



Audit and Standards Committee Agenda

Wyre Borough Council
Date of Publication: 6 November 2023
Please ask for: George Ratcliffe
Assistant Democratic Services Officer
Tel: 01253 887608

**Audit and Standards Committee meeting on Tuesday, 14 November
2023 at 6.00 pm in the Council Chamber - Civic Centre, Poulton-le-Fylde**

1. Apologies for absence

2. Declarations of interest

To receive any declarations of interest from any members of the Committee on any item on this agenda.

3. Confirmation of minutes

(Pages 3 - 8)

To confirm as a correct record the minutes of the last meeting of the Audit and Standards Committee held on 26 September 2023.

4. National Fraud Initiative - Data Matching Exercise Year 2022/23

(Pages 9 - 20)

Report of the Corporate Director Resources (S151 Officer), Clare James.

Presented by the Audit, Risk and Performance Lead, Dawn Allen.

Andrew Robinson, the Revenues Manager, has been invited to the meeting to take questions and comments from members on the SPD/NEC campaign.

5. Members' Code of Conduct Complaints - Summary

(Pages 21 - 26)

Report of the Legal Services Manager and Monitoring Officer, Mary Grimshaw.

Presented by the Legal Services Manager, Mary Grimshaw.

**6. Compliance with the Regulation of Investigatory Powers Act 2000
(RIPA)**

(Pages 27 - 58)

Report of the Legal Services Manager, Mary Grimshaw.

Presented by the Legal Services Manager, Mary Grimshaw.

7. Internal Audit and Risk Management - Progress Report (Pages 59 - 78)

Report of the Audit and Risk Manager, Karen McLellan.

Presented by the Audit and Risk Manager, Karen McLellan.

Papers to follow.

8. Annual Review of the Financial Regulations and Financial Procedure Rules (Pages 79 - 202)

Report of the Corporate Director Resources (S151 Officer), Clare James.

Presented by the Head of Governance and Business Support, Joanne Billington.

Please follow the link [here](#) to view the Supplement Agenda with the proposed Financial Regulations and Financial Procedure Rules changes.

9. Annual Review of the Council's Counter Fraud Policies (Pages 203 - 244)

Report of the Corporate Director Resources (S151 Officer), Clare James.

Presented by the Head of Governance and Business Support, Joanne Billington.

10. Annual Review of the Council's Information Governance Policies and Procedures (Pages 245 - 292)

Report of the Corporate Director Resources (S151 Officer), Clare James.

Presented by the Head of Governance and Business Support (and Data Protection Officer), Joanne Billington.

11. Date of next meeting

The next scheduled meeting of the Audit and Standards Committee is Tuesday 27 February 2024 at 6pm in the Council Chamber.



Audit and Standards Committee Minutes

The minutes of the Audit and Standards Committee meeting of Wyre Borough Council held on Tuesday, 26 September 2023 at the Council Chamber - Civic Centre, Poulton-le-Fylde.

Audit and Standards Committee members present:

Councillors Ibison, Minto, Bolton, Duffy, Higgs, Jackson, Leigh, Rendell, Sorensen, Belshaw, A Walker, Wells and Paul Taylor (Independent Member)

Other councillors present:

Councillor McKay

Officers present:

George Ratcliffe, Assistant Democratic Services Officer
Daphne Courtenage, Democratic Services Officer
Veronica Wilson, Head of Finance
Joanne Billington, Head of Governance and Business Support
Clare James, Corporate Director Resources and Section 151 Officer
Paul Hewitson, External Auditor (Deloitte)

No members of the public or press attended the meeting.

18 Declarations of interest

None.

19 Confirmation of minutes

The minutes of the meeting of the Audit & Standards Committee held on Tuesday 25 July 2023 were **confirmed** as a correct record by those who were in attendance.

20 Update report on the Statement of Accounts 2020/21 (Post-Audit)

The Chair welcomed Paul Taylor as the new Independent Member of the Audit Committee.

The Corporate Director Resources (Section 151 Officer), introduced the item to members and gave a short summary of the position to date, including the main reasons for the delays in the sign off of the 2020/21 accounts.

Councillor McKay (previous Chair of the committee) was invited to speak and give a summary of the historic process to the new members of the committee and provide assurances to them on the content within the statements. She indicated that she was supportive of approving the accounts when they were originally presented to the committee two years ago and still is and that the focus is now about getting them across the line.

The External Auditor took the committee through the External Audit (ISA 260 Report) for Wyre Borough Council for 2020/21 in detail by means of providing additional training for the committee. He explained that the purpose of the report was to communicate to the council the significant matters arising from the audit.

He highlighted the four significant risks that had been identified:

- recognition of Covid-19 grant income;
- inappropriate capitalisation of expenditure;
- valuation of property assets, and;
- management override of controls

He also highlighted the pension liability valuation and infrastructure assets as other areas of focus. He explained that their value for money work was on-going and would be reported in full in their Auditor's Annual Report.

With regards to the insights and recommendations, in particular around journal transfers, Councillor Walker asked if the management response met Deloitte's recommendation. It was explained to the committee that whilst the council's approach was not believed to be best practice, management had their own mitigation of risk process and it was for the committee to decide if they were comfortable with this. The Corporate Director Resources (Section 151 Officer) highlighted that as a small local authority it was about balancing resources and capacity within the team and there were controls in place to mitigate the risk.

Councillor Belshaw asked for clarification around the fees paid to the external auditor.

Paul Taylor asked a question around the layout of Deloitte's dashboards, in particular why there were no conclusions which Paul Hewitson took on board.

Councillor McKay left the meeting.

21 Management Representation Letter

The Corporate Director Resources (Section 151 Officer) clarified that before the next meeting she and the Chair expected to be in a position to sign off the Statement of Accounts and the Management Representation Letter. She explained that the formal sign off of the accounts would happen outside of the committee in this case.

The committee agreed to defer this item.

Councillor Bolton entered the meeting.

22 Statement of Accounts 2022/23 (Pre-Audit)

The Corporate Director Resources (Section 151 Officer) submitted a report on the Statement of Accounts and the final capital and revenue position of the financial year 2022/23.

The Corporate Director Resources (Section 151 Officer) introduced the report to members. She reminded members that prior to this meeting, a recorded training presentation had been circulated.

She highlighted that the statutory deadline, for signing off the audited accounts (30 September 2023) would not be met and this was a national issue.

The Corporate Director Resources (Section 151 Officer) and the Head of Finance, Veronica Wilson had pre-prepared a Q&A pack for the committee which highlighted the key issues and provided an explanation to the notes to the accounts. The pack was circulated to the members at the start of the meeting.

The Corporate Director Resources (Section 151 Officer) addressed questions 1 (narrative statement), 2 (revenue variances), 4 (water rates expenditure), 5 (tree maintenance), 9 (employee costs), 16 (planning fees) and 21 (revenue slippage) in the Q&A pack.

Members raised the following questions around:

- the on-going RAAC (Reinforced Autoclaved Aerated Concrete) problem;
- whether there was a budget in place for annual tree surveying for public areas;
- relationship between lower rates of pay and underspend;
- the underspend on parks and open spaces;
- salary costs not being impacted by the equal pay issues at other councils;
- whether planning fees were an income generator or whether they only covered department costs – it was agreed the cost centre account for Development Control would be shared with the committee prior to the next meeting;
- whether applicants were charged proportionally dependent on scale of the development;

- housing benefit overpayments;
- why the council used an external company for enforcing environmental crime fines;
- costs of living grants funding, and;
- provision for the revenue slippage items in the 2023/34 accounts;

Officers responded to the questions raised by members.

Councillor Belshaw left the meeting.

The Head of Finance addressed questions 26 (Comprehensive Income and Expenditure Statement (CIES)), 29 (balance sheet), 31 (long term liabilities) and 34 (officers' remuneration) in the Q&A pack.

Members raised the following questions around:

- short term deposits and;
- the pay gap between the Chief Executive and Directors;

Officers responded to the questions raised by members.

The Corporate Director Resources (Section 151 Officer) addressed question 37 (recommendations from last year's audit) in the Q&A pack.

After concluding the Q&A pack and training on the Statement of Accounts 2022/23, the Corporate Director Resources (Section 151 Officer) asked that her thanks to the Finance team and Veronica for their hard work be minuted.

In accordance with paragraph 3.1 of the report, the Chair approved the Statement of Accounts 2022/23.

23 Annual Audit Fee Letter

The Corporate Director Resources (Section 151 Officer) explained that the council no longer received an audit fee letter and therefore it was recommended that the audit fee letter should not be an agenda item moving forward.

The committee agreed with the recommendation.

24 Periodic private discussion with External Audit

Following the conclusion of the formal meeting, members of the Committee were given the opportunity to have their private periodic discussion with the External Auditor, Paul Hewitson, as provided for in the Committee's work programme.

(The Corporate Director Resources (and Section 151 Officer), Head of Finance, Head of Governance and Business Support, Democratic Services

Officer and the Assistant Democratic Services Officer left the meeting for this item).

25 Time and date of the next meeting

The next meeting of the Audit and Standards Committee would be held on Tuesday 14 November at 6pm in the Council Chamber.

The meeting started at 6.00 pm and finished at 8.00 pm.

Date of Publication: 05 October 2023

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Report of:	Meeting	Date
Audit, Risk and Performance Lead	Audit and Standards Committee	14 November 2023

NATIONAL FRAUD INITIATIVE (NFI) – DATA MATCHING EXERCISE 2022/23

1. Purpose of report

- 1.1 To report to members of Audit and Standards Committee the results of the 2022/23 National Fraud Initiative data matching exercise.

2. Outcomes

- 2.1 The ability to demonstrate that the council is determined to do everything it can to prevent and detect fraud. It works hard to encourage the detection, reporting and investigation of fraud and actively promotes a zero tolerance approach.

3. Recommendation

- 3.1 Members are asked to note the report detailed at Appendix A.

4. Background

- 4.1 Wyre Council are active participants in the NFI national data matching exercise. A full NFI data matching exercise is completed every two years and a council tax single person discount (SPD) matching exercise is carried out annually. These exercises match electronic data within and between audited bodies to prevent and detect fraud. This includes police authorities, local probation boards, fire and rescue authorities as well as other local councils and other government departments. Each organisation carries out data matching under its own powers, but uses the Cabinet Office's processes and expertise.

- 4.2 This year (2022/23) a full NFI data matching exercise took place with a total of 4,862 data matches being returned for investigation.

5. Key Issues and proposals

- 5.1 The results of the NFI exercise can be found in Appendix A (Para 3.1 – 3.3) which overall reports a total of £6,422.52 in errors and overpayments having been identified so far, of which the total amount is in the process of being recovered.

Financial and legal implications	
Finance	Covered in detail in the report.
Legal	None arising directly from the report.

Other risks / implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

risks/implications	✓ / x
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
ICT	x
Data Protection	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
Dawn Allen	01253 887341	Dawn.allen@wyre.gov.uk	02/11/23

List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

Appendix A – National Fraud initiative – Data Matching Exercise 2022/23 Report

Wyre Council - Audit and Risk Management
National Fraud Initiative - Data Matching Exercise
Year 2022/23

Report Contents

- 1.0 Introduction
- 2.0 Objectives of our work
- 3.0 Overall Audit Opinion
- 4.0 Key Findings
- 5.0 Conclusions

Appendix A – Data Match Reports Examined

Report Preparation

Report prepared by: Dawn Allen; Audit, Risk and Performance Lead
Telephone: 01253 887341

Report Distribution

This report has been issued to:

- ◆ Clare James, Corporate Director Resources / Section 151 Officer
- ◆ Joanne Billington, Head of Governance and Business Support
- ◆ Karen McLellan, Audit and Risk Manager / Chief Internal Auditor
- ◆ Andrew Robinson, Revenues Manager
- ◆ The External Auditor – Deloitte
- ◆ Audit and Standards Committee

1. Introduction

- 1.1 The National Fraud Initiative (NFI), conducted by the Cabinet Office (CO), involves data matching to help in the prevention and detection of fraud. The NFI provides multiple solutions, ranging from real time point of application fraud prevention checks through to the national data matching exercise which helps those that take part detect active fraud cases within systems.
- 1.2 Wyre Council are active participants in the NFI national data matching exercise. A full NFI data matching exercise is completed every two years and a council tax single person discount (SPD) matching exercise is carried out annually. These exercises match electronic data within and between audited bodies to prevent and detect fraud. This includes police authorities, local probation boards, fire and rescue authorities as well as other local councils and other government departments. Each organisation carries out data matching under its own powers, but uses the CO's systems, processes and expertise.
- 1.3 Since it began in 1996, the NFI has enabled its 1,200 participating organisations from the public and private sectors to detect and prevent fraud, overpayments and errors in excess of £2.4 billion. Every time the Government spends money or provides benefits and services, it is vulnerable to fraud and error. The main categories of fraud identified by the NFI in England relate to:
 - pension fraud and overpayments;
 - creditor fraud and overpayments/duplicate payments;
 - fraudulent or wrongly received, council tax SPD payments; and
 - housing benefit fraud and overpayments.
- 1.4 This report is intended to identify how the council has contributed towards the above figure since the latest matches were released in January 2023.
- 1.5 A summary of the results for the biennial exercise for 2022/23 is as follows:
 - To date a total of 533 matches have been investigated out of the 541 matches returned (investigations are ongoing for the remaining 8 matches);
 - Four errors have been identified totalling £3,670.96; and
 - The council is in the process of recovering the full £3,670.96, of which Wyre will keep £2,036 as it relates to duplicate creditor payments and will receive approximately 11% of the remaining £1,364.

1.6 A summary of the results for the annual council tax SPD exercise for 2022/23 is as follows:

- To date, 108 matches have been investigated out of the 4,321 matches returned (progress has been impacted by available resources);
- Five errors have been identified totalling £2,751.56 (with a further £6,635.00 which could be subject too recovery); and
- The council is in the process of recovering £2,751.56 or which Wyre will retain approximately 11% (£302.67).

1.7 Whilst it is acknowledged that there are capacity issues within the team; it should be noted that if the council were to continue to investigate all the remaining matches and find a similar error rate, there is the potential to identify further recoverable income, this is estimated to be in the region of £110,342 of which £12,138 would be due to Wyre, with the remainder to other precepts, mainly Lancashire County Council. Therefore further consideration should be given to allocating resources to this area.

2. Objectives of our work

2.1 The primary purpose of this report is to bring together all the findings and report the total number of frauds, errors or overpayments and their values that were identified as part of the 2022/23 NFI data matching exercise.

2.2 The 2022/23 NFI data matching exercise consisted of the following two datasets:

- Annual council tax SPD exercise; and
- Biennial national exercise (see schedule 1 for full list of data sets).

3. Overall Audit Opinion

3.1 Collectively 4,862 data matches have been received, of which only 641 (13%) have so far been examined owing to resourcing constraints. As at 2 November 2023, the council has identified £3,670.96 in errors and overpayments as part of the 2022/23 biennial national exercise, and a further £2,751.56 in council tax SPD errors and overpayments as part of the annual SPD exercise.

3.2 No further investigations will be carried out in relation to the 2022/23 annual SPD exercise as this data is now considered to be out of date. Council tax and electoral register data is in the process of being collated in relation to the 2023/24 SPD exercise. This data will be uploaded to the NFI portal in December 2023 and the matches are due to be returned in January 2024. Any matches that are still valid from the 2022/23 exercise will appear in the 2023/24 match reports and will therefore be investigated / cleared as part of that exercise.

3.3 The overall financial benefit resulting from the outcomes reported is currently £6,422.52 of which £706.47 will be retained by Wyre if recovered. This compares to the annual fee of £2,573 that the council pays to participate in the NFI exercise. Whilst the council itself does not always benefit from any recovered sums in full, other public bodies do and so the deterrent effect and this combined render makes it a worthwhile exercise for the public purse. There is also a wider public good to be considered by participating in the NFI exercise and the council has a duty to recover council tax on behalf of the vast majority of residents who pay promptly and in full and this exercise helps to fulfil that requirement.

4. Key Findings

- 4.1 Attached at Appendix A is a list of the data match reports that were examined as part of the 2022/23 full NFI data matching exercise.
- 4.2 Of the 29 data match reports examined, 9 errors / overpayments have been identified. The council is working towards recovering 100% of the £6,422.52 identified through various means (amended bills, attachment of earnings etc.). The table below shows the relevant data match reports, the number of instances and the values attached.

2 Yearly National Exercise (541 matches)			
Reports	Overpayments / errors (£)	Fraudulent Claims (£)	Total (£)
Housing Benefit Claimants to Student Loans (1 match)	0	0	0
Housing benefit claimants to Housing benefit claimants/phone number (1 match)	0	0	0
Housing benefit claimants to Housing tenants (2 matches)	0	0	0
Housing benefit claimants to Waiting Lists (8 matches)	0	0	0
Housing benefit claimants to DWP Deceased (5 matches)	0	0	0
Housing benefit claimants to Council Tax Reduction Scheme (12 matches)	0	0	0
Council Tax Reduction Scheme to Payroll (67 matches)	2 matches still being investigated		
Council Tax Reduction Scheme to Right to Buy (1 match)	0	0	0
Council Tax Reduction Scheme to Pensions (108 matches)	£1,634.00 (2 instances)	0	£1,634.00 (2 instances)

Reports	Overpayments / errors (£)	Fraudulent Claims (£)	Total (£)
Council Tax Reduction Scheme to Council Tax Reduction Scheme (11 matches)	0	0	0
Council Tax Reduction Scheme to Housing Tenants (3 matches)	0	0	0
Council Tax Reduction Scheme to Taxi Drivers (15 matches)	0	0	0
Council Tax Reduction Scheme to Housing Benefit Claimants (8 matches)	0	0	0
Council Tax Reduction Scheme to DWP Deceased (35 matches)	0	0	0
Payroll to Pensions (2 matches)	0	0	0
Payroll to Creditors (5 matches)	4 matches still being investigated		
Procurement – Payroll to Companies House (Director) (2 matches)	2 matches still being investigated		
Duplicate Creditors by Name (4 matches)	0	0	0
Duplicate Records by Reference, Amount and Creditor Reference (17 matches)	£1,752.00 (1 instance)	0	£1,752.00 (1 instance)
Duplicate Records by Invoice Number and Amount but Different Creditor Reference and Name (1 match)	0	0	0
Duplicate creditors by Address detail (11 matches)	0	0	0
Duplicate Records by Postcode, Invoice Amount but Different Creditor Reference and Invoice Number and Date (1 match)	0	0	0
Duplicate Records by Amount and Creditor Reference (192 matches)	£284.96 (1 instance)	0	£284.96 (1 instance)
Duplicate creditors by Bank account number (3 matches)	0	0	0
VAT overpaid (18 matches)	0	0	0
Resident Parking to DWP deceased (18 matches)	0	0	0
Resident Parking to Same vehicle registration (1 match)	0	0	0
Total for Two Yearly National Exercise	£3,670.96 (4 instances)	£0	£3,670.96 (4 instances)

Annual Council Tax Single Person Discount Exercise (4321 matches)			
Reports	Overpayments / errors (£)	Fraudulent Claims (£)	Total (£)
Council Tax to Electoral Register (1999 matches, only 108 investigated)	£2,751.56 (5 instances)	0	£2,751.56 (5 instances)
Council Tax rising 18s (14 matches)	£0 (0 instances)	0	£0 (0 instances)
Council Tax to other datasets (2038 matches)	Not being examined due to resource issues		
Total for SPD Exercise	£2,751.56 (5 instances)	£0 (0 instances)	£2,751.56 (5 instances)

All Reports	Overpayments / errors (£)	Fraudulent Claims (£)	Total (£)
Total for all exercises in 2022/23	£6,422.52 (9 instances)	£0 (0 instances)	£6,422.52 (9 instances)

5. Conclusions

- 5.1 The use of the NFI data matching service is only one element of an effective counter-fraud strategy. It must be underpinned by a thorough understanding of the fraud risks that an organisation faces, to ensure effort is focused in the right places. It is also important to have strong anti-fraud cultures and anti-fraud policies and procedures that emphasise that fraud is unacceptable.
- 5.2 Given that participation in the 2022/23 exercise has identified nearly £6,422.52 in possible error / overpayments / frauds so far, the council will continue to participate in future NFI data matching exercises. As such, data is currently being collated in respect of the 2023/24 annual SPD data matching exercise, results of which will be reported to the Audit Committee in 2024.
- 5.3 Following a recommendation from the Audit and Risk Management Team, the Revenues Team are in the process of conducting a comprehensive review of all SPD's. This involves sending a review form to all SPD recipients asking them to confirm if they are still entitled to the discount. As at 2 November 2023 forms had been sent out to all SPD recipients in council tax bands C, D, E, F, G and H and the amount of overpayments identified so far is as follows:
- Band C £3,838.32
 - Band D £16,605.41
 - Band E £19,031.54 = Total £44,373.30 (+ on-going income generated)
 - Band F £1,675.96
 - Band G £3,222.07

- Band H £0

5.4 Of the above reported overpayments total of £44,373.30, it should be noted that only £2,751.56 is included within the NFI system returned matches. Council tax payers may also subsequently provide evidence which negates some of the £44,373.30. However, this type of housekeeping exercise is routine and usually does generate additional revenues overall.

DATA MATCH REPORTS EXAMINED - 2022/23

- Housing benefit claimants to:
 - Student loans
 - Housing benefit claimants
 - Housing tenants
 - DWP deceased
 - Waiting lists
 - Council Tax Reduction Scheme (CTRS)

- Council Tax Reduction Scheme to:
 - Payroll
 - Pensions
 - Housing benefit claimants
 - Housing tenants
 - DWP deceased
 - Council Tax Reduction Scheme (CTRS)
 - Right to Buy
 - Taxi drivers

- Payroll to:
 - Pensions
 - Creditors

- Procurement to:
 - Companies House

- Duplicate Creditors by:
 - Creditor name
 - Invoice number
 - Creditor reference
 - Amount
 - Address name
 - Bank account number

- VAT overpaid

- Resident Parking Permit:
 - to DWP deceased
 - same vehicle registration

- Council Tax to:
 - Electoral Register
 - Rising 18's
 - Other datasets

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Report of:	Meeting	Date
Mary Grimshaw, Legal Services Manager	Audit and Standards Committee	14 November 2023

Members' Code of Conduct Complaints - Summary

1. Purpose of report

1.1 To advise the Committee of the number and status of complaints received since the last meeting under the Members' Code of Conduct which have been, or are to be, considered by the Monitoring Officer and the Independent Person.

2. Corporate priorities

2.1 Ensure the public and councillors have confidence in the high standards of local government, that there is transparency about the conduct of councillors and the mechanisms for dealing with alleged breaches of the Codes of Conduct.

3. Recommendation

3.1 That the Audit and Standards Committee note the outcome of concluded complaints and the progress of those still outstanding.

4. Background

4.1 The council and individual members are required to promote and maintain high standards of ethical behaviour as is required under section 27 of the Localism Act 2011 ("the Act"). The Act requires the council to have in place arrangements, under which allegations that a member of the council has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.

4.2 At previous Standards meetings it has been agreed that a statistical outline be provided to Members and a more detailed summary on a biannual basis.

5. Key issues and proposals

- 5.1** The complaints received are summarised in the attached schedule – Appendix 1. Officers have combined a brief description of each complaint and outcome together with a summary of the type of complaint. However no personal information is provided. This will allow members to take a holistic view of the complaints whilst also considering whether there are any issues of particular concern and whether the outcomes are being used appropriately and effectively.
- 5.2** Since the last meeting, the Monitoring Officer has received 9 complaints although 3 of these were not progressed as complaints, due to insufficient information or the complainant not wishing to progress it as a formal complaint. Of the remaining complaints 4 were determined not to be in breach of the code of conduct and 2 remain ongoing. Updates regarding these will be included at future meetings. Common themes of the complaints received have been inappropriate or disrespectful behaviour and inappropriate social media comments.

6. Data Protection Considerations

- 6.1** Personal data has been processed during the consideration / investigation of complaints. Whilst a privacy impact assessment has not been completed on this occasion, previous advice and guidance has been obtained from the council's Data Protection Officer in relation to ensuring that the privacy of data subjects is considered at each stage of the process.

Financial, Legal and Climate Change implications	
Finance	None arising directly from this report.
Legal	The council has a legal duty to respond to complaints made against councillors alleging breaches of the Code of Conduct and have in place suitable procedures for handling and investigating complaints. The council is also responsible for having arrangements in place to investigate and determine allegations against parish councillors.
Climate Change	None arising directly from this report.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	X

risks/implications	✓ / x
asset management	X

equality and diversity	X
health and safety	X

ICT	X
data protection	✓

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
Mary Grimshaw	01253 887214	Mary.grimshaw@wyre.gov.uk	3 November 2023

List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

Appendix 1 Schedule of current complaints

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Summary of current complaints 2023

The following alleged breaches of the Code of Conduct are either currently being dealt with under the Council's complaints process or have been concluded since the meeting of the Standards Committee held on 16 March 2023

Ref No	Subject Member	Category of Complaint	Progress/Outcome
2023/1	Wyre Councillor	Allegation regarding inciting behaviour, breach of GDPR, Safeguarding concerns.	The behaviour under consideration involved sharing of videos on social media and whilst it wasn't clear cut as to whether the councillor was acting in their capacity it was considered a breach of the code . The MO confirmed with the subject member that the videos were taken down and advice provided regarding different roles and ambiguity that may arise. Advice regarding GDPR and obtaining consent also provided. Matter Concluded.
2023/2	Garstang Town Council	Allegation regarding inappropriate comments on social media.	MO followed up with the complainant for information/ evidence to support complaint. This was not forthcoming so not taken any further. Matter Concluded.
2023/3	Fleetwood Town Council	Allegation regarding inappropriate disrespectful comments on social media.	Subject member was not a councillor at the time of the complaint so no breach of the code but was standing for election as Wyre Councillor therefore the MO requested they took the post down and took the decision to issue advice regarding the Code of Conduct and in particular around social media. Following election MO & DMO carried out one to one Code of Conduct training with subject member. Matter Concluded.
2023/4	Wyre Councillor	Concern regarding not treating officers with respect.	This did not come through as a formal complaint so was dealt with informally by the CEX. Matter Concluded.
2023/5	Wyre Councillor	Allegation regarding posting of inappropriate comments on social media.	No formal complaint submitted and no evidence provided by complainant so unable to take this any further. Matter Concluded.
2023/6	Wyre Councillor	Allegation regarding inappropriate comments made at Planning Committee.	MO & IP agreed to meet with subject member to provide advice regarding behaviour at public meetings. This meeting has not yet taken place, complainants have been notified. Matter Ongoing.

2023/7	Wyre Councillor	Allegations regarding suitability as Councillor	Subject member not acting in their capacity as a Councillor so no breach of the code of conduct. Matter Concluded.
2023/8	Wyre Councillor	Allegation regarding failure to declare an interest.	Matter considered in liaison with the MO & IP and information sought from subject member. Determined that there was no requirement to declare an interest and therefore no breach of the code. Matter Concluded.
2023/9	Wyre Councillor	Allegation regarding inappropriate behaviour towards officers and at Planning Committee meeting(s).	Matter considered in liaison with the MO & IP. Initial complaints discussed with subject member in attempt to manage informally however further complaints then received. MO & IP agreed that formal investigation to be instigated. Matter Ongoing.

Updated 03/11/2023



Report of:	Meeting	Date
Mary Grimshaw, Legal Services Manager	Audit and Standards Committee	14 November 2023

Compliance with the Regulation of Investigatory Powers Act 2000 (RIPA)

1. Purpose of report

- 1.1 To review the authority's use of RIPA since it was last considered at the Audit Committee in September 2022.
- 1.2 To approve the RIPA policy.

2. Outcomes

- 2.1 Demonstrates that the Council's policies and procedures are compliant with RIPA legislation.

3. Recommendations

- 3.1 Members are requested to note that there have been no authorisations granted for directed surveillance or covert human intelligence source under the Regulation of Investigatory Powers Act 2000 since 2012.
- 3.2. Members are requested to note that there are no proposed changes to the Council's RIPA policy since it was last updated and approved by this Committee on 27 September 2022.

4. Background

- 4.1 Local authorities can undertake surveillance and access communications data under the framework of RIPA. These rules set high standards for all public authorities that use these powers to undertake a range of enforcement functions to ensure that they can keep the public safe and bring criminals to justice, whilst protecting individuals' rights to privacy.
- 4.2 The Protection of Freedoms Act 2012 introduced a more restrictive approach to the use of RIPA by local authorities by limiting the use of

direct authorisations to serious crimes, i.e. those crimes punishable by a maximum custodial sentence of six months or more or those constituting an offence of selling alcohol or tobacco to children. The application must also have judicial approval by a magistrate before an authorisation takes effect and the magistrate needs to be satisfied that there are reasonable grounds for believing that the requirements of RIPA are met. The council has not used RIPA surveillance powers since 2012.

- 4.3** The council is required to have a RIPA policy. The current policy was last approved in September 2022 in compliance with the RIPA code of practice, which requires an annual review of the policy.
- 4.4** The Investigatory Powers Commissioner's Office (IPCO) has taken over the inspection and oversight functions on RIPA, which was previously carried out by the Surveillance Commissioner's Office. The IPCO have confirmed that they will continue to ensure RIPA compliance by conducting a programme of inspections of Local Authorities. As a generality, they aim to inspect each council in England, Wales and Scotland once every three years but have introduced remote desktop inspections when a Local Authority has significantly reduced or stopped using their powers under RIPA and when there are no apparent significant compliance concerns. The council's previous inspection was in 2022.

5. Key Issues and proposals

- 5.1** An IPCO inspector carried out a remote desktop review on 13 January 2022. Following the inspection a report was issued. A summary of the recommendations made were summarised at the last review (27 September 2022) and can be found at the following link.

<https://wyre.moderngov.co.uk/ieListDocuments.aspx?CId=149&MId=1699&Ver=4>

- 5.2** Following a training session, which highlighted the possible use of social media in surveillance activities, departmental heads were approached to capture the extent and scope of online activity. A small number of managers confirmed that they may use social media for surveillance activities. These managers were informed that all activity should be recorded and supervised, which enables the Senior Responsible Officer to have confidence that such resources are being used in a controlled, auditable and well understood manner. A further reminder and examination of any records will be completed by Internal Audit later in the year.
- 5.3** Following the inspector's report, chapter 5 of the policy on communications data was updated and approved by this Committee to reflect the legislative changes made by the Investigatory Powers Act 2016. Local authorities can now obtain details of in and out call data and cell site location for "applicable crimes". All Communications Data

applications must now be processed through National Anti Fraud Network and will be considered for approval by the Independent Office of Communication Data Authorisation.

- 5.4** There are no changes proposed to the policy at this time, as it is considered to be compliant with RIPA.

Financial and legal implications	
Finance	There are no direct financial implications associated with the changes. Training for staff, to ensure that they are kept up to date with good enforcement practices and revisions to RIPA, will be met from existing budgets.
Legal	The approval of the recommendations demonstrates that the council's policies and procedures are compliant with RIPA.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report for those issues marked with an X.

risks/implications	✓ / x
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
ICT	x
data protection	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a 3rd party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

Appendix 1 - RIPA Policy Statement (no changes)



The Regulation of
Investigatory Powers Act
2000 (RIPA)

Policy Statement

To be approved by the Audit Committee on 14 November 2023

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Appendix 7 – S.37 and S.38 of the Protection of Freedoms Act 2012 and RIPA (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012	www.legislation.gov.uk
Appendix 8 – Home Office Guidance Protection of Freedoms Act 2012	www.homeoffice.gov.uk
Appendix 9 – RIPA Forms	http://intranet/services/RIPA/Pages/Non-Ripa.aspx

1 Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
- 1.2 Wyre Borough Council is therefore included within the RIPA framework with regards to the authorisation of both Directed Surveillance and of the use of Covert Human Intelligence Sources and access to Communications Data.
- 1.3 The purpose of this guidance is to:-
- explain the scope of RIPA and the circumstances where it applies
 - provide guidance on the authorisation procedures to be followed
- 1.4 The council has had regard to the Codes of practice produced by the Home Office in preparing this guidance and copies are attached at Appendix 4.
- 1.5 In summary, RIPA requires that when the council undertakes "directed surveillance" or uses a "covert human intelligence source" these activities must only be authorised by an officer with delegated powers when the relevant criteria is satisfied. Following changes made by the Protection of Freedoms Act 2012 all authorisations must be approved by a magistrate. If an officer requires access to communications data, the framework is provided by the Investigatory Powers Act 2016, and associated codes of practice. The authority must make the application through NAFN, the National Anti-Fraud Network, who by virtue of a collaborative agreement act as the authority SPOC. An extract from the Scheme of Delegation indicating the Authorising Officers is attached at Appendix 2.
- 1.6 Authorisation under RIPA gives lawful authority to carry out directed surveillance and the use of covert human intelligence source. Obtaining authorisation helps to protect the council and its officers from complaints of interference with the rights protected by Article 8 (1) of the European Convention on Human Rights and the UK which is now enshrined in English law through the Human Rights Act 1998. This is because the interference with the private life of citizens will be "in accordance with the law", and for a legitimate purpose. Provided activities undertaken are also "reasonable and proportionate" they will not be in contravention of Human Rights Legislation.
- 1.7 Authorising Officers and Investigators within the Local Authority are to note that RIPA does not extend powers to conduct intrusive Surveillance. Investigators should familiarise themselves with the provisions of the Code Of Practice on Directed Surveillance and Covert Human Intelligence Sources to ensure a good understanding of the limitation of powers within RIPA. Deciding when authorisation is required involves making a judgement. If you are in doubt, seek the advice of an Authorising Officer, if they are in doubt they will seek advice from the Senior Responsible Officer.

2 **Directed Surveillance**

2.1 **What is meant by Surveillance?**

“Surveillance” Includes:

- a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communication;
- b) recording anything monitored, observed or listened to in the course of surveillance; and
- c) surveillance by or with the assistance of a surveillance device.

2.2 **When is surveillance directed?**

Surveillance is ‘Directed’ for the purposes of RIPA if it is covert, but not Intrusive and is undertaken:

- a) for the purpose of a specific investigation or a specific operation.
- b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one is specifically identified for the purpose of the investigation or operation); and
- c) otherwise than by the way of an immediate response to levels or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.

2.3 **Surveillance becomes intrusive if the covert surveillance:**

- a) Is carried out in relation to anything taking place on any **“residential premises”** or in any **“private vehicle”**, and;
- b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device, or;
- c) is carried out by any means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle but is carried out without that device being present on the premises or in the vehicle, where the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

It should be noted that the council cannot authorise “intrusive surveillance”

- 2.4 Before any officer of the council undertakes any surveillance of any individual or individuals they need to assess whether the activity comes within RIPA. In order to do this the following key questions need to be

asked.

2.4.1 **Is the surveillance covert?**

Covert surveillance is that carried out in a manner calculated to ensure that subjects of it are unaware it is or may be taking place.

If activities are open and not hidden from the subjects of an investigation, the RIPA framework does not apply.

Examples of the surveillance are provided in the Code of Practice and are summarised in Appendix 3.

2.4.2 **Is it for the specific investigation or a specific operation?**

If officers are monitoring general activity in a street or car park whether covert or overt, then it is not covered by RIPA, as such general observation duties are part of the legislative functions of public authorities and are not pre-planned surveillance of a specific person or group of people.

2.4.3 **Is it in such a manner that is likely to result in the obtaining of private information about a person?**

“Private information” is any information relating to a person's Private life or family life.

It is an issue of fact and degree, which has to be examined in each case.

Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that persons' activities may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person's activities for the future consideration.

Example:

Officers of a local authority wish to drive past a café for the purpose of taking a photograph of the exterior. This is not likely to require a directed surveillance authorisation, as no private information about any person is likely to be obtained. However if the authority wish to establish a pattern of occupancy of the premises, the accumulation of information is likely to result in the obtaining of private information and a direct surveillance authorisation should be considered.

If it is likely that observation will not result in the obtaining of private information about a person, then it is outside RIPA.

2.4.4 **Otherwise than by way of an immediate response to events or circumstances where it is not reasonably practicable to get authorisation**

An example of an immediate response to something happening during the course of an observer's work which is unforeseeable would be a housing benefit fraud officer who conceals himself and continues to observe a person working who he knows to be claiming benefits and whom he comes across unexpectedly.

However, if as a result of that immediate response, a specific investigation subsequently takes place then it brings it within the RIPA framework.

2.4.5 **Surveillance – Direct or Intrusive?**

Directed surveillance turns into intrusive surveillance if it is carried out involving anything that occurs on residential premises or any private vehicle and involves the presence of someone on the premises or in the vehicle or is carried out by means of a (high quality) surveillance device.

If the device is not in the premises or in the vehicle, it is only intrusive surveillance if it consistently produces information of the same quality as it if were.

Commercial premise and commercial vehicles are therefore excluded from intrusive surveillance.

High quality video monitoring or CCTV may run a significant risk of providing consistently high quality data "as if you were there" and therefore come within the definition of intrusive surveillance.

Matron boxes i.e. noise monitors, used by environmental health departments will not usually be covered. Usually they are stationed in a neighbouring property and do not provide evidence of the same quality as if the device was actually on the premises. Also the code of practice advises that in such circumstances the perpetrator would normally be regarded as having forfeited any claim to privacy.

The council is not authorised to carry out intrusive surveillance.

3 Covert use of Human Intelligence Source (CHIS)

3.1 A person is a **CHIS** if:

- a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph b) or c).
- b) he covertly uses such a relationship to obtain information or provide access to any information to another person; or
- c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

3.2 A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of that purpose.

3.3 A relationship is used covertly and an information obtained is disclosed covertly, if and only if it is used or as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

3.4 An example by the Home Office is where intelligence suggests a local shop keeper is selling alcohol to underage customers and the local authority engages an employee to act as a juvenile in order to make a purchase of alcohol. In these circumstances any relationship, if established at all, is likely to be so limited, that the authority can conclude that an authorisation is unnecessary.

3.5 Lay Witness

Choose carefully how you chose to ask lay witnesses to gather information for you. For example, if a member of the public telephones to complain about noise nuisance caused by a neighbour. The lay witness is in a relationship with the neighbour already and is just passing on information to the council and would not be covered by RIPA. However the more the council tasks the lay witness to do something then you may inadvertently change them into a CHIS.

If you are in doubt seek advice from a senior Authorising Officer, and if they are in doubt they will seek advice from a Senior Responsible Officer.

3.6 The use of Covert Human Intelligence Sources

3.6.1 In practice it is most unlikely that it will ever be appropriate for the council to utilise a CHIS. However, in the event that it is ever considered, advice should be sought from the Senior Responsible Officer at an early stage. It is potentially possible that a council employee may be that of a source or the council may also use an external or professional source for the

purpose of obtaining information. Such persons may be a CHIS if he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraphs b or c of paragraph 3.1.

- 3.6.2 Nothing in RIPA prevents material obtained by an employee acting as a source being used as evidence in court proceedings.
- 3.6.3 The Authorising officer must consider the safety and welfare of a CHIS acting a source, and the foreseeable consequences to others of the tasks they are asked to carry out. A risk assessment should be carried out before authorisation is given and considering what issues could be facing the security and welfare of a CHIS in relation to what they are being asked to do. This should take place before authorisation is granted, at any renewal, review and cancellation.
- 3.6.4 Before authorising the use of a CHIS as a source, the Authorising Officer should believe that the conduct/use including the likely degree of intrusion into the privacy of those potentially affected is proportionate to what the use or conduct of the source seeks to achieve. He should also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the operation or investigation (collateral intrusion) Measures should be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those not directly connected with the operation.
- 3.6.5 Particular care should be taken in circumstances where people would expect a high degree of privacy or where, as a consequence of the authorisation, "confidential material" is likely to be obtained. (see definition of confidential material in Appendix 1) Special provisions relate to vulnerable individuals and juvenile services.
- 3.6.6 In additional to the usual authorisation process, the following management arrangements must be in place at all times in relation to the use of a CHIS:
 1. There will be an appropriate officer of the council (handler) who has day-to-day responsibility for dealing with the CHIS, and for the security and welfare of the CHIS; and
 2. there will be a second appropriate officer of the council who has general oversight of the use made of the CHIS, and who will have responsibility for maintaining an accurate and proper record about the source and tasks undertake (controller or covert manager)
- 3.6.7 The CHIS forms contain appropriate boxes and prompts for ensuring the above is carried out.

4 Duration, Authorisations, Reviews Renewals and Cancellations

4.1 Duration

4.1.1 Authorisations lapse, if not renewed

4.1.1.1 within 12 months - from date of last renewal if it is for the conduct or use of a covert human intelligence source or;

4.1.1.2 in all other cases (i.e. directed surveillance) 3 months from the date of their grant or last renewal.

4.1.2 Directed Surveillance - Authorisation

4.1.2.1 For directed surveillance no officer shall grant an authorisation for the carrying out of directed surveillance unless he believes:

- a. that an authorisation is **necessary** (on the one the ground detailed below) and
- b. the authorised surveillance is **proportionate** to what is sought to be achieved by carrying it out.

4.1.2.2 An authorisation is necessary on the grounds stated below following the introduction of the Protection of Freedoms Act 2012:-

- a. for the purpose of preventing or detecting conduct which constitutes/corresponds to a criminal offence that is punishable by a maximum custodial sentence of 6 months or more or;
- b. constitutes an offence under s.146, 147 or 147A of the Licensing Act 2003) - selling alcohol to children or;
- c. selling tobacco to persons under 18 years of age (s.7 Children and Young Persons Act 1933).

4.1.2.3 The Authorising Officer should be set out, in its own words, why he believes the activity is necessary and proportionate. A bare assertion is insufficient. The onus is therefore on the person authorising such surveillance to satisfy themselves it is:

- a. necessary for the ground stated above and be able to demonstrate the reasons why it is necessary and;
- b. proportionate to its aim.

This involves balancing the seriousness of intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.

The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an

expected benefit to the investigation or operation and should not be disproportionate or arbitrary.

The following elements of proportionality should therefore be considered:

- Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- Explaining how and why the methods 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.

It is important therefore that all officers involved in surveillance are fully aware of the extent and limits of the authorisation.

The Code of Practice give an example of an individual suspected of carrying out a series of criminal damage offences at a local shop after a dispute with the owner. It suggested that a period of directed surveillance should be conducted against him to record his movements and activities for the purpose of preventing or detecting crime. Although these are legitimate grounds on which directed surveillance may be conducted, the Home Office Code states that it is unlikely the interference with privacy will be proportionate in the circumstances of the particular case. In particular the obtaining of private information on the individuals daily routine is unlikely to be necessary or proportionate in order to investigate the activity of concern. Instead, other less intrusive means are likely to be available, such as overt observation of the location in question until such time as a crime may be committed.

4.1.2.4 In order to ensure Authorising Officers have sufficient information to make an informed decision it is important that detailed records are maintained. The applicant in completing the forms must provide facts and evidence.

4.1.2.5 It is also sensible to make any authorisation sufficiently wide enough to cover the means required as well as being able to prove effective monitoring of what is done against what is authorised. Authorisations must be in writing. The standard forms to be used can be accessed via the council's intranet.

4.1.2.6 **IMPORTANT NOTE: THE PROTECTION OF FREEDOMS ACT 2012 INTRODUCES A REQUIREMENT FOR MAGISTRATE APPROVAL FOR ALL RIPA AUTHORISATIONS FROM 1 NOVEMBER 2012. ACCORDINGLY AUTHORISATIONS CANNOT TAKE EFFECT UNTIL SUCH TIME AS A JP HAS MADE AN ORDER APPROVING THE AUTHORISATION I.E. A GRANT OR RENEWAL.**

The procedure and application process is set out in Appendix 8. It is important that you seek advice from the Senior Responsible Officer before making the application for judicial approval.

4.1.2.7 Any Authorising officer proposing to approve an application for the use of directed surveillance, or for the use of CHIS must immediately inform the Senior Responsible Officer, who will then make arrangements for an application to be made to the Magistrates' Court.

4.1.2.8 In such circumstances the council will be required to make an application, without giving notice to the Magistrates Court. The Magistrates will give approval if and only if, at the date of the grant of authorisation or renewal of an existing authorisation they are satisfied that:

- a) there were reasonable grounds for believing that obtaining the covert surveillance or use of a human covert intelligence source was reasonable and proportionate and that these ground still remain
- b) the "relevant conditions" were satisfied in relation to the authorisation.

Relevant conditions include that:

1. the relevant person was a designated as an Authorising Officer.
2. it was reasonable and proportionate to believe that using covert surveillance or a CHIS was necessary and that the relevant conditions have been complied with.
3. the grant or renewal of any authorisation or notice was not in breach of any restrictions imposed under section 25 (3) of RIPA (restrictions on the rank of the person granting the authorisation)
4. any other conditions provided for by an order made by the Secretary of State were satisfied.

If the Magistrates' Court refuses to approve the grant or renewal of the authorisation, it may make an order to quash that authorisation. However the court may not exercise its power to quash the authorisation unless the council has had at least two business days from the date of refusal in which to make any representations.

4.1.3 **Reviews**

4.1.3.1 Authorising Officers are responsible for ensuring that authorisations undergo timely reviews and are cancelled promptly after directed surveillance activity is no longer necessary.

4.1.3.2 It is recommended that regular reviews be undertaken to see if the need for the surveillance is still continuing. Results of reviews should be recorded in the Central Register of Authorisations (see paragraph 7) Reviews should be more frequent when access is more confidential information or collateral intrusion is involved. Review frequency should be

as often as the Authorising Officer deems necessary or practicable.

4.1.3.3 Each Authorising Officer will therefore determine in each case how often authorisations should be reviewed. It is recommended that they ensure records of the review be supplied on the relevant form. Copies should be sent to the Senior Responsible Officer to keep the Central Register up to date.

4.1.4 **Renewals**

4.1.4.1 An Authorising Officer may renew an authorisation before it would cease to have effect if it is necessary for the authorisation to continue for the purpose for which it was given. A renewal of the authorisation in writing can be made for up to 3 months. Applications for renewal should detail how any times an authorisation has been renewed; significant changes to the original application for authority; reasons why it is necessary to renew; content, value of the information obtained so far and results of regular reviews of the investigation or operation.

4.1.4.2 Each application to renew should be made at least 7 days before the authorisation is due to expire on the relevant form. A record of the renewal should be kept within the applying service and supplied centrally to the Senior Responsible Officer to be placed in the Central Register.

IMPORTANT NOTE: FROM 1 NOVEMBER 2012 RENEWALS CANNOT TAKE EFFECT UNTIL SUCH TIME AS A MAGISTRATE HAS MADE AN ORDER APPROVING THE RENEWAL.

4.1.5 **Cancellations**

4.1.5.1 All Authorisations, including renewals should be cancelled if the need for surveillance is no longer justified. This will occur in most cases where the purpose for which the surveillance was required has been achieved.

4.1.5.2 Requesting officers should ensure they inform authorising officers if this is the case before the next review. If, in opinion of the Authorising Officer at the next review the need for surveillance is no longer justified it must be cancelled.

4.1.5.3 The cancellation forms will be used to record a cancellation, and the Authorising Officer will ensure the original cancellation has been sent to the Senior Responsible Officer or nominated representative to update the Central Register.

4.2 **Covert use of Human Intelligence Sources**

4.2.1 **Authorisation**

4.2.1.1 The same principles as set out in paragraphs 4.1.2.1 and 4.1.2.2 apply to CHIS except the ground on which a CHIS can be authorised, which remains unaltered by the Protection of Freedoms Act 2012.

A CHIS authorisation can only be approved where it is necessary for the purpose of preventing or detecting crime, or preventing disorder.

A CHIS authorisation can last for up to 12 months.

4.2.1.2 The conduct so authorised is any conduct that:

- a) is comprised in any such activities involving the conduct or use of a CHIS, as are specified or described in the authorisation;
- b) relates to the person who is specified or described as the person whose actions as a CHIS the authorisation relates; and
- c) is carried out for the purpose of, or in connection with the investigation or operation so specified or described.

4.2.1.3 In order to ensure that Authorising Officers have sufficient information to make an informed decision it is important that detailed records are maintained.

It is also sensible to make any authorisation sufficiently wide enough to cover all the means required as well as being able to prove effective monitoring of what is done against the authorised.

4.2.2 **Renewals/Reviews**

4.2.2.1 Similar provisions apply for a CHIS except that a renewal here can last for a further 12 months, a review must have been carried out on the use of the source and an application should only be made to renew when the initial authorisation period is drawing to an end. Applications to renew a CHIS also should contain use made of the source and tasks given to the source during the previous authorised period and the information obtained.

IMPORTANT NOTE: FROM 1 NOVEMBER 2012 AUTHORISATIONS CANNOT TAKE EFFECT UNIL SUCH TIME AS A MAGISTRATE HAS MADE AN ORDER APPROVING THE AUTHORISATION I.E A GRANT OR RENEWAL.

4.2.3 **Cancellations**

4.2.3.1 The same principles as Directed Surveillance apply.

4.2.3.2 Separate forms have been devised to applications to authorise, review, renew and cancel a CHIS. These can be accessed via the Councils intranet.

5 Communications Data

- 5.1 Before considering submitting an application for the acquisition of communications data, all officers must first refer the matter to the Senior Responsible Officer.
- 5.2 Communications Data ('CD') is the 'who', 'when' and 'where' of a communication, but not the 'what' (i.e. the content of what was said or written). Local Authorities are not permitted to intercept the content of any person's communications.
- 5.3 Part 3 of the Investigatory Powers Act 2016 (IPA) replaced part 1 chapter 2 of RIPA in relation to the acquisition of communications data (CD) and puts local authorities on the same standing as the police and law enforcement agencies. Previously local authorities have been limited to obtaining subscriber details (known now as "entity" data) such as the registered user of a telephone number or email address. Under the IPA, local authorities can now also obtain details of in and out call data, and cell site location. This information identifies who a criminal suspect is in communication with and whereabouts the suspect was when they made or received a call, or the location from which they were using an Internet service. This additional data is defined as "events" data.
- 5.4 A new threshold for which CD "events" data can be sought has been introduced under the IPA as "applicable crime". Defined in section 86(2A) of the Act this means: an offence for which an adult is capable of being sentenced to one year or more in prison; any offence involving violence, resulting in substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal; any offence committed by a body corporate; any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person's privacy. Further guidance can be found in paragraphs 3.3 to 3.13 of CD Code of Practice.
- 5.5 Finally, the IPA has also removed the necessity for local authorities to seek the endorsement of a Justice of the Peace when seeking to acquire CD. All such applications must now be processed through NAFN and will be considered for approval by the independent Office of Communication Data Authorisation (OCDA). The transfer of applications between local authorities, NAFN and OCDA is all conducted electronically and will therefore reduce what can be a protracted process of securing an appearance before a Magistrate or District Judge (see local authority procedures set out in paragraphs 8.1 to 8.7 of the CD Code of Practice).

6 Other factors to consider

Particular consideration should be given to **collateral intrusion** i.e. the risk of intrusion into the privacy of those not directly the targets of the investigation. Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the privacy of those who are not the intended subjects of the surveillance activity. Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this intrusion is considered proportionate to what is sought to be achieved. The same proportionality test, as outlined above apply to the likelihood of collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance. Such collateral intrusion or interference would be a matter of greater concern in cases where there are special sensitivities, for example in cases of premises used by lawyers or for any form of medical or professional counselling or therapy.

- 6.2 An application for an authorisation should include an assessment of the risk of any collateral intrusion or interference. The Authorising Officer will take this into account, particularly when considering the proportionality of the surveillance.
- 6.3 Those carrying out the covert surveillance should inform the Authorising Officer if the operation/investigation unexpectedly interferes with the privacy of individuals who are not the original subject of the investigation or covered by an authorisation in some other way. In some cases the original authorisation may not be sufficient and consideration should be given to whether a separate authorisation is required.
- 6.4 Any person giving authorisation will also need to be aware of particular sensitivities in the local community where the surveillance is taking place or of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance.

Confidential Material

- 6.5 RIPA does not provide any special protection for "**confidential material**" (see definitions in Appendix 1) Nevertheless, such material is particularly sensitive, and is subject to additional safeguards. In cases where the likely consequence of the conduct of a source would be for any person to acquire knowledge of confidential material, the deployment of the source should be subject to a special authorisation. i.e. by the Chief Executive.
- 6.6 In general, any application for an authorisation which is likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired. Special care should be taken when the target of the investigation is likely to be involved in handling confidential material. Such applications should only be considered in the exceptional and compelling circumstances with full regard to the proportionality issues this raises.

6.7 The following general principles apply to confidential material acquired under authorisations:

- Those handling material from such operations should be altered to anything that may fall within the definition of confidential material where there is doubt as to whether the material is confidential, advice should be sought from the Senior Responsible Officer before further dissemination takes place;
- Confidential material should not be retained or copied unless it is necessary for a specific purpose;
- Confidential material should be disseminated only where an appropriate officer (having sought advice from the Senior Responsible Officer) is satisfied that it is necessary for a specific purpose;
- The retention or dissemination of such information should be accompanied by a clear warning of its confidential nature. It should be safeguarded by taking reasonable steps to ensure that there is no possibility of it becoming available, or its content being known, to any person whose possession of it might prejudice any criminal or civil proceedings related to the information.
- Confidential material should be destroyed as soon as it is no longer necessary to retain it for a specified purpose.

6.8 In the case of confidential information a higher level of authorisation is Required. Therefore where authorisation is sought to carry out surveillance in respect in respect of communications subject to legal professional privilege, or containing confidential personal information or confidential journalistic material, the Chief Executive must sign the authorisation.

Joint Working

6.9 In cases of joint working, where one agency is acting on behalf of another, usually the tasking agency can obtain or provide the authorisation i.e. if the Council has been tasked by the Police to assist in a covert surveillance operation, they should get the authorisation, which would the cover the Council. But advice should be sought from the Senior Responsible Officer prior to any arrangements being agreed.

Handling and Disclosure of Materials

6.10 Authorising Officers are reminded of the guidance relating to the retention and destruction of confidential material as described in paragraph 6.7 above.

6.11 Applications and associated reviews, renewals and cancellations for directed surveillance shall be centrally retrievable for a period of 5 years

Where it is believed that the records could be relevant to pending or future criminal proceedings, they should be retained for a suitable further period, commensurate to any subsequent review.

6.12 Authorising officers must ensure compliance with the appropriate data protection requirements and the relevant codes of practice in the handling and storage of material. Where material is obtained by surveillance, which is wholly unrelated to a criminal or other investigation or to any person who is the subject of the investigation and there is no reason to believe it will be relevant to future civil or criminal proceedings, it should be destroyed immediately. Consideration as to whether or not unrelated material should be destroyed is the responsibility of the Authorising Officer. If in doubt advice should be sought from the Senior Responsible Officer.

6.13 There is nothing in RIPA that prevents material obtained through the proper use of the authorisation procedures from being used in other investigations. However the use outside the Council, of any material obtained by means of covert surveillance and other than in pursuance of the ground, on which it was obtained, should be authorised only in the most exceptional circumstances. Advice should be sought from the Senior Responsible Officer.

7 Central Register of Authorisation

7.1 The RIPA code of practice requires a central register of all authorisations to be maintained. The Legal Section maintains this register.

7.2 Whenever an authorisation is authorised, renewed, reviewed or cancelled the Authorising Officer must send the signed original authorisation to the Senior Responsible Officer or nominated representative. Receipt of the form will be acknowledged.

7.3 The Central Register will contain the following information:

- the type and date of authorisation;
- the name and grade of the Authorising Officer;
- a unique reference number for the investigation or operation;
- the title of the investigation/operation, and a brief description and names of the subjects, if known;
- if an authorisation is renewed, when and the name and designation of the Authorising Officer;
- if confidential information is likely to be a consequence of the investigation or operation;
- the date the authorisation was cancelled;
- the date of magistrates court approval.

7.4 The legal section will securely retain the original authorisations and maintain the Central register. Authorisations should only be kept for a maximum of 5 years from the end of an authorisation. Once the investigation is closed (bearing in mind cases may be lodged sometime after the initial work) the records held by the department should be disposed of in an appropriate manner (e.g. Shredded)

8 Codes of Practice

- 8.1 There are Home Office codes of practice and Office of Surveillance Commissioners (OSC) Guidance that expand on this policy statement and copies are attached at Appendices 4 and 6. The codes also list General Best Practices, which should be followed where at all possible.
- 8.2 The codes do not have the force of statute, but are admissible in evidence in any criminal and civil proceedings. As stated in the codes, “if any provision of the code appears relevant to a question before any Court or tribunal considering any such proceedings, or to the tribunal established under RIPA, or to one of the commissioners responsible for overseeing the powers conferred by RIPA, it must be taken into account”
- 8.3 Staff should refer and familiarise themselves with the Home Office Code of Practice and OSC Guidance for supplementary guidance.
- 8.4 Authorising Officers and the Senior Responsible Officer should also familiarise themselves with the Procedures and Guidance document produced by the OSC attached at Appendix 6.

9 Benefits of obtaining Authorisation under RIPA

9.1 Authorisation of surveillance and human intelligence sources

RIPA states that

- if authorisation confers entitlement to engage in a certain conduct and;
- the conduct is in accordance with the authorisation, then;
- “it shall be lawful for all purposes”

However, the corollary is not true – i.e. if you do not obtain RIPA authorisation it does not make any conduct unlawful (e.g. use of intrusive surveillance by local authorities). It just means that you cannot take advantage of any of the special RIPA benefits.

- 9.2 RIPA states that a person shall not be subject to any civil liability in relation to any conduct of his which:
- a) is incidental to any conduct that is lawful by virtue of an authorisation and;
 - b) is not itself conduct for which an authorisation is capable of being granted under a relevant enactment and might reasonably be expected to have been sought in the case in question.

10 Scrutiny and Tribunal

- 10.1 The Investigatory Powers Commissioners Officer (IPCO) has taken over the inspection and oversight functions on RIPA which was previously

carried out by the Surveillance Commissioner's Office. The IPCO and his assistants will continue to ensure RIPA compliance by conducting a programme of inspections of Local Authorities. As a generality, they aim to inspect each council in England, Wales and Scotland once every three years but have introduced remote desktop inspections where a local authority has significantly reduced or stopped using their powers under RIPA and when there are no apparent significant compliance concerns. However, a desktop inspection will always be followed by an onsite inspection.

- 10.2 RIPA provides for the establishment of a tribunal to consider and determine complaints made under RIPA, and persons aggrieved by a local authority's conduct e.g. directed surveillance can make complaints to the tribunal. The forum hears applications on a judicial review basis. Claims should be brought within one year unless it is just and equitable to extend that.
- 10.3 The tribunal can order, among other things, the quashing or cancellation of any authorisation and can order destruction of any records or information obtained by such authorisation, and records of information held by any public authority in relation to any person. The council is, however, under a duty to disclose or provide to the tribunal all documents they require if:
- A council Officer has granted any authorisation under RIPA.
 - Council employees have engaged in any/all conduct as a result of such authorisation.
 - A disclosure notice requirement is given.

11 Covert Surveillance of Social Networking Sites (SNS)

- 11.1 The growth of the internet, and the extent of the information that is now available online, presents new opportunities for the Council to view or gather information which may assist it in preventing or detecting crime or carrying out any other statutory functions, as well as understanding and engaging with the public it serves. It is important that the Council is able to make full and lawful use of this information for its statutory purposes. Much of it can be assessed without the need for RIPA authorisation (use of the internet prior to an investigation should not normally engage privacy considerations)
- 11.2 If the study of an individual's online presence becomes persistent or where material obtained from any check is to be extracted and recorded any may engage privacy considerations, RIPA authorisations may need to be considered.
- 11.3 Officers are required to follow the processes outlined in Appendix 11, when viewing social media sites in investigations or to gather information.
- 11.4 The following guidance taken from the Home Office Covert Surveillance and Property Interface Revised Code Of Practice (August 2018) is

intended to assist the council in identifying when such authorisations may be appropriate.

- 11.5 The internet may be used for intelligence gathering and/or as a surveillance tool.
- 11.6 Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group and authorisation for directed surveillance should be considered, as set out elsewhere in this policy
- 11.7 Where an officer is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed. However, it is considered that it is most unlikely that it will ever be appropriate for the council to utilise a CHIS.
- 11.8 In deciding whether online surveillance should be regarded a covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or maybe taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where the council has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be required.
- 11.9 Depending on the nature of online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain. However in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.
- 11.10 Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by the council of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hole a reasonable expectation of privacy in relation to the information.
- 11.11 Whether the council interferes with a person's private life includes a consideration of the nature of the councils activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) it's unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed

surveillance authorisation. But where a council is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online.

Example 1:

An officer undertakes a simple internet search on a name address or telephone number to find out whether a subject of interest has an online presence. This is unlikely to need an authorisation. However, if having found an individual's social media profile or identity is decided to monitor it or extract information from it for retention in a record because it is relevant to an investigation or operation. authorisation should then be considered.

Example 2:

An officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought)

Example 3:

An officer undertakes general monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or operation to identify themes, trends possible indicators or criminality or other factors that may influence operational strategies or deployments. This activity does not require RIPA authorisation, however when this activity leads to the discovery of previously unknown subjects of interest, once it is decided to monitor those individuals as part of an ongoing operation or investigation authorisation should be considered.

11.12 In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake factors that should be considered in establishing whether a directed surveillance authorisation is required to include:

- Whether the investigation or research is directed towards an individual or organisation;
- Whether it is likely to result in obtaining private information about a person or group of people;
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;

- Whether the information obtained will be recorded and retained;
- Whether the information is likely to provide an observer with a pattern of lifestyle;
- Whether the information is being combined with other sources of information or internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, many still require a directed surveillance authorisation.
- Intelligence, which amounts to information relating to a person's private life;
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties;
- Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation.

Example:

Officers using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed surveillance authorisation. Similarly, general analysis of data either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance. In such cases, the focus on individuals or groups is likely to be sufficiently cursory that it would not meet the definition of surveillance. But officers should be aware of the possibility that broad thematic research may evolve, and that authorisation may be appropriate at the point where it begins to focus on specific individuals or groups. If specific names or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.

12 Conclusion

- 12.1 If you can carry out investigations in an obviously overt way so that it does not compromise what you are trying to achieve then you need to consider RIPA and you are advised to take a broad view and interpretation of your activities. If you are in doubt you can seek advice from the Senior Responsible Officer and remember if there is any doubt then it is usually

safer to get authorisation.

Definitions from the 2000 Act

- **"RIPA"** means the Regulation of Investigatory Powers Act 2000.
- "SRO" means Senior Responsible Officer
- "CHIS" means Covert Human Intelligence Sources
- **"Confidential material"** consists of:
 - a) Matters subject to legal privilege;
 - b) Confidential personal information; or
 - c) Confidential journalistic material.
- **"Matters subject to legal privilege"** includes both oral and written communications between a professional legal adviser and his/her client or any person representing his/her client, made in connection with the giving of legal advice to the client or in contemplation of legal proceedings and for the purposes of such proceedings, as well as items enclosed with or referred to in such communications. Communications and items held with the intention of furthering a criminal purpose are not matters subject to legal privilege (see Note A Below).
- **"Confidential personal information"** is information held in confidence concerning an individual (whether living or dead) who can be identified from it, and relating:
 - a) to his/her physical or mental health or;
 - b) to spiritual counselling or other assistance given, and;

which a person has acquired or created in the course of any trade, business profession or other occupation or for the purpose of any paid or unpaid office (see Note B below) it includes both oral and written information and also communications as a result of which personal information is acquired or created. Information is held in confidence if:

- c) it is held subject to an express or implied undertaking to hold it in confidence, or;
 - d) it is subject to a restriction on disclosure or an obligation of secrecy contained in existing or future legislation.
- **"Confidential Journalistic Material"** includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purpose of journalism and held subject to such an undertaking.

- **"covert Surveillance"** means surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place;
- **"Authorising Officer"** means a person designated for the purpose of RIPA to grant authorisations for directed surveillance.

Note A *Legally privileged communications will lose their protection if there is evidence, for example, that the professional legal advisor is intending to hold or use them for a criminal purpose; privilege is not lost if a professional legal advisor is properly advising a person who is suspected of having committed a criminal offence. The concept of legal privilege shall apply to the provision of professional legal advice by any agency or organisation*

Note B *Confidential personal information might for example, include consultations between a health professional or a professional counsellor and a patient or client, or information from a patient's medical records.*

Extract from Part 7 of the Councils Constitution - Management Structure and Scheme of Delegation

Scheme of Delegation to Officers -

All delegations to officers are subject to the following general conditions:

- (2) In the absence of the Chief Executive the functions of the Chief Executive will be the responsibility of any of the Corporate Directors. Executive functions Delegated to the Chief Executive (8) To Provide the necessary authorisations in respect of surveillance in accordance with the Regulation of Investigatory Powers Act 2000, where confidential information is involved or where authorisation is sought for the employment of a juvenile or vulnerable Covert Human Intelligence Source (CHIS).

Executive Functions Delegated to the Corporate Directors

- (2) To act as authorising officers for the purpose of the Regulation of Investigatory Powers Act 2000 and Protection of Freedoms Act 2012.

Executive Functions Delegated to the Legal Services Manager

- (3) To act as the Senior Responsible Officer for the purpose of Part II of the Regulation of Investigatory Powers Act 2000.
- (5) To make an application to a justice of the Peace in accordance with the Protection of Freedoms Act 2012, seeking an order approving the grant or renewal of a RIPA authorisation or notice and to represent the Council in making such an application.

Executive Functions Delegated to Revenues Manager and Senior Compliance Officers

- (1) To make an application to a justice of the Peace, in accordance with the Protection of Freedoms Act 2012, seeking an order approving the grant or renewal of a RIPA authorisation or notice and to represent the council in making such an application.
- (3) Power to carry to carry out surveillance which is governed by the Regulation of Investigatory Powers Act 2000 as agreed by an authorising officer.

Examples of Surveillance

Examples of different types of surveillance	Examples
Surveillance that does not require RIPA Authorisation.	<ul style="list-style-type: none"> - Council Officers on patrol who conceal themselves to observe suspicious persons that they come across in the course of a routine patrol. - Signposted Town Centre CCTV cameras (in normal use) -Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. - Sampling purchases (where the officer behaves no differently from a normal member of the public) - Dog warden in uniform on patrol on park, street or van. - Food Safety or Health and Safety Inspections. -General observational duties not specifically targeted/planned or considered direct surveillance. - CCTV cameras providing general traffic, crime or public safety information. - Covert surveillance of an employee who is suspected by his employer of undertaking additional duties in breach of discipline regulations, as it does not relate to the discharge of the Employers core functions.
Covert directed Surveillance must be RIPA authorised	Officers follow/observe an individual or individuals over a period, to establish whether s/he is working when claiming benefit provided the conduct constitutes/corresponds to a criminal offence punishable with at least 6 months imprisonment.
Surveillance that is not intrusive.	- An observation post outside residential premises, which provides a limited view compared to that which would be achievable from within the premises.
Intrusive - Council cannot do this!	<ul style="list-style-type: none"> - Planting a listening or other device in a person's home or in their private vehicle - use of a zoom lens outside residential premises, which consistently archives imagery of the same quality as that which would be visible from within the premises.

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Report of:	Meeting	Date
Audit and Risk Manager (Chief Internal Auditor)	Audit and Standards Committee	14 November 2023

INTERNAL AUDIT AND RISK MANAGEMENT PROGRESS REPORT

1. Purpose of report

- 1.1 To review progress in relation to the 2023/24 audit plan and risk management and to consider progress against the action plan resulting from the 2022/23 Annual Governance Statement (AGS).

2. Outcomes

- 2.1 Effective leadership of audit and governance issues allowing the council to demonstrate that arrangements are in place to maintain a sound system of internal control.

3. Recommendation

- 3.1 Members are asked to note the progress reports attached at Appendices 1, 2 and 3.

4. Background

- 4.1 The Audit and Standards Committee has a clear role in relation to the authority's internal audit function and this involves:
- Formally approving, but not directing, the overall strategy to ensure that it meets the council's overall strategic direction;
 - Approving the annual programme of audits paying particular attention to whether there is sufficient and appropriate coverage and;
 - Monitoring progress against the plan and assessing whether adequate skills and resources are available to provide an effective audit function.
- 4.2 The Audit and Standards Committee's role in relation to reviewing the work carried out will include formal consideration of summaries of work done, key findings, issues of concern and actions planned as a result of audit work. A key part of the role is receiving and reviewing regular reports from the Audit and Risk Manager (Chief Internal Auditor) in order

to reach an overall opinion on the internal control environment and the quality of internal audit coverage.

5. Key Issues and proposals

- 5.1 The progress reports in relation to Internal Audit, Risk Management and the action plan resulting from the 2022/23 AGS are attached at Appendices 1, 2 and 3.

Financial and legal implications	
Finance	There are no financial implications that impact the Internal Audit and Risk Management progress report. The annual programme of audits is completed by the in-house team and the Lancashire County Council Internal Audit Service.
Legal	Effective audit and risk management assist in good governance and probity of council actions.

Other risks / implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

risks/implications	✓ / x	risks/implications	✓ / x
community safety	x	asset management	x
equality and diversity	x	climate change	x
sustainability	x	ICT	x
health and safety	x	Data Protection	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
Karen McLellan	01253 887586	Karen.mclellan@wyre.gov.uk	01/11/2023

List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

Appendix 1 – Internal Audit Progress Report

Appendix 2 – Risk Management Progress Report

Appendix 3 – Annual Governance Statement 2022/23; Action plan update

Appendix 4 – Public Sector Internal Audit Standards (PSIAS) Peer Review Report 2023

INTERNAL AUDIT PROGRESS REPORT – APRIL to NOVEMBER 2023

THE AUDIT PLAN AND DELIVERY

The Internal Audit and Risk Management Section is responsible to the Corporate Director Resources (Section 151 Officer) for carrying out a continuous examination of the accounting, financial and other operations of the council in accordance with Section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations 2015 (as amended in 2021). The latter states that ***“the relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body’s functions and which includes arrangements for the management of risk.”***

The table overleaf summarises audit work performed since the last progress reported at the Audit and Standards Committee meeting on 20 June 2023. Copies of both terms of reference and internal audit reports are published on the council’s hub and the councillor’s portal and access to the supporting files are available on request.

Wyre Council attends the Lancashire District Council’s Audit Group and continues to participate in the Cabinet Office National Fraud Initiative data sharing exercise. The Insurance and Business Continuity Officer now participates in the North West Insurance Officer Group with other local authorities across Lancashire and is a member of the Association of Local Authority Risk Managers (ALARM).

Internal Audit will continue to provide the council with the necessary assurance about its various activities and associated systems, as outlined in the council’s Internal Audit Charter which is reviewed and approved by the Audit and Standards Committee annually.

To facilitate the flexible retirement of the Audit and Risk Manager, the 2023/24 audit plan is being completed by the in-house team and Lancashire County Council’s Internal Audit Team. The ICT support framework managed by Lancashire County Council is also available should additional expertise be required in this specialised area.

Internal audit work is benchmarked where possible with other local district councils who participate in the Public Sector Internal Audit Standards (PSIAS) peer reviews to ensure that quality and standards are maintained. In addition, the standardised working papers along with a robust review process prior to report publication, ensures continual conformance to the PSIAS, consistency and high standards of reporting are maintained.

An electronic feedback questionnaire was introduced during 2022/23 to obtain feedback on all completed audit reviews. A summary of this feedback will be provided to the Audit and Standards Committee in June 2024 as part of the annual opinion.

Audit Work Performed April to November 2023

The tables below contain the definitions of the overall assurance opinion and priority ranking / risk rating which will be used by Wyre Council and Lancashire County Council, together with a summary of the reviews completed since the last Annual Report in June 2023:

Wyre Council Reports

Audit Opinion Definitions

Substantial	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
Minimal / No Assurance	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

Priority rankings

Level 1	The framework of control is adequately designed and / or effectively operated overall.
Level 2	The framework of control is adequately designed and / or effectively operated overall, but some action is required to enhance aspects of it and / or ensure that it is effectively operated throughout.
Level 3	There are some significant weaknesses in the design and / or operation of the framework of control that put the achievement of its objectives at risk.
Level 4	There are some fundamental weaknesses in the design and / or operation of the framework of control that could result in failure to achieve its objectives.

TITLE	STATUS	RECOMMENDATIONS – PRIORITY RANKINGS					AUDIT OPINION	Summary
		1	2	3	4	5		
Inspection Regime – Site Inspections (3rd follow up)	Final report issued August 2023	N/A	6	1	N/A	N/A	<p>Good (refer to the old Wyre definitions)</p> <p>The original review of Site Inspections was completed in October 2020 as part of the 2019/20 audit plan and given an overall opinion of ‘fair’. Two further follow up reviews were completed as part of the 2021/22 audit plan, which identified that there had been no movement in the 7 findings originally reported, resulting in the opinion remaining unchanged.</p> <p>As reported to the Audit and Standards Committee on 28 February 2023, a third follow-up was carried out and this was completed on 21 June 2023. Of the 7 findings originally reported, 5 actions had been fully implemented. The remaining 2 were partially implemented, namely;</p> <ul style="list-style-type: none"> • A documented inspection policy / procedure or staff guidance manual was in the process of being compiled for all departments; and • A review of the inspection records / processes being used by each team is in the process of being completed. An electronic recording system is to be considered. <p>As a result of the above, the audit opinion was increased to ‘good’. A further follow-up review is not required, however, the implementation of the two remaining recommendations will be monitored using the GRACE risk management system.</p>	
Beach Management Scheme	On-going	N/A	N/A	N/A	N/A	N/A	<p>The Audit and Risk Manager continues to attend the monthly beach management project meetings to provide advice and support in respect of internal control, risk management and governance procedures. It is not anticipated that a report will be published in relation to this work. However, an overall opinion on the control environment in</p>	

TITLE	STATUS	RECOMMENDATIONS – PRIORITY RANKINGS					AUDIT OPINION	Summary
		1	2	3	4	5		
								relation to this project will be provided in the Internal Audit Annual report for 2023/24.
Data Protection Policy and process review (follow-up)	on-going monitoring of completed actions	1	12	9	0	0	Limited	<p>Areas have been identified where improvements could be made to strengthen the control environment, namely;</p> <ul style="list-style-type: none"> • Information Asset Registers require reviewing and updating; • Reliance is placed on individual service managers to ensure all processors comply with the terms of any written contracts or data sharing agreements; • A number of individual service privacy notices are still required; • The completion of Data Privacy Impact Assessments are not routinely completed for all data processing activities; • No DPA refresher training is completed for existing staff; • Regular monitoring of outstanding FOI / EIR cases is required; • Access to redaction software is limited to key staff; • FOI / EIR is not currently included in the induction process for new starters; • A separate information security policy and training programme is required; • A central register showing third party / IT suppliers access to systems is required; and • A review of contracts / agreement in place with IT suppliers is required to ensure these included the relevant information security requirements. <p>As this review has received a 'limited assurance opinion', further follow-ups will be completed at regular intervals to ensure the recommendations</p>

TITLE	STATUS	RECOMMENDATIONS – PRIORITY RANKINGS					AUDIT OPINION	Summary
		1	2	3	4	5		
								are being addressed at a satisfactory pace. It is noted whilst a number of the above recommendations have been actioned, there is a large piece of work required in respect of bringing the council's Information Asset Registers up to date and until this is completed, the assurance opinion will remain at Limited.
Building Maintenance Re-active Repairs framework	Final report issued August 2023	1	6	1	N/A	N/A	Limited assurance	<p>Areas have been identified where improvements could be made to strengthen the control environment, namely;</p> <ul style="list-style-type: none"> • Feedback on contractor performance is not routinely obtained in accordance with the framework agreement; • Verbal quotes are not routinely followed up with written quotes; • Quotations received are stored in officer email accounts creating a single point of failure in their absence; • Purchase orders do not set out the cost of works in all instances; • Works are not procured in line with the terms and conditions of the framework in all instances; • All contractors are required to have £10m employers and public liability insurance in accordance with the framework agreement; and • Valid contracts with each contractor are not in place as the framework agreement had not been formally extended beyond July 2022. <p>As this review has received a 'limited assurance opinion', a further follow-up will be completed in December 2023 to ensure the recommendations made have been addressed.</p>

TITLE	STATUS	RECOMMENDATIONS – PRIORITY RANKINGS					AUDIT OPINION	Summary
		1	2	3	4	5		
Procurement including The Chest portal - Key Financial Risk Matrix (KFRM)	KFRM issued to Head of Governance and Business Support	N/A	N/A	N/A	N/A	N/A	Reasonable Assurance	<p>In April 2022, a significant breach of the procurement regulations was found to have taken place. A detailed action plan was formulated to address the issues identified. One of the actions related to the completion of a key financial system matrix to document all controls in relation to the procurement process to identify any areas requiring improvement.</p> <p>Whilst a formal report has not been published in relation to this work, for the purpose of this report a 'reasonable assurance' opinion has been given and working papers are in place to support this opinion.</p> <p>No follow-up review is required, however, the implementation of the recommendations made will be monitored using the GRACE risk management system.</p>
Marine Hall	Final Report issued June 2023	5	13	2	N/A	20	Minimal Assurance	<p>Areas have been identified where improvements could be made to strengthen the control environment, namely:</p> <ul style="list-style-type: none"> • A revised service plan is required; • The production of a programme of events 6 to 12 months in advance of the forthcoming year to include the production of a 'What's on Brochure'; • The production of a clear communications plan and review of advertising material; • Introduction of standardised wedding packages together with a review of the suppliers used; • Routine updating of the lettings spreadsheet to monitor all show costs and income received; • Availability of the completed event sheet on a shared drive to enable access by key staff;

TITLE	STATUS	RECOMMENDATIONS – PRIORITY RANKINGS					AUDIT OPINION	Summary
		1	2	3	4	5		
								<ul style="list-style-type: none"> • Bookings to be entered into the bookings diary in a timely manner to avoid duplicate bookings; • The procedure manual requires updating and communicating to all staff; • A revised staffing structure is required to include an extensive review of current job descriptions to clarify staff responsibilities; • Continual monitoring of the Crown time recording system is required to monitor outstanding debit / credit balances / TOIL balances and sickness recording; • Review of the internal CCTV system to ensure there is adequate coverage; • Completion of annual appraisals required; • Network access to the councils ICT network required for all staff requiring access; • Review of the ICT equipment supplied to the Technicians is required; • The accurate recording of VAT for fees and charges relating to theatre income requires monitoring; • Civica training required for key staff to enable invoices to be issued; • Timing out issues between the Patronbase and Civica system needs to be resolved to avoid duplicate ticket sales; • A review of the goods and services purchased by the Marine Hall is required; • Purchases using the purchase cards allocated should be regularly reviewed and authorised for payment; • Further training on the EPOS till and stock system is required to ensure these systems are correctly configured and staff are fully trained on the use of these; • Completion of quarterly stock takes are required;

TITLE	STATUS	RECOMMENDATIONS – PRIORITY RANKINGS					AUDIT OPINION	Summary
		1	2	3	4	5		
								<ul style="list-style-type: none"> Access permissions to the till / stock system should be reviewed to allow staff to perform the required transactions; and Implementation of the actions arising from the Health and Safety review in January 2023 is required. <p>As this review has received a 'minimal' assurance opinion', a further follow-up will be completed in November 2023 to ensure the recommendations made have been addressed.</p>
Civica Pay	Fieldwork in progress							<p>The overall object of the audit is to review the controls in place around the Civica Pay system to identify any areas of potential weakness and / or risk and provide an overall opinion whether the controls in place are managed adequately and effectively.</p> <p>The fieldwork will be completed within the next few weeks and a report issued accordingly.</p>
Danfo – Public Conveniences Income	Briefing note issued to the Corporate Director Resources	N/A	N/A	N/A	N/A	N/A	Reasonable Assurance	<p>An assurance piece of work was completed following a request from the Corporate Director Resources to validate the income received from the public conveniences.</p> <p>Whilst a formal report has not been produced for this piece of work, for the purpose of this update a 'reasonable assurance' opinion has been given.</p>
Recruitment and Selection	Fieldwork in progress							<p>The overall object of the audit is to review the controls in place around the Recruitment and Selection processes to identify any areas of potential weakness and / or risk and provide an overall opinion whether the controls in place are managed adequately and effectively.</p>

TITLE	STATUS	RECOMMENDATIONS – PRIORITY RANKINGS					AUDIT OPINION	Summary
		1	2	3	4	5		
								The fieldwork will be completed within the next few weeks and a report issued accordingly.
NNDR – Key Financial Risk Matrix (KFRM)	Draft report							<p>The overall objective of the completion of a key financial risk matrix is to review the controls in place around the NNDR systems and processes to identify any areas of potential weakness and / or risk and provide an overall opinion as to whether the controls in place are managed adequately and effectively.</p> <p>The final report will be issued shortly.</p>
PCI compliance	Position statement being drafted	N/A	N/A	N/A	N/A	N/A	Substantial	<p>The Audit and Risk Manager observed the ICT Services Manager, Financial Systems, Reporting and Transformation Manager and the ICT Digital Programme Lead complete an on-line Payment Card Industry (PCI) Data Security Standard (DSS) self-assessment questionnaire on the 10 October 2023. As a result, the council achieved full compliance which will remain in place until 10 October 2024. However it was noted that a further ‘scan’ of the council’s controls around card payments would be required on the 1 January 2024.</p> <p>Whilst no further work will be completed by Internal Audit, on-going compliance with the standard will be monitored by the above officers and any deviations from full compliance will be reported to Internal Audit.</p>

Overall Assurance Rating

Substantial Assurance	The framework of control is adequately designed and / or effectively operated overall.
Moderate Assurance	The framework of control is adequately designed and / or effectively operated overall, but some action is required to enhance aspects of it and / or ensure that it is effectively operated throughout.
Limited Assurance	There are some significant weaknesses in the design and/ or operation of the framework of control that put the achievement of its objectives at risk.
No Assurance	There are some fundamental weaknesses in the design and / or operation of the framework of control that could result in failure to achieve its objectives.

Audit Finding Risk Rating

Extreme residual risk	Critical and urgent in that failure to address the risk could lead to one or more of the following occurring: catastrophic loss of the council's services, loss of life, significant environmental damage or significant financial loss, with related national press coverage and substantial damage to the council's reputation. Remedial action must be taken immediately.
High residual risk	Critical in that failure to address the issue or progress the work could lead to one or more of the following occurring: failure to achieve organisational objectives, significant disruption to the council's business or to users of its services, significant financial loss, inefficient use of resources, failure to comply with law or regulations, or damage to the council's reputation. Remedial action must be taken urgently.
Medium residual risk	Failure to address the issue or progress the work could impact on operational objectives and should be of concern to senior management. Prompt specific action should be taken.
Low residual risk	Matters that individually have no major impact on achieving the service's objectives, but where combined with others could give cause for concern. Specific remedial action is desirable.

TITLE	STATUS	RECOMMENDATIONS				Summary
		Extreme	High	Med	Low	
Payroll	Terms of Reference agreed					The overall objective of the audit is to review the controls in place around the council's payroll processes to identify any areas of potential weakness and / or risk and provide an overall opinion as to whether the controls in place are managed adequately and effectively.
Household Support Fund	Fieldwork in progress					The overall objective of the audit is to review the controls in place around the council's management of the Household Support Fund to identify any areas of potential weakness and / or risk and provide an overall opinion as to whether the controls in place are managed adequately and effectively.
Assurance Mapping Verification	Fieldwork in progress					The overall objective of the audit is to review the controls in place around the current assurance mapping processes to identify any areas of potential weakness and / or risk and provide an overall opinion as to whether the controls in place are managed adequately and effectively.

Outstanding work to be completed in 2023/24 (ending 31 March 2024)

In-house Internal Audit Team

- National Fraud Initiative (NFI) – Annual Single Person Discount Data Matching exercise
- Grant schemes – compliance with terms and conditions
- Assurance mapping exercise to assist the compilation of the 2023/24 audit plan
- Election accounts
- UK Shared Prosperity Fund (UKSPF)
- Climate change (position statement)
- Hybrid working arrangements (post pandemic)
- Disaster recovery / cyber security
- Cash Collection Service
- Certification of Penalty Charge Notices (PCNs)
- Risk management process – peer review

LCC Internal Audit Team

- Asset Management
- Planning Service – Development Management

Other audit work undertaken during the year 2023/24

National Fraud Initiative – Cabinet Office data matching exercise

Since the last NFI update was presented to the Committee in June 2023, progress has been made to investigate the matches resulting from the 2022/23 two yearly exercise resulting in the majority of the 541 matches being investigated and closed. Four errors have been identified totalling £3,670.96 which the council is looking to recover. In respect of the annual council tax single person discount (SPD) data matching exercise, using NEC campaign software, the Compliance Team issued a standard letter to all households in council tax bands D, E, F, G and H in receipt of SPD, requesting confirmation of their current circumstances. Where the SPD has been cancelled as a result of this exercise, the matches have been actioned in the NFI portal and the resulting overpayments of £2,751.56 recorded. The team are in the process of issuing letters to households in council tax bands A, B and C, the results will be actioned in the NFI portal in due course.

Peer review of Internal Audit

In order to comply with the Public Sector Internal Audit Standards (PSIAS) an external assessment must be conducted at least once every five years by a qualified independent assessor or assessment team from outside the organisation. External assessments can be in the form of a full external assessment, or a self-assessment in-house with independent external validation. It was agreed by the Lancashire District Chief Auditors group and validated by the Audit and Standards Committee, that peer reviews would be used to obtain the independent external validation. The council's five yearly peer review was carried out in July 2023 and it is pleasing to note that the Internal Audit Service was found to 'Conform' with the PSIAS. A total of 5 recommendations were made and the Quality Assurance and Improvement Programme

will updated in accordance with these. A copy of the report can be found on the councillor portal.

<https://wyregovuk.sharepoint.com/sites/Councillor-Portal>

Information Governance - Compliance with the Data Protection Act 2018 and UK GDPR

The council's Data Protection Officer (DPO) supported by the Information Governance Group (IGG) work together to ensure the council is compliant with data protection legislation. The DPO, Deputy DPO and the Audit and Risk Manager continue to support officers across the council in ensuring the council's data protection obligations are met, mainly offering guidance and support in respect of data sharing and privacy notices. The DPO reports quarterly to the Corporate Management Team (which includes the SIRO), with the last update being 2 August 2023 and the next update being scheduled for the 22 November 2023. The bullet list below provides the committee a flavour of the main pieces of work that have been completed since April 2023:

- Work is continuing in respect of actioning the recommendations that were made following the DP/GDPR Compliance Audit which took place in 2021/22. Whilst good progress has been made and a number of recommendations have been actioned, the largest piece of work (the refresh of the Information Asset Registers) is still outstanding owing to limited resources to take this forward. However it is hoped that more resources will shortly be identified to assist with this. Internal Audit will continue to carry out regular monitoring until the audit opinion has been increased to a satisfactory assurance level.
- The DPO has recently submitted an Information Governance Training Programme to CMT. This will be updated and monitored by the Information Governance Group. A copy of this will shortly be added to the Councillor Portal.
- Following the roll out of the cyber security e-learning module on Learning Pool to all staff, to date approximately 220 staff have now completed this on-line training. There are still a few officers that are yet to complete this. However these are being followed up by their Directors. Officers will be expected to complete the exercise annually in accordance with the Information Governance Training Programme.
- The ICT Team have recently re-launched the ICT Computer User Policy and User Agreement and have requested that all staff read the agreement and sign to verify that they have read and understood the content. Whilst a large number of staff have completed this (160 to date) a reconciliation is to be carried out against the establishment to identify any officers who are still required to complete this exercise as it is noted that not all staff have ICT access.
- Cyber / Disaster Recovery – key risks continue to be monitored through the GRACE risk management system and are reviewed on a quarterly basis by the Corporate Director Resources, Head of Governance and Business Support and the ICT Service Manager. The council has now completed the installation of its disaster recover solution kit and 24/7 monitoring solution (Artic Wolf). A draft cyber resilience plan has now been completed and will shortly be presented to CMT for final approval.

- The DPO continues to log and investigate all data incidents. Since April 2023, there have been no reported incidents to the ICO. However there have been six data incidents that have been logged and investigated. The council has received legal correspondence in relation to an incident that was reported to the ICO in July 2022 in respect of a data subjects address being shared to another party without their consent. Whilst the ICO concluded that they were not taking any further action, a compensation request from the data subject's solicitor has been made.
- The IGG have recently refreshed the council's Data Protection Policy, Records Management Policy and Subject Access Request Procedure. All of which have been submitted to the Audit and Standards Committee for approval at their meeting on the 14 November 2023.

Anti-Fraud and Corruption

All the council's counter fraud policies are reviewed annually by the Audit and Standards Committee, with the last review being completed in November 2023. The policies are located on the Hub to allow staff easy access. The council's four counter fraud policies are as follows;

- Counter Fraud, Corruption and Bribery;
- Anti-Money Laundering;
- Gifts and Hospitality and Registering Interests, and;
- Whistleblowing.

Anti-Money Laundering - To date, there has been no reports of suspected money laundering during 2023/24.

Gifts, Hospitality and Registering Interests – There have been 3 declarations made by council officers receiving gifts and hospitality since the 1 April 2023. A reminder will go out in the December Core Brief for staff to use the online form to register any gifts or hospitality received and to report any registered interests they may have in relation to council business.

Whistleblowing / Investigations

There have been two whistleblowing / investigations instances since 1 January 2023.

A whistleblowing call was received on 16 February 2023. This has been investigated by the Audit and Risk Manager and the Audit Risk and Performance Lead and a report of the findings has been passed to the Corporate Director Environment for his consideration. The Audit and Standards Committee Chairman has been provided with an overview of the whistleblowing and a further update will be provided to the Audit and Standards Committee once the investigation has been concluded.

The second instance related to a member of staff carrying out personal activities during their working hours. Whilst the investigation did not substantiate the allegations made, a number of other observations were made in respect of the individual's behaviours during the working day which have been documented in a report and presented to the Corporate Director Communities and their Head of Service for the appropriate action to be taken.

RISK MANAGEMENT PROGRESS REPORT

Progress on the embedding of risk management is reported to the Audit and Standards Committee via six monthly reports. This is in line with the council's Risk Management Policy which is reviewed and approved annually by the Audit and Standards Committee.

The council's strategic, operational and ICT risks are now populated within the risk management system (GRACE) and action plans have been added to assist with the mitigation of the risks identified.

Strategic Risks

The Corporate Management Team (CMT) met on 12 January 2023 to carry out the annual strategic risk workshop. The results of the workshop were presented to what was then the Audit Committee at its meeting in June 2023. At the workshop, significant business risks that may impact upon the council's priorities (the business plan) were identified and assessed, and appropriate control measures were put place. Progress is monitored on a quarterly basis by CMT, including a more comprehensive six monthly review which was completed on 11 October 2023. The results of this review are available on the Councillor Portal.

The next strategic risk workshop will be held on 18 January 2024.

Operational Risks

Operational risk workshops were held this year following the strategic risk workshop in March, with each service unit identifying new risks that could occur during the year preventing the achievement of individual service plans. Whilst staff who have responsibilities for identified risks are encouraged to review their risks and update their action plans continually throughout the year, prompts have been issued to staff during the year to ensure progress was being documented. Individual operational risk registers have not been provided as part of this report as operational risks are reported to the Audit and Standards Committee on an 'exceptions' basis where any risks are not managed appropriately.

The Audit and Standards Committee are encouraged to go and view the risks identified by each service unit on the Councillor Portal (link below) and challenge any areas where limited progress is being made to mitigate the risks identified.

<https://wyregovuk.sharepoint.com/sites/Councillor-Portal>

ICT Risks

The council's ICT risk register is reviewed quarterly by the Corporate Director Resources, Head of Governance and Business Support and ICT Services Manager. The last review was completed on 8 November and the updated register is available on the Councillor Portal.

To follow

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Report of:	Meeting	Date
Corporate Director Resources (Section 151 Officer)	Audit and Standards Committee	14 November 2023

Annual Review of Financial Regulations and Financial Procedure Rules

1. Purpose of report

1.1 To review the Financial Regulations and Financial Procedure Rules.

2. Outcomes

2.1 Evidence that the council has arrangements in place to maintain a sound system of internal control.

3. Recommendation

3.1 Members are asked to note the proposed changes summarised in paragraph 5.1 and to approve the updated Financial Regulations and Financial Procedure Rules set out in Appendix 1 of this report which can be viewed on the council's website at:

<https://wyre.moderngov.co.uk/ieListDocuments.aspx?CId=149&MId=1700&Ver=4>

4. Background

4.1 The Financial Regulations and Financial Procedure Rules form part of the council's governance structure and help to demonstrate that arrangements are in place to maintain a sound system of internal control.

4.2 The Financial Regulations and Financial Procedure Rules were subject to a major review and updated in accordance with best practice and guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) prior to being agreed by the Standards Committee at their meeting on 14 October 2004 and the Council meeting on 11 November 2004. In addition an annual review is completed by the Head of Governance and Business Support and the Procurement Officer and reviewed by the Corporate Director Resources (Section 151 Officer). The last review was completed in November 2022.

- 4.3** Consideration may need to be given to carrying out a further review to the Financial Procedure Rules Appendix F – Contract Procedures in Summer 2024 in preparation for the new Procurement Act 2023 that is scheduled to come into force from October 2024.

5. Key Issues and proposals

- 5.1** A number of amendments are proposed, namely:

- Amended to reflect the correct title of the Head of Assets and Development (Part 4.06/3 Para 1.4 g);
- A number of amendments have been made throughout the document to reflect the amalgamation of the Audit and Standards Committees (various);
- Amended to reflect that the council have again opted into the national procurement exercise in respect of the appointment of our External Auditors for the next five years commencing with the 2023/24 audit (Part 4.06.01/10 Para C8);
- Amended to reflect the virements threshold limit being raised from £20,000 to £25,000 in line with other existing or proposed limits/thresholds in the Constitution (Part 4.06.02/2 Para 1.12-1.14);
- A number of amendments have been have made throughout the document to reflect the anticipated change to the name of the former Business Plan to Council Plan (various);
- Amended to reflect the council current vision ‘Wyre – proud, ambitious and thriving... together we make a difference’. However it should be noted that this is subject to change within the next twelve months following a refresh of the Council Plan (Part 4.06.06/16);
- Amended to reflect a change to the financial limit when officers are required to obtain three quotes from £10,000 to £25,000. This amount has not been updated for many years and the suggested change reflects greater consistency with other existing and proposed financial thresholds in the Constitution and is in line with arrangements found at other local authorities (Part 4.06.07/2);
- Amended to reflect the requirement that all contracts to be tendered must be registered on ‘Contracts Finder’ in addition to the CHEST (over £25,000) and the Find a Tender service (Part 4.06.07/4);
- Removed the wording referencing the ‘new Public Contracts

Directive' as no longer considered relevant (Part 4.06.07/06);

- The Procurement Flowchart has been amended to reflect the new financial limits as mentioned above (Part 4.06.07/2&4) and to include a footnote to remind officers that all contracts with new suppliers over £10,000 must be signed by a second authorised signatory if signed below a Head of Service or the Legal Services Manager level (Part 4.06.07/11);
- Amended to reflect that the contract variation limit has also been increased to £25,000 (from £20,000) in line with other limits/thresholds in the Constitution (Part 4.06.07/15,18,22); and
- A number of other minor amendments have been made throughout the document to correct typographic errors, grammar and so on.
- All amendments have been track changed for reference.

Financial and legal implications	
Finance	None arising directly from the report.
Legal	The adoption of clear and up to date advice should ensure legal probity and good governance of the council.

Other risks / implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

risks/implications	✓ / x
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
ICT	x
data protection	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed

and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	Email	date
Joanne Billington	01253 887372	joanne.billington@wyre.gov.uk	31.10.23

List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

Appendix 1 – Proposed changes to Financial Regulations and Financial Procedural Rules (published on web site).

Financial Regulations and Financial Procedure Rules

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Introduction

- 1.1 The authority's governance structure is laid down in its constitution, which sets out how the council operates, how decisions are made and the procedures that need to be followed.
- 1.2 Financial regulations form part of the constitution and provide the framework for managing the authority's financial affairs. They apply to every member and officer of the authority and anyone acting on its behalf.
- 1.3 The regulations identify the financial responsibilities of the Full Council, and overview and scrutiny Members, the Head of Paid Service, the Monitoring Officer, the Finance Director and other Chief Officers. Executive Members and Chief Officers should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, references to the Chief Officer in the regulations should be read as referring to them.
- 1.4 With regard to the above generic references, for the purpose of these regulations the following specific titles apply to Wyre Borough Council:
- (a) "Executive" – Cabinet;
 - (b) "overview and scrutiny Members" – Members of the Overview and Scrutiny Committee;
 - (c) "Head of Paid Service" – Chief Executive;
 - (d) "Monitoring Officer" – Legal Services Manager (Monitoring Officer) or Human Resources Manager (Deputy Monitoring Officer);
 - (e) "Finance Director" – Corporate Director Resources (S151 Officer) or their nominated deputy acting in that capacity;
 - (f) "Chief Officers" – Chief Executive, Corporate Directors and Heads of Service.
 - (g) "Corporate Property Officer" – Head of Assets and Development~~Built Environment~~;
 - (h) "Head of Internal Audit" – Audit and Risk Manager.
- 1.5 All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and demonstrates value for money.
- 1.6 The Finance Director is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the Audit and Standards Committee for approval. The Finance Director is also responsible for reporting, where appropriate, breaches of the financial regulations to the Audit Committee and/or to the Executive Members.

- 1.7** The authority's detailed financial procedures, setting out how the regulations will be implemented, are published on the Hub, and will be updated by the Finance Director as necessary.
- 1.8** Chief Officers are responsible for ensuring that all staff in their service units are aware of the existence and content of the authority's financial regulations and other regulatory documents and that they comply with them.
- 1.9** The Finance Director is responsible for issuing advice and guidance to underpin the financial regulations that Members, officers and others acting on behalf of the authority are required to follow. Such advice and guidance will have the same force as these regulations.

Key Responsibilities of Chief Officers

- 2.1** Throughout this document the key responsibilities of individual Chief Officers are identified. The following lists key responsibilities which give a broad outline of the nature of the control framework and the accountabilities of Chief Officers within it.
- 2.2** It is the responsibility of Chief Officers to consult with the Finance Director and seek approval on any matter liable to materially affect the authority's finances, before any commitments are incurred.
- 2.3** To promote the financial management standards set by the Finance Director in their service areas and to monitor adherence to the standards and practices, liaising as necessary with the Finance Director.
- 2.4** To promote sound financial practices in relation to the standards, performance and development of staff in their service areas.
- 2.5** To adhere to the accounting policies and guidelines approved by the Finance Director.
- 2.6** To comply with accounting guidance provided by the Finance Director and to supply the Finance Director with information when required.
- 2.7** To maintain budgetary control within their departments, in adherence with the principles outlined in Appendix B, and to ensure that all income and expenditure are properly recorded and accounted for.
- 2.8** To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 2.9** To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- 2.10** To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.
- 2.11** To ensure that resources are used only for the purposes for which they were intended.
- 2.12** To notify the Finance Director immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Finance Director or the authority's insurers.
- 2.13** To ensure that there are regular reviews of risk within their service units.
- 2.14** To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

- 2.15** To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Full Council, following consultation with the Finance Director and the legal Services Team. The only exception to this rule is where a Parish or Town Council, request a short-term loan (not exceeding 12 months) for a value of £50,000 or less. Any agreement needs to be in consultation with the Finance Director and the Legal Services Manager.
- 2.16** To consult with the Finance Director before changing any existing system or introducing new systems.
- 2.17** To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scales of pay and that adequate budget provision is available.
- 2.18** To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Finance Director.
- 2.19** To ensure that the approval of the Executive is obtained before any negotiations are concluded to work for third parties.

Financial Regulations

A - Financial Management

Introduction

- A.1** Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

The Full Council

- A.2** The Full Council is responsible for adopting the authority's constitution and for approving the policy framework and budget within which the Executive operates. The framework is set out in its constitution. The Full Council is also responsible for monitoring compliance with the agreed policy and related executive decisions.
- A.3** The Full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the constitution.

The Executive

- A.4** The Executive is responsible for proposing the policy framework and budget to the Full Council, and for discharging executive functions in accordance with the policy framework and budget.
- A.5** Executive decisions can be delegated to a committee of the Executive, an individual Executive Member, an officer or a joint committee.
- A.6** The Executive is responsible for establishing protocols to ensure that individual Executive Members consult with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and other risk management issues that may arise from the decision.

Committees of the Council

Overview and Scrutiny Committee

- A.7** The Overview and Scrutiny Committee are responsible for scrutinising executive decisions before or after they have been implemented and for holding the Executive to account. The Overview and Scrutiny Committee are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the authority.

Employment and Appeals Committee

- A.8** The Employment and Appeals Committee is charged with exercising a range of miscellaneous powers on behalf of the Council, including employee appeals and superannuation matters.

Standards Committee

~~**A.9** The Standards Committee is established by the Full Council and is responsible for promoting and maintaining high standards of conduct amongst Elected Members. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the code.~~

Audit and Standards Committee

A910 The Audit and Standards Committee is the member level forum to provide to those charged with governance, independent assurance on the adequacy of the risk management framework, the internal control environment, the integrity of the financial reporting, the annual governance processes and the Council's compliance with the Data Protection Act 2018 and the UK General Data Protection Regulations (GDPR). By overseeing Internal and External Audit it makes an important contribution to ensuring that effective assurance arrangements are in place.

A10 In addition, the committee is responsible for promoting and maintaining high standards of conduct amongst Elected Members. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the code.

Other Regulatory Committees

A.11 Planning and conservation, and licensing are not executive functions but are exercised through the Planning Applications Committee and the Licensing Committee.

The Statutory Officers

Head of Paid Service

A.12 The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole (including overall management responsibility for all staff). He or she must report to and provide information for the Executive, the Full Council, Overview and Scrutiny Committee and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the Full Council's decisions (see below).

Monitoring Officer

A.13 The Monitoring Officer is responsible for promoting and maintaining high standards of ethical conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Full Council and/or to the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

A.14 The Monitoring Officer must ensure that executive decisions and the reasons for them are made public. He or she must also ensure that Elected Members are

aware of decisions made by the Executive and of those made by officers who have delegated executive responsibility.

A.15 The Monitoring Officer is responsible for advising all Elected Members and officers about who has authority to take a particular decision.

A.16 The Monitoring Officer is responsible for advising the Executive or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.

A.17 The Monitoring Officer (together with the Finance Director) is responsible for advising the Executive or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- initiating a new policy;
- committing expenditure in future years to above the budget level;
- incurring interdepartmental transfers above virement limits; and
- causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

A.18 The Monitoring Officer in conjunction with the Democratic Services and Scrutiny Manager is responsible for maintaining an up-to-date constitution.

Finance Director

A.19 The Finance Director has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972.
- The Local Government Finance Act 1988.
- The Local Government and Housing Act 1989.
- The Accounts and Audit Regulations 2015.
- Local Government Act 2003.

A.20 The Finance Director is responsible for:

- the proper administration of the authority's financial affairs;
- setting and monitoring compliance with financial management standards;
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- providing financial information;
- preparing the Capital Strategy;
- preparing the revenue budget and capital programme; and
- treasury management.

A.21 Section 114 of the Local Government Finance Act 1988 requires the Finance Director to report to the Full Council, Executive and the External Auditor if the authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful

expenditure;

- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority; or
- is about to make an unlawful entry in the authority's accounts.

Section 114 of the 1988 Act also requires:

- the Finance Director to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally;
- the authority to provide the Finance Director with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out their duties under section 114.

Chief Officers

A.22 Chief Officers are responsible for ensuring that Executive Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Finance Director.

A.23 It is the responsibility of Chief Officers to consult with the Finance Director and seek approval on any matter liable to materially affect the authority's finances, before any commitments are incurred.

Other Financial Accountabilities

Virement

A.24 The Audit and Standards Committee is responsible for agreeing procedures for virement of expenditure between budget headings.

A.25 Chief Officers are responsible for agreeing in-year virements within delegated limits, in consultation with the Finance Director where required. They must notify the Finance Director of all virements.

Treatment of Year-End Balances

A.26 The Audit and Standards Committee is responsible for agreeing procedures for carrying forward under and over-spending on budget headings, provided that such carry forwards do not constitute an alteration to the policy and budget framework.

Accounting Policies

A.27 The Finance Director is responsible for selecting accounting policies in accordance with best professional practice and ensuring that they are applied consistently.

Accounting Records and Returns

A.28 The Finance Director is responsible for determining the accounting procedures and records for the authority, and must be consulted on and approve proposals for change.

Financial Systems

- A.29** The Finance Director is responsible for approving all the financial systems in operation within the authority and must be consulted on and approve any proposals for change.

The Annual Statement of Accounts

- A.30** The Finance Director is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom. The Audit and Standards Committee is responsible for approving the annual statement of accounts.

Financial Regulations

B - Financial Planning

Introduction

B.1 The Full Council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the Executive. In terms of financial planning, the key elements are:

- the council business plan;
- the revenue budget; and
- the capital programme.

Policy Framework

B.2 The policy framework includes the following statutory plans and strategies:

- the council business plan;
- revenue budget;
- capital programme;
- capital strategy
- treasury management policy statement and strategy;
- the local plan
- Community Safety Partnership - Strategic Assessment; and
- plans and strategies which together support the business plan.

B.3 The Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the Full Council by the Monitoring Officer.

B.4 The Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the C

B.5 The Overview and Scrutiny Committee review performance against the council plan~~Business Plan~~ priorities quarterly. The same reports are also reviewed by Corporate Management Team and Management Board.

Budgeting

Budget Format

B.6 The general format of the budget will be approved by the Full Council and proposed by the Executive on the advice of the Finance Director. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

Budget Preparation

- B.7** The Finance Director is responsible for ensuring that a revenue budget is prepared on an annual basis and a four-year medium-term financial plan for consideration by the Executive, before submission to the Full Council. The Full Council may amend the budget or ask the Executive to reconsider it before approving it.
- B.8** The Executive is responsible for issuing guidance on the general content of the budget in consultation with the Finance Director as soon as possible following approval by the Full Council.
- B.9** It is the responsibility of Chief Officers to ensure that budget estimates reflecting agreed service plans are submitted to the Executive and that these estimates are prepared in line with guidance issued by the Executive.

Budget Monitoring and Control

- B.10** The Finance Director is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must ensure that expenditure and income is monitored and controlled against budget allocations and report to the Executive on the overall position on a regular basis.
- B.11** It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Finance Director. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Finance Director to any problems.

Resource Allocation

- B.12** The Finance Director is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Full Council's policy framework.

Preparation of the Capital Programme

- B.13** The Finance Director is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Executive before submission to the Full Council.

Guidelines

- B.14** Guidelines on budget preparation are issued to Members and Chief Officers by the Finance Director following agreement with the Executive. The guidelines will take account of:
- legal requirements;
 - medium-term planning prospects;
 - the councilbusiness plan;
 - available resources;
 - spending pressures;

- other relevant government guidelines;
- other internal policy documents; and
- cross-cutting issues (where relevant).

Maintenance of Reserves

- B.15** It is the responsibility of the Finance Director to advise the Executive and/or the Full Council on prudent levels of reserves for the authority.

Financial Regulations

C - Risk Management and Control of Resources

Introduction

- C.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

Risk Management

- C.2** The Audit and Standards Committee is responsible for approving the authority's risk management policy and for reviewing the effectiveness of risk management. The Executive is responsible for ensuring that proper insurance exists where appropriate.
- C.3** The Finance Director is responsible for preparing the authority's risk management policy, for promoting it throughout the authority and for advising the Executive on proper insurance cover where appropriate.

Internal Control

- C.4** Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.
- C.5** The Finance Director is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.6** It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

Audit Requirements

- C.7** The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective system of internal control. The responsibility for Internal Audit is delegated to the Finance Director.
- C.8** Following the dissolution of the Audit Commission, the Public Sector Audit Appointments Ltd (PSAA) was specified as an appointing person under the provisions of the Local Audit (Appointing Persons) Regulations 2015. The PSAA are empowered to appoint External Auditors following a national procurement exercise

on behalf of those Local Authorities that signed up to the process. Those Local Authorities that did not opt into the national procurement exercise were able to procure their own External Auditors through an individual or local procurement exercise. Wyre opted into the national procurement from 2018/19 and has done so again for the contracts commencing in 2023/24. and These contracts will cover a five year period commencing with the audit of accounts for 20123/248/19. PSAA has an option to extend the contracts for a further two year period, to a total of seven years, if it chooses to do so. With effect from 2018/19 there is no provision in legislation for PSAA to make arrangements for housing benefit subsidy certification work on behalf of the Department of Work and Pensions and it will be the responsibility of each Local Authority to ensure arrangements are in place.

- C.9** The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

Preventing Fraud and Corruption

- C.10** The Finance Director is responsible for the development and maintenance of effective counter fraud and corruption arrangements.

Assets

- C.11** Chief Officers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

Treasury Management

- C.12** The authority has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities and to demonstrate compliance, a review of the Treasury Management Policy Statement, Treasury Management Practices, Treasury Management, the Capital Strategy and Annual Investment Strategy and Minimum Revenue Provision Policy Statement is agreed annually by the Executive. The Council approves the formulation of the plan or strategy for the control of the authority's borrowing, investments or capital expenditure and for the determination of the authority's minimum revenue provision. The Finance Director has delegated responsibility for implementing and monitoring the statement.
- C.13** The authority has nominated the Overview and Scrutiny Committee as being responsible for ensuring effective scrutiny of the Treasury Management Strategy and policies and the Capital Strategy.
- C.14** All money in the hands of the authority is controlled by the officer designated for the purposes of Section 151 of the Local Government Act 1972, referred to in the code as the Finance Director.
- C.15** The Finance Director is responsible for reporting to the Executive and subsequently the Full Council, a proposed Treasury Management and Annual Investment Strategy for the coming financial year and Minimum Revenue Provision Policy Statement and the Capital Strategy at or before the start of each financial year.

- C.16** All executive decisions on borrowing, investment or financing shall be delegated to the Finance Director, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities and if a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- C.17** The authority delegated responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Executive who will receive from the Finance Director and consider as a minimum:
- a Capital Strategy and a Treasury Management and Annual Investment Strategy before the commencement of the new financial year;
 - a mid-year review;
 - an annual report on treasury management activity before the 30 September after the year end to which it relates; and
 - the outcome of debt rescheduling undertaken reported as soon as possible after completion of the exercise.

Staffing

- C.18** The Full Council is responsible for the manner in which the discharge of the Council's functions is co-ordinated, and for determining how officer support for Executive and Non-Executive roles within the authority will be organised.
- C.19** The Head of Paid Service is responsible for the overall management of staff. He or she is also responsible for ensuring that there is proper use of the agreed systems for determining the remuneration of a job.
- C.20** Chief Officers are responsible for controlling total staff numbers by:
- advising the Executive on the budget necessary in any given year to cover estimated staffing levels;
 - reviewing and amending the structure and staffing levels, within approved budget provision, and fixing commencing salaries or wages for such appointments and promotions as appropriate, in consultation with the officer responsible for strategic human resource issues; and
 - the proper use of appointment procedures.

Financial Regulations

D - Financial Systems and Procedures

Introduction

- D.1** Sound systems and procedures are essential to an effective framework of accountability and control.

General

- D.2** The Finance Director is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Chief Officers to the existing financial systems or the establishment of new systems must be approved by the Finance Director. However, Chief Officers are responsible for the proper operation of financial processes in their own departments.
- D.3** Any changes to agreed procedures by Chief Officers to meet their own specific service needs should be agreed in advance with the Finance Director.
- D.4** Chief Officers should ensure that their staff receive relevant financial training that has been approved by the Finance Director.
- D.5** Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Chief Officers must ensure that staff are aware of their responsibilities under freedom of information legislation.

Income and Expenditure

- D.6** It is the responsibility of Chief Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together with the limits of their authority. The Audit [and Standards](#) Committee is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

Payments to Employees and Members

- D.7** The Finance Director is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Elected Members.

Taxation

- D.8** The Finance Director is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D.9** The Finance Director is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their

due date as appropriate.

Trading Accounts/Business Units

- D.10** It is the responsibility of the Finance Director to advise on the establishment and operation of trading accounts.

Financial Regulations

E - External Arrangements

Introduction

- E.1** The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

Partnerships

- E.2** The Executive is responsible for approving delegations, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E.3** The Executive can delegate functions, including those relating to partnerships, to officers. These are set out in the scheme of delegation that forms part of the authority's constitution. Where functions are delegated, the Executive remains accountable for them to the Full Council.
- E.4** The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to partnerships as those that apply throughout the authority.
- E.5** The Finance Director must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. Chief Officers must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.6** Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

External Funding

- E.7** The Finance Director is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

Work For Third Parties

- E.8** The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies.

Financial Procedure Rules

Appendix A - Financial Management

Financial Management Standards

Why are these Important?

- 1.01** All staff and Elected Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

Key Controls

- 1.02** The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the authority; and
 - (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Executive and Full Council.

Responsibilities of the Finance Director

- 1.03** To ensure the proper administration of the financial affairs of the authority.
- 1.04** To set the financial management standards and to monitor compliance with them.
- 1.05** To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- 1.06** To advise on the key strategic controls necessary to secure sound financial management.
- 1.07** To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

Responsibilities of Chief Officers

- 1.08** To promote the financial management standards set by the Finance Director in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Finance Director.
- 1.09** To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

Managing Expenditure

Scheme Of Virement (Revenue Expenditure)

Why is this Important?

- 1.10** The scheme of virement is intended to enable the Executive, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources.

Key Controls

- 1.11** Key controls for the scheme of virement are:
- (a) It is administered by the Finance Director within guidelines set by the Audit and Standards Committee. Any variation from this scheme requires the approval of the Audit and Standards Committee;
 - (b) The overall budget is agreed by the Executive and approved by the Full Council. Chief Officers and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure;
 - (c) Virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. They should not support recurring expenditure from one-off sources of savings or additional income, or create future commitments, including full-year effects of decisions made part way through a year, without the prior approval of the Finance Director. Chief Officers must plan to fund such commitments from within their own budgets; and
 - (d) Any virement affecting an employee subjective budget head can only proceed with the authorisation of the Finance Director.

Responsibilities of the Finance Director

- 1.12** To monitor and record all virements, consulting with the Resources Portfolio Holder where virements in excess of £250,000 are proposed and seeking approval of the Executive for values in excess of £50,000.

Responsibilities of Chief Officers

- 1.13** A Chief Officer may exercise virement on budgets under his or her control for amounts up to £5,000 on any one budget head during the year, and up to £250,000 following approval of the Finance Director under arrangements agreed by the Audit and Standards Committee and subject to the conditions in paragraphs 1.15 to 1.17 below.
- 1.14** Amounts greater than £250,000 also require the approval of the relevant Portfolio Holder, and must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year.

- 1.15** Virements between budgets of different accountable Executive Members and between budgets managed by different Chief Officers for values >£5,000 will require the consent of all parties.
- 1.16** A virement that is likely to impact on the level of service activity of another Chief Officer should be implemented only after agreement with the relevant Chief Officer.
- 1.17** No virement relating to a specific financial year should be made after 31 March in that year.
- 1.18** Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement.

Treatment of Year-End Balances (Revenue and Capital)

Why is this Important?

- 1.19** The authority's scheme of virement includes the authority's treatment of year-end balances. It is administered by the Finance Director within guidelines set by the Audit and Standards Committee. Any variation from this scheme requires the approval of the Audit and Standards Committee.
- 1.20** The rules below cover arrangements for the transfer of resources between accounting years, ie a carry-forward. For the purposes of this scheme, a budget heading is a specific cost centre and subjective code combination, or, as a minimum, is at an equivalent level to the standard service subdivision as defined by CIPFA in its Service Expenditure Analysis.

Key Controls

- 1.21** Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.

Responsibilities of the Finance Director

- 1.22** To administer the scheme of carry-forward within the guidelines approved by the Audit and Standards Committee.
- 1.23** To report all over-spending and under-spending on service estimates carried forward to the Audit and Standards Committee.

Responsibilities of Chief Officers

- 1.24** Net underspendings on service estimates under the control of the Chief Officer may be carried forward, subject to the approval of the Finance Director. The source of underspending or additional income and the proposed application of those resources must be reported to the Audit and Standards Committee.

Accounting Policies

Why are these Important?

- 1.25** The Finance Director is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom for each financial year ending 31 March.

Key Controls

- 1.26** The key controls for accounting policies are:
- (a) systems of internal control are in place that ensure that financial transactions are lawful;
 - (b) suitable accounting policies are selected and applied consistently;
 - (c) proper accounting records are maintained; and
 - (d) financial statements are prepared which present a true and fair view of the financial position of the authority and its expenditure and income.

Responsibilities of the Finance Director

- 1.27** To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and cover such items as:
- (a) Accruals of income and expenditure;
 - (b) Provisions;
 - (c) Reserves;
 - (d) Government grants and contributions;
 - (e) Retirement benefits;
 - (f) VAT;
 - (g) Overheads and support services;
 - (h) Intangible fixed assets;
 - (i) Tangible fixed assets;
 - (j) Charges to revenue for fixed assets;
 - (k) Revenue expenditure funded from capital under statute;
 - (l) Leases;
 - (m) Financial liabilities;
 - (n) Financial assets;
 - (o) Stocks and work in progress; and
 - (p) Interests in companies and other entities.

Responsibilities of Chief Officers

- 1.28** To adhere to the accounting policies and guidelines approved by the Finance Director.

Accounting Records And Returns

Why are these Important?

1.29 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present a true and fair view of its operations during the year. These are subject to External Audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

Key Controls

1.30 The key controls for accounting records and returns are:

- (a) all Executive Members, finance staff and budget managers operate within the required accounting standards and timetables;
- (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded; and
- (e) prime documents are retained in accordance with legislative and other requirements.

Responsibilities of the Finance Director

1.31 To determine the accounting procedures and records to be kept for the authority.

1.32 To arrange for the compilation of all accounts and accounting records.

1.33 Wherever practicable, to comply with the principle of separation of duties when allocating accounting duties.

1.34 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2015.

1.35 To ensure that all claims for funds including grants are made by the due date.

1.36 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and ensure that the statement of accounts is approved by the Audit and Standards Committee by the statutory date.

- 1.37** To administer the authority's arrangements for under-spending to be carried forward to the following financial year.
- 1.38** To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.

Responsibilities of Chief Officers

- 1.39** To consult and obtain the approval of the Finance Director before making any changes to accounting records and procedures.
- 1.40** To comply with the principles outlined in paragraph 1.33 when allocating accounting duties.
- 1.41** To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 1.42** To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Finance Director.

The Annual Statement of Accounts

Why is this Important?

- 1.43** The authority has a statutory responsibility to prepare its own accounts to present a true and fair view of its operations during the year. The Audit [and Standards](#) Committee is responsible for approving the statutory annual statement of accounts.

Key Controls

- 1.44** The key controls for the annual statement of accounts are:
- (a) the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Finance Director.
 - (b) the authority's statement of accounts must be prepared in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom

Responsibilities of the Finance Director

- 1.45** To select suitable accounting policies and to apply them consistently.
- 1.46** To make judgements and estimates that are reasonable and prudent.
- 1.47** To comply with the Code of Practice on Local Authority Accounting in the United Kingdom.
- 1.48** To keep proper accounting records that are up to date.

- 1.49** To sign and date the statement of accounts, stating that it presents a true and fair view of the financial position of the authority at the accounting date and its income and expenditure for the relevant year.
- 1.50** To draw up the timetable for final accounts preparation and to advise staff and External Auditors accordingly.

Responsibilities of Chief Officers

- 1.51** To comply with accounting guidance provided by the Finance Director and to supply the Finance Director with information when required.

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Financial Procedure Rules

Appendix B - Financial Planning

Performance Plans

Why are these Important?

2.01 Each local authority has a responsibility to publish various performance plans, including the Council ~~Plan's Business Plan~~, the Local Plan and the Community Safety Partnership – Strategic Assessment. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. Performance plans form part of the authority's programme of engaging with the public.

Key Controls

2.02 The key controls for performance plans are:

- (a) to ensure that all relevant plans are produced and that they are consistent;
- (b) to produce plans in accordance with statutory requirements;
- (c) to meet the timetables set;
- (d) to ensure that all performance information is accurate, complete and up to date; and
- (e) to provide improvement targets which are meaningful, realistic and challenging.

Responsibilities of the Finance Director

2.03 To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

2.04 To contribute to the development of corporate and service targets and performance information.

Responsibilities of the Corporate Director Communities

2.05 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators, identifying measurable impact, outputs and outcomes.

2.06 To ensure that performance information is monitored frequently to allow corrective action to be taken if targets are not likely to be met.

Responsibilities of Chief Officers

2.07 To contribute to the development of performance plans in line with statutory requirements.

- 2.08** To contribute to the development and monitoring of corporate and service targets and objectives and performance information.

Budgeting

Format of the Budget

Why is this Important?

- 2.09** The format of the budget influences the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

Key Controls

- 2.10** The key controls for the budget format are:
- (a) the format complies with all legal requirements and proper accounting practices; and
 - (b) the format reflects accountability for service delivery.

Responsibilities of the Finance Director

- 2.11** To advise the Executive on the format of the budget that is approved by the Full Council.

Responsibilities of Chief Officers

- 2.12** To comply with accounting guidance provided by the Finance Director.

Revenue Budget Preparation, Monitoring and Control

Why is this Important?

- 2.13** Budget management ensures that once the budget has been approved by the Full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.
- 2.14** By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

- 2.15** For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required.

Key Controls

- 2.16** The key controls for managing and controlling the revenue budget are:
- (a) budget managers should be responsible only for income and expenditure that they can influence;
 - (b) there is a nominated budget manager for each cost centre heading;
 - (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
 - (d) budget managers follow an approved certification process for all expenditure;
 - (e) income and expenditure are properly recorded and accounted for; and
 - (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

Responsibilities of the Finance Director

- 2.17** To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within annual cash limits unless the Full Council agrees otherwise;
 - (b) each Chief Officer has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
 - (c) expenditure is committed only against an approved budget head;
 - (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations;
 - (e) each cost centre has a single named manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure; and
 - (f) significant variances from approved budgets are investigated and reported by budget managers regularly.
- 2.18** To administer the authority's scheme of virement.
- 2.19** To submit reports to the Executive and to the Full Council, in consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control.

- 2.20** To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

Responsibilities of Chief Officers

- 2.21** To maintain budgetary control within their departments, in adherence to the principles in 2.17, and to ensure that all income and expenditure are properly recorded and accounted for.
- 2.22** To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Chief Officer (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- 2.23** To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 2.24** To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- 2.25** To provide information to the Finance Director to enable reports on the service's projected expenditure compared with its budget to be made to the Executive.
- 2.26** To ensure prior approval by the Full Council or Executive (as appropriate) for new proposals, of whatever amount, that:
- (a) create financial commitments in future years;
 - (b) change existing policies, initiate new policies or cease existing policies; and
 - (c) materially extend or reduce the authority's services.
- 2.27** To ensure compliance with the scheme of virement.
- 2.28** To agree with the relevant Chief Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or chief officer's level of service activity.

Budgets and Medium-Term Planning

Why is this Important?

- 2.29** The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies.

- 2.30** The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Full Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.
- 2.31** Medium-term planning involves a planning cycle which incorporates the current and four future years. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

Key Controls

- 2.32** The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure;
 - (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Executive for their budgets and the level of service to be delivered; and
 - (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Responsibilities of the Finance Director

- 2.33** To prepare and submit reports on budget prospects for the Executive, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 2.34** To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Full Council, and after consultation with the Executive and Chief Officers.
- 2.35** To prepare and submit reports to the Executive on the aggregate spending plans of service units and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- 2.36** To advise on the medium-term implications of spending decisions.
- 2.37** To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.38** To advise the Full Council on Executive proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

Responsibilities of Chief Officers

- 2.39** To prepare estimates of income and expenditure, in consultation with the Finance Director, to be submitted to the Executive.
- 2.40** To prepare budgets that are consistent with any relevant cash limits, with the authority's annual budget cycle and with guidelines issued by the Finance Director following agreement with the Executive. The format should be prescribed by the Finance Director.
- 2.41** To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.42** In consultation with the Finance Director and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate committee.
- 2.43** When drawing up draft budget requirements, to have regard to:
- (a) spending patterns and pressures revealed through the budget monitoring process;
 - (b) legal requirements;
 - (c) policy requirements as defined by the Full Council in the approved policy framework; and
 - (d) initiatives already under way.

Resource Allocation

Why is this Important?

- 2.44** A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

Key Controls

- 2.45** The key controls for resource allocation are:
- (a) resources are acquired in accordance with the law and using an approved authorisation process;
 - (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
 - (c) resources are securely held for use when required; and

- (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

Responsibilities of the Finance Director

- 2.46** To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- 2.47** To assist in the allocation of resources to budget managers.

Responsibilities of Chief Officers

- 2.48** To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- 2.49** To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

Capital Programmes

Why are these Important?

- 2.50** Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 2.51** Capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

Key Controls

- 2.52** The key controls for capital programmes are:
- (a) a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Executive;
 - (b) specific approval by the Full Council for the programme of capital expenditure;
 - (c) expenditure on capital schemes is subject to the approval of the relevant Portfolio Holder prior to scheme commencement;
 - (d) proposals for improvements and alterations to buildings must be approved by the Corporate Property Officer;
 - (e) schedules for individual schemes within the overall budget approved by the Full Council must be submitted to the relevant Portfolio Holder for approval (for example, refurbishment of playgrounds);

- (f) the development and implementation of asset management plans;
- (g) accountability for each proposal is accepted by a named manager; and
- (h) monitoring of progress in conjunction with expenditure and comparison with approved budget.

Responsibilities of the Finance Director

- 2.53** To prepare capital estimates jointly with Chief Officers and the Head of Paid Service and to report them to the Executive for approval. The Executive will make recommendations on the capital estimates and on any associated financing requirements to the Full Council.
- 2.54** To prepare and submit reports to the Executive on the projected income, expenditure and resources compared with the approved estimates.
- 2.55** To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Finance Director, having regard to government regulations and accounting requirements.
- 2.56** To obtain authorisation from the Executive for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount.

Responsibilities of Chief Officers

- 2.57** To comply with guidance concerning capital schemes and controls issued by the Finance Director.
- 2.58** To ensure that where appropriate all capital projects are supported by a business case.
- 2.59** To prepare regular reports reviewing the capital programme provisions for their services including three reports a year showing the estimated final costs of schemes in the current year's approved capital programme for submission to the Executive as part of the performance management framework.
- 2.60** To ensure that adequate records are maintained for all capital contracts.
- 2.61** To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the relevant Portfolio Holder.
- 2.62** To prepare and submit reports, jointly with the Finance Director, to the Executive, of any material variation in contract costs whereby the quotation or tender to be accepted exceeds the provision in the capital programme by more than the approved limit of 10% and where approval conditions in 2.63 to 2.65 cannot be met.

- 2.63** The Finance Director may approve increased costs on an individual scheme within the approved Capital Programme to a maximum of £50,000 provided that it is funded by a virement of resources from another scheme in the Capital Programme (provided that the specification remains consistent with the original overall objectives of the scheme and that the expenditure continues to deliver best value for money for the Council) or new external funding.
- 2.64** The Resources Portfolio Holder may approve increased costs on an individual scheme to a maximum of £100,000 provided that it is funded from a virement of resources from one scheme to another within the approved Capital Programme or new external funding (provided that the specification remains consistent with the original overall objectives of the scheme and that the expenditure continues to deliver best value for money for the Council).
- 2.65** The Cabinet may approve increased costs on an individual scheme up to a maximum of £250,000 provided that it is funded from a virement of resources from one scheme to another within the approved Capital Programme or new external funding (provided that the specification remains consistent with the original overall objectives of the scheme and that the expenditure continues to deliver best value for money for the Council).
- 2.66** To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Finance Director and, if applicable, approval of the scheme through the capital programme.

Maintenance of Reserves

Why is this Important?

- 2.675** The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of IT equipment.

Key Controls

- 2.686** To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies.
- 2.697** For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 2.7068** Authorisation and expenditure from reserves by the appropriate Chief Officer in consultation with the Finance Director.

Responsibilities of the Finance Director

- 2.7169** To advise the Executive and/or the Full Council on prudent levels of reserves for the authority, and to take account of the advice of the External Auditor in this matter.

Responsibilities of Chief Officers

2.7~~20~~ To ensure that resources are used only for the purposes for which they were intended.

Financial Procedure Rules

Appendix C - Risk Management and Control of Resources

Risk Management

Why is this Important?

- 3.01** All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- 3.02** It is the overall responsibility of the Audit and Standards Committee to approve the authority's Risk Management Policy, and to promote a culture of risk management awareness throughout the authority.

Key Controls

- 3.03** The key controls for risk management are:
- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority;
 - (b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
 - (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
 - (d) provision is made for losses that might result from the risks that remain;
 - (e) procedures are in place to investigate insurance claims within required timescales;
 - (f) acceptable levels of risk are determined and insured against where appropriate; and
 - (g) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

Responsibilities of the Finance Director

- 3.04** To prepare and promote the authority's Risk Management Policy.
- 3.05** To develop risk management controls in conjunction with other Chief Officers.
- 3.06** To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- 3.07** To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

Responsibilities of Chief Officers

- 3.08** To notify the Finance Director immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Finance Director or the authority's insurers.
- 3.09** To take responsibility for risk management, having regard to advice from the Finance Director and other specialist officers (e.g. crime prevention, fire prevention, health and safety and the Audit and Risk Management Section).
- 3.10** To ensure that there are regular reviews of risk within their service units.
- 3.11** To notify the Finance Director promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 3.12** To consult the Finance Director and the Legal Services Manager on the terms of any indemnity that the authority is requested to give.
- 3.13** To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

Internal Controls

Why are these Important?

- 3.14** The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 3.15** The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 3.16** The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 3.17** The system of internal controls is established in order to provide measurable achievement of:

- (a) efficient and effective operations;
- (b) reliable financial information and reporting;
- (c) compliance with laws and regulations; and
- (d) risk management.

Key Controls

3.18 The key controls and control objectives for internal control systems are:

- (a) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively;
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems; and
- (d) an effective Internal Audit function that is properly resourced. It should operate in accordance with the principles contained in CIPFA's Public Sector Internal Audit Standards and Local Government Application Note and with any other statutory obligations and regulations.

Responsibilities of the Finance Director

3.19 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

Responsibilities of Chief Officers

3.20 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

3.21 To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Finance Director. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

3.22 To ensure staff have a clear understanding of the consequences of lack of control.

Audit Requirements

Internal Audit

Why is this Important?

- 3.23** The requirement for an Internal Audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 require that a “relevant authority must undertake an effective Internal Audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account Public Sector Internal Auditing Standards or guidance”.
- 3.24** Accordingly, Internal Audit is an independent appraisal function established by the authority for the review of the internal control system as a service to the organisation. It objectively examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

Key Controls

- 3.25** The key controls for Internal Audit are:
- (a) that it is independent in its planning and operation;
 - (b) the Head of Internal Audit has direct access to the Head of Paid Service, all levels of management and Elected Members; and
 - (c) the Internal Auditors comply with the auditing practices in the Public Sector Internal Audit Standards and CIPFA’s Local Government Application Note for the United Kingdom Public Sector Internal Audit.

Responsibilities of the Finance Director

- 3.26** To ensure that Internal Auditors have the authority to:
- (a) access authority premises at reasonable times;
 - (b) access all assets, records, documents, correspondence and control systems;
 - (c) receive any information and explanation considered necessary concerning any matter under consideration;
 - (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control;
 - (e) access records belonging to third parties, such as contractors and organisations for which the authority acts as the accountable body, when required; and

- (f) directly access the Head of Paid Service, the Executive, the Audit and Standards Committee ~~and Standards Committee~~ as and when necessary.

- 3.27** To approve the strategic and annual audit plans prepared by the Head of Internal Audit, which take account of the characteristics and relative risks of the activities involved.
- 3.28** To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

Responsibilities of Chief Officers

- 3.29** To ensure that Internal Auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 3.30** To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 3.31** To consider and respond promptly to findings in audit reports.
- 3.32** To ensure that any agreed actions arising from audit findings are carried out in a timely and efficient fashion.
- 3.33** To notify the Finance Director immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 3.34** To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Internal Audit prior to implementation.

External Audit

Why is this Important?

- 3.35** The work of the Public Sector Audit Appointments Ltd (PSAA) and its appointed auditors is carried out in accordance with the provisions of the Local Audit and Accountability Act 2014 and the Code of Audit Practice 2015 (the Code). Responsibility for the conduct of the audit remains, at all times, that of the appointed auditor.
- 3.36** The Code prescribes the way in which auditors of local government bodies, as defined in Schedule 2 of the Local Audit and Accountability Act 2014, appointed by the PSAA should carry out their functions under the Act.
- 3.37** Auditors' principal objectives are to review and report on, to the extent required by the relevant legislation and the requirements of this Code: (a) the audited body's financial statements and (b) whether the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

Key Controls

- 3.38** Prior to 1 April 2018, External Auditors were appointed by the Audit Commission. From the financial year 2018/19, External Auditors are normally appointed by Public Sector Audit Appointments Ltd (PSAA) for a minimum period of five years. The National Audit Office prepares a code of audit practice, which External auditors follow when carrying out their audits.

Responsibilities of the Finance Director

- 3.39** To ensure that External Auditors are given access at all reasonable times to premises, personnel, documents and assets that the External Auditors consider necessary for the purposes of their work.
- 3.40** To ensure there is effective liaison between External and Internal Audit.
- 3.41** To work with the External Auditor and advise the Full Council, Executive, the Audit and Standards Committee and Chief Officers on their responsibilities in relation to External Audit.

Responsibilities of Chief Officers

- 3.42** To ensure that External Auditors are given access at all reasonable times to premises, personnel, documents and assets which the External Auditors consider necessary for the purposes of their work.
- 3.43** To ensure that all records and systems are up to date and available for inspection.

Preventing Fraud and Corruption

Why is this Important?

- 3.44** The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.
- 3.45** The authority's expectation of propriety and accountability is that Elected Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 3.46** The authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

Key Controls

- 3.47** The key controls regarding the prevention of financial irregularities are that:
- (a) the authority has a number of effective anti-fraud policies and maintains a culture that will not tolerate fraud, bribery or corruption;
 - (b) all Elected Members and staff act with integrity and lead by example;

- (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt;
- (d) high standards of conduct are promoted amongst Elected Members by the Audit and Standards Committee;
- (e) the maintenance of a register of gifts, hospitality and interests in which any hospitality or gifts accepted or provided must be recorded;
- (f) whistle blowing procedures are in place and operate effectively; and
- (g) legislation including the Money Laundering and Terrorist Financing (Amendment) Regulations 2022 and the Public Interest Disclosure Act 1998 is adhered to.

Responsibilities of the Finance Director

- 3.48** To develop and maintain effective counter fraud, bribery and corruption arrangements.
- 3.49** To maintain adequate and effective internal control arrangements.
- 3.50** To ensure that all suspected irregularities are reported to the Head of Internal Audit, the Head of Paid Service, the Monitoring Officer and the Audit and Standards Committee.

Responsibilities of Chief Officers

- 3.51** To ensure that all suspected irregularities are reported to the Finance Director.
- 3.52** To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 3.53** To ensure that where financial impropriety is discovered, the Finance Director is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- 3.54** To ensure compliance with the 'Employee Code of Conduct' and maintain a register of both financial and non-financial interests declared by employees which they consider could bring them into conflict with the Authority's interests.
- 3.55** To ensure that gifts and hospitality received and provided by employees is recorded in accordance with the employee 'Code of Conduct'.

Assets

Security

Why is this Important?

- 3.56** The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are

safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Key Controls

- 3.57** The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
- (a) resources are used only for the purposes of the authority and are properly accounted for;
 - (b) resources are available for use when required;
 - (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits;
 - (d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset;
 - (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act 2018, the UK General Data Protection Regulations (GDPR) and software copyright legislation; and
 - (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's Computer Use Policy and User Agreement.

Responsibilities of the Finance Director

- 3.58** To ensure that an asset register is maintained in accordance with good practice. The function of the asset register is to provide the authority with information about fixed assets so that they are:

- safeguarded;
- used efficiently and effectively; and
- adequately maintained.

An inventory of IT equipment is also maintained although not formally included within the asset register for accounting purposes.

- 3.59** To receive the information required for accounting, costing and financial records from each Chief Officer.

- 3.60** To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom.

Responsibilities of Chief Officers

- 3.61** The Corporate Property Officer shall maintain a property database for all land and property currently owned or used by the authority. Any use of land or property should be supported by documentation identifying terms, responsibilities and duration of use. Following IFR16, all lease agreements must be notified to the financial services team to ensure correct accounting treatment is followed.
- 3.62** To ensure that lessees and other occupiers of council land and property are not allowed to take possession or enter the land or property until a lease or agreement, in a form approved by the Corporate Property Officer in consultation with the Legal Services Team and Financial Services Team, has been completed.
- 3.63** To ensure the proper security of all buildings and other assets under their control.
- 3.64** Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Corporate Property Officer and the Finance Director.
- 3.65** To pass title deeds to the Legal Services Team who are responsible for custody of all title deeds.
- 3.66** To ensure that no authority asset is subject to personal use by an employee without proper authority.
- 3.67** To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 3.68** To ensure that the Council maintains a register of moveable assets in accordance with arrangements defined by the Finance Director.
- 3.69** To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 3.70** To consult the Finance Director in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 3.71** To ensure cash holdings on premises are kept to a minimum.
- 3.72** To ensure that keys to safes and similar receptacles are kept secure at all times; loss of any such keys must be reported to the Finance Director as soon as possible.
- 3.73** To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Finance Director, the Executive agrees otherwise.
- 3.74** To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Finance Director.

- 3.75** To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

Inventories

- 3.76** To maintain inventories and record an adequate description of equipment, plant and machinery. All assets, excluding IT equipment and office furniture, with either a purchase price (if known) or an approximate replacement value of over £350 should be notified to the Head of Internal Audit for insurance purposes.
- 3.77** To carry out an annual check of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- 3.78** To make sure that property is only used in the course of the authority's business, unless the Chief Officer concerned has given permission otherwise.
- 3.79** To make arrangements for the care and custody of stocks and stores in the department.
- 3.80** To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 3.81** To investigate and remove from the authority's records (i.e. write off) discrepancies below the predetermined limit of £250, immediately notifying the Finance Director.
- 3.82** Procedures for disposal of redundant stocks and equipment should be by competitive quotations or auction, unless, an alternative approach has been agreed with the Finance Director.
- 3.83** To seek approval from the Finance Director to the write-off of redundant stocks and equipment in excess of the predetermined sum of £250.

Intellectual Property

Why is this Important?

- 3.84** Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- 3.85** Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

Key Controls

- 3.86** In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures.

Responsibilities of the Finance Director

- 3.87** To develop and disseminate good practice through the authority's intellectual property procedures.

Responsibilities of Chief Officers

- 3.88** To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

Asset Disposal**Why is this Important?**

- 3.89** It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the authority's procedure rules.

Key Controls

- 3.90** Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.
- 3.91** Procedures protect staff involved in the disposal from accusations of personal gain.

Responsibilities of the Finance Director

- 3.92** To issue guidance regarding best practice for disposal of assets.
- 3.93** To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

Responsibilities of Chief Officers

- 3.94** To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment. Advice from the Legal Services Team should be sought for any land disposals.
- 3.95** To ensure that income received for the disposal of an asset is properly banked and coded.

Treasury Management

Why is this Important?

- 3.96** Many millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. The guidance states that the investment priorities for local authorities must be firstly, the security of the investment and secondly, the liquidity of the asset. Only when these two priorities have been satisfied should the local authority seek to maximise the return on investment.

Key Controls

- 3.97** That the authority's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the authority's Treasury Management Policy Statement.

Responsibilities of Finance Director – Treasury Management and Banking

- 3.98** To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the authority's Treasury Management Policy Statement.
- 3.99** To report the following, as a minimum, in relation to treasury management activities to the Executive:
- a Capital Strategy and Treasury Management and Annual Investment Strategy before the commencement of the new financial year;
 - a mid year review;
 - an annual report on treasury management activity before the 30 September after the year end to which it relates; and
 - the outcome of debt rescheduling undertaken reported as soon as possible after completion of the exercise.
- 3.100** To operate such bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Finance Director.

Responsibilities of Chief Officers – Treasury Management and Banking

- 3.101** To follow the instructions on banking issued by the Finance Director.

Responsibilities of Finance Director – Investments and Borrowing

- 3.102** To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Full Council.
- 3.103** To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the appropriate Chief Officer.
- 3.104** To effect all borrowings in the name of the authority.

- 3.105** To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

Responsibilities of Chief Officers – Investments and Borrowing

- 3.106** To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Full Council, following consultation with the Finance Director. The only exception to this rule is where a Parish or Town Council (within Wyre), request a short-term loan (not exceeding 12 months) for a value of £50,000 or less. Any agreement needs to be in consultation with the Finance Director and the Legal Services Manager.

Responsibilities of Chief Officers – Trust Funds and Funds Held for Third Parties

- 3.107** To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust with the Finance Director, unless the deed otherwise provides.
- 3.108** To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Finance Director, and to maintain written records of all transactions.
- 3.109** To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

Responsibilities of the Finance Director – Imprest Accounts

- 3.110** To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount of £50.
- 3.111** To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 3.112** To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

Responsibilities of Chief Officers – Imprest Accounts

- 3.113** To ensure that employees operating an imprest account:
- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained;
 - (b) make adequate arrangements for the safe custody of the imprest account;

- (c) produce upon demand by the Finance Director cash and all vouchers to the total value of the imprest amount;
- (d) record transactions promptly;
- (e) reconcile and balance the imprest account at least monthly; reconciliation sheets to be signed and retained by the imprest account holder;
- (f) provide the Finance Director with a certificate of the value of the imprest account held at 31 March each year;
- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made; and
- (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Finance Director for the amount advanced to him or her.

Staffing

Why is this Important?

3.114 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

Key Controls

3.115 The key controls for staffing are:

- (a) ensuring that staffing requirements and budget allocation are matched;
- (b) procedures are in place for forecasting staffing requirements and cost;
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority; and
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

Responsibilities of the Finance Director

3.116 To ensure that budget provision exists for all existing and new employees.

3.117 To act as an advisor to Chief Officers on areas such as National Insurance and pension contributions, as appropriate.

Responsibilities of Chief Officers

3.118 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

- 3.119** To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- 3.120** To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- 3.121** To ensure that the Finance Director is immediately informed if the staffing budget is likely to be materially over or under-spent.

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Financial Procedure Rules

Appendix D - Financial Systems And Procedures

General

Why is this Important?

- 4.01** The Council has many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems and is increasingly reliant on computers for financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 4.02** The Finance Director has both a professional and a statutory responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

Key Controls

- 4.03** The key controls for systems and procedures are:
- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated;
 - (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis;
 - (c) early warning is provided of deviations from target, plans and budgets that require management attention; and
 - (d) operating systems and procedures are secure.

Responsibilities of the Finance Director

- 4.04** To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf;
 - (b) determine the accounting systems, form of accounts and supporting financial records;
 - (c) establish arrangements for audit of the authority's financial affairs;
 - (d) approve any new financial systems to be introduced; and
 - (e) approve any changes to be made to existing financial systems.

Responsibilities of Chief Officers

- 4.05** To ensure that accounting records are properly maintained and held securely.
- 4.06** To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Finance Director.
- 4.07** To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 4.08** To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed;
 - (b) all processing is carried out in an accurate, complete and timely manner; and
 - (c) output from the system is complete, accurate and timely.
- 4.09** To ensure that the organisational structure provides for an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 4.10** To ensure there are documented and tested individual Business Contingency plans to allow information system processing and council services to resume quickly in the event of an interruption and that they be tested regularly.
- 4.11** To ensure that systems are documented and staff trained in their operation.
- 4.12** To consult with the Finance Director before changing any existing system or introducing new systems.
- 4.13** To establish a scheme of delegation identifying officers authorised to act upon the Chief Officer's behalf in respect of payments, income collection and placing orders, and showing the limits of their authority.
- 4.14** To supply lists of authorised officers, with specimen signatures and delegated limits, to the Finance Director, together with any subsequent variations.
- 4.15** To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 4.16** To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

- 4.17** To ensure that relevant standards and guidelines for computer systems are observed.
- 4.18** To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 4.19** To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the authority is used on its computers;
 - (b) staff are aware of legislative provisions; and
 - (c) in developing systems, due regard is given to the issue of intellectual property rights.

Income and Expenditure

Income

Why is this Important?

- 4.20** Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cash flow and also avoids the time and cost of administering debts.

Key Controls

- 4.21** The key controls for income are:
- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
 - (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;
 - (c) all money received by an employee on behalf of the authority is paid without delay to the Finance Director or, as he or she directs, to the authority's bank account, and properly recorded. The responsibility for cash collection should be separated from that:
 - for identifying the amount due; and
 - for reconciling the amount due to the amount received.
 - (d) effective action is taken to pursue non-payment within defined timescales;
 - (e) formal approval for debt write-off is obtained;
 - (f) appropriate write-off action is taken within defined timescales;

- (g) appropriate accounting adjustments are made following write-off action;
- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule; and
- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

Responsibilities of the Finance Director

- 4.22** To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- 4.23** To approve the form of all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 4.24** To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 4.25** To record and approve the write-off of bad debts without limit and to report these to the relevant Executive Member in cases where:
 - a) the debt has been remitted by the Magistrates under the provisions of regulation 48(3) of the Council Tax (Administrative and Enforcement) Regulations, 1992, or
 - b) the debt is the subject of an insolvency/bankruptcy and the Council has submitted a relevant claim covering the outstanding debt.
- 4.26** To record and approve the write-off of bad debts not covered by 4.25 and to report these to the relevant Executive Member.
- 4.27** To ensure that appropriate accounting adjustments are made following write-off action.

Responsibilities of Chief Officers

- 4.28** To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 4.29** To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 4.30** To issue official receipts or to maintain other documentation for income collection.
- 4.31** To hold securely receipts, tickets and other records of income for the appropriate period.
- 4.32** To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

- 4.33** To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 4.34** To ensure income is not used to cash personal cheques or other payments.
- 4.35** To supply the Finance Director with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Finance Director to record correctly the sums due to the authority and to ensure accounts are sent out promptly.
- 4.36** Chief Officers should use established performance management systems to monitor recovery of income and flag up areas of concern to the Finance Director. Chief Officers have a responsibility to assist the Finance Director in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf. Only up to approved levels of cash can be held on the premises.
- 4.37** To recommend to the Finance Director all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 4.38** To obtain the approval of the Finance Director when seeking to write off debts and the approval of the relevant Executive Member where required.
- 4.39** To notify the Finance Director of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Finance Director.

Ordering and Paying for Work, Goods and Services

Why is this Important?

- 4.40** Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

General

- 4.41** Every officer and Elected Member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.
- 4.42** Official orders must be in a form approved by the Finance Director. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or business rates, petty cash purchases or other exceptions specified by the Finance Director.

- 4.43** Each order must conform to the guidelines on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Finance Director.
- 4.44** Apart from petty cash the normal method of payment from the authority shall be by electronic transfer (BACS) or cheque or other instrument or approved method, drawn on the authority's bank account by the Finance Director. The use of direct debit shall require the prior agreement of the Finance Director. All lease agreements where the Council is leasing property or equipment, vehicles etc must be approved by the Finance Director or their Deputy.
- 4.45** Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

Key Controls

- 4.46** The key controls for ordering and paying for work, goods and services are:
- (a) all goods and services are ordered only by appropriate persons and are correctly recorded;
 - (b) all goods and services shall be ordered in accordance with the authority's contract procedure rules;
 - (c) goods and services received are checked to ensure they are in accordance with the order;
 - (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards;
 - (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method;
 - (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with corporate retention schedules;
 - (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected; and
 - (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

Responsibilities of the Finance Director

- 4.47** To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 4.48** To approve any changes to existing financial systems and to approve any new systems before they are introduced.

- 4.49** To approve the form of official orders and associated terms and conditions.
- 4.50** To make payments from the authority's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 4.51** To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 4.52** To make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 4.53** To make payments by the most economical means.

Responsibilities of Chief Officers

- 4.54** To ensure that official orders have a unique reference number and are used for all goods and services, other than the exceptions specified in 4.42.
- 4.55** To ensure that orders are only used for goods and services provided to the Council. Individuals must not use official orders to obtain goods or services for their private use.
- 4.56** To ensure that only those staff authorised by a Chief Officer approve / authorise orders and that a specimen signature identifying, where applicable, the limits of their authority be sent to Internal Audit, who are responsible for maintaining an up-to-date list of authorised signatories.
- 4.57** To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- 4.58** To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services;
 - (b) that the invoice has not previously been paid;
 - (c) that expenditure has been properly incurred and is within budget provision;
 - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
 - (e) correct accounting treatment of tax;
 - (f) that the invoice is correctly coded;
 - (g) that discounts have been taken where available; and
 - (h) that appropriate entries will be made in accounting records.

- 4.59** To ensure that two authorised members of staff are involved in the ordering and receiving process unless the value of the order is below the specified limit of £100. (Higher self-authorising limits of up to £10,000 have been agreed for certain officers and confirmed with Internal Audit).
- 4.60** To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority, where applicable, shall be forwarded to Internal Audit.
- 4.61** To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to Internal Audit.
- 4.62** To ensure that the department obtains value for money by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, which are in line with value for money principles.
- 4.63** To utilise the contract procedures established by the Council in putting purchases, where appropriate, out to competitive quotation or tender.
- 4.64** To ensure that employees are aware of the Council's Code of Conduct for local government employees.
- 4.65** To notify the Finance Director of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Finance Director.
- 4.66** With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Finance Director the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- 4.67** To notify the Finance Director immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 4.68** To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.
- 4.69** To ensure that staff who have been issued with either procurement or business cards comply with the rules contained within the Employee Agreement and sign the Acknowledgement Form indicating their acceptance of the conditions.

Payments to Employees and Elected Members

Why is this Important?

4.70 Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Elected Members' allowances are authorised in accordance with the scheme adopted by the Full Council.

Key Controls

- 4.71** The key controls for payments to employees and Elected Members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
 - starters;
 - leavers;
 - variations; and
 - enhancements.and that payments are made on the basis of timesheets or claims;
 - (b) frequent reconciliation of payroll expenditure against approved budget and bank account;
 - (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule; and
 - (d) that HMRC regulations are complied with.

Responsibilities of the Finance Director

- 4.72** To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- 4.73** To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 4.74** To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 4.75** To make arrangements for paying Elected Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.76** To provide secure payment of salaries and wages by the most economical means.

- 4.77** To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.
- 4.78** To ensure that payroll is provided with signatures of officers authorised to sign timesheets and claims.
- 4.79** To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with Information Asset Registers.

Responsibilities of Chief Officers

- 4.80** To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 4.81** To notify the Finance Director of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required.
- 4.82** To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees;
 - payments are only made where there is a valid entitlement;
 - conditions and contracts of employment are correctly applied; and
 - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 4.83** To send an up-to-date list of the names of officers authorised to sign records to Internal Audit, together with specimen signatures.
- 4.84** To ensure that payroll transactions are processed only through the payroll system. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought.
- 4.85** To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved.
- 4.86** To ensure that the Finance Director is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

Responsibilities of Elected Members

- 4.87** To submit claims for Elected Members' travel and subsistence allowances within two months of the date on which the entitlement to the allowance arises is carried out.

Taxation

Why is this Important?

4.88 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

Key Controls

4.89 The key controls for taxation are:

- (a) budget managers are provided with relevant information and kept up to date on tax issues;
- (b) budget managers are instructed on required record keeping;
- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- (d) records are maintained in accordance with instructions; and
- (e) returns are made to the appropriate authorities within the stipulated timescale.

Responsibilities of the Finance Director

4.90 To complete a monthly return of VAT inputs and outputs to HMRC.

4.91 To provide details to HMRC regarding the construction industry tax deduction scheme.

4.92 To provide up-to-date guidance for authority employees on taxation issues.

4.93 To maintain and monitor the Council's partial exemption position.

4.94 To provide up-to-date guidance for authority employees on taxation issues.

4.95 To complete all HMRC returns regarding PAYE.

Responsibilities of Chief Officers

4.96 To ensure (in conjunction with the Finance Director) that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.

4.97 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

- 4.98** To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 4.99** To follow guidance on taxation issued by the Finance Director.

Financial Procedure Rules

Appendix E - External Arrangements

Partnerships

Why are these Important?

- 5.01** Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 5.02** Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

General

- 5.03** The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk;
 - (b) the ability to access new resources;
 - (c) to provide new and better ways of delivering services; and
 - (d) to forge new relationships.
- 5.04** A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or
 - (b) a body whose nature or status give it a right or obligation to support the project.
- 5.05** Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in association with others;
 - (b) acting as a project funder or part funder; and
 - (c) being the beneficiary group of the activity undertaken in a project.
- 5.06** Partners have common responsibilities:
- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;

- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives;
- (c) to be open about any conflict of interests that might arise;
- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature; and
- (f) to act wherever possible as ambassadors for the project.
- (g) to work with the Council to ensure compliance with data protection legislation.

Key Controls

5.07 The key controls for authority partners are:

- (a) if appropriate, to be aware of their responsibilities under the authority's financial regulations and financial procedure rules;
- (b) to ensure that risk management processes are in place to identify and assess all known risks;
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.
- (f) to comply with the Data Protection Act 2018 and UK General Data Protection Regulations (GDPR).

Responsibilities of the Finance Director

5.08 To advise on effective controls that will ensure that resources are not wasted.

5.09 To advise on the key elements of funding a project. They include:

- (a) a scheme appraisal for financial viability in both the current and future years;
- (b) risk appraisal and management;
- (c) resourcing, including taxation issues;
- (d) audit, security and control requirements; and

- (e) insurance and procurement issues.

5.10 To ensure that the accounting arrangements are satisfactory.

Responsibilities of Chief Officers

5.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Finance Director.

5.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Finance Director.

5.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.

5.14 To consider potential liabilities that could be imposed on the Council.

5.15 To ensure that all agreements and arrangements are properly documented.

5.16 To provide appropriate information to the Finance Director to enable a note to be entered into the authority's statement of accounts concerning material items.

5.17 To ensure privacy impact assessments (where applicable) and data sharing agreements are in place if personal data is to be processed and shared.

External Funding

Why is this Important?

5.17 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Grants from external agencies such as the National Lottery and UK Funding provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

Key Controls

5.18 The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council; and

- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

Responsibilities of the Finance Director

- 5.19 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.
- 5.20 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 5.21 To ensure that audit requirements are met.

Responsibilities of Chief Officers

- 5.22 To ensure that all claims for funds are made by the due date.
- 5.23 To ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.

Work for Third Parties

Why is this Important?

- 5.24 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

Key Controls

- 5.25 The key controls for working with third parties are:
 - (a) to ensure that proposals are costed properly in accordance with guidance provided by the Finance Director;
 - (b) to ensure that contracts are drawn up using guidance provided by the Finance Director and that the formal approvals process is adhered to; and
 - (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Finance Director

- 5.26 To issue guidance with regard to the financial aspects of third party contracts.

Responsibilities of Chief Officers

- 5.27 To ensure that the approval of the Executive is obtained before any negotiations are concluded to work for third parties.

- 5.28** To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Finance Director.
- 5.29** To ensure that appropriate insurance arrangements are made.
- 5.30** To ensure that the authority is not put at risk from any bad debts.
- 5.31** To ensure that no contract is subsidised by the authority.
- 5.32** To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 5.33** To ensure that the team has the appropriate expertise to undertake the contract.
- 5.34** To ensure that such contracts do not impact adversely upon the services provided for the authority.
- 5.35** To ensure that all contracts are properly documented.
- 5.36** To provide appropriate information to the Finance Director to enable a note to be entered into the statement of accounts.

Procurement through Partnering Guidelines

With Best Value procurement increasing the focus on competitive purchasing practices in the public sector, contracting is becoming increasingly sophisticated and the aim of partnering is to secure maximum benefits for local authorities.

Partnering is one of the more advanced contract management techniques which embraces joint management, process measurement and improvement tools to achieve enhanced contract performance and improved customer service.

Advanced models of partnering include strategic alliances and facilities management arrangements – from both long-term supply relationships of strategic importance to customer service delivery.

In partnering arrangements, suppliers and contractors are selected using a multi-criteria selection process based on functional and performance-based specifications. Partners are also selected on reputation, their own ability to control and improve business processes, their understanding of the vision, mission, values and objectives of the Authority and for their ability to become part of a team. In these contracts innovative payment arrangements can result from a greater appreciation of Value for Money and understanding of supply / demand economics.

One of the important elements of partnering is that partners share the benefits and the risks in equal measure. For example, cost savings could be shared, as could profit, and both parties will share common objectives focused on achieving the desired outcome, and will have equal access to, and openly share, information and knowledge.

Through 'Re-thinking Construction' (the Egan Report) the Government are keen for local authorities to explore new ways of working and part of that agenda is to try and get away from the adversarial nature of some contracts through working in partnership with the private sector.

Partnering is more likely to be appropriate for large complex projects or where service delivery suits an open, joint management arrangement. It is not, therefore, suitable in all situations. Partnering should be adopted in situations where strategic gains in cost and quality can be delivered and where service requirements are complicated or continuously developing.

Partnering strengthens relationships with contractors and suppliers, and is arranged through normal contracting processes in accordance with established procurement procedures. Active contract management techniques are employed to ensure the contract requirements are delivered. The contract should be re-tendered periodically to ensure open competition and best value for money.

The Partnering Process

CONTRACT PLANNING

PLANNING

- identify customer needs
- assess risks and issues
- consider partnering and remuneration options
- consider procurement plan/strategy



CONTRACT INFORMATION

TENDERING

- establish selection criteria
- issue public tender inviting partnering proposals
- evaluate proposals and remuneration models



PARTNERSHIP WORKSHOP

- set common objectives
- develop issue resolution process
- establish joint management structure
- establish action plans



CONTRACT MANAGEMENT

THE CONTRACT

- include deliverables/outputs
- develop performance criteria
- incorporate performance measures
- prepare contract management plan



IMPROVEMENT

- monitor performance
- measure customer satisfaction
- plan-do-check-act
- active contract management



CONTRACT RENEWAL

- evaluate contract
- re-tender to ensure open competition
- re-award contract

Planning

Partnering should be considered for contracts that are critical, strategically important or require an innovative approach. Preparing a procurement plan is particularly important for strategic, innovative or complex projects or where the contract value is high (e.g. likely to exceed £1 million). This plan should provide a checklist of key issues and set out the specific services that are critical to core business activities.

The Council needs to clearly define customer needs (which of course are dynamic) and this information should be incorporated into the tender specification and used throughout the lifecycle of the contract, and particularly to monitor the contractor's performance.

Consideration should also be given to intellectual property ownership, payment mechanisms and associated incentives, which will form an important element of the partnering arrangement.

In establishing a partnering contract the risks and human resource issues, such as employment status and possible union involvement, should be considered. The financial and legal responsibilities of all parties should also be identified at the planning stage and a contract management plan should be developed.

Tendering

The partnering selection process follows normal tendering guidelines and results in a formal contract.

As part of the tendering process, an appropriately skilled selection team should be used to develop performance based selection criteria (which may include the extent to which risk is proposed to be shared) to be used during evaluation. Partnering proposals and remuneration models should then be evaluated against the predetermined selection criteria and contracting objectives.

The selection team should conduct a due diligence process to ensure the recommended tenderer has the capacity, including financial viability, to fulfil the contractual obligations.

Partnering Workshop

The purpose of the partnering workshop is to establish a sense of joint mission and set common objectives and guidelines for the further development of the relationship.

Issue resolution processes, joint management structures and action plans are developed during partnering workshops.

It is important that the people who have the greatest influence in making the relationship work, not just senior management, attend the workshops.

Senior managers should attend if they play an active role in work processes, or if their presence is considered necessary to demonstrate commitment.

The Contract

Partnering relationships are commercial contracts that require performance measures. Rigorous contract management and performance reviews are required to ensure contract obligations are delivered.

Most partnering relationships are also outlined in a non-binding Partnering Charter (see Appendix 1) which formally details the mission and objectives of the partners and demonstrates the commitment of the key people involved.

Improvement

Continuous improvement in partnering involves a team approach to determine whether work processes are meeting the needs of customers, and where necessary, to improve them.

Performance measures are established and regularly monitored, and combined with customer satisfaction measures, provide valuable data for continuous improvement.

Joint process improvement teams should be established to investigate problems or pursue improvement opportunities.

These teams should be trained in the partnering philosophy, team development, conflict resolution, the Plan-Do-Check-Act improvement cycle, and quality improvement techniques.

Contract Renewal

The rules of transparent and fair competition, accountability and probity must also be observed in the renewal of partnering contracts.

When a formal partnering contract expires it should be evaluated against the contract objectives and then publicly tendered again to ensure open competition.

This tendering process will encourage competitive tenders and allow innovative offers to be received. This will result in the best value for money solution when the contract is re-awarded.

Principles of Partnering

Partnering relationships should be established according to the following principles and everybody involved in the partnering arrangement needs to understand and accept these principles.

Commitment

Partnering requires considerable effort, innovation and patience. The sharing of financial information or “open book” accounting would be fundamental to this commitment.

Common Objectives

Partners must identify, understand and support each other’s objectives. Partners work together to translate their individual objectives into common objectives, and strive to achieve the same goals.

Open and Honest Communication and Trust

Partnering establishes principles and systems for the timely and accurate exchange of information to develop trust and efficient management. Business relationships could suffer through the guarding of information and poor responsiveness.

Ethical Behaviour

High ethical standards are fundamental to partnering and the conduct of all parties must be totally transparent and ultimately accountable.

Teamwork

A team approach (and there is no reason why end users cannot be represented on the team) is essential in partnering and lays the foundations for continuous improvement. Teamwork builds trust and keeps the relationship successful. It is also a good means of resolving problems.

Partnering Tips

The introduction of partnering into a public authority should be carefully planned, with the following issues considered:

- Partnering is about value for money, exploring new ideas and sharing risk and reward.
- Partnering works best within an environment that understands quality management, customer focus, process improvement, participative leadership, and team practices.
- Partnering should be endorsed as corporate policy.
- Partnering should be phased in slowly to allow a cultural transition to take place.

Successful partnering arrangements have considered the following:

Education

Partnering requires a new way of thinking within a public authority. Suppliers and contractors should be seen as an extension of the public authority and treated as members of the team, informing and educating those involved is critical.

Personalities

The key personnel involved in partnering are critical to the success of the relationship. These relationships need to be developed; changes to these personnel can impact on the effectiveness of the arrangement and need to be managed.

Resolution Procedures

It is essential that partnering arrangements include effective and clearly defined conflict resolution procedures that work.

Win-Win Outcomes

Effective partnering is built on a continuing recognition that the arrangement results in win-win outcomes for all parties.

Customers

Do not lose sight of the fact that we provide services for our customers. A suitable mechanism needs to be put into place:

- to evaluate services from their perspective;
- to take account of their views;
- to involve them as appropriate in service development proposals;
- to show them that we care.

10 Basic Questions about Partnering Answered

1. What is a Partnering Arrangement?

The legal definition of a partnership is that of two or more parties coming together, usually (but not always) to exploit a commercial opportunity. Partnerships can be project based, time based or open-ended. One of the important elements to a partnership is that the partners share both the benefits and the risks in equal measure.

2. Why Partner?

Partnerships can produce economies of scale, encourage greater capital investment, capture specialist skills and knowledge and produce better operational management.

3. Are they likely to affect me?

Recognising the Value for Money regime you should always be trying to think of other means of provision that improve on existing arrangements, and potential partnerships should be considered. Partnerships in the true sense of the definition are unlikely to be significant in number, however the potential for altering the way we work and our attitude to contractors as outlined in this paper are likely to have a far more significant impact.

4. Don't the current rules prevent partnership arrangements?

The Council's Financial Regulations and Financial Procedure Rules have been reviewed in the light of the requirement to demonstrate Value for Money and developments in partnership arrangements. It is quite possible to enter into partnership arrangements by utilising the current Rules.

5. This document talks about partnerships and continuing competition. Aren't the two opposites?

No. Whilst partnership contracts will probably be for longer periods than more conventional contracts, they will not be infinite. Renewed competition from time to time has the benefit of testing value for money, as well as preventing complacency and too cosy a relationship developing.

6. How do I get started?

You should above all have a vision for the service concerned, and this could be informed by the outcome of the fundamental performance review. A market analysis is the usual starting point (indeed the market players will almost certainly want to know whether there is to be an in-house competitor). A combination of any or all of the following would be classed as a market analysis:

- an advertisement in appropriate trade journals could invite proposals (this may also have the effect of stimulating a market where currently it is weak);
- questionnaires could be sent to selected suppliers to ask how they could add

- value through partnership arrangements;
- other local authorities (UK and world-wide) could be asked for their approach;
- compile a 'scrapbook' of successful partnership arrangements with suppliers.

Neutrality and lack of bias is important, and you should be careful that any subsequent specification does not reflect one supplier's product.

At this stage no decision has been made to procure therefore the public procurement rules do not yet apply. But once you have made that decision you must follow the rules as set out in the Contract Procedures and the UK's public procurement rules.

7. Is there anything wrong with talking to the private sector?

Fundamental performance reviews will in any event require you to talk to and learn from the private sector. These discussions may help form a view that a partnership may be beneficial to the delivery of a particular service. You should however be even-handed in your approach and document all discussions.

The private sector is aware of the Government's initiatives on partnerships and you may well have already received approaches. There is some truth in the suggestion that some private sector companies see partnerships as a means of obtaining work without the rigours of competition. That is not the case.

8. Is there such a thing as a free lunch?

No. It is extremely unlikely that you will be approached through purely altruistic motives and you should bear that in mind at all times. Whilst these need not be rejected out of hand, you should ask yourself whether to proceed would affect your long term strategy or lock you into some arrangement from which you could not extricate yourself, or only at a cost. For example the offer of free software may limit or close off future choices. The receipt of anything free may induce a false feeling of loyalty and influence future decisions or strategies.

The personal receipt of any such offers is of course covered by the Council's Codes of Conduct and Financial Regulations.

If the private sector approaches you, you must carefully weigh the proposal against your overall strategy. If further consideration of the proposal would benefit that strategy, then do so. You should always warn any person making an approach that if the Council was to proceed then it would more than likely result in a procurement exercise. Thus they should not reveal anything which later may be interpreted as a breach of confidence (or indeed copyright). Acting without bias is important and it is always wise to document what has happened. If you are concerned that your position is becoming compromised you should discuss the issue with your line manager.

9. How will partnering differ from traditional contracts?

The whole thrust of partnering is that it requires a change of culture away from more traditional attitudes of "them and us". In addition partnerships may well embrace issues like Open Book Accounting, Continuous Improvement, Price Benchmarking and Annual Performance Reviews (service and product reviews; customer

satisfaction; etc).

10. What if I choose the wrong partner?

A rigorous procurement process should enable you, with clear evaluation criteria to select a suitable partner. There may be occasions when the partnership does not work out or the costs far outweigh the benefits. Whilst mechanisms can be built into contracts to reduce the likelihood of this occurrence, they can never provide complete protection. Means by which differences can be resolved quickly and amicably (by an independent arbitrator if necessary) should be agreed from the outset.



Appendix 1 – Partnering Charter

Most partnering relationships are outlined in a non-binding partnering charter document. The purpose of the charter is to detail the mission and objectives of the arrangement and to demonstrate the commitment of the key people involved. The following is a typical example of a partnering charter.

PARTNERING CHARTER

Our Mission Statement

To complete the project on time, within budget, to specified standards and to the satisfaction of all key stakeholders

Common Objectives

- Shared goals
- Complete on time
- Complete on or below budget
- Fair return to the Contractors
- No adverse effects on the environment or to public amenities
- Enhance reputations
- Customer satisfaction
- Work together in the future
- No disputes
- Safe construction
- Good Working Relationships
- Minimal disruption

Supported By

(Note: The ‘Partnering Charter’ will be different for every partnership arrangement. The above Charter, taken from a construction project partnership, is one example only.)

Partnership Assessment

Effective partnerships can make all the difference but can be time and resource intensive, and without a clear focus resources can be spread too thinly and their impact dissipated. Government expectations are high and there needs to be a continuing drive for efficiency and effectiveness in partnership working.

The key features of a successful partnership are:

Action Focus

- Shared values and agreed long-term vision of what it wants to achieve.
- Effective use of input and feedback from local community and businesses.
- Makes a positive impact, adding value and ensuring it is not working in isolation.

Efficiency

- Structure is conducive to decision-making with members reflecting the views of the organisations they represent.
- Resources matched to aims, objectives and plans.
- Effective administrative support and communications.

Inclusivity

- Membership reflects the purpose of the partnership.
- Ensures that all partners have the capacity to be fully engaged in the partnership.
- Works democratically with accountability to stakeholders and decisions open to scrutiny.

Learning and Development

- Learns from best practice, stakeholders and consultations.
- Makes use of a range of skills and expertise of partnership members.
- Adapts to a changing environment.

Performance Management

- Process includes clear milestones, outcomes, performance indicators and delivery dates.
- Partners deliver what they have signed up to and share information to support planning and management.
- Partners resources used effectively to meet the aims of the partnership.

Framework for Partnership Working

Introduction

Working in partnership with other organisations to deliver both individual and jointly agreed outcomes is now a core requirement in delivering effective public services. Due to recent legislation and other policy initiatives local authorities are increasingly expected to initiate, lead and engage in partnership working.

Partnerships are considered to be a more effective way to tackle highly resistant and complex problems. A partnership approach ensures co-ordinated action by agencies across a range of service and policy areas.

Partnerships also ensure that businesses, the voluntary sector and the community get involved, thus enabling them to identify problems and root causes, contribute their unique skills and perspectives, and play a part in developing consensus and ownership. It can also be a more efficient and effective use of scarce resources.

Purpose of the Framework for Partnership Working

The purpose of this framework is to provide a checklist for officers of Wyre Borough Council who are considering involving the Council in either a partnership body or a partnering contract.

Every partnership body and partnering contract will have its own characteristics and it is not possible to cover every eventuality. The general information set out below, and use of the relevant checklist should, however, provide a good basis for serving to make the partnership work and to achieving the benefits of working in partnership.

Partnership Working and the Council's ~~Business~~ Plan

The Council's ~~Business~~ Plan sets out its vision and priorities for a four-year period, highlighting the issues upon which we have decided to focus and the key actions that we commit to undertake in order to ensure that our vision is realised. Our vision is 'Wyre proud, ambitious and thriving... Together we make a difference' ~~is a healthy and happy place where people want to live, work and visit~~.

The Council is keen to 'work collectively with Ward Councillors, Parish and Town Councils, community groups and other partner organisations to identify local issues and priorities'. In addition to Parish Councils the Borough has a network of community and residents forums which meet regularly and which Ward Councillors attend. The engagement network includes:

- ✓ The Health and Wellbeing partnership;
- ✓ The Community Safety Partnership;
- ✓ The Youth Council;
- ✓ The Children's Trust;
- ✓ Wyred Up – representing local business interests;
- ✓ Parish and Town Councils;

- ✓ Residents Groups;
- ✓ Friends Groups;
- ✓ Police and Community Together (PACTs); and
- ✓ Chambers of Trade.

The Council's ~~Business~~ Plan clearly identifies the importance of partnership working in achieving objectives across a wide range of areas of work and it is important that we understand how effective these arrangements are.

What is a Partnership Arrangement?

There is no authoritative definition of partnership arrangements in this context but the Council has adopted the following general definition of partnership working: 'Those agreed methods of working together as an integrated and co-ordinated team to achieve common objectives and shared benefits'.

Types of partnership that will be subject to this framework include:

Charities and Trusts

Increasingly, local authorities have been setting up bodies with charitable status to provide services that had previously been provided directly by the local authority, in areas such as housing, leisure and social services.

Sometimes it can be advantageous for Councils to be involved in setting up companies for specific purposes. Such partnerships become a body corporate in their own right having their own legal status. These can be companies limited by shares or guarantee, where the partner's liability for any company debt is limited to the guarantee they made when the company was formed - normally a notional amount. They are usually not-for-profit bodies with income being ploughed back into the partnership activities. They can enter into contracts on their own, buy and sell assets, sue and be sued and distribute assets on dissolution.

Such partnerships are regulated by the Companies Act 1985, although similar arrangements can be made using Industrial and Provident Societies, which would be a company under the control of the Registrar of Friendly Societies and therefore outside mainstream Company Law.

Why Enter Into a Partnership?

Partnerships play a key role in the delivery of community strategies and in helping to promote and improve the well being of the Borough. The Council will continue to deliver services, but recognises its distinctive leadership role in bringing together the contributions of its various stakeholders, including public sector agencies; private companies; community groups and voluntary organisations. Partnership working helps the Council to deliver a shared vision of services based on user wishes.

The main reasons for entering into a partnership are:

Co-Ordination

Systematic and regular communication between partners helps to avoid duplicating each other's work or inadvertently working against each other. It also helps partners find new ways to share risk and benefits and allows agencies to plan further ahead more confidently.

Creating More for Less

By pooling resources partners can achieve economies of scale and look at ways of accessing additional resources.

Tackling Complex Problems

By bringing a broader range of perspectives, knowledge, information, strengths and skills to bear partners can provide new and better ways of delivering services and implementing actions to tackle complex or multi-dimensional problems.

Building Consensus

Partners can work together to find mutually acceptable solutions and proposals, thereby building relationships and developing joint ownership and commitment. Partners can also deal with differences of interest within a partnership in a co-ordinated and constructive way, rather than working against each other.

What is Involved in Setting Up a Partnership Arrangement?

Council's Interests

In developing any partnership body or partnering contract, it is necessary to fulfil the following two basic requirements:

- ensure that the essential elements of good management are present, that the process is well controlled and that the new arrangements for service delivery result in demonstrable service improvement; and
- that any risks associated with the proposed new arrangement for service delivery have been assessed and procedures put in place to effectively manage those risks.

Partner Relationships

A partnership body and/or a partnering contract will involve a relationship between parties which is designed to serve shared objectives based on:

- a shared understanding of those objectives, and the aspirations of the parties;
- a non-confrontational relationship based on trust and openness, but nevertheless the need for formal arrangements to be established;
- a recognition of the diverse skills and expertise of the parties facilitating development and innovation;
- a recognition of the need to share the benefits resulting from joint working;
- a sharing of information; and
- the need to work closely towards the resolution of disputes that may arise, to avoid wherever possible recourse to more formal procedures.

Legal and Financial Relationships

Partnership bodies and partnering contracts involve complex legal and financial relationships. It is, therefore, essential that the Finance Director and the Legal Services Manager are contacted at the outset whenever consideration is being given to involving the Council in either of these types of relationship.

Advice and support on effective controls to ensure that resources are not wasted and on the key elements for funding and managing the project will be provided by the Finance Director and the Legal Services Manager. This may include:

- a scheme appraisal for financial viability in the current and future years, in line with the Council's Medium Term Financial Plan;
- risk appraisal and risk management;
- resourcing implications and taxation issues;
- audit, security and control requirements;
- budgetary and accounting arrangements;
- insurance and procurement issues;
- application of Financial Regulations including contract procedures;
- consideration of potential liabilities that could be imposed on the Council; and
- arrangements for reporting partnership issues to Elected Members and for consulting with current and potential partners.

Other Professional/Specialist Advice

Depending upon the particular partnership arrangements being entered into, it will be advisable to involve other relevant professionals/specialists. The officer instigating the partnership arrangement should, at the earliest opportunity and in discussion with colleagues throughout the Council, identify what other professional/specialist advice, such as advice from Legal or Human Resources, needs to be taken and make the necessary arrangements.

Approval by the Executive

A report should be presented to the Executive for approval for the partnership arrangement to be entered into. The report should take into account the professional/specialist advice, as referred to above, and set out the aims and objectives of the partnership. The report should also, nominate the Council's lead officer in respect of the partnership and set out the arrangements and frequency for reporting to Elected Members on the performance of the partnership against its stated objectives. In this respect, annual reporting of the partnership's activities should be regarded as the minimum frequency.

Where any partnership arrangements are entered into, actions should also be taken to ensure that all partner organisations, including the Council, are fully aware of the arrangements for communication and sharing of information.

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Financial Procedure Rules Appendix F - Contract Procedures

Guide to Quotations and Tenders

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Appendix 1 – Procurement flowchart

Appendix 2 – Open/restricted flowchart

Introduction

This guide aims to explain in simple terms the procedures for obtaining quotations and competitive tenders from suppliers for the provision of Council works, goods and services.

The Council's constitution incorporates Financial Regulations and Financial Procedure Rules that provide a framework for managing the Authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.

Should you require further information or wish to comment on the content of this guide please contact the Head of Internal Audit.

How the Council Buys

The Financial Regulations detail the procedure to be followed, based upon the total estimated value of the contract in its entirety:

- Up to £~~2510~~2540,000: works, goods and services (with the exception of public utility services i.e. gas, electric, and periodical payments) procured using an official order. Officers are responsible for ensuring that value for money is achieved and wherever possible, at least three written quotations should be obtained, if possible ensuring that at least one of these is a local supplier
- Over £~~2510~~2540,000 and up to £100,000: should be advertised for competitive tendering on the CHEST or at least three written quotations must be obtained. In order to ensure the receipt of 3 quotations officers may consider inviting a greater number of suppliers to quote. If it is not possible to obtain three quotations (including local suppliers where possible) the spending Officer must consider whether it is appropriate to proceed with the procurement; and
- Exceeding £100,000: a competitive tendering exercise is undertaken on the CHEST, involving a minimum of three suppliers.

Lottery Funding

Where a contract is let that involves another source of funding eg, lottery etc alternative procurement rules may apply. Should you require further advice on the threshold amounts please contact the Council's Procurement Officer.

Social Value

Social Value should be included in any relevant specification and all exceeding £100,000. It must be clearly evidenced how a contract will deliver its 'social value' commitments and how this will be monitored past contract award. This is intended to support local businesses and communities which helps the authority make the best use of our resources to meet local community needs.

Exemptions to the Contract Procedures

Exemptions to the contract procedures are permitted where, in the opinion of the spending Officer, the procurement falls into one of the following categories:

- If a framework agreement is available that necessitates the Council not having to go out to tender and the goods, works and services will still provide the Council with best value for money;
- The goods, works or services are of a specialised nature carried out by only one or a limited number of firms with no reasonably satisfactory alternatives available;
- There is no genuine competition for the goods, works or services being procured.
- The procurement involves the purchase of proprietary or patented goods or services obtainable from one firm or; are sold at a fixed price;
- The goods, works or services constitute an extension or variation of an existing contract, or are required urgently, or the goods/materials, works or services consist of repairs to, or the supply of parts for, existing proprietary plant or equipment;
- Tenders are invited on behalf of any consortium or collaboration, of which the Council is a member, in accordance with any method adopted by that body. Where however, a Council officer invites tenders on behalf of the consortium the receipt, opening and acceptance of tenders must comply with the Council's Financial Regulations and Financial Procedure Rules or any overriding legislation;
- Exceptions may apply regarding the appointment of consultants, including architects, engineers, quantity surveyors, solicitors, barristers and other people providing professional services;
- The contract relates to insurance, banking or loan arrangements;
- The goods are purchased by auction;
- The contract relates to the buying or selling of land and buildings or interest in land and buildings negotiated on behalf of the Council by a professional valuer;
- The goods, works or services are of a sensitive nature (such as security) where publication of the tender documents would constitute a security breach and undermine the effectiveness of the final product;
- Another public authority in the last twelve months has procured the same or predominately similar goods, works or services from the same supplier having undertaken a procurement procedure that complies with both that authority's procedure rules for contracts of that kind and the Council's. Reliance on this procurement is contingent on due diligence checks having been undertaken, including that the relevant director or Legal Services Manager holds written confirmation of such compliance with other public authority. It is envisaged that this exemption will normally be used where neighbouring authorities work closely with the council on the delivery of outcomes requiring the procurement of goods, works or services where synergy is advantageous and this is a means of avoiding duplication.
- Procuring a partner and developing partnership arrangements – see Appendix E 'External arrangements'.

The appropriate Portfolio Holder must authorise **ANY** exemption to the contract procedures, with the report identifying the reasons justifying the exemption and demonstrating compliance with UK procurement rules.

Going out to procure

Before going out to procure your goods, works or services, a Spending Officer should consider the options available. A useful flowchart has been prepared at Appendix 1, which will help you to determine what options you have for proceeding with the purchase of goods, works and/or services.

Procurement of ICT Systems

All procurement of ICT systems must be in consultation with the ICT Services Manager and should ideally be agreed by the Digital Transformation Board, which includes the Finance Director. It is important that the ICT Services Manager is able to consider the potential threat to the council's cyber security prior to any procurement. For example, if a new provider is used, a merger is being considered or a new product is being designed, these can increase the risk of a security breach and must be evaluated.

Supplier Portal – the CHEST

When going out to purchase goods, works or services, the supplier portal the CHEST is the Council's system of choice when sending out ITQ and ITT documentation for values exceeding ~~£2510~~,000.

The CHEST has been created for business to find out about Council contracting opportunities.

The Portal enables all suppliers to register their capability on to a single regional web-site where they are asked to register 'once only'.

Contract Finder

~~There is a new government portal and all~~All contracts over ~~£2510~~,000 must be published here within 24 hours of it being placed on the CHEST. The same applies when awarding the contract. It is now mandatory that all contracts over the value of ~~£2510~~,000 are advertised on 'contracts finder' in addition to the CHEST.

Emergency Procedures

An exemption to the contract procedures is permitted where in the opinion of the Head of Paid Service and, after consulting with the relevant Executive Member, circumstances warrant immediate action. The action taken must be reported to the next meeting of the Executive.

Advertising of Contracts (Non European or Lottery Funded Contracts)

All contracts to be tendered must be advertised on the CHEST, the Council's website, [Contracts Finder](#) and on Find a Tender (FTS) if appropriate. There is no longer a requirement to advertise in a trade journal or newspaper. The FTS ~~and Contracts Finder do~~ does not charge for the service and covers a wide audience. All contracts with a total value that exceeds UK procurement thresholds must be awarded in accordance with UK Procurement Rules relating to public authorities. Thresholds are updated every two years with the next update due January 2024. Thresholds (inclusive of VAT ~~of VAT~~) from 1 January 2022 are as follows:-

Supplies/Services	Social	Works
£213,477	£663,540	£5,336,937

Deadlines for Responding to Advertisements

Deadlines must be included within advertisements in calendar days. For contracts not requiring [Contracts Finder or](#) FTS adverts, the Council's minimum tender return time is 14 days from date of issue. However more time is usually allowed, depending upon the complexity of the contract up to a maximum of 28 days. For information regarding [Contracts Finder or](#) FTS adverts please contact the Council's Procurement Officer.

Pre Tender Requirements

Before tendering for a contract and particularly for those estimated to exceed £100,000, a detailed specification shall be prepared. The specification is a description of the services, supplies or works that the Council wants and what the supplier/contractor is expected to tender against and provide. It will incorporate performance targets or criteria for acceptance of the services, supplies or works and be included in the invitation to tender documentation. It must be agreed with the tenderer awarded the contract and form the major part of the formal contract agreed between the Council and the supplier.

Approved Supplier Lists

The Council's Contract Procedure Rules require that at least three suitable suppliers or contractors be invited to tender for each Council contract. To ensure fairness, companies to be invited to tender should be based on a combination of random selection to test the market, and previous tendering history. If four firms are invited to tender, for example, two may have carried out work of a similar nature to a good standard, and two should be chosen arbitrarily from the approved list of contractors.

There is currently only one such framework agreement in place, for property repairs and maintenance, which is subject to review every 3 years.

How the Tendering Process Works

If either Construction Line or an Approved List is not being used then all tendering requirements must be advertised to ensure that the process is competitive and secures good value for money. There are three main methods of tendering through advertisement:-

- Open Procedure – This allows suppliers that have responded to a public notice to tender without prior selection. Open Procedures can result in a high volume of responses meaning it is usually used when the size of the market is known. The minimum time limits for receipt of tenders varies on the market route decision and lasts between 15-35 days.
- Restricted Procedure – This procedure is a two stage process that runs for a period of 30 days, with the first stage in the form of a selection questionnaire (SQ). Suppliers will be short listed to receive tenders once they have passed the preselection criteria. This method is normally used where there is no framework in place for the type of goods or services required, or for contracts above the [UKEU](#) procurement threshold. The minimum time limits for receipt of tenders varies on the market route decision and lasts between 10-30 days.
- Competitive Procedure with Negotiation – This procedure is used when the terms of the contract can be negotiated with one or more providers but is still subject to competition. This procedure has greater freedom for use than before as covered in the new Public Contracts Directive. The process varies on the market route decision and lasts between 10-30 days. This process (along with Competitive Dialogue) should not be used for purchasing off the shelf products or services.
- Competitive Dialogue – Is used to negotiate the terms of a contract with one or more suppliers selected by it. It is used for complex contracts where the authority is not objectively able to define the technical means capable of satisfying its need or objectives, or specify either the legal or financial make up of a project. As a general rule there must be a call for competition. The period for a competitive dialogue is 30 days.

The 'award' stage considers the merits of the eligible tenders and which is the most economically advantageous. When evaluating tenders at 'award' stage the criteria used must be linked to the subject matter of the contract.

Invitation and Submission

Instructions must be issued to those companies invited to submit a quotation or a tender, asking them to complete and return the required documents by a specified date and time. These documents, which should be placed either in the Procurement area of the website or on the CHEST for the tenderer to download and complete, will usually contain the following information:

- Letter of invitation and instructions about the process;
- Pricing document and/or form of tender;
- Specification and/or schedule of rates;
- Contract conditions or conditions of purchase;
- Any relevant supporting information (maps etc); and
- Where bids are to be evaluated on the basis of Quality and Price, the tender documentation must also specify the criteria for evaluation. This is a requirement of the public procurement rules and sub criteria or weighting rules which have not previously been brought to the tenderers attention cannot be used.

An Invitation To Quote (ITQ) template is available on the Procurement page of the intranet and must be used when obtaining a quote.

It is important that firms are given sufficient time to adequately research and compile their bids. This includes enough time to seek accurate estimates from their subcontractors. The Council's minimum time for the return of priced tenders is 14 days from date of issue, although best practice suggests a maximum of 28 days.

The specified time to submit tenders/quotations may be extended in exceptional circumstances provided that all suppliers involved in the process are notified of the revised date and time and no potential supplier is disadvantaged by the deadline extension.

Whistleblowing and Contractors

The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage contractors and others with serious concerns about any aspect of the Council's work to come forward and voice their concerns.

The Council has a whistleblowing policy that applies to all contractors working for the Council (including employees working in any partnership on behalf of the Council) and suppliers providing goods and/or services under a contract with the Council. The policy is distributed with all tender documents.

Tenders received via the Chest

For tenders in excess of £100,000, they must be verified and released by an Elected Member. If written quotations are received, the documentation should be retained.

Evaluation of Tenders and Quotations

Whilst written quotations will generally be evaluated on the basis of price only, a record must be made of the evaluation process undertaken.

An evaluation must be made of tenders submitted, comparing the tender sum against the estimate for the works, goods or services prepared in advance of the firms being invited to tender. Where errors or discrepancies are found that may affect the tender sum, the tenderer may be notified and afforded an opportunity to confirm the submitted sum without amendment or withdraw their bid. The instructions to tenderers must stipulate whether qualified or alternative tenders may be submitted for evaluation.

Not all contracts awarded by the Council are evaluated on the basis of price only. Consideration should be given to those which offer the best value for money having regard to

both price and quality factors. This is sometimes referred to as the “most economically advantageous tender” (MEAT) and provides for the contract to be awarded to the company best able to meet the Council’s specification.

To ensure fairness the quality criteria (or award criteria) and evaluation method must be clearly defined in the tender documentation. Award criteria will vary depending on the type of contract. Some examples of criteria included are:-

- Social Value content;
- Impact on climate change;
- Technical suitability;
- Financial viability and stability;
- Quality systems;
- Customer care and after sales service;
- Experience and past performance;
- Aesthetic and functional characteristics; and
- Delivery date and other management factors.

A suggested mechanism for evaluating bids is included on the procurement page of the Intranet. Unjustifiably low priced tenders should be investigated rigorously to ensure that they meet the required quality standards and, if necessary, explanations sought from the supplier concerned.

Where the quality/price matrix has not been previously agreed by the executive, then the matter must be referred to them for consideration and formal contract award. In addition, approval of the executive must also be sought where the recommended tender exceeds the pre-tender estimate by more than 10%, with explanations given as to the robustness of the original estimate.

Post Tender/Quotation Negotiation

After the receipt of tenders, officers may need to contact tenderers to clarify technical and contractual information as part of the evaluation process. Any such communication must be confidential and all correspondence must be via the CHEST.

Having selected the preferred supplier, negotiations may commence in order to secure better value for money with the final agreed price being included in the Pricing Schedule of the Contract.

Standstill Period

For contracts exceeding the UK procurement threshold the successful bidder should be notified promptly following acceptance of the tender or quotation with an Alcatel letter. A copy is available on the procurement page of the Intranet.

All unsuccessful bidders should be notified promptly with an Alcatel letter which must include the scores of the successful bidder against the individual unsuccessful bidders scores and a summary of reasons for the scores. The letter must also include a list of bid prices and bidders, although the names of the firms submitting bids should not be matched to the prices. A suggested letter is available on the procurement page of the Intranet.

Contracts exceeding the UK procurement threshold cannot be awarded until the minimum standstill period of 11 days, including the date of issue has been completed. However, in accordance with best practice, the Council may apply a standstill period for contracts exceeding £100,000.

If you receive a request for a debrief from any of the unsuccessful bidders during the standstill period, they must be seen within the standstill period. If this is not possible, then the standstill period MUST be extended for a debrief to take place.

After the debrief, if the unsuccessful bidder is asked to provide further evidence by the Council or the unsuccessful bidder requests the council to provide additional information, then the standstill period MUST be extended to allow this to happen.

Once this period has been completed and there has been no legal challenges by any of the unsuccessful bidders an award letter can be issued to the successful bidder. A suggested letter is available on the procurement page of the Intranet.

A further letter should be issued to the unsuccessful bidders notifying them that the standstill has been completed and an award letter has been issued. A suggested letter is available on the procurement page of the Intranet. By doing this, if the Council receives a legal challenge from an unsuccessful bidder, it reduces the time limit from 6 months to 30 days from the day after the date when the Council has awarded the successful bidder the contract.

If one or more of the unsuccessful bidders challenge the award after the standstill period has been completed then seek advice from the Council's Procurement Officer or Legal Team.

Contract Award - Quotations

Where, in exceptional circumstances, the recommended bid is not the lowest quotation received, award of the contract must be authorised by the relevant Corporate Director, having considered the reasons for other than the lowest tender being accepted.

Signing of Contracts

Where a contract is to be awarded to a new supplier / contractor which is in excess of £10,000 (cumulative), the contract should be signed off by a second officer if signed below Head of Service or Legal Services Manager level.

Contractor / Lease Due Diligence Checklist

Prior to the contract award, it is recommended that the procuring officer should, as a minimum, complete the Contractor / Lease Due Diligence Checklist at Appendix 3. Once completed, the checklist should be returned to the council's Procurement Officer to be retained alongside the contracts register.

Corrupt Practices

In every written contract a clause must be inserted to secure that the Council is entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or not doing anything relating to the contract or any other contract with the Council or for favouring or not favouring

any person in relation to such contract, or similar acts have been done by any person employed by the contractor or acting on their behalf, or the contractor or any person employed by them or acting on their behalf has committed any offence under the Prevention of the Corruption Acts 1889 to 1916, or any amendment of them or shall have given any fee or reward, the receipt of which is an offence under the Local Government Act, 1972.

Breach Of Contract Procedure Rules

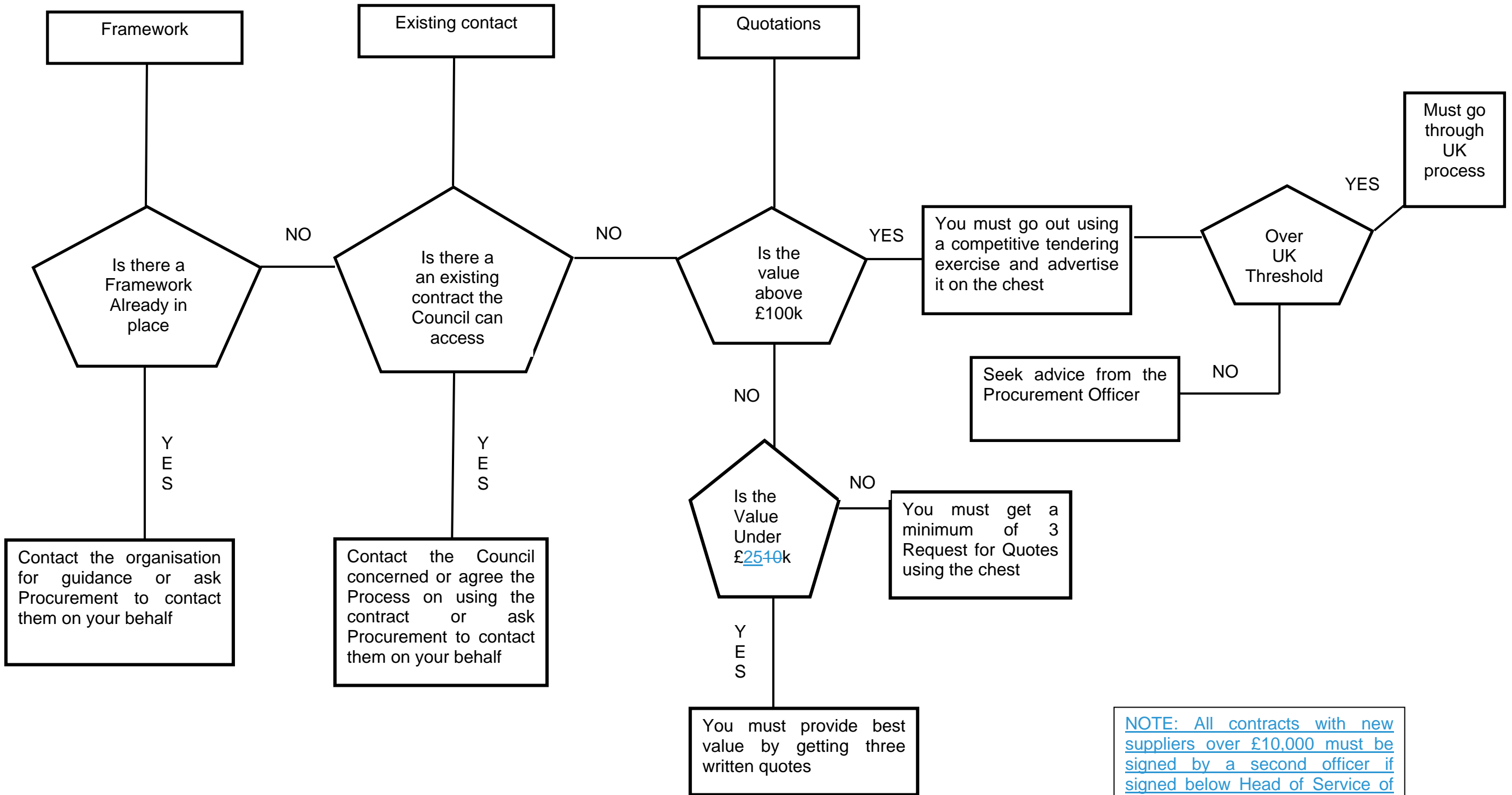
In the event of a significant or deliberate breach of these Rules, the Finance Director shall report details to the next meeting of the Executive with any proposals for remedial action.

Contracts Register

As a result of the transparency code, local authority must publish details of all contracts with a value greater than £5,000. The Council has set up a contracts register that contains contracts for the last three years. This register is required in addition to the CHEST as it contains additional information to ensure that we meet the Transparency Code requirements. This is mandatory for any spend over £5,000 and if officers are not going through the CHEST for a procurement exercise, then they will need to either advise the Procurement Officer or Legal of the details of the contract. The contract register is updated on a monthly basis and is published on the website.

PROCUREMENT FLOWCHART

You have these options to consider before proceeding

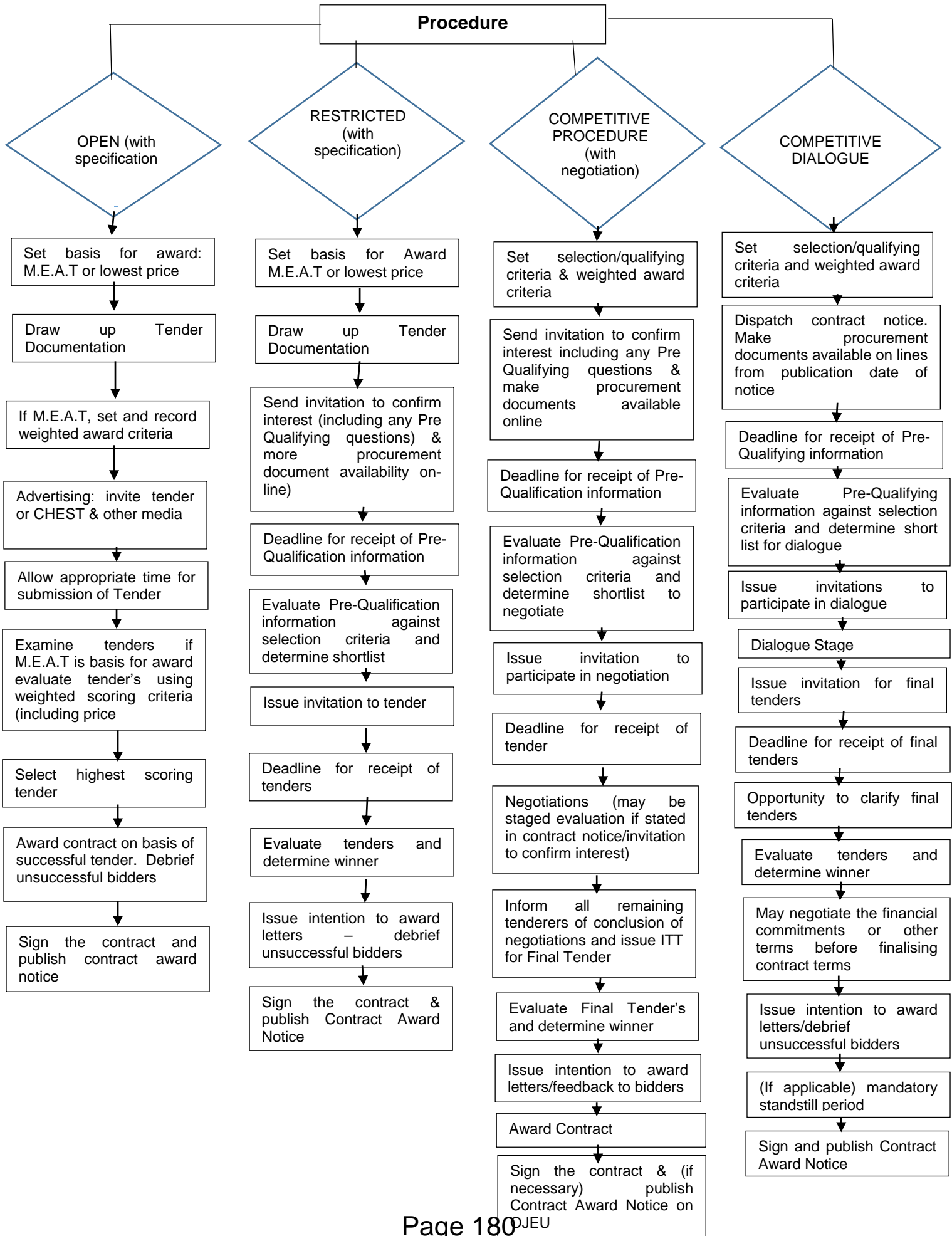


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NOTE: All contracts with new suppliers over £10,000 must be signed by a second officer if signed below Head of Service of Legal Services Manager.

PROCUREMENT ROUTES

APPENDIX 2



Financial Procedure Rules
Appendix F - Contract Procedures

Guide to Contract Management and Control

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Appendix 1 - Suggested project financial statement

Introduction

This guide aims to explain in simple terms the procedures for managing contracts with suppliers for the provision of Council works, goods and services.

The Council's constitution incorporates Financial Regulations and Financial Procedure Rules that provide a framework for managing the Authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.

Should you require further information or wish to comment on the content of this guide please contact the Head of Internal Audit.

Currency of Contract

Once award of the contract has been formally accepted the Spending Officer will notify the successful firm and arrange for the works to commence. All contracts over £100,000 must be in writing and agreed by the Legal Services Team, but this does not prevent permission being given for works to commence prior to the completion of the written contract. In such circumstances, the Legal Services Team will issue, or authorise the issue of, a Letter of Intent to the contractor giving permission to begin work. The letter can be downloaded from the Procurement page of the Intranet.

Before allowing the works to commence the Spending Officer must be satisfied that the contractor has sufficient insurance cover and that this is effective throughout the contract period. Under normal conditions the contractor will be obliged to provide insurance for the works and injury or damage to persons and property. Please contact the Council's Insurance Officer if further guidance is required.

In most forms of contract it will be the contractor's responsibility to draw up a programme showing the anticipated duration of the work. The Spending Officer should ensure that this master programme is produced and that it is updated as work progresses.

The Spending Officer must attend site meetings to discuss progress with contractors. These meetings should be minuted for future reference and include reference to authorised variations and to any particular difficulties being experienced which may effect progress and the final cost.

Responsibility for co-ordinating operations as well as information rests with the Spending Officer. Any deficiencies in co-ordination will manifest themselves in delays and discontent amongst the parties concerned. Regular attendance at site meetings should enable the Spending Officer to spot any problems that require immediate investigation to ensure that the contractor acts promptly to prevent any reoccurrence or deterioration.

Difficulties that occur during the contract period are often attributable to poor or confused communications. An essential control is a proper system for the rapid transmission of information between parties. Efficient and effective responses to situations must be made with a minimum of delay or disruption.

Quality control during construction is achieved by ensuring that the work is carried out in accordance with the specification and drawings and to the required standards. Variation orders may be issued to correct any errors made in the design stage or to correct any unforeseen problems arising during the contract period. This may involve amendments to construction drawings, measurements, progress charts and contract programmes.

Valuations of Work Done and Interim Payments

Payments will be made to the contractor on the basis of valuations of work compiled by the contractor of the aggregate value of work completed to date. The contractor will normally submit monthly valuations together with supporting documentation to the Spending Officer for substantiation and payment. Checks must be made to establish the accuracy of the valuation and these evidenced by signature.

Payments are normally made to contractors on a monthly basis and in accordance with the specific conditions detailed in the contract document. Each payment will be certified by a designated officer and show the total valuation to date, less retention and previous payments, and any adjustments for materials on site.

Before payment is made, details must be recorded in a contract payments register, or other appropriate document, as a means of identifying potential contract management problems at an early stage. It is important that payments are made to contractors on time and in accordance with the periods outlined in the contract document. Interest can be claimed on late payment in accordance with the Late Payment of Commercial Debt legislation (1998).

Control of Contract Variations

It would be unrealistic not to expect the need for some amendments to be made to the original design and specifications of the project. In the interests of proper financial management it is very important, however, that such amendments are adequately controlled.

The Spending Officer must monitor variations closely to ensure that, wherever possible, approval of the executive is sought at an early stage so that the contract is not unduly delayed.

It is impractical to expect the Spending Officer to seek formal approval for every proposed change, as any delay while approval is being sought could easily cause additional extra costs that far outweigh the value of the original changes. The Spending Officer may therefore implement changes that collectively are not expected to increase costs by more than the financial values specified in the Council's Financial Regulations and Financial Procedure Rules, without the need to seek the specific approval of the executive. The Spending Officer is required to prepare and submit reports, jointly with the Finance Director, to the Executive on completion of all contracts where the final expenditure exceeds the approved contract sum by either 10% or £250,000 whichever is the lesser.

It is stressed that the financial value is the total of all variations as numerous variations, although relatively small in value individually, can collectively exceed this sum.

The Spending Officer must actively monitor the scheme, seeking explanations and considering options available in order that where possible the estimated final cost of the contract remains within the initial budget and contract period. Failure to monitor effectively may result in the Spending Officer being unaware of changes and the cost involved until the scheme is complete.

Variation orders are the means by which the Spending Officer instructs the contractor to carry out work either differently or in addition to the work specified in the contract document. In some forms of contract variation orders may be referred to as architect's instructions or contract administrator's instructions. A variation order is contractually required where there are additions, omissions, substitutions, alterations or any other changes to any parts of the works that are necessary for the completion of the contract.

Variation orders must be in the form of written instructions to the contractor and the likely cost of each variation assessed prior to the issue of the instruction. In cases where this would cause serious disruption to the contract, or where immediate action is necessary to prevent danger or damage, the instruction can be issued without prior costing, but must be costed within 7 working days of the issue date.

All standard forms of contract explain how variations are to be valued. Basically if the work is of a similar nature then the rates in the bill of quantities should be used. If not, a rate should be fixed by the contract administrator in agreement with the contractor. Alternatively, the contractor may be ordered to carry out the work on a day work basis, where it is not possible to value the work on an ordinary pricing basis.

Contract Claims and Extensions of Time

Circumstances may occur where contractors, through no fault of their own, incur additional costs that are not recoverable through the normal administration of the contract. In accordance with the appropriate contract conditions, contractors will seek reimbursement of such costs by submitting a claim for loss and/or expense.

The circumstances giving rise to claims will vary and it is impossible to compile rules to meet all eventualities, but the general principle is that contractors are entitled to any additional costs they have actually incurred due to the action, or inaction of Council officers responsible for the contract.

Engineering and building forms of contract make it clear that it is the contractor's duty to give prompt notification, in writing, of his/her intention to make a claim. Notification from the contractor must include adequate explanation and evidence in support of the claim and refer to relevant contract clauses in the contract conditions.

The most common forms of claim are for prolongation and disruption, and the costs associated with these are notoriously complex to substantiate. It is not unusual however, for claims to be exaggerated, and so it is incumbent upon the contract administrator to establish the accuracy of any claim through well-maintained documentation, and to be satisfied that the principles on which the claim is based are reasonable.

Most contractors will plan to carry out the works in such a way as to finish before the prescribed date for completion. When circumstances beyond their control occur, contractors may apply for an extension of time to avoid the imposition of Liquidated Damages. (See calculation of liquidated /ascertained damages later in the guidance).

Contract conditions indicate a number of situations that may entitle the contractor to apply for an extension of time and emphasise the duty of the contractor to submit a claim promptly. This is to prevent contractors, who are getting close to the original completion date, from submitting a claim in respect of a situation occurring many months earlier. The clauses do not however preclude the contractor from seeking an extension of time long after the event occurred.

In practice, if the time for completion has been exceeded there are three possible situations:

- No extension of time is granted and liquidated damages can be deducted for the whole of the over-run period;

- Extensions of time are granted for only part of the over-run period and liquidated damages are deductible for that period not covered by an extension of time; or
- Extensions of time are granted that fully cover the extra period and no deduction of liquidated damages can be made.

Upon receipt of a request for an extension to the contract, the period of delay must be assessed and if an extension of time is substantiated the contractor must be notified promptly, and in any event prior to the issue of the final certificate for payment. At this point, the Contractor / Lease Due Diligence Checklist (Appendix 3) should be completed again and returned to the council's Procurement Officer to be retained with the contracts register.

To safeguard the council's right to deduct liquidated damages if the contract is over-running, the Spending Officer must certify in writing that the contractor ought reasonably to have completed the works within the contract period. Liquidated damages should be recovered from the contractor where the terms of the contract have not been duly performed; any decision not to recover damages should be recorded giving reasons.

Within seven days of the expiry of the contract date for completion or as extended, the responsible Spending Officer must issue a formal certificate of non-completion in accordance with the relevant contract conditions.

Calculation and Recovery of Liquidated Damages

Every contract that is estimated to exceed £100,000 must make provision for liquidated damages to be recovered from the contractor where they have failed to complete the work within the time specified in the contract, or as extended. Liquidated damages are intended to reimburse the Council for any additional costs incurred as a result of the delay.

The Spending Officer for the contract must determine the amount of liquidated damages specified in the written contract. In accordance with the relevant contract conditions, liquidated damages must be a "genuine predetermined estimate" of the losses likely to be incurred due to delays in completing the contract.

It is important that a separate calculation is made for each individual contract and is not merely an amount extracted from a similar contract, as this may result in the amount of liquidated damages being challenged as a penalty, and therefore, not enforceable.

It is essential that details of the calculation of liquidated damages are retained to demonstrate that it is a genuine estimate of loss associated with the contract. Further guidance should be sought from the Legal Services Manager.

In accordance with the relevant contract conditions, the Spending officer will only be able to obtain payment for liquidated damages if the following events have occurred:

- Extensions of time due to the contractor have not been awarded within the time scales stipulated in the relevant contract conditions;
- The contractor has been formally notified of the Council's intention to deduct damages; or
- The contract administrator has certified, through the issue of a "Notice of Failure to Complete" that in his opinion the works should have been completed by the due date.
Note:- that under JCT Contract for minor building works this certificate is not necessary

and liquidated damages can be deducted as soon as the contractor exceeds the stated completion date.

In certain situations the Spending Officer may consider it beneficial to waive liquidated damages rather than to risk the submission of a claim from the contractor that could potentially be for a higher value. In such instances, it must be clearly demonstrated why it is in the best interest of the Council, not to apply damages.

Contract Cost Control and Monitoring

The Spending Officer for each contract must ensure that suitable procedures are in place for the effective monitoring of progress and cost, with the objective of ensuring that the contract is completed within the approved contract sum and that any unavoidable costs are identified quickly.

To achieve this a financial statement, assessing the probable final cost must be prepared by the Spending Officer every time a contract payment is made. This statement should take into account all known factors including variations and any adjustment of prime cost and provisional sums, and progress towards completion. The financial statement attached at Appendix 1 is recommended for this purpose.

The Spending Officer must seek explanation for any significant differences between the previous financial statement and take appropriate action should it be likely that the approved contract sum or expected date for completion will be exceeded.

The Spending Officer is required to prepare and submit reports, jointly with the finance director, to the Executive on completion of all contracts where the final expenditure exceeds the approved contract sum by either 10% or £250,000 whichever is the lesser.

In addition the Spending Officer must prepare regular reports reviewing the capital programme provisions for their service, and a quarterly return of the estimated final costs of schemes in the approved capital programme. This must be submitted to the Executive as part of the performance management framework.

Certificate of Practical or Substantial Completion

On completion of the works the contract administrator must issue a Certificate of Practical or Substantial Completion. This certifies the date when, in his/her opinion, the works reached practical completion.

Appendix 1 – Suggested Project Financial Statement

PROJECT:		DATE
Report : No 3 (week 12)	Omissions £	Additions £
Contract Sum		418,495.00
Contingencies / claims	25,000	
Prime Cost Sums	53,900	39,962.30
Provisional Sums	49,050	17,362.85
Variations		67,855.67
Anticipated Variations		5,000.00
Sub Total	127,950	548,675.82
Less omissions		127,950.00
Estimated Final Cost		420,725.82
Progress :-		
Date of Commencement	17 April 2015	
Date of Anticipated Completion	5 February 2016	
Duration	42 weeks	
% of contract period complete	85%	
Valuations		
Gross Valuation No 3	£340,000	
% of estimated final cost	81%	

Financial Procedure Rules Appendix F - Contract Procedures

Guide to Contract Completion and Review

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Introduction

This guide aims to explain in simple terms the procedures for completion and review of contracts with suppliers for the provision of Council works, goods and services.

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Taking Possession of the Completed Work

In the run up to completion, the Spending Officer for the contract must ensure that appropriate arrangements are made for the formal hand over of the completed works. The requirements for taking over and maintaining the completed work should have been specified in the tender and contract documents and will usually involve functional testing and inspection of the various aspects of the services, supplies or works incorporated within the contract specification.

The Spending Officer should ensure that unacceptable defects are dealt with before determining that a state of practical completion can be certified. A Certificate of Practical or Substantial Completion must be issued promptly once tests have been completed and the Spending Officer is satisfied that in accordance with the terms of the contract, the works are substantially completed.

Defects Liability Period and Inspections

For construction and engineering works the contractor is responsible for making good any defects that become apparent during the defects liability period (or maintenance period). This period runs from the date of practical completion (or substantial completion), as shown on the completion certificate, for a period as stipulated in the contract documentation, normally six or twelve months, depending on the standard form of contract used.

At the time the practical completion certificate is issued a list of outstanding works (the snagging list) will be provided to the contractor and remedial work completed as soon as possible within the specified maintenance period. These defects must be put right at the contractor's expense if, in the opinion of the contract administrator, they are due to the neglect or failure of the contractor to comply with their contractual obligations.

Inspections of the satisfactory completion of any work on the 'snagging list' must take place near the end of the defects liability period, but within the period stated in the contract documents, so that the contractor may be held responsible for rectifying defects for which they are liable. The Spending Officer is entitled to withhold payment to cover the cost of any work outstanding at the end of the defects liability period. They may also arrange for the defects to be completed by other means and the costs recovered from the defaulting contractor.

In order to safeguard against default by the contractor, either in completing the works or in carrying out the remedial measures, sums are retained from interim payments made to the contractor. The normal procedure is:

- A fixed percentage (eg 5%) is deducted from each valuation until a maximum limit is reached (e.g. 3% of the contract sum);
- Retention remains at this maximum limit until substantial achievement of the works is achieved;
- Upon substantial completion of the works, half of the retention money is released; and
- Upon issue of the maintenance certificate confirming that all outstanding defects have been rectified, the balance is contractually due for release.

The final retention sum should only be released once all defects have been rectified and the Spending Officer has agreed the contractor's final account.

Contractor's Final Account

At the end of, or during, the maintenance/defects liability period the contractor will produce their final account. Controls in place throughout the contract should have ensured the continuous measurement and valuation of the works from the outset. Such controls will ensure that full documentation is available for examination to support the final account. Subject to the co-operation of the contractor, this should make the agreement and payment of the final account no more than a formality, since the majority of items will have been verified during the contract period.

The checking and agreement of the final account can, however, become a very time consuming task and may not be completed until well after the end of the defects liability period. Traditional problem areas, such as claims, should have been considered and settled during the period of the contract, although there may be occasions when alternative arrangements have to be initiated in order to reach a financial settlement with the contractor concerned.

In these circumstances, the Spending Officer should report on the position regarding settlement of the final account and any claims and details of the estimated final costs. In accordance with Financial Regulations and Financial Procedure Rules, the Spending Officer is required to prepare a quarterly return of estimated final costs of schemes for submission to the Executive as part of the performance management framework.

The Spending Officer should ensure that every effort is made to satisfactorily conclude settlement within the period stated in the contract or otherwise within a reasonable period thereafter. Although pressure should not be applied to settle at any price, neither is it in the Council's best interest to allow settlement of the final account to drift on for many years.

Final Cost Report and Internal Audit Examination

Once the contractor's final accounts and any claims have been settled the Spending Officer must submit a report to the executive where the final expenditure exceeds the approved contract sum by more than 10% or £250,000, whichever is the lesser. This report should provide a cost appraisal of the final expenditure and explanations for any increases over the original contract sum approved.

There is no requirement for the contractor's final accounts to be audited in detail prior to the release of the respective final payment. Internal Audit shall, however, examine final accounts to the extent that they consider necessary and are entitled to receive such information and explanations as required in order to be satisfied as to their accuracy.

Learning from Experience

Following completion of the project, it will be necessary to undertake a thorough and formal post completion review. This is important since the success of future contracts could be improved by the results of constructive analysis of performance on completed schemes.

Such a review is often overlooked but should be seen as an essential component for achieving good value for money from the contract process. The Spending Officer should ensure that a review is undertaken as soon as practically possible following completion of a project. There should be three distinct elements to the review:

- The provision of sufficient information by the Contractor to allow the Council to get the optimum from the facilities, works or services;
- The identification of any problems encountered during the contract and possible solutions to prevent them happening again, to ensure that lessons are learnt for future contracts (resulting in improved economy, effectiveness, and efficiency); and
- A review of the control procedures and whether the completed contract was successful in achieving the objectives and performance expected as detailed in the original contract specification.

Performance of the Contractor

A review should also be undertaken of the performance of the contractor to assist in the future selection of tenderers. Appraisal forms designed for this purpose are provided as appendices; Appendix 1 for contractors and Appendix 2 for consultants.



Appendix 1 – Post Contract Appraisal Form (Contractor)

Contractor: _____

Project: _____

Date of Practical Completion: _____

Details	Good		Satisfactory	Poor
1. Site organisation				
2. Head Office organisation				
3. Relationship between client/ contractor				
4. Quality of Workmanship				
5. Contractor's compliance with Health and Safety standards				
6. Control of sub-contractors				
	Yes	No	Comments	
7. Did contractor have any difficulty in providing adequate labour or plant?				
8. Did the contractor sub-contract a large proportion of the work?				
9. Were the works completed on time, taking into account any extensions granted?				
10. Did the contractor complete any remedial works without being unduly pressed?				
11. Did the contractor make unreasonable claims?				
12. Were contractual claims settled satisfactorily?				
13. Were the final accounts settled satisfactorily?				
14. Did the contractor re-programme or reschedule works efficiently where problems were encountered or where extensions of time were granted?				
15. Would you employ this contractor again?				
16. Any further comments				

Signature of Spending Officer: _____

Date: _____



Appendix 2 – Post Contract Appraisal Form (Consultant)

Consultant: _____

Project: _____

Date of Practical Completion: _____

Details	Good		Satisfactory	Poor
1. Organisation				
2. Quality of pre-contract service				
3. Quality of post contract service				
4. Financial Control				
5. Co-operation with client/project sponsor				
6. Co-ordination with other consultants, relevant persons and bodies				
	Yes	No	Comments	
7. Were services generally completed on programme in both pre and post contract stages?				
8. If no, were the circumstances outside the consultant's control?				
9. Were any parts of the commission sub-let?				
10. Did the consultancy employ adequate staff of the required quality?				
11. Did the partners supervise the project adequately?				
12. Were any unreasonable claims for additional fees, or requests for extensions to the programme submitted?				
13. Would you engage this consultant again?				
14. Any further comments				

Signature of Spending Officer: _____

Date: _____

Financial Procedure Rules
Appendix F - Contract Procedures

Guide to the Engagement and Use of Consultants

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Planning the Engagement

Selection of Consultants

Contract Award

Managing the Engagement

Reviewing Performance

Appendix 1 - Quality/Price Mechanism for the Selection of Consultants

Appendix 2 – Post Contract Appraisal Form (Consultant)

Introduction

This guide aims to explain in simple terms the procedures for engaging and using consultants for the provision of Council works, goods and services where the value of the contract exceeds £~~2540~~,000.

The Council's constitution incorporates Financial Regulations and Financial Procedure Rules that provide a framework for managing the Authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.

Should you require further information or wish to comment on the content of this guide, please contact the Head of Internal Audit.

The key stages relating to the engagement of consultants can be subdivided into five distinct phases;

- Planning the engagement;
- Selection of consultants;
- Contract award;
- Managing the engagement; and
- Reviewing performance.

Guidance on each of these stages is set out below.

Planning the Engagement

The use of consultants can be an efficient and cost effective way of supplementing the Council's capacity to achieve service objectives. Their use, however, can be expensive compared to properly planned use of our own staff and should only be used in the following circumstances, where:

- Specialist skills are required that are not available in house; or through existing Council arrangements;
- Council staff who could undertake the works are already fully committed in the time scale required; and
- An independent opinion, advice or investigation is necessary.

Occasionally the Council needs to obtain advice regarding the feasibility of works of a specialist nature. In such cases specialist consultation is permitted as an initial step, but this should be done without any guarantee of extending the appointment to cover any consequentially approved project.

When considering the engagement of consultants the Spending Officer must justify the engagement, ensuring that budgetary provision exists and that a comprehensive brief has been developed.

In all cases it is essential that a clear and well thought out brief for the engagement is drawn up. In particular the brief should include the following items:

- The purpose of the project together with any necessary background information;
- The scope and content of the project;
- The required timing of the project and an assessment of the consequences of failure to meet time targets; and
- The expected budgetary constraints.

The brief should really be able to be broken down into evaluation criteria for use in monitoring the consultant's performance. For relatively straightforward or repetitive projects an adequate brief may be drawn up in a single step, but for larger, more complex projects the brief as finally agreed, may be the product of an evolutionary process.

Selection of Consultants

The competitive process relating to consultants must follow the principles for appointing contractors, with the condition that in circumstances requiring flexibility, or a specialism, the Spending Officer may need to refer to wording regarding exemptions to the Contract Procedure Rules.

The engagement value, used to determine the correct method of procurement, shall be defined as the total fees payable plus an estimate of the total expenses reimbursable to the consultant.

If a consultant applies to be included on an Approved List then at least two satisfactory written references should be obtained to confirm that the consultant has demonstrated an ability to carry out work of a similar nature to that required. Further guidance on Approved Lists is contained within the Guide to Quotations and Tenders.

It is increasingly common for tenders not to be evaluated on price alone, as the cheapest price may not represent the best value. The Council's Contract Procedures provide for contracts being awarded on a value for money basis, or the "most economically advantageous tender" (MEAT).

A suggested mechanism for evaluating bids on both quality and price is attached as Appendix 1, but whatever evaluation model is used, it is vital that tender documents clearly state the criteria upon which the assessment is to be made; to ensure the process is transparent, documented and complies with public procurement rules.

Contract Award

All engagements must be made in writing in accordance with the Council's Contract Procedure Rules, and as set out in the Guide to Quotations and Tenders, and a record of the engagement notice or letter placed on the engagement file. If required clarification should be sought as to the consultant's previous employment via their CV or via Human Resources.

The Council's Scheme of Delegation to Officers gives authority to all Service Directors "to engage specialist or consultant services where necessary if within an approved cost or estimate or provided that the cost does not exceed the limit, over which Service Directors may not agree to transfer expenditure from one estimate to another".

Consideration should be given to the employment status (IR35) of specialist or consultant services. The HMRC employment status assessment tool will need to be completed where appropriate.

It is good practice for a meeting to take place shortly after the engagement has been made to 'fine tune' the brief and to ensure that both parties are clear as to the arrangement. The Spending Officer must minute the meeting and document any revision to the initial brief. Significant changes to the brief should not be necessary unless the brief was poorly defined in the first instance. In such circumstances the Spending Officer would be open to criticism

that the revised brief bears little resemblance to that for which tenders were initially invited, thus distorting the process.

It shall be a condition for the engagement of any consultant for the supervision of a Council contract, that the consultant is compliant with the Council's Financial Regulations and Financial Procedure Rules. In this regard, the Spending Officer is required to ensure that the consultant is supplied with, or has access to, these documents.

Managing the Engagement

Throughout the engagement the Spending Officer must ensure that monitoring arrangements provide assurance that the performance of the consultant is as expected, in accordance with the levels and standards of the service specified in the conditions of appointment. A record must be made of the performance review and this placed on the engagement file.

All deviations from the original brief shall be documented along with a mutually agreed course of action for resolving the problems within an appropriate and defined time scale. Any financial effects should, where possible, be agreed in advance. If such action fails to rectify the situation within the specified time scale then the Spending Officer should notify the executive of the circumstances.

On no account must the Spending Officer allow an engagement to drift away from the defined requirements of the engagement brief over a protracted period of time, as problems are best addressed when they arise.

In any event, the Spending Officer must submit a report to the executive where the final cost of the engagement appears to exceed the approved contract sum by either 10% or £250,000 whichever is the lesser.

In all cases where an engagement brief is revised, a copy must be supplied to the consultant for their records and it made clear in writing that the new brief supersedes the old, to avoid any confusion.

Reviewing Performance

On completion of the engagement it is essential that the Spending Officer undertakes a final review to compare the work produced or service provided against the defined objectives. If any objectives have failed to be achieved, the reason for the failure must be documented together with any corrective action that needs to be taken.

In every case the Spending Officer shall, as soon as possible, complete and retain on the engagement file, a 'Consultant Post Contract Performance Appraisal Form' see Appendix 2.

Appendix 1 - Quality/Price Mechanism for the Selection of Consultants

The following model is suggested, which sets out a quality and price mechanism for the appointment of consultants including architects, engineers, surveyors and project managers. The procedures demonstrate how quality is taken into account during the tender process and justifies any decision for accepting a bid other than the lowest.

The principal features of the quality/price mechanism are as follows.

A quality/price mechanism should be established before bids are invited and tender documentation designed to ensure that the mechanism can be applied to responses received. In accordance with public procurement rules, the tender documentation must specify the criteria for evaluation. A quality/price ratio agreed at the outset represents the percentage weightings given to quality and price. The more complex the project, and hence the greater degree of innovation likely to be required from the consultants, the higher the ratio should be. In considering a quality/price mechanism, however, it should be recognised that some projects may not require such detailed assessment.

The quality/price mechanism should be agreed by the tender evaluation panel.

The Public Services (Social Value) Act 2012 should be taken into account on all relevant new contracts. This covers such factors as policies aimed at supporting small local firms, supporting voluntary organisations and the employment of young people.

The impact on climate change and how the contract will reduce or increase carbon emissions for the council and the Borough should be taken into consideration on all relevant contracts. Advice is to be taken from the council's Climate Change and Environmental Projects Officer on the weightings to be used during the tender evaluation process.

In assessing the quality after tenders have been received, each member of the panel should compile their own marks with an average being taken for assessment purposes. Relevant documents should be signed and retained for future reference.

Indicative ratios suggested for various types of projects are:

Type of Project	Indicative Ratio Quality/Price
Feasibility studies and investigations	85/15
Innovative projects	80/20
Complex projects	70/30
Straightforward projects	50/50
Repeat projects	20/80

Quality criteria should be grouped under six main headings and weighted. Recommended headings and suggested weighting ranges are;

Quality Criteria	Suggested Weighting Ranges*
Practice or Company	20 – 30%
Project organisation	15 – 25%
Key project personnel	30 – 40%
Project execution	20 – 30%

Social Value	up to 10%
Climate Change	10 – 50%

* Weightings will total 100%

A quality threshold should be established and suppliers should be informed of this minimum requirement in advance (e.g. a minimum total score of 65 points out of 100 in respect of the quality criteria stated above). Tenderers must achieve this minimum score before prices are considered.

Submitted tenders are assessed for quality by marking each of the four criteria out of 100, multiplying each mark by the respective weighting percentage and then adding them together to give a total quality score out of 100. Consultants passing the quality threshold (ideally two or three) are interviewed, their quality scores reviewed and their prices examined. In assessing the price, the lowest compliant bid scores 100 and the others score 100 minus the percentage figure above the lowest price.

Example

Three prices are received and scored as follows:-

Company	Price	Score	Calculation
Consultant A	£1,500	100	Lowest = 100
Consultant B	£1,750	83.3	$100 - ((250/1500) \times 100)$
Consultant C	£1,900	73.3	$100 - ((400/1500) \times 100)$

Or if lowest price is £10/hour and the next is £12.50/hour; the scores are 100 and 75 respectively.

The final quality/price assessment is achieved by multiplying the quality and price scores by the respective weightings set by the quality/price ratio and adding them together to give a total score out of 100 (e.g. if the ratio is set at 70/30 and the quality score is 80 and price is 75, the total score is $(80 \times 70\%) + (75 \times 30\%) = 78.50$). On this basis the highest scoring consultant should be awarded the contract.



Appendix 2 – Post Contract Appraisal Form (Consultant)

Consultant: _____

Project: _____

Date of Practical Completion: _____

Details	Good		Satisfactory	Poor
1. Organisation				
2. Quality of pre-contract service				
3. Quality of post contract service				
4. Financial Control				
5. Co-operation with client/project sponsor				
6. Co-ordination with other consultants, relevant persons and bodies				
	Yes	No	Comments	
7. Were services generally completed on programme in both pre and post contract stages?				
8. If no, were the circumstances outside the consultant's control?				
9. Were any parts of the commission sub-let?				
10. Did the consultancy employ adequate staff of the required quality?				
11. Did the partners supervise the project adequately?				
12. Were any unreasonable claims for additional fees, or requests for extensions to the programme submitted?				
13. Would you engage this consultant again?				
14. Any further comments				

Signature of Spending Officer: _____

Date: _____

Appendix 3

Contractor / Lease Due Diligence Checklist

Provider: _____

	YES	NO	NOT REQUIRED
Procurement Process			
Conflict of Interest Form			
Due Diligence			
Companies House printout			
Audited Accounts			
Credit agency check (if required)			
Contractor Documentation			
Contract (signed)			
Service Level Agreement			
Timetable / Scheme of Work			
Contractor staff list (inc DBS checks if required)			
Leases			
Legal - Terms and Conditions sign-off			
Finance – affordability checks			
Section 151 Officer (or Deputy) Sign-off (required for all leases – no other officers can sign a lease for the council)			

In accordance with Part 4.06.07/9 and Part 4.06.07/18, once completed this form should be returned to the Procurement Officer to be retained alongside the councils' contracts register.

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Report of:	Meeting	Date
Corporate Director Resources (Section 151 Officer)	Audit and Standards Committee	14 November 2023

ANNUAL REVIEW OF THE COUNCIL'S COUNTER FRAUD POLICIES – ANTI-FRAUD, CORRUPTION AND BRIBERY, ANTI-MONEY LAUNDERING, WHISTLEBLOWING AND GIFTS AND HOSPITALITY AND REGISTERING INTERESTS

1. Purpose of report

1.1 Approval of the Council's Counter Fraud Policies, namely:

- Anti-Fraud, Corruption and Bribery;
- Anti-Money Laundering;
- Gifts and Hospitality and Registering Interests; and
- Whistleblowing.
-

2. Outcomes

2.1 The ability to demonstrate that the council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business.

3. Recommendation

3.1 Members are asked to approve the revised policy documents detailed above at paragraph 1.1 and attached at Appendices 1-4.

4. Background

4.1 The council is determined to do everything it can to reasonably deter fraud, corruption and bribery across all areas of council activity. It works hard to encourage the detection, reporting and investigation of fraud and actively promotes a zero tolerance approach.

4.2 Counter fraud covers not just fraud threats from inside and outside of the organisation, but is also linked to areas like bribery, corruption and money laundering. The council has four main counter fraud policies which assists the organisation in maintaining and developing an effective counter fraud culture. They are as follows;

- Anti-Fraud, Corruption and Bribery;
- Anti-Money Laundering Policy and Procedure;

- Gifts and Hospitality and Registering Interests; and
- Whistleblowing.

4.3 The general aim of these policies is to reduce the occurrence and impact of fraud, corruption and bribery on the organisation and provide an effective channel of communication for anyone who has concerns or suspicions of malpractice.

4.4 The Audit and Standards Committee work programme allows for an annual review of all the above policies, with the last review being completed in November 2022.

5. Key Issues and proposals

5.1 The Anti-Fraud, Corruption and Bribery Policy has been amended as follows:

- to amend the figures in relation to the number of full time equivalents the council employed in 2022/23 and the total amount spent on providing services to the local community (Para 1.1);
- to reflect the council has a new Chief Executive (Para 3.7); and
- to reflect the amalgamation of the Audit and Standards Committees (Para 4.5).

5.2 The Anti-Money Laundering Policy and Procedure – Duties of the Money Laundering Reporting Officer, has been amended to update the link to the National Crime Agency website, in particular to signpost the reader to the guidance on the completion of a Suspicious Activity Report (Para 4.5).

5.3 The Gifts and Hospitality and Registering Interest's Policy has been amended as follows;

- to strengthen the rationale for not accepting any business gift or hospitality (Para 3);
- to stipulate that anything that may lead to allegations of bias or favouritism; whether it is financial or political, should now be declined (Para 4);
- to reflect that if gifts or hospitality over the value of £25 are offered to a senior officer or a key decision maker, then authorisation must be sought from the Chief Executive prior to accepting (Para 10);
- to remove the paragraph which refers to the acceptance of conventional hospitality e.g. meals out or golf days as the controls in place in respect of the limits over £25 already cover this (Para 14); and
- to reflect the amalgamation of the Audit and Standards Committee.

5.4 The Whistleblowing Policy has been amended as follows;

- to reflect that's it's best practice to maintain confidentiality unless the law requires disclosure of details and to reiterate that staff can report concerns in the public interest without fear of reprisal (Para 1.2);

- To confirm there are existing procedures in place to enable staff to raise issues under the council’s Resolution Policy (Para 2.2);
- To confirm that a concern must be in the public interest (Para 2.4);
- To reiterate that the council want a culture where staff feel comfortable to make disclosures in the public interest (Para 4.1);
- To confirm all disclosures will be taken seriously, even if the concern is raised anonymously (Para 4.3);
- To include a number of other officers who can also receive disclosures (Para 5.1);
- To include the Audit and Risk Manager to the list of officers who can give advice and guidance on how to raise a concern and to also include specific email addresses in addition to telephone numbers (Para 5.6); and
- To reflect that any maliciously intended disclosures or those to the press or on social media will not qualify for protection (Para 7.3).

5.5 The amended draft policies can be viewed at Appendices 1-4.

Financial and legal implications	
Finance	There are no specific financial implications arising from the adoption of these counter-fraud policies.
Legal	The Council’s counter-fraud policies assist in good governance and probity of council actions and decision-making.

Other risks / implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	X
equality and diversity	X
sustainability	X
health and safety	X

risks/implications	✓ / x
asset management	X
climate change	X
ICT	X
Data protection	X

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a ‘privacy impact assessment (PIA)’ is also required. If the decision(s) recommended in this report will result in the collection and

processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018

report author	telephone no.	email	date
Joanne Billington	01253 887372	joanne.billington@wyre.gov.uk	31.11.2023

List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

- Appendix 1 Anti-Fraud, Corruption and Bribery Policy
- Appendix 2 Anti-Money Laundering Policy and Procedure
- Appendix 3 Gifts and Hospitality and Registering Interest's Policy
- Appendix 4 The Whistleblowing Policy



Anti-Fraud, Corruption and Bribery Policy

Wyre Council
Civic Centre
Breck Road
Poulton-le-Fylde
Lancashire
FY6 7PU

To be approved by the Audit and Standards Committee 14 November 2023

1 Introduction

- 1.1 Wyre Council is a large and complex organisation that employs approximately [328.78314.2](#) full time equivalent staff and in 2022/23 spent approximately [£54.154](#) million on providing services and benefits to the local community. Unfortunately, like all other organisations, it faces the possibility of fraud, corruption and bribery. This may be from within, by employees or members, or from outside, by other organisations and individuals with whom it has contact.
- 1.2 In carrying out its duties and responsibilities, the council is determined to do everything it reasonably can to deter fraud, corruption and bribery and is committed to maintaining and further developing an effective anti-fraud, corruption and bribery culture.
- 1.3 The Anti-Fraud, Corruption and Bribery Policy is based on a series of comprehensive and inter-related procedures designed to deter, frustrate, or take effective action against any attempted fraudulent or corrupt acts affecting the council.
- 1.4 An effective strategy depends on support across the council. It is designed to:
- Encourage prevention,
 - Ensure deterrence,
 - Promote detection, and
 - Identify clear pathways for its investigation.
- 1.5 The objective is to create an effective anti-fraud culture throughout all areas of council activity, including all partnerships, all dealings with suppliers and contractors, and through engagement with our customers.
- 1.6 We recognise that any member of staff engaging in fraud, corruption or bribery will reflect adversely on our image and reputation and on the public sector in general, therefore to limit the risk of exposure we:
- publish a clear anti-fraud, corruption and bribery policy which is reviewed annually;
 - ensure all staff can recognise and avoid the use of fraud, corruption and bribery by themselves and others;
 - hold annual strategic and operational risk workshops where we will identify and document any fraud, corruption or bribery risks;
 - make sure all our business partners are aware of the council's counter fraud policies and that their staff must abide by them;
 - encourage our employees to be vigilant and report any suspicions of malpractice;
 - ensure that our policies and control systems are audited regularly and are fit for purpose;
 - address conflicts of interests and the risks created by gifts and hospitality through corporate policies;
 - investigate instances of alleged fraud, corruption and bribery and assist the police and other appropriate enforcement agencies in any resultant action; and

- take appropriate action against any member of staff, who engages in fraud, corruption or bribery.

2. Definitions

- 2.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) defines **Fraud** as the *“intentional distortion of financial statements or other records by persons internal or external to the organisation, which is carried out to conceal the misappropriation of assets or otherwise for gain.”*

The Fraud Act 2006 further defines fraud in three classes:

- False representation;
- Failure to disclose information where there is a legal duty to do so; and
- Abuse of position.

- 2.2 CIPFA defines **Bribery** as *“an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage”*

2.3

The Bribery Act 2010 came into force on the 1 July 2011. The full Act can be viewed at this link. <https://www.gov.uk/government/publications/bribery-act-2010-guidance>

2.4

CIPFA defines **Corruption** as the *“offering, giving, soliciting or acceptance of an inducement or reward which may improperly influence the action of any person.”*

3. Establishing the Right Culture

- 3.1 Local authorities start from a strong position. High standards of accountability, stewardship, probity and propriety are expected of public bodies. In the main these expectations are met. The council supports the ‘Seven Principles of Public Life’ which have been set down by the Nolan Committee (Appendix C)
- 3.2 To an extent, the need for accountability and good stewardship is enshrined in statute and regulation. For example:
- The council must appoint a “Responsible Financial Officer” who has personal responsibility for sound financial systems (Section 151 Officer);
 - The Authority is required to ensure that adequate and effective internal audit arrangements exist within the organisation;
 - Independent External Auditors are appointed to scrutinise the council’s business;
 - Procedures exist for the public to inspect the council’s accounts and to question the External Auditors;
 - The council is required to appoint a Monitoring Officer to monitor the lawfulness and fairness of decision-making;
 - Decisions are made in public, save for the limited prescribed circumstances where the need for confidentiality is paramount;
 - Members of the public can request the Local Government Ombudsman to investigate cases of alleged maladministration.

- 3.3 The council welcomes these high levels of scrutiny and regulation. Moreover, it is keen to observe not only the letter of the law but also its spirit. Key decisions made by both elected members and officers are open to scrutiny via the Overview and Scrutiny Committee. Nevertheless, it would be naive and complacent to assume that these measures alone will prevent and deter all instances of fraud, corruption and bribery. Rather, these statutory requirements should be regarded as the foundation stones on which the council aims to build an organisation that, through its everyday conduct at all levels, is constantly striving to observe best practice standards.
- 3.4 At the most fundamental level, the council is determined that the culture and tone of the organisation will continue to be one of honesty and complete opposition to any form of fraud, corruption or bribery, wherever it occurs and by whoever it is committed. The Authority has adopted a Code of Corporate Governance identifying how the council considers it demonstrates each of the core principles of good governance. The council's expectation on propriety and accountability is that members and officers at all levels will lead by example.
- 3.5 In addition to expecting the very highest standards from its employees and members, there is an expectation and indeed a requirement that all individuals and organisations associated with the council, such as contractors, partners, suppliers and users of council services, will act with integrity. The council expects all its partners, in both the private and public sectors, to establish sound governance arrangements and set high standards of probity, openness and integrity.
- 3.6 The council's employees are an important element in its stance against fraud, corruption and bribery. It is the responsibility of senior managers to ensure that all staff are aware of what is expected of them and that the Employee Code of Conduct is followed at all times. Staff will continue to be encouraged to raise any concerns they may have on these issues and in particular, to report any suspicions of malpractice. The council's Whistleblowing Policy provides protection for employees who wish to raise serious concerns about the conduct of individuals/teams but are afraid of reprisals if they do so.
- 3.7 Suppliers, customers, partners and members of the public will normally raise concerns through the department with whom they deal. A feedback and complaints procedure is in place which ensures that all complaints are addressed seriously and responded to in a timely fashion. However, there are other routes that may be followed if they feel that the complaints procedure is inappropriate or unlikely to provide a satisfactory outcome. These include:
- Their local Councillor
(contact details can be obtained from local libraries or the council's website at www.wyre.gov.uk)
 - The Chief Executive
(Civic Centre, Breck Road, Poulton-le-Fylde, Lancashire, FY6 7PU).
[Mail to: Garry.Payne@wyre.gov.uk](mailto:Garry.Payne@wyre.gov.uk)Rebecca.Huddleston@wyre.gov.uk

- The Head of Governance & Business Support
(Civic Centre, Breck Road, Poulton-le-Fylde, Lancashire, FY6 7PU).
[Mail to: Joanne.billington@wyre.gov.uk](mailto:Joanne.billington@wyre.gov.uk)
 - ~~The Compliance Team~~ [Revenues Manager](#)
(Civic Centre, Breck Road, Poulton-le-Fylde, Lancashire, FY6 7PU).
[Mail to: Andrew.robinson@wyre.gov.uk](mailto:Andrew.robinson@wyre.gov.uk)
 - The council's External Auditors
(Deloitte Paul Hewitson)
[Mail to: phewitson@deloitte.co.uk](mailto:phewitson@deloitte.co.uk)
 - The council's Monitoring Officer
(Civic Centre, Breck Road, Poulton-le-Fylde, Lancashire, FY6 7PU).
[Mail to: Mary.grimshaw@wyre.gov.uk](mailto:Mary.grimshaw@wyre.gov.uk)
 - The Head of Human Resources and Deputy Monitoring Officer
(Civic Centre, Breck Road, Poulton-le-Fylde, Lancashire, FY6 7PU).
[Mail to: Jane.collier@wyre.gov.uk](mailto:Jane.collier@wyre.gov.uk)
- 3.8 The council wishes to be seen to be robust in dealing with malpractice involving public funds, whoever is involved. Senior management are expected to deal swiftly and firmly with those who defraud the council. Cases involving staff will usually lead to disciplinary action, which may result in dismissal, and referral to the Police for further action where appropriate.
- 3.9 Cases involving suppliers, customers or partners will usually be referred to the Police or the organisation's external auditors. In relation to complaints involving members, the Head of Governance and Business Support will consult the Monitoring Officer on whether or not the complaint falls within the scope of the Member's Code of Conduct. If so, the council's procedures for dealing with a suspected breach of the member's code will be followed.

4. Prevention

Staff

- 4.1 The council recognises that a key preventative measure in the fight against fraud, corruption and bribery is to take effective steps at the recruitment stage to establish, as far as is possible, the previous record of potential employees in terms of their propriety and integrity. All appointments, whether permanent or temporary, should be afforded proper care and attention in this respect.
- 4.2 Written references will always be taken up and referees should be requested to provide information relating to a candidate's honesty and trustworthiness that is true, accurate and fair in substance.
- 4.3 Independent confirmation of professional qualifications will be obtained before offers of employment are made in certain posts. When recruiting for posts that involve work with children or vulnerable adults the screening process must include an assessment by Human Resources, including checks with the Disclosure and Barring Service.

- 4.4 Employees of the council who are members of professional bodies are expected to observe the high standards advocated by those bodies, often outlined within specific codes of conduct. All employees must also abide by the guidance in the Employee Code of Conduct, which sets out the council's expectations on standards of personal conduct. Senior Managers will ensure that all staff have a copy of or access (via the Hub) to this document and are aware of its importance.
- 4.5 The Employee Code of Conduct is complemented by the Gifts and Hospitality, and Registering Interests Policy. This offers specific guidance on what staff should and should not do and about what should be recorded on the Register of Gifts, Hospitality and Interests. The Head of Governance and Business Support maintains the central register and should be contacted if there are any queries concerning this policy. The council's Monitoring Officer and Audit [and Standards](#) Committee inspects this register regularly.
- 4.6 The role that employees are expected to play in the council's framework of internal control is explained in the induction pack and in other training, as appropriate. Internal controls feature strongly in the council's Financial Regulations and Financial Procedure Rules. "Chief Officers" (as defined by these regulations) must ensure that relevant staff are fully aware of these requirements. Senior management should ensure that regular checking mechanisms do not break down during periods of sickness and/or posts falling vacant.
- 4.7 Managers should create an environment in which staff feel they can approach them with any concerns that they may have regarding suspected irregularities. Staff should also be aware of, and understand, how to report suspected fraud via the council's Whistleblowing Policy. The Audit and Risk Management Section will assess the council's knowledge of all its counter fraud policies on a regular basis through completion of an 'ethical governance survey'.

Members

- 4.8 Elected Members are expected to observe the highest standards of conduct, which are enshrined in the Member Code of Conduct. In particular, members are required to give a written undertaking to observe the Code and to declare financial and other interests that might be perceived to be in conflict with their role.
- 4.9 From time to time, members may be contacted by local people concerning suspicions of fraud, corruption and bribery relating to the council's business. In such circumstances, the details of the concern should be passed to the Head of Governance and Business Support who will ensure that the matter is investigated appropriately. Allegations involving members should be directed to the Monitoring Officer.

Systems

- 4.10 The council has Financial Regulations and Financial Procedure Rules in place, supplemented by departmental administrative guidelines that require staff to act in accordance with best practice when they are dealing with the council's affairs. The Corporate Director Resources (Section 151) has a statutory responsibility to ensure the proper administration of the council's financial affairs. An annual review

of the council's Financial Regulations and Financial Procedure Rules ensures that they provide an effective control in the discharge of this duty, in that they outline comprehensively the systems, procedures, controls and responsibilities of staff in relation to the council's financial business. They apply to every member and officer of the authority and to everyone acting on its behalf. There are annual audits performed to assess compliance.

- 4.11 The council is committed to operating financial and management systems and procedures, which incorporate efficient and effective internal controls. Strong internal controls are an effective safeguard over fraud committed from inside and outside the organisation. Senior Managers are responsible for ensuring that such controls are achieved and maintained. The council's Audit and Risk Management Section carries out periodic reviews of all financial systems to ensure that these responsibilities are being met.
- 4.12 With regard to the use of modern IT systems, the council is committed to ensuring that it takes effective measures for implementing and maintaining effective and efficient internal controls in computer systems. The council is aware of the need to ensure that the risks associated with new technology such as hacking, virus infections and fraud arising from the use of networks (whether local, national or international) are addressed. The council's ICT Service Desk Computer Use Policy and User Agreement can be viewed at the following link:
- <https://wyregovuk.sharepoint.com/sites/ICTDepartment/SitePages/ICT-Policies-&-User-Agreements.aspx>
- 4.13 Periods of change can be particularly critical to the prevention of fraud, corruption and bribery. Extra management supervision will be required during periods of change and when posts are vacant. The importance of controls against fraud in a new system will need to be considered by the managers undertaking the change. Audit and Risk Management must be informed of changes to key systems. These may either be financial systems, management systems or changes in the way information is collected prior to its use.
- 4.14 The council operates within a competitive environment. Some of its teams are required to compete for the provision of services with external suppliers and providers. The council expects the same high standards of probity and control of public money from all employees, irrespective of the extent of their exposure to competitive pressures and should ensure compliance with the council's Financial Regulations and Financial Procedure Rules at all times.

Joint Working

- 4.15 Arrangements are in place (and are continuing to develop) to encourage the exchange of information between councils in order to reduce fraud, corruption and bribery both locally and nationally. In seeking to prevent, detect and investigate Council Tax and Housing Benefit fraud the council may also liaise with the Police, the Department for Work and Pensions, His Majesty's Revenues and Customs and the Immigration Service.

- 4.16 The council participates fully in the National Anti-Fraud Initiative. This is a annual data matching exercise organised by the Cabinet Office, to pro-actively detect possible fraud.

5. Detection and Investigation

- 5.1 It is often the alertness of staff, members and the public, which enables detection to occur when there is evidence that fraud, corruption or bribery may be in progress. All cases in respect of benefit / Council Tax Support fraud should be referred to the council's Compliance Team, telephone number 01253 887536.
- 5.2 All managers are responsible for the prevention and detection of fraud, corruption, bribery and other irregularities. Managers should pay special attention to particular circumstances that may indicate an irregularity. Examples are listed in Appendix A (*Examples of Fraud Indicators*).
- 5.3 Managers are required, in accordance with the Financial Regulations and Financial Procedure Rules to immediately inform the Head of Governance and Business Support if a fraud or other irregularity is suspected. They should also ensure that:
- Any supporting documentation or other evidence is secured; and
 - Confidentiality is maintained so as not to prejudice any subsequent investigation.
- 5.4 Whilst staff are encouraged to initially report suspected irregularities to their line manager this may, on occasions, present difficulties. Staff may therefore contact the Head of Governance and Business Support directly or consult alternatives as outlined in the Whistleblowing Policy.
- 5.5 Audit and Risk Management assists managers to discharge their responsibilities and when conducting audit assignments, they are alert to opportunities, such as control weaknesses that could allow fraud, corruption or bribery. If the Audit and Risk Management Team discover evidence of any irregularity, the relevant managers will be informed.
- 5.6 Reporting of suspected irregularities to Audit and Risk Management is essential because it:
- Ensures the consistent treatment of information;
 - Facilitates proper investigation, including appropriate liaison, at the correct stages, with the Police;
 - Ensures the proper implementation of relevant system improvements; and
 - Allows consideration of implications on a council-wide basis.
- 5.7 On receipt of a complaint or allegation, the Head of Governance and Business Support will, in conjunction with the Section 151 Officer and the Manager of the relevant section:
- Deal promptly with the matter;
 - Record all evidence, both oral and written;
 - Ensure that evidence is sound and adequately supported;

- Ensure security of all evidence;
 - Contact and liaise with other agencies e.g. the Police, and;
 - Notify the council's insurers, if necessary.
- 5.8 Any necessary investigative activity will be conducted without regard to any person's relationship to the council, position or length of service.
- 5.9 The decision to involve the Police will be taken by the Head of Governance and Business Support after consulting the Section 151 Officer and the Legal Services Manager. The Police will usually be informed only after the conclusion of an internal investigation, unless it is advantageous to involve the Police from the outset. The council will co-operate fully with the Police.
- 5.10 The Head of Governance and Business Support will initiate investigations and interview relevant parties. Investigation results will not be disclosed to or discussed with anyone other than those with a legitimate need to know. This is important to avoid damaging the reputations of persons suspected, but subsequently found not guilty of wrongful conduct.
- 5.11 The Head of Governance and Business Support will advise the relevant manager of the results of the investigation. The decision to take disciplinary action and the responsibility to ensure that this process is carried out according to the council's disciplinary procedures lies with the respective manager.
- 5.12 The Head of Governance and Business Support will if appropriate, following an investigation, make recommendations to management for changes to systems and procedures to ensure that similar frauds do not recur.
- 5.13 Wherever possible the council will seek restitution for any losses suffered. This may include applying for monies to be recovered from the Pension Fund.
- 5.14 The council's standard terms for contracts and tenders provide for contracts to be terminated and tenders to be rejected should any attempt at corrupt practice be discovered.
- 5.15 The council's Compliance Team will investigate and conduct interviews under the requirements of the Police and Criminal Evidence (PACE) Act and this may lead to prosecution through the courts.

6. Training

- 6.1 The council recognises that the success and credibility of this policy will depend largely on its employees. The council is committed to ensuring that its staff are kept up to date and are aware of their responsibilities in relation to fraud, corruption and bribery.
- 6.2 Employees who ignore the council's guidelines and procedures may face the possibility of disciplinary action.

7. Measuring the Effectiveness of the Policy

- 7.1 The council will carry out regular training / refresher exercises to provide assurance that the policy is known and understood by the council's employees.

8. Conclusions

- 8.1 The council has in place a clear framework of systems and procedures to assist it in the fight against fraud, corruption and bribery. It is determined to ensure that these systems:
- Are complied with;
 - Keep pace with future developments; and
 - Are fully supported by staff and members.
- 8.2 The council is committed to ensuring the wide circulation of this policy both internally and externally (via the Website) in order that **all** relevant parties understand the very high standards that this council is determined to observe in **all** areas of its business.
- 8.3 This policy is supported by a number of other council policies and procedures that are listed in Appendix B (Documents that support this policy).

Examples of Fraud Indicators

The following are examples of risk factors that may, either alone or cumulatively with other factors, suggest the possibility of fraud and may therefore warrant further investigation or enquiry.

- Unusual employee behaviour such as refusal to comply with normal rules and practices, failure to take leave, refusing promotion, managers bypassing subordinates, subordinates by-passing manager, living beyond means, job dissatisfaction/unhappy employee, secretiveness or undue defensiveness.
- Financial irregularities such as key documents missing (e.g. invoices, contracts); absence of controls and audit trails; missing expenditure vouchers or other official records; bank and ledger reconciliations not maintained or cannot be balanced; excessive movements of cash or transactions between accounts; numerous adjustments or exceptions; duplicate payments; large payments to individuals; excessive variations to budgets or contracts.
- Bad procurement practice; too close a relationship with suppliers/contractors; suppliers/contractors who insist on dealing with only one particular member of staff; unjustified disqualification of any bidder; lowest tenders or quotes passed over with minimal explanation recorded; defining needs in ways that can be met only by specific contractors; single vendors; vague specifications; splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval or general non compliance with the council's Financial Regulations and Financial Procedure Rules.
- Disorganisation for example: chronic understaffing in key areas, consistent failures to correct major weaknesses in internal control, inadequate or no segregation of duties. Continued resistance to assist with Internal Audit reviews and failure to act on audit recommendations.
- Inadequate supervision, policies not being followed, lack of senior management oversight, inadequate monitoring to ensure that controls work as intended, low staff morale, weak or inconsistent management.
- A poor corporate culture; where management frequently override internal control, a climate of fear exists or one where employees are under stress from excessive workloads and new employees resign quickly. Crisis management coupled with a pressured business environment leading to high employee turnover rates in areas with key control functions.
- Poor work practices, such as lack of common sense controls, work is left until the employee returns from leave, documentation that is photocopied or lacking essential information, lack of rotation of duties, unauthorised changes to systems and password access rights, sharing of passwords etc.

Documents that support this Policy

- The council's Constitution
- Scheme of Delegation
- Annual Governance Statement
- Financial Regulations and Financial Procedure Rules
- Employee Code of Conduct
- Member Code of Conduct
- Member/Officer Protocol
- Whistleblowing Policy
- Disciplinary Procedure
- Gifts and Hospitality, and Registering Interests Policy
- Policy for Members on gifts and hospitality, and registering interests
- Complaints, Feedback and Compliments Procedure
- Audit Charter and Strategy
- Internal Audit Plan.
- Risk Management Policy
- ICT Service Desk Computer Use Policy and User Agreement
- The Bribery Act 2010
- The Fraud Act 2006
- Money Laundering and Terrorist Financing (Amendment) Regulations 2022

Specific to the Compliance Team / Revenues and Benefits

- Case Officer's Code of Conduct.
- Code of Practice for the treatment and questioning of persons by Wyre Council case officers when investigating suspected offences of Council Tax Support Fraud.
- Prosecution, caution and penalty policy for cases of alleged offences concerning Council Tax Support.

- Inappropriate use of revenues and benefits software declaration.

Nolan Committee - Seven Principles of Public Life

SELFLESSNESS:

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

INTEGRITY

Holders of public office should not place themselves under financial or other obligation to outside individuals or organisations that might influence them in performance of their official duties. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choice on merit using the best evidence and without discrimination or bias.

ACCOUNTABILITY

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

OPENNESS

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

HONESTY

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

LEADERSHIP

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support these principles and challenge poor behaviour wherever it occurs.



Anti-Money Laundering (AML)

Policy and Procedures

Wyre Council
Civic Centre
Breck Road
Poulton-le-Fylde
Lancashire
FY6 7PU

To be approved by Audit and Standards Committee 14 November 2023

1 Introduction

- 1.1 Historically, legislation seeking to prevent the laundering of the proceeds of criminal activity was aimed at professionals in the financial and investment sector. However, more recently it has been recognised that those involved in criminal and terrorist conduct were able to 'clean' the proceeds of crime through a wider range of businesses and professional activities, including Local Authorities.
- 1.2 UK Money Laundering legislation impacts on certain areas of local authority business and requires local authorities to maintain internal procedures to prevent the use of their services for money laundering.
- 1.3 On 22 September 2022 the Money Laundering and Terrorist Financing (Amendment) Regulations 2019 was replaced by the Money Laundering and Terrorist Financing (Amendment (No.2) Regulations 2022 making some time sensitive updates. The changes were made to ensure that the UK continues to meet international standards on AML and counter-terrorist financing while also strengthening and clarifying how the UK's AML regime operates. A summary of the changes are available at WWW.GOV.UK (see table at the end of this policy).
- 1.4 The council will ensure that it adheres to the relevant legislation and in particular:
 - Ensure those staff most likely to be exposed to or become suspicious of money laundering are aware of the requirements and obligations placed on the council and on them as individuals, including the requirement to raise their concerns through the Money Laundering Reporting Officer (MLRO) or the council's Whistleblowing Policy;
 - Provide targeted training for those staff considered to be most likely to encounter money laundering, and;
 - Make arrangements to receive and manage the concerns of staff about money laundering reporting as necessary to the National Crime Agency (NCA) and potentially other bodies including His Majesty's Revenue and Customs (HMRC).
- 1.5 This policy applies to all employees of the council, Elected Members, agency staff and consultants and should be read in conjunction with the council's Anti-Fraud, Corruption and Bribery Policy and the Whistleblowing Policy.

2 Definitions

2.1 What is money laundering?

Money Laundering means:

- Concealing, disguising, converting, transferring or removing criminal or terrorist property;
- Entering into or becoming concerned in an arrangement that a person knows or suspects is facilitating the acquisition, retention, use or control of property purchased through the proceeds of crime or terrorism; or

- Acquiring, using or possessing criminal or terrorist property.

2.2 The Money Laundering Regulations and the Proceeds of Crime Act 2002 require organisations in the “regulated sector” and those conducting what is referred to as “relevant business” to adopt certain procedures to help control the transfer of money and assets. Under legislation there are two main types of offences that may be committed by anyone:

- Money laundering offences, and;
- Failure to report money laundering offences.

2.3 Definition of a Relevant Business

“Relevant business” is defined with reference to the activities undertaken. Not all of the council’s business is “relevant” and it will mainly be those officers conducting accountancy, audit, legal and property transactions who will be carrying out relevant business. Examples at Wyre Council could include the following:

- Accepting deposits in advance of a service being provided;
- Arranging / managing investments and loans;
- Legal services involvement with financial or property transactions;
- Collection or refund of money from debtors or rate payers including both Council Tax and Non-Domestic rates;
- Business services in relation to the formation and management of Companies or Trusts and;
- Dealing in goods of any description by way of business wherever a transaction involves accepting a total cash payment in excess of £5,000.

3 The obligations of the council

3.1 The following elements represent the main requirements of an anti-money laundering policy:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from staff of suspected money laundering activity;
- Implement a procedure that requires staff to report suspicions of money laundering;
- Have procedures for staff in checking and verifying the identity of clients and others dealing with the council; (i.e we must ‘*know our customers*’;)
- Maintain adequate records, and;
- Train relevant staff.

3.2 It is a requirement of the MLR’s that appropriate systems of internal control are in place to prevent activities relating to money laundering and terrorist financing. There must be management controls in place to identify the possibility that criminals may be attempting to launder money or fund terrorism, so as to enable

appropriate action to prevent or report it, to be taken. Not all of the council's business is 'relevant' for the purposes of the legislation. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the council, therefore all employees are required to comply with the council's Anti Money Laundering Policy in terms of reporting concerns regarding money laundering.

3.3 It is management's responsibility to implement systems of internal control capable of identifying unusual or suspicious transactions or customer activity and quickly report the details to the MLRO indicated in paragraph 4.1 below. Systems of internal control should include the following:

- Identification of senior management responsibilities.
- Provision of information to senior management on money laundering and terrorist financing risks.
- Training of relevant employees on the legal and regulatory responsibilities for money laundering and terrorist financing controls and measures.
- Documentation of the council's risk management policies and procedures.
- Measures to ensure that money laundering and terrorist financing risks are taken into account in the day-to-day operations of the organisation.

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4 The council's procedures

4.1 The council's MLRO is the Corporate Director Resources (Section 151 Officer), and can be contacted as follows;

Clare James
Corporate Director Resources
(Section 151 Officer)
Civic Centre, Breck Road
Poulton le Fylde
FY6 7PU

Telephone 01253 887308
Email clare.james@wyre.gov.uk

4.2 In the absence of the MLRO, contact the Deputy MLRO

Mary Grimshaw
Legal Services Manager
Address as above

Telephone 01253 887214
Email mary.grimshaw@wyre.gov.uk

4.3 Reporting Procedure

Where a member of staff knows or suspects that money is being laundered or is concerned about their involvement in such activity, this must be disclosed to the MLRO or their Deputy. This disclosure should be within hours of it coming to the attention of the member of staff as opposed to days or weeks later. A member of staff who fails to make such a disclosure may be liable to prosecution.

The report to the MLRO should be made using the pro-formas which are located on the council's Hub.

Even if you have not reported the matter to the MLRO or their deputy, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence. Be very careful what you say and to whom, in these circumstances. Any person found guilty of tipping off or prejudicing an investigation offence is liable to imprisonment (maximum five years), a fine or both.

4.4 Procedure following the report

Once a report has been made to the MLRO the member of staff must comply with the following:

- The member of staff will need to follow any directions given by the MLRO or by the NCA. This may include continuing with the transaction in order to avoid raising suspicion that the potential laundering has been detected;
- The member of staff will cooperate with the MLRO and National Crime Agency (NCA) during any subsequent investigation;
- The Member of staff must not make any further enquiries or investigate the matter themselves, as there may be a danger that the investigation by NCA could be compromised by alerting those engaged in the money laundering;
- The member of staff should not voice any suspicions to persons suspected of money laundering, as this may constitute the criminal offence of "Tipping Off", and;
- The member of staff shall not make any reference on a client file to a report having been made to the MLRO. Under data protection legislation a client may exercise their right to see their file and therefore would see any note of the report thereby 'tipping them off'.

4.5 Duties of the MLRO

The MLRO will follow the procedures below upon receiving a report from a member of staff:

- Enter the date of receipt of the report in the relevant section of the report;
- Acknowledge receipt of the report and advise the member of staff of the timescale in which a response will be made as well as giving any immediate instruction as deemed appropriate;
- Consider the report and undertake any other reasonable enquiries in order to decide whether a report to NCA is required. Guidance from the NCA [can](#)

~~be found by following the link below was produced in September 2021 relating to the information required~~
~~<http://www.nationalcrimeagency.gov.uk/publications/732-guidance-on-submitting-better-quality-sars/file>;~~
~~<https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/money-laundering-and-illicit-finance/suspicious-activity-reports>~~

- If the MLRO concludes there are reasonable grounds to suspect money-laundering activity may be taking place but has a good reason for non-disclosure then a note must be made. Consent may then be given for an on-going or imminent transaction to proceed. A reasonable excuse could include matters such as legal professional privilege (the MLRO must liaise with the council's Legal Services Team to decide if legal professional privilege applies in any particular case);
- If the MLRO concludes there are reasonable grounds to suspect money laundering activity may be taking place or that consent from NCA is required before a transaction can proceed, the standard NCA report form will be completed. Note: the transaction in question cannot proceed until either NCA has given specific consent or else consent is deemed through the expiry of a relevant time limit without objection from NCA;
- If the MLRO concludes there are no reasonable grounds for suspecting or knowing money-laundering activity may be taking place this will be noted on the report and approval will be given for the transaction to proceed accordingly; and
- The MLRO must ensure that all reports received from members of staff and all reports subsequently made to NCA are retained for a minimum of six years in a confidential file kept specifically for that purpose.

4.6 Client identification process

This procedure must be followed by members of staff under the following circumstances.

Where the council is carrying out relevant business

AND....An on-going business relationship is formed with a client/third party

OR....Is engaged in a one-off transaction involving payment by, or to the client/third party of £5,000 or more

OR....Is engaged in a series of linked transactions involving total payment by, or to the client/third party of £5,000 or more

OR....It is known or suspected that a one-off transaction (or a series of them) involves money laundering.

Before any business is undertaken the client identification procedure set out below must be adhered to.

Identification procedure

Satisfactory evidence of identity of the client/third party must be obtained upon taking instructions or as soon as practicable thereafter.

For inter departmental transactions, documentation must be retained that constitutes evidence that the client identification procedure has been followed. For dealings with external clients, evidence will be in the form of written instructions on the organisation's letterhead at the outset of the matter. If it is a new client then further evidence may be necessary such as a company search via Companies House. In either case the documentation that constitutes evidence of compliance with the client identification procedure should be clearly marked on the client's records.

Suitable documentary evidence in the case of transactions with individuals would be a copy of a passport or driving licence with a photograph together with correspondence showing the individual's name and address.

In every case evidence of compliance with the client identification procedure shall be retained on file for at least five years from the end of the business relationship.

If satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or transaction cannot proceed.

4.7 Record keeping procedure

Each section of the council conducting relevant business must maintain for five years records of:

- client identification evidence obtained; and
- details of all relevant business transactions carried out for clients.

This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering. The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation. An example may be distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In reality, staff will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

There are various levels of 'due diligence', the regulations require due diligence to be carried out on a risk sensitive basis (taking account of customer and geographical risk factors):

- Under MLR simplified due diligence is only permitted where it is determined that the business relationship or transaction presents a low risk of money laundering or terrorist funding, taking into account the risk assessment.
- 'Enhanced due diligence' (Regulation 33) for those with a high-risk status, for example remote transactions where the customer is not physically present to be identified would require additional appropriate documents to be requested.
- The 'beneficial owner', the individual that ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted, should be identified. Regulation 28 sets out the requirements for measures to be taken to understand the ownership and control structure of persons, trusts and companies as a customer and to verify the identity of senior managing officials responsible for managing corporate bodies, particularly when the beneficial owner cannot be identified. Regulation 30(a) sets out a requirement to check trust and company beneficial ownership registers before establishing a business relationship and to report any discrepancies found to Companies House.
- The business relationship should be scrutinised throughout its existence and not just at the beginning.

The council may rely on due diligence undertaken by those regulated by the FSA or supervised by a listed professional regulator e.g. the Solicitors' Regulation Authority. Any information obtained may be used as evidence in any subsequent investigation by the relevant enforcement authorities into money laundering.

4.8 Measuring the effectiveness of the policy

The council will carry out regular training / refresher training to provide assurance that the policy is known and understood by the council's employees, Elected Members, agency staff and consultants.

4.9 Additional Guidance

The Proceeds of Crime Act 2002	http://www.legislation.gov.uk/ukpga/2002/29/contents
The Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022	https://www.legislation.gov.uk/uksi/2022/860/contents/made

Money laundering and terrorist financing (amendment) regulations 2019	https://www.gov.uk/government/publications/money-laundering-and-terrorist-financing-amendment-regulations-2019/money-laundering-and-terrorist-financing-amendment-regulations-2019
The Terrorism Act 2000	http://www.legislation.gov.uk/ukpga/2000/11/contents
National Crime Agency (NCA)	https://www.nationalcrimeagency.gov.uk
GOV.UK	https://www.gov.uk/guidance/money-laundering-regulations-your-responsibilities
Public Interest and Disclosure Act 1998	https://www.legislation.gov.uk/ukpga/1998/23/contents

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**Officer
Gifts and Hospitality
and Registering Interests
Policy**

To be approved by Audit and Standards Committee 14 November 2023

1. This policy is intended to complement the council's Employee Code of Conduct and Disciplinary Procedures and offers guidance for officers with regards to best practice and the need to preserve integrity and demonstrate good governance. It has been written to protect the officer as much as to protect the council. The intention of the policy is to ensure that the council can demonstrate that no undue influence has been applied or could be said to have been applied by any supplier or anyone else dealing with the council and its stewardship of public funds.
2. Officers of the council are bound by specific rules, codes of conduct and protocols, as are Members. Officers shall not use their authority or office for personal gain and shall seek to uphold and enhance the standing of the council by:
 - Maintaining a high standard of honesty and integrity in all their business relationships;
 - Complying with the law, regulations and the council's own policies and procedures;
 - Rejecting any business practice that might be deemed improper; and
 - Placing the interests and the reputation of the council first when acting for or on behalf of the council.
3. As a general rule, **business gifts and hospitality should not be accepted by any member of staff.** Employees should treat with caution any offer of a gift or hospitality - The general test of caution is one of common sense. Would the public question the appropriateness of hospitality or gifts received by the officer? Staff are ultimately responsible for their decisions on the acceptance of gifts or hospitality and for ensuring that any gift or hospitality can stand up to public scrutiny and does not bring the council into disrepute. On the other side of the coin, officers often do not wish to cause offence by rejecting a gift or offer of hospitality, for example when a member of the public wants to reward good service by offering a token gift of either chocolates or a bottle of wine. It's about where we draw the line.
4. Personal interests that may impinge or might reasonably be deemed by others to impinge on an employee's impartiality or conflict with the duty owed to the council should be declared in writing. These could be an officer's interests outside work, membership or affiliations to societies or clubs, business interests etc. Anything that may lead to allegations of bias or favouritism; whether it is financial or political, should be ~~declared~~declined.
5. The council must be able to show that all its decisions are reached on the basis of value for money for the public and no other reason. Any consideration of whether or not the principles of this policy have been breached will be determined by reference to this principle.

6. Any breach of this policy and the associated codes of conduct could lead to disciplinary action being taken.
7. It is always best to seek a second opinion as to the appropriateness of any gift, hospitality, or regards any interests held outside the council that may be construed as influential, leading to favouritism. If you register the gift, or hospitality you received, or interest you have, it is then on the public record and open to scrutiny if necessary. It cannot later be alleged that the gift or hospitality was accepted, or interest held, in a secret, 'underhand' way, with an ulterior motive.
8. If a gift is received or hospitality accepted **up to the value of £25**, unless it is of purely "token" value (e.g. diary, pen, free gift at an exhibition), it should be declared using the on-line register from on the HUB for inclusion in the council's register.
9. Prior to accepting any gift or hospitality with a **value of £25 or more**, the Officer should seek authorisation from their immediate line manager, or their Corporate Director. Only once consent has been given should the Officer take ownership and complete the on-line register form. Documentation supporting the acceptance should be passed to the Head of Governance and Business Support immediately.
10. In the instances where the officer in receipt of the gift or hospitality over the value of £25 is a the senior officer or a key decision maker. Chief Executive is in receipt of a gift or hospitality over the value of £25, approval must be sought from the Chief Executive prior to accepting. In the instance where the Chief Executive is in receipt of a gift or hospitality over the value of £25, approval must be sought from the Leader of the council. However, if both the Chief Executive and the Leader of the Council are both in receipt of a gift or hospitality over £25, approval must then be sought from the Cabinet.
11. If gifts are received from the same source which cumulatively, are over the value of £25 in a 12 month period, then these must be declared and the officer should seek authorisation from their manager, their Corporate Director or in compliance with the authorisation in paragraph 10 above.
12. The council **prohibits** the acceptance of cash gifts of any value.
13. Any personal interests that may impinge or might reasonably be deemed by others to impinge on an officer's impartiality, or cause conflict with the duties of a council officer as detailed above (such as conflicting business interests) should be declared in writing to the officer's line manager. The details should then be passed to the Head of Governance and Business Support to be entered onto the council's register.
14. ~~In relation to conventional hospitality (lunches, golf days, etc) these should only be accepted provided that it is normal and reasonable in the circumstances to do so. An invitation that appears over generous should be declined; it could be seen as an inducement to affect a council decision. Again, you must declare the~~

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~~hospitality and it is advisable to discuss the offer with your line manager if you are in any doubt as to the motive.~~

~~45.14.~~ Any officer who is aware of any business dealings conferring personal gain, or involving relatives or associates of a member of staff must supply these details to the Head of Governance and Business Support for entry into the register. The council's Whistle Blowing Policy can be used to divulge such information in confidence.

~~46.15.~~ The council's Monitoring Officer and Audit and Standards Committee will inspect the register of gifts, hospitality and interests annually, and the information will be retained for a period deemed necessary to demonstrate good governance and to address any allegations of misconduct accordingly.

~~47.16.~~ The effectiveness of this policy will be reviewed regularly by carrying out various training / refresher exercises.

REMEMBER >>> If in doubt, declare it!!

1. **Token gifts** with no real monetary value can be accepted and do not need to be declared. These include calendars, diaries, pens etc. If you are in any doubt as to the classification of token gifts, just ask.
2. **Gifts under £25** in value can be accepted but must be declared to your line manager and reported using the on-line form on the HUB for inclusion on the council's register.
3. **Gifts over £25** in value must not be accepted without prior permission from line management or Corporate Director. If the officer is a senior officer or key decision maker then authorisation must be sought from the Chief Executive. If authorisation is given, and the gift accepted, it must then be registered as above.
4. **Declaration of Interests**; if you feel that a personal involvement outside of work may affect judgements made in work, or be construed as doing so, these must be declared and registered as above.
5. **Cash gifts of any value are strictly prohibited!**

Some useful links / contacts

Employee Code of Conduct	https://wyregovuk.sharepoint.com/sites/HumanResourcesDepartment/SitePages/Policies-and-procedures.aspx
Whistleblowing policy	https://wyregovuk.sharepoint.com/sites/Governance/SitePages/Counter-fraud-and-corruption.aspx

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Anti- Fraud, Corruption and Bribery	https://wyregovuk.sharepoint.com/sites/Governance/SitePages/Counter-fraud-and-corruption.aspx
Disciplinary Policy	https://wyregovuk.sharepoint.com/sites/HumanResourcesDepartment/SitePages/Policies-and-procedures.aspx
Head of Governance and Business Support	Joanne.billington@wyre.gov.uk or telephone 01253 887372
Monitoring Officer	Mary.grimshaw@wyre.gov.uk or telephone 01253 887214
Deputy Monitoring Officer	Jane.collier@wyre.gov.uk or telephone 01253 887506

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Whistleblowing Policy

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Wyre Council
Civic Centre
Breck Road
Poulton-le-Fylde
Lancashire
FY6 7PU

To be approved by Audit and Standards Committee 14 November 2023

1. **Introduction**

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The council is committed to the highest possible standards of openness, probity and accountability. [We value staff as a source of information.](#) In line with that commitment, we encourage employees and others with serious concerns about any aspect of the council's work to come forward and voice those concerns. [Best practice is to maintain confidentiality unless the law requires disclosure of details. It is recognised that certain cases will have to proceed on a confidential basis.](#) This policy makes it clear that staff can [report concerns in the public interest and](#) do so without fear of reprisals. This Whistleblowing Policy is intended to encourage and enable staff to raise serious concerns within the council rather than overlooking a problem or blowing the whistle outside.
- 1.3 Furthermore, the council's policy is reinforced by the [Employment Rights Act 1996 as amended by the](#) Public Interest Disclosure Act 1998 and this policy will operate alongside and in accordance with this legislation. Further information on this Act can be obtained from the council's Legal Section or be following this link <https://www.legislation.gov.uk/ukpga/1998/23/contents>

2. **Aims and Scope of this Policy**

- 2.1 This policy aims to:
- Encourage you to feel confident in raising serious concerns and to question and act upon concerns;
 - Provides avenues for you to raise those concerns;
 - Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are dissatisfied with the council's response, and;
 - Reassure you that you will be protected from possible reprisals or victimisation for whistleblowing.
- 2.2 There are existing procedures in place to enable you to [raise issues under the council's Resolution Policy](#)~~ledge a grievance~~ relating to your own employment. This policy is intended to cover concerns that fall outside the scope of other recognised procedures. This policy does not replace the corporate complaints procedure.
- 2.3 The council's whistleblowing arrangements are an integral part of the governance of the council. They are not a substitute for its management,

compliance and other controls, rather, a safety net for those controls which will pick up problems, deter wrongdoing and promote accountable conduct.

2.4 A concern [must be in the public interest and](#) may be about something that:

- Is unlawful;
- Is against the council's Financial Regulations and Financial Procedure Rules;
- Is contrary to the council's policies, or falls below established standards of practice;
- Amounts to improper conduct;
- Appears to be a conflict of interest e.g. an officer awarding a contract to a supplier that they are known to be friendly with, or;
- Is regarding the assault or inappropriate behaviour towards a child or vulnerable adult or client.

3. Who is covered by the policy?

3.1 All employees of the council may use this policy. This includes permanent and temporary staff. It also covers ex-staff, agency staff, volunteers and staff seconded to a third party. Any concerns relating to the third party, if relevant to the staff's secondment can also be raised under the policy.

3.2 Contractors working for the council (including employees working in any partnerships on behalf of the council) may use the policy to make the council aware of any concerns the contractor's staff may have with regard to any contractual or other arrangement with the council.

4. Safeguards

4.1 The council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern. [We want to ensure we have a culture where staff feel comfortable making disclosures in the public interest.](#) ~~This does not mean however, that if you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your whistleblowing.~~

4.2 The council will do its best to protect your identity indefinitely if you - do not want your name to be disclosed. However, your identity may be revealed if the investigation leads to a formal hearing (such as a tribunal or criminal/civil proceedings). In such cases, a statement by you may be required as part of the evidence.

4.3 This policy encourages you to put your name to your allegation. Concerns expressed anonymously [are generally are much](#) less powerful, but [all disclosures will be taken seriously. they will be considered at the discretion of the council.](#) In [the case of anonymous disclosures and determining the next steps, exercising the discretion,](#) the factors to be taken into account would include:

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

4.4 The council will avoid wherever possible referring to the fact that a 'whistleblowing' has triggered an investigation in order to minimise speculation and the potential for victimisation.

4.5 This does not mean however, that if you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of your whistleblowing.

5. How to raise a concern

5.1 You can raise a concern ~~however you feel is appropriate~~ in a number of ways. ~~however~~ As a first step, you should normally raise concerns with your immediate manager or their superior. This will depend, ~~however~~, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe that management is involved, you are advised to should approach the Head of Governance and Business Support in the first instance, who will discuss the matter with you and determine whether a report should be made to the Section 151 Officer or the Monitoring Officer according to the circumstances. You may also invite your trade union or professional association to raise the matter on your behalf. Alternatively, HR, the Chief Executive, Internal Audit, the Chief Finance Officer or other Senior Managers can receive disclosures.

5.2 All child protection and safeguarding adult issues should be referred to the council's Child Protection Officers. Further information on what to do if you have any concerns can be found in the council's Child Protection and Safeguarding Adults policies and Child and Young Person Protection information leaflet located on the Intranet.

5.3 Concerns are better raised in writing or via the council's whistleblowing email address (***www.whistleblowing@wyre.gov.uk***). You are invited to set out the background and history of the concern, giving names, dates and places where possible and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can telephone or meet the appropriate officer. The earlier you express the concern, the easier it is to take action. The council's whistleblowing telephone number is ***0800 038 0528***.

5.4 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

5.5 All concerns raised, no matter how small are logged. Whilst action may not be necessary at that point, intelligence is often built over a number of weeks, months and sometimes years.

5.6 Advice and guidance on how matters of concern may be pursued can be obtained from:

Corporate Director Resources (Section 151 Officer)

Clare James

Clare.james@wyre.gov.uk

01253 887308

Head of Governance and Business Support

Joanne Billington

Joanne.billington@wyre.gov.uk

01253 887372

Monitoring Officer and Legal Services Manager

Mary Grimshaw

Mary.grimshaw@wyre.gov.uk

01253 887214

Head of Human Resources and Deputy Monitoring Officer

Jane Collier

Jane.collier@wyre.gov.uk

01253 887506

[Audit and Risk Manager](#)

[Karen McLellan](#)

Karen.mclellan@wyre.gov.uk

01253 887586

Lead designated Child Protection Officer

Mark Broadhurst

Mark.broadhurst@wyre.gov.uk

01253 887433

Unison Chairperson

0800 171 2193

5.7 If you feel your concern has not been handled in accordance with this policy, you can report this to the Council's Chief Executive, who will then appoint an independent officer to investigate your concerns.

6 How the council will respond

6.1 The action taken by the council will depend on the nature of the concern. The matters raised may be:

- Investigated internally;
- Referred to the Police;
- Referred to the council's External Auditor;
- Become the subject of an independent inquiry; or
- Be referred to the council's Audit Committee.

6.2 In order to protect individuals and the council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. A decision may be made to externalise the investigation in order to protect internal officers and address any conflicts of interest. In this instance, a process will be agreed and documented. Parties will be notified if deemed appropriate.

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- 6.3 Concerns or allegations that fall within the scope of specific procedures (e.g. Dignity at Work, Members Code of Conduct or IT Security issues) will normally be referred for consideration under those procedures.
- 6.4 Some concerns may be resolved by agreed action without the need for investigation. In this instance, checks will be made at a later date to ensure actions are implemented as agreed.
- 6.5 Within a reasonable timescale of a concern being received, the council will:
- Acknowledge that the concern has been received, explain how it proposes to deal with the matter and give an estimate of how long it will take to provide a final response;
 - Appoint a 'key point of contact' for the whistleblower. This is normally the investigator; and
 - Tell you whether any initial enquiries have been made, and whether a further investigation will take place, and if not, why not.
- 6.6 While the council will provide as much feedback as it properly can, owing to legal obligations and confidentiality, it may not be able to freely provide feedback on the outcome of any disciplinary action taken. Where this is the case, the council will make clear to the whistleblower that they were right to raise the concern. Any further evidence that the wrongdoing is continuing or should the whistleblower feel anxious about any perceived or actual reprisal then this must be reported as detailed in paragraph 5.1.
- 6.7 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.
- 6.8 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
- 6.9 The council will take steps to minimise any difficulties that 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 advise you about the procedure.
- 6.10 Following the conclusion of any investigation, the council will carry out a 'lessons learnt' exercise to ensure our whistleblowing procedures continue to be fit for purpose.

7. How the matter can be taken further

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

- UNISON Website www.unison.org.uk
- NSPCC - National Helpline 0800 028 0285 / 0800 800 5000
- Public Concern at Work (PROTECT) 020 3117 2520 or <https://protect-advice.org.uk>

7.2 This list is not exhaustive and you are free to contact anyone that you feel will be able to deal properly with your concerns, including:

- Your local Councillor;
- Relevant professional bodies or regulatory organisations;
- Your Solicitor; or
- The Police.

7.3 If you do take the matter outside the council, you need to ensure that you do not disclose confidential or privileged information. Advice on this point can be obtained from the Legal Services Section. Maliciously intended disclosures or those to the press or on social media will not qualify for protection.

8. The responsible officer

8.1 The Corporate Director Resources (Section 151 Officer) has overall responsibility for the maintenance and operation of this policy. The Head of Governance and Business Support maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Audit [and Standards](#) Committee.

9. Reviewing the effectiveness of the policy

9.1 The council will carry out regular training / refresher exercises to provide assurance that the policy is known and understood by the council's employees.

9.2 Any training will be designed to embed and reinforce this policy. This could be achieved through specific training, regular communication of the policy's existence and how to use it, completion of questionnaires or surveys or by promoting effective outcomes or 'good news' stories'. Communicating outcomes to the organisation can assist with managing 'the rumour mill' or avoid people coming to their own conclusions. Any communication in respect of reporting investigation outcomes will need to be managed carefully in order to protect those involved.

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Report of:	Meeting	Date
Corporate Director Resources (Section 151 Officer)	Audit and Standards Committee	14 November 2023

ANNUAL REVIEW OF THE COUNCIL’S INFORMATION GOVERNANCE POLICIES AND PROCEDURES – DATA PROTECTION POLICY AND PROCEDURE, RECORDS MANAGEMENT POLICY AND SUBJECT ACCESS REQUEST PROCEDURE

1. Purpose of report

1.1 Approval of the council’s information governance policies and procedures, namely:

- Data Protection Policy and Procedure;
- Records Management Policy, and;
- Subject Access Request Procedure.

2. Outcomes

2.1 The ability to demonstrate that the council has robust data governance arrangements in place that are designed to establish a set of rules and procedures, ensuring data accuracy, reliability, compliance and security.

3. Recommendation

3.1 Members are asked to approve the revised policies and procedures detailed at paragraph 1.1.

4. Background

4.1 The goal of a robust information governance framework is to make all council information (information assets) available when needed, hold it in a safe location, while reducing storage costs, ensuring compliance to external legislation and internal policy and procedures. There are many benefits of having an effective information governance framework in place. However the main benefits are as follows:

- to assist in making data consistent;
- to improve data quality;
- to assist with data accuracy, ensuring it’s fit for purpose;
- to improve business planning and decision making; and
- to reduce the chance of a serious data incident.

- 4.2** Information governance policies are also important because they provide a framework to staff to ensure that all information is dealt with consistently, legally, securely, efficiently and effectively.
- 4.3** The Audit and Standards Committee's Terms of Reference (Part 2 Article 7), states they are to receive updates and reports from the Head of Governance and Business Support (Data Protection Officer) and to approve policies in relation to cyber security and compliance to the Data Protection Act as well as Regulations made under the Act; namely the UK GDPR. In addition, the committee's work programme allows for an annual review of all policies named at paragraph 1.1.

5. Key Issues and proposals

- 5.1** The council's Data Protection Policy was last reviewed by the Audit Committee in November 2022. The policy has had a number of changes which have been tracked throughout the document, namely:
- A new paragraph has been inserted at 11.2 to reflect the current review being carried out to identify the council's use of alternative systems e.g. WhatsApp for processing business / personal data.
 - Additional bullet points have been added to 12.2 to reflect the roll out of laptops and docking stations across the organisation and the security of these mobile devices.
 - Paragraphs 13.4 and 13.5 have been amended to remove the requirement for both the Data Protection Officer and the Legal Services Manager to sign off information sharing protocols / agreements.
 - Paragraphs 15.2 and 18 have been amended to reflect the recently amalgamated Audit and Standards Committees.
 - Paragraph 15.8 has been amended to make clear that Data Protection (DP) training for Elected Members is mandatory, as it is for staff and that only council systems must be used for processing council data.
 - Paragraph 16.2 has been amended to reflect the requirements stipulated in the Information Governance Training Programme in respect of the completion of mandatory e-learning on DP and Cyber Security.
- 5.2** The Records Management Policy was last reviewed by the Audit Committee in November 2022. The policy has been updated at Paragraph 6.3 to reflect the current review being carried out to identify the council's use of alternative systems e.g. WhatsApp for processing business / personal data. In addition, minor amendments have been made at Paragraphs 7.5 and 16.1 to refer to the recently amalgamated Audit and Standards Committees.
- 5.3** The Subject Access Request Procedure was last reviewed by the Audit Committee in November 2022. This internal guidance is in addition to the Information Commissioner's Office (ICO) and the Data Protection Act 2018 and UK GDPR guidance regarding the handling of SAR's, and should be read in conjunction with any such instruction. There have been

no changes made to this procedure since its last review.

- 5.4** The draft policies with tracked changes (where applicable) can be found at Appendices 1, 2 and 3.

Financial and legal implications	
Finance	There are no specific financial implications arising from the adoption of these information governance policies.
Legal	The council's information governance policies assist the council in complying with a number of external regulations in relation to data protection, records management and meeting the rights of data subjects.

Other risks / implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	X
equality and diversity	X
sustainability	X
health and safety	X

risks/implications	✓ / x
asset management	X
climate change	X
ICT	✓
Data protection	✓

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018

report author	telephone no.	email	date
Joanne Billington	01253 887372	joanne.billington@wyre.gov.uk	31.10.2023

List of background papers:		
name of document	date	where available for inspection

None		
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List of appendices

Appendix 1 – Data Protection Policy and Procedures

Appendix 2 – Records Management Policy

Appendix 3 – Subject Access Request Procedure



Data Protection Policy and Procedures

Version 5.0 – November 2023

1.0 Introduction

- 1.1 The processing of personal data is essential to many of the services and functions carried out by local authorities. Wyre Council ('the council') recognises that compliance with data protection legislation (including the UK General Data Protection Regulations ('GDPR'), the Data Protection Act 2018 ('DPA') and related legislation) will ensure that such processing is carried out fairly, lawfully and transparently.
- 1.2 Data protection legislation and Article 8 of the European Convention on Human Rights recognise that the processing of personal data needs to strike a balance between the need for an organisation utilising personal data to function effectively, efficiently and in the wider public interest, and respect for the rights and freedoms of the individual(s) ('data subject(s)') to whom the personal data relates. This policy sets out how the council intends to safeguard those rights and freedoms.
- 1.3 The Information Commissioner's Office (ICO) is an independent authority which has legal powers to ensure organisations comply with the DPA and UK GDPR. For more information on the role of the ICO, please go to www.ico.org.uk.

2.0 Scope

- 2.1 This policy applies to the collection, use, sharing and other processing of all personal data held by the council, in any format including paper, electronic, audio and visual. It applies to all council staff. 'Staff' for the purposes of this policy includes all council officers, volunteers and agency staff. Council contractors are covered under their own terms and conditions. Paragraph 9.3 provides further details.

3.0 Legal context

- 3.1 Reference to the following legislation and guidance may be required when reading this policy.
- The Data Protection Act 2018
 - The UK General Data Protection Regulations
 - The Freedom of Information Act 2000
 - Regulation of Investigatory Powers Act 2000
 - Computer Misuse Act 1990
 - Human Rights Act 1998
- 3.2 Reference to the following internal council documents may also be required when reading this Policy;
- The Council's Constitution

- Employee's Code of Conduct
- ICT Service Desk Computer Use Policy and User Agreement
- Security Incident Policy
- Records Management Policy
- Password Policy and User Guidance

4.0 Personal data processed by the council

- 4.1 The council processes personal data for many reasons, including in relation to the services it provides and in its role as an employer. In most instances the council will be the data controller (usually alone, but sometimes jointly) in respect of the personal data it processes (i.e. it will determine the purpose and means of the processing); on occasion it may act as a data processor on behalf of another data controller.
- 4.2 Whether acting as a data controller in its own right, or on another's behalf as data processor, the council will maintain a record of its processing activities and make this available to the Office of the Information Commissioner ('ICO') upon request. Information concerning the processing of personal data in respect of which the council is a data controller will be communicated by the council to data subjects by means of appropriate privacy notices.
- 4.3 The council has an overarching privacy notice and individual service privacy notices that can be found on the council's website.
- 4.4 The council is committed to ensuring compliance with data processing legislation and will:
- Respect the rights of each individual;
 - Be open and honest about the personal data it holds;
 - Provide training and support to those handling personal data in the course of their duties;
 - Notify the ICO annually, that it processes data. This is a statutory requirement and notification must be kept up to date with any changes to the use of personal data being updated within 28 days. (The council has two registration numbers Z5682712 (General processing) and ZA319367 (Elected Members) and;
 - Inform the ICO and in some instances the data subject of any data breaches.

5.0 Data protection principles

- 5.1 The council will comply with the principles relating to the processing of personal data set out in the UK GDPR by putting in place processes to ensure that personal data is:
- a) processed lawfully, fairly and in a transparent manner in relation to the data subject;

- b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes (further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes);
 - c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
 - d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
 - e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; (personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the UK GDPR in order to safeguard the rights and freedoms of the data subject) and;
 - f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.
- 5.2 The council shall be responsible for, and be able to demonstrate compliance with all the above principles.
- 5.3 Where the council processes personal data as a 'competent authority' for 'law enforcement purposes' (i.e under statutory law enforcement functions) it shall do so in accordance with the version of the data protection principles set out in the Law Enforcement provisions of the DPA. Those principles are similar (but not identical) to the principles applying to more general processing of personal data detailed above.
- 5.4 'Law enforcement purposes' include the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public safety.

6.0 Legal basis for processing

- 6.1 The council will ensure that it's processing of personal data (other than law enforcement processing) fulfils the appropriate general condition(s) for processing outlined in the UK GDPR. Where a 'special category' of personal data is processed (this includes information about racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data for the purposes of identifying an individual, physical or mental health, sex life or sexual orientation), the council will

ensure that one of the additional conditions set out in relation to special category personal data in the UK GDPR is also met, along with any further requirements regarding the processing of sensitive personal data set out in other data protection legislation.

- 6.2 While not formally defined as a 'special category' of personal data under the UK GDPR, similar additional conditions and requirements also apply to personal data relating to criminal convictions and offences (including personal data relating to the alleged commission of offences and proceedings relating to the commission or alleged commission of offences). When processing such data the council will ensure that the relevant additional conditions and requirements are met.
- 6.3 Where the council processes personal data as a 'competent authority' for 'law enforcement purposes' it shall do so in accordance with the requirements of the law enforcement provisions of the DPA. In all cases such processing will only be carried out where the individual concerned has given their consent to the processing of their personal data for law enforcement purposes or where the processing is necessary for the performance of a task carried out for law enforcement purposes by a competent authority. Where such processing involves 'sensitive processing' (this is equivalent to the processing of special category personal data under the UK GDPR) the council will ensure that the processing is strictly necessary and (unless the individual has consented to the processing) that one of the conditions for sensitive processing set out in the DPA is met.

7.0 Individuals' rights

- 7.1 Data protection legislation provides individuals with various rights. An individual's rights include:
- The right to be provided with specified information about the council's processing of their personal data (**'the right to be informed'**).
 - The right to access their personal data and certain supplementary information (**'the right of access'**).
 - The right to have their personal data rectified, if it is inaccurate or incomplete (**'the right of rectification'**).
 - The right to have, in certain circumstances, their personal data deleted or removed (**'the right of erasure', sometimes known as 'the right to be forgotten'**).
 - The right, in certain circumstances, to restrict the processing of their personal data (**'the right to restrict processing'**).
 - The right, in certain circumstances, to move personal data the individual has provided to the council to another organisation (**'the right of data portability'**).

- The right, in certain circumstances, to object to the processing of their personal data and, potentially, require the council to stop processing that data (**‘the right to object’**).
- The right, in relevant circumstances, to not be subject to decision-making based solely on automated processing (**‘Rights related to automated decision making, including profiling’**).

7.2 In relation to the first right referred to above (‘the right to be informed’) in general the council will:

- where the personal data is collected from an individual, provide them with specified privacy notice information, at the time the personal data is collected, for example when a member of the public is signing up to receive a council service;
- where the personal data has not been obtained from an individual, provide them with specified privacy notice information within one month; if the council uses personal data that it has not collected directly from an individual to communicate with that individual, it will provide the specified privacy notice information, at the latest, when the first communication takes place; if disclosure to another recipient of personal data, that has not been collected directly from the individual is envisaged, the council will provide the specified privacy notice information, at the latest, before the data is disclosed.

7.3 It should be noted that there are limited specified circumstances in which the right to be informed will not apply. For further information go to www.ICO.org.uk

7.4 Where an individual exercises one of the other rights listed above, the council will respond without undue delay and in any event within one calendar month, subject to the following two exceptions:

- Where further time is necessary, taking into account the complexity and the number of the request(s) from the data subject, the period for responding will be extended by up to two further calendar months. Where such an extension is required the council will notify the data subject that this is the case within one calendar month of receiving their request.
- Where the request(s) from a data subject are manifestly unfounded or excessive (in particular because of their repetitive character) the council will ordinarily refuse the request(s). In exceptional cases the council may instead exercise its alternative right in such circumstances

to charge a reasonable fee that takes into account the administrative cost of complying with the request.

- 7.5 The council recognises the fundamental nature of the individual rights provided by data protection legislation. The council will ensure that all valid requests from individuals to exercise those rights are dealt with as quickly as possible and by no later than the timescales allowed in the legislation.
- 7.6 To minimise delays, and to help ensure that the council properly understands the request being made, it is preferable for requests from data subjects wishing to exercise their data subject rights to be either in writing or made via the council's on-line process. However, a valid request may also be made verbally.
- 7.7 The council's dedicated email address for exercising individual rights is informationgovernance@wyre.gov.uk or individuals can use the council's online form available from the council's website at;

https://www.wyre.gov.uk/info/200373/your_data_and_us
- 7.8 All requests from data subjects to exercise their data subject rights must:
- Be accompanied by, where necessary, proof of the identity of the data subject and, where applicable, the written authorisation of the data subject (if the request is being made on their behalf by a legal or lawfully appointed representative or authorised agent);
 - Specify clearly and simply how the data subject wishes to exercise their rights – this does not mean that an individual needs to refer specifically to a particular right by name or legislative provision (for example, "I would like a copy of my employee file" is sufficiently clear to indicate that the right of access is being engaged);
 - Give adequate information to enable the council to determine whether the right is engaged and to comply (subject to any exemption(s)) if it is;
 - Make it clear where the response should be sent; and
 - Where relevant specify the preferred format in which any information disclosed to the data subject should be provided.
- 7.9 Data protection law allows exemptions from complying with data subject rights in specific and limited circumstances. The council will normally apply the exemptions where they are engaged, unless it is satisfied that it is appropriate or reasonable not to do so.
- 7.10 If a data subject exercising one or more of their data subject rights is dissatisfied with the response received from the council, they may ask for the matter to be dealt with by the council's Data Protection Officer (DPO).

Alternatively, a data subject also has the right to complain to the ICO if they believe that there has been an infringement by the council of data protection legislation in relation to the data subject's personal data. A data subject may also pursue a legal remedy via the courts. Further information on the rights of data subjects is available from the ICO's website www.ico.org.uk.

7.11 Additional guidance for staff on how to deal with requests to exercise data subject rights is available via the council's Hub.

8.0 Individuals' Rights – Law Enforcement Processing

8.1 The rules relating to an individual's rights are different where the council processes personal data as a 'competent authority' for 'law enforcement purposes'. In those circumstances individuals have the following rights:

- the right to be informed;
- the right of access;
- the right to rectification;
- the right to erasure or restriction of processing; and
- the right not to be subject to automated processing.

8.2 There are no equivalents to the right to object or the right to data portability. Also, the right of access, the right to rectification and the right to erasure or restriction of processing will not apply to 'relevant personal data' in the course of a criminal investigation or criminal proceedings.

8.3 'Relevant personal data' means personal data contained in a judicial decision or in other documents relating to the investigation or proceedings which are created by or on behalf of a court or other judicial authority. Where an individual exercises their rights in respect of personal data that the council is processing for law enforcement purposes the council will ordinarily respond without undue delay and in any event within one calendar month. There is not an option for the council to extend this for a further period in the case of complex or numerous requests, although the council can refuse (or make an administrative charge for) manifestly unfounded or excessive requests.

9.0 Further legal requirements

9.1 The council may be required to disclose personal data to a person or organisation other than the data subject by virtue of a court order, or to comply with other legal requirements, including those relating to the prevention or detection of crime, the apprehension/prosecution of an offender, or the collection of taxation/duties.

9.2 The council may also, in appropriate circumstances, make discretionary disclosures of personal data to a person or organisation other than the data subject where it is permitted to do so by law. When deciding whether to exercise its discretion to disclose personal data in such circumstances the council will always give proper consideration to the data subject's interests and their right to privacy.

- 9.3 External agencies, companies or individuals undertaking processing of personal data on behalf of the council (“data processors”) must be required to demonstrate, via a written contractual agreement, that personal data belonging to the council will be handled in compliance with data protection legislation and that appropriate technical and organisational security measures are in place to ensure this. Any contractual agreement between the council and a data processor will contain all the relevant elements specified in data protection legislation.
- 9.4 The council will follow relevant guidance issued by the Government, the ICO and the Surveillance Camera Commissioner for users of CCTV and similar surveillance equipment monitoring spaces to which the public, residents, service users and staff have access and will also strive to ensure that partner organisations involved in joint or multi-agency initiatives seek to do the same.
- 9.5 Officers must always ensure that prior to the purchasing, installing or modifying of any council CCTV system, approval and/or sign off must have been sought from the council’s Partnership Officer (CCTV).
- 9.6 The council reserves the right to monitor telephone calls, e-mail and internet access in compliance with relevant legislation. This will be handled in line with guidance issued by the ICO and the Investigatory Powers Commissioner’s Office (IPCO).

10.0 Privacy by design and by default (Privacy Impact Assessments (PIA))

- 10.1 The council’s approach to compliance with data protection legislation will be underpinned by the principles of privacy by design and privacy by default. ‘Privacy by design’ means that the council will take into account privacy issues from the very outset of planning for an activity that might involve the processing of personal data.
- 10.2 ‘Privacy by default’ means that the council will ensure that only personal data that is necessary for a specific purpose is processed. The council will not collect more personal data than is needed for the purposes concerned, process it more than is necessary or store it longer than is needed.
- 10.3 When undertaking a new activity, privacy considerations will be embedded throughout. A Privacy Impact Assessment (PIA) will need to be completed and signed off by the council’s DPO before the activity commences. The Corporate Management Team should ensure that any decisions taken to implement new systems of processing are supported by a completed PIA.

11.0 Records Management

- 11.1 The council must manage and dispose of its records in accordance with the council’s Records Management Policy and service specific Information Asset Registers. It is essential that records are stored securely and the location of information is up to date at all times to enable the council to process any requests for information (FOI’s and SAR’s) within the required timescales.

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11.2 During the Pandemic it became necessary in some services to use various social media platforms e.g. WhatsApp to process council data. Whilst the need to use alternative platforms has now diminished following a return to 'business as usual', a review of the continued use of alternate systems will be carried out in early 2024. An instruction has been cascaded to managers informing them that if individual services are continuing to use alternative systems such as WhatsApp to process council data, they should document this in their information asset registers to allow information requests to be answered correctly.-

12.0 Information Security

12.1 Effective methods of security must be in place to help prevent the inappropriate disclosure or loss of personal data. The council will process personal data in accordance with the DPA and UK GDPR and any other related council policy and procedure to ensure appropriate physical, technical and organisational measures are in place.

12.2 Access to areas where data is stored and used must be controlled as follows:

- Paper files must be locked away when not in use and electronic systems must be password protected, with only authorised users being given access;
- Hybrid workers and other staff working away from the office must ensure records are adequately protected at all times, preventing damage, theft / loss and unauthorised access to personal data;
- Electronic data must be stored on the council's servers and should be backed up each night to prevent the loss of valuable data;
- Personal data must not be stored on unencrypted portable equipment, e.g. laptops, mobile phones, tablet devices or memory sticks / pen drives. Staff are advised to contact the ICT Service Desk for assistance if they are wanting to transfer personal data out of the organisation;
- Computers, laptops and tablet devices must be password protected and locked when left unattended during the day. Staff are required to log off and shut down all systems at the end of the working day.
- Laptops should be removed from their docking stations and locked away out of sight if they are not being taken home.
- If laptops are removed from the building, they should be transported in a suitable bag and should be protected from any liquids, screen damage and the weather. They should not be left unattended in any vehicle and should be kept out of sight at all times. If possible, they should be stored in the boot during transit and should always be removed from the vehicle at night.
- Staff must not disclose passwords to colleagues or use passwords belonging to other staff members.
- Confidential waste bins are located throughout the building and can be used for all paper disposal. However they must always be used for the destruction of personal data. The council employs a contractor to shred

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all paper waste on site once a week, therefore there is no requirement to shred any personal data prior to using the confidential waste bins. Hybrid workers should continue to use the office facilities provided to dispose of confidential waste and should not make their own arrangements for the removal and disposal of council data.

13.0 Information Sharing

- 13.1 When personal data is collected, the data subject must be informed, via a privacy notice, what data the council expects to share, with whom it is likely to be shared and in what circumstances. See 7.2 for guidance on when the data subject needs to be informed.
- 13.2 Non-sensitive personal data may be shared across council departments and with contractors working on the council's behalf for legitimate purposes, such as:
- Updating council records;
 - Providing services; and
 - Preventing and detecting fraud.

Any sharing of personal data and the purpose for the sharing must be documented in the individual service's information asset register.

- 13.3 Sensitive personal data is normally only disclosed with the informed consent of the data subject. However, there are circumstances in which personal data may be disclosed without obtaining the data subject's consent such as when safeguarding the data subject or others, and to assist with the prevention and detection of crime. For further guidance, refer to the ICO's website or speak to the council's DPO.
- 13.4 Information sharing protocols / agreements should be in place between all council and third parties when personal data is being shared. All agreements must be signed off by the DPO ~~or~~ and the council's Legal Services Manager and then details of the sharing should be documented in the relevant information asset register by the Service Manager.
- 13.5 Any sharing of council-controlled personal data with other data controllers must comply with all statutory requirements and corporate policies. Where appropriate the council will enter into a data sharing agreement before sharing personal data with another data controller, particularly where personal data is to be shared on a large scale and/or on a regular basis. Any data sharing agreements must be signed off by the DPO ~~or~~ and the council's Legal Services Manager.

14.0 Secure Transfer of Data

- 14.1 The transfer of data in all formats (written, fax, email, phone or face to face) must be completed in a secure manner, ensuring the identity of the recipient has been verified. This will help prevent personal data being misplaced or

disclosed in error. Hybrid workers must take particular care when working in an unsecure location and must ensure they cannot be overheard when disclosing personal data.

14.2 Secure Email

When providing information by email, client details must not be placed in the subject heading. Be aware that when the recipient replies and includes your original email, the return email is not secure. Recipients should be made aware of this and be advised to refer to their own organisation's procedures. All emails that contain personal data must be encrypted. Password protecting the email or file is not sufficient protection to secure the contents. Employees should contact ICT Service Desk if they do not know how to encrypt an email or a document that contains personal data.

14.3 Postal Mail

The council has a data classification scheme in place that sets out how internal and external mail should be sent depending on its content.

14.4 Fax

When sending personal data by fax, it is imperative that the sender phones ahead to the receiver to ensure they are standing by the machine to receive the fax. The receiver must then confirm that the fax has been received in full.

15.0 **Roles and Responsibilities**

15.1 Everyone representing the council has a duty to protect the information it holds and access to personal data must be on a strict need to know basis. Personal data must not be disclosed without appropriate authorisation.

15.2 The council has an Information Governance Group which is accountable for ensuring compliance with this policy across the council. The work of the group will be supported by the Corporate Management Team (which includes the council's SIRO) and the Audit [and Standards](#) Committee who have delegated responsibility for ensuring the council's compliance to the DPA and UK GDPR. The group's primary membership consists of the DPO, the Information Governance Manager (Deputy DPO), ICT Services Manager, Legal Services Manager and the Legal Executive. However, other officers are also invited to attend, depending on the agenda. All meetings have a structured agenda, are minuted with agreed actions being allocated to a specific officer with an agreed timescale. These minutes are provided to CMT as part of the Head of Governance and Business Support's quarterly update.

15.3 The council will ensure that:

- The DPO reports to the highest management level of the council in respect of their duties as DPO, in this instance, this is the Senior Information Risk Owner (Chief Executive) who forms part of the Corporate Management Team.
- The DPO operates independently and is not dismissed or penalised for performing their task.

- Individuals handling personal data will be trained to an appropriate level in the use and control of personal data.
- All staff handling personal data know when and how to report any actual or suspected data breach, and that appropriately trained staff manage any breach correctly, lawfully and in a timely manner.
- Breaches will be reported to the ICO where such reporting is mandatory or otherwise appropriate and shall be done within the required timescales.
- It monitors and reviews its processing activities to ensure these are compliant with data protection legislation.
- Where there is any new or altered processing of personal data it will take appropriate steps (including where necessary a privacy impact assessment) to identify and assess the impact on data subjects' privacy as a result of the processing of their personal data.
- Appropriate privacy notices are maintained to inform data subjects of how their data will be used and to provide other mandatory or relevant information.
- This policy remains consistent with the law, and any compliance advice and codes of practice issued from time to time by the ICO is incorporated.

15.4 Elected Members may have access to, and process personal data in the same way as employees and therefore must comply with the six data protection principles. These can be found at the following link:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-law-enforcement-processing/principles/>

15.5 As data held on council systems may be used by Elected Members in their roles, the data controller may be the Elected Member or the council individually, jointly or on behalf of the other. Notification must be arranged as follows:

- When acting on behalf of the council, Elected Members can rely on the council's legal basis and notifications for processing.
- When acting on their own behalf, for example, when dealing with complaints made by local residents, Elected Members are data controllers in their own right, therefore must themselves ensure they comply with the DPA and the UK GDPR.
- When campaigning within their own political party (unless Independent Members), Members may rely on the legal basis and notification for processing of their own party.

15.6 From 1 April 2019, the requirement for Elected Members to pay a registration fee to the ICO was abolished. Elected Members are now exempt from paying a fee, unless they process personal data for purposes other than the exercise of their functions as an Elected Member. For example, if they have their own

business or they are using CCTV for business or crime prevention purposes in connection with that business, then a fee will still apply.

- 15.7 Whilst the majority of the council's Elected Members will be exempt from paying a fee and having to register with the ICO, they are still Data Controllers in their own right and therefore have data protection responsibilities. This means they are responsible for making sure all personal data handled complies with the requirements of the DPA and UK GDPR. All Elected Members have been issued with guidance on how they can achieve this. They have also been provided with a privacy notice which they can distribute to their constituents.
- 15.8 The DPO will arrange periodic data protection training for the council's Elected Members, which [is considered mandatory, they must attend](#). They must also follow any advice and guidance provided to them and take the necessary steps to ensure the council's data is stored safely in accordance with any council policy and procedure. They must store all council data separately from data relating to their ward and political party work [and on authorised council systems only](#).

16.0 Training

- 16.1 The council recognises that data protection training is crucial so that all staff understand their responsibilities relating to data protection and the use of personal data. Failure to comply with data protection legislation could lead to serious consequences, and in some cases may result in significant fines or criminal prosecution.
- 16.2 All data protection training provided by the council is mandatory and Line Managers are responsible for ensuring that all staff are given the necessary time to participate. At present, the council provides all new starters with an induction pack which includes the Data Protection Policy and Procedures and Incident / Breach Reporting and Investigation Instruction. In addition, all new starters are asked to complete a mandatory cyber security and data protection training module in the council's e-learning training portal (Learning Pool). They are provided with the council's Computer Use Policy and User Agreement and are then required to complete a 'user declaration' to confirm they have read and understood the Policy. This declaration is retained on their personnel file. All existing staff will be required to complete ~~both~~ the mandatory cyber security [training module annually and the](#) ~~and~~ data protection training modules every [two years, in line with the council's Information Governance Training Programme. two years](#).
- 16.3 Some post-holders are required to undertake further information governance or data protection training where appropriate for a particular role or within a specific service area, for example the DPO and their deputy and staff with specific responsibility for processing Freedom of Information (FOI's) Act requests and Subject Access Requests (SAR's).

17.0 Reporting a potential data breach

- 17.1 In the event of a suspected data breach it is essential that staff follow the guidance for reporting potential breaches (attached at Appendix A). Adhering to this guidance will ensure that all risks are identified and mitigated, the appropriate people and organisations are informed, and communication is prepared to help prevent damage to the data subject and the council's reputation.
- 17.2 All incidents, including near misses, should be reported to the DPO or the Deputy DPO. Failure to report an incident could result in disciplinary action including dismissal (see 19.1).
- 17.3 All incidents are logged into a 'data incident log' which is maintained by the DPO and monitored by the Information Governance Group. It is also available for inspection by the ICO.
- 17.4 It should be noted that at present, the council has a separate 'Security Incident Protocol' for the reporting and recording of any ICT related incidents, e.g. loss of equipment, viruses, bogus emails etc. However, this protocol does not supersede the guidance attached at Appendix A.

18.0 Governance and Distribution

- 18.1 The ownership of this policy sits with the Information Governance Group. The group will review the policy annually with any changes being submitted to the Audit [and Standards](#) Committee for approval.
- 18.2 The policy will be displayed on the council's Hub and also the council's website on the data protection web page:

https://www.wyre.gov.uk/info/200373/your_data_and_us

19.0 Disciplinary action and criminal offences

- 19.1 Serious breaches by staff of this policy caused by deliberate, negligent or reckless behaviour could result in disciplinary action including dismissal and may even give rise to criminal offences.

20.0 Sources of information and guidance

- 20.1 This policy is supported by training, awareness and additional guidance made available to staff on the council's Hub. The ICO also provides a free helpdesk that can be used by anyone and a website containing a large range of resources and guidance on all aspects of information law for use by organisations and the public. Please see www.ico.org.uk

20.2 Other useful contact details

Data Protection Officer	01253 887372
Deputy Data Protection Officer	01253 887503
Legal Services Manager	01253 887214
Information Commission Officer helpline	0303 123 1113
ICT Service Desk	01253 887652

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Incident / breach reporting and investigation instruction

1.0 Introduction

- 1.1 Wyre Council is obliged under Data Protection law to investigate any breaches of security that lead to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data when it is being used in any content or location.
- 1.2 The organisation needs to take steps as quickly as possible to recover any data involved in the incident or otherwise contain the spread or effects of the incident, whilst trying to ensure that the cause of the incident is properly identified. At Wyre Council, this responsibility falls to the Data Protection Officer (DPO) or the Deputy DPO.
- 1.3 Once an incident comes to light, a decision must be made by the DPO or their Deputy within 72 hours about whether to inform the Information Commissioner, and subsequently, whether to inform the affected individuals.
- 1.4 A genuine accident, mistake or theft that could not have been prevented is not considered to be a breach of Data Protection law, whereas a failure to implement proper security measures, whether technical or practical, to protect data is almost certainly a breach. Either way, they both need to be reported to the DPO or their Deputy and investigated thoroughly.

2.0 What to look out for and what should I report?

2.1 Losses and theft

- Loss or theft of paper documents / equipment containing council / personal data, especially sensitive or confidential information;
- Unauthorised access to, tampering with or use of ICT systems or equipment;
- Unauthorised changes to system hardware, firmware or software; or
- A deliberate attempt by a third party to steal data.

2.2 Mishandling

- Emails, post, faxes or other correspondence sent to the wrong person or destination, especially where the data is sensitive or the incidents are repeated;
- Wrong data or files attached to correspondence when sent out;
- Data or equipment on which data is stored is not securely disposed of; or
- Data or equipment is left in vacated buildings or furniture containing records is disposed of without records being cleared out.

2.3 Improper and inappropriate use

- Improper use of ICT system;
- Use of non-work email, equipment or storage for work purposes; or

- Failure to revoke access from leavers, contractors or people changing job roles.

2.4 Electronic and operational

- Malware attacks (viruses, ransomware, worms, Trojan horses);
- Unauthorised disruption of service, phishing attacks etc., or;
- System failure, crashes, environmental failures and operator errors. These may have security implications and should be treated as incidents.

3.0 **How should I report one of the above?**

- 3.1 Any suspected data breaches must be reported immediately in the first instance to the DPO or Deputy DPO. In the instance that neither officer is available, your Director or Service Manager should be informed. Contact details for the DPO and the Deputy DPO are as follows;

Data Protection Officer	Joanne Billington	01253 887372
Deputy Data Protection Officer	Joanne Porter	01253 887503

Alternatively, you can email the council's dedicated incident reporting mailbox informationgovernance@wyre.gov.uk

- 3.2 Given that the organisation has a responsibility to notify the ICO where applicable within 72 hours of the identification of a breach, it is imperative that officers report incidents immediately, to allow the 72 hour timescale to be adhered to.
- 3.3 All documentation in relation to the incident must be collated and held securely until further instruction is given by the DPO or Deputy DPO. The DPO or Deputy will ask you for a 'written statement of fact'. Which is basically a detailed account of how the incident occurred, what data has been lost or put at risk and any other information that is important to the investigation.
- 3.4 It should be noted at this stage, any investigation is carried out in an informal manner with the primary objective being to ascertain if an 'actual breach' has occurred and if the breach has or could cause harm or damage to an individual or the organisation.
- 3.5 Staff under no circumstances should alert the data subject, the ICO or any third party to the suspected incident. The decision to notify the individuals concerned, the ICO and any third parties is the responsibility of the DPO or the Deputy DPO following a full investigation.
- 3.6 Failure to report an incident or adhere to paragraphs 3.1 – 3.5 above could lead to disciplinary action.

4.0 **Management of a data breach / incident**

- 4.1 Once it has been identified that an actual data breach has occurred, it is important that the council has an effective, documented plan of how they will deal with the incident. The DPO or the Deputy DPO is responsible for

ensuring that all reported incidents are dealt with as quickly as possible, in a transparent and consistent way.

- 4.2 As part of the investigation, the DPO or Deputy DPO will take the following four steps;
- Containment and Recovery
 - Assessment of Risks
 - Notification
 - Evaluation and Response
- 4.3 The DPO or Deputy DPO may ask for your involvement at any stage of the investigation and it is expected that full participation and cooperation will be given. Where it is deemed that deliberate obstruction or withholding of information is taking place, this may lead to the council taking disciplinary action.

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Records Management Policy

Version 3.0 – November 2023

1.0 Purpose of this policy

- 1.1 This document sets out the council-wide policy for records management standards that should be adhered to by all staff working with Wyre Council (the council) records.
- 1.2 All employees of the council have a responsibility to effectively manage council records and manage them appropriately in a way that meets the council's legal obligations.

2.0 Introduction

- 2.1 Any evidence of council business activity is a record. Records, therefore can be paper documents, electronic files, emails, databases, maps or images.
- 2.2 Records are the council's corporate memory and provide the evidence of its business actions and decisions. They also provide evidence that the council has satisfied statutory requirements. Well-managed records can improve the process of decision-making and facilitate business administration. They are, therefore, a corporate asset.
- 2.3 A record is a piece of information that has an intrinsic worth, which makes it important enough to save and keep secure for its evidential value. In order to decide whether a piece of information is a record or not, its business context must be understood as well as its relevance and significance to the organisation. If a record is of value as evidence of business activity, it is important that it be managed in a way that ensures the record:
 - can be easily and quickly retrieved;
 - is authentic - it is what it purports to be;
 - is reliable - information in the record is accurate and can be depended on;
 - has integrity – it is complete and unaltered;
 - has appropriate context information about where it was used and why; and
 - has structure so that the record is intact.

3.0 Relevant legislation

- 3.1 The council is committed to continuously improving the way it responds to requests for information under statutory access regimes. This includes the Freedom of Information (FOI) Act 2000, the Data Protection Act (DPA) 2018, the UK General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations (EIR) 2004. Compliance however, is reliant upon proper management of the council's information, which needs to be managed, stored securely and easily located.

- 3.2 The DPA and the UK GDPR requires all organisations that handle personal information to comply with six principles regarding privacy and disclosure. Particularly relevant to records management is the fifth principle, which states that “Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed”.
- 3.3 The Local Government (Records) Act 1962 gave local authorities limited discretionary powers to hold their records in local archives. In particular, it states that “A local authority may do all such things as appear to it necessary or expedient for enabling adequate use to be made of records under its control”.
- 3.4 The Local Government Act (LGA) 1972 sets out the basic requirement for local authorities to ‘make proper arrangements’ to keep good records.
- 3.5 Reference to the following legislation and guidance may also be required when reading this policy.
- Computer Misuse Act 1990
 - Human Rights Act 1998
 - Public Records Act 1958 and 1967
 - Local Government (Access to information) Act 1985
 - Records Management Standards and guidelines British Standards (BSI)
 - Lord Chancellors’ Code of Practice on Management of Records issued under S.46 of the Freedom of Information Act 2000
- 3.6 This list is not exhaustive and there will be other record-keeping legislation specific to certain areas of work, which should also be taken into account.
- 3.7 Reference to the following internal council documents may also be required when reading this Policy;
- The Council’s Constitution
 - Employee’s Code of Conduct
 - ICT Service Desk Computer Use Policy and User Agreement
 - Security Incident Policy
 - Data Protection Policy
 - Data Classification Scheme
 - Password Policy and User Guidance

4.0 Objectives

- 4.1 The aim of this policy is to define a framework for managing the council’s records to ensure that the council:
- creates and captures accurate, authentic and reliable records;

- maintains records to meet the authority's business needs;
- disposes of records that are no longer required in an appropriate manner;
- protects vital records;
- conforms to any legal and statutory requirements relating to record keeping, retention and disposal; and
- complies with government directives.

4.2 Whether acting as a data controller in its own right, or in common, or on another's behalf as a data processor, the council will maintain a record of its processing activities and make this available to the Information Commissioner's Office (ICO) on request. Information concerning the processing of personal data in respect of which the council is a data controller, will be communicated by the council to data subjects by means of the council's overarching privacy notice and also service specific privacy notices. These are located on the council's website.

<https://www.wyre.gov.uk/service-area-privacy-notices/privacy-notice?documentId=108&categoryId=20133>

4.3 The council is committed to ensuring compliance with data processing legislation and will:

- respect the rights of each individual;
- be open and honest about the data it holds;
- provide training and support to officers responsible for the handling of personal data in the course of their duties;
- notify the ICO annually, that it processes data. This is a statutory requirement and notification must be kept up to date with any changes to the use of personal data being updated within 28 days (the council has two registration numbers Z5682712 (General processing) and ZA319367 (Electoral Registration) and;
- inform the ICO and in some instances the data subject of any data breaches.

5.0 Data Classification Scheme (DCS)

5.1 An important element of records management is classification. ISO 15489 defines classification as the "systematic identification and arrangement of business activities and/or records into categories according to logically structured conventions, methods and procedural rules represented in a classification system".

5.2 The council's DCS features three classification categories; unclassified, protected and restricted. The DCS sets out the criteria and controls required when handling and processing council data.

6.0 Information Asset Registers (IAR)

- 6.1 Each service area within the council should have in place an up-to-date 'live' IAR. The register should set out the details of the information asset, its classification (as per the DCS), the council's legal basis for processing (if personal/sensitive data), the format it is held in (electronic or paper), the named Information Asset Owner (IAO), its location and its retention period. There is a standard template for IAR's held on the HUB.
- 6.2 IAR's are subject to regular review by Internal Audit and spot checks may be carried out by the Data Protection Officer (DPO). However, it is the responsibility of the Head of Service (HOS) and/or Service Manager and any nominated IAO's to ensure that the register is reviewed regularly and kept up-to-date.

6.3 During the Pandemic it became necessary in some services to use various social media platforms e.g. WhatsApp to process council data. Whilst the need to use alternative platforms has now diminished following a return to 'business as usual', a review of the continued use of alternate systems will be carried out in early 2024. An instruction has been cascaded to managers informing them that if individual services are continuing to use alternative systems such as WhatsApp to process council data, they should document this in their information asset registers to allow information requests to be answered correctly.

7.0 Roles and responsibilities

- 7.1 Senior Information Risk Owner (SIRO)
The Chief Executive serves corporately as the council's named SIRO in relation to information governance and data security related matters. The SIRO forms part of the council's Corporate Management Team (CMT) and therefore has a firm understanding of the strategic business goals of the council. They also understand how these goals may be impacted by information risks and how those risks may be managed. The SIRO's duties include; taking ownership of the organisation's risks registers, acting as a champion for information risk at CMT and directing the work of the council's DPO.
- 7.2 Data Protection Officer (DPO)
The DPO's minimum tasks, as defined by legislation are:
- to inform and advise the council and its employees about their obligations to comply with the UK GDPR and other data protection laws;
 - to monitor compliance with the UK GDPR and other data protection laws, including managing internal data protection activities;
 - advise on data protection impact assessments;

- train staff and conduct internal audits; and
- to be the first point of contact for supervisory authorities (ICO, Local Government Ombudsman) and for individuals whose data is processed (residents, employees, customers etc.).

7.3 Heads of Service (HOS) / Managers

HOS/Managers are ultimately responsible for the management of the records within their services, in accordance with this policy and for ensuring that their staff are aware of any data sharing protocols and storage and retention periods documented in the council's IAR's. HOS/Managers will be asked to make an annual declaration to the DPO to confirm that their services IAR have been reviewed and updated and that checks have been made to ensure the necessary technical measures are in place to protect the council's assets.

7.4 Information Asset Owners (IAO)

All council employees are responsible for creating and maintaining records in relation to their work that are authentic, up-to-date and reliable. However, service areas may also have individual nominated IAO for a specific system or a collection of records. IAO's ultimately have the necessary knowledge and skills to ensure that the asset is managed correctly and if not, to take the necessary action if any deficiencies in the relevant processes are identified. The IAO's core responsibilities are as follows:

- to ensure the capture of records is accurate and provides evidence of the service's activities;
- to make every effort to provide reliable data and records management;
- to observe and support any corporate policies and procedures;
- to understand any risks associated with processing and be proactive about mitigation;
- to ensure that any contractors or third parties with access to council records are managing them in accordance with council policy and contracts/service level agreements, and;
- to provide the DPO with an annual declaration to confirm compliance with the terms of any written contracts or data sharing agreements and that the necessary technical measures are in place to protect the data being processed.

7.5 Information Governance Group (IGG)

The council has an IGG that meets formally approximately every 2 months. The membership is made up of the council's DPO and Deputy, ICT Service Manager, Legal Services Manager and Legal Executive. Other council officers are invited on an ad hoc basis depending on the agenda items. The group has an agreed terms of reference, which is reviewed annually. The group is responsible for the annual review of the council's information governance policies and procedures, prior to formal approval by the Audit [and Standards](#) Committee. All meetings have an agenda and are minuted by means of an

action plan which documented any agreed actions. The action plan(s) is/are submitted to the SIRO through CMT on a quarterly basis.

7.6 ICT Service Manager (ICTSM)

The ICTSM is responsible for ensuring that all council ICT systems are designed and maintained to meet the council's security, records management and data protection obligations, and to ensure that they are strategically and operationally fit for purpose. The ICTSM is responsible for updating the IGG regarding any issues concerning the security of the council's systems and the records within them.

8.0 General record creation and record keeping

8.1 Each service area must have in place adequate record keeping systems (paper or electronic) that document its activities and allow for quick and easy retrieval of information. It must also take into account any legal / regulatory requirements specific to the area of work. Systems should include:

- records arranged and indexed so they can be easily retrieved by any officer at any time;
- clear and documented procedures are in place for keeping the system updated;
- procedures and guidelines for referencing, indexing and version control;
- the ability to cross reference electronic and paper records; and
- documented procedural notes on how to use the system.

8.2 Details of these records should be documented in the individual services IAR which should be treated as a 'live' document, ensuring that when the data being held changes or moves, the IAR is updated to reflect this.

9.0 General record maintenance and security

9.1 Any record keeping system must be maintained so that the records are properly stored and protected and can easily be located and retrieved. This will include:

- ensuring that adequate storage accommodation is provided for records and they are kept clean and dry;
- monitoring the movement and location of records so that they can be easily retrieved and provide an audit trail;
- controlling access to the information, ensuring that all staff with access are aware of the arrangements for allowing access to certain types of information;
- identifying vital records and applying the appropriate protection and back-ups, which should be documented in individual business continuity plans; and

- ensuring non-current records, which are to be retained in accordance with individual IAR's are transferred in a controlled manner to a safe, secure archive facility, rather than being stored in offices.

10.0 Record retention and disposal

10.1 With increasing public access to our records, it is important that disposal of records happens as part of the managed process and is adequately documented.

10.2 HOS/Managers must have in place clearly defined arrangements for the selection of records for disposal, and for recording this work. The system should ensure that:

- records are reviewed and disposed of/transferred to an appropriate archive facility in accordance with the services individual IAR and any other published regulatory or statutory retention requirement;
- records subject to FOI/EIR and Subject Access Requests (SAR) are not destroyed. It should be noted that it is an offence to alter or destroy records with the intention of preventing disclosure;
- an intended disposal/review date must be captured when creating electronic records. Furthermore, care must be taken when procuring an electronic system to ensure the system has the necessary capabilities to allow for on-going retention processes; and
- documentation of the disposal/transfer of records is completed and retained.

11.0 Emails

11.1 Emails are stored in Microsoft's UK facility that incorporates multiple levels of redundancy. This allows users to delete emails to their recycle bin, which are then recoverable for 14 days. There is a second stage recovery area, which allows recovery of emails for a further 30 days by a system administrator.

11.2 Any emails permanently deleted by users are recoverable up to the point at which the council implemented their current backup solution (May 2021). The system is configured to back up a maximum of 7 years of data and will then continue to back up on a rolling basis, aging and deleting data beyond this retention period.

11.3 An email warning is issued to users if they are reaching capacity in their mailbox. Users are encouraged to regularly housekeep their mailboxes so that they do not reach capacity limit. Managing emails with attachments, creating a filing system and refraining from leaving items in their inbox, sent items or deleted folders are suggested methods for good housekeeping techniques.

12.0 Corporate CXM system

- 12.1 There are many different systems across the organisation supporting the council's activities. These are all, by definition, records management systems. In addition, the council is continuing to move forward with a corporate CXM system that either complements other council systems, serves to migrate unstructured data alongside these systems, or in some cases actually replaces these systems. The CXM administrator provides an annual declaration to the DPO to confirm they are satisfied that there are sufficient technical measures in place to protect the information held within the system.

13.0 Storing records offsite / hybrid working

- 13.1 All records that are taken and held offsite should be managed in accordance with this Policy, the council's Data Protection Policy, the DCS and individual service IAR.

14.0 Contract clauses

- 14.1 The council's Legal Services Team in conjunction with the appropriate HOS/Manager and DPO will strive to ensure that any contracts with third party data processors have appropriate data protection, UK GDPR and record management clauses regarding the agreed and approved methods of information handling and storage and, if relevant, set out how information will be transferred back to the council at the end of a contract.

15.0 Training and awareness

- 15.1 Since all council employees will at some point be involved in creating, maintaining and using records, it is vital that everyone understands their responsibilities in relation to data security and their record management responsibilities that are set out in this policy.
- 15.2 Managers need to ensure that staff responsible for processing and managing records are appropriately trained / experienced and that all staff understand the need for record management.
- 15.3 The council will run training courses to ensure that all staff are aware of their obligations regarding data protection, FOI, EIR, SAR and general records management. These courses are considered mandatory and HOS/Managers should allow and support their staff in attending and completing the necessary training and awareness sessions being provided.

16.0 Reviewing the policy

- 16.1 This policy will be maintained and reviewed annually by the IGG and CMT (which includes the SIRO) before being formally approved by the council's Audit [and Standards](#) Committee.

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SUBJECT ACCESS REQUEST PROCEDURE

DRAFT

Document Control Information

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Prepared by:	Information Governance Manager	Date:	March 2022
Approved by:	Information Governance Group	Date:	March 2022
Change Forecast:	Annually, when there is a change in legislation or within the organisation		

Change History

Version	Date	Summary of Changes
1.0	01 April 2022	Procedures fully documented and submitted to CMT for approval
	27 April 2022	Approved by CMT
	15 November 2023	Approved by Audit Committee
2.0		Approved by Audit and Standards Committee

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APPENDIX A: SUBJECT ACCESS REQUEST FORM

APPENDIX B: SUBJECT ACCESS REQUEST - PROCESS FLOW CHART

1. INTRODUCTION

- 1.1. Under the Data Protection Act (Act) 2018, an individual has the right to access personal information held about them by any organisation. This is known as the data subjects' right of access.
- 1.2. Wyre Council will ensure that individuals have access to their personal information, and are provided with a copy (where appropriate), within the required timescales legislated by the Act and the ICO.
- 1.3. To process a request, the data subject (or approved representatives) will normally need to send acceptable photo identification (e.g. copy of a Photo Driving Licence or Passport), proof of address (e.g. Bank Statement, Council Tax Bill, or Utility Bill) and any other supporting information required in relation to their request. The council are not able to charge a fee, in most cases. However legislation allows in certain circumstances to charge a fee if a request is deemed excessive or for duplicate request(s). If a fee is to be charged, the requester will be informed at the earliest opportunity and their permission will be sought to continue with the request given the fee required.

2. PURPOSE

- 2.1 To provide people receiving a service and/or their representatives with access to their personal records, in accordance with the Act.
- 2.2 To ensure council staff have a consistent approach when dealing with requests for personal information.

3. SCOPE

- 3.1 This procedure outlines how Wyre Council and its staff will provide access to personal records, compliant with the Act.
- 3.2 This procedure applies to living individuals and/or their representatives, wishing to access personal records. Access to records of individuals who are deceased will be dealt initially under the Freedom of Information Act 2000. Depending on the information or record being requested, if the record contains personal information this should be dealt with in the same way as those of individuals who are living. Access to a deceased person's data can be via the Access to Health Records Act (1990) or personal representative (executor or administrator of deceased person's estate or someone who has a claim resulting from the death. However, information can remain confidential even after death.
- 3.3 This procedure applies to all information, regardless of when it was created, in line with the retention periods documented within the council's Information Asset Registers.

4. LEGAL CONTEXT

- 4.1 The following legislation applies to this protocol:-

- The Data Protection Act 2018
- The Freedom of Information Act 2000
- Human Rights Act 2004
- Mental Capacity Act 2005

- 4.2 Related council documents:-

- Subject Access Request Form (Appendix A)
- Subject Access Request Online Form
- Subject Access Request (SAR) - Process flow chart (Appendix B)

5. RIGHTS OF ACCESS

- 5.1 Under the terms of the Act, every living individual has the right of access to personal information held about them unless an exemption applies. This applies to open and closed files. There are two notions of assistance whether information is personal data: whether it is significantly biographical, and whether it has the data subject as its focus, rather than some other transaction or event in which the data subject may have figured.
- 5.2 Whilst the council's preferred method for receiving an SAR is via the council's on-line form (see Appendix A), applications do not have to be in writing and can be received in different ways, such as email or verbally. Standard forms can make it easier for the council to recognise a subject access request and make it easier for the individual to include all the details that might be required to locate the information they are requesting. The form can be located using the following link <https://www.wyre.gov.uk/site-search/results/?q=subject+access>. Any member of staff could receive a request for access to records under the Act and employees can advise individuals how they can access their information by directing them to the on-line form. However employees **must not** make any attempt to respond to a subject access request and all requests should be forwarded to the Council's Information Governance Manager (IGM); Joanne Porter.
- 5.3 In the majority of cases, the council can no longer charge a fee for the processing of a data request. However, there are certain circumstances in which a fee can be charged. For example, if a request is deemed excessive or if a number of duplicate requests have already been received. This should be assessed by the individual service or team once a search for the relevant information or records has been completed, and if we hold what is required. If a fee is to be charged, the requester will be notified immediately. No information or records will be released until the fee has been received.
- 5.4 In most cases, the data subject will be required to provide a copy of photo identification and proof of current address which will need to be provided with their SAR application. However, if the requester is known to the council, ID may not always be required. In some instances, the requester may be asked a question that only they will know the answer to in order to validate their identity. The decision on what ID is deemed appropriate is made by the IGM. Any requests for information or records made by a current council employee will not require them to provide the relevant ID. However the requests must all still be logged and processed in the usual way.
- 5.5 If a request for a council member of staff's employee records is received, then this should be forwarded to the IMG and processed in the usual way.
- 5.6 A representative (e.g. a parent, carer, solicitor or advocate) can apply for access to records on behalf of the data subject. The representative must provide consent from the data subject (if applicable). They may also need to provide a copy of their photo identification, proof of current address and further evidence of their right to access the records.
- 5.7 The month timescale will begin the day after receipt of a request and only when all the necessary ID checks have been made. Where a disproportionate effort would be needed to provide a copy of the records required, the requestor may be asked to provide further details to identify the specific information being requested. In both of these circumstances the month timescale will be suspended until this has been provided by them.
- 5.8 Under data protection legislation, there are certain circumstances where the one month timescale can be extended for up to a further two months. An extension may be applied if the

request is complex or we have received a number of requests from the individual. The requester will be notified within the first month if an extension is to be applied and the reasons why. If a Service feels they may wish to exercise this extension they must inform the IGM as soon as possible and must not wait until the first timescale has expired. In the limited situation where a fee can be charged for processing a request for right of access, a suspension will only be lifted once the payment has been provided by the applicant.

- 5.9 Where it is thought that a disproportionate effort is needed to provide a copy of the records required, the requestor may be asked to provide further details to identify the specific information being requested. On occasion, it may be necessary to allow access to a record (if possible) without providing a permanent copy of the record. This may not be possible where third party information is present.
- 5.10 Where the record contains information about another individual, consent to release the information may be required from that individual (known as the third party). However, in most cases this will just be redacted.
- 5.11 Where a record contains information supplied by another organisation, the decision to release this data lies with each individual organisation. If the decision is not to release, then the requestor will be directed to apply to the relevant organisation to gain access to the required information.
- 5.12 On receipt of the information, the data subject has the right to have any inaccuracies or in-factual information corrected, or to have comments or views added to the record. If the council refuses to act on this request, the individual may apply to the council to appeal this decision in the first instance. If they are still unhappy with the decision they may appeal to the Information Commissioner's Office (www.ico.gov.uk).

6. INFORMATION GOVERNANCE MANAGER'S (IGM) ROLE AND RESPONSIBILITIES

- 6.1 Applications to access information will be completed within the month timescale. The IGM is responsible for providing reminders to Heads of Service in respect of approaching deadlines. Performance indicators (numbers received to numbers outstanding and past deadlines) are reported to the Corporate Management Team on a quarterly basis.
- 6.2 Where there are large volumes of records, the IGM will liaise on a regular basis with the requestor to discuss any timescales and methods of delivery (electronic, hard copies or both). If the requester has not specified their preferred method, the requested data will be sent via encrypted email.
- 6.3 The IGM is responsible for identifying the appropriate service / manager who will coordinate the task of locating all of the appropriate records to obtain these for processing. This is normally the Head of Service or Service Manager.
- 6.4 The IGM will maintain a detailed log of all requests for information. This will include details of date received, details of any action taken, discussions which have taken place with the requester or the relevant service, and decisions which have been made regarding the processing of the request along with information in respect of compliance to the processing timescales.
- 6.5 Documentation relating to the applications will be retained in compliance with the relevant retention schedules. This will include the SAR logs, all correspondence and an archive copy of the information provided to the applicant.

7. REQUESTS MADE BY AN AGENT

- 7.1 Where a person with the capacity to make his/her own decisions has appointed an agent, such as a solicitor, the agent can make the request to access personal records. The request must be treated as if it had been made by the data subject.
- 7.2 The following information must accompany the request:
- A letter on company headed paper, which states the agent is acting on behalf of the data subject.
 - Written consent for the agent to access information on the data subject's behalf. This must be signed by the data subject with the date of signature being within the last 3 months.
- 7.3 Each request will be considered in its own rights with the best interests of the data subject being considered in every instance (see section 11).

8. REQUESTS FROM OTHER ORGANISATIONS INCLUDING CHILDREN

- 8.1 All such requests to disclose or share information must be referred to the IGM. Information may be required in connection with safeguarding vulnerable individuals or the prevention and detection of crime and each request will be carefully considered before any information is disclosed. Only SAR's received from children 12+ will be considered. However in each instance, the IGM will carry out an assessment on the maturity and ability of the child to make a valid request.

9. INFORMATION PROVIDED BY OTHER ORGANISATIONS

- 9.1 There may be information within the documentation we hold about individuals that is being requested, that has been supplied by other organisations. If this is the case, it is the Head of Service / Service Manager's responsibility to seek authorisation from this organisation prior to it being provided to the IGM for release to the applicant.

10. REQUESTS FROM THE COURTS

- 10.1 All requests received from the Courts, by means of a sealed court order, must be complied with. Information must be supplied within the specified timescale and where no timescale is specified the request should be responded to promptly and within the one month timescale.

11. REQUESTS FROM THE POLICE

- 11.1 All general requests for personal information received from the Police, should be sent to the IGM who will coordinate the response to such requests.

12. REQUESTS FROM CONSUMER PORTAL SITES

- 12.1 All requests received from consumer portal sites e.g. **Rightly.co.uk** should be referred to the IGM. The council is not expected to register or pay to access a request for information. If a response is received in this format the IGM will make contact with the requester to ask them to supply the information in another format. If no response is received within 14 days of the original request, the request will be cancelled.

13. REDACTION

- 13.1 The removal of certain information (e.g. third party references) may be required from the data subject's information or records. Further support on redaction can be provided by the IGM.

14. FURTHER INFORMATION AND CONTACT DETAILS

- 14.1 If you have any questions in relation to this procedure, please contact the council's Information Governance Manager or email the council's dedicated information governance email address. InformationGovernance@wyre.gov.uk

Wyre Council
Information Governance
Civic Centre, Breck Road
Poulton-le-Fylde. FY6 7PU



Tel: (01253) 891000
 Email: informationgovernance@wyre.gov.uk

SUBJECT ACCESS REQUEST FORM
Data Protection Act 2018

Case Ref	(Office use only)
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This form is to be used when an individual (The Data Subject) wishes to access personal data held by Wyre Council. There is currently no fee payable for this service. Please send the completed form and appropriate identification to the address at the end of the form (section 9).

1	<p>Applicant (to be completed in all cases)</p> <p>Please select one of the following:</p> <p>I am the Data Subject. I am requesting access to my personal information. <input type="checkbox"/></p> <p>I am not the Data Subject. I am requesting information on behalf of the data subject. <input type="checkbox"/></p>
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2	<p>The Data Subject (to be completed in all cases)</p> <p>Surname: _____ Forename (s): _____</p> <p>Title: Mr, Mrs, Ms or Other (please specify): _____ Date of Birth: _____</p> <p>Previous name (s): _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p> <p>Previous Address: _____</p> <p>_____</p> <p>_____</p> <p>Telephone number: _____ Email address: _____</p> <p>_____</p> <p>_____</p> <p>Please use below to provide details of any specific information you require, together with any relevant dates:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
----------	--

Representatives Information (to be completed if you are applying as the data subjects representative)

Surname:

Forename (s):

Title: Mr, Mrs, Ms or Other (please specify):

Date of Birth:

Previous name (s):

Address:

Telephone number:

Email address:

Please use below to state your relationship to the Data Subject:

Please use below to explain your entitlement to receive the Data Subject's personal data (for example, Data Subject's signed authority, Lasting Power of Attorney or Parental Responsibility):

What authorisation have you enclosed?

4

Identification

You must provide two forms of identification to confirm the identity of the Data Subject, one which confirms their identity and one which confirms their current address. Please send one document from each list below. **Please do not send original documents**, good quality photocopies are acceptable.

Note: if you are a representative applying on behalf of the Data Subject, you must also provide two forms of identification which confirm your identity and current address.

Acceptable proof of identify:

- Current Passport
- Birth certificate
- Unexpired photo card driving licence (full or provisional)

Acceptable proof of current address:

- Utility bill dated within the last 3 months
- Council Tax bill for current year
- Unexpired old style paper driving licence
- Bank statement dated within the last 3 months
- Benefits Agency/State Pension correspondence (on letter header paper) dated within the last 3 months

5

Format (to be completed in all cases)

Your file(s) will be sent to you via encrypted email unless you tell us otherwise.

If you do not have access to a computer or would prefer to receive a paper copy.

Please provide an email address for sending encrypted emails:

When the encrypted email is sent it will be followed by a further email containing the password to open the file(s).

Should you experience problems opening the file(s) and in order to assist you please provide an answer to the following security questions. These will be asked when assistance is provided.

What is your mother's maiden name?

Which primary school did you attend?

What is your favourite colour?

6

Data Subject's declaration

Please select one of the following statements:

I confirm I am the Data Subject. I wish to receive a copy of my personal records.

I confirm I am the Data Subject. I have read and understood section 3 (*Representatives Information*) of this form, and I give my consent for my representative to receive a copy of my personal records on my behalf.

Signed:

Date:

7 **WARNING – it is a criminal offence to obtain another person’s information by deception**

I confirm I am the appointed representative of the Data Subject. I wish to receive a copy of the Data Subjects personal records.

I confirm I am the Data Subject. I wish to receive a copy of my personal records.

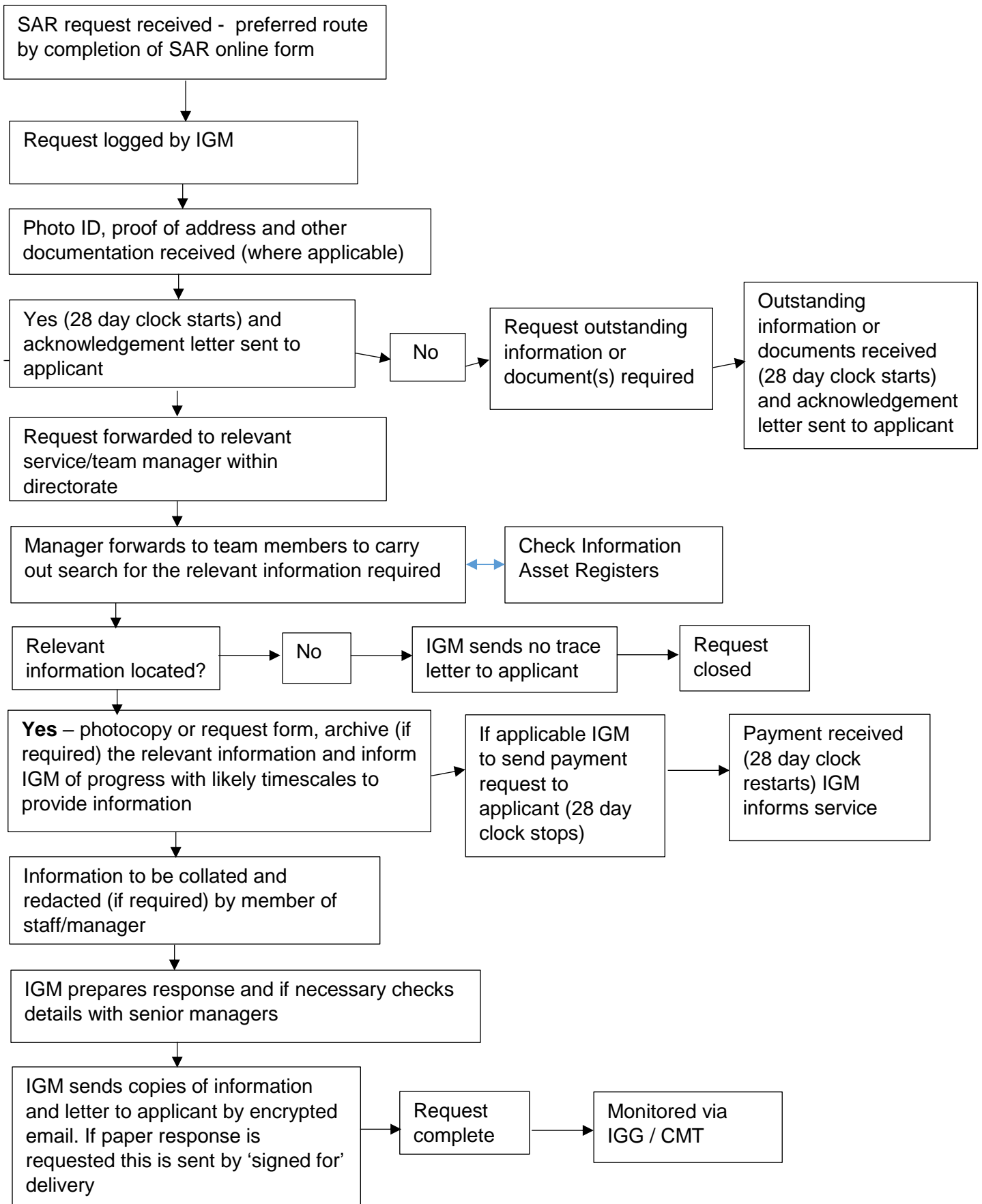
Signed:

Date:

8 **Please send the completed form and appropriate identification and authorisation (if applicable) to the address below:**

Wyre Council
Information Governance Manager
Civic Centre
Breck Road
Poulton-le-Fylde
FY6 7PU

If you have any queries regarding this form please contact the Information Governance Manager on 01253 887503.



Key
 IGM – Information Governance Manager
 IGG – Information Governance Group
 CMT – Corporate Management Team

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