

## AGENDA

### **AUDIT AND RISK MANAGEMENT COMMITTEE**

**MONDAY, 21 JUNE 2021**

**4.00 PM**

**COUNCIL CHAMBER, FENLAND HALL,  
COUNTY ROAD, MARCH**

Committee Officer: Izzi Hurst  
Tel: 01354 622218  
e-mail: [memberservices@fenland.gov.uk](mailto:memberservices@fenland.gov.uk)

Whilst this meeting will be held in public, we encourage members of the public to view the meeting via our YouTube channel due to the current Covid-19 restrictions.

The YouTube link for today's meeting is:

- 1 Appointment of Chairman for the Municipal Year
- 2 To receive apologies for absence.
- 3 Appointment of Vice Chairman for the Municipal Year
- 4 Previous Minutes. (Pages 3 - 8)

To confirm the minutes of the meeting of 1 February 2021.

- 5 To report additional items for consideration which the Chairman deems urgent by virtue of special circumstances to be now specified.
- 6 Members to declare any interests under the Local Code of Conduct in respect of any item to be discussed at the meeting.
- 7 External Audit Plan 2020/21 (Pages 9 - 50)

Report Attached

8 Risk Based Internal Audit Plan 2021/22 (Pages 51 - 64)

To consider the Internal Audit Plan and the areas for audit review and the availability of internal audit resources.

9 Internal Audit Charter (Pages 65 - 76)

To consider the Internal Audit Charter.

10 Regulation of Investigatory Powers Act (RIPA) - Update (Pages 77 - 122)

This report gives Members an update on the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA). This is a regular update that advises Members about the Council's use of RIPA. The Council's current RIPA Policy is attached to this report as an Annex for information.

To update members in relation to the outcome of the external inspection of the Council's RIPA policy and procedures which were assessed by the Investigatory Powers Commissioner's Office (IPCO) earlier this year. Inspections take place every three years, the previous review took place during 2018.

11 Corporate Risk Register Review (Pages 123 - 154)

To provide an update to the Audit and Risk Management Committee on the Council's Corporate Risk Register

12 Revised Whistleblowing Policy (Pages 155 - 170)

To provide an update to the Audit and Risk Management Committee on the Council's revised Whistleblowing Policy

13 Audit and Risk Management Committee Workplan (Pages 171 - 176)

For information.

14 Items of Topical Interest.

15 Items which the Chairman has under item 5 deemed urgent.

Friday, 11 June 2021

Members: Councillor K French (Chairman), Councillor Mrs M Davis (Vice-Chairman), Councillor I Benney, Councillor G Booth, Councillor M Cornwell, Councillor Mrs J French, Councillor N Meekins, Councillor Mockett, Councillor M Purser, Councillor R Skoulding, Councillor S Tierney, Councillor R Wicks and Councillor F Yeulett

## AUDIT AND RISK MANAGEMENT COMMITTEE



**MONDAY, 1 FEBRUARY 2021 - 4.00 PM**

**PRESENT:** Councillor K French (Chairman), Councillor Mrs M Davis (Vice-Chairman), Councillor I Benney, Councillor Mrs J French, Councillor M Purser, Councillor R Skoulding and Councillor S Tierney

**OFFICERS IN ATTENDANCE:** Peter Catchpole (Corporate Director and Chief Finance Officer), Sam Anthony (Head of HR and OD), Mark Saunders (Chief Accountant), Kathy Woodward (Internal Audit Manager), Neil Krajewski (Deputy Chief Accountant) and Jo Goodrum (Member Services & Governance Officer)

### **ARM1/20 APPOINTMENT OF CHAIRMAN FOR THE MUNICIPAL YEAR.**

It was proposed by Councillor Tierney, seconded by Councillor Purser and resolved that Councillor Kim French be elected as the Chairman of the Audit and Risk Management Committee for the Municipal Year.

### **ARM2/20 APPOINTMENT OF VICE CHAIRMAN FOR THE MUNICIPAL YEAR.**

It was proposed by Councillor Mrs French, seconded by Councillor Benney and resolved that Councillor Mrs Davis be elected as the Vice Chairman of the Audit and Risk Management Committee for the Municipal Year.

### **ARM3/20 MINUTES OF THE LAST MEETING OF THE FORMER CORPORATE GOVERNANCE COMMITTEE AND STAFF COMMITTEE**

The minutes of the last meeting of the former Corporate Governance Committee on 2 November 2020 and Staff Committee on 10 December 2020 were approved as a true and accurate record.

### **ARM4/20 INTERNAL AUDIT PROGRESS REPORT QUARTER 3**

Members considered the Internal Audit Plan 2020-2021 Progress Report Q3 presented by Kathy Woodward.

Kathy Woodward highlighted that the report is an update of the work that the Internal Audit Team have undertaken from the Internal Audit Plan for the year and explained that the plan is usually approved prior to the start of the year. The report provides details of the work that will be undertaken to enable her to provide an Annual Audit Opinion at the end of the year, from which the Annual Governance Statement is produced and reviewed by the Council's external auditors as part of their processes.

Kathy Woodward explained that the Audit Plan was approved in August 2020, with a caveat that the plan would remain flexible to meet the needs of the organisation through the pandemic. She added that at the last committee meeting, a staffing restructure had been discussed and as a result an Internal Audit Apprentice has been recruited, with the member of staff now in post. She also advised that the Section 113 and MOU agreement between Fenland District Council and the Borough Council of Kings Lynn and West Norfolk has been terminated and she will revert back to

working full time for the Council as of the end of May 2021.

Kathy Woodward drew members attention to the current progress to date of the Internal Audit Team's work and highlighted the key aspects including the audits which have been completed to date and the results of them. She pointed out the current tasks being undertaken and also the additional assurance work that the team have been redirected to assist with as a result of the pandemic and drew members attention to other assurance work which has been provided by external organisations.

Kathy Woodward explained to the committee that there is a legislative requirement for the Internal Audit Manager to provide an annual audit opinion and it must conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control and CIPFA have issued guidance to Local Authorities: Head of Internal Audit Annual Opinion: Addressing the Risk of a Limitation of Scope, to directly address the impact of Covid-19 and whether audit teams will be able to undertake sufficient work to gain assurance during 2020/21. She added that she has outlined to members what the team need to do and what the impact has been on the organisation as a result of Covid and stated that she will be able to deliver an annual audit opinion without the need to issue a limitation of scope for any of the areas covered in the annual opinion.

**Members agreed that the activity and performance of the internal audit function, together with the update on providing an annual audit opinion for 2020/21 be noted.**

**ARM5/20 TREASURY MANAGEMENT STRATEGY STATEMENT, MINIMUM REVENUE PROVISION POLICY STATEMENT AND ANNUAL INVESTMENT STRATEGY 2021/22**

Members considered the Treasury Management Strategy Statement, Capital Strategy, Minimum Revenue Provision (MRP) Policy Statement and Annual Investment Strategy for 2020/21 presented by Mark Saunders.

Mark Saunders stated that this report is the first of three reports that members will consider over the course of the year with regard to the Treasury Management function. He added that the first one sets out the strategy for the coming year, the second report will be the Annual Report in July and in November there will be the Mid-Year Review of the Treasury Management activities for the first six months of the year.

Mark Saunders explained that all of the reports that are considered by the Audit and Risk Management Committee will then feed into the Budget Report for 2021-2022 and will be considered by Council on the 23 February 2021. He explained that it is an integral part of the process as the strategy provides the framework and indicators within which all of the treasury management activities of the Council operate throughout the coming year.

Mark Saunders stated that the detail and policies in the report comply with all the latest guidance and regulations of CIPFA and the MHCLG and there are no significant variances from the activities currently carried out. He summarised the detail in the report, identified the key issues and pointed out the detail surrounding the Council's capital investment plans which are prudent, affordable and sustainable.

Mark Saunders referred to the minimum revenue provision part of the report and explained that when the Council undertakes any form of borrowing there is a legal requirement to make prudent provision for the repayment of the borrowing over the medium term. He explained that the various methods of repayment of the loans are detailed in the report and stated that it does depend on the detail of the loan, for what it is for and the purpose of it, which will then determine what type of MRP policy will be followed.

Mark Saunders stated that the Treasury Management Strategy is in place so that the Council has sufficient cash resources to meet its various obligations and to ensure payments are made at the appropriate time. He added that if there is any surplus cash available then that is invested with various institutions.

Mark Saunders explained that he has already stated that compliance is adhered to with regard to the guidelines as set out by CIPFA in terms of strategies and policies, however, there is one indicator that the Council does not comply with and this has been the case since 2007 when the Council's housing stock was transferred and the indicator that this relates to is the gross borrowing and capital finance requirement. He added that in normal circumstances the gross borrowing would not exceed the capital finance indicator, but because of the debt that was left over due to the stock transfer and the fact that it is very financially disadvantageous to pay that debt off due to the excessive premiums that it attracts, the Council has always been in a position where that indicator is not complied with and there is no penalty for that non-compliance. It has been approved by the Council every year and it has been assessed by the auditors every year who do not see it as a problem as there is a good reason for the non-compliance.

Mark Saunders referred to the total external interest which is currently just under £500,000 and is based on the Council's current long term debt of £7.8 million pounds and the estimate next year is at £530,500, which is based on the fact that there maybe the requirement to borrow to fund the capital programme next year which will mean that the interest payments will increase. He stated that reference is made in the report to the Commercial Investment Strategy and the £25,000,000 that has been set aside to fund it and once those monies have been loaned out it will attract annual interest payments at the current rate of £287,000. He added that the intention is that the money that we borrow for that purpose will be recouped through investments or loan repayments from the local authority company.

Mark Saunders stated that the report contains detailed information concerning interest rates and the future prospects and added that the bank rate is expected to stay the same at 0.1% throughout the period of the strategy. He added that as the rate is so low it has had an impact of reducing the Council's investment income to very low levels and is unlikely to change over the next couple of years, which is good news if you are trying to borrow money, but not ideal when lending money and added that there is the assumption that there will be the need to borrow funds over the medium term period of four years.

Mark Saunders explained that the report contains a great deal of information concerning the Council's annual investment strategy and the intention of the strategy is to provide security of investments and appropriately manage risk and he added that the report also details information concerning specified and non-specified investments and gave members an overview of them, highlighting the differences and outcomes. He explained that this is an ongoing project currently being undertaken with the assistance of the Treasury Advisers to gain assurances that access to funds can be achieved when they become available and are appropriate to the council's risk appetite.

Mark Saunders stated that the Council's Capital Strategy contains information with regard to the Capital Programme and how it is being funded and the borrowing requirements is currently being updated to include the detail of the Council's Commercial Investment Strategy and this will be presented to Council in February.

Councillor Mrs French congratulated and thanked Mark Saunders and the Finance Team for all their hard work in what has been an exceptionally difficult year.

**Members agreed that the strategy detailed in the report to be included in the final budget report for 2021/22 be endorsed.**

## **ARM6/20    CORPORATE RISK REGISTER REVIEW**

Members considered the Corporate Risk Register quarterly review report presented by Sam Anthony.

Sam Anthony stated that this document is presented to the committee at least twice a year and the Council looks at strategic risk in an escalating way through its services, its risk group and then discussed with the management group and senior management team before it is brought before the committee. She drew members attention to the changes in the document, which were highlighted in green, and provided an overview on the changes and additions made.

Sam Anthony also advised members that Bedford Borough Council have given notice to the Council that they will cease to provide our payroll provision from April 2021 and alternatives are being investigated.

Members asked questions, made comments and received responses as follows:

- Councillor Mrs French stated that additional finance has been provided to the Council by the County Council in order to assist with the additional work to be undertaken on the subject of fraud.
- Councillor Mrs French asked whether Bedford Borough Council have provided a reason as to why they are ceasing the administration of the Councils payroll function? Sam Anthony stated that they have not provided a specific reason, but it is her understanding that they are undergoing a significant transformation and have stepped away from most of the payroll provision that they were administering. She added that alternatives have been investigated at least cost and it has been decided that for a short period of time the payroll function will be administered in-house to ensure service continuity. Councillor Mrs French asked whether negotiations have taken place with LGSS and Sam Anthony stated that this had been looked into along with four or five others who provide the same system as the Council, but all of them were a higher cost option than that which is currently paid.
- Councillor Mrs Davis stated that she wished for all the staff to be congratulated for all their efforts under extenuating circumstances and asked, with regard to the risk register, have any internal controls had to be lifted in order to enable home working? Sam Anthony stated that in terms of Cyber Security all of the double sign in protocols have remained in place and in some way have been strengthened.

**Members agreed the Corporate Risk Register's latest update.**

## **ARM7/20    WORK PROGRAMME 2020/21 AND 2021/22**

Peter Catchpole presented the Work Programme for 2020/21 and 2021/22 to members.

Peter Catchpole stated that the purpose of the work programme is to give members an insight of the reports that will be forthcoming at future committee meetings, as well as obtaining the views of members with regard to training opportunities and what subject matter members would like to receive training on going forward. He explained that there will be a training session offered to members on the Statement of Accounts and Kathy Woodward has already run some internal training sessions on an introduction to Internal Audit which he would like to offer to members of the committee.

Peter Catchpole highlighted that the Chairman and Vice Chairman have already attended some external training and it is hoped that the internal training sessions can be more aligned to Fenland and he would welcome feedback from members. He stated that there is also an Action Plan contained in the report where actions that have come up previously will be monitored and going forward that will be referred to at every meeting.

**Members agreed to note the Work Programme for 2020/21 and 2021/22.**

**ARM8/20    ITEMS OF TOPICAL INTEREST.**

Councillor Mrs French stated that she found it disappointing that no members of the Fenland Independent Alliance had taken up their seats on the Committee.

4.41 pm

Chairman

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# Fenland District Council

## Provisional Audit Plan

Year ending 31 March 2021

21 May 2021



Building a better  
working world



Audit and Risk Management Committee Members  
Fenland District Council  
Fenland Hall, County Road,  
March, Cambs,  
PE15 8NQ

21 May 2021

Dear Committee Members

**Fenland District Council - 2020/21 Provisional Audit Plan**

We are pleased to attach our Provisional Audit Plan which sets out how we intend to carry out our responsibilities as your auditor. Its purpose is to provide the Audit and Risk Management Committee with a basis to review our proposed audit approach and scope for the 2020/21 audit in accordance with the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2015 Code of Audit Practice, the Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements. It is also to ensure that our audit is aligned with the Committee's service expectations.

This report summarises our initial assessment of the key issues which drive the development of an effective audit for the Council, and outlines our planned audit strategy in response to those risks. We will provide an update to the Committee if there are any additional audit risks and procedures that arise as we continue our work.

This report is intended solely for the information and use of the Audit and Risk Management Committee and management, and is not intended to be and should not be used by anyone other than these specified parties.

We welcome the opportunity to discuss this report with you on 21 June 2021 as well as understand whether there are other matters which you consider may influence our audit.

Yours faithfully

*MARK HODGSON*

Mark Hodgson  
Associate Partner  
For and on behalf of Ernst & Young

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Public Sector Audit Appointments Ltd (PSAA) issued the "Statement of responsibilities of auditors and audited bodies". It is available from the PSAA website (<https://www.psa.co.uk/audit-quality/statement-of-responsibilities/>). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The "Terms of Appointment and further guidance (updated April 2018)" issued by the PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and in legislation, and covers matters of practice and procedure which are of a recurring nature.

This report is made solely to the Audit and Risk Management and management of the Council in accordance with the statement of responsibilities. Our work has been undertaken so that we might state to the Audit and Risk Management, and management of the Council those matters we are required to state to them in this report and for no other purpose. To the fullest extent permitted by law we do not accept or assume responsibility to anyone other than the Audit and Risk Management, and management of the Council for this report or for the opinions we have formed. It should not be provided to any third-party without our prior written consent.



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# Overview of our 2020/21 audit strategy



## Overview of our 2020/21 audit strategy

The following 'dashboard' summarises the significant accounting and auditing matters outlined in this report. It seeks to provide the Audit Committee with an overview of our initial risk identification for the upcoming audit and any changes in risks identified in the current year

### Audit risks and areas of focus

Risk / area of focus	Risk identified	Change from PY	Details
Misstatements due to fraud or error	Fraud risk	No change in risk or focus	As identified in ISA 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that would otherwise appear to be operating effectively.
Inappropriate capitalisation of revenue expenditure	Fraud risk	No change in risk or focus	Linking to our fraud risk identified above, we have determined that a way in which management could override controls is through the inappropriate capitalisation of revenue expenditure to understate revenue expenditure reported in the financial statements.
Accounting for Covid-19 related government grants	Significant Risk	New significant risk	The Council has received a significant level of government funding in relation to Covid-19. There is a need for the Council to ensure that it accounts for these grants appropriately, taking into account any associated restrictions and conditions.
Pension Liability Valuation	Inherent Risk	No change in risk or focus.	The Local Authority Accounting Code of Practice and IAS19 require the Council to make extensive disclosures within its financial statements regarding its membership of the Local Government Pension Scheme administered by Cambridgeshire County Council. The Council's pension fund liability (£49.115 million as at 31 March 2020) is a material estimated balance and the Code requires that the liability be disclosed on the Council's balance sheet.
Recoverability of debtors balance	Inherent Risk	New inherent risk	As a result of the impact of Covid-19, there may be increased uncertainty around the recoverability of receivables. The provision for these bad debts is an estimate, and calculation requires management judgement. We would expect the Council to revisit their provision for bad debt calculation in light of Covid-19 and assess the appropriateness of this estimation technique.

## Overview of our 2020/21 audit strategy

Risk / area of focus	Risk identified	Change from PY	Details
Valuation of Property, Plant and Equipment and Investment Properties	Inherent Risk	No change in risk or focus.	<p>The fair value of Property, Plant and Equipment (PPE) represents a significant balance in the Council's accounts and is subject to valuation changes, impairment reviews and depreciation charges. Management is required to make material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet.</p> <p>As a result of our work last year we did not identify any material issues with the valuations. We are also not aware of any other trigger events that would give rise to a significant risk, and therefore this remains an inherent risk.</p>
National Non-Domestic Rates (NNDR) Appeals Provision	Inherent Risk	New inherent risk	<p>Statistics compiled by the Ministry for Housing, Communities and Local Government, reveal that councils are forecasting net additions to appeal provisions totalling £927m this financial year, and £1.2bn next year. The reason behind the forecast increase is that, due to the impact of Covid-19, businesses are likely to seek reductions based on a decrease in rental prices on which rateable values are based.</p> <p>In light of this we consider there to be a higher inherent risk of misstatement of the Council's NNDR appeals provision.</p>
Collection Fund accounting	Inherent Risk	New inherent risk	<p>During 2020-21, in response to the financial hardship faced by individuals and businesses, there may be lower levels of recovery of collection fund income. There are also specific sectors including retail, hospitality and leisure that have received additional business rates relief. There is therefore a risk of incorrect accounting based on the significant level of change in the year.</p>
Going concern assessment and disclosure	Area of Focus	No change in risk or focus	<p>The financial landscape for the Council remains challenging and management will need to prepare a going concern assessment covering a period up to 12 months from the expected date of the financial statements authorisation. The Council will also need to make an appropriate disclosure in the financial statements. In addition, the revised auditing standard on going concern requires additional challenge from auditors on the assertions being made by management.</p>

# Overview of our 2020/21 audit strategy

## Materiality

Planning  
materiality  
£1.05m

We have set materiality at £1.05 million for the financial statements, which represents 2% of the prior years gross revenue expenditure of the Council. The use of 2% of gross revenue expenditure is in line with the prior year and is our maximum threshold for local authorities reflecting the higher profile of local government financial resilience and financial reporting.

Performance  
materiality  
£0.791m

We have set performance materiality at £0.791 million, which represents 75% of materiality, reflecting the lower level of errors we detected in the 2019/20 financial statements.

Audit  
differences  
£0.053m

We will report all uncorrected misstatements relating to the primary statements (comprehensive income and expenditure statement, balance sheet, movement in reserves statement, cash flow statement and collection fund) greater than £0.053 million. Other misstatements identified will be communicated to the extent that they merit the attention of the Audit and Risk Management Committee

We also identify areas where misstatement at a lower level than our overall materiality level might influence the reader and develop an audit strategy specific to these areas, including:

- ▶ Remuneration disclosures including Member allowances: we will agree all disclosures back to source data, and Member allowances to the agreed and approved amounts; and
- ▶ Related party transactions we will test the completeness of related party disclosures and the accuracy of all disclosures by checking back to supporting evidence.

# Overview of our 2020/21 audit strategy

## Accounting estimates

In addition to the above risks and areas of focus, a revised auditing standard has been issued in respect of the audit of accounting estimates. The revised standard requires auditors to consider inherent risks associated with the production of accounting estimates. These could relate, for example, to the complexity of the method applied, subjectivity in the choice of data or assumptions or a high degree of estimation uncertainty. The changes to the standard may affect the nature and extent of information that we may request and will likely increase the level of audit work required. See page 18 for further details of the revised auditing standard.

## Audit scope

This Outline Audit Plan covers the work that we plan to perform to provide you with our audit opinion on the Council financial statements for 2020/21. We are also required to report a commentary on your arrangements to secure value for money in your use of resources for the relevant period. We include further details on VFM in Section 03, highlighting the changes included in the NAO's Code of Audit Practice 2020.

We will also review and report to the NAO, to the extent and in the form required by them, on the Whole of Government Accounts submission. We intend to take a substantive audit approach. When planning the audit we take into account key inputs:

- Strategic, operational and financial risks relevant to the financial statements;
- Developments in financial reporting and auditing standards;
- The quality of systems and processes; Changes in the business and regulatory environment; and,
- Management's views on all of the above.

Taking the above into account, and as articulated in this Audit Plan, our professional responsibilities require us to independently assess the risks associated with providing an audit opinion and undertake appropriate procedures in response to that. Our Terms of Appointment with PSAA allow them to vary the fee dependent on "the auditors assessment of risk and the work needed to meet their professional responsibilities". PSAA are aware that the setting of scale fees has not kept pace with the changing requirements of external audit with increased focus on, for example, the valuations of land and buildings, the auditing of groups, the valuation of pension obligations, the introduction of new accounting standards such as Going Concern disclosure in recent years as well as the expansion of factors impacting the Value for Money conclusion. Therefore, to the extent any of these or any other risks are relevant in the context of Fenland's audit, we will discuss these with management as to the impact on the scale fee.

## Overview of our 2021 audit strategy

### Value for money conclusion

One of the main changes in the NAO's 2020 Code is in relation to the value for money conclusion. We include details in Section 03 but in summary:

- ▶ We are still required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources.
- ▶ Planning on VFM and the associated risk assessment is now focused on gathering sufficient evidence to enable us to document our evaluation of the Council's arrangements, to enable us to draft a commentary under three reporting criteria (see below). This includes identifying and reporting on any significant weaknesses in those arrangements and making appropriate recommendations.
- ▶ We will be required to provide a commentary on the Council's arrangements against three reporting criteria:
  - Financial sustainability - How the Council plans and manages its resources to ensure it can continue to deliver its services;
  - Governance - How the Council ensures that it makes informed decisions and properly manages its risks; and
  - Improving economy, efficiency and effectiveness - How the Council uses information about its costs and performance to improve the way it manages and delivers its services.
- ▶ Within the audit opinion we will still only report by exception where we are not satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- ▶ The commentary on arrangements will be included in a new Auditor's Annual Report which we will be required to issue at a date to be determined by the NAO.



## 02 Audit risks





## Audit risks

### Our response to significant risks

We have set out the significant risks (including fraud risks denoted by\*) identified for the current year audit along with the rationale and expected audit approach. The risks identified below may change to reflect any significant findings or subsequent issues we identify during the audit.

#### Misstatements due to fraud or error - Fraud Risk

##### What is the risk?

The financial statements as a whole are not free of material misstatements whether caused by fraud or error.

As identified in ISA (UK and Ireland) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively.

We identify and respond to this fraud risk on every audit engagement.

##### What will we do?

In order to address this risk we will carry out a range of procedures including:

- ▶ Identifying fraud risks during the planning stages.
- ▶ Inquiry of management about risks of fraud and the controls put in place to address those risks.
- ▶ Understanding the oversight given by those charged with governance of management's processes over fraud.
- ▶ Consideration of the effectiveness of management's controls designed to address the risk of fraud.
- ▶ Determining an appropriate strategy to address those identified risks of fraud.
- ▶ Performing mandatory procedures regardless of specifically identified fraud risks, including testing of journal entries and other adjustments in the preparation of the financial statements.

We will utilise our data analytics capabilities to assist with our work.

Having evaluated this risk we have considered whether we need to perform other audit procedures not referred to above.



## Audit risks

### Our response to significant risks

#### Inappropriate capitalisation of revenue expenditure - Fraud Risk

##### Financial statement impact

We have identified a risk of expenditure misstatements due to fraud or error that could affect the income and expenditure accounts.

We consider the risk applies to capitalisation of revenue expenditure and could result in a misstatement of 'Cost of Services' reported in the 'Comprehensive Income and Expenditure' statement.

##### What is the risk?

Under ISA 240 there is a presumed risk that revenue may be misstated due to improper revenue recognition. In the public sector, this requirement is modified by Practice Note 10 issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.

We have identified an opportunity and incentive to capitalise expenditure under the accounting framework, to remove it from the general fund. In arriving at this conclusion we have considered the continuing pressure on the revenue budget and the financial value of its annual capital programme which is above our materiality level.

This could then result in funding of that expenditure, that should properly be defined as revenue, through inappropriate sources such as capital receipts, capital grants, or borrowing.

##### What will we do?

In order to address this risk we will carry out a range of procedures including:

- Obtaining an analysis of capital additions in the year, reconciling to the Fixed Assets Register (FAR), and reviewing the descriptions to identify whether there are any potential items that could be revenue in nature;
- Sample testing additions to Property, Plant and Equipment to ensure that they have been correctly classified as capital and included at the correct value in order to identify any revenue items that have been inappropriately capitalised; and
- Using our data analytics tool to identify and test journal entries that move expenditure into capital codes.



## Audit risks

### Our response to significant risks

#### Misclassification of Covid-19 related grant funding - Significant Risk

##### Financial statement impact

The Council has received a significant level of government funding in relation to Covid-19. Whilst there is no change in the CIPFA Code or accounting standard (IFRS 15) in respect of accounting for grant funding, the emergency nature of some of the grants received and in some cases the lack of clarity on any associated restrictions and conditions, means that the Council will need to apply a greater degree of assessment and judgement to determine the appropriate accounting treatment in the 2020/21 statements.

##### What is the risk?

In response to the Covid-19 pandemic, the Council have received significant levels of grant funding, both to support the Council and to pass on to local businesses. Each of these grants will have distinct restrictions and conditions that will impact the accounting treatment of these.

Given the volume of these grants, and the new conditions for the Council to understand the accounting impact of, there is a significant risk that these may be misclassified in the financial statements or inappropriately treated from an accounting perspective.

##### What will we do?

In order to address this risk we will carry out a range of procedures including:

- Sample testing Government Grant income to ensure that they have been correctly classified as specific or non-specific in nature.
- Sample testing Government Grant income to ensure that they have been correctly classified in the financial statements based on any restrictions imposed by the funding body.

## Other areas of audit focus

We have identified other areas of the audit, that have not been classified as significant risks, but are still important when considering the risks of material misstatement to the financial statements and disclosures.

What is the area of focus?	What will we do?
<p><b>Valuation of Property, Plant and Equipment and Investment Properties - Inherent Risk</b></p> <p>The fair value of Property, Plant and Equipment (PPE) and Investment Property (IP) represents a significant balance in the Authority's accounts and is subject to valuation changes, impairment reviews and depreciation charges.</p> <p>Management is required to make material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet. At 31 March 2020 the net book value of PPE and IP totalled £51.6 million.</p> <p>ISAs (UK and Ireland) 500 and 540 (Revised) require us to undertake procedures on the use of management experts and the assumptions underlying fair value estimates.</p>	<p>In order to address this risk we will carry out a range of procedures including:</p> <ul style="list-style-type: none"> <li>▶ Consider the work performed by the valuer, including the adequacy of the scope of the work performed, their professional capabilities and the results of their work;</li> <li>▶ Sample test key asset information used by the valuer in performing their valuation (e.g. floor plans to support valuations based on price per square metre);</li> <li>▶ Consider the annual cycle of valuations to ensure that assets have been valued within a 5 year rolling programme as required by the Code for PPE. We have also considered if there are any specific changes to assets that have occurred and that these have been communicated to the valuer;</li> <li>▶ Review assets not subject to valuation in 2020/21 to confirm that the remaining asset base is not materially misstated;</li> <li>▶ Consider changes to useful economic lives as a result of the most recent valuation; and</li> <li>▶ Test accounting entries have been correctly processed in the financial statements.</li> </ul>
<p><b>Pension Liability Valuation - Inherent Risk</b></p> <p>The Authority makes extensive disclosures within its financial statements regarding its membership of Pension Scheme administered by Cambridgeshire County Council. At 31 March 2020 the liability totalled £49.12 million.</p> <p>The information disclosed is based on the IAS 19 report issued to the Authority by the actuary to the County Council.</p> <p>Accounting for this scheme involves significant estimation and judgement and therefore management engages an actuary to undertake the calculations on their behalf.</p> <p>We undertake procedures on the use of management experts and the assumptions underlying fair value estimates.</p>	<p>In order to address this risk we will carry out a range of procedures including:</p> <ul style="list-style-type: none"> <li>▶ Liaise with the auditors of Cambridgeshire Pension Fund to obtain assurances over the information supplied to the actuary in relation to Fenland District Council;</li> <li>▶ Assess the work of the Pension Fund actuary (Hymans Robertson) including the assumptions they have used, by relying on the work of PWC - Consulting Actuaries commissioned by the National Audit Office for all local government sector auditors, and by considering any relevant reviews by the EY actuarial team; and</li> <li>▶ Review and test the accounting entries and disclosures made within the Authority's financial statements in relation to IAS19 considering fund assets and the Authority's liability.</li> </ul>

## Other areas of audit focus (continued)

What is the risk/area of focus?	What will we do?
<p><b>National Non-Domestic Rates (NNDR) Appeals Provision - Inherent Risk</b></p> <p>The calculation of the NNDR Appeals Provision is estimate based. Given the impact of Covid-19 on businesses seeking reductions in rateable values, there is a risk of material misstatement of the appeals provision due to the nature of the provision and the uncertainty around the full impact of Covid-19.</p> <p>Statistics compiled by the Ministry for Housing, Communities and Local Government, reveal that councils are forecasting net additions to appeal provisions totalling £927 million this financial year, and £1.2 billion next year. The reason behind the forecast increase is that, due to the impact of Covid-19, businesses are likely to seek reductions based on a decrease in rental prices on which rateable values are based.</p> <p>In light of this we consider there to be a significant risk of misstatement of the Council's NNDR appeals provision.</p>	<p>In order to address this risk we will carry out a range of procedures including:</p> <ul style="list-style-type: none"> <li>▶ Review the assumptions made by the Council's NNDR appeals provision specialist; and</li> <li>▶ Assess the reasonableness of any local adjustments made by the Council on the NNDR appeals provision;</li> </ul>
<p><b>Recoverability of debtors balance - Inherent Risk</b></p> <p>As a result of the impact of Covid-19, there may be increased uncertainty around the recoverability of receivables. This includes large value debtors with subsidiary companies and outstanding management fees in respect of the leisure centre. The provision for these bad debts is an estimate, and calculation requires management judgement. We would expect the Council to revisit their provision for bad debt calculation in light of Covid-19 and assess the appropriateness of this estimation technique. Given that there might be some subjectivity to the recoverability of debtors the Council will need to consider the level of any provision for bad debts. We have therefore raised as an inherent risk in our audit strategy.</p>	<p>In order to address this risk we will carry out a range of procedures including:</p> <ul style="list-style-type: none"> <li>▶ Review the calculation of the bad debt provision for reasonableness and accuracy; and</li> <li>▶ Consider the recoverability of debts in testing a sample of trade receivables.</li> </ul>

## Other areas of audit focus (continued)

What is the risk/area of focus?	What will we do?
<p><b>Accounting for Collection Fund disclosures - Inherent Risk</b></p> <p>During 2020-21, in response to the financial hardship faced by individuals and businesses, there may be lower levels of recovery of collection fund income.</p> <p>There are also specific sectors including retail, hospitality and leisure that have received additional business rates relief for the financial year. There is therefore a risk of incorrect accounting based on the significant level of change in the year,</p>	<p>In order to address this risk we will carry out a range of procedures including:</p> <ul style="list-style-type: none"> <li>• Performing an analytical review of collection fund income, building in any changes in relief as appropriate;</li> <li>• Document our understanding of the process for the raising of specific additional reliefs</li> <li>• Review the Collection Fund disclosures with respect to ongoing guidance in accounting requirements and for compliance with Code requirements</li> </ul>
<p><b>Going concern disclosure - Area of Focus</b></p> <p>There is a presumption that the Council will continue as a going concern for the foreseeable future. However, the Council is required to carry out a going concern assessment that is proportionate to the risks it faces. In light of the continued impact of Covid-19 on the Council's day to day finances, its annual budget, its cashflow and its medium term financial strategy, there is a need for the Council to ensure it's going concern assessment is thorough and appropriately comprehensive.</p> <p>The Council is then required to ensure that its going concern disclosure within the statement of accounts adequately reflects its going concern assessment and in particular highlights any uncertainties it has identified.</p> <p>In addition, the auditing standard in relation to going concern (ISA570) has been revised with effect for the 2020/21 accounts audit.</p>	<p>We will meet the requirements of the revised auditing standard on going concern (ISA 570) and consider the adequacy of the Council's going concern assessment and its disclosure in the accounts by:</p> <ul style="list-style-type: none"> <li>• Challenging management's identification of events or conditions impacting going concern.</li> <li>• Testing management's resulting assessment of going concern by evaluating supporting evidence (including consideration of the risk of management bias).</li> <li>• Reviewing the Council's cashflow forecast covering the foreseeable future, to ensure that it has sufficient liquidity to continue to operate as a going concern.</li> <li>• Undertaking a 'stand back' review to consider all of the evidence obtained, whether corroborative or contradictory, when we draw our conclusions on going concern.</li> <li>• Challenging the disclosure made in the accounts in respect of going concern and any material uncertainties.</li> </ul>



## Audit risks

### Other areas of audit focus (Continued)

#### What is the risk/area of focus?

##### **Auditing accounting estimates - Area of Focus**

ISA 540 (Revised) - Auditing Accounting Estimates and Related Disclosures applies to audits of all accounting estimates in financial statements for periods beginning on or after December 15, 2019.

This revised ISA responds to changes in financial reporting standards and a more complex business environment which together have increased the importance of accounting estimates to the users of financial statements and introduced new challenges for preparers and auditors.

The revised ISA requires auditors to consider inherent risks associated with the production of accounting estimates. These could relate, for example, to the complexity of the method applied, subjectivity in the choice of data or assumptions or a high degree of estimation uncertainty. As part of this, auditors consider risk on a spectrum (from low to high inherent risk) rather than a simplified classification of whether there is a significant risk or not. At the same time, we expect the number of significant risks we report in respect of accounting estimates to increase as a result of the revised guidance in this area.

The changes to the standard may affect the nature and extent of information that we may request and will likely increase the level of audit work required, particularly in cases where an accounting estimate and related disclosures are higher on the spectrum of inherent risk. For example:

- We may place more emphasis on obtaining an understanding of the nature and extent of your estimation processes and key aspects of related policies and procedures. We will need to review whether controls over these processes have been adequately designed and implemented in a greater number of cases.
- We may provide increased challenge of aspects of how you derive your accounting estimates. For example, as well as undertaking procedures to determine whether there is evidence which supports the judgments made by management, we may also consider whether there is evidence which could contradict them.
- We may make more focussed requests for evidence or carry out more targeted procedures relating to components of accounting estimates. This might include the methods or models used, assumptions and data chosen or how disclosures (for instance on the level of uncertainty in an estimate) have been made, depending on our assessment of where the inherent risk lies.
- You may wish to consider retaining experts to assist with related work. You may also consider documenting key judgements and decisions in anticipation of auditor requests, to facilitate more efficient and effective discussions with the audit team.
- We may ask for new or changed management representations compared to prior years.



03

## Value for Money Risks





# Value for money

## The Council's responsibilities for value for money

The Council is required to maintain an effective system of internal control that supports the achievement of its policies, aims and objectives while safeguarding and securing value for money from the public funds and other resources at its disposal.

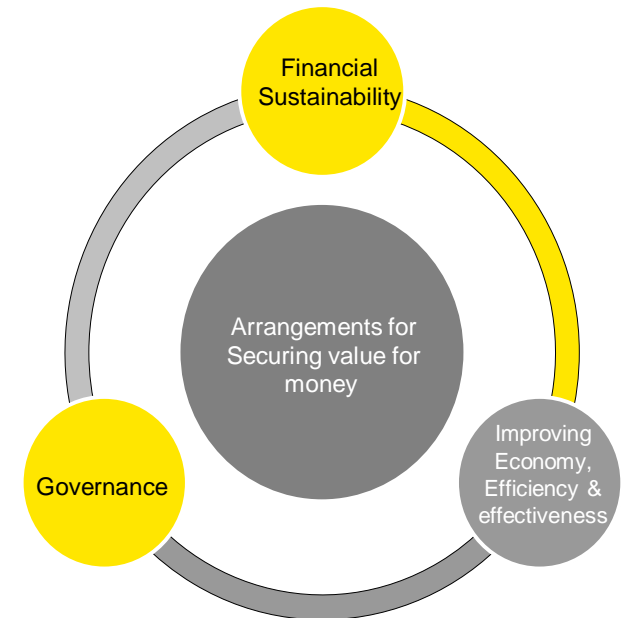
As part of the material published with its financial statements, the Council is required to bring together commentary on its governance framework and how this has operated during the period in a governance statement. In preparing its governance statement, the Council tailors the content to reflect its own individual circumstances, consistent with the requirements of the relevant accounting and reporting framework and having regard to any guidance issued in support of that framework. This includes a requirement to provide commentary on its arrangements for securing value for money from their use of resources.

## Auditor responsibilities under the new Code

Under the 2020 Code we are still required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources. However, there is no longer overall evaluation criterion which we need to conclude on. Instead the 2020 Code requires the auditor to design their work to provide them with sufficient assurance to enable them to report to the Council a commentary against specified reporting criteria (see below) on the arrangements the Council has in place to secure value for money through economic, efficient and effective use of its resources for the relevant period.

The specified reporting criteria are:

- Financial sustainability  
How the Council plans and manages its resources to ensure it can continue to deliver its services;
- Governance  
How the Council ensures that it makes informed decisions and properly manages its risks; and
- Improving economy, efficiency and effectiveness:  
How the Council uses information about its costs and performance to improve the way it manages and delivers its services.





# Value for money

## Planning and identifying VFM risks

The NAO's guidance notes require us to carry out a risk assessment which gathers sufficient evidence to enable us to document our evaluation of the Council's arrangements, in order to enable us to draft a commentary under the three reporting criteria. This includes identifying and reporting on any significant weaknesses in those arrangements and making appropriate recommendations. This is a change to 2015 Code guidance notes where the NAO required auditors as part of planning, to consider the risk of reaching an incorrect conclusion in relation to the overall criterion.

In considering the Council's arrangements, we are required to consider:

- The Council's governance statement
- Evidence that the Council's arrangements were in place during the reporting period;
- Evidence obtained from our work on the accounts;
- The work of inspectorates (such as OfSTED) and other bodies and
- Any other evidence source that we regard as necessary to facilitate the performance of our statutory duties.

We then consider whether there is evidence to suggest that there are significant weaknesses in arrangements. The NAO's guidance is clear that the assessment of what constitutes a significant weakness and the amount of additional audit work required to adequately respond to the risk of a significant weakness in arrangements is a matter of professional judgement. However, the NAO states that a weakness may be said to be significant if it:

- Exposes - or could reasonably be expected to expose - the Council to significant financial loss or risk;
- Leads to - or could reasonably be expected to lead to - significant impact on the quality or effectiveness of service or on the Council's reputation;
- Leads to - or could reasonably be expected to lead to - unlawful actions; or
- Identifies a failure to take action to address a previously identified significant weakness, such as failure to implement or achieve planned progress on action/improvement plans.

We should also be informed by a consideration of:

- The magnitude of the issue in relation to the size of the Council;
- Financial consequences in comparison to, for example, levels of income or expenditure, levels of reserves, or impact on budgets or cashflow forecasts;
- The impact of the weakness on the Council's reported performance;
- Whether the issue has been identified by the Council's own internal arrangements and what corrective action has been taken or planned;
- Whether any legal judgements have been made including judicial review;
- Whether there has been any intervention by a regulator or Secretary of State;
- Whether the weakness could be considered significant when assessed against the nature, visibility or sensitivity of the issue;
- The impact on delivery of services to local taxpayers; and
- The length of time the Council has had to respond to the issue.



# Value for money

## Responding to identified risks

Where our planning work has identified a risk of significant weakness, the NAO's guidance requires us to consider what additional evidence is needed to determine whether there is a significant weakness in arrangements and undertake additional procedures as necessary, including where appropriate, challenge of management's assumptions. We are required to report our planned procedures to the audit committee.

## Reporting on VFM

In addition to the commentary on arrangements, where we are not satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources the 2020 Code has the same requirement as the 2015 Code in that we should refer to this by exception in the audit report on the financial statements.

However, a new requirement under the 2020 Code is for us to include the commentary on arrangements in a new Auditor's Annual Report. The 2020 Code states that the commentary should be clear, readily understandable and highlight any issues we wish to draw to the Council's attention or the wider public. This should include details of any recommendations arising from the audit and follow-up of recommendations issued previously, along with our view as to whether they have been implemented satisfactorily.

## Status of our 2020/21 VFM planning

We have yet to complete our detailed VFM planning. However, one area of focus will be on the arrangements that the Council has in place in relation to financial sustainability in light of the impact of Covid-19 on the Council's finances. We will also consider the validity and appropriateness of setting up of new committee called Audit and Risk Management Committee, as a result of merging the Staff Committee and Corporate Governance Committee. At the time of this report we have not concluded our VFM Risk Planning Assessment.

We will update the next Committee meeting on the outcome of our VFM planning and our planned response to any identified risks of significant weaknesses in arrangements.



04

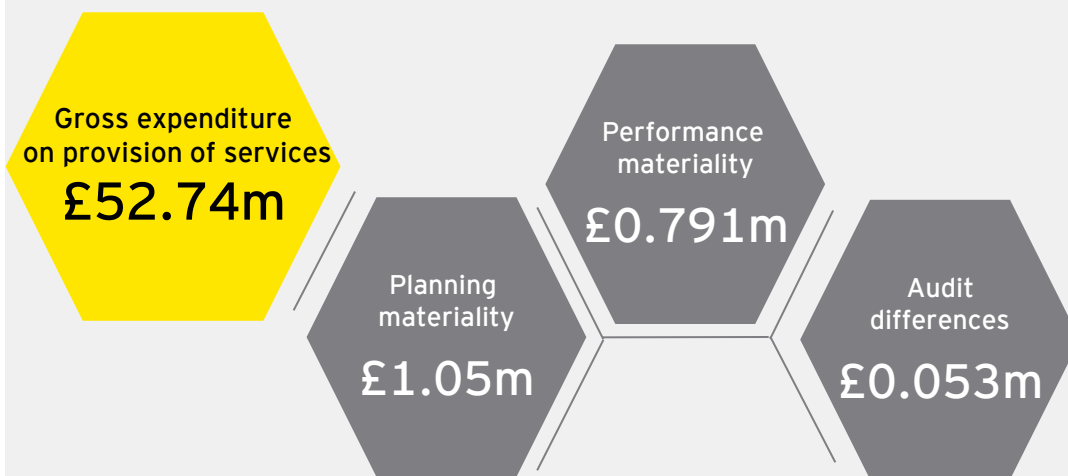
## Audit materiality



## Materiality

### Materiality

For planning purposes, planning materiality for 2020/21 has been set at £1.05 million for the Council's financial statements. This represents 2% of the Council's prior year gross revenue expenditure (GRE) on provision of services. It will be reassessed throughout the audit process. We consider that gross expenditure on the provision of services is the area of biggest interest to the users of the Council's accounts.



We request that the Audit and Risk Management Committee confirm its understanding of, and agreement to, these materiality and reporting levels.

### Key definitions

**Planning materiality** - the amount over which we anticipate misstatements would influence the economic decisions of a user of the financial statements.

**Performance materiality** - the amount we use to determine the extent of our audit procedures. We have set performance materiality at £0.791 million for the financial statements which represents 75% of planning materiality. This reflects the relatively lower level of error detected in our 2019/20 financial statements audit.

**Audit difference threshold** - we propose that misstatements identified below this threshold of £0.053m are deemed clearly trivial. We will report to you all uncorrected misstatements over this amount relating to the comprehensive income and expenditure statement, balance sheet and collection fund that have an effect on income or that relate to other comprehensive income.

Other uncorrected misstatements, such as reclassifications and misstatements in the cashflow statement and movement in reserves statement or disclosures, and corrected misstatements will be communicated to the extent that they merit the attention of the Audit and Risk Management Committee, or are important from a qualitative perspective.



## 05 Scope of our audit



# Scope of our audit

## Objective and scope of our audit

Under the Code of Audit Practice our principal objectives are to review and report on the Council's financial statements and, by exception, where we are not satisfied that the Council had established arrangements for securing economy, efficiency and effectiveness in its use of resources to the extent required by the relevant legislation and the requirements of the Code.

We issue an audit report that covers:

### 1. Financial statement audit

Our objective is to form an opinion on the financial statements under International Standards on Auditing (UK). We also perform other procedures as required by auditing, ethical and independence standards, the Code and other regulations. We outline below the procedures we will undertake during the course of our audit.

#### Procedures required by standards

- Addressing the risk of fraud and error;
- Significant disclosures included in the financial statements;
- Entity-wide controls;
- Reading other information contained in the financial statements and reporting whether it is inconsistent with our understanding and the financial statements; and
- Auditor independence.

#### Procedures required by the Code

Reviewing, and reporting on as appropriate, other information published with the financial statements, including the Annual Governance Statement; and Reviewing and reporting on the Whole of Government Accounts return, in line with the instructions issued by the NAO.

### 2. Arrangements for securing economy, efficiency and effectiveness (value for money)

As outlined in Section 03, we are required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources and report a commentary on those arrangements.

# Scope of our audit

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## Audit Process overview

Our audit involves:

- ▶ Identifying and understanding the key processes and internal controls; and
- ▶ Substantive tests of detail of transactions and amounts.

For 2020/21 we plan to follow a substantive approach to the audit as we have concluded this is the most efficient way to obtain the level of audit assurance required to conclude that the financial statements are not materially misstated.

### **Analytics**

We will use our analytics tools to enable us to capture whole populations of your financial data, in particular journal entries. These tools:

- ▶ Help identify specific exceptions and anomalies which can then be subject to more traditional substantive audit tests; and
- ▶ Give greater likelihood of identifying errors than random sampling techniques.

We will report the findings from our process and analytics work, including any significant weaknesses or inefficiencies identified and recommendations for improvement, to management and the Audit Committee.

### **Internal audit**

We will review internal audit plans and the results of their work. We will reflect on these when designing our overall audit approach and when developing our detailed testing strategy. We may also reflect relevant findings from their work in our reporting, where it raises issues that could have a material impact on the financial statements.



06

## Audit team



## Audit team

The engagement team is led by Mark Hodgson for his third year as Associate Partner on the audit. Mark has significant public sector audit experience, with a portfolio of Local Authorities and Local Government Pension Funds, and is a member of the Chartered Institute of Public Finance and Accountancy (CIPFA).

Mark is supported by Amalia Valdez Herrera, Assistant Manager, who is responsible for the day-to-day direction of audit work and is the key point of contact for the Chief Accountant and their team.

## Use of specialists

Our approach to the involvement of specialists, and the use of their work.

When auditing key judgements, we are often required to rely on the input and advice provided by specialists who have qualifications and expertise not possessed by the core audit team. The areas where either EY or third party specialists provide input for the current year audit are:

Area	Specialists
Valuation of Land and Buildings	The Council's Property valuer - Wilkes, Head & Eve.
Pensions disclosure	EY Actuaries, PwC (Consulting Actuary to PSAA) and Hymans Robertson (the Council's actuary)
NDR appeals provision	The Council's NDR appeals expert - Wilkes, Head & Eve.
Fair Value Investment Measurement	The Council's Treasury Advisor - Link Asset Services

In accordance with Auditing Standards, we will evaluate each specialist's professional competence and objectivity, considering their qualifications, experience and available resources, together with the independence of the individuals performing the work.

We also consider the work performed by the specialist in light of our knowledge of the Council's business and processes and our assessment of audit risk in the particular area. For example, we would typically perform the following procedures:

- ▶ Analyse source data and make inquiries as to the procedures used by the specialist to establish whether the source data is relevant and reliable;
- ▶ Assess the reasonableness of the assumptions and methods used;
- ▶ Consider the appropriateness of the timing of when the specialist carried out the work; and
- ▶ Assess whether the substance of the specialist's findings are properly reflected in the financial statements.



07

## Audit timeline



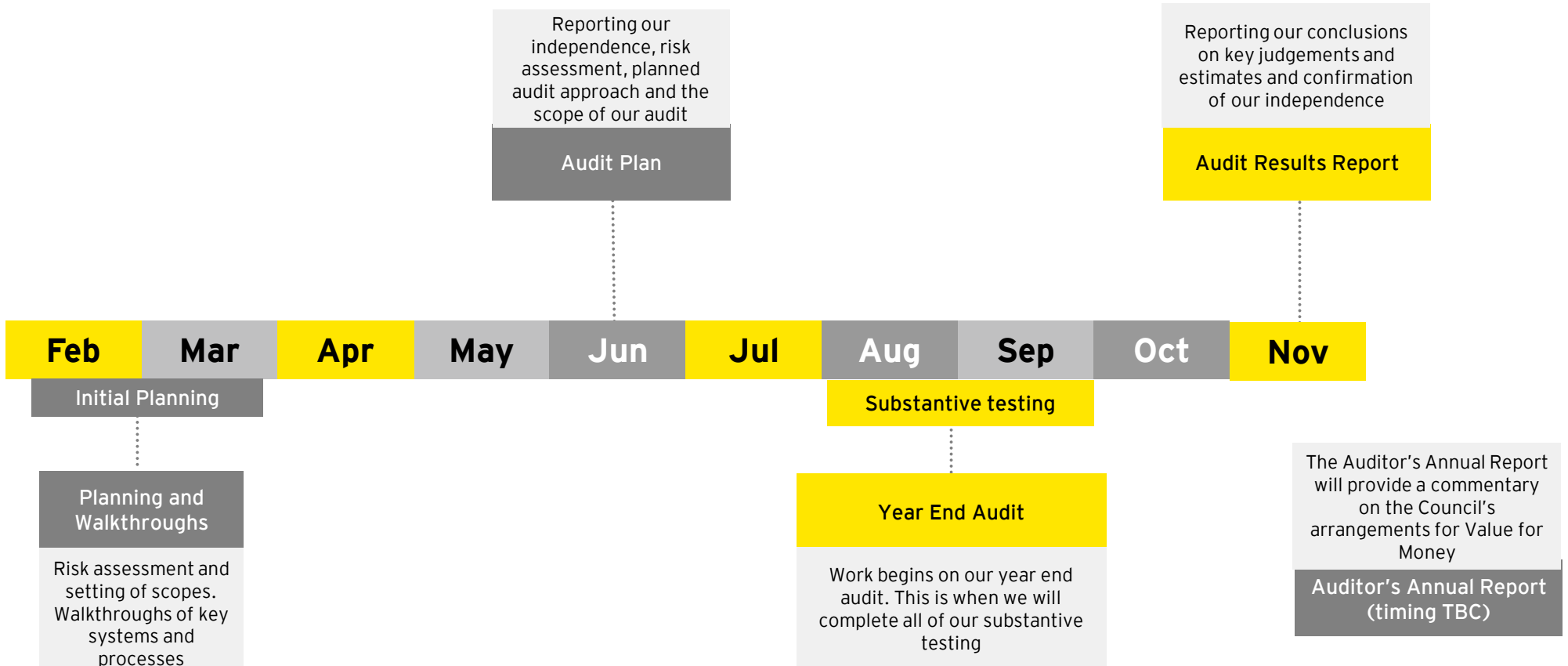


## Audit timeline

# Timetable of communication and deliverables

### Timeline

Below is a timetable showing the key stages of the audit and the deliverables we have agreed to provide to you through the audit cycle in 2020/21. From time to time matters may arise that require immediate communication with the Audit & Risk Management Committee and we will discuss them with the Audit & Risk Management Committee Chair as appropriate. We will also provide updates on corporate governance and regulatory matters as necessary.





08

# Independence



# Introduction

The FRC Ethical Standard and ISA (UK) 260 “Communication of audit matters with those charged with governance”, requires us to communicate with you on a timely basis on all significant facts and matters that bear upon our integrity, objectivity and independence. The Ethical Standard, as revised in December 2019, requires that we communicate formally both at the planning stage and at the conclusion of the audit, as well as during the course of the audit if appropriate. The aim of these communications is to ensure full and fair disclosure by us to those charged with your governance on matters in which you have an interest.

## Required communications

Planning stage	Final stage
<ul style="list-style-type: none"> <li>▶ The principal threats, if any, to objectivity and independence identified by Ernst &amp; Young (EY) including consideration of all relationships between you, your affiliates and directors and us;</li> <li>▶ The safeguards adopted and the reasons why they are considered to be effective, including any Engagement Quality review;</li> <li>▶ The overall assessment of threats and safeguards;</li> <li>▶ Information about the general policies and process within EY to maintain objectivity and independence.</li> </ul>	<ul style="list-style-type: none"> <li>▶ In order for you to assess the integrity, objectivity and independence of the firm and each covered person, we are required to provide a written disclosure of relationships (including the provision of non-audit services) that may bear on our integrity, objectivity and independence. This is required to have regard to relationships with the entity, its directors and senior management, its affiliates, and its connected parties and the threats to integrity or objectivity, including those that could compromise independence that these create. We are also required to disclose any safeguards that we have put in place and why they address such threats, together with any other information necessary to enable our objectivity and independence to be assessed;</li> <li>▶ Details of non-audit/additional services provided and the fees charged in relation thereto;</li> <li>▶ Written confirmation that the firm and each covered person is independent and, if applicable, that any non-EY firms used in the group audit or external experts used have confirmed their independence to us;</li> <li>▶ Details of any non-audit/additional services to a UK PIE audit client where there are differences of professional opinion concerning the engagement between the Ethics Partner and Engagement Partner and where the final conclusion differs from the professional opinion of the Ethics Partner</li> <li>▶ Details of any inconsistencies between FRC Ethical Standard and your policy for the supply of non-audit services by EY and any apparent breach of that policy;</li> <li>▶ Details of all breaches of the IESBA Code of Ethics, the FRC Ethical Standard and professional standards, and of any safeguards applied and actions taken by EY to address any threats to independence; and</li> <li>▶ An opportunity to discuss auditor independence issues.</li> </ul>

In addition, during the course of the audit, we are required to communicate with you whenever any significant judgements are made about threats to objectivity and independence and the appropriateness of safeguards put in place, for example, when accepting an engagement to provide non-audit services.

We ensure that the total amount of fees that EY and our network firms have charged to you and your affiliates for the provision of services during the reporting period, analysed in appropriate categories, are disclosed.

## Relationships, services and related threats and safeguards

We highlight the following significant facts and matters that may be reasonably considered to bear upon our objectivity and independence, including the principal threats, if any. We have adopted the safeguards noted below to mitigate these threats along with the reasons why they are considered to be effective. However we will only perform non-audit services if the service has been pre-approved in accordance with your policy.

### Overall Assessment

Overall, we consider that the safeguards that have been adopted appropriately mitigate the principal threats identified and we therefore confirm that EY is independent and the objectivity and independence of Mark Hodgson, your audit engagement partner, and the audit engagement team have not been compromised.

### Self interest threats

A self interest threat arises when EY has financial or other interests in the Council. Examples include where we receive significant fees in respect of non-audit services; where we need to recover long outstanding fees; or where we enter into a business relationship with you. At the time of writing, there are no long outstanding fees.

We believe that it is appropriate for us to undertake those permitted non-audit/additional services set out in Section 5.40 of the FRC Ethical Standard 2019 (FRC ES), and we will comply with the policies that you have approved.

When the ratio of non-audit fees to audit fees exceeds 1:1, we are required to discuss this with our Ethics Partner, as set out by the FRC ES, and if necessary agree additional safeguards or not accept the non-audit engagement. We will also discuss this with you.

A self interest threat may also arise if members of our audit engagement team have objectives or are rewarded in relation to sales of non-audit services to you. We confirm that no member of our audit engagement team, including those from other service lines, has objectives or is rewarded in relation to sales to you, in compliance with Ethical Standard part 4.

There are no other self interest threats at the date of this report.

### Self review threats

Self review threats arise when the results of a non-audit service performed by EY or others within the EY network are reflected in the amounts included or disclosed in the financial statements.

There are no self review threats at the date of this report.

### Management threats

Partners and employees of EY are prohibited from taking decisions on behalf of management of the Council. Management threats may also arise during the provision of a non-audit service in relation to which management is required to make judgements or decision based on that work.

There are no management threats at the date of this report.

## Relationships, services and related threats and safeguards

### Other threats

Other threats, such as advocacy, familiarity or intimidation, may arise.

There are no other threats at the date of this report.

## Other communications

### EY Transparency Report 2020

Ernst & Young (EY) has policies and procedures that instil professional values as part of firm culture and ensure that the highest standards of objectivity, independence and integrity are maintained.

Details of the key policies and processes in place within EY for maintaining objectivity and independence can be found in our annual Transparency Report which the firm is required to publish by law. The most recent version of this Report is for the year ended 1 July 2020 and can be found here:

<https://www.ey.com/uk/en/about-us/ey-uk-transparency-report-2020>



09

## Appendices



## Appendix A

### Fees

The duty to prescribe fees is a statutory function delegated to Public Sector Audit Appointments Ltd (PSAA) by the Secretary of State for Housing, Communities and Local Government.

This is defined as the fee required by auditors to meet statutory responsibilities under the Local Audit and Accountability Act 2014 in accordance with the requirements of the Code of Audit Practice and supporting guidance published by the National Audit Office, the financial reporting requirements set out in the Code of Practice on Local Authority Accounting published by CIPFA/LASAAC, and the professional standards applicable to auditors' work.

	Planned fee 2020/21	Scale fee 2020/21	Final Fee 2019/20
	£'s	£'s	£'s
Total Fee - Code work	37,873	37,873	37,873
Changes in work required to address professional and regulatory requirements and scope associated with risk (see Note 1)	14,950	-	14,950
<b>Revised Proposed Scale Fee</b>	<b>52,823</b>	<b>37,873</b>	<b>52,823</b>
<b>Additional work:</b>			
2019/20 Additional Procedures required and as reported within the Annual Audit Letter (Note 2)	-	-	4,799
Other - Port Authority Memorandum Accounts - Agreed upon procedures	TBC	-	2,750
2020/21 Additional Procedures required in response to the additional risks identified in this Audit Plan in respect of:			
• Accounting for Covid-19 related Government Grant income, NDR Appeals provision, Collection Fund Accounting, Recoverability of Receivables, Going Concern.	TBC	-	-
<b>Total fees</b>	<b>TBC</b>	<b>37,873</b>	<b>60,372</b>

#### *All fees exclude VAT*

**Note 1** - For 2019/20 we have proposed an increase to the scale fee to reflect the increased level of audit work required which has been impacted by a range of factors, as detailed in our 2019/20 Audit Results Report. Our proposed increase has been discussed with management and is with PSAA for determination. For 2020/21 the scale fee has again been re-assessed to take into account the same recurring risk factors as in 2019/20 and is subject to approval by PSAA Ltd.




**Note 2** - The 2019/20 Additional Procedures fee was reported in our Annual Audit Letter. The fee has been agreed in principle with Management and is subject to formal approval by PSAA Ltd.

**Note 3** - We cannot quantify the impact of any work resulting as a response to C-19 risks in 2020/21 at this point. We will provide an update on the additional fee implications at the conclusion of the audit.

## Appendix B




# Required communications with the Audit and Risk Management

We have detailed the communications that we must provide to the Audit and Risk Management.

		 Our Reporting to you
Required communications	 What is reported?	 When and where
Terms of engagement	Confirmation by the Audit and Risk Management of acceptance of terms of engagement as written in the engagement letter signed by both parties.	The statement of responsibilities serves as the formal terms of engagement between the PSAA's appointed auditors and audited bodies.
Our responsibilities	Reminder of our responsibilities as set out in the engagement letter	The statement of responsibilities serves as the formal terms of engagement between the PSAA's appointed auditors and audited bodies.
Planning and audit approach	Communication of the planned scope and timing of the audit, any limitations and the significant risks identified. When communicating key audit matters this includes the most significant risks of material misstatement (whether or not due to fraud) including those that have the greatest effect on the overall audit strategy, the allocation of resources in the audit and directing the efforts of the engagement team	Audit Plan - 21 June 2021 - Audit and Risk Management Committee.
Significant findings from the audit	<ul style="list-style-type: none"> <li>▶ Our view about the significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures</li> <li>▶ Significant difficulties, if any, encountered during the audit</li> <li>▶ Significant matters, if any, arising from the audit that were discussed with management</li> <li>▶ Written representations that we are seeking</li> <li>▶ Expected modifications to the audit report</li> <li>▶ Other matters if any, significant to the oversight of the financial reporting process</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee




## Appendix B

# Required communications with the Audit and Risk Management (continued)

		Our Reporting to you
Required communications	 What is reported?	  When and where
Going concern	<p>Events or conditions identified that may cast significant doubt on the entity's ability to continue as a going concern, including:</p> <ul style="list-style-type: none"> <li>▶ Whether the events or conditions constitute a material uncertainty</li> <li>▶ Whether the use of the going concern assumption is appropriate in the preparation and presentation of the financial statements</li> <li>▶ The adequacy of related disclosures in the financial statements</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee
Misstatements	<ul style="list-style-type: none"> <li>▶ Uncorrected misstatements and their effect on our audit opinion, unless prohibited by law or regulation</li> <li>▶ The effect of uncorrected misstatements related to prior periods</li> <li>▶ A request that any uncorrected misstatement be corrected</li> <li>▶ Corrected misstatements that are significant</li> <li>▶ Material misstatements corrected by management</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee.
Fraud	<ul style="list-style-type: none"> <li>▶ Enquiries of the Audit Committee to determine whether they have knowledge of any actual, suspected or alleged fraud affecting the entity</li> <li>▶ Any fraud that we have identified or information we have obtained that indicates that a fraud may exist</li> <li>▶ A discussion of any other matters related to fraud</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee
Related parties	<p>Significant matters arising during the audit in connection with the entity's related parties including, when applicable:</p> <ul style="list-style-type: none"> <li>▶ Non-disclosure by management</li> <li>▶ Inappropriate authorisation and approval of transactions</li> <li>▶ Disagreement over disclosures</li> <li>▶ Non-compliance with laws and regulations</li> <li>▶ Difficulty in identifying the party that ultimately controls the entity</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee




## Appendix B

# Required communications with the General Purposes and Standards Committee (continued)

Required communications	 What is reported?	 Our Reporting to you  When and where
Independence	<p>Communication of all significant facts and matters that bear on EY's, and all individuals involved in the audit, objectivity and independence</p> <p>Communication of key elements of the audit engagement partner's consideration of independence and objectivity such as:</p> <ul style="list-style-type: none"> <li>▶ The principal threats</li> <li>▶ Safeguards adopted and their effectiveness</li> <li>▶ An overall assessment of threats and safeguards</li> <li>▶ Information about the general policies and process within the firm to maintain objectivity and independence</li> </ul> <p>For public interest entities and listed companies, communication of minimum requirements as detailed in the FRC Revised Ethical Standard 2016:</p> <ul style="list-style-type: none"> <li>▶ Relationships between EY, the Council and senior management, its affiliates and its connected parties</li> <li>▶ Services provided by EY that may reasonably bear on the auditors' objectivity and independence and related safeguards</li> <li>▶ Fees charged by EY analysed into appropriate categories such as statutory audit fees, tax advisory fees, other non-audit service fees</li> <li>▶ A statement of compliance with the Ethical Standard, including any non-EY firms or external experts used in the audit</li> <li>▶ Details of any inconsistencies between the Ethical Standard and Group's policy for the provision of non-audit services, and any apparent breach of that policy</li> <li>▶ Details of any contingent fee arrangements for non-audit services</li> <li>▶ Where EY has determined it is appropriate to apply more restrictive rules than permitted under the Ethical Standard</li> <li>▶ The Audit Committee should also be provided an opportunity to discuss matters affecting auditor independence</li> </ul>	<p>Audit Plan - 21 June 2021 - Audit and Risk Management Committee.</p> <p>Audit Results Report - 29 November 2021 - Audit and Risk Management Committee</p>

## Appendix B

# Required communications with the Audit and Risk Management (continued)

		 Our Reporting to you
Required communications	 What is reported?	 When and where
External confirmations	<ul style="list-style-type: none"> <li>▶ Management's refusal for us to request confirmations</li> <li>▶ Inability to obtain relevant and reliable audit evidence from other procedures</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee
Consideration of laws and regulations	<ul style="list-style-type: none"> <li>▶ Audit findings regarding non-compliance where the non-compliance is material and believed to be intentional. This communication is subject to compliance with legislation on tipping off</li> <li>▶ Enquiry of the Audit Committee into possible instances of non-compliance with laws and regulations that may have a material effect on the financial statements and that the Committee may be aware of</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee
Internal controls	<ul style="list-style-type: none"> <li>▶ Significant deficiencies in internal controls identified during the audit</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee
Representations	<ul style="list-style-type: none"> <li>▶ Written representations we are requesting from management and/or those charged with governance</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee
Material inconsistencies and misstatements	<ul style="list-style-type: none"> <li>▶ Material inconsistencies or misstatements of fact identified in other information which management has refused to revise</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee
Auditors report	<ul style="list-style-type: none"> <li>▶ Key audit matters that we will include in our auditor's report</li> <li>▶ Any circumstances identified that affect the form and content of our auditor's report</li> </ul>	Audit Results Report - 29 November 2021 - Audit and Risk Management Committee

## Additional audit information

### Other required procedures during the course of the audit

In addition to the key areas of audit focus outlined in section 2, we have to perform other procedures as required by auditing, ethical and independence standards and other regulations. We outline the procedures below that we will undertake during the course of our audit.

<b>Our responsibilities required by auditing standards</b>	<ul style="list-style-type: none"><li>▶ Identifying and assessing the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.</li><li>▶ Obtaining an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Council's internal control.</li><li>▶ Evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.</li><li>▶ Concluding on the appropriateness of management's use of the going concern basis of accounting.</li><li>▶ Evaluating the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.</li><li>▶ Obtaining sufficient appropriate audit evidence regarding the financial information of the entities or business activities within the Council to express an opinion on the consolidated financial statements. Reading other information contained in the financial statements, including the board's statement that the annual report is fair, balanced and understandable, the Audit Committee reporting appropriately addresses matters communicated by us to the Committee and reporting whether it is materially inconsistent with our understanding and the financial statements; and Maintaining auditor independence.</li></ul>
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### Purpose and evaluation of materiality

For the purposes of determining whether the accounts are free from material error, we define materiality as the magnitude of an omission or misstatement that, individually or in the aggregate, in light of the surrounding circumstances, could reasonably be expected to influence the economic decisions of the users of the financial statements. Our evaluation of it requires professional judgement and necessarily takes into account qualitative as well as quantitative considerations implicit in the definition. We would be happy to discuss with you your expectations regarding our detection of misstatements in the financial statements.

Materiality determines the locations at which we conduct audit procedures to support the opinion given on the financial statements; and the level of work performed on individual account balances and financial statement disclosures.

The amount we consider material at the end of the audit may differ from our initial determination. At this stage, however, it is not feasible to anticipate all of the circumstances that may ultimately influence our judgement about materiality. At the end of the audit we will form our final opinion by reference to all matters that could be significant to users of the accounts, including the total effect of the audit misstatements we identify, and our evaluation of materiality at that date.

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Agenda Item No:	8	
Committee:	<b>Audit and Risk Management</b>	
Date:	<b>21/06/2021</b>	
Report Title:	<b>Risk based Internal Audit Plan 2021/22</b>	

## 1 Purpose / Summary

In accordance with the Public Sector Internal Audit Standards the Internal Audit Manager has prepared the attached Internal Audit Plan. It considers the areas for audit review and the availability of internal audit resources.

## 2 Key issues

- The Council's Internal Audit work plan is produced on an annual basis. It is an estimate of the work that can be performed over the financial year. Potential areas of the Council for audit are prioritised based on a risk assessment, enabling the use of Internal Audit resources to be targeted at areas of emerging corporate importance and risk.
- The format of the plan reflects the Public Sector Internal Audit Standards (PSIAS) which were introduced in April 2013. The PSIAS were revised and came into effect in April 2017. It also incorporates the governance and strategic management arrangements of Internal Audit resources.
- Following on from the External Assessment completed in December 2017 the Audit plan now includes cross referencing to the Corporate Priorities, which was a suggested improvement made by the assessor.
- There are a total of 308 budgeted productive days for 2021/22.
  - 253 days are allocated to operational audit work. This resource is used to calculate the risk based audit plan. This work contributes to the annual opinion on the effectiveness of the system of internal control, which is reported to the Committee.
  - 55 days are allocated for other productive assurance work. This includes proactive anti-fraud and error work such as the National Fraud Initiative, project based assurance, a contingency for responsive work and following up previous recommendations.
- The risk based plan assumes that the team comprises 2.1 FTE for April and May 2021 and 2.6 FTE from June onwards. This level of capacity is sufficient to provide continued internal audit coverage of all key control systems over a 3 year cycle. Some low risk systems may be audited less frequently in favour of systems with new or changing risks, subject to an ongoing risk evaluation.
- A contingency has been included to continue to provide support to the Council's response to the ongoing Covid-19 pandemic for Q1 of this financial year and the plan will continue to be flexible to support ongoing and emerging risks that may arise throughout the year.

- The audit plan for 2021/22 is attached at Appendix A.
  - The Assurance rating classification is included at Appendix B.
  - The 'fundamental systems' audit reviews over the next 5 years is included at Appendix C
- The Council has 10 key financial systems, known as 'Fundamental' systems, due to their significance and materiality. Detailed testing provides assurance to the Council's External Auditors in preparation for final accounts compliance. Following repeated years of positive assurance the Committee and the External Auditors agreed an approach that would maximise assurance with the most effective use of resources. This approach will continue to be discussed with the External Auditors, reflecting any changes to the level of risk for these systems.
  - This is illustrated in Appendix C which shows that the Payroll system is reviewed annually, and with the auditing arrangements with ARP, the Council Tax, Business Rates and Housing Benefits are also reviewed annually. The remaining systems will be audited over a three year cycle.

### 3 Recommendations

The Committee is asked to acknowledge the Internal Audit resources and to consider and note the attached Internal Audit Plan for 2021/22.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/A
<b>Portfolio Holder(s)</b>	Cllr Chris Boden Leader and Finance Portfolio holder
<b>Report Originator(s)</b>	Kathy Woodward – Shared Internal Audit Manager
<b>Contact Officer(s)</b>	Peter Catchpole – Corporate Director & Chief Finance Officer Kathy Woodward – Shared Internal Audit Manager
<b>Background Paper(s)</b>	Accounts and Audit Regulations 2015 Public Sector Internal Audit Standards 2016 CIPFA Local Government Application Note 2019 Fenland District Council Corporate Plan Internal Audit Charter

## Risk based Internal Audit plan



## **1 Introduction**

- 1.1 This document sets out the Internal Audit risk based plan. It is intended to demonstrate how Internal Audit will support the overall aims and objectives of the Council by:
- providing the Chief Executive, Section 151 Officer and Audit and Risk Management Committee with an overall opinion each year on the Council's control environment to support the Annual Governance Statement requirements;
  - preparing audit plans that give suitable priority to the Council's priorities and key risks and concentrate resources on areas that have been identified as being the most vulnerable;
  - providing suggested actions to line management at the conclusion of each piece of audit work that will assist in continuous service improvement and reduce the risks identified;
  - identifying the audit resources required to deliver an audit service that meets required professional standards; and
  - complying with professional standards.
- 1.2 The plan is risk based and covers the organisations existing operations, while adding value by responding to emerging risks and promoting good governance.
- 1.3 The plan will be reviewed at least annually to ensure its continued relevance, both in terms of supporting the council's aims and corporate objectives, and in achieving a professional, modern audit service.
- 1.4 The strategic aims for Internal Audit in 2021/22 are to:
- prepare, maintain and deliver the risk based internal audit plan;
  - proactively promote understanding of risk and control;
  - recommend actions that help systems meet at least adequate levels of control;
  - facilitate provision of assurance for the Annual Governance Statement;
- 1.5 The plan is supported by the teams Service Plan, which is aligned to the Council's Corporate Priorities, and is agreed with the Internal Audit team through the Council's Springboard process.

## **2 Role of Internal Audit**

- 2.1 All local authorities must make proper provision for internal audit in line with the 1972 Local Government Act (S151) and the Accounts and Audit Regulations 2015. The latter states that authorities must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.
- 2.2 Fenland District Council has responsibility for ensuring that statutory internal audit arrangements are in place to the Corporate Director & Chief Finance Officer. These arrangements form a key element of the District Council's framework for corporate governance.
- 2.3 The Shared Internal Audit Manager oversees internal audit provision to the District Council on behalf of the Corporate Director & Chief Finance Officer.
- 2.4 The objectives, scope and definitions of Internal Audit are detailed in the Internal Audit Charter.

### 3 Risk assessment

- 3.1 The Council's audit plan is based on a risk assessment of all the Council's major systems and other auditable areas. This allows us to prioritise those areas and systems to be included within the plan. Key risk assessment factors include:

<u>Factor</u>	<u>Description</u>
Materiality – Value	The value of annual direct income / expenditure associated with the system / activities
Materiality – Volume	An estimate of the number of transactions processed by the systems / activities per annum
Significance / Profile	The significance of the system to the activities of the Council.
Complexity	The complexity of the systems / activities in terms of their operation and auditability
Change	Recent changes to the system or the likelihood of change to the systems in the audit period planned
Regulatory / Contractual	Extent to which the system / activity is subject to regulation or contractual obligation
External Monitoring	The extent to which a service / activity is monitored or audited by an external body
Prior Audits	Overall rating of last audit and result of follow up.
Susceptibility to fraud and corruption	Opportunity within the system / activity for fraud and corruption to occur.
Staff Turnover	The turnover of staff, especially with key skills.

- 3.2 The risk assessment, and update of the annual plan, is informed by consultation with key stakeholders, including:
- the Corporate Director & Chief Finance Officer;
  - the Corporate Director & Monitoring Officer;
  - the Corporate Management Team;
  - the Council's team managers;
  - the Council's external auditors;
  - the Audit and Risk Management Committee.
- 3.3 Consultation helps ensure that stakeholder's views and risks are reasonably identified and reflected within the plan. Where possible External Audit will place reliance on the work of internal audit, and other external providers of assurance will be referred to help formulate the annual audit opinion. This helps ensure that resources are used to the best effect, and duplication is avoided.
- 3.4 The plan is also informed by key corporate documents such as:
- Business Plan;
  - Medium Term Financial Strategy; and
  - the Council's risk registers.

## 4 Key themes

The key themes, which have driven our assessment of risk and strategic aims are:

Area	Comment
Financial excellence	There is a continued need to ensure value for money is achieved, including financial resilience and the ability to prioritise resources within increasing financial constraints and a changing control environment.
Corporate Governance arrangements	The Internal Audit Manager will independently review and give an opinion on the Council's arrangements for both corporate governance and risk management, to support the production of an annual governance statement to accompany the statement of accounts. The team will maintain an awareness of emerging risks to help provide advice on effective internal controls.
Assurance mapping	Where other well-developed assurance processes exist (e.g. documented Control Risk Self-Assessment reviews, quality management audits, the work of other review or inspection teams) the internal audit team will quality assure these processes and consider how they can deliver a significant contribution to the overall audit opinion of internal control.
Improving information governance	As part of the planned audits the team will help to promote good information and data management practice throughout the organisation.
Risk management	Internal Audit will continue to assist teams identify business risks as part of audits. This will engage our customers in the management and maintenance of their risks and controls at an operational level, and also help identify and escalate concerns to the corporate risk register.
Minimising fraud and error	<p>The Internal Audit team will ensure that the Anti-fraud &amp; corruption policy &amp; strategy reflects best practice and will appraise fraud risks during audits.</p> <p>Internal controls will continue to be tested for effectiveness and the team will participate in data matching exercises, as provided by the National Fraud Initiative, to proactively identify fraud and error.</p>
Corporate priorities	The Corporate plan, and the Council priorities, informs the audit strategy. The annual plan is based on the risk profile of activities supporting the Corporate Plan, and will continuously be revised to reflect any emerging changes to corporate risk.

## **5 Audit needs and resources**

- 5.1 The risk assessment process identifies auditable systems and helps to prioritise the audit plan in consultation with key stakeholders.
- 5.2 Systems assessed as below adequate assurance, during the previous financial year, which are not subject to a planned audit will be considered for a follow up review to assess the effective implementation by management of agreed audit recommendations.
- 5.3 Where common areas of risk are identified across several teams then the use of corporate themed reviews is considered to ensure an approach which is both consistent and makes effective use of resources.
- 5.4 Both the resources and capacity of the Internal Audit Team is considered annually whilst setting the annual plan. The Internal Audit Team will have 2.6 full time equivalents from June 2021.
- 5.5 Unproductive days, such as training and annual leave, are deducted from the total resource to calculate the total number of planned productive days. In addition to this a proportion of days from Q1 of 2021/22 have been removed to provide support to the Council's ongoing response to the Covid-19 pandemic.
- 5.6 Internal Audit team resources will enable all services of the Council to receive audit coverage over a three year period, although realistically some may be considered of such low priority in relation to other areas that they may only be covered in five years.
- 5.7 This Internal Audit plan is produced and provides details for a 12 month period. The Internal Audit Manager will review and adjust the plan, as necessary, in response to changes in the organisation's business, risks, operations, programs, systems, and controls. Where work in progress occurs it will be carried forward for completion within resources available in the next year.

## **6 Audit delivery**

- 6.1 The approach of internal audit is to use risk-based reviews, supplemented in some areas by the use of system-based audits and themed reviews. All audits have regard to management's arrangements for: -
- securing the proper, economic, efficient and effective use of resources;
  - achieving key performance indicators, where appropriate;
  - preventing fraud and irregularity.
- 6.2 The internal control system contains 10 key systems known as 'Fundamental' audits. A compliance approach is applied, as there is pre-existing confidence that controls are well designed, but the effective operation of the controls is a material concern. Testing for the effective operation of these controls is completed over a planned three year cycle, although can be audited more frequently if assurance is required. The ARP auditing arrangements have allowed us to gain assurances on an annual basis for Council Tax, Business rates and Housing Benefits. The 'Payroll' system will be reviewed annually to reflect the potential risk of the system. A continuous auditing approach is adopted that spreads the testing throughout the year. This helps to ensure that the work is delivered, and reduces the burden on the customer.
- 6.3 The remainder of the systems are prioritised by their risk based assessment. The approach to each audit is agreed, with the customer, during the planning stage of the audit.
- 6.4 In addition to these planned audits the team will complete other assurance work which adds value to the organisation. Examples include proactive anti-fraud and error work such as fraud risk education and data matching, project based assurance, contingency for responsive work, and following up previous audit recommendations
- 6.5 The PSIAS states that the Internal Audit Manager should consider accepting consulting engagements based on the potential to improve management of risks, add value and improve the organisation's operations. The team will participate in corporate projects that add value by improving governance and controls throughout the Council.
- 6.6 Requests for unplanned work will be considered against capacity to ensure internal audit's independence, and the resource required to provide the annual audit opinion, is not compromised. Any significant additional consulting activities, which impact delivery of the plan, will be communicated to the Committee.
- 6.7 The output of audits completed during the year will inform the annual audit opinion. The annual internal audit opinion will conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control. This will be reported through the annual Internal Audit Outturn report which is a key source of assurance for the Annual Governance Statement.

## **7 Quality and performance**

- 7.1 The Internal Audit Service maintains a manual, which sets out the standards to which all audit assignments are completed. It is reviewed and updated to reflect the best practice and professional standards.
- 7.2 The performance of Internal Audit is measured against targets and objectives set out in the Team Service Plan.
- 7.3 At a detailed level each audit assignment is monitored, and customer feedback sought.
- 7.4 There is ongoing performance appraisal and supervision for all Internal Audit staff during the year to support them in achieving their personal targets.
- 7.5 The Corporate Director & Chief Finance Officer shall in accordance with the Accounts and Audit regulations 2015 arrange for an assessment of quality independently of the Internal Audit service. Additionally, an external review of the Internal Audit Service is completed by external assessors every 5 years.
- 7.6 The Internal Audit Service will continue to liaise closely with other internal audit services through the Cambridgeshire Audit Group, the Chartered Institute of Public Finance Accountants, the Institute of Internal Auditors and the ARP shared audit partnership in order to share knowledge of best practice.

## Appendix A: Internal Audit plan 2021/22

<b>Audit Title</b>	<b>Risk Rating</b>	<b>Last Audit</b>	<b>Last Audit results</b>	<b>2021/22 days</b>
<b>2020/21 brought forward</b>				20
<b>Communities</b>				
Housing Standards	Medium	2017/18	Substantial	6
Housing Strategy	Medium	2017/18	Substantial	6
Housing Grants (PSR/DGF)	Medium	2017/18	Substantial	8
Travellers Sites Rents and Repair	Medium	2017/18	Adequate	10
<b>Economy</b>				
Business Unit Lettings	Medium	2017/18	Adequate	8
Trading Operations – Port, Commercial and Marine	Medium	2016/17	Adequate	8
Trading Operations – Port Assets and Maintenance	Medium	2016/17	Adequate	6
Development – Planning Obligations (S106/CIL)	Medium	2015/16	Adequate	10
Garage Rents and arrears	Medium	2014/15	Substantial	6
<b>Environment</b>				
Licences – Alcohol	Medium	2017/18	Substantial	8
Licences – Taxis	Medium	2017/18	Limited	8
Cemeteries	Medium	2017/18	Adequate	8
Contract Monitoring – Waste and Recycling	Medium	2017/18	Limited	8
Garden Waste	Medium	2016/17	Substantial	6
<b>Quality Organisation</b>				
Land Charges	Medium	2016/17	Substantial	6
Legal Services	Medium	2016/17	Substantial	6
ARP Enforcement	Medium	2017/18	Adequate	12
Council Tax (Fundamental)	Medium	2017/18	Adequate	*
Housing Benefits (Fundamental)	Medium	2017/18	Adequate	*
Housing Benefits – Overpayments	Medium	2017/18	Adequate	*
Business Rates (Fundamental)	Medium	2017/18	Adequate	*
Construction Industry Scheme	Medium	2017/18	Substantial	8
Corporate Assurance – Anti Fraud and Corruption	Medium	2018/19	Ongoing	5
Stores – Works	Medium	2017/18	Adequate	6
Corporate Finance – Procurement	High	2017/18	Adequate	12
Corporate Projects	Medium			10

VAT	Medium	2018/19	Limited	10
Cash and Treasury Management (Fundamental)	Medium	2016/17	Substantial	11
Corporate Finance - Management Accounting System (Fundamental)	Medium	2016/17	Substantial	10
Payroll (Fundamental)	High	2020/21	Substantial	10
<b>Total Risk Based Audits</b>				<b>232</b>
<b>External Audits and Other Work</b>				
Covid-19 Business Grants – Post Payment Assurance	High	New		20
FACT – Validation of Process	High	2019/20	Ongoing	5
Local Authority Trading Company	High	New		10
Fraud Work – Investigations and NFI				14
Follow ups				11
Contingency				16
<b>Grand Total</b>				<b>308</b>

- \* These audits are conducted by our ARP partner authorities, which are reviewed by the Shared Internal Audit Manager of FDC before final reports are issued.

## Appendix B: Assurance Ratings:

An assurance rating is applied, when a system or process is reviewed, which reflects the effectiveness of the control environment. The text below is an indication of the different assurance ratings used:

Assurance	Description
Full	There is a sound system of control designed to proactively manage risks to objectives.
Substantial	There is a sound system of control, with further opportunity to improve controls which mitigate minor risks.
Adequate	There is a sound system of control, with further opportunity to improve controls which mitigate moderate risks.
Limited	There are risks without effective controls, which put objectives at risk.
None	There are significant risks without effective controls, which put the objectives at risk. Fraud and/or error are likely to exist


## Appendix C: Fundamental audit plan

This is the proposed plan for internal audit reviews of controls considered fundamental to the Council

System Name	2021/22	2022/23	2023/24	2024/25	2025/26	Current Overall assurance rating
Housing Benefits *	✓	✓	✓	✓	✓	Adequate
Council Tax *	✓	✓	✓	✓	✓	Adequate
Business Rates *	✓	✓	✓	✓	✓	Adequate
Capital Finance Planning & Asset Register		✓			✓	Substantial
Debtors and Collection Agency		✓			✓	Substantial
Creditors		✓			✓	Substantial
Corporate Finance - Budgetary Control			✓			Substantial
Cash & Treasury Management	✓			✓		Substantial
Corporate Finance - Management Accounting System	✓			✓		Substantial
Payroll	✓	✓	✓	✓	✓	Substantial

\* ARP Auditing arrangements in place allow for an audit to be undertaken every year on these services by our ARP Partner authorities.

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Agenda Item No:	9	
Committee:	Audit and Risk Management	
Date:	21 June 2021	
Report Title:	Internal Audit Charter	

## 1 Purpose / Summary

The Accounts & Audit Regulations 2015 require every local authority to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.

The attached “Internal Audit Charter” is a document that reflects best practice audit guidance and is reviewed every three years by the Audit and Risk Management Committee.

## 2 Key issues

- The “Charter” establishes the practices of the Internal Audit Team, for example:
  - the position of independence in the organisation,
  - establishing a right of access to all records, and
  - enabling the Internal Audit Manager to deliver an audit opinion.
- The “Charter” also incorporates additional objectives in respect of Risk Management, Corporate Governance and Anti-Fraud and Corruption.
- The “Charter” has been prepared according to ‘Public Sector Internal Audit Standards’ (PSIAS) and the “CIPFA Local Government Application Note for PSIAS” (LGAN).
- A comprehensive review was completed in 2013 following introduction of the PSIAS and LGAN. It was previously considered by Corporate Governance Committee (minute CGC 28/14). The PSIAS was reissued in April 2017 and some minor amendments were made to the Internal Audit Charter and considered by the Corporate Governance Committee (minute CGC38/17).
- In November 2017 an External Quality Assessment was undertaken by CIPFA which reviewed various internal audit documents including the Internal Audit Charter. As a result of this review only one minor change was suggested relating to the inclusion of the Mission Statement.
- The “CIPFA Local Government Application Note” was reissued in 2019 and this document has been considered in the current review of the “Charter”.
- Job titles, roles and terminology have been updated in the current review.
- All amendments have been highlighted in yellow.

## 3 Recommendations

It is recommended that the Audit and Risk Management Committee consider and approve the attached “Internal Audit Charter”.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/A
<b>Portfolio Holder(s)</b>	
<b>Report Originator(s)</b>	Kathy Woodward – Shared Internal Audit Manager
<b>Contact Officer(s)</b>	Peter Catchpole – Corporate Director & Chief Finance Officer Kathy Woodward – Shared Internal Audit Manager
<b>Background Paper(s)</b>	Accounts and Audit Regulations 2015 Public Sector Internal Audit Standards 2017 CIPFA Local Government Application Note 2019

## **4 Background / introduction**

- 4.1 The Internal Audit Charter defines the purpose, authority and responsibility of internal audit activities. It supports the Internal Audit plan and helps demonstrate compliance with professional standards.
- 4.2 The Charter is reviewed and presented every three years to confirm its ongoing validity and completeness. The document is based on standards established through the “CIPFA Local Government Application Note 2019 for the United Kingdom Public Sector Internal Audit Standards” (LGAN).
- 4.3 The standards cover the following areas:
- Definition of internal auditing;
  - Code of ethics;
  - Attributable standards (characteristics); and
  - Performance standards (activities and measurement)
- 4.4 The Chartered Institute of Public Finance & Accountancy (CIPFA) is a global body that represents the public sector accounting and auditing profession. They produce the LGAN to help Local Government Internal Audit teams operate effectively. Internal Audit teams have to demonstrate compliance with the LGAN, which is reported to the Committee annually.
- 4.5 The LGAN is based upon the “Public Sector Internal Audit Standards 2017” (PSIAS) which were published by the Institute of Internal Auditors (IIA). The IIA is a global body that represents Internal Auditors in both the public and private sector. They maintain an International Professional Practices Framework (IPPF) which establishes good practice in internal auditing. The IPPF has recently been reviewed, and the changes may also be adopted by CIPFA following consultation.

## **5 Considerations**

- 5.1 Both the PSIAS and LGAN became effective from April 2013, and a comprehensive review was completed to ensure that the “Charter” reflected the latest standards. This was presented to the Corporate Governance Committee in April 2013. The PSIAS was revised by the IIA in April 2016 and came into effect in April 2017. Following the revised standards a few minor changes were made to the Internal Audit Charter (minute CGC38/17).
- 5.2 The LGAN was reviewed and updated by CIPFA in 2019. Following the revised guidance, no significant changes have been identified as being required in the Internal Audit Charter.
- 5.3 In addition to the revised PSIAS guidelines, an external quality assessment was undertaken by CIPFA in November 2017. The assessment outlined suggestions and recommendations to ensure our Audit Charter complied with the PSIAS. Only one suggestion was made, for us to include the PSIAS mission statement in our ‘Charter’.
- 5.4 The Accounts and Audit regulations set the requirement to undertake an effective internal audit. The regulations have been updated to bring them closer to corporate governance requirements in the private sector, and elsewhere in the public sector. Consequently, there are some minor changes to terminology used. The requirement continues to be the same.

## **6 Effect on corporate objectives**

- 6.1 The Internal Audit Charter and Risk Based Plan supports the Council’s Local Code of Governance, which contributes to the Quality Organisation corporate objective.

## **7 Conclusions**

- 7.1 The “Charter” continues to reflect guidance set by the IIA and CIPFA.
- 7.2 It is good practice for the Audit and Risk Management Committee to review and approve the “Charter” periodically, as it supports the Internal Audit plan.

# Internal Audit Charter



## 1 Introduction

- 1.1 Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.
- 1.2 All principal local authorities in the UK must make provision for internal audit. In England this is covered by the 2015 Accounts and Audit Regulations (regulation 5) which requires that: 'a relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance'.
- 1.3 The Public Sector Internal Audit Standards (PSIAS) set the standard for internal Auditing. Their objective is to:
  - define the nature of internal auditing within the UK public sector
  - set basic principles for carrying out internal audit in the UK public sector
  - establish a framework for providing internal audit services, which add value to the organisation, leading to improved organisational processes and operations, and
  - establish the basis for the evaluation of internal audit performance and to drive improvement planning.
- 1.4 The PSIAS are mandatory and comprise:
  - Mission of Internal Audit
  - Definition of Internal Auditing
  - Core Principles for the Professional Practice of Internal Auditing
  - Code of ethics
  - Attributable standards (characteristics); and
  - Performance standards (activities and measurement).
- 1.5 The Chartered Institute of Public Finance and Accountancy (CIPFA) is a Relevant Internal Audit Standard Setter (RIASS) and are responsible for publishing guidance and Code of Practice to help Internal Audit deliver the PSIAS.
- 1.6 All Internal Audit activity is also carried out in accordance with corporate policy, with specific authority for Internal Audit contained in Financial Regulations C.16 to C.25.
- 1.7 Additional standards for conduct, procedure, and ethics are derived from the professional guidance. This includes the IIA Code of ethics, the CIPFA Code of ethics, plus any additional guidance considered "proper internal audit practices" referred to by the Accounts and Audit Regulations 2015.
- 1.8 The internal audit charter is a formal document that defines the internal audit activities purpose, authority and responsibility. It establishes the internal audit activity's position within the Council, including the nature of the Internal Audit Manager's functional reporting relationship with CMT and the **Audit and Risk Management Committee**; authorises access to records, personnel and physical properties relevant to the performance of work; and defines the scope of internal audit activities.
- 1.9 The existence of Internal Audit does not diminish the responsibility of management to establish systems of internal control to ensure that activities are conducted in a secure, efficient and well-ordered manner.

## **2 Objectives of Internal Audit**

- 2.1 The Mission of Internal Audit is to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.
- 2.2 The objectives of Internal Audit are designed to complement the Council's Corporate Priorities, and to add value and improve the Council's operations.
- 2.3 The PSIAS define Internal Audit activity as "assurance" and "consulting". All internal audit assurance and consulting services fall within the scope of the Definition of Internal Auditing.
- 2.4 The provision of assurance services is the primary role for internal audit in the UK public sector. This role requires the Internal Audit Manager to provide an annual internal audit opinion based on an objective assessment of the framework of governance, risk management and control.
- 2.5 Consulting services are advisory in nature and are generally performed at the specific request of the organisation, with the aim of improving governance, risk management and control and contributing to the overall opinion.
- 2.6 The internal audit activity must evaluate and contribute to the improvement of governance, risk management and control processes using a systematic and disciplined approach. Delivery of these objectives will include:
  - Supporting the Corporate Director & Chief Finance Officer to discharge their duties as the Council's "Section 151 Officer";<sup>1</sup>
  - promote and raise standards of a positive anti-fraud and corruption culture:
    - facilitate the corporate approach to anti-fraud & corruption
    - help management identify fraud and error risks;
    - provide investigation provision (excluding Housing / Council Tax Benefit fraud);
  - promote and raise standards of risk management:
    - support the corporate approach to risk management;
    - help management identify hazards and risks;
    - communicate risk and control information to appropriate areas of the Council;
  - promote and raise standards of internal control:
    - assist management with continuous improvement by identifying areas in need of improvement and recommending solutions to problems;
    - advise on internal control implications of new systems and changes to existing systems;
    - comply with laws, regulations and ethical standards;
    - assess information technology governance;
  - promote and raise standards of corporate governance:
    - support corporate governance, performance and risk management processes by continuous evaluation and promotion of tools and good practice;

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<sup>1</sup> Section 151 of the Local Government Act 1972 requires that an organisation must "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".

- include consideration of social concerns, including environmental, equality and community & customer service concerns, impacted upon by audit findings;
- promoting appropriate ethics and values within the organisation;
- evaluate the design, implementation and effectiveness of the organisation's ethics-related objectives, programmes and activities;
- promote and raise standards for efficiency and effectiveness
  - ensure when reviewing systems that consideration is given to identifying and reporting efficiency opportunities, and this work will be performed jointly with the Council's Policy & Communication Team;

### **3 Location of Internal Audit**

- 3.1 Internal Audit is located within the Policy, Resources and Customer Services team under the direction of the Corporate Director & Chief Finance Officer.
- 3.2 The Corporate Management Team is the 'Senior management' of the Council that review the Charter before it is placed before Audit and Risk Management Committee.
- 3.3 The Audit and Risk Management Committee is the 'Board' of the Council that approve the Charter.
- 3.4 The Internal Audit Manager shall report to Audit and Risk Management Committee:
  - the Internal Audit Charter;
  - the annual risk-based plan, including adequacy of resource;
  - regular performance and progress of the Internal Audit plan;
  - the opinion on assurance as to levels of internal control;
- 3.5 The Internal Audit Manager, in consultation with the Chief Finance Officer, will meet with the Audit and Risk Management Committee to discuss governance and risk. If required, the Internal Audit Manager can meet in private with the Corporate Director and Chief Finance Officer and Audit and Risk Management Committee, provided this complies with Committee's terms of reference.

### **4 Scope of Internal Audit**

- 4.1 A professional, independent and objective Internal Audit service is one of the key elements of good governance, as recognised throughout the UK public sector.
- 4.2 The scope of Internal Audit allows for unrestricted coverage of the authority's entire control environment, its partner organisation's activities and unrestricted access to all records and assets deemed necessary in the course of the assurance work. In addition, where required, the Internal Audit Manager will have unrestricted access to:
  - the Corporate Management Team;
  - members and the Audit and Risk Management Committee;
  - all Council employees;
  - partners and contractors where relevant;
- 4.3 The Internal Audit team aims to be approachable and accessible to all of the Council. A positive, open and communicative approach helps develop relationships for efficient audit work and fosters a proactive culture for management of risks.
- 4.4 The Internal Audit team will also support the Council by undertaking work that has the potential to improve management of risks, add value, and improve operations. This

could include membership and participation of corporate project groups and ad-hoc exercises.

- 4.5 Internal Audit must be objective and independent and must manage ethical risks that may undermine confidence in the team. Independence and objectivity will be considered prior to commencing any work, and any risks will be discussed prior to undertaking the work.
- 4.6 The allocation of auditor's work will be designed to ensure they are free from conflicts of interest, review of their own advice where they have been involved in the design of a process, policy or procedure.
- 4.7 As far as is practicable, Internal Audit will not participate in the day-to-day operation of any systems of internal financial control.

## **5 Audit style**

- 5.1 Internal Audit will adopt a risk-based approach to planning assurance work. The planned approach of audit work will be to minimise disruption to the customer and to maximise the efficiency of internal audit review.
- 5.2 The Internal Audit Manager will be required to manage the provision of a complete audit function to the authority which will include systems, regularity, computer and contract audit.
- 5.3 A strategic annual risk-based audit plan will be prepared, in consultation with the Corporate Management Team. It will be designed to review areas of significant risk in accordance with the Council's corporate priorities and risk appetite. The plan will be presented to the **Audit and Risk Management Committee** for agreement and determination of the adequacy of resources required to provide assurance. The risk-based plan will be continuously reviewed and updated in response to changes in risk.
- 5.4 Resources will be managed as planned, or as otherwise agreed with the Corporate Director where unforeseen circumstances arise, to best address the organisational and audit objectives.
- 5.5 Audit work will be supervised and reviewed to ensure that it is completed to consistent standard. This will form part of the continuous quality assurance programme.
- 5.6 Management actions, arising from audit assignments, will be followed-up and escalated where the management response is considered inadequate in relation to the identified risk.
- 5.7 Each area audited will include an opinion on the level of internal control. The approach will reflect the type of assurance work delivered and will contribute to the annual opinion.
- 5.8 Annual reports, and interim updates where appropriate, will be prepared on the work of Internal Audit. This will be agreed with the Corporate Director & Chief Finance Officer for presentation to the **Audit and Risk Management Committee**.
- 5.9 In order to promote Internal Audit, and to create opportunities for effective communication, as much audit work as possible will be done on location with staff whose area of work is being reviewed. If the teams already have regular contact with Internal Audit a lean testing approach will be considered for efficiency.

## **6 Audit resources**

- 6.1 An objective assessment of the resource requirements for Internal Audit shall be compiled annually for approval by the Corporate Director & Chief Finance Officer and presentation to the **Audit and Risk Management Committee** as part of the annual Risk Based Internal Audit plan.
- 6.2 Requests for unplanned work will be considered against capacity to ensure that internal audit's independence is not compromised, and the resource required to provide the annual audit opinion is not compromised.
- 6.3 The **Audit and Risk Management Committee** will be responsible for approving any new and significant work that requires a revision to the approved plan. A budgeted provision of contingency days will be retained for responsive work that has an insignificant impact to the plan.
- 6.4 Where appropriate Internal Audit will place assurance on the work completed by other assurance providers.
- 6.5 Upon request from the Corporate Director & Chief Finance Officer, appropriate specialists, from areas other than Internal Audit, may be made available to take part in any audit or audit related project requiring specialist knowledge. Working papers will be quality assured for consistency.

## **7 Audit competencies & training**

- 7.1 The effectiveness of the Internal Audit team depends significantly on the quality, training and experience of its staff. The team will maintain an appropriate mix of knowledge, skills, and competences, to deliver the audit plan.
- 7.2 The Internal Audit Manager will carry out a continuous review of the development and training needs of the Internal Audit team and will arrange training covering both internal and external courses. Specific resources will be devoted to specialised training as is deemed appropriate to support organisational priorities.
- 7.3 Training needs of individual staff members are identified, delivered, and monitored, through the Council's Springboard process. As well as basic training in audit techniques, and the acquisition of specialist audit skills, the Internal Audit team is committed to coaching and mentoring its staff, networking with other peer authorities, and to providing opportunities for appropriate professional development.
- 7.4 Internal auditors who work in the public sector must demonstrate ethical behaviour. The Internal Audit Manager will ensure that that the team is aware of:
  - CIPFA code of ethics
  - IIA code of ethics
  - Nolan Principles of Public Life

## **8 Audit reporting**

- 8.1 For each audit, a brief will be prepared, discussed, and agreed with relevant managers. The brief will establish the objectives, scope and timing for the assignment and its resource and reporting requirements.
- 8.2 All audit work will be the subject of formal reports or working papers.
- 8.3 Communication of results will, where appropriate, contain internal auditors' opinion and/or conclusions. When issued, an opinion or conclusion will take account of the expectations of the Corporate Management Team, the **Audit and Risk Management Committee**, other stakeholders, and will be supported by sufficient, reliable, relevant, and useful information. Communications will be accurate, objective, clear, concise, constructive, complete, and timely.
- 8.4 Draft reports will be sent to the managers responsible for the area under review for agreement of the factual accuracy of findings and audit recommendations.
- 8.5 Final reports will be issued to the Team Manager and Corporate Director for the area under review with copies sent to the Corporate Director and the Corporate Director & Chief Finance Officer. Reports will be issued by the Internal Audit Manager or reviewed by the Internal Audit Manager and delegated to the Internal Auditor completing the audit work.
- 8.6 In circumstances where it is not practical to report to the Line Manager because to do so may harm any further investigation or outcomes, then the Internal Audit Manager and Chief Finance Officer shall rely on their professional judgment and decide for the best interests of the Council whether to report matters internally, externally, and whether to inform the Chairman of the **Audit and Risk Management Committee**.
- 8.7 During consulting work, governance, risk management and control issues may be identified. Whenever these issues are significant to the Council, they will be communicated to the Corporate Management Team.

## **9 Quality assurance**

- 9.1 The Internal Audit Manager shall ensure a review of completed audit assignments for quality against relevant professional standards and will implement any necessary action in response to any weaknesses identified. The Internal Audit Manager shall utilise appropriate targets and measures to steer performance and quality.
- 9.2 Periodic feedback shall be obtained from users in respect of individual audits and the service as a whole.
- 9.3 Periodic Quality Assurance of the effectiveness of Internal Audit shall be performed on a cycle that complies with professional standards. This will typically be an internal independent review, completed annually by the Corporate Director & Chief Finance Officer. An external assessment will be conducted once every five years by a qualified, independent assessor to verify compliance. The outcome of the review will be reported annually to **Audit and Risk Management Committee**.

## 10 Glossary of terms

The following glossary is for key terms used in the PSIAS, LGAN and the Internal Audit Charter

Term	Long name	Description
IIA	Institute of Internal Auditors	Global profession representing Internal Auditors
PSIAS	Public Sector Internal Audit Standards	Definition, Code of Ethics and Standards set by the IIA
LGAN	CIPFA Local Government Application Note	Sector specific guidance to supplement the PSIAS, authored by CIPFA.
RIASS	Relevant Internal Audit Standard Setters	The professional bodies responsible for providing codes of practice to supplement the PSIAS
CIPFA	Chartered Institute of Public Finance & Accountancy	Public Sector RIASS for Local Government.
Board	Audit and Risk Management Committee	The Committee responsible for Corporate Governance as defined by the Code of Governance and the Council Constitution.
Senior management	Corporate Management Team	The Managers of the Council.
CAE	Chief Audit Executive	The post-holder responsible for the day to day management of the Internal Audit team. At FDC the post is called the Internal Audit Manager.
Assurance	Na	The provision of assurance services is the primary role for internal audit in the UK public sector. This role requires the Internal Audit Manager to provide an annual internal audit opinion based on an objective assessment of the framework of governance, risk management and control.
Consulting	Na	Consulting services are advisory in nature and are generally performed at the specific request of the organisation, with the aim of improving governance, risk management and control and contributing to the overall opinion.

Agenda Item No:	10	
Committee:	Audit and Risk Management Committee	
Date:	21 June 2021	
Report Title:	Regulation of Investigatory Powers Act (RIPA) - Update	

## 1 Purpose / Summary

This report gives Members an update on the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA). This is a regular update that advises Members about the Council's use of RIPA. The Council's current RIPA Policy is attached to this report as an Annex for information.

To update members in relation to the outcome of the external inspection of the Council's RIPA policy and procedures which were assessed by the Investigatory Powers Commissioner's Office (IPCO) earlier this year. Inspections take place every three years, the previous review took place during 2018.

## 2 Key issues

- RIPA allows Councils to carry out certain types of surveillance, when covert surveillance is assessed as being necessary and proportionate. RIPA has been utilised previously in relation to fly tipping, suspected benefit fraud investigations and antisocial behaviour. Evidence resulting from surveillance activities may be used by the Council in court proceedings. The Act details how surveillance must be controlled and undertaken.
- Good practice suggests that the Councils Audit and Risk Management Committee should review the operational use of RIPA on an annual basis as well as undertaking any updates and amendments to the Councils RIPA Policy.
- The Council has not used RIPA on any occasion during the past 12 months.
- IPCO is currently undertaking a programme of work in relation to compliance with the safeguarding measures regarding material acquired under RIPA and the Investigatory Powers Act 2016. As a result whilst the IPCO were satisfied with procedures undertaken by the Council in respect of RIPA the Inspector recommended that internal guidance is devised for use at practitioner level, to instruct staff on how to implement the safeguards in an operational context.

### 3 Recommendations

That the Audit and Risk Management Committee is requested to:

- Note this report.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/a
<b>Portfolio Holder(s)</b>	Cllr Chris Boden – Portfolio Holder for Finance
<b>Report Originator(s)</b>	Anna Goodall – Head of Transformation, Customer Services and Democracy
<b>Contact Officer(s)</b>	Peter Catchpole – Corporate Director Carol Pilson – Corporate Director Anna Goodall – Head of Service Amy Brown – Head of Service
<b>Background Paper(s)</b>	The Council's current RIPA Policy is attached to this report.

## Report:

### **1 Introduction**

- 1.1 RIPA allows Councils to undertake covert surveillance that can lead to gaining private information about individual residents. Such surveillance is only lawful if the actions are:-
- Necessary for the purpose of preventing or detecting crime or preventing disorder,
  - Proportionate. They must balance the effect on an individual's human rights with the gains from conducting the surveillance.
  - Non-discriminatory,
  - Lawful,
  - Approved by a Justice of the Peace in addition to an Authorising Officer of the Council.
- 1.2 The current RIPA policy is attached for information. The current RIPA Policy was approved by Council in September 2019.
- 1.3 RIPA has been utilised on 8 occasions during the past ten years as follows
1. In 2011 – 2014 inclusive, the Council did not use RIPA.
  2. It was used four times in 2015.
  3. In 2016 it was used twice
  4. In 2017 it was used twice
  5. During 2018 – 2021 inclusive, the Council has not use RIPA.
- 1.4 During the electronic inspection which took place earlier this year (February 2021) the IPCO inspector reviewed the existing RIPA Policy and suggested some minor typographical changes. No substantive changes were required.
- 1.5 The Inspector also explained that IPCO is currently undertaking a programme of work in relation to compliance with the safeguarding measures regarding material acquired under RIPA and the Investigatory Powers Act 2016; essentially how this is retained, reviewed and destroyed (RRD). IPCO have identified six action points which, once achieved will ensure the District Council reflects best practice in relation to safeguarding measures.
- 1.6 The IPCO Inspector highlighted that at present, the Council's Data Protection Policy does not refer specifically to material acquired using authorised covert activity. The RIPA Policy does however include a chapter on safeguarding. As a result the Inspector recommended that internal guidance is devised for use at practitioner level, to instruct staff on how to implement the safeguards in an operational context. This operational guidance is currently being finalised and once complete will be cross referenced in the RIPA policy.

## **2 Next steps**

2.1 Members are asked to note the contents of this report.

- It should be noted that the Council's RIPA policy is inspected by the Office of the Surveillance Commissioner every three years, the next inspection is due in 2024.

# **Regulation of Investigatory Powers Act 2000 (RIPA)**

## **Policy and Guidance**

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## **PART A Introduction & RIPA General**

### **1. Introduction**

- 1.1 The performance of certain investigatory functions of Local Authorities may require the surveillance of individuals or the use of undercover officers and informants. Such actions may intrude on the privacy of individuals and can result in private information being obtained and as such, should not be undertaken without full and proper consideration. The Regulation of Investigatory Powers Act 2000 (RIPA) governs these activities and provides a means of ensuring that they are carried out in accordance with law and subject to safeguards against abuse.

All surveillance activity can pose a risk to the Council from challenges under the Human Rights Act (HRA) or other processes. Therefore, it must be stressed that all staff involved in the process must take their responsibilities seriously which will assist with the integrity of the Council's processes, procedures and oversight responsibilities.

In preparing this policy the Council has followed the RIPA Codes of Practice (August 2018), Office of Surveillance Commissioners (OSC) Procedures and Guidance 2016 (still current).

If having read this document you are unclear about any aspect of the process, seek the advice from

- Carol Pilson Corporate Director Monitoring Officer – Senior Responsible Officer (SRO),
- Amy Brown Head of Service – RIPA Coordinator,
- Sam Anthony Head of Service – RIPA Authoriser.
- Peter Catchpole Corporate Director S151 Officer – RIPA Authoriser

### **2. Scope of Policy**

- 2.1 The purpose of this Policy is to ensure there is a consistent approach to the undertaking and authorisation of surveillance activity that is carried out by the Council. This includes the use of undercover officers and informants, known as Covert Human Intelligence Sources (CHIS). This will ensure that the Council complies with the Regulation of Investigatory Powers Act 2000 (RIPA).
- 2.2 This document provides guidance on the authorisation processes and the roles of the respective staff involved.
- 2.3 The policy also provides guidance on surveillance which is necessary to be undertaken by the authority but cannot be authorised under the RIPA legislation. This type of surveillance will have to be compliant with the Human Rights Act. (See Section 21).
- 2.4 The policy also identifies the cross over with other policies and legislation, particularly with the Data Protection Act and the Criminal Procedures Act.

- 2.5 All RIPA covert activity will have to be authorised and conducted in accordance with this policy, the RIPA legislation and Codes of Practice. Therefore, all officers involved in the process will have regard to this document and the statutory RIPA Codes of Practice issued under section 71 RIPA (current version issued in August 2018) for both Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS). The Codes of Practice are available from:

<https://www.gov.uk/government/collections/ripa-codes>

### 3. Background to RIPA and Lawful Criteria

- 3.1 On 2<sup>nd</sup> October 2000 the Human Rights Act 1998 (HRA) came into force making it potentially unlawful for a Local Authority to breach any article of the European Convention on Human Rights (ECHR).
- 3.2 Article 8 of the European Convention on Human Rights states that: -
- 1) Everyone has the right of respect for his private and family life, his home and his correspondence.
  - 2) There shall be no interference by a Public Authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals or for the protection of the rights and freedoms of others.
- 3.3 The right under Article 8 is a qualified right and Public Authorities can interfere with this right for the reasons given in 3.2 (2) above if it is necessary and proportionate to do so.
- 3.4 Those who undertake Directed Surveillance or CHIS activity on behalf of a Local Authority may breach an individual's Human Rights, unless such surveillance is **lawful**, consistent with Article 8 of the ECHR and is both **necessary** (see Part D section 43) and **proportionate** (see Part D section 44) to the matter being investigated.
- 3.5 RIPA provides the legal framework for lawful interference to ensure that any activity undertaken, together with the information obtained, is HRA compatible.
- 3.6 However, under RIPA, Local Authorities can now only authorise Directed Surveillance for the purpose of preventing or detecting conduct which constitutes a criminal offence which is punishable (whether on summary conviction or indictment) by a maximum term of at least six months imprisonment; (serious crime criteria) or involves the sale of alcohol or tobacco to children. (See Part B Section 15)
- 3.7 The **lawful criteria for CHIS** authorisation is **prevention and detection of crime and prevention of disorder** and the offence does not have to have a sentence of 6 months imprisonment.
- 3.8 Furthermore, the Council's authorisation can only take effect once an Order approving the authorisation has been granted by a Justice of the Peace (JP).
- 3.9 RIPA ensures that any surveillance which is undertaken following a correct authorisation and approval from a Justice of the Peace is lawful. Therefore, it

protects the authority from legal challenge. It also renders evidence obtained lawful for all purposes.

#### **4. Consequences of Not Following RIPA**

4.1 Although not obtaining authorisation does not make the authorisation unlawful per se, it does have significant consequences: -

- Evidence that is gathered may be inadmissible in court;
- The subjects of surveillance can bring their own claim on Human Rights grounds i.e. we have infringed their rights under Article 8;
- If a challenge under Article 8 is successful, the Council be subject to reputational damage and could face a claim for financial compensation;
- The Government has also introduced a system of tribunal to deal with complaints. Any person who believes that their rights have been breached can have their complaint dealt with by the Investigatory Powers Tribunal (IPTC) (See Complaints Part G section 67)
- It is likely that the activity could be construed as an error and therefore have to be investigated and a report submitted by the Senior Responsible Officer to the Investigatory Powers Commissioner's Office (IPCO). (See Part G Section 66 Errors)

#### **5. Independent Oversight**

5.1 RIPA was overseen by the Office of Surveillance Commissioners (OSC). However, from 1 Sept 2017 oversight is now provided by the Investigatory Powers Commissioner's Office (IPCO). They are the independent inspection office whose remit includes providing comprehensive oversight of the use of the powers to which the RIPA code applies, and adherence to the practices and processes described in it. They also provide guidance to be followed which is separate to the codes.

5.2 They have unfettered access to all locations, documentation and information systems as is necessary to carry out their full functions and duties and they will periodically inspect the records and procedures of the Council to ensure the appropriate authorisations have been given, reviewed, cancelled, and recorded properly.

5.3 It is the duty of any person who uses these powers to comply with any request made by a Commissioner to disclose or provide any information they require for the purpose of enabling them to carry out their functions. Therefore, it is important that the Council can show it complies with this Policy and with the provisions of RIPA.

## PART B Surveillance, Types and Criteria

### 6. Introduction

- 6.1 It is important to understand the definition of surveillance; what activities are classed as surveillance and the different types of surveillance covered by RIPA and the HRA. Surveillance can be both overt and covert and depending on their nature, are either allowed to be authorised under RIPA or not. There are also different degrees of authorisation depending on the circumstances.

### 7. Surveillance Definition

#### 7.1 Surveillance is:

- Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications.
- Recording anything monitored, observed or listened to in the course of surveillance, with or without the assistance of a device.

### 8. Overt Surveillance

- 8.1 Overt surveillance is where the subject of surveillance is aware that it is taking place. Either by way of signage such as in the use of CCTV or because the person subject of the surveillance has been informed of the activity. Overt surveillance is outside the scope of RIPA and therefore does not require authorisation. However, it still must take account of privacy under the Human Rights Act and be necessary and proportionate. Any personal data obtained will also be subject of the Data Protection Act.

### 9. Covert Surveillance

- 9.1 Covert Surveillance is defined as “surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place” and is covered by RIPA. Covert surveillance is categorised as either **intrusive** or **directed**.
- 9.2 There are three categories of covert surveillance regulated by RIPA: -
- 1) **Intrusive surveillance** (Local Authorities are not permitted to carry out intrusive surveillance).
  - 2) **Directed Surveillance**;
  - 3) **Covert Human Intelligence Sources** (CHIS);

## **10. Intrusive Surveillance**

- 10.1 Fenland District Council has no authority in law to carry out Intrusive Surveillance. It is only the Police and other law enforcement agencies that can lawfully carry out intrusive surveillance.
- 10.2 Intrusive surveillance is defined in section 26(3) of the 2000 Act as covert surveillance that:
- Is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
  - Involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.
- 10.3 Where surveillance is carried out in relation to anything taking place on any residential premises or in any private vehicle by means of a device, without that device being present on the premises, or in the vehicle, it is not intrusive unless the device consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle. Thus, an observation post outside premises, which provides a limited view and no sound of what is happening inside the premises, would not be considered as intrusive surveillance.
- 10.4 A risk assessment of the capability of equipment being used for surveillance on residential premises and private vehicles, such as high-powered zoom lenses, should be carried out to ensure that its use does not meet the criteria of Intrusive Surveillance.

## **11. Directed Surveillance Definition**

- 11.1 The Council can lawfully carry out Directed Surveillance. Surveillance is Directed Surveillance if the following are all true:
- It is covert, but not intrusive surveillance;
  - It is conducted for the purposes of a specific investigation or operation;
  - It is likely to result in the obtaining of private information (see private information below) about a person (whether or not one specifically identified for the purposes of the investigation or operation);
  - It is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought.

## **12. Private information**

- 12.1 By its very nature, surveillance may involve invading an individual's right to privacy. The level of privacy which individuals can expect depends upon the nature of the

environment they are in at the time. For example, within an individual's own home or private vehicle, an individual can expect the highest level of privacy. The level of expectation of privacy may reduce if the individual transfers out into public areas.

- 12.2 The Code of Practice provides guidance on what is private information. They state private information includes any information relating to a person's private or family life. As a result, private information is capable of including any aspect of a person's private or personal relationship with others, such as family and professional or business relationships.
- 12.3 Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a Public Authority of that person's activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites.
- 12.4 Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour, or if one or more pieces of information (whether or not available in the public domain) are covertly (or in some cases overtly) obtained for the purpose of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes covert surveillance, a Directed Surveillance authorisation may be considered appropriate.
- 12.5 Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a Directed Surveillance authorisation is appropriate.
- 12.6 Information which is non-private may include publicly available information such as, books, newspapers, journals, TV and radio broadcasts, newswires, websites, mapping imagery, academic articles, conference proceedings, business reports, and more. Such information may also include commercially available data where a fee may be charged, and any data which is available on request or made available at a meeting to a member of the public.
- 12.7 There is also an assessment to be made regarding the risk of obtaining collateral intrusion which is private information about persons who are not subjects of the surveillance (see Part D section 45).

### **13. Confidential or Privileged Material**

- 13.1 Particular consideration should be given in cases where the subject of the investigation or operation might reasonably assume a high degree of confidentiality. This includes where the material contains information that is legally privileged,

confidential journalistic material or where material identifies a journalist's source, where material contains confidential personal information or communications between a Member of Parliament and another person on constituency business. Directed Surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material must be authorised by the Chief Executive.

- 13.2 **Advice should be sought from Legal Services if there is a likelihood of obtaining this type of material.**

## 14. Lawful Grounds

- 14.1 As mentioned earlier the Lawful Grounds for Directed Surveillance is a higher threshold for Local Authorities and cannot be granted unless it is to be carried out for the purpose of preventing or detecting a criminal offence(s) and it meets the serious crime test i.e. that the criminal offence(s) which is sought to be prevented or detected is
- 1) Punishable, whether on summary conviction or on indictment, by a maximum term **of at least 6 months of imprisonment**, or,
  - 2) Would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933 (see 1.4 above). This is the only ground available to the Council and hence the only justification.
- 14.2 Preventing or detecting crime goes beyond the prosecution of offenders and includes actions taken to avert, end or disrupt the commission of criminal offences

## 15. Test Purchases

- 15.1 Test purchase activity does not in general require authorisation as a CHIS under RIPA as vendor-purchaser activity does not normally constitute a relationship as the contact is likely to be so limited. However, if a number of visits are undertaken at the same establishment to encourage familiarity, a relationship may be established and authorisation as a CHIS should be considered. If the test purchaser is wearing recording equipment and is not authorised as a CHIS, or an adult is observing, consideration should be given to granting a Directed Surveillance authorisation.
- 15.2 When conducting covert test purchase operations at more than one establishment, it is not necessary to construct an authorisation for each premise to be visited but the intelligence must be sufficient to prevent "fishing trips". Premises may be combined within a single authorisation provided that each is identified at the outset. Necessity, proportionality, and collateral intrusion must be carefully addressed in relation to each of the premises. It is unlikely that authorisations will be considered proportionate without demonstration that overt methods have been considered or attempted and failed. (Sec 245 OSC Procedures & Guidance 2016)

## **16. Urgent cases**

- 16.1 As from 1 November 2012 there is no provision to authorise urgent oral authorisations under RIPA for urgent cases as all authorisations have to be approved by a J.P. If surveillance was required to be carried out in an urgent situation or as an immediate response, this would still have to be justified as necessary and proportionate under HRA. This type of surveillance is surveillance outside of RIPA.

## **17. Surveillance for Preventing Disorder**

- 17.1 Authorisation for the purpose of preventing disorder can only be granted if it involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment. Surveillance for disorder not meeting these criteria would need to be carried out as surveillance outside of RIPA. (See below)

## **18. CCTV**

- 18.1 CCTV is now known as a Surveillance Camera Systems Section 29(6) Protection of Freedoms Act 2012. ∴ "Surveillance camera systems" is taken to include:

- (a) closed circuit television (CCTV) or automatic number plate recognition (ANPR) systems;
- (b) any other systems for recording or viewing visual images for surveillance purposes;

This includes

- CCTV;
  - Body Worn Video (BWV)
  - Automatic Number Plate Recognition;
  - Deployable mobile overt mobile camera systems.
  - Any other system for recording or viewing visual images for surveillance purposes;
  - Any systems for storing, receiving, transmitting, processing or checking images or information obtained by those systems; and
  - Any other systems associated with, or otherwise connected with those systems.
- 18.2 The use of the conventional town centre CCTV systems operated by the Council do not normally fall under the RIPA regulations. However, it does fall under the Data Protection Act 2018, the Surveillance Camera Code 2013, Information Commissioner's Office (ICO) 'In the picture: a data protection code of practice for surveillance cameras and personal information' and the Councils CCTV policy.

However, should there be a requirement for the CCTV cameras to be used for a specific purpose to conduct surveillance it is likely that the activity will fall under Directed Surveillance and therefore require an authorisation.

- 18.3 Operators of the Councils CCTV system need to be aware of the RIPA issues associated with using CCTV and that continued, prolonged systematic surveillance of an individual may require an authorisation.
- 18.4 On the occasions when the CCTV cameras are to be used in a Directed Surveillance situation either by enforcement officers from relevant departments within the Council or outside Law Enforcement Agencies such as the Police, the Fenland District Council CCTV policy should be followed where relevant as well as the RIPA Codes of Practice.
- 18.5 The CCTV staff are to have a copy of the authorisation form in a redacted format, or a copy of the authorisation page. If it is an urgent oral authority from the Police, a copy of the applicant's notes are to be retained or at least some other document in writing which confirms the authorisation and exactly what has been authorised. It is important that the staff check the authority and only carry out what is authorised. A copy of the application or notes is also to be forwarded to the central register for filing. This will assist the Council to evaluate the authorisations and assist with oversight.
- 18.6 The Surveillance Camera Code of Practice 2013 defines a 'surveillance camera system' as:
  - any other systems for recording or viewing visual images for surveillance purposes;
  - any systems for storing, receiving, transmitting, processing or checking the images or information obtained.
- 18.7 This definition will include body worn video (BWV) and overt cameras deployed to detect waste offences such as fly-tipping. This definition has far reaching implications as the use of any cameras that meet the requirement will have to be used in a manner that complies with the codes of practice mentioned above and the Data Protection Act.

## **19. Automatic Number Plate Recognition (ANPR)**

- 19.1 Automated Number Plate Recognition (ANPR) does not engage RIPA if it is used for the purpose it is registered for, such as traffic flow management or safety and enforcement within car parks. However, it is capable of being a surveillance device if used in a pre-planned way to carry out surveillance by monitoring a particular vehicle by plotting its locations, e.g. in connection with illegally depositing waste (fly-tipping).
- 19.2 Should it be necessary to use any ANPR systems to monitor vehicles, the same RIPA principles apply where a Directed Surveillance Authorisation should be sought.

## **20 Internet and Social Media Investigations**

- 20.1 Online open source research is widely regarded as the collection, evaluation and analysis of material from online sources available to the public, whether by payment or otherwise to use as intelligence and evidence.
- 20.2 The use of online open source internet and social media research techniques has become a productive method of obtaining information to assist the Council with its regulatory and enforcement functions. It can also assist with service delivery issues and debt recovery. However, the use of the internet and social media is constantly evolving and with it the risks associated with these types of enquiries, particularly regarding breaches of privacy under Article 8 Human Rights Act (HRA) and other operational risks.
- 20.3 The internet is another method of carrying out surveillance (See definition section 20) and a computer is a surveillance device. Repeat viewing of individual 'open source' sites for the purpose of intelligence gathering and data collation may constitute Directed Surveillance. Activities of monitoring through, for example, a Facebook profile for a period of time and a record of the information is kept for later analysis or evidential purposes is likely to require a RIPA authorisation. Where covert contact is made with another person on the internet a CHIS authority may be required.
- 20.4 Where this is the case, the application process and the contents of this policy is to be followed.
- 20.5 Where the activity falls within the criteria of surveillance or CHIS outside of RIPA, again this will require authorising on a non RIPA form which will be authorised internally.
- 20.6 There is a detailed separate corporate policy that covers online open source research which should be read and followed in conjunction with this policy.

## 21. Surveillance Outside of RIPA

- 21.1 As already explained, for Directed Surveillance the criminal offence must carry a **6-month prison sentence** (Directed Surveillance crime threshold) or relate to the sale of alcohol or tobacco to children. This means that there are scenarios within an investigation that do not meet this threshold, however it is necessary to undertake surveillance. This will fall outside of RIPA. Examples include:
- Surveillance for anti-social behaviour disorder which do not attract a maximum custodial sentence of at least six months imprisonment.
  - Planning enforcement prior to the serving of a notice or to establish whether a notice has been breached.
  - Most licensing breaches.
  - Safeguarding vulnerable people.
  - Civil matters.
- 21.2 In the above scenarios they are likely to be a targeted surveillance which are likely to breach someone's article 8 rights to privacy. Therefore, the activity should be

conducted in way which is HRA compliant, which will include necessary and proportionate.

## **22 Disciplinary Investigations**

- 22.1 Non RIPA surveillance also includes staff surveillance in serious disciplinary investigations. Guidance dictates that this type of surveillance must be compliant with the Monitoring at Work Guidance issued by the Information Commissioner. This is to ensure that it complies with the HRA.
- 22.2 Should the investigation also involve a criminal offence which meets the RIPA criteria such as fraud, the option to carry out the surveillance under RIPA should be considered. However, it must be a genuine criminal investigation with a view to prosecuting the offender.
- 22.3 Should it be necessary to undertake disciplinary surveillance advice should be sought from the Legal Services Team.
- 22.4 The RIPA codes also provide guidance that authorisation under RIPA is not required for the following types of activity:
- General observations as per section 3.33 in the codes of practice that do not involve the systematic surveillance of an individual or a group of people and should an incident be witnessed the officer will overtly respond to the situation.
  - Use of overt CCTV and Automatic Number Plate Recognition systems.
  - Surveillance where no private information is likely to be obtained.
  - Surveillance undertaken as an immediate response to a situation.
  - Covert surveillance not relating to criminal offence which carries a maximum sentence of 6 months imprisonment or relate to the sale of alcohol or tobacco to children (surveillance outside of RIPA).
  - The use of a recording device by a CHIS in respect of whom an appropriate use or conduct authorisation has been granted permitting them to record any information in their presence.
  - The covert recording of noise where the recording is of decibels only or constitutes non-verbal noise (such as music, machinery or an alarm), or the recording of verbal content is made at a level which does not exceed that which can be heard from the street outside or adjoining property with the naked ear. In the latter circumstance, the perpetrator would normally be regarded as having forfeited any claim to privacy. In either circumstance this is outside of RIPA.
- 22.5 As part of the process of formally recording and monitoring non RIPA surveillance, a non RIPA surveillance application form should be completed and authorised by an

Authorising Officer. (It has always been recommended that it should still be an AO. This will also improve their authorisation skills.) A copy of the non RIPA surveillance application form can be obtained from the RIPA Coordinator or Authorising Officer

- 22.6 The SRO will therefore maintain an oversight of non RIPA surveillance to ensure that such use is compliant with Human Rights legislation. The RIPA Co Ordinator will maintain a central record of non RIPA surveillance.

## **23. Joint Agency Surveillance**

- 23.1 In cases where one agency is acting on behalf of another, it is usually for the tasking agency to obtain or provide the authorisation. For example, where surveillance is carried out by Council employees on behalf of the Police, authorisation would be sought by the Police. If it is a joint operation involving both agencies, the lead agency should seek authorisation.
- 23.2 Council staff involved with joint agency surveillance are to ensure that all parties taking part are authorised on the authorisation form to carry out the activity. When staff are operating on another organisation's authorisation they are to ensure they see what activity they are authorised to carry out and make a written record. They should also provide a copy of the authorisation to the RIPA Co Ordinator. This will assist with oversight of the use of Council staff carrying out these types of operations. Line Managers should be made aware if their staff are involved in this type of surveillance.

## **24. Use of Third-Party Surveillance**

- 24.1 In some circumstances it may be appropriate or necessary for Fenland District Council to work with third parties who are not themselves a Public Authority (such as an individual, company or non-governmental organisation) to assist with an investigation. Where that third party is acting in partnership with or under the direction of the Council, then they are acting as our agent and any activities that the third party conducts which meet the RIPA definitions of Directed Surveillance should be authorised. This is because the agent will be subject to RIPA in the same way as any employee of the Council would be. The Authorising Officer should ensure that the agents are qualified or have the necessary skills to achieve the objectives. They should also ensure that they understand their obligations under RIPA. If advice is required, please contact the Senior Responsible Officer, RIPA Co-ordinator or Authorising Officer.
- 24.2 Similarly, a surveillance authorisation should also be considered where the Council is aware that a third party (that is not a Public Authority) is independently conducting surveillance and the Council intends to make use of any suitable material obtained by the third party for the purposes of a specific investigation.

## **25. Surveillance Equipment**

- 25.1 The Council will maintain a central register of all surveillance equipment such as cameras and noise monitoring devices. This will require a description, Serial Number, an explanation of its capabilities.
- 25.2 The register will be held and maintained by the RIPA Co-Ordinator. This equipment is available for all departments use.
- 25.3 All equipment capable of being used for Directed Surveillance such as cameras etc. should be fit for purpose for which they are intended.
- 25.4 When completing an Authorisation, the applicant must provide the Authorising Officer with details of any equipment to be used and its technical capabilities. The Authorising Officer will have to take this into account when considering the intrusion issues, proportionality and whether the equipment is fit for the required purpose. The Authorising Officer must make it clear on the Authorisation exactly what equipment if any they are authorising and in what circumstances.

## **PART C. Covert Human Intelligence Sources (CHIS)**

### **26. Introduction**

- 26.1 RIPA covers the activities of Covert Human Intelligence Sources (CHIS) which relates not only to sources commonly known as informants (members of the public providing the Council with information), but also the activities of undercover officers. It matters not whether they are employees of the Council, agents or members of the public engaged by the Council to establish or maintain a covert relationship with someone to obtain information.
- 26.2 Not all human source activity will meet the definition of a CHIS. For example, a source may be a public volunteer or someone who discloses information out of professional or statutory duty or has been tasked to obtain information other than by way of a covert relationship. However, Officers must be aware that such information may have been obtained in the course of an ongoing relationship with a family member, friend or business associate. The Council has a duty of care to all members of the public who provide information to us and appropriate measures must be taken to protect that source. How the information was obtained should be established to determine the best course of action. The source and information should also be managed correctly in line with the Criminal Procedures and Investigations Act (CPIA) and the disclosure provisions.
- 26.3 Recognising when a source becomes a CHIS is therefore important as this type of activity may need authorisation. Should a CHIS authority be required, all of the staff involved in the process should make themselves fully aware of the contents of this Policy and the CHIS codes of Practice.
- 26.4 A CHIS, their conduct, and the use to which they are put is defined within Section 26(7) and (8) of RIPA. Chapter 2 of the relevant Code provides examples of where this regime may apply.
- 26.5 Legal advice should always be sought where consideration is given to the use of CHIS.

## **27. Definition of CHIS**

- 27.1 Individuals act as a covert human intelligence sources (CHIS) if they:
- i) establish or maintain a covert relationship with another person to obtain information.
  - ii) covertly give access to information to another person, or
  - iii) disclose information covertly which they have obtained using the relationship or they have obtained because the relationship exists.
- 27.2 A relationship is established, maintained or used for a covert purpose if and only if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose. This does not mean the relationship with the Council Officer and the person providing the information, as this is not covert. It relates to how the information was either obtained or will be obtained. Was it or will it be obtained from a third party without them knowing it was being passed on to the Council? This would amount to a covert relationship.
- 27.3 It is possible, that a person will become engaged in the conduct of a CHIS without a public authority inducing, asking or assisting the person to engage in that conduct. An authorisation should be considered, for example, where a public authority is aware that a third party is independently maintaining a relationship (i.e. “self-tasking”) in order to obtain evidence of criminal activity, and the public authority intends to make use of that material for its own investigative purposes. (Section 2.26 Codes of CHIS Codes of Practice)

## **28. Vulnerable and Juvenile CHIS**

- 28.1 Special consideration must be given to the use of a Vulnerable Individual as a CHIS. A ‘Vulnerable Individual’ is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself, or unable to protect himself against significant harm or exploitation. Any individual of this description, or a Juvenile as defined below, should only be authorised to act as a source in the most exceptional circumstances and only then when authorised by the Chief Executive (or, in his absence, the Corporate Director – Monitoring Officer).
- 28.2 Special safeguards also apply to the use or conduct of Juvenile Sources; that is sources under the age of 18 years. On no occasion should the use or conduct of a source under 16 years of age be authorised to give information against his parents or any person who has parental responsibility for him.
- 28.3 If the use of a Vulnerable Individual or a Juvenile is being considered as a CHIS you must consult Legal Services before authorisation is sought as authorisations should not be granted in respect of a Juvenile CHIS unless the special provisions contained within the Regulation of Investigatory Powers (Juveniles) Order 2000; SI No. 2793 are satisfied.

## 29. Lawful Criteria

- 29.1 The lawful criteria for CHIS authorisation is **prevention and detection of crime and prevention of disorder**. The serious crime criteria of the offence carrying a 6-month sentence etc. does not apply to CHIS.
- 29.2 Authorisations for Juvenile Sources must be authorised by the Chief Executive of the Council (or, in their absence, the Corporate Director – Monitoring Officer).

## 30. Conduct and Use of a Source

- 30.1 The way the Council use a CHIS for covert activities is known as 'the use and conduct' of a source.
- 30.2 The use of a CHIS involves any action on behalf of a Public Authority to induce, ask or assist a person to engage in the conduct of a CHIS, or to obtain information by means of the conduct of a CHIS.
- 30.3 The conduct of a CHIS is establishing or maintaining a personal or other relationship with another person for the covert purpose of:
  - a. Using such a relationship to obtain information, or to provide access to information to another person, or
  - b. Disclosing information obtained by the use of such a relationship or as a consequence of such a relationship or
  - c. Is incidental to anything falling within a and b above.
- 30.4 In other words, an authorisation for conduct will authorise steps taken by the CHIS on behalf, or at the request, of a Public Authority.
- 30.5 The use of a source is what the Authority does in connection with the source, such as tasking (see section 33), and the conduct is what a source does to fulfil whatever tasks are given to them or which is incidental to it. The Use and Conduct require separate consideration before authorisation. However, they are normally authorised within the same authorisation.
- 30.6 The same authorisation form is utilised for both use and conduct. A Handler and Controller must also be designated, as part of the authorisation process (see Part E and section 42), and the application can only be authorised if necessary and proportionate. Detailed records of the use, conduct and tasking of the source also have to be maintained (see section 37).
- 30.7 Care should be taken to ensure that the CHIS is clear on what is or is not authorised at any given time, and that all the CHIS's activities are properly risk assessed. Care should also be taken to ensure that relevant applications, reviews, renewals and cancellations are correctly performed. (Section 210 CHIS Codes of Practice)
- 30.8 Careful consideration must be given to any particular sensitivities in the local community where the CHIS is being used and of similar activities being undertaken by other public authorities which could have an impact on the deployment of the CHIS. Consideration should also be given to any adverse impact on community

confidence or safety that may result from the use or conduct of a CHIS or use of information obtained from that CHIS. (Section 3.18 CHIS Codes of Practice)

### 31. Handler and Controller

31.1 Covert Human Intelligence Sources may only be authorised if the following arrangements are in place:

- That there will at all times be an officer (the **Handler**) within the Council who will have day to day responsibility for dealing with the source on behalf of the authority, and for the source's security. The Handler is likely to be the investigating officer.
- That there will at all times be another officer within the Council who will have general oversight of the use made of the source; (**Controller**) i.e. the line manager.
- That there will at all times be an officer within the Council who has responsibility for maintaining a record of the use made of the source. See CHIS record keeping (see Section 37)

31.2 The **Handler** will have day to day responsibility for:

- Dealing with the source on behalf of the Local Authority concerned;
- Risk assessments
- Directing the day to day activities of the source;
- Recording the information supplied by the source; and
- Monitoring the source's security and welfare.
- Informing the Controller of concerns about the personal circumstances of the CHIS that might effect the validity of the risk assessment or conduct of the CHIS

31.3 The **Controller** will be responsible for:

- The management and supervision of the "Handler" and
- General oversight of the use of the CHIS;
- maintaining an audit of case work sufficient to ensure that the use or conduct of the CHIS remains within the parameters of the extant authorisation.

### 32. Undercover Officers

32.1 Oversight and management arrangements for **undercover operatives**, while following the principles of the Act, will differ, in order to reflect the specific role of

such individuals as members of the Council. The role of the handler will be undertaken by a person referred to as a '**cover officer**'. (Section 6.9 CHIS Codes of Practice).

### **33. Tasking**

- 33.1 Tasking is the assignment given to the source by the Handler or Controller such as by asking them to obtain information, to provide access to information or to otherwise act, incidentally, for the benefit of the relevant Local Authority. Authorisation for the use or conduct of a source is required prior to any tasking where such tasking requires the source to establish or maintain a personal or other relationship for a covert purpose.
- 33.2 In some instances, the tasking given to a person will not require the source to establish a personal or other relationship for a covert purpose. For example, a member of the public is asked to maintain a record of all vehicles arriving and leaving a specific location or to record the details of visitors to a neighbouring house. A relationship has not been established or maintained in order to gather the information and a CHIS authorisation is therefore not available. Other authorisations under the Act, for example, Directed Surveillance, may need to be considered where there is a possible interference with the Article 8 rights of an individual.
- 33.3 Authorisations should not be drawn so narrowly that a separate authorisation is required each time the CHIS is tasked. Rather, an authorisation might cover, in broad terms, the nature of the source's task.

### **34. Risk Assessments**

- 34.1 The Council has a responsibility for the safety and welfare of the source and for the consequences to others of any tasks given to the source. It is a requirement of the codes that a risk assessment is carried out. This should be submitted with the authorisation request. The risk assessment should provide details of how the CHIS is going to be handled. It should also take into account the safety and welfare of the CHIS in relation to the activity and should consider the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS after the cancellation of the authorisation should also be considered at the outset.

### **35. Use of Equipment by a CHIS**

- 35.1 If a CHIS is required to wear or carrying a surveillance device such as a covert camera it does not need a separate intrusive or Directed Surveillance authorisation, provided the device will only be used in the presence of the CHIS. It should be authorised as part of the conduct of the CHIS.
- 35.2 CHIS, whether or not wearing or carrying a surveillance device, in residential premises or a private vehicle, does not require additional authorisation to record any activity taking place inside those premises or that vehicle which takes place in their presence. This also applies to the recording of telephone conversations. This should have been identified at the planning stage.

## **36. CHIS Management**

- 36.1 The operation will require managing by the Handler and Controller which will include ensuring that the activities of the source and the operation remain focused and there is no status drift. It is important that the intrusion is assessed to ensure the operation remains proportionate. The security and welfare of the source will also be monitored. The Authorising Officer should maintain general oversight of these functions.
- 36.2 During CHIS activity, there may be occasions when unforeseen actions or undertakings occur. Such incidences should be recorded as soon as practicable after the event and if the existing authorisation is insufficient, it should either be dealt with by way of a review and re-authorised (for minor amendments only) or it should be cancelled, and a new authorisation obtained before any further action is carried out. Similarly, where it is intended to task a CHIS in a new significantly different way than previously identified, the proposed tasking should be referred to the Authorising Officer, who should consider whether a separate authorisation is required. This should be done in advance of any tasking and details of such referrals must be recorded.

## **37. CHIS Record Keeping**

### **37.1 Centrally Retrievable Record of Authorisations**

- 37.2 A centrally retrievable record of all authorisations is held by Fenland District Council. This record contains the relevant information to comply with the Codes of Practice. These records are updated whenever an authorisation is granted, renewed or cancelled and are available to the Investigatory Powers Commissioner (IPCO) upon request.
- 37.3 The records are retained for 5 years from the ending of the authorisation.

### **37.4 Individual Source Records of Authorisation and Use of CHIS**

- 37.5 Detailed records must be kept of the authorisation and the use made of a CHIS. An authorising officer must not grant an authorisation for the use or conduct of a CHIS unless they believe that there are arrangements in place for ensuring that there is at all times a person with the responsibility for maintaining a record of the use made of the CHIS. The Regulation of Investigatory Powers (Source Records) Regulations 2000; SI No: 2725 details the particulars that must be included in these records.
- 37.6 The particulars to be contained within the records are;
- a. The identity of the source;
  - b. The identity, where known, used by the source;

- c. Any relevant investigating authority other than the authority maintaining the records;
- d. The means by which the source is referred to within each relevant investigating authority;
- e. Any other significant information connected with the security and welfare of the source;
- f. Any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
- g. The date when, and the circumstances in which the source was recruited;
- h. Identity of the Handler and Controller (and details of any changes)
- i. The periods during which those persons have discharged those responsibilities;
- j. The tasks given to the source and the demands made of him in relation to his activities as a source;
- k. All contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- l. The information obtained by each relevant investigating authority by the conduct or use of the source;
- m. Any dissemination by that authority of information obtained in that way; and
- n. In the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

37.7 The person maintaining these records is the RIPA Co-ordinator

37.8 Public authorities are also encouraged to maintain auditable records for individuals providing intelligence who do not meet the definition of a CHIS. This will assist authorities to monitor the status of a human source and identify whether that person should be duly authorised as a CHIS. This should be updated regularly to explain why authorisation is not considered necessary. Such decisions should rest with those designated as Authorising Officers within Public Authorities. (Section 7.5 CHIS Codes of Practice).

### 37.9. Further Documentation

37.10 In addition to the above, when appropriate records or copies of the following, as are retained by Fenland District Council for 5 years:

- A copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer;
- A copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- The reason why the person renewing an authorisation considered it necessary to do so;
- Any authorisation which was granted or renewed orally (in an urgent case) and the reason why the case was considered urgent;
- Any risk assessment made in relation to the CHIS;
- The circumstances in which tasks were given to the CHIS;
- The value of the CHIS to the investigating authority;
- A record of the results of any reviews of the authorisation;
- The reasons, if any, for not renewing an authorisation;
- The reasons for cancelling an authorisation; and
- The date and time when any instruction was given by the authorising officer that the conduct or use of a CHIS must cease.
- A copy of the decision by a Judicial Commissioner on the renewal of an authorisation beyond 12 months (where applicable).

37.11 The records kept by the Council should be maintained in such a way as to preserve the confidentiality, or prevent disclosure of the identity of the CHIS, and the information provided by that CHIS. (Sec 7.7 CHIS Codes of Practice)

37.12 The forms are available in the Appendices: Current link to the Home office Forms is <https://www.gov.uk/government/collections/ripa-forms--2>

- [Application for the conduct or use of Covert Human Intelligence Source \(CHIS\)](#)
- [Review of a Covert Human Intelligence Source \(CHIS\) operation](#)

- [Application for renewal of a Covert Human Intelligence Source \(CHIS\) operation](#)
- [Cancellation of an authorisation for a Covert Human Intelligence Source \(CHIS\) operation](#)

References in these forms to the 'Code' are to the [Covert Human Intelligence Sources Code of Practice](#), which should be consulted for further guidance.

## **PART D. RIPA Roles and Responsibilities**

### **38. The Senior Responsible Officer (SRO)**

38.1 The nominated Senior Responsible Officer is Carol Pilson Corporate Director – Monitoring Officer. The SRO with responsibilities for:

- The integrity of the process in place within Fenland District Council to authorise Directed and Intrusive Surveillance;
- Compliance with the relevant sections of RIPA and the Codes of Practice;
- Oversight of the reporting of errors to the Investigatory Powers Commissioner (IPC) and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- Engagement with the Investigatory Powers Commissioner Office (IPCO) and the inspectors who support the Commissioner when they conduct their inspections;
- Where necessary, overseeing the implementation of any recommended post-inspection action plans and
- Ensuring that all Authorising Officers are of an appropriate standard, addressing any recommendations and concerns in the inspection reports prepared by the Investigatory Powers Commissioner.

### **39. RIPA Co-Ordinator**

39.1 The RIPA Co-Ordinator Amy Brown – Head of Governance and Legal Services is responsible for storing all the original authorisations, reviews, renewals and cancellation forms and the signed approval or refusal documentation from the JP. This will include any authorisations that have not been authorised by the Authorising Officer or refused by a JP.

39.2 The RIPA Co-ordinator will: -

- Keep the copies of the forms for a period of at least 5 years
- Keep the Central Register (a requirement of the Codes of Practice) of all of the authorisations, renewals and cancellations; and Issue the unique reference number.
- Keep a database for identifying and monitoring expiry dates and renewal dates.
- Along with, Directors, Service Managers, Authorising Officers, and the Investigating Officers must ensure that any electronic and paper records relating to a RIPA investigation are used, retained or destroyed in line with the Councils Information Management policies, departmental retention schedules and the Data Protection Act 2008. (DPA)
- Provide administrative support and guidance on the processes involved.
- Monitor the authorisations, renewals and cancellations with a view to ensuring consistency throughout the Council;
- Monitor each department's compliance and act on any cases of non-compliance;
- Ensure adequate training is provided including guidance and awareness of RIPA and the provisions of this Policy; and Review the contents of this Policy.

#### **40. Managers Responsibility and Management of the Activity**

- 40.1 Line Managers within each area of the Council are responsible for ensuring that in all cases where surveillance is required, due consideration is given to the need for covert surveillance before an application is made for authorisation. That includes the consideration of using overt action, routine enquiries or inspections which are less intrusive.
- 40.2 If authorised it is important that all those involved in undertaking Directed Surveillance activities, including Line managers, are fully aware of the extent and limits of the authorisation. There should be an ongoing assessment for the need for the activity to continue including ongoing assessments of the intrusion. All material obtained, including evidence, should be stored in line with relevant legislation and procedures to safeguard its integrity and reduce a risk of challenge. (See use of material as evidence (Section 61))
- 40.3 Line Managers should also ensure that the relevant reviews (see section 53), renewals (see section 54) and cancellations (see section 55) are completed by the applicant in accordant with the codes and the dates set throughout the process.

#### **41. Investigating Officers/Applicant**

- 41.1 The applicant is normally an investigating officer who completes the application section of the RIPA form. Investigating Officers should think about the need to undertake Directed Surveillance or the use of a CHIS before they seek authorisation and discuss it with their Line manager. Investigating Officers need to consider whether they can obtain the information or achieve their objective by using techniques other than covert surveillance.
- 41.2 The applicant or some other person must carry out a feasibility study as this should be seen by the Authorising Officer. The person seeking the authorisation should then complete the application form having regard to the guidance given in this Policy and the statutory Codes of Practice. There should not be any real delay between the feasibility study and the completion of the application form to ensure that the details within the application are accurate and will not have changed. The form should then be submitted to the Authorising Officer for authorisation.
- 41.3 The applicant is likely to attend court to seek the approval of a JP. and if approved and involved in the covert activity they must only carry out what is authorised and approved. They, or some other person will also be responsible for the submission of any reviews (see section 53) renewals (see section 54) and cancellations (see section 55).

## **42. Authorising Officers**

- 42.1 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 prescribes that for Local Authorities the Authorising Officer shall be a Director, Head of Service, Service Manager or equivalent as distinct from the officer responsible for the conduct of an investigation.
- 42.2 Appendix A lists the Authorising Officers within the Council who can grant authorisations all of which are Director or Head of Service level Officers.
- 42.3 The role of the Authorising Officers is to consider whether to authorise, review, or renew an authorisation. They must also officially cancel the RIPA covert activity. Authorising Officers must have been trained to an appropriate level so as to have an understanding of the requirements in the Codes of Practice and that must be satisfied before an authorisation can be granted.
- 42.4 Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved. Where an Authorising Officer authorises such an investigation or operation, the central record of authorisations should highlight this, and it should be brought to the attention of a Commissioner or Inspector during their next inspection.
- 42.5 Authorisations must be given in writing by the Authorising Officer by completing the relevant section on the authorisation form. When completing an authorisation, the case should be presented in a fair and balanced way. In particular, all reasonable efforts should be made to take into account information which weakens the case for the authorisation.

- 42.6 Authorising Officers must explain why they believe the activity is both necessary (see section 43) and proportionate (see section 44), having regard to the collateral intrusion. They must also consider any similar activity which may be taking place, or sensitivities in the area.
- 42.7 They also need to explain exactly what they are authorising, against who, in what circumstances, where etc. and that the level of the surveillance is appropriate to achieve the objectives. It is important that this is made clear on the authorisation as the surveillance operatives are only allowed to carry out what is authorised. This will assist with avoiding errors.
- 42.8 If any equipment such as covert cameras are to be used, the Authorising Officer should know the capability of the equipment before authorising its use. This will have an impact on collateral intrusion, necessity and proportionality. They should not rubber-stamp a request. It is important that they consider all the facts to justify their decision. They may be required to justify their actions in a court of law or some other tribunal.
- 42.9 The Authorising Officer may be required to attend court to explain what has been authorised and why.
- 42.10 Authorised Officers must acquaint themselves with the relevant Codes of Practice issued by the Home Office regarding RIPA and the current Procedures and Guidance issued by the Commissioner. This document also details the latest operational guidance to be followed. It is recommended that Authorising Officers hold their own copy of this document. This can be obtained from The RIPA Coordinator.

### **43 Necessity**

- 43.1 Obtaining an authorisation under RIPA will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for these activities to take place.
- 43.2 The Act first requires that the person granting an authorisation believe that the authorisation is necessary in the circumstances of the particular case for one or more of the statutory grounds which for Local Authority Directed Surveillance is the prevention and detection of crime and that the crime attracts a custodial sentence of a maximum of 6 months or more, or for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco.
- 43.3 The lawful criteria for CHIS is prevention and detection of crime and prevention of disorder and the offence does not have to have a sentence of 6 months imprisonment.
- 43.4 The applicant and Authorising Officers must also be able to demonstrate why it is necessary to carry out the covert activity to achieve the objectives and that there were no other means of obtaining the same information in a less intrusive method. This is a part of the authorisation form.

### **44. Proportionality**

- 44.1 If the activities are deemed necessary, the Authorising Officer must also believe that they are proportionate to what is sought to be achieved by carrying them out. This

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

- 44.2 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render the proposed actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.
- 44.3 When explaining proportionality, the Authorising Officer should explain why the methods and tactics to be adopted during the surveillance is not disproportionate.
- 44.4 The codes provide guidance relating to proportionality which should be considered by both applicants and Authorising Officers:
- Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
  - Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
  - Considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
  - Evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

## **45. Collateral Intrusion**

- 45.1 Before authorising applications for Directed Surveillance, the Authorising Officer should also take into account the risk of obtaining collateral intrusion which is private information about persons who are not subjects of the surveillance.
- 45.2 Staff should take measures, wherever practicable, to avoid or minimise unnecessary intrusion into the privacy of those who are not the intended subjects of the surveillance. Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this intrusion is considered proportionate to what is sought to be achieved. The same proportionality tests apply to anticipated collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance.

45.3 All applications must therefore include an assessment of the risk of collateral intrusion and detail the measures taken to limit this to enable the Authorising Officer fully to consider the proportionality of the proposed actions. This is detailed in a section within the authorisation form (Contained within the following link) <https://www.gov.uk/government/collections/ripa-forms--2>

- 45.4 In order to give proper consideration to collateral intrusion, an Authorising Officer should be given full information regarding the potential scope of the anticipated surveillance, including the likelihood that any equipment deployed may cause intrusion on persons or property other than the subject(s) of the application. If an automated system such as an online search engine is used to obtain the information, the Authorising Officer should be made aware of its potential extent and limitations. Material which is not necessary or proportionate to the aims of the operation or investigation should be discarded or securely retained separately where it may be required for future evidential purposes. It may also need retaining under CPIA. The Authorising Officer should ensure appropriate safeguards for the handling, retention or destruction of such material, as well as compliance with Data Protection Act requirements.
- 45.5 Where it is proposed to conduct surveillance activity specifically against individuals who are not suspected of direct or culpable involvement in the overall matter being investigated, interference with the privacy of such individuals should not be considered as collateral intrusion but rather as intended intrusion.
- 45.6 In the event that authorised surveillance unexpectedly and unintentionally interferes with the privacy of any individual other than the intended subject, the authorising officer should be informed by submitting a review form. Consideration should be given in any such case to the need for any separate or additional authorisation.
- 45.7 Where a Public Authority intends to access a social media or other online account to which they have been given access with the consent of the owner, the authority will still need to consider whether the account(s) may contain information about others who have not given their consent. If there is a likelihood of obtaining private information about others, the need for a Directed Surveillance authorisation should be considered, particularly (though not exclusively) where it is intended to monitor the account going forward.

## **PART E. The Application and Authorisation Process**

### **46. Relevant Forms**

- 46.1 For both Directed Surveillance and CHIS authorisations there are 4 forms within the process. They are:
- Authorisation
  - Review
  - Renewal
  - Cancellation
- 46.2 All the forms can be obtained from the Government Website at <https://www.gov.uk/government/collections/ripa-forms--2>

## 47. Duration of Authorisations

- 47.1 Authorisations must be given for the maximum duration from the Date approved by the JP/Magistrate but reviewed on a regular basis and formally cancelled when no longer needed. They do not expire, they must be cancelled when the surveillance is no longer proportionate or necessary. Therefore, a Directed Surveillance authorisation will cease to have effect after three months from the date of approval by the Magistrate unless renewed or cancelled. Durations detailed below:

**Directed Surveillance** 3 Months

**Renewal** 3 Months

**Covert Human Intelligence Source** 12 Months

**Renewal** 12 months

**Juvenile Sources** 4 Months

**Renewal** 4 Months

- 47.2 It is the responsibility of the Investigating Officer to make sure that the authorisation is still valid when they undertake surveillance.

## 48. Applications/Authorisation

- 48.1 The applicant or some other person must carry out a feasibility study and intrusion assessment as this may be required by the Authorising Officer. The person seeking the authorisation should then complete the application form having regard to the guidance given in this Policy and the statutory Codes of Practice. There should not be any real delay between the feasibility study and the completion of the application form to ensure that the details within the application are accurate and will not have changed. The form should then be submitted to the Authorising Officer for authorisation.
- 48.2 When completing an application for authorisation, the applicant must ensure that the case for the authorisation is presented in the application in a fair and balanced way. In particular, all reasonable efforts should be made to take into account information which weakens the case for the warrant or authorisation. This is a requirement of the codes.
- 48.3 All the relevant sections must be completed with sufficient information to ensure that applications are sufficiently detailed for the Authorising Officer to consider Necessity, Proportionality having taken into account the Collateral Intrusion issues **Cutting and pasting or using template entries should not take place as this would leave the process open to challenge.**
- 48.4 If it is intended to undertake both Directed Surveillance and the use of a CHIS on the same surveillance subject, the respective authorisation should be completed and the respective procedures followed. Both activities should be considered separately on their own merits.

- 48.5 All applications will be submitted to the Authorising Officer via the Line Manager of the appropriate enforcement team in order that they are aware of the application and activities being undertaken by the staff. The Line Manager will perform an initial quality check of the application. However, they should not be involved in the sanctioning of the authorisation. The form should then be submitted to the Authorising Officer.
- 48.6 Applications whether authorised or refused will be issued with a unique number (obtained from the RIPA Co-Ordinator) by the line manager. The number will be taken from the next available number in the central record of authorisations which is held by the RIPA Coordinator.
- 48.7 If not authorised, feedback will be provided to the applicant and the application will be forwarded to the RIPA Co-Ordinator for recording and filing. If having received the feedback, the applicant feels it is appropriate to re submit the application, they can do so and it will then be considered again.

48.8 Following authorisation, the applicant will then complete the relevant section of the judicial application/order form (Contained within the following link) <https://www.gov.uk/government/collections/ripa-forms--2>

Although this form requires the applicant to provide a brief summary of the circumstances of the case, this is supplementary to and does not replace the need to supply a copy and the original RIPA authorisation as well.

## **49. Arranging the Court Hearing**

- 49.1 It will be necessary within office hours to contact the administration at the Magistrates' Court to arrange a hearing. The hearing will be in private and heard by a single JP. The application to the JP will be on oath.
- 49.2 Officers who may present the application at these proceedings will need to be formally designated by the Council under section 223 of the Local Government Act 1972 to appear, be sworn in and present evidence or information as required by the JP. If in doubt as to whether you are able to present the application seek advice from the Legal Services Team.

## **50. Attending the Hearing**

- 50.1 The applicant in addition to the Authorising Officer will attend the hearing. Upon attending the hearing, the officer must present to the JP the partially completed judicial application/order form, the original and a copy of the RIPA application/authorisation form, together with any supporting documents setting out the case. The original RIPA authorisation should be shown to the JP but will be retained by the Council so that it is available for inspection by IPCO, and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT).

50.2 The JP will read and consider the RIPA authorisation and the judicial application/order form (contained within the following link) <https://www.gov.uk/government/collections/ripa-forms--2>

They may have questions to clarify points or require additional reassurance on particular matters. These questions are supplementary to the content of the application form. **However, the forms and supporting papers must by themselves make the case. It is not sufficient for the Council to provide oral evidence where this is not reflected or supported in the papers provided.**

- 50.3 The JP will consider whether they are satisfied that at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. In addition, they must be satisfied that the person who granted the authorisation was an appropriate Designated Person within the Council to authorise the activity and the authorisation was made in accordance with any applicable legal restrictions, for example, the crime threshold for Directed Surveillance.

## **51. Decision of the Justice of the Peace (JP)**

- 51.1 The JP has a number of options which are:
- 51.2 **Approve or renew an authorisation.** If approved by the JP, the date of the approval becomes the commencement date for the duration of the three months and the officers are now allowed to undertake the activity.
- 51.3 **Refuse to approve or renew an authorisation.** The RIPA authorisation will not take effect and the Council may **not** use the technique in that case.
- 51.4 Where an application has been refused, the applicant may wish to consider the reasons for that refusal. If more information was required by the JP to determine whether the authorisation has met the tests, and this is the reason for refusal, the officer should consider whether they can reapply. For example, if there was information to support the application which was available to the Council, but not included in the papers provided at the hearing.
- 51.5 For, a technical error (as defined by the JP), the form may be remedied without going through the internal authorisation process again. The officer may then wish to reapply for judicial approval once those steps have been taken.
- 51.6 **Refuse to approve or renew and quash the authorisation.** This applies where the JP refuses to approve or renew the authorisation and decides to quash the original authorisation. However, the court must not exercise its power to quash the authorisation unless the applicant has had at least 2 business days from the date of the refusal in which to make representations. If this is the case, the officer will inform the Legal who will consider whether to make any representations.
- 51.7 The JP will record their decision on the order section of the judicial application/order form. The court administration will retain a copy of the Council's RIPA application and authorisation form and the judicial application/order form. The officer will retain the original authorisation and a copy of the judicial application/order form.
- 51.8 The Council may only appeal a JP decision on a point of law by judicial review. If such a concern arises, the Legal Services Team will decide what action if any should be taken.
- 51.9 There is a Home Office chart showing the above procedure at Appendix **B**

## **52. Post Court Procedure**

- 52.1 It will be necessary to work out the cancellation date from the date of approval and ensure that the applicant and the Authorising Officer is aware. The original application and the copy of the judicial application/order form should be forwarded to the RIPA Co-Ordinator. A copy will be retained by the applicant and if necessary by the Authorising Officer. The central register will be updated with the relevant information to comply with the Codes of Practice and the original documents filed and stored securely.
- 52.2 Where dates are set within the process such as reviews, they must be adhered to. This will help with demonstrating that the process has been managed correctly in line with the Codes of Practice and reduce the risk of errors.

## **53. Reviews**

- 53.1 When an application has been authorised and approved by a JP, regular reviews must be undertaken by the Authorising Officer to assess the need for the surveillance to continue.
- 53.2 In each case the Authorising Officer should determine how often a review should take place at the outset. This should be as frequently as is considered necessary and practicable. Particular attention is drawn to the need to review authorisations frequently where the surveillance provides a high level of intrusion into private life or significant collateral intrusion, or confidential information. They will record when they are to take place on the application form. This decision will be based on the circumstances of each application. However, reviews will be conducted on a monthly or less basis to ensure that the activity is managed. It will be important for the Authorising Officer to be aware of when reviews are required to ensure that the applicants submit the review form on time.
- 53.3 Applicants should submit a review form by the review date set by the Authorising Officer. They should also use a review form for changes in circumstances to the original application which would include a change to the level of intrusion so that the need to continue the activity can be re-assessed. However, if the circumstances or the objectives have changed considerably, or the techniques to be used are now different, a new application form should be submitted, and it will be necessary to follow the process again and be approved by a JP. The applicant does not have to wait until the review date if it is being submitted for a change in circumstances.
- 53.4 Line managers of applicants should also make themselves aware of when the reviews are required to ensure that the relevant forms are completed on time.
- 53.5 The reviews are dealt with internally by submitting the review form to the Authorising Officer. There is no requirement for a review form to be submitted to a JP.
- 53.6 The results of a review should be recorded on the central record of authorisations.

## **54. Renewal**

- 54.1 A renewal form is to be completed by the applicant when the original authorisation period is about to expire but Directed Surveillance or the use of a CHIS is still required.
- 54.2 Should it be necessary to renew an authorisation for Directed Surveillance or CHIS, this must be approved by a JP.
- 54.3 Applications for renewals should not be made until shortly before the original authorisation period is due to expire. However, they must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant Authorising Officer and a JP to consider the application).
- 54.4 The applicant should complete all the sections within the renewal form and submit the form to the Authorising Officer for consideration.
- 54.5 Authorising Officers should examine the circumstances with regard to Necessity, Proportionality and the Collateral Intrusions issues before making a decision to renew the activity. A CHIS application should not be renewed unless a thorough review has been carried out covering the use made of the source, the tasks given to them and information obtained. The Authorising Officer must consider the results of the review when deciding whether to renew or not. The review and the consideration must be documented.
- 54.6 If the Authorising Officer refuses to renew the application, the cancellation process should be completed. If the Authorising Officer authorises the renewal of the activity, the same process is to be followed as mentioned earlier for the initial application whereby approval must be sought from a JP.
- 54.7 A renewal takes effect on the day on which the authorisation would have ceased and lasts for a further period of three months.

## **55. Cancellation**

55.1 The cancellation form (contained in the following link) <https://www.gov.uk/government/collections/ripa-forms--2>

is to be submitted by the applicant or another investigator in their absence. The Authorising Officer who granted or last renewed the authorisation must cancel it if they are satisfied that the Directed Surveillance no longer meets the criteria upon which it was authorised. Where the Authorising Officer is no longer available, this duty will fall on the person who has taken over the role of Authorising Officer or the person who is acting as Authorising Officer.

- 55.2 As soon as the decision is taken that Directed Surveillance should be discontinued, the applicant or other investigating officer involved in the investigation should inform the Authorising Officer. The Authorising Officer will formally instruct the investigating officer to cease the surveillance, noting the time and date of their decision. This will be required for the cancellation form. The date and time when such an instruction was given should also be recorded in the central record of authorisations.
- 55.3 The Investigating Officer submitting the cancellation should complete in detail the relevant sections of the form and include the period of surveillance and detail if any images were obtained, particularly any images containing innocent third parties. The

Authorising Officer should then take this into account and issues instructions regarding the management and disposal of the images etc. See sections 58 to 65 Safeguarding and the Use of Surveillance Material below.

- 55.4 The cancellation process should also be used to evaluate whether the objectives have been achieved and whether the applicant carried out what was authorised. This check will form part of the oversight function. Where issues are identified including errors (see Part G) they will be brought to the attention of the Line Manager and the Senior Responsible Officer (SRO). This will assist with future audits and oversight and comply with the Codes of Practice.
- 55.5 When cancelling a CHIS authorisation, an assessment of the welfare and safety of the source should also be assessed and any issues identified.
- 55.6 All cancellations must be submitted to the RIPA Co-Ordinator for inclusion in the central Record and storing securely with the other associated forms.
- 55.7 Do not wait until the 3 month period is up to cancel. Cancel it at the earliest opportunity when no longer necessary and proportionate. Line Managers should be aware of when the activity needs cancelling and ensure that staff comply with the procedure.**

## Part F Central Record and Safeguarding the Material

### 56. Introduction

- 56.1 Authorising Officers, applicants and Line Managers of relevant enforcement departments may keep whatever records they see fit to administer and manage the RIPA application process. This includes the legal obligations under the Criminal Procedures and Investigations Act. However, this will not replace the requirements under the Codes of Practice, which includes the fact that the Council must hold a centrally held and retrievable record.

### 57. Central Record

- 57.1 The centrally retrievable record of all authorisations will be held and maintained by Amy Brown - RIPA Co-Ordinator. It will be regularly updated whenever an authorisation is applied for, refused, granted, renewed or cancelled. The record will be made available to the relevant Commissioner or an Inspector from IPCO, upon request.
- 57.2 All original authorisations and copies of Judicial applications/order forms whether authorised or refused, together with review, renewal and cancellation documents, must be sent within 48 hours to Amy Brown – RIPA Co-Ordinator who will be responsible for maintaining the central record of authorisations. They will ensure that all records are held securely with no unauthorised access. If in paper format, they must be forwarded in a sealed envelope marked confidential.

57.3 The documents contained in the centrally held register should be retained for at least three years from the ending of the authorisation or for the period stipulated by the Council's document retention policy, whichever is greater. The centrally held register contains the following information:

- If refused, (the application was not authorised by the AO) a brief explanation of the reason why. The refused application should be retained as part of the central record of authorisation;
- If granted, the type of authorisation and the date the authorisation was given;
- Details of attendances at the magistrates' court to include the date of attendances at court, the determining magistrate, the decision of the court and the time and date of that decision;
- Name and rank/grade of the authorising officer;
- The unique reference number (URN) of the investigation or operation;
- The title of the investigation or operation, including a brief description and names of subjects, if known;
- Frequency and the result of each review of the authorisation;
- If the authorisation is renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer and the date renewed by the JP;
- Whether the investigation or operation is likely to result in obtaining confidential information as defined in this code of practice;
- The date the authorisation was cancelled;
- Authorisations by an Authorising Officer where they are directly involved in the investigation or operation. If this has taken place it must be brought to the attention of a Commissioner or Inspector during their next RIPA inspection.

57.4 As well as the central record the RIPA Co-Ordinator will also retain:

- The original of each application, review, renewal and cancellation, copy of the judicial application/order form, together with any supplementary documentation of the approval given by the Authorising Officer;
- The frequency and result of reviews prescribed by the Authorising Officer;
- The date and time when any instruction to cease surveillance was given;
- The date and time when any other instruction was given by the Authorising Officer;
- A record of the period over which the surveillance has taken place. This should have been included within the cancellation form.

- 57.5 These documents will also be retained for three years from the ending of the authorisation.

## **58. Safeguarding and the Use of Surveillance Material**

- 58.1 This section provides guidance on the procedures and safeguards to be applied in relation to the handling of any material obtained through Directed Surveillance or CHIS activity. This material may include private, confidential or legal privilege information. It will also show the link to other relevant legislation.
- 58.2 The Council should ensure that their actions when handling information obtained by means of covert surveillance or CHIS activity comply with relevant legal frameworks and the Codes of Practice, so that any interference with privacy is justified in accordance with Article 8(2) of the European Convention on Human Rights. Compliance with these legal frameworks, including Data Protection requirements, will ensure that the handling of private information obtained continues to be lawful, justified and strictly controlled, and is subject to robust and effective safeguards. The material will also be subject to the Criminal Procedures Investigations Act (CPIA)

## **59. Authorised Purpose**

- 59.1 Dissemination, copying and retention of material must be limited to the minimum necessary for authorised purposes. For the purposes of the RIPA codes, something is necessary for the authorised purposes if the material:
- Is, or is likely to become, necessary for any of the statutory purposes set out in the RIPA Act in relation to covert surveillance or CHIS activity;
  - Is necessary for facilitating the carrying out of the functions of public authorities under RIPA;
  - Is necessary for facilitating the carrying out of any functions of the Commissioner or the Investigatory Powers Tribunal;
  - Is necessary for the purposes of legal proceedings; or
  - Is necessary for the performance of the functions of any person by or under any enactment.

## **60. Handling and Retention of Material**

- 60.1 As mentioned above, all material associated and obtained with an application will be subject of the provisions of the Data Protection Act (DPA) 2018 and CPIA Codes of Practice. All officers involved within this process should make themselves aware of the provisions within this legislation and how it impacts on the whole RIPA process. Material obtained, together with relevant associated paperwork should be held

securely. Extra care needs to be taken if the application and material relates to a CHIS.

- 60.2 Material required to be retained under CPIA should be retained until a decision is taken whether to institute proceedings against a person for an offence or if proceedings have been instituted, at least until the accused is acquitted or convicted or the prosecutor decides not to proceed with the case.
- 60.3 Where the accused is convicted, all material which may be relevant must be retained at least until the convicted person is released from custody, or six months from the date of conviction, in all other cases.
- 60.4 If the court imposes a custodial sentence and the convicted person is released from custody earlier than six months from the date of conviction, all material which may be relevant must be retained at least until six months from the date of conviction.
- 60.5 If an appeal against conviction is in progress when released, or at the end of the period of six months, all material which may be relevant must be retained until the appeal is determined.
- 60.6 If retention is beyond these periods it must be justified under DPA. Each relevant service within the Council may have its own provisions under their Data Retention Policy which will also need to be consulted to ensure that the data is retained lawfully and for as long as is necessary.

## **61. Use of Material as Evidence**

- 61.1 Material obtained through Directed Surveillance, may be used as evidence in criminal proceedings. The admissibility of evidence is governed primarily by the common law, the Criminal Procedure and Investigations Act 1996 (CPIA), the Civil Procedure Rules, section 78 of the Police and Criminal Evidence Act 1996 and the Human Rights Act 1998.
- 61.2 Ensuring the continuity and integrity of evidence is critical to every prosecution. Accordingly, considerations as to evidential integrity are an important part of the disclosure regime under the CPIA and these considerations will apply to any material acquired through covert surveillance that is used in evidence. When information obtained under a covert surveillance authorisation is used evidentially, the Council will be able to demonstrate how the evidence has been obtained, to the extent required by the relevant rules of evidence and disclosure.
- 61.3 Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements. In a criminal case the codes issued under CPIA will apply. They require that the investigator record and retain all relevant material obtained in an investigation and later disclose relevant material to the Prosecuting Solicitor. They in turn will decide what is disclosed to the Defence Solicitors.
- 61.4 There is nothing in RIPA which prevents material obtained under Directed Surveillance authorisations from being used to further other investigations

## **62. Dissemination of Information**

- 62.1 It may be necessary to disseminate material acquired through the RIPA covert activity within Fenland District Council or shared outside with other Councils or agencies, including the Police. The number of persons to whom any of the information is disclosed, and the extent of disclosure, should be limited to the minimum necessary. It must also be in connection with an authorised purpose as set out in sec 59 above. It will be necessary to consider exactly what and how much information should be disclosed. Only so much of the material may be disclosed as the recipient needs; for example, if a summary of the material will suffice, no more than that should be disclosed.
- 62.2 The obligations apply not just to Fenland District Council as the original authority acquiring the information, but also to anyone to whom the material is subsequently disclosed. In some cases, this will be achieved by requiring the latter to obtain permission from Fenland District Council before disclosing the material further. It is important that the Officer In Charge (OIC) of the enquiry considers these implications at the point of dissemination to ensure that safeguards are applied to the data.
- 62.3 A record will be maintained justifying any dissemination of material. If in doubt, seek advice.

## **63. Storage**

- 63.1 Material obtained through covert surveillance and CHIS authorisations, and all copies, extracts and summaries of it, must be handled and stored securely, so as to minimise the risk of loss. It must be held so as to be inaccessible to persons who are not required to see the material (where applicable). This requirement to store such material securely applies to all those who are responsible for the handling of the material. It will be necessary to ensure that both physical and IT security and an appropriate security clearance regime is in place to safeguard the material.

## **64. Copying**

- 64.1 Material obtained through covert surveillance may only be copied to the extent necessary for the authorised purposes set out above. Copies include not only direct copies of the whole of the material, but also extracts and summaries which identify themselves as the product of covert surveillance, and any record which refers to the covert surveillance and the identities of the persons to whom the material relates.
- 64.2 In the course of an investigation, Fenland District Council must not act on or further disseminate legally privileged items unless it has first informed the Investigatory Powers Commissioner that the items have been obtained.

## **65. Destruction**

- 65.1 Information obtained through covert surveillance, and all copies, extracts and summaries which contain such material, should be scheduled for deletion or destruction and securely destroyed as soon as they are no longer needed for the

authorised purpose(s) set out above. If such information is retained, it should be reviewed at appropriate intervals to confirm that the justification for its retention is still valid. In this context, destroying material means taking such steps as might be necessary to make access to the data impossible.

## Part G. Errors and Complaints

### 66. Errors

66.1 Errors can have very significant consequences on an affected individual's rights. Proper application of the surveillance and CHIS provisions in the RIPA codes and this Policy should reduce the scope for making errors.

66.2. There are two types of errors within the codes of practice which are:

- Relevant error and
- Serious error.

#### 66.3 Relevant Error

66.4 An error must be reported if it is a “**relevant error**”. A relevant error is any error by a Public Authority in complying with any requirements that are imposed on it by any enactment which are subject to review by a Judicial Commissioner. This would include compliance by public authorities with Part II of the 2000 Act (RIPA). This would include with the content of the Codes of Practice.

66.5 Examples of relevant errors occurring would include circumstances where:

- Surveillance activity has taken place without lawful authorisation.
- There has been a failure to adhere to the safeguards set out in the relevant statutory provisions and Chapter 9 of the Surveillance Codes of Practice relating to the safeguards of the material.

66.6 All relevant errors made by Public Authorities must be reported to the Investigatory Powers Commissioner by the Council as soon as reasonably practicable and a full report no later than ten working days. The report should include information on the cause of the error; the amount of surveillance conducted, and material obtained or disclosed; any unintended collateral intrusion; any analysis or action taken; whether any material has been retained or destroyed; and a summary of the steps taken to prevent recurrence.

#### 66.7 Serious Errors

66.8 The Investigatory Powers Commissioner must inform a person of any relevant error relating to that person if the Commissioner considers that the error is a serious error and that it is in the public interest for the person concerned to be informed of the

error. The Commissioner may not decide that an error is a serious error unless they consider that the error has caused significant prejudice or harm to the person concerned. The fact that there has been a breach of a person's Convention rights (within the meaning of the Human Rights Act 1998) is not sufficient by itself for an error to be a serious error.

- 66.9 It is important that all staff involved in the RIPA process report any issues, so they can be assessed as to whether it constitutes an error which requires reporting.

## **67. Complaints**

- 67.1 Any person who reasonably believes they have been adversely affected by surveillance activity by or on behalf of the Council may complain to the Borough Solicitor who will investigate the complaint. A complaint can also be made to the official body which is the Investigatory Powers Tribunal (IPT). They have jurisdiction to investigate and determine complaints against any Public Authority's use of RIPA powers, including those covered by this Policy.

- 67.2 Complaints should be addressed to:

The Investigatory Powers Tribunal

PO Box 33220

London

SW1H 9ZQ

Agenda Item No:	11	
Committee:	Audit and Risk Management Committee	
Date:	21 June 2021	
Report Title:	Corporate Risk Register review	

## 1 Purpose / Summary

- To provide an update to the Audit and Risk Management Committee on the Council's Corporate Risk Register.

## 2 Key issues

- The Council's Risk Management Strategy ensures the effective maintenance of a risk management framework by:-
  - embedding risk management across core management functions;
  - providing tools to identify and respond to internal and external risk;
  - linking risks to objectives within services and regularly reviewing these.
- The Audit and Risk Management Committee has asked that the Council's Corporate Risk Register is reviewed and presented to it quarterly.
- The latest Corporate Risk Register (**Appendix A**) is attached to this report.

## 3 Recommendations

- The latest Corporate Risk Register is agreed as attached at Appendix A to this report.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/A
<b>Portfolio Holder(s)</b>	Cllr Chris Boden – Leader and Portfolio Holder for Corporate Governance
<b>Report Originator(s)</b>	Sam Anthony – Head of HR&OD
<b>Contact Officer(s)</b>	Paul Medd – Chief Executive Peter Catchpole –Corporate Director & Chief Finance Officer Carol Pilson – Corporate Director Sam Anthony – Head of HR&OD
<b>Background Paper(s)</b>	Previous reviews of the Corporate Risk Register: minutes of Audit and Risk Management Committee

## **4 Background / introduction**

- 4.1 This is the latest quarterly update in respect of the Corporate Risk register.

## **5 Considerations**

- 5.1 The Council has seven considerations when considering risk:-
- Performance – can we still achieve our objectives?
  - Service delivery – will this be disrupted and how do we ensure it continues?
  - Injury – how do we avoid injuries and harm?
  - Reputation - how is the Council's reputation protected?
  - Environment – how do we avoid and minimise damage to it?
  - Financial – how do we avoid losing money?
  - Legal – how do we reduce the risk of litigation?
- 5.2 Members and Officers share responsibility for managing risk:-
- Members - have regard for risk in making decisions
  - Audit and Risk Management Committee – oversee management of risk
  - Corporate Management Team – maintain strategic risk management framework
  - Risk Management Group – Lead Officers across the Council promote risk management and a consistent approach to it
  - Managers – identify and mitigate new risks, ensure teams manage risk
  - All staff – manage risk in their jobs and work safely.
- 5.3 Risk is scored by impact and likelihood. Each have a score of 1-5 reflecting severity. The overall score then generates a risk score if no action is taken, together with a residual risk score after mitigating action is taken to reduce risk to an acceptable level.
- 5.4 The level of risk the Council deems acceptable is the “risk appetite”. The Council accepts a “medium risk appetite” in that it accepts some risks are inevitable and acceptable whereas others may not be acceptable.
- 5.5 Managers consider risks as part of the annual service planning process. Each service has a risk register with the highest risks being reported at a strategic level, forming the Corporate Risk Register. The Corporate Management Team, supported by the Risk Management Group ensures that the highest risks are regularly reviewed and mitigating action undertaken.
- 5.6 The Corporate Risk Register is very much a “living document”; the Audit and Risk Management Committee reviews it quarterly.
- 5.7 Where exceptional new risks present themselves, they can be referred to Audit and Risk Management Committee urgently as appropriate.
- 5.8 Risk appetite has been considered. The Council takes a medium risk appetite, accepting that the current climate in Local Government is subject to great change and that some risks are necessary in order for the Council to move forward and continue to deliver high quality, cost-effective services. This information has been added i to the attached document to provide further clarity. As a result of this; in some instances it is

not possible to significantly reduce residual risk. Having said this, some decisions may need to be made in a timely manner and this could increase risk appetite accordingly. The Council's overall risk appetite should be reviewed regularly.

- 5.9 Risk awareness is embedded across the Council. Whilst the Risk Management Strategy sets out how all levels of Officers should understand and take risk into account, it is important that risk awareness and management is integral to the Council's culture. To achieve this, risk awareness and training are important. This information has also been added in to the attached document to provide further clarity.
- 5.10 It is important that Members have regard for risk when considering matters and making decisions at Council, Cabinet and Committees. In addition, Audit and Risk Management Committee must take a strategic overview of risk and consider the highest risks to the Council as set out in the Corporate Risk Register.

## **6 Changes to the Corporate Risk Register**

- 6.1 The Risk Register has been reviewed by the Corporate Risk Management Group and Corporate Management Team, with all recommended changes highlighted in green. Additional actions taken to mitigate the impact of the Covid-19 pandemic situation have been incorporated into the Risk Register.
- 6.2 Mitigating actions and progress have been updated.
- 6.3 Commentary regarding all risks and action being taken to ensure current risks are minimised has been updated in the Risk Register.
- 6.4 All updates are highlighted in green.
- 6.5 The register also includes some narrative around the Risk Management Process (at section 2); the Monitoring and Escalation Framework (at section 4); the Risk Appetite and tolerance levels; and a heat map showing all the residual risks at page 28.

## **7 Next steps**

- 7.1 Officers will continue to bring a reviewed and updated Corporate Risk Register to Audit and Risk Management Committee on a regular basis.

## **8 Conclusions**

- 8.1 The risk management process provides assurance for the Annual Governance Statement, which is substantiated by reports from the Council's External Auditors in their issuance of an unqualified audit opinion.
- 8.2 Regular review (and updating as appropriate) of the Risk Management Strategy and Corporate Risk Register will further build the assurance required above.

# Corporate risk register

Reviewed and updated **June 2021**

## **1 Introduction**

- 1.1 This is the latest Corporate Risk Register. Please refer to the Council's Corporate Risk Strategy for further information about how the Council approaches risk management. Actions and comments for each risk have been revised and other changes are highlighted in green.

## **2 Risk Management process**

- 2.1 Risk Management is designed to identify what could affect the achievement of objectives, and to plan a proportionate response.
- 2.2 The Council's approach to Risk Management is documented within the Risk Management Framework. It aims to ensure that risks are identified for both strategic and operational activity. This includes:
- corporate and service priorities;
  - project management;
  - decision-making and policy setting; and
  - financial and performance monitoring and planning.
- 2.3 The Risk Management Framework provides tools to manage risks for the different types of system and control environment; such as the Corporate Risk Register to capture and summarise significant and strategic risks; team risk registers which help inform service planning and actions; risk and hazard identification documents are shared with management as appropriate during audit reviews; and health and safety risk assessments which are updated annually by teams.
- 2.4 The frequency and mechanism for monitoring risks reflects the type of monitoring system, and the pace of changing circumstances, for example:
- Project risks will be recorded in project risk registers, and are reviewed frequently throughout the projects life.
  - Operational risks are identified through audit and inspection work, and are assigned dates and ownership.
  - Operational risks are identified through service planning and are linked to the service plan actions. These are typically monitored monthly through team meetings as part of the Councils Performance Management framework.
- 2.5 The Annual Governance Statement records governance actions, which are reviewed biannually as good practice. The Corporate Risk Register comprises strategic and significant risks. The register can both inform and reflect risks recorded in other risk management systems. It may refer to more detailed analysis of risks, presented to committees, such as the Medium Term Financial Strategy. Appropriately, mitigation may be linked to specific actions recorded and monitored through service plans, or committee forward plans.
- 2.6 Risks are categorised, and scored according to their impact and likelihood. This activity allows managers, to prioritise resources to mitigate them. Strategic and significant risks are defined by the Councils risk appetite.
- 2.7 The outcomes of this process are reported to the Audit and Risk Management Committee at least twice each year in the form of the attached Corporate Risk Register.

- 2.8 The review of the Risk Management Framework, Policy and Strategy, will be reported to the Audit and Risk Management Committee at least annually. The Risk Management process, and register, will provide assurance for the Annual Governance Statement.

### 3. How risks are scored

- 3.1 The Council has adopted a consistent scoring mechanism for all risk identification, as it enables risks identified from other systems to be escalated to the Corporate Risk Register.
- 3.2 The probability - “likelihood”, and effect - “impact”, of each risk must be identified in order to help assess the significance of the risk and the subsequent effort put into managing it.
- 3.3 The risk score is calculated by multiplying the impact score by the likelihood score:

IMPACT	
Score	Classification
1	Insignificant
2	Minor
3	Moderate
4	Major
5	Catastrophic



LIKELIHOOD	
Score	Classification
1	Highly unlikely
2	Unlikely
3	Possible
4	Probable
5	Very likely

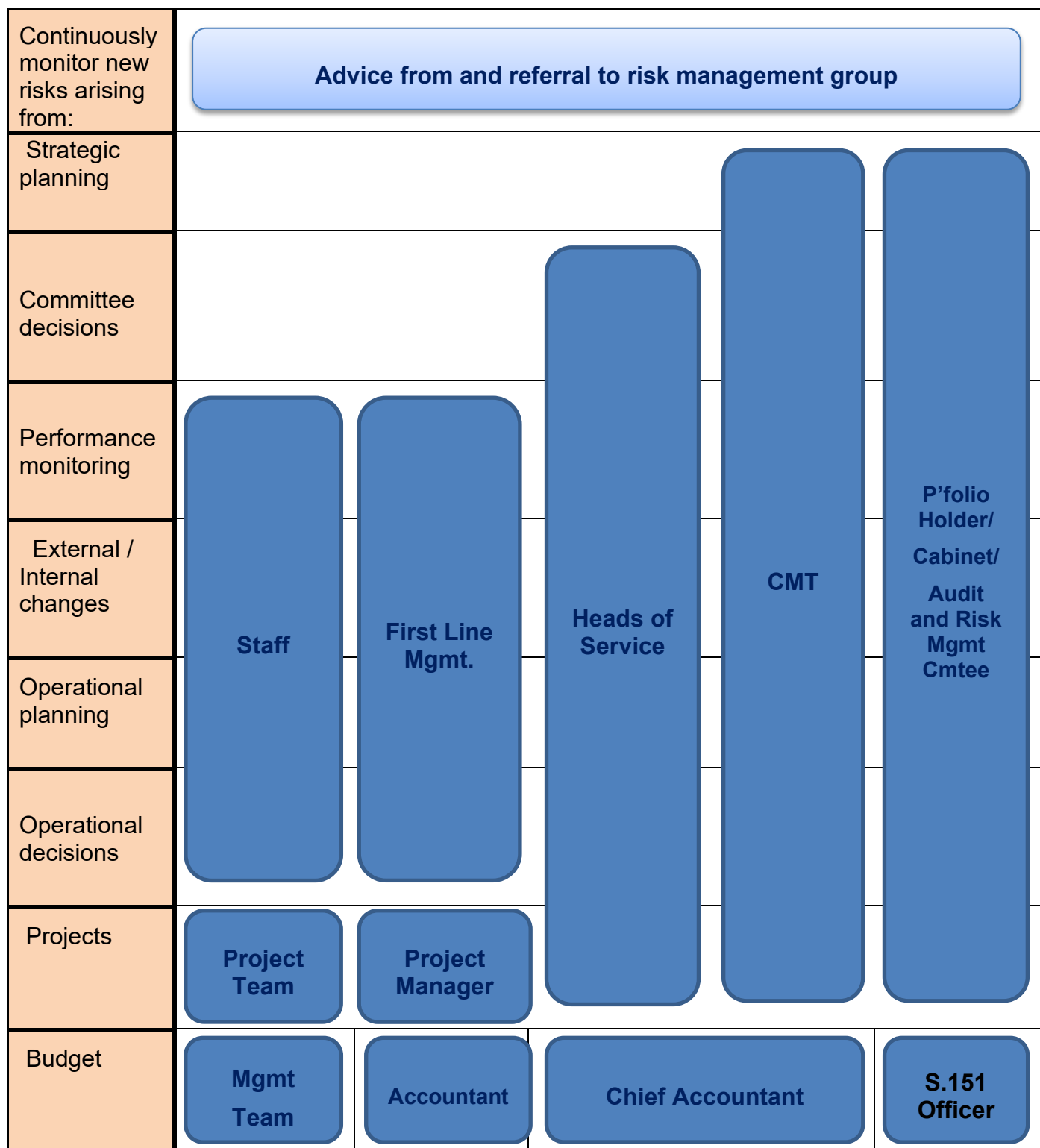
**IMPACT x LIKELIHOOD = RISK SCORE**

### 3.4 The impact and likelihood of risks is scored with regards the below levels:-

Score	1	2	3	4	5
Criteria	Insignificant impact	Minor impact	Moderate Impact	Major Impact	Catastrophic Impact
Performance	Objectives still achieved with minimum extra cost or inconvenience	Partial achievement of objectives with compensating action taken or reallocation of resources.	Additional costs required and or time delays to achieve objectives – adverse impact on PIs and targets.	Unable to achieve corporate objectives or statutory obligations resulting in significant visible impact on service provision such as closure of facilities.	Unable to achieve corporate objectives and/or corporate obligations.
Service Delivery	Insignificant disruption on internal business – no loss of customer service.	Some disruption on internal business only – no loss of customer service.	Noticeable disruption affecting customers. Loss of service up to 48 hours.	Major disruption affecting customers. Loss of service for more than 48 hours.	Loss of service delivery for more than seven days.
Physical	No injury/claims.	Minor injury/claims (first aid treatment).	Violence or threat or serious injury/claims (medical treatment required).	Extensive multiple injuries/claims.	Loss of life.
Reputation	No reputational damage.	Minimal coverage in local media.	Sustained coverage in local media.	Coverage in national media.	Extensive coverage in National Media.
Environmental	Insignificant environmental damage.	Minor damage to local environmental.	Moderate local environmental damage.	Major damage to local environment.	Significant environmental damage attracting national and or international concern.
Financial	Financial loss < £200,000	Financial loss >£200,000 <£600,000	Financial loss >£600,000 <£1,000,000	Financial loss >£1,000,000 <£4,000,000	Financial loss >£4,000,000
Legal	Minor civil litigation or regulatory criticism	Minor regulatory enforcement	Major civil litigation and/or local public enquiry	Major civil litigation setting precedent and/or national public enquiry	Section 151 or government intervention or criminal charges

#### 4. Monitoring and escalation framework

4.1 The following diagram illustrates the key stakeholders for different classification of risk management:



## 5.0 Risk appetite and tolerance levels

- 5.1 Risk appetite and tolerance is the amount of risk an organisation is prepared to accept, or be exposed to at any point in time. It can indicate where action is required to reduce risk to an acceptable level, plus opportunities for positive outcomes which can be monitored.
- 5.2 The Council has adopted the approach and definitions used by CIPFA and the Institute of Risk Management:

### **Risk appetite**

“The amount of risk an organisation is willing to seek or accept in the pursuit of its long-term objectives”.

*An example may be consideration of the funds or resources that an organisation is prepared to invest in a venture where success is not guaranteed but that would yield benefits.*

### **Risk tolerance**

“The boundaries of risk taking outside which the organisation is not prepared to venture in the pursuit of its long-term objectives”.

*An example may be a Treasury Management Strategy that rules out certain types of investment options.*

- 5.3 Typically an individual's perception of an acceptable risk is the same irrespective of which definition is used. Differences may occur where risks cannot be controlled or completely eliminated. For example political and legislative change is an external driver which cannot be fully mitigated. In this instance the risk tolerance, and ability to manage the risk, may be greater than risk appetite.
- 5.4 It is recognised that the tolerance or appetite is subjective, and may change according to the environment, internal and external drivers. Consequently it is important, regardless of the terms used, that everyone has a consistent approach to risk taking to prioritise resources effectively.
- 5.5 The Council's risk appetite is set by the Corporate Management Team (CMT) and is reviewed periodically. This provides guidance to everyone on acceptable levels of risk taking, to encourage a consistent approach to risk management.
- 5.6 Different risk appetites can be illustrated on a five by five matrix as three levels: high, medium and low. The Council is risk aware and the current level is determined by CMT as medium. This provides guidance that any inherent risk scored at 15 or greater is to be considered for the Corporate Risk Register.
- 5.7 Once controls are in operation the risks can be scored again to illustrate the residual risk.

## 6. The corporate risk register at a glance

6.1 Please see below for a summary of current risks and their scores. More detail follows in section 7 of this document, in which the individual risks are ordered by severity of current risk, in descending order.

Ref	Risk	Risk if no action			Current risk			Page in this register
		Impact	Likelihood	Score	Impact	Likelihood	Score	
1	Legislative changes	5	5	25	2	5	10	16
2	Brexit	5	5	25	2	3	6	25
3	Failure of contractors and suppliers working on the Council's behalf	4	4	16	4	4	16	10
4	Failure of IT systems	5	5	25	4	3	12	12
5	Insufficient staff to provide Council services	4	5	20	2	3	6	26
6	Breach of ICT security causes loss of service	5	5	25	4	3	12	13
7	Lack of access to Council premises prevents services being delivered	5	5	25	2	3	6	27
8	Funding changes make Council unsustainable	5	5	25	4	4	16	9
9	The Council's ability to cope with a natural disaster	5	5	25	4	5	20	8
10	Major health and safety incident	4	4	16	3	3	9	17
11	Fraud and error committed against the Council	5	4	20	3	3	9	14
12	Failure of external investment institutions	5	4	20	2	4	8	24
13	Failure of Governance in major partners or in the Council as a result of partnership working	4	5	20	3	3	9	19
14	Failure to achieve required savings targets	4	5	20	3	3	9	20
15	Over-run of major Council projects in time or cost	4	5	20	3	2	6	18
16	Service provision affected by organisational change	4	5	20	3	4	12	15
17	Political changes in national priorities	5	4	20	3	4	12	11
18	Capital funding strategy failure	5	4	20	3	3	9	21
19	Poor communications with stakeholders	4	5	20	3	3	9	22
20	Failure of the Council's Commercialisation and Investment Strategy	5	4	20	3	3	9	23

## 7 Corporate risk register

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
9	<p>Risk:- The Council's ability to cope with a natural disaster, including a Pandemic</p> <p>Effects:- Natural disaster; malicious or accidental incident affects support required by civilians or disrupts existing Council services.</p>	5	5	25	<ul style="list-style-type: none"> <li>• Emergency plan</li> <li>• Emergency planning exercises beyond the district</li> <li>• Business continuity plans</li> <li>• Regular exercise and joint public sector workshops for Emergency Planning</li> <li>• Emergency Planning Communication s Strategy</li> <li>• Review of approach with partner organisations as a result of lessons learned from 'near miss' flood events.</li> <li>• Local Resilience Forum</li> </ul>	4	5	20	CMT	<ul style="list-style-type: none"> <li>• Regularly test Emergency Plan</li> <li>• Test Service Business Continuity Plans</li> <li>• Ensure key emergency planning staff attend regular liaison meetings and training</li> <li>• Ongoing management response group and regular conference call and action planning</li> <li>• The risk assessments for all Council buildings have been reviewed and updated as aa result of Covid-19, and all work places are Covid secure.</li> <li>• 60% of staff are home-work enabled, and all services have split into 'bubbles' to maintain resilience and business continuity</li> </ul>	<p>The likelihood rating reflects the ongoing pandemic situation.</p> <p>Management Team conduct periodical exercise to test the Council's readiness for an emergency.</p> <p>The Council's Emergency Management and Rest Centre Plans have been updated. We have increased and trained the number of volunteer rest centre staff available.</p> <p>The Council will retain the use of each of the four Leisure Centres for rest centre sites.</p> <p>The Council has implemented a rota for senior officers to be 'on call' at Gold (Strategic), Silver (Tactical) and Bronze (Operational) levels in the event of an emergency.</p> <p>The Council's response to any emergency situation will complement and support the coordinated CPLRF and Public Sector response to any such incident.</p> <p>CPLRF are leading on the County's response to the current pandemic and key senior staff attend regular multi-agency briefing and planning meetings.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
8	<p>Risk: - Funding changes make Council unsustainable</p> <p>Effects: - Economic changes, imposed savings requirements, changes to local government funding systems, uncertainties of pilot pension fund.</p> <p>Financial Mgt of NNDR, CTS leads to change in income /spending making Council unsustainable.</p>	5	5	25	<ul style="list-style-type: none"> <li>• S151/ Chief Finance Officer</li> <li>• Financial Regulations &amp; Standing Orders</li> <li>• Appropriately trained staff</li> <li>• MTFS</li> <li>• Professional economic forecasts</li> <li>• Community consultation on service priorities</li> <li>• Our Council for the Future programme</li> <li>• Political decisions linked to budget strategies</li> <li>• CMT efficiency planning</li> <li>• The My Fenland Transformation Programme</li> <li>• Executive steer of service /capital priorities.</li> <li>• Review fees /changes.</li> <li>• Reserves</li> <li>• Financial Mgt System</li> <li>• Budget monitoring.</li> </ul>	4	4	16	Peter Catchpole	<ul style="list-style-type: none"> <li>• Using intelligence to model and plan for future changes and risks and move away from reliance on Govt funding to balance our budget.</li> <li>• Regular monitoring of current position and reporting to Members.</li> <li>• Workforce planning covers all scenarios.</li> <li>• Inclusion in national working groups, modelling and lobbying for funding system after RSG ceases.</li> <li>• Sharing Council's Efficiency Plan with the Government allows guaranteed multi-year grant settlement raising funding certainty.</li> <li>• Shared services and partnership working</li> <li>• Pursuing all opportunities for external funding</li> </ul>	<p>The likelihood rating reflects the ongoing pandemic situation.</p> <p>We are closely watching local government finance and the Council's current budget and Medium-Term Financial Plan reflects how the Council will balance its budget and maintain appropriate reserves.</p> <p>The Fair Funding Review and Business rate Retention Scheme have been delayed due to the Pandemic; there is some potential for this to impact on the Council's long-term financial position. The Council will continue to monitor the risk rating.</p> <p>The Council has an agreed Commercialisation and Investment Strategy which will enable the Council to generate additional income.</p> <p>Each service is required to review and identify any opportunities for transformation, commercialisation and efficiency.</p> <p>The Council is currently finalising the implementation of Phase 2 of the 'My Fenland' transformation programme, which is on target to deliver significant savings over the Council's current MTSP period.</p> <p>The Council's income has been significantly impacted by the pandemic, with Council Tax, Business Rates income, and most other income streams reduced. The Council has received Government funding to address these deficits in some areas, but there is a likelihood that there will be an additional adverse impact on the Council's future financial deficit.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
3	<p>Risk: - Failure of contractors and suppliers working on the Council's behalf, including the impact of the Pandemic</p> <p>Effects: - Failure of contractor or partners to deliver services or meet agreed performance objectives leads to additional costs or failed objectives.</p>	4	4	16	<ul style="list-style-type: none"> <li>• Procurement processes – including financial aspects/ contract standing orders/ equality standards</li> <li>• Contract process – creation of robust contracts</li> <li>• Accountability and risk ownership documented</li> <li>• Service Level Agreements</li> <li>• Contract monitoring</li> <li>• Trained/skilled staff</li> <li>• Project management</li> <li>• Relationship Management</li> <li>• Business Continuity Plans</li> </ul>	4	4	16	CMT	<ul style="list-style-type: none"> <li>• Regular monitoring of contracts and performance by Managers.</li> <li>• Ensure that contracts have risk registers and mitigation in event of contract failure.</li> <li>• Ensure all contractors have reviewed and refreshed their business continuity arrangements and plans in light of the pandemic</li> <li>• Individual Council services share their own contingency to cover for contractor failure, and this is part of the Business Continuity Plan for each Service Area.</li> <li>• Potential contractors are always checked for financial stability by the Accountancy team before contracts are let.</li> </ul>	<p>FDC's Contract Manager manages/monitors the performance of the main Grounds Maintenance contract and the Leisure Service contract.</p> <p>All other shared services/contracts have a full review and governance process in place to ensure ongoing delivery and performance standards.</p> <p>The Leisure service (outsourced) contact includes the requirement for contingency in case of service failure. Covid-19 has had a profound impact on the leisure industry, including impacting on Freedom Leisure. FDC has supported the contract (according to the terms of the contract) during the lockdown period FDC will carefully monitor Freedom Leisure's financial robustness and its ability to continue to trade as facilities reopen. This monitoring includes maintaining contact with other Freedom contracted Councils, working with the LGA and working with independent industry consultants and Sport England.</p> <p>As we emerge from the pandemic, financial support to Freedom will ease as they return to pre-Covid levels of income to the centres. A promising start has been made since reopening following lockdown.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
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17	<p>Risk:- Political changes in national priorities</p> <p>Effects:- Changes in national political priorities may result in immediate changes that require additional resource to achieve and fail to reflect priorities determined by consultation.</p>	5	4	20	<ul style="list-style-type: none"> <li>Financial &amp; workforce planning</li> <li>Monitoring by CMT and resultant Cabinet reports</li> <li>Clear corporate planning and regular performance monitoring</li> <li>Effective service &amp; financial planning</li> <li>Respond to national consultation on key policy changes</li> <li>Membership of LGA as a Council Outside Body</li> </ul>	3	4	12	Paul Medd	<ul style="list-style-type: none"> <li>Understanding and acting on intelligence from LGA, CIPFA and other local government sources.</li> <li>Resources identified, approved and implemented without delay.</li> <li>Constant monitoring</li> <li>Horizon scanning via professional bodies</li> <li>Joint/collaborative working</li> </ul>	The likelihood of legislative change remains high due to the current ongoing pandemic situation, and as a result of Brexit, albeit that Brexit itself has been identified as a risk to the Council. (see reference number 2)

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
4	<p>Risk: - Failure of IT systems</p> <p>Effects: - Failure to secure and manage data leads to loss of/ corruption of / inaccuracy of data, results in disruption to services and breaches of security. A further consequence could be financial penalties and reputational risk.</p>	5	5	25	<ul style="list-style-type: none"> <li>• Data protection policy and procedure</li> <li>• Freedom of Information publication scheme</li> <li>• Data retention policy and procedure for archive and disposal</li> <li>• Information breach response plan</li> <li>• Monitoring Officer role comprises Senior Information Risk Officer function</li> <li>• Business continuity plans</li> <li>• ICT system security</li> <li>• Public Services Network compliance</li> <li>• Paperless office project</li> <li>• Countywide information sharing framework</li> </ul>	4	3	12	Carol Pilson / Peter Catchpole	<ul style="list-style-type: none"> <li>• Effective auditing of systems and data held.</li> <li>• Data backed-up securely off-site.</li> <li>• Regular penetration testing.</li> <li>• Regular review of business continuity plans</li> <li>• Disaster Recovery testing is undertaken at regular intervals</li> <li>• Additional ICT resource has been recruited</li> </ul>	<p>An additional internet feed to Fenland Hall has been installed to improve resilience.</p> <p>The likelihood score reflects the increase globally of cyber crime</p> <p>The Council's internet and email protocols have been updated.</p> <p>All Council employees are undertaking Cyber security training</p> <p>As a result of the Covid-19 pandemic, 60% of staff have been home-work enabled, which has proved the resilience of the Council's ICT infrastructure</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
6	<p>Risk: - Breach of ICT security causes loss of service</p> <p>Effects: - Major IT physical hardware failure or electronic attack, such as viruses, hacking or spyware, causes disruption to services and breaches of security. A further consequence could be financial penalties and reputational risk.</p>	5	5	25	<ul style="list-style-type: none"> <li>• Anti-virus software</li> <li>• Geographically distributed servers</li> <li>• Tested disaster recovery plan</li> <li>• Back-ups stored off site</li> <li>• Secondary power supply</li> <li>• Revised security policies</li> <li>• Critical services' business continuity plans include manual operation</li> </ul>	4	3	12	Peter Catchpole	<ul style="list-style-type: none"> <li>• Effective auditing of systems and data held.</li> <li>• Data backed-up securely off-site.</li> <li>• Regular penetration testing.</li> </ul>	<p>The Council has subscribed to the National Cyber Security Centre's (NCSC) Web Check service that helps public sector organisations fix website threats. This service regularly scans public sector websites to check if they are secure. NCSC have advised that the Fenland Council site is secure.</p> <p>Council IT systems and website are as secure as possible with current anti-attack software and processes up to date. When vulnerabilities are made known by software vendors, software is updated to reduce the risk of malicious attack.</p> <p>The likelihood score reflects the increase globally of cyber crime</p> <p>All Council employees are currently undertaking Cyber security training.</p> <p>Elected Members to undergo GDPR refresher training</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
11	<p>Risk: - Fraud and error committed against the Council</p> <p>Effects: - Potential for fraud, corruption, malpractice or error, by internal or external threats. In addition to immediate financial loss, this could harm reputation and lead to additional inquiry costs and penalties.</p>	5	4	20	<ul style="list-style-type: none"> <li>• Anti-fraud &amp; corruption policy/ strategy</li> <li>• Financial Regulations / Standing Ord</li> <li>• Codes of conduct</li> <li>• Appropriately trained staff</li> <li>• Appropriate culture and risk awareness</li> <li>• Segregation of duties</li> <li>• Supported financial mgt system</li> <li>• Budget monitoring regime</li> <li>• Internal Audit review of sys /and controls</li> <li>• Bribery &amp; corruption / fraud risk assessments</li> <li>• Indemnity insurance</li> <li>• Whistle-blowing procedure</li> <li>• Annual Governance Statement</li> <li>• ARP fraud resource</li> <li>• National Fraud Initiative</li> </ul>	3	4	12	Peter Catchpole / Carol Pilson	<ul style="list-style-type: none"> <li>• Increase staff vigilance</li> <li>• Fraud awareness training for Managers</li> <li>• Raise profile internally and externally for successful prosecutions</li> <li>• Robust processes are in place in relation to the Business Grants processes</li> </ul>	<p>The likelihood reflects the number of additional grants the Council is now administering as a result of the pandemic. The Council is working with the NFI on assurance.</p> <p>The Council has assisted with each annual National Fraud Initiative, cross-matching information with records held nationally.</p> <p>The Fraud team within the Anglia Revenues Partnership (ARP) continue to work on this area.</p> <p>The Council's Anti-Fraud and Corruption Strategy is currently being reviewed.</p> <p>A fraud awareness training programme for all staff is being finalised and is planned to be delivered virtually.</p> <p>The Council's ICT systems have also been reviewed and updated to provide better protection against potential fraud – please see risk 6 (Page 21)</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
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16	<p>Risk:- Service provision affected by organisational change including the impact of a pandemic</p> <p>Effects:- Service provision and performance affected by organisational change, industrial action and/or staff sickness resulting in complaints, poor performance and possible further costs.</p>	4	5	20	<ul style="list-style-type: none"> <li>Working environment / org culture</li> <li>Audit &amp; Risk Management Committee</li> <li>Consultation with Management, Trade Union and Staff Partnership group (MTSP)</li> <li>Flexible working</li> <li>Established suite of people policies &amp; procedures</li> <li>Business continuity plans</li> <li>Management training</li> <li>"Springboard" appraisal for all staff support and development</li> <li>Robust human resource management procedures, which are considered at CMT level.</li> <li>Regular performance monitoring and management</li> <li>Access to interim arrangements</li> <li>Robust sickness absence management</li> <li>Project management processes</li> </ul>	3	4	12	Peter Catchpole	<ul style="list-style-type: none"> <li>Robust management of all organisational change.</li> <li>Business continuity plans for each service. Culture of Council remains effective</li> <li>Workforce planning, which includes succession planning for key roles and talent management</li> <li>A comprehensive programme of health surveillance for groups of employees who work in certain service areas (e.g. refuse drivers, workshop, port staff, etc.)</li> <li>Trained Mental Health First Aiders in place</li> <li>Stress awareness training</li> <li>Resilience training</li> <li>Staff engagement and consultation processes</li> </ul>	<p>Plans are regularly checked and tested.</p> <p>All services have up to date Business Continuity Plans in place; and have reviewed and updated their Business Continuity Plans in the light the Covid-19 pandemic.</p> <p>All organisational changes must be supported by a full rationale and business cases, and are present to and considered by the senior management; If approved, the proposed change is subject to consultation process, and then progressed and managed by a wider project group to ensure all service provision issues are properly considered and managed. This project management approach is maintained for all such changes/programmes, and is supported by communication, engagement and training support for staff groups affected.</p> <p>The Council has a health and wellbeing programme in place which supports the existing suite of Policies, Codes of Practices and processes, this includes a wide range of support to help promote and encourage their good health and wellbeing, such as:</p> <ul style="list-style-type: none"> <li>A dedicated Occupational Health Advice and guidance support service available for all colleagues;</li> <li>Access to a health care plan for all employees (at nil cost to the Council) to enable financial support to access a wide range of health care specialists and interventions (e.g. chiropractic services, dental treatment, acupuncture, reflexology, chiropody etc.)</li> <li>A confidential Employee Assistance Programme (EAP), which provides a counselling service to staff where needed.</li> <li>A dedicated online platform offering a wide range of support and advice for all employees of a comprehensive range of issues.</li> </ul>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
1	<p>Risk:- Legislative changes/ significant legal challenge</p> <p>Effects:- Changes arising from Central Government or EU legislation requiring significant alteration to organisational capacity, such as impact of welfare reform and universal credit, effects of devolution, introduction of new burdens.</p> <p>Risk of GDPR breach and ICO sanction/fine</p> <p>Risk of administrative or other challenge in relation to the Council's overall governance/acts/omissions.</p>	5	5	25	<ul style="list-style-type: none"> <li>Monitoring Officer</li> <li>Horizon scanning by Legal/CMT/Mgt Team</li> <li>Service Manager responsibilities</li> <li>Financial &amp; workforce planning</li> <li>Membership of professional/ Local Govt bodies aids horizon scanning</li> <li>Mgt of change approach to mitigate significant impact to the organisation and its staff</li> <li>Detailed project plans to change implementation</li> <li>Respond to consultations on new legislation</li> <li>Insurance</li> </ul>	2	5	10	Carol Pilson	<ul style="list-style-type: none"> <li>Use intelligence to identify impending changes and their effects.</li> <li>Ensure staff trained and procedures changed.</li> <li>Use professional networking to identify best practice for responding to change.</li> <li>We respond to government consultations on changes to legislation or policy to influence its development.</li> <li>Operate in accordance with best practice.</li> <li>Seek specialist external legal advice where required.</li> </ul>	<p>Officers continue to horizon-scan for legislative changes and their effects.</p> <p>The Council has in house senior legal advice as well as through its links with external organisations such as EM Lawshare and PCC Legal. Specialist external advice will be sought in relation to complex/technically challenging matters as appropriate.</p> <p>The Council has compiled an Information Asset Register of all records it hold in both paper and electronic form, worked with IT system suppliers and conducted a staff awareness campaign to ensure that staff understand and are compliant with GDPR.</p> <p>The majority of information held by the Council is held with a legal basis for holding such as election and Council Tax records.</p> <p>All staff undergo GDPR training, and opportunities for further Member training in this area are currently being explored</p> <p>The Council now has a dedicated GDPR Officer, and each service is required to have a dedicated GDPR lead</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
10	<p>Risk: - Major health and safety incident</p> <p>Effects: - Major Health &amp; Safety incident at Council leads to costs for inquiry, disruption to service and possible prosecution</p>	4	4	16	<ul style="list-style-type: none"> <li>• Health &amp; Safety (H&amp;S) Panel</li> <li>• All service areas are represented at H&amp;S Panel, and raise H&amp;S issues as required</li> <li>• H&amp;S procedures – addressed at every service area</li> <li>• H&amp;S audits in all services</li> <li>• Specialist H&amp;S advisor</li> <li>• Corporate wide H&amp;S training</li> <li>• Insurance</li> <li>• Aligned Port Health and Safety arrangements</li> <li>• Port Management Group and annual independent audit</li> <li>• Robust sickness management processes</li> </ul>	3	3	9	CMT	<ul style="list-style-type: none"> <li>• Ensure health and safety is discussed at relevant team meetings.</li> <li>• Ensure service updates are given at each H&amp;S Panel meeting</li> <li>• Ensure equipment inventory and inspections are up to date.</li> <li>• Review Risk Assessments and Action Plans.</li> <li>• Capture Port near misses and asses learning points</li> <li>• Work with partners such as Lincs CC to manage risk associated with Port Operations including Crosskeys Bridge</li> <li>• All high-risk areas have increased systems of management in place, e.g. the Port Safety Management Group</li> </ul>	<p>A thorough Health and Safety regime at the Council ensures that the residual risk remains carefully managed</p> <p>Programme of targeted health and safety refresher training is in place as per service specification.</p> <p>Health and Safety performance is monitored regularly, and accident statistics remain low.</p> <p>All site risk assessments have recently been fully reviewed and updated in light of the Covid-19 pandemic. Specific measures have been put in place to ensure all sites are 'Covid-19 Safe', and these are reviewed regularly.</p> <p>Flu jabs are being provided for employees</p> <p>In light of all the contingency measures being taken, the impact rating has been reviewed and revised.</p> <p>Ongoing feasibility work is ongoing in relation to emergency moorings near to Crosskeys Bridge.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
15	<p>Risk:- Over-run of major Council projects in time or cost</p> <p>Effects: - Failure to manage projects effectively leads to overruns on time or cost and failure to achieve project aims. Reputational damage</p>	4	5	20	<ul style="list-style-type: none"> <li>• Project Management methodology</li> <li>• Contract Standing Orders &amp; Financial Regulations</li> <li>• Service plans</li> <li>• Budgetary control</li> <li>• Management and Portfolio Holder oversight</li> <li>• Forecasting</li> <li>• Horizon scanning</li> <li>Amended ways of working; models have changed with remote working but remain effective.</li> </ul>	3	3	9	CMT	<ul style="list-style-type: none"> <li>• Robust project management.</li> <li>• Effective risk registers for projects.</li> <li>• All projects have a CMT sponsor with experienced management membership</li> <li>• Project Management Board oversight</li> <li>• Legal due diligence around Grant Agreements</li> </ul>	<p>The likelihood rating reflects the ongoing pandemic situation and the impact of this.</p> <p>Effective project management remains a Council priority.</p> <p>Major projects are closely monitored by CMT and Cabinet members and progress is reported to Council via Portfolio Holder briefings.</p> <p>The impact of the pandemic has inevitably delayed the delivery of some projects (e.g. High Street, Wisbech), but this is factored into the revised project plans going forward.</p> <p>The Council is currently finalising the implementation of Phase 2 of the 'My Fenland' transformation programme, which is on target to deliver significant savings over the Council's current MTSP period.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
13	<p>Risk:- Failure of Governance in major partners or in the Council as a result of partnership working</p> <p>Effects:- Partnership governance not adopted or followed, leading to unachieved priorities and poor performance by major partner agencies:- Cambs and Peterborough Combined Authority, Anglia Revenues Partnership, CNC Building Control, Shared Planning, CCTV</p>	4	5	20	<p>Cabinet and O&amp;S, bi-annual stakeholder events ensure accountability</p> <ul style="list-style-type: none"> <li>• ARP Joint Committee and Operational Improvement Board, Cabinet, O&amp;S, joint risk registers</li> <li>• CNC Joint Members Board, Cabinet plus O&amp;S</li> <li>• Shared Planning Board, Cabinet plus Overview and Scrutiny, joint performance indicators</li> <li>• Project plans / perf monitoring shared risk registers</li> <li>• PCCA Membership.</li> </ul>	3	3	9	Carol Pilson / Peter Catchpole	<ul style="list-style-type: none"> <li>• Assurance that governance models correctly followed and in the Council's interests.</li> <li>• Support Members in governance of partnership bodies.</li> <li>• Internal Audit partnership arrangements.</li> <li>• Ensure that the Council's interests are protected as Members of the Combined Authority and as Officers working on joint projects.</li> <li>• Ensure all Partners have robust Business Continuity Plans in place</li> <li>• GDPR compliance</li> <li>• Robust ICT governance processes</li> </ul>	<p>The Annual Governance Statement being reported to Corporate Governance Committee shows the Council is in a strong governance position.</p> <p>Scrutiny of ARP and Planning takes place on an annual basis and Cabinet members sit on Boards to ensure the effective delivery of partnership arrangements such as CNC Board for building control.</p> <p>The Covid-19 pandemic continues to further our good relationships with countywide colleagues through the Covid response groups, the CPLRF etc., with opportunities for mutual aid being actively explored.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
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14	<p>Risk:- Failure to achieve required savings targets</p> <p>Effects:- Failure to achieve efficiency saving, maximise income, or performance targets, results in greater than budgeted costs and potential risk of Council not being able to set a balanced budget.</p>	4	5	20	<ul style="list-style-type: none"> <li>Heightened analysis of budgets and services by CMT</li> <li>Implement Service Transformation</li> <li>Implement Procurement Strategy</li> <li>Corporate plan</li> <li>Pursue action to increase income streams</li> <li>Performance Management Framework</li> <li>Budget and performance monitoring</li> <li>Robust Workforce planning</li> <li>Project Management processes</li> <li>Our Council for the Future programme</li> <li>The My Fenland Transformation Programme</li> </ul>	3	3	9	CMT	<ul style="list-style-type: none"> <li>Robust control of corporate Transformation Plan.</li> <li>Regular progress reports and assurance to Members.</li> <li>Organisational and Service transformation programme</li> <li>Commercialisation and Investment Strategy</li> <li>Transformation and Recovery Plans</li> </ul>	<p>Delivery of Council Efficiency targets continue including delivering savings planned for in the Council's annual budget and medium term financial strategy.</p> <p>Cabinet have considered the Council's projected positive financial outturn position.</p> <p>The Council is currently <b>finalising the implementation of</b> Phase 2 of the 'My Fenland' transformation programme, which is on target to deliver significant savings over the Council's current MTSP period.</p> <p>The Council's income has been significantly impacted by the pandemic, with Council Tax, Business Rates income, and most other income streams reduced. The Council has received Government funding to address these deficits in some areas, but there is a likelihood that there will be an additional adverse impact on the Council's <b>future</b> financial deficit</p> <p>As part of the Council's Transformation Programme, the Council has recognised that this is an opportune time to commence a full Accommodation Review, which could contribute significantly to future savings requirements. The pandemic has seen around 60% of the Council's workforce successfully moved to remote working models. In addition to this, the Council has undertaken a conditions survey for Fenland Hall, which is likely to require some significant investment in terms of repair and remedial work.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
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18	<p>Risk:- Capital funding strategy failure</p> <p>Effects:- Financial risks of capital funding shortfalls leading to increased burden to the Council. Potential for marginal deficit in capital program if future funding is not realised</p>	5	4	20	<ul style="list-style-type: none"> <li>Asset mgt plan</li> <li>Asset disposal linked to capital programme</li> <li>Corporate Asset Team</li> <li>CMT monitoring of capital receipts/effect on capital prog'</li> <li>Regular Cabinet review of the capital prog' , member with responsibility for assets</li> <li>Additional funding opp's identified and pursued where possible</li> <li>Project lead monitors site valuations linked to econ' dev' proposals.</li> <li>Marketing and identification of potential land purchasers, flexibility of planning guidance aligned to market needs</li> <li>Continued consultation with econ ptners</li> </ul>	3	3	9	Peter Catchpole	<ul style="list-style-type: none"> <li>Forward planning and horizon scanning.</li> <li>Regular high level monitoring of direction of travel and mitigation required.</li> <li>Asset Management Plan.</li> <li>Asset disposal strategy</li> </ul>	<p>The Council's capital funding programme is regularly reviewed by Officers and by Cabinet.</p> <p>The current projected funding deficit will be met by borrowing and the relevant annual financing cost has been included in the Council's Medium Term Financial Plan.</p> <p>Should resources from external funding and/or capital receipts not generate the level of receipts forecast, or there is a delay in disposal of assets, then the capital programme will need re-visiting to ensure funding is sufficient to meet proposed expenditure.</p> <p>Reviews of the programme and resources available are carried out regularly during the year.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
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19	<p>Risk:- Poor communications with stakeholders</p> <p>Effects:- Poor communication with stakeholders and staff leads to poorly informed direction of resources and lack of support for change Reputational damage Staff turnover Increased sickness absence</p>	4	5	20	<ul style="list-style-type: none"> <li>Internal and external regular publications</li> <li>Staff and management meetings</li> <li>Regular staff communication from the Chief Executive</li> <li>Key stakeholder networks for consultation</li> <li>Forums for perceived hard to reach groups</li> <li>Co-ordinated press releases</li> <li>Comments, Compliments and Complaints monitoring and reporting procedure</li> <li>Customer Service Excellence accreditation</li> <li>Consultation strategy</li> <li>MTSP</li> </ul>	3	3	9	Carol Pilson	<ul style="list-style-type: none"> <li>CSE Action Plan.</li> <li>Staff survey.</li> <li>Public consultations on key issues.</li> <li>3cs refresher training</li> <li>Team meetings</li> <li>“What’s Breaking” communication and “Horse’s Mouth” updates from the Chief Executive to all staff</li> <li>Use of social media communication mediums</li> <li>Fully updated website</li> </ul>	<p>The Council’s CSE performance is assessed each year by an external expert. The Council has a dedicated project team to ensure ongoing progress against CSE requirements/actions across all service areas to ensure consistent and effective communication to our customers.</p> <p>All change projects are supported by a robust project management approach, which includes a communication programme to ensure that stakeholders are fully informed.</p> <p>The ongoing Covid-19 pandemic had led to increased and improved communication mechanisms and methods</p>

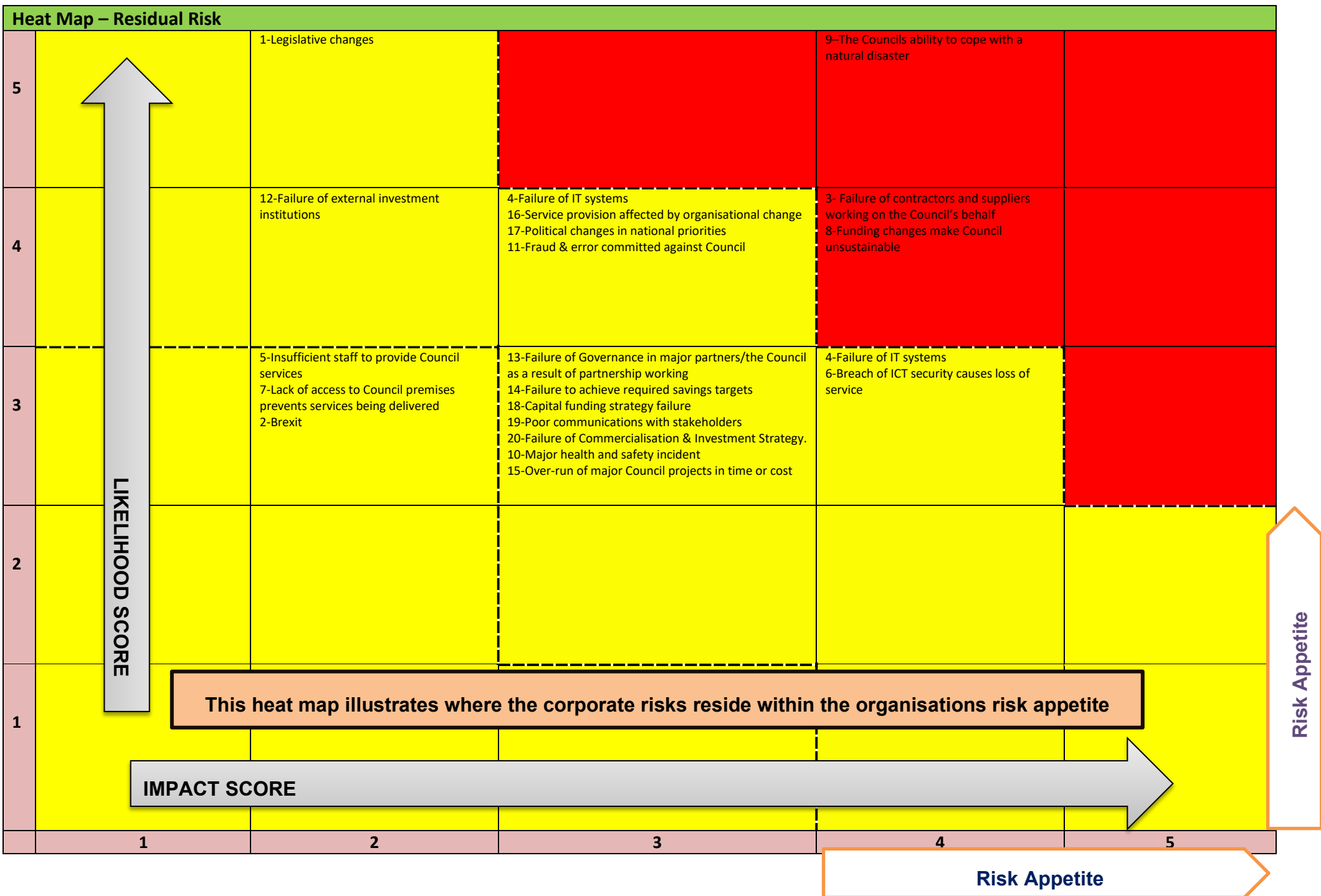
Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
20	<p>Risk:- Commercial uncertainties associated with decisions taken as part of the Council's Commercial and Investment Strategy.</p> <p>Effects:- Reputational damage Financial loss Impact on services, staff and community</p>	5	4	20	<ul style="list-style-type: none"> <li>• Robust oversight and governance arrangements</li> <li>• Expert professional advice</li> <li>• Robust budget management</li> <li>• Thorough project management and business cases process</li> </ul>	3	3	9	CMT	<ul style="list-style-type: none"> <li>• All governance requirements have been put in place and will be robustly reviewed going forward</li> <li>• Fenland Future Ltd (FFL) has been constituted, with all appropriate governance requirements in place</li> <li>• Dedicated external expert resources are identified and procured to support where required</li> </ul>	<p>This risk will be closely monitored to enable any new actions for mitigation to be identified and put in place.</p> <p>The Council's Commercial and Investment Strategy has a scoring matrix to inform all potential investment opportunities, which are considered fully by the Investment Board before they are ratified.</p> <p>Full business cases for all identified opportunities are taken to the Investment Board for consideration. This includes deciding on the delivery methodology. i.e. FDC or FFL and resource required to deliver each project.</p> <p>FFL's Business Plan is in the process of being produced and will need to be agreed and signed off by the Investment Board</p>


Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
12	<p>Risk:- Failure of external investment institutions</p> <p>Effects:- Failure of external investment institutions affecting availability of funds or return on investment reducing cash flow and resource availability</p>	5	4	20	<ul style="list-style-type: none"> <li>• Policy for maximum investment/ borrowing levels limits liability</li> <li>• Credit ratings</li> <li>• Financial management</li> <li>• Reserves</li> <li>• Insurance</li> <li>• Medium Term Financial Strategy</li> <li>• Treasury Management Strategy</li> </ul>	2	4	8	Peter Catchpole	<ul style="list-style-type: none"> <li>• Effective Treasury Management strategy.</li> <li>• Robust auditing of processes and policies.</li> </ul>	<p>The Council's treasury management position is regularly reviewed and is currently showing a good position.</p> <p>The Treasury Management Strategy was considered is currently being reviewed.</p> <p>Updates are provided to Cabinet and Council on a half-yearly basis.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
2	<p>Risk: - Brexit</p> <p>Effects: - Uncertainty during transition period, followed by potential legislative, funding and policy changes after UK leaves EU may adversely affect the Council and its ability to provide services.</p>	5	5	25	<ul style="list-style-type: none"> <li>• Horizon scanning by Legal Services / CMT / Heads of Service</li> <li>• Financial &amp; workforce planning</li> <li>• Membership of professional and Local Govt bodies aids horizon scanning</li> <li>• Management of change approach to mitigate against significant impact to the organisation and its staff</li> <li>• Detailed project plans to manage implementation of changes</li> </ul>	2	3	6	Peter Catchpole / Carol Pilson	<ul style="list-style-type: none"> <li>• Understanding and acting on intelligence from LGA, CIPFA and other local government sources.</li> <li>• Identifying policies that require changing, their effects and governance as Brexit effects start.</li> <li>•</li> </ul>	<p>The Council has fully reviewed information on its workforce and the requirements for any EU workers; and has also liaised with all partners to ensure their preparedness in this area.</p> <p>The Council continues to monitor progress and take account of any effects on local government as they emerge.</p> <p>The Council has a Corporate Brexit Project group; and is a member of the Cambridgeshire Public Service Board, (This is the Executives of the partner organisations within the county, and Brexit is a standing item on their current agenda).</p> <p>The Council have also promoted Community awareness in this area by providing signposting information via Community Support teams.</p> <p>The UK has a six-month extension from the EU to enable compliance with Data Sharing requirement. As the UK undertakes a larger volume of surveillance that the rest of the EU, the UK is currently deemed as having a 'poor adequacy' rating by the EU. The Council is currently contacting our Data Providers to confirm all control measures in place and ascertain the next steps. This situation will continue to be monitored.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
5	<p>Risk:- Insufficient staff to provide Council services</p> <p>Insufficient leadership and/or management capacity to deliver Council priorities</p> <p>Effects:- Constraints to effective workforce planning lead to poor standards of service or disruption to service. Service transformation and commissioning can help build resilience but could also lead to a loss of qualified and knowledgeable staff, which exposes the council to risk of service failure and legal challenge.</p>	4	5	20	<ul style="list-style-type: none"> <li>• Learning &amp; Development framework / Training</li> <li>• Working environment /culture</li> <li>• Staff Committee</li> <li>• MTSP</li> <li>• Flexible working</li> <li>• Established suite of people policies &amp; Procedures</li> <li>• Business continuity plans</li> <li>• Management training</li> <li>• 121s /Springboard staff development and appraisals</li> <li>• Service planning process</li> <li>• Access to interim staff via frameworks</li> <li>• Effective sickness management</li> <li>• Effective Governance structures</li> </ul>	2	3	6	CMT	<ul style="list-style-type: none"> <li>• Ensure all services have effective Workforce plans incorporated into Service Plans, which ensure all work is prioritised</li> <li>• Effective succession planning.</li> <li>• Effective use of project management approaches/ principles when delivering priorities/ strategies</li> </ul>	<p>All services have published service plans, learning requirements and workforce plans to ensure teams are staffed according to current establishment and to take account of priorities and longer-term trends.</p> <p>All service Business Continuity Plans have been updated in light of the Covid-19 pandemic to ensure that key, priority and statutory services can be maintained in the event of a significant loss of staff through illness or absence.</p> <p>60% of the workforce have been home-work enabled, which will maintain the delivery of a significant number of Council services. Other key/priority services have individual Business Continuity measures in place to maintain service delivery.</p> <p>A mapping exercise of all key processes is <b>continuing</b> to automate and e-enable where possible to increase and further improve Council resilience.</p>

Reference	Risk and effects	Risk if no action			Mitigation	Current risk			Risk Owner	Actions being taken to managing risk	Comments and progress of actions
		Impact	Likelihood	Score		Impact	Likelihood	Score			
7	<p>Risk:- Lack of access to Council premises prevents services being delivered</p> <p>Effects:- Disruption of service provision.</p>	5	5	25	<ul style="list-style-type: none"> <li>Alarm and security systems</li> <li>Fire drills</li> <li>Business continuity plans</li> <li>Emergency planning network</li> <li>ICT disaster recovery and offsite testing</li> <li>Relocation procedures - critical and support services</li> <li>Geographically distributed sites</li> <li>Remote working</li> <li>Statutory building inspection and checks</li> <li>Corporate Business Continuity Plans</li> </ul>	2	3	6	Peter Catchpole	<ul style="list-style-type: none"> <li>Regularly test Emergency Plan</li> <li>Test service Business Continuity Plans</li> <li>Ensure key emergency planning staff attend regular liaison meetings and training</li> <li>Provision of 'drop down' facilities for staff</li> </ul>	<p>Emergency plans – ongoing programme of review, testing and training of staff involved in a response</p> <p>Plans regularly checked and tested with emergency planning exercise conducted at intervals.</p> <p>Improved ICT systems provide better/increased opportunities for remote/agile working</p> <p>60% of the workforce has been home-work enabled, with access to Councils systems, which continues to maintain the delivery of a significant number of Council services.</p> <p>All key/priority services have individual Business Continuity measures in place to maintain service delivery.</p> <p>The Covid-19 situation has demonstrated that access (lack of/limited) to the building has not impacted the Councils ability to deliver services. The Council has introduced virtual meetings and remote/agile working to minimise this risk.</p> <p>The Council has implemented Pay Point, which has enabled our resident to pay their bills (by cash or card) in a much greater number of more local rural locations across the district.</p>



Agenda Item No:	<b>12</b>	
Committee:	<b>Audit and Risk Management Committee</b>	
Date:	<b>21 June 2021</b>	
Report Title:	<b>Revised Whistleblowing Policy</b>	

## 1 Purpose / Summary

- To provide an update to the Audit and Risk Management Committee on the Council's revised Whistleblowing Policy.


## 2 Key issues

- 'Whistleblowing' is when a worker provides certain types of information which has come to their attention, usually to the employer or a regulator, to raise a concern about danger or illegality that affects others. The disclosure may be about the alleged wrongful conduct of the employer, a colleague, client, or any third party.
- In the UK, the Public Interest Disclosure Act 2018 is a key piece of legislation protecting individuals who 'blow the whistle' in the public interest. All employers should have such a policy.
- The Council's policy makes it clear to all staff what to do if they come across malpractice in the workplace and encourages individuals to inform the appropriate designated officer to act.
- This policy has been used infrequently over the past four years, despite the fact that the policy is published internally.
- This policy has now been reviewed and updated in accordance with an ongoing programme of policy reviews, and the proposed changes to the policy are as follows:
  - Clarification/update on the various external bodies who can be contacted for advice, with their relevant contact details.
  - Clarification/update on the titles of designated officers to contact to raise a concern.
  - Further clarity around anonymous disclosures
- A comprehensive consultation process has also been undertaken on this revised policy with CMT and also with the Management, Trade Union and Staff Partnership (MTSP), who have endorsed the changes.
- This revised policy is now being recommended for formal adoption and communication to staff.
- It is intended that the revised policy will also be promoted at staff induction sessions, which are delivered by HR team, and circulated to all staff (via the Council's staff communication channels) and posted on the Council's intranet.

## 3 Recommendations

- The Audit and Risk Management Committee is requested to note and approve the attached revised policy.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	N/A
<b>Portfolio Holder(s)</b>	Cllr Chris Boden – Leader and Portfolio Holder for Corporate Governance
<b>Report Originator(s)</b>	Sam Anthony – Head of HR&OD
<b>Contact Officer(s)</b>	Paul Medd – Chief Executive Peter Catchpole –Corporate Director & Chief Finance Officer Carol Pilson – Corporate Director Sam Anthony – Head of HR&OD
<b>Background Paper(s)</b>	Previous reviews of the Corporate Risk Register: minutes of Audit and Risk Management Committee

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## 1.0 INTRODUCTION

1.1 This Policy sets out Fenland District Councils approach to Whistleblowing. The Council recognises that its staff are often in the best position to know when the interests of the public are being put at risk. It also recognises that staff can act as an early warning system on matters of safety or to help uncover fraud and mismanagement in the workplace. However, the Council is aware that staff may feel uncomfortable about disclosing such information because of:

- a) feeling disloyal to colleagues or the Council;
- b) fearing reprisals through harassment or victimisation; or
- c) being unsure of the best way to proceed.

However, the Public Interest Disclosure Act (2018) recognises these concerns. The Act applies to people at work raising genuine concerns about crime, civil offences, miscarriages of justice, danger to health and safety or the environment. It protects staff when making disclosures of information in the public interest from detriment or dismissal. This Act only covers "workers" - who are defined in simple terms as those who work under a contract of employment.

1.2 This Whistleblowing Policy is to encourage staff to make such disclosures without fear of retribution.

## 2.0 POLICY STATEMENT

2.1 Fenland District Council is committed to ensuring that all its activities are conducted ethically, honestly and to the highest possible standard of openness and accountability so as to safeguard and protect public safety and public money. In line with that commitment the Council expects its staff and others it deals with to voice their concerns about any Council activity over which they have serious concern. This policy will ensure that this can be actioned by individuals without fear of reprisal.


## 3.0 SCOPE

3.1 The Council does have a range of policies and procedures in place for staff to lodge a concern in relation to their employment. These include:

- Code of Conduct for Employees
- Equal Opportunities Policy
- Disciplinary Procedure
- Grievance Procedure
- Dignity At work.

All officers and members are encouraged to use the provisions in these procedures where appropriate.

3.2 However, there may be matters of either a major concern or those that fall outside

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of other policies/procedures that need to be handled in a different way. This policy details how all Council employees can progress any issues of concern without the fear of harassment, victimisation and subsequent discrimination or disadvantage. All staff should raise serious concerns within the Council rather than ignoring the problem or reporting the matter outside.

For the purposes of **this** policy only, ‘employees’ shall be taken to include:

- All employees under a contract of employment
- Self employed contractors or consultants working for the Council
- Agency employees
- People on work experience or placement schemes
- Volunteers based at the Council.

3.3 Any serious concerns regarding a Council activity or the conduct of any of its officers, members, or any person or persons acting on behalf of the Council (e.g. contractors, consultants, volunteers etc) can be reported under this Whistleblowing Policy. The type of major concerns that are covered include:


- conduct which is an offence or a breach of the law
- conduct which amounts to improper/unethical practices
- a criminal offence has been, is being or is likely to be committed
- suspected fraudulent activity
- health and safety risk to either employees or the public
- damage to the environment
- showing undue favour over a contractual or employment matter
- a breach of standing orders or financial regulations
- a breach of legal obligation
- unauthorised use of public funds
- a miscarriage of justice
- a breach of a code of conduct, and
- the deliberate covering up of information indicating any of the above.

The list is not exhaustive, and the policy can cover any other unethical conduct. The list merely illustrates the types of issues that can be raised under this policy.

3.4 Concerns that fall outside the scope of this policy are:

- concerns raised by employees relating to their own employment which should be addressed under the Council’s Grievance Policy; or
- concerns raised on behalf of service users which should be addressed via the Council’s 3C’s (Correspondence, Compliments and Complaints) procedure.

3.5 The policy is intended to encourage and enable employees to raise serious concerns within the Council first, using this process, rather than overlooking a problem or ‘blowing the whistle’ outside before the Council has had an opportunity to address and remedy the issue itself.

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## 4.0 SAFEGUARDS

### 4.1 Council Responsibility

4.1.1. The Council recognises that the decision to report a concern is difficult to make. However, if the employee believes it is the truth, then they will have nothing to fear as they are fulfilling their duty to the Council.

4.1.2. When a concern is raised the Council will be as supportive as possible. Harassment or victimisation (including informal pressure) will not be tolerated. If, as a result of raising a concern in good faith, employees experience any pressure the Council will take action to protect them from any form of victimisation.

4.1.3. Any employee found to be victimising another employee who has raised a genuine concern will be considered to be committing a serious disciplinary offence (deemed as gross misconduct), which will be dealt with under the Council's Disciplinary (Conduct) Policy.

4.1.4. All concerns raised will be treated in confidence and every effort will be made to protect the employee's identity if the employee wishes, and the Council will make every effort not to reveal the identity of the person (Whistleblower) making the complaint.


4.1.5. The Council does not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if we cannot obtain further information from the individual. It is also more difficult to establish whether any allegations are credible.

Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Designated Officers (listed at Section 6) and appropriate measures can then be taken to preserve confidentiality. If employees are in any doubt, they can seek advice from the Council's Employee Assistance Programme or Protect, the independent whistleblowing charity, who offer a confidential helpline (Contact details are shown in Appendix 2).

4.1.6. However, it is important that employees understand that, in some circumstances, the Council will be unable to take action about a concern raised without the employee's identity and a written statement being put forward as evidence (E.g. In a disciplinary hearing.)

4.1.7. In some circumstances the Council may have to disclose the identity of the employee without their consent, although this will be discussed with the employee first. In certain circumstances, depending on the nature of the concern and the outcome of the resulting investigation, the Whistleblower may be required to come forward as a witness.

4.1.8. If employees raising a concern under the Council's Whistleblowing Procedure are already the subject of disciplinary or redundancy procedures, these procedures will not be halted as a result of the whistleblowing.

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## 4.2 Staff Responsibility

4.2.1. All employees have a responsibility to report their concerns about unacceptable or inappropriate practice or behaviour. Whilst it can be difficult to raise a concern against a colleague or manager, employees are encouraged to act to prevent an escalation of bad practice and prevent themselves being potentially implicated in that bad practice

4.2.2. Employees are encouraged to put their name to an allegation whenever possible. The Council attaches less weight to concerns that are expressed anonymously, but these may still be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account include:

- the seriousness of the issue(s) raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

4.2.3. If an allegation is made in good faith that is not confirmed through investigation, no action will be taken against the employee raising the concern, and the matter will be considered closed. However, if there is clear evidence that an employee has made an allegation frivolously, maliciously or for personal gain, then disciplinary action may be taken against that employee.

## 4.3 Management Responsibility

4.3.1. All managers have a responsibility to:


- explain the policy and procedure to employees and to create a culture where all employees are comfortable in expressing their concerns
- encourage employees to come forward and raise concerns on a confidential basis without fear of reprisal:
- take any concerns seriously
- investigate any concerns/allegations quickly and appropriately, and
- escalate concerns and provide feedback in a timely manner.

## 5. HOW TO RAISE A CONCERN

5.1 Where appropriate a concern should be first raised with your line manager who will consider taking the matter forward. However, concerns can be raised with one of the Designated Officers (listed below) rather than your line manager in the first instance if preferred.

If you believe that the concern is of a serious enough nature or that management is involved you should approach one of the Designated Officers directly.

5.2 Concerns should be raised in writing, using the form at Appendix 1, and should cover the following:

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- the background and history of the concern (giving dates where possible); and
- the reasons for being concerned about the situation
- the name and contact details of the employee raising the concern
- assistance in completing the form can be provided from any member of the HR team, if required. Staff should contact the Head of HR/OD (Tel: 01354 622268, E-mail: [santhony@fenland.gov.uk](mailto:santhony@fenland.gov.uk) who will arrange for this assistance to be provided).

5.3 If an employee believes that colleague(s) have similar concerns, they should discuss the matter with them first. It may be easier for the matter to be raised where two or more employees share the same concerns.

5.4 Any employee raising a concern under the Council's Whistleblowing Policy will have the right to be accompanied by a trade union representative or work colleague during meetings or interviews.

## 6. DESIGNATED OFFICERS

6.1 It is essential that allegations are heard by an officer who is impartial and capable of taking an independent view on the concerns raised. In the first instance, if possible, any concern should be raised with your line manager. However, the Council has agreed for the following to act as Designated Officers for independent consultation if you believe that to be necessary.

For any matter (including all Financial Matters)

**Peter Catchpole - Corporate Director & Chief Finance Officer**

Tel: 01354 622201

E-mail: [petercatchpole@fenland.gov.uk](mailto:petercatchpole@fenland.gov.uk)

**Kathy Woodward - Internal Audit Manager**

Tel: 01354 622230

E-mail: [kwoodward@fenland.gov.uk](mailto:kwoodward@fenland.gov.uk)

For non-financial matters:

**Amy Brown – Head of Legal, Procurement and Member Services**

Tel: 01354 622483

E-mail: [abrown@fenland.gov.uk](mailto:abrown@fenland.gov.uk)


**Carol Pilson – Corporate Director and Monitoring Officer**

Tel: 01354 622360

E-mail: [carolpilson@fenland.gov.uk](mailto:carolpilson@fenland.gov.uk)

**Paul Medd - Chief Executive**

Tel: 01354 622202

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*E-mail: [paulmedd@fenland.gov.uk](mailto:paulmedd@fenland.gov.uk)*

**Sam Anthony – Head of Human Resources and Organisational Development**

*Tel: 01354 622268*

*E-mail: [santhony@fenland.gov.uk](mailto:santhony@fenland.gov.uk)*

## 7. INVESTIGATING THE CONCERN

7.1 Once a written concern has been received, the appropriate manager or Designated Officer will respond to all concerns raised under this policy, and will arrange an initial, confidential interview to ascertain the nature of the problem. Employees may be asked to make either a written or verbal statement. The manager/Designated Officer will produce a brief summary of the meeting, which will be agreed and signed by both persons. The summary will identify that this concern is being raised under the Whistleblowing policy. This should not be construed as either an acceptance or rejection of the concern.

7.2 The manager/Designated Officer will then review the situation and decide upon the course of action following appropriate consultation. This decision, with reasons, is to be formally recorded. All managers will have to report this matter to their Director or a Designated Officer. If the allegation is a financial irregularity the matter must also be reported to the Executive Director (Finance). In the event that a complaint involves the Chief Executive or the Executive Director (Finance), the Designated Officer will report to the Leader of the Council who will authorise further proceedings.

7.3 A decision will be made as to whether an investigation is appropriate or not and, if so, what form it should take. If the concern falls within the remit of other Council procedures the matter will normally be referred for consideration under those procedures.


7.4 Once a concern has been lodged, the employee will be responded to in writing within ten working days, acknowledging:-

- that the concern has been received;
- how the matter will be dealt with, and;
- whether initial enquiries have been made.

A copy of this correspondence will be sent to the Monitoring Officer.

7.5 The employee will be given an indicative timescale of when a final response will be produced. While every effort will be made to keep the employee informed of progress, this will be subject to legal constraints on matters of confidentiality.

7.6 The Council will endeavour to minimise any difficulties experienced as a result of raising a concern. Full support and advice will be given at all stages of any and all proceedings.

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## 8. HOW THE MATTER CAN BE TAKEN FURTHER

8.1 If the employee raising the concern is not satisfied with the outcome of the investigation, they will have the right to appeal. Any such appeal must be lodged in writing and sent to the Head of HR & OD, within 10 working days of receipt of the decision, stating clearly their grounds for appeal. This will form the final stage of the Council's whistleblowing process.

The Council does recognise that disclosures can be made to prescribed persons as determined by the Government and other outside bodies. This list includes:

- Public Concern at Work
- The Health & Safety Executive
- Recognised Trade Unions
- External Auditors
- Local Government Ombudsman
- Police
- Other relevant professional bodies or regulatory organisations; and
- Other relevant voluntary organisations.

(the contact information for these and other named bodies are detailed in appendix 2 – pages 10 - 14)


8.2 If the employee does decide to take the matter outside the Council, they should not disclose confidential information, and the advice of the Director of Central Services/Monitoring Officer should be sought before taking this action.

## 9.0 QUALITY AND CONSISTENCY

9.1 The Human Resources team will monitor the Whistleblowing Policy and Procedure to help ensure fair and consistent application, and the Whistleblowing Policy and Procedure will be reviewed at intervals to ensure that it remains fit for purpose.

Author	Human Resources/Internal Audit/
Date	First approved January 2004
Status	Approved
Date of revisions (if applicable)	June 2021
Date agreed	
Date for revision	June 2024
Links to other People Policies	Equal Opportunities, Disciplinary (Conduct) Policy, Grievance Policy, Dignity at Work

Appendix 1

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## Whistleblowing Concern Form

Fenland District Council is committed to openness, honesty and accountability, and wants to be alerted to problems as early as possible. The Council therefore encourages staff and Members who have serious concerns about any aspects of the Council's work, to express those concerns.

This electronic form should be used to lodge any such concerns.

*Assistance in completing this form can be provided from any member of the HR team, if required. Please contact the Head of HR (Tel: 01354 622268, E-mail: [santhony@fenland.gov.uk](mailto:santhony@fenland.gov.uk) who will arrange for this assistance to be provided).*

*The full Policy is available on the Council's Intranet under People Policies.*

### **Background and history**

Please set out, in as much detail as possible, the background and history of your concern, giving names, dates, places and other information where possible.


*(Please type here)*

### **Reason for concern**

Please express, in as much detail as you can, the reasons why you are particularly concerned about the situation.

*(Please type here)*

### **Name and contact details**

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The Council encourages people raising concerns to give their full name for the following reasons:

- concerns expressed anonymously are much less powerful;
- the Council can give you direct feedback on the progress and outcome of any investigations;


So, if you can give you your name and contact details in the box below, that would assist in the investigation of your concern.

*(Please type here)*

### ***Thank you***

Thank you for raising your concern, which will be taken seriously.  
 Please forward your completed form confidentially to either your line manager or a Designated Officer.

You will hear from the Designated Officer within ten working days.

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## Appendix 2

### **External Contacts**

#### **Public Concern at Work**

Public Concern at Work is an independent organisation which can provide guidance and training to employees on whistleblowing and can also offer free advice to employees unsure whether or how to raise a concern about workplace wrongdoing.

Tel: 0203 117 2520

E-mail: [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

#### **Public Sector Audit appointments**

**[www.psaa.co.uk](http://www.psaa.co.uk)**

#### **The Certification Officer**

For matters in respect of:

- Fraud, and other irregularities, relating to the financial affairs of trade unions and employers' associations

Local Ground Floor  
 Fleetbank House  
 2 – 6 Sailsbury House  
 London  
 EC4Y 8JX

Tel: 0330 109 3602

#### **Chief Executive of the Criminal Cases Review Commission**

For matters in respect of:

- Actual or potential miscarriages of justice


Criminal Cases Review Commission  
 5 St Philips Place  
 Birmingham  
 B3 2PW

Tel: 0121 233 1473

#### **Independent Office Police Conduct**

For matters in respect of:

- The conduct of a person serving with the police, or of any other person in relation to whose conduct the Independent Police Complaints Commission exercises functions in or under any legislation.

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Independent Office for Police Conduct  
 PO Box 473  
 Sale  
 M33 0BW  
 Tel 0300 020 0096

### **Controller and Auditor General of the National Audit Office**

For matters in respect of:

- The proper conduct of public businesses, value for money, fraud and corruption in relation to the provision of centrally funded public services

The Controller and Auditor General  
 National Audit Office  
 157-197 Buckingham Palace Road  
 Victoria  
 London  
 SW1W 9SP  
 Tel: 020 7798 7000

### **The Director of the Serious Fraud Office**

For matters in respect of:

- Serious or complex fraud

The Director of the Serious Fraud Office  
 2 – 4 Cockspur Street  
 London  
 SW1Y 5BS

### **The Environment Agency**

For matters in respect of:


- Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment including those relating to pollution, abstraction of water, flooding, the flow of rivers, fisheries and migratory salmon or trout.

The Environment Agency  
 PO Box 544  
 Rotherham  
 S60 1BY

Tel: 03708 506506  
 Email: [enquires@environmental-agency.gov.uk](mailto:enquires@environmental-agency.gov.uk)

### **The Health and Safety Executive**

For matters in respect of:

 <b>Fenland</b> CAMBRIDGESHIRE Broad Horizons · Clear Vision <b>POLICIES</b>	<b>PEOPLE POLICY:</b> <b>WHISTLEBLOWING</b>
Date Agreed With UNISON:      First approved February 2004	Date of Effect:

- Matters which may affect the health and safety of any individual at work; matters which may affect health and safety of any members of the public arising out of, or in connection with, the activities of persons at work

Health and Safety Executive  
 Information Services  
 Caerphilly Business Park  
 Caerphilly  
 South Wales  
 CF83 3GG  
 Tel: 0300 0031647

### **Information Commissioner**

For matters in respect of:

- Compliance with the requirements of legislation relating to data protection and to freedom of information

The Office of the Information Commissioner  
 Wycliffe House  
 Water Lane  
 Wilmslow  
 Cheshire  
 SK9 5AF  
 Tel: 01625 545700

### **Advisory, Conciliation and Arbitration Service (Acas)**


Acas operates a nationwide network of helplines which deal with queries about employment matters, including the rights and obligations arising out of employment law.

Tel: 0300 123 1100  
 E-mail: [www.acas.org.uk](http://www.acas.org.uk)

### **Local Government Ombudsman**

The Local Government Ombudsman is concerned with council matters including housing, planning, education and social services.

Tel: 0300 061 0614  
<http://lgo.org.uk>

 <b>Fenland</b> CAMBRIDGESHIRE Broad Horizons · Clear Vision <b>POLICIES</b>	<b>PEOPLE POLICY:</b> <b>WHISTLEBLOWING</b>
Date Agreed With UNISON:      First approved February 2004	Date of Effect:

### **Disclosure and Barring Service**

The Criminal Records Bureau's aim is to help organisations in the public, private and voluntary sectors by identifying candidates who may be unsuitable to work with children or other vulnerable members of society. Their role is to reduce the risk of abuse by ensuring that those who are unsuitable are not able to work with children and vulnerable adults.

General Enquiries: 03000 200 190  
 DBS barring  
 PO Box 3963  
 Royal Wootton Bassett  
 SN4 4HH

### **Social Services - Cambridgeshire County Council**

[www.cambridgeshire.gov.uk](http://www.cambridgeshire.gov.uk)

Address:      Shire Hall  
                   Castle Hill  
                   Cambridge  
                   CB3 0AP

Tel:      01223 717111 (Main switchboard)  
             0345 045 5200 (Cambs Direct)

### **Protect**

Protect aims to make whistleblowing work for individuals, organisations and society.

<https://protect-advice.org.uk>

Advice line: <https://protect-advice.org.uk/contact-protect-advice-line/>

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## AUDIT AND RISK MANAGEMENT COMMITTEE WORK PROGRAMME 2021/22

DATE OF MEETING	TITLE	TYPE OF REPORT	LEAD OFFICER	OBJECTIVES AND DESIRED OUTCOMES
21 June 2021	External Audit Plan 2020/21	Annual	External Auditor	To note the external audit plan for the new financial year.
	Risk Based Internal Audit Plan 2021/22	Annual	Kathy Woodward	To approve the internal audit plan and resources for the forthcoming year
	Internal Audit Charter	3-year update	Kathy Woodward	To review the Internal Audit function's Terms of reference, independence, access to records and delivery of audit opinion, including the governance and management of resources.
	RIPA Annual Update	Annual	Anna Goodall	To review and note the use of RIPA in the previous year.
	Risk Management Strategy and Corporate Risk Register	Annual	Sam Anthony	To consider and note the annual review of risk management and corporate risk register.
	Whistleblowing Policy	3 year update	Sam Anthony	To endorse the Policy to be approved for adoption.
19 July 2021	Draft Statement of Accounts 2020-21	Annual	Mark Saunders	To review and note the draft Statement of Accounts
	Annual Governance Statement 2020-21	Annual	Kathy Woodward	To approve the content of the Annual Governance Statement for inclusion in the published Statement of Accounts 20-21.
	Treasury Management Annual Review 2020-21	Annual	Mark Saunders	To consider the overall financial and operational performance of the Council's treasury management activity. This report will be considered by Cabinet and Council.
	Internal Audit Outturn and Quality Assurance Review 2020-21	Annual	Kathy Woodward	To note the work undertaken by Internal Audit during the year, not the Annual Audit Opinion and consider the effectiveness of Internal Audit
	Corporate Governance Committee / Audit and Risk management Committee Annual Report 2020-21	Annual	Kathy Woodward	To approve the report to Full Council the commitment and effectiveness of the Corporate Governance Committee's work.

## AUDIT AND RISK MANAGEMENT COMMITTEE WORK PROGRAMME 2021/22

DATE OF MEETING	TITLE	TYPE OF REPORT	LEAD OFFICER	OBJECTIVES AND DESIRED OUTCOMES
<i>20 September 2021</i>	Risk Register - Quarterly update	Progress Report	Sam Anthony	To review and approve the quarterly risk register.
	Internal Audit Plan 2021/22 Progress report Q1	Progress report	Kathy Woodward	To consider and note the activity and performance of the Internal Audit function.
	Audit Results Report (ISA 260)	Annual	External Audit	Consider and note the Audit results report
	Statement of Accounts 2020-21	Annual	Mark Saunders	Review and approve the Statement of Accounts 2020-21
	Letter of Representation	Annual	Mark Saunders	Agree format and content of the Letter of Representation provided to the External Auditors at the conclusion of the 20-21 Statement of Accounts audit. To be signed by Chairman of CGC and S151 officer
<i>29 November 2021</i>	Treasury Management Strategy Statement and Annual Investment Strategy Mid-year review	Progress report	Mark Saunders	To review the activity for first 6months of the year and to provide members a update on matters pertinent to the Councils TM Strategy
	Internal Audit Plan 2021/22 Progress report Q2	Progress report	Kathy Woodward	To consider and note the activity and performance of the Internal Audit function.
	Risk Register - Quarterly update	Quarterly	Sam Anthony	To review and approve the quarterly risk register.
<i>14 February 2022</i>	Annual Audit Letter 2020-21	Annual	External Audit	To note the independent external auditors, Ernst &Young (EY), Annual Audit Letter
	Treasury Management Strategy Statement, Capital Strategy, Minimum Revenue Provision Policy Statement and Annual Investment Strategy 2022/23	Annual  Cabinet / Council	Mark Saunders	To Endorse the strategy to be included in the final budget report.
	Internal Audit Plan 2021/22 Progress report Q3	Progress report	Kathy Woodward	To consider and note the activity and performance of the Internal Audit function.
	Risk Register – Quarterly update	Progress	Sam Anthony	To review and approve the quarterly risk register.

## AUDIT AND RISK MANAGEMENT COMMITTEE WORK PROGRAMME 2021/22

DATE OF MEETING	TITLE	TYPE OF REPORT	LEAD OFFICER	OBJECTIVES AND DESIRED OUTCOMES
		report		
	Annual Governance Statement 6-month update	Progress report	Kathy Woodward	To review progress on the AGS action plan
14 March 2022	External Audit Plan 2021/22	Annual	External Auditor	To note the external audit plan for the new financial year.
	Risk Based Internal Audit Plan 2022/23	Annual	Kathy Woodward	To approve the internal audit plan and resources for the forthcoming year
	RIPA Annual Update	Annual	Anna Goodall	To review and note the use of RIPA in the previous year.
	Risk Management Strategy and Corporate Risk Register	Annual	Sam Anthony	To consider and note the annual review of risk management and corporate risk register.

Future items (when to be brought to the committee to be determined)

- Anti-Fraud and Corruption Policy and Strategy
- Anti-Money Laundering Policy
- Corporate Debt Policy

### Audit and Risk Management Committee Training sessions 2021/22

- Introduction to ARMC                      June 2021
- Statement of Accounts                      July 2021

## AUDIT AND RISK MANAGEMENT COMMITTEE WORK PROGRAMME 2021/22

### Audit and Risk Management Committee Action Plan

Title	Comments	Due by	RAG
Independent Member appointment	The Committee decided in August 2020 to review the need for an independent member as part of the committee.	November 2021	Not due
Audit Results Report – land valuation recommendations	Allocate target date and responsible officer for completion of the Land Valuations recommendation highlighted in Audit Results report. Responsible officer – Peter Catchpole	31 March 2021 (review if nec'y)	Not due
Committee Training	Committee Members to discuss training requirements and provide officers with suggested training topics for future meetings.	21 June 2021	Not Due

## AUDIT AND RISK MANAGEMENT COMMITTEE WORK PROGRAMME 2021/22

### Abbreviations Used in Audit & Risk Management Committee

AGS	Annual Governance Statement
ARG	Additional Restrictions Grant
ARP	Anglia Revenue Partnerships
BCP	Business Continuity Planning
BEIS	The Department for Business, Energy and Industrial Strategy
CFR	Capital Financing Requirement
CIPFA	Chartered Institute of Public Finance and Accountancy
CIS	Commercial Investment Strategy
CMT	Corporate Management Team
CNC	CNC Building Control
CPCA	Cambridgeshire & Peterborough Combined Authority
CPE	Civil Parking Enforcement/
CPLRF	Cambridgeshire & Peterborough Local Resilience Forum
CTS	Council Tax Support
DFG	Disabled Facilities Grants
DPA	Data Protection Act
CSR	Comprehensive Spending Review
FFL	Fenland Future Ltd
GDPR	General Data Protection Regulations
IAS	International Accounting Standards
IFRS	International Financial Reporting Standard
LGA	Local Government Association
LGSS	Local Government Shared Services
LRSG	Local Restrictions Support Grants
MHCLG	Ministry of Housing Communities and Local Government
MoU	Memorandum of Understanding
MRP	Minimum Revenue Provision
MTFP	Medium Term Financial Plan
MTSP	Management, Trade Union & Staff Partnership
NFI	National Fraud Initiative
NNDR	National Non-Domestic Rates
OIB	Operational Improvement Board (ARP)
OLTL	Other Long-Term Liabilities
PSIAS	Public Sector Internal Audit Standards
PWLB	Public Works Loan Board
RIPA	Regulation of Investigative Powers

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