



County Offices  
Newland  
Lincoln  
LN1 1YL

8 November 2019

**Audit Committee**

A meeting of the Audit Committee will be held on **Monday, 18 November 2019** in **Committee Room One, County Offices, Newland, Lincoln LN1 1YL** at **10.00 am** for the transaction of business set out on the attached Agenda.

Yours sincerely

A handwritten signature in cursive script that reads 'Debbie Barnes'.

Debbie Barnes OBE  
Head of Paid Service

**Membership of the Audit Committee**

**(7 Members of the Council and 2 Non-Voting Added Members)**

Councillors Mrs S Rawlins (Chairman), A J Spencer (Vice-Chairman), P E Coupland, A P Maughan, R B Parker, P A Skinner and A N Stokes

**Non-Voting Added Members**

Mr I Haldenby, Independent Added Member  
Mr A Middleton, Independent Added Member



**AUDIT COMMITTEE AGENDA  
MONDAY, 18 NOVEMBER 2019**

Item	Title	Pages	Estimated Time
1	<b>Apologies for Absence</b>		
2	<b>Declarations of Members' Interests</b>		
3	<b>Minutes of the meeting held on 23 September 2019</b>	5 - 12	
4	<b>Code of Conduct Working Group Report</b> <i>(To receive a report by David Coleman (Chief Legal Officer), which outlines the recommendations of the Code of Conduct Working Group)</i>	13 - 86	10.10 am
5	<b>Review of Audit Committee Terms of Reference and Internal Audit Charter</b> <i>(To receive a report by Lucy Pledge (Head of Internal Audit and Risk Management), which invites the Committee to consider and recommend the revised Terms of Reference for submission to the meeting of County Council for approval)</i>	87 - 104	10.40 am
6	<b>Counter Fraud Progress Report to 30 September 2019</b> <i>(To receive a report by Matt Drury (Principal Investigator), which provides an update on our fraud investigation activities and information on progress made against our Counter Fraud Work Plan 2019/2020)</i>	105 - 122	10.55 am
7	<b>Whistleblowing Annual Report 2018-19</b> <i>(To receive a report from Matt Drury (Principal Investigator), which provides an overview of the Council's whistleblowing arrangements throughout the year 2018/19)</i>	123 - 130	11.10 am
8	<b>Financial Regulations Update</b> <i>(To receive a report by Dave Simpson (Technical and Development Finance Manager), which provides the Committee with information on feedback and comments received during consultation and the ensuing changes made to the Council's draft Financial Regulations)</i>	131 - 184	11.25 am
9	<b>Developments in Audit and Governance</b> <i>(To receive a report by Lucy Pledge (Head of Internal Audit and Risk Management) and Michelle Grady (Assistant Director – Strategic Finance), which informs the Committee about current and planned developments in audit (mostly External Audit) and governance that relate to the Committee's role and remit)</i>	185 - 192	11.40 am

- |           |  |               |          |
|-----------|--|---------------|----------|
| <b>10</b> | <b>Internal Audit Progress Report</b><br><i>(To receive a report by Rachel Abbott (Team Leader - Audit), which provides details of the audit work completed 1 September to 28 October 2019; advises on progress of the 2019/20 plan; and raises any other matters that may be relevant to the Audit Committee role)</i>  | 193 - 216     | 11.55 am |
| <b>11</b> | <b>Financial Assessments and the Strategic Risk - Market Supply</b><br><i>(To receive a verbal update from Glen Garrod (Executive Director – Adult Care and Community Wellbeing) on Financial Assessments and the Strategic Risk - Market Supply, further to Minutes 21 and 22 of the last meeting of the Committee (Agenda Item 3 of this agenda refers))</i> | Verbal Report | 12.30 pm |
| <b>12</b> | <b>Forward Plan</b><br><i>(To receive a report by Lucy Pledge (Head of Internal Audit and Risk Management), which invites the Committee to consider its forward plan for the coming months)</i>  | 217 - 224     | 12.55 pm |

**Democratic Services Officer Contact Details**

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**Please Note:** for more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting

- Business of the meeting
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## **AUDIT COMMITTEE 23 SEPTEMBER 2019**

### **PRESENT: COUNCILLOR MRS S RAWLINS (CHAIRMAN)**

Councillors A J Spencer (Vice-Chairman), P E Coupland, A P Maughan, R B Parker, P A Skinner and A N Stokes.

Also in attendance: Mr I Haldenby (Independent Added Member) and Mr A Middleton (Independent Added Member).

Officers in attendance:-

Debbie Bowring (Principal Risk Officer), Andrew Crookham (Executive Director Resources), Matt Drury (Principal Investigator), Cheryl Evans (Democratic Services Officer), Michelle Grady (Assistant Director for Strategic Finance), Mike Norman (External Auditor, Mazars), Lucy Pledge (Head of Internal Audit and Risk Management) and Vicki Sharpe (HR Services Manager).

### 18 APOLOGIES FOR ABSENCE

There were no apologies for absence.

### 19 DECLARATIONS OF MEMBERS' INTERESTS

There were no declarations.

### 20 MINUTES OF THE MEETING HELD ON 22 JULY 2019

RESOLVED

That the minutes of the meeting held on 22 July 2019 be agreed as a correct record and signed by the Chairman.

### 21 INTERNAL AUDIT PROGRESS REPORT

Consideration was given to a report by Lucy Pledge (Head of Internal Audit and Risk Management), which provided details of the audit work completed to August 2019; advised on progress of the 2019/20 plan; and raised any other relevant matters.

During the period from June to August 2019, eight audits had been completed and a further three were at draft report stage. There were currently 14 audits in progress, either at scoping or fieldwork stage. Pages 13 to 17 of the Agenda Pack provided information on the eight completed audits, of which seven had received substantial assurance and one limited assurance. It was advised that the Committee would receive a further update at its meeting on 18 November 2019.

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Vicki Sharpe (HR Services Manager) was in attendance to explain to the Committee why *limited assurance* had been given to IR35 and to explain the measures which had been put in place to address the issues, which were outlined in the report.

The Committee was advised that work had been completed to identify why, when and how much had previously been spent on consultants; officers were liaising with the Finance Team with an aim of implementing improved budget coding; improvements had been made to approval processes and quarterly reporting. All of the above improvements would be implemented by March 2020.

Members were provided with an opportunity to ask questions relating to the IR35 audit, where the following points were noted: -

- IR35 had originally come into effect in April 2000 designed to tackle tax avoidance from 'disguised employment' – off-payroll working when an individual works for a client through their own intermediary, often a personal service company, as opposed to an employee providing services directly for the client. When the legislation was reformed in 2017, the public sector had the responsibility to assess and deduct at source the Income Tax and National Insurance contributions that would apply as if the individual working through the intermediary were directly employed by the Council.
- It was confirmed that when the reformed legislation was implemented, a programme board consisting of finance, Serco and human resources colleagues had produced guidance notes on IR35, which detailed steps managers must follow when using a consultant. Although training had not been provided in 2017, managers were issued with guidance and could access their human resources advisor for additional guidance and support.
- There was a clear need for visibility so that the use of consultants could be monitored effectively. Improvements to the budget coding would ensure this visibility and provide more accurate quarterly reporting.
- It was advised that the HR Team had requested an audit on IR35, as they could see improvements were required particularly around visibility and to the approval process. The Committee congratulated the HR Team for proactively highlighting this as an area for an audit.
- The Committee recognised that there were already processes in place for IR35; however these were inconsistently applied and there was a need for a more centralised approach.
- It was advised that officers were working alongside the procurement team to ensure the procurement of consultants was not progressed until the necessary steps had been followed.
- It was suggested that the County Council give consideration whether it should adopt a policy similar to the NHS, where IR35 was applied to all consultants, who were thus paid with deductions as if they were employees.

It was advised that *Adult Care – Financial Assessments* had been provided substantial assurance. It was queried how this could be the case when there continued to be a backlog in financial assessments. It was explained that the scope

of the audit was limited to the improvement plan. The question was raised on the impact the backlog would have on market supply strategic risk, Minute 22 refers.

It was queried what preparations the County Council was making on the domestic reverse charge, which would introduce a major change to the way VAT was collected in the building and construction industry. The domestic reverse charge was scheduled to come into effect from 1 October 2020. It was advised that this query would be directed to the VAT specialist within the Finance Team.

#### RESOLVED

That the outcomes of Internal Audit's work be noted.

#### 22 RISK MANAGEMENT PROGRESS REPORT - SEPTEMBER 2019

Consideration was given to a report by Debbie Bowring (Principal Risk Officer), which invited the Committee to note the current status of the strategic risks facing the Council and make recommendations on any further scrutiny required.

The Committee was advised that in accordance with the risk management strategy and to ensure effective monitoring, all the strategic risks had been reviewed with risk owners and assurances had been obtained that the strategic risks were being managed effectively. All directorates had reviewed and reported on the operational risks they were facing.

The Risk Management Progress Report was detailed at Appendix A to the report, which provided updates on key messages received since the last update to the Committee in January 2019.

It was advised that the current Strategic Risk Register contained ten risks, and a summary of those risks had been detailed on page 43 of the Agenda Pack by way of a chart. The chart detailed the likelihood and impact of the risk occurring and also its target score, which were coloured in blue. The direction of travel was shown by way of an arrow.

In response to a question, it was advised that the direction of travel for each risk was also detailed on the full Strategic Risk Register, which was detailed on pages 51 – 54. It was requested that the narrative included information on the past, present and the target for each risk.

During discussion, the following reports were noted:

- The Committee welcomed the new format of the report.
- The Risk on *Market Supply – Adult Care* was highlighted as an area of concern by the Committee, as there was a perception that EU nationals were returning to their countries of origin, which would impact on services provided by Adult Care. In response, it was advised that the level of assurance over this risk had remained at limited, as there was uncertainty around the outcome of Brexit, which could have a further effect on this risk. The impact of the

**AUDIT COMMITTEE  
23 SEPTEMBER 2019**

backlog in financial assessments on this risk was also raised. It was suggested that the Executive Director – Adult Care and Community Wellbeing, as risk owner, be invited to the meeting of the Committee on 18 November 2019 to help clarify the management of the risk and impact of the financial assessment backlog.

- It was requested that the section on Brexit, as detailed on page 42 of the Agenda Pack, be expanded to include more information on the work that was being undertaken. For example, the Council's involvement in the Resilience Forum.

The Committee was assured that the Council's strategic risks continued to be managed pro-actively. There was a good level of awareness of the current and emerging risks, with positive action being taken where appropriate.

**RESOLVED**

- (1) That the current status of the strategic risks facing the Council be noted.
- (2) That the Executive Director – Adult Care and Community Wellbeing, as risk owner, be invited to a future meeting of the Committee to provide assurance on *Market Supply – Adult Care*.

**23 AUDIT COMMITTEE ANNUAL REPORT AUGUST 2019**

A report by Lucy Pledge (Head of Internal Audit and Risk Management) was considered, which presented the draft Audit Committee Annual Report 2019.

It was highlighted that the draft Annual Report of the Audit Committee was scheduled to be presented to the meeting of the County Council on 13 December 2019.

The purpose of the annual report was to help inform the Council of the Audit Committee's activities during the year (September 2018 to July 2019) and how it discharged its responsibilities.

During consideration of the draft annual report, the following points were noted:

- Under the section on Counter Fraud on page 62 of the Agenda Pack, reference be made to Councillor A P Maughan's role and liaison activity in support of the Counter Fraud Team.
- That mention be made to the joint activities undertaken between the Audit Committee and the Overview and Scrutiny Management Board. It was also requested that informal meetings be arranged between the Chairman of the Committee and the Chairman of the Board.

**RESOLVED**

That the Audit Committee Annual Report 2019 be approved, subject to the necessary amendments being made, and presented to the meeting of County Council on 13 December 2019.

24     FINANCIAL REGULATIONS UPDATE

Consideration was given to a report from Lucy Pledge (Head of Internal Audit and Risk Management), which provided information on the update of the Council's Financial Regulations and associated documents.

It was highlighted that the updated draft financial regulations were detailed at Appendix 1 to the report. Support was given to the proposed timetable for the amendments, as detailed below:

- Obtain initial engagement and feedback from the Audit Committee on 23 September 2019.
- Circulate to Directors for feedback / comments by 11 October 2019.
- Seek sign off by Corporate Leadership Team on 23 October 2019.
- Present to Audit Committee on 18 November 2019 to seek approval to recommend the Financial Regulations to Council.
- Approval by the meeting of Council on 13 December 2019.

During discussion, the following points were noted:

- Officers would liaise with the Council's Communications Team with an aim of reviewing the financial regulations so they reflected as much as possible the style of plain English.
- It was emphasised that the proposed changes aimed to ensure that the financial regulations and associated documents were kept up-to-date, rather than changes to any controls.
- Page 102 – Trading Accounts / Business Units / Local Authority Companies – it was suggested that political oversight should be incorporated and also reference to the Companies Act 2006.
- It was requested that for the meeting on 18 November 2019 the amendments to the documents be highlighted via tracked changes.
- Page 100 – Financial Regulation F: Income and Expenditure – it was agreed that the limits detailed under F.2 be queried with the Chief Legal Officer, particularly whether there was an upper limit for Executive Councillor sign-off.
- It was explained that the documents used the statutory roles for chief officers, for example the Head of Paid Service and the Section 151 Officer. Officers would ensure that this was consistent throughout the documents.

**RESOLVED**

- (1) That the approach to the update of the Financial Regulations and associated procedures and scheme of authorisations be approved.
- (2) That the initial comments of the Committee, as detailed above, be noted.

**AUDIT COMMITTEE  
23 SEPTEMBER 2019****25 ANNUAL AUDIT LETTERS FOR LINCOLNSHIRE COUNTY COUNCIL & LINCOLNSHIRE PENSION FUND FOR THE YEAR ENDING 31 MARCH 2019**

Consideration was given to a report which presented the Annual Audit Letters from the Council's external auditors, Mazars, for Lincolnshire County Council and the Lincolnshire Pension Fund for the financial year 2018/19.

It was advised that the audit of the accounts was now fully complete and the auditors had provided their Annual Audit Letters, which summarised the work carried out and the conclusions they had reached. The Annual Audit Letter for Lincolnshire County Council and the letter for the Lincolnshire Pension Fund were attached at appendices A and B.

**RESOLVED**

- (1) That the Annual Audit Letter for Lincolnshire County Council, as detailed at Appendix A, be noted.
- (2) That the Annual Audit Letter for Lincolnshire Pension Fund, as detailed at Appendix B, be noted.

**26 FORWARD PLAN**

A report by Lucy Pledge (*Head of Internal Audit and Risk Management*) was considered, which provided the Committee with information on the core assurance activities currently scheduled for 2019/20 forward plan.

Members of the Committee were encouraged to attend the meeting of the Lincolnshire Audit Committee Forum scheduled for 1 October 2019.

Further to this, it was advised that the Chief Officer – Lincolnshire Clinical Commissioning Groups and the Executive Director – Adult Care and Community Wellbeing (Lincolnshire County Council) would be invited to the next meeting of the Lincolnshire Audit Committee Forum; the date was yet to be confirmed, to discuss the report by Price Waterhouse Coopers on the Better Care Fund.

It was suggested that the item on the *Review of Audit Committee's Terms of Reference and Update of the Audit Charter* scheduled for 18 November 2019 be moved to the meeting on 10 February 2019.

It was also suggested that the Executive Director – Adult Care and Community Wellbeing be invited to attend the meeting of the Committee on 18 November 2019 to provide assurance on *Market Supply – Adult Care*.

RESOLVED

- (1) That the forward plan be approved, subject to the above amendments.
- (2) That the Executive Director – Adult Care and Community Wellbeing, as risk owner, be invited to a future meeting of the Committee to provide assurance on *Market Supply – Adult Care*.

27 CONSIDERATION OF EXEMPT INFORMATION

RESOLVED

That in accordance with section 100(A) (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the consideration of the following item of business on the grounds that if they were present there could be a disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

28 FRAUD RISK REGISTER

Consideration was given to an exempt report which provided information on the annual update of Lincolnshire County Council's Fraud Risk Register.

A number of questions from members were responded to by officers.

RESOLVED

That the recommendation, as detailed in the exempt report, be approved.

The meeting closed at 11.54 am.

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**Open Report on behalf of Andrew Crookham, Executive Director -  
Resources**

Report to:	<b>Audit Committee</b>
Date:	<b>18 November 2019</b>
Subject:	<b>Code of Conduct Working Group Report</b>

**Summary:**

This Report presents the results of the deliberations of the Code of Conduct Working Group established by the Audit Committee at its meeting on 25 March 2019 which recommends to the Committee that it in turn recommends to the full Council a number of amendments to Part 5 of the Council's Constitution including the Member Code of Conduct and the Local Arrangements for dealing with standards complaints.

**Recommendation(s):**

That the Committee

- 1) Notes the Report from the Code of Conduct Working Group attached at Appendix A ("the Working Group Report")
- 2) Recommends to the County Council that it approve the following changes to the Council's Constitution
  - The amendments to the Code of Conduct shown in red in Appendix B to the Working Group Report
  - The inclusion in Part 5 of the Constitution of the Protocol on Gifts and Hospitality attached at Appendix C to the Working Group Report
  - The replacement of the Local Arrangements set out in the Constitution with the Local Arrangements attached at Appendix E to the Working Group Report
  - The amendments to the Protocol on Officer/Member Relationships shown in red in Appendix F to the Working Group Report
  - The amendments to the Protocol on Councillor Involvement in Commercial Transactions shown in red in Appendix G to the Working Group Report
  - The amendments to the Planning Development Control Process Document shown in red in Appendix H to the Working Group Report

## **Background**

- 1 At its meeting on 25 March 2019 the Audit Committee approved the establishment of a Working Group of Members to consider the Committee on Standards in Public Life Report on Ethical Standards in Local Government.
- 2 The Working Group consisted of Cllr T Ashton, Cllr J Brockway, Cllr I Fleetwood, Cllr A Newton, Cllr R Parker Cllr P Skinner and Cllr B Young. Cllr Young was elected as the Chairman of the Group at its first meeting. As a result of substitution contributions were also made to the work of the Group by Councillor C Brewis.
- 3 The terms of reference of the Working Group were set by the Audit Committee as follows – to:-
  - 1) Consider the Committee on Standards in Public Life report on Local Government Ethical Standards.
  - 2) Consider whether changes to the Code and Local Arrangements should be made as a result of the Report or otherwise.
  - 3) Consider whether any changes should be made to any other elements of Part 5 of the Constitution which relate to standards.
- 4 The Working Group resolved to operate informally. It received reports from the Monitoring Officer to place the issues in context and prompt discussion and sought to reach consensus on the issues before it. It determined its own workplan with the assistance of the Monitoring Officer. That work plan considered the following issues in the following order
  - Code of Conduct
  - Interests, Gifts and Hospitality
  - Local Arrangements
  - Part 5 of the Constitution
- 5 The results of the Working Group's deliberations are set out in the Report at Appendix A which sets out the Working Group's response to various recommendations of the Committee on Standards in Public Life and sets out its own recommendations for amendments to various documents forming part of Part 5 of the Council's Constitution including the Member Code of Conduct and the Local Arrangements for dealing with Standards Complaints

## **Conclusion**

- 6 The Committee is invited to consider the Report of the Code of Conduct Working Group and the recommended amendments to the Council's Constitution.

## Consultation

### a) Have Risks and Impact Analysis been carried out?

Yes

### b) Risks and Impact Analysis

See the body of the Report and Appendix

## Appendices

These are listed below and attached at the back of the report	
Appendix 1	Report of the Code of Conduct Working Group

## Background Papers

Document title	Where the document can be viewed
Audit Committee Report dated 25 March 2019 entitled Member Standards Arrangements	Democratic Services

This report was written by David Coleman, Chief Legal Officer and Monitoring Officer, who can be contacted on 01522 552134 or [David.Coleman@lincolnshire.gov.uk](mailto:David.Coleman@lincolnshire.gov.uk).

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## **CODE OF CONDUCT WORKING GROUP**

### **REPORT TO AUDIT COMMITTEE**

#### **Background**

- 1 At its meeting on 25 March 2019 the Audit Committee approved the establishment of a Working Group of Members to consider the Committee on Standards in Public Life Report on Ethical Standards in Local Government.
- 2 The Working Group consisted of Cllr T Ashton, Cllr J Brockway, Cllr I Fleetwood, Cllr A Newton, Cllr R Parker Cllr P Skinner and Cllr B Young. Cllr Young was elected as the Chairman of the Group at its first meeting. As a result of substitution contributions were also made to the work of the Group by Councillor C Brewis.
- 3 The terms of reference of the Working Group were set by the Audit Committee as follows – to:-
  - 1) Consider the Committee on Standards in Public Life report on Local Government Ethical Standards.
  - 2) Consider whether changes to the Code and Local Arrangements should be made as a result of the Report or otherwise.
  - 3) Consider whether any changes should be made to any other elements of Part 5 of the Constitution which relate to standards.
- 4 The Working Group resolved to operate informally. It received reports from the Monitoring Officer to place the issues in context and prompt discussion and sought to reach consensus on the issues before it. It determined its own work plan with the assistance of the Monitoring Officer. That work plan considered the following issues in the following order
  - Code of Conduct
  - Interests, Gifts and Hospitality
  - Local Arrangements
  - Part 5 of the Constitution

These headings are also used to structure this Report.

#### **National and Lincolnshire County Council Context**

- 5 The Council is under an obligation under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority. It must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. That Code must be consistent with the Seven Principles of Public Life ("the Nolan Principles") of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

- 6 Members are required by section 30 of the 2011 Act to register a defined list of statutory disclosable interests with the Monitoring Officer and required by section 31 of the Act not to participate in any discussion or vote in respect of any matter in which he or she has a disclosable pecuniary interest.
- 7 A number of criminal offences are created by section 34 of the Act including where a member fails to disclose a disclosable pecuniary interest or participates in a discussion or vote on a matter in which he or she has a disclosable pecuniary interest.
- 8 This list of disclosable pecuniary interests does not prevent a Council from including other interests within its Code.
- 9 The most immediate national context for reviewing the Code of Conduct is the publication in January 2019 of the CSPL Report. That report considered the state of standards in local government. The CSPL recognised that the vast majority of councillors and officers maintain high standards of conduct but made a number of recommendations and best practice for both the government and local authorities to consider.
- 10 The headline issues from the CSPL Report can be summarised as follows:-
- Standards should remain a local matter
  - A model code should be produced to facilitate consistency
  - The registration of interests provisions should be strengthened but decriminalised
  - Gifts and hospitality provisions should be strengthened
  - Codes of Conduct should not simply adopt the Nolan Principles which are standards and not a code
  - Sanctions should be clarified and strengthened to include a new power to suspend
  - The role of the Independent Person should be strengthened and formalised
- 11 More locally the Working Group heard from the Monitoring Officer that in his first year in office September 2018 to September 2019 he had dealt with 9 complaints of breach of the Code of Conduct. None of these had been made by one County Councillor against another County Councillor. 6 were from members of the public, 1 was from an external councillor and two from individuals representing other bodies. 7 of these were made under the heading of Respect. Two of the complaints were deemed not to relate to activity in the capacity of County Councillor. Of the remaining complaints 4 were judged not to engage the Code of Conduct. Two of the complaints engaged the Code of Conduct but did not call for an investigation because the behaviour complained of did not have a significant impact on the reputation of the Council. One complaint was returned for additional detail to be provided.
- 12 This was similar to the previous period from August 2017 to August 2018 when 8 complaints were received. Again none of these were by one County Councillor against another. 5 were from members of the public and two from

external Councillors. One did not relate to the member's capacity as a County Councillor, 4 were not considered to engage the Code of Conduct and 2 were not considered to give rise to a serious risk to the reputation of the Council. None went to a hearing.

- 13 This low level of activity is consistent with the findings of an Ethical Governance Audit reported to the Audit Committee also on 25 March 2019. It suggested to the Working Group that there were no grounds for immediate concerns in relation to the behaviours of Councillors or the Code but it was important to have regard to the work of the CSPL and to look to future-proof the Code of Conduct and Local Arrangements to ensure they reflect good practice should that position change.
- 14 The Working Group's approach was structured against the Recommendations and Best Practice Recommendations of the CSPL insofar as they impacted on each of the four work streams and insofar as they were in the power of the Council to implement. Appendix A sets out each of these Recommendations and Best Practice Recommendations for each work stream and sets out the outcome of the Working Group's deliberations. The rest of this Report deals with some of these points in more detail.

### **Code of Conduct**

- 15 The Working Group considered the Code of Conduct in some detail.
- 16 It noted that the CSPL Report had advised that a Code should not simply consist of the Nolan Principles which were standards and not a code. It also noted the example extracts from Codes given in the CSPL Report and had regard to other example Codes of Conduct, specifically Kent County Council. It noted that these codes read very differently from the Lincolnshire Code. They tended to be more negatively expressed, more legalistic in their language and more specific in their prohibitions.
- 17 However it was clear that the Council's Code did not consist simply of the Nolan Principles and that these had been interpreted at the time the Code was first adopted. Furthermore the wider definitions contained in the Code enabled it to cover potentially a wider range of behaviours. The definition of Respect, for example, was wide enough to cover bullying and harassment.
- 18 At the same time there were omissions from the Code compared with example Codes from elsewhere. The most significant one perhaps related to confidentiality where the wording of the Openness section of the Code gave too much emphasis to sharing of information and not enough to maintaining confidentiality in information which should not be shared.
- 19 Overall the Working Group's conclusion was that the existing Code of Conduct did form the basis for a workable Code but that it would benefit from amplification and clarification in specific respects. The Working Group has produced an amended Code of Conduct which is attached at Appendix B with

the changes shown as tracked. A commentary on these changes is given below.

### *Integrity*

- 20 A specific reference to compliance with the Council's requirements around Gifts and Hospitality has been added so that Gifts and Hospitality are clearly incorporated within the Code of Conduct. This is considered further in the separate section on Gifts and Hospitality below.

### *Accountability*

- 21 It was considered that this should be expanded to specifically cover co-operation with the Monitoring Officer or Local Hearing Panel in the course of consideration, investigation or determination of any complaint brought under the Code of Conduct. While there was no evidence of a lack of co-operation this was recommended by the CSPL and the Working Group felt that the Code should be clarified to be clear that it covered this point.
- 22 As there was not an issue within the Council with trivial or malicious complaints there was not felt to be a need to prohibit them within the Code. Such complaints, wherever they came from could be dealt with in the Local Arrangements (see below).

### *Openness*

- 23 As discussed above the Working Group felt that this was the place to incorporate some provisions about confidentiality on which the Code is currently silent.
- 24 The change to this section draws a distinction between information given to Councillors in reports which are exempt or confidential under the Local Government Act (LGA) 1972 and information that may be given to them in confidence in other circumstances.
- 25 It was felt that the need not to disclose exempt or confidential information under the LGA 1972 was well understood and there were ways in which any concerns could be raised within the Council. In other circumstances however Councillors may find themselves in possession of information that is purportedly given them in confidence but which they feel unable to keep confidential due to an overriding public interest for example.
- 26 The drafting seeks to draw this distinction and to make provision for circumstances in which a disclosure would not be a breach of the Code. This is done by reference to disclosures that are permitted by law. Although this is somewhat vague and uncertain as expressed it is very difficult to cover this in any detail without creating other risks such as the Code becoming out of date as the law of confidentiality changes.

- 27 It was felt that this bare statement can and should be supplemented by further guidance or training on when a confidentiality obligation might arise and the circumstances in which a public interest justification may allow disclosure. This would allow members to manage the sometimes very difficult balancing act they may face between individual confidences and the wider public interest.

### *Honesty*

- 28 The Working Group identified that the heading of this section of the Code did not match the description beneath it. This was a clear instance of the Council determining to tailor the requirement under the Nolan heading making this section of the Code more about interests than truthfulness which is the way it is expressed in the Nolan principles.
- 29 The Working Group gave consideration to whether the Code ought to contain a responsibility of truthfulness but overall determined that this was a matter which it would be very difficult for the Monitoring Officer or a Local Hearing Panel to make a determination about and that it had the potential to draw the Monitoring Officer and members through the Local Arrangements in particular into matters which were best left in the political arena.
- 30 The Working Group felt this was an area where the distinction drawn by the CSPL between the Nolan Principles as standards and a Code of Conduct had real merit. As a result the preamble to the Code of Conduct has been expanded to make it clear that the conduct of members should at all times be guided by the Nolan Principles including Honesty and not just in such a way as to avoid falling foul of the Code of Conduct.
- 31 In terms of interests a proposed change is made to the Code requiring Councillors to comply with the law relating to disclosable pecuniary interests (DPIs) which would make a failure to disclose a DPI a breach of the Code even if it was not something that the police would investigate as a criminal offence.
- 32 The Working Group considered whether to add any categories of interest which should be registered in addition to DPIs. However the Working Group noted that the section of the existing Code was very widely drawn and required a Councillor to resolve any conflicts in favour of the public interest. It was considered that the Code already required Councillors in particular circumstances to disclose interests other than DPIs and to refrain from taking part in debates and voting where that was necessary to ensure that conflicts involving those interests were resolved in the public interest. It was therefore decided that the Code of Conduct should remind Councillors of this wider responsibility.

### *Respect*

- 33 The Working Group considered the wide definition of Respect already contains a requirement not to engage in harassment and bullying. However, the importance of this as an issue within the CSPL Report has led the Working Group to recommend that the Respect section is expanded to make specific reference to harassment and bullying including examples of what these may amount to.
- 34 The Working Group also noted the Protocol on Harassment Intimidation and Unacceptable Behaviour in Part 5 of the Constitution (see below) and felt that this still had value and should be referenced within the Code of Conduct.

### *Social Media*

- 35 Social Media was another area where the CSPL Report went into some detail. The experience of the Monitoring Officer has been that social media use is not a significant issue in complaints in Lincolnshire. However the Working Group felt that social media was so easy of use and so public in its distribution that it introduced additional risks for Councillors in their use of it.
- 36 Therefore although the Working Group did not consider that the Code needed specific provisions to cover social media it would be prudent to include a paragraph reminding Councillors of this heightened risk. This is included in the draft amended Code of Conduct at Appendix B as a separate note rather than a change to the Respect section of the Code.

### **Interests, Gifts and Hospitality**

- 37 The Working Group's consideration of Interests is set out in paragraphs 31 and 32 above.
- 38 Gifts and Hospitality is also referred to in paragraph 20 where it was noted that the Code of Conduct had been changed to incorporate compliance with the rules on Gifts and Hospitality.
- 39 The CSPL Report recommended that local authorities should be required to establish a register of gifts and hospitality with members required to record any gifts and hospitality, which had been received over a value of £50 or totalling £100 over a year from a single source.
- 40 Although it was not clearly incorporated into the Council's Code of Conduct the Working Group noted that there was already provision for declaring gifts and hospitality in the Councillor Involvement in Commercial Transactions section of Part 5 of the Constitution.
- 41 The Working Group felt that a separate document setting out the expectation of Councillors in dealing with Gifts and Hospitality should be produced and recommend that the document attached at Appendix C to this report be

adopted as part of Part 5 of the Constitution. It is this document that members would be required to comply with as part of the Code of Conduct.

42 This document:-

- Requires registration of offers of gifts and hospitality in excess of £50 or £100 in aggregate from the same source
- Requires the register to indicate whether the gift or hospitality was accepted or declined
- Provides for the register to be published on the Council's website
- Sets out guidance for Councillors in dealing with offers of gifts or hospitality

### **Local Arrangements**

43 The Council adopted Local arrangements for dealing with standards complaints at the same time that it adopted its Code of Conduct. It has not been reviewed since. The current process (attached at Appendix D) is straightforward but has difficulties in its operation. In particular:-

- There is little on how to make a complaint and such issues as whether the identity of the complainant will be disclosed;
- There is very little detail about how a complaint might be screened on receipt. The only criterion is whether it engages the Code of Conduct
- The decision as to whether a complaint should proceed to an investigation requires consideration of the reputation of the Council rather than a more public interest-based test which the CSPL recommends
- There is no basis in the Local Arrangements themselves for informal resolution
- The formal stage requires the investigator to determine whether a breach of the Code has taken place rather than the Monitoring Officer

44 Attached at Appendix E is a revised set of Local Arrangements which is recommended by the Working Group. The yellow highlighted sections are sections which are common to the existing Local Arrangements and the new proposed Local Arrangements. The main differences can be summarised as follows:-

- Anonymous complaints and how identity will be dealt with are included (para 2.3);
- Introduction of a more detailed initial assessment stage with a number of criteria against which the Monitoring Officer can carry out an initial assessment of the complaint. This includes trivial and malicious complaints (paras 3.3 to 3.7 inclusive).

- Further drafting on when a member may be treated as acting in their capacity as a county councillor (para 3.4). This goes some way towards addressing comments by the CSPL and set out in Appendix A;
  - Inclusion of a number of actions the Monitoring Officer may take even where it is decided that further action should be taken (para 3.9);
  - Criteria against which a judgement may be made about whether a complaint will progress to an investigation (para 4.3). At present the only criterion is whether the behaviour complained about presents a serious risk to the reputation of the Council. The new criteria seek to balance this approach with comments from the CSPL that there should be a public interest test by referring to public perception of the Council and trust in the Council and local democracy as public interest matters;
  - Provision for informal resolution at a number of stages (paras 3.9 and 4.5)
  - More detail as to the process to be undergone in the event of a formal investigation and hearing which also deals with publication of the results (the Appendix to the Local Arrangements); and
  - Process for dealing with conflicts of interest as proposed by the Committee on Standards in Public Life (para 6.3).
- 45 The approach to sanctions is the same as in the existing process which involves the Local Hearing making recommendations to the Group Leaders as to how the matter should be dealt with unless it is so serious that the Local Hearing considers that a motion of censure should be proposed to the next meeting of the Council.
- 46 No specific provision is made for sanctions referred to by the CSPL such as removal of facilities or of the right to use the Council's buildings and the CSPL recognise that there is some doubt about the power of the Council to do that.
- 47 Other sanctions such as removal from committees or the Executive would be in the power of the Group Leaders and could be recommended to the Group Leaders by the Local Hearing

## **Part 5 of the Constitution**

- 48 Part of the remit of the Working Group as set out by the Audit Committee was to review those sections of Part 5 of the Council's Constitution which relate to standards.
- 49 The Working Group considered that the following sections of Part 5 relate to standards and should therefore be reviewed
- Protocol on Officer/Member Relationships
  - Councillor Involvement in Commercial Transactions
  - Harassment Intimidation and Unacceptable Behaviour

- Planning Development Control Process

- 50 The Working Group felt that the Protocol on Officer/Member Relationships should remain as it is without only one minor clarification which amendment is shown in track changes in the revised Protocol at Appendix F.
- 51 The Protocol on Councillor Involvement in Commercial Transactions should also remain but the section on Gifts and Hospitality should be removed to be replaced by the Code of Conduct and the new free-standing Protocol on Gifts and Hospitality. This is reflected in an amended version of the Protocol attached at Appendix G.
- 52 The Harassment Intimidation and Unacceptable Behaviour document should also be retained. This Protocol is now referred to in the Code of Conduct to make clear the relationship between the Code of Conduct provisions relating to harassment and bullying and the Protocol. The Working Group saw the Protocol as serving two purposes. Firstly, to give further detail as to what is meant by the terms bullying and harassment and secondly to provide specific provisions and mechanisms for dealing with behaviours between officers and members which is separate from the Code of Conduct itself.
- 53 The Planning Development Control Process document should also be retained as identifying specific considerations to be taken into account by Councillors dealing with planning matters. Again an amendment has been made to provide clarification of a specific point which is shown as a tracked change at Appendix H. In addition this document has also been referred to in a note to the Code of Conduct to indicate that the Code is supplemented by the Planning Development Control Process in matters relating to planning.

## **Conclusion**

- 54 The Working Group has considered the matters referred to it by the Audit Committee.
- 55 The evidence of complaints and of the Ethical Governance Audit shows that there is not a major issue in Lincolnshire relating to Councillor's behaviour, nor with the Code of Conduct itself. The Working Group has therefore taken a proportionate approach, preserving the structure of the existing arrangements but developing recommendations which provide additional assurance that the Code of Conduct and the Council's Local Arrangements in particular are fit for purpose should the position change.
- 56 The work of the Working Group began with the Committee on Standards in Public Life Report on Ethical Standards in Local Government. During the course of its work the Working Group has considered the relevant recommendations of the CSPL and at Appendix A is a Table showing how the Working Group in its deliberations has addressed each recommendation which is in the power of the Council to implement.

57 As a result of those deliberations the Working Group recommends to the Audit Committee that it in turn recommends to the County Council that it approve the following changes to the Council's Constitution

- The amendments to the Code of Conduct shown in red in Appendix B
- The inclusion in Part 5 of the Constitution of the Protocol on Gifts and Hospitality attached at Appendix C
- The replacement of the Local Arrangements set out in the Constitution with the Local Arrangements attached at Appendix E
- The amendments to the Protocol on Officer/Member Relationships shown in red in Appendix F
- The amendments to the Protocol on Councillor Involvement in Commercial Transactions shown in red in Appendix G
- The amendments to the Planning Development Control Process Document shown in red in Appendix H

## CODE OF CONDUCT WORKING GROUP

### WORK PLAN

The remit of the Working Group was to:-

- 1) Consider the Committee on Standards in Public Life report on Local Government Ethical Standards.
- 2) Consider whether changes to the Code and Local Arrangements should be made as a result of the Report or otherwise.
- 3) Consider whether any changes should be made to any other elements of Part 5 of the Constitution which relate to standards.

An analysis of the Committee on Standards in Public Life suggests that all of the recommendations and best practice set out in the Report which could potentially be actioned by the Council can be grouped under the following headings

- Code of Conduct
- Interests, Gifts and Hospitality
- Local Arrangements
- Part 5 of the Constitution

It was therefore decided that the Working Group would pursue these 4 work streams in the order set out above. The tables in the rest of this document set out how each of the issues set out in the Committee on Standards in Public Life Report recommendations and best practice over which the Council has any control related to each of these work streams and how they were addressed by the Working Group

**Code of Conduct Working Group Report to Audit Committee Appendix A**

**Work stream 1 – Code of Conduct**

No	CSPL Best Practice Recommendation	Commentary
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	<p>There was no specific mention in the current Code although there is a category of Respect which it is considered would cover it together with a Protocol on Harassment Intimidation and Unacceptable Behaviour.</p> <p>The amended Code incorporates bullying and harassment into the Code and refers members to the Protocol</p>
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	<p>No specific mention of this in the current Code.</p> <p>The amended Code contains the requirement to comply with investigations. The Council does not have an issue with trivial or malicious allegations and these should be capable of being dealt with through the new Local Arrangements which provides for trivial or malicious complaints generally not to be pursued.</p>
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	<p>There has not been a specific review period for the Code of Conduct to date.</p> <p>It is proposed that Audit Committee receive an annual report on the workings of the Code and complaints made under it in the light of which they could determine whether to undertake a review.</p>

**Code of Conduct Working Group Report to Audit Committee Appendix A**

<b>No</b>	<b>CSPL Best Practice Recommendation</b>	<b>Commentary</b>
4	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premise.	<p>The Code is part of the Constitution and is already on the Council's website as such.</p> <p>A separate section on the new website should be created to make the Code and Local Arrangements more readily accessible.</p>

**Work stream 2 – Interests, Gifts and Hospitality**

**Recommendations**

<b>No</b>	<b>Recommendation</b>	<b>Commentary</b>
2	Regulations should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	<p>The law currently requires the address to be disclosed unless its disclosure could lead to violence or intimidation (a sensitive interest).</p> <p>The Monitoring Officer should write to all Councillors reminding them of the sensitive interest provisions and the potential for a home address to be withheld in specific circumstances.</p>
5	Disclosable Pecuniary Interests should include: unpaid directorships; trustees; management roles in a charity or a	Not part of the current law but the Council currently has the power to widen the scope of interests beyond statutory

**Code of Conduct Working Group Report to Audit Committee Appendix A**

<b>No</b>	<b>Recommendation</b>	<b>Commentary</b>
	body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	disclosable pecuniary interests.  The Working Group did not consider it necessary to widen the scope of interests to be registered but have included wording in the Code of Conduct to remind members that the obligation to resolve conflicts in the public interest may require them to declare interests which are not statutory DPis
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This should be included in an updated model code of conduct.	Not part of the current law. However, the Councils Protocol on Councillors Involvement in Commercial Transactions in Part 5 of the Constitution includes a Gifts and Hospitality requirement.  An amended Protocol on Gifts and Hospitality has been developed and the Code of Conduct amended to make it a provision of the Code that offers of gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source are registered

## Code of Conduct Working Group Report to Audit Committee Appendix A

### List of best Practice

No	CSPL Best Practice Recommendation	Commentary
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	The Gifts and Hospitality register under the new provisions would be published on the Council's website

### Work stream 3 – Local Arrangements

#### Recommendations

No	Recommendation	Commentary
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media.	Under the new Local Arrangements this remains a judgment to be made in each case.  However paragraph 3.4 of the amended Local Arrangements identifies relevant considerations in reaching this judgment.
4	A local authority's code of conduct should apply to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	See above  The relevant considerations included in paragraph 3.4 of the amended Local Arrangements includes where the member claimed to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

**Code of Conduct Working Group Report to Audit Committee Appendix A**

<b>No</b>	<b>Recommendation</b>	<b>Commentary</b>
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	<p>Not the law at present</p> <p>It is open to the Council to introduce this. The last time the Council sought to appoint an Independent Person the term of years was left for the Council to decide and the Working Group endorsed this approach.</p>
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	<p>Not the law at present.</p> <p>This could be done by the Council voluntarily. It would be relevant to any final decision on the determination of a complaint that has been considered by the Local Panel.</p> <p>The Independent Persons should be made aware that the Council may do this.</p>
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	<p>Not something done at present as IPs views and advice are not disclosed.</p> <p>The current legal power to grant such an indemnity is uncertain.</p>
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose	<p>The power to appoint such a committee already exists. It is the voting rights which would be new.</p> <p>The role of determining complaints under the Local</p>

**Code of Conduct Working Group Report to Audit Committee Appendix A**

<b>No</b>	<b>Recommendation</b>	<b>Commentary</b>
	sanctions.	Arrangements ultimately lies with a Panel drawn from Audit Committee and the Working Group does not propose any change to these arrangements.
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	No requirement to do this at present.  This information should be included in the proposed annual report to Audit Committee.

**List of best Practice**

<b>No</b>	<b>CSPL Best Practice Recommendation</b>	<b>Commentary</b>
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	The Council's existing Local Arrangements contain a test based on damage to the reputation of the Council.  The revised Local Arrangements contain a public interest test which is based on public perception of or trust in the Council and local democracy
7	Local authorities should have access to at least two Independent Persons.	LCC already seeks to have two Independent Persons.

**Code of Conduct Working Group Report to Audit Committee Appendix A**

No	CSPL Best Practice Recommendation	Commentary
8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	This is current practice.  It is reflected in the revised Local Arrangements
9	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	The current Local Arrangements do not state what will happen if a decision is made on an allegation of misconduct following a formal investigation  The Appendix to the revised Local Arrangements provides for the Monitoring Officer to prepare a decision notice and to make the decision notice available for public inspection on the expiry of two working days after the formal decision notice was sent to the Subject Councillor and (where applicable) Group Leader and to report the decision to the next convenient meeting of the Audit Committee.
10	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	The existing Local Arrangements are part of the Constitution and available on the website as such.  The revised Local Arrangements if approved will also appear on the website. The revised Local Arrangements contain estimated timescales for acknowledging receipt of a complaint and for a response to be given at the initial consideration stage following receipt by the Monitoring Officer of all relevant information. The Local Arrangements

**Code of Conduct Working Group Report to Audit Committee Appendix A**

No	CSPL Best Practice Recommendation	Commentary
		also include a requirement on the Monitoring Officer to keep all parties informed at regular intervals.
11	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.	The current Local Arrangements make no explicit provision for this.  The revised Local Arrangements make provision for conflicts of interest
12	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	Appropriate mention is made of commercial trading activities 'in general' in the Annual Governance Statement. Assurance statements are obtained from companies as part of the background audit work but the Council's current commercial activity is limited.
13	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	This does not happen at present specifically for standards.

## Code of Conduct Working Group Report to Audit Committee Appendix A

### Work stream 4 – Part 5 of the Constitution

#### Recommendations

No	Recommendation	Commentary
20	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website	Requires legislation to change the Transparency Code but the Council could implement this if it chose.  The Working Group recommends that this should be done.

**SECTION B**

**MEMBERS CODE OF CONDUCT**

Lincolnshire County Council Members' Code of Conduct

**PREAMBLE**

The activities of all in public life should be guided by the 7 principles of Public Life, also known as the Nolan Principles. These are set out below

**1. Selflessness**

Holders of public office should act solely in terms of the public interest.

**2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. 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.

**3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**6. Honesty**

Holders of public office should be truthful.

## 7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The County Council has adopted this Code of Conduct setting out the expected behaviours required of its members and added members, acknowledging that they have a shared commitment to representing the community and working constructively and in a spirit of mutual respect and co-operation with each other, Council staff and partner organisations to secure better social, economic and environmental outcomes for all.

As the Nolan Principles are the standards expected of all in public life the Code is closely based on but not identical to the Nolan Principles. In particular compliance with the Code does not in itself guarantee that member conduct is consistent with the Nolan Principles. The Code does not therefore detract from the need for members always to have regard to the Principles in guiding their conduct

In accordance with the Localism Act provisions, when acting in their capacity as Councillors, all Councillors must be committed to behaving in a manner that is consistent ~~complies~~ with the ~~(Lincolnshire County Council Values Statement and Good Practice Guide to Meeting the Values of the Authority and to the)~~ following principles ~~Codeto achieve best value for Lincolnshire residents and maintain public confidence in the Council.~~

### THE CODE

#### **SELFLESSNESS:**

Councillors must act solely in terms of the public interest. ~~They~~ This means they must not act in order to gain financial or other material benefits for themselves, their family, or their friends. They must not use their position improperly to confer an advantage or disadvantage on any person.

#### **INTEGRITY**

Councillors must not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Councillors must comply with the Gifts and Hospitality Protocol in Part 5 of the Constitution

#### **OBJECTIVITY**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Councillors must make choices on merit.

## ACCOUNTABILITY

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

This means Councillors will co-operate with the Monitoring Officer or Local Hearing Panel in the course of consideration, investigation or determination of any complaint brought under this Code of Conduct.

## OPENNESS:

Councillors must ~~act and be as open as possible about all the decisions and actions that they take~~ take decisions in an open and transparent manner. ~~They must give reasons for their decisions and restrict information only when should not be withheld from the wider public interest clearly demands unless there are clear and lawful reasons for doing so.~~

A councillor must not, without the consent of the Council or as required by law, disclose information which is

- contained within an exempt or confidential report within the meaning of the Local Government Act 1972; or
- which is otherwise confidential to the Council or shared with the Councillor under conditions of confidentiality

Councillors must not disclose any information given to them under conditions of confidentiality by any other person except to the extent that such disclosure is permitted by law – e.g. due to overriding public interest.

## HONESTY:

Councillors 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.

This means Councillors:- will comply with the law relating to disclosable pecuniary interests

Councillors should be aware that the requirement to resolve conflicts arising in a way that protects the public interest may on occasion require them to disclose interests other than disclosable pecuniary interests and to take no part in debates or votes which engage those interests.

## RESPECT:

Councillors must at all times show respect to each other, staff and members of the public and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. Councillors may not always agree with the political views of their member colleagues, but they respect the right for those views to be held.

This means in particular that Councillors will not bully or harass any person. This means, for example, that they will not:-

- use offensive intimidating malicious or insulting behaviour or abuse or misuse power to undermine, humiliate, criticise unfairly or injure any person; or
- be guilty of unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Section D3 of Part 5 of the Constitution – Protocol on Harassment Intimidation and Unacceptable Behaviour gives more detail on these behaviours and applies between members and officers.

**LEADERSHIP:** Councillors promote and support these principles by leadership and example.

#### NOTE ON SOCIAL MEDIA

Councillors should note that this Code of Conduct governs their activities on social media in the same way that it governs other activities and councillors should be mindful that the ease of use and very public nature of social media may carry additional risks of breaches of the Code.

#### NOTE ON PLANNING DEVELOPMENT CONTROL

Section D4 of Part 5 of the Constitution – Planning Development Control Process sets out supplementary requirements in relation to Planning which shall form part of this Code of Conduct.

#### NOTE ON DISCLOSABLE PECUNIARY INTERESTS

The Localism Act 2011 further provides for registration and disclosure of interests and in Lincolnshire County Council this will be done as follows:

On taking up office a member or added member must, within 28 days of becoming such, notify the Monitoring Officer of any 'disclosable pecuniary interests', as prescribed by the Secretary of State.

On re-election or re-appointments, a member or added member must, within 28 days, notify the Monitoring Officer as if for the first time of any 'disclosable pecuniary interests' whether or not such 'disclosable pecuniary interests' were already included in his or her previous register of interests.

If a member or added member is aware that they have a 'disclosable pecuniary interest' in a matter they must not participate in any discussion or vote on the matter at a meeting and if present at the meeting must leave the room during discussion of the matter.

If a member or added member is aware of a 'disclosable pecuniary interest' in a matter under consideration at a meeting but such an interest is not already on the Council's register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member or added member must disclose the 'disclosable pecuniary interest' to the meeting and register it within 28 days of the meeting at which it was first disclosed.

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## GIFTS AND HOSPITALITY PROTOCOL

### Context

1. The Council's Members' Code of Conduct sets out the expected behaviours of its members and co-opted members. They are required to serve the public interest rather than act in order to gain financial or other benefits for themselves. They must not place themselves under any financial or other obligation to anyone who might seek to influence them in their official duties.

### Can Gifts or Hospitality be accepted?

2. There may be occasions when members of the Council are offered gifts or hospitality during the course of Council business. Before accepting such gifts or hospitality members should consider whether this would put at risk the integrity and reputation of the member, or the Council.
3. If gifts or hospitality are offered and their value is £50 or over for a single gift/hospitality or £100 or over for all gifts/hospitality from a single source in any year, members and co-opted members must register this on the form found at the following link (provide link) within 28 days of receiving the offer of a gift or hospitality. The entry in the register should include the date, source and value of the gift or hospitality and whether or not the gift or hospitality was accepted. Any entries will be published on the Council's website.
4. The Monitoring Officer can advise on the matters to be taken into account in deciding whether a gift or hospitality can be accepted, taking into account any connection the member has with the person or organisation making the offer, but it will be a matter for the member to make the decision as to whether to accept or decline.
5. In deciding whether it is proper to accept any gift or hospitality members should:
  - **Never accept a gift or hospitality as an inducement or reward for anything they do as a Member**  
Members must not be influenced in the discharge of their duties by the offer of a gift.
  - **Only accept a gift or hospitality if there is a commensurate benefit to the Council**  
Unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for the Member's benefit.
  - **Never accept a gift or hospitality if acceptance might be open to misinterpretation**  
Perceived impropriety can be just as damaging as actual impropriety. Members should take care to ensure that the impression is not given that they or the Council are under any improper obligation because of the gift or hospitality.

- **Never accept a gift or hospitality that puts them under an improper obligation**  
Members must not give the impression that commercial organisations and private individuals can buy influence.
- **Never solicit a gift or hospitality**  
Members must not invite an offer of a gift or hospitality in connection with their position as a member and they should take care to avoid giving any indication that they might be open to such an improper offer.

***Note: Regardless of the requirements of the Council in relation to gifts and hospitality, under the Bribery Act 2010 the acceptance of a gift or other advantage as an inducement to behave in a certain way in a Council transaction is a criminal offence, with a maximum sentence of ten years in jail.***

## **Gifts**

6. As a general rule gifts should be refused tactfully, this includes all such offers from organisations or persons who do, or might, provide work, goods or services to the Council, or who need some decision from the Council. These rules also apply to discounts offered to an individual member going beyond those offered to the general public (other than those available to **all** Members and Officers).
7. As general guidance, the following small gifts worth under £50 may occasionally be accepted (providing that they do not conflict with the General Principles listed in 5 above):
  - (a) office equipment or stationery given by way of trade advertisements or for use in the office. Examples would be pens, mugs, calendars or diaries. (NB: Members should take care not to display any such branded items when this might be taken as an endorsement or indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise).
  - (b) gifts of only token value given on the conclusion of an official courtesy visit, for example, a commemorative plaque from a visiting delegation. A box of chocolates or flowers valued less than £50 could be accepted provided they are given as a genuine show of appreciation of work undertaken, but they should never be accepted if it could give rise to an appearance of influence or reward.

## **Hospitality**

8. Offers of hospitality should always be approached with caution and offers of hospitality where any suggestion of improper influence is possible must be refused.
9. Where hospitality is accepted it must be on a scale appropriate to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it and may later be thought to have affected a member's impartiality in dealing with official matters.

10. Examples of hospitality that should always be refused include offers of holiday accommodation. Others will need to be considered on their facts. For example invitations to sporting events, evenings at the theatre or similar entertainment, should only be accepted when they are required for the conduct of Council business or can properly be considered to provide a commensurate benefit to the Council, **not the individual member**.
11. It will not always be possible to reject offers of hospitality. Acceptable hospitality is that not exceeding £50 in value, such as official hospitality at a function organised by a public authority; a drink and sandwich following a site visit; or a working lunch of modest standard to enable business discussions. Members should never accept hospitality that may give rise to an appearance of influence or reward.

### **Wills and Bequests**

12. If there is a connection between the work of a member and them being a beneficiary under a will they will need to consider that benefit carefully in accordance with the General Principles listed in 5 above. Members should discuss this matter fully with the Monitoring Officer before a decision is taken on acceptance or refusal.

### **Gifts to the Council**

13. Members may be offered gifts for the Council rather than in their individual capacity as a member. In such cases the offer should be reported immediately to the Monitoring Officer who will determine in accordance with normal Council processes whether the Council should or should not accept the gift.
14. The Monitoring Officer will notify the person or organisation offering the gift whether it is accepted or not and will:
  - Record the acceptance or non-acceptance
  - Record the outcome for audit purposes
  - Ensure the gift, if accepted, is properly applied for the benefit of the Council.

### **Gifts to the Chairman**

15. Gifts received by the Chairman of Council in his or her official capacity are deemed to be gifts to the Council. The Chairman should record the receipt of all such gifts in the Register and in consultation with the Monitoring Officer determine how best they could be used for the benefit of the Council.

### **Declarations at meetings**

16. If a matter under consideration at a meeting is likely to affect a person or organisation who has given a member a gift or hospitality, the member must declare the existence and nature of the gift or hospitality, the source who gave it to them and how the business under consideration relates to that source.

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### **Local Arrangements for dealing with Standards complaints**

1. These Local Arrangements apply to complaints against members of the Council alleging failure to comply with the Members Code of Conduct (a 'standards complaint').
2. For clarity, they do not apply to complaints alleging more serious issues such as alleged criminal offences which are dealt with by other means such as referral to the Police.
3. The arrangements reflect commitment of Group Leaders to maintaining high standards of conduct and their wish to demonstrate that commitment by playing a leading role.
4. Following a standards complaint made to the Monitoring Officer (MO) or referred to him, the MO will inform the Member and relevant Group Leader that a complaint has been received.
5. The MO will review the complaint to evaluate whether it is covered by the Code of Conduct.
6. If it is not covered by the Code of Conduct the MO will inform the Member and relevant Group Leader and notify the complainant.
7. Where the complaint is covered by the Code of Conduct the MO will consult the Group Leader and evaluate whether the behaviour complained about presents a serious risk to the reputation of the Council.
8. If there is no serious risk to the reputation of the Council, the MO will work with the Member and relevant Group Leader to seek an informal resolution. The MO will notify the complainant.
9. If there is a serious risk to the reputation of the Council the MO will appoint a suitable person to investigate the complaint.
10. Where the investigator finds that no breach of the Code has occurred, the MO will notify the Member and relevant Group Leader and complainant.
11. Where the investigator finds that a breach of the Code has occurred, the MO will make arrangements for a Local Hearing. The Hearing will be by at least three non-Executive Members of the Council from at least two political groups drawn from the Audit Committee nominated by the Chairman of Audit Committee. The Chairman of Audit Committee will consult Group Leaders on those nominations. The Local Hearing will consider the Investigators Report, consult the Independent Person and, except in cases covered by paragraph 12 below, make recommendation(s) to the relevant Group Leader who will decide the appropriate action and notify the Member and MO. The MO will notify the complainant.
12. Where the Local Hearing, having consulted the Independent Person, decides that the complaint is of such extreme seriousness that it should result in a motion to

Council proposing that the Member be censured then the motion will be referred to the next Council Meeting direct.

13. In cases where the Member complained about is not part of a recognised political grouping, the MO will proceed as in paras 4-11 above but without liaison with any Group Leader. In such cases the Local Hearing will decide the appropriate action.
14. In cases where the complaint is against a Member who is a Group Leader the MO will proceed as in paras 4-11 above except that the MO will consult a senior Member from outside the County Council (nominated for that purpose in advance of any complaint by the Group Leader) in all cases where he would otherwise have consulted a Group Leader. In such cases the Local Hearing will consult the senior Member from outside the County Council as well as the Independent Person and then make recommendations to the relevant Deputy Leader who will decide the appropriate action.

## **LOCAL ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT MEMBERS UNDER THE LOCALISM ACT 2011**

### **1. Introduction**

1.1 These "arrangements" set out how you may make a complaint that an elected or co-opted Member of Lincolnshire County Council (the Council) has failed to comply with the Council's Code of Conduct. They also set out how the Council will deal with any complaints of a failure to comply with the Code of Conduct.

1.2 The Council must appoint at least one Independent Person, whose views must be sought by the Council before it makes a decision on an allegation that it has decided to investigate. The Independent Person may also be consulted by the Monitoring Officer at any stage of these arrangements and may be consulted by a Member. References to the Independent Person in this document are references to any person appointed by the Council as an Independent Person at the given time.

1.3 These arrangements reflect the commitment of Group Leaders to maintaining high standards of conduct and their wish to demonstrate that commitment by playing a leading role.

### **2. Making a Complaint**

2.1 A complaint must be made in writing by post or e-mail to:

The Monitoring Officer

County Offices

Newland

Lincoln

LN1 1YS

E-mail: [monitoring.officer@lincolnshire.gov.uk](mailto:monitoring.officer@lincolnshire.gov.uk)

- 2.2 Any complaint must provide sufficient detail about why the person complaining (the Complainant) considers that there has been a failure to comply with the Code of Conduct.
- 2.3 The Council will not consider anonymous complaints unless there is a clear public interest in doing so. In the interests of transparency and fairness, the identity of the Complainant will be made known to the subject of the complaint (the Subject Councillor) and those who have to deal with the complaint. When a Complainant requests confidentiality, this will be considered by the Monitoring Officer who retains ultimate discretion as to whether to release details to the Subject Councillor or other officers.
- 2.4 The Monitoring Officer's decisions at all stages are final and there is no right of appeal or review of their decision.

### **3. Initial Assessment of a Complaint**

- 3.1 On receipt of a complaint the Monitoring Officer will acknowledge receipt within five working days and inform the Complainant what will happen next. **The Monitoring Officer will also inform the Subject Councillor and relevant Group Leader that a complaint has been received.** The Monitoring Officer will keep the Complainant, Subject Councillor and relevant Group Leader informed of progress at regular intervals.
- 3.2 **The Monitoring Officer will then carry out an initial assessment of the complaint.** At this initial assessment stage, the Monitoring Officer will review the complaint and may consult the Independent Person before making a decision about whether to take any further action concerning the complaint. The Monitoring Officer may require further information from the Complainant or Subject Councillor before making a decision on the initial assessment.
- 3.3 No further action will be taken on any complaint if, in the opinion of the Monitoring Officer:-

- 3.3.1 the behaviour complained of falls outside of the Code of Conduct; or
- 3.3.2 the Subject Councillor was not acting in their capacity as a member of the County Council
- 3.4 Whether the Subject Councillor was acting in their capacity as a member of the County Council is a judgment to be made in individual cases. Relevant considerations will include the degree to which the behaviour was public including whether it involved the use of publicly available social media and whether the Subject Councillor claimed to act or gave the impression that they were acting in their capacity as a member or representative of the County Council.
- 3.5 A complaint will not normally progress beyond the initial assessment stage if it is considered by the Monitoring Officer to be within any of the following criteria:
- 3.5.1 If the complaint is the same or substantially the same as a previous complaint (regardless of whether it is the same Complainant)
- 3.5.2 If the time since the alleged behaviour is significant so as to be inequitable, unreasonable or otherwise not in the public interest to pursue
- 3.5.3 If the complaint (in the view of the Monitoring Officer) discloses only a minor or trivial breach of the Code of Conduct that it is not in the public interest to pursue
- 3.5.4 If the complaint is or appears to be (in the view of the Monitoring Officer) malicious or otherwise submitted with an improper motive and the complaint is not considered to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration

- 3.5.5 If the complaint is considered by the Monitoring Officer to be persistent and/or vexatious and is not considered (in the view of the Monitoring Officer) to disclose sufficiently serious potential breaches of the Code of Conduct to merit further consideration
- 3.5.6 If the Subject Councillor has remedied or made reasonable endeavours to remedy the subject matter of the complaint and the complaint does not (in the view of the Monitoring Officer) disclose sufficiently serious potential breaches of the Code of Conduct
- 3.5.7 If the complaint is about a person who is no longer a member of the Council and there is (in the view of the Monitoring Officer) no overriding public interest in pursuing the complaint further.
- 3.6 The standards complaints process does not exist to determine how well a Member or co-opted Member fulfils their role on the Council or determine dissatisfaction on the part of a resident as to the way a member has responded to their concerns. Examples would include delay or failure to respond. These are matters for the democratic process with which it would be inappropriate for the Monitoring Officer to become involved. If in the view of the Monitoring Officer a complaint relates to the Subject Councillor's fulfilment of their role they will refer the complaint to the relevant Group Leader to consider
- 3.7 These arrangements are not intended to apply to allegations of criminal offences or other regulatory breaches which will be referred by the Monitoring Officer to the Police or other regulatory body. If the matter is referred to the Police or other relevant regulatory body the Monitoring Officer will take no further action on the complaint.
- 3.8 If, following the initial assessment, the Monitoring Officer determines that no further action should be taken, the Monitoring Officer will notify the Complainant of this fact and the reasons for their decision. The Monitoring

Officer will also notify the Subject Councillor (copying the relevant Group Leader) with details of the decision made and the reasons for the same.

3.9 If, following the initial assessment, the Monitoring Officer determines that further action should be taken, the Monitoring Officer may

3.9.1 Arrange appropriate actions (e.g. mediation or training)

3.9.2 Refer the complaint to the relevant Group Leader for informal action; or

3.9.3 Arrange a formal investigation of the complaint.

3.10 The Monitoring Officer will inform the Complainant, the Subject Councillor and the relevant Group Leader of the result of the initial assessment within 15 working days of receipt of the complaint by the Monitoring Officer or if further information is required under paragraph 3.2 above, within 15 working days of receipt of all such further information.

#### **4. Where further action is required**

4.1 Where the Monitoring Officer (in consultation with the Independent Person) considers that the complaint should progress beyond the initial assessment stage and that some form of action should be taken, they will inform the Subject Councillor and relevant Group Leader of their decision. The Monitoring Officer will seek representations from the Subject Councillor, will consult with the relevant Group Leader and may consult with the Independent Person before determining the next steps.

4.2 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Where the Subject Councillor makes a reasonable offer of informal resolution which the Complainant is not willing to accept, the Monitoring Officer will take this into account when deciding whether the complaint merits formal investigation.

4.3 In determining whether to proceed to a formal investigation the Monitoring Officer will consider:-

4.3.1 whether there is evidence to support the complaint;

4.3.2 whether the subject matter is something that it is possible to investigate;

4.3.3 whether an investigation would be proportionate; and

4.3.4 whether the behaviour complained of has a sufficiently significant impact on public perception of or trust in the Council or local democracy that an investigation would be in the public interest.

4.4 Where the Monitoring Officer determines that a formal investigation is required, they will appoint a suitable person to investigate the complaint.

4.5 Where the Monitoring Officer, in consultation with the Independent Person, on the basis of the results of the investigation finds that there has not been a breach of the Code of Conduct, the Monitoring Officer will notify the Subject Councillor, Group Leader and Complainant of the outcome.

4.6 Where the Monitoring Officer, in consultation with the Independent Person, on the basis of the investigation, finds that a breach of the Code of Conduct has occurred, the Monitoring Officer may seek to resolve the matter informally or make arrangements for a Local Hearing.

## 5. A Local Hearing

5.1 A Local Hearing will be conducted by at least three non-Executive members of the Council from at least two political groups, drawn from the Audit Committee of the Council as nominated by the Chairman of the Audit Committee. The Chairman of the Audit Committee will consult with Group Leaders on these nominations

5.2 The Local Hearing will be conducted in accordance with the Hearing Process attached at Appendix A to these arrangements.

5.3 Where the Local Hearing determines that a breach of the Code of Conduct has occurred they will, except in the circumstances described in paragraph 5.4, make recommendations to the relevant Group Leader who will decide the appropriate actions and notify the Subject Councillor and the Monitoring Officer. The Monitoring Officer will notify the Complainant.

5.4 Where the Local Hearing, having consulted with the Independent Person, decides that a breach has occurred and that the breach is of extreme seriousness the Local Hearing may determine that a motion of censure or reprimand of the Subject Councillor be referred to the next full Council meeting.

5.5 The Monitoring Officer or Local Hearing have no power to suspend or disqualify the Subject Councillor, to withdraw Member's basic or special responsibility allowances or to recommend other outcomes.

## **6. Special Applications**

6.1 In cases where the Subject Councillor complained about is not part of a recognised political grouping, the Monitoring Officer will proceed as detailed above save from liaison with any Group Leader.

6.2 In cases where the complaint is against a Member who is a Group Leader, the Monitoring Officer will proceed as detailed above save that the Monitoring Officer will consult a Senior Member from outside the Council (nominated for that purpose in advance of any complaint by the Group Leader) in all cases where they would have consulted a Group Leader. In such cases, the Local Hearing will consult that Senior Member in addition to the Independent Person. In such cases the Local Hearing will make recommendations as to the action to be taken under paragraph 5.3 above to the relevant Deputy Group Leader who will decide the appropriate action to be taken.

- 6.3 Where the Monitoring Officer is unable to act in relation to these arrangements by reason of any conflict of interest or otherwise he may appoint a Deputy Monitoring Officer for the purpose from within the Council or appoint an independent Monitoring Officer from another authority to act as Monitoring Officer for the purposes of this arrangement

## **7. Revision of these Arrangements**

- 7.1 The Council may by resolution agree to amend these arrangements and has delegated to the Monitoring Officer the right to depart from these arrangements where they consider that it is expedient to do so to secure the effective and fair consideration of any matter.

## **8. Appeals**

- 8.1 There is no right of appeal for the Complainant or Subject Councillor against a decision of the Monitoring Officer or the decision or recommendations of the Local Hearing. If a Complainant believes that the Council has failed to deal with their complaint properly, they may submit a complaint to the Local Government Ombudsman.

## **APPENDIX**

### **LOCAL HEARING UNDER THE MEMBERS CODE OF CONDUCT**

#### **HEARING PROCESS**

##### **Introduction**

- 1 This document sets out the Procedure to be followed at meetings of a Local Hearing Panel constituted under paragraph 5 of the Local Arrangements for Dealing with Standards Complaints under the Council's Constitution.
- 2 The role of the Panel is to consider the Investigators Report and representations, the Subject Councillor's representations and to consult the Independent Person and decide whether there has been a breach of the Members Code of Conduct

##### **Persons Attending**

- 3 The following persons shall be in attendance at the Hearing which shall be conducted in private.
  - 3.1 the Panel;
  - 3.2 the Monitoring Officer;
  - 3.3 the Independent Person;
  - 3.4 a clerk to take notes of the Hearing
  - 3.5 the Subject Councillor";
  - 3.6 one person to accompany and assist the Subject Councillor; and

3.7 the investigator.

### **Notice of the Hearing**

4 At least 7 days' notice of the Hearing will be given to the Panel, the Subject Councillor and the investigator unless a shorter time is agreed at the request of the Subject Councillor. The notice shall be accompanied by the investigator's report and accompanying documents and a copy of this Hearing Process.

### **Process at the Hearing**

5 The process at the Hearing will be as follows:-

5.1 The Panel Chairman will make introduction and explain the process to be followed

5.2 The investigator will present their Report and conclusions and the evidence on which it is based

5.3 The Subject Councillor will have an opportunity to ask questions of the investigator

5.4 The Panel and Independent Person will have an opportunity to ask questions of the investigator

5.5 The Subject Councillor presents his or her case

5.6 The investigator will have an opportunity to ask questions of the Subject Councillor

5.7 The Panel and Independent Person will have an opportunity to ask questions of the Subject Councillor

5.8 The investigator summarises the results of their investigation

5.9 The Subject Councillor summarises his or her response including making any representations as to the steps he or she would wish the Panel to take if it decides that there has been a breach of the Members Code of Conduct

5.10 The Panel Chairman declares the Hearing to be closed

6 When the Panel Chairman declares the Hearing closed the Councillor and the investigator will withdraw.

7 The Panel will deliberate taking advice on issues from the Independent Person and on process from the Monitoring Officer.

- 8 On reaching a decision the Subject Councillor and the investigator will be called in and the Panel Chairman will inform the Subject Councillor of their decision and, where their decision is that there has been a breach of the Members Code of Conduct, whether they will make recommendations to the relevant Group Leader or put a motion of censure to the Council.

**After the Hearing**

- 9 As soon as reasonably practicable after the Hearing the Monitoring Officer will prepare a formal decision notice in consultation with the Panel Chairman and send a copy to the Subject Councillor and (where applicable) the Subject Councillor's Group Leader. The decision notice will include the reasons for the decision.
- 10 The Monitoring Officer will send the decision notice to the complainant and make the decision notice available for public inspection on the expiry of two working days after the formal decision notice was sent to the Subject Councillor and (where applicable) Group Leader and will report the decision to the next convenient meeting of the Audit Committee.

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## SECTION D1

### PROTOCOL ON MEMBER/OFFICER RELATIONS

#### 1. GENERAL

##### 1.1 Rationale

The purpose of this Protocol is to enhance working relationships between Members and Officers of the Council. Whilst the Protocol cannot be comprehensive, it sets out guidance on some of the key issues that arise in those relationships. The Protocol also seeks to reflect both the principles underlying the respective Codes of Conduct for Members and for Officers and the seven General Principles of Conduct in Public Life.

##### 1.2 Remit

For the purposes of this Protocol, and unless stated otherwise, the term “Member” includes both elected members (i.e.- councillors) and added members (i.e.- non elected appointed or co-opted, voting or non-voting).

##### 1.3 Fundamental Principles

- Members and Officers of the Council are obliged to act within the law and in compliance with relevant standards and codes of conduct.
- The role of a Member is defined in Statute. In law all Members are equal and have the responsibilities of trustees.
- The over-riding duty of a Member is to the whole community, with a special duty (if a councillor) to their constituents.
- Officers serve the whole Council ~~as a single statutory corporate body and all Councillors~~.
- Officers advise the Executive, the Council and its Committees and are responsible for ensuring that the decisions of the Council are effectively implemented.
- Officers are required to be politically neutral and, for some employees, this is enforced through the political restrictions imposed by the Local Government and Housing Act 1989.
- The interests of the Council are best served where there is mutual confidence and trust between all Members and Officers.
- Both Members and Officers have responsibility for decision making within the schemes of delegation for both Council and Executive functions as set out in the Council’s Constitution
- Members should understand and respect the roles of the Council’s main statutory officers (namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer).
- The Chief Executive and Chief Officers (and Senior Officers working to them) should work closely with members of the ruling group to ensure effective policy development and efficient executive decision making
- Officers will provide adequate support to all Members in their local or representational role

#### 1.4 **Provision of Advice**

- (a) Members should recognise that Officers have the duty and right to provide appropriate professional advice, and the right to have that advice recorded, so that all Members are fully aware of the implications of their decisions.
- (b) Officers should recognise that it is the right of the Members to take the final decisions in the light of their advice.
- (c) The provision of that advice is the principal means by which Members can gain assurance that their decisions comply with the law and relevant standards or codes of conduct and are in accordance with Council policies and procedures.
- (d) The advice provided by the Officers should be factual, honest, objective and politically neutral and based on professional experience and expertise.
- (e) The advice should be sensitive to the political aspirations and constraints of Members but should not reflect, or be influenced by, those aspirations and constraints.
- (f) The advice given by Officers will have the ultimate aim of serving the interests of the Council as a whole, irrespective of whether the current emphasis of an Officer's role is Executive, Overview & Scrutiny or Regulatory.
- (g) It is improper for any Member to seek to influence Officer advice and /or recommendations by subjecting any Officer to undue pressure (see Paragraph 1.5 below). Such advice and recommendations must be those of the officer only.

#### 1.5 **Respect and Courtesy**

- (a) For the effective conduct of Council business there must be mutual respect and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. It is very important that both Members and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of Members or Officers.
- (b) If an officer is in breach of this requirement, some form of disciplinary action may result as a consequence of investigation by the Chief Officer.
- (c) If a Member is in breach, then the matter will be discussed, if appropriate, with the Head of Paid Service and/or Monitoring Officer, and will then be dealt with within their political group.

#### 1.6 **Undue pressure**

- (a) In their dealings with Chief Officers and, more particularly, other Officers, Members must remain aware at all times that Officers have no discretion to act outside Council policies.

- (b) A Member should not apply undue pressure on an officer either to do anything that they are not empowered to do, or to undertake work outside normal duties, or outside normal hours. A Member should not seek to instruct, or direct the work of, individual employees, nor create a situation that places, or could place, any Officer in conflict with his or her Line Manager.
- (c) Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in that Officer's favour or to his or her advantage, nor raise with a Member personal matters to do with their work. No Officer shall make claims or allegations to a Member about another Member or Officer except for a Chief Officer raising issues through proper channels as set out in the Constitution.

### 1.7 **Familiarity**

Close familiarity between Members and Officers must be avoided. It can damage the principle of mutual respect and could lead to passing of confidential information, or information which should not properly be passed between them. Such familiarity could also cause embarrassment to other Members and/or Officers or could give rise to a suspicion or perception of favouritism.

## **2. INFORMATION AND THE POLITICAL PERSPECTIVE**

- 2.1 All information will be open and accessible, subject to legislative requirements on exempt and confidential information and relevant Data Protection law. ~~the Data Protection Act.~~
- 2.2 For the proper functioning of the County Council as a whole, Officers will normally be permitted to share information freely between themselves.
- 2.3 Where the information has been supplied/received subject to a request for party political confidentiality, an Officer will be permitted to share that information with other Officers if he/she believes that to be necessary - for example for the purpose of verifying the legality, financial probity or procedural regularity of any proposed course of action disclosed by that information. However, the request for party political confidentiality will be confirmed to, and honoured by, any Officers with whom the information is shared.
- 2.4 Appropriate and regular liaison between Members and Officers connected with the Executive and Overview & Scrutiny aspects of the County Council should avoid the relationship between Overview & Scrutiny and the Executive becoming adversarial and polarised. This liaison, combined with the politically balanced nature of Overview & Scrutiny, should reduce the number of occasions on which it is necessary for information to be supplied by Councillors to Officers on a party political confidential basis at the Executive/Overview & Scrutiny levels.
- 2.5 Officers can share with the appropriate Executive Member any factual information supplied to any other Member.
- 2.6 Where information is supplied to Officers on a party political confidential basis, the Officers will respect that confidentiality unless the Officers believe that the proposed course of action appears to be in conflict with the law, or any relevant

standards or codes of conduct, or would amount to an abuse of the processes of the County Council.

- 2.7 Where party political confidentiality would be maintained in accordance with the preceding sub-paragraph, the Officers may, nonetheless, seek to persuade the Members requesting the confidentiality to agree to that information being shared with the other political groups on the grounds that it would assist the more effective functioning of the County Council; however, in the absence of any such agreement to waive the confidentiality, the Officers would continue to respect it.
- 2.8 Where there is a change in Political Administration, the Officers will act in relation to the new Administration and Opposition party or parties in the same way as they did for the old; and will continue to respect any continuing party political confidentiality.

### **3. SUPPORT SERVICES TO MEMBERS**

- 3.1 All Councillors have a right to receive information from the County Council that they need to carry out their role as a County Councillor.

### **4. OFFICERS AND WHOLE COUNCIL**

- 4.1 The Constitution includes provision for a single party Executive, delegation of decisions to individual Executive Members and a clear division between the Executive, Overview & Scrutiny and Regulatory roles of Members.
- 4.2 However, Officers are required at all times to serve the whole Council and will need to exercise judgement in fulfilling this obligation, whilst maintaining the distinction between the Executive, Overview & Scrutiny and Regulatory functions.
- 4.3 Members must recognise this obligation on Officers.

### **5. OFFICERS AND THE EXECUTIVE**

- 5.1 Any decision by an individual Executive Member or a collective decision by the Executive must be supported by written advice from the appropriate Officer.
- 5.2 An Officer's obligation to the whole Council requires that such advice is independent and Executive Members must not seek to suppress or amend any aspect of such professional advice.
- 5.3 Reports to the Executive will normally be produced by Officers but there may be occasions when an Executive Member produces such a report. In either situation, the appropriate Officer shall record his or her professional advice to the Executive and ensure that that advice is considered when a decision is taken.
- 5.4 When Officers have to carry out decisions of an individual Executive Member, Non-Executive members should recognise that these are still legitimate executive decisions of the Council

### **6. THE EXECUTIVE AND OVERVIEW AND SCRUTINY**

- 6.1 Given the nature and purpose of the County Council and the respective roles of Members and Officers, it is accepted that the Officers, while remaining politically neutral, will inevitably give advice on a wider range of issues and on a more regular basis to the Executive. For their part, the Executive will continue to respect the political neutrality of the Officers and accept that Officers are obliged to respond positively to any requests from Overview & Scrutiny for appropriate information and advice relevant to the issue being considered by Overview & Scrutiny.
- 6.2 When an Officer requests it, the Executive will provide an appropriate Lead Member to attend an Overview & Scrutiny meeting to explain an Executive decision and the reasons for it.

## **7. OFFICERS AND INDIVIDUAL MEMBERS**

- 7.1 Any Group Leader, Executive Member, Group Spokesman, Committee Chairman or Chief Whip/Group Whip or their nominated representative may request a private and confidential briefing from a Chief Officer on matters of policy which have already been or may be discussed by the Council or which are within its decision-making or advisory process. Briefings shall remain strictly confidential and are not to be shared with other Members without the express permission of the relevant Member(s).
- 7.2 Except for the confidential policy advice referred to above, where possible information will be shared among political group representatives. In particular, scrutiny is a cross party process involving all political groups represented on the Council. Information supplied to Scrutiny Chairmen will therefore be shared as a matter of course with each of the political groups.
- 7.3 Individual Members may request any Chief Officer (or another senior Officer of the Directorate concerned) to provide them with information. Where the Member has a right to information and can demonstrate his/her duties as a Member, such requests must be reasonable, and must recognise the need for Officers to maintain the distinction between Executive, Overview & Scrutiny and Regulatory processes.
- 7.4 If a Chief Officer considers the cost of providing the information requested - or the nature of the request - to be unreasonable, he/she shall seek guidance from the Head of Paid Service as to whether the information should be provided.
- 7.5 Confidential information relating, for example, to casework, should not normally be sought by a Member from an Officer. If, in exceptional circumstances, a Member wishes to discuss confidential aspects of an individual case, they should seek advice from the appropriate Chief Officer and follow any relevant guidance.
- 7.6 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided (i.e.- the proper performance of the Member's duties).
- 7.7 There will be quarterly informal meetings of all Group Leaders and the ruling group's Deputy Leaders with the Head of Paid Service. These meetings will be

confidential and minuted. Their objective is to help ensure the political management of the Council and build effective relationships.

7.8 Any Group Leader can request additional meetings to discuss urgent matters.

## **8. LOCAL MEMBERS**

8.1 It is essential for the proper running of the Council that Local Members (i.e. - councillors) should be fully informed about matters on which they may be required to make decisions or which affect their electoral divisions.

8.2 It is the duty of each Chief Officer and Executive Member to ensure that all relevant staff are aware of the need to keep Local Members informed and that the timing of such information allows Local Members to contribute to those decisions.

8.3 Local Members shall also be kept informed about matters affecting their divisions during the formative stages of policy development and discussion.

8.4 Issues may affect a single electoral division but others may have a wider - even sub-regional - impact, in which case numerous Local Members will need to be kept informed.

8.5 Local Members have an important role to play in representing the County Council in their constituencies; responding to the concerns of their constituents; in meetings with partners and serving on outside organisations.

8.6 Whenever a public meeting is organised by the Council to consider a local issue, all the Local Members representing the electoral division(s) affected should as a matter of course be invited to attend the meeting.

8.7 Similarly, whenever the Council undertakes any form of consultative exercise, the Local Member(s) should be notified at the outset of the exercise.

## **9. OFFICERS AND NON-COUNTY COUNCIL ELECTED REPRESENTATIVES**

9.1 Officers may be requested to meet with councillors or elected representatives from other Councils or organisations to provide briefings and/or policy advice.

9.2 Any Officer requested to attend such a meeting which is not held on a cross political party basis must obtain the prior authorisation of the Head of Paid Service who shall inform all Group Leaders of the arrangements.

## **10. MEDIA RELATIONS**

10.1 Advice to the Executive and Executive Members in relation to the media will be provided on a confidential basis if requested.

10.2 Executive Members will (through the Communications Team) be able to publicise issues prior to decisions being taken.

- 10.3 Overview & Scrutiny and Regulatory Chairmen shall ensure that all media statements relating to the scrutiny and regulatory functions have the support of the relevant Committee. Any such statements must be consistent with the Council's intent that the scrutiny and regulatory functions shall help to achieve a culture of continuous improvement and good governance throughout the Council.
- 10.4 The Communications Team and other Officers will also assist non-Executive Members (particularly Chairmen and Vice-Chairmen) in their media relations (on a confidential basis if requested).
- 10.5 Any Officer assisting a Member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner. Other than factual statements, Members should not seek assistance from an Officer with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

## **11. REDRESS**

- 11.1 If a Member considers that they have not been treated properly by an Officer, they should first try to resolve the matter through direct discussion with that Officer.
- 11.2 The Member may raise the matter with the officer's Line Manager or Chief Officer if the matter cannot be resolved through such discussion. A Member may raise the issue with the Head of Paid Service if it remains unresolved. Where appropriate, disciplinary action may be taken against an Officer
- 11.3 Similarly, if an Officer feels that they have not been treated properly by a Member and they feel unable to resolve the matter directly with that Member, the Officer should raise the issue with the appropriate Chief Officer. In such circumstances the Chief Officer will take such action as is appropriate, including, if necessary, raising the matter with the relevant Group Leader.
- 11.4 The Chief Officer will inform the Head of Paid Service if the Group Leader becomes involved, and, in other cases, where appropriate.
- 11.5 If any matter covered by 11.3 above involves an actual or potential breach of the Code of Conduct for Members, it should be referred to the Monitoring Officer.

## **12. ARBITRATION**

- 12.1 When necessary or appropriate, the Head of Paid Service will arbitrate on the interpretation of this Protocol.

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## SECTION D2

### PROTOCOL ON COUNCILLOR INVOLVEMENT IN COMMERCIAL TRANSACTIONS

#### BACKGROUND

This protocol is designed to support Councillors in their work within the community which is an invaluable part of explaining the intentions of the Council at a local level and which assists in maintaining the Council's responsiveness to legitimate interest groups.

#### PRINCIPLES

The protocol is based upon the following principles.-

- Protecting the personal integrity of Councillors and officers.
- Ensuring the financial and probity interests of the Council are protected.
- Ensuring decisions are based on complete and sound information and advice from appropriate professional staff.
- Ensuring decisions are in accordance with the Council's agreed processes and standards.
- Protecting the Council, its Councillors and officers from undue pressure or inappropriate contact from contractors and parties with a commercial interest in a transaction.

#### PROTOCOL

The Council is engaged at any one time in a large number of commercial transactions, which range from such matters as the procurement of goods, services and works, the purchase or sale of land or the disposal of surplus property to such matters as the provision of advice and/or grant aid to companies.

Councillors frequently have a constructive involvement in such commercial transactions. That involvement is not limited to taking the decision in Council, Committee or Executive as to whether to enter into such contracts and arrangements and in exercising their scrutiny functions to ensure that such arrangements complied with the Council's requirements in terms of propriety and are designed and managed so as to provide the Council with the best possible value for money. Such involvement also extends to their role within the community in making the public aware of the services which the Council can make available, and in effecting introductions between such interested parties and the officers who are responsible for administering and delivering those services.

Because of their very close involvement with the community which the Council serves, Councillors may also become aware of opportunities for the Council to act to benefit that community, opportunities to buy land, or commercial or voluntary organisations who could expand their activities if the Council were able to secure the opportunity for them to extend their premises, or local businesses who provide high quality goods or services of a sort which the Council requires, and who might benefit from an opportunity to compete to supply the Council.

However, such commercial transactions also carry significant responsibilities. These include:

- the obligation to secure the best possible value for money for the Council;
- the legal obligation on the Council to secure “best consideration” on the disposal of its land, unless it obtains the consent of the Secretary of State;
- the Best Value obligations to secure the continuous improvement in all Council services, whether delivered directly or externally procured;
- the need to comply with relevant law;
- the need to ensure that a commercial transaction is drafted and documented in such a manner that it can be enforced, for example if the other party defaults or under-performs, or if the goods supplied or the work carried out subsequently prove to be defective;
- the requirement that the transaction and all matters leading up to the final transaction, should be fully and clearly recorded, so that it can be audited to ensure propriety in the procurement process; and
- compliance with the requirements of the Council’s Local Code of Conduct for Councillors and the national code for officers.

In addition, there is the danger that an individual Councillor or officer will be misrepresented by the advocates or opponents of a particular proposal who may, innocently or otherwise, claim that the Councillor or officer has given incorrect information or advice or misrepresented the proposal, are biased or have shown favouritism.

Failure to comply with these requirements can result in serious penalties for the Council, for individual Councillors involved in the transaction and for officers. Such penalties include:

**For the Council:**

- direct financial loss from entering into contracts which are not good value for money for the Council;
- inability to enforce the contract or to recover damages for breach;
- liability to third parties;
- liabilities where a decision made by or on behalf of the Council is overturned on judicial review because it is held to have been unlawful or unreasonable; and

- the loss of the Council's reputation as an organisation dedicated to the interests of the community which it serves.

**For individual Councillors:**

- suspension or disqualification from office for breach of the Council's Code of Conduct;
- personal liability, in the event of a Councillor's negligence or reckless or deliberate misconduct causing loss to the Council; and
- prosecution for Misuse of Public Office. (Note that it is for the recipient of any gift or hospitality from a tenderer or contractor with the Council to prove that it was not an inducement or reward for anything which the recipient has done in their public position).

**For an officer:**

- disciplinary proceedings by the Council, possibly leading to dismissal;
- personal liability to the Council for any loss caused by their negligence or reckless or deliberate misconduct; and
- prosecution for Misconduct in a Public Office.

**1. LOBBYING**

It is a natural part of a political process that those who may be affected by a proposed decision of a local authority should seek to influence that decision. In many cases they will approach their local Councillor, as the interface between the Council and the local community, or the Chairman of the relevant Committee, as the person who is seen as being responsible for the processing of the decision, or a relevant officer.

Councillors must be seen to determine matters on their merits. A Councillor or officer who has given a personal commitment to support or oppose a particular proposal will have committed themselves before the full issues have been explored, which exploration occurs from discussion of the officer's report and recommendation in the Council or executive or Committee meeting. Accordingly, when approached by an advocate or opponent of a particular proposal, a Councillor has to decide whether:

- 1.1 They will remain impartial, in which case they must limit themselves to listening politely to the arguments put forward, declining to state a personal position and advising the person making the approach of the proper channel for making such representations. When they attend any Council, Executive, Committee or other meeting at which the proposal is considered, they should report to the meeting that they have received such representations.
- 1.2 They will take sides on the issue by declaring their support or opposition to the proposal. In that case, they are either an advocate or an opponent of the proposal and are no longer impartial. As a result, they should declare an interest and withdraw from any such meeting at which the matter is under consideration. The only exception to this rule is that, where a local Councillor has received and supports strong representations from local residents in his/her ward, it is customary for the Councillor to be allowed to report those

representations to the Committee or Panel in declaring an interest at the commencement of discussion of the matter and immediately before withdrawing from the meeting.

- 1.3 No officer should meet and hear advocates or opponents of a proposal on his/her own, but should wherever possible arrange that another officer is present and make a contemporaneous record of the meeting, which should be kept on the matter file and included as a background document, and should report the meeting to the Council, Executive or Committee or Panel meeting where any matter which is material to the determination of the proposal has arisen.
- 1.4 Where a Councillor is of the opinion that a person or organisation have legitimate representations to make, he/she should advise them that they may make those representations in writing to the relevant officer, and the officer should ensure that any relevant representations which he/she receives are fairly report to the meeting of the Council or Committee or Panel at which the matter is considered.
- 1.5 In some cases, it will be appropriate for the advocate or opponent to have a face-to-face meeting with the Council. Where a Councillor is of the view that such a meeting is appropriate, he/she should request the relevant officer to arrange such a meeting. The officer will consider, in consultation with the relevant Executive Councillor or Committee or Panel Chairman as appropriate, whether such a meeting will be constructive and whether it should be at officer or at Councillor level. Where it is at Councillor level, the officer will ensure that the relevant Councillors are invited to attend by the appropriate Chief Officer. All such meetings will be attended by the officer of the Council who is responsible for the matter, or his/her representative, and the officers attending shall make a contemporaneous note of the course of the meeting and ensure that the fact of the meeting and any material issues which came out of it are reported to the meeting of the Council, Executive or Committee or Panel at which the matter is considered.

## **2. GIFTS AND HOSPITALITY**

~~Gifts and hospitality provide a particularly difficult area where local government rules are sharply at odds with private sector business practice. Recent events in national politics illustrate how careful local government Councillors and officers have to be to avoid the suspicion of impropriety, for their own protection as much as for the protection of their authority.~~

~~The best way to demonstrate such innocence is to be totally open about the matter, and it is for this reason that this local authority maintains a register of gifts and hospitality for Councillors and officers. That is not to say that Councillors and officers should never receive modest gifts or hospitality. A working lunch may be the most efficient way of transacting in a busy schedule. Equally, a contractor may reasonably wish to celebrate the completion of a project with a formal launch, and may wish to include some hospitality in such a launch. Whilst it is important not to offend by ungraciously refusing such an invitation, if innocently offered, it is more~~

~~important to ensure that the Council's reputation is protected and not to give the impression that a Councillor's or officer might be swayed in the performance of his/her public duties by such an offer.~~

~~The simple ground rules are as follows:~~

- ~~2.1 Always declare to the Monitoring Officer at the earliest opportunity any offer or receipt of a gift or hospitality from any person or organisation which has, or seeks to have, any commercial relationship with the Council.~~
- ~~2.2 If you have any suspicion that the offer of a gift or hospitality might have been made from improper motive, to influence you in, or to reward you for the performance of, your public duties you should politely but firmly decline the offer and advise the Monitoring Officer, or the Head of Paid Service in his absence, of your suspicions.~~
- ~~2.3 Any gift or hospitality offered should be appropriate in scale and nature to the occasion. In particular, any offer which is made at a time when an issue relating to the person offering the gift or hospitality is before the Council for determination should be viewed with particular care.~~
- ~~2.4 Where you accept a gift or hospitality has a commercial value, such as an invitation to a commercial sports event, you should always ensure that you pay the full commercial price (and not just the face value of the ticket) to the person providing the gift or hospitality, and that you declare this to the Monitoring Officer.~~
- ~~2.5 Whenever possible, you should put any invitation on an official footing by advising the Monitoring Officer of the offer and requesting an appropriate officer to accept or decline the offer on your behalf.~~

### **3.2. PROFESSIONAL ADVICE AND NEGOTIATIONS**

One area of special sensitivity relates to commercial negotiations, where the Council's public service objectives may conflict with the profit motivation of the other party to the negotiation, and where it is accordingly essential to ensure that the end result of the negotiation secures value for money for the Council and does not leave it exposed to excessive liability or risk.

There will be occasions when Councillors can play an invaluable part in such negotiations, not least in expressing to the other party the commitment of the Council to a particular project, or the political constraints within which the transaction occurs. However, given the risks to Councillors from involvement in such negotiations, Councillors should never undertake any commercial negotiation alone directly but limit their role to setting the policy and political framework for approving the final deal.

Council officers will conduct all commercial negotiations and will keep Councillors aware of the progress and implications of their actions. In the exceptional circumstances that the negotiations may benefit from Councillor involvement it will be in accord with the following protocol:

- (a) The Councillor will discuss the transaction in advance with a Council officer of suitable seniority and agree a strategy to progress the transaction.
- (b) Having agreed the strategy, any discussions with interested parties would be organised by a senior officer and would only take place in the presence of an appropriate senior Council officer.
- (c) Only Council officers will make offers to or indicate acceptance of an offer from interested parties on behalf of the Council.
- (d) A record of the meeting involving Councillors with interested parties would be produced by the Council officer in attendance and kept on file for future reference.

#### **43. CONFIDENTIALITY**

Commercial transactions, by their nature, involve the commercial activities of one or more party other than the Council. They will involve the disclosure to the Council of matters of commercial confidentiality, such as the business plans, performance standards or pricing structures of commercial organisations, disclosure of which to a competitor or to the market could be very detrimental. This is all the more so as Best Value encourages the development of Partnership and Open Book transactions. The maintenance of confidentiality is essential both to maintain the integrity of a competitive procurement process and to ensure that those who have commercial dealings with the Council know that they can rely upon the Council to protect their commercial secrets, and are therefore able to be open with the Council.

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## SECTION D4

### PLANNING DEVELOPMENT CONTROL PROCESS

#### 1. INTRODUCTION

1.1 Planning is not an exact science. It relies on informed judgement within a firm policy context. It is highly contentious because its decisions affect daily lives and private interests. The openness of the planning system invites participation. Planning decisions must be open, unbiased and transparent. These principles underpin good decision making, the planning system, the Local Government Act 2000 and the Human Rights Act 1998.

1.2 The planning system controls development in the public interest. The Council's role is to make the best decision (even if that takes a little time) taking into account the effect of the development on the environment and on the interests of the wider community. This, like many other decisions of the County Council involves balancing many, often conflicting, interests. Planning decisions must therefore be taken and be seen to be taken:

- openly;
- impartially;
- taking all relevant matters into account;
- ignoring any irrelevant matters;
- for justifiable and clearly stated reasons.

There must be no grounds for suggesting that a decision has been biased. Bias does not mean Councillors or Officers have been swayed by relevant factors. It means that an ordinary Member of the Public, with full knowledge of the facts, would reasonably conclude that Councillors or officers might have been swayed by irrelevant considerations, personal factors, or the manner in which the application had been dealt with.

1.3 Examples of circumstances in which a decision would be likely to be biased are:

- any voting member of the Committee has declared openly their position before the Committee meeting;
- either the applicant or supporters of the application or objectors have been given different levels of access to state their case to the Committee;
- the information provided to individual Committee members is not consistent;
- a member of the Committee has not declared a prejudicial interest;
- the Committee has not been made aware of all material considerations;
- the Committee or members of the Committee have not acted in the public interest;

- decisions, with respect to both conditions and reasons for refusal, are not supported by clear understandable reasons.

That is not an exhaustive list but illustrates the range of factors which can be seen as demonstrating bias.

- 1.4 A decision can be challenged for bias through a judicial review. The court could invalidate the decision, advising the Council to reconsider the matter properly. The costs of those affected in going through this process would fall on the Council. The Council may also be liable for the costs caused by delaying the decision. Delay may also severely affect the Council's own future plans.
- 1.5 Applicants for planning consent may appeal against a refusal or the content of conditions attached to an approval through planning appeal procedures. Similarly, appeals can also be lodged against enforcement action. The Council will incur its own costs of this process, and if it has acted unreasonably, may also have to pay the applicant's costs.
- 1.6 Bias could lead to a complaint to the Local Government Ombudsman, who might recommend payment of compensation; this would be recorded on the Council's Key Performance Indicators.
- 1.7 Bias caused by a breach of the Lincolnshire Code of Conduct could be dealt with under the agreed local arrangements for dealing with Standards complaints.
- 1.8 Dealing with such matters including appeals, Ombudsman's complaints and judicial reviews, is time consuming and costly. If challenges are upheld then the credibility of the County Council suffers.
- 1.9 The County Council has a code of conduct which deals with the issues that affect all Council business. Given the complexities, responsibilities and pressures of the planning system, it is sensible to have a code of practice, amplifying the code of conduct for dealing with planning issues. This code of practice is based on a national code, prepared by the Local Government Association and published as "Probity in Planning". It should protect Officers and Councillors from false allegations, and give the public confidence in the planning decisions of the Council.

## **2. THE GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 2.1 Councillors and officers have different but complementary roles, both of which serve the public. Councillors are responsible to the electorate, while officers are responsible to the Council as a whole. Officers advise Councillors and the Council, and carry out the Council's work. They are employed by the Council, not by individual Councillors and instructions to officers come from the legally established decision taking mechanisms of the Council. Unless given clear delegations to act on behalf of the Council, Officers can only advise.

- 2.2 Both Councillors and Officers are guided by codes of conduct. The local Code of Conduct provides standards and guidance for Councillors. Employees are to be the subject of a statutory Employee's Code of Conduct. In addition, Chartered Town Planners are guided by the Royal Town Planning Institutes' Code of Professional Conduct.

### 3. GENERAL CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS

#### 3.1 Councillors:-

##### Code of Practice

- In making planning decisions, Councillors must make decisions on the basis of put the wider public interests of Lincolnshire as a whole as expressed in planning policy before those of their own locality and must be seen to do so;
- ~~And must be seen not to do so, remembering that "person" includes companies, and other organisations;~~
- Councillors should not try to persuade officers to alter their professional advice or put pressure on officers for a particular recommendation.
- Councillors must not put pressure on other Councillors for a particular recommendation;
- Councillors should receive training on how to approach planning matters: initial training when first serving on the Planning and Regulation Committee and regular updates to keep abreast of any changes which take place in legislation or procedures.

#### 3.2 Planning Officers shall:-

- always act impartially, providing independent professional advice to the best of their skill and understanding;
- act with competence, honesty and integrity;
- advise and act in accordance with approved policies;
- observe the Officer's Code of Conduct (when adopted);
- observe the Code of Professional Conduct of the Royal Town Planning Institute.

## **4. HOSPITALITY**

### 4.1

#### **Code of Practice**

- In making planning decisions, Councillors should refuse any gift and be extremely cautious about accepting hospitality. If the receipt of hospitality is unavoidable from persons with an interest in a planning proposal, it must be ensured it is of a minimum level.

## **5. DECLARATION OF INTERESTS**

### 5.1

#### **Lincolnshire County Council's Code of Conduct**

Members must in all matters consider whether they have an interest, under the Council's code of conduct which they should register and declare.

## **6. LOBBYING OF AND BY COUNCILLORS**

- 6.1 Lobbying is a normal and important part of the political process. However, such lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of Councillors concerned being called into question.

#### **Code of Practice**

- Councillors on the Planning and Regulation Committee should restrict their advice to lobbyists to procedural matters and advise objectors and supporters of any proposal, to write to the relevant officer so they can be included in the officer's report;
- Councillors on the Planning and Regulation Committee must not openly declare which way they intend to vote in advance of the formal consideration of an application. If they have openly declared their position they shall properly declare their position at Committee and not vote on the application concerned;
- A decision on a planning application must not be taken before the Planning and Regulation Committee meeting, when all available information and views have been considered. Any group meeting before a committee meeting, must not be used to decide how Councillors should vote;
- Councillors on the Committee must avoid organising support for an opposition to a planning application, and avoid lobbying other Councillors (except when they are addressing the Committee).

### **Code of Practice**

- Executive Councillors must not participate as members of the Planning and Regulation Committee in deciding applications by Executive or fellow Executive Members on behalf of the Council;
- Local Divisional Councillors who are not on the Committee are allowed to speak. Only members of the Committee shall be able to vote.

6.2 Opinions, which are relevant to the determination, made by the applicant, agent, objector, to any member must be made known to the relevant planning officer, in order that they can be included in the officer's report to committee and therefore properly considered.

## **7. PRE-APPLICATION DISCUSSIONS**

- 7.1 Discussions between potential applicants and the council, prior to the submission of an application, can be of considerable benefit to both parties and is encouraged by central government. However, it can be easy for such discussions to become, or be seen to become, part of a lobbying process. Pre-application discussions should, therefore, take place within clear guidelines. The guidelines are:
- 7.2 At the outset, it will be made clear that the discussions will not bind the Council to making any particular decision.
- 7.3 Advice given will be consistent with the development plan, government guidance and material considerations.
- 7.4 Officers involved in the discussions shall make it clear whether or not they are the decision-maker or advising officer to the committee concerned.
- 7.5 Written notes will be taken of all meetings and potentially contentious telephone conversations with applicants.
- 7.6 Care must be taken to ensure that advice is not biased (nor seen to be).
- 7.7 Members of the Planning and Regulation Committee should preserve their impartiality as decision takers and avoid pre-application or post-application discussions with developers or other interested parties regarding development proposals.
- 7.8 Where a particular planning application gives rise to widespread concern, the Chairman of the Planning and Regulation Committee in consultation with the Executive Director for Environment and Economy may arrange a public meeting to which the applicants will be invited to outline their proposals and the objectors express their concerns. All members of the Committee together

with Local Councillor(s) will be invited to attend. Relevant officers will attend and detailed notes taken of the meeting. The Chairman will make it clear to the meeting that members are in attendance to obtain information not to discuss the proposal.

## **8. OFFICER REPORTS TO COMMITTEE**

8.1 Officers will provide clear unbiased professional advice. Reports will:

- set out the relevant development plan policies, site and relevant planning history, material considerations and the substance of objections and the views of people and organisations which have been consulted. Written representations are open to inspection by Councillors and the public;
- contain a technical appraisal of the relevant provisions of the development plan and other material considerations in relation to the application;
- advise on any relevant issues relating to Human Rights legislation;
- contain recommendations; and
- may be supplemented by oral updates in special circumstances which will be minuted.

## **9. PUBLIC SPEAKING AT COMMITTEE**

9.1 Applicants, agents and persons wishing to express a view about a planning application that is being reported to the Planning and Regulation Committee will have a right to speak at the Committee subject to the following rules. Details of the scheme will be included in the acknowledgement letter to agents/applicants and the notification letter/site notices to neighbours. Details will also be available on the Council's website and from Council offices:

- a) Anyone wishing to speak must register in writing (including e-mail or fax) with the planning officer at least 2 working days before the meeting.
- b) A list of persons wishing to speak arranged in order of the agenda will be produced for the Chairman and members of the Committee.
- c) Any person who has not given notice will only be allowed to speak at the discretion of the Chairman.
- d) The Committee may hear speakers either only for the applicant or only for objectors provided all parties have been given the opportunity to speak and one party chooses not to exercise his/her right.
- e) The number of speakers will be restricted to a maximum of 1 in favour of an application and 1 opposing an application chosen by order of

notification of a wish to speak. In addition to local Councillors who have a right to speak on a matter affecting their division and adjoining divisions, up to 2 other Councillors who are not members of the Committee may also address the Committee upon each application.

- f) Speakers will be limited to 3 minutes each in respect of each application.
- g) Members of the Committee may ask questions of speakers. Such questions will be put through the Chairman.

## **10. TAKING A DECISION AT COMMITTEE**

- 10.1 Planning decisions must be taken in accordance with the adopted development plan, unless material considerations indicate otherwise. Reason must be given for all planning decisions.
- 10.2 If the Committee makes a decision contrary to the officer's recommendation (whether approval or refusal), the Committee must give the reasons for that decision and a detailed minute must be made and a copy placed on the application file. The reasons must be clear and convincing. If necessary, the Committee should pass a resolution that it is minded to take this course of action and request a further report on appropriate conditions or reasons.
- 10.3 If the committee wishes to add or amend conditions, officers shall draft the condition for approval by the Committee at its next meeting or by the Executive Director for Environment and Economy in consultation with the Chairman of the committee.
- 10.4 Every meeting of the Committee will be attended by a senior legal officer to ensure that procedures are properly followed.
- 10.5 If the Committee makes a decision contrary to an officer recommendation and there is an appeal against the decision, those Councillors who made the decision may be required to be available as a witness at any subsequent Planning Inquiry or Hearing.
- 10.6 Where Members of the Committee wish to raise a substantive issue, or require additional information, they should give at least one clear working day's notice to the Head of Planning to enable a considered response to be given at the meeting. Longer notice is desirable, to allow a supplementary note to be circulated at least two days prior to the meeting and for that note to be a public record of the response.

## **11. COMMITTEE SITE VISITS**

- 11.1 Site visits can give rise to accusations of unfairness by the Committee unless a clear protocol is agreed and followed.

11.2 A site visit should be made if:

- the expected benefit to the Committee of understanding the site, its surroundings and the issues relating to the application is substantial;
- a formal committee report on the application has been presented;
- further supporting plans or photographs could not satisfactorily enable members of the Committee to visualise the impact of the proposal.

11.3 Members of the Committee shall not go unaccompanied onto land about which an application has been made, as this exposes them to accusations of bias by objectors.

11.4 The reasons for a site visit shall be minuted.

11.5 Site visits must include officer assistance. In exceptional circumstances, representatives from statutory bodies may be invited to attend where they can provide detailed technical advice, for example, on highway sight lines.

11.6 Site visits shall be carried out under the guidelines used by the Planning Inspectorate, namely the site visit is to view the site and salient features. Neither the applicant nor objectors should be allowed to accompany the Members of the Committee on the site visit, except for safety reasons. The owner or applicant will, however, not be allowed to participate in any discussion which should, in any case be limited to purely factual information.

11.7 The officer present will set out the main issues relating to the application and point out the salient features and points on the site and in the immediate area.

11.8 No formal decisions of the Council will be made on site and where a site visit is held only those members of the Committee who have attended the site visit will be entitled to participate in the decision relating to that application.

## **12. REVIEW OF DECISIONS**

12.1 In order to review the quality of decisions a random selection of sites will be reviewed each year by the Head of Planning and an external 'critical friend'. Members of the Committee will be taken to visit these sites.

12.2 An annual report will be produced on which permissions have been implemented and the quality of the development that has been carried out.

## **13. COMPLAINTS AND RECORD KEEPING**

13.1 The Council has a robust system for dealing with complaints. The public will be made aware of the complaints system through the corporate complaint system. The Local Planning Charter sets out the system for investigating alleged breaches of planning control with respect to planning enforcement matters. The planning enforcement system will ensure:

- complaints are acknowledged within 3 clear working days;

- complaints are initially investigated within 5 clear working days;
- complaints are replied to within 15 clear working days.

13.2 The performance of the Council's development control function is monitored on a quarterly basis.

#### **14. PLANNING OBLIGATIONS**

14.1 Officers will negotiate with developers with regard to Legal Agreements.

14.2 Reports to the Planning and Regulation Committee may include Heads of Terms of Agreements.

14.3 Copies of any concluded Legal Agreements (Planning Obligations and Agreements under the Highways Acts) will be available for public inspection and placed on the statutory register.

14.4 Copies of Agreements will be forwarded to the relevant district and parish councils with the decision notice for the application.

#### **15. REVIEW OF THE CODE OF CONDUCT**

15.1 The operation of this Code of Conduct shall be reviewed annually by the Audit Committee.

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## Regulatory and Other Committee

### Open Report on behalf of Andrew Crookham, Executive Director - Resources

Report to:	<b>Audit Committee</b>
Date:	<b>18 November 2019</b>
Subject:	<b>Review of Audit Committee Terms of Reference and Internal Audit Charter</b>

#### **Summary:**

The periodic consideration of the Audit Committee's terms of reference and the Internal Audit Charter is seen as best practice.

#### **Recommendation(s):**

- (1) That the Audit Committee considers the new terms of reference attached in Appendix A.
- (2) That the new terms of reference be recommended to the Council for approval.
- (3) That the Audit Committee approves the Council's Internal Audit Charter.

#### **Background**

##### **Audit Committee Terms of Reference**

CIPFA's Practical Guidance for Audit Committees 2018 provides local authorities with suggested terms of reference. Our Audit Committee terms of reference have been reviewed and updated to reflect this good practice guidance – see Appendix A.

For ease of reference we have tracked the changes.

An extract of CIPFA's guidance and suggested terms of reference attached in Appendix B.

## Internal Audit Charter

We have also taken the opportunity to update our Internal Audit Charter (Appendix C) – which formally defines Internal Audit’s purpose, authority and responsibility. It establishes Internal Audit’s position within the Council and defines the scope of Internal Audit activities.

The Audit Committee is requested to consider the suitability and applicability of the Internal Audit Charter.

## Conclusion

The Council's Audit Committee plays a key role in helping the Council maintain good governance – ensuring that it is run well.

Having effective terms of reference helps the Committee report to full Council on its performance and effectiveness.

The internal audit charter is the best way to agree and describe how Internal Audit will provide value to the Council, the nature of the services it will provide and the specific focus or emphasis required of Internal Audit to help the Council achieve its objectives.

Having an internal audit charter also establishes the Internal Audit activity's position within the organisation, including the Head of Internal Audit's reporting lines, authorising access to records, personnel, and physical properties relevant to the performance of engagements; and also defining the scope of internal audit activities.

It is therefore a reference point for measuring the effectiveness of internal audit.

## Consultation

### a) Policy Proofing Actions Required

n/a

## Appendices

These are listed below and attached at the back of the report	
Appendix A	Suggested new Terms of Reference
Appendix B	CIPFA's suggested Terms of Reference for local authorities
Appendix C	Updated Internal Audit Charter

## Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Lucy Pledge, who can be contacted on 01522553692 or [lucy.pledge@lincolnshire.gov.uk](mailto:lucy.pledge@lincolnshire.gov.uk) .

### Extract of Constitution – Audit Committee Terms of Reference –

#### Updated to meet CIPFA Best Practice – suggested

##### Audit Committee

There will be an Audit Committee consisting of nine members. Seven of the members will be Non-Executive Councillors and reflect the political balance overall.

Two members shall be independent people (non-voting members) who are not a Councillor or Officer of the Council; or a former Officer of the Council if their departure was in the last five years.

##### Role:

To fulfil the role of an Audit Committee in respect of the work of the Council. Setting out the Committees position in the governance structure of the Council.

- The Audit Committee is a key component of Lincolnshire County Council's corporate governance. It provides an independent and highlevel focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- The purpose of the Audit Committee is to provide independent assurance to members of the adequacy of the risk management framework and the internal control environment. It provides independent review of Lincolnshire County Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

##### Functions:

##### ~~Regulatory Framework~~—**Governance, Risk and Control**

- To maintain an overview of the Council's Constitution.
- To review any issues referred to it by the Chief Executive, Director or any Council body.
- To monitor the effective development and operation of risk management ~~and corporate governance~~ in the Council.
- To monitor progress in addressing risk-related issues reported to the committee.
- To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- To monitor the counter-fraud strategy, actions and resources.
- To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.

- To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and ~~and~~ consider the local code of governance. annual governance reports and assurances.
- To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- To consider the Council's compliance with its own and other published standards and controls.
- To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- To review the governance and assurance arrangements for significant partnerships or collaborations.
- ~~To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.~~

### **Internal Audit**

- Approve the internal audit charter.
- To review proposals made in relation to the appointment of external providers on internal audit services and to make recommendations.
- To consider the Head of Internal Audit's annual report and opinion.
  - a. The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit.
  - b. The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.
- To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
- To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:-
  - a. Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
  - b. Regular reports on the results of the Quality Assurance and Improvement Programme.
  - c. Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.

- To consider summaries of specific internal audit reports of significance or as requested.
- To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- To provide free and unfettered access to the audit committee chair for the Head of Internal Audit, including the opportunity for a private meeting with the committee.
- To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Head of Internal Audit. To approve and periodically review safeguards to limit such impairments.
- To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- To support the development of effective communication with the Head of Internal Audit.

### **External Audit**

- To support the independence of external audit through consideration of the external auditors annual assessment of its independence and review any issues raised by the PSAA or the authority's auditor panel as appropriate.
- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To liaise with the appropriate body over the appointment of the Council's external auditor.
- To commission work from internal and external audit.
- To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Accounts Financial Reporting**

- To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are any concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- Duty to approve the authority's statement of accounts, income and expenditure and balance sheet.

### **Standards**

- Promoting and maintaining high ethical standards by Councillors and non-elected members.

- Assisting the Councillors and added members to observe the Members' Code of Conduct.
- Advising the Council on the adoption or revision of the Members' Code of Conduct.
- Monitoring the operation of the Members' Code of Conduct.
- Advising, training or arranging to train Councillors and added members on matters relating to the Members' Code of Conduct.
- Determining complaints of breaches of the Code of Conduct for Members referred for hearing by the Monitoring Officer.

### **Accountability arrangements**

- To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- To publish an annual report on the work of the committee.

APPENDIX B

## Suggested terms of reference – local authorities and police

### INTRODUCTION

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This appendix contains two sets of suggested terms of reference, one for local authorities and one for police. The principal difference between them is that the police audit committee must ensure that its terms of reference are in accordance with the [Financial Management Code of Practice for the Police Forces of England and Wales](#) (Home Office, 2013 – due to be updated in 2018) and remain an advisory body.

In developing the terms of reference for an organisation, care should be taken to ensure that the specific regulations appropriate for the authority are taken into account. Appendix A sets out these requirements. In addition, where the terms of reference refer to internal audit, regard should be had for how the internal audit charter has allocated responsibilities to the committee. Some of the internal audit responsibilities identified in the terms of reference may not be carried out by the audit committee but by others.

### SUGGESTED TERMS OF REFERENCE – LOCAL AUTHORITIES

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#### Governance

The terms of reference should set out the committee's position in the governance structure of the authority.

#### Statement of purpose

- 1 Our audit committee is a key component of [name of authority]'s corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- 2 The purpose of our audit committee is to provide independent assurance to the members [or identify others charged with governance in your authority] of the adequacy of the risk management framework and the internal control environment. It provides independent review of [name of authority]'s governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

**Governance, risk and control**

- 3 To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
- 4 To review the AGS prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
- 5 To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- 6 To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
- 7 To monitor the effective development and operation of risk management in the council.
- 8 To monitor progress in addressing risk-related issues reported to the committee.
- 9 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- 10 To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- 11 To monitor the counter-fraud strategy, actions and resources.
- 12 To review the governance and assurance arrangements for significant partnerships or collaborations.

To fulfil the requirements of the Local Authority Measure within their terms of reference, local authorities in Wales should identify those aspects which are specified in the Measure. See Appendix A for details. CIPFA considers that the requirement to review and make recommendations on the authority's financial affairs will be fulfilled by reference to items 5, 9 and 10 in these suggested terms of reference as well as those under financial reporting.

**Internal audit**

- 13 To approve the internal audit charter.
- 14 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- 15 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 16 To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- 17 To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- 18 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.

- 19 To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - a) updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work
  - b) regular reports on the results of the QAIP
  - c) reports on instances where the internal audit function does not conform to the PSIAS and LGAN, considering whether the non-conformance is significant enough that it must be included in the AGS.
- 20 To consider the head of internal audit's annual report:
  - a) The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit.
  - b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the AGS.
- 21 To consider summaries of specific internal audit reports as requested.
- 22 To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- 23 To contribute to the QAIP and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- 24 To consider a report on the effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations (see Appendix A).
- 25 To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

#### **External audit**

- 26 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
- 27 To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- 28 To consider specific reports as agreed with the external auditor.
- 29 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 30 To commission work from internal and external audit.
- 31 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

#### **Financial reporting**

- 32 To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- 33 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

#### **Accountability arrangements**

- 34 To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- 35 To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- 36 To publish an annual report on the work of the committee.



# Internal Audit Charter 2019

## Our Mission

To enhance and protect organisational value by providing risk-based and objective assurance, advice and insight to our clients

The Council expects the Internal Audit service to achieve the mission statement through its overall delivery arrangements – this Charter sets out how this is done.

# Internal Audit Charter

## Purpose of this Charter

This Charter formally defines Internal Audit's purpose, authority and responsibility. It establishes Internal Audit's position within the Council and defines the scope of Internal Audit activities.

## Internal Audit's Purpose

Internal Audit provides an independent, objective assurance and consulting activity that is designed to add value and improve the organisation's operations. It helps the organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Internal Audit also provides the Audit Committee with information necessary for it to fulfil its own responsibilities and duties.

Implicit in Internal Audit's role is that it supports the organisation's management to fulfil its own risk, control and compliance responsibilities.

Internal audit does not have responsibility for the prevention or detection of fraud and corruption. Internal Auditors should, however, be alert in all their work to risks and exposures that could allow fraud or corruption and to any indications that a fraud or corruption may have been occurring. Audit procedures alone, even when performed with due professional care, cannot guarantee that fraud or corruption will be detected. Managing the risk of fraud and corruption is the responsibility of management



## Internal Audit's Authority

There is a statutory requirement for the Council to have an internal audit of its governance, risk and control processes. The [Accounts and Audit Regulations 2015](#), more specifically require that the audit takes into account the [Public Sector Internal Audit Standards \(The Standards\)](#) or guidance.

These Standards set the basic principles for carrying out internal audit in the public sector and provide criteria against which quality and performance can be evaluated. The Chartered Institute of Public Finance (CIPFA) have also developed an [application note](#) for the Standards – which sets out the proper practice for Internal Audit in local government.

Internal Audit derives its authority from these, from this Charter and from the Council's Constitution, specifically the Financial Regulations.

The Council's Section 151 Officer is required to ensure that the Internal Audit function is appropriately resourced and effective.

The Head of Internal Audit and Internal Audit staff are authorised to:

- Have unrestricted access to all the organisation's records, property, and personnel, management and elected members relevant to the performance of its engagements. Including those relevant to services provided in partnership or under contract with external organisations.
- Obtain the necessary assistance of the organisation's personnel in relevant engagements, as well as other specialised services from within or outside the organisation.

Internal Audit has no authority or management responsibility for any of its engagement subjects.

Internal Audit (and its auditors) will not make any management decisions or engage in any activity which could reasonably be construed to compromise its independence. Auditors are free from operational system involvement or influence.

# Internal Audit Charter

## Internal Audit's Responsibility

The Head of Internal Audit is responsible for all aspects of Internal Audit activity, including strategy, planning, performance, quality and reporting.

For each, the Head of Internal Audit will:

### Strategy

- Develop and maintain an Internal Audit Strategy.
- Review the Internal Audit Strategy at least annually with management and Audit Committee.

### Planning

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- Develop and maintain an Internal Audit Strategy and risk based Internal Audit Plan.
- Engage with Management and consider the organisation's strategic and operational objectives and related risks in the development of the Internal Audit Plan.
- Review the Internal Audit Plan periodically with management to reflect changes in the risk environment and these changes are approved when significant.
- Present the Internal Audit Plan, including updates, to the Audit Committee for periodic review and approval.
- Prepare an Internal Audit Budget sufficient to fulfil the requirements of this Charter, the Internal Audit Strategy, and the Internal Audit Plan.
- Submit the Internal Audit Budget to the Audit Committee for review and approval annually.
- Coordinate with and (where relevant) provide oversight of other control and monitoring functions, including Risk Management, external audit.
- Consider the scope of work of the external auditors (and other assurance providers) for the purpose of providing optimal audit coverage to the organisation.

- The Head of Internal Audit should be consulted about significant proposed changes to the internal control system and the implementation of new systems - providing advice on the standards of controls to be applied. This need not prejudice the audit objectivity when reviewing systems at a later date.

In developing the Internal Audit Plan we also take account of the Council's assurance framework – using the Three Lines of Assurance (see below) which is obtained through our Combined Assurance work.

How do we assure ourselves about how the council is run?

**Management**  
Accountable for delivery

**Corporate and third party**  
External inspections and internal assurance functions

**Internal audit**  
Independent assurance



Speaking to senior and operational managers who have the day to day responsibility for managing and controlling their service activities.

Working with corporate functions and using other third party inspections to provide information on performance, successful delivery and organisational learning.

Using the outcome of internal audit work to provide independent insight and assurance opinions.

Considering other information and business intelligence that feed into and has potential to impact on assurance

# Internal Audit Charter

## Performance

- Implement and deliver the risk based Internal Audit Plan
- Maintain professional resources with sufficient knowledge, skills and experience to meet the requirements of this Charter, the Internal Audit Strategy and the Internal Audit Plan.
- Allocate and manage resources to accomplish Internal Audit engagement objectives.
- Engagements must be performed with proficiency and due professional care.
- Establish and maintain appropriate internal auditing procedures incorporating best practice approaches and techniques.
- Monitor delivery of the Internal Audit Plan against the Budget using appropriate performance indicators.
- Hold regular senior management / statutory officer liaison meetings.
- Undertake annual assessment of the service and its compliance with the UK Public Sector Internal Audit Standards (the **Standards**) – with this assessment being undertaken through an external assessment at least every five years by a suitably qualified, independent assessor.
- Obtain regular feedback on the quality and impact of our work (added value).

The **Standards** are principles-focused and consist of basic requirements for the professional practice of internal auditing and for evaluating the effectiveness of performance. The ten **Core Principles** set out what we must do to be considered effective – all principles must be present and operating effectively to achieve our mission, they are:-

- 1 demonstrates integrity.
- 2 demonstrates competence and due professional care.
- 3 is objective and free from undue influence (independent).
- 4 aligns with the strategies, objectives and risks of the organisation.
- 5 is appropriately positioned and adequately resourced.
- 6 demonstrates quality and continuous improvement.
- 7 communicates effectively.
- 8 provides risk based assurance.
- 9 is insightful, proactive and future focused.
- 10 promotes organisational improvement.

## Quality

- Establish a Quality Assurance Framework is to:
  - ✓ provide a system for monitoring and evaluating our effectiveness and conformance with the **Standards**.
  - ✓ ensure continuous improvement within the internal audit service.
  - ✓ ensure compliance with professional Standards, Code of Ethics and Council Codes of Conduct.
  - ✓ meet client expectations / demonstrate our importance to the business.
  - ✓ facilitate the Head of Audit's statement on conformance with the International Standards for the Professional Practice of Internal Auditing.

# Internal Audit Charter

## Reporting

- Issue a report to management at the conclusion of each engagement to confirm the results of the engagement and the timetable for the completion of agreed management actions to be taken.
  - Provide periodic reports to management and the Audit Committee summarising Internal Audit activities and the results of Internal Audit Engagements.
  - Provide periodic reports to management and the Audit Committee on the status of agreed management actions taken in response to Internal Audit Engagements.
  - Report annually to the Audit Committee and management on Internal Audit performance against goals and objectives including an annual assurance opinion on governance, risk and control.
  - Report as needed to the Audit Committee on management, resource, or budgetary impediments to the fulfilment of this Charter, the Internal Audit Strategy, or the Internal Audit Plan.
- Inform the Audit Committee of emerging trends and practices in internal auditing.
- Provide results of the annual review on the effectiveness of internal audit (including outcomes of its Quality Assurance and Improvement programme to both the Management and the Audit Committee. This will include a statement on organisational independence of Internal Audit and conformance with the Code of Ethics. Any significant non-conformance must be included in the Annual Governance Statement.
- The Head of Internal Audit will meet informally in private with members of the Audit Committee or the Committee as a whole as required.
  - Report as necessary any significant risk exposures and control issues, including fraud risks, governance issues, and other matters requiring the attention of, or requested by, the Audit Committee or any response to risk by management that may be unacceptable to the organisation.

## Internal Audit's Scope

The scope of Internal Audit activities includes all activities conducted by the organisation - Including those services provided in partnership or under contract with external organisations. There are no restrictions.

The risk-based Internal Audit Plan identifies those activities identified as the subject of specific Internal Audit engagements – helping to support the Head of Internal Audit opinion on governance, risk and control.

**Assurance engagements** involve the objective assessment of evidence to provide an independent opinion or conclusions regarding an entity, operation, function, process, system or other subject matter. The nature and scope of the assurance engagement are **determined by Internal Audit**.

**Consulting engagements** are advisory in nature and are generally performed at the **specific request of management**. The nature and scope of consulting engagement are subject **to agreement with management** and should assist management in meeting the objectives of the organisation without undermining the key principles of independence and objectivity. Internal Audit should not assume management responsibility.

Consultancy engagements should only be performed where resources and skills exist and should focus on governance, risk and control – supporting the Head of Internal Audit annual opinion. They **should not** replace assurance engagements.

The Head of Internal Audit cannot give total assurance that control weaknesses or irregularities do not exist. Managers are fully responsible for the quality of internal control within their area of accountability. They should ensure that appropriate and adequate risk management, control systems, accounting records, financial processes and governance arrangements exist (the control environment), without depending on internal audit activity to identify weaknesses or control failures.

# Internal Audit Charter

## Independence and Internal Audit's Position within the organisation

To provide for Internal Audit's independence, the Head of Internal Audit reports directly to the Audit Committee (The Board) and the Corporate Leadership Team and the Chief Executive.

The Head of Internal Audit has free and full access to the Chair of the Audit Committee.

The Head of Internal Audit reports administratively to the Section 151 Officer who provides day-to-day oversight.

The appointment or removal of the Head of Internal Audit will be performed in accordance with established procedures.

Internal Audit service will have an impartial, unbiased attitude and will avoid conflicts of interest.

If the independence or objectivity of the Internal Audit Service is impaired, details of the impairment should be disclosed to either the Section 151 Officer, or the Chair of the Audit Committee, dependent upon the nature of the impairment.

The Internal Audit Service is not authorised to perform any operational duties for the organisation; initiate or approve accounting transactions external to the Internal Audit Service; or direct the activities of any organisation employee not employed by the Internal Auditing Service, except to the extent such employees have been appropriately assigned to Service or to otherwise assist the Internal Auditor.

Where the Head of Internal Audit is responsible for delivery of operational functions other than Internal Audit. External assurance is sought on these - overseen by the Section 151 Officer.

Constructive working relationships make it more likely that internal audit work will be accepted and acted upon – although the internal auditor does not allow their objectivity or impartiality to be impaired.

## Audit Committee

The Audit Committee is a key component of the Council's governance framework providing an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards. It provides independent assurance to the Council members of the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

For the purposes of the UK Public Sector Internal Audit Standards the Audit Committee performs the role of the 'Board'. The Audit Committee complies with CIPFA best practice standards through their terms of reference and work programme.

The Audit Committee will:

- Approve the internal audit charter.
- Approve the risk-based internal audit plan.
- Receive communications from the head of internal audit on internal audit activity's performance relative to its plan and other matters.

# Internal Audit Charter

## Standards of Internal Audit Practice

Internal Audit will perform its work in accordance with the International Professional Practices Framework of the Chartered Institute of Internal Auditors, and further guided by interpretation provided by the Public Sector Internal Audit Standards (the **Standards**), the CIPFA Local Government Application note and the CIPFA publication on the “Role of the Head of Internal Audit”. This Charter is a fundamental requirement of the Framework.

## Approval and Validity of this Charter

This charter shall be reviewed and approved annually by Management and by the Audit Committee as the Board of the organisation.

## External Work

Assurance Lincolnshire provides internal audit services to a number of public sector external clients. Approval is sought from the Section 151 officer and the Audit Committee before entering into any significant engagement. The level and extent of external work is also reported in the approval of the audit plan and annual report.

The nature and extent of work for external clients is kept under review to ensure:

- a) minimal impact on the audit work carried out for the Council, and;
- b) there is no conflict of interest or impairment of independence arising from this work.



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## Regulatory and Other Committee

### Open Report on behalf of Andrew Crookham, Executive Director - Resources

Report to:	<b>Audit Committee</b>
Date:	<b>18 November 2019</b>
Subject:	<b>Counter Fraud Progress Report to 30 September 2019</b>

#### Summary:

This report provides an update on our fraud investigation activities and information on progress made against our Counter Fraud Work Plan 2019/2020.

#### Recommendation(s):

To note the outcomes of our counter fraud work and identify any actions it requires.

#### Background

1. This report provides an update on the progress made against the Counter Fraud Work Plan 2019/2020, including our investigation activities. Details can be found in Appendix A, including:
  - Key messages
  - Proactive work
  - Investigations
  - Lincolnshire Counter Fraud Partnership update
  - Progress against plan

#### Conclusion

2. We are making good progress against the work plan for 2019/20. Key achievements include:
  - We have completed our annual update of the Fraud Risk Register
  - Data analysis has been used to confirm duplicate payments highlighted through the National Fraud Initiative exercise.
  - Our long term collaborations with Business Support and Serco colleagues to raise awareness of bank mandate fraud has proved effective with a recent large value (£1.56m) attempt thwarted.

3. We have received 15 referrals in 2019/20 to date (there had been 13 referrals at the same stage in 2018/19) so a 15% increase. We are currently dealing with 11 live cases. The cases referred this year have tended to be lower level and there has been a significant increase in expenses and timesheet fraud recently.
4. The annual update of the Fraud Risk Register provided some encouraging results with several fraud risk areas downgraded due to the improved controls in place to mitigate those risks in terms of impact and likelihood. We do not have any 'Red' risks currently and all have been assessed as Amber (medium) or Green (low) risk. The regular assessment of risks allows an accurate understanding of our fraud risks at a given time and aids planning of work around priority areas.
5. We have delivered several areas of work aimed at raising awareness of fraud. These include:
  - Sessions delivered to Business Support and Registrars staff
  - Development of Counter Fraud leaflets and posters
  - Counter fraud messages included within Governor & Leadership briefings
  - Counter Fraud input to School Finance presentations
6. This progress report is designed to provide the Committee with assurance that:
  - the Council's Counter Fraud arrangements are effective
  - progress has been made against the annual Counter Fraud Work Plan
  - the Council responds to the fraud risks that it faces, assessing and prioritising those where risks are considered to be high

## Consultation

### a) Policy Proofing Actions Required

N/A

## Appendices

These are listed below and attached at the back of the report	
Appendix A	Counter Fraud Progress Report

## Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Lucy Pledge, who can be contacted on 01522-553692 or [lucy.pledge@lincolnshire.gov.uk](mailto:lucy.pledge@lincolnshire.gov.uk).

# COUNTER FRAUD

## Progress Report



## November 2019

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## Lincolnshire Counter Fraud Partnership

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Appendix 1 – Counter Fraud Plan 2019/20

**Lucy Pledge** - Head of Audit and Risk  
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**Dianne Downs** – Audit Team Leader  
[Dianne.downs@lincolnshire.gov.uk](mailto:Dianne.downs@lincolnshire.gov.uk)

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This report has been prepared solely for the use of Members and Management of Lincolnshire County Council. Details may be made available to specified external organisations, including external auditors, but otherwise the report should not be used or referred to in whole or in part without prior consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended for any other purpose.

The matters raised in this report are only those that came to our attention during the course of our work – there may be weaknesses in governance, risk management and the system of internal control that we are not aware of because they did not form part of our work programme, were excluded from the scope of individual audit engagements or were not brought to our attention. The opinion is based solely the work undertaken as part of the agreed internal audit plan.

# Introduction

## Key Messages

We are making good progress against our 2019/20 Counter Fraud Work Plan with several areas of proactive work ongoing and some completed. We are making headway in our review of data matches provided in the National Fraud Initiative exercise and have been successful in identifying several duplicate payments. We are also involved in providing data analysis for a wide ranging procurement review and have completed our annual review of the council's Fraud Risk Register.

There has also been a high demand for fraud investigation work between April and September 2019 with 15 fraud referrals made. 5 cases have been concluded but we currently have 11 live fraud cases ongoing (1 brought forward from 2018/19). This is a 15% increase on the same period in 2018/19.

2019/20 has seen significant success in terms of our contribution to recovery of fraud losses and fraud stopped.

**£1.56m**

**Bank mandate fraud stopped**

**£21.6k**

**Overpayments identified from National Fraud Initiative exercise**

**£2.7k**

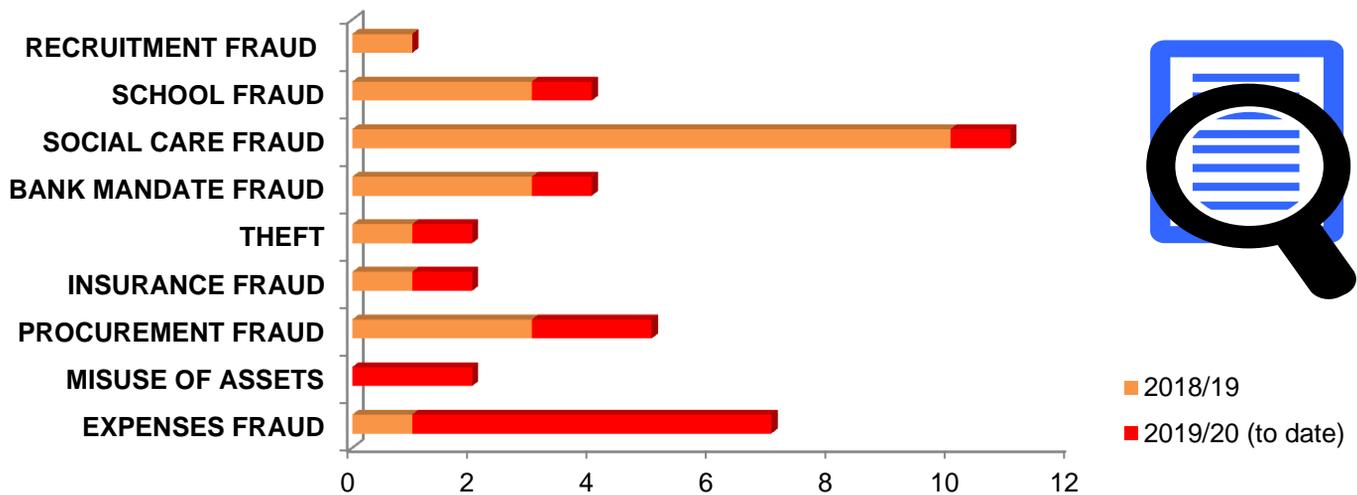
**Overpayments identified from data analysis of payroll transactions**

**£30k**

**Recovery from case reported via whistleblowing**

# Fraud Referrals

We have received 15 fraud referrals in 2019/20 (6 months) so far in comparison to 23 reports in 2018/19 – this looks likely to continue the pattern identified in the previous year where there was a higher volume of cases although they were lower level and less complex to resolve. Please refer to the chart below.



## 2019/20 INVESTIGATION HEADLINES

We have done extensive work to raise awareness of bank mandate fraud in recent years. We have built up good lines of communication with service areas and Serco colleagues and in June 2019 a mandate fraud attempt was prevented by a vigilant member of staff – the value of the next payment due was £1.56m.

After a sharp increase in social care cases reported in 2018/19 we have seen a significant fall in this area with only 1 case referred in the year to date.

However, we have achieved a good result with a social care case reported in 2018/19. This relates to a deprivation of capital issue where a property ownership was not declared. We have liaised with Serco colleagues to recover £30k with a further £52k expected during 2019/20.

40% of referrals received in the current year relate to expenses or timesheet fraud. This represents a significant increase on the previous period. We regularly analyse payroll and expenses data as part of our proactive counter fraud work. We will also be collaborating with HR to issue communications regarding this type of fraud.

# Investigation Outcomes

In accordance with our Counter Fraud Policy we treat all fraud referrals seriously and apply a zero tolerance approach. We seek to ensure maximum sanctions against perpetrators of fraud.

Action Fraud is the UK's national reporting centre for fraud and we submit all cases to them or the Police where we identify evidence of fraud.

However, often the value of loss or insufficient evidence will be a barrier to further action being taken.

**ZERO TOLERANCE**



**15**

fraud referrals in 2019/20

## FRAUD INVESTIGATION SUMMARY

**3**

Cases referred to Action Fraud in 2019/20

**6**

'live' cases at preliminary stage

**5**

Full investigations ongoing\*

**2**

No Further Action

\* 1 case from 2018/19

# Proactive Work

We have made good progress with our pro-active counter fraud work during 2019/20 to date. There are several key elements within the annual Counter Fraud Work Plan where we have continued to achieve some success these. The key developments are noted within the table below.

## Fraud Risk Register

We have completed our annual update of the Fraud Risk Register and presented the results to Audit Committee. The updated information provides an accurate 'snapshot' of our risks and will be used to plan our work against priority areas.

## National Fraud Initiative 2018/19

We submitted over 3/4m data records for this exercise in October 2018. We have now cleared several key data matching reports. However, through our data analysis work we have confirmed almost £21.6k in duplicate payments and highlighted a further £16.1k of possible pension overpayments. We are working with Finance and Serco colleagues to investigate and recover these.

## Cyber Fraud

We work closely with the Head of Information Assurance on the threat of cyber fraud. He has delivered 25 presentations to over 500 staff – to raise awareness of key messages around cyber fraud and cyber crime. Phishing and malware activity is closely monitored and trends identified and acted upon. Key information is shared between regional and national cyber security teams. This allows us to build our knowledge of the cyber fraud threat.

## Pro-active exercises

We are currently involved in working with the Commercial Team in a major review of procurement and contracts. Part of this will be a review of procurement card use – a key area of fraud risk. We will also continue to review payroll and expenses data to identify potential fraud and overpayments.

## Data Analytics

We are extending our use of data analysis and it is helping to review vast amounts of records to identify trends etc. We have used it to identify duplicate payments and we also analyse payroll transactions on a regular basis - this allowed us to identify £2.7k in overpayments in our most recent exercise.

# Fraud Awareness

Fraud awareness is a key area in the fight against fraud. We have delivered awareness work across numerous areas in 2019/20 to date and have several other priorities planned for the remainder of the year.

## Fraud Awareness work delivered

Following the high value bank mandate fraud attempt against the council, we promoted this issue through internal and local media channels. This was designed to help raise fraud awareness and demonstrate the robust controls operated to prevent fraud.

Snap survey developed on image styles for new Counter Fraud promotional items – high level of responses

Delivery of fraud awareness sessions to Registrars and Business Support staff – targeted at relevant fraud risk areas

Development of new Counter Fraud leaflets and posters

Media release relating to Single Person Discount review

Fraud Awareness E-Learning and supporting communications to encourage take up (particularly with schools)

Counter Fraud information included within School Finance presentations

Counter Fraud messages incorporated within release of Blue Badges

Information sharing on awareness with Midland Fraud Group colleagues

Cyber fraud liaison to build up awareness of this area of risk

## Fraud Awareness work due

Enhancement of communicating learning points from investigations – this strengthens fraud prevention and detection

Awareness session being developed for Corporate Audit team

Communication campaign to support International Fraud Awareness Week

Continue to promote awareness of E-Learning

Presentation to be made at Cabinet Office Counter Fraud Conference in February 2020

Publication of counter fraud article within ALARM newsletters

Continued work with Serious and Organised Crime Sub Group to raise awareness of scams on Vulnerable Adults

# Lincolnshire Counter Fraud Partnership

## 2018/19 Single Person Discount review has concluded....



£1.3m of Council Tax being claimed incorrectly or fraudulently

3441 Single Person Discounts removed

## The Partnership continues to.....



improve fraud resilience and fraud proofing across Lincolnshire

improving fraud intelligence

co-ordinating targeted fraud awareness campaigns

sharing fraud intelligence, best practice and expertise

## Key focus for 2019/20.....



To develop the business proposal to generate additional Council Tax revenue by tackling fraud and error on Single Person Discounts on a rolling basis – the revised arrangements could deliver additional council tax revenue of £5.2m over a 5 year period.

Specific step (from CIPFA Code of Practice)	Nature of work	Indicative Scope	Progress
<b>CIPFA Code of Practice – Key Principle A : Acknowledge Responsibility</b>			
A1 - Acknowledge the threat of fraud and corruption	Audit Committee reporting	Annual and progress reports of counter fraud activity to Audit Committee:	Annual and progress reports completed as scheduled
A2 - Acknowledge the importance of a culture that is resilient to the threats of fraud and corruption	Engagement, training and fraud awareness	<ul style="list-style-type: none"> <li>Annual Report on delivery of 2018/19 Counter Fraud Work Plan</li> </ul>	Annual Report presented
A3 - Governing Body acknowledges its responsibility for the management of its fraud and corruption risks	Engagement with Public Sector Partners in Lincolnshire	<ul style="list-style-type: none"> <li>Fraud Risk Assessment – 2019 update</li> <li>Counter Fraud Progress report 2019-20</li> </ul>	Assessment updated  Presented as scheduled
A4 - Governing Body sets a specific goal of ensuring and maintaining its resilience to fraud and corruption		<ul style="list-style-type: none"> <li>Annual Whistle-blowing Report</li> <li>Annual Counter Fraud Work Plan</li> </ul> <p>Briefing sessions – training for members and senior management</p> <p>Continued development of fraud resilience through the Lincolnshire Counter Fraud Partnership (LCFP). Delivery of reports to Lincolnshire Finance Officers Group</p> <p>Participation in Safer Lincolnshire Partnership's (SLP) Serious and Organised Crime – Fraud Group (current focus on vulnerable adults)</p>	Presented as scheduled 2020/21 Plan Under development  Outstanding  Ongoing – interim report to be presented in January 2020  Meetings attended

Specific step (from CIPFA Code of Practice)	Nature of work	Indicative Scope	Progress
<b>CIPFA Code of Practice – Key Principle B : Identify Risks</b>			
B1 - Fraud risks are routinely considered as part of risk management arrangements	Research and intelligence gathering to highlight emerging risks	Participation in: <ul style="list-style-type: none"> <li>• Midlands Fraud Group</li> <li>• work with FFCL Board (Fighting Fraud &amp; Corruption Locally)</li> <li>• CIPFA Counter Fraud Centre</li> </ul>	Ongoing
B2 - The organisation identifies the risks of fraud and corruption	Benchmarking activity	<ul style="list-style-type: none"> <li>• follow up of NAFN alerts and horizon scanning for relevant legislative changes</li> </ul>	
B3 - The organisation publishes estimates of fraud loss to aid evaluation of fraud risk exposures	Update fraud risk profile	Annual review and update of the Council's Fraud Risk register	Updated
B4 – The organisation evaluates the harm to its aims and objectives	Analysis and publication of fraud losses	Participation in CIPFA Fraud and Corruption Tracker (CFaCT) Annual Survey	Survey submitted
		Audit Committee reporting	Reports submitted
		Monitoring and review of: <ul style="list-style-type: none"> <li>• Investigations</li> <li>• Whistleblowing reports</li> <li>• CFaCT annual report</li> <li>• National picture to identify trends and feed into Fraud Risk Assessment</li> </ul>	Ongoing
		Data analysis and Risk assessment: <ul style="list-style-type: none"> <li>• Used to prioritise and facilitate counter fraud proactive exercises</li> <li>• To support audit key control and continuous testing</li> </ul>	Data analysis being used where required

Specific step (from CIPFA Code of Practice)	Nature of work	Indicative Scope	Progress
<b>CIPFA Code of Practice – Key Principle C : Develop a Strategy</b>			
C1 - Governing Body formally adopts a counter fraud and corruption strategy to address identified risks	Counter Fraud Strategy	Refresh & Promote Counter Fraud Strategy	Outstanding
C2 - Strategy includes the organisation's use of joint working or partnership approaches	Review and refresh policy documents	Review and updates of Policies including: <ul style="list-style-type: none"> <li>• Counter Fraud / Bribery &amp; Corruption Policy</li> </ul>	Outstanding
C3 - The strategy includes both proactive and responsive approaches:		<ul style="list-style-type: none"> <li>• Fraud Response Plan</li> </ul>	Outstanding
		<ul style="list-style-type: none"> <li>• Fraud Communication Strategy</li> </ul>	Outstanding
		<ul style="list-style-type: none"> <li>• Money Laundering Policy (ML)</li> </ul>	Draft produced and under consultation

Specific step (from CIPFA Code of Practice)	Nature of work	Indicative Scope	Progress
<b>CIPFA Code of Practice – Key Principle C : Develop a Strategy</b>			
<p><b>Proactive action:</b></p> <p>Develop counter fraud culture</p> <p>Prevent fraud through implementation of robust internal controls</p> <p>Use of techniques such as data matching</p> <p>Deterring fraud attempts by publicising the organisation's anti-fraud and corruption stance and the actions it takes against fraudsters</p>		<p>Activity planning of proactive counter fraud work - response to risk assessment and data analytics</p> <p>Review of Lincolnshire Counter Fraud Partnership's Terms of Reference</p> <p>Forward Planning for 2020-21 Counter Fraud Strategy and Work Plan</p>	<p>Ongoing</p> <p>Completed</p> <p>Ongoing</p>
<p><b>Responsive action:</b></p> <p>Detecting fraud through data and intelligence analysis</p> <p>Implementing effective whistleblowing arrangements</p> <p>Investigating fraud referrals</p> <p>Applying sanctions and seeking redress</p>			

Specific step (from CIPFA Code of Practice)	Nature of work	Indicative Scope	Progress
<b>CIPFA Code of Practice – Key Principle D : Provide Resources</b>			
D1 - Annual assessment whether level of resource invested to countering fraud and corruption is proportionate to the level of risk	Lincolnshire Counter Fraud Partnership	Development and delivery of annual counter fraud work plan	Ongoing
D2 - The organisation utilises an appropriate mix of experienced and skilled staff	Midlands Fraud Group	Fraud advice across LCC services areas and to strategic partners	Ongoing
D3 - The organisation grants counter fraud staff unhindered access to its employees	Collaboration with and support to Internal Auditors at Assurance Lincolnshire	Management of Lincolnshire Authorities Whistleblowing Facility	Ongoing
D4 - The organisation has protocols in place to facilitate joint working and data and intelligence sharing	Manage pool of Conduct Investigators	Ongoing participation with SLP Serious Organised Crime - Fraud Group	Ongoing
	Website updates	Engagement with national and regional best practice groups including co-ordination and Chairing of 2 x Midland Fraud Group Meetings	Meetings arranged and delivered

Specific step (from CIPFA Code of Practice)	Nature of work	Indicative Scope	Progress
<b>CIPFA Code of Practice – Key Principle D : Provide Resources</b>			
		<p>Use of pooled funding contributions from Lincolnshire's District Councils and Lincolnshire Police for provision of support to the Lincolnshire Counter Fraud Partnership, including:</p> <ul style="list-style-type: none"> <li>• Delivery of 3 Lincolnshire Counter Fraud Partnership meetings</li> <li>• Support for Lincolnshire Districts Councils to reduce fraud losses in Council Tax and Business Rate collection</li> <li>• Joint awareness activity</li> <li>• Support for eLearning module</li> </ul> <p>Continuing professional Development and training for Counter Fraud &amp; Investigations Team</p>	<p>Ongoing</p> <p>1 delivered but approach being revisited</p> <p>Outstanding</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>

Specific step (from CIPFA Code of Practice)	Nature of work	Indicative Scope	Progress
<b>CIPFA Code of Practice – Key Principle E : Take Action</b>			
E1 - The organisation has put in place a policy framework which supports the implementation of the Counter Fraud Strategy	<ul style="list-style-type: none"> <li>• National Fraud Initiative 2018/19</li> <li>• Proactive counter fraud exercises</li> <li>• Data analysis</li> </ul>	<p>Completion of ongoing data analysis exercise and investigation of payroll outliers</p> <p>Follow up and investigation of data matches identified through National Fraud Initiative 2018/19</p>	<p>Ongoing</p> <p>Ongoing and successful in identifying duplicate payments</p>
E2 - Plans and operations are aligned to the strategy	<ul style="list-style-type: none"> <li>• Investigations - whistleblowing referrals</li> </ul>		
E3 - Making effective use of initiatives to detect and prevent fraud, such as data matching or intelligence sharing	<ul style="list-style-type: none"> <li>• Investigations - fraud</li> <li>• Applications of sanctions</li> </ul>	<p>Delivery of Communications Plan promotion and publicity through various publications and media channels including internal communications of:</p>	<p>Ongoing</p>
E4 - Providing for independent assurance over fraud risk management, strategy and activities	<ul style="list-style-type: none"> <li>• Seeking redress</li> <li>• Advice</li> <li>• Promotion of counter fraud activity</li> </ul>	<ul style="list-style-type: none"> <li>• fraud prevention measures</li> <li>• fraud awareness – updates, risk, red flags, scams etc.</li> <li>• investigation outcomes</li> <li>• policy and expectations</li> </ul>	
E5 - Report to the Governing Body at least annually on performance against the counter fraud strategy and the effectiveness of the strategy. Conclusions are featured within the Annual Governance report	<ul style="list-style-type: none"> <li>• Organisational learning</li> <li>• Reports to Audit Committee</li> </ul>	<p>Proactive procurement fraud exercises and use of data analytics:</p> <ul style="list-style-type: none"> <li>• off contract purchasing</li> <li>• purchasing card (P-Card) transactions</li> </ul>	<p>Ongoing</p>
* Note also Specific Step – C3		<p>Pro-active work – research &amp; scoping for contract monitoring practice audits and preparation for 'Deeper-dive' exercise in 2020/21</p>	<p>Ongoing</p>

**CIPFA Code of Practice – Key Principle E : Take Action**

		Quarterly liaison meetings with Information Governance Teams – pro-active cyber security review	Ongoing – meetings arranged and delivered
		Risk review and activity planning - fraud in Adult Social care	Outstanding
		Investigations arising from whistleblowing reports and frauds identified	Ongoing
		Production of management reports and action plans to aid organisational learning – learning points	Ongoing
		Applications of sanctions – civil, disciplinary and criminal	Ongoing
		Seeking redress where successful prosecutions are achieved	Ongoing
		Provision of advice on fraud risks and mitigating controls	Ongoing

## Regulatory and Other Committee

### Open Report on behalf of Andrew Crookham, Executive Director - Resources

Report to:	<b>Audit Committee</b>
Date:	<b>18 November 2019</b>
Subject:	<b>Whistleblowing Annual Report 2018-19</b>

#### Summary:

This report provides an overview of the Council's whistleblowing arrangements throughout the year 2018/19.

#### Recommendation(s):

Items to note:

- a) whistleblowing activity for 2018-19
- b) ongoing work to raise awareness and provide assurance on the effectiveness of the Council's arrangements for whistleblowing

#### Background

1. This report provides a summary and analysis of whistleblowing disclosures received by the Council during the period from April 2018 to March 2019. Details reported include:
  - Whistleblowing activity (and analysis of issues reported)
  - Referrals made (analysed by Council director area) – to identify any trends emerging and to compare with activity from previous years
  - Resolution and outcomes from whistleblowing disclosures
  - Measures taken to promote the whistleblowing facility and ensure the Council's whistleblowing arrangements remain effective

#### Conclusion

2. The number of whistleblowing concerns (36) raised around Lincolnshire County Council activity in 2018/19 remained consistent with those recorded in the previous year. The nature of disclosures made also remained stable with slight increases in misconduct and policy breach referrals yet minor falls in the number of financial and safeguarding issues being reported through whistleblowing.

3. The proportion of concerns reported relating to Schools and Children's Services remains high, continuing a pattern identified over several years. We continue to work closely with management in that director area to address the issues that are raised.
4. The continued high level of disclosures made through the reporting line provides assurance that the Council's arrangements remain effective and that whistleblowers continue to have confidence in the facility. It is encouraging that 55% of those reporting issues waived their anonymity. The level of activity (both for the Council and neighbouring councils) within Lincolnshire provides evidence that we are effective in encouraging whistleblowing and that supporting arrangements in place are operating well.
5. We continue to respond to trends identified in whistleblowing activity and target specific areas within our work plans for proactive work. We also continue to promote awareness of the Council's Whistleblowing arrangements to ensure stakeholders know how to report issues.

## **Consultation**

### **a) Policy Proofing Actions Required**

n/a

## **Appendices**

These are listed below and attached at the back of the report	
Appendix A	Whistleblowing Annual Report 2018-19

## **Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Lucy Pledge, who can be contacted on 01522-553692 or [lucy.pledge@lincolnshire.gov.uk](mailto:lucy.pledge@lincolnshire.gov.uk) .

# WHISTLEBLOWING

## 2019 Annual Report



## November 2019

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## Resolutions and Outcomes

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This report has been prepared solely for the use of Members and Management of Lincolnshire County Council. Details may be made available to specified external organisations, including external auditors, but otherwise the report should not be used or referred to in whole or in part without prior consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended for any other purpose.

The matters raised in this report are only those that came to our attention during the course of our work – there may be weaknesses in governance, risk management and the system of internal control that we are not aware of because they did not form part of our work programme, were excluded from the scope of individual audit engagements or were not brought to our attention. The opinion is based solely the work undertaken as part of the agreed internal audit plan.

# Introduction

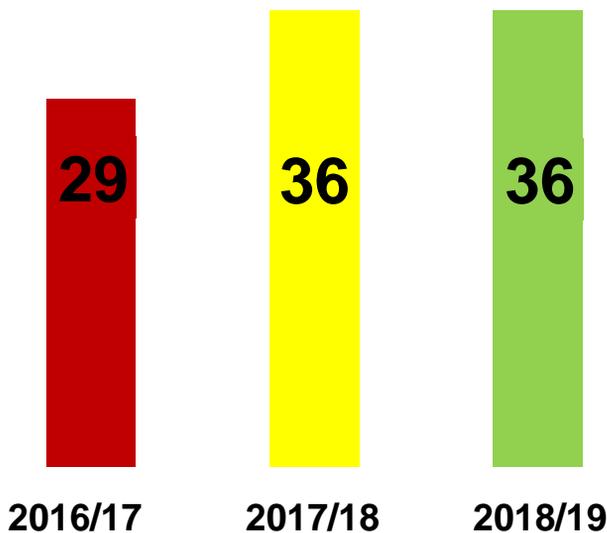
## Key Messages

The purpose of the Annual Whistleblowing Report is to provide assurance to the Audit Committee on the effectiveness of the Council's arrangements for whistleblowing. The report provides information and analysis of whistleblowing contacts received during 2017/18. Whistleblowing is a key component in governance arrangements for any organisation committed to high standards of service based on the principles of honesty, openness and accountability.

# 36

## LCC whistleblowing cases in 2018/19

### WHISTLEBLOWING CALLS RECEIVED



The chart shows that the number of whistleblowing calls received remains consistent with recent years.

We believe that this continued high level of contacts demonstrates that there is confidence in the council's arrangements to report concerns.

# 55%

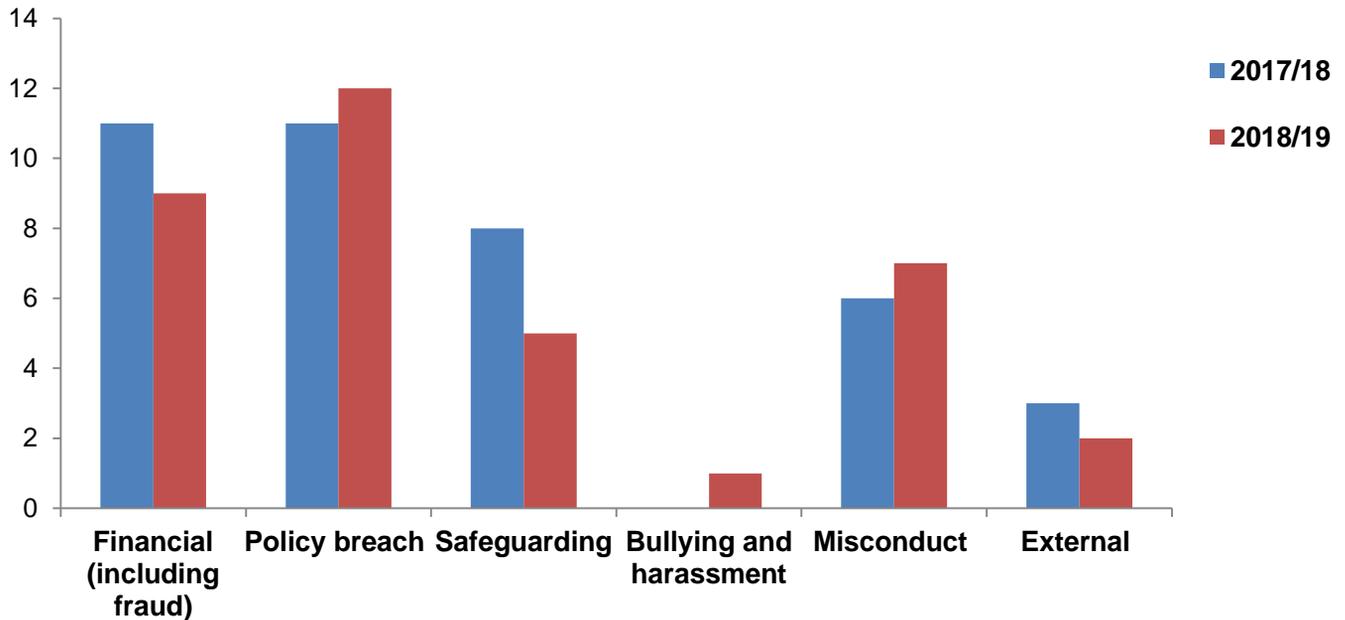
## of whistleblowers were confident enough to provide identity when making a report

# 61%

## Of those reporting issues were employees – again, this is evidence of confidence in our arrangements to protect whistleblowers from reprisals

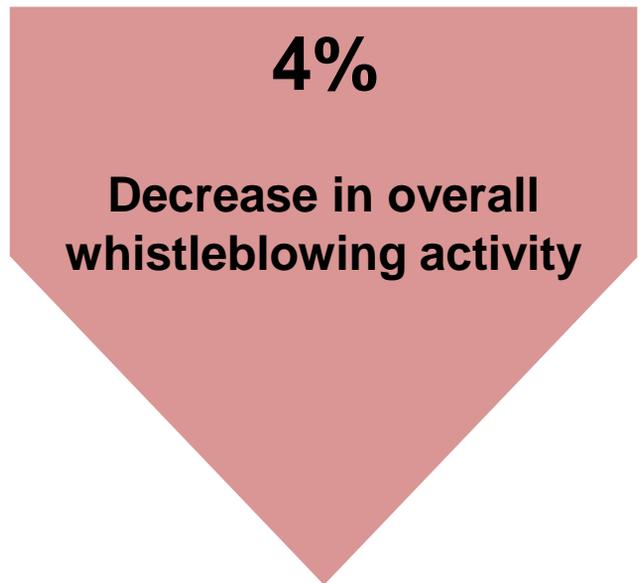
# Disclosures

Types of concerns reported in 2018/19 have remained consistent with the previous year. We recorded slight falls in fraud and safeguarding matters reported through whistleblowing. However, there have been minor increases in policy breach referrals and misconduct issues. It is also pleasing that reports relating to bullying and harassment have remained low.



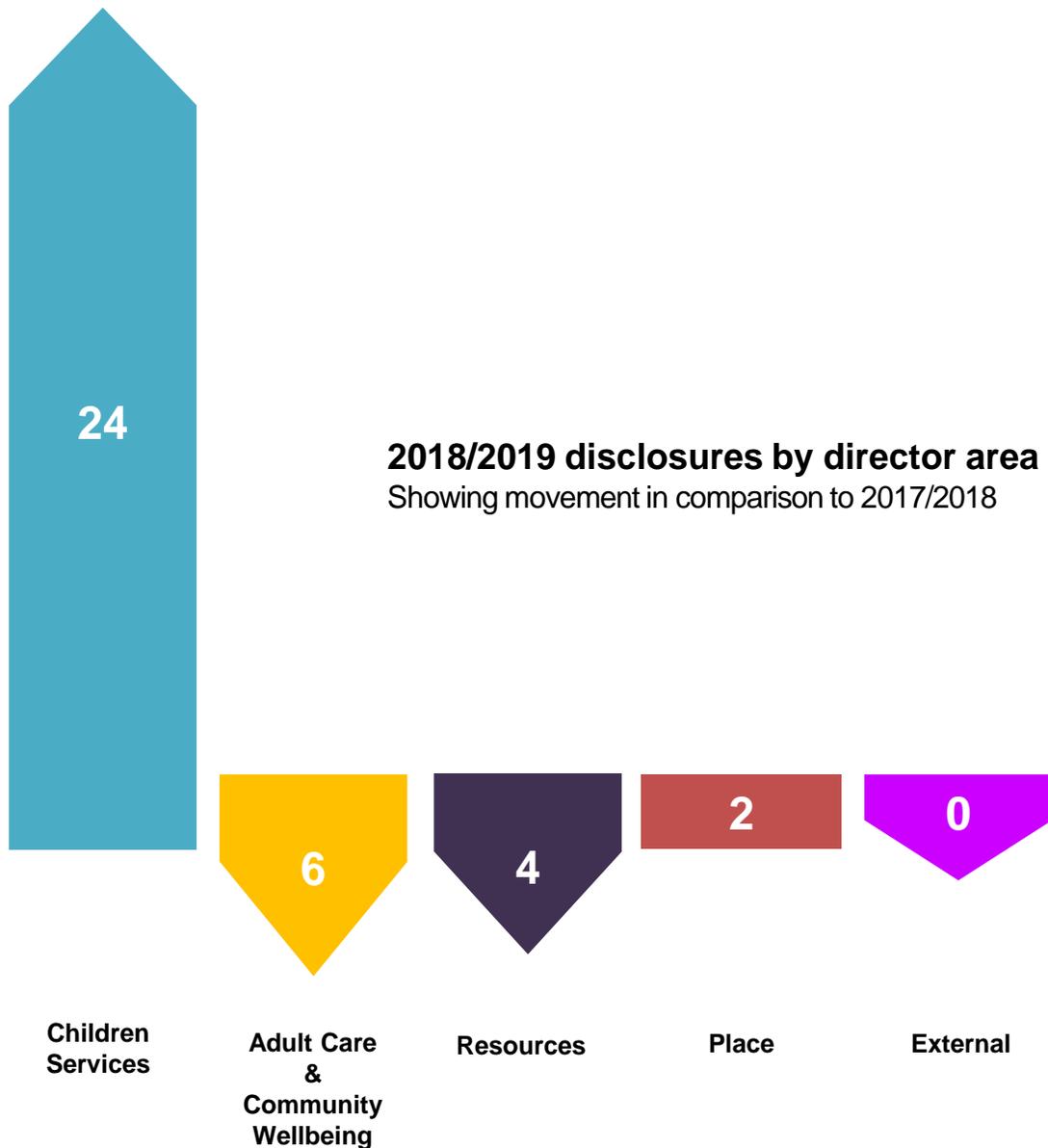
The Counter Fraud and Investigation Team operate the whistleblowing facility on behalf of all Lincolnshire councils.

The overall number of reports (113\*) dipped slightly in 2018/19 in comparison with the previous year (118). However, the total remains high and we believe this demonstrates that promotion of reporting methods is effective and that whistleblowing is encouraged.



\* - includes all Lincolnshire councils

# Disclosures



The analysis of whistleblowing calls by Director Area reveals a pattern that has been continued for several years. The highest proportion of contacts received tend to relate to Schools and Children Services. 2018/19 saw an increase in the proportion of calls in this area from 50% to 66%. However, the amount of calls is skewed as 11 calls were received regarding the same case. The proportion of school referrals is usually high due to the number of schools within the county – this obviously increases the likelihood of concerns being reported in comparison to other areas. We continue to maintain a close working relationship with management in Children’s Services to address issues raised.

There were small decreases in the number of concerns reported for Resources and also Adult Care & Community Wellbeing – again this remains consistent with trends identified in previous years.

# Resolutions & Outcomes

The majority of cases reported required some form of investigation by the Counter Fraud and Investigation Team – either preliminary enquiries to establish evidence or full investigations where there was some basis to concerns reported.

## 36 whistleblowing referrals

22 cases referred to CFIT

18 full investigations  
4 preliminary enquiries

12 cases resolved by management  
2 cases referred to other agencies to resolve

**23**  
whistleblowing cases  
completed  
during 2018/19\*

• 1 case brought forward from 2017/18

6

Management  
Action

9

No further  
action

3

Independent  
investigation

5

Advice  
given

## Regulatory and Other Committee

### Open Report on behalf of Andrew Crookham, Executive Director - Resources

Report to:	<b>Audit Committee</b>
Date:	<b>18 November 2019</b>
Subject:	<b>Financial Regulations Update</b>

#### **Summary:**

To provide the Audit Committee with information on feedback and comments received during consultation and the ensuing changes made to the Council's draft Financial Regulations.

#### **Recommendation(s):**

To agree and propose the final draft of the updated Financial Regulations to the County Council for approval in December.

#### **Background**

1. Our financial regulations have been updated by the Finance and Audit teams.
2. The first draft of the updated Financial Regulations prior to any consultation with Services, Corporate Leadership Team and Monitoring Officer were presented to this Committee on 23<sup>rd</sup> September 2019.
3. Feedback and comments received from the consultation and the Audit Committee have been considered and the appropriate changes have been made to the draft Financial Regulations.
4. The Audit Committee are required to consider these changes before proposing the updated Regulations to be approved by the Council on 13<sup>th</sup> December 2019.
5. The updated draft Financial Regulations are attached in Appendix A and the existing Financial Regulations are attached in Appendix B for comparative purposes.

#### **Significant Changes to the draft Regulations presented to the Audit Committee on 23<sup>rd</sup> September 2019.** (Highlighted yellow in Appendix A)

6. Paragraph B16 – The Reallocation of Budget (virement) now defines the level at which re-allocations of budget are reported, this will be at Assistant Director

level. The paragraph also defines that re-allocations will be limited to those instances where the change relates to a change in purpose to that which the budget was originally approved. The purpose of this is to limit the number of instances where a re-allocation is requested and to ensure budget monitoring can be the appropriate vehicle to identify under/over spendings rather than budget being reallocated to mask those positions.

7. Paragraphs B17-B20 are new sections relating to the bidding and accounting for external funding. These paragraphs were originally contained in the councils Financial Strategy, however, it was felt more appropriate for these conditions to be included in the Financial Regulations. The wording of the paragraphs has been amended to reflect the need to consult with rather than gain approval from Executive Councillors and the S151 Officer before making a bid and the thresholds are now defined as the value of External Funding rather than the total cost of the project or scheme.
8. Paragraph E3, Disposal of Unwanted or Obsolete Assets has been rewritten to update the values of the approval thresholds. These thresholds also include a new requirement to consult with Chief Officers, S151 Officer and Executive Councillors as appropriate.
9. Paragraph F4, Write Off of Bad Debt has been rewritten to update the values of the approval thresholds and also to bring in an additional level that requires the Executive to approve the write off of debt in excess of £500,000. Also the lower levels of debt write off are now approved by the S151 Officer rather than Chief Officer.

### **Financial Procedures/Scheme of Authorisation**

10. Supporting the Financial Regulations are the Financial Procedures and Scheme of Authorisation. These too require updating.
11. These do not require approval by Council but we are proposing to take these to the Audit Committee on 10<sup>th</sup> February 2020.

### **Conclusion**

It is important that Financial Regulations and associated documents are kept up-to-date. The changes proposed enables the Financial Regulations to once again become a current living document that Members and Officers alike can work within to ensure the Council's financial assets are safeguarded.

### **Consultation**

#### **a) Have Risks and Impact Analysis been carried out?**

No

## b) Risks and Impact Analysis

not applicable

## Appendices

These are listed below and attached at the back of the report	
Appendix A	Updated Financial Regulations
Appendix B	Existing Financial Regulations

## Background Papers

Document title	Where the document can be viewed
Constitution	LCC connect
Audit Committee Report 23rd September 2019 - Financial Regulations Update	LCC connect

This report was written by Dave Simpson, who can be contacted on 01522 553008 or [dave.simpson@lincolnshire.gov.uk](mailto:dave.simpson@lincolnshire.gov.uk) .

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## **FINANCIAL REGULATIONS AND PROCEDURES**

### Financial Regulations for Lincolnshire County Council

#### Background

- A: Roles in Financial Management
- B: Financial Planning and Management
- C: Risk Management and Internal Control
- D: Accounting Records and Financial Systems
- E: Control of Resources and Assets
- F: Income and Expenditure
- G: External Arrangements
- H: Revisions and amendments

#### Appendix A: Index of Financial Procedures

## 1. BACKGROUND

- 1.1 Lincolnshire County Council is one of the largest local authorities in England. It provides a diverse range of services to its residents. It works in partnership with district, parish and town councils, police, probation and health providers and a number of other organisations.
- 1.2 Lincolnshire County Council's governance structure is laid down in its Constitution, which sets out how the Council operates, how decisions are made and the procedures that are followed. This document forms part of the Constitution.
- 1.3 These Financial Regulations form part 4 of the Council's Constitution and when applying the regulations must be read alongside the Council's Contract Regulations (part 4 of the Constitution) and other approved policy documents and scheme of delegation.
- 1.4 The Authority has adopted a Leader and cabinet form of Executive.
- 1.5 For the purposes of this document the term Chief Officer includes the Head of Paid Service, Chief Officers and the Chief Fire Officer.

## 2. FINANCIAL REGULATIONS

- 2.1 Financial Regulations provide the framework for managing the financial affairs of Lincolnshire County Council. They apply to every Councillor and Officer of the Council and anyone acting on its behalf. Financial Regulations must be adhered to at all times. All Chief Officers are accountable to the Council's **Section 151 Officer** for compliance with these rules. The **Section 151 Officer** is accountable to the Council. All Officers with delegated responsibility for undertaking financial responsibility are accountable to their **Chief Officer** for compliance with the Financial Regulations.
- 2.2 The regulations identify the financial responsibilities of the full Council, Executive and Overview and Scrutiny Councillors, **the Head of Paid Service** (Chief Executive), **the Monitoring Officer**, **the Section 151 Officer**, other **Chief Officers** and other Officers. Executive Councillors 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, such as school governors, references to the Chief Officer in the regulations should be read as referring to them.
- 2.3 All Councillors and officers 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 provides value for money.

- 2.4 Should a material breach of the Financial Regulations come to light then it must be reported immediately to the **Section 151 Officer**. The **Section 151 Officer** is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the full Council for approval. The **Section 151 Officer** is also responsible for reporting material breaches of the Financial Regulations to Chief Officers, the Executive or the full Council as appropriate according to the severity of the breach.
- 2.5 The **Section 151 Officer** is responsible for maintaining Lincolnshire County Council's Financial Procedures which set out in detail how the Financial Regulations will be implemented. The **Section 151 Officer** may amend the Financial Procedures so long as the Financial Procedures remain consistent with the Financial Regulations. A full index of Financial Procedures is contained as Appendix A to the Financial Regulations alongside an overview of their structure, content and purpose.
- 2.6 **Chief Officers** are responsible for ensuring that all staff in their directorates are aware of the existence and content of these Financial Regulations, Financial Procedures and other internal regulatory documents and that they comply with them. They must also ensure that there is adequate access to the current version of these documents.
- 2.7 The **Section 151 Officer** is responsible for issuing advice and guidance to underpin the Financial Regulations that Councillors, Officers and others acting on behalf of the Council are required to follow.

## FINANCIAL REGULATION A: ROLES IN FINANCIAL MANAGEMENT

### INTRODUCTION

- A.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the Budget and Policy Framework.

### THE FULL COUNCIL

- A.2 The full **Council** is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the Budget and Policy Framework within which the Executive operates. It is also responsible for ensuring compliance with the Budget and Policy Framework. The full **Council** may make decisions outside the Budget and Policy Framework in accordance with paragraph 5 of the Budget and Policy Framework Procedure Rules at part 4 of the Constitution.
- A.3 By approving the Constitution the full Council has identified the responsibility for decision making. 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 Budget and Policy Framework to the full Council and for discharging executive functions in accordance with the Budget and Policy Framework.
- A.5 Executive decisions can be delegated to, an individual **Executive Councillor, or a Chief Officer.**
- A.6 The **Executive** is responsible for establishing protocols to ensure that individual Executive Councillors consult with relevant Officers before taking a decision within their delegated authority. In doing so, the individual Executive Councillor must take account of legal and financial liabilities and risk management issues that may arise from the decision.

### SCRUTINY COMMITTEES AND PANELS

- A.7 The **Scrutiny Committees** are responsible for scrutinising Executive decisions before or after they have been implemented and for holding the **Executive** to account.
- A.8 The scope of **Scrutiny Committees** are set out in Article 6 of the Constitution.

### Audit Committee

- A.9 The functions of the **Audit Committee** are set out in full in the Council's [Constitution](#). However, in summary, the Committee's responsibilities around the financial management of the Council include:

- i. Approving the Council's Annual Statement of Accounts and consider the effectiveness of the Council's arrangements to secure value for money.
- ii. Considering the Council's arrangements for governance and risk management and the internal control environment. Ensuring that its assurance framework adequately addresses the risks and priorities of the Council.
- iii. Approve an annual governance statement, prepared in accordance with proper practices in internal control.
- iv. Considering and commenting on the External Auditor's Annual Audit Letter and reports about the effectiveness of the Council's financial and operational arrangements.
- v. Ensuring that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit is actively promoted.
- vi. Approving the annual Internal Audit plan, and receiving reports from the Council's Internal Auditor, including the annual report of the **Head of Internal Audit**.
- vii. Monitoring the effectiveness of the Council's Financial Regulations, Procurement Policy and Procedures and other strategies for counter fraud and anti-bribery, whistle blowing and anti-money laundering.

## THE STATUTORY OFFICERS

The Statutory Officers have responsibilities that lie within the Financial Regulations. These are set out below. The full scope of responsibilities for these Officers are contained within Article 10 of the Constitution.

### Head of Paid Service (Chief Executive)

A.10 The **Head of Paid Service** is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the **Executive**, the full Council, the **Scrutiny Committees** and Panels, other Committees and Groups and is responsible for supporting all Councillors and non-elected members of the Council. He/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.

## Monitoring Officer

- A.11 The **Monitoring Officer** is responsible for advising all Councillors and non-elected members and Officers about who has authority to take a particular decision.
- A.12 The **Monitoring Officer** together with the **Section 151 Officer** is responsible for advising the **Executive** or full **Council** about whether a decision is likely to be considered contrary to or not wholly in accordance with the Budget and Policy Framework. Actions that may be contrary include:
- Initiating a new policy.
  - Committing expenditure above the budget level.
  - Causing the total expenditure financed from Council Tax, grants, borrowing and general reserves to increase.

## Section 151 Officer

- A.13 The **Section 151 Officer** has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

### Section 151 of the Local Government Act 1972

- A.14 Requires that Authorities “make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.”

### The Local Government Finance Act 1988

- A.15 Section 114 of the Local Government Finance Act 1988 requires the **Section 151 Officer** to make a report if the Council 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 Council.
  - Is about to make an unlawful entry in the authority’s accounts.

The **Section 151 Officer** must send a copy of that report to the external auditor and to each Councillor.

Section 114 of the 1988 Act also requires:

- The **Section 151 Officer** to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under section 114 personally.
- The **Council** to provide the **Section 151 Officer** with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under section 114.

## The Accounts and Audit Regulations 2015

A.16 Specify that a relevant body (Lincolnshire County Council) must:

- Prepare a statement of accounts in accordance with the Accounts and Audit regulations 2019 and proper practice.
- Undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with proper practices in relation to internal control.
- Conduct a review each financial year of the effectiveness of its system of internal control and prepare an Annual Governance Statement. Following the review, the **Audit Committee**, must approve an annual governance statement, prepared in accordance with proper practices in internal control. The annual governance statement must accompany the statement of accounts.

## The Local Government Act 2003

A.17 This identifies the **Section 151 Officer** responsibilities in relation to:

- the level of the Authorities reserves and protocols for their use
- reporting on the robustness of the budget and the adequacy of reserves.
- taking into account matters as specified in the prudential code.
- reporting to Councillors on performance against budget and the impact on reserves.

A.18 The **Section 151 Officer** is responsible for:

- the proper administration of the Council's financial affairs.
- setting and monitoring compliance with financial management standards and accounting policies.
- determining and agreeing the accounting procedures and records for the Council.
- maintaining the Council's Financial Strategy.
- maintaining the Council's Capital Strategy.
- financial advice to the Council including advice on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- ensuring the provision of financial information.
- preparing the revenue budget (in conjunction with Chief Officers) and capital programme.
- ensuring that the Annual Statement of Accounts is prepared in accordance with International Financial Reporting Standards and statutory regulations as set out in the *CIPFA Code of Practice on Local Authority Accounting in the United Kingdom*.
- treasury management.

- maintaining an adequate, effective and continuous audit service of the control systems of the Council
- insurance and risk management

## **CHIEF OFFICERS**

- A.19 **Chief Officers** are responsible for ensuring that Executive Councillors and the relevant Scrutiny Committees and Panels are fully advised of the financial implications of all proposals and that the financial implications have been agreed where required by the **Section 151 Officer**.
- A.20 **Chief Officers** are responsible for consulting with the **Section 151 Officer** and seeking approval on any matter liable to affect the Council's finances materially before any commitments are incurred.
- A.21 Notifying the Council in conjunction with the **Section 151 Officer** of the annual outturn against planned budget.

## **The Annual Financial Statements**

- A.22 The **Section 151 Officer** is responsible for signing the Annual Financial Statements confirming that they present fairly the financial position of the Council. The **Audit Committee** is then responsible for approving the Annual Financial Statements. And where there are any concerns arising from the financial statements or from the audit bring these to the attention of the Council.

## **MAINTENANCE OF RESERVES**

- A.23 It is the responsibility of the **Section 151 Officer** to advise the **Executive** and the full **Council** on prudent levels of reserves for Lincolnshire County Council.

## FINANCIAL REGULATION B:

### FINANCIAL PLANNING AND MANAGEMENT

#### INTRODUCTION

- B.1 The Councils' budget consists of the Revenue Budget and Capital Programme which is approved by the Council in February each year.

#### Preparation of the Performance and Budget Plan

- B.2 The **Head of Paid Service** and the **Section 151 Officer** are responsible for proposing the Performance and Budget Plan to the **Executive** for consideration before its submission to the full Council for approval. This will be prepared in consultation with other Chief Officers.

#### BUDGETING

##### Resource allocation

- B.3 The **Section 151 Officer** is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's Budget and Policy Framework.

##### Budget format

- B.4 The general format of the budget will be determined by the **Section 151 Officer** in consultation with **Chief Officers** and the relevant **Executive Councillor**.

##### Budget preparation

- B.5 The **Section 151 Officer** is responsible for ensuring that the revenue budget and capital programme is prepared typically on a three-yearly basis and with close regard to the current programme of comprehensive spending reviews undertaken by the incumbent Government. These will be updated annually for consideration by the **Executive**, before submission to the full **Council** in accordance with the Budget and Policy Framework Procedure Rules. The full **Council** may amend the Budget or ask the **Executive** to reconsider it before approving it.
- B.6 The **Executive** is responsible for issuing the guidelines within which the Budget should be prepared.
- B.7 It is the responsibility of Chief Officers to prepare budget estimates reflecting the Council's Financial Strategy, Capital Strategy and agreed service plans for the **Executive** and that these estimates are prepared in line with the guidelines determined by the **Executive** in B6 above.

## Capital programme and schemes

- B.8 The **Section 151 Officer** is responsible for ensuring that the capital programme is updated annually for consideration by the Executive before submission to full Council for approval. The **Section 151 Officer** is also responsible for ensuring regular monitoring reports are received by the **Executive** and the **Overview and Scrutiny Management Board** in relation to the delivery of the capital programme.
- B.9 Scheme business cases are required where a scheme is over £500k in value and forms part of the already approved capital programme. The decision to approve the business case will be taken by the relevant Executive Councillor with responsibility for financial matters, who may also refer significant schemes to the relevant Scrutiny Committee for pre-decision scrutiny.
- B.10 The **Overview and Scrutiny Management Board** will monitor the delivery and outcomes of the overall capital programme. The relevant **Scrutiny Committee** may also review or scrutinise specific schemes including the achievement of value for money and utilisation of best practice.

## Budget monitoring and control

- B.11 The **Section 151 Officer** is responsible for ensuring the provision of appropriate financial information to enable budgets to be monitored effectively. **Chief Officers** must monitor and control expenditure against budget allocations and report to the **Executive** and the **Overview and Scrutiny Management Board** on the overall position in line with the agreed budget monitoring timetable issued by the **Section 151 Officer**.
- B.12 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 **Section 151 Officer**. They should report on variances within their own areas in accordance with the Financial Management, Financial Planning and Financial Systems financial procedure (FP1). They should also take any action necessary to avoid exceeding their budget allocation and alert the **Section 151 Officer** to any potential or anticipated problems.
- B.13 Monitoring of capital schemes is in accordance with the terms of reference set for the **Overview and Scrutiny Management Board** in Article 6 of the Constitution.

## APPROVAL OF BUDGET CHANGES

### In year changes to Budget

- B.14 **Outside of the criteria** set out in paragraphs B16-19 below, all changes to the Budget must be made by full Council except for urgent changes to which paragraph 6 of the Budget and Policy Framework Procedure Rules applies.

B.15 Changes to the Budget which increase the Council's total expenditure and require either the use of the Council's general reserves or increased borrowing must be referred by the **Section 151 Officer** to the **Executive** for consideration before being referred to the full Council for decision.

B. 16 Subject to B12 money can be reallocated between service headings, (a service heading is defined as all services under an individual Assistant Director). Budget will only be reallocated if the purpose for which the budget was originally allocated has changed and in accordance with the following rules:

- reallocations of up to £250,000 and involves revenue to revenue movements only shall be approved by the relevant Chief Officer/s and should be notified to the **Section 151 Officer** . All reallocations will be recorded and held by the **Section 151 Officer** and reported to the Executive on a quarterly basis.
- reallocations of between £250,001-£500,000 and involves revenue to revenue movements only shall be approved by decision by the relevant Executive Councillors. The approval report will be prepared by the **Section 151 Officer** in consultation with other relevant Chief Officers. All reallocations will be recorded and held by the **Section 151 Officer** and reported to the **Executive** on a quarterly basis.
- reallocations over £500,000 and involves revenue to revenue movements only shall be approved by the **Executive**. The approval report will be written by the **Section 151 Officer** in consultation with other relevant Chief Officers. . All reallocations will be recorded and held by the **Section 151 Officer** and reported to the **Executive** on a quarterly basis.
- Any reallocation that involves a revenue to capital movement must also comply with the approval criteria contained in this paragraph (B16) however, in addition, must also gain approval in writing from the **Section 151 Officer**.

B.17 External funding will be secured in accordance with the constitution, the approved Financial Strategy and the approval limits set out in this paragraph.

Budget changes will be made to the Council's income and expenditure budgets to ensure the appropriate financial governance arrangements are in place.

B.18 In deciding whether or not to make a bid for external funding or enter into a pooled funding arrangements Chief Officers, Executive Councillors or the Executive must ensure that:

- The project or fund contributes to the Council's corporate objectives;
- Matched funding is available within existing budgets;
- Partner contributions are confirmed;
- Risks are assessed and minimised including:

- Where funding is linked to the achievement of specific outcomes or identified performance measures.
- Where success relies on others.
- The Council has the capacity to deliver the outcomes and timescales required; and
- Have an agreed and clear Exit Strategy. This will minimise the risk to the Council following the conclusion of the grant.

And **must consider**:

- The probability of success in obtaining funding, particularly in relation to the resource costs of preparing bids;
- Co-ordination of bids and initiatives within the Council and with partners; and
- Whether the project represents value for money.

**B.19** To make a bid for or accept a gift of external funding, officers must be eligible to do so under the terms of the respective service Scheme of Authorisation. In addition, for larger bids as detailed below officers should consult :

- The appropriate Executive Councillor or the Executive and S151 Officer – for projects where the external funding bid is more than £250,000.
- The appropriate Chief Officer and S151 Officer – for projects where the external funding bid is between £50,000 -£250,000.

The above criteria are applied to the making of a bid for external funding and do not constitute approval to spend on the project itself. Regulations B8-B10 on capital spend also apply.

The Section 151 Officer must ensure that:

- Costs, benefits and risks are assessed fully before partnership agreements are made;
- Governance, accountability and reporting arrangements are appropriate and clear; and
- Financial arrangements are appropriate and safeguard the Council's interests.

**B.20** In cases of urgency, applications for external funding may be provisionally made following email approval to do so by the appropriate Chief Officer or Executive Councillor depending on the value of the external funding bid outlined above. The appropriate consultation must be carried out retrospectively and before the funding is formally accepted.

### **Approval of carry forward**

B. 21 All under and overspendings on service revenue budgets of up to 1% will be carried forward without exception ,however, the use of this carry forward will be reported to the **Executive** and full **Council** for noting. The use of all under-

spending on service budgets in excess of 1% will be considered by the **Executive** and decided by full **Council**. The means of funding all overspendings on service budgets in excess of 1% will be considered by the **Executive** and decided by the full **Council**. All 1% calculations will be made at Chief Officer level.

B.22 All under and overspendings on the following budgets will be carried forward without exception

- Capital budgets;
- The Dedicated Schools Budget;
- Specific grants; and
- Revenue budgets related to formally constituted shared services

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## FINANCIAL REGULATION C: RISK MANAGEMENT AND INTERNAL CONTROL INTRODUCTION

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant risks to the Council.
- C.2 Sound systems of internal control are essential to the proper economic, efficient and effective use of resources, the achievement of objectives and safeguarding public funds.
- C.3 There is a basic expectation that members and officers will act with integrity and with due regard to matters of probity and propriety, and comply with all relevant rules, regulations, procedures and codes of conduct.
- C.4 Risk management is an integral part of effective management. This should include the proactive participation of all those associated with planning and delivering services.

## GOOD GOVERNANCE

- C.5 Good governance can mean different things to people – in the public sector it means:

*"Achieving the intended outcomes while acting in the public interest at all times"*

- C.6 Corporate governance generally refers to the processes by which an organisation is directed, controlled, led and held to account.
- C.7 The Council's governance framework aims to ensure that in conducting its business it:
- operates in a lawful, open, inclusive and honest manner.
  - makes sure public money is safeguarded, properly accounted for and spent wisely.
  - has effective arrangements in place to manage risk.
  - meets the needs of Lincolnshire communities - secures continuous improvements in the way it operates.
- C.8 Our governance framework comprises of the culture, values, systems and processes by which the Council is directed and controlled. It brings together an underlying set of legislative and regulatory requirements, good practice principles and management processes.
- C.9 The Council is required to undertake an annual review of its governance and assurance arrangements – identifying any significant governance issues. The **Section 151 Officer** will compile an Annual Governance Statement (in consultation with the Corporate Leadership Team) in accordance with good practice.

## RISK MANAGEMENT

- C.10 The **Corporate Leadership Team** and the **Executive** are accountable for the risk and related control environment. They are also responsible for approving the [Councils Risk Management Strategy](#) and corporate risk policies and setting the level of risk the Council is prepared to accept (the risk appetite).
- C.11 The **Audit Committee** is responsible for overseeing the effectiveness of the Council's risk management arrangements, challenging risk information and escalating issues to the **Corporate Leadership Team** and the **Executive** where appropriate.
- C.12 The **Section 151 Officer** is responsible for preparing the risk management policy statement (strategy), for promoting it throughout the Council and for advising the **Executive** on the proper management of risk, for example, the appropriate placement of insurance cover, through external insurance or internal funding and the negotiation of **all** claims.
- C.13 The Senior Information Risk Owner is responsible for strategic information risks and leads and fosters a culture that values, protects and uses information in a manner that benefits the council and the services it delivers. The role ensures an appropriate governance framework is in place to support the council in meeting its statutory, regulatory, and third-party information obligations, and ensures risk from internal and external threats is appropriately mitigated.
- C.14 **Chief Officers** must have regard to the advice of the **Section 151 Officer** and adhere to the Council's Risk Management Strategy. Specifically, **Chief Officers** must:
- Take full ownership of all risks within their areas of responsibility, including those related to partnerships in which their service participates.
  - Ensure compliance with the Council's risk management framework – working within the Council's risk appetite.
  - Promote a culture of risk management awareness – ensuring risk management is the planned and systematic approach to the identification, evaluation and control of risk.
  - Notify the **Section 151 Officer** promptly of all new or increased risks, activities, properties or vehicles which require insurance and of any alterations that may affect existing insurances.

## INTERNAL CONTROL

- C.15 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.16** It is the responsibility of the **Section 151 Officer** to assist the **Council** to put in place an appropriate control environment and effective internal controls that adhere with proper practices – providing reasonable assurance of 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.17 The system of internal control plays a key part of the Council's governance framework.
- C.18 It is the responsibility of **Chief Officers** to establish sound arrangements for planning, appraising, authorising and controlling their operations to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

## AUDIT REQUIREMENTS

### Internal Audit

- C.19 The Accounts and Audit Regulations 2015 require the Council to maintain an effective internal audit service to evaluate the effectiveness of its risk management, control and governance processes.
- C.20 The internal audit service should operate in conformance with the Public Sector Internal Audit Standards and CIPFA's local government application note relating to these standards.
- C.21 There is a requirement for an external quality assessment to be carried out at least once every 5 years to assess conformance with the Public Sector Internal Audit Standards. The **Audit Committee** should oversee and review the outcome of the external assessment.
- C.22 **Internal Auditors** have the authority to:
- Access any Council premises, assets, records, documents and correspondence.
  - Receive any information and explanations related to any matter under consideration.
  - Require any employee of the Council or school maintained by the Council to account for cash, income, payments or any other asset under their control.

- Access records belonging to third parties (eg Contractors) when required.
- Directly access the **Head of Paid Service**, the **Executive**, the **Audit Committee** and other Chief Officers & Scrutiny Committees as required.

C.23 The nature, role, responsibilities and authority of Internal Audit for the Authority are set out in the [Internal Audit Charter](#)

## External Audit

C.24 Through delegation by the **Council**, the **Audit Committee** is responsible for appointing the Council's external auditors. The Council has opted into the national scheme for External Auditor appointments under the Local Audit and Accountability Act 2014 and Regulation 3 of the Local Audit (appointing persons) Regulations 2015.

C.25 The **Audit Committee** considers all matters related to the Council's external auditor, including the annual audit letter and specific reports to those charge with governance.

The External Auditor has the authority:

- To have free and unfettered access to any records, documents and correspondence required to conduct their statutory audit.
- Receive any information and explanations related to any matter under consideration.

C.26 The **Council** may, from time to time, be subject to audit, inspection or investigation by external regulators, inspectors or agents such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

## PREVENTING FRAUD AND CORRUPTION

C.27 The **Section 151 Officer** is responsible for the development and maintenance of a [Counter Fraud Policy](#) and [Whistleblowing Policy](#) which should be endorsed and approved by the **Audit Committee**.

C.28 The **Head of Paid Service (Chief Executive)** is ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption. The Council promotes a culture that will not tolerate fraud or corruption.

C.29 **Chief Officers** should ensure that this policy is adhered to and that they assess the risk of fraud, corruption and theft in their service areas - reducing these risks by implementing strong internal controls.

Specifically they must report all suspected fraud or financial irregularity in their service areas to the **Head of Internal Audit**. The **Head of Internal Audit** will report significant matters to the Section 151 Officer, **Head of Paid Service (Chief Executive)**, the **Executive** and the **Audit Committee**.

C.29 Public bodies, such as this Council, are required to have a Whistleblowing policy and to ensure that employees are not victimised or dismissed for raising their concerns internally.

The **Section 151 Officer** is responsible for overseeing the effectiveness of the Council's governance arrangements – this includes the Council's whistleblowing arrangements. The Counter Fraud function is responsible for maintaining the whistleblowing reporting arrangements.

C.30 The **Audit Committee** will scrutinise the effectiveness of the Council's Counter Fraud and Whistleblowing arrangements.

C.31 The associated guidance on Risk Management and Internal Control can be found in [Financial Procedure 2 – Risk Management and Internal Control](#).

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## FINANCIAL REGULATION D: ACCOUNTING RECORDS AND FINANCIAL SYSTEMS

### INTRODUCTION

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

### GENERAL

- D.2 The **Section 151 Officer** is responsible for the operation of the Council'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 in advance by the **Section 151 Officer**. However, **Chief Officers** are responsible for the proper operation of financial processes in their own directorates.
- D.3 Any changes to agreed procedures by **Chief Officers** to meet their own specific service needs should be agreed in advance with the **Section 151 Officer**.
- D.4 **Chief Officers** should ensure that their staff receives relevant financial training that has been approved by the **Section 151 Officer**.
- D.5 **Chief Officers** must ensure that accounting records and financial systems are operated in line with the council's information assurance framework to ensure security of information/information systems is maintained. Chief Officers must ensure records are managed appropriately and obligations set out in applicable information legislation met.

### PAYMENTS TO EMPLOYEES AND MEMBERS

- D.6 The **Section 151 Officer** is responsible for payment of remuneration to all staff and for payment of allowances to Councillors.

### TAXATION

- D.7 The **Section 151 Officer** 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.8 The **Section 151 Officer** is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits, submitting tax returns by their due date as appropriate and maintaining dispensations from the tax office.
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## FINANCIAL REGULATION E: CONTROL OF RESOURCES AND OTHER ASSETS

### INTRODUCTION

- E.1 The **Council** recognises that effective control of its resources and other assets is required. These have been identified as people, information and data, ICT hardware and software, consumables, cash, and intellectual property.

### ASSETS

- E.2 **Chief Officers** should ensure that 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.
- E.3 Responsibilities for disposal of unwanted and obsolete items rests with the **Section 151 Officer, Chief Officers** and the appropriate **Executive Councillor** as described below:
- Items, at the point of disposal, less than £20,000 in value can be disposed of by the appropriate Chief Officer.
  - Items, at the point of disposal, between £20,000 and £100,000 in value can be disposed of by the appropriate Chief Officer in consultation with the S151 Officer.
  - Items, at the point of disposal, greater than £100,000 in value can be disposed of by the appropriate Chief Officer in consultation with the S151 Officer and appropriate Executive Councillor.
- E.4 The **Executive Director of Commercial** is responsible for the estate management, including all property acquisition and disposal, of the County Council and the overall objectives for this are contained in the Property Management Strategy held in the **Executive Director of Commercial's** Office. Where such acquisition and disposal forms part of a wider project or initiative then that wider project or initiative will still require approval in accordance with the Constitution.
- E.5 For all acquisitions including lease or rent renewals the approval requirements at B9 of these regulations apply. (For rent or leases, costs should be calculated as the basic rent or lease multiplied by the term).
- E.6 The County Council may not lease property at less than full market rent without Secretary of State consent unless certain criteria are met. Approval for the grant of a lease at an undervalue must be obtained either through an appropriate decision based on a report to the **Executive Councillor** or by the exercise of authority delegated for the purpose. Early advice must be sought from or via Corporate Property as to the full market rental value for inclusion in

that report or delegated decision process, to demonstrate the scale of the benefit in kind embodied in a lower rent. Even where there is general consent from the Secretary of State issues may arise concerning state aid; therefore legal advice should be sought.

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## TREASURY AND INVESTMENT MANAGEMENT

- E.7 Lincolnshire County Council adheres to the requirements of the CIPFA Code of Practice in Treasury Management in Public Services 2017 and associated updates and in doing so has adopted the following clauses within these financial regulations.
- E.8 The **Council** will create and maintain, as the cornerstones for effective treasury management:
- A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities.
  - Suitable treasury management practices (TMPs) setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- E.9 The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the **Council** materially deviating from the Code's key principles.
- E.10 The **Executive Councillor for Resources** will receive reports on its treasury management policies, practices and activities, including as a minimum, an annual treasury management strategy and annual investment strategy in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
- E.11 The **Council** delegates responsibility for the approval and regular monitoring of its treasury management policies and practices to the **Executive Councillor for Resources**, and for the execution and administration of treasury management decisions to the **Section 151 Officer**, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- E.12 The Council nominates the **Overview and Scrutiny Management Board** to be responsible for ensuring effective scrutiny of the treasury management strategy and policies, including the consideration of all reports as detailed in C.19 above and in addition, quarterly treasury monitoring reports.

## STAFFING

- E.13 The full **Council** is responsible for determining how Officer support for Executive and non-Executive roles within the Council will be structured and funded.
- E.14 The **Head of Paid Service** is responsible for providing overall management to staff. They are also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration of a job.

E.15 **Chief Officers** are responsible for controlling total staff numbers by:

- Providing the **Executive** with a forecast of the budget necessary in any given year to cover estimated staffing levels.
- Adjusting the staffing to a level that can be funded within approved budget provision.
- Varying the provision of service as necessary within that constraint in order to meet changing operational needs.
- The proper use of appointment procedures.

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## FINANCIAL REGULATION F: INCOME AND EXPENDITURE

- F.1 It is the responsibility of **Chief Officers** to ensure that a proper scheme of authorisation has been established within their area and is operating effectively. The scheme of authorisation 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 within the limits of their authority.
- F.2 As part of its anti-money laundering procedures the Council will not accept any cash payments in excess of £1,000.
- F.3 The **Executive** is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.
- F.4 Responsibility for the write off of bad debts rests with **Section 151 Officer, Executive Councillor or Executive** as described below:
- Write off of debt less than £100,000 can be approved by the S151 Officer.
  - Write off of debt between £100,000 - £500,000 must be approved by formal decision by the appropriate Executive Councillor in consultation with the S151 Officer.
  - Write off of debt greater than £500,000 must be approved by formal decision by the Executive in consultation with the S151 Officer.

## FINANCIAL REGULATION G. EXTERNAL ARRANGEMENTS

### INTRODUCTION

- G.1 The **Council** provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It may also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.
- G.2 The **Executive** is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- G.3 The **Monitoring Officer** is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- G.4 The **Section 151 Officer** must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and that appropriate arrangements are in place for fulfilling any responsibilities of the Council in respect of any pooled fund arrangements or as lead authority or accountable body in respect of any external funding. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- G.5 **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

- G.6 The **Section 151 Officer** is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Paragraphs B17-20 also apply.

### WORK FOR THIRD PARTIES

- G.7 The **Executive** is responsible for approving the contractual arrangements for any significant work for third parties or external bodies. For this purpose, significant is deemed to be contracted annual income from a body that is greater than £100,000. Approval will be made after appropriate professional (including but not restricted to legal advice) has been obtained.
- G.8 The Councils Contract Regulations provide the primary source of guidance on the Councils involvement relating to all trading activity and must be read in conjunction with paragraphs G10-G14 below.

### TRADING ACCOUNTS /BUSINESS UNITS /SHARED SERVICES

- G.9 It is the responsibility of the **Section 151 Officer** to advise on the financial aspects relating to the establishment and operation of trading accounts,

business units, and shared services.

- G.10 The **Section 151 Officer** will be responsible for the set up and maintenance of the financial affairs of the trading account, business unit or shared service and ensure all the necessary accountancy information is available and reported.
- G.11 The Council has power to charge for discretionary services. A discretionary service is one that the authority is authorised, but not required, to provide. The income generated from such charges should not exceed the cost of service provision. The rates set for such services, and the manner in which the income is collected, will be in line with the Financial Procedure for Income and Expenditure (FP5). Where consideration is being given to the introduction of charges for discretionary services the relevant **Chief Officer** must consult the, **Section 151 Officer** and the **Chief Legal Officer** on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the **Executive**.

### **POWERS TO TRADE**

- G.12 The authority has power to perform, for commercial purposes; anything it is normally authorised to do for the purpose of carrying out its normal functions but only if it does so through a company. The authority cannot perform, for commercial reasons, its ordinary functions that it is already required to carry out. Where consideration is being given to performing functions for a commercial purpose the relevant **Chief Officer** must consult the **Section 151 Officer** and the **Chief Legal Officer** on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the **Executive**.

### **LOCAL AUTHORITY COMPANIES**

- G.13 Where consideration is being given to the establishment of a local authority company or involvement in other companies, even where they are not regulated under the Local Government and Housing Act 1989 the relevant Chief Officer must consult the **Section 151 Officer** and the **Chief Legal Officer** on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the **Executive**.

## **FINANCIAL REGULATION H: REVISIONS AND AMENDMENTS INFLATION**

- H.1 Where in these regulations specific financial limits apply, the **Section 151 Officer** shall review those limits at least triennially in the light of inflation and shall be authorised to vary them in the light of changes in their real value without further approval.

## **CONSTRUCTION AND INTERPRETATION**

- H.2 The Financial Regulations, including the more detailed Financial Procedures shall be read and construed in conjunction with and in addition to the Contract Regulations of the Council and its Scheme of Delegation to Chief Officers.

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## APPENDIX A – FINANCIAL PROCEDURES OVERVIEW & INDEX

### FINANCIAL PROCEDURES – AN OVERVIEW

Financial Procedures provide the detailed mechanism to underpin the principles enshrined in the Regulations.

The procedures are an integral part of the control framework and carry the same force as the regulations from which they emanate.

The **Section 151 Officer** has responsibility for maintenance and review of these regulations.

Each regulation sets out:

- the area covered;
- the purpose of the procedure (why it is important);
- the key controls;
- responsibility of Statutory Officers;
- responsibility of Chief Officers;
- responsibility of Members;
- related documents;
- contacts for assistance and advice
- procedural requirements;

## FINANCIAL PROCEDURES

1. **Financial Management, Financial Planning and Financial Systems**  
(Including policies and standards, system and records, virement, year-end procedures and accounts, budget management, monitoring and control, reserves and balances, )
2. **Risk Management and Internal Control**  
(Including Risk profiling and responsibility, counter fraud, insurance, information and information systems, provision of adequate audit, relationships with external audit and other inspection regimes)
3. **Accounting Records**  
(Including accounting records, accounting policies, year-end procedures, capital accounting, VAT, CITDS, Income Tax and National Insurance)
4. **Control of Resources and Assets**  
(Including information security, inventories, stores, disposals, intellectual property, management of data and information, retention and disposal of records staffing, treasury management, loans to third parties, bank accounts, imprest accounts, cash management, trust funds.)
5. **Income and Expenditure**  
(Including goods and services ordering, payment; leasing, staff and Member payments, income monitoring, receipting, banking)
6. **External Arrangements**  
(Including partnership arrangements, external funding, provision of services to other bodies, other funds, commercialisation)

*These documents are available on the LCC website.*

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**FINANCIAL REGULATIONS AND PROCEDURES**

Financial Regulations for Lincolnshire County Council

Background

- A: Financial Management
- B: Financial Planning
- C: Risk Management and Control of Resources
- D: Systems and Procedures
- E: External Arrangements
- F: Revisions and amendments

Appendix A: Index of Financial Procedures

## **1. BACKGROUND**

- 1.1 Lincolnshire County Council is one of the largest local authorities in England. It provides a diverse range of services to its residents. It works in partnership with district, parish and town councils, police, probation and health providers and a number of other organisations.
- 1.2 Lincolnshire County Council's governance structure is laid down in its Constitution, which sets out how the Council operates, how decisions are made and the procedures that are followed. This document forms part of the Constitution and should be read in conjunction with it.
- 1.3 The Authority has adopted a Leader and cabinet form of Executive.

## **2. FINANCIAL REGULATIONS**

- 2.1 Financial Regulations provide the framework for managing the financial affairs of Lincolnshire County Council. They apply to every Councillor and Officer of the Council and anyone acting on its behalf. Financial Regulations must be adhered to at all times. All Chief Officers are accountable to the Executive Director - Resources for compliance with these rules. The Executive Director - Resources is accountable to the Council. All Officers with delegated responsibility for undertaking financial responsibility are accountable to their Chief Officer for compliance with the Financial Regulations.
- 2.2 The regulations identify the financial responsibilities of the full Council, Executive and Overview and Scrutiny Councillors, the Head of Paid Service, the Chief Executive, the Monitoring Officer, the Executive Director - Resources, other Chief Officers and other Officers. Executive Councillors 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, such as school governors, references to the Chief Officer in the regulations should be read as referring to them.
- 2.3 All Councillors and officers 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, provides value for money and contributes to the achievement of Best Value.
- 2.4 Should a material unauthorised breach of the Financial Regulations come to light then it must be reported immediately to the Executive Director - Resources. The Executive Director - Resources is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the full Council for approval. The Executive Director - Resources is also responsible for reporting material breaches of the Financial Regulations to Chief Officers, the Executive or the full Council as appropriate according to the severity of the breach.

- 2.5 The Executive Director - Resources is responsible for maintaining Lincolnshire County Council's Financial Procedures which set out in detail how the Financial Regulations will be implemented. The Executive Director - Resources may amend the Financial Procedures so long as the Financial Procedures remain consistent with the Financial Regulations. A full index of Financial Procedures is contained as Appendix A to the Financial Regulations alongside an overview of their structure, content and purpose.
- 2.6 Chief Officers are responsible for ensuring that all staff in their directorates are aware of the existence and content of Lincolnshire County Council's Financial Regulations, Financial Procedures and other internal regulatory documents and that they comply with them. They must also ensure that there is adequate availability of and access to the current version of these documents.
- 2.7 The Executive Director - Resources is responsible for issuing advice and guidance to underpin the Financial Regulations that Councillors, Officers and others acting on behalf of the Council are required to follow.

## **FINANCIAL REGULATION A: ROLES IN FINANCIAL MANAGEMENT**

### **INTRODUCTION**

- A.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the Budget and Policy Framework.

### **THE FULL COUNCIL**

- A.2 The full Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the Budget and Policy Framework within which the Executive operates. It is also responsible for ensuring compliance with the Budget and Policy Framework. The full Council may make decisions outside the Budget and Policy Framework in accordance with paragraph 5 of the Budget and Policy Framework Procedure Rules at part 4 of the Constitution.
- A.3 By approving the Constitution the full Council has identified the responsibility for decision making. 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 Budget and Policy Framework to the full Council and for discharging executive functions in accordance with the Budget and Policy Framework.
- A.5 Executive decisions can be delegated to a Committee of the Executive, an individual Executive Councillor, an Officer or a joint Committee.
- A.6 The Executive is responsible for establishing protocols to ensure that individual Executive Councillors consult with relevant Officers before taking a decision within their delegated authority. In doing so, the individual Executive Councillor must take account of legal and financial liabilities and risk management issues that may arise from the decision.

### **OVERVIEW AND SCRUTINY COMMITTEES AND PANELS**

- A.7 The Overview and Scrutiny Committees are responsible for scrutinising Executive decisions before or after they have been implemented and for holding the Executive to account.
- A.8 The scope of Overview and Scrutiny Committees are set out in Article 6 of the Constitution.
- A.9 Corporate Audit will report its planned work at the commencement of each year and will report the outcomes of that work at least annually to the Audit Committee.

The 'Head of Internal Audit' is required to provide an annual opinion on the effectiveness of the Council's governance, risk and internal control environment (including financial control) to the Audit Committee. This helps inform the Council's Annual Governance Statement — which is a self-assessment on how well the Council has been run.

## **THE STATUTORY OFFICERS**

The Statutory Officers have responsibilities that lie within the Financial Regulations. These are set out below. The full scope of responsibilities for these Officers are contained within Article 10 of the Constitution.

### **Head of Paid Service**

A.10 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the Executive, the full Council, the Overview and Scrutiny Committees and Panels, other Committees and Groups and is responsible for supporting all Councillors and non-elected members of the Council. He/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.

### **Monitoring Officer**

A.11 The Monitoring Officer is responsible for advising all Councillors and non-elected members and Officers about who has authority to take a particular decision.

A.12 The Monitoring Officer together with the Executive Director - Resources is responsible for advising the Executive or full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the Budget and Policy Framework. Actions that may be contrary include:

- initiating a new policy;
- committing expenditure above the budget level;
- causing the total expenditure financed from Council Tax, grants, borrowing and general reserves to increase.

### **Executive Director - Resources**

A.13 The Executive Director - Resources has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

## **Section 151 of the Local Government Act 1972**

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

## **The Local Government Finance Act 1988**

Section 114 of the Local Government Finance Act 1988 requires the Executive Director - Resources to make a report if the Council 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 Council
- is about to make an unlawful entry in the authority's accounts.

The Executive Director - Resources must send a copy of that report to the external auditor and to each Councillor.

Section 114 of the 1988 Act also requires:

- the Executive Director - Resources to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under section 114 personally
- the Council to provide the Executive Director - Resources with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under section 114.

## **The Accounts and Audit Regulations 2011**

Specify that a relevant body must:

- Undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with proper practices in relation to internal control.
- Conduct a review at least once in a year of the effectiveness of its system of internal control. Following the review, the Audit Committee, must approve an annual governance statement, prepared in accordance with proper practices in relation to internal control. The annual governance statement must accompany the statement of accounts.
- Conduct at least once a year a review of the effectiveness of its internal audit service. The outcome of this review is scrutinised by the Audit Committee.

## The Local Government Act 2003

This identifies the Executive Director - Resources responsibilities in relation to:

- the level of the Authorities reserves and protocols for their use
- reporting on the robustness of the budget and the adequacy of reserves
- taking into account matters as specified in the prudential code
- reporting to Councillors on performance against budget and the impact on reserves.

A.14 The Executive Director - Resources is responsible for:

- the proper administration of the Council's financial affairs
- setting and monitoring compliance with financial management standards and accounting policies
- determining and agreeing the accounting procedures and records for the Council
- financial advice to the Council including advice on the corporate financial position and on the key financial controls necessary to secure sound financial management
- ensuring the provision of financial information
- preparing the revenue budget (in conjunction with Chief Officers) and capital programme
- ensuring that the Annual Statement of Accounts is prepared in accordance with International Financial Reporting Standards and statutory regulations as set out in the *CIPFA Code of Practice on Local Authority Accounting in the United Kingdom*
- treasury management
- maintaining an adequate, effective and continuous audit service of the control systems of the Council
- insurance and risk management

### CHIEF OFFICERS

- A.15 Chief Officers are responsible for ensuring that Executive Councillors and the relevant Overview and Scrutiny Committees and Panels are fully advised of the financial implications of all proposals and that the financial implications have been agreed where required by the Executive Director - Resources.
- A.16 Chief Officers are responsible for consulting with the Executive Director - Resources and seeking approval on any matter liable to affect the Council's finances materially before any commitments are incurred.
- A.17 Notifying the Council in conjunction with the Executive Director - Resources of the annual outturn against planned budget.

## **The Annual Financial Statements**

A.18 The Executive Director - Resources is responsible for signing the Annual Financial Statements confirming that they present fairly the financial position of the Council. The Audit Committee is then responsible for approving the Annual Financial Statements. And where there are any concerns arising from the financial statements or from the audit bring these to the attention of the Council'

## **MAINTENANCE OF RESERVES**

A.19 It is the responsibility of the Executive Director - Resources to advise the Executive and the full Council on prudent levels of reserves for Lincolnshire County Council.

## **FINANCIAL REGULATION B:**

### **FINANCIAL PLANNING AND FINANCIAL MANAGEMENT**

#### **INTRODUCTION**

B.1 The Councils' budget consists of the Revenue Budget and Capital Programme which is approved by the Council in February each year.

#### **Preparation of the Performance and Budget Plan**

B.2 The Head of Paid Service and the Executive Director - Resources are responsible for proposing the Performance and Budget Plan to the Executive for consideration before its submission to the full Council for approval. This will be prepared in consultation with other Chief Officers.

#### **BUDGETING**

##### **Resource allocation**

B.3 The Executive Director - Resources is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's Budget and Policy Framework.

##### **Budget format**

B.4 The general format of the budget will be determined by the Executive Director - Resources in consultation with Chief Officers and the relevant "Executive Councillor.

## **Budget preparation**

- B.5 The Executive Director - Resources is responsible for ensuring that the revenue budget and capital programme is prepared typically on a three-yearly basis and with close regard to the current programme of comprehensive spending reviews undertaken by the incumbent Government. These will be updated annually for consideration by the Executive, before submission to the full Council in accordance with the Budget and Policy Framework Procedure Rules. The full Council may amend the Budget or ask the Executive to reconsider it before approving it.
- B.6 The Executive is responsible for issuing the guidelines within which the Budget should be prepared.
- B.7 It is the responsibility of Chief Officers to prepare budget estimates reflecting agreed service plans for the Executive and that these estimates are prepared in line with the guidelines determined by the Executive in B6 above.

## **Capital programme and schemes**

- B.8 The Executive Director - Resources is responsible for ensuring that the capital programme is updated annually for consideration by the Executive before submission to full Council for approval. The Director is also responsible for ensuring regular monitoring reports are received by the Executive and the Overview and Scrutiny Management Board in relation to the delivery of the capital programme.
- B.9 Scheme appraisals are required where a scheme is over £500k in value and forms part of the already approved capital programme. These will normally be approved by the relevant Executive Councillor with responsibility for financial matters, who may also refer significant schemes to the relevant Overview and Scrutiny Committee for pre-decision scrutiny.
- B.10 The Overview and Scrutiny Management Board will monitor the delivery and outcomes of the overall capital programme. The relevant Overview and Scrutiny Committee may also review or scrutinise specific schemes including the achievement of value for money and utilisation of best practice.

## **Budget monitoring and control**

- B.11 The Executive Director - Resources is responsible for ensuring the provision of appropriate financial information to enable budgets to be monitored effectively. Chief Officers must monitor and control expenditure against budget allocations and report to the Executive and the Overview and Scrutiny Management Board on the overall position on a regular basis.
- B.12 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 Executive Director - Resources. They should report on variances within their own areas in accordance with the Financial Management Procedure. They should also take any action necessary to avoid exceeding their budget allocation and alert the Executive Director - Resources to any potential or anticipated problems.

- B.13 Monitoring of capital schemes is in accordance with the terms of reference set for the Overview and Scrutiny Management Board in Article 6 of the Constitution.

## **APPROVAL OF BUDGET CHANGES**

In year changes to Budget

- B.14 Save as set out in paragraphs B16 and B17 below, all changes to the Budget must be made by full Council save for urgent changes to which paragraph 6 of the Budget and Policy Framework Procedure Rules applies.

- B.15 Changes to the Budget which increase the Council's total expenditure and require either the use of the Council's general reserves or increased borrowing must be referred by the Executive Director - Resources to the Executive for consideration before being referred to the full Council for approval.

- B.16 Subject to B12 money can be reallocated between service headings in accordance with the following rules:

- reallocations of up to £250,000 may be approved by the relevant Chief Officer/s and should be notified to the Executive Director - Resources.
- reallocations of between £250,001-£500,000 shall be notified to the Executive Director - Resources by the relevant Chief Officer/s and such reallocations shall be referred to the relevant Executive Councillor/s for decision in consultation with the Executive Director - Resources and the relevant Chief Officer/s
- reallocations over £500,000 shall be notified to the Executive Director Resources and Community Safety by the relevant Chief Officer/s. Such changes shall be referred to the Executive for consideration and to the full Council for approval

- B.17 Approval given in accordance with the Constitution to the attraction of external funding for any initiative of the Council (either alone or in partnership with others) shall constitute approval for any budget changes necessary to account for the receipt of that funding and the relevant Chief Officer shall notify the Executive Director - Resources of any such funding to be received. Where the Council receives additional monies within any year to secure compliance with the law ministerial direction or mandatory government guidance any change to the budget necessary to account for the receipt of such monies may be approved by the Executive Director - Resources. Any other changes to the budget connected with any application for external funding or occasioned by the need to comply with any law ministerial direction or mandatory government

guidance must be approved in accordance with the foregoing provisions of this section.

#### Approval of carry forward

- B. 18 All under and overspendings on service revenue budgets of up to 1% will be carried forward without exception. The use of all under-spending on service budgets in excess of 1% will be considered by the Executive and decided by the full Council. The means of funding all overspendings on service budgets in excess of 1% will be considered by the Executive and decided by the full Council.
- B.19 All under and overspendings on the following budgets will be carried forward without exception
- All capital budgets;
  - The Dedicated Schools Budget;
  - All specific grants; and
  - Revenue budgets related to formally constituted shared services

### **FINANCIAL REGULATION 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 risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

#### **RISK MANAGEMENT**

- C.2 The Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Executive is responsible for ensuring the proper management of risk.
- C.3 The Executive Director - Resources is responsible for preparing the risk management policy statement, for promoting it throughout the Council and for advising the Executive on the proper management of risk, for example, insurance cover where appropriate.

#### **INTERNAL CONTROL**

- C.4 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes

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economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

- C.5 The Executive Director - Resources 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 2011 require the Authority to maintain an adequate and effective internal audit service. The internal audit service should operate in conformance with the Public Sector Internal Audit Standards and CIPFA's local government application note relating to these standards.

There is a requirement for an external assessment to be carried out at least once every 5 years to assess conformance with the Public Sector Internal Audit Standards. The Audit Committee should oversee and review the outcome of the external assessment.

The nature, role, responsibilities and authority of Internal Audit for the Authority are set out in the 'Internal Audit Charter' and the associated Financial Procedure 7 — Audit and Inspection.

- C.8 The Audit Commission is responsible for appointing external auditors to each local Authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- C.9 The Council may, from time to time, be subject to audit, inspection or investigation by external regulators, inspectors or agents such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

## **PREVENTING FRAUD AND CORRUPTION**

- C.10 The Executive Director - Resources is responsible for the development and maintenance of a Counter Fraud Policy and Whistleblowing Policy — which should be endorsed and approved by the Audit Committee.

The Head of Paid Service is ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.

Chief Officers should ensure that they assess the risk of fraud, corruption and theft in their service areas and reduce these risks by implementing strong internal controls.

Chief Officers are responsible for reporting all suspected fraud or financial irregularity in their service areas to the Internal Audit function.

Public bodies, such as this Authority, are required to have a Whistleblowing policy and to ensure that employees are not victimised or dismissed for raising their concerns internally.

The Executive Director - Resources is responsible for overseeing the effectiveness of the Council's governance arrangements — this includes the Council's whistleblowing arrangements. The Internal Audit function is responsible for maintaining the whistleblowing reporting arrangements.

The Executive Audit Committee will scrutinise the effectiveness of the Authority's Counter Fraud and Whistleblowing 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.
- C.12 Responsibility for disposal of unwanted and obsolete items rests jointly with the Executive Director - Resources and Chief Officers up to a value of £20,000 at the point of disposal and with individual Chief Officers below £5,000 at the point of disposal. Items above the specified limit require the approval of the relevant Executive Councillor. Disposals should be in accordance with Financial Procedures.
- C.13 The Executive Director - Commercial is responsible for the estate management, including all property acquisition and disposal, of the County Council and the overall objectives for this are contained in the Property Management Strategy held in the Executive Director - Commercial Office. Where such acquisition and disposal forms part of a wider project or initiative then that wider project or initiative will still require approval in accordance with the Constitution.
- C.14 For all acquisitions including lease or rent renewals the approval requirements at B9 of these regulations apply. (For rent or leases, costs should be calculated as the basic rent or lease multiplied by the term).
- C.15 The County Council may not lease property at less than full market rent without Secretary of State consent unless certain criteria are met. Approval for the grant of a lease at an undervalue must be obtained either through an appropriate resolution based on a report to the Executive Councillor or by the exercise of authority delegated for the purpose. Early advice must be sought

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from or via Corporate Property as to the full market rental value for inclusion in that report or delegated decision process, to demonstrate the scale of the benefit in kind embodied in a lower rent. Even where there is general consent from the Secretary of State issues may arise concerning state aid; therefore legal advice should be sought.

## **TREASURY AND INVESTMENT MANAGEMENT**

C.16 Lincolnshire County Council adheres to the requirements of the CIPFA Code of Practice in Treasury Management in Public Services 2011 and in doing so has adopted the following clauses within these financial regulations.

C.17 The Council will create and maintain, as the cornerstones for effective treasury management:

- A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities;
- Suitable treasury management practices (TMPs) setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

C.18 The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key principles.

C.19 The Executive Councillor for Finance will receive reports on its treasury management policies, practices and activities, including as a minimum, an annual treasury management strategy and annual investment strategy in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.

C.20 The Council delegates responsibility for the approval and regular monitoring of its treasury management policies and practices to the Executive Councillor for Finance, and for the execution and administration of treasury management decisions to the Executive Director - Resources, who will act in accordance with the Council's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

C.21 The Council nominates the Overview and Scrutiny Management Board to be responsible for ensuring effective scrutiny of the treasury management strategy and policies, including the consideration of all reports as detailed in C.19 above and in addition, quarterly treasury monitoring reports.

C.22 The full Council is responsible for determining how Officer support for Executive and non-Executive roles within the Council will be structured and

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*approved version 17.05.19*

funded.

C.23 The Head of Paid Service is responsible for providing overall management to staff. They are also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration of a job.

C.24 Chief Officers are responsible for controlling total staff numbers by:

providing the Executive with a forecast of the budget necessary in any given year to cover estimated staffing levels;

adjusting the staffing to a level that can be funded within approved budget provision;

varying the provision of service as necessary within that constraint in order to meet changing operational needs; and

the proper use of appointment procedures.

## **FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES**

### **INTRODUCTION**

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

### **GENERAL**

D.2 The Executive Director - Resources is responsible for the operation of the Council'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 in advance by the Executive Director - Resources. However, Chief Officers are responsible for the proper operation of financial processes in their own directorates.

D.3 Any changes to agreed procedures by Chief Officers to meet their own specific service needs should be agreed in advance with the Executive Director - Resources.

D.4 Chief Officers should ensure that their staff receive relevant financial training that has been approved by the Executive Director - Resources.

D.5 Chief Officers must ensure that, where appropriate, computer and manual 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 authorisation has been established within their area and is operating effectively. The scheme of authorisation 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. As part of its anti-money laundering procedures the Council will not accept any cash payments in excess of £1,000. The Executive is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.
- D.7 Responsibility for write off of bad debts rests jointly with the Executive Director - Resources and Chief Officers up to a value of £20,000 and with individual Chief Officers below £5,000. Items above the specified limit require the approval of the relevant Executive Councillor.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

- D.8 The Executive Director - Resources is responsible for payment of remuneration to all staff and for payment of allowances to Councillors.

## **TAXATION**

- D.9 The Executive Director - Resources 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.10 The Executive Director - Resources is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits, submitting tax returns by their due date as appropriate and maintaining dispensations from the tax office.

## **TRADING ACCOUNTS/BUSINESS UNITS**

- D.11 It is the responsibility of the Executive Director - Resources to advise on the establishment and operation of trading accounts and business units, where appropriate.
- D.12 Where consideration is being given to the introduction of charges for discretionary services or to utilising a trading power the relevant Chief Officer must consult with the Executive Director - Resources and Chief Legal Officer on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the Executive.

## **FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS**

### **INTRODUCTION**

- E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It may also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.
- E.2 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 Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- E.4 The Executive Director - Resources must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory and that appropriate arrangements are in place for fulfilling any responsibilities of the Council in respect of any pooled fund arrangements or as lead authority or accountable body in respect of any external funding. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.5 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.6 The Executive Director - Resources is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

The External Funding Strategy covers the principles which the Council will apply to generating additional funding via making bids to the Government and other funding bodies and the proper processes for obtaining necessary approvals.

### **WORK FOR THIRD PARTIES**

- E.7 The Executive is responsible for approving the contractual arrangements for any significant work for third parties or external bodies. For this purpose, significant is deemed to be contracted annual income from a body that is greater than £100,000. Approval will be made after appropriate professional (including but not restricted to legal advice) has been obtained.

## **FINANCIAL REGULATION F: REVISIONS AND AMENDMENTS**

### **INFLATION**

- F.1 Where in these regulations specific financial limits apply, the Executive Director - Resources shall review those limits at least triennially in the light of inflation and shall be authorised to vary them in the light of changes in their real value without further approval.

### **CONSTRUCTION AND INTERPRETATION**

- F.2 The Financial Regulations shall be read and construed in conjunction with and in addition to the Contract Regulations of the Council and its Scheme of Delegation to Chief Officers.

## **APPENDIX A - FINANCIAL PROCEDURES OVERVIEW & INDEX**

### **FINANCIAL PROCEDURES - AN OVERVIEW**

Financial Procedures provide the detailed mechanism to underpin the principles enshrined in the Regulations.

The procedures are an integral part of the control framework and carry the same force as the regulations from which they emanate.

The Executive Director - Resources has responsibility for maintenance and review of these regulations.

Each regulation sets out:

- the area covered;
- the purpose of the procedure (why it is important);
- the key controls;
- responsibility of Statutory Officers;
- responsibility of Chief Officers;
- specific procedural requirements (where appropriate);
- contacts for assistance and advice.

## FINANCIAL PROCEDURES

1. Financial Management  
(Including policies and standards, system and records, virement, year end procedures and accounts)
2. Financial Planning (Revenue and Capital)  
(Including budget management, . monitoring and control, reserves and balances)
3. Asset Management  
(Including physical asset security, inventories, stores, disposals, intellectual property, data and information, retention and disposal of records, IT security)
4. Treasury Management  
(Including Investments, bank accounts, imprests, cash management)
5. Procurement  
(Including goods and services ordering, payment; leasing, staff and Member payments)
6. Risk Management  
(Including Risk profiling and responsibility, counter fraud, insurance)
7. Audit and inspection  
(Including provision of adequate audit, relationships with external audit and other inspection regimes)
8. External Service Arrangements  
(Including partnership arrangements, external funding, provision of services to other bodies, other funds)
9. Accounting to statutory bodies  
(Including VAT, CITDS, Income Tax and National Insurance)
10. Income control  
(Including monitoring, receipting, banking)
11. Accounting  
(Including accounting records, accounting policies, year end procedures, capital accounting)

*These documents are available on the LCC website.*

## Regulatory and Other Committee

### Open Report on behalf of Andrew Crookham, Executive Director - Resources

Report to:	<b>Audit Committee</b>
Date:	<b>18 November 2019</b>
Subject:	<b>Developments in Audit and Governance</b>

#### Summary:

The purpose of this report is to inform the Audit Committee (the Committee) about current and planned developments in audit (mostly External Audit) and governance that relate to the Committee's role and remit.

#### Recommendation(s):

That the contents of the report be noted.

#### Background

1. A series of large scale corporate governance and financial failings in both the private and public sectors e.g. Carillion, BHS, Thomas Cook and Northamptonshire County Council, and criticisms of the roles taken by auditors has generated much interest into reviewing audit and governance arrangements in all sectors.

#### Developments in local (external) audit

**Independent review into the arrangements in place to support the transparency and quality of local authority financial reporting and external audit in England (the Redmond review)**

<https://www.gov.uk/government/consultations/review-of-local-authority-financial-reporting-and-external-audit-call-for-views>

2. The responsibilities for how local authority audits are conducted are set down within the Local Audit and Accountability Act 2014. The 2014 Act put in place a localised audit regime, refocusing local accountability on improved transparency. The independent review will meet the Ministry of Housing, Communities and Local Government's (MHCLG) commitment to undertake a post implementation review of the audit framework and financial reporting elements of the Act.

3. The Review, led by the former President of CIPFA, Sir Tony Redmond, is to examine the existing purpose, scope and quality of statutory audits of local authorities in England and the supporting regulatory framework to determine whether: -
  - It is operating in line with the intent set out in the Act;
  - The reforms have improved the effectiveness of the control and governance framework along with the transparency of financial information presented by councils;
  - Whether the current statutory framework for local authority financial reporting supports the transparent disclosure of financial performance and enables users of the accounts to hold local authorities to account; and;
  - The process, products and framework need to improve and evolve to meet the needs of residents and local taxpayers, and the wider public interest.
4. A call for views, information and evidence (containing 43 questions) is underway until 22 November 2019. In terms of the responsibilities of the Committee, the Review is interested:
  - in whether the governance framework for considering internal and external audit findings encourages local authorities to take prompt action in response to issues raised and whether it supports continuous improvement;
  - details on committee membership, whether there are any independent members and which officers typically attend;
  - in how the implementation of audit recommendations is tracked;
  - in exploring the relationship between internal and external audit, particularly if a closer or more codified relationship could lead to higher quality outcomes.
5. The Executive Director of Resources will respond to the consultation and share the response with the Chair of the Committee. The Review is due to report in March 2020.

### **Proposals to revise the Local audit in England Code of Audit Practice**

<https://www.nao.org.uk/code-audit-practice/code-of-audit-practice-consultation/>

6. The 2014 Act makes the National Audit Office (NAO) under the leadership of the Comptroller and Auditor General (C&AG) responsible for the preparation and maintenance of the Code of Audit Practice (the Code) and gives the C&AG power to issue guidance to auditors in support of the Code, to which auditors must have regard when carrying out their work. The Code must be reviewed, and revisions considered at least every five years. A new Code needs to be laid in Parliament in time for it to come into force no later than 1 April 2020.

7. The NAO recently issued Stage 2 of the current consultation, which also closes on 22 November. There are some key improvements proposed in the draft Code including the need for local auditors to ensure that: -
- Teams have the necessary skills and knowledge of the relevant financial reporting and regulatory frameworks to enable them to deliver their audit work;
  - They have open and transparent arrangements in place for engaging with the public effectively;
  - When reporting their findings, making recommendations, or exercising any of their wider functions, they ensure their reporting to local bodies – and to the wider public – is as effective and-transparent as possible and promotes local improvement.
8. The 2014 Act places a specific duty on the local auditor to be satisfied whether the body they are auditing has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources. The draft Code proposes a new approach to auditors' work in this area, putting a sharper focus on value for money (VfM) and an expectation of clearer and more timely reporting. The NAO considers the new approach will extract more value from current audit work and make auditor reporting more useful to the audited body and the wider public. It will not result in any form of scored judgement or rating or require local bodies to compile any form of self-assessment.
9. While the focus on the arrangements the body has in place and the risk-based approach to auditors' work is retained, the draft Code revises the previous reporting criterion to cover the following:
- **Financial sustainability:** How the body plans and manages its resources to ensure it can continue to deliver its services;
  - **Governance:** How the body ensures that it makes informed decisions and properly manages its risks and finances;
  - **Improving economy, efficiency and effectiveness:** How the body uses information about its costs and performance to improve the way it manages and delivers its services.
10. Rather than require auditors to focus on delivering an overall, binary, conclusion about whether (or not) proper arrangements were in place during the previous financial year, the draft Code requires auditors to issue a commentary on each of the criteria. This will allow auditors to tailor their commentaries to local circumstances.
11. For work on arrangements to secure VfM, the draft Code introduces the expectation that where work identifies significant weaknesses in arrangements, the auditor will issue a recommendation to the body, setting out the auditor's judgements clearly along with a summary of the evidence on which those judgements are based. The auditor should also explain the impact the judgement has on the body itself and set out clearly the actions the body should take in response. The draft Code also expects that, when they identify significant weaknesses in arrangements, the auditor considers

whether to make their recommendation immediately, rather than wait until the end of the audit.

12. The Executive Director – Resources will respond to the consultation and share the response with the Chair of the Committee.

### **Other developments relating to the wider external audit field**

13. Whilst the two consultations above are specifically relevant to the local government sector, other reviews into the audit domain could impact on local authorities and the public sector. These include: -
  - ‘The Independent Review of the Financial Reporting Council (FRC)’ – the Kingman review was concluded in December 2018. The FRC regulates auditors, accountants and actuaries in the UK, sharing this responsibility with the professional membership bodies. The review recommended that the FRC be replaced with an independent statutory regulator, accountable to Parliament, with a new mandate, new clarity of mission, new leadership and new powers. The new regulator would be called the Audit, Reporting and Governance Authority.
  - ‘Statutory Audit Services Market Study’, final report, April 2019. The Competition and Markets Authority. recommended changes to the statutory audit market that will impact on local audit. This review also made a specific recommendation that audit committees should come under greater scrutiny by the new regulator (see Kingman). This should increase accountability of audit committees. This recommendation could translate into the public sector and local government.
  - ‘Independent review into the quality and effectiveness of audit’ (the Brydon review). The review was commissioned in response to the perceived widening of the “audit expectations gap” - the difference between what users expect from an audit and the reality of what an audit is and what auditors’ responsibilities entail. Recent company failures have brought this gap into greater focus. There may be an additional gap between the information users of audited accounts believe is needed and what is available to them through audited financial statements or other publicly available information. A report to the Secretary of State for Business, Energy and Industrial Strategy is expected by the end of 2019.

### **Developments in internal audit**

#### **CIPFA Statement on the Role of the Head of Internal Audit in Public Sector Organisations**

<https://www.cipfa.org/policy-and-guidance/reports/the-role-of-the-head-of-internal-audit>

14. The revised Statement was published in April 2019. It is aimed at audit committees and leadership teams, helping them to understand the role of the head of internal audit and the organisational arrangements that should be in place to provide effective support to the role.
15. The Statement underlines that an audit committee plays a key role in relation to internal audit, providing oversight of the arrangements for the service and holding it to account for its delivery of the audit plan. It also plays a vital role in providing high-level support and helping to ensure that its reports and recommendations are considered and addressed by managers. A head of internal audit can organise their team and ensure professional internal audit standards are met, but unless there is the right level of engagement with the audit committee and leadership team the impact and effectiveness of internal audit is likely to be undermined. Therefore, it is important that the audit committee understands its role and plays it effectively.
16. The Statement has five principles that should be applicable to any public-sector organisation. For each principle the organisational arrangements are identified along with the characteristics of the role and of the individual. The principles are aligned to the professional standards for internal audit: The Public Sector Internal Audit Standards (PSIAS).
17. CIPFA advises that an audit committee can use the Statement when it reviews internal audit agenda items at its meetings, for example, an update of the internal audit charter or consideration of the annual opinion and report. The Statement can also inform the committee's review of its own terms of reference, preparation of an annual report or self-evaluation.
18. The Head of Internal Audit and Risk Management will conduct a self-assessment against the Statement timed to take account of any governance changes identified in this report and will report back to a future Committee.

### **Developments in governance**

**'Local Authority Governance', Report by the Comptroller and Auditor General to the Ministry of Housing, Communities and Local Government, January 2019.**

<https://www.nao.org.uk/wp-content/uploads/2019/01/Local-authority-governance.pdf>

19. This report examined whether local governance arrangements provided local taxpayers and Parliament with assurance that local authority spending achieved value for money and that authorities were financially sustainable. The report addressed the questions in three separate parts: the pressures on the local governance system; the extent to which local governance arrangements function as intended; and whether the MHCLG was fulfilling its responsibilities as steward of the system.

20. The report was critical of the MHCLG and commented that as steward of the system it had a responsibility for assuring itself that there was an effective local governance system in place. There were 6 recommendations including a key one relative to the responsibilities of the Committee, 'The MHCLG should work with local authorities and stakeholders to assess the implications of, and possible responses to, the various governance issues the NAO had identified, including:
- the status of section 151 officers and the efficacy of their statutory reporting arrangements;
  - the effectiveness of audit committees, and how to increase the use of independent members;
  - the effectiveness of overview and scrutiny functions and ways to enhance their impact; and
  - the sustainability and future role of internal audit.
21. The report also recommended that the MHCLG should address the system-wide gaps in its evidence base on governance; set out its expectations of network partners to address the current weaknesses in local governance arrangements; lead the sector in considering the issues and concerns raised about external audit; examine ways of introducing greater transparency and openness in relation to its formal and informal interventions in local authorities and adopt a stronger leadership role in relation to overseeing and coordinating the network of organisations managing key aspects of the governance framework.
22. Based on the NAO report, the Committee of Public Accounts took evidence from the MHCLG, the Centre for Public Scrutiny, the LGA and CIPFA and produced a report on Local Government Governance and Accountability on 15 May 2019.
- <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/2077/2077.pdf>
23. This report was generally scathing of the MHCLG and contained 5 conclusions that the MHCLG: -
- a. Was not yet providing effective leadership of the local governance system
  - b. Did not know why some local authorities were raising concerns that external audit was not meeting their needs
  - c. Lacked reliable information on key governance risks, or relied on weak sources of information, meaning it had no way of pinpointing the at-risk councils
  - d. Monitoring was not focused on long-term risks to council finances and therefore to services
  - e. Had a complete lack of transparency over both its informal interventions in local authorities with financial or governance problems and the results of its formal interventions

24. MHCLG has agreed all 8 of the recommendations and for 5 of them the target dates for implementation are November 2019. A key recommendation that may impact the Committee is to implement a Local Authority Governance and Accountability Framework Review Panel. The prime objective of the panel is to review the local government accountability framework and ensure it remains fit for purpose. Evidence may be called for.
25. We will update the Committee as required.

### **CIPFA Financial Management Code (published October 2019)**

26. The Financial Management Code (the FM Code) provides guidance for good and sustainable financial management in local authorities. By complying with the principles and standards within the code authorities will be able to demonstrate their financial sustainability.
27. The FM Code requires authorities to demonstrate that the processes they have in place satisfy the principles of good financial management. The FM Code identifies risks to financial sustainability and introduces a framework of assurance. This framework is built on existing successful practices and sets explicit standards of financial management. Complying with the standards set out in the FM Code is the collective responsibility of elected members, the chief finance officer and their professional colleagues in the leadership team. Complying with the FM Code will help strengthen the framework that surrounds financial decision making.
28. The FM Code is principles based and covers, Organisational leadership; Accountability; Transparency; Professional standards; Assurance and Sustainability of services
29. The code applies to all local authorities. By following the essential aspects of the FM Code, local authorities are providing evidence to show they are meeting important legislative requirements in their jurisdictions. The FM Code is not specified by legislation, but CIPFA's judgement is that –  
  
'compliance with the CIPFA FM Code is necessary for local authorities to demonstrate that they are meeting important legislative requirements'
30. The first full year of compliance will be 2021/22. This reflects the recognition that organisations will need time to reflect on the contents of the code and can use 2020/21 to demonstrate how they are working towards compliance.
31. A self-assessment is being undertaken against the code and this, together with; the findings from our review of lessons learnt at Northamptonshire County Council will inform improvement / compliance action.
32. An update to the Committee is planned for its 10<sup>th</sup> February 2020 meeting.

### **Centre for Public Scrutiny – Research into the strengthening of local governance (launched October 2019)**

33. A range of national bodies are working together to enhance councils' understanding of how they can diagnose and reduce the risk of failure in corporate governance, and what success factors can point the way to greater strength in this area. Research is being led by the Centre for Public Scrutiny and funded by a consortium of partners including the MHCLG, the LGA and CIPFA.
34. The research will focus on specific governance issues in order to: -
  - a. Better understand what evidence can be found that could signpost to the risk of governance failure and help councils to mitigate those risks by strengthening governance systems.
  - b. Provide practical advice to councils as to how they can recognise and act on the risk in their own area. Researchers will consider whether it is possible to come up with a consistent "typology" of local failure, and how this can be deployed at local level to improve.
35. Findings alongside a practical toolkit for councils will be published in mid-May 2020. A review of the Council's scrutiny arrangements has recently commenced.
36. The Monitoring Officer will update the Committee as required.

## **Conclusion**

The outcome of the above developments is likely to have an impact on the future of audit and governance in the public sector.

## **Consultation**

### **a) Have Risks and Impact Analysis been carried out?**

No

### **b) Risks and Impact Analysis**

Not applicable

## **Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Lucy Pledge, who can be contacted on 01522 553692 or [lucy.pledge@lincolnshire.gov.uk](mailto:lucy.pledge@lincolnshire.gov.uk) .

**Open Report on behalf of Andrew Crookham, Executive Director -  
Resources**

Report to:	<b>Audit Committee</b>
Date:	<b>18 November 2019</b>
Subject:	<b>Internal Audit Progress Report</b>

**Summary:**

The purpose of this report is to:

- Provide details of the audit work completed 1st September to 28th October 2019
- Advise on progress of the 2019/20 plan
- Raise any other matters that may be relevant to the Audit Committee role

**Recommendation(s):**

That the Committee note the outcomes of Internal Audit's work and identify any necessary actions that need to be taken.

**Background**

This paper covers the period September and October 2019 and reports on progress made our audit plans.

Our progress report is attached in appendix A and shows:

- Reports issued
- Assurance opinions including a summary
- Benchmarking information in performance indicators
- Other matters of interest
- Audit schedule (priority reviews in progress)

**Conclusion**

**During the period we have completed nine audits**, which include six school audits. Delivery of the **revised audit plan is on schedule for the time of year at 26% complete**. Our external work is frontloaded to the beginning of the year with more LCC audits scheduled between October and March 2020.

**Follow up of outstanding actions** show that 9 high and 21 medium priority actions remain unresolved after their agreed due date has passed. Revised completion dates have been given and we can confirm that management are making progress on implementing improvements for all but one audit area – which has paused given changes in personnel.

**Changes to the Internal Audit Plan** have been proposed – these are due to a variety of reasons but we don't anticipate this to adversely affect the Head of Internal Audit's annual opinion 2020.

**Audit Resources** – the level of audit resources are less than anticipated at the beginning of the year, which has also impacted upon the delivery of the internal audit plan. A recruitment process is about to commence for a senior auditor and apprentice.

**Consultation**

**a) Have Risks and Impact Analysis been carried out?**

No

**b) Risks and Impact Analysis**

Internal Audit plays a key role in the Council's governance and assurance arrangements. Delivery of the Internal Audit Plan supports the ability of the Head of Internal Audit to provide an independent annual opinion on the Council's governance, risk and control environment and how much it can be relied upon.

**Appendices**

These are listed below and attached at the back of the report	
Appendix A	Internal Audit Progress Report

**Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Lucy Pledge, who can be contacted on 01522 553692 or [lucy.pledge@lincolnshire.gov.uk](mailto:lucy.pledge@lincolnshire.gov.uk) .

# Internal Audit Progress Report



Image Courtesy of the Office of UKPuzzle Club

## Lincolnshire County Council November 2019

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This report has been prepared solely for the use of Members and Management of **Lincolnshire County Council**. Details may be made available to specified external organisations, including external auditors, but otherwise the report should not be used or referred to in whole or in part without prior consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended for any other purpose.

The matters raised in this report are only those that came to our attention during the course of our work – there may be weaknesses in governance, risk management and the system of internal control that we are not aware of because they did not form part of our work programme, were excluded from the scope of individual audit engagements or were not brought to our attention. The opinion is based solely the work undertaken as part of the agreed internal audit plan.

# Introduction

The purpose of this report is to:

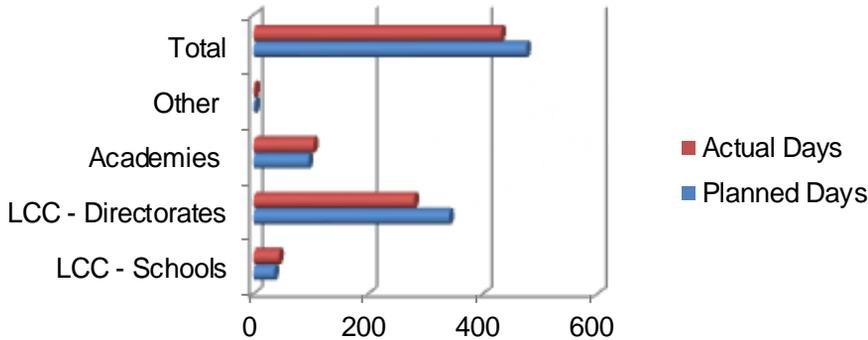
- Provide details of the audit work during the period 1<sup>st</sup> September 2019 to 28<sup>th</sup> October 2019
- Advise on progress of the 2019/20 plan
- Raise any other matters that may be relevant to the Audit Committee role

## Key Messages

Delivery of the revised audit plan is 26% complete. This is not unexpected as some of our external work is frontloaded in our schedule. More LCC audits are scheduled between October to March. Our key external commitments related to:

- Delivery of academy audits before their financial year end of 31<sup>st</sup> August.
- Delivery of Housing Benefit subsidy validation for annual accounts at our district clients.

The graph below compares planned audits for April to September to actual audit days delivered.



More details on work in progress can be found on pages 4 and 5 of this report.

## Assurances

The following audit work has been completed and a final report issued since September:

High Assurance:

- Income

Substantial Assurance:

- Fuel Cards
- Financial procedures in Children's Residential Units



# Key Messages

## Assurances (continued)



We also completed 6 school audits. Five school audits received **substantial assurance** indicating good financial controls.

One school audit received **low assurance** due to high number of financial concerns – recommendations for improvement have been reported to the School and Children’s Services.

## Outstanding Recommendations

Actions are overdue for **18 audits**. A total of **9 high** and **21 medium priority** actions remain unresolved after their agreed due date has passed. **15** of these have provided revised completion dates which have not yet passed. More details of the outstanding recommendations can be found in **Appendix 2**.



## Changes to the Plan

We operate a dynamic audit plan which means we can be flexible and change planned audits when a new risk emerges or an audit’s priority changes.

The changes to the plan have arisen due to the following:

- Change in priorities with revised audits suggested.
- Request of management due to projects not being implemented as planned or changes to delivery model in progress.
- Capacity in the service area to support the audit process given competing priorities.
- Less audit resources than originally planned – currently have 1 vacancy and recruitment process about to start.
- Audit area no longer relevant.

At this time **we don’t envisaged** that these changes will have an adverse **impact on the Head of Internal Audit opinion 2020**.

More details of the planned changes can be fo



# High Assurance

## Income

Our work identified that income processes operated by the Serco Income Team are working well. Our discussions and testing confirmed that:

- Income is accurately posted.
- Income collected is regularly reconciled to the bank.
- The suspense accounts are monitored and cleared within required timescales.
- All refunds are monitored and checked by the Income Manager.
- There is a clear separation of duties within processes.
- An official electronic receipt has been implemented with all the required information included.

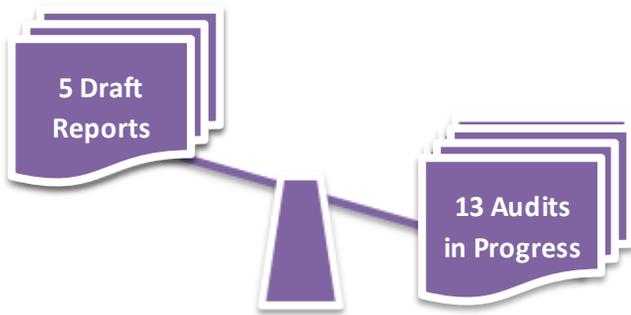
# Substantial Assurance

## Fuel Cards

Our follow up review has concluded that significant improvements have been made since our low assurance conclusion in 2017/18. The procurement of a new contract and the introduction of new policies and procedures are a positive step forward, and as these become more refined and embedded, will continue to increase assurance over the management of fuel cards. We found all previous actions have been implemented, although have made some recommendations for further improvements.

## Financial procedures in Children's Residential Units

Our work confirmed that the financial processes for procurement cards, pay and expense claims, purchase orders and petty cash imprest operation are working as expected and overall a satisfactory level of control is being maintained. We are therefore able to provide a substantial level of assurance over these financial systems operating at the 8 children's residential units we visited. There were some areas where we felt the controls could be strengthened to protect staff and reduce the risk of fraud occurring and agreed recommendations to remedy these.



## Audit reports at draft

We have five audit's at draft report stage:

- Settlement Agreements
- Personal Data Breaches
- Commercial Property Portfolio
- ICT Asset Management Follow Up
- Coronors

## Work in Progress

We have also have thirteen audits in progress:

- Highways 2020 Project
- ICT Business Continuity and Disaster Recovery
- BWoN Rebuild Project
- Contract Management Review
- BWoN System Admin Access
- BWoN Interfaces
- Data Integrity
- Lincolnshire Safeguarding Adults Board Peer Review Follow Up
- Recruitment and Selection Checks
- Property Health & Safety – Legionella Bacteria
- School Funding Allocations
- Managing Children & Young People Exploitation
- Impact Assessments

Details of these in progress audits can be seen in the 2019/20 plan at **Appendix 3**.

## Other Significant work

Other key work undertaken during the period includes:

### Families working Together

We have completed our second audit sign off of the Families working Together claim for 2019/20. Our work did not identify any significant issues

### Bus Service Operators Grant

This grant is required to be reviewed by Internal audit to provide confirmation to Department for Transport by 30th Sept that the Grants have been spent in accordance with the Grant criteria. This work has been completed and the grant return signed off.

### Audit Committee Forum

We facilitated the annual Audit Committee Forum. This day session for Committee Chairs and Members covered cyber security, audit update, risk in focus and annual governance statements. The day was well attended.



## Governance Review of Risk and Safety Group

The Council has a Corporate Risk and Safety Group. We undertook a review of this group to assess:

- What works well?
- What could be better?
- The processes and practices adopted.
- How the group gains assurance.
- How well risks are articulated in decisions / options / projects.
- Use of risk registers.

The review has made some recommendations for improvements which are currently being consulted on with the group, but overall the review concluded:

‘The Council has effective risk management and health and safety arrangements in place that enables risks to be taken in an informed manner. There is a clear tone from the top from the Corporate Leadership Team and senior management in risk taking and avoidance’.

## Highways 2020 Project

The Highways 2020 project has concluded the tender evaluation and award process during the period. Our work during this time has included drawing together the assurance that support achievement of the key objective – The process followed for Evaluation, Selection and Award ensures transparency, compliance with OJEU regulation and identifies the 'most economically advantageous tender' for each lot.

A highlight report has been produced and is being agreed with management. This will be shared with members in the next progress report.



## 2019/20 Plan changes

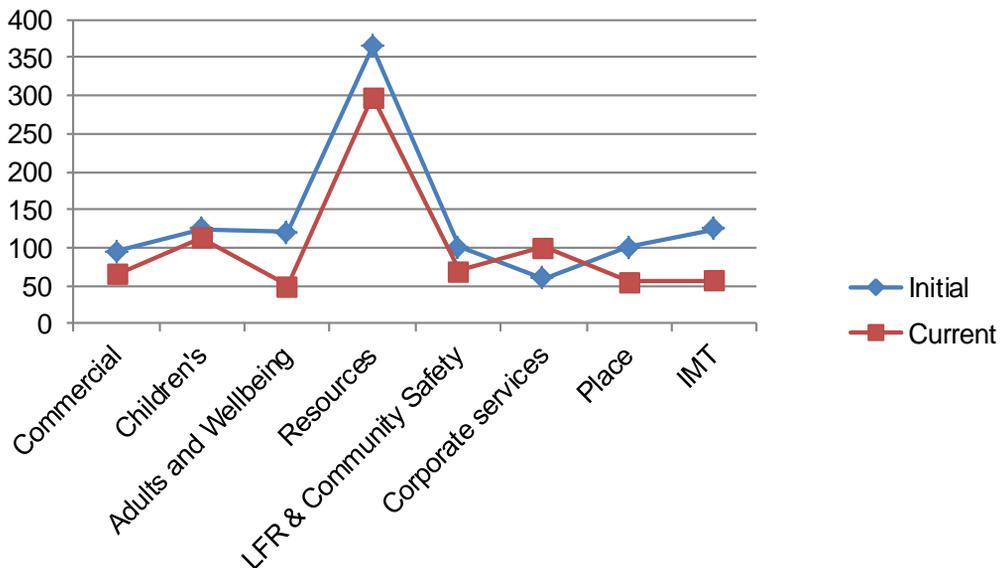


We set out below information on the plan that was approved by the Corporate Leadership Team and the Audit Committee in March 2019, totalling **1075 days** (excluding schools) - comparing it to the current revised plan **810 days**.

We are about to commence a recruitment of an apprenticeship and resource additional general audit and Information Technology specialism through a Framework.

The joining of East Lindsey District Council to our audit team in December 2019 will also increase our capacity.

Full details of changes are documented on pages 7 and 8 of this report.



## Planned Changes to Internal Audit Plan – 2019/20

Directorate	Audit	Rational	Change
Fire & Rescue and Safer Communities	LFR - Replacement of Breathing Apparatus equipment & Mobile Data terminals	Plan to replace has been delayed to 2021	Remove audit
Fire & Rescue and Safer Communities	LFR – Control project	Project delayed by provider technical issues	Remove audit
Fire & Rescue and Safer Communities	Multi Agency Response to Consumer Fraud	Reprioritised due to less audit resources	Move to 2020/21
Adult Care & Community Wellbeing	Social Care Green Paper – Service Delivery	Social care Green Paper has been delayed by Gov.	Replace with audit of Care Assessments
Adult Care & Community Wellbeing	Future Funding Green Paper	Social care Green Paper has been delayed by Gov.	Replace with Audit of Better Care Fund
Adult Care & Community Wellbeing	Carers	Social care Green Paper has been delayed by Gov.	Replace with Audit of Carers – follow up.
Adult Care & Community Wellbeing	Supply of Residential Placements	Resource Pressures in Commercial Team	Move to 2020/21
Adult Care & Community Wellbeing	ICES and Telecare Contract	Resource Pressures in Commercial Team	Move to 2020/21
Adult Care & Community Wellbeing	Housing related support contract	Resource Pressures in Commercial Team and contract retender	Move to 2020/21
Adult Care & Community Wellbeing	Substance Misuse	Resource Pressures in Commercial Team and contract retender	Move to 2020/21
Adult Care & Community Wellbeing	Sexual Health	Resource Pressures in Commercial Team and contract retender	Move to 2020/21
Place	Lincolnshire Public Transport Network	Changes are provider responsibility to deliver	Remove audit

## Planned Changes to Internal Audit Plan – 2019/20

Directorate	Audit	Rational	Change
Place	Mixed Recycling Facility	Development of Council owned facilities not progressed	Remove audit
Place	Corporate Social Responsibility	Reprioritised due to audit resources	Move to 2020/21
Resources	Risk Management	Impacted by review undertaken by Risk and Safety Group	Move to 2020/21
Resources	Legal Lincolnshire Business Model	Progress has not required audit input yet	Move to 2020/21
Resources	Workforce Performance and Reward	Reprioritised due to audit resources	Move to 2020/21
Children's Services	Futures for me project	Subject to internal review and external review by Department for Education and Lincoln University	Move to 2020/21
Children's Services	Quality Assurance Team	Delayed due to planned changes around corporate Quality Assurance	Move to 2020/21
Children's Services	Families Working Together Outcomes	Reprioritised due to audit resources	Move to 2020/21



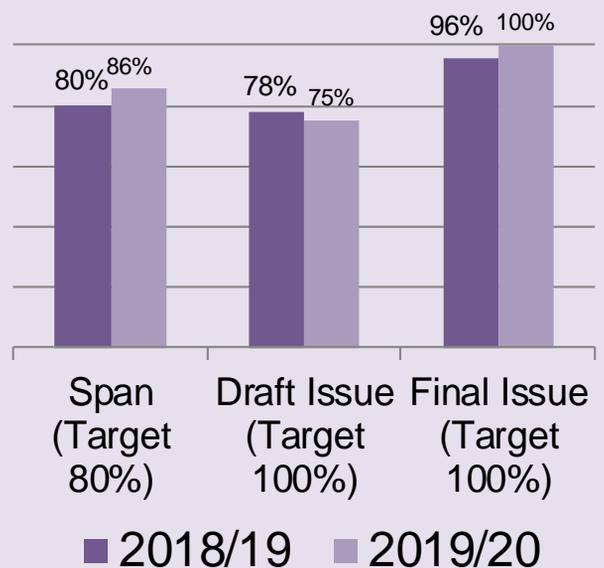
Internal Audit's performance is measured against a range of indicators. The statistics below show our performance on key indicators year to date.

## Performance on Key Indicators

# 100%

Rated our service Good to Excellent

# Improving achievement of Audit KPI's to date





# Other Matters of Interest

A summary of matters that will be of particular interest to Audit Committee Members

## CIPFA Financial Management Code 2019

CIPFA have updated their financial management code for UK Local Authorities to acknowledge the pressures of a tightening fiscal landscape.

The Financial Management Code (FM Code) is designed to support good practice in financial management and to assist local authorities in demonstrating their financial sustainability. The FM Code therefore for the first time sets the standards of financial management for local authorities.

The FM Code is based on a series of principles supported by specific standards which are considered necessary to provide the strong foundation to:

- financially manage the short, medium and long-term finances of a local authority
- manage financial resilience to meet unforeseen demands on services
- manage unexpected shocks in their financial circumstances.

Each local authority (and those bodies designated to apply the FM Code) must demonstrate that the requirements of the code are being satisfied. Demonstrating this compliance with the FM Code is a collective responsibility of elected members, the chief finance officer (CFO) and their professional colleagues in the leadership team.

## The Redmond Review

The Redmond review has called a consultation requiring responses by 22nd November 2019.

This call for evidence is a key part of the review in determining whether the requirements of the Local Audit and Accountability Act 2014 are being fulfilled. It will look to test the assurance processes in place with regard to the value for money arrangements together with financial resilience in local councils.

The consultant can be found at:

<https://www.gov.uk/government/consultations/review-of-local-authority-financial-reporting-and-external-audit-call-for-views>

**High**

Our critical review or assessment on the activity gives us a high level of confidence on service delivery arrangements, management of risks, and the operation of controls and / or performance.

The risk of the activity not achieving its objectives or outcomes is low. Controls have been evaluated as adequate, appropriate and are operating effectively.

**Substantial**

Our critical review or assessment on the activity gives us a substantial level of confidence (assurance) on service delivery arrangements, management of risks, and operation of controls and / or performance.

There are some improvements needed in the application of controls to manage risks. However, the controls have been evaluated as adequate, appropriate and operating sufficiently so that the risk of the activity not achieving its objectives is medium to low.

**Limited**

Our critical review or assessment on the activity gives us a  
The controls to manage the key risks were found not always to be operating or are inadequate. Therefore, the controls evaluated are unlikely to give a reasonable level of confidence (assurance) that the risks are being managed effectively. It is unlikely that the activity will achieve its objectives.

**Low**

Our critical review or assessment on the activity identified significant concerns on service delivery arrangements, management of risks, and operation of controls and / or performance.

There are either gaps in the control framework managing the key risks or the controls have been evaluated as not adequate, appropriate or are not being effectively operated. Therefore the risk of the activity not achieving its objectives is high.

## Overdue incomplete actions for audits at 01/10/19

Activity	Issue Date	Assurance	Total Actions	Actions Imp	Priority of Overdue Actions			Actions not due
					High	Medium	Low	
Business Continuity and Emergency Planning	Feb 2016	Limited	4	3	1	0	0	0
Client Contributions policy *	Nov 2017	Limited	9	7	0	2	0	0
Information Governance*	Dec 2017	Substantial	7	6	0	1	0	0
Capital Programme	Apr 2018	Limited	7	3	3	1	0	0
Budget Management*	Jul 2018	Substantial	5	4	0	1	0	0
Proportionate auditing of direct payments**	Nov 2018	Consultancy	7	6	0	1	0	0
Records Management	Apr 2019	Substantial	4	1	0	1	0	2
Emergency Planning Command Structure*	Feb 2019	Substantial	2	0	0	1	0	1
Members Allowances Scheme	Dec 2018	Substantial	6	5	0	1	0	0
Tax Compliance*	Jan 2019	Limited	11	6	2	2	0	1
LFR Fleet Management*	Apr 2019	Limited	8	0	1	4	0	3
IR35	Jul 2019	Limited	7	0	0	1	0	6
Holding Company	Mar 2019	Substantial	3	0	2	0	0	0
Sub Total			80	42	9	16	0	13

## Overdue incomplete actions for audits at 01/10/19

Activity	Issue Date	Assurance	Total Actions	Actions Imp	Priority of Overdue Actions			Actions not due
					High	Medium	Low	
General Ledger Key Controls	Apr 2019	Substantial	7	3	0	1	0	3
Debtors Key Controls*	Apr 2019	High	1	0	0	1	0	0
Processes and controls put in place to improve performance of financial assessments**	Jun 2019	Substantial	4	0	0	1	0	3
Creditors key controls	Aug 2019	Substantial	10	3	0	1	0	6
Pension Fund	Apr 2019	High	1	0	0	1	0	0
Sub Total			23	6	0	5	0	12
Grand Total			103	48	9	21	0	25

\* Extension to due date agreed and revised due date not yet due

\*\*Indicates no response received from action owner when update requested

## Details of High Priority Overdue Actions:

### Business Continuity and Emergency Planning

Responsibility for exercising the IT Business Continuity plan rests with Serco. We are currently completing an audit of Business Continuity and Disaster recovery so this action will soon be confirmed as resolved or superseded.

### Capital Programme

There are three high overdue findings for this audit:

- 1) Agresso reporting only captures the actual, budget and forecast figures for the current financial year for each capital scheme, rather than the cumulative position against the approved budget. As corporate reporting only provides the current year figures and many schemes span several years, it does not provide a meaningful representation of a scheme's financial position. **50% progress made**
- 2) Following their approval, capital schemes are only subject to financial scrutiny by Members at the Overview and Scrutiny Management Board on a quarterly basis. However, the Capital Programme is reviewed as a whole rather than on an individual scheme basis, unless there are specific concerns. This combined with the annual reporting issue noted in 1 above, results in a lack of transparency around the finances of the individual schemes.
- 3) Capital and Revenue Budget procedures are combined within the Financial Planning and Financial Management Procedures from the Finance Handbook (Financial Procedures 1 and 2). The procedures which cover capital appraisals, approvals and carry forwards were last updated in 2010 and 2009 respectively. Due to their age they contain references to old job titles and the previous Finance system. The individual Directorate Schemes of Authorisation covering capital approvals and virements are also dated 2013 and 2014 and contain old references.

Work on the Council's Financial Procedures continues, however the outcome of this work is influenced by a number of other improvements including the review of capital and the rebuild of Business World therefore progress is dependent on the outcome of this other work. The revised date for completion of financial procedures is now 31<sup>st</sup> March 2020.

## Details of High Priority Overdue Actions:

### Tax Compliance

These two high priority actions, which relate to staff benefits are 50% complete. An audit to be completed by KPMG was planned to help action the findings. This work was delayed due to Business World information access issues. This is now resolved and work has been carried out during October. This will inform the finance team of any actions that need to be taken.

### LFR Fleet Management

The responsible manager has worked on the Premise that LFR have been tasked by Audit Committee to provide Assurance and report Compliance in time for the June 2020 meeting.

LFR's Fleet manager has left the Service without completing the work around these elements and therefore they are moving to escalate attention via the Services Risk Register.

### Property Company

There are two high overdue actions which address this finding:

1. The Holding company is not considered to be "operational" at present. It will only become "operational" when the subsidiary company (in this case the Property company) approves a project and therefore starts "trading". Until it becomes operational many of the legal requirements do not need to be actioned. However some of the requirements could take some time to address and therefore planning is needed to prevent any delay in approving Property company projects.

The Assistant Director for property services provided us with an update on these actions, which are now **75% completed**.

Audit	Scope of Work	Start Planned Date	Start Actual Date	End Actual Date	Rating
LCC 2019/20-01 - Transport Connect Governance Assurance	Assurance review to assess governance arrangements of Transport Connect, a company wholly owned by Lincolnshire County Council.	08/04/2019	25/03/2019	05/04/2019	Not applicable
LCC 2019/20-02 - Business World Rebuild Project	Support and advice to the project overseeing the future development of the Business World ERP system	01/04/2019	01/04/2019		In progress
LCC 2019/20-03 - Pension Fund	Assurance over this key system that support the running of the Council's business and ensure compliance with corporate policies and legal requirements.	01/04/2019	03/04/2019	30/04/2019	High Assurance
LCC 2019/20-04 - PCI - DSS	Assurance that the Council fulfils all PSI DSS statutory requirements	02/09/2019			Delayed - project halted
LCC 2019/20-05 - Highways 2020 Procurement	Support and advice on the programme throughout its journey of re-procurement and contract start in April 2020.	01/05/2019	01/04/2019		In progress
LCC 2019/20-06 - Settlements	To confirm that the policy in relation to settlement agreements is robust and consistently applied across the Council	24/04/2019	22/04/2019		Draft report Delayed
LCC 2019/20-07 - Recruitment and Selection Checks	Assurance that checks during the recruitment and selection processes are equitable and meet safer recruitment requirements.	02/09/2019	25/09/2019		In progress
LCC 2019/20-08 - Apprenticeships	To provide independent assurance over the extent to which services are effectively able to use the apprenticeship reforms to develop the workforce for both current and future needs and compliance with Government Requirements	01/10/2019			Delayed – Director awaiting report from HR
LCC 2019/20-09 - Income	Assurance over this key system that support the running of the Council's business and ensure compliance with corporate policies and legal requirements.	09/05/2019	18/7/19	24/10/2019	High Assurance

Audit	Scope of Work	Start Planned Date	Start Actual Date	End Actual Date	Rating
LCC 2019/20-10 - Financial processes in Children's Residential Units	To review the financial processes in place at each of the 8 Children's Residential Units for procurement cards, expense claims, purchase orders and petty cash imprest operation to provide independent assurance that the processes in place are robust, consistent and in line with Council financial regulations and procurement card guidance.	01/06/2019	03/06/2019	10/10/2019	Substantial Assurance
LCC 2019/20-11 - Commercial Property Portfolio	Assurance over the effective management of LCC's commercial office and business units.	01/06/2019	01/06/2019		Draft report
LCC 2019/20-12 - Local transport capital funding grant	To confirm that the expenditure complies with the conditions of the Grant and the funding received agrees to the Grant determination letter.	27/05/2019	27/05/2019	05/08/2019	Not applicable
LCC 2019/20-13 - LEP Follow Up	Followup to confirm that appropriate changes have been made to the LEP framework and it is compliant with the updated requirements from the revised guidance for LEP National Local Growth Assurance Frameworks.  The key risk is that Lincolnshire's Assurance Framework does not meet the requirements of the Governments updated guidance.	01/04/2019	15/04/2019	29/08/2019	Substantial Assurance
LCC 2019/20-14 - ICT Business Continuity and Disaster Recovery	Assurance that the Council's ICT business continuity and disaster recovery processes are in place, adequate and regularly tested.	12/06/2019	10/06/2019		In progress
LCC 2019/20-15 - Procurement	Management of procurement exercises in Commercial team to ensure they are performed efficiently and effectively				Delayed – staffing pressures
LCC 2019/20-16 - LSAB peer review actions	To ensure that the recommendations made in the review are being addressed.	01/07/2019	01/09/2019		In progress
LCC 2019/20-17 - Personal Data Breaches	We will review the personal data breaches arrangements and provide independent assurance on the effectiveness of the processes in place.	01/08/2019	28/08/2019		Draft Report

Audit	Scope of Work	Start Planned Date	Start Actual Date	End Actual Date	Rating
LCC 2019/20-18 - Families Working Together #1	Review and validation of periodic claims for the Families working together programme.	01/07/2019	02/07/2019	15/07/2019	Not applicable
LCC 2019/20-19 - Contract Management Review - Contract Payments	The scope of our work is limited to the defined 15 contracts and providing assurance that LCC: ·makes adequate budget provision for these contracts ·pays the right amount as per the signed contract ·can demonstrate it has agreed the most appropriate payment mechanism for each contract	05/08/2019	05/08/2019		In progress
LCC 2019/20-20 - Coroner's Service Case Management	Review the new case management system and how performance is captured and reported.	05/07/2019	03/09/2019		Draft Report
LCC 2019/20-21 - Community Safety	Review over key partnership arrangements and information sharing. To include working together to combat consumer fraud.	01/11/2019			Q3
LCC 2019/20-22 - Impact Assessments	Review of this key system that support the running of the Council's business and ensure compliance with corporate policies and legal requirements.	01/08/2019	01/11/2019		In progress
LCC 2019/20-23 - Business World Interfaces	To provide independent assurance that: ·Payments processed and postings to the general ledger are complete and accurate ·Data in interfaces cannot be inappropriately manipulated	14/08/2019	14/08/2019		Delayed – availability of key officer
LCC 2019/20-24 - Business World Systems Administration access	The purpose of the audit is to provide assurance that Business World (BW) Systems Administration access arrangements follow best practice and minimise the risk of fraud and error.	14/08/2019	14/08/2019		In progress Delayed – availability of key officer
LCC 2019/20-25 - IMT Asset Management FollowUp	Follow up audit of the recent ICT Asset Management (Hardware) audit to confirm agreed actions have been implemented and assurance has improved.	03/06/2019	03/06/2019		Draft Report

Audit	Scope of Work	Start Planned Date	Start Actual Date	End Actual Date	Rating
LCC 2019/20-26 - Fuel card - follow up audit	To gain assurance that the actions agreed in the previous Fuel Card audit report have been implemented.	05/08/2019	19/08/2019	12/11/2019	Substantial Assurance
LCC 2019/20-27 - Data Integrity	To carry out an authority wide audit which focusses on data integrity. The work seeks to confirm how the Council assures itself that the data feeding into corporate KPI's, which comes from 3rd parties, is accurate and timely.	22/08/2019	22/08/2019		In progress
LCC 2019/20-28 - Vinci Contract Management	Assurance over the contract management arrangements for this key property services contract.	10/06/2019	10/06/2019	28/08/2019	Substantial Assurance
LCC 2019/20-29 - Bus services operators grant	To confirm that the expenditure complies with the conditions of the Grant and the funding received agrees to the Grant determination letter.	02/09/2019	02/09/2019	25/09/2019	Not Applicable
LCC 2019/20-30 - Property Health and Safety audit - Legionella Bacteria	Assurance over arrangements to ensure corporate properties meet required regulations such as gas, electricity and control of substances hazardous to health.	30/09/2019	13/09/2019		In Progress
LCC 2019/20-31 - School funding allocations	Assurance over data validation and funding allocations to maintained schools.	09/09/2019	25/09/2019		In Progress
LCC 2019/20-32 - Managing Children and Young People exploitation	Assurance that the newly established team for completing return interviews for missing children is operating effectively	01/10/2019			Scoping
LCC 2019/20-33 - Financial Strategy (MTFP) and Budget Preparation	To provide assurance around the adequacy of LCC's financial planning processes, including the development of the MTFP and annual budget, to ensure that a balanced budget is maintained and that savings necessary are identified and agreed.				Q3
LCC 2019/20-34 - Payroll	Key systems that support the running of the Council's business and ensure compliance with corporate policies and legal requirements.				Q4

Audit	Scope of Work	Start Planned Date	Start Actual Date	End Actual Date	Rating
LCC 2019/20-35 - Making Tax Digital	Assurance that project management and implementation ensures processes are MTD compliant.				Q4
LCC 2019/20-36 - Accounts Payable	Key systems that support the running of the Council's business and ensure compliance with corporate policies and legal requirements.				Q3
LCC 2019/20-37 - Development of Zipporah / Pay.Net & on-line payment	Assurance over the implementation of the upgraded on line payments system				Q3
LCC 2019/20-38 - Scrutiny	Assurance that scrutiny officer arrangements are effective in ensuring appropriate challenge by members through scrutiny.				Scoping
LCC 2019/20-39 - Families Working Together #2	Review and validation of periodic claims for the Families working together programme.				Q3

**Open Report on behalf of Andrew Crookham - Executive Director for Resources**

Report to:	<b>Audit Committee</b>
Date:	<b>18 November 2019</b>
Subject:	<b>Forward Plan</b>

**Summary:**

This report provides the Committee with information on the core assurance activities currently scheduled for the 2019/20 forward plan.

**Recommendation(s):**

1. Review and amend the Audit Committee's forward plan ensuring it contains the assurance areas necessary to approve the Annual Governance Statement 2020
2. Consider the actions identified in the Action Plan

**Background**

The work plan has been compiled based on the core assurance activities of the Committee as set out in its terms of reference and best practice (see Appendix A – forward plan to 23 September 2020).

Appendix B – keeps track of actions agreed by the Committee and future potential agenda items.

The Committee held a number of workshops over the summer to review and evaluate its effectiveness. The results have been included in the annual report and are recorded for discussion in appendix B.

**Conclusion**

The forward plan helps the Audit Committee effectively deliver its terms of reference and keeps track of areas where it requires further work and/or assurance.

## Consultation

### a) Have Risks and Impact Analysis been carried out?

No

### b) Risks and Impact Analysis

N/A

## Appendices

These are listed below and attached at the back of the report	
Appendix A	Forward plan
Appendix B	Action plan

## Background Papers

No Background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Lucy Pledge, who can be contacted on 01522 553692 or [lucy.pledge@lincolnshire.gov.uk](mailto:lucy.pledge@lincolnshire.gov.uk) .

## Audit Committee Forward Plan 2019/20

18 November 2019		
Item	Contributors	Assurances Required/ Sought
Code of Conduct Working Group Report	David Coleman – Chief Legal Officer	Advising the Council on the adoption or revision of the Members' Code of Conduct
Counter Fraud Progress Report to 30 September 2019	Matt Drury (Principal Investigator)	Gain assurance that the Council has effective arrangements in place to fight fraud locally.  Ensure that counter fraud resources are effectively targeted to the Council's key fraud risks.
Whistleblowing Annual Report 2018-19	Matt Drury (Principal Investigator)	That the Council's process and procedures for dealing with whistleblowing referrals is effective.
Review of Audit Committee Terms of Reference and Internal Audit Charter	Lucy Pledge (Head of Internal Audit and Risk Management)	Provide assurance that the Committee terms of reference meets good practice for an effective Audit Committee.  Provide assurance that the Internal Audit function terms of reference meets good practice and conforms to the Public Sector Internal Audit Standards
Review and Approval of Financial Procedures – Risk and Audit	Lucy Pledge (Head of Internal Audit and Risk Management)	To monitor the effective development and operation of risk management, internal control and corporate governance in the Council
Developments in Audit and Governance	Michelle Grady (Assistant Director – Strategic Finance)	
Internal Audit Progress Report	Rachel Abbott (Team Leader – Audit)	Gain an understanding of the level of assurances being provided by the Head of Internal Audit over the Council's governance, risk and internal control arrangements and why.
Financial Assessments and the Strategic Risk – Market Supply	Glen Garrod (Executive Director – Adult Care and Community Wellbeing)	Seek assurance that risk-related issues are being addressed.

10 February 2020		
Item	Contributors	Assurances Required/ Sought
Corporate Leadership Team – Combined Assurance Status Reports	Head of Paid Service and all Executive Directors	Understand the level of assurances being provided on the Council's critical systems, key risks and projects and how they link to the Committees role and remit and the Annual Governance Statement.  Seeking assurance that they are working well and that any significant risk and issues are being actively managed.
Internal Audit Progress Report	Rachel Abbott (Team Leader – Audit)	Gain an understanding of the level of assurances being provided by the Head of Internal Audit over the Council's governance, risk and internal control arrangements and why.
Strategic Risk Register - Update	Debbie Bowring (Principal Risk Officer)	Seek assurance that risk-related issues are being addressed.
Update on Corporate Compliments and Complaints	Shay Noreen (Corporate Project Support Officer)	Whether the council is compliant with its own and other published standards and controls.
Governance Review – Culture and Values – update on action plan	Fiona Thompson (Head of HR)	Provide assurance that management actions have been implemented.

30 March 2020		
Item	Contributors	Assurances Required/ Sought
Statement of Accounts 2019/20 – Accounting Policies	Sue Maycock (Head of Finance – Corporate)	
International Auditing Standards – Management responses to Counter Fraud & material mis-statements in the Council and Pension fund accounts.	Dianne Downs (Team Leader – Counter Fraud & Investigations)	Each year the External Auditors are required to obtain an understanding of the Council's management processes in a number of areas. The International Auditing Standards specify the areas concerned: <ul style="list-style-type: none"> <li>• An assessment of the risk that financial statements may be materially mis-stated due to fraud</li> <li>• An assessment of the risk that the Pension Fund statements may be materially mis-stated due to fraud</li> <li>• Identifying and responding to risks of fraud in the organisation</li> <li>• Communication to employees of views on business practice and ethical behaviour</li> <li>• Compliance with laws and regulations and the potential for litigation and claims that would affect the financial statements</li> <li>• Awareness of any actual or alleged instances of fraud</li> </ul>
External Audit Strategies – Lincolnshire County Council and Pension Fund 2019/20	Mike Norman (Senior Manager, Mazars)	Seek assurance over progress and delivery of the external audit plan and that any risks to successful production of the financial statements and audit are being managed.

30 March 2020		
Item	Contributors	Assurances Required/ Sought
Draft Internal Audit Annual Plan 2019/20	Lucy Pledge (Head of Internal Audit and Risk Management)	<p>That the Internal Audit Plan focuses on the key risks facing the Council and is adequate to support the Head of Audit opinion.</p> <p>Confirm that the plan achieves a balance between setting out the planned work for the year and retaining flexibility to changing risks and priorities during the year.</p>
Review of Governance Framework and development of the Annual Governance Statement 2019/20	Lucy Pledge (Head of Internal Audit and Risk Management)	<p>Confirm that the Annual Governance Statement reflects the Committee's understanding of how the Council is run and that any significant governance issues / risks have been identified / published.</p> <p>Constructively challenge the information and evidence being presented.</p> <p>Ensuring value for money assurance arrangements are reported on and assessing how this features in the Annual Governance Statement.</p> <p>Improving how the Council discharges its responsibilities for public reporting e.g. better targeting at the audience and plain English</p>
Counter Fraud Annual Plan 2020/21	Matt Drury (Principal Investigator)	<p>Gain assurance that the Council has effective arrangements in place to fight fraud locally.</p> <p>Ensure that counter fraud resources are targeted to the Council's key fraud risks.</p>
Internal Audit Progress Report	Rachel Abbott (Team Leader – Audit)	Gain an understanding of the level of assurances being provided by the Head of Internal Audit over the Council's governance, risk and internal control arrangements and why.

15 June 2020		
Item	Contributors	Assurances Required/ Sought
Approval of the Council's Annual Governance Statement 2019/20	Lucy Pledge (Head of Internal Audit and Risk Management)	Confirm that the final Annual Governance Statement accurately reflects the Committees understanding of how the Council is run and any comments made on the draft have been acted upon.
Counter Fraud Annual Report 2019/20	Dianne Downs (Team Leader – Counter Fraud & Investigations)	On the overall effectiveness of the Authority's arrangements to counter fraud and corruption.
Internal Audit Annual Report	Lucy Pledge (Head of Internal Audit and Risk Management)	Gain an understanding of the level of assurances being provided by the Head of Internal Audit over the Council's governance, risk and internal control arrangements and

**15 June 2020**

<b>Item</b>	<b>Contributors</b>	<b>Assurances Required/ Sought</b>
		<p>why.</p> <p>To consider how well the Internal Audit Functions is performing:</p> <ul style="list-style-type: none"> <li>• Is it what you want – independent, objective and provide a knowledgeable view of how well the Council is being run?</li> <li>• Conforms to the Public Sector Internal Audit Standards?</li> <li>• Has an effective Quality Assurance framework?</li> <li>• Successfully delivers results that make a difference in how well the Council is run?</li> </ul>
Internal Audit Progress Report	Rachel Abbott (Team Leader – Audit)	Gain an understanding of the level of assurances being provided by the Head of Internal Audit over the Council's governance, risk and internal control arrangements and why.
Draft Statement of Accounts 2019/20	Sue Maycock (Head of Finance – Corporate)	<p>By asking questions (supported by independent advisor), confirm the integrity of the Council's financial statements prior to audit/publication.</p> <p>Improving how the Council discharges its responsibilities for public reporting e.g. better targeting at the audience and plain English</p>

**13 July 2020**

<b>Item</b>	<b>Contributors</b>	<b>Assurances Required/ Sought</b>
Statement of Accounts for Lincolnshire County Council & Lincolnshire Pension Fund for the year ending 31 March 2020	<p>Sue Maycock (Head of Finance – Corporate)</p> <p>Mike Norman (Senior Manager, Mazars)</p>	<p>Ensure that the explanatory forward to the accounts help the public understand the authority's financial management of public funds.</p> <p>Consider the outcome of the External Audit and the appropriateness of management responses.</p> <p>Consider any concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council</p> <p>Consider the proposed Value for Money Conclusion and any matters arising.</p>
Review and Approval of Financial Procedures – Risk	Lucy Pledge (Head of Internal Audit and Risk)	To monitor the effective development and operation of risk management, internal control and corporate governance in the

<b>13 July 2020</b>		
<b>Item</b>	<b>Contributors</b>	<b>Assurances Required/ Sought</b>
and Audit	Management)	Council
Annual Report on Corporate Compliments and Complaints	Shay Noreen (Corporate Project Support Officer)	Whether the council is compliant with its own and other published standards and controls.

<b>23 September 2020</b>		
<b>Item</b>	<b>Contributors</b>	<b>Assurances Required/ Sought</b>
Internal Audit Progress Report	Rachel Abbott (Team Leader – Audit)	Gain an understanding of the level of assurances being provided by the Head of Internal Audit over the Council's governance, risk and internal control arrangements and why.
Risk Management Progress Report – September 2020	Debbie Bowring (Principal Risk Officer)	Seek assurance that risk-related issues are being addressed.
Fraud Risk Register	Matt Drury (Principal Investigator)	Confirm that the Council's counter fraud activity is targeted and effective.  Ensure that appropriate progress is being made on the delivery of the Counter Fraud plan.  Ensure that lessons have been learnt – understand fraud risks facing the Council and actions being taken to reduce the risk.
Audit Committee Annual Report August 2020	Lucy Pledge (Head of Internal Audit and Risk Management)	Provide assurance that the Committee has adequately discharged its terms of reference and has positively contributed to how well the Council is run.
Annual Audit Letters for Lincolnshire County Council & Lincolnshire Pension Fund for the year ending 31 March 2020	Michelle Grady (Assistant Director – Strategic Finance)	

## Appendix B

Audit Committee Action Plan 2019/20			
Action	Terms of Reference Outcome	Key Delivery Activities	When
1. Develop Action plan following self-assessment workshop considering the following	Improve effectiveness of the committee	Improving Attendance – Chairman to meet with each member and obtain feedback	
		Meeting with Corporate Leadership Team around new corporate plan, accountability and assurance framework	18 March 2020 at 11.30 am
		Partnership assurance (combined assurance status reports)	February 2020
		Integrated Assurance – PWC Better Care Fund report	In progress – new governance arrangements being developed
		Feedback the outcome of meetings: <ul style="list-style-type: none"> <li>• End of meeting summary</li> <li>• Diarise meeting with CEX / Leader</li> </ul>	From September 2019
		Look at venue and time of meeting	