

# NON-CONFIDENTIAL



**Borough of Tamworth**

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## **AUDIT AND GOVERNANCE COMMITTEE**

24 October 2013

Dear Councillor

A meeting of the Audit and Governance Committee will be held in **Committee Room 1 - Marmion House on Thursday, 31st October, 2013 at 6.00 pm**. Members of the Committee are requested to attend.

Yours faithfully

A handwritten signature in black ink, appearing to be 'A. G. ...', written over a circular stamp.

### **A G E N D A**

#### **NON CONFIDENTIAL**

- 1 Apologies for Absence**
- 2 Minutes of the Previous Meeting (Pages 1 - 4)**
- 3 Declarations of Interest**

*To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.*

*When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.*

- 4 Annual Audit Letter 2012-2013** (Pages 5 - 18)  
(Report of Grant Thornton (External Auditor))
- 5 Review of the Council's Arrangements for Securing Financial Resilience 2012/13 - Management Response & Risk Assessment** (Pages 19 - 24)  
(Report of the Executive Director Corporate Services)
- 6 Fraud and Corruption Update Report** (Pages 25 - 114)  
(Report of the Head of Internal Audit Services)
- 7 Internal Audit Quarterly Report 2013/14 Quarter 2** (Pages 115 - 138)  
(Report of the Head of Internal Audit Services)
- 8 Annual Governance Statement 2012/13 - Update** (Pages 139 - 146)  
(Report of the Head of Internal Audit Services)
- 9 One Staffordshire Data Sharing Protocol** (Pages 147 - 196)  
(Report of the Director Technology and Corporate Programmes)
- 10 Review of Anti-Money Laundering Policy** (Pages 197 - 206)  
(Report of the Solicitor to the Council and Monitoring Officer)
- 11 Regulation of Investigatory Powers Act 2000** (Pages 207 - 208)  
(Report of the Solicitor to the Council and Monitoring Officer)

*People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail [committees@tamworth.gov.uk](mailto:committees@tamworth.gov.uk) preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.*

To Councillors: M Couchman, K Gant, M Gant, S People, S Pritchard, P Seekings and M Thurgood



## **MINUTES OF A MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE HELD ON 26th SEPTEMBER 2013**

**PRESENT:** Councillor M Gant (Chair), Councillors M Thurgood, M Couchman, K Gant, S People and P Seekings

**Officers** John Wheatley (Executive Director Corporate Services), Jane Hackett (Solicitor to the Council and Monitoring Officer), Stefan Garner (Director of Finance) and Angela Struthers (Head of Internal Audit Services)

**Visitors** James Cook (Grant Thornton)  
Joan Barnett (Grant Thornton)  
Andy Davies (Grant Thornton)

### **20 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **21 MINUTES OF THE MEETINGS HELD ON 19 JUNE 2013 AND 27 JUNE 2013**

The minutes of the meeting held on 19 June 2013 and 27 June 2013 were approved and signed as a correct record.

*(Moved by Councillor M Gant and seconded by Councillor K Gant)*

### **22 DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

### **23 ANNUAL STATEMENT OF ACCOUNTS & REPORT 2012/13**

The Annual Statement of Accounts and Report 2012/13 was considered.

**RESOLVED:** That the Annual Statement of Accounts 2012/13 be approved.

*(Moved by Councillor M Gant and seconded by Councillor K Gant)*

## **24 THE AUDIT FINDINGS FOR TAMWORTH BOROUGH COUNCIL**

The Report of Grant Thornton (External Auditor) was considered.

**RESOLVED:** That the Audit Findings for the year ended 31 March 2013 be endorsed

*(Moved by Councillor M Gant and seconded by Councillor M Couchman)*

## **25 GRANT CLAIM REPORT**

The Report of Grant Thornton (External Auditor) was considered.

**RESOLVED:** That:

- 1 The Grant Claim Form be endorsed subject to any qualifications that may be imposed due to small processing errors, and;
- 2 Officers be thanked for their hard work and endeavours in housing and council tax benefit services.

*(Moved by Councillor M Gant and seconded by Councillor M Thurgood)*

## **26 FINANCIAL RESILIENCE REPORT**

The Report of Grant Thornton (External Auditor) was considered.

**RESOLVED:** That the Financial Resilience Report be endorsed and a further report will be brought to the next Committee responding to Key Indicators of the Management Report.

*(Moved by Councillor M Couchman and seconded by Councillor M Gant)*

## **27 INTERNAL AUDIT PERFORMANCE MEASURES REPORT**

The Report of the Head of Internal Audit Services reporting on the outcome of Internal Audit's customer survey and define a basket of performance indicators for Internal Audit was considered.

**RESOLVED:** That Members endorse:

- 1 The results of the Internal Audit customer satisfaction survey, and;
- 2 A small basket of performance indicators for Internal

Audit.

*(Moved by Councillor M Gant and seconded by Councillor S Peaple)*

**28 INTERNAL AUDIT QUARTERLY REPORT 2013/14 QUARTER 1**

The Report of the Head of Internal Audit Services reporting on the outcome of Internal Audit's review of the internal control, risk management and governance framework in the 1<sup>st</sup> quarter of 2013/14 and providing members with assurance of the ongoing effective operation of an internal audit function and enabling any particularly significant issues to be brought to the Committee's attention was considered.

**RESOLVED:** That the Committee endorse the Internal Audit Quarterly Report and agreed the Internal Audit Performance Reports and Implemented and Agreed Management Actions.

*(Moved by Councillor M Gant and seconded by Councillor S Peaple)*

**29 RISK MANAGEMENT REPORT**

The Report of Head of Internal Audit Services reporting on the Risk Management process and progress to date for the current financial year was considered.

**RESOLVED:** That the Corporate Risk Register be endorsed.

*(Moved by Councillor M Gant and seconded by Councillor M Couchman)*

**30 REGULATION OF INVESTIGATORY POWERS ACT 2000**

The Report of the Solicitor to the Council and Monitoring Officer informing Members of the surveillance carried out under the Regulation of Investigatory Powers Act 2000 was considered.

**RESOLVED:** That the quarterly RIPA monitoring report be endorsed.

*(Moved by Councillor S Peaple and seconded by Councillor M Couchman)*

**31 LOCAL GOVERNMENT OMBUDSMAN - ANNUAL REVIEW & REPORT**

The Report of the Solicitor to the Council and Monitoring Officer advising the Committee of the views of the Local Government Ombudsman in relation to

complaints against the Borough Council and providing an opportunity for members of the Committee to raise any issues they consider appropriate and consider the effectiveness of investigations relating to Tamworth Borough Council was considered.

**RESOLVED:** That the Annual Review Letter be endorsed.

*(Moved by Councillor M Gant and seconded by Councillor M Couchman)*

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Chair



# The Annual Audit Letter for Tamworth Borough Council

Year ended 31 March 2013

October 2013

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## **Appendices**

A Reports issued and fees



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## Section 1: Executive summary

- 01. Executive summary
- 02. Audit of the accounts
- 03. Value for Money
- 04. Certification of grant claims and returns

This Letter will be considered by the Audit and Governance Committee on 31 October. 2013. This report reflects the findings from our work on both the financial statements and the value for money conclusion.

# Executive summary

## Purpose of this Letter

Our Annual Audit Letter ('Letter') summarises the key findings arising from the following work that we have carried out at Tamworth Borough Council ('the Council') for the year ended 31 March 2013:

- auditing the 2012/13 accounts and Whole of Government Accounts submission (Section two)
- assessing the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources (Section three)
- certification of grant claims and returns (Section four).

The Letter is intended to communicate key messages to the Council and external stakeholders, including members of the public. We reported the detailed findings from our audit work to those charged with governance in the Audit Findings Report on 26 September 2013.

## Responsibilities of the external auditors and the Council

This Letter has been prepared in the context of the Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission ([www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)).

The Council is responsible for preparing and publishing its accounts, accompanied by an Annual Governance Statement. It is also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources (Value for Money).

Our annual work programme, which includes nationally prescribed and locally determined work, has been undertaken in accordance with the Audit Plan that we issued on 28 March 2013 and was conducted in accordance with the Audit Commission's Code of Audit Practice ('the Code'), International Standards on Auditing (UK and Ireland) and other guidance issued by the Audit Commission.

## Audit conclusions

The audit conclusions which we have provided in relation to 2012/13 are as follows:

- an unqualified opinion on the accounts which give a true and fair view of the Council's financial position as at 31 March 2013 and its income and expenditure for the year
- an unqualified conclusion in respect of the Council's arrangements for securing economy, efficiency and effectiveness in its use of
- an unqualified opinion on the council's Whole of Government Accounts submission
- we have certified two grant claims and returns, one required an amendment, the other did not require any amendments;
- our work is on-going on the external audit certification of the government grant return for housing and council tax benefits. A small number of processing errors have been identified that are likely to result in a qualification letter and amendments to the claim form submitted for audit. The impact of these errors is low in comparison to the total value of the claim.

# Executive summary (continued)

## **Key areas for Council attention**

Since October 2010, there have been significant reductions in central government funding for local government.

These funding reductions come at a time when demographic and recession based factors are increasing demand for some services, and there is a decreasing demand for some services, such as car parking, where customers pay a fee or charge.

The Council remains in a relatively strong starting position to face the austerity.

At the end of the 2012/13 financial year, the Council had £11m of reserves and balances, excluding the Housing Revenue Account (HRA). Of this balance £6.4m are reserves earmarked to particular schemes leaving unallocated general fund balances of £4.6m.

However, current projections show that the Council will need to use almost all of the remainder of the general fund balances to meet budget shortfalls in the next few financial years.

The Council has considered the uncertainty surrounding their financial position and the level of future government funding in its Medium Term Financial Plan (MTFP). Given the forecast reductions in central government funding, the Council has sought to maintain current services by drawing on general fund balances, savings programmes and changes in service delivery. It has also sought to prioritise areas for economic growth. However, the MTFP does not address the underlying deficit (balances will be reduced to £500,000 by 2015/16), and the Council needs to reduce expenditure to a sustainable level as this level of balances would be relatively low for a district council.

The increasingly tight financial situation is the most significant issue facing the Council at present. If the Council is to continue to set a balanced budget then it will have to make substantial savings. The Council has been able to absorb funding cuts to date but, if it is to deliver the further savings required in the future without falling below the minimum level of reserves set at £500,000, it will need to keep this issue at the top of its agenda.

## **Acknowledgements**

This Letter has been agreed with the Executive Director (Corporate Services) and was presented to Audit and Governance Committee on 31 October 2013

We would like record our appreciation for the assistance and co-operation provided to us during our audit by the Council's staff.

**Grant Thornton UK LLP**  
October 2013

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## Section 2: Audit of the accounts

01. Executive summary
- 02. Audit of the accounts**
03. Value for Money
04. Certification of grant claims and returns

An unqualified opinion on the accounts which give a true and fair view of the Council's financial position as at 31 March 2013 and its income and expenditure for the year was provided. No changes were made to the accounts that impacted on the Council's overall financial position

# Audit of the accounts

## **Audit of the accounts**

The key findings of our audit of the accounts are summarised below:

### **Preparation of the accounts**

The Council presented us with draft accounts on 27 June 2013, in accordance with the national deadline. Appropriate working papers were made available from the start of the audit fieldwork, which commenced 8 July 2013.

The quality of the draft accounts and supporting working papers produced by the Council was good. The processes for preparing the financial statements remained strong and the support provided to external audit throughout the year ensured an efficient year end audit process.

### **Issues arising from the audit of the accounts**

In reflection of the good quality of the draft accounts the audited accounts contained a small number of minor disclosure and presentational changes.

### **Annual governance statement and Annual Report**

The Annual Governance Statement was prepared in accordance with CIPFA requirements and reflected the Council's governance arrangements in line with our understanding. The Statement reflected on how governance issues from the previous year had been addressed; and how the Council plans to address risks arising from its review of the governance arrangements going forward.

The Annual Report reflected the activities of the Council for the year and provided readers with a good synopsis of the Council's forward plans.

### **Conclusion**

Prior to giving our opinion on the accounts, we are required to report significant matters arising from the audit to 'those charged with governance' (defined as the Audit and Governance Committee at the Council). We presented our report to the Audit and Governance Committee on 26 September 2013 and summarise only the key messages in this Letter.

We issued an unqualified opinion on the Council's 2012/13 accounts on 30 September 2013, meeting the deadline set by the Department for Communities and Local Government. Our opinion confirms that the accounts give a true and fair view of the Council's financial position and of the income and expenditure recorded by the Council.

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## Section 3: Value for Money

- 
01. Executive summary
  02. Audit of the accounts
  - 03. Value for Money**
  04. Certification of grant claims and returns

On the basis of our work, and having regard to the guidance on the specified criteria published by the Audit Commission, we are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2013.

# Value for Money

## Scope of work

The Code describes the Council's responsibilities to put in place proper arrangements to:

- secure economy, efficiency and effectiveness in its use of resources
- ensure proper stewardship and governance
- review regularly the adequacy and effectiveness of these arrangements.

We are required to give a VFM conclusion based on the following two criteria specified by the Audit Commission which support our reporting responsibilities under the Code:

**The Council has proper arrangements in place for securing financial resilience.** The Council has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.

**The Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness.** The Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.

## Key findings

### Securing financial resilience

We have undertaken a review which considered the Council's arrangements against the three expected characteristics of proper arrangements as defined by the Audit Commission:

- financial governance
- financial planning
- financial control.

### Challenging economy, efficiency and effectiveness

We have reviewed whether the Council has prioritised its resources to take account of the tighter constraints it is required to operate within and whether it has achieved cost reductions and improved productivity and efficiencies.

Overall our work highlighted that whilst the Council faces challenges during 2013/14 and beyond its current arrangements for achieving financial resilience are adequate. Further details are provided in our Financial Resilience report issued in September 2013.

### Overall VFM conclusion

On the basis of our work, and having regard to the guidance on the specified criteria published by the Audit Commission, we are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2013.

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## Section 4: Certification of grant claims and returns

- 01. Executive summary
- 02. Audit of the accounts
- 03. Value for Money
- 04. Certification of grant claims and returns**

Our work on the certification of grant claims is on-going. The return for housing and council tax benefits will be subject to amendment and a qualification letter as our work has identified a small number of processing errors. As reported to the Audit and Governance Committee on 26 September 2013, the impact of these errors is very low given the overall value of the claim. The detailed findings of our work will be reported in our Grant Certification report upon completion of our work.



# Certification of grant claims and returns

## Introduction

We are required to certify certain of the claims and returns submitted by the Council. This certification typically takes place some six to nine months after the claim period and represents a final but important part of the process to confirm the Council's entitlement to funding.

The Council have completed three returns requiring external audit certification for the financial year 2012/13. These relate to Housing and Council Tax Benefit expenditure, the pooling of Housing Capital Receipts and Business Rate income. We have completed our work on two of these returns. Our work on the Housing and Council Tax Benefit claim continues.

## Approach and context to certification

Arrangements for certification are prescribed by the Audit Commission, which agrees the scope of the work with each relevant government department or agency, and issues auditors with a Certification Instruction (CI) for each specific claim or return.

## Key messages

The key messages from our certification work are summarised in the table below. Further details are provided in our certification report which will be issued in January 2014.

## Summary of the Council's arrangements

Aspect of certification arrangements	Key Messages	RAG rating
<b>Submission &amp; certification</b>	All claims have been submitted by the relevant deadline.	● Green
<b>Accuracy of claim forms submitted to the auditor (including amendments &amp; qualifications)</b>	One amendment was required to the pooling of Housing Capital Receipts return. This arose because of the wording of the guidance notes. This amendment did not affect the value of the claim. No amendments were required to the government grant return for business rates.	● Amber
<b>Supporting working papers</b>	Working papers have been of a high standard.	● Green

# Appendices

## Appendix A: Reports issued and fees

We confirm below the fee charged for the audit and confirm there were no fees for the provision of non audit services.

<b>Fees</b>	<b>Per Audit plan</b>	<b>Actual fees</b>
	<b>£</b>	<b>£</b>
Audit Fee	65,550	65,550
Grant certification fee	18,800	TBC
<b>Total fees</b>	<b>84,350</b>	<b>TBC</b>

### **Fees for other services**

<b>Service</b>	<b>Fees £</b>
None	Nil

Grant certification work is currently underway and will not be completed until 30 November 2013. Therefore, we are not in a position to confirm actual fees for grant certification work at this point in time.

### **Reports issued**

<b>Report</b>	<b>Date issued</b>
Audit Plan	28/3/2013
Audit Findings Report	26/9/2013
VfM – Financial Resilience Report	26/9/2013
Annual Audit Letter	31/10/2013



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## AUDIT & GOVERNANCE COMMITTEE

31<sup>st</sup> October 2013

### Report of the Executive Director Corporate Services

#### REVIEW OF THE COUNCIL'S ARRANGEMENTS FOR SECURING FINANCIAL RESILIENCE 2012/13 - MANAGEMENT RESPONSE & RISK ASSESSMENT

#### EXEMPT INFORMATION

None

#### PURPOSE

To inform Members of Management's responses and timeframes to address the recommendations contained within the *Review of the Council's Arrangements for Securing Financial Resilience* report presented by Grant Thornton to the meeting on 26<sup>th</sup> September 2013.

#### RECOMMENDATION

**That Members endorse the management responses and timeframes to address the recommendations contained within the *Review of the Council's Arrangements for Securing Financial Resilience* report attached at Appendix 1.**

#### EXECUTIVE SUMMARY

**Appendix 1** details the management responses and timeframes to address the recommendations contained within the *Review of the Council's Arrangements for Securing Financial Resilience* report presented by Grant Thornton to the Audit & Governance Committee meeting on 26<sup>th</sup> September 2013.

All recommendations have been agreed by management to appropriate timescales.

The key areas of control covered by the report are reviews of:-

1. Key Indicators of Performance
2. Strategic Financial Planning

3. Financial Governance;
4. Financial Control.

### **RESOURCE IMPLICATIONS**

None arising directly from this report.

### **LEGAL / RISK IMPLICATIONS**

The External Auditors' work supporting their Value for Money (VfM) conclusion, as part of the statutory external audit, comprises a review to determine if the Council has proper arrangements in place for securing financial resilience.

### **REPORT AUTHOR**

Stefan Garner, Director of Finance

### **LIST OF BACKGROUND PAPERS**

Review of the Council's Arrangements for Securing Financial Resilience, Grant Thornton – Audit & Governance Committee, 26<sup>th</sup> September 2013

# Review of the Council's Arrangements for Securing Financial Resilience

## Management Response & Risk Assessment

Ref.	Area of review	Key points for consideration	Responsibility	Timescale	Risk	Management response
1	<b>Key Indicators of Performance</b>	<ul style="list-style-type: none"> <li>In the continued uncertain economic climate, the Council should seek to maintain appropriate levels of reserves</li> </ul>	Executive Director Corporate Services	Ongoing	Medium / High	Agreed – a regular review of reserves and balances is undertaken including sensitivity analysis. This will be reported as part of the budget review process to inform the MTFS for 2014/15
		<ul style="list-style-type: none"> <li>The Council should continue to review its collection rate for Council Tax, given the impact of the welfare reform changes.</li> </ul>	Executive Director Corporate Services	Ongoing	High	Agreed – existing recovery measures and management monitoring arrangements have been enhanced in 2013/14 given the potential impact of Welfare Benefit Reform (WBR) on council tax collection levels and business rates retention changes. The wider impact of WBR is also now reviewed regularly by CMT

Ref.	Area of review	Key points for consideration	Responsibility	Timescale	Risk	Management response
2	<b>Strategic Financial Planning</b>	<ul style="list-style-type: none"> <li>The Council should address the underlying deficit within its Medium Term Financial Plan.</li> </ul>	Executive Director Corporate Services	Ongoing	Medium / High	Agreed - Members are aware of the challenges & issues faced – a members' workshop was held in July highlighting the key issues & outlining the 'Planning for a Sustainable Future' Strategy (subsequently approved by Cabinet on 22/8/13) – outlining the Council's proactive approach to addressing the medium term shortfall – which will inform the budget setting process. A further workshop is planned as part of the budget process – in December 2013
		<ul style="list-style-type: none"> <li>The Council should explore areas where costs could be reduced through closer working arrangements with other authorities.</li> </ul>	Executive Director Corporate Services	Ongoing	Medium	Agreed – one of the 7 workstreams contained within the 'Planning for a Sustainable Future' strategy is the exploration of opportunities for Shared Services/Joint Working



Ref.	Area of review	Key points for consideration	Responsibility	Timescale	Risk	Management response
3	<b>Financial Governance</b>	<ul style="list-style-type: none"> <li>The Council should ensure it maintains a programme of training for members and officers with budgetary responsibility to add strength to the continued challenge presented by the current financial climate.</li> </ul>	Executive Director Corporate Services	Ongoing	Medium	<p>Agreed – regular update briefings and training for Members on budgetary issues takes place. This will also include, in November 2013, a briefing by Grant Thornton to all Members on ‘Conflicts of Interest and the Role of Members &amp; the Audit Committee in Good Governance’</p> <p>Budget managers have regular meetings with their accountants, who provide advice and guidance relating to budgetary matters. All budget managers receive training in the use and application of the financial system – with further training planned for 2013/14. Procurement training has recently been delivered emphasising the need to control expenditure, meet statutory requirements and deliver savings.</p>

Ref.	Area of review	Key points for consideration	Responsibility	Timescale	Risk	Management response
						<p>For late 2013, implementation of a budgetary management tool is planned for all budget managers which will, with the support of their accountant, facilitate a more proactive approach in the management and understanding of their budgets.</p> <p>In addition, the ongoing Performance Development Review process identifies any additional training requirements.</p>
4	<b>Financial Control</b>	<ul style="list-style-type: none"> <li>The Council should continue to review savings plans outlined in Departments to consider their impact upon service provision and to maintain their alignment to the Council's overarching efficiency plans.</li> </ul>	Executive Director Corporate Services	Ongoing	Medium / High	Agreed – one of the 7 workstreams contained within the 'Planning for a Sustainable Future' strategy is to review service provision across all Directorates. It has been recognised that Corporate Management Team will receive and assess the results of these reviews to identify the impact on the whole organisation, Corporate Priorities and the MTFS.

31<sup>ST</sup> OCTOBER 2013

**REPORT OF THE HEAD OF INTERNAL AUDIT SERVICES**

**FRAUD AND CORRUPTION UPDATE REPORT**

**EXEMPT INFORMATION**

None

**PURPOSE**

To provide Members with an update of Counter Fraud work completed to date during the financial year 2013/14.

**RECOMMENDATIONS**

**That the Committee endorses:**

- 1. The updated Counter Fraud Work Plan (Appendix 1)**
- 2. The Fraud Risk Register (Appendix 2)**
- 3. The Counter Fraud & Corruption Policy Statement, Strategy Guidance Notes (Appendix 3)**
- 4. The Whistleblowing Policy (Appendix 4)**

**EXECUTIVE SUMMARY**

At its meeting of the 31st May 2012, this Committee endorsed the Counter Fraud and Corruption Policy Statement, Strategy and Guidance Notes which included a specific Internal Audit Counter Fraud Work Plan. As part of the strategy, progress against the plan is to be reported to this committee on a regular basis. The work plan has been updated to reflect the actions proposed for 2013/14 financial year (**Appendix 1**).

The Fraud Risk Register is reviewed quarterly and the latest version is attached as **Appendix 2**. There are no significant fraud risks to the Authority.

Work is progressing with data matches identified through the National Fraud Initiative (NFI) in the data matching exercise completed recently.

In line with good practice, the relevant counter fraud policies have been reviewed. The Counter Fraud & Corruption Policy Statement, Strategy & Guidance Notes is attached at **Appendix 3** and the Whistleblowing Policy is attached at **Appendix 4**. The main changes to the policies take into account the changes required under the Enterprise & Regulatory Reform Act 2013 which states that any disclosure made using the Whistleblowing Policy, within reasonable belief of the worker making the disclosure will only be protected if it is made in the public interest.

As the policies affect employees, they need to be consulted on with the Unions and be approved by the Appointments and Staffing Committee. Consultation is currently underway with the Trade Union Liaison Group and the policies will be reported to the next Appointments & Staffing Committee. If any changes to the policies are required, they will be reported back to this Committee before being presented to full Council.

#### **RESOURCE IMPLICATIONS**

None

#### **LEGAL/RISK IMPLICATIONS BACKGROUND**

None

#### **SUSTAINABILITY IMPLICATIONS**

None

#### **BACKGROUND INFORMATION**

None

#### **REPORT AUTHOR**

Angela Struthers ex 234

#### **LIST OF BACKGROUND PAPERS**

None

#### **APPENDICES**

Appendix 1 – Audit Counter Fraud Work Plan

Appendix 2 – Fraud Risk Register

Appendix 3 – Counter Fraud & Corruption Policy Statement, Strategy & Guidance Notes

Appendix 4 – Whistleblowing Policy

TAMWORTH BOROUGH COUNCIL INTERNAL AUDIT COUNTER FRAUD WORK PLAN 2013/14

<b>CREATING AN ANTI-FRAUD CULTURE</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
<p>To build an anti-fraud culture through the adoption of various measures to promote counter fraud awareness by:</p> <ul style="list-style-type: none"> <li>a) Roll out of the e learning package on governance (includes counter fraud &amp; whistleblowing)</li> <li>b) Provide drop in sessions (if required) to staff and members</li> <li>c) Continue to make available counter fraud strategies/policies on the intranet/website</li> </ul>	<p>1. Failure to make staff, member and the public aware that their suspicions will be treated confidentially, objectively and professionally.</p>	<p>Roll out delayed to November 2013 – to be completed with Fraud Awareness campaign</p> <p>As required</p> <p>Completed – revised versions to be presented to January 2014 Audit &amp; Governance Committee for approval</p>
<b>RESOURCE (DAYS)</b>		<b>5</b>

<b>DETERRING FRAUD</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
Review communications so that the most effective ways of communicating with staff are utilised.	A lack of robust strategic approach to deterring fraud can undermine actions to build an anti-fraud culture	Evaluation and adaptation of National Fraud Authority fraud campaign pack being completed for roll out with E Learning solution.
		<b>Resources (Days)</b>

<b>PREVENTING FRAUD</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
Review the existing counter fraud policy statement, strategy and guidance notes and update and amend as appropriate.	Out of date policies and procedures which do not cover relevant legislation	Drafted – awaiting Trade Union input. To be reported to January 2014 Committee for approval
Review financial guidance and update and amend as appropriate.	Out of date policies and procedures which do not cover relevant legislation	Revised version being worked on. To January 2014 Committee for approval
Review and update the fraud risk register in line with potential system weaknesses identified during audits or investigations.	Potential risks not identified	Completed quarterly
<b>Resources (Days)</b>		<b>9</b>

<b>DETECTING FRAUD</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
Undertake enquiries as a result of the outcome of the Audit Commission's National Fraud Initiative	If not undertaken, there is a risk that the opportunity to abuse a system weakness may be heightened as the risk of being caught may be deemed negligible by the perpetrator.	On-going
Undertake local proactive exercises at the Authority as agreed with the Executive Director Corporate Services	If not undertaken, there is a risk that the opportunity to abuse a system weakness may be heightened as the risk of being caught may be deemed negligible by the perpetrator.	Not yet identified
<b>Resources (Days)</b>		<b>15</b>



<b>INVESTIGATIONS</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
<p>All referrals will be investigated in accordance with the Counter Fraud and Corruption Policy Statement and Strategy.</p>	<p>The risk of not investigating is that fraud goes unpunished and there is no resulting deterrent effect thus increasing the prevalence of fraud further.</p> <p>The staff (or others) making the allegation feel they are not taken seriously and referrals cease to be made.</p>	<p>On-going</p>
<b>Resources (Days)</b>		<b>20</b>

<b>SANCTIONS</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
Ensure that the sanctions are applied correctly and consistently.	If sanctions are not imposed there is no deterrence of fraud.	As required
<b>Resources (Days)</b>		

<b>REDRESS</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
<p>Maintain comprehensive records of time spent on each investigation so that this can be included in any compensation claim.</p> <p>Identify and maintain a record of the actual proven amount of loss so that appropriate recovery procedures can be actioned.</p>	<p>Fraudsters may not realise that any and all measures will be taken to recover any money lost to fraud.</p>	<p>As required</p>
		<b>Resources (Days)</b>

<b>MANDATORY COUNTER FRAUD ARRANGEMENTS (STRATEGIC WORK)</b>		
<b>OBJECTIVE</b>	<b>RISK</b>	<b>PROGRESS</b>
Attendance at relevant fraud forums/meetings to ensure that professional knowledge and skills are maintained.	Failure to ensure the completion of mandatory strategic work may mean that the professional knowledge and skills are not maintained to a high standard.	On-going
Completion and agreement of work plan.		On-going
Regular meetings with the Executive Director Corporate Services.		On-going
Quarterly report of counter fraud work.		On-going
Attendance at relevant training as required.		On-going
<b>Resources (Days)</b>		<b>5</b>
<b>TOTAL RESOURCES (Days)</b>		<b>54</b>

# Fraud Risk Register

Generated on: 21 October 2013



Risk Code	RR RDIAFC001	Risk Title	Benefits fraud - claimant	Current Risk Status
Description of Risk	Claimant fraudulently claims benefits			Assigned To
Gross Risk Matrix				
Gross Risk Score	12	Risk Treatment Measures Implemented		Current Risk Score
Gross Severity	3	trained staff media coverage - forms, TV radio		Current Severity
Gross Likelihood	4	data matching internal audit documentary evidence		Current Likelihood
Gross Risk Review Date				Last Risk Review Date
Risk Notes				18-Oct-2013

<b>Risk Code</b>	RR RDIAFC002	<b>Risk Title</b>	Benefits fraud - third party eg landlord	<b>Current Risk Status</b>	
<b>Description of Risk</b>	fraudulent claim by third party			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	4	trained staff media coverage - forms, TV radio Data matching Internal Audit Supervisory checks Documentary evidence		<b>Current Risk Score</b>	4
<b>Gross Severity</b>	2		<b>Current Severity</b>	2	
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>			<b>Last Risk Review Date</b>	18-Oct-2013	
<b>Risk Notes</b>					




<b>Risk Code</b>	RR RDIAFC003	<b>Risk Title</b>	Benefits fraud - internal	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Fraudulent claim by member of staff			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	9	recruitment checks data matching supervisory checks system controls audit trails internal audit		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	3		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					


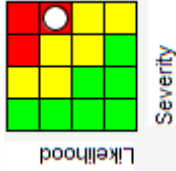
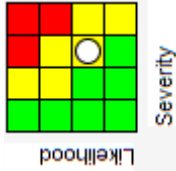
<b>Risk Code</b>	RR RDIAFC004	<b>Risk Title</b>	Cash theft	<b>Current Risk Status</b>	
<b>Description of Risk</b>	theft of takings disguised by manipulation of accounts				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>	<b>Current Risk Matrix</b>		
<b>Gross Risk Score</b>	4	reconciliations supervisory checks policies and procedures financial regulations and guidance segregation of duties budgetary controls internal audit confidential reporting policy fraud & corruption strategy	<b>Current Risk Score</b>		
<b>Gross Severity</b>	2		<b>Current Severity</b>		
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>		
<b>Gross Risk Review Date</b>			<b>Last Risk Review Date</b>		
<b>Risk Notes</b>	18-Oct-2013				




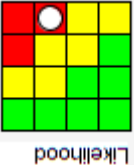
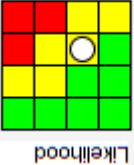
<b>Risk Code</b>	RR RDIAFC005	<b>Risk Title</b>	Cash theft	<b>Current Risk Status</b>	
<b>Description of Risk</b>	theft of cash without disguise				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>			
<b>Gross Risk Score</b>	4	reconciliations supervisory checks policies and procedures financial regulations segregation of duties budgetary controls internal audit confidential reporting policy fraud & corruption strategy physical controls	<b>Current Risk Score</b>	1	
<b>Gross Severity</b>	2		<b>Current Severity</b>	1	
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>	1	
<b>Gross Risk Review Date</b>			<b>Last Risk Review Date</b>	18-Oct-2013	
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC006	<b>Risk Title</b>	Credit Income	<b>Current Risk Status</b>	
<b>Description of Risk</b>	suppression of any notification of debt to be raised improper write-off failing to institute recovery proceedings switching/transferring arrears or manipulation of credit balances				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>	<b>Current Risk Matrix</b> 		
<b>Gross Risk Score</b>	4	reconciliations budgetary controls internal audit write off policy authorisation levels audit trail debt recovery procedures supervisory controls review of credit balances and suspense items	<b>Current Risk Score</b>	2	
<b>Gross Severity</b>	2		<b>Current Severity</b>	2	
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>	1	
<b>Gross Risk Review Date</b>	<b>Last Risk Review Date</b> 18-Oct-2013				
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC007	<b>Risk Title</b>	Creditor payments	<b>Current Risk Status</b>	
<b>Description of Risk</b>	invoicing for goods/services not supplied/false invoices supplying inferior goods/services to those invoiced				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6	authorisation procedures reconciliations audit trail segregation of duties financial guidance inventories		<b>Current Risk Score</b>	2
<b>Gross Severity</b>	3		<b>Current Severity</b>	2	
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>	1	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC008	<b>Risk Title</b>	Treasury management	<b>Current Risk Status</b>	
<b>Description of Risk</b>	falsifying records to gain access to loan or investment monies			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	management controls segregation of duties internal audit authorised signatories budgetary controls preferred/approved borrowers audit trail documented procedures		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC009	<b>Risk Title</b>	Contracts/procurement	<b>Current Risk Status</b>	
<b>Description of Risk</b>	improper award of contracts				
<b>Gross Risk Matrix</b>	 Likelihood Severity	<b>Risk Treatment Measures Implemented</b>			
<b>Gross Risk Score</b>	12	financial regulations standing orders procurement specialist OJEU regulations authorised signatories management controls segregation of duties tendering system	<b>Current Risk Score</b>	6	
<b>Gross Severity</b>	4		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>					
<b>Risk Notes</b>	18-Oct-2013				

<b>Risk Code</b>	RR RDIAFC010	<b>Risk Title</b>	Contracts/procurement	<b>Current Risk Status</b>	
<b>Description of Risk</b>	contract not delivered properly contractor overpaid				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12			<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4	contract conditions contract monitoring legal advice internal audit		<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC01.1	<b>Risk Title</b>	Contracts/procurement	<b>Current Risk Status</b>	
<b>Description of Risk</b>	collusion with contractors and/or acceptance of bribes			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	authorised signatories management controls segregation of duties register of interests confidential reporting policy gifts and hospitality policy		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>			<b>Last Risk Review Date</b>	18-Oct-2013	
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC012	<b>Risk Title</b>	Contracts/procurements	<b>Current Risk Status</b>	
<b>Description of Risk</b>	collusion by tenderers			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	16			<b>Current Risk Score</b>	8
<b>Gross Severity</b>	4			<b>Current Severity</b>	4
<b>Gross Likelihood</b>	4	benchmarking tendering procedures		<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					



<b>Risk Code</b>	RR RDIAFC013	<b>Risk Title</b>	Payroll	<b>Current Risk Status</b>	
<b>Description of Risk</b>	payment to non-existent employees		<b>Assigned To</b>		
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>	<b>Current Risk Matrix</b>		
<b>Gross Risk Score</b>	2	management checks establishment list budget monitoring segregation of duties data matching authorisation process	<b>Current Risk Score</b>	3	
<b>Gross Severity</b>	2		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	1		<b>Current Likelihood</b>	1	
<b>Gross Risk Review Date</b>			<b>Last Risk Review Date</b>	18-Oct-2013	
<b>Risk Notes</b>					



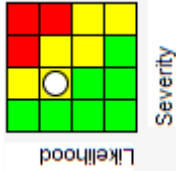
<b>Risk Code</b>	RR RDIAFC014	<b>Risk Title</b>	Payroll	<b>Current Risk Status</b>	
<b>Description of Risk</b>	over claiming hours worked				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6			<b>Current Risk Score</b>	2
<b>Gross Severity</b>	2	management checks budget monitoring authorisation process time records		<b>Current Severity</b>	1
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC015	<b>Risk Title</b>	Payroll	<b>Current Risk Status</b>	
<b>Description of Risk</b>	manipulation of standing data			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6			<b>Current Risk Score</b>	2
<b>Gross Severity</b>	3	system access controls system administrator segregation of duties management controls internal audit		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	2			<b>Current Likelihood</b>	1
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC016	<b>Risk Title</b>	Assets	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Theft of current assets				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6			<b>Current Risk Score</b>	4
<b>Gross Severity</b>	2	stock checks restricted access segregation of duties inventories		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC017	<b>Risk Title</b>	Assets	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Theft of fixed assets			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	9			<b>Current Risk Score</b>	4
<b>Gross Severity</b>	3	restricted access asset tagging inventories staff awareness		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					




<b>Risk Code</b>	RR RDIAFC018	<b>Risk Title</b>	Assets	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Theft of Council information/intellectual property			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	encryption staff awareness passwords access controls restricted access to building security policy ISO27001		<b>Current Risk Score</b>	8
<b>Gross Severity</b>	4			<b>Current Severity</b>	4
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC019	<b>Risk Title</b>	Assets	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Inappropriate use of Council assets for private use			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	8			<b>Current Risk Score</b>	6
<b>Gross Severity</b>	2	register of interests financial guidance management controls induction process security policy user reports eg internet, telephone		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	3
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC020	<b>Risk Title</b>	Petty cash/imprest accounts	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Theft of takings disguised by manipulation of accounts				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	2	segregation of duties management checks reconciliations authorised signatories imprest values kept to a minimum annual certificate		<b>Current Risk Score</b>	2
<b>Gross Severity</b>	1		<b>Current Severity</b>	1	
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>			<b>Last Risk Review Date</b>	18-Oct-2013	
<b>Risk Notes</b>					



<b>Risk Code</b>	RR RDIAFC021	<b>Risk Title</b>	Sheltered schemes	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Theft of customer monies			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	4			<b>Current Risk Score</b>	2
<b>Gross Severity</b>	2	segregation of duties reconciliations restricted access CRB checks		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	2			<b>Current Likelihood</b>	1
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC022	<b>Risk Title</b>	Expenses claims	<b>Current Risk Status</b>	
<b>Description of Risk</b>	claiming expenses for journeys not undertaken claiming for more miles than actually travelled			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6			<b>Current Risk Score</b>	4
<b>Gross Severity</b>	2	management checks		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	3	authorisation procedures		<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>		internal audit		<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC023	<b>Risk Title</b>	Corruption	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Contracts - tendering, awarding and payment			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	management checks register of interests constitution procurement unit legislation tendering system standing orders/financial regulations		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC024	<b>Risk Title</b>	Corruption	<b>Current Risk Status</b>	
<b>Description of Risk</b>	disposal of assets - land and property			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6			<b>Current Risk Score</b>	3
<b>Gross Severity</b>	3	constitution asset management plan		<b>Current Severity</b>	3
<b>Gross Likelihood</b>	2	asset disposal policy asset register		<b>Current Likelihood</b>	1
<b>Gross Risk Review Date</b>		segregation of duties		<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC025	<b>Risk Title</b>	Corruption	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Award of planning consents and licences				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>			
<b>Gross Risk Score</b>	9				<b>Current Risk Score</b>
<b>Gross Severity</b>	3	planning approval process segregation of duties delegated powers constitution legislation			<b>Current Severity</b>
<b>Gross Likelihood</b>	3				<b>Current Likelihood</b>
<b>Gross Risk Review Date</b>					<b>Last Risk Review Date</b>
<b>Risk Notes</b>	18-Oct-2013				

<b>Risk Code</b>	RR RDIAFC026	<b>Risk Title</b>	Corruption	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Acceptance of gifts, hospitality, secondary employment	<b>Assigned To</b>			
<b>Gross Risk Matrix</b>	 Likelihood Severity	<b>Risk Treatment Measures Implemented</b>	 Likelihood Severity	<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6	gifts and hospitality policy gifts and hospitality register NFI constitution contract of employment	<b>Current Risk Score</b>	4	
<b>Gross Severity</b>	2		<b>Current Severity</b>	2	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>			<b>Last Risk Review Date</b>	18-Oct-2013	
<b>Risk Notes</b>					


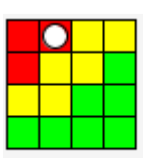
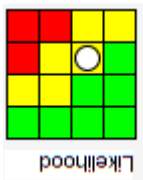
<b>Risk Code</b>	RR RDIAFC027	<b>Risk Title</b>	Car parking	<b>Current Risk Status</b>	
<b>Description of Risk</b>	theft of takings disguised by manipulation of accounts theft of taking without disguise recycling of tickets				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>			
<b>Gross Risk Score</b>	9	budget monitoring audit trail reconciliations	<b>Current Risk Score</b>	6	
<b>Gross Severity</b>	3		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>			<b>Last Risk Review Date</b>	18-Oct-2013	
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC028	<b>Risk Title</b>	Money laundering	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Using the council to hide improper transactions				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	8			<b>Current Risk Score</b>	4
<b>Gross Severity</b>	4	raised awareness money laundering policy training of officers upper limit for cash transactions		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	2			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	22-May-2013
<b>Risk Notes</b>					



<b>Risk Code</b>	RR RDIAFC029	<b>Risk Title</b>	ICT fraud & abuse	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Improper use of council ICT equipment			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	internet use policy		<b>Current Risk Score</b>	9
<b>Gross Severity</b>	4	surf control		<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3	access controls		<b>Current Likelihood</b>	3
<b>Gross Risk Review Date</b>		management reports on internet usage		<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>	software audit facility ISO27001 standard				

<b>Risk Code</b>	RR RDIAFC030	<b>Risk Title</b>	Employee - general	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Abuse of flexi system falsification of car loans			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6	flexible working policy management checks time recording systems flexi records car inspection reports independent valuations		<b>Current Risk Score</b>	4
<b>Gross Severity</b>	2			<b>Current Severity</b>	2
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC031	<b>Risk Title</b>	Payment of grants to the public	<b>Current Risk Status</b>	
<b>Description of Risk</b>	claiming for properties which are not owned claimants understating income over claiming the value of the work done			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	grant criteria		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4	grant assessments land registry checks		<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3	quotes for work segregation of duties inspections management checks		<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

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<b>Risk Code</b>	RR RDIAFC032	<b>Risk Title</b>	Insurance claims	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Claiming for non existent injuries Claiming at another establishment for the same injury overclaiming				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>			
<b>Gross Risk Score</b>	9			<b>Current Risk Score</b>	4
<b>Gross Severity</b>	3	Insurance brokers		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	3	claim forms		<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>		NFI		<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

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<b>Risk Code</b>	RR RDIAFC033	<b>Risk Title</b>	Loans & Investments	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Misappropriation of funds Fraudulent payment or investment of funds				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Written procedures segregation of duties authorisation process counterparty listing reconciliations treasury management policy treasury management strategy access controls internal audit		<b>Current Risk Score</b>	4
<b>Gross Severity</b>	4		<b>Current Severity</b>	2	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					

<b>Risk Code</b>	RR RDIAFC034	<b>Risk Title</b>	Council Tax & NNDR	<b>Current Risk Status</b>	
<b>Description of Risk</b>	<p>Fictitious refunds duplicate bank accounts intercepting income suppressing arrears exemptions/discounts awarded incorrectly claimed fraudulently 3rd party collections stolen/misappropriated</p>				
<b>Gross Risk Matrix</b>					
<b>Gross Risk Score</b>	9	<b>Risk Treatment Measures Implemented</b>			<b>Current Risk Matrix</b>
<b>Gross Severity</b>	3	<p>separation of duties management/supervisory checks access controls authorisation processes reconciliations review of suppressed recovery action interrogation reports void inspections discount/exemption reviews NFI</p>			<b>Current Risk Score</b>
<b>Gross Likelihood</b>	3				<b>Current Severity</b>
<b>Gross Risk Review Date</b>				<b>Current Likelihood</b>	2
<b>Risk Notes</b>				<b>Last Risk Review Date</b>	18-Oct-2013

<b>Risk Code</b>	RR RDIAFC035	<b>Risk Title</b>	Regeneration development corruption	<b>Current Risk Status</b>		
<b>Description of Risk</b>	<p>Developer awarded contracts for financial incentive Inducements for the granting of planning consents Contract granted to developer at a reduced price in exchange for cash payments to officers and members Backhanders to reduce restraints on developer</p>					
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>				
<b>Gross Risk Score</b>	12				<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4	Business cases project teams declaration interests Officers present minutes of meetings			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3				<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>					<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>						

<b>Risk Code</b>	RR RDIAFC036	<b>Risk Title</b>	Housing allocations	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Housing allocated for financial reward fraudulent allocation of property				
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	9			<b>Current Risk Score</b>	4
<b>Gross Severity</b>	3	separation of duties housing register management checks declaration of interests		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					



<b>Risk Code</b>	RR RDIAFC037	<b>Risk Title</b>	Elections	<b>Current Risk Status</b>		
<b>Description of Risk</b>	Fraudulent voting Fraudulent acts by canvassers					
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>				
<b>Gross Risk Score</b>	12	supervisory roles at counts postal votes counts supervised access controls ballot box controls ballot paper account insurance pre employment checks supervisory checks			<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4				<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3				<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>		<b>Last Risk Review Date</b>			18-Oct-2013	
<b>Risk Notes</b>						

<b>Risk Code</b>	RR RDIAFC038	<b>Risk Title</b>	financial statements	<b>Current Risk Status</b>	
<b>Description of Risk</b>	the financial statements may be materially mis-stated due to fraud			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6			<b>Current Risk Score</b>	4
<b>Gross Severity</b>	3	Internal Audit financial guidance segregation of duties		<b>Current Severity</b>	2
<b>Gross Likelihood</b>	2			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	18-Jun-2010			<b>Last Risk Review Date</b>	18-Oct-2013
<b>Risk Notes</b>					



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COUNTER FRAUD AND CORRUPTION POLICY STATEMENT,  
STRATEGY & GUIDANCE NOTES

Document Status: Draft

Originator: A Struthers

Updated: A Struthers

Owner: Executive Director – Corporate Services

Version: 01.01.02

Date: 30/07/13

**Approved by**

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This information can be produced on request in other formats and languages

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## Document Location

This document is held by Tamworth Borough Council, and the document owner is John Wheatley, Executive Director – Corporate Services.

Printed documents may be obsolete. An electronic copy will be available on Tamworth Borough Councils Intranet. Please check for current version before using.

## Revision History

Revision Date	Version Control	Summary of changes
1/3/12	1.01.01	Scheduled review
30/07/13	1.01.02	Scheduled review

## Approvals

Name	Title	Approved
Full Council	Committee Approval	
Audit & Governance Committee	Committee Approval	
CMT	Group Approval	
TULG	Trade Union Consultation	
John Wheatley	Executive Director – Corporate Services	
Angela Struthers	Head of Internal Audit Services	Yes

## Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

## Distribution

The document will be available on the Intranet and the website.

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## TAMWORTH BOROUGH COUNCIL

### COUNTER FRAUD AND CORRUPTION POLICY STATEMENT

- | 1.0 [The Council Tamworth Borough Council](#) fully recognises its responsibility in relation to the spending of public money (Protecting the Public Purse) and is committed to the fullest support for Councillors and Employees in upholding the reputation of the Council and maintaining public confidence in its integrity. It also recognises its responsibilities under the Proceeds of Crime Act 2002 , Money Laundering Regulations 2007 and the Bribery Act 2010.
- 2.0 The Council is committed to maintaining an ethical culture which does not and will not tolerate any form of fraud and corruption. Any such issues will be thoroughly investigated and, if confirmed, dealt with rapidly in the strongest possible way. We will seek the strongest possible sanctions against those who seek to defraud the Council. This includes taking appropriate action against employees, Councillors, contractors, external individuals and organisations.
- 3.0 To deliver the Council's corporate priorities, aims and strategic objectives we need to maximise the financial resources available to us. In order to do this we must reduce the risk of fraud to an absolute minimum.
- 4.0 This Policy Statement, together with the Counter Fraud & Corruption Strategy and Guidance Notes, is intended to provide advice and information to Employees and Councillors but suppliers, contractors and the general public are also encouraged to use this advice and guidance.

# COUNTER FRAUD AND CORRUPTION STRATEGY

## 1.0 Introduction

1.1 This strategy is a key element of the Council's overall corporate governance arrangements which aim to ensure the Council is well managed and does the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable way. The Council has a range of other interrelated policies and procedures that provide a corporate framework to counter fraud activity. These have been formulated in line with appropriate legislative requirements and include:

- Standing Orders & Financial Regulations,
- National Code of Local Government Conduct,
- Whistleblowing Policy,
- Accounting procedures and records,
- Sound internal control systems,
- Effective Internal Audit,
- Effective recruitment & selection procedures,
- Disciplinary Procedures,
- Fraud ~~R~~Response ~~P~~Plan,
- Benefits Prosecution Policy,
- Data Protection Policy,
- IT Security Policy,
- Personnel Security Policy,
- Physical Security Policy,
- Constitution,
- Scheme of Delegation,
- Members ~~H~~Handbook,
- Code of Corporate Governance,
- Gifts & Hospitality Policy & Register,
- Anti-money Laundering Policy and Guidance,
- Conflict of Interests Policy,
- Other council procedures as appropriate,
- Any relevant professional Codes of Ethics or obligations.

1.2 All references to fraud within this document include any type of fraud-related offence. Fraud, theft, bribery and corruption are defined as follows:

**Fraud** – ~~“the intention to make gain or cause loss by false representation, failing to disclose information or abuse of position”~~  
intentional false representation, including failure to declare information

or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss.”. The ~~Fraud Act 2006~~ Audit Commission

**Theft** – “ a person shall be guilty of theft if he/she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it”. The Theft Act 1968.

**Bribery** – “A person (“P”) is guilty of an offence if either of the following cases applies.

Case 1 is where—

(a)P offers, promises or gives a financial or other advantage to another person, and

(b)P intends the advantage—

(i)to induce a person to perform improperly a relevant function or activity, or

(ii)to reward a person for the improper performance of such a function or activity.

(3)Case 2 is where—

(a)P offers, promises or gives a financial or other advantage to another person, and

(b)P knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity. (The Bribery Act 2010)

**Corruption** - “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.” (Fraud Audit Manual, the Audit Commission)

1.3 A dishonest act or fraudulent activity may be, but is not limited to, an act or activity that is unethical, improper, or illegal such as:

theft of an asset including, but not limited to, money, tangible property, intellectual property etc;

misappropriation, misapplication, destruction, removal, or concealment of property;

false claims and/or misrepresentation of facts;

alteration or falsification of paper or electronic documents, including the inappropriate destruction of paper or electronic documents;

inappropriate use of computer systems including hacking and software piracy;

embezzlement;

bribery, or corruption of any kind;

unlawful or undeclared conflict of interest;

unauthorised use or misuse of Council property, equipment, materials or records;

- 1.4 Although a dishonest or fraudulent act may have criminal and/or civil law consequences, the Council is not required to use a determination by a criminal or civil body as the basis for determining whether an act is dishonest or fraudulent, nor must the act rise to the level of a crime or violation of civil law in order to constitute a violation of the Council's Conduct and Capability Policy.
- 1.5 The Council also expects that individuals and organisations (e.g. partners, suppliers/contractors and service users) which it comes into contact with, will act towards the Council with integrity and without actions involving fraud or corruption. The Council in turn will endeavour to ensure that all of its dealings will be on the same basis.
- 1.6 In administering its aims and responsibilities the Council is totally committed to deterring fraud and corruption, whether it is attempted on or from within the Council, and is committed to an effective counter fraud and corruption strategy designed to:
- limit, as far as possible, the opportunities to commit fraudulent acts - **prevention**,
  - enable any such acts to be **detected** at an early stage, and
  - deal with any subsequent **investigations** in a prompt, thorough and professional manner.
- 1.7 Overall responsibility for dealing with fraud and corruption rests with the Executive Director Corporate Services, who is the nominated Section 151 Officer having a statutory duty under Section 151 of the Local Government Act 1972 to ensure that there are proper arrangements in place to administer the Council's financial affairs. He is therefore the principal contact for all Councillors and employees.
- 1.8 Internal scrutiny of the Council's various activities occurs as a result of:-

- the Executive Director Corporate Services Section 151 responsibilities and Section 114 Local Government Finance Act 1988 responsibilities,
- the establishment of sound Internal Audit arrangements in accordance with the Accounts and Audit Regulations 2011, and
- the responsibilities placed on the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

1.9 External scrutiny of the Council's various activities occurs as a result of involvement by:-

- Local Government Ombudsman,
- External Auditor,
- Central Government Departments and Parliamentary Committees,
- HM Revenues and Customs,
- The Department for Work and Pensions
- The general public.

1.10 This Counter Fraud and Corruption Strategy is based on a series of comprehensive and inter-related procedures designed to deter any attempted fraudulent or corrupt act. These cover:-

- Culture,
- Prevention,
- Detection and Investigation,
- Recovery, Sanction and Redress,
- Training and Awareness,
- Sharing Information,
- Implementing the Strategy.

## 2.0 Objectives

2.1 The key objectives of this Counter Fraud and Corruption Strategy are to:

Increase awareness of the counter-fraud responsibilities at all levels within and outside the Council;

Further embed and support the effective management of fraud risk within the Council;

Support counter-fraud activities across the Council;

Minimise the likelihood and extent of loss through fraud and corruption.

- 2.2 All of the above will directly support the achievement of the Council priorities whilst ensuring that statutory responsibilities are met.

### **3.0 Roles and Responsibilities**

- 3.1 Roles and responsibilities for identifying and mitigating against the risk of fraud must be clearly understood and embraced effectively.
- 3.2 The risk of fraud and corruption is considered in the Council's corporate risk management arrangements. Chief Officers must therefore ensure that:

Their risk register accurately reflects the risk of fraud and corruption including any emerging risks;

Controls, including those in a computerised environment and for new systems and procedures, are effective and are properly maintained and documented;

There is compliance with the Council's Financial Regulations and associated guidance, Standing Orders and any other relevant codes of practice;

Those engaged in countering fraud and corruption, have the appropriate authority, skills and knowledge to undertake this work effectively;

That the necessary framework agreements to counter fraud are in place where the Council is working with other organisations either by way of contract or partnership. The Council will not knowingly enter into any contractual agreement with an organisation that fails to comply with its Code of Practice and/or other related procedures.

Findings from fraud investigations lead to relevant system changes.

### **4.0 Culture**

- 4.1 The Council has determined that the culture and ethics of the Authority is one of honesty and openness in all its dealings, with opposition to fraud and corruption. This strategy forms part of the governance arrangements for the authority.
- 4.2 The Council's Councillors and employees play an important part in creating and maintaining this culture. They are encouraged to raise any matters that concern them relating to the Council's methods of operation in accordance [with this Counter Fraud & Corruption Strategy](#) [with](#) the Council's Whistleblowing Policy.

- 4.3 The Council is committed to driving down Benefit Fraud. Both public perception and organisational culture play key roles in achieving this aim. All Councillors and Employees are therefore required to report any known material changes affecting Benefit claims to the Benefits Office. This specifically includes your own entitlement and of any tenants or sub-tenants that you may have. Failure to do so will result in the Councillor or Employee being subject to the Benefits Prosecution Policy and Conduct and Capability Procedures. In addition, it is also a requirement that the timely transfer of information you receive in your normal business activities relating to any other customer who has alerted you to a fact that affects Benefit awards is completed
- 4.4 The Council's Whistleblowing Policy ensures that those raising concerns know they will be treated seriously and properly investigated in a confidential and impartial manner. In raising concerns employees can be assured that ~~there will be no victimisation, and anonymity will be respected wherever possible~~ they will be protected if the disclosure is made in the public interest and will not affect their employment situation or future prospects with the Council.
- 4.5 Employees can raise their concerns in the first instance with their line manager but where employees feel unable to raise concerns with their immediate line manager/ supervisor they can deal direct with any of the following:-
- the Section 151 Officer (Executive Director Corporate Services),
  - Internal Audit,
  - the Chief Executive,
  - the Monitoring Officer,
  - any member of Corporate Management Team,
  - the External Auditor, or
  - any Trade Union Representative.
- 4.6 Elected Councillors, suppliers, contractors, and the general public are also encouraged to report concerns through any of the above routes.
- 4.7 Unless there are good reasons to the contrary, any allegations received by way of confidential letters or telephone calls will be taken seriously and investigated in an appropriate manner. All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness, but this will be discussed with you, as to whether and how the matter can be proceeded with.
- 4.8 The Nolan Committee set out the seven guiding principles that apply to people who serve the public. The Council will develop our working behaviour around these principles, which are attached as Appendix 1.

## **5.0 Prevention**

### **5.1 Employees**

- 5.1.1 The Council recognises that a key preventative measure in the fight against fraud and corruption 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. In this regard temporary, agency and contract employees should be treated in the same manner as permanent employees. Chief Officers are responsible for ensuring agencies engaged for the supply of temporary employees have rigorous vetting processes and that references are sought direct from previous clients with regard to the suitability and integrity of the candidate.
- 5.1.2 Employee recruitment is required to be in accordance with procedures laid down by the Council. Written references covering the known honesty and integrity of potential employees and where required, evidence of a licence to practice must always be obtained. All qualifications will be verified. There will be an open and fair policy of recruitment with no 'canvassing' or 'favouritism'.
- 5.1.3 Employees of the Council are expected to follow any Code of Conduct relating to their personal Professional Body and also abide by the terms and conditions of employment as set out in the Contract of Employment and the National Scheme of Conditions. The Council will report any known impropriety to the relevant Institution for them to consider appropriate disciplinary action.
- 5.1.4 Employees are reminded that they must comply within Section 117 of the Local Government Act 1972 which requires any interests in contracts that have been or are proposed to be entered into by the Council to be declared. The legislation also prohibits the acceptance of fees or rewards other than by means of proper remuneration. Details are described within the Code of Conduct.
- 5.1.5 Managers are required to observe the formal Conduct and Capability Procedures.
- 5.1.6 All employees are required to declare in a public register (held by the Monitoring Officer) any offers of gifts or hospitality which are in any way related to the performance of their duties in relation to the Authority. Employees should also declare private work (paid or unpaid) etc.,



which if permitted must be carried out during hours when not employed on Council work, and should not be conducted from Council premises or use any Council equipment/assets.

- 5.1.7 The above matters are brought to the attention of employees via induction training and subsequently by internal communications.
- 5.1.8 Management at all levels are responsible for ensuring that employees are aware of the Authority's Financial Regulations and Standing Orders, and that the requirements of each are being met. They are also responsible for ensuring that appropriate procedures are in place to safeguard the resources for which they are responsible, which include accounting control procedures, working manuals and operating procedures. Management must ensure that all employees have access to these rules and regulations and that employees receive suitable training.
- 5.1.9 Managers should strive to create an environment in which employees feel able to approach them with concerns they may have about suspected irregularities. If managers and employees are unsure of the appropriate action they should consult with the Internal Audit Section.

## **5.2 Councillors**

5.2.1 Councillors are required to operate within: -

- Sections 49 - 52 of the Local Government Act 2000,
- Local Authorities (Members' Interest) Regulations 1992 (S.I. 618)
- The National Code of Local Government Conduct
- Any local code or amendments agreed and
- The Council's Standing Orders and Financial Regulations.

5.2.2 These matters are specifically brought to the attention of elected Councillors at their induction and subsequent training. Councillors are required to provide the Monitoring Officer with specific information concerning their ~~personal and prejudicial~~disclosable pecuniary interests and to keep that information up to date, as required ~~by the Local Government and Housing Act 1989~~by sections 29-34 of the Localism Act 2011. The Members Interests Register is held by the Monitoring Officer.

## **5.3 Systems**

5.3.1 The Council's Scheme of Delegation, Standing Orders and Financial Regulations place a duty on all Councillors and employees to act in

accordance with best practice when dealing with the affairs of the Council.

- 5.3.2 The Executive Director Corporate Services has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure proper administration of financial affairs. Various Codes of Practice outlining systems, procedures and responsibilities are widely distributed to employees.
- 5.3.3 The Internal Audit Section assesses regularly the level of risk within the Council with a view to preventing fraud and corruption. Such assessments are discussed with Chief Officers and, where appropriate, incorporated into work plans.
- 5.3.4 Significant emphasis has been placed on thorough documentation of financial systems, and every effort is made to continually review and develop these systems in line with best practice to ensure efficient and effective internal controls and to include adequate separation of duties. The adequacy and appropriateness of the Council's financial systems are independently monitored by both the Internal Audit Section and External Audit. Any weaknesses identified in internal control will be reported to management whose duty it will be to ensure that corrective action is taken. The Section 151 Officer will use his statutory power to enforce the required changes if necessary.
- 5.3.5 Chief Officers will ensure that internal controls, including those in a computerised environment, are effectively maintained and documented and will investigate any potential weaknesses.
- 5.3.6 Chief Officers must ensure that proportionate counter fraud measures are applied to new systems/procedures.
- 5.3.7 It is evident across the country that an increasingly wide variety of frauds are being perpetrated. The larger frauds may involve the creation of multiple identities and false addresses, and involve different agencies. Employees are therefore encouraged to liaise with those other agencies, exchanging information, where possible and appropriate to help prevent and detect such fraud. It is important that arrangements exist, and are developed, to encourage the exchange of information with other agencies including:-
- other local and statutory authorities,
  - Chief Financial Officer Group,
  - local, regional and national Auditor networks,
  - government departments,
  - police forces,
  - the Audit Commission,
  - the National Anti-Fraud Network, and
  - any other Fraud Networks/Forums.

5.3.8 The Council has established formal procedures to respond to complaints received about any aspect of service delivery. Issues relating to fraud and corruption will be passed directly to the Executive Director Corporate Services. Specific guidance has also been issued to all employees in relation to Proceeds of Crime and Money Laundering. The Monitoring Officer acts as the Council's Money Laundering Reporting Officer.

5.3.9 The Council will involve the police to prosecute offenders where fraudulent or corrupt acts are discovered. This will be a matter for the Executive Director Corporate Services, Monitoring Officer and the Chief Executive to decide, in consultation with the relevant Chief Officer.

## **6.0 Detection and Investigation**

6.1 The Council's preventative systems, particularly internal control systems, provide indicators of fraudulent activity and are designed to deter any fraudulent activity.

6.2 It is often the alertness of elected Councillors, council employees, and the general public to the possibility of fraud and corruption, that enables detection to occur and appropriate action to take place.

6.3 Many frauds are discovered by chance, 'tip-off' or general audit work and arrangements are in place to enable such information to be properly dealt with.

6.4 Chief Officers are required by Financial Regulations to report all suspected instances of fraud and corruption to the Executive Director Corporate Services. Early reporting is essential to the success of this strategy, and;

- ensures the consistent treatment of information regarding fraud and corruption,
- facilitates a thorough investigation of any allegation received by an independent unit (Internal Audit), and
- ensures maximum protection of the Council's interests.

Suspicious that any transaction or dealing may involve the proceeds of crime should be reported to the Monitoring Officer, who will ensure such suspicions are reported to the appropriate authorities as required by the relevant Act.

6.5 The investigating officer will be appointed by the Executive Director Corporate Services. The investigating officer will usually be an Internal Audit Officer, or in the case of Benefit Frauds, a Benefits Investigations Officer. The investigating officer will:-

- deal promptly and confidentially with the matter,
  - record all evidence received,
  - ensure that evidence is sound and adequately supported,
  - ensure security of all evidence collected,
  - liaise as necessary and appropriate with the relevant Chief Officer,
  - liaise as necessary with external agencies e.g. Police,
  - notify the Council's insurers if appropriate.
- 6.6 The Council can be expected to deal swiftly and thoroughly with any employee who attempts to defraud the Council or who is corrupt. The Council will deal positively with fraud and corruption or suspicions thereof. Where appropriate, the Council's disciplinary procedures will be implemented.
- 6.7 There is a need to ensure that any investigation process is not misused and, therefore, any abuse such as raising unfounded malicious allegations may be dealt with as a disciplinary matter.
- 6.8 When it is found that fraud or corruption has occurred due to a break down in the Council's systems or procedures, Chief Officers will ensure that appropriate improvements in systems of control are promptly implemented in order to prevent a reoccurrence.
- 6.9 Depending on the nature and anticipated extent of the allegations, the Internal Audit section will normally work closely with management and other agencies such as the police to ensure that all allegations and evidence is properly investigated and reported upon.
- 6.10 The Council's disciplinary process will be used where the outcome of the Audit Investigation indicates improper behaviour.
- 6.11 The Council will normally wish the police to independently prosecute offenders where financial impropriety is discovered.
- 6.12 Any Councillor who is the subject of allegations of wrong doing can be referred to the ~~Standards Committee~~ [Monitoring Officer](#) of the authority (details on the website), who will determine what action should be taken.
- 6.13 All contractors, consultants and organisations receiving funding from the Council who are accused of wrong doing will be the subject of an investigation and where appropriate an independent decision may be taken to terminate the agreement/grant.
- 6.14 The Council's External Auditor has a responsibility to review the Council's arrangements for the prevention, detection and investigation of fraud and corruption and report accordingly.

## **7.0 Recovery, Sanctions & Redress**

7.1 Where the Council identifies fraud then it will:

Recover, prosecute or apply other sanctions to perpetrators, where appropriate.

7.2 Where fraud or corruption by employees is indicated, then action will be taken in accordance with the Council's Conduct and Capability Policy. This may be in addition to any civil recovery action or sanctions.

7.3 The Council aims to be effective in recovering any losses incurred to fraud using, as appropriate, criminal and/or civil law. Success rates will be monitored routinely as an indicator and part of the quality process.

7.4 Wherever possible, redress should be applied. This ensures that the Council is seen as recovering money lost to fraud.

## **8.0 Training & Awareness**

8.1 The Council recognises the importance of training in the delivery of high quality services. The Council supports the concept of fraud awareness training for managers and for employees involved in internal control systems to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. Chief Officers are responsible for training employees and promoting awareness of fraud issues.

8.2 Investigation of fraud and corruption centres around the Council's Internal Audit and Benefits sections. Employees engaged in these sections, for the detection and prevention of fraud, are properly and regularly trained in all aspects of it. The training plans of the sections will reflect this requirement.

8.3 Employees who ignore such training and guidance may face the possibility of disciplinary action.

8.4 Regular training seminars will be provided for Councillors on a wide range of topics including declarations of interest and the Code of Conduct as detailed in the Constitution.

8.5 The Council will maintain an up to date awareness of the types of fraud that it may be exposed to, especially given the ongoing financial situation and the resourcefulness of potential fraudsters. It will review national developments and strengthen systems and procedures accordingly using the following key sources of information:

National Fraud Reports

National Anti-Fraud Network

Midlands Fraud Forum

Local Networking through Staffordshire and the Midlands

Any other sources of fraud awareness/updates etc.

## **9.0 Sharing Information**

- 9.1 The Council is committed to working with other agencies in the detection and prevention of fraud.
- 9.2 Information will be shared internally and with other government departments and other agencies eg insurance companies for the purposes of fraud prevention and detection. This information will be shared in accordance with the principles of the Data Protection Act 1998 and other appropriate legislation.
- 9.3 The Council participates in national data sharing exercises, i.e. the National Fraud Initiative to enable the proactive detection of fraud.

## **10.0 Implementing the Strategy**

- 10.1 Internal Audit will undertake an annual assessment of the effectiveness of existing counter-fraud and corruption arrangements against:
  - CIPFA's Red Book 2 Fraud Standards
  - Other best practice/statutory guidance as required
  - The roles and responsibilities as set out in Appendix 2 of this strategy.
- 10.2 Internal Audit will complete the Counter Fraud Work Plan as detailed in Appendix 5.
- 10.3 Internal Audit will report its findings to the Audit and Governance Committee who will consider the effectiveness of the counter-fraud risk management arrangements.

## **11.0 Conclusions**

- 11.1 The Council's systems, procedures, instructions and guidelines are designed to limit, as far as is practicable, acts of fraud and corruption. All such measures will be kept under constant review to ensure that they keep pace with developments in prevention and detection techniques regarding fraudulent or corrupt activity.

11.2 The Council will maintain a continuous review of all its systems and procedures through the Executive Director Corporate Services and Internal Audit, in consultation with the Monitoring Officer where required.

## COUNTER FRAUD AND CORRUPTION GUIDANCE NOTES

### 1.0 Why Do We Need a Counter Fraud And Corruption Strategy?

1.1 Even though the vast majority of people working for the Council are honest and diligent, the Council cannot be complacent. Fraudulent or corrupt acts may include:

System issues	ie where a process/system exists which can be abused by either employees or members of the public (eg Housing Allocations)
Financial issues	ie where individuals or companies have fraudulently obtained money from the Council (eg invalid invoices/work not done, Housing Benefit fraud)
Equipment issues	ie where Council equipment is used for personal use (eg personal use of council telephones)
Resource issues	ie where there is misuse of resources (eg theft of building materials/cash)
Other issues	ie activities undertaken by officers of the Council which may be: unlawful; fall below established standards or practices; or amount to improper conduct (eg receiving unapproved hospitality)

(This is not an exhaustive list.)

1.2 The prevention of fraud, and the protection of the public purse is **EVERYONE'S BUSINESS**. It is important that all employees know:

- how to recognise a fraud,
- how to prevent it, and
- what to do if they suspect that they have come upon a fraud.

1.3 This guidance has been drawn up to provide information to employees at all levels. The strategy and guidance attempt to assist employees and others with suspicions of any malpractice. The overriding concern is that it is in the public interest for the malpractice to be corrected and, if appropriate, sanctions and redress applied.

1.4 It is important that employees should be able to use any mechanism without fear of victimisation, and fully know that their concerns will be addressed seriously, quickly and discreetly.

1.5 It is important that the whole Council works together to reduce Benefit Fraud. All employees are therefore required to transfer relevant information gathered in their normal day to day activities about possible Benefit irregularities to the Benefits Office, at Marmion House. So, for



example, if during a routine visit/interview you become aware that a customer is working and “signing on” which they may be entitled to do so but you must tell the Benefits office this information. The Benefits office will assess the matter and investigate where appropriate. You are not expected to and must not delve any further.

- 1.6 The Council has determined that it should have a culture of honesty and openness in all its dealings, with opposition to fraud and corruption. The Council’s Whistleblowing Policy does this by :-
- making it clear that vigilance is part of the job. Knowingly not raising concerns may be a serious disciplinary offence,
  - recognising that early action may well prevent more worry or more serious loss/damage,
  - making it safe and simple to convey critical information ensuring that any concern in this area is seen as a concern and not a grievance,
  - encouraging information exchange, remembering that there are two sides to every story,
  - providing a way in which concerns can be raised in confidence and not necessarily via the nominated line manager or supervisor,
  - recognising the need for discretion,
  - ensuring the anonymity of the individual, where possible, should this be preferred by the employee, and by protecting employers from reprisals.
- 1.7 Under the Enterprise and Regulatory Reform Act 2013, any disclosure made using the Whistleblowing Policy, within reasonable belief of the worker making the disclosure will only be protected if it is made in the public interest. More detail is found in the Whistleblowing Policy.~~In line with the above, the Council encourages employees and others with serious concerns about any aspect of the Council’s work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. The Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking them. The Policy can found on the Council’s website ([www.tamworth.gov.uk](http://www.tamworth.gov.uk)).~~
- 1.8 There is a need to ensure that any investigation process is not misused and, therefore, any abuse such as raising unfounded malicious allegations may be dealt with as a disciplinary matter.
- 2.0 Why Do We Need This Advice?**
- 2.1 It is important that you follow the advice given and do not try to handle the problem yourself, without expert advice and assistance. A badly managed investigation may do more harm than good. There are a

number of internal and external processes which have to be followed to yield a satisfactory conclusion.

### **3.0 How To Recognise A Fraud**

3.1 Each employee must be aware of fraud and the areas within their responsibility where fraud may occur.

3.2 Fraud can happen wherever employees or independent contractors complete official documentation and can take financial advantage of the Council. The risk of fraud is enhanced where employees or contractors are in positions of trust or responsibility and are not checked or subjected to effective monitoring or validation. Consequently the following areas are susceptible to fraud:-

- claims for work done by independent contractors,
- travel and expense claims,
- cash receipts/ petty cash,
- payroll,
- ordering, and
- stocks and assets.

3.3 Fraud involves the falsification of records, failing to disclose information or abuse of position. Managers need to be aware of the possibility of fraud when presented with claims/forms/documentation etc. Issues which may give rise to suspicions are:-

- documents that have been altered, "Tippex" used thereon, or different pens and different hand writing,
- claims that cannot be checked, particularly if prior authorisation was not given,
- strange trends (use comparisons and reasonableness),
- confused, illegible text and missing details,
- delays in documentation, completion or submission, and
- no vouchers or receipts to support claims.

3.4 There are a number of indications of an employee being in a situation whereby they could be acting fraudulently. Common indicators could be:-

- living beyond their means,
- under financial pressure ,
- not taking annual leave, and
- solely responsible for a "risk" area and/or possibly refusing to allow another officer to be involved in their duties and/or have minimal supervision.

#### **4.0 How To Prevent It**

4.1 By establishing an adverse culture to fraud and corruption the Council can help to prevent its occurrence.

4.2 Managers need to :-

- Minimise the opportunity for fraud – this can be achieved by putting in place robust systems of internal controls and checks.
- Reduce the “Pay – Off” – this is achieved by increasing the chances of detection and increasing the penalty for the perpetrator so risks outweigh the benefits of getting “away with it”

4.3 There are 8 basic control types which management should concern themselves with: -

##### **Supervision**

Supervisory checks should be completed and recorded by the line manager on the work completed by his/her team.

##### **Organisation**

Within each system, there should be policies/procedures setting out how functions should be carried out. There should be clear structures/rules which employees should work within.

##### **Authorisation**

Within a system there should be authorisation controls e.g. controls to authorise a payment (electronic/physical signature), and the correct level of authority is used in decision making.

##### **Personnel**

There should be clear roles and responsibilities and appropriate level of delegation. The right person should be doing the right job.

##### **Segregation of Duties**

Seek to avoid the sole ownership for the processing and control functions of any activity, by one employee.

##### **Physical**

This relates to physical controls e.g. access to monies, documents, security of premises etc should be appropriate and restricted where

necessary. Where restricted access is necessary, access to keys/door numbers etc should be retained by the person granted access rights. They should not be left on the premises. Inventory checks ensure that assets are controlled.

### **Arithmetical Accuracy**

Checks completed by another person to confirm the accuracy of data input/independent reconciliations of cash floats etc.

### **Management Functions**

Within the system there should be controls for monitoring and reporting upon activity e.g the production of audit trail reports from systems etc. Monitoring to highlight irregularity/non-compliance with rules and procedures and reporting – being accountable for actions.

- 4.4. Employees need to be aware of the possibility of fraud when presented with claims/forms/ documentation, etc. They should also have an awareness of internal rules and procedures; i.e. financial regulations, standing orders, declarations of outside work, hospitality etc.
- 4.5 Deterrence and prevention is the primary aim and if managers implement and control areas as mentioned in 4.3, any deviation from the set procedure should be highlighted in a timely manner.

## **5.0 What To Do On Suspecting A Fraud**

### **5.1 Action By Employees**

- 5.1.1 The Council is committed to the highest possible standards of openness, probity and accountability. Any employee who believes such standards are being breached should report their suspicions. This can be done via the Council's Whistleblowing Policy or you can contact the Executive Director Corporate Services, Internal Audit or a Chief Officer.
- 5.1.2 You should report the matter immediately, make a note of your suspicions and provide as much factual information to support your concerns. Concerns are better raised in writing.
- 5.1.3 The background and the history of the concern, giving names, dates and places where possible, should be set out and the reason why the individual is particularly concerned about the situation. Those who do not feel able to put their concern in writing can telephone or meet the appropriate officer. The earlier the concern is expressed, the easier it

is to take action. Individuals may invite their trade union or professional association to raise a matter on their behalf.

- 5.1.4 Do not try to carry out an investigation yourself. This may damage any investigation carried out by the Internal Audit section, the Benefits Investigations Officer or an appointed investigator. Help the official investigators by providing information as and when requested and by giving a written statement when required.

## **5.2 Action By Managers**

- 5.2.1 If managers become suspicious of any action by an employee or supplier or such suspicions are reported to them they should follow these simple rules.

- if possible establish if the irregularity (potential fraud, corruption or error) is a genuine error or possible fraud.
- contact their Chief Officer or any other officer as identified in the Counter Fraud and Corruption Strategy, who will contact the Executive Director Corporate Services or the Internal Audit section.
- contact the Director Transformation & Corporate Performance, where there may be implications under the disciplinary procedures for officers.
- do nothing else, except remain vigilant and await further instructions from the investigating team.

- 5.2.2 The Council is required to report any cases in which it is suspected that transactions involve the proceeds of crime. If employees or managers have any such suspicion, this should be reported immediately to the Monitoring Officer, who shall advise on the necessary action and ensure the matter is reported to the appropriate authorities.

- 5.2.3 Details of the relevant contacts can be found in Appendix 4.

## **6.0 What Happens To The Allegation**

- 6.1 The Executive Director Corporate Services or his investigating officer, will normally carry out a full enquiry even where there is clear evidence of an offence following the Fraud Response Plan (Appendix 3). A full report will be copied and sent to:-

- the relevant Chief Officer, and

- the Chief Executive to consider if there needs to be any police involvement.
- 6.2 It is essential that the Executive Director Corporate Services investigation should be a complete one and the investigating officer to whom it is delegated is entitled to expect the fullest co-operation from all employees.
- 6.3 A full detailed report on any system control failures and recommended actions to address the failures will be issued to the relevant manager in the format of an internal audit report.

## **The Seven Principles of Public Life (Nolan Committee)**

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### **Selflessness**

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

### **Integrity**

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

### **Objectivity**

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

### **Accountability**

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

### **Openness**

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

### **Honesty**

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

### **Leadership**

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

### Statement of Expected Responsibilities

Stakeholder	Expected Responsibilities
Chief Executive	Ultimately accountable as Head of Paid Service for the effectiveness of the Council's arrangements for countering fraud and corruption as well as corporate governance.
Executive Director Corporate Services (Section 151 Officer)	The Executive Director Corporate Services has a statutory duty, under Section 151 of the Local Government Act 1972, Sections 114 and 116 of the Local Government Finance Act 1988 and Accounts and Audit Regulations 2011 to ensure the proper administration of the Council's financial affairs. This includes Internal Audit and Benefit Fraud.
Solicitor to the Council (Monitoring Officer)	To advise Councillors and officers on ethical issues, standards and powers to ensure that the Council operates within the Law and Statutory Codes of Practice. The operation of the Council's Money Laundering Policy And Regulation of Investigatory Powers Act (RIPA) 2000 Policies and Procedures.  <u><a href="#">Maintain a Register of Disclosable Pecuniary Interests.</a></u>
Director Transformation & Corporate Performance	To put in place a corporate recruitment and selection policy and monitor compliance against it.
Chief Officers	To ensure that fraud and corruption risks are considered as part of the Council's corporate risk management arrangements. To ensure that actions to mitigate risks in this area are effective. To notify the Executive Director Corporate Services of any fraud arising in a timely manner.
Corporate Management Team	Challenge new policies and strategies to ensure that fraud and corruption risks have been taken into account. Review the corporate framework designed to promote an over-riding counter-fraud culture on a regular basis. This will include monitoring and evaluating arrangements to ensure effectiveness and



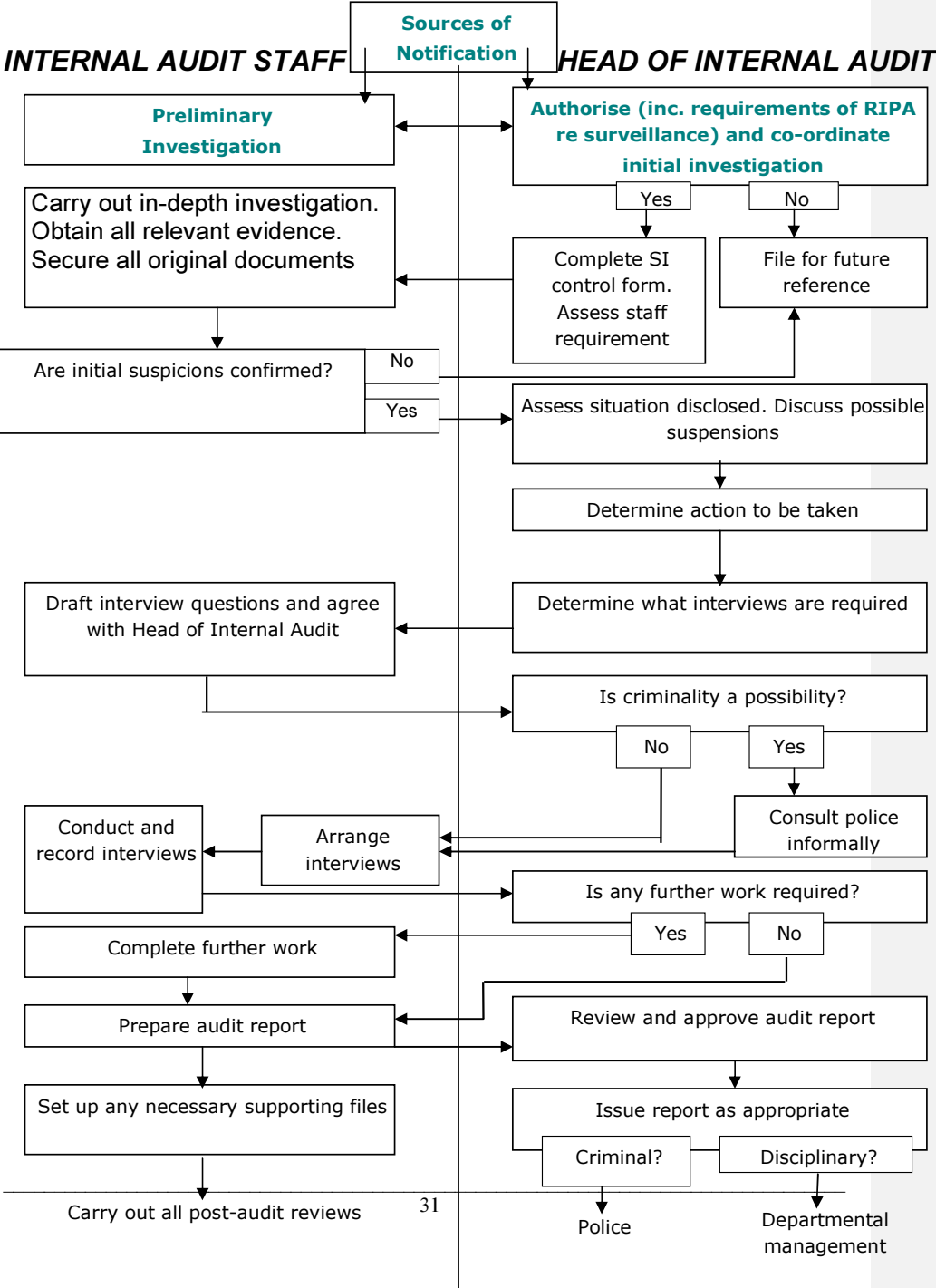
	compliance with best practice.
Audit and Governance Committee	To monitor the Council's policies and consider the effectiveness of the arrangements for Counter Fraud and Whistleblowing.
Standards Committee	The Committee monitors and advises upon the Code of Conduct for members.
Deputy leader & Portfolio holder – <u>Cere</u> <u>Serv</u> <u>Operations</u> <u>ices</u> and Assets	To champion the Council's Counter Fraud & Corruption arrangements and promote them at every opportunity.
Elected Councillors	To support and promote the development of a strong counter fraud culture.
<u>Audit</u> <u>Commission</u> <u>External</u> <u>Audit</u>	Statutory duty to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud, corruption and theft.
Internal Audit	Responsible for developing and implementing the Counter Fraud and Corruption Policy Statement, Strategy and Guidance Notes and investigating any issues reported under this policy. Reporting on the effectiveness of controls to the Audit and Governance Committee. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this Strategy and that action is identified to improve controls and reduce the risk of recurrence.
Senior Managers	To promote employee awareness and ensure that all suspected or reported irregularities are immediately referred to Executive Director Corporate Services. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing robust internal controls.
Employees	To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns to the appropriate

	management, the Chief Executive, the Executive Director Corporate Services or Internal Audit.
Public, Partners, Suppliers, Contractors and Consultants	To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns or suspicions. To ensure that effective controls are in place to mitigate risks to the Council.

Tamworth Borough Council

Fraud Response Plan

OPERATIONAL CONTROL



**HOW TO REPORT ANY SUSPECTED FRAUDS, CORRUPTION, OTHER  
IRREGULARITIES OR CONCERNS**

**To contact Internal Audit Services**

Contact: Angela Struthers, Head of Internal Audit Services

Tel: 01827 709234 email: [angela-struthers@tamworth.gov.uk](mailto:angela-struthers@tamworth.gov.uk)

Write to Head of Internal Audit Services (Confidential)  
Tamworth Borough Council  
Marmion House,  
Lichfield Street  
Tamworth  
B79 7BZ

**Alternatively you can contact:**

John Wheatley, Executive Director Corporate Services

Tel: 01827 709252 email: [john-wheatley@tamworth.gov.uk](mailto:john-wheatley@tamworth.gov.uk)

Jane Hackett, Solicitor to the Council and Monitoring Officer

Tel: 01827 709258 email: [jane-hackett@tamworth.gov.uk](mailto:jane-hackett@tamworth.gov.uk)

Tony Goodwin, Chief Executive

Tel: 01827 709220 email: [tony-goodwin@tamworth.gov.uk](mailto:tony-goodwin@tamworth.gov.uk)

**To contact the Council's external auditor**

Write to:

~~The Audit Commission  
2nd Floor, No 1 Friarsgate  
1011 Stratford Road  
Solihull  
West Midlands  
B90 4BN Grant Thornton UK LLP  
Colmore Plaza  
20 Colmore Circus  
Birmingham  
West Midlands  
B4 6AT~~

Tel: ~~0844 798 7173~~ 0121 212 4000

**Audit Commission**

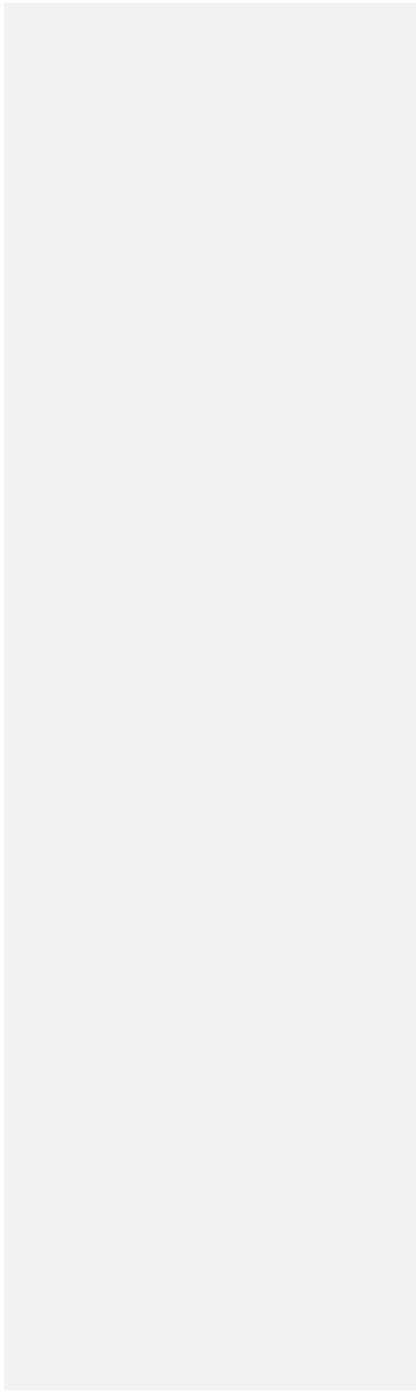
**Whistleblowing hotline: 0845 052 2646** 0303 444 8330

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**To report Housing and Council Tax Benefit Fraud contact;**  
Tamworth Borough Council Benefits Fraud Team : 01827 709525/541

National Benefit Fraud Hotline [08003286340](tel:08003286340) [0800 854 440](tel:0800854440) or  
text phone number [08003286341](tel:08003286341) [0800 328 0512](tel:08003280512) or  
Write to PO Box No. 647, Preston, PR1 1WA



**Appendix 4**

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## WHISTLEBLOWING POLICY

Document Status: ~~Final~~Draft

Originator: A Struthers

Updated: A Struthers

Owner: Solicitor to the Council & Monitoring Officer

Version: 01.01.~~04~~02

Date: ~~01/03/12~~29/07/13

Approved by ~~Council~~

## Document Location

This document is held by Tamworth Borough Council, and the document owner is Jane Hackett, Solicitor to the Council & Monitoring Officer.

Printed documents may be obsolete. An electronic copy will be available on Tamworth Borough Councils Intranet. Please check for current version before using.

## Revision History

Revision Date	Version Control	Summary of changes
01/03/12	1.01.01	Scheduled review
<u>29/07/13</u>	<u>1.01.02</u>	<u>Changes under the Enterprise and Regulatory Reform Act 2013</u>

## Approvals

Name	Title	Approved
Full Council	Committee Approval <u>11/9/12</u>	<u>Yes</u>
Audit & Governance Committee	Committee Approval	<u>Yes</u>
CMT	Group Approval	<u>Yes</u>
TULG	Trade Union Consultation	<u>Yes</u>
Jane Hackett	Solicitor to the Council & Monitoring Officer	<u>Yes</u> <u>Yes</u>
Angela Struthers	Head of Internal Audit Services	Yes

## Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.



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Distribution

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TAMWORTH BOROUGH COUNCIL

## WHISTLEBLOWING POLICY

### 1. Introduction

1.1 The Public Interest Disclosure Act 1998 became law in July, 1999. This Act, introduced the protection of whistleblowers, and removes the limits of financial liability to which an organisation is exposed should a whistleblower receive unfair treatment. This policy document sets out the Council's response to the requirements of the Act.

1.2 Under the Enterprise and Regulatory Reform Act 2013, any disclosure made using the Whistleblowing Policy, within reasonable belief of the worker making the disclosure will only be protected if it is made in the public interest. It must also show one or more of the following:

(a)that a criminal offence has been committed, is being committed or is likely to be committed,

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(b)that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

(c)that a miscarriage of justice has occurred, is occurring or is likely to occur,

(d)that the health or safety of any individual has been, is being or is likely to be endangered,

(e)that the environment has been, is being or is likely to be damaged, or

(f)that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

1.2 This policy is designed for workers. Workers include:

~~-employees;~~

~~however, the Council's partners or members of the public can~~

~~also~~ agency workers;

people that are training with an employer but not employed; and self-employed workers, if supervised or working off-site.

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## **Appendix 4**

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~~raise concerns in the knowledge that they are protected under the safeguards of this policy.~~

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- 1.3 Local Government employees have an individual and collective responsibility regarding their conduct and practices, which are always subject to scrutiny. As individuals, employees are required to work within the Code of Conduct for Tamworth Borough Council Employees and the relevant codes of conduct including the standards appropriate to their professional organisations or associations. The Council's regulatory framework also includes Financial Regulations and Contract Standing Orders that must be met.
- 1.4 All employees have a duty to bring to the attention of management any deficiency in the provision of service and any impropriety or breach of procedure, in accordance with Financial Regulations. ~~“t cases.”~~
- 1.5 ~~Employees, members of the council, or contractors~~ Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.6 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment it expects employees, and others that it deals with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.7 This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. *This Whistleblowing Policy is intended to encourage and enable anyone to raise ~~serious~~ concerns in the public interest, in good faith within the Council rather than overlooking a problem or 'blowing the whistle' outside.*

### ~~1.8~~ The policy applies to:

~~all employees of the Council, members of the Council, contractors working for the Council on Council Premises (eg agency staff), suppliers and those providing services under a contract with the council, people working in partnership with the council and its employees and members (eg volunteers,~~

## Appendix 4

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trustees etc)

~~4.91.8~~ These procedures are in addition to the Council's complaints procedures including the Grievance Procedure and the Dignity and Respect at Work Policy, and other statutory reporting procedures applying to some Services. ~~You are responsible for making service users aware of the existence of these procedures.~~

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~~4.101.9~~ This policy has been discussed with the relevant trade unions and professional organisations and has their support.

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## 2. Aims and Scope of this Policy

2.1 This policy aims to:

- encourage you to feel confident in raising ~~serious~~ concerns that are in the public interest ~~and to question and act upon concerns about practice~~
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable you to disclose ~~certain~~ particular concerns. These are:

- The Authority's Grievance Procedure which enables you to lodge a grievance relating to your own employment;
- The Authority's Counter Fraud and Corruption Policy Statement, Strategy & Guidance Notes, which outlines how you can disclose potential fraud, bribery, corruption and theft;
- The Authority's Dignity and Respect at Work Policy, which enables you to disclose cases of potential harassment and bullying;
- The Authority's Children & Vulnerable Adult Protection Policy (which has its own Whistleblowing Policy in place), for disclosures regarding suspected mistreatment of children and vulnerable adults.

## Appendix 4

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2.3 This policy is intended to cover major concerns that may fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriage of justice
- health and safety risks, (including risks to the public as well as other employees)
- damage to the environment
- the unauthorised use of public funds
- sexual or physical abuse of both employees and clients other than that covered under the Children & Vulnerable Adult Protection Policy, or
- other unethical conduct.

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2.4 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy. This may be something that:

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2.4

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

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2.5 This policy does **not** replace the corporate complaints procedure or other existing policies for raising issues regarding your employment.

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## 3 Safeguards

### 3.1 Harassment or Victimisation

3.23.1 The Council is committed to good practice and high standards and shall be supportive of employees.

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3.33.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is **true within reasonable belief**, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

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3.43.3 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.

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## **Appendix 4**

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~~3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.~~

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### **4. Confidentiality**

4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness, but this will be discussed with you, as to whether and how the matter can be proceeded with .

### **5. Anonymous Allegations**

5.1 This policy encourages you to put your name to your allegation whenever possible.

5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

5.3 In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

### **6. Untrue Allegations**

6.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

### **7. How to Raise a Concern**

7.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Executive Director Corporate Services, Solicitor to the Council or Head of Internal Audit Services.

## Appendix 4

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Where you feel unable to raise the concerns internally due to the nature of the disclosure you should contact the Audit Commission on their Confidential Public Interest Disclosure phone line – [0845-052-26460303444 8330](tel:0845-052-26460303444-8330). The Commission will then ensure that the disclosure is properly investigated.

- 7.2 To raise a concern in respect of Benefits Fraud, you can contact the Benefits fraud section on 01827 709525/541. Alternatively you can call the National Benefit Fraud Hotline telephone number 0800 [328-6340854440](tel:328-6340854440) or text phone number 0800 328 [6344-0512](tel:6344-0512) or write to them at PO Box No. 647, Preston, PR1 1WA.

## 8 External contacts

- 8.1 While it is hoped that this policy gives you the reassurance you need to raise such matters internally, it is recognised that there may be circumstances where you can properly report matters to outside bodies, such as prescribed regulators, some of which are outlined below, or the police, or if applicable your own union, will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

- 8.2 Relevant Prescribed Regulators are as follows:

Health and Safety risks	<a href="#">Health and Safety Executive</a>
Environmental issues	<a href="#">The Environmental Agency</a>
Fraud and Fiscal Irregularities	<a href="#">Serious Fraud Office, HM Revenues &amp; Customs</a>
Public Sector Finance	<a href="#">National Audit Office</a> and <a href="#">Audit Commission</a>
Competition & Consumer Law	<a href="#">Office of Fair Trading</a>
Elected Member's conduct	<del>Standards Committee for the authority</del> Solicitor to the Council & Monitoring Officer (details available on the website)
Others	Certification Officer (Trade Unions), <a href="#">Charity Commission</a> , <a href="#">Information Commissioner</a>

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- 8.3 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

## Appendix 4

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8.4 The earlier you express the concern the easier it is to take action.

8.4

8.5 ~~Although you are not expected to prove beyond doubt the truth of an allegation and you,~~ you will need to be able to demonstrate to the person contacted that there are reasonable grounds for your concern.

8.6 Contact points for Advice/guidance on how to pursue matters of concern can be obtained from:

- Chief Executive – 709220
- Executive Director Corporate Services – 709252
- Solicitor to the Council & Monitoring Officer – 709258
- Head of Internal Audit Services – 709234

8.7 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

8.9 You may invite your trade union, ~~professional association representative~~ or professional association representative or a ~~friend~~member of staff to be present during any meetings or interviews in connection with the concerns you have raised.

## 9. How the Council Will Respond

9.1 The Council will always respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

9.2 Where appropriate, the matters raised may:

- be investigated by management, internal audit, or through the disciplinary process
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry.

9.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.



## **Appendix 4**

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9.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

9.5 Within ten working days of a concern being raised, the Solicitor to the Council will write to you:

- acknowledging that the concern has been received
- indicating how the Council propose to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made
- supplying you with information on how the Council will support you if you think this is necessary, whilst the matter is under consideration, and
- telling you whether further investigations will take place and if not, why not.

9.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

9.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a trade union officer or professional association representative or a ~~friend~~ member of staff.

~~9.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.~~

~~9.9.8~~ The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

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## **10. The Responsible Officer**

10.1 The Solicitor to the Council & Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does

**Appendix 4**

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not endanger your confidentiality) and will report as necessary to the Council.

**11. How the Matter can be Taken Further**

11.1 If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned earlier. While it cannot be guaranteed that all matters will be addressed in the way that you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this

11.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

## AUDIT & GOVERNANCE COMMITTEE

31<sup>ST</sup> OCTOBER 2013

### Report of the Head of Internal Audit Services

#### INTERNAL AUDIT QUARTERLY REPORT 2013/14 QUARTER 2

##### EXEMPT INFORMATION

None

##### PURPOSE

To report on the outcome of Internal Audit's review of the internal control, risk management and governance framework in the 2<sup>nd</sup> quarter of 2013/14 - to provide members with assurance of the ongoing effective operation of an internal audit function and enable any particularly significant issues to be brought to the Committee's attention.

##### RECOMMENDATIONS

That the Committee considers the attached quarterly report and raises any issues it deems appropriate.

##### EXECUTIVE SUMMARY

The Accounts and Audit Regulations 2011 (as amended) require each local authority to publish an Annual Governance Statement (AGS) with its Annual Statement of Accounts. The AGS is required to reflect the various arrangements within the Authority for providing assurance on the internal control, risk management and governance framework within the organisation, and their outcomes.

One of the sources of assurance featured in the AGS is the professional opinion of the Head of Internal Audit on the outcome of service reviews. Professional good practice recommends that this opinion be given periodically throughout the year to inform the "annual opinion statement". This opinion is given on a quarterly basis to the Audit & Governance Committee.

The Head of Internal Audit Services quarterly opinion statement for July – Sept 2013 (Qtr2) is set out in the attached document, and the opinion is summarised below.

Based on the ongoing work carried out by and on behalf of Internal Audit and other sources of information and assurance, my overall opinion of the control environment at this time is that "reasonable assurance" can be given. Where significant deficiencies in internal control have been formally identified by

management, Internal Audit or by external audit or other agencies, management have given assurances that these have been or will be resolved in an appropriate manner. Such cases will continue to be monitored. Internal Audit's opinion is one of the sources of assurance for the Annual Governance Statement which is statutorily required to be presented with the annual Statement of Accounts.

Specific issues:

No specific issues have been highlighted through the work undertaken by Internal Audit during 2013/14.

**RESOURCE IMPLICATIONS**

None

**LEGAL/RISK IMPLICATIONS BACKGROUND**

None

**SUSTAINABILITY IMPLICATIONS**

None

**BACKGROUND INFORMATION**

None

**REPORT AUTHOR**

Angela Struthers, Head of Internal Audit Services

**LIST OF BACKGROUND PAPERS**

None

**APPENDICES**

- Appendix 1 Internal Audit Performance Reports 2013/14 Quarter 2
- Appendix 2 Percentage of Management Actions Agreed 2013/14 Quarter 2
- Appendix 3 Implementation of Agreed Management Actions 2013/14 Quarter 2

## INTERNAL AUDIT ANNUAL REPORT/QUARTERLY REPORT – Q2 - 2013/14

### 1. INTRODUCTION

Internal Audit is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes. Every local authority is statutorily required to provide for an adequate and effective internal audit function. The Internal Audit service provides this function at this Authority.

This brief report aims to ensure that Committee members are kept aware of the arrangements operated by the Internal Audit service to monitor the control environment within the services and functions of the authority, and the outcome of that monitoring. This is to contribute to corporate governance and assurance arrangements and ensure compliance with statutory and professional duties, as Internal Audit is required to provide periodic reports to "those charged with governance".

### 2. PERFORMANCE AND PROGRESSION AGAINST AUDIT PLAN

Further to the basket of performance indicators reported to this committee on the 26<sup>th</sup> September, 2013, the performance indicators in place were felt to be appropriate.

The Internal Audit service aims as one of its main Performance Indicators (PI's) to complete work on at least 90% of applicable planned audits by the end of the financial year, producing draft reports on these where possible/necessary. **Appendix 1** shows the progress at the end of quarter 2 of the work completed against the plan. The original audit plan identified 72 areas of work (including implementation reviews). At the end of quarter 2, additional work completed includes an additional 13 implementation reviews and 6 audits for the current financial year. Therefore the work completed to date is 60% of the plan including the additional areas. In addition, advice and guidance has been given in several areas including policy reviews and input into new systems.

The service also reports quarterly on the percentage of draft reports issued within 15 working days of the completion of fieldwork. All (100%) of the 8 draft reports issued in this quarter of the year were issued within this deadline.

### 3. AUDIT REVIEWS COMPLETED QUARTER 2 2013/14

The audits finalised in the second quarter of 2013/14 are shown in **Appendix 2** and identifies the number of recommendations made. A total of 32 recommendations were made in the second quarter with 30 (94%) being accepted by management.

The service revisits areas it has audited around 6 months after agreeing a final report on the audit, to test and report to management on the extent to which agreed actions have been taken. Eight implementation reviews were completed during the 2nd quarter of 2013/14. **Appendix 3** details the implementation progress to date for 2013/14. Internal Audit is fairly satisfied with the progress made by management to reduce the levels of risk through the year.

#### **4. INDEPENDENCE OF THE INTERNAL AUDIT ACTIVITY**

Attribute Standards 1110 to 1130 in the Public Sector Internal Audit Standards require that Internal Audit have organisational and individual independence and specifically state that the Head of Internal Audit Services must confirm this to the Audit & Governance Committee at least annually. As performance is reported quarterly – this confirmation will be provided quarterly.

The Head of Internal Audit Services confirms that Internal Audit is operating independently of management and is objective in the performance of internal audit work.

#### **5 OVERALL CURRENT INTERNAL AUDIT OPINION**

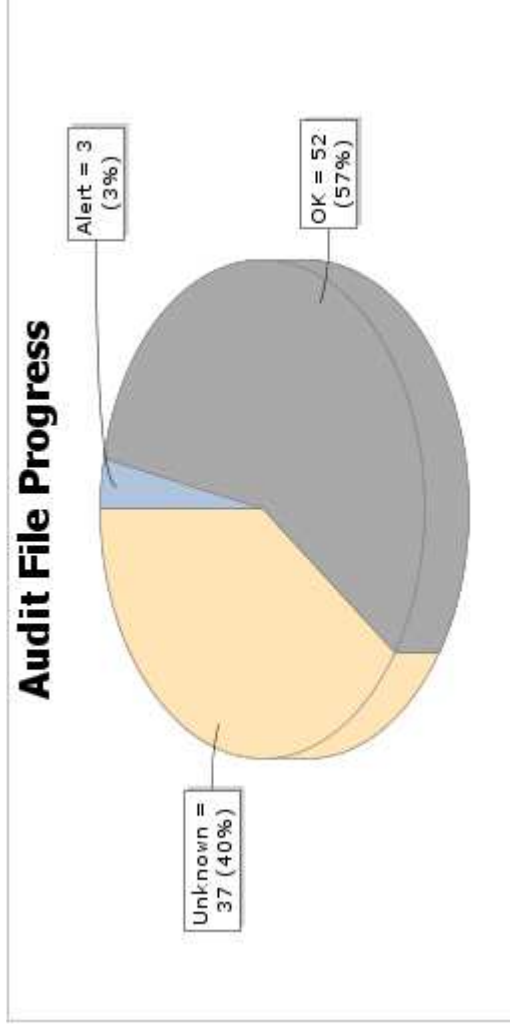
Based on the ongoing work carried out by and on behalf of Internal Audit and other sources of information and assurance, my overall opinion of the control environment at this time is that “reasonable assurance” can be given. Where significant deficiencies in internal control have been formally identified by management, Internal Audit or by external audit or other agencies, management have given assurances that these have been or will be resolved in an appropriate manner. Such cases will continue to be monitored. Internal Audit’s opinion is one of the sources of assurance for the Annual Governance Statement which is statutorily required to be presented with the annual Statement of Accounts.

##### **Specific issues:**







There were no specific issues highlighted through the work of Internal Audit in the second quarter of the 2013/14 financial year

Angela Struthers,  
Head of Internal Audit Services

Internal Audit Performance Report 2013/14 Quarter 2
















Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.TechCP06 Printing	✔	System based review			
1314.TechCP09 ISO20000	✔	Information Technology			
1314.AE04 Disabled Facilities Grants	✔	Risk Workshop	Audit are pleased to be able to report reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control		✔








Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.STTC01IR Standards and Declarations			weaknesses but most key controls are in place and operating effectively.		
1314.STTC08IR Safeguarding Children & Vulnerable Adults		Implementation Review			
1314.STTC02 Legal Compliance		Risk based review	It is with some concern that Audit have to report only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.		
1314.CPP08IR Volunteers Policy		Additional Implementation Review	The initial audit opinion was that only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key	









Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.AE.12FIR Operational Services Financial Controls			inadequate.  The opinion from the first implementation review did not change.	controls are in place and operating effectively.	
1314.FIN11 Income Management					
1314.TCP05IR Building Security		Risk based review			
1314.HH03 Sheltered Housing		Risk Workshop	A focus workshop type session has been carried out for the Cemeteries section to identify potential risks and the measures in place/ to be put in place to mitigate against risks within the area.		
1314.STTC05 Committee Decisions & Reporting		System based review	It is with some concern that Audit have to report only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.		





Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.HH05IR Private Sector Empty Homes		Implementation Review	The initial audit opinion was that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	The overall assurance can now be reported as substantial.	
1314.TCP03IR PR & Communications		Implementation Review	The initial audit opinion was that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	The overall assurance originally reported, remains.	
1314.AE02 Corporate Property Management					
1314.AE01 Cemeteries		Risk Workshop	A focus workshop type session has been carried out for the Cemeteries		











Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
			<p>section to identify potential risks and the measures in place/ to be put in place to mitigate against risks within the area.</p>		
1314.TechCP07IR Data Quality & Records Management		Additional Implementation Review	<p>The initial audit opinion was that only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.</p>	<p>The revised audit opinion is that only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.</p>	
1314.AE03 Commercial/Industrial Properties		System based review	<p>It is with some concern that Audit have to report only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.</p>	<p>The overall assurance originally reported, remains.</p>	
1314.CPP06IR Community Development		Implementation Review	<p>The initial opinion was that substantial assurance can be given that the system, process or activity should achieve its objectives safely</p>	<p>The overall assurance originally reported, remains.</p>	

Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.CPP071R Outdoor Events		Implementation Review	and effectively and that controls are in place and operating satisfactorily. The initial audit opinion was that limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	
1314.TCP09 Petty Cash					
1314.STTC06 RIPA		System based review	It is with some concern that Audit have to report only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.		
1314.AE061R CCTV		Risk based review	Audit are pleased to be able to report reasonable assurance can be given that the system, process or		










Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.STTC09IR Localism			activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.		
1314.STTC11IR Ombudsmen Process					
1314.COR03IR Project/Programme Management					
1314.TCP07IR Health & Safety					
1314.AE08IR Car Park Income		Implementation Review	The initial audit opinion was that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	The overall assurance originally reported remains. 	
1314.STTC01 Standards and Declarations		System based review	It is with some concern that Audit have to report only limited assurance can be		

Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
			<p>given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.</p>		
1314.CPP03IR Community Safety Hub		Implementation Review		<p>The initial audit opinion was that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.</p>	
1314.CPP04IR Tourism & Town Centre					
1314.CPP05IR Community Leisure		Risk based review			
1314.TCP04IR Tourist Information Centre		Implementation Review		<p>The initial audit opinion was that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and</p> <p>Due to the implementation of the recommendations, the audit opinion is now that substantial assurance can be given that the system, process or activity</p>	

Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.AE07IR Street Wardens			effectively however there are some control weaknesses but most key controls are in place and operating effectively.	should achieve its objectives safely and effectively and that controls are in place and operating satisfactorily.	
1314.STTC10IR Members Allowances		Implementation Review	The initial audit opinion was that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	
1314.AE09IR Legionella & Asbestos			The initial audit opinion was that no assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are not in place or are failing.	The revised audit opinion is that only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.	












Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.FIN02.4 Treasury Management Qtr 4 1213		Main financial system – interim	Audit are pleased to be able to report substantial assurance can be given that the system, process or activity should achieve its objectives safely and effectively and that controls are in place and operating satisfactorily.		
1314.HH07 Regeneration & Affordable Housing		Additional Risk Based Review			
1314.HH07 Housing Advice		Additional Risk Based Review			
1314.HH08 Housing Strategy		Additional Risk Based Review			
1314.HH09 Energy Efficiency		Additional Risk Based Review			
1314.HH10 Housing Enforcement		Additional Risk Based Review			
1314.FIN13 SCC Pension Contributions		Transactional			
1314.TCP061R Travel & Subsistence		Implementation Review	The initial audit opinion was that only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but	The revised audit opinion is that only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but	



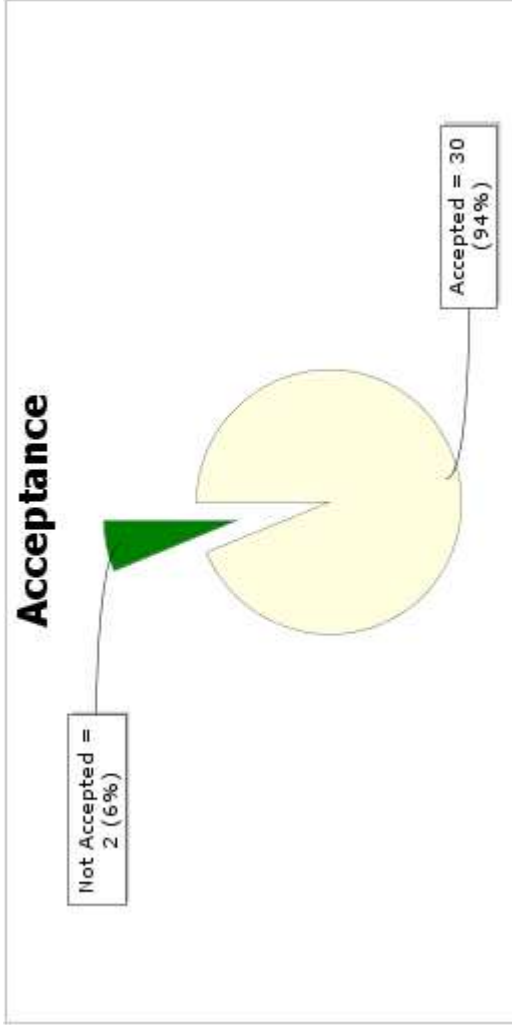
Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.FIN02.1 Treasury Management Qtr 1		Main financial system – interim	operating poorly, or controls in place are inadequate.	operating poorly, or controls in place are inadequate.	
1314.FIN01 Main Accounting & Budgetary Control		Main financial system – interim	Audit are pleased to be able to report substantial assurance can be given that the system, process or activity should achieve its objectives safely and effectively and that controls are in place and operating satisfactorily.		
1314.FIN02.2 Treasury Management Qtr 2		Main financial system – interim			
1314.FIN02.3 Treasury Management Qtr 3		Main financial system – interim			
1314.FIN03 Creditors		Main financial system – full			
1314.FIN04 Debtors		Main financial system – interim			
1314.FIN05 Council Tax		Main financial system – full			
1314.FIN06 NNDR		Main financial system – full			
1314.TCP01 Payroll		Main financial system – full			

Audit File	Audit File Progress	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.FIN07 Bank Rec & Cash			Main financial system – interim	
1314.FIN08 Housing & Council Tax Benefits			Main financial system – interim	
1314.FIN09 Capital Strategy & Programme Management			Main financial system – interim	
1314.HH01 Housing Rents			Main financial system – full	
1314.HH02 Housing Responsive Repairs & Property Contracts			Main financial system – full	
1314.FIN10 Procurement			System based review	
1314.CPP01 Section 106 Agreements			Risk based review	
1314.CPP02 Golf Course			System based review	
1314.STTC03 Scheme of Delegation			System based review	
1314.STTC04 Gifts & Hospitality			System based review	
1314.AE05 Licences			Risk Workshop	
1314.TCP02 Organisational Development			Risk based review	
1314.COR01 Corporate Policy Management			System based review	
1314.COR02 Corporate Change Programme			System based review	
1314.TechCP01 Orchard			System based review	

Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
Application review					
1314.TechCP02 I Trent Application Review / PIR		Information Technology			
1314.TechCP03 Exchange/Email Application Review		Information Technology			
1314.TechCP04 CRM PIR		Information Technology			
1314.TechCP05 BACS		Information Technology			
1314.TechCP08 Software Asset Management		Information Technology			
1314.STTC07IR Land Charges		Implementation Review			
1314.TechCP10IR IT Physical & Environmental Controls					
1314.TechCP11IR Academy Application review					
1314.COR04IR Corporate Business Continuity					
1314.HH04IR Housing Allocations					
1314.FIN12IR Insurance					
1314.TCP07IR Performance Management					
1314.TechCP13IR Mobile Telephony					

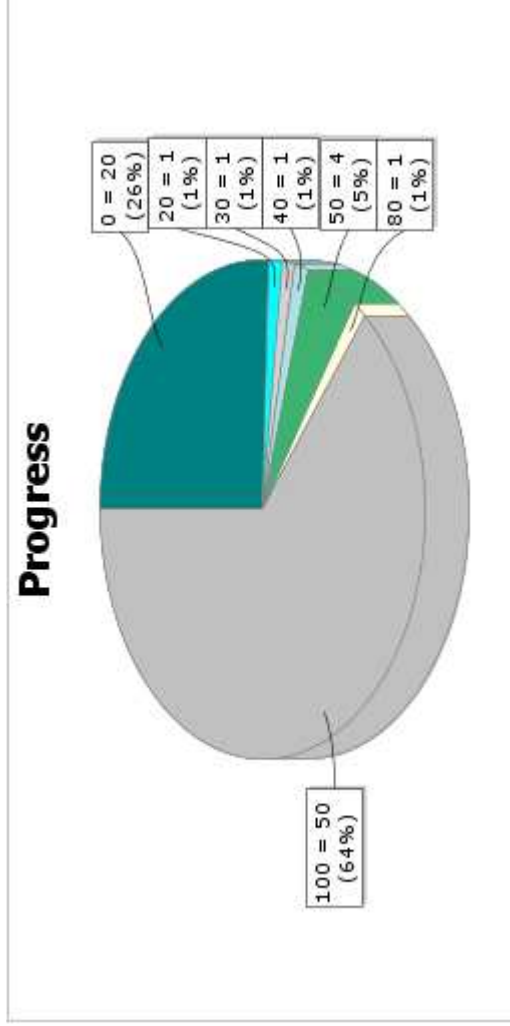
Audit File	Audit File Progress	Audit Assurance Type	Audit File Overall Opinion	Audit File Observations	Audit Assurance Level
1314.TechCP14IR Interfaces					
1314.TechCP15IR Mobile devices					
1314.TechCP16 ISO27001					
1314.STTC05IR Committee Decisions & Reporting					
1314.STTC06IR RIPA					
1314.TCP06FIR Travel & Subsistence Further Implementation Review					
1314.AE.10IR Public Protection – Food Safety					
1314.AE.11IR Street Scene					
1314.CPP.04IR Castle					
1314.HH.06IR Homelessness					
1314.AE13FIR Asbestos & Legionella Further Implementation Review					

**Percentage of Management Actions Agreed 13/14 Quarter 2**



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Implementation of Agreed Management Actions 2013/14 Quarter 2



Audit Recommendation Code & Title	Audit Recommendation Status Icon	Audit Recommendation Priority	Audit Recommendation Progress Bar
1112 DQRM 1.1 Policies and Procedures	✓	Medium Priority	20%
1112 DQRM 1.3 Review and update internet	✓	Medium Priority	40%
1112 DQRM 2.07a Evidence of File Reviews	✓	Medium Priority	0%
1112 DQRM 2.07b Destroyed Records	✓	Medium Priority	0%
1112 DQRM 3.1a Email Archiving	✓	Medium Priority	0%
1112 DQRM 3.1b Guidance on attaching large files with emails	✓	Medium Priority	0%

Audit Recommendation Code & Title	Audit Recommendation Status Icon	Audit Recommendation Priority	Audit Recommendation Progress Bar
1112 DQRM 3.1d Data Validation		Medium Priority	<div style="width: 50%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 50%
1112 DQRM 3.2b Co-ordinator for Data Quality and Records Management in each Service Area		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1112 DQRM 3.2c Independent Reviews		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1112 DQRM 4.1 Data Quality and Records Management Training		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1112 DQRM 4.2 Review of Staff Training		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1213 A&L 3.3 Asbestos and Legionella Policy		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1213 CarPark 1.1 Procedures		Medium Priority	<div style="width: 80%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 80%
1213 CSH 03 Terms of Reference		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1213 Member 1.2 Mileage Claiming Procedures		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1213 Member 3.2 Claim Forms – Submitted Monthly		Medium Priority	<div style="width: 50%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 50%
1213 OE 1.01 Outdoor Events – Road Closures		Medium Priority	<div style="width: 50%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 50%
1213 PR&Com 07.1 Website is reviewed and updated		Medium Priority	<div style="width: 50%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 50%
1213 PR&Com 09.1 Intranet kept up to date.		Medium Priority	<div style="width: 30%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 30%
1213 T&S 1.5 Subsistence Policy		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1213 T&S 2.1 Travel Policy		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%
1213 T&S 2.2 Clarification of Key Terms in		Medium Priority	<div style="width: 0%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 0%



Audit Recommendation Code & Title	Audit Recommendation Status Icon	Audit Recommendation Priority	Audit Recommendation Progress Bar
Policies			
1213 T&S 3.1 Consistency between Policies		Medium Priority	<input type="text" value="0%"/>
1213 T&S 3.2 Insurance and other vehicle documentation		Medium Priority	<input type="text" value="0%"/>
1213 T&S 4.1 Policy updated to include VAT receipts		Medium Priority	<input type="text" value="0%"/>
1213 T&S 4.3 Policy Updated		Medium Priority	<input type="text" value="0%"/>
1213 T&S 6.1 Car Sharing Policy		Medium Priority	<input type="text" value="0%"/>
1213 T&S 7.1 Part-Time Officers in receipt of Full Essential Car User Allowance		Medium Priority	<input type="text" value="0%"/>

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31<sup>ST</sup> OCTOBER 2013**REPORT OF THE HEAD OF INTERNAL AUDIT SERVICES****ANNUAL GOVERNANCE STATEMENT 2012/13 - UPDATE****EXEMPT INFORMATION**

None

**PURPOSE**

To advise the Committee of the current position regarding “significant and other governance issues” raised in the Authority’s Annual Governance Statement (AGS) 2012/13 and provide an opportunity for members of the Committee to raise any issues they consider appropriate.

**RECOMMENDATIONS**

**That the Committee reviews the attached update on the “significant and other governance issues” from the 2012/13 Annual Governance Statement and raises any issues deemed appropriate for further consideration.**

**EXECUTIVE SUMMARY**

The Authority is required to produce a public Annual Governance Statements (AGS) in accordance with the Accounts & Audit Regulations 2003 incorporating Accounts & Audit (Amendment) (England) Regulations 2011. The AGS must be published with the Authority’s Annual Statement of Accounts. The AGS is a document which sets out the arrangements within the Authority for ensuring there is a sound and robust governance framework and that the system is regularly reviewed, and it is expected that for any instances of significant shortfalls in such governance issues are referred to with the AGS. The Accounts & Audit Regulations also require that the Statement should be considered by a Committee of the Council.

This report advises the Committee of the current position regarding the significant and other governance issues (**Appendix 1 & 2**), identified through the assurance gathering process completed for the production of the Annual Governance Statement. It gives the appropriate level of assurance on progress in dealing with these, and seeks the views of the Committee on any issues this may raise for further consideration in relation to the Council’s control environment and governance.

**RESOURCE IMPLICATIONS**

None

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

None

## **SUSTAINABILITY IMPLICATIONS**

None

## **BACKGROUND INFORMATION**

None

## **REPORT AUTHOR**

Angela Struthers ex 234

## **LIST OF BACKGROUND PAPERS**

None

## **APPENDICES**

Appendix 1 – Annual Governance Statement Significant Issues 2012/13 Update  
Appendix 2 – Action Plan arising from the AGS 2012/13 Assurance Process

# Annual Governance Statement Significant Issues 2012/13 Update






**Report Author:** Angela Struthers  
**Generated on:** 23 October 2013



## Title AGS Action Plan 1213 Significant Issues

Code	Title	Status Icon	Due Date	Completed Date	Progress Bar	Latest Status Update	Assigned To
AGS1213 SI1	Medium Term Financial Strategy		31-Mar-2014		<div style="width: 50%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 50%	17-Oct-2013 High Level MTF5 update prepared September 2013 following impact of indications within CSR 2013, Pensions Triennial review, LGFS Consultation (July 2013), New Homes Bonus & Local Growth Fund Consultation (July 2013) for discussion with Leadership 17 October 2013	Corporate Management Team
AGS1213 SI2	Town Centre Redevelopment		31-Mar-2014		<div style="width: 18%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 18%	01-Oct-2013 A range of core services and project work much with partner agencies is contributing to the growth and regeneration agenda. An overarching growth and regeneration plan is being developed to help provide a relatively concise picture of the context and strategy alongside a high level list of objectives and actions.	Corporate Management Team
AGS1213 SI3	Golf Course		31-Mar-2014		<div style="width: 40%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 40%	18-Oct-2013 Shortlisted options for future of the Golf Course presented to Cabinet on 24th October 2013	Corporate Management Team
AGS1213 SI4	Housing Regeneration		31-Mar-2014		<div style="width: 10%;"><div style="background-color: #0070C0; height: 10px;"></div></div> 10%	23-Oct-2013 The Council has completed a successful procurement process and subject to Cabinet approval on 24th October will be appointing Development Consultants to support the project to completion Consultation with affected residents	Corporate Management Team

							continues and a 'tenant friend' has been appointed and is holding regular surgeries in the affected areas The Council has initiated the process of purchasing residential leasehold properties and negotiating the surrender of commercial leases where relevant Vulnerable tenants have been decanted from bungalows on Cottage Walk/Leisure Walk and these properties will shortly be demolished A draft decant policy has been agreed by Cabinet	
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Action Status	
	Cancelled
	Overdue; Neglected
	Unassigned; Check Progress
	Not Started; In Progress; Assigned
	Completed

## Action Plan Arising from the AGS 12/13 Assurance Process

**Report Type:** Actions Report  
**Report Author:** Angela Struthers  
**Generated on:** 23 October 2013



Action Code	Action Title	Priorit y	Current Status	Progress Bar	Due Date	Completed Date	Assigned To
AGS1213 1	Satisfaction Survey	3		<div style="width: 25%; background-color: #4F81BD; height: 15px;"></div> 25%	31-Oct-2013		Jane Hackett
<b>Description</b>	Satisfaction surveys are not issued to service users of Member Services and Legal Services						
<b>Desired Outcome</b>	A satisfaction survey to be completed for users of Member and Legal Services						
<b>All Notes</b>	Angela Struthers 17-Jun-2013 Action bought forward from 11/12 - Original Note: Jane Hackett 8/3/13 - this will be tied into the legal services review taking place expected completion September 2013						

Action Code	Action Title	Priorit y	Current Status	Progress Bar	Due Date	Completed Date	Assigned To
AGS1213 2	Community Engagement	2		<div style="width: 50%; background-color: #4F81BD; height: 15px;"></div> 50%	31-Mar-2014		John Day
<b>Description</b>	Improve insight about customer/residents needs by developing solutions with partners/neighbouring authorities						
<b>Desired Outcome</b>	Council Insight strategy to be developed.						
<b>All Notes</b>	John Day 01-Oct-2013 The Customer Insight Strategy is under development. The new CRM system will be an important part of this and will be integral part of it as it drives an improvement in corporate performance. Mosaic data continues to inform projects. Angela Struthers 17-Jun-2013 Action bought forward from 11/12. Original note: John Day 11/3/13 - the Customer Insight Strategy is under development. The new CRM system will be an important part of this and will be integral part of it as it drives an improvement in corporate performance. Mosaic data continues to inform projects and has recently been used for a direct debit campaign, alcohol and obesity profiling						

Action Code	Action Title	Priorit y	Current Status	Progress Bar	Due Date	Completed Date	Assigned To
AGS1213 3	Succession Planning	2		<div style="width: 70%; background-color: #4F81BD; height: 15px;"></div> 70%	31-Mar-2014		Anica Goodwin
<b>Description</b>	Career structures are not in place for officers and members to encourage participation and development						
<b>Desired Outcome</b>	Succession planning to be discussed with the Head of Organisational Development						
<b>All Notes</b>	Anica Goodwin 01-Oct-2013 CT has seen almost all heads of service and directors. report to be finalised by end of october 2013 Angela Struthers 18-Jun-2013 Action bought forward from 11/12. Original note - Anica Goodwin 16/5/13 - areas identified as pilot areas, matrix developed and to be completed with relevant manager, progress slow to date due to workload within HR, new target to be March 2014. 10k was allocated in reserve for this work to be						

completed. Due to implementation of new HR system the reserve has been put back into corporate reserve.

Action Code	Action Title	Priorit y	Current Status	Progress Bar	Due Date	Completed Date	Assigned To
AGS1213 4	Customer Satisfaction	3		<input type="text" value="0%"/>	31-Dec-2013		Jane Eason
<b>Description</b>	Satisfaction surveys are not issued to service users of Public Relations						
<b>Desired Outcome</b>	Customer satisfaction monitoring mechanism with PR service to be implemented.						
<b>All Notes</b>	Anica Goodwin 01-Oct-2013 new web site in test. launch nov 13 Angela Struthers 18-Jun-2013 Bought forward from 1/1/12. Original note - Jane Eason 18/6/13 - This will be done following the launch of the new website post September.						

Action Code	Action Title	Priorit y	Current Status	Progress Bar	Due Date	Completed Date	Assigned To
AGS1213 5	Audit Recommendations	2		<input type="text" value="50%"/>	31-Mar-2014		Anica Goodwin
<b>Description</b>	The timescale for the implementation of audit recommendations has slipped due to other work demands.						
<b>Desired Outcome</b>	Management ensure that audit recommendations are implemented in a timely manner						
<b>All Notes</b>	Anica Goodwin 01-Oct-2013 Covalent updated and audit recs to be discussed at all 121s						

Action Code	Action Title	Priorit y	Current Status	Progress Bar	Due Date	Completed Date	Assigned To
AGS1213 6	Business Continuity	2		<input type="text" value="90%"/>	31-Mar-2014		Anica Goodwin
<b>Description</b>	Business Continuity Plans are not tested on a regular basis						
<b>Desired Outcome</b>	All Business Continuity Plans to best tested on an annual basis						
<b>All Notes</b>	Anica Goodwin 01-Oct-2013 Latest test of IT retrieval 2009. Backup on USB and S drive. IT currently in process of updating IT back up plan which has direct impact on payroll Anica Goodwin 01-Oct-2013 Performance BCP recently tested. SCC customer insight team being used to provide continuity for consultation. LDC provide covalent support. Anica Goodwin 01-Oct-2013 HR business continuity plan reliant on BYOD. Updated and tested in May 13. Info stored at CCTV and on memory stick. Anica Goodwin 01-Oct-2013 PR comms business plan reviewed to be tested following launch of new web site Anica Goodwin 01-Oct-2013 -- enter new status update -- Anica Goodwin 01-Oct-2013 -- enter new status update --						

Action Code	Action Title	Priorit y	Current Status	Progress Bar	Due Date	Completed Date	Assigned To
AGS1213 7	Audit Recommendations	2		<input type="text" value="50%"/>	30-Sep-2013		Nicki Burton





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**REPORT OF THE DIRECTOR – TECHNOLOGY AND CORPORATE PROGRAMMES****ONE STAFFORDSHIRE DATA SHARING PROTOCOL****EXEMPT INFORMATION**

None

**PURPOSE**

The purpose of this report is to advise Audit and Governance on the reasoning and benefits behind the One Staffordshire Data Sharing Protocol, with a subsequent recommendation of endorsement for Tamworth Borough Council to become a signed up party.

**RECOMMENDATIONS**

**That Audit and Governance endorse the organisation to sign up to the One Staffordshire Data Sharing Protocol.**

**EXECUTIVE SUMMARY**

This report sets out the benefits to Tamworth Borough Council in signing the One Staffordshire Data Sharing Protocol. The protocol will enable more effective sharing of information across partners and agencies in order to shape and determine our service delivery, thus ensuring a positive impact on our communities.

The full detail of the protocol can be accessed at **Appendix A – One Staffordshire Data Sharing Protocol**.

**RESOURCE IMPLICATIONS**

There are minimal resource implications to signing up to this protocol, and these will be officer costs for training and awareness, which can be met within existing budgetary provision.

**LEGAL/RISK IMPLICATIONS BACKGROUND**

There are no legal or risk implications

**SUSTAINABILITY IMPLICATIONS**

There are no Sustainability Implications

**BACKGROUND INFORMATION**

Over the last twelve months a working group, made up of representatives from various public bodies, has been reviewing information sharing protocols currently in place within Staffordshire with the intention of producing 'One Staffordshire Information Sharing Protocol' which accurately reflects the current information sharing climate, legislative requirements and best practice.

The 'One Staffordshire Information Sharing Protocol' deals with the emerging issues surrounding information sharing between agencies in light of the changing nature in which organisations are delivering services for the social, economic and environmental wellbeing of the community.

Promoting and achieving wellbeing is only likely to be successful where organisations work together to ensure that communities are kept safe; participate in healthy lifestyle choices; are looked after; are provided with the opportunity to succeed; and are part of a thriving economy.

The aim of the 'One Staffordshire Information Sharing Protocol' is to have one protocol available to organisations when engaging in information sharing. Many of our current sharing practices cut across a number of different service areas and this protocol aims to provide a robust framework for the legal, secure and confidential sharing of personal information between organisations and enable them to meet both their statutory obligations and the needs and expectations of the people they serve.

All organisations which were signed up to former protocols have been invited to sign the 'One Staffordshire Information Sharing Protocol' which can be viewed at Appendix A.

The protocol requires all partners who are signatory to it to ensure that their organisation has the appropriate infrastructure to respond to requests for information made under the protocol, including training and making their staff fully aware of their responsibilities. The nominated signatory must have the authority to sign on behalf of the organisation.

## **REPORT AUTHOR**

Nicki Burton, Director – Technology and Corporate Programmes

## **LIST OF BACKGROUND PAPERS**

None

## **APPENDICES**

Appendix A – One Staffordshire Data Sharing Protocol

# One Staffordshire Information Sharing Protocol

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### [Appendix B](#)

#### [Legislation Summary](#)

### [Appendix C](#)

#### [Conditions of Consent](#)

### [Appendix D](#)

#### [Information Sharing Agreement](#)

### [Appendix E](#)

#### [Fair Processing](#)

### [Appendix F](#)

#### [Individual Information Sharing Agreements](#)

### [Appendix G](#)

#### [Information Sharing Templates](#)

## **Executive summary**

The 'One Staffordshire Information Sharing Protocol' deals with the emerging issues surrounding information sharing between agencies in light of the changing nature in which organisations are delivering services for the social, economic and environmental wellbeing of the community.

Promoting and achieving wellbeing is only likely to be successful where organisations work together to ensure that communities; are kept safe; participate in healthy lifestyle choices; are looked after; are provided with the opportunity to succeed; and are part of a thriving economy.

The protocol has been produced by a working group made up of representatives from various public bodies whose remit has been to review existing information sharing protocols and replace them with 'One Staffordshire Information Sharing Protocol' which accurately reflects the current information sharing climate, legislative requirements and best practice.

Our aim is to enable partners to co-ordinate effort, collate and exchange information to achieve joint objectives, co-ordinate resources, support one another in addressing common and locally set priorities and comply with the law.

The protocol outlines the purposes for sharing information, the powers that organisations have to share information, the role of partners and what can be expected from them, the process for sharing and scheduled review dates.

## 1. Purpose

1.1 Organisations throughout Staffordshire recognise that all individuals have a right to economic, social and environmental wellbeing.

1.2 Promoting and achieving wellbeing is only likely to be successful where organisations work together to ensure that communities; are kept safe by preventing crime and disorder; participate in healthy lifestyle choices and have access to health services; are looked after by improving and joining up social care services; are provided with the opportunity to succeed through education, training and employment; and are part of a thriving economy where business has the ability to achieve.

1.3 Positive steps have already been taken by organisations across Staffordshire to ensure that these objectives can be met and to ensure that individuals receive the services that they require in a fast, efficient and personalised manner.

1.4 A number of multi-agency working arrangements have been put in to place throughout the County in order to allow representatives from statutory, voluntary and community sectors to work more closely with one another and to tailor the services that they provide to meet the needs and circumstances of each individual. These include but are not limited to; Community Safety Partnerships, Local Support Teams, Multi-Agency Safeguarding Hubs, Multi-Agency Risk Assessment Conferences and Multi-Agency Public Protection Arrangements. Sharing information between agencies is vital to the delivery of high quality, cost effective and seamless public services.

1.5 All authorities, bodies, organisations and groups will hereafter be referred to as Partners.

1.6 Persons signing the Protocol on behalf of Partners will be referred to as Signatories.

1.7 All Partners to this Protocol are committed to the partnership approach in dealing with community issues. This document will provide a robust framework for the exchange of information to support economic, social and environmental wellbeing and enable Partners to:

- a) co-ordinate effort to deal with crime and disorder and to support health and well-being, social care and education;
- b) collate and exchange relevant information to achieve joint objectives in line with government initiatives and public expectations;
- c) co-ordinate resources in respect of the same issue – joint case management;
- d) support Partners in addressing common and locally set priorities; and
- e) comply with the law.

1.8 The Protocol provides the basis upon which co-operating Partners will facilitate and govern the lawful sharing of information to ensure that agencies can work together to:

- prevent crime and disorder, bullying, discrimination and neglect in all sections of our communities,
- make our communities safer and provide support to the victims of crime,
- offer joined up health and social care services,
- identify and provide support for vulnerability in the community,



- ensure that access is available to education and training,
- allow greater individual choice of service access by community members.

1.9 The Protocol provides good practice for the sharing of information between Partners in line with relevant legislation and is an enhancement to other established working practices. It is not intended to restrict the exchange of information and intelligence between operational staff employed by the Partners. They will continue to interact both face to face and via telephone in order to carry out their operational duties and responsibilities. Such collaborative working will usually require documented procedures in addition to this Protocol. This will ensure that such information is exchanged in a lawful manner. Documented procedures covering these circumstances must not circumvent this Protocol.

1.10 Partners will provide public support for this Protocol. The Protocol will be published so that the public can see that information is being shared for their benefit in an appropriate and lawful way.

1.11 This Protocol complies with the Management of Police Information (MOPI) standards for information sharing and the Information Commissioner's Office (ICO) data sharing code of practice.

## **2. Powers**

2.1 There is no general statutory power to share information however some statutes provide public bodies with an express power to share, i.e. Section 115 of the Crime and Disorder Act 1998 which permits sharing to help prevent or detect crime and Section 8 of the National Audit Act 1983 which imposes a legal obligation on public bodies to provide relevant information to the National Audit Office.

2.2 Where there is no express statutory power to share information it may be possible to imply such a power from other duties and powers which public bodies have, i.e. Section 1 of the Localism Act 2011 provides a new power available to local authorities allowing them to do "anything that individuals generally may do".

2.3 Regardless as to whether an organisation has express or implied statutory powers, all personal data will be exchanged only as allowed by current law and only where justified, necessary and proportionate to meet the agreed objectives of this Protocol. In particular, organisations and employees will comply with:

- Data Protection Act 1998
- The Human Rights Act 1998
- The Common Law Duty of Confidentiality

2.4 The legislation above has been detailed further in [Appendix B](#) along with additional legislation which may need to be considered and referred to when sharing specific information. Further guidance on the legislation is also available at the following link: [Legislation Guidance](#).

## **3. Partners**

3.1 The signing of this Protocol by each Signatory reflects their organisations commitment to adopting and complying with the Protocol requirements.

3.2 This Protocol is signed by all statutory authorities and will govern the sharing of information between them. Other agencies and bodies that have a role in delivering

the priorities identified by the One Staffordshire Information Sharing Protocol are also invited to sign and comply with this Protocol where required. The onus is on the agency to inform their staff of their agency's responsibilities, to monitor and take responsibility for compliance with the protocol.

3.3 Any organisation that requests to share information but are not yet Signatories to this Protocol will be required to become Signatories.

3.4 All Partners to this Protocol are independent Data Controllers (as defined by the Data Protection Act 1998). It is a legal requirement that any Signatory organisation to this Protocol must be notified with the Information Commissioner.

3.5 It will be the responsibility of the Signatory to ensure that:

- Realistic expectations prevail from the outset
- Ethical and professional standards are maintained
- A mechanism exists by which the flow of information can be controlled, and confidentiality maintained in addition to ensuring that significant decisions made are recorded and documented
- Staff have appropriate skills and training
- Adequate arrangements exist within their organisation to test adherence to the Protocol
- Operational coordination in support of shared objectives is supported
- The legitimate and justifiable exchange of information is encouraged to an extent which is compatible with rights under the Human Rights Act 1998 and its supporting principles such as proportionality and subsidiary

3.6 Each Signatory will nominate a Designated Liaison Officer to facilitate the sharing of information between Partners. The Designated Liaison Officer will:

- act as a single point of contact for information requests
- understand the relevant legislation and be able to champion information sharing within their own organisations
- work with other Designated Officers to establish the best ways to share information
- act as the first point of contact for any technical problems with sharing the information that may arise and, where necessary, report findings to Partners
- initiate internal investigations where the Protocol has not been adhered to
- approve and maintain a record of any individual Information Sharing Agreements entered into under this Protocol

3.7 Any Signatory may terminate their involvement in this arrangement, with one or more Signatories, by the service of one month's written notice on the Signatories. The Signatory should inform the managing agent that this has been done.

3.8 Any organisation wishing to become a Signatory to this Protocol may obtain a copy online at [www.infosharestaffs.org.uk/](http://www.infosharestaffs.org.uk/). Compliance with the protocol must be signified by completing and returning an acceptance form to Staffordshire County Council at: [infogov@staffordshire.gov.uk](mailto:infogov@staffordshire.gov.uk) who will make the necessary amendments and inform other organisations of the updates. Becoming a Partner to this Protocol does not infer any right to exchange information with another Partner.

3.9 A full list of Signatories and Designated Officers is attached at [Appendix A](#).

#### **4. Process for Sharing**

4.1 Personal data will only be shared where it is necessary, proportionate and justified to do so and Partners will always consider alternatives to sharing personal data in the first instance, e.g. statistical, anonymised or pseudonymised information.

4.2 This Protocol allows for the sharing of personalised and depersonalised information in the following circumstances:

- a. Written exchange of information between Partners
- delivered and/or received in person
  - at formal meetings/case conferences, where minutes or notes are produced or actions are recorded
  - by recorded/special post
  - secure fax
  - electronic means

- b. Verbal exchange of information between Partners
- in person
  - at formal meetings/case conferences, where minutes or notes are produced or actions are recorded
  - over the telephone

4.3 This Protocol does not give license for unrestricted access to information another Partner may hold. It provides the parameters for the safe and secure sharing of information for a justifiable need to know.

4.4 Each Partner must take responsibility for its own decisions to share or not to share as well as what information is appropriate to share. Partners may choose to carry out risk assessments and/or privacy impact assessments to aid their decision. In addition to this, Partners will take into account the framework of the legislative background ([see Appendix B](#)), regional agreements, guidance in relation to their specific service area and their own professional judgement.

Where a Partner to this Protocol chooses not to share information, they must provide a full and clear written explanation of the reasons the sharing request has been refused, to the requesting Partner.

4.5 Information shared under this Protocol will only be used for the specific purposes for which it was disclosed. Partners will always retain ownership of the personal information disclosed to another Partner, therefore any Partner wishing to use the information for another purpose or who may wish to disclose that information to any other person (other than the data subject or where there are legal grounds to do so) must:

- Inform the provider of the information of their intention to use the information provided for a different purpose
- Specify the legal basis permitting such processing
- Obtain explicit consent from the individual(s) concerned and provide a fair processing notice before processing such information

If the originator of the personal information considers that the purpose for which the information is proposed to be used is likely to be detrimental to their agency, or the individual(s) whose personal information it is proposed to use object, then that information should not be used for the proposed purpose.

4.6 Agencies wishing to use personal information that has been provided under this Protocol for research or statistical purposes should ensure that policies and procedures are in place to guarantee that such personal information is anonymised.

4.7 In requesting disclosure of personal information from another Partner to this Protocol, those concerned will respect this responsibility and not seek to override the procedures which each agency has in place to ensure that information is not disclosed illegally or inappropriately.

It is acceptable for a providing agency to obtain further details from the requesting organisation in order to satisfy them that the agency has the ability to appropriately handle the information.

4.8 The extent of disclosure must be restricted to only that personal information which is necessary to enable the Partner, or an individual or group acting on their behalf, to achieve its objectives outlined in [section 1](#) of the Protocol (purpose). The degree of disclosure that takes place must be necessary, proportionate and justified.

4.9 Except where legally bound, information will be shared using an Information Sharing Agreement approved by the organisations Designated Liaison Officer. The provisions which will be relevant to all agreements can be found at [Appendix D](#) and an 'Information Sharing Agreement template' can be found at the following link: [Information Sharing Agreement template](#).

4.10 Where information is disclosed, received or requested all Partners will put in place procedures to record the following information:

- The date the information was requested
- Details of the person(s) making the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information (refer to the individual Information Sharing Agreement where there is a bulk transfer)
- Any restrictions placed on the information that has been given e.g. 'not to be disclosed to the service user'.
- Details of the person authorising the disclosure (where applicable)
- The grounds for disclosing (where applicable)
- Whether consent has been sought and received
- Details of the information disclosed/received (where applicable)
- The date the information was disclosed/received (where applicable)

A 'Request for Disclosure form' and 'Decision to Disclose form' can be found at the following links: [Request for Disclosure form](#) – [Decision to Disclose form](#).

4.11 Where information is shared at meetings made up of organisations that may not be Signatories to the Protocol it is good practice to sign a Confidentiality Agreement. This may be considered good practice even for those members of the group that are Signatories to the Protocol. This will prohibit any unauthorised secondary disclosure of personal information. Decisions on disclosures reached at meetings should be recorded and documented in line with [paragraph 4.10](#).

Care should be taken not to include confidential personal information in minutes of meetings where copies of those minutes cannot be subject of the strict controls set out in this Protocol.

A 'Confidentiality Agreement template' can be found at the following link: [Confidentiality Agreement template](#).

4.12 Appropriate sharing of information shall be dealt with within agreed timescales. In the event of failure to agree on timescale, sharing shall take place as soon as practicable.

4.13 All Partners will ensure that the requirements for fair processing are met. Further details about fair processing are included at [Appendix E](#) and a 'Fair Processing Notice template' can be found at the following link: [Fair Processing Notice template](#).

4.14 Providers of information will take reasonable steps to ensure that information shared will be accurate and up to date.

4.15 It is the responsibility of the person using information to ensure that it is fair, relevant and accurate. Reliance on the currency of that data will be a matter for the receiving party and if there has been any delay between receipt and use of information, the current accuracy of the information must be verified. Each supplying Partner accepts and understands that it may be requested to confirm changes to previously released information. The use of out of date information can have serious consequences.

4.16 Where information is discovered to be inaccurate or inadequate for the purpose, the receiving party agrees to notify the data owner. The data owner will be responsible for correcting the data and notifying all other recipients who must ensure that the correction is made or the inaccurate records are destroyed. After the correction is made or the records destroyed the data owner will be informed in writing.

4.17 As far as reasonably practicable all Partners will ensure that information shared will be recorded in a compatible format. Partners shall endeavour to adhere to the supplying Partner's security markings wherever possible.

4.18 The supplying Partner will ensure that the information is of good enough quality for the intended purpose before the information is shared. Partners agree to cooperate to ensure that all Partners meet agreed quality standards where appropriate.

4.19 Partners will ensure that they have in place a policy for the review and cleaning of data in accordance with the Data Protection Principles. In addition Partners will take into account any internal codes of practice, information security policy or sector guidance.

4.20 All Partners will put in place policies and procedures governing the retention and destruction of records containing personal information retained within their manual and/or electronic systems.

4.21 Partners supplying information will specify the retention period relevant to the information supplied and whether the information will be deleted or returned to the supplier in the individual Information Sharing Agreement.

4.22 Retention of personal data must be for the minimum period required to achieve the purpose identified when requesting the information. After such period it is the responsibility of the information holder to either return the information to the supplier

or to destroy the information securely. Partners will ensure that any out-of-date information that still needs to be retained, but is not permanently deleted, is safely archived or put “off-line”.

4.23 Records of disclosure must be retained for as long as they remain relevant and in any case, for a minimum of seven years.

4.24 All Partners will ensure that their staff and officers have adequate knowledge, training and skills to enable them to share information legally, comply with any professional codes of practice and local policies and/or procedures, including this Protocol.

4.25 All Partners will ensure that their staff and officers who are involved in the information sharing process are aware of, and comply with, their responsibilities and obligations with regard to:

- The confidentiality of personal information
- The commitment of the relevant Partner organisation to only share information legally and within the terms of an agreed individual Information Sharing Agreement
- Information will only be shared where necessary, justified and proportionate, on a need to know basis only
- Disclosure of personal information which cannot be justified, whether inadvertently or intentionally, may be subject to disciplinary action.

4.26 Partners will ensure staff and officers who are authorised to make disclosures of personal information, will clearly state whether the information that is being supplied is fact, opinion or a combination of the two.

4.27 All Partners will require their staff, officers and any other agency or contractor who have access to, or are likely to come into contact with, personal information will be required to sign a Confidentiality Agreement or include the necessary confidentiality clause, as part of the terms and conditions of employment and/or contract.

4.28 All Partners will ensure that they have appropriate policies and procedures in place to deal with subject access requests for personal data under section 7 of the Data Protection Act 1998, including the provision of advice and assistance to individuals wishing to make a request. Information that has been provided by another agency may be disclosed to the data subject without the need for obtaining consent with the following exceptions:

- Where the Partner agency has expressly stated they do not wish the information to be disclosed without being consulted first
- The information contains medical details
- The information is of a legal nature

4.29 Requests under the Freedom of Information Act 2000 which may involve policy documents and decision making processes in relation to this Protocol should be dealt with as per [paragraph 4.25](#). There are no limits placed on the public availability of this Protocol and associated appendices and organisations are encouraged to include this Protocol on their Publication Scheme.

4.30 Partners will ensure that they have effective procedures for dealing with complaints from individuals in relation to the use and disclosure of personal information. All Partners who are party to the information sharing will provide cooperation and assistance in order to resolve the complaint.



4.31 All Partners will put in place procedures governing the secure storage of all personal information retained within their manual or electronic systems to comply with principle 7 of the Data Protection Act 1998. Security requirements will include:

- Appropriate security management (e.g. policies, procedures, staff training)
- Appropriate access controls to electronic and manual systems
- Appropriate physical and environmental security to buildings and other hardware
- Appropriate back up and disaster recovery systems

4.32 All Partners will ensure the secure exchange of information. Partners will put in place policies and procedures that govern the secure transfer of personal information both internally and externally. Such policies and procedures must cover:

- Secure internal and external postal arrangements
- Verbally, face to face and telephone
- Secure facsimiles
- Electronic mail (secure network or encryption to minimum standards)
- Secure electronic network transfer

The method of transfer and subsequent security measures must be included on any individual Information Sharing Agreement ([see Appendix D](#)). When sharing Police Information this will also include the completion of the ACPO Baseline Security Questionnaire.

4.33 All Partners will have in place appropriate measures to investigate and deal with inappropriate or unauthorised access to, or use of, personal data whether accidental or intentional. If it is established that personal information has been shared inappropriately under this Protocol, the Partner making the discovery shall inform the information provider of the details.

Following this, the information provider shall:

- Take steps to investigate the cause of the disclosure
- Where appropriate, take disciplinary action against the person(s) responsible
- Take appropriate steps to avoid a repetition

The original provider will also assess any potential implications for the individual whose information has been compromised and if necessary:

- Notify the individual concerned
- Advise the individual of their rights
- Provide the individual with the appropriate support

Where a serious breach has occurred, the provider should also notify the Information Commissioner's Office.

## **5. Review**

5.1 Responsibility for maintenance of this Agreement lies with the Head of Information Governance at Staffordshire County Council.

5.2 Review of this Protocol will be on a 12 monthly basis via the Staffordshire Information Governance Group and Information Governance Local Health Economy as well as in consultation with relevant Signatories.

5.3 A relevant Partner can request an extraordinary review at any time where a joint discussion or decision is necessary to address local service developments.

5.4 Any Partner may make suggestions for amendments to the Protocol at any time. Unless urgent, amendments will be made on an annual basis. Requests for amendments should be made to the Head of Information Governance at Staffordshire County Council.

5.5 Suggested amendments may be discussed at any appropriate forums, including but not limited to the groups referred to in [paragraph 5.2](#). This will enable Partners to exchange views prior to changes being made.

5.6 The Head of Information Governance at Staffordshire County Council will retain master copies of the Protocol, together with a list of current Signatories. The Head of Information Governance at Staffordshire County Council will retain responsibility for co-ordination of the annual review.

5.7 Any review undertaken will take into account the following issues:

- That the contact list is current and up to date (as far as reasonably practicable)
- That the Protocol is still useful and fit for purpose
- That any emerging issues have been identified and if the information sharing is having the desired effect

5.8 If any party to this Agreement believes that any other Signatory is acting in breach of the Agreement the Designated Officers of the Partners directly responsible will discuss the issue and attempt to resolve it. If no solution can be found any agency may withdraw from this Agreement and cease to provide data until an acceptable framework for sharing can be established ([see paragraph 3.7](#)).

5.9 This Protocol will remain current until further notice. This Protocol can be terminated by mutual agreement at any time ([see paragraph 3.7](#)).



**Appendix A****Signatories and Designated Officers**

<b>Organisation</b>	<b>Name of Signatory</b>	<b>Designated Officer(s)</b>
Abbot Beyne High School Linnell Building Osborne Street Burton-on-Trent Staffordshire DE15 0JL	Annabel Stoddart Headteacher	Lorraine Lynch Pastoral Tutor 01283 239800 <a href="mailto:lorraine Lynch@abbotbeyne.staffs.sch.uk">lorrainelynch@abbotbeyne.staffs.sch.uk</a>
Action for Children Staffordshire Shared Care Church Street Chesterton Newcastle-under-Lyme ST5 7HJ	Barbara Greaves Children's Services Manager	Sylvia Redgrift Registered Manager 01782 565522 <a href="mailto:Sylvia.redgrift@actionforchildren.org.uk">Sylvia.redgrift@actionforchildren.org.uk</a>
Addaction Staffordshire Unit 5 Rumer Hill Business Estate Rumer Hill Road Cannock WS11 0ET	Emma Lamond Service Manager	Emma Lamond Service Manager 07876397261 <a href="mailto:e.lamond@addaction.org.uk">e.lamond@addaction.org.uk</a>
Addiction Dependency Solutions (ADS) 18 Martin Street Stafford Staffordshire ST16 2LG	Debbie Roberts Service Manager	Debbie Roberts Service Manager 07711087721 <a href="mailto:debbie.roberts@adsolutions.org.uk">debbie.roberts@adsolutions.org.uk</a>
Adullam Homes Housing Association Walter Moore House 34 Dudley Street West Bromwich B70 9LS	David Balderston Director of Finance	Tony Lewis Area Manager Cheshire and Staffordshire 01260 294410 <a href="mailto:tlewis@adullam.org.uk">tlewis@adullam.org.uk</a>
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Amington Heath Primary School Quince Amington Tamworth B77 4EN	Oliver Fordham Headteacher	Annette Burns Deputy Headteacher 01827 475161 <a href="mailto:deputyhead@amingtonheath.staffs.sch.uk">deputyhead@amingtonheath.staffs.sch.uk</a>
Anchor Trust 25 Bedford Street London WC2E 9EG	David Edwards Company Secretary and Director of Compliance	Gale Sykes Data Protection and Information Governance Officer 07775625223 <a href="mailto:dataprotection@anchor.org.uk">dataprotection@anchor.org.uk</a>
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## **Appendix B**

### ***Legislation Summary***

#### **Data Protection Act 1998**

Schedule 1 – The Data Protection Principles

<http://www.legislation.gov.uk/ukpga/1998/29/schedule/1>

#### **Human Rights Act 1998**

Article 8 – Right to respect for private and family life

<http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>

#### **Common Law Duty of Confidentiality**

Paragraph 3.12 – Confidential information

<https://www.education.gov.uk/publications/eOrderingDownload/00807-2008BKT-EN-March09.pdf>

#### **Crime and Disorder Act 1998**

Section 115 – Disclosure of information

<http://www.legislation.gov.uk/ukpga/1998/37/section/115>

Section 17 – Duty to consider Crime and Disorder implications

<http://www.legislation.gov.uk/ukpga/1998/37/section/17>

Section 37 – Aim of the youth justice system

<http://www.legislation.gov.uk/ukpga/1998/37/section/37>

Section 39(5) – Youth offending teams

<http://www.legislation.gov.uk/ukpga/1998/37/section/39>

#### **The Police and Justice Act 2006**

Schedule 9 paragraph 5 – Sharing of information

<http://www.legislation.gov.uk/ukpga/2006/48/schedule/9>

#### **Statutory Instruments 2007 No. 1831 the Crime and Disorder (Prescribed Information) Regulations 2007**

Section 2, 3, 4 – Sharing of Information by Responsible Authorities

[http://webarchive.nationalarchives.gov.uk/20100413151426/opsi.gov.uk/si/si2007/uksi\\_20071831\\_en\\_1](http://webarchive.nationalarchives.gov.uk/20100413151426/opsi.gov.uk/si/si2007/uksi_20071831_en_1)

#### **Statutory Instrument 2007 No. 1830 the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007**

Part 4(1) and 4(2) – Information Sharing

<http://www.legislation.gov.uk/uksi/2007/1830/regulation/4/made>

#### **Regulation of Investigatory Powers Act 2000**

Section 21 – Lawful acquisition and disclosure of communications data  
<http://www.legislation.gov.uk/ukpga/2000/23/part/I/chapter/II>

### **Access to Health Records Act 1990**

Section 3(1)(f) – Right of Access to health records  
<http://www.legislation.gov.uk/ukpga/1990/23/section/3>

### **The Freedom of Information Act 2000**

Section 1 – General right of access to information held by public authorities  
<http://www.legislation.gov.uk/ukpga/2000/36/section/1>

Section 19 – Publication schemes  
<http://www.legislation.gov.uk/ukpga/2000/36/section/19>

### **The Local Government Act 1972**

Section 111 – Subsidiary powers of local authorities  
<http://www.legislation.gov.uk/ukpga/1972/70/section/111>

### **Localism Act 2011**

Section 1 – Local authority's general power of competence  
<http://www.legislation.gov.uk/ukpga/2011/20/section/1/enacted>

### **Immigration and Asylum Act 1999**

Section 20 – Supply of information to the Secretary of State  
<http://www.legislation.gov.uk/ukpga/1999/33/section/20>

### **Criminal Justice Act 2003**

Section 325 – Arrangements for assessing risks posed by certain offenders  
<http://www.legislation.gov.uk/ukpga/2003/44/section/325>

### **The Children Act 1989**

Sections 17 – Provision of services for children in need, their families and others  
<http://www.legislation.gov.uk/ukpga/1989/41/section/17>

Section 27 – Co-operation between authorities  
<http://www.legislation.gov.uk/ukpga/1989/41/section/27>

Section 47 – Local authority's duty to investigate  
<http://www.legislation.gov.uk/ukpga/1989/41/section/47>

Schedule 2 – Local authority support for children and families  
<http://www.legislation.gov.uk/ukpga/1989/41/schedule/2>

### **The Children Act 2004**

Section 10 – Co-operation to improve well-being  
<http://www.legislation.gov.uk/ukpga/2004/31/section/10>

Section 11 – Arrangements to safeguard and promote welfare

<http://www.legislation.gov.uk/ukpga/2004/31/section/11>

### **Children (Leaving Care) Act 2000**

Section 2 – Additional functions of local authorities in respect of certain children

<http://www.legislation.gov.uk/ukpga/2000/35/section/2>

### **Protection of Children Act 1999**

Section 1 – Duty of Secretary of State to keep list

[http://www.legislation.gov.uk/ukpga/1999/14/pdfs/ukpga\\_19990014\\_en.pdf](http://www.legislation.gov.uk/ukpga/1999/14/pdfs/ukpga_19990014_en.pdf)

### **Education Act 1996**

Section 13 – General responsibility for education

<http://www.legislation.gov.uk/ukpga/1996/56/section/13>

Section 408 – Provision of information

<http://www.legislation.gov.uk/ukpga/1996/56/section/408>

Section 434(4) – Registration of pupils

<http://www.legislation.gov.uk/ukpga/1996/56/section/434>

### **Education Act 2002**

Section 175 – Duties of LEAs and governing bodies in relation to welfare of children

<http://www.legislation.gov.uk/ukpga/2002/32/section/175>

Section 21 – General responsibility for conduct of school

<http://www.legislation.gov.uk/ukpga/2002/32/section/21>

### **Education (SEN) Regulations 2001**

Regulation 6 – Notices relating to assessment

<http://www.legislation.gov.uk/uksi/2001/3455/regulation/6/made>

Regulation 18 – Reviews of statements

<http://www.legislation.gov.uk/uksi/2001/3455/regulation/18/made>

### **Education (Pupil Information) Regulations 2005**

Section 5(5) – Disclosure of curricular and educational records

<http://www.legislation.gov.uk/uksi/2005/1437/regulation/5/made>

### **Learning and Skills Act 2000**

Section 114 – Provision of services

<http://www.legislation.gov.uk/ukpga/2000/21/section/114>

Section 115 – Consultation and coordination

<http://www.legislation.gov.uk/ukpga/2000/21/section/115>

Section 117 – Educational institutions: information and access

<http://www.legislation.gov.uk/ukpga/2000/21/section/117>

Section 119 – Information: supply by Secretary of State

<http://www.legislation.gov.uk/ukpga/2000/21/section/119>

### **National Health Service Act 1977**

Section 2 – Secretary of State’s general power as to services

<http://www.legislation.gov.uk/ukpga/1977/49/section/2>

Section 22 – Co-operation between health authorities and local authorities

<http://www.legislation.gov.uk/ukpga/1977/49/section/22>

### **Health Act 1999**

Section 27 – Co-operation between NHS bodies and local authorities

<http://www.legislation.gov.uk/ukpga/1999/8/section/27>

### **National Health Service and Community Care Act 1990**

Provision of accommodation and welfare services

<http://www.legislation.gov.uk/ukpga/1990/19/part/III>

### **National Health Service Act 2006**

Section 82 – Co-operation between NHS bodies and local authorities

<http://www.legislation.gov.uk/ukpga/2006/41/section/82>

### **National Audit Act 1983**

Section 8 – Right to obtain documents and information

<http://www.legislation.gov.uk/ukpga/1983/44/section/8>

### **Civil Contingencies Act 2004**

Part 1 – Local arrangements for civil protection

<http://www.legislation.gov.uk/ukpga/2004/36/part/1>

Part 2 – Emergency powers

<http://www.legislation.gov.uk/ukpga/2004/36/part/2>

### **Caldicott**

Report on the review of patient-identifiable information

[http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationspolicyandGuidance/DH\\_4068403](http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationspolicyandGuidance/DH_4068403)

### **Mental Capacity Act 2005 Code of Practice**

Chapter 4 – How does the Act define a person’s capacity to make a decision and how should capacity be assessed?

<http://www.justice.gov.uk/downloads/protecting-the-vulnerable/mca/mca-code-practice-0509.pdf>



### **Every child matters**

Every Child Matters: Change for Children

<https://www.education.gov.uk/publications/eOrderingDownload/DfES10812004.pdf>

### **Safeguarding**

Safeguarding Children in Education (DfES 2004)

<https://www.education.gov.uk/publications/eOrderingDownload/DfES-0027-2004.pdf>

Further detail regarding the above legislation and additional guidance can be found at the following link:

<http://www.staffordshire.gov.uk/community/InfoShare/Guidance/LegislationGuidance.pdf>

## Appendix C

### **Conditions of Consent**

#### **1. When to obtain consent**

1.1 Principle 1 of the Data Protection Act 1998 says that organisations have to satisfy one or more of the conditions outlined in schedule 2 of the Act in order to legitimise their processing of personal data, unless an exemption applies. In addition to this, organisations processing sensitive personal data, i.e. information relating to a person's physical or mental health, will also need to satisfy a schedule 3 condition.

Consent is one of the schedule 2 conditions (this must be explicit consent for schedule 3) that the Act provides to legitimise processing.

1.2 Although consent will provide a basis on which organisations can share personal data, it is not always achievable or even desirable and therefore organisations should consider which condition is most appropriate to the sharing that will be taking place. It is bad practice to offer individuals a choice if the sharing is going to take place regardless of their wishes, i.e. where it is required by statute.

1.3 The Information Commissioner's Office has provided that consent and explicit consent is most likely to be required when:

- Confidential or particularly sensitive information is going to be shared without a clear legal basis for doing so;
- The individual would be likely to object if the data was shared without their consent;
- The sharing is likely to have a significant impact on an individual or group of individuals.

1.4 It will be the decision of the sharing Partners to identify which schedule 2 and, where necessary, schedule 3 conditions will be relied upon for a particular sharing practice. Where that condition is consent Partners must be sure that individuals know exactly what information sharing they are consenting to and understand the implications for them. They must have genuine control over whether or not the data sharing takes place.

1.5 In the past consent has often either been assumed or implied which has made it very difficult to prove if it was actually given when things have gone wrong. For this reason, where consent is required it is almost always recommended that it should be explicit.

#### **2. Valid consent**

2.1 Consent is defined in the European Data Protection Directive as: 'any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed'.

2.2 For consent to be valid and informed, the person concerned must:

- Not be acting under duress ([see paragraph 2.3](#));
- Have received sufficient information to make a decision ([see paragraph 2.4](#));
- Actively signify agreement; and
- Have the capacity to make the decision ([see paragraph 3](#)).

2.3 Consent must be given voluntarily and freely without any pressure or undue influence being exerted on the person by either those seeking consent or family and friends of the person whose consent is being sought.

2.4 Partners must ensure that the person concerned understands:

- In broad terms why their information needs to be shared;
- What type of information may be involved in the sharing; and
- Who that information may be shared with.

2.5 The person should also be advised of their rights with regard to their information, namely:

- The right to withhold their consent
- The right to place restrictions on the use of their information
- The right to withdraw their consent at any time
- The right to have access to their records

2.6 As well as discussing consent with the person, it is good practice to provide the person with information in written form, in an appropriate format i.e. language, Braille.

2.7 The key criterion that must be satisfied when obtaining consent is that the person concerned should be 'mentally and emotionally capable of giving informed consent of their own free will'.

### **3. Capacity**

3.1 For a person to have capacity to provide consent they must be able to comprehend and retain the information material to the decision and must be able to consider this information in the decision making process.

3.2 There is a general assumption that individuals aged 16 and under are considered not to have sufficient understanding to provide consent for themselves and where consent is required in these circumstances, it will usually be sought from someone with parental responsibility. However this is not always the case and there will be circumstances where some individuals under 16 will be able to provide valid and informed consent.

3.3 Following the case of *Gillick v West Norfolk and Wisbech AHA* [1986] AC 122, the courts held that young people (below the age of 16) who have sufficient understanding and intelligence to enable them to understand fully what is involved, will also have capacity to consent.

3.4 It should be seen as good practice to involve the parent(s) of the young person in the consent process, unless this is against the wishes of the young person.

3.5 The Children Act 1989 sets out persons who may have parental responsibility, these include:

- The child's parents if married to each other at the time of conception or birth;
- The child's mother, but not the father if they were not married, unless the father has acquired parental responsibility via a court order or a parental responsibility agreement, or the couple subsequently marry;
- The child's father, where the parents are unmarried but the father has registered the child with the mother, where the birth has been registered after 1<sup>st</sup> December 2003 (Children Act 1989 S4 (a)1A));
- The child's legally appointed guardian;

- A person in whose favour the court has made a residence order in respect of the child;
- A local authority designated in a care order in respect of the child;
- A local authority or other authorised person who holds an emergency protection order in respect of the child.

It should be noted that foster carers or guardians do not automatically have parental responsibility.

3.6 Individuals aged 16 and over are considered to have sufficient understanding in order to provide consent however this will not necessarily always be the case. In circumstances where the individual is considered not capable of providing consent, it will usually be sought from someone acting on behalf of the individual in their best interests.

3.7 The Mental Capacity Act 2005 provides the legal framework for acting and decision-making on behalf of individuals aged 16 and over who lack the mental capacity to make decisions on their own behalf.

3.8 Section 1 of the Act sets out the five 'statutory principles' which are the values that underpin the Acts requirements. The principles are as follows:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

3.9 The Act is intended to be enabling and supportive of people who lack capacity, not restrictive or controlling of their lives. The underlying philosophy of the Act is to ensure that any decision made, or action taken, is made in the best interests of the individual.

3.10 The BMA has published guidance on the assessment of capacity.

#### **4. Obtained and recorded consent**

4.1 In order for consent to be obtained lawfully it is essential that all persons who may be expected to obtain consent for the sharing of personal information receive appropriate training, and that under normal circumstances only those employees who have received training and been approved by management, should seek consent.

4.2 Consent may be given verbally, non-verbally or in writing. In order to avoid any confusion or misunderstanding at later date, non-verbal and verbal consent should be witnessed and the details of the witness recorded.

4.3 All agencies should have in place a means by which an individual, or their guardian/representative, can record their explicit consent to personal information being disclosed and any limitations, if any, they wish to place on that disclosure.

4.4 The consent form should indicate the following:

- Details of the agency and person obtaining consent
- Details of the person whose personal details may/will be shared
- The purpose for the sharing of the personal information
- The type of personal information that will be shared
- Details of any sensitive information that will be shared
- The organisation(s) with whom the personal information may/will be shared
- Any time limit on the use of the consent
- The right to withhold their consent
- Any limits on disclosure of personal information, as specified by the individual
- The right to withdraw their consent at any time
- The right to have access to their records
- Details of the supporting information given to the individual
- Details of the person (guardian/representative) giving consent where appropriate

A 'Consent form template' and 'Consent checklist' can be found at the following link: [Consent form template](#).

4.5 The agency obtaining consent will:

- a) securely retain the consent form on the individual's file/record and record any relevant information on any electronic systems used; and
- b) provide the individual or their guardian/representative, having signed the consent, a copy for their retention.

## **5. Expiry of consent**

5.1 In general once a person has given consent, that consent may remain valid for an indefinite duration, unless the person subsequently withdraws that consent.

5.2 For the purpose of this Protocol the consent duration should be time limited to the specific 'piece of work' that is being proposed.

5.3 It should be considered good practice to seek 'fresh' consent once the original piece of work is completed or there are significant changes in the circumstances of the person or the work being undertaken.

## **6. Refusal and withdrawal of consent**

6.1 If a person makes a voluntary and informed decision to refuse consent for their personal information to be shared, this decision must be respected unless there are sound legal grounds for not doing so.

6.2 A person, having given their consent, is entitled at any time to subsequently withdraw that consent. Like refusals, their wishes must be respected unless there are sound legal grounds for not doing so.

6.3 Partner agencies should remember that it is bad practice to offer individuals a choice if the sharing is going to take place regardless of their wishes, i.e. where it is required by statute.

6.4 If a person refuses or withdraws consent the consequences of doing so should be explained to them but care must be exercised not to place the person under any undue pressure.

## 7. Disclosing with consent

7.1 Only staff that have been authorised to do so should disclose personal information about an individual service user.

7.2 Prior to disclosing personal information about an individual, the authorised member of staff should check the individual's file/record in order to ascertain:

- That consent to disclose has been given;
- The consent is applicable for the current situation; and
- Any restrictions that have been identified by the individual.

7.3 Upon the first instance of disclosure with regards to a particular sharing situation, the Partner making the disclosure should forward a copy of the individual's consent form to the receiving Partner.

7.4 Sharing of personal information will be carried out in line with the process outlined in [section 4](#) of the Protocol (process for sharing) and in accordance with any agreed individual Information Sharing Agreement.

7.5 Where personal information has been disclosed to another agency, a record of that disclosure should be made on the individual's file/record, this should include:

- a) The date the information was disclosed
- b) Details of who made the disclosure
- c) Details of what information was disclosed
- d) Details of who the disclosure was made to
- e) Details of how the disclosure was made

7.6 Where a disclosure is made with consent the providing, and recipient, agency should have procedures in place to record information provided/received in line with [paragraph 4.10](#) of the Protocol:

- The date the information was requested
- Details of the person(s) that made the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information
- Any restrictions placed on the information that has been provided i.e. 'not to be disclosed to the service user'
- Details of the person that authorised the disclosure
- The grounds for disclosing
- Whether consent has been sought and received
- Details of the information provided/received
- The date the information was provided/received

A 'Request for Disclosure form' and Decision to Disclose form' can be found at the following links: [Request for Disclosure form](#) – [Decision to Disclose form](#).

## 8. Disclosing without consent

8.1 Disclosure of personal information without consent must be justifiable where other statutory conditions, or the criterion for claiming an exemption under the Data Protection Act, can be met. Without such justification both the agency and the

member of staff expose themselves to the risk of prosecution, liability to a compensation order under the Data Protection Act or damages for a breach of the Human Rights Act.

8.2 All agencies who are party to this Protocol should set in place policies and procedures that deal specifically with the sharing of information in emergency situations e.g. major disaster.

8.3 Agencies should designate a person who has the knowledge and authority to take responsibility for making decisions on disclosure without consent. This person should hold sufficient seniority within the agency with influence on policies and procedures. Within the health and social care agencies it is expected that this person will be the Caldicott Guardian.

8.4 Where personal information has been disclosed to another agency without consent, a record of that disclosure should be made on the individual's file/record, this should include:

- a) The date the information was disclosed
- b) Details of who made the disclosure
- c) Details of what information was disclosed
- d) Details of who the disclosure was made to
- e) Details of how the disclosure was made

8.5 Where a disclosure is made without consent the providing, and recipient, agency should have procedures in place to record information provided/received in line with [paragraph 4.10](#) of the Protocol:

- The date the information was requested
- Details of the person(s) that made the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information
- Any restrictions placed on the information that has been provided i.e. 'not to be disclosed to the service user'
- Details of the person that authorised the disclosure
- The grounds for disclosing
- Whether consent has been sought and received
- Details of the information provided/received
- The date the information was provided/received

A 'Request for Disclosure form' and 'Decision to Disclose form' can be found at the following links: [Request for Disclosure form](#) – [Decision to Disclose form](#).

8.6 It is essential that all agencies who are party to the Protocol have policies and procedures in place governing who may disclose personal information and that those policies/procedures are communicated to all of their employees.



## Appendix D

### ***Information Sharing Agreement***

In order to maintain a consistent approach, all agencies who are party to the One Staffordshire Information Sharing Protocol will ensure that any Individual Information Sharing Agreements contain the following information:-

- Basis for sharing – legal powers, processing conditions and fairness;
- Purpose(s) of the sharing;
- Data to be shared;
- Recipients or types of recipients;
- Data quality – accuracy, relevance, compatibility, usability, etc;
- Retention and destruction;
- Rights of the data subject – Subject Access Requests, Freedom of Information requests, queries and complaints;
- Security arrangements;
- Sanctions for failure to comply and/or staff breaches
- Review of effectiveness; and
- Termination of Agreement.

All Individual Information Sharing Agreements will be approved by the respective Designated Liaison Officer nominated within each agency (see [paragraph 3.6](#)).

Where Information Sharing Agreements exist between agencies prior to signing up to the One Staffordshire Information Sharing Protocol, such Agreements will remain valid. However, those Agreements should be reviewed and if necessary brought into line with the One Staffordshire Information Sharing Protocol at the earliest opportunity in order to maintain a consistent approach.

Purposes for sharing data under an individual Information Sharing Agreement may be short term in the nature of a joint operation by Partner agencies or medium term to support the ongoing activities of a specific Partner or other group of Partners.

The individual Information Sharing Agreement in relation to a specific operation will be valid for the period of that operation only.

All Information Sharing Agreements will be governed by the principles set out in the One Staffordshire Information Sharing Protocol but each will declare its specifics on the template provided at the following link: [Information Sharing Agreement template](#). Signature, by participants, of the Agreement will imply acceptance of the provisions of all parts of the Protocol.



## Appendix E

### *Fair Processing*

The first principle of the Data Protection Act 1998 requires that personal data is processed fairly. This means that people should generally be aware of which organisations are sharing their personal data as well as what it is being used for.

Fairness also requires that where personal data is shared, that it is reasonable, and that individuals would be likely to expect the sharing and would not reasonably object to it if they were given the opportunity.

The most common method of satisfying the requirement of fairness is to provide the data subject with a Fair Processing Notice or Privacy Notice. In a sharing context, a privacy notice should at least tell a data subject:

- Who you are
- Why you are going to share personal data
- Who you are going to share personal data with

Where consent will be obtained in order to satisfy a schedule 2 and, where necessary, schedule 3 condition a Fair Processing Notice should be provided to the data subject at the same time.

Where any of the other conditions are being relied on, a Fair Processing Notice should be provided to the data subject either:

- At the time the personal data is collected; or
- As soon as possible after deciding to share, where the information is already held by the organisation.

Responsibility for providing a Fair Processing Notice generally falls to the organisation that collected the data originally; however it is good practice for all Partners that are involved in sharing to ensure that individuals remain aware of who has their personal data and what it is being used for.

There are exceptions to the requirement to satisfy fairness, i.e. where the processing is in connection with the prevention and detection of a crime or the apprehension and prosecution of offenders, in which case sharing can be carried out without informing the data subject. Processing in these circumstances must still meet the conditions outlined in schedule 2, and where necessary, schedule 3 of the Act.

A 'Fair Processing Notice template' can be found at the following link: [Fair Processing Notice template](#).

## **Appendix F**

### ***Individual Information Sharing Agreements***

Additional information – Youth Offending Teams

[Additional Information - Youth Offending Teams](#)

Safer Estates Agreement

[Safer Estates Agreement](#)

Anti-Social Behaviour Orders

[Anti-Social Behaviour Orders](#)

Newcastle Safer Communities Partnership Anti-Social Behaviour information  
exchange – Secure Web Portal

[Newcastle Secure Web Portal](#)

Patchwork

[Patchwork Agreement](#)

Safer Schools Partnership

[Safer Schools Partnership](#)



## Appendix G

### *Information Sharing Protocol templates*

Consent form template <a href="#">Consent form template</a>	(Addition to Appendix C)
Request for Disclosure form <a href="#">Request for Disclosure form</a>	(Addition to Appendix D)
Decision to Disclose form <a href="#">Decision to Disclose form</a>	(Addition to Appendix D)
Confidentiality Agreement template <a href="#">Confidentiality Agreement template</a>	(Addition to Appendix D)
Information Sharing Agreement template <a href="#">Information Sharing Agreement template</a>	(Addition to Appendix D)
Fair Processing Notice template <a href="#">Fair Processing Notice template</a>	(Addition to Appendix E)

31 OCTOBER 2013

**REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER****REVIEW OF ANTI-MONEY LAUNDERING POLICY****EXEMPT INFORMATION**

None

**PURPOSE**

This report provides the Committee with a review of the Council's key Anti-Money Laundering Policy.

**RECOMMENDATIONS**

**To approve the revised Anti-Money Laundering Policy and refer to Council for adoption in the Council's Policy Framework.**

**EXECUTIVE SUMMARY****Review of Anti-Money Laundering Policy**

The Council is committed to high standards of Ethical and Corporate Governance which give a high organisational commitment to zero tolerance to fraud, corruption and bribery.

The revised Anti-Fraud and Corruption Policy and Whistleblowing Policy are also under review as part of an internal audit on fraud awareness and reports on updating these policies will also be submitted to Audit and Governance Committee for approval and full Council for adoption. The opportunity has been taken to update all three policies at this stage. As a result of the review the policies will be fit for purpose and ensure high standards of corporate governance of the Council's affairs. The policies are also being presented to the unions and reported to Appointments and Staffing Committee to comply with employment regulations.

Training sessions will be carried out for all staff on Anti-Money Laundering requirements through the internal on-line facility.

**RESOURCE IMPLICATIONS**

There will be no resource implications. Any amendments to the Council's policies will be placed on the Council's website and included as required in the Constitution.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

There are no Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications other than mentioned in the executive summary.

## **SUSTAINABILITY IMPLICATIONS**

None.

## **BACKGROUND INFORMATION**

### **Background**

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

The Council strives to meet the highest standards of corporate governance to help ensure it meets its objectives. Members and Officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal.

The Council's Ethical Governance arrangements are a key part of good Corporate Governance and important component parts of this are the Council's Anti-Money Laundering Policy as well as the Anti-Fraud and Corruption Policy and the Whistleblowing Policy. The policies are subject to regular review to ensure that they remain fit for purpose. The Committee last reviewed the Anti-Fraud and Corruption Policy and the Whistleblowing Policy at its meeting on 11 September 2012. The Committee is now asked to review its Anti-Money Laundering Policy.

Governance forms parts of the Council's commitment to customer excellence which underpins the Council's Strategic Plan and vision.

## **REPORT AUTHOR**

Jane M Hackett Solicitor to the Council and Monitoring Officer Tel: 709258 if you would like further information or clarification prior to the meeting.

## **LIST OF BACKGROUND PAPERS**

None

## **APPENDICES**

Policy

# Tamworth Borough Council

## Anti-Money Laundering Policy

### 1. Introduction

Although local authorities are not directly covered by the requirements of the Money Laundering Regulations 2007, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.

Tamworth Borough Council is committed to the highest possible standards of conduct and governance, therefore, it has put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

All organisations, including the Council, must report any money laundering suspicions for cash transactions over 15,000 Euros. **To help prevent money laundering, the Council has set a cash payment limit of £5,000. No cash payments above £5,000 are to be accepted by any Council service.**

This is not designed to prevent customers making payments for Council services but to minimise the risk to the Council of high value cash transactions.

### 2. Scope of the Policy

This policy applies to all employees, whether permanent or temporary, and Members of the Council.

Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council. Individuals who have a concern relating to a matter outside work should contact the Police.

### 3. Definition of Money Laundering

Money laundering describes offences involving the integration of the proceeds of crime or terrorist funds into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 ("the Act"); the following are 'prohibited acts':

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Failure to disclose one of the offences listed above, where there are reasonable grounds for knowledge or suspicion

- Doing something that might prejudice an investigation e.g. falsifying a document
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation

Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

Although the term 'money laundering' is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences above.

#### **4. Requirements of the Money Laundering Legislation**

The main requirements of the legislation are:

- To appoint a money laundering reporting officer
- Maintain client identification procedures in certain circumstances
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures

#### **5. The Money Laundering Reporting Officer (MLRO)**

The Council has designated the Monitoring Officer as the Money Laundering Reporting Officer (MLRO). She can be contacted on 01827 709258 or by email [jane-hackett@tamworth.gov.uk](mailto:jane-hackett@tamworth.gov.uk).

In the absence of the MLRO or in instances where it is suspected that the MLRO could be involved in suspicious transactions, concerns should be raised with the Section 151 Officer – Executive Director (Corporate Services). He can be contacted on 01827 709252 or by email [john-wheatley@tamworth.gov.uk](mailto:john-wheatley@tamworth.gov.uk).



## **6. Reporting Procedure for Suspicions of Money Laundering**

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must report your suspicions immediately to the MLRO.

The report must include as much detail as possible including:

- Full details of the people involved
- Full details of the nature of their/your involvement.
- The types of money laundering activity involved
- The date(s) of such activity/ies
- Whether the transactions have happened, are ongoing or are imminent;
- Where they took place (if applicable);
- How they were undertaken (if applicable);
- The (likely) amount of money/assets involved;
- Why, exactly, you are suspicious.

Along with any other available information to enable the MLRO to make a sound judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable her to prepare a report to the Serious Organised Crime Agency (SOCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the Act (see appendix 1), then your report must include all relevant details, as you will need consent from the SOCA, via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline.

Once you have reported the matter to the MLRO you must follow any directions she may give you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the SOCA. Simply report your suspicions to the MLRO who will refer the matter on to the SOCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the SOCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit the criminal offence of “tipping off”.

Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

## **7. Consideration of the disclosure by the Money Laundering Reporting Officer**

Upon receipt of a report, the MLRO must note the date thereof and acknowledge receipt. She should also advise you of the timescale within which she expects to respond to you.

The MLRO will consider the report and any other available internal information she thinks relevant e.g.

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

She will also undertake such other reasonable inquiries that are appropriate in order to ensure that all available information is taken into account in deciding whether a report to the SOCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

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

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

Where the MLRO does so conclude, then she must disclose the matter as soon as practicable to the SOCA on their standard report form and in the prescribed manner, unless she has a reasonable excuse for non-disclosure to the SOCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then she must note this accordingly; she can then immediately give her consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Section 151 Officer to decide whether there is a reasonable excuse for not reporting the matter to the SOCA.

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

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then she shall note this accordingly and give consent for any ongoing or imminent transaction(s) to proceed.

All reports referred to the MLRO and reports made by her to the SOCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

The MLRO commits a criminal offence if she knows or suspects, or has reasonable grounds to do so, through a disclosure being made to her, that another person is engaged in money laundering and she does not disclose this as soon as practicable to the SOCA.

## **8. Training**

Officers considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training.

Additionally, all employees and Members will be familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves.

Notwithstanding the paragraphs above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.

## **9. Conclusion**

Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the level of risk it faces from money laundering offences.

## **10. Review**

This policy and associated procedures will be reviewed annually.

## Appendix 1

### **Sections 327-329 of the Proceeds of Crime Act 2002**

#### **S327 Concealing etc**

(1) A person commits an offence if he—

- (a) conceals criminal property;
- (b) disguises criminal property;
- (c) converts criminal property;
- (d) transfers criminal property;
- (e) removes criminal property from England and Wales or from Scotland or from Northern Ireland.

(2) But a person does not commit such an offence if—

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) 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 he does 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.

(3) Concealing or disguising criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.

#### **328 Arrangements**

(1) 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.

(2) But a person does not commit such an offence if—

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) 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 he does 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.

### 329 Acquisition, use and possession

(1) A person commits an offence if he—

- (a) acquires criminal property;
- (b) uses criminal property;
- (c) has possession of criminal property.

(2) But a person does not commit such an offence if—

- (a) he makes an authorised disclosure under section 338 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the appropriate consent;
- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so;
- (c) he acquired or used or had possession of the property for adequate consideration;
- (d) the act he does 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.

(3) For the purposes of this section—

- (a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property;
- (b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of the use or possession;
- (c) the provision by a person of goods or services which he knows or suspects may help another to carry out criminal conduct is not consideration.

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## AUDIT & GOVERNANCE COMMITTEE

31 OCTOBER 2013

### REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

#### REGULATION OF INVESTIGATORY POWERS ACT 2000

##### **Purpose**

The Council's Code of Practice for carrying out surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) specifies that quarterly reports will be taken to Audit & Governance Committee to demonstrate to elected members that the Council is complying with its own Code of Practice when using RIPA.

On 13 December 2012, the Council re-adopted the RIPA policy and agreed that quarterly reports on the use of RIPA powers be submitted to Audit & Governance Committee.

##### **Recommendation**

**That Audit and Governance Committee endorse the quarterly RIPA monitoring report.**

##### **Background Information**

The RIPA Code of Practice produced by the Home Office in April 2010 introduced the requirement to produce quarterly reports to elected members to demonstrate that the Council is using its RIPA powers appropriately and complying with its own Code of Practice when carrying out covert surveillance. This requirement relates to the use of directed surveillance and covert human intelligence sources (CHIS).

The table below shows the Council's use of directed surveillance in the current financial year to provide an indication of the level of use of covert surveillance at the Council. There have been no applications under RIPA in the period from 1 July 2013 to 30 September 2013.

The table outlines the number of times RIPA has been used for directed surveillance, the month of use, the service authorising the surveillance and a general description of the reasons for the surveillance. Where and investigation is ongoing at the end of a quarterly period it will not be reported

until the authorisation has been cancelled. At the end of the current quarterly period there are no outstanding authorisations.

There have been no authorisations for the use of CHIS.

Steps are being undertaken to compile a list of all equipment in use by the Council that could be used in surveillance. The list will ensure that equipment is stored and used properly this avoiding any breaches of the Code of Practice or legislation

### **Financial year 2013/14**

<b>Month</b>	<b>Service</b>	<b>Reason</b>
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No applications

### **Background papers**

None

*"If Members would like further information or clarification prior to the meeting please contact Jane M Hackett Solicitor to the Council and Monitoring Officer on Ext.258"*