

Governance Committee

Grand Jury Room, Town Hall
15 October 2013 at 6.00pm

To consider and approve the Council's Statement of Accounts and review the Council's annual audit letter. To consider and approve the Council's governance, risk management and audit arrangements. To make recommendations to the Council on functions such as Elections and byelaws, and determine Community Governance Reviews.

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Governance Committee - Terms of Reference (but not limited to)

Accounts and Audit

To consider and approve the Council's Statement of Accounts and the Council's financial accounts, and review the Council's external auditor's annual audit letter.

Governance

To consider the findings of the annual review of governance including the effectiveness of the system of internal audit and approve the signing of the Annual Governance Statement.

To have an overview of the Council's control arrangements including risk management and in particular with regard to the annual audit plan and work programme, and to approve the policies contained in the Council's Ethical Governance Framework.

Other regulatory matters

To make recommendations to Council on functions such as elections, the name and status of areas and individuals, and byelaws.

To determine and approve Community Governance Reviews.

Standards in relation to Member Conduct

To consider reports from the Monitoring Officer on the effectiveness of the Members' Code of Conduct, and to advise the Council on the adoption or revision of the Code.

To receive referrals from the Monitoring Officer into allegations of misconduct and to create a Hearings Sub-Committee to hear and determine complaints about Members and Co-opted Members referred to it by the Monitoring Officer.

To conduct hearings on behalf of the Parish and Town Councils and to make recommendation to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish or Town Councillor.

To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.

To grant dispensations, and to hear and determine appeals against refusal to grant dispensations by the Monitoring Officer.

To make recommendations to Council regarding the appointment of Independent Persons.

**COLCHESTER BOROUGH COUNCIL
GOVERNANCE COMMITTEE
15 October 2013 at 6:00pm**

Members

Chairman : Councillor Ray Gamble.
Deputy Chairman : Councillor Nigel Offen.
Councillors Cyril Liddy, Christopher Arnold, Sue Lissimore,
Peter Sheane and Laura Sykes.

Substitute Members : All members of Council who are not Cabinet members or members of this Panel.

Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

The following Parish Council Representatives / Independent Persons have been invited to attend this meeting as non-voting Committee members for items 8 to 12:-

- Parish Councillor Malcolm Bartier (Copford)
- Parish Councillor Sue Chamley (Chappel)
- Sarah Greatorex
- Barbara Pears

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 to silent;
- the audio-recording of meetings;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. 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.

4. 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.

5. Minutes

1 - 4

To confirm as a correct record the Minutes of the meeting held on 24 September 2013.

6. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

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|---|------------------|
| 7. Annual Statement of Accounts 2012/13 | 5 - 6 |
| See report by the Assistant Chief Executive. | |
| 8. Review of Members' Code of Conduct and the Council's "Arrangements" | 7 - 9 |
| See report by the Monitoring Officer. | |
| 9. Local Government Ombudsman - Annual Review 2012-13 | 10 - 17 |
| See report by the Monitoring Officer. | |
| 10. Review of the Ethical Governance Policies | 18 - 71 |
| See report by the Monitoring Officer. | |
| 11. Review of Local Code of Corporate Governance | 72 - 98 |
| See report by the Monitoring Officer. | |
| 12. Guidance for Councillors and Officers on Outside Bodies | 99 - 111 |
| See report by the Monitoring Officer. | |
| 13. Work Programme | 112 - 114 |
| See report by the Assistant Chief Executive. | |

GOVERNANCE COMMITTEE

24 SEPTEMBER 2013

- Present :-* Councillor Nigel Offen (Chairman)
Councillors Christopher Arnold, Cyril Liddy and
Laura Sykes
- Substitute Members :-* Councillor Bill Frame for Councillor Ray Gamble
Councillor Pauline Hazell for Councillor Peter Sheane
- Also in Attendance :-* Councillor Will Quince
Councillor Anne Turrell

11. Welcome and Announcements

Councillor Offen announced the retirement of Robert Judd, Democratic Services Officer, after thirty three years of service. Councillor Offen, on behalf of the Committee thanked Robert for his service to the Council.

12. Apologies

Councillor Lissimore gave her apology for not attending the meeting.

13. Minutes

Mr. Matt Sterling, Assistant Chief Executive, confirmed that the loss of income from Leisure World's Events Service was of a five figure sum, as mentioned in the minutes of the meeting held on 25 June 2013.

The minutes of the meeting held on the 25 June 2013 was confirmed as a correct record.

14. Annual Statement of Accounts

Ms. Debbie Hanson, Director, Ernst Young, and Mr. Steve Heath, Finance Manager attended the meeting for this item.

Mr. Heath had previously briefed Members of the Committee (an invitation was extended to all Members of the Committee) on the Annual Statement of Accounts at a 2.30pm briefing on Thursday 19 September, 2013. Councillors Pauline Hazell, Cyril Liddy, Nigel Offen (Chairman) and Laura Sykes attended the briefing.

15. Audit Committee Summary and Annual Statement of Accounts

Councillor Frame (in respect of being a Director of the Stadium Board) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(5);

The Audit Committee Summary summarised the findings from the 2012/13 audit which is substantially complete.

Ms. Hanson presented the Audit Committee Summary, highlighting the key findings from the Executive Summary. These included the Financial Statements, in which the audit demonstrated that the Council had prepared its financial statements well, reflected in the low number of issues brought to the Committee's attention, and Value for Money, in which the Council has made the appropriate arrangements to secure economy, efficiency and effectiveness of resources.

Ms. Hanson said the Auditor will be issuing an unqualified statement and an Audit Certificate will be issued to demonstrate that the full requirements of the Audit Commission's Code of Audit have been discharged for the relevant audit year. Ms. Hanson confirmed that she anticipated issuing the opinion by this coming Thursday (26 September).

Ms. Hanson concluded by commending the financial officers involved in completing the annual accounts.

In response to Councillor Frame regarding the annual audit fee and how many audit days this equated to, Ms. Hanson said the fee is set by the Audit Commission. The auditor works within the fee, setting out their work programme in consultation with the district Council, that matches the budget provided.

Councillor Sykes thanked officers for organising the briefing on 19 September. Councillor Sykes said having spent time examining the information provided praised officers for an excellent piece of work.

Councillor Arnold said the accounts had been prepared excellently, and asked that congratulations from the Committee be passed to the finance officers.

Mr. Heath presented the covering report to the Audit Committee Summary, saying that the report represented the formal completion of the Council's accounts approval process, and this report together with the Committee briefing sought to ensure that the Committee had a broad understanding of the accounts.

Mr. Heath confirmed to Councillor Liddy that the £79 million mentioned in the accounts was a one-off payment, and related to the HRA reform where the Council had to pay money over to the Government to buy the Council out of the Housing subsidy scheme. The payment was processed in March 2012, just prior to the closure of the 2011/12 accounts. Mr Heath agreed that this transition stood out as a very substantial figure.

In response to Councillor Hazell regarding the contingency plans in place for 'Bedroom Tax', Mr. Heath said from an accounting prospective officer meetings are scheduled for

next month specifically to address the financial impact, risk and remedial action for the 2014/15 accounts.

Regarding the Council's plans to address the continual pension strain, in response to Councillor Frame, Mr. Heath said the financial position is looked at annually by the Actuary Essex County Council then confirm to the participating authorities within the scheme the annual back funding payments, and these will be reflected in the 2014/15 Budget.

Councillor Offen said life expectancy was rising rapidly and this will have a huge impact on future pension funding.

Councillor Turrell, Leader of the Council, addressed the Committee, concurring with the comments of officers and members, saying whilst she too had concerns about pension funding, all local authorities are in the same situation, totally out of the control of the district authorities, with a need for all participating authorities to follow public sector policy.

Councillor Arnold said it was an Essex wide scheme, and the commitment to existing pensioners and contributors will continue. He could not envisage a change to the current arrangements unless central government did so through legislation, and consideration could be given to a different set of pension options for new employees. Councillor Hazell had always considered that what appeared to be a generous public sector pensions was balanced out by local government pay being lower than in the private sector.

Councillor Frame said pensions nationally are changing, with private companies having to adapt their schemes for them to remain solvent, for example, the days of final salary schemes are a thing of the past. He felt it was appropriate that public sector organisations should be able to adapt their schemes to a changing financial environment. Councillor Frame said he would like to see the Council make representations to Essex County Council concerning the continuous year on year back payments by local district councils, and the need to lobby Government into making the appropriate changes.

Councillor Offen said the discussions about Council pensions could continue under the following Work Programme item.

RESOLVED that the Committee:

- (i) Accepted the Auditors' report and noted the comments in the covering report.
- (ii) Approved the letter of representation and the audited Statement of Accounts.
- (iii) Thanked officers for preparing the accounts accurately and in a timely fashion.
- (iv) Requested the Finance Manager to provide to Committee Members a copy of the account notes within the Statement of Accounts.

16. Work Programme

Councillor Lissimore was in attendance for this item.

Councillor Offen requested a review of pensions, with a paper to include the current and future financial strain and any previous pensions reports, to be presented to a future meeting.

Councillor L. Sykes requested an update at the November meeting on the progress made regarding the recent issues at the Shrub end Depot, together with a paper on the Council's policy regarding the recruitment of staff related to internal employees. Councillors Arnold and Hazell supported Councillor Sykes request.

RESOLVED that the Committee

- i) Noted the current Work Programme.
- ii) Requested a pensions review, and asked the Assistant Chief Executive to arrange for the Human Resources Manager to present a paper to a future meeting of the Committee (date to be agreed with the Chairman), to include the current and future financial strain, and any previous pension reports.
- iii) Requested that the 2013-14 Internal Audit Monitor to be presented to the November meeting includes an update on the recent issues at the Shrub End Depot.
- iv) Requested that the Human Resources Manager presents a paper to the November meeting on the Council's current policy regarding recruitment procedures and processes for job applicants who are related to staff already employed by the Council, especially where the vacancy is within the service area where the relation is employed.



Governance Committee

Item

7

15 October 2013

Report of	Assistant Chief Executive	Author	Steve Heath ☎ 282389
Title	Annual Statement of Accounts 2012/13		
Wards affected	Not applicable		

**This report presents the audited Statement of Accounts for
2012/13**

1. Action required

- 1.1 To note the publication of the audited Statement of Accounts (SOA) for 2012/13.

2. Supporting information

- 2.1 The annual SOA for the financial year 2012/13 has now been published. Once again this year, the SOA has only been produced in an electronic format. Elected members, business organisations and other interested parties will be notified of the availability of the SOA, together with details of its location.
- 2.2 The pre-audit SOA was certified by the responsible financial officer on 25 June in accordance with the statutory deadline. A report was presented to this Committee on 25 June highlighting the availability of the draft accounts, and explaining the key financial statements. Following the submission of the Auditors' report to the Committee on 24 September, The Committee approved the audited accounts and the Section 151 Officer submitted the Letter of Representation providing assurance about the information within the SOA.
- 2.3 On 26 September 2013 the Auditor issued an unqualified opinion that the accounts give a true and fair view of the Council's financial position as at 31 March 2013 and its income and expenditure for the year then ended. The audit has now been formally closed, and the audited accounts were published on the Council's website on 30 September 2013.
- 2.4 In submitting this report, and the earlier reports, the Council is following procedures set out in the Accounts and Audit Regulations 2011. By law the Council must publish audited accounts by the statutory deadline of 30 September and this has been achieved.

3. Strategic Plan references

- 3.1 The objectives and priorities of the Strategic Plan informed all stages of the budget process for 2012/13.

4. Financial implications

- 4.1 The publication of the audited SOA meets a statutory requirement for financial reporting and is an important part of the process to demonstrate accountability in the use of public funds.

5. Publicity considerations

- 5.1 The availability of the SOA will be advertised in the local press on Friday 4 October 2013, and via social media.

6. Other standard references

- 6.1 Having considered consultation, equality, diversity and human rights, health and safety and community safety and risk management implications, there are none that are significant to the matters in this report.

Background Papers

Available on the Colchester Borough Council website:

Statement of Accounts 2012/13

Draft Annual Statement of Accounts – Report to Governance Committee 25 June 2013

Annual Statement of Accounts – Report to Governance Committee 24 September 2013



Governance Committee

Item
8

15 October 2013

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of the Members' Code of Conduct and the Council's "Arrangements"		
Wards affected	Not applicable		

This report requests the Committee to review the Members' Code of Conduct and the Council's "Arrangements"

1. Decision(s) Required

- 1.1 To note the contents of this report.
- 1.2 That the Committee keeps the Members' Code of Conduct and the Council's "Arrangements" under annual review and recommends to Council any subsequent amendments in the light of experience.

2. Background

- 2.1 The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Members. These new arrangements came into effect on 1st July 2012. The Localism Act required that local authorities adopted a code of conduct consistent with the seven Nolan Principles of public life and that Principal Authorities put in place "Arrangements" to deal with allegations that Councillors had failed to comply with the Members' Code of Conduct. Principal Authorities were also required to appoint at least one "Independent Person" who would be consulted as part of the Council's "Arrangements".
- 2.2 The Full Council at its meeting on 25 June 2012 formally adopted the Borough Council's Members' Code of Conduct and its "Arrangements" which are attached to this report at Appendix 1 and Appendix 2 respectively. As part of its "Arrangements", the meeting also appointed Derek Coe as the Council's Independent Person until 30 June 2013 in accordance with transitional arrangements under the Localism Act.
- 2.3 The Full Council at its meeting on 22 May 2013 appointed Barbara Pears and Sarah Greatorix following a public recruitment exercise as the Council's new Independent Persons for a term of four years.
- 2.4 The Localism Act also introduced a new interest's regime which included a new register of Members' interests. The Government published guidance in August 2012 for councillors on interests ("Openness and transparency on personal interests – a guide for councillors") which has been circulated to all Borough Councillors and to every Town and Parish Council within the Borough.
- 2.3 The Localism Act places on the Borough Council a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.
- 2.4 It is now over a year since the provisions introduced by the Localism Act were introduced and it is appropriate to review our experience in operating those provisions so far.

3.0 Review of the Code

- 3.1 The Localism Act did not prescribe the contents of the Code (save to be consistent with the seven Nolan principles) and accordingly the version of the Members' Code of Conduct adopted by the Full Council was a version promoted by the Public Law Partnership. This was to ensure a consistent approach across the County and to ensure that all council's (County, districts and parishes) adopted the same version of the Code so as to provide a sense of clarity for Councillors.
- 3.2 All the Town and Parish Council's in the Borough adopted the Borough Council's Code. However one Parish Council has subsequently adopted an alternative version. The Borough Council's Code has been operating successfully without any apparent difficulties or concerns and I would propose that the Committee keeps the Code under annual review and recommends to Council any subsequent amendments in the light of experience.
- 3.3 The Localism Act required the Monitoring Officer to compile and publish on the Borough Council's website a new register of Members Interests. This includes Disclosable Pecuniary Interests for both Councillors and their partners and also pecuniary and non-pecuniary interests just for councillors. All of the Borough Councillors interests are published and most of those of the Town and Parish Councillors in the Borough have also been published on the Borough Council's website. However, the Localism Act did not make it a statutory requirement for all existing councillors to register their declarable interests. The Act did make it an offence for a councillor to fail to register their declarable interests within a period of 28 days of becoming elected. However the Government stated in its guidance:-

"All sitting councillors need to register their declarable interest. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty (i.e. Nolan Principles), with which you must comply"

This has been specifically been drawn to the attention of all Town and Parish councils.

- 3.4 Training on the Code on Conduct was provided by the Monitoring Officer last year and refresher training is always available as required.

4.0 Review of the Arrangements

- 4.1 The Localism Act required the Council to adopt "arrangements" for dealing with allegations that Councillors have failed to comply with the Code. Any allegations that Councillors have not complied with the Disclosable Pecuniary Interests regime under the Localism Act are not dealt with under the Council's "Arrangements" as they are potentially criminal offences and need to be dealt with by the Police. As at the date of this report there have been no such allegations or referrals.
- 4.2 The Council's "Arrangements" comprise a more streamlined approach to dealing with councillor complaints compared to the previous regime. The "Arrangements" are made publically available on the Borough Council's website and have been used on several occasions. All allegations are received by the Monitoring Officer who makes an assessment of the merits of the complaint in consultation with the Independent Person.
- 4.3 The table below details the number, type and outcome of allegations received since 1 July 2012. The majority of allegations came under the heading of "treating others with respect" with one being under the heading of "not to do anything which may cause the Authority to breach any of the equality enactments".

Allegations	July12 – March13	April 13 – October 13	Total
Number of allegations received	2	3	5
Borough Councillors	1	3*	4
Parish Councillors	1	1	2

* one complaint was made against two councillors

Source of complaints	July12 – March13	April 13 – October 13	Total
Member of the public	2	6#	8
Borough Councillors	0	0	0
Parish Councillors	0	0	0
County Councillors	0	0	0
Member of Parliament	0	1	1

five separate persons made same complaint against one councillor

Outcome	July12 – March13	April 13 – October 13	Total
Merits no further investigation	2	3	5
Merits further investigation	0	0	0
Referral to Governance Committee	0	0	0

- 4.4 The Council's "Arrangements" appear to be operating satisfactorily and I would propose that the Committee keeps them under annual review and recommends to Council any subsequent amendments in the light of experience.

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 The Council's Code of Conduct and "Arrangements" are available on the Council's website at www.colchester.gov.uk/standards

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

- 7.1 None.



Governance Committee

Item
9

15 October 2013

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Local Government Ombudsman – Annual Review 2012/2013		
Wards affected	Not applicable		

This report request the Committee to note the Local Government Ombudsman’s Annual Review for 2012/2013

1. Decision Required

- 1.1 To note the contents of the Local Government Ombudsman’s Annual Review for 2012/2013.

2. Supporting Information

- 2.1 The Local Government Ombudsman issues an Annual Review to each local authority. The Annual Review for Colchester for the year ending 31 March 2013 is attached to this report at Appendix 1.
- 2.2 This year the Local Government Ombudsman have only presented the total number of complaints received and will not be providing the more detailed information that they have provided in previous years. The reason for this being that the Local Government Ombudsman changed its business processes during the course of 2012/13 and is unable to provide a consistent set of data for the entire year. However, the Annual Review next year will provide more detailed statistics.
- 2.3 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.
- 2.4 The contents of the Annual Review were reported to Cabinet on 4 September 2013 where the Cabinet noted the report.

3. Key Headlines

- 3.1 There were no findings of maladministration against the Council and no formal reports were issued.
- 3.2 Last year the Local Government Ombudsman received 10 complaints regarding the Council. This is a reduction from the 28 enquires received in the previous year. The average number of complaints received for District Council’s was also 10.

3.3 From April 2013, as a result of the Localism Act 2011, local authority tenants' complaints regarding their landlord are now made to the Housing Ombudsman. It is expected that in due course the Housing Ombudsman will produce an annual review. Attached at Appendix 2 are details of the jurisdictional split of responsibilities between the Local Government Ombudsman and the Housing Ombudsman.

4. Financial Considerations

4.1 No direct implications other than mentioned in this report.

5. Strategic Plan References

5.1 The lessons learnt from complaints to the Local Government 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

6. Equality, Diversity and Human Rights Implications

6.1 No direct implications.

7. Publicity Considerations

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

9. Consultation, Community Safety, Health and Safety and Risk Management Implications

9.1 No direct implications.

16 July 2013

By email

Mr Adrian Pritchard
Chief Executive
Colchester Borough Council

Dear Mr Pritchard

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2013. This year we have only presented the total number of complaints received and will not be providing the more detailed information that we have offered in previous years.

The reason for this is that we changed our business processes during the course of 2012/13 and therefore would not be able to provide you with a consistent set of data for the entire year.

In 2012/13 we received 10 complaints about your local authority. This compares to the following average number (recognising considerable population variations between authorities of a similar type):

District/Borough Councils-	10 complaints
Unitary Authorities-	36 complaints
Metropolitan Councils-	49 complaints
County Councils-	54 complaints
London Boroughs-	79 complaints

Future development of annual review letters

We remain committed to sharing information about your council's performance and will be providing more detailed information in next year's letters. We want to ensure that the data we provide is relevant and helps local authorities to continuously improve the way they handle complaints from the public and have today launched a consultation on the future format of our annual letters.

I encourage you to respond and highlight how you think our data can best support local accountability and service improvements. The consultation can be found by going to www.surveymonkey.com/s/annualletters

LGO governance arrangements

As part of the work to prepare LGO for the challenges of the future we have refreshed our governance arrangements and have a new executive team structure made up of Heather Lees, the Commission Operating Officer, and our two Executive Directors Nigel Ellis and Michael King. The Executive team are responsible for the day to day management of LGO.

Since November 2012 Anne Seex, my fellow Local Government Ombudsman, has been on sick leave. We have quickly adapted to working with a single Ombudsman and we have formally taken the view that this is the appropriate structure with which to operate in the future. Our sponsor department is conducting a review to enable us to develop our future governance arrangements. Our delegations have been amended so that investigators are able to make decisions on my behalf on all local authority and adult social care complaints in England.

Publishing decisions

Last year we wrote to explain that we would be publishing the final decision on all complaints on our website. We consider this to be an important step in increasing our transparency and accountability and we are the first public sector ombudsman to do this. Publication will apply to all complaints received after the 1 April 2013 with the first decisions appearing on our website over the coming weeks. I hope that your authority will also find this development to be useful and use the decisions on complaints about all local authorities as a tool to identify potential improvement to your own service.

Assessment Code

Earlier in the year we introduced an assessment code that helps us to determine the circumstances where we will investigate a complaint. We apply this code during our initial assessment of all new complaints. Details of the code can be found at:

www.lgo.org.uk/making-a-complaint/how-we-will-deal-with-your-complaint/assessment-code

Annual Report and Accounts

Today we have also published *Raising the Standards*, our Annual Report and Accounts for 2012/13. It details what we have done over the last 12 months to improve our own performance, to drive up standards in the complaints system and to improve the performance of public services. The report can be found on our website at www.lgo.org.uk

Yours sincerely

A handwritten signature in black ink that reads "Jane Martin". The signature is written in a cursive style with a long horizontal flourish at the end.

Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

COMPLAINTS ABOUT SOCIAL HOUSING: HOUSING OMBUDSMAN AND THE LOCAL GOVERNMENT OMBUDSMAN

Background

From April 2013 the Housing Ombudsman will deal with all complaints about social housing. Tenants of local housing authorities and Arms Length Management Organisations previously had the right to refer complaints about housing to the Local Government Ombudsman.

The Housing Ombudsman will continue to investigate complaints against housing associations and in addition, will investigate complaints about a local authority's landlord function. This means that complaints about a local authority's relationship as landlord to its tenants or leaseholders will be considered by the Housing Ombudsman rather than the Local Government Ombudsman.

The Local Government Ombudsman will continue to consider complaints about local authorities' wider activities, for example in discharging their statutory duties in homelessness. There are areas where there may appear to be some over-lap between the jurisdiction of the two Ombudsmen. The following guide has been developed to help clarify which Ombudsman may consider various categories of complaint.

From 1 April 2013 the Housing Ombudsman can only consider complaints that have been referred by a 'designated person' (MP, councillor or recognised tenant panel), or by the tenant themselves if 8 weeks have passed from the completion of the landlords internal complaint process. This provision does not apply to complaints made to the Local Government Ombudsman. These complaints can still be referred directly.

Both Ombudsmen are able to conduct joint investigations and are putting in hand liaison arrangements to ensure that there is early discussion of cases which engage both jurisdictions.

The following sets out the complaint categories that should be referred to the different Ombudsman services. Inclusion of a complaint category does not mean that the Ombudsmen will necessarily investigate the complaint. The Ombudsmen may decide that part or all of the complaint falls outside their jurisdiction, or they may decide that there are other reasons why they should not investigate. But if that is the case, they will explain why.

Complaints referred to the Housing Ombudsman

Unless stated otherwise the Housing Ombudsman considers complaints about housing associations and local housing authorities.

Leasehold services

- Shared ownership and sales processes for leasehold properties
- Shared ownership stair-casing
- Full ownership and sales processes for leasehold properties owned by housing associations
- Right to buy and right to acquire for tenants of housing associations
- Repair responsibilities under the lease
- Mortgage rescue schemes
- Leasehold services provided by the landlord

Moving to a property

- Transfer applications that are outside Housing Act 1996 Part 6 (see further info)
- Type of tenancy offered
- Mutual exchange
- Decision to renew a fixed tenancy
- Decants
- Mobility Schemes

Rent and service charges

- Rent or service charges

Occupancy rights

- Terms and conditions of occupancy rights
- Succession
- Assignment
- Ending a tenancy (e.g. notice periods)
- Abandonment of property
- Possession proceedings

Property condition – repairs and improvements

- Condition of the property when first let (e.g. void works)
- Responsive repairs
- Planned maintenance or cyclical works
- Improvement works carried out by landlord or tenant
- Rechargeable repairs
- Disabled adaptations

Tenant behaviour

- Anti-social behaviour
- Noise nuisance
- Harassment

Estate management

- Cleaning or repairs of communal areas
- Boundary issues
- Grounds maintenance
- Parking
- Use of communal areas

Complaint handling

- The landlord's handling of a complaint in their complaint process, including delays

Compensation

- Home loss or disturbance payments
- Improvements carried out by the tenant

- Payment for damage to property or tenants belongings
- Discretionary payments

Complaints referred to the Local Government Ombudsman

Unless stated otherwise the Local Government Ombudsman considers complaints about local authorities.

Housing allocations under Housing Act 1996 Part 6

- Applications for re-housing that meet the reasonable preference criteria (dealt with by the local housing authority or any other body acting on its behalf, which could include a housing association). Includes complaints about:
 - Assessment of such applications, the award of points, banding or a decision that the application does not qualify for reasonable preference
 - Operation of choice based lettings schemes and about the suitability of accommodation offered under those schemes.

Homelessness under Housing Act 1996 Part 7

- Applications for assistance under the homelessness legislation (dealt with by the local housing authority or any other body acting on its behalf, which could include a housing association). Includes complaints about:
 - Homelessness advice and homelessness prevention activities
 - How applications are dealt with and decisions about eligibility for and allocation of interim and temporary accommodation.

General housing advice

- General advice from the local authority about housing options
- Handling of reports from tenants of private landlords about unlawful eviction, harassment and other matters

Housing benefit

- Handling of applications for housing benefit

Housing improvement grants

- Applications for mandatory and discretionary housing improvement grants. Includes complaints about:
 - Provision of advice, processing of applications, preparation of schedules of work, payment of grant and other decisions on grant eligibility and entitlement
 - Actions of social services occupational therapy services with regard to assessment and eligibility for disabled facilities grant

Antisocial behaviour

- Antisocial behaviour which does not fall within the remit of a social landlord.

Noise nuisance

- Reports of statutory noise and other nuisance to environmental health services

Sale or disposal of land on housing estates

- Applications or requests to buy parcels of land owned by local authorities
- Sales processes for properties owned by local authorities
- Right to buy and right to acquire for tenants of local authorities

Planning and building control at properties owned by a social landlord

- Applications for planning permission
- Planning enforcement
- Applications and enforcement under the building regulations

Delivery of adult social care services, including that done by registered social landlords



Governance Committee

Item
10

15 October 2013

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of the Ethical Governance Policies		
Wards affected	Not applicable		

This report requests the Committee to review the updated Ethical Governance policies

1. Decision(s) Required

1.1 To review the following revised policies:

- Anti-Fraud and Corruption,
- Whistleblowing,
- Benefits Sanctions,
- Anti-Money Laundering,
- Corporate Information Security
- Covert Surveillance

1.2 And to recommend to Council that they be approved for inclusion in the Council's policy framework.

2. Background

- 2.1 The Council is committed to maintaining the highest standards of governance including the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly, openly and accountably so as to protect public safety and public money.
- 2.2 A varied range of policies and procedures form the Corporate Governance framework and a selection of these relate to Ethical Governance - those specifically regarding conduct and integrity.
- 2.3 The Ethical Governance policies set out the standards of conduct and integrity that it expects from staff, elected members, suppliers, partners, volunteers and the public. Breaches of the policies will be pursued and procedures have been introduced to enable any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.
- 2.4 In February 2012 full Council adopted a statement of intent in relation to both Ethical and Corporate Governance which gave a high organisational commitment to zero tolerance of fraud, corruption and bribery. The Ethical Governance policies were also adopted as part of the Council's policy framework.

3. Review of Ethical Governance Policies

- 3.1 The Anti-Fraud and Corruption, Whistleblowing, Benefits Sanctions, Anti-Money Laundering and Covert Surveillance policies were last reviewed by the former Standards Committee in November 2012.
- 3.2 These policies have been reviewed to ensure that they remain fit for purpose and no changes are proposed to the policies apart from the Benefits Sanctions Policy which has been updated in the following areas:
- **Sanctions** – More detail has been added around the criteria for when a sanction is applicable
 - **Loss Of Benefit** – Legislation change; longer benefit exclusion periods following an Administrative Penalty, Caution or prosecution now up to 3years exclusion.
 - **Administrative Penalties** – Legislation Change; Administrative Penalty amounts increased from 30% to 50% of overpaid benefit. Also added in ability to offer in LCTS cases
 - **Additional Penalties** – Legislation change; Ability for LA to now offer small (£50 or £70) penalties where customer is negligent (rather than intentionally fraudulent) for Housing Benefit and LCTS
- 3.3 The Corporate Information Security Policy was last reviewed in 2008 and it has now been reviewed to bring it in line with the other Ethical Governance policies to ensure it is fit for purpose.

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



Anti-Fraud & Corruption Policy

A guide to the Council's approach to preventing fraud and corruption and managing suspected cases.

October 2013

Contents

Page

1.0	INTRODUCTION	1
2.0	OVERVIEW	1
3.0	CULTURE	2
4.0	RESPONSIBILITIES & PREVENTION	1
4.1	Responsibilities of Elected Members	1
4.2	Responsibilities of the Monitoring Officer	3
4.3	Responsibilities of the Section 151 Officer	3
4.4	Responsibilities of the Senior Management Team	1
4.5	Responsibilities of Employees	4
4.6	Role of Internal Audit	4
4.7	Role of the Benefits Investigation	1
4.8	Role of the Ethical Governance Review Team	1
4.9	Role of the External Auditors	5
4.10	Role of the Public	5
4.11	Conflicts of Interest	5
4.12	Official Guidance	1
5.0	DETECTION & INVESTIGATION	1
5.1	Disciplinary Action	6
5.2	Prosecution	6
5.3	Publicity	1
6.0	AWARENESS & MONITORING	1

ANTI-FRAUD & CORRUPTION POLICY

1.0 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'.

2.0 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.”

3.0 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

4.0 RESPONSIBILITIES & PREVENTION

4.1 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.

4.2 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.

4.3 Responsibilities of the Section 151 Officer

The Finance Manager has been designated with 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 Section 151 Officer contributes to the anti-fraud and corruption framework of the Council.

4.4 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.

4.5 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.

4.6 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.

4.7 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.

4.8 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.

4.9 Role of the External Auditors

Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by Ernst & Young 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.

4.10 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.

4.11 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.

4.12 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, HM Customs & Excise and the Inland Revenue. These bodies are important in highlighting any areas where improvements can be made.

5.0 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.

5.1 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 be dealt with in accordance with the Arrangement agreed by the Council in accordance with the Localism Act 2011.

5.2 Prosecution

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

5.3 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.

6.0 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 at least annually and will be reported to senior management and committee.



Whistleblowing Policy

A guide for employees and Councillors on how to raise concerns about conduct within the Council.

October 2013

Contents

Page

1.0	Introduction	1
2.0	Aims and Scope of the Whistleblowing Policy	2
3.0	Safeguards	3
3.1	Harassment or Victimisation	3
3.2	Confidentiality	3
3.3	Anonymous Allegations	3
3.4	Untrue Allegations	4
4.0	How to raise a concern	4
5.0	How the Council will respond	5
6.0	The Responsible Officer	6
7.0	How the matter can be taken further	6
8.0	Questions regarding this policy	6
9.0	Review	6

WHISTLEBLOWING POLICY

1.0 Introduction

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.

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.

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."

This policy and procedure applies to all employees, councillors, partners, volunteers and contractors. It also covers suppliers and members of the public.

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.

This policy has been discussed with the relevant trade unions and has their support.

2.0 Aims and Scope of the Whistleblowing Policy

This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice without fear of recrimination
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith
- advise you of the support that the Council will provide if you raise concerns in good faith

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:

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

This concern may be about something that:

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

3.0 Safeguards

3.1 Harassment or Victimisation

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

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.

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.

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.

3.2 Confidentiality

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.

3.3 Anonymous Allegations

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

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

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

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

3.4 Untrue Allegations

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.

4.0 How to raise a concern

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

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:

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

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

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.

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

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.

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.

Further guidance on protection for anyone raising a concern can be found in the Public Interests Disclosure Act 1998.

5.0 How the Council will respond

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

Where appropriate, the matters raised may be:

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

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.

Some concerns may be resolved by agreed action without the need for investigation.

Within **five** working days of a concern being raised, one of the named Officers will write to you:

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- informing you whether any initial enquiries have been made
- supplying you with information on staff support mechanisms, and
- informing you whether further investigations will take place and if not, why not.

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.

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.

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.

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.

6.0 The Responsible Officer

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 Governance Committee.

7.0 How the matter can be taken further

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 Governance Committee.

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

8.0 Questions regarding this policy

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

9.0 Review

This policy will be reviewed on an annual basis.



Fraud Sanctions Policy

A guide to the Council's approach to the use of formal sanctions in relation to Housing Benefit Fraud and Local Council Tax Fraud.

October 2013

Contents

Page

1.0	INTRODUCTION	1
2.0	GENERAL PRINCIPLES	1
3.0	ORGANISATION	1
4.0	SANCTIONS	2
5.0	CAUTIONS	1
6.0	ADMINISTRATIVE PENALTIES	1
7.0	PROSECUTIONS	1
8.0	CIVIL PENALTIES	4
9.0	PROCEEDS OF CRIME ACT (POCA)	1
10.0	LOSS OF BENEFIT (LOB):	1
11.0	RECOVERY OF DEBT	5
12.0	SUMMARY	5

FRAUD SANCTIONS POLICY

1.0 INTRODUCTION

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 Housing Benefit Fraud and Local Council Tax Fraud.

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.

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.

Housing Benefit is administered by a local authority on behalf of the Department of Work and Pensions (DWP) as part of the statutory local government functions. Furthermore, Local Council Tax Support is a locally defined Council Tax Reduction scheme and therefore our Policy is a matter for our members. In practice, the benefit investigation aspect of the policy broadly follows the approach of the Department of Work and Pensions.

2.0 GENERAL PRINCIPLES

Colchester Borough Council is committed to the prevention, detection, correction, investigation and, where appropriate, prosecution of fraudulent claims to Housing Benefit or Local Council Tax Support (LCTS).

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.

This policy supports the DWP Public Service Agreement and the Government's 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 and Local Government Finance.

Each potential fraud is assessed against local criteria by Colchester Borough Council's Investigations Team. This assessment will result either in cases being investigated further to criminal investigation standards or referred to a Benefits officer to Review. 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.

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

3.0 ORGANISATION

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 and/or external legal professionals

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

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 give advice 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.

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

Colchester Borough Council works closely with the DWP Fraud Investigation Service (FIS) team operating under similar prosecution practices and has a Fraud Partnership Agreement (FPA) with them. The agreement supports 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. Furthermore, the DWP have a financial investigations team who any LA has access to; to administer the confiscation order process.

4.0 SANCTIONS

Where an offence is believed to have been committed the Investigation Team can consider administering a caution, offering an administrative penalty, or instigating a prosecution. The decision to offer a penalty or commence criminal proceedings will depend on the customer's individual circumstances; taking into account the criteria within section 7.1 and 7.2.

Civil penalties are also available to be administered by Colchester Borough Council at a statutory set amount where no other sanction has been accepted by the customer. The customer must have been considered to have acted negligently rather than with intent as per a criminal offence in order to have a Civil Penalty imposed.

5.0 CAUTIONS

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. Cautions are not appropriate to be used in cases of LCTS fraud.

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.

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.

If the customer is consequently prosecuted for another benefit offence the caution can be cited in court.

6.0 ADMINISTRATIVE PENALTIES

An Administrative Penalty is the offer to the customer to agree to pay a financial penalty where, the customer has caused or could have caused by either an act or omission excess Housing Benefit or LCTS to be paid to them or a third party.

The amount of the penalty is set in statute at 30 or 50 percent of the amount of the gross overpayment and/or excess reduction; dependant on when the offences occurred. An Administrative Penalty can be offered where the overpayment of Housing Benefit is less than £4000. For LCTS cases the Administrative Penalty can be offered for Excess Reductions amounting to less than £2000.

Additional penalties for 'attempts' to receive increased Reductions or Housing Benefit by act or omission are set in statute as £100 or £350 respectively.

Administrative Penalties will be offered where the case is deemed to be not as serious to deserve any other sanction and an Administrative Penalty is considered to be a suitable alternative to prosecution, where the gross overpayment falls within the statutory provisions. 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.

7.0 PROSECUTIONS

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 or excess reduction 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 offer of an administrative penalty or formal caution is not accepted or withdrawn

Further consideration should be given to the following:

- Length of the suspected offence?
- Health at the time of the suspected offence and now?
- Are there any social factors to consider
 - Health
 - Family make up
 - Financials
 - Geographical location

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.

8.0 CIVIL PENALTIES

The aim of the civil penalty is to address the financial loss to the Exchequer which arises from claimant error in Housing Benefit and Council Tax Support claims and make customers more personally responsible for overpayments they incur in relation to such claims. Civil Penalties for both Housing Benefit and LCTS matters can be offered to customers where a customer:

(a) negligently makes incorrect statements and fails to take reasonable steps to correct the error or

(b) fails, without reasonable excuse, to provide information or to disclose changes in their circumstances.

A penalty administered in respect of LCTS is set in statute as £70; as per The Council Tax Reduction schemes (Detection of Fraud and Enforcement) (England) Regulations 2013

A penalty administered in respect of Housing Benefit is set in statute as £50 as per The Social Security (Civil Penalties) Regulations 2012.

9.0 PROCEEDS OF CRIME ACT (POCA)

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 derived from the proceeds of crime.

10.0 LOSS OF BENEFIT (LOB):

The Loss of Benefit provisions are designed to be a deterrent against abuses of the benefit system.

Social security (Loss of Benefit) Regulations 2001 as amended by the Social Security (loss of benefit) Amendment Regulations 2013 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, administrative penalty or have been prosecuted. This includes both DWP and Local Authority benefits, such as Housing benefit.

The following list is the level of Loss of Benefit imposed dependant on the nature and frequency of fraud offences;

- Level 1 – Offences which result in an Administrative Penalty or caution will result in a LOB penalty of 4 weeks
- Level 2 – For a first benefit fraud conviction the LOB penalty duration will be 13 weeks
- Level 3 – Where there are two offences, within a set time period, with the latter resulting in a conviction the LOB penalty will be for a period of 26 weeks
- Level 4 – A 3 year LOB penalty will apply where there are three offences within a set time period the latter resulting in a conviction
- Level 5 – An immediate 3 year LOB for serious organized and identity fraud cases

11.0 RECOVERY OF DEBT

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 a Corporate Debt policy which is updated regularly.

12.0 SUMMARY

This policy represents a commitment to protect public funds and to ensure that benefits are delivered only to those who have a true entitlement to them. 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.



Anti-Money Laundering Policy

A guide to the Council's anti-money laundering safeguards and reporting arrangements.

October 2013

Contents

Page

1. Introduction	1
2. Scope of the Policy	1
3. Definition of Money Laundering	1
4. Requirements of the Money Laundering Legislation	1
5. The Money Laundering Reporting Officer (MLRO)	2
6. Client Identification Procedures	2
7. Reporting Procedure for Suspicions of Money Laundering	1
8. Consideration of the disclosure by the MLRO	4
9. Training	5
10. Conclusion	5
11. Review	5

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.

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 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, 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 the Serious Organised Crime Agency (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 NCIS 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 will be reviewed annually.



Code of Practice on Covert Surveillance

A guide to the Council's approach to the Regulation of Investigatory Powers Act 2000.

October 2013

Contents	Page
1.0 INTRODUCTION	1
2.0 WHAT DOES THE ACT AND THE CODE COVER?	1
2.1 Directed surveillance	2
2.2 General observations	2
2.3 Intrusive surveillance	1
2.4 Covert Human Intelligence Sources	3
3.0 AREAS OF OPERATION	3
4.0 AUTHORISATION AND AUTHORISING OFFICERS	1
5.0 CRIME THRESHOLD	4
6.0 GROUNDS FOR GRANTING AN AUTHORISATION	5
7.0 PROCEDURE FOR AUTHORISATIONS, CANCELLATIONS AND RENEWALS	6
7.1 Authorisations	6
7.2 Magistrates Approval	6
7.3 Review	6
7.4 Renewals	6
7.5 Cancellations	1
7.6 Audit	7
8.0 MISCELLANEOUS POINTS	7
8.1 Material obtained from covert surveillance ("product")	7
8.2 CCTV	7
9.0 TRAINING	7
10.0 GENERAL BEST PRACTICES	1
11.0 SENIOR RESPONSIBLE OFFICER	8
12.0 COMPLAINTS	8
13.0 QUERIES ABOUT THIS CODE OF PRACTICE	8

CODE OF PRACTICE ON COVERT SURVEILLANCE

1.0 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.

2.0 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.

3.0 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)

Subject to the crime threshold referred to at 5.

4.0 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

Assistant Chief Executive Corporate and Financial Management

Head of Commercial Services

Head of Community Services

Head of Customer Services

Head of Operational Services

Head of Professional 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.

5.0 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.

6.0 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.

7.0 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.

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 renews 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

8.0 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

9.0 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.

10.0 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;
- 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.

11.0 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.

12.0 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

13.0 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



Corporate Information Security Policy

A guide to the Council's responsibility to maintain, safeguard and comply with the laws governing the processing and use of information and communications technology.

October 2013

Contents

Page

1.0	Introduction	1
2.0	Information Security Framework	2
3.0	Objectives	2
4.0	Scope	2
5.0	Legal and Regulatory Obligations	3
6.0	Roles and Responsibilities	3
6.1	Chief Executive Officer	3
6.2	Information Security Management Group	3
6.3	Information Security Officer	3
6.4	SIRO (Senior Information Risk Owner)	3
6.5	Risk Manager	4
6.6	Information Owners (also referred to as Information Asset Owners)	4
6.7	Directors, Heads of Service and Line Managers	4
6.8	Employees	4
6.9	Users of systems and information	5
7.0	Approach to Risk Management	5
8.0	Incident Reporting and Management	6
9.0	Review	6
10.0	Awareness, Compliance and Auditing	6
11.0	Monitoring	7
12.0	Documentation	7
	Appendix A – Key Legislation & Regulation	9

CORPORATE INFORMATION SECURITY POLICY

1.0 Introduction

Information resources are vital to Colchester Borough Council in the delivery of services to residents, businesses and visitors. Their availability, integrity, security and confidentiality are essential to maintain service levels, legal compliance and the public image and public perception of the Council.

It is important that citizens are able to trust the Council to act appropriately when obtaining and holding information and when using the authority's facilities. It is also important that information owned by other organisations which is made available to the Council under secondary disclosure agreements is treated appropriately.

Any public authority which uses or provides information resources has a responsibility to maintain, safeguard them, and comply with the laws governing the processing and use of information and communications technology.

The Chief Executive has ultimate responsibility and endorses the adoption and implementation of this Information Security Policy. Delegated responsibilities are set out in section 6 and rest with Corporate ICT and the Information Team with regard to the maintenance and review of the Corporate Information Security policy, Conditions of Acceptable Use and Personal Commitment Statements as well as local policies.

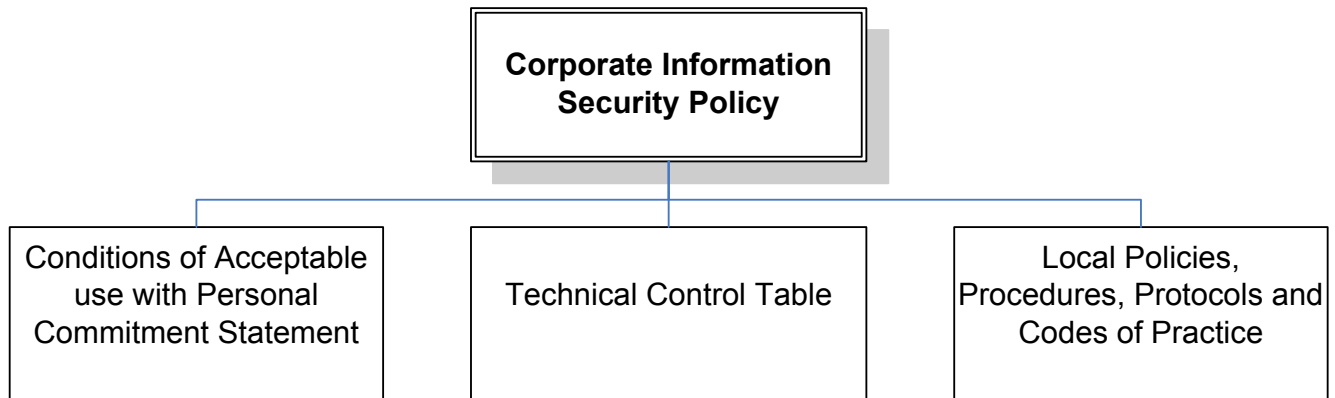
This policy is designed to provide an appropriate level of protection to the information for which the Council is responsible. Supporting this policy is a set of information security technical controls which form the minimum standard that an Essex OnLine partner has to comply with. Individual organisations can strengthen these policies through local policies and procedures, but cannot weaken them.

It is unacceptable for Colchester Borough Council information resources to be used to perform unethical or unlawful acts.

The key aspects of this policy and all associated policies have been developed in accordance with the British Standard for Information security BS7799 – 3:2006 which is harmonised with ISO/IEC 27001:2005.

This Corporate Information Security Policy is supported by further policies, procedures, standards and guidelines. In addition to Council policy, users who are granted access to information owned by other organisations will be subject to the policy requirements of the information owners. Details of these policies will be provided before access is granted.

2.0 Information Security Framework



3.0 Objectives

The objective of the Corporate Information Security Policy is to ensure that:

- All users are aware of these policy statements and associated legal and regulatory requirements and of their responsibilities in relation to Information Security.
- All Council property including equipment and information is appropriately protected.
- The availability, integrity and confidentiality of Council information are maintained.
- A high level of awareness exists of the need to comply with Information Security measures.
- To prevent unauthorised access to software and information.
- To reduce the risk of the misuse of e-mail services.
- To protect the network and network resources from unauthorised access.
- To provide guidance on handling information of each classification in different circumstances and locations including creation, modification or processing, storage, communication, retention and deletion, disposal or destruction.
- To manage unwanted incidents such as virus infections, deliberate intrusion and attempted information theft.
- To prevent unauthorised access, damage and interference to business premises, Information and Information Technology.

4.0 Scope

The scope of this policy is for any employee, elected member, agency worker, third party organisation or other authorised personnel.

5.0 Legal and Regulatory Obligations

Colchester Borough Council will comply with all relevant legislation affecting the use of information and communication technology. All users must be made aware of and comply with current legislation as they may be held personally responsible for any breach.

A list of key legislation and regulations, with a brief description of each, and a reference to who in the organisation can provide further information can be found in Appendix A.

6.0 Roles and Responsibilities

6.1 Chief Executive Officer

The CEO is ultimately responsible for ensuring that all Information is appropriately protected.

6.2 Information Security Management Group

This policy has been written by the Essex OnLine Partnership, additional policies, procedures and standards are written by Corporate ICT. The Information Team is responsible for reviews and approval of Security Policies, which are reviewed and re-issued each year. They are also responsible for approving and overseeing all information security related projects and initiatives. Colchester Borough Council **must** appoint a Senior Information Risk Owner (SIRO) to ensure there is accountability.

The SIRO **must** provide written judgement of the security and use of the business assets at least annually to support the audit process and provide advice to the accounting officer on the content of their statement of internal control.

6.3 Information Security Officer

This role is fulfilled by the Information Team who are responsible for the day to day management of information security activities, and for responding to Information Security Incidents.

6.4 SIRO (Senior Information Risk Owner)

The SIRO

- Is the officer who is ultimately accountable for the assurance of information security at the Council
- Champions information security at executive management team level
- Owns the corporate information security policy
- Provides an annual statement of the security of information assets (as part of the audit process)
- Receives strategic information risk management training at least once a year

The SIRO is not concerned solely with IT but takes a broader view of our information assets as a whole, in any form.

6.5 Risk Manager

The Risk Manager is responsible for the evaluation of the organisation's exposure to risk and controlling these exposures through such means as mitigation, avoidance, management or transference. This role is held by the Information Team.

6.6 Information Owners (also referred to as Information Asset Owners)

The role of Information Asset Owners is to understand what information is held and in what form, how it is added and removed, who had access, and why. They are tasked with ensuring the best use is made of information, and receive and respond to requests

They are responsible for:

- Assessing the risks to the information and data for which they are responsible in accordance with the Risk Management Methodology of the Council.
- Defining the appropriate protection of their information taking into consideration the sensitivity and value of the information.
- Information owners will be responsible for defining the value of information, and identifying the risks associated with the information, so they must classify their information, and define the controls for its protection.

6.7 Directors, Heads of Service and Line Managers

Are responsible for:

- Ensuring that their employees are fully conversant with this Policy and all associated, Policies, Standards, Procedures, Guidelines and relevant legislation, and are aware of the consequences of non-compliance.
- Developing procedures, processes and practices which comply with this Policy for use in their business areas.
- Ensuring that all external agents and third parties defined in the scope of this Policy are aware of their requirement to comply.
- Ensuring that when requesting or authorising access for their staff, they comply with the standards and procedures defined by the Information Owners.
- Notifying the Information Security Officer of any suspected or actual breaches or perceived weaknesses of information security.

6.8 Employees

Are responsible for:

- Ensuring that they conduct their business in accordance with this Policy and all applicable supporting policies.
- Familiarising themselves with this Policy, and all applicable supporting Policies, Procedures, Standards and Guidelines.

Employees responsible for management of third parties must ensure that the third parties are contractually obliged to comply with this Policy.

6.9 Users of systems and information

Those who are granted access to Information and information systems must:

- Only access systems and information, including reports and paper documents to which they are authorised.
- Use systems and information only for the purposes for which they have been authorised.
- Comply with all applicable legislation and regulations.
- Comply with the controls defined by the Information Owner.
- Comply with all Council Policies, Standards, Procedures and Guidelines, and the policies and requirements of other organisations when granted access to their information.
- Not disclose confidential or sensitive information to anyone without the permission of the Information Owner and ensure that sensitive information is protected from view by unauthorised individuals including other people in the same building.
- If working from home ensure that adequate physical and other security measures are in place in their homes to prevent any unauthorised access to CBC equipment or information.
- Keep their passwords secret and not allow anyone else to use their account to gain access to any system or information.
- Notify the Information Team of any actual or suspected breach of Information Security or of any perceived weakness in the organisation's Security Policies, Procedures, Practices, Process or infrastructure in accordance with the Incident Reporting and Management Procedure.
- Protect Information from unauthorised access, disclosure, modification, destruction or interference.
- Not attempt to disable or bypass any security features which have been implemented.
- All users are responsible for reporting any actual or suspected Information Security Incidents or Problems and assisting with their resolution.
- The Information Team is responsible for managing the resolution of each incident and its underlying cause.

7.0 Approach to Risk Management

Risk management is defined as co-ordinated activities to direct and control an organisation with regard to risk.

The approach of the Council to information security is in accordance with the PSN Risk Management & Accreditation Reference Document as published by the Cabinet Office.

8.0 Incident Reporting and Management

The Council has established an Incident Reporting and Management framework which is in accordance with the PSN Incident and Problem Management Document as published by the Cabinet Office. That part of this policy is managed by the Information Team.

9.0 Review

The Essex OnLine Partnership **must** undertake an annual review of Information Security Policies and associated papers to ensure they still comply with current good practice and standards as well as an Equality Impact Assessment if policies change. It is the duty of Colchester Borough Council to review Information Security management arrangements in place and review local arrangements contained within local policies, including an IT Health Check carried out by an accredited independent expert. Accreditation can be with CHECK, an accreditation framework from CESG the Information Assurance (IA) arm of GCHQ, based in Cheltenham, Gloucestershire.

10.0 Awareness, Compliance and Auditing

The Council will ensure compliance with the Information Security Policy through:

Awareness

- Information Security will be included in the induction programme.
- An ongoing Information Security awareness programme will be implemented for all users including third parties.
- All users will receive appropriate awareness training and updates in organisational policies and procedures as relevant to their job functions.
- All users will be required to sign a personal commitment statement.

Compliance

Compliance with this Policy is mandatory, and non-compliance with this Information Security Policy, supporting policies, procedures and standards may result in disciplinary action, or termination of contracts under which a business provides services.

Auditing

- Carrying out Internal audits and where appropriate keeping audit logs in line with legislation and Colchester Borough Council document retention policy.
- Where connectivity to other secure networks such as N3 or GSi is established, the Council **must** submit to (and fund) an audit of their security procedures and practices in the form of an annual IT Healthcheck, and implement any recommendations to demonstrate that they meet the requirements of this security policy.

11.0 Monitoring

Where appropriate; monitoring arrangements are put in place to ensure compliance with policy objectives, guidelines and standards.

12.0 Documentation

Document Owners: Essex OnLine Partnership Management Group and Colchester Borough Council
 Document Authors: Essex OnLine Partnership Resource Team and Colchester Borough Council

Disclaimer:

This printed version may not be the current version.

A current version may be obtained in the required format from the EOLP Resource Team or from Colchester Borough Council Information Team.

Version History

Version	Release Date	Update Authorised by	Update carried out by	Update Approved by	Changes
0.1	Oct 2007	EOLP	EOLP Resource Team		First draft
1.0	28 th Mar 2008	EOLP	EOLP Resource Team	EOLP Information Security Working Group (ISWG)	Changes agreed by the EOLP Information Security working group on 17-03-08.
2.0	20 th Feb 2009	EOLP	EOLP Resource Team	EOLP ISWG	Changes agreed by the EOLP Information Security working group on 05-02-2009.
2.1	30 th June 2009	EOLP	EOLP Resource Team	EOLP ISWG	Equality Impact Assessment carried out changes to Section 9 Review to include EQIA and Section 12 Documentation to provide the policy in the required format
2.2	25 th Jan 2010	EOLP	EOLP Resource Team		Combined all policies into the Corporate IS Policy and created a set of Technical Control in support of this policy.

Version	Release Date	Update Authorised by	Update carried out by	Update Approved by	Changes
2.3	11 th Feb 2010	EOLP	EOLP Resource Team		Moved Definitions to Technical Control spreadsheet, minor changes following Information Security working group meeting.
3.0	1 st March 2010	EOLP	EOLP Resource Team	EOLPMG	Removed the highlights that indicated the changes that were made.
3.1	23 rd June 2011	EOLP	EOLP Resource Team		Incorporated PSN CoCo requirements
4.0	14 th July 2011	EOLP	EOLP Resource Team	EOLP ISWG	Incorporated feedback from ISWG
5.0	27 th Sept 2011	EOLP	EOLP Resource Team	EOLP ISWG	Additional text for Information Owners and added role of Risk Manager, text taken from PSS IA glossary. Changes to Approach to Risk and Incident Management
5.1	18 th Oct 2012	EOLP	EOLP Resource Team	EOLP ISWG	Risk Manager section changed DSO to SIRO
6.0	Nov 2012	EOLP	EOLP Resource Team	EOLP ISWG	Version 6 Issued
6.1	June 2013	CBC	CBC Information Team		Version 6.1 Issued

Appendix A

This is a list of key legislations and regulations.

Data Protection Act 1998 and EU Directive on Data Protection

Personal information relating to identifiable individuals must be kept accurate and up to date. It must be fairly obtained and securely stored. Personal information may only be disclosed to people who are authorised to use it.

Unauthorised disclosure of Council or client personal information is prohibited and could constitute a breach of this Act.

Further information on this Act can be obtained from the Information Team 01206 508793 info@colchester.gov.uk

Computer Misuse Act 1990

Deliberate unauthorised access to, copying, alteration or interference with computer programs or data is not allowed and would constitute an offence under this Act for which the penalties are imprisonment and/or a fine.

This Act addresses the following offences:

- Unauthorised access to computer material.
- Unauthorised access with intent to commit or facilitate commission of further offences.
- Unauthorised modification of computer material.

Copyright, Patents and Designs Act 1988

Documentation must be used strictly in accordance with current applicable copyright legislation, and software must be used in accordance with the licence restrictions. Unauthorised copies of documents or software may not be made under any circumstances.

Companies Act 1985

Adequate precautions should be taken against the falsification of records and to discover any falsification that occurs.

Freedom of Information Act 2000

Gives a general right of access to all types of data and information that has been recorded by the Council. There are exemptions to the right of access, but the Council must assist applications for information and proactively make details available about the Council. The Council must know what records it holds, where they are stored and must avoid them being lost.

Further information can be provided by the Information Team info@colchester.gov.uk .

15 October 2013

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 for 2013/14 and to recommend to Council that it be approved for inclusion in the Council's policy framework.

2. Background

- 2.1 In 2007 CIPFA (The Chartered Institute of Public Finance and Accountancy) and SOLACE (The Society of Local Authority Chief Executives) issued "Delivering Good Governance in Local Authorities", a guide to ensuring that local authorities are appropriately governed. This was updated in December 2012.
- 2.2 Governance is defined as the systems and processes, and cultures and values, by which an organisation is directed and controlled and through which it accounts to, engages with and, where appropriate, leads their communities. It is about how Colchester Borough Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open and accountable manner
- 2.3 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.
- 2.4 Therefore a Local Code of Corporate Governance has been developed to ensure that the Council complies with the principles set out in the CIPFA/SOLACE guidance. The Local Code is reviewed annually, to ensure that the Council is still satisfying the principles, and forms part of the Council's Policy Framework.
- 2.5 The guidance identifies 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.

2.6 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.

2.7 The Local Code, and the Councils compliance with the principles, have been reviewed, and attached at appendix 1 is the updated Local Code of Corporate Governance for 2013/14. This sets out the six principles and elaborates on how the Council is meeting them, what source documents or processes evidence this and in addition highlights any further or ongoing work. This in turn links into the Council's Annual Governance Statement.

2.8 The following changes to the Code are highlighted for the Committee's information:

- The Localism Act 2011 required various policies and procedures to be updated. These have been included in the review to ensure that the Council is complying with aspects of the Act that have already come into force.
- The Code has been updated to reflect the Council's new political governance arrangements.

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.



Code of Corporate Governance

A guide to the Council's compliance with the six principles of Corporate Governance.

October 2013

Contents

Page

INTRODUCTION	1
PRINCIPLE ONE	3
PRINCIPLE TWO	6
PRINCIPLE THREE	1
PRINCIPLE FOUR	1
PRINCIPLE FIVE	1
PRINCIPLE SIX	1

THE PRINCIPLES 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.*
- 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.*

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 Governance 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 2011. 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.

PRINCIPLE ONE

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:		
1.1	Exercise strategic leadership by developing and clearly communicating the authority's purpose, vision and its intended outcome for citizens and service users	
1.2	Ensure users receive a high quality service whether directly, or in partnership, or by commissioning	
1.3	Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money	
In order to achieve our aims we have/will:		
1.1.1	Develop and promote the Council's purpose and vision	Source documents/Processes Strategic Plan 2012-15 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
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	Further work ongoing 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 Local Code of Corporate Governance updated as required by CIPFA Guidance

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties	Strategic Plan 2012-15 Sustainable Community Strategy Partnership Strategy Partnership Register	Research is currently being undertaken into establishing the Council's partners key values and vision
1.1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance	Statement of Accounts Council's website www.colchester.gov.uk "Council Awards and Accreditations" and "Performance and Improvement" – sections on the Council's website	Strategic Plan actions and monitoring of delivery
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	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 External Audit annual audit letter and recommendations Policy Review and Development Panel	Govmetric Fundamental Service Reviews Projects carried out by the Council's Research and Engagement team

In order to achieve our aims we have/will:	Source documents/processes	Further work ongoing
<p>1.2.2 Put in place effective arrangements to identify and deal with failure in service delivery</p>	<p>Performance Reporting and performance indicators Complaints Procedure Internal Audit Process Chief Operating Officer Performance Management Board External Auditors annual audit letter and recommendations</p>	<p>Group monitoring of summary service plan delivery. Fundamental Service Reviews</p>
<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>	<p>Performance Reporting Local Authority Carbon Management Nottingham Declaration Strategy and Action Plan External Auditors annual audit letter and recommendations</p>	<p>Sustainability assessments for Local Development Framework</p>

PRINCIPLE TWO

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:		
<p>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</p> <p>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</p> <p>2.3 Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other</p>	<p style="text-align: center;">Source documents/Processes</p> <p>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</p> <p>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</p>	<p style="text-align: center;">Further work ongoing</p> <p>The Constitution will continue to be reviewed on a rolling basis.</p>
<p>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</p> <p>2.1.2 Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers</p>		

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>2.2.2 Make the chief executive or equivalent responsible and accountable to the authority for all aspects of operational management</p>	<p>Chief Executive designated Head of Paid Service Constitution (Head of Paid Service responsibilities) Conditions of Employment Schemes of Delegation Job Accountability Statement / Person Specification Signature on Annual Governance Statement</p>	<p>The Constitution will continue to be reviewed on a rolling basis. Support for this from Chief Operating Officer</p>
<p>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</p>	<p>Constitution Member/Officer Protocol Regular 1:2:1's</p>	<p>The Constitution will continue to be reviewed on a rolling basis.</p>
<p>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</p>	<p>Finance Manager 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</p>	<p>Annual Review of Officer Pay Policy by Full Council</p>
<p>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)</p>	<p>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</p>	

<p>2.3.1 Develop protocols to ensure effective communication between members and officers in their respective roles</p>	<p>Member / Officer Protocol Planning Procedures Code of Practice Outside Bodies advice given to Members Member and Officer Codes of Conduct</p>	<p>Annual Review of Officer Pay Policy by Full Council</p>
<p>2.3.2 Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process including an effective remuneration panel (if applicable)</p>	<p>Pay and conditions policies and practices Independent Remuneration Panel Terms of Reference and Reports Regular liaison meeting with Unison</p>	
<p>2.3.3 Ensure that effective mechanisms exist to monitor service delivery</p>	<p>Performance Reporting and performance indicators Complaints Procedure Heads of Service monitoring Service Plans Performance Management Board Performance system Scrutiny Panel</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 E-Courier Customer insight groups</p>	<p>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>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<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>
<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>

PRINCIPLE THREE

<p>Core Principle 3 – Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour</p>		
<p>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:</p> <p>3.1 Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance</p> <p>3.2 Ensuring that organisational values are put into practice and are effective</p>		
<p>In order to achieve our aims we have/will:</p>	<p>Source documents/Processes</p>	<p>Further work ongoing</p>
<p>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>	<p>Constitution Chief Executive’s and Leader’s blog on the Council’s intranet Performance reporting Governance Committee has an overall view of conduct issues established by its terms of reference Member and Officer Codes of Conduct Member/Officer Protocol Whistleblowing Policy Anti Fraud and Corruption Policy Freedom of Information Policy statement and publication scheme Monitoring Officer and S151 Officer Protocols Implementation of Localism Act 2011, Member conduct regime.</p>	<p>Best Councils’ survey work Quarterly briefing for staff Annual review of the Ethical Governance policies</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>3.1.1 continued</p>	<p>Planning Procedures Code of Practice Officer Register of Gifts and Hospitality Officer voluntary register of interests Member's Register of Interests Website and intranet Corporate Roadshows by Chief Executive for staff Hub and Spokes Officers focus group Portfolio Holders monthly sessions with senior officers "Corporate Governance" section on the Council's website bringing all relevant information together under one heading</p>	<p>Flexible working and Way We Work Programme</p>
<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>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 Policy Hub (intranet) Charter Status for Elected Member Development</p>	<p>Annual review of Ethical Governance policies</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<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 Ethical Governance policies Registers of Interests (Officers and Members) Services and processes are underpinned by Equality Impact Assessments Equality Objectives Officer induction and training</p>	<p>Annual review of Ethical Governance Policies</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 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 Implementation of 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 Ethical Governance Policies Member and Officer Codes of Conduct Monitoring of the above takes place by the Governance Committee ICT Security Policy Charter Status for Elected Member Development</p>	<p>Annual reporting to Governance Committee</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.2.3 Develop and maintain an effective Standards Committee	<p>Agenda and Minutes Terms of Reference Regular meetings Work programme Member conduct issues now within remit of Governance Committee</p>	Annual review of the Localism Act Arrangements by the Governance Committee.
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>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 Portfolio Holder sessions with Senior Managers Policy Framework</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>Values agreed with each partner Partnership Register Partnership Strategy</p>	

PRINCIPLE FOUR

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:		
In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>4.1 Being rigorous and transparent about how decisions are taken and listening and acting on the outcomes of constructive scrutiny</p> <p>4.2 Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs</p> <p>4.3 Ensuring that an effective risk management system is in place</p> <p>4.4 Using their legal powers to the full benefit of the citizens and communities in their areas</p>	<p>Scrutiny is supported by robust evidence and data analysis</p> <p>Agenda and Minutes</p> <p>Work programme</p> <p>Successful outcome of reviews</p> <p>Training on developing meaningful work programme</p> <p>Training for scrutiny chairman</p> <p>Scrutiny of partners and joint projects</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</p> <p>Decision making protocols</p> <p>Record of decisions and supporting materials</p> <p>Report template</p> <p>Decision list published</p>	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<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 Planning procedures Code of Practice Governance Committee have responsibility for these issues Monitoring Officer reports on these issues Politically restricted posts Ethical Governance Policies</p>	<p>Annual review of Ethical Governance Policies</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>Scrutiny Panel Terms of Reference Governance 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</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>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<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>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 Quarterly reporting to Governance Committee 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 Hub area for Risk Management</p>	<p>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 Section 151 Officer</p>	<p>Annual review of Whistleblowing Policy</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<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>	
<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>

PRINCIPLE FIVE

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:		
<p>5.1 Making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles</p> <p>5.2 Developing the capability of people with governance responsibilities and evaluating their performance as an individual and as a group</p> <p>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</p>		
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</p> <p>Member and Officer Induction programmes</p> <p>Refresher courses</p> <p>Briefings</p> <p>Officer Development Plan (individual and corporate)</p> <p>Appraisals for officers</p> <p>People Strategy</p> <p>Personal Development Plans</p> <p>Learning & Development Strategy/Annual Plan</p> <p>Charter Status for Elected Member Development</p>	<p>Member skills development</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</p> <p>Training</p> <p>Induction</p> <p>Monitoring Officer and S151 Officer Protocols</p> <p>Employee Policies</p> <p>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 Charter Status for Elected Member Development	Member skills development
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 Charter Status for Elected Member Development	Member skills development 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
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>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 (e.g. waste survey carried out using a range of communication methods to encourage participation) Customer insight work Research and Engagement Team projects</p>	Review of Council communications and marketing
5.3.2 Ensure that career structures are in place for Members and Officers to encourage participation and development	<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>

PRINCIPLE SIX

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 & 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 & E-Courier Equality Impact Assessments Safeguarding Policies	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 Compliance with Localism Act access to information regulations	
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 2012-15 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 2012-15 Website www.colchester.gov.uk Performance Reporting and Performance Indicators Council website has "Performance and Improvement" "Council Awards and Achievements" and "Council and Democracy" sections 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 Customer service standards Voluntary Sector Compact "Have Your Say" at meetings Freedom of Information Act Publication Scheme Member and Officer Codes of Conduct Way We Work Programme Ethical Governance Policies Monitoring Officer Protocol Communications Policy Data Protection Policy ICT Security Policy Council website</p>	<p>Annual review of Ethical Governance Policies Data Transparency - Code of Recommended Practice for Local Authorities –section on website to co-ordinate these requirements. DCLG to advise on additional items to be added to the Code.</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>

15 October 2013

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Guidance for Councillors and Officers on Outside Bodies		
Wards affected	Not applicable		

This report recommends that the Committee approves revised guidance for Councillor and Officers on Outside Bodies

1. Decision(s) Required

- 1.1 To approve the attached Guidance for Councillors and Officers on Outside Bodies and that it be included within the Constitution.
- 1.2 That all Councillors and Officers who are appointed to serve on outside bodies are provided with a copy of the Guidance.

2. Background

- 2.1 The Council has for several years provided guidance to Councillors and officers who are nominated by the Cabinet to serve on outside bodies. Nominations are usually for a period of one year and can be to a variety of organisations which can have differing legal status. The existing Guidance was last reviewed by the Standards Committee on 12 June 2009 and it is now appropriate to review its contents.
- 2.2 Councillors and in some circumstances officers, are initially appointed to outside bodies to represent the Council however along with the appointment comes potential liability in other capacities. For example if a Councillor is appointed to the board of a company they become a director of that company and with that comes the responsibilities of a company director including their fiduciary duty to the company which must take priority to their responsibility back to the Council. The revised Guidance attached to this report seeks to provide advice to the Councillors in these situations. The existing guidance is published as part of the Constitution and is also provided to Councillors on an ad hoc basis.
- 2.3 The revised guidance seeks to provide guidance for Councillors and officers in relation to the law and practical advice to situations that they could find themselves in having been appointed to an outside body.
- 2.4 It is suggested that the revised guidance is provided to all Councillors and officers who are nominated to outside bodies and that it be included in the Constitution.

3. Strategic Plan References

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

4. Publicity Considerations

- 4.1 The Constitution is available 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.



Guidance for Councillors and Officers on Outside Bodies

A guide to the law for Councillors and Officers who are appointed to represent Colchester Borough Council on another body.

October 2013

Contents	Page
1.0 Introduction	1
2.0 General	3
3.0 Companies	3
3.1 Directors' Duties	4
3.2 Directors' Liabilities	5
3.3 Indemnities	6
3.4 Local Authorities (Companies) Order 1995	6
4.0 Charities	7
4.1 Trustees' Duties	8
4.2 Trustees' Personal Liabilities	8
4.3 Indemnities	9
5.0 Management Committees	9
5.1 Unincorporated Associations	9
5.2 Duties	9
5.3 Liabilities	9
5.4 Indemnities	10
6.0 Insurance Indemnity provided by the Council	10

GUIDANCE FOR COUNCILLORS AND OFFICERS ON OUTSIDE BODIES

This advice is for Councillors and officers who represent the Council on organisations outside the Council, whether as a company director, the trustee of a charity or a representative on a management committee. It simply sets out some of the most important responsibilities. It is not meant to be a comprehensive guide. If Councillors or officers have queries then they must contact the Monitoring Officer for advice.

1.0 INTRODUCTION

Councillors are appointed formally by the Council annually to serve on a range of outside bodies, including voluntary organisations, local government associations and other organisations.

In performing that role, Councillors can act as individuals, representatives of the Council, directors or trustees. There are both positive and negative aspects to the role:

a) **Positive**

- acting according to the rules, constitution and framework set by the outside body;
- making independent and personal judgements in line with their duty of care to the outside body;
- reporting back, at least annually, to the Council or relevant committee;
- behaving ethically and following as far as applicable the Council's Members Code of Conduct; and
- taking an active and informed role in the management of the outside body's affairs.

b) **Negative**

- not representing the political party to which Councillors owe their political loyalty;
- not avoiding taking part in the outside body's discussions and decisions;
- not looking at things simply from the Council's perspective; and
- not being there in name only and merely turning up to meetings.

The role of Councillors on outside bodies may give rise to occasional uncertainty and perhaps to conflicts of interest. This Guidance offers a simple legal guide on the responsibilities of Councillors and officers. Councillors are asked to read this guidance and if there are issues arising from their particular situation at any time, to contact the Monitoring Officer for advice.

Councillors and officers are under a specific obligation as a result of the Local Authorities (Companies) Order 1995 to report back to the Council on their involvement in outside companies to which they have been nominated by the Council. That obligation is best met by an annual report to the relevant Portfolio Holder. While the law now makes this a requirement for involvement in outside companies, it is self-evident that the requirement to report back should apply to involvement in all outside bodies.

This guidance and the Council's Members Code of Conduct addresses some of the issues around the possibility of conflicts and interest. **In essence, if the outside body comes into conflict with the Council and the Councillor is a director or on the management committee of the outside body, it is likely that the Councillor's prime duty would be to the outside body in the conduct of the outside body's affairs.** The Councillor is however also given specific dispensation in the Council's Members Code of Conduct to participate in the Council decision-making process in relation to the outside body to which he or she has been appointed.

If there is a major dispute between the Council and the outside body, then the Councillor may be placed in an untenable situation. Before taking precipitate action, the Councillor is advised to seek advice from either the Chief Executive or the Monitoring Officer.

In certain circumstances, it is possible that the Councillor may find he/she is unable adequately to carry out their responsibilities properly, both as a Member of the Council and as a member or director of the outside body. It is suggested that this would be an exception, and should not deflect Councillors generally from being prepared to participate in the management and running of outside organisations.

2.0 General

There are some general provisions which apply to Councillors and officers who act in the role of company director, trustee or member of an incorporated body, such as the committee of management of an unincorporated voluntary organisation.

Councillors are under a duty to exercise independent judgment in the interest of the organisation in which they are involved. Whilst it is recognised that Councillors and officers may have a commitment to representing the Council on the outside organisation, they must be aware that it is their responsibility to decide what view to take on any question before that organisation. Where a Councillor or officer is partaking in an outside organisation in a representative capacity, he/she must declare that fact to the organisation. There will be a fine line to tread between his/her duty to the organisation and to the Council.

The bottom line is that in the end, the Councillor or officer in acting as a director/trustee or member of a management committee of an organisation, must act in accordance with the interests of that organisation. A mandate from the Council to vote one way or the other would put the Councillor or officer in breach of the duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them. **The overriding duty in considering an item before the outside organisation is to vote in accordance with the interests of that organisation.**

Councillors and officers must also ensure that avoidable loss is not incurred in managing the organisation. They cannot avoid this responsibility by not reading the papers or failing to ask for appropriate reports. They will be expected to seek professional advice where appropriate.

3.0 Companies

On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts and sue and be sued in its own name. The company is distinct from its shareholders and members. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.

Companies limited by shares are those which have share capital (e.g. 1000 shares of £1 each). Each member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Companies limited by guarantee are those where there is no shareholding. Instead each member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1. This form of company is the most usual in the public and voluntary sector particularly where charitable status is sought.

The management of a company is generally the responsibility of a board of directors. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes even though a company has been incorporated the directors may be referred to as members of the committee of management, governors or even trustees. However this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected. Directors are those who are appointed by the company to act in that capacity.

3.1 Directors' Duties

A director is an agent of the company. His/her prime duties are as follows:-

- (1) **A fiduciary duty** to the company (not individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of Councillors to the council tax payers of the Borough.
- (2) **A general duty of care and skill** to the company, but a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert, but is expected to use due diligence and to obtain expert advice if necessary.
- (3) Like a Councillor in respect of Council decisions, the director is under a duty to **exercise independent judgment**, though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and treads a fine line between the interests of the company and the party represented (in this case the Council). The director cannot vote simply in accordance with the Council mandate. To do so would be a breach of duty.
- (4) **No conflict.** There may be actual or potential conflicts between the interests of the Council and the interests of the company. In such circumstances the only proper way for the conflict to be resolved is for the Councillor to resign either from the company or from the Council.
- (5) Directors are **not allowed to make a private profit** from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association.
- (6) Directors must **ensure compliance with the Companies Acts** in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director.

3.2 Directors' Liabilities

- (1) The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
- (2) A company can only act within the scope set out in its Memorandum of Association (the document which sets out the objects of the company). Those directors knowingly causing the company to act beyond the activities set out in the Memorandum will be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the members of the company.
- (3) A director may also be liable for breach of trust, if he/she misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
- (4) In the event of failure to act in accordance with the best interests of the company, or if a director uses his/her powers improperly or makes a personal profit from his/her position as director, then the director may be personally liable for loss to the company and may be required to give the company the personal profit made.
- (5) If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However if it believes the director acted honestly and reasonably, a Court may excuse the director the liability.
- (6) If a director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, a Court may require that director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position he/she could be well advised to inform the other directors and seek advice from the company auditors. He/she should try to ensure that further debts are not incurred.
- (7) A director will also be liable if to his/her knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from action as a director.
- (8) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company (e.g. Director, for and on behalf of ...).

- (9) A third party who enters into a contract on the assumption that a director has power to bind the company, may be able to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
- (10) Though company liability ceases on dissolution the liability of the directors (if any) may still be enforced after dissolution.

3.3 Indemnities

- (1) Directors cannot be indemnified against liability arising out of negligence, default or breach of duty or trust. However the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. **It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.**
- (2) It is not possible for the Council to provide indemnities or insurance for Councillors acting as directors, except in a few circumstances outlined in Section 5 below.

3.4 Local Authorities (Companies) Order 1995

- (1) This Order, made under the Secretary of State's powers contained in Part V Local Government and Housing Act 1989, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.
- (2) "Regulated companies" are so defined if they are controlled or influenced by the local authority. "Influenced companies", under the effective control of the local authority, will be subject to capital finance regime and special propriety controls. In broad terms, the test as to whether companies are local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.
- (3) The original concept of controlled, influenced and minority interests in companies was introduced by the 1989 Act. "Influenced" means at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company was located on local authority land leased or sold for less than best consideration. "Controlled" means over 50% local authority interests, and "minority" less than 20% interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".
- (4) Councillors who are directors of outside companies to which they have been nominated by the Council are under the following obligations:-
 - (a) that the remuneration they receive from the company should not exceed that received from the local authority, and should be declared

- (b) to give information to Councillors about their activities as required by the local authority (save for confidential information); and
- (c) to cease to be a director immediately upon disqualification as a Councillor.

4. Charities

To be a charity an organisation must operate for a charitable purpose; i.e.:

- the relief of poverty and human suffering
- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community

It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

To register as a charity the organisation must submit its Trust Deed (usually the Memorandum and Articles of Association of a company limited by guarantee) to the Charity Commission for approval. If they are satisfied that the organisation is charitable, it will be registered as such.

Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee even though they are not strictly trustees. Trustees of a charity retain personal liability, and can only delegate if the trust deed authorises them so to do.

4.1 Trustees' Duties

- (1) Trustees must take care to act in accordance with the Trust Deed and to protect the charity's assets. They are also responsible for compliance with the Charities Acts.
- (2) Trustees must not make a private profit from their position. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (3) Charitable trustees must ensure that the information relating to the trust and trustees is registered with the Charity Commission and that annual accounts and returns are completed and sent.
- (4) If charitable income exceeds £5,000, the letters, adverts, cheques etc must bear a statement that the organisation is a registered charity.
- (5) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax matters).

4.2 Trustees' Personal Liability

- (1) If in doubt, always consult the Charity Commission. A trustee who does so will avoid personal liability for breach of trust if he/she acts in accordance with the advice given.
- (2) Generally, though, a trustee incurs personal liability if he/she:-
 - acts outside the scope of the trust deed
 - falls below the required standard of care
 - makes a personal profit from the trust assets
- (3) In such circumstances the trustee will incur personal liability for losses incurred.
- (4) Trustees can be liable personally to third parties because unlike a company, a trust has no separate identity from the trustees. Trustees are, however, entitled to an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable once they retire (e.g. if they have entered into a contract on behalf of the trust) and should therefore seek an indemnity from their successors. If the charity is a company however the trustees for the time being will be responsible.
- (5) Trustees may be liable to fines if they do not comply with the duty to make returns etc.

4.3 Indemnities

An indemnity can be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud, etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commission unless the trust deed allows it.

5. Management Committees

5.1 Unincorporated Associations

Groups which are not charitable trusts or limited companies are "unincorporated associations" and have no separate legal identity from their members. The rules governing the members' duties and liability will be set out in constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a Management Committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.

Property will have to be held by individuals as the organisation has no existence of its own.

5.2 Duties

Broadly, Management Committee members must act within the constitution, and must take reasonable care in exercising their powers.

5.3 Liabilities

- (1) Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the Committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent of all the members, who have joint liability for the agent's actions.
- (3) Management Committee Members will have personal liability if they act outside the authority given to them or if they do not comply with statute eg the payment of employees' tax etc.

5.4 Indemnities

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.

6.0 Insurance Indemnity provided by the Council

The Council's insurance cover only operates when Councillors are pursuing their Council duties. Generally, whilst the Council appoints Councillors to outside bodies, once appointed they act as members of the body rather than as Councillors.


In most cases where a Councillor is acting as a Director or as a Trustee, or indeed as a member of a Management Committee, he or she will be exercising judgement on behalf of the organisation and will therefore need to ensure indemnity is obtained from the organisation.

However, where the organisation is a joint committee of two or more local authorities, the Borough Council can provide indemnity.

Further, where the Councillor is clearly representing the Authority's interests as an observer or as an advisor, then the Borough Council can again provide indemnity.

If in doubt Councillors should seek advice from the Monitoring Officer.

15 October 2013

Report of	Assistant Chief Executive	Author	Amanda Chidgey
Title	Work Programme 2013-14		 282227
Wards affected	Not applicable		

This report sets out the current Work Programme 2013-2014 for the Governance Committee.

1. Decisions Required

- 1.1 The Committee is asked to note the contents Committee's Work Programme for 2013-14 and to give consideration to the possible deferral of certain items of business scheduled for November to the meeting in January 2014.

2. Alternative options

- 2.1 This function forms part of the Committee's Terms of Reference and, as such, no alternative options are presented.

3. Introduction

- 3.1 The Governance Committee deals with the approval of the Council's Statement of Accounts, audit, other miscellaneous regulatory matters and standards.
- 3.2 The Committee's work programme will evolve as the Municipal Year progresses and items of business are commenced and concluded. At each meeting the opportunity is taken for the work programme to be reviewed and, if necessary, amended according to current circumstances.

4. Supporting Information

- 4.1 At the meeting of the Committee on 24 September 2013, requests for the following reports were made:
- An update on 'recent issues' at the Shrub End Depot within the Internal Audit Monitor report
 - Current recruitment policy for applicants related to staff employed by the Council
 - Review of Pensions, including the current and future financial strain
- 4.2 These three items have been added to the work programme provisionally for consideration at the November meeting of the Committee.
- 4.3 In addition, Ernst and Young have requested that the submission of the Annual Audit Letter be deferred from the October meeting to the meeting in November. The Committee will need to consider whether it would prefer certain items of business scheduled for November to be deferred to January 2014.

5. Strategic Plan References

- 5.1 The Council recognises that effective local government relies on establishing and maintaining the public's confidence, and that setting high standards of self governance provides a clear and demonstrable lead. Effective governance underpins the implementation and application of all aspects of the Council's work.

6. Standard References

- 6.1 There are no particular references to publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.

WORK PROGRAMME 2013-14

Meeting date / Agenda items
25 June 2013 (Chairman's briefing, 5.00pm, 20 June at Rowan House) <ol style="list-style-type: none">1. Draft Annual Statement of Accounts (Finance Manager)2. 2012-13 Annual Governance Statement and Framework (Risk and Resilience)3. 2012-13 Risk Management Strategy (Risk and Resilience)4. 2012-13 Annual Governance Statement and Audit Report CBH (David Lincoln CBH)5. 2012-13 Internal Audit report (Audit and Governance)
30 July 2013
27 August 2013
24 September 2013 (Chairman's briefing 2.30pm 19 September at Rowan House) <ol style="list-style-type: none">1. Audited Annual Statement of Accounts (Finance Manager)2. Annual Governance Report (Ernst and Young)
15 October 2013 (Chairman's briefing 2.30pm 10 October at G7 Rowan House) <ol style="list-style-type: none">1. Annual Statement of Accounts (Finance Manager)2. Review of Members Code of Conduct and Council's Arrangements (Monitoring Officer)3. Local Government Ombudsman annual review 2012-13 (Monitoring Officer)4. Review of Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering and Benefits Fraud Sanctions Policies (Monitoring Officer)5. Local Code of Corporate Governance review (Monitoring Officer)6. Guidance for Councillors and Officers on Outside Bodies7. Update on Localism Act Provisions (Monitoring Officer)
19 November 2013 (Chairman's briefing 2.30pm 12 November at G7 Rowan House) <ol style="list-style-type: none">1. Annual Audit Letter (Ernst and Young)2. Annual Business Continuity report (Risk and Resilience)

3. 2013-14 Interim Annual Governance Statement (Risk and Resilience)
4. 2013-14 Interim Risk Management (Risk and Resilience)
5. 2013-14 Interim Internal Audit Monitor, including 'recent issues' at the Shrub End Depot (Audit and Governance)
6. Current recruitment policy for applicants related to staff employed by the Council (Assistant Chief Executive)
7. Review of Pensions, including the current and future financial strain (Assistant Chief Executive)

14 January 2014 (Chairman's briefing 2.30pm 9 January at G7 Rowan House)

1. Audit Opinion Plan (Ernst and Young)
2. Grants and Certifications (Ernst and Young)

