 | john.dawe@lbfd.gov.uk

**Time:** 19.00 – 21.00

**Venue:** Committee Room 2, Town Hall, Barking

**Report Deadline:** 18 January 2017

**Publication Deadline:** 24 January 2017
### Public Accounts and Audit Select Committee

**5 April 2017**

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<th>Description / Notes</th>
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<tbody>
<tr>
<td>2</td>
<td>External Audit Plan (LBBD and Pension Fund)</td>
<td>KPMG</td>
<td>Regular report</td>
</tr>
<tr>
<td>3</td>
<td>Risk Management Framework- End of year report</td>
<td>Sharon Roots</td>
<td>Regular monitoring update every 6 months</td>
</tr>
</tbody>
</table>

**Time:** 19.00 – 21.00  
**Venue:** Committee Room 2, Town Hall, Barking  
**Report Deadline:** 23 March 2017  
**Publication Deadline:** 28 March 2017  

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**END OF THE FINANCIAL YEAR**

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Scrutiny Contact:  
John Dawe  |  020 8227 2135  |  john.dawe@lbbd.gov.uk
By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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