

Standards Committee

**Grand Jury Room, Town Hall
21 November 2012 at 6.00pm**

The Standards Committee deals with the local code of conduct for councillors and complaints against individual councillors.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off or switched to silent before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Colchester Borough Council, Angel Court, High Street, Colchester
telephone (01206) 282222 or textphone 18001 followed by the full number you wish
to call

e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

**COLCHESTER BOROUGH COUNCIL
STANDARDS COMMITTEE
21 November 2012 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Councillors Bill Anderson, Malcolm Bartier, Nigel Chapman,
Helen Chuah, Derek Coe, Sonia Lewis, Cyril Liddy,
Colin Sykes, Tony Webb and Dennis Willetts.

Agenda - Part A

(open to the public including the media)

Members of the Public may wish to note that Agenda items 1 to 4 are normally brief

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

3. Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

4. Minutes	1 - 7
To confirm as a correct record the minutes of the meeting held on 23 March 2012.	
5. Update on Localism Act Standards Provisions	8 - 9
See report by the Monitoring Officer	
6. Local Government Ombudsman - Annual Review 2011-12	10 - 14
See report by the Monitoring Officer	
7. Review of Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering and Benefits Fraud Sanctions Policies	15 - 40
See report by the Monitoring Officer	

8. Review of Local Code of Corporate Governance 41 - 67

See report by the Monitoring Officer

9. Changes to RIPA Code of Practice 68 - 79

See report by the Monitoring Officer.

10. Exclusion of the Public

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

STANDARDS COMMITTEE

23 MARCH 2012

Present:- Mr D. Coe (Independent Member) Chairman
Councillor Anderson
Councillor Arnold
Councillor Bartier
Mr Fitton (Deputy Chairman) (Independent Member)
Councillor Gamble
Councillor Spyvee

15. Minutes

The minutes of the meeting held on 25 November 2011 were confirmed as a correct record.

16. Standards After The Localism Act 2011

The Committee considered a report from the Monitoring Officer setting out the provisions of the Localism Act 2011 as it related to the standards regime and proposing a new framework for standards and governance issues in line with the provisions of the Localism Act 2011.

The Monitoring Officer explained that the proposals in the report had the support of the Leaders of the political groups on the Council. It was anticipated that the new framework would come into effect on 1 July 2012, but it was possible that this date may slip. Therefore if the new framework were adopted, at the Council's Annual Meeting the Council would need to reappoint the existing Committee and also appoint the new Standards Committee. The Monitoring Officer also stressed that not all the regulations on which the new framework would be based had yet been published. There would be no consultation on the outstanding regulations. However, the Council could not afford to wait until the regulations were published before preparing for the new framework.

Standards Committee

The Committee noted the proposals for a new Standards Committee, which would be a normal Committee of Council and politically balanced. The loss of independent members and voting parish members seemed contrary to the principles of localism and also would mean the loss of considerable expertise. Some concern was expressed by some members that the proposals risked introducing a political element into the determination of complaints. However it was anticipated that Group Leaders would take account of the need for the Standards Committee to determine complaints non-politically when considering appointments to the Committee. The Monitoring Officer explained that the Group Leaders had agreed to sign a protocol to work together to avoid politically based complaints. In addition the new system would be more flexible and would allow for complaints to be dealt with informally, where appropriate, with the aid of Group Leaders.

In respect of parish council representation, it was noted that it would have been open to the Council to proceed without any parish council representation, but that it was recommended that up to three parish councillors be co-opted as non-voting members. In addition, many borough councillors were also parish councillors and would be able to bring a parish perspective to the work of the Standards Committee.

The Committee considered that, in view of the sensitive and complex nature of the work of the Standards Committee, all Councillors sitting on the Committee or acting as substitutes should have received appropriate training.

RESOLVED that:-

- (a) The Council establish a Standards Committee comprising 7 elected members of the Borough Council, appointed proportionally and with draft terms of reference as attached to the Monitoring Officer's report;
- (b) That the Leader of the Council be requested to nominate to the Committee only one member who is a member of Cabinet;
- (c) That the Parish and Town Councillors be invited to nominate a maximum of three Parish Councillors to be co-opted as non-voting members of the Committee;
- (d) All members of the Standards Committee, including co-opted members and those acting as substitute members, to have undertaken appropriate training on the work of the Standards Committee and the Standards framework. The frequency and content of such training to be determined by the Monitoring Officer.

Code of Conduct

In respect of the Code of Conduct, the Committee noted the current ten General Principles and Model Code of Conduct would be repealed. The new Code of Conduct proposed would include provisions equating to paragraphs 3 to 7 of the current Code of Conduct, so in respect of behaviours the Code of Conduct would be much the same as the existing Code. However, the Code would also have to cover the registration and disclosure of interests; both disclosable pecuniary interests and other interests. However, in the absence of the necessary regulations, the appropriate part of the Code to cover interests could not be drafted. Therefore authority needed to be delegated to the Monitoring Officer, following consultation with the Leader of the Council and the Chair of the Standards Committee, to draft appropriate code provisions once the regulations were published. In the interim, the Code would require the registration and disclosure of interests which would currently constitute personal and/or prejudicial interests.

RESOLVED that:-

- (a) The Monitoring Officer be instructed to prepare and present to Council for adoption a draft Code of Conduct. The draft Code of Conduct should:-
 - (i) Equate to paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or co-opted member of the Council or its

Committees and Sub-Committees; and

(ii) Require registration and disclosure of interest which would today constitute personal and or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests.

(b) That, when Disclosable Pecuniary Interest Regulations are published, the Monitoring Officer, after consultation with the Chair of the Standards Committee and the Leader of the Council, add to that draft Code provisions which he considers appropriate for the registration and disclosure of interests other than Disclosable Pecuniary Interests.

Dealing with Misconduct Complaints

The Committee noted the proposed new arrangements for dealing with complaints of breaches of the Code of Conduct. It was for the Monitoring Officer, in consultation with the Independent Person, to decide whether a complaint should be pursued. It noted that the system gave the Monitoring Officer the opportunity to seek to resolve more trivial complaints without further reference to the Committee and welcomed this increased flexibility. This should also reduce the costs of dealing with complaints. It was also noted that under the new arrangements, in terms of sanction, where a member had found to be in breach of the Code of Conduct, the Committee could only apply the powers of self regulation. There was no power to impose a sanction of suspension, exclusion from office or loss of allowance.

The Committee noted the contents of paragraph 8 of Appendix C to the Monitoring Officer's report which detailed the action the Standards Sub-Committee could take where a member has failed to comply with the Code of Conduct. As the Sub-Committee would meet in public and its findings would be in the public domain (unless the standard exemptions applied), paragraph 8.1.1 was superfluous and the Committee directed it should be removed. In addition, it also directed that the sanctions at paragraphs 8.1.7, 8.1.8 and 8.1.9 should be subject to Council approval.

RESOLVED that:-

1. The Monitoring Officer be instructed to prepare and submit to Council for approval "arrangements" as follows:

(a) The Monitoring Officer be appointed as the Proper Officer to receive complaints for failure to comply with the Code of Conduct

(b) The Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to the Standards Committee on the discharge of this function;

(c) Where the investigation finds no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned and to the Independent Person, and reporting the findings to the Standards Committee for information;

(d) Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek a resolution in appropriate cases, with a summary report for information to the Standards Committee. Where such resolution is not appropriate or not possible, he is to report the investigation findings to a Sub-Committee of the Standards Committee for a hearing;

(e) Council delegate to the Sub-Committee such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include:

- Reporting its findings to Council (or to the Parish Council) for information;
- Recommending to Council that the member be issued with a formal censure or reprimand (or to the Parish Council)
- Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Panels of the Council;
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to (or recommend that the Parish Council) arrange training for the member;
- Recommending to Council that the member be removed (or recommend to the Parish Council that the member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council);
- Recommending to Council the withdrawal of (or recommend to the Parish Council that it withdraws) facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- Recommending to Council that it exclude (or recommend that the Parish Council exclude) the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings.

2. A meeting be arranged between the Chair of the Standards Committee and the Leader of the Council and representatives of Parish and Town Councils within the Borough to discuss how the new system can best be operated.

Independent Person(s)

The Monitoring officer explained the role of the Independent Person in the process. The Independent Person would have an advisory role rather than the statutory role the current Independent Members held. As matters stood, current Independent members would be excluded from being appointed as an Independent Person. However, it was suspected that this may change before the new arrangements came into force.

The Committee noted that a single advert would be placed for all Councils in Essex. It was confirmed that if the Borough's Independent Person was unable to act on a particular occasion, the Council could delegate the function to another Council's Independent Person. Therefore it was not necessary to appoint reserve Independent Persons.

The Committee sought confirmation on the employment status of the Independent Person and the Monitoring Officer undertook to seek advice from the Public Law Partnership on this point.

RESOLVED that:-

(a) The Monitoring Officer, in consultation with the Chair of the Standards Committee and the Leader of the Council, and with the advice of the Head of Corporate Management be authorised to set the initial allowances and expenses for the Independent Person and this function subsequently be delegated to the Standards Committee.

(b) The Monitoring Officer advertise a vacancy for the appointment of 1 Independent Person.

(c) A Committee comprising four members of the Standards Committee be set up to short-list and interview candidates and to make a recommendation to Council for the appointment.

The Register of Members' Interests

The Committee noted the proposals for a new Register of Members Interests. However, regulations on the nature of the interests to be registered were still awaited. There would be a requirement to publish the Register on the Council's website. The Committee also noted the extension of the requirement to register to cover not just the member's own interests, but also those of the of the member's spouse or partner.

RESOLVED that:-

(a) The Monitoring Officer prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;

(b) The Monitoring Officer ensure that all members are informed of their duty to register interests;

(c) The Monitoring Officer prepare and maintain new registers of members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and

(d) The Monitoring Officer arrange to inform and train Parish and Town Clerks on the

new registration arrangements.

Disclosure of Interests and Withdrawal from Meetings

The Monitoring Officer highlighted the contents of paragraph 9.2 of his report which was a significant change in practice. He advised that whilst there would be no requirement for a member to disclose an interest to a meeting if that interest had already been included on the Register of Disclosable Pecuniary Interests, it would be good practice to continue to do so. The Committee noted that there was no provision for a member with a Disclosable Pecuniary Interest to make representations on a matter, as was currently allowed for a member with a personal and prejudicial interest. The Committee considered that this was a retrograde step.

RESOLVED that:-

(a) Subject to the requirements of the relevant regulations, the Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of Conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a Disclosable Pecuniary Interest, except where he is permitted to remain as a result of the grant of a dispensation.

(b) Subject to the requirements of the relevant regulations, the Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of Conduct requirement that a member acting alone must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a Disclosable Pecuniary Interest, except where he is permitted to remain as a result of the grant of a dispensation.

Sensitive Interests and Dispensations

The Committee noted the provisions on dispensations were significantly changed by the Act. It noted the circumstances in which a dispensation could be granted and directed that the second sentence of paragraph of 12.3.2 be deleted

RESOLVED that the Monitoring Officer seek Council's agreement to delegate the power to grant the following dispensations:

(a) On the grounds set out in paragraphs 12.3.1 and 12.3.4 of the Monitoring Officer's report to the Monitoring Officer with an appeal to the Standards Committee, and

(b) On the grounds set out in paragraphs 12.3.2 (subject to the deletion of the second sentence), 12.3.3. and 12.3.5 of the Monitoring Officer's report to the Standards Committee, after consultation with the Independent Person.

The Committee stressed the need for Councillors to be informed of the new arrangements. The Monitoring Officer advised that there would be an all Councillor briefing once the details of the outstanding regulations were known. In terms of informing Parish Councils, it was suggested that the Monitoring Officer present

a briefing to the Colchester Association of Local Councils.

17. Standards Committee Annual Report 2011/12

The Committee considered a report from the Monitoring Officer about the draft report of the Standards Committee for 2011/12.

RESOLVED that

(i) the draft report Annual Report for the Standards Committee for 2011/12 be approved;

(iii) the Monitoring Officer be authorised in consultation with the Chairman to make any necessary changes to the Annual Report to give effect to the Committee's activities up to the end of March 2012.

RECOMMENDED TO COUNCIL that the Standards Committee Annual Report for 2011-12 be noted.

18. Thanks

As this was potentially the last meeting of the Committee in its present format, the Chairman expressed his gratitude to the members of the Committee and the officers who had supported it. He considered that it had been a privilege to serve as Chairman. In return, the Committee thanked the Chairman for the chairing the Committee so effectively.



Standards Committee

Item
5

21 November 2012

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Update on Localism Act Standards Provisions		
Wards affected	Not applicable		

This report requests the Committee to note the current position regarding the Localism Act provisions

1. Decision(s) Required

1.1 That the contents of the report be noted.

2. Background

2.1 The Committee will be aware that the provisions in the Localism Act 2011 in relation to standards came into effect on 1 July 2012. These changes included:

- Adoption of a new Members Code of Conduct;
- Introduction of new Members interests regime;
- Requirement for Members to register certain interests;
- Abolition of statutory Standards Committee;
- Requirement to adopt "Arrangements" for dealing complaints that Members had failed to follow the Code of Conduct; and
- Requirement to appoint Independent Person(s)

3. Update on implementation

3.1 The Council at its meeting on 25 June 2012 adopted a new Member Code of Conduct. In accordance with the provisions contained in the Act all Town and Parish Council's in the Borough also adopted the Borough Council's Code of Conduct to enable them to comply with the requirement in the Act to adopt a Code.

3.2 Training was provided to all Borough Councillors by the Monitoring Officer on the new standards regime at a training session prior to the Council meeting on 25 June 2012.

3.3 In addition the Monitoring Officer provided training to the Town and Parish Clerks and in addition undertook 5 sessions for Town and Parish Councillors at different Parish Council's across the Borough where neighbouring parishes were also invited. These sessions particularly focussed on interests.

3.4 All Borough Councillors have completed their notice of registerable interests and work is currently underway to establish the simplest way of publishing these on the Borough Council's website. To date approximately 78% of Town and Parish Councillors have submitted their Notice of Registerable Interest. Those that have been received are currently being collated and a copy will be supplied to the Parishes concerned and also published on the Borough Council's website. The Localism Act does not provide any sanction for a councillor that does not complete their notice of registerable interest. The only requirement is to complete one within 28 days of election. However reminders will be sent to those councillors concerned.

- 3.5 The Borough Council at its meeting on 25 June 2012 also adopted its “Arrangements” for dealing with complaints that Members have failed to comply with the Code of Conduct. The Borough Council’s “Arrangements” apply not only to Borough Councillors but are also used for any complaints regarding Town and Parish Councillors. The “Arrangements” have been published on the Borough Council’s website
- 3.6 To date the Monitoring Officer has received one complaint regarding a Borough Councillor which was dealt with in accordance with the “Arrangements”. The Monitoring Officer following consultation with the Independent Person determined that no further action would be taken.
- 3.7 The Borough Council at its meeting on 25 June 2012 agreed the appointment of Mr Derek Coe as the Council’s Independent Person. Regulations permitted local authorities to appoint a former Independent Member as an Independent Person as an interim measure until 30 June 2013. Accordingly the Council in accordance with the Localism Act will have to undertake a formal recruitment process for the appointment of Independent Person(s) next year. A report on this will be submitted to the next meeting of the Committee on 7 March 2013.
- 3.8 It is intended to keep the Committee updated regularly on the implementation of the Localism Act standards provisions.

4. Strategic Plan References

- 4.1 Governance forms parts of the Council’s commitment to customer excellence which underpins the Council’s Strategic Plan vision.

5. Publicity Considerations

- 5.1 The Council’s Standards “Arrangements” and Code of Conduct is published on the Council’s website.

6. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 6.1 None.



Standards Committee

Item
6

21 November 2012

Report of	Monitoring Officer	Author	Andrew Weavers
Title	Local Government Ombudsman – Annual Review 2011/2012		
Wards affected	Not applicable		

This report request the Cabinet to note the Local Government Ombudsman’s Annual Review for 2011/2012

1. Decision Required

- 1.1 To note the contents of the Local Government Ombudsman’s Annual Review for 2011/2012.

2. Reasons for Decision(s)

- 2.1 To inform the Committee of the number and type of decisions made by the Local Government Ombudsman in relation to Colchester during 2011/2012.

3. Alternative Options

- 3.1 No alternative options are presented.

4. Supporting Information

- 4.1 The Local Government Ombudsman issues an Annual Review to each local authority. The Annual Review for Colchester for the year ending 31 March 2012 is attached to this report at Appendix 1. The information provided is divided between the Advice Team, which deals with initial assessments of enquiries and/or complaints and the Investigative Team which actually investigates complaints.
- 4.2 It is worth noting that anyone can choose to make a complaint to the Local Government Ombudsman. Accordingly, the number of complaints is not an indicator of performance or level of customer service. In most instances there was no case to answer. The Local Government Ombudsman will normally insist that the Council has the opportunity to resolve the complaint locally through its own complaints procedure before commencing its own investigation.
- 4.3 The contents of the Annual Review were reported to Cabinet at its meeting on 5 September 2012.

5. Key Headlines

- 5.1 There were no findings of maladministration against the Council and no formal reports were issued.

- 5.2 Last year 28 enquires were received by the Advice Team a 52% decrease from the 54 received in the previous year. Of these 12 were classed as premature complaints and referred back to the Council to be considered through its own complaints procedure. A further 7 enquiries were dealt with by the Ombudsman providing advice and the remaining 9 were referred to the Investigative Team for consideration.
- 5.3 The main subject areas covered by the Advice Team which had a decrease in numbers was Planning and Development which saw a decrease to 11, a 58% decrease from the 19 received in the previous year. Of the total figure for Planning and Development 6 cases were referred for investigation. In addition there was a decrease regarding Benefits and Tax to 1, a 90% decrease from the 10 received in the previous year.
- 5.4 The Investigative Team decided 11 complaints against the Council which is a 48% decrease from the 23 decided in the previous year. One local settlements was agreed (where the Council agreed to take action which the Ombudsman considered was a satisfactory response to a complaint) which is a decrease from the previous years total of 6. The Council did not pay any compensation during the year.
- 5.5 The Council's average response time to the Ombudsman's written first enquiries was 27.0 days which is an improvement from the previous year's figure of 29.6 days. The Ombudsman's target was previously 28 days although they no longer monitor this.
- 5.6 During the past year we took the opportunity to provide a training session for services which was delivered by an assistant ombudsman. The session was well received and provided beneficial advice to services on dealing with complaints.
- 5.7 From April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman. The Local Government Ombudsman has stated that they will work with the Independent Housing Ombudsman to ensure a smooth transition.

6. Financial Considerations

- 6.1 No direct implications other than mentioned in this report.

7. Strategic Plan References

- 7.1 The lessons learnt from complaints to the Ombudsman link in with our Customer Excellence element of the Strategic Plan by constantly learning and putting lessons learnt into practice. This will in turn lead to improved customer service as we continue to meet and exceed our customers' expectations

8. Equality, Diversity and Human Rights Implications

- 8.1 No direct implications.

9. Publicity Considerations

- 9.1 Details of the Annual Review will be posted on the Council's website.

10. Consultation Implications

- 10.1 No direct implications.

11. Community Safety Implications

11.1 No direct implications.

12. Health and Safety Implications

12.1 No direct implications.

13. Risk Management Implications

13.1 No direct implications.

Appendix 1: Local Authority Report -Colchester BC

For the period ending - 31/03/2012

(Figures in brackets for the period ending 31/03/2011)

LGO Advice Team

Enquiries and complaints received	Adult care services	Benefits & Tax	Corporate and other services	Education & Children's services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Advice given	0 (0)	0 (1)	0 (1)	0 (2)	4 (1)	1 (0)	1 (1)	0 (1)	1 (0)	7 (7)
Formal/informal premature complaints	0 (0)	0 (6)	0 (0)	0 (0)	1 (1)	1 (0)	6 (4)	0 (0)	4 (12)	12 (23)
Forwarded to investigative team (resubmitted)	0 (0)	0 (1)	0 (0)	0 (0)	0 (2)	1 (1)	0 (0)	0 (0)	3 (2)	3 (6)
Forwarded to investigative team (new)	1 (0)	1 (2)	0 (1)	0 (0)	0 (0)	0 (4)	1 (5)	0 (1)	3 (5)	6 (18)
Total	1 (0)	1 (10)	0 (2)	0 (2)	5 (4)	2 (5)	8 (10)	0 (2)	11 (19)	28 (54)

Investigative Team

Decisions	Reports: Maladministration and injustice	Local Settlements (no report)	Reports Maladministration No injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman Discretion (no report)	Outside Jurisdiction	Total
2011/ 2012	0	1	0	0	6	0	4	11
2010 / 2011	0	6	0	0	13	4	0	23

Appendix 1: Local Authority Report -Colchester BC

For the period ending - 31/03/2012

Average local authority response times 01/04/2010 to 31/03/2011

Response times	First enquires	
	Number of first enquires	Average number of days to respond
2011/2012	5	27.0
2010 / 2011	12	29.6
2009 / 2010	11	29.3

Types of authority	<= 28 days %	29 -35 days %	> = 36 days %
District Councils	65	23	12
Unitary Authorities	59	28	13
Metropolitan Authorities	64	19	17
County Councils	66	17	17
London Boroughs	64	30	6
National Parks Authorities	75	25	0



Standards Committee

Item

7

21 November 2012

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of Anti-Fraud and Corruption, Whistleblowing, Anti- Money Laundering and Benefits Fraud Sanctions Policies		
Wards affected	Not applicable		

This report provides the Committee with a review of the Council's key anti-fraud and corruption policies

1. Decision(s) Required

- 1.1 To approve the revised Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering and Benefit Fraud Sanctions Policies and they are referred to Full Council for adoption in the Council's Policy Framework.

2. Background

- 2.1 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.
- 2.2 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.
- 2.3 The Council's Ethical Governance arrangements are a key part of good Corporate Governance and two important component parts of this are the Council's Anti-Fraud and Corruption Policy and the Whistleblowing Policy. Both of these policies have been 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 25 November 2011. The Committee at the same meeting reviewed its Anti-Money Laundering Policy and the Benefits Fraud Sanctions Policy. Full Council subsequently adopted the policies at its meeting on 22 February 2012.

3. Review of Anti-Corruption, Whistleblowing and Anti-Money Laundering Policies

- 3.1 The Full Council at its meeting on 22 February adopted a statement of intent in relation to both Ethical and Corporate Governance which gave a high organisational commitment to zero tolerance to fraud, corruption and bribery. This was supported by the various policies below.
- 3.2 The revised Anti-Fraud and Corruption Policy and Whistleblowing Policy which were agreed last year have been reviewed as part of an internal audit on fraud awareness and found to be fit of purpose. The opportunity has been taken to update both polices and are attached to this report. In addition, the Anti-Money Laundering Policy has been reviewed and is also considered fit of purpose.

3.3 Training sessions were run during the past year for all managers on fraud awareness which covered all the above policies and an e-learning module will be rolled out to all staff during the coming year.

4. Review of Benefits Fraud Sanctions Policy

4.1 The Benefits Fraud Sanctions Policy is a separate policy which the Council is required to have in place. This was separated out from the organisation's Anti-Fraud and Corruption Policy last year. This has been amended to reflect the impending changes to the Local Council Tax Support Scheme and Government Strategy and is considered fit for purpose and is attached to this report.

5. Strategic Plan References

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

6. Publicity Considerations

6.1 Any amendments to the Council's policies will be included in the Constitution and will be placed on the Council's website.

7. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

7.1 None.

COLCHESTER BOROUGH COUNCIL

ANTI-FRAUD AND CORRUPTION POLICY



November 2012

INTRODUCTION

Colchester Borough Council, like every Local Authority, has a duty to ensure that it safeguards the public money that it is responsible for.

The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest possible standard of openness and accountability so as to protect public safety and public money.

All suspicions or concerns of fraudulent or corrupt practise will be investigated. There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not. Any investigations will not compromise the Council's commitment to Equal Opportunities or the requirements of the Human Rights Act or any other relevant statutory provision.

This policy has been created with due regard to the CIPFA better Governance Forum's Red Book 2 'Managing the Risk of Fraud' and the Audit Commission Publication 'Protecting the Public Purse'.

OVERVIEW

This policy provides an overview of the of measures designed to combat any attempted fraudulent or corrupt act. For ease of understanding it is separated into four areas as below:-

- Culture
- Responsibilities & Prevention
- Detection and Investigation
- Awareness & Monitoring

Fraud and corruption are defined by the Audit Commission as:-

Fraud – “the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain”.

In addition, fraud can also be defined as *“the intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to mislead or misrepresent”.*

Corruption – “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

The Council also abides by the Bribery Act 2010 which covers, amongst other things, the offences of bribing another person, of allowing to be bribed and organisational responsibility. Such offences include:

- The offer, promise or giving of financial or other advantage to another person in return for the person improperly performing a relevant function or activity

- Requesting, agreeing to receive or accepting a financial or other advantage intending that, in consequence a relevant function or activity should be performed improperly.
- Commercial organisation responsibility for a person, associated with the organisation, bribing another person for the purpose of obtaining or retaining business for the organisation

In addition, this policy also covers “*the failure to disclose an interest in order to gain financial or other pecuniary benefit.*”

CULTURE

The prevention/detection of fraud/corruption and the protection of public money are responsibilities of everyone, both internal and external to the organisation. The Council's elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will wherever possible be treated in confidence. The public also has a role to play in this process and should inform the Council if they feel that fraud/corruption may have occurred.

Concerns must be raised when members, employees or the public reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:

- A criminal offence
- A failure to comply with a statutory or legal obligation
- Improper or unauthorised use of public or other official funds
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering an individual's health and/or safety
- Damage to the environment
- Deliberate concealment of any of the above

The Council will ensure that any allegations received in any way, including by anonymous letter or telephone call, will be taken seriously and investigated in an appropriate manner. The Council has a whistle blowing policy that sets out the approach to these types of allegation in more detail.

The Council will deal firmly with those who defraud the Council or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees/members raising malicious allegations) may be dealt with as a disciplinary matter (employees) or through Group procedures (members).

When fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence

RESPONSIBILITIES & PREVENTION

Responsibilities of Elected Members

As elected representatives, all members of the Council have a duty to protect the Council and public money from any acts of fraud and corruption. This is done through existing practice, compliance with the National and Local Code of Conduct for Members, the Council's Constitution including Financial Regulations and Standing Orders and relevant legislation. Conduct and ethical matters are specifically brought to the attention of members during induction and include the declaration and registration of interests. Officers advise members of new legislative or procedural requirements.

Responsibilities of the Monitoring Officer

The Monitoring Officer is responsible for ensuring that all decisions made by the Council are within the law. The Monitoring Officer's key role is to promote and maintain high standards of conduct throughout the Council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standards policies.

All suspected instances of fraud or corruption (apart from benefit claim issues) should be reported to the Monitoring Officer.

Responsibilities of the Head of Resource Management

The Head of Resource Management has been designated the statutory responsibilities of the Finance Director as defined by s151 of the Local Government Act 1972. These responsibilities outline that every local authority in England & Wales should:

“make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility or the administration of those affairs”

'Proper administration' encompasses all aspects of local authority financial management including:

- Compliance with the statutory requirements for accounting and internal audit;
- Managing the financial affairs of the Council
- The proper exercise of a wide range of delegated powers both formal and informal;
- The recognition of the fiduciary responsibility owed to local tax payers.

Under these statutory responsibilities the Head of Resource Management contributes to the anti-fraud and corruption framework of the Council.

Responsibilities of the Senior Management Team

Managers at all levels are responsible for the communication and implementation of this policy. They are also responsible for ensuring that their employees are aware of the Council's personnel policies and procedures, the Council's Financial Regulations and Standing Orders and that the requirements of each are being met. Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have

about suspected irregularities. Special arrangements may be applied from time to time for example where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll or the Revenues & Benefits computer system. These procedures will be supported by relevant training.

The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. As in other public bodies Criminal Records Bureau (CRB) checks are undertaken for employees working with or who may have contact with children or vulnerable adults.

Responsibilities of Employees

Each employee is governed in their work by the Council's Standing Orders and Financial Regulations, and other policies on conduct and on IT usage. Included in the Council policies are guidelines on Gifts and Hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. These are issued to all employees when they join the Council. In addition, employees are responsible for ensuring that they follow any instructions given to them, particularly in relation to the safekeeping of the assets of the Council. Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management.

Role of Internal Audit

Internal Audit plays a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Internal Audit may be requested to investigate cases of suspected financial irregularity, fraud or corruption, except Benefit fraud investigations, in accordance with agreed procedures. Within the Financial Procedure Rules in the Constitution, representatives of Internal Audit are empowered to:

- enter at all reasonable times any Council premises or land
- have access to all records, documentation and correspondence relating to any financial and other transactions as considered necessary
- have access to records belonging to third parties such as contractors when required
- require and receive such explanations as are regarded necessary concerning any matter under examination
- require any employee of the Council to account for cash, stores or any other Council property under his/her control or possession

Internal Audit liaises with management to recommend changes in procedures to reduce risks and prevent losses to the Authority.

Role of the Benefits Investigation

Due to the specialised nature of benefit fraud investigations a separate sanctions policy has been developed that covers all aspects of the benefit investigation process.

Role of the Ethical Governance Review Team

The team consists of various officers whose roles include governance issues and the objective is to promote and embed a governance culture throughout the organisation by implementing policies, reviewing issues, providing training and sharing information.

Role of the Audit Commission

Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by the Audit Commission through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice. The Council contributes to the bi-annual Audit Commission led National Fraud Initiative which is designed to cross match customers across authorities too highlight areas where there are potential fraudulent claims.

Role of the Public

This policy, although primarily aimed at those within or associated with the Council, enables concerns raised by the public to be investigated, as appropriate, by the relevant person in a proper manner.

Conflicts of Interest

Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

Official Guidance

In addition to Financial Regulations and Standing Orders, due regard will be had to external and inspectorate recommendations.

The Council is aware of the high degree of external scrutiny of its affairs by a variety of bodies such as the Audit Commission (including External Audit and Inspection), other Government Inspection bodies, the Local Government Ombudsman, Standards for England, HM Customs & Excise and the Inland Revenue. These bodies are important in highlighting any areas where improvements can be made.

DETECTION & INVESTIGATION

Internal Audit plays an important role in the detection of fraud and corruption. Included within the audit plans are reviews of system controls including financial controls and specific fraud and corruption tests, spot checks and unannounced visits.

In addition to Internal Audit, there are numerous systems and management controls in place to deter fraud and corruption but it is often the vigilance of employees and members of the public that aids detection. In some cases frauds are discovered by chance or “tip-off” and the Council will ensure that such information is properly dealt with within its whistle blowing policies.

Detailed guidance on the investigation process is available separately.

Disciplinary Action

The Council’s Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Theft, fraud and corruption are serious offences which may constitute gross misconduct against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case.

Members will face appropriate action under this policy if they are found to have been involved in theft, fraud and corruption against the Authority. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is a breach of the Code of Conduct for Members then it will also be referred to Standards for England - the national standards organisation.

Prosecution

In terms of proceedings the Council will endeavour to take action in relevant cases to deter others from committing offences against the Authority.

Publicity

The Council will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. Wherever possible, where the Council has suffered a financial loss action will be taken to pursue the recovery of the loss.

All anti-fraud and corruption activities, including the update of this policy, will be publicised.

AWARENESS & MONITORING

The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for members and employees and will therefore take appropriate action to raise awareness levels.

The Monitoring Officer will provide an annual report to senior management and Members outlining investigations undertaken during the year.

This policy and associated procedures will be reviewed annually and will be reported to senior management and Members.

Colchester Borough Council

Whistleblowing Policy and Procedure

1. Introduction

- (1) Employees or Councillors are often the first to realise that there may be some form of inappropriate conduct 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 misconduct, but this can have serious consequences if wrongdoing goes undetected.
- (2) The Council is committed to the highest possible standards of openness, probity, accountability and honesty. In line with that commitment we expect employees, councillors and others that we deal with who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.
- (3) This policy document makes it clear that employees and councillors can do so without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy and Procedure is intended to encourage and enable employees and councillors to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. With the exception of employment related grievances, this policy will apply to any act of Whistleblowing, as defined by the charity Public Concern at Work to mean;" A disclosure of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of its employees." Examples of these matters are given below in paragraph 2.2.
- (4) This policy and procedure applies to all employees, councillors, partners, volunteers and contractors. It also covers suppliers and members of the public.
- (5) These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures. Officers are responsible for making customers aware of the existence of these procedures.
- (6) This policy has been discussed with the relevant trade unions and has their support.

2. Aims and Scope of this Policy

2.1 This policy aims to:

- (a) encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice without fear of recrimination.
- (b) provide avenues for you to raise those concerns and receive feedback on any action taken
- (c) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- (d) 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.
- (e) advise you of the support that the Council will provide if you raise concerns in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This Whistleblowing Policy and Procedure is intended to cover major concerns that fall outside the scope of other procedures. These include:

- (a) conduct which is an offence or a breach of law
- (b) disclosures related to miscarriages of justice
- (c) health and safety risks, including risks to the public as well as other employees
- (d) damages to the environment
- (e) the unauthorised use of public funds
- (f) possible fraud and corruption
- (g) other unethical conduct
- (h) unacceptable business risks.

2.3 This concern may be about something that:

- (a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- (b) is against the Council's Procedure Rules and policies; or
- (c) falls below established standards of practice; or
- (d) amounts to improper conduct.

3. Safeguards

Harassment or Victimisation

3.1 The Council is committed to good practice and high standards and wants to be supportive of employees and councillors.

- 3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to the Council and those for whom you are providing a service. In these situations you are a witness and not a complainant.
- 3.3 The Council will not tolerate the harassment or victimisation of any person who raises a concern. The Council's disciplinary procedures will be used against any employee who is found to be harassing or victimising the person raising the concern and such behaviour by a councillor will be reported under the Members' Code of Conduct.
- 3.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you if you are an employee.

Confidentiality

- 3.5 All concerns will be treated in confidence and the Council will do its best to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation that is sufficiently serious to warrant disciplinary action or police involvement, then your evidence may be important. Your name will not however be released as a possible witness until the reason for its disclosure at this stage has been fully discussed with you.

Anonymous Allegations

- 3.6 This policy encourages you to put your name to your allegation whenever possible.
- 3.7 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 3.8 In exercising this discretion the factors to be taken into account would include the:
 - (a) seriousness of the issues raised;
 - (b) credibility of the concern; and
 - (c) likelihood of confirming the allegation from attributable sources.

Untrue Allegations

- 3.9 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 maliciously or for personal gain, disciplinary action may be taken against you, or if you are a councillor a complaint may be made under the Members' Code of Conduct.

4. How to raise a concern

- 4.1 You should normally raise concerns with the Monitoring Officer or the Section 151 Officer. However if your concern relates to one of these officers you should raise your concerns with the Chief Executive
- 4.2 Concerns may be raised verbally or in writing. Employees or councillors who wish to make a written report are invited to use the following format:
- (a) the background and history of the concern (giving relevant dates);
and
 - (b) the reason why you are particularly concerned about the situation.
- 4.3 The earlier you express the concern the easier it is to take action.
- 4.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 4.5 Advice and guidance on how matters of concern may be pursued can be obtained from:
- Chief Executive, Adrian Pritchard ☎ 282211
- Monitoring Officer, Andrew Weavers ☎282213
- Section 151 Officer, Sean Plummer ☎282347
- Finance Manager Audit and Governance, Elfreda Walker ☎282461.
- Risk & Resilience Manager, Hayley McGrath ☎508902
- 4.6 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.
- 4.7 If you are an employee you may invite your trade union or a friend to be present during any meetings or interviews in connection with the concerns you have raised. If you are a councillor you may be accompanied by your group leader.
- 4.8 Further guidance on protection for anyone raising a concern can be found in the Public Interests Disclosure Act 1998.

5. How the Council will respond

- 5.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as rejecting them.
- 5.2 Where appropriate, the matters raised may be:
- (a) investigated by management, internal audit, or through the disciplinary process

- (b) referred to the police
 - (c) referred to the Council's external auditor
 - (d) the subject of an independent inquiry.
- 5.3 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.
- 5.4 Some concerns may be resolved by agreed action without the need for investigation.
- 5.5 Within **five** working days of a concern being raised, one of the Officers named at 4.5 above will write to you:
- (a) acknowledging that the concern has been received
 - (b) indicating how it is proposed to deal with the matter
 - (c) giving an estimate of how long it will take to provide a final response
 - (d) informing you whether any initial enquiries have been made
 - (e) supplying you with information on staff support mechanisms, and
 - (f) informing you whether further investigations will take place and if not, why not.
- 5.6 The amount of contact between the officers considering the issues and you will depend 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.
- 5.7 Where any meeting is arranged, off-site where appropriate, if you so wish, you can be accompanied by a union or professional association representative or a friend, or the group leader if you are a councillor.
- 5.8 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 and will help you with the preparation of statements.
- 5.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigation.
- 6. The Responsible Officer**
- 6.1 The 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 not endanger your confidentiality) and will provide an annual report on the operation of the policy to the Standards Committee.

7. How the matter can be taken further

7.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- (a) your local Citizens Advice Bureau
- (b) relevant professional bodies or regulatory organisations
- (c) the police
- (d) Local Government Ombudsman
- (e) the Council's Standards Committee.

7.2 If you are considering taking the matter outside of the Council, you should ensure that you are entitled to do so and that you do not disclose confidential information. An independent charity, Public Concern at Work, can offer independent and confidential advice. They can be contacted on ☎ 020 7404 6609 or by email at whistle@pcaw.co.uk

8. Questions regarding this policy

8.1 Any questions should, in the first instance, be referred to the Monitoring Officer.

9. Review

9.1 This policy will be reviewed annually and will be reported to senior management and Members.

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.

Colchester Borough Council is committed to the highest possible standards of conduct and has, therefore, 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 £9000. To help prevent money laundering, the Council has set a cash payment limit of £8,000. No cash payments above £8,000 will 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") as the following '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
- Doing something that might prejudice an investigation e.g. falsifying a document
- Failure to disclose one of the offences listed in a) to c) above, where there are reasonable grounds for knowledge or suspicion
- 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). He can be contacted on 01206 282213 or at andrew.weavers@colchester.gov.uk

In the absence of the MLRO or in instances where it is suspected that the MLRO themselves are involved in suspicious transactions, concerns should be raised with the Section 151 Officer.

6. Client Identification Procedures

Although not a legal requirement, the Council has developed formal client identification procedures which must be followed when Council land or property is being sold. These procedures require individuals and if appropriate, companies to provide proof of identity and current address.

If satisfactory evidence is not obtained at the outset of a matter, then the transaction must not be progressed and a disclosure report, available on the Hub, must be submitted to the Money Laundering Reporting Officer.

All personal data collected must be kept in compliance with the Data Protection Act.

7. 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 disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later.

Your disclosure should be made to the MLRO using the disclosure report, available on the Hub. 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 dates of such activities
- Whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- 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 judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his 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, then your report must include all relevant details, as you will need consent from 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 he 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 a 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.

8. Consideration of the disclosure by the Money Laundering Reporting Officer

Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.

The MLRO will consider the report and any other available internal information he 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;

And undertake such other reasonable inquiries he thinks 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 disclosure report and any other relevant information, he 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
- whether he needs to seek consent from the SOCA for a particular transaction to proceed.

Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the SOCA on their standard report form and in the prescribed manner, unless he 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 he must note the report accordingly; he can then immediately give his 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 he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.

All disclosure reports referred to the MLRO and reports made by him 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 he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the SOCA.

9. 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.

10. 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 of money laundering offences.

11. Review

This policy and associated procedures will be reviewed annually.

COLCHESTER BOROUGH COUNCIL

FRAUD SANCTIONS POLICY



AMENDED 08.11.12

1. Introduction

- 1.1 Colchester Borough Council aims to provide a modern, customer focused, efficient, effective and secure Housing Benefit service that is continuously seeking to improve. This document sets out the policy of Colchester Borough Council towards sanctions, including criminal prosecutions, for offences relating to benefit fraud.
- 1.2 This policy has been developed with the aim of providing a framework to ensure a fair and consistent approach to the use of formal sanctions. It refers to criteria relating to the offence, offender, value and duration of the fraud which have to be taken into account before considering whether a sanction is appropriate, and if so, which sanction to apply.
- 1.3 This policy needs to be considered in conjunction with the council's Anti-Fraud and Corruption Policy Statement which sets out the commitment to prevent, detect and investigate benefit fraud.
- 1.4 Housing and Council Tax Benefits are administered by a local authority on behalf of the Department of Work and Pensions (DWP) as part of the statutory local government functions. Our policy is therefore a matter for our members. In practice, the policy broadly follows the approach of the Department of Work and Pensions.
- 1.5 With the introduction of the Local Council Tax Support scheme in April 2013 there are amendments due to be made to relevant legislation to bring in the necessary powers, offences and penalties, to allow local authorities to investigate and tackle potential fraudulent council tax support claims. These will be similar to existing rules in relation to council tax benefit which will end in April 2013.

2.0 General Principles

- 2.1 Colchester Borough Council is committed to the prevention, detection, correction, investigation and, where appropriate, prosecution of fraudulent benefit claims.
- 2.2 The aim is to prevent criminal offences occurring by making it clear to our customers that they have a responsibility to provide accurate and timely information about their claims; to punish wrongdoing; and to deter offending.
- 2.3 This policy supports the DWP Public Service Agreement and the Governments latest fraud strategy published in February 2012 called 'Fighting Fraud Locally' It also provides a full response to the need to be effective against fraud in the full range of welfare benefits.
- 2.4 Each potential fraud is assessed against local criteria by Colchester Borough Council's Housing and Council Tax Benefits Investigation Team. This assessment will result either in cases being investigated further under criminal investigation standards or referred to the Housing and Council Tax Benefits Review Team. Review action usually comprises of an interview regarding any changes in circumstances and the allegation concerned. Further action will

depend upon the outcome of the interview but they will be reminded of their responsibilities and may be advised about their future conduct and required to rectify or withdraw their claim.

- 2.5 Each case that is subject to criminal investigation is considered on its own merits, having regard to all of the facts, before an appropriate sanction is administered.

3. Organisation

- 3.1 Criminal investigations are undertaken in accordance with:

- Police and Criminal Evidence Act 1984 and its code of practice
- Criminal Procedures and Investigation Act 1996 and its code of practice
- all other relevant legislative and common law rules
- Departmental Policy
- advice from internal legal department

- 3.2 Fraud Investigators receive Professionalism in Security (PINS) training which is accredited by Portsmouth University. Additional guidance is provided by the Fraud Procedures and Instruction Manual which is regularly updated to ensure that:

- investigations are conducted in a legal and professional manner
- policy and legislation is correctly applied, and
- approved working methods are applied

- 3.3 Colchester Borough Council has a legal team who provide advice and guidance to investigators throughout the investigative and prosecution process if required. They do not conduct any part of the investigation but advise on the investigator's obligations, evidential requirements and any appropriate charges. Colchester Borough Council's legal team are also responsible for identifying those cases which are not suitable for criminal prosecution for evidential reasons.

- 3.4 Colchester Borough Council also has access to free technical support and/or legal advice from the DWP prosecution division.

- 3.5 Colchester Borough Council also works closely with the DWP Fraud Investigation Service (FIS) team operating under similar prosecution practices and has a Fraud Partnership Agreement (FPA) with them to support joint working activity such as joint interviews under caution and investigations, to aid in the tackling of fraud in the full range of welfare benefits.

4. Sanction Process

Where an offence has been committed the Investigation Team can consider administering a caution, offering an administrative penalty, or instigating a prosecution. The choice will depend on the factors below and taking into account the criteria within section 4.9.

Cautions:

- 4.1 A formal caution is an administrative sanction that a local authority in England and Wales is able to offer as an alternative to a prosecution as long as specific criteria are met, and the case is one that Colchester Borough Council could take to court if the caution was refused.
- 4.2 Cautions are usually aimed at the less serious benefit frauds and those where the overpayment is under £2,000. It also provides an additional tool for the Investigation Team to use in those cases where the deterrent effect is considered a sufficient and suitable alternative to prosecution or an administrative penalty.
- 4.3 The offender must admit to the offence in an Interview Under Caution (IUC) and provide informed consent to being cautioned. To be able to offer a caution requires the same standard of criminal evidence as for a prosecution and should only be offered if the authority could prosecute should the caution be refused.
- 4.4 If the customer is consequently prosecuted for another benefit offence the caution can be cited in court.

4.5 Administrative Penalties

- 4.6 An Administrative Penalty is the offer to the customer to agree to pay a financial penalty where the customer has caused benefit to be overpaid to them, by either an act or omission. The amount of the penalty is currently stipulated at 30 percent of the amount of the gross overpayment.
- 4.7 These penalties will be offered where the case is deemed to be not so serious to deserve any other sanction and an Administrative Penalty is considered to be a suitable alternative to prosecution and where the gross overpayment is less than £2,000. Unlike cautions, no admission of guilt is required from the customer before offering an administrative penalty, although there is a statutory requirement for investigators to ensure that there are grounds for instituting criminal proceedings for an offence relating to the overpayment.

4.8 Prosecutions

- 4.9 If there is sufficient evidence Colchester Borough Council will refer the case to the solicitors internally for consideration of criminal prosecution where one or more of the following criteria are met:
 - the gross adjudicated overpayment is £2,000 or over
 - false identities or other personal details have been used
 - false or forged documents have been used
 - official documents have been altered or falsified
 - the person concerned is in a position of trust
 - the person concerned assisted or encouraged others to commit offences
 - there is evidence of premeditation or organised fraud
 - the person concerned has relevant previous convictions
 - the customer had previously been convicted of benefit fraud

- the amount of the adjudicated overpayment is under £2,000 and the offer of an administrative penalty or formal caution is not accepted.
- Is the person in sound mind and in good physical position?
- Are there any social factors (eg death in the family)?

4.91 In all cases, including those which do not fall within any of the above criteria, Colchester Borough Council retains discretion as to whether criminal proceedings are started.

5 Proceeds of Crime Act (POCA)

5.1 Colchester Borough Council Investigation Officers must consider in all suitable cases the ability for a court to obtain restraint and/or confiscation orders of identified assets. A restraint order will prevent a person from dealing with specific assets. A confiscation order will enable the council to recover losses from assets which are found to be the proceeds of crime.

6 Loss of Provision:

6.1 Social security (Loss of Benefit) Regulations 2001 as amended by the Social Security (loss of benefit) Amendment Regulations 2010 allow for reduction or withdrawal of Social Security benefits and allowances in payment to individuals and their partners who have accepted the offer of a caution or administrative penalty. This includes both DWP and Local Authority benefits, such as Council Tax and Housing benefit.

6.2 This provision allows the DWP and local authorities to apply a sanction in the form of a 4 week benefit sanction period where a person accepts an Administrative Penalty, caution or is convicted of benefit fraud on one occasion. Benefits can be withdrawn for the 4 week period.

7 Recovery of Debt:

7.1 Where an overpayment arising from fraud is identified Colchester Borough Council will take steps to recover the resultant debt, including taking action in the civil courts if necessary, in addition to any sanction it may impose in respect of that fraud. The council has an overpayment policy which is updated regularly.

8. Summary

8.1 This policy sets out the main areas that the council takes into consideration when investigating potentially fraudulent claims for benefits. As well as the above, the council is working towards achieving the performance standards set by the DWP for its counter fraud work.

8.2 Whilst the council appreciates that the majority of customers are honest, it will continue to fight abuse of the system by those who falsely claim benefits to which they are not entitled. All investigations will be completed by trained staff who will respect the rights of all customers.

November 2012



Standards Committee

Item

8

21 November 2012

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of Local Code of Corporate Governance		
Wards affected	Not applicable		

This report requests the Committee to review the updated Local Code of Corporate Governance

1. Decision(s) Required

- 1.1 To review the updated Local Code of Corporate Governance and to recommend to Council that it be approved.

2. Background

- 2.1 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.
- 2.2 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.
- 2.3 The Committee considered at its meeting on 24 June 2011 a revised Local Code of Corporate Governance and subsequently the Full Council at its meeting on 19 October 2011 included it within the Council's Policy Framework.
- 2.4 The Local Code of Corporate Governance has been developed in accordance with guidance issued in 2007 jointly by CIPFA (The Chartered Institute of Public Finance and Accountancy) and SOLACE (The Society of Local Authority Chief Executives) entitled "Delivering Good Governance in Local Authorities".
- 2.5 This Guidance identified six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. The principles are;
- Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area;
 - Members and officers working together to achieve a common purpose with clearly defined functions and roles;
 - Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
 - Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
 - Developing the capacity and capability of members and officers to be effective; and
 - Engaging with local people and other stakeholders to ensure robust public accountability.

- 2.2 The six core principles each have a number of supporting principles, which in turn have a range of specific requirements that apply across the range of Council business.
- 2.3 Attached to this report is an updated Local Code of Corporate Governance which has been prepared in light of the Guidance, the six principles and progress made during the last year. It has also been the subject of consultation with various officers.
- 2.4 The Code takes each principle in turn and elaborates on how the Council will meet its aims, what source documents or processes evidence the aims and in addition highlights any further or ongoing work. This in turn links into the Council's Annual Governance Statement.
- 2.5 The following changes to the Code are highlighted for the Committee's information:
- Charter Status for Elected Member Development was achieved in April 2011
 - The Localism Act 2011 led to a number of changes including, access to information regulations, officer pay policy and new standards arrangements.
 - Data Transparency - Code of Recommended Practice for Local Authorities – new section on website to co-ordinate these Central Government requirements.
 - All reference to Comprehensive Area Assessment, Community Strategy and Sustainable Community Strategy have been removed.
- 2.6 The Council achieved Charter Status for Elected Member Development in April 2011. This is recognition that the Council has achieved best practice in the way it provides learning and development opportunities for its elected members. This helps ensure that elected members have the necessary skills and knowledge to effectively represent the community.

In order to achieve Charter Status the Council had to demonstrate that it has met all five of the following criteria:

- Being fully committed to developing elected members in order to achieve the Council's strategic objectives;
- Adopting a member led strategic approach to elected member development;
- Having a member learning and development plan in place that clearly identifies the difference that development activities will make;
- Demonstrating that member learning and development is effective in building capacity;
- Addressing wider development matters to promote work-life balance and citizenship.

To meet these criteria, the Council implemented a number of strategies, including a member development policy, Councillor training plan and an all-party member development group. The award is independently evaluated by South East Employers on behalf of the region. It considers a portfolio of evidence from the Council and conducts an assessment day. The accreditation lasts for three years.

3. Strategic Plan References

- 3.1 The Council's Strategic Plan sets out two categories of priority areas, one of these is "Leading our communities" to help make Colchester the place to live, learn work and visit. Providing clear information, arrangements and policy will help communities and individuals engage with the Council and its objectives.

4. Publicity Considerations

- 4.1 The Local Code of Corporate Governance will be included in the Constitution and will be placed on the Council's website.

5. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 5.1 None.



COLCHESTER BOROUGH COUNCIL

CODE OF CORPORATE GOVERNANCE

Contents

- Core Principle 1** *Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area.*
- Core Principle 2** *Members and officers working together to achieve a common purpose with clearly defined functions and roles.*
- Core Principle 3** *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.*
- Core Principle 4** *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.*
- Core Principle 5** *Developing the capacity and capability of members and officers to be effective.*
- Core Principle 6** *Engaging with local people and other stakeholders to ensure robust public accountability.*

**COLCHESTER BOROUGH COUNCIL
CODE OF CORPORATE GOVERNANCE**

INTRODUCTION

“Governance is about how local government bodies ensure that they are doing the right things, in the right way for everyone, in a timely, inclusive, open, honest and accountable manner.

It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities”.

Delivering Good Governance in Local Authorities (CIPFA/SOLACE 2007)

The CIPFA/SOLACE guidance “Delivering Good Governance in Local Authorities” identified six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. These principles are:

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

This Code of Governance has been prepared in accordance with the Guidance and will be reviewed by the Standards Committee on an annual basis.

Additionally authorities are required to prepare and publish an Annual Governance Statement in accordance with this framework under Regulation 4(2) of the Accounts and Audit (Amendment) (England) Regulations 2006. The Annual Governance Statement is a key corporate document. The Chief Executive and the Leader of the Council have joint responsibility as signatories for its accuracy and completeness.

COLCHESTER BOROUGH COUNCIL: CODE OF CORPORATE GOVERNANCE

Core Principle 1 – Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area		
Our aims in relation to focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area are to:		
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>1.1 Exercise strategic leadership by developing and clearly communicating the authority’s purpose, vision and its intended outcome for citizens and service users</p> <p>1.2 Ensure users receive a high quality service whether directly, or in partnership, or by commissioning</p> <p>1.3 Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money</p>	<p>Strategic Plan Service Plans Sustainable Community Strategy Communications Strategy Consultation – “Consultations, Research and Statistics” Policy Framework Council website – www.colchester.gov.uk Research and Engagement team project work</p>	<p>Strategic Plan 2012-15 Strategic Plan Action Plan – progress is reported to Cabinet on a half yearly basis and published on the Council’s website Review of Council’s Communications and Marketing Customer Insight group</p>
<p>1.1.2 Review on a regular basis the Council’s vision for the local area and its impact on the authority’s governance arrangements</p>	<p>Strategic Plan Medium Term Financial Strategy and Capital Programme Sustainable Community Strategy Local Code of Corporate Governance Annual Governance Statement and Assurance Framework Risk Register</p>	<p>Local Code of Corporate Governance updated as required by CIPFA Guidance</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>1.1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties</p> <p>1.1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance</p>	<p>Strategic Plan Sustainable Community Strategy Partnership Strategy Partnership Register</p> <p>Statement of Accounts Council's website www.colchester.gov.uk "Council Awards and Accreditations" and "Performance and Improvement" – sections on the Council's website</p>	<p>Research is currently being undertaken into establishing the Council's partners key values and vision</p> <p>Strategic Plan actions and monitoring of delivery</p>

<p>1.2.1 Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available</p>	<p>Performance Reporting to Senior Management and Scrutiny Panel. Customer Excellence programme Customer Excellence Standard Consultation – “Consultations, Research and Statistics” section on website Mosaic and Touchstone customer research tools Annual Monitoring Report Audit Commission annual audit letter and recommendations Policy Review and Development Panel</p>	<p>Govmetric Fundamental Service Reviews Projects carried out by the Council's Research and Engagement team</p>
---	--	---

In order to achieve our aims we have/will:	Source documents/processes	Further work ongoing
1.2.2 Put in place effective arrangements to identify and deal with failure in service delivery	<p>Performance Reporting and performance indicators</p> <p>Complaints Procedure</p> <p>Internal Audit Process</p> <p>Finance and Audit Scrutiny Panel</p> <p>Executive Director for People and Performance</p> <p>Performance Management Board</p> <p>Customer Service Centre responsible for web site management</p> <p>Audit Commission annual audit letter and recommendations</p>	<p>Group monitoring of summary service plan delivery.</p> <p>Fundamental Service Reviews</p>
1.3.1 Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.	<p>Performance Reporting</p> <p>Local Authority Carbon Management</p> <p>Nottingham Declaration Strategy and Action Plan</p> <p>Audit Commission annual audit letter and recommendations</p>	<p>Value for money methodology as described in Value for Money section of Use of Resources Carbon Management programme</p> <p>Sustainability assessments for Local Development Framework</p>

Core Principle 2 – Members and Officers working together to achieve a common purpose with clearly defined functions and roles		
Our aims in relation to Members and Officers working together to achieve a common purpose with clearly defined functions and roles are to:		
2.1	Ensure effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function	
2.2	Ensure that a constructive working relationship exists between authority members and officers and the responsibilities of members and officers are carried out to a high standard	
2.3	Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other	
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.1.1 Set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice	Constitution (Cabinet terms of reference) Record of decisions and supporting materials Member/Officer Protocol Member Training and Development Senior officer training Council website – Council and Democracy Section	The Constitution will continue to be reviewed on a rolling basis.
2.1.2 Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers	Constitution (Statutory Officer positions, Terms of Reference for Committees, Member roles) Protocols on planning, the representational role of Members, Chairmen, Officer/Members Schemes of Delegation Conditions of Employment Council website – Council and Democracy Section	Development of a protocol to cover the working arrangements between Portfolio Holders and senior Officers.
2.2.2 Make the chief executive or equivalent responsible and accountable to the authority for all aspects of operational management	Chief Executive designated Head of Paid Service Constitution (Head of Paid Service responsibilities) Conditions of Employment Schemes of Delegation	The Constitution will continue to be reviewed on a rolling basis. Support for this from Executive Director People and Performance

	Job Accountability Statement / Person Specification Signature on Annual Governance Statement	
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.2.3 Develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained	Constitution Member/Officer Protocol Regular 1:2:1's	The Constitution will continue to be reviewed on a rolling basis.
2.2.4 Make a senior officer (usually the section 151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control	Head of Resource Management has been appointed as the Council's Chief Financial Officer (S151 Officer). Constitution Job Accountability Statement / Person Specification S151 Officer Protocol Report template includes financial implications before report considered by Members	Annual Review of Officer Pay Policy by Full Council
2.2.5 Make a senior officer (other than the responsible financial officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations are compiled with (usually the Monitoring Officer)	Legal Services Manager has been appointed as the Council's Monitoring Officer Monitoring Officer Protocol Report template requires that Legal Services are consulted before a report considered by Members	
2.3.1 Develop protocols to ensure effective communication between members and officers in their respective roles	Member / Officer Protocol Planning Procedures Code of Practice Outside Bodies advice given to Members Member and Officer Codes of Conduct	
2.3.2 Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the Approved by Council 2012- DRAFT	Pay and conditions policies and practices Independent Remuneration Panel Terms of Reference and Reports	Annual Review of Officer Pay Policy by Full Council

<p>process including an effective remuneration panel (if applicable)</p>	<p>Regular liaison meeting with Unison</p>	
<p>In order to achieve our aims we have/will:</p> <p>2.3.3 Ensure that effective mechanisms exist to monitor service delivery</p>	<p>Source documents/Processes</p> <p>Performance Reporting and performance indicators Executive Director for People and Performance Complaints Procedure Heads of Service monitoring Service Plans Performance Management Board Performance system Scrutiny Panels</p>	<p>Further work ongoing</p> <p>Customer insight work</p>
<p>2.3.4 Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated</p>	<p>Strategic Plan underpinned by a review of all existing consultation work. Specific consultation with hard to reach groups. Medium Term Financial Strategy Performance reporting and performance indicators Council Website Communications Strategy Courier Customer insight groups</p>	<p>Strategic Plan 2012-15 Strategic Plan Action Plan – progress is reported to Cabinet on a half yearly basis and published on the Council's web site. Fundamental Service Reviews</p>
<p>2.3.5 When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority</p>	<p>Constitution Individual Partnership Agreements Service Level Agreements Advice given to members in relation to outside bodies Partnership Strategy Partnership Register</p>	<p>Research is currently being undertaken into establishing the Council's partners key values and vision</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>2.3.6 When working in partnership:</p> <ul style="list-style-type: none"> • ensure that there is clarity about the legal status of the partnership • ensure that representatives or organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions. 	<p>Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy Partnership Register</p>	<p>Research is currently being undertaken into establishing the Council's partners key values and vision</p>

Core Principle 3 – Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

Our aims in relation to promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour are to:

- 3.1 Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- 3.2 Ensuring that organisational values are put into practice and are effective

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.1 Ensure that the authority’s leadership sets a tone for the organisation by creating a climate of openness, support and respect	<p>Constitution Chief Executive’s and Leader’s blog on the Council’s intranet Performance reporting Leadership days Standards Committee has an overall view of conduct issues established by their terms of reference Member and Officer Codes of Conduct Increased numbers of Independent Members appointed to Standards Committee Member/Officer Protocol Whistleblowing Policy Anti Fraud and Corruption Policy Freedom of Information Policy statement and publication scheme Monitoring Officer and S151 Officer Protocols Planning Procedures Code of Practice Officer Register of Gifts and Hospitality Officer voluntary register of interests Member’s Register of Interests Website and intranet</p>	<p>Best Councils’ survey work Quarterly briefing for staff New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011 Annual review of Whistleblowing Policy and Gifts and Hospitality Annual review of Anti- Fraud and Corruption Policy New “Corporate Governance” section set up on the Council’s website to bring all relevant information together under one heading Flexible working and Way We Work Programme</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>3.1.2 Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols</p>	<p>Corporate Roadshows by Chief Executive for staff Executive Management Team shadowing Hub and Spokes Officers focus group Portfolio Holders monthly sessions with senior officers</p> <p>Member and Officer Codes of Conduct Performance System Complaints procedures Anti-fraud and Corruption Policy Member/Officer Protocols Member Development Programme Officer training on Member/ officer relationship Whistleblowing Policy Information and Communication Technology (ICT) Security Policy Safeguarding Children's Policy Safeguarding Vulnerable Adults Policy Hub (intranet)</p>	<p>New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011</p> <p>Annual review of Whistleblowing Policy</p> <p>Annual review of Anti Fraud and Corruption Policy</p> <p>Charter Status for Elected Member Development which was <u>achieved in April 2011</u></p>
<p>3.1.3 Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice</p>	<p>Member and Officer Codes of Conduct Equality and Diversity training for Members and Officers Financial Procedure Rules, Contract Procedure Rules Anti-Fraud and Corruption Policy Whistleblowing Policy Registers of Interests (Officers and Members) Services and processes are underpinned by Equality Impact Assessments</p>	<p>New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011</p> <p>Annual review of Whistleblowing Policy</p> <p>Annual review of Anti Fraud and Corruption Policy</p>

	Equality Objectives Officer induction and training Source documents/Processes	Further work ongoing
<p>In order to achieve our aims we have/will:</p> <p>3.2.1 Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners</p>	<p>Member and Officer Codes of Conduct Strategic Plan, Administration's vision, objectives and priorities in place and being shared Way We Work Programme - organisational values for People, Customer Excellence, Leadership of Place Shaping and Transformation Performance reporting Customer Excellence</p>	<p>Strategic Plan Action Plan – progress is reported to scrutiny on a half yearly basis People Strategy actions Fundamental Service Review of Customer Contact</p>
<p>3.2.2 Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice</p>	<p>Contract Procedure Rules Anti-Fraud and Corruption Policy Whistle Blowing Policy Member and Officer Codes of Conduct Monitoring of the above takes place by the Standards Committee ICT Security Policy</p>	<p>Reporting through to Standards Committee on a regular basis New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011 Charter Status for Elected Member Development which was <u>achieved in April 2011</u></p>
<p>3.2.3 Develop and maintain an effective Standards Committee</p>	<p>Agenda and Minutes Terms of Reference Regular meetings Work programme</p>	<p>New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011 Annual review of the Localism Act Arrangements by the Standards Committee.</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>3.2.4 Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority</p>	<p>Member and Officer Codes of Conduct Strategic Plan, Administration's vision, objectives and priorities in place and being shared Way We Work Programme Performance Appraisals Customer Excellence Leadership days Portfolio Holder sessions with Senior Managers Policy Framework</p>	<p>New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011</p>
<p>3.2.5 In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively</p>	<p>Values agreed with each partner Partnership Register Partnership Strategy</p>	

Core Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

Our aims in relation to taking informed and transparent decisions which are subject to effective scrutiny and managing risk are to:

- 4.1 Being rigorous and transparent about how decisions are taken and listening and acting on the outcomes of constructive scrutiny
- 4.2 Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
- 4.3 Ensuring that an effective risk management system is in place
- 4.4 Using their legal powers to the full benefit of the citizens and communities in their areas

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>4.1.1. Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the organisation's performance overall and of any organisation for which it is responsible</p>	<p>Scrutiny is supported by robust evidence and data analysis Agenda and Minutes Work programme Successful outcome of reviews Training on developing meaningful work programme Training for scrutiny chairman Scrutiny of partners and joint projects</p>	<p>Individual skills for successful scrutiny training in for members in conjunction with Ipswich and Tendring District Councils</p>
<p>4.1.2. Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based</p>	<p>Constitution Decision making protocols Record of decisions and supporting materials Report template Decision list published Meetings Factory on Council's website</p>	
<p>4.1.3. Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice</p>	<p>Member and Officer Codes of Conduct Member and Officer Registers of Interests Declaration of Interests at meetings Code of Conduct guidance and training provided to Members and Officers</p>	<p>New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
	<p>Planning procedures Code of Practice Standards Committee have responsibility for these issues Monitoring Officer reports on these issues Politically restricted posts Anti-Fraud and Corruption Policy</p>	<p>Annual review of Anti- Fraud and Corruption Policy</p>
<p>4.1.4 Develop and maintain an effective Audit Committee (or equivalent) which is independent or make other appropriate arrangements for the discharge of the functions of such a committee</p>	<p>Finance and Audit Scrutiny Panel Terms of Reference Accounts and Regulatory Committee Audit awareness training Agenda and Minutes</p>	
<p>4.1.5 Put in place effective transparent and accessible arrangements for dealing with complaints</p>	<p>Complaints procedure "Help us get it right"</p>	<p>Customer insight work New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011</p>
<p>4.2.1 Ensure that those making decisions whether for the authority or partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications</p>	<p>Council's Website Report templates dealing with key aspects Report by Head of Service with necessary technical expertise included Training and professional development Equality Impact Assessments</p>	<p>Projects carried out by the Council's Research and Engagement Team Customer insight work</p>
<p>4.2.2 Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately</p>	<p>Report template requires that consultation is undertaken with Monitoring Officer and S151 Officer before report considered by Members Record of decision making and supporting materials S151 and Monitoring Officer Protocols Equality Impact Assessments</p>	<p>Localism Act access to information regulations introduced September 2012</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>4.3.1 Ensure that risk management is embedded into the culture of the organisation, with members and managers at all levels recognising that risk management is part of their job</p>	<p>Risk Management Strategy part of the Policy Framework Corporate Risk Manager Corporate/service planning Cabinet Member with accountability for risk management Finance and Audit Scrutiny Panel monthly monitoring role of top 5 risks and regular review of whole risk register Performance Management Board quarterly risk review Risk Registers- Strategic, Operational and Project Risk and Control self assessment completed by all managers Training for Members and Officers</p>	<p>Currently developing Members training session. Officer training as and when required through Group Management Teams Fundamental Service reviews look at different ways of delivering services, with risk taken into account</p>
<p>4.3.2 Ensure that arrangements are in place for Whistleblowing to which staff and all those contracting with the authority have access</p>	<p>Whistleblowing Policy Information for contractors Monitoring Officer Constitution</p>	<p>Annual review of Whistleblowing Policy</p>
<p>4.4.1 Actively recognise the limits of lawful activity placed on them by, for example the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities</p>	<p>Constitution Monitoring Officer Report templates Equality Impact Assessments Equality Objectives</p>	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>4.4.2 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law</p>	<p>Availability of professional legal advice Monitoring Officer Protocol S151 Officer Protocol Report templates Constitution Equality Impact Assessments Equality Objectives</p>	
<p>4.4.3 Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice into their procedures and decision making processes</p>	<p>Monitoring Officer Protocol S151 Officer Protocol Procedure Rules Report template Constitution Format for quasi judicial committees “Have Your Say” leaflet Planning Procedure Code of Practice Equality Impact Assessments Equality Objectives</p>	<p>Data Transparency - Code of Recommended Practice for Local Authorities –section on website to coordinate these requirements. DCLG is currently consulting on additional items to be added to the Code in 2013</p>

Core Principle 5 – Developing the capacity and capability of Members and Officers to be effective

Our aims in relation to developing the capacity and capability of Members and Officers to be effective are:

- 5.1 Making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles
- 5.2 Developing the capability of people with governance responsibilities and evaluating their performance as an individual and as a group
- 5.3 Encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>5.1.1 Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis</p>	<p>Member training and development Member and Officer Induction programmes Refresher courses Briefings Officer Development Plan (individual and corporate) Appraisals for officers People Strategy Personal Development Plans Learning and Development Strategy/Annual Plan</p>	<p>Member skills development Charter Status for Elected Member Development which was <u>achieved in April 2011</u></p>
<p>5.1.2 Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the organisation</p>	<p>Appraisals Training Induction Monitoring Officer and S151 Officer Protocols Employee Policies Learning and Development Strategy/Annual Learning and Development Plan</p>	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.2.1 Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively	Appraisals for officers SMART objectives Personal Development Plans for officers Member training and development People Strategy Learning and Development Strategy/Annual Learning and Development Plan	Member skills development Charter Status for Elected Member Development which was <u>achieved in April 2011</u>
5.2.2 Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	Appraisals for officers Personal Development Plans for officers Member training and development Member scrutiny training People Strategy Colchester Learning Managers and Customer Excellence awards	Member skills development Charter Status for Elected Member Development which was <u>achieved in April 2011</u> Fundamental Service Reviews
5.2.3 Ensure that effective arrangements are in place for reviewing the performance of the authority as a whole and of individual members and agreeing an action plan which might for example aim to address any training or development needs	Performance reporting and performance indicators Performance and Improvement Framework Performance management and appraisals for officers SMART objectives People Strategy Investors in People Assessment Annual Audit Letter Organisational Assessment	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>5.3.1 Ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority</p>	<p>Equality Impact Assessments on services and policies Consultations, Research and Statistics on website Voluntary Sector Compact Mosaic and Touchstone Public meetings Equality Objectives Strategic Plan Consultation Local Development Framework consultation Life opportunities and Community development work Neighbourhood Action Panels Consultations (eg waste survey carried out using a range of communication methods to encourage participation) Customer insight work Research and Engagement Team projects</p>	<p>Review of Council communications and marketing</p>
<p>5.3.2 Ensure that career structures are in place for Members and Officers to encourage participation and development</p>	<p>People Strategy Internal Recruitment Process Internal Secondments Personal Development Plans for officers</p>	<p>Human Resource Plans Member skills development Fundamental Service Reviews</p>

Core Principle 6 – Engaging with local people and other stakeholders to ensure robust public accountability

Our aims in relation to engaging with local people and other stakeholders to ensure robust public accountability are to:

- 6.1 Exercise leadership through a robust scrutiny function which engages effectively with local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships
- 6.2 Take an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly, in partnership or by commissioning
- 6.3 Make best use of human resources by taking an active and planned approach to meet responsibility to staff

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.1.1 Make clear to themselves, all staff and the community, to whom they are accountable and for what	Constitution Community Strategy Stakeholder identification Targets and Performance Monitoring Website and intranet Consultation Strategy Communications Strategy Satisfaction surveys	
6.1.2 Consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required	Stakeholder identification Statutory provisions Stakeholder surveys Consultation Strategy Communications Strategy Partnership Strategy Partnership Register	
6.1.3 Produce an annual report on scrutiny function activity	Annual Report	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.2.1 Ensure that clear channels of communication are in place with all sections of the community and other stakeholders including monitoring arrangements to ensure that they operate effectively	Communications Strategy Websites Equality Impact Assessments Courier Safeguarding Children Policy Safeguarding Vulnerable Adults Policy	Review of Council communication and marketing
6.2.2 Hold meetings in public unless there are good reasons for confidentiality	Constitution Access to Information Rules	Key Decisions and Private Meetings section of website Localism Act access to information regulations introduced September 2012
6.2.3 Ensure arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands	Strategic Plan Website - "Consultations, Research and Statistics" section Consultation strategy Communications strategy Equality Objectives and Equality Impact Assessments Corporate business plan Service Plans Budget Consultation Meeting	Fundamental Service Reviews
6.2.4 Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users including a feedback mechanism for those consultees to demonstrate what has changed as a result	Statement of Community Involvement Customer Excellence Customer insight project team Partnership framework Communication strategy Consultation Strategy Budget Consultation meeting Strategic Plan consultation Mosaic and Touchstone	Govmetric Customer insight work Website - "Consultations, Research and Statistics" section

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>6.2.5 On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period</p>	<p>Statement of Accounts Strategic Plan Website www.colchester.gov.uk</p> <p>Performance Reporting and Performance Indicators</p> <p>Council website has "Performance and Improvement" "Council Awards and Achievements" and "Council and Democracy" sections</p> <p>Archived agendas and minutes now published as well as the current ones on the website</p>	<p>Strategic Plan Action Plan – progress is reported to scrutiny on a half yearly basis</p>
<p>6.2.6 Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so</p>	<p>Constitution</p> <p>Customer service standards</p> <p>Voluntary Sector Compact</p> <p>"Have Your Say" at meetings</p> <p>Freedom of Information Act Publication Scheme</p> <p>Member and Officer Codes of Conduct</p> <p>Way We Work Programme</p> <p>Whistle Blowing Policy</p> <p>Anti-Fraud and Corruption Policy</p> <p>Monitoring Officer Protocol</p> <p>Communications Policy</p> <p>Data Protections Policy</p> <p>ICT Security Policy</p> <p>Council website</p>	<p>Annual review of Whistleblowing Policy</p> <p>Annual review of Anti-Fraud and Corruption Policy</p> <p>New standards arrangements brought in force on 1 July 2012 in line with the Localism Act 2011</p> <p>Localism Act access to information regulations introduced September 2012</p> <p>Data Transparency - Code of Recommended Practice for Local Authorities –section on website to coordinate these requirements. DCLG is currently consulting on additional items to be added to the Code in 2013</p>

<p>6.3.1 Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making</p>	<p>Investors in People Facilities and Recognition Agreement with UNISON</p>	<p>Communications Strategy</p>
---	---	--------------------------------

21 November 2012

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Changes to RIPA Code of Practice		
Wards affected	Not applicable		

**This report requests the Committee to approve changes
to the Council's RIPA Code of Practice**

1. Decision(s) Required

- 1.1 That the Council's amended RIPA Code of Practice on covert surveillance be approved and adopted.

2. Background

- 2.1 Under the Regulation of Investigatory Powers Act 2000 ("RIPA") the Council is an authorised body and can, in certain circumstances, approve the use of "directed surveillance". The Council can only authorise the use of directed surveillance for the purposes of preventing or detecting crime or preventing disorder.
- 2.2 In accordance with RIPA the Council has appropriate procedures in place regarding authorisation of applications for directed surveillance which is governed by a Code of Practice which is subject to regular review and independent external scrutiny and inspection by the Office of the Surveillance Commissioner.
- 2.3 The Government had announced that it was intending to review the ability of local authorities to authorise directed surveillance themselves. Provisions have now been introduced in the Protection of Freedoms Act 2012 which came into force on 1 November 2012 which require the additional approval of a magistrate for all local authority authorisations.
- 2.4 Accordingly it has been necessary to amend the Council's Code of Practice to reflect this fundamental change and the amended Code of Practice is appended to this report.
- 2.5 The Protection of Freedoms Act also introduces a "crime threshold" which means that direct surveillance can now only be used where the authority is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco. Directed surveillance can no longer be used to investigate disorder that does not involve criminal offences or to investigate low-level offences which include for example littering, dog control and fly-posting.

3. Strategic Plan References

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

4. Publicity Considerations

4.1 The Local Code of Corporate Governance will be included in the Constitution and will be placed on the Council's website

5. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

5.1 None.



COLCHESTER BOROUGH COUNCIL

REGULATION OF INVESTIGATORY POWERS ACT 2000

CODE OF PRACTICE ON COVERT SURVEILLANCE

COLCHESTER BOROUGH COUNCIL

REGULATION OF INVESTIGATORY POWERS ACT 2000

CODE OF PRACTICE ON COVERT SURVEILLANCE

1. Introduction

The Council enforces the law in a number of areas. As part of this enforcement there will be occasions where surveillance of individuals or property is necessary to ensure that the law is being complied with. When the Council does decide to undertake surveillance it is important that it remains within the law which is contained in the Regulation of Investigatory Powers Act 2000 ("the Act") as amended by the Protection of Freedoms Act 2012.

The Act sets out certain criteria that the Council has to comply with before it undertakes surveillance and those are also reflected in the Office of Surveillance Commissioners' Code of Practice on Covert Surveillance ("the Code"). This is available on the Home Office website:

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

The Home office has also issued guidance ("the Guidance") on the judicial approval process for RIPA and the crime threshold for directed surveillance.

You will need to familiarise yourself with the contents of the Code and the Guidance. This is available on the Home Office website:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/local-authority-england-wales?view=Binary>

Other guidance is available on the Office of Surveillance Commissioners website:

www.surveillancecommissioners.gov.uk

The Council will comply with the Code when carrying out directed surveillance and officers should be aware of its provisions. Failure to observe the provisions of the Act may result in the protection of the Act not being available. This may mean that the evidence gathered:

- *is not admissible in court proceedings.*
- *is a breach of an individual's human rights.*

This policy sets out how Colchester Borough Council (including Colchester Borough Homes) will comply with the Act, the Code and the Guidance. It also clarifies the circumstances in which officers will be able to use covert surveillance and the internal requirements that will need to be observed when conducting that surveillance.

The Policy Statement should be read in conjunction with the Council's Data Protection Policy.

The Policy Statement will be made available for inspection at Council offices.

2. What does the Act and the Code cover?

The Act and the Code cover covert surveillance, which is defined in the Act as being surveillance which *“is carried out in manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place”*.

2.1 Directed surveillance

Local authorities can only use a form of covert surveillance called “directed surveillance”. This is defined in the Act as where the surveillance is covert but not intrusive and is undertaken:

- For the purposes of a specific investigation or operation
- In such a manner as is likely to result in the obtaining of private information about a person (whether or not specifically identified for the purposes of the investigation) and
- Otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under the Act to be sought

“Private Information” in relation to a person includes any information relating to their private or family life.

Surveillance is not covert if notification has been sent to the intended subject of the surveillance. For example, in a noise nuisance case a letter notifying a subject that the noise will be monitored by officers visiting will make the surveillance overt. However as a matter of good practice surveillance should be considered covert if the notification to the subject is over 3 months old. All communications of this nature should be sent by Registered Post or delivered by hand.

2.2 General observations

General observations by officers in the course of their duties are not covered by the Act and the Code says that;

“General observation forms part of the duties of many law enforcement officers and other public bodies...This low level activity will not usually be regulated under the provisions of the 2000 Act”.

Directed surveillance will not include surveillance that is undertaken as a immediate response to events or circumstances which, by their nature could not have been foreseen. This will include situations where officers are out in the normal course of their duties and happen to witness an activity, for

example a housing officer visiting tenants and witnessing anti social behaviour by an individual. *In other words, where there is no systematic surveillance.*

If there is any doubt as to whether a RIPA authorisation is required you should seek advice from the Council's Legal Services.

2.3 Intrusive surveillance

"Intrusive Surveillance" is surveillance that is;

- Carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- Involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

Intrusive Surveillance cannot be authorised by local authority officers and all officers are strictly prohibited from engaging in Intrusive Surveillance

2.4 Covert Human Intelligence Sources

The Council is also permitted to use Covert Human Intelligence Sources under the Act. A Covert Human Intelligence Source is someone who establishes or maintains a personal or other relationship for the covert purpose of helping the covert use of the relationship to obtain information. However at the current time the Council does not consider this necessary and will not use Covert Human Intelligence Sources.

All officers are strictly prohibited from using Covert Human Intelligence Sources.

3. Areas of operation

The Council has examined its functions and considers that the following areas may use directed surveillance from time to time. The following is not meant to be an exhaustive list but covers areas where directed surveillance may be necessary in the course of the Council's business.

- Neighbour nuisance and anti social behaviour
- Protection of Council property
- Licensing enforcement
- Fraud against the Council(including benefit fraud)
- Misuse of Council property, facilities and services
- Enforcement of the planning regime
- Environmental monitoring and control
- Food Safety enforcement.
- CCTV, but more on this later (see 7.2)

4. Authorisation and Authorising Officers

If directed surveillance is proposed to be carried out then **authorisation must be sought**. Under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010, the Council considers that the following officers can authorise directed surveillance (these officers are either Chief Officers, Assistant Chief Officers, Assistant Heads of Service, Service Manager or officers in charge of investigations);

Executive Directors
Head of Corporate Management
Head of Environmental and Protective Services
Head of Life Opportunities
Head of Resource Management
Head of Strategic Policy and Regeneration
Head of Street Services

Any case involving Confidential Information must be authorised by the Chief Executive.

Any officer authorising directed surveillance should ensure that the request meets the criteria set down in the Act, the Code and the Guidance . Officers may not authorise directed surveillance connected with an investigation in which they are directly involved.

Any application to extend or cancel surveillance must also be approved by one of the officers named above.

Once any application is approved by the Authorising Officer it must be referred to Legal Services who will seek approval from a Magistrate .

No directed surveillance may be undertaken by the Council without the prior approval of a Magistrate.

5. Crime Threshold

The Guidance states that the Council:

- **can** only grant an authorisation under RIPA for the use of directed surveillance where it is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco.
- **cannot** authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment.

- **can** authorise use of directed surveillance in more serious cases as long as the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a Magistrate has been granted. Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more could include more serious criminal damage, dangerous waste dumping and serious or serial benefit fraud.
- **can** authorise the use of directed surveillance for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a Magistrate has been granted.
- **cannot** authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences which include, for example, littering, dog control and fly-posting.

6. Grounds for granting an authorisation

An authorisation for directed surveillance may only be granted if the authorising officer believes that authorisation is necessary:

- for the purposes of preventing or detecting crime or of preventing disorder and it meets the crime threshold mentioned in 5 . above.

AND the authorising officer must also believe that the surveillance is proportionate to what it seeks to achieve.

The Code advises that following elements of proportionality should be considered:

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

Covert surveillance will only be used for one of the legitimate purposes where sufficient evidence exists to justify the surveillance and the surveillance is the least harmful method of meeting that purpose. The surveillance itself must be a proportionate response to the issue it is seeking to address. Consideration should be given to alternative methods of resolving the situation or obtaining the evidence sought and this should be documented.

Particular attention should be paid to the effect of the surveillance on the privacy of other persons ("collateral intrusion"). Measures should be taken to

avoid or minimise intrusion. Any collateral intrusion should be taken into account when the authorising officer is assessing proportionality.

7. Procedure for authorisations, cancellations and renewals

7.1 Authorisations

An authorisation must be granted by those persons authorised at 4 above. No other person is permitted to authorise directed surveillance.

Authorisations must be in writing on the form attached.

In urgent cases authorisations may be given verbally but this is likely to be necessary only in exceptional circumstances. If a verbal authorisation is granted then it should be followed by an application in writing on the form attached as soon as is reasonably practicable and in any event within 72 hours.

Authorisation cannot be given to operations after they have commenced. Failure to obtain correct authorisation may mean that evidence is not admissible in legal proceedings and may breach a subject's human rights.

The authorisation form must be kept on the relevant case papers and held securely. A copy of the authorisation must be passed to Legal Services to be held on a central file and monitored for consistency of approach of authorising officers and validity.

An authorisation will cease to have effect (unless renewed) at the end of a period of *three months* beginning with the day on which it took effect.

7.2 Magistrates Approval

Once an Authorisation form has been completed Legal Services will:

- contact the Magistrates Court to arrange for a hearing
- supply the court with a partially completed judicial application/ order form
- supply the court with a copy of the Authorisation and any supporting documents setting out the Council's case
- the hearing will be in private and be heard by as single justice of the peace.
- The justice of the peace may decide to either:
 - (i) approve the grant (or renewal) of an authorisation; or
 - (ii) refuse to approve the grant (or renewal) of an authorisation

7.3 Review

Officers should, as a matter of good practice review authorisations on a regular basis during the course of that surveillance to ensure that the authorisation still meets the criteria. If it does not the authorisation should be cancelled using the procedure described below. A review form is attached.

Officers in charge of investigations will be required to keep a record of these reviews and will submit a record of that review (normally by email) to the Monitoring Officer to be held centrally.

7.4 Renewals

A renewal of an authorisation can be made at any time before it expires and should be done on the form attached. The original should be kept on the case file and a copy passed to the Monitoring Officer for retention centrally. When considering whether to grant a renewal of an authorisation the authorising officer will consider the same factors outlined at 5 above. All renewals must be subject of an application to the Magistrates Court in line with the procedure at 7.2 above.

7.5 Cancellations

The person who last granted or renewed the authorisation must cancel it if s/he is satisfied that the directed surveillance no longer meets the criteria for authorisation. A cancellation should be made on the form attached. The original should be retained on the case file and a copy passed to Legal Services for retention centrally.

Authorisations, renewals and cancellations are subject to monitoring on an annual basis by the Monitoring Officer as to validity under the Act and the Code.

7.6 Audit

At the end of each calendar year each of the Authorising Officers referred to at 4 must provide the Monitoring Officer with a list of all directed surveillance authorised by them throughout that year or provide written and signed confirmation that no such surveillance has been authorised by them

8. Miscellaneous Points

8.1 Material obtained from covert surveillance ("product")

Material produced as a result of covert surveillance will be secured and transported securely. Where the product obtained is to be used in criminal proceedings the Council must comply with the provisions of the Police and Criminal Evidence Act 1984. In all other cases the treatment of product must follow Council's guidelines on access, retention and storage as set out in the Data Protection Policy.

8.2 CCTV

The Act and the Code will not usually apply to use of an overt CCTV system because the public are aware that the system is in use. However there are circumstances where the system is used for the purposes of a *specific operation or investigation* and in these circumstances an authorisation will be

required. If the police assume operational control of the system an authorisation complying with their own procedures must be supplied to the Council. Further information in respect of these procedures can be found in the Council's CCTV Code of Practice, which has been produced in conjunction with Essex Police

9. Training

The Council will endeavour to ensure that the Officers who are authorising directed surveillance are appropriately trained.

All authorising officers and those routinely engaged in directed surveillance have been provided with this guidance, have access to the Code and the standard forms.

This Code of Practice and the standard forms are available in electronic format on the Hub under One Council/ Corporate Governance/ Code of practice of covert surveillance.

10. General Best Practices

The following guidelines are considered as best working practices by all public authorities with regard to all applications for authorisations covered by the Code:

- applications should avoid any repetition of information;
- information contained in applications should be limited to that required by the relevant legislation;
- where authorisations are granted orally under urgency procedures a record detailing the actions authorised and the reasons why the urgency procedures were used should be recorded by the applicant and authorising officer as a priority. (There is then no requirement subsequently to submit a full written application);
- an application should not require the sanction of any person in the Council other than the authorising officer;
- where it is foreseen that other agencies will be involved in carrying out the surveillance, these agencies should be detailed in the application;
- authorisations should not generally be sought for activities already authorised following an application by the same or a different public authority.

11. Senior Responsible Officer

The Council's nominated Senior Responsible Officer in accordance with the Code is Andrew Weavers, Monitoring Officer who will be responsible for:

- the integrity of the process in place within the Council to authorise directed surveillance;
- compliance with Part II of the Act, the Code and the Guidance;
- engagement with the Office of the Surveillance Commissioners and inspectors when they conduct their inspections, and where necessary,

- overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.
- that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of the Surveillance Commissioners.

12. Complaints

The Act , the Code and the Guidance are subject to monitoring by the Office of the Surveillance Commissioners. Any complaints regarding use of surveillance powers should be dealt with initially through the Council's Complaints and Compliments Procedure. If this does not result in a satisfactory outcome for the complainant then they should be referred to:

The Investigatory Powers Tribunal
PO Box 33220
London SW1V 9QZ
Tel: 0207 035 3711
Website : www.ipt-uk.com

13. Queries about this Code of Practice

Any queries regarding this Code of Practice should be referred to the Monitoring Officer, Andrew Weavers on ☎ 2213 or by email at andrew.weavers@colchester.gov.uk

