

Notice of Meeting



Scan here to access the public documents for this meeting

Governance and Ethics Committee

Monday, 25th November, 2019 at 5.00 pm
in Council Chamber Council Offices
Market Street Newbury

Note: The Council broadcasts some of its meetings on the internet, known as webcasting. If this meeting is webcasted, please note that any speakers addressing this meeting could be filmed. If you are speaking at a meeting and do not wish to be filmed, please notify the Chairman before the meeting takes place. Please note however that you will be audio-recorded.

Date of despatch of Agenda: Friday, 15 November 2019

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Moira Fraser/Stephen Chard on (01635) 519045/519462

e-mail: moira.fraser@westberks.gov.uk / stephen.chard@westberks.gov.uk

Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



WestBerkshire
C O U N C I L

Agenda - Governance and Ethics Committee to be held on Monday, 25 November 2019
(continued)

To: Councillors Jeff Beck (Chairman), James Cole, Jeremy Cottam (Vice-Chairman), Barry Dickens, Jane Langford, Tony Linden, Thomas Marino, David Marsh, Geoff Mayes, Andy Moore and Joanne Stewart

Substitutes: Councillors Adrian Abbs, Carolyn Culver, Lee Dillon, Steve Masters, Claire Rowles and Garth Simpson

Agenda

Part I

Page No.

- | | | |
|---|---|-------|
| 1 | Apologies
To receive apologies for inability to attend the meeting (if any). | |
| 2 | Minutes
To approve as a correct record the Minutes of the meeting of this Committee held on 29 July 2019. | 1 - 4 |
| 3 | Declarations of Interest
To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' Code of Conduct . | |
| 4 | Forward Plan
<i>Purpose: To consider the Forward Plan for the next 12 months.</i> | 5 - 8 |

Audit Matters

- | | | |
|---|---|---------|
| 5 | Revised Draft Policies/Procedures covering Anti-Fraud and Corruption, Anti-Bribery and Money Laundering (GE3854)
<i>Purpose: To obtain approval for the revised content of the Anti-Fraud and Corruption, Anti-Money Laundering and Bribery Act policies.</i> | 9 - 52 |
| 6 | Review of Functions of the Governance and Audit Committee (GE3829)
<i>Purpose: To provide a verbal update following the review of the functions of the Governance and Ethics Committee.</i> | 53 - 56 |
| 7 | Internal Audit – Interim Report 2019/20 (GE3638) | 57 - 74 |

Agenda - Governance and Ethics Committee to be held on Monday, 25 November 2019
(continued)

Purpose: To update the Committee on the outcome of Internal Audit work carried out during quarters one and two of 2019-20.

- 8 **Exclusion of Press and Public**
RECOMMENDATION: That members of the press and public be excluded from the meeting during consideration of the following items as it is likely that there would be disclosure of exempt information of the description contained in the paragraphs of Schedule 12A of the Local Government Act 1972 specified in brackets in the heading of each item.

Part II

- 9 **Internal Audit – Interim Report 2019/20 (GE3638)** 75 - 104
Purpose: To update the Committee on the outcome of Internal Audit work carried out during quarters one and two of 2019-20.

Sarah Clarke
Head of Legal and Strategic Support

West Berkshire Council is committed to equality of opportunity. We will treat everyone with respect, regardless of race, disability, gender, age, religion or sexual orientation.

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.



This page is intentionally left blank

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

GOVERNANCE AND ETHICS COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 29 JULY 2019

Councillors Present: Adrian Abbs (Substitute) (In place of Andy Moore), Jeff Beck (Chairman), James Cole, Jeremy Cottam (Vice-Chairman), Barry Dickens, Jane Langford, Tony Linden, Steve Masters (Substitute) (In place of David Marsh), Geoff Mayes, Claire Rowles (Substitute) (In place of Thomas Marino) and Joanne Stewart

Also Present: Sarah Clarke (Head of Legal and Strategic Support), Shannon Coleman-Slaughter (Chief Financial Accountant), Julie Gillhespey (Audit Manager) and Andy Walker (Head of Finance and Property), Moira Fraser (Democratic and Electoral Services Manager) and Roger Hunneman (Parish Councils)

Apologies for inability to attend the meeting: Councillor Thomas Marino, Councillor David Marsh and Councillor Andy Moore

Councillor(s) Absent:

PART I

8 Minutes

The Minutes of the meeting held on 17 June 2019 were approved as a true and correct record and signed by the Chairman subject to the inclusion of the following amendment:

Item 7 Corporate Risk Register (Q4 Update 2018/19), page 3 penultimate paragraph be revised to state that "Councillor James Cole stated that one thing that was still outstanding was the subject of Risk Appetite, particularly necessary to deal with now that the Council is deliberately taking on risk, and that the Committee will see what is proposed in due course. He recommended that Officers look at the work undertaken by Maidstone Council as he felt that this was a good starting point."

9 Declarations of Interest

Councillor Claire Rowles declared an interest in all agenda items pertaining to Grant Thornton, the Council's external auditors, by virtue of the fact that she dealt with the company in respect of a network that she ran in London. She reported that, as her interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matters.

10 Forward Plan

The Committee considered the Governance and Ethics Committee Forward Plan (Agenda Item 4).

A request was made to add the following items to the 02 September 2019 meeting:

1. Report on the Effectiveness of the Audit Committee following the external audit of Internal Audit.
2. ISO 260 Report from Grant Thornton.

RESOLVED that the amended Governance and Ethics Committee Forward Plan be approved.

11 Internal Audit Annual Assurance Report 2019/19 (GE3625)

Julie Gillhespey (JG) presented the annual report (Agenda Item 5) The Public Sector Internal Audit Standards (PSIAS) required the Audit Manager to make a formal annual report to those charged with governance within the Council.

The Audit Manager's annual audit opinion was that reasonable assurance could be provided that the Council's governance, risk management and control framework remained robust.

The Audit Manager reported that there was one audit deemed to be weak. This related to the use of procurement cards. Although this had Council wide implications there were relatively low values involved.

It was noted that the target of achieving 80% of the audit plan had been met by the team as 81% of the planned activity had been undertaken. This was slightly lower than the previous year and had been impacted by a vacancy in the team. In relation to a query about how the programme was set up JG explained that the plan was agreed by the Committee each year. If areas of concern arose in year they could also be included.

Councillor Jeremy Cottam noted that the size of the audit team had been reduced over the past couple of years. He stated that he would be very unhappy to see any further reductions in staffing numbers. Andy Walker (AW) stated that Officers had to make the best use of limited resources and therefore the audit programme tended to focus on higher risk areas.

Councillor Jo Stewart queried whether the issues in respect of procurement cards were similar to those that had previously arisen. JG stated that the primary recommendation arising from this audit was around training for card holders and administrators. Although guidance was in place it was felt that detailed training would be more effective. JG was confident that this training would be beneficial. A follow up audit would be undertaken six months later.

Councillor Steve Masters also raised concerns about staffing levels and the risk to the Council if numbers were further reduced. JG stated that staffing levels had been raised during the Team's New Ways of Working Review and a request had been made to increase staffing numbers from four to five.

RESOLVED that the item be noted.

12 Annual Governance Statement (GE3627)

Andy Walker presented a report (Agenda Item 6) which set out the Annual Governance Statement (AGS) for the Council in 2018/19.

In light of issues raised during the year it was proposed that the following measures would be put in place:

- A review of the ASC forecast overspend position was undertaken by the Chief Executive and Audit Manager during 2018/19, and made a number of recommendations to strengthen the financial management arrangements within ASC and across the Council. These recommendations were being implemented according to an agreed plan and would be closely monitored for their effectiveness.
- Regular reporting of School DSG funding performance to be embedded within existing financial performance arrangements.

RESOLVED that the Annual Governance Statement be approved.

13 West Berkshire Council Financial Statements 2018/19 (GE3624)

GOVERNANCE AND ETHICS COMMITTEE - 29 JULY 2019 - MINUTES

Shannon Coleman Slaughter introduced the report (Agenda Item 7) which provided members with a draft copy of the Council's Financial Statements for the 2018/19 financial year. Grant Thornton, the Council's external auditors, were auditing the financial statements. Once the audit was completed the financial statements would be made available alongside the ISA260 report from the auditors which would detail their opinion on the Financial Statements and Value for Money and would detail recommendations made by them.

Andy Walker apologised that the financial statements had to be circulated to Members under separate cover. Barrie Morris also apologised that Members had received such a large document outside of the usual timescales. He informed Members that the audit work was not yet complete but that Members were being asked to sign them off in order to comply with the statutory requirements. He explained that there had been a number of technical changes to processes and this was the first audit of this Council that they had undertaken. The approach they adopted differed from the previous auditors. Officers had however been very supportive of the revised audit processes.

Barrie Morris noted that one of the outstanding issues pertained to the evaluation of the Council's assets and they had asked officers to provide them with some additional information. Information was also being sought from the pension fund auditors. The modelling around adult social care was also being revisited.

Sarah Clarke noted the comments around the Council's commercial property investment activity. She noted that the purchase of properties was delegated to her as the Monitoring Officer and was not a Member decision. Barrie Morris agreed to refine the comments in the final version of the report.

RESOLVED that the financial statements be approved in accordance with the Local Audit and Accountability Act 2014.

14 Financial Year 2018/19 Going Concern Assessment (GE3781)

Shannon Coleman-Slaughter (SCS) presented a report (Agenda Item 8) which stated that as a result of the significant reduction in funding for local government in recent years and the potential threat this posed to the ongoing viability of one or more Councils as a consequence, External Auditors were placing a greater emphasis on local authorities undertaking an assessment of the 'going concern' basis on which they prepared their financial statements. This report summarised the management assessment of the Council continuing to operate as a going concern for the purposes of producing the Statement of Accounts for 2018/19.

The report concluded that the assessment had been undertaken by the s151 Officer. Having considered the assessment and the overall financial strength of the Council, it was proposed that this assessment did not contain an imminent risk to the going concern assertion.

Members requested the graph in paragraph 4.1 (page 56) be amended to refer to a denomination of £4m.

Members raised some concerns about the net assets, especially the pension liability, and the usable and unusable reserves. SCS explained that a detailed report on reserves would be brought to the next meeting.

RESOLVED that a detailed review of the Earmarked Reserves be undertaken to ensure financial provision aligned to key strategic financial risks identified via our internal governance processes.

GOVERNANCE AND ETHICS COMMITTEE - 29 JULY 2019 - MINUTES

15 External Audit Fee (GE3624a)

Shannon Coleman-Slaughter presented a report which set out the Audit Fee Letter for 2019/20 from Grant Thornton. The letter set out the fee for the audit in line with the prescribed scale fee set by the Public Sector Audit Appointments Limited. The Governance and Ethics Committee had agreed previously that the Council should become a member of the PSAA who now appointed the Council's auditors. The Council's scale fee for 2019/20 had been set by the PSAA at £74,423 which was the same as in 2018/19.

RESOLVED that the report be noted.

16 Proposals for Reviewing the Constitution (GE3792)

Sarah Clarke presented the report which provided an outline plan for the review of the Council's Constitution.

RESOLVED that :

the following Members be appointed to a cross party task group to oversee the review:

1. Graham Bridgman
2. Jeff Beck
3. Howard Woollaston
4. James Cole
5. Geoff Mayes
6. Andy Moore
7. David Marsh

the task group be supported by appropriate officers.

The planned review and indicative timetable as detailed in appendix C be approved.

(The meeting commenced at 4.30 pm and closed at 5.40 pm)

CHAIRMAN

Date of Signature

Governance and Ethics Committee Forward Plan September 2019 – July 2020

No.	Ref No	Item	Purpose	Lead Officer	Lead Member	Governance/Audit/ Ethics
03 February 2020						
1.	GE3637	Financial Statements 2018/19 - Annual Audit Letter	To provide Members with the Final Annual Audit Letter 2018/19 from external auditor. The audit letter summarises the outcome from their audit work at West Berkshire Council in relation to the 2018/19 audit year.	Shannon Coleman Slaughter	Councillor Ross Mackinnon Finance	Audit
2.	GE3691	Strategic Risk Register Update Q2 2019/20		Catalin Bogos	Councillor Howard Woollaston Internal Governance	Audit
20 April 2020						
3.	C3686	Amendments to the Constitution – Scheme of Delegation	To review and amend sections of the Scheme of Delegation in light of legislative changes and current practice.	Sarah Clarke	Councillor Howard Woollaston Internal Governance	Governance
4.	GE3687	Monitoring Officer's Annual Report to the Governance and Ethics Committee –2019/20 Year End	To provide an update on local and national issues relating to ethical standards and to bring to the attention of the Committee any complaints or other problems within West Berkshire.	Sarah Clarke	Councillor Howard Woollaston Internal Governance	Ethics
5.	GE3688	Internal Audit Plan 2020/21	To outline the proposed internal audit work programme for the next three years	Julie Gilhespey	Councillor Howard Woollaston Internal Governance	Audit

No.	Ref No	Item	Purpose	Lead Officer	Lead Member	Governance/Audit/Ethics
6.	GE3689	External Audit Plan 2020-21	To provide Members with a copy of the External Audit Plan for 2020-21	Shannon Coleman-Slaughter	Councillor Howard Woollaston Internal Governance	Audit
7.	GE3690	Internal Audit – Interim Report 2019-20	To update the Committee on the outcome of internal audit work.	Julie Gilhespey	Councillor Howard Woollaston Internal Governance	Audit
June 2020						
8.	GE3819	Strategic Risk Register Update Q4 2019/20	To provide an update with progress.	Catalin Bogos	Councillor Howard Woollaston Internal Governance	Audit
July 2020						
9.	GE3820	West Berkshire Council Financial Statements 2019/20	To provide Members with the final copy of the Council's Financial Statements	Andy Walker	Councillor Ross Mackinnon Finance	Audit
10.	GE3821	Internal Audit Annual Assurance Report 2019/20	The Public Sector Internal Audit Standards (PSIAS) require the Audit Manager to make a formal annual report to those charged with governance within the Council.	Julie Gilhespey	Councillor Howard Woollaston Internal Governance	Audit
11.	GE3822	Financial Year 2019/20 Going Concern Assessment	This report summarises the management assessment of the Council continuing to operate as a going concern for the purposes of producing the Statement of Accounts for 2019/20.	Shannon Coleman-Slaughter	Councillor Ross Mackinnon Finance	Audit
12.	GE3823	Annual Governance Statement	To allow the committee to review the Annual Governance Statement before it is signed by the Leader and	Andy Walker	Councillor Howard Woollaston Internal	Audit

No.	Ref No	Item	Purpose	Lead Officer	Lead Member	Governance/Audit/Ethics
			Chief Executive		Governance	
13.	GE3824	External Audit Fee 2020-21	To present to members the Audit Fee Letter for 2020/21 from Grant Thornton. The letter sets out the fee for the audit in line with the prescribed scale fee set by the Public Sector Audit Appointments Ltd (PSAA).	Shannon Coleman-Slaughter	Councillor Howard Woollaston Internal Governance	Audit
September 2020						
14.						
November 2020						
15.	GE3864	Internal Audit Interim Report 2020/21	To update the Committee on the outcome of internal audit work.	Julie Gilhespey	Councillor Howard Woollaston Internal Governance	Audit

This page is intentionally left blank

Revised Draft Policies/Procedures covering Anti-Fraud and Corruption, Anti-Bribery and Money Laundering - Summary Report

Committee considering report:	Governance and Ethics Committee
Date of Committee:	25 November 2019
Portfolio Member:	Councillor Howard Woollaston
Date Head of Service agreed report <i>(for Corporate Board)</i>	15th October 2019
Date Portfolio Member agreed report:	01 November 2019
Report Author:	Julie Gillhespey - Audit Manager
Forward Plan Ref:	GE3854

1. Purpose of the Report

- 1.1 To obtain approval for the revised content of the Anti-Fraud and Corruption, Anti-Money Laundering and Bribery Act policies.

2. Recommendation(s)

- 2.1 Committee to approve the content of the draft policies.

3. Implications

- 3.1 **Financial:** There are likely to be resource implications with the implementation of certain aspects of the Anti-Fraud Policy if it is agreed we should amend our current approach and be more pro-active in fighting fraud.
- 3.2 **Policy:** The proposed changes to the policies would bring them in line with current good practice.
- 3.3 **Personnel:** None
- 3.4 **Legal:** None
- 3.5 **Risk Management:** If approval is given to the proposed changes to the Anti-Fraud Policy the Council's approach to risk management would need to improve the management of fraud risk.
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 Not applicable, the revised policies need to be discussed/approved.

Executive Summary

5. Introduction / Background

- 5.1 The Council's policies covering Anti-Fraud and Corruption, Anti-Money Laundering and the Bribery Act have been in place for over 10 years, and were long overdue a review. A thorough review has now been undertaken to ensure that the policies are fit for purpose, meet statutory requirements and take into account more recent changes in good practice.
- 5.2 There are only minor changes to the Anti-Money Laundering and Bribery Act policies. The key changes are to the Anti-Fraud and Corruption Policy and Procedure, where good practice has moved on considerably since the Council's policy was last reviewed.
- 5.3 Some of the proposed changes will require a more pro-active approach to anti-fraud work. There is likely to be a resource implication associated with this, depending to what degree it is recommended that good practice should or needs to be implemented at West Berkshire Council.
- 5.4 Once the revised policies have been approved it is intended to include an article in the Reporter to highlight the documents have been revised and the importance of staff being aware of them. It is also intended to publish them on an Internal Audit webpage which is currently being set up.

6. Proposal(s)

- 6.1 Committee review and approve the revised policies and procedures. Some of the proposed changes will require a more pro-active approach to anti-fraud work.

7. Conclusion(s)

- 7.1 The Council's Anti-Fraud, Anti-Money Laundering and Bribery Act policies and procedures have been revised to bring them up to date and to ensure they are fit for purpose. This has resulted in a major revamp of the Anti-Fraud Policy, which has highlighted a number of changes that are required if the Council wishes to bring its approach to counter fraud work in line with good practice.

8. Appendices

- 8.1 Appendix A – Bribery Act Policy and Procedure
- 8.2 Appendix B – Anti-Money Laundering Policy and Procedure
- 8.3 Appendix C – Anti-Fraud Policy and Procedure

This page is intentionally left blank

Bribery Act Policy and Procedure

Document Control

Document Ref:		Date Created:	Sept 2019
Version:	0.2 (update to V1 on sign off)	Date Modified:	
Revision due	June 2022		
Author:	Julie Gillhespey, Internal Audit Manager	Sign & Date:	
Owning Service	Finance and Property (Internal Audit)		
Equality Impact Assessment: (EIA)	Date undertaken:	No Applicable	
	Issues (if any):		
Governance and Ethics Committee	Sign & Date:		

Change History

Version	Date	Description	Change ID
0.1	June 2019	Initial draft.	
0.2	Sept 2019	Amendments from FAGG review	JB

Contents

1. Purpose	3
2. Applicability	3
3. Policy	3
4. Implementation	4
5. Roles and Responsibilities	4
6. Gifts and Hospitality	5
7. Failure to comply with WBC Bribery Act Policy	5
8. Raising a Concern	5
9. Review	6
Glossary	7
Other Relevant Documentation	7

1. **Purpose**

- 1.1 The Council is committed to implementing and enforcing effective systems to prevent or counter any act of bribery. It is the Council's policy to conduct all aspects of its business in an honest and ethical manner at all times.
- 1.2 The purpose of this policy is to explain how the Council intends to maintain high standards and to protect the organisation, employees, Members and business partners against actual occurrences/or allegations of bribery and corruption.
- 1.3 The aim of this policy is to help the Council act in accordance with the Bribery Act 2010, maintain the highest possible standards of business practice, and advise individuals of the council's 'zero-tolerance' to bribery.
- 1.4 This Policy/Guidance has been approved by both the Finance and Governance Group, and the Governance and Ethics Committee.

2. **Applicability**

- 2.1 This Policy applies to:
 - 2.1.1 All non-school based employees working for the Council, including those working from home or at non-Council locations.
 - 2.1.2 Other persons including Elected Members, Consultants, Agency staff and Contractors working for the Council, external organisations working with the Council, whilst engaged on Council business.
- 2.2 It is the responsibility of each employee and other person mentioned in Section 2.1 to familiarise themselves with and adhere to this Policy.
- 2.3 Adherence to this Policy is a condition of working for the Council or using its assets.

3. **Policy**

- 3.1 It is the Policy of the Council to ensure that the Council and all persons acting within or on behalf of the Council, shall not:
 - Make contributions of any kind with the purpose of gaining an advantage;
 - Provide gifts or hospitality with the intention of persuading anyone to act improperly, or to influence a public official in the performance of their duties; or
 - Make, or accept, inducements of any kind.
- 3.2 The Council commits to:
 - Setting out a clear Bribery Act (anti-bribery) Policy and keeping this up-to-date with regular reviews;
 - Making all Members, employees and partners aware of their responsibilities to adhere to this policy at all times;

- Providing training, where appropriate, to allow Members, employees and partners to recognise and avoid the use of bribery by themselves or others;
- Encouraging Members, employees and partners to be vigilant and to report any suspicions of bribery;
- Providing suitable channels of communication (e.g. the Whistleblowing Procedure) to ensure that sensitive information is handled appropriately;
- Investigating instances of alleged bribery and assisting the police and other authorities in any prosecution;
- Taking action against anybody acting for or on behalf of the Council who is involved in bribery;
- Reporting breaches and suspected breaches of this policy to Members, employees and partners in an open and transparent way; and
- Including appropriate clauses in contracts with suppliers to advise on the Council's approach to the provisions of the Bribery Act 2010.

4. Implementation

- 4.1 This Policy is supported and implemented by the production of Procedures and Guidance which form part of this document.

5. Roles and Responsibilities

- 5.1 The responsibility for day-to-day mitigation of the risk of bribery resides at all levels of the Council and includes all directorates. It does not rely solely on the Council's assurance functions.
- 5.2 All managers are directly responsible for implementing this Policy and any sub policies and procedures within their service areas, and for the adherence of their staff and others (as stated in 2.1).

Managers should:

- Keep appropriate internal records that will evidence the business reason for making any payments to third parties;
- Encourage employees to raise concerns about any issues or suspicion of malpractice at the earliest possible stage; and
- Ensure that anyone raising a concern about bribery will not suffer any detriment as a result, even if their concerns are not validated, providing there is no malicious intent.

- 5.3 All personnel detailed at 2.1.1 and 2.1.2 have an individual responsibility to adhere to this Policy.

Employees must not:

- Accept any financial or other reward from any person in return for securing a particular outcome;
- Request a financial or other reward from any person in return for providing some favour;
- Offer any financial or other reward to any person in return for providing some favour.

5.4 Employees have an obligation to report any offer of an inducement – financial or otherwise.

6. Gifts and Hospitality

6.1 This policy is not intended to change the requirements of the Council's Gifts and Hospitality policies and procedures. This is contained in the West Berkshire Officers Code and in the Members Code of Conduct in the Council's Constitution.

6.2 The guidelines clearly set out the restrictions on accepting gifts and hospitality, the need to inform the manager and the need to register any approved gifts that are retained.

6.3 If there is any doubt about whether an invitation or gift should be accepted then the offer should be refused. Each Head of Service is required to maintain a Gifts and Hospitality Register (Officer's Code of Conduct Section 13.5.7(e)). The Monitoring Officer will ensure that reminders on this subject and the need for officers to complete a Register of Interests form are sent out every year.

6.4 Gifts and hospitality declared are reported to the Governance and Ethics Committee, as part of the Monitoring Officer's review of governance.

6.5 The procedures for Members' registers of interest are set out in the Members' Code of Conduct.

7. Failure to comply with WBC Bribery Act Policy

7.1 All employees have a role to play in enforcing the policy and are required to report any suspected breach in accordance with the Council's Whistleblowing Procedure.

7.2 This document provides staff and others with essential information regarding the Bribery Act, and sets out conditions to be followed. It is the responsibility of all to whom this Policy document applies to adhere to these conditions. Failure to do so may result in:

- withdrawal of access to relevant services
- informal disciplinary processes
- formal disciplinary action (in accordance with the relevant sections of the Employee Handbooks)

7.3 The Council will not tolerate bribery or corruption by its councillors, employees, suppliers, contractors, partners or service users and will take all necessary steps to investigate all allegations of bribery or corruption and pursue sanctions available in each case, including removal from office, disciplinary action, dismissal and/or prosecution under the Bribery Act 2010.

8. Raising a Concern

8.1 Staff are encouraged to raise any concerns with their manager. In addition, the Council has published a Whistleblowing Procedure (published on the HR webpages). This provides information on the courses of action available to report serious concerns (including bribery) in confidence.

8.2 The Council aims to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

8.3 Members, staff or partners who refuse to accept the offer of a bribe may worry about the repercussions. The Council is committed to ensuring that nobody suffers detrimental treatment through refusing to take part in bribery.

9. **Review**

9.1 This policy will be reviewed to respond to any changes in legislation/good practice, and at least every three years.

Glossary

Bribery Act 2010

The Bribery Act 2010 came into force in the UK on 1st July 2011. It amends and reforms the UK criminal law and provides a modern legal framework to combat bribery in the UK and internationally. Staff need to be aware of their obligations under this Act, which sets out the criminality of accepting and giving of bribes. This applies to both individual staff and the council corporately. The Bribery Act creates the following offences:

- Active bribery: promising or giving a financial or other advantage;
- Passive bribery: agreeing to receive or accepting a financial or other advantage;
- Bribery of foreign public officials; and
- The failure of commercial organisations to prevent bribery by an associated person (corporate offence)

The penalty under the Bribery Act is an unlimited fine and/or imprisonment up to a maximum of 10 years.

Other Relevant Documentation

The following policies, procedure documents and codes of conduct should be read in conjunction with the Bribery Act Policy:

- Council Constitution
- Anti-Fraud and Corruption Policy
- Anti-Money Laundering Policy
- Whistleblowing Policy and Procedure
- Officers Code of Conduct
- Disciplinary Procedure
- Members Code of Conduct

This page is intentionally left blank

Anti Money Laundering Policy and Procedure

Document Control

Document Ref:		Date Created:	Sept 2019
Version:	0.2 (update to V1 on sign off)	Date Modified:	
Revision due	June 2022		
Author:	Julie Gillhespey, Internal Audit Manager	Sign & Date:	
Owning Service	Finance and Property (Internal Audit)		
Equality Impact Assessment: (EIA)	Date undertaken:	Not Applicable	
	Issues (if any):		
Governance and Ethics Committee	Sign & Date:		

Change History

Version	Date	Description	Change ID
0.1	June 2019	Initial draft	
0.2	Sept 2019	Amendments from FAGG review	JB

This Policy is not for publication externally

Contents

1. Purpose	3
2. Applicability	3
3. Policy	3
4. Implementation	4
5. Roles and Responsibilities	4
6. Failure to comply with WBC Anti Money Laundering Policy and Procedure	4
7. Review	5
DETAILED GUIDANCE AND PROCEDURES	
8. What is money laundering?	6
9. What is the law?	6
10. What are the penalties?	7
11. How do I know whether money laundering is taking place?	7
12. Risks and indications of money laundering activity:	7
13. Examples of money laundering activity:	8
14. What should I do if I suspect a case of money laundering?	9
15. What will the MLRO do?	10
16. Tipping Off Offences	11
17. Specific obligations when conducting 'relevant business'	11
18. What do I do if I am involved in an activity deemed to be 'relevant business'?	12
19. Client Identification Procedure (Customer Due Diligence)	13
20. Record Keeping Procedure	13
21. Conclusion	14
Other Relevant Documentation	14

1. Purpose

- The purpose of this Policy is to explain how the Council aims to minimise the risk that the Council's services will be used in money laundering, and to protect employees from the risk of prosecution in the event that they become aware of money laundering activity during the course of their work.
- The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy and supporting guidance have been written to support the Council to meet the requirements in a way which is proportionate to the very low risk to the Council of contravening the legislation.
- Local government is not part of the UK 'anti-money laundering regulated sector', making it increasingly attractive to criminals wanting to launder money. Whilst the majority of money laundering activity in the UK falls outside of the public sector, vigilance by employees of the Council can help identify those who are or may be perpetrating crimes relating to the financing of terrorism and money laundering. In addition, the Council undertakes certain activities which may be defined as 'relevant business' within the legislation and for which obligations are created, as set out in the guidance to this Policy. Both the Policy and the guidance sit alongside and are consistent with the Council's Anti-Fraud and Corruption Policy and the Whistleblowing Policy and Procedure.
- This Policy and Guidance has been approved by both the Finance and Governance Group, and the Governance and Ethics Committee.

2. Applicability

- This Policy applies to:
 - 2.1.1 All non-school based employees working for the Council, including those working from home or at non-Council locations.
 - 2.1.2 Other persons including Elected Members, Consultants, Agency staff and Contractors working for the Council, external organisations working with the Council, whilst engaged on Council business.
- It is the responsibility of each employee and other person mentioned in Section 2.1.2 to familiarise themselves with and adhere to this Policy.
- Adherence to this Policy is a condition of working for the Council or using its assets.

3. Policy

- There is a statutory duty on the organisation and on individuals to disclose suspicions of money laundering that may arise during the course of normal business. It is the Policy of the Council to prevent,

wherever possible, the Council and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. It is every member of staff's responsibility to be vigilant.

- The Council will ensure that:
- A Money Laundering Reporting Officer (MLRO) is appointed to receive disclosures from employees of money laundering activity;
- A procedure is implemented to enable the reporting of suspicions of money laundering (refer to the Guidance and Procedures below);
- Client identification procedures are maintained in certain circumstances;
- Appropriate record keeping procedures are maintained;
- Staff are made aware of the requirements and obligations under the relevant legislation; and
- Training is provided to those most likely to encounter money laundering.

4. Implementation

- This Policy is supported and implemented by the development and publication of Standards (requirements), Procedures (how to) and Guidance (advice), which form part of this document.

5. Roles and Responsibilities

- The overall responsibility for anti-money laundering within WBC rests with the Executive Director (Resources)
- 5.2 WBC has nominated the following officers to be responsible for anti-money laundering measures within the organisation:

Money Laundering Reporting Officer (MLRO):

Joseph Holmes, Executive Director (Resources) (01635) 503540

Deputy MLROs:

Andy Walker, Head of Finance and Property (01635) 519433

Sarah Clarke, Head of Legal and Strategic Support (01635) 519596

- All managers are directly responsible for implementing this Policy and any sub policies and procedures within their service areas, and for the adherence of their staff and others (2.1.2).
- All personnel detailed at 2.1.1 and 2.1.2 have an individual responsibility to adhere to this Policy and any relevant Standards and/or Procedures.
- Any member of staff who has any concerns whatsoever regarding a financial transaction, should contact the MLRO in the first instance.

6. Failure to comply with WBC Anti Money Laundering Policy and Procedure

- This document provides staff and others with essential information regarding anti-money laundering requirements, and sets out conditions to be followed. It is the responsibility of all to whom this Policy document applies to adhere to these conditions. Failure to do so may result in:
 - withdrawal of access to relevant services
 - informal disciplinary processes
 - formal disciplinary action.
- Additionally if a criminal offence is suspected (for example, Tipping Off under the Proceeds of Crime Act 2002), the Council may contact the police or other appropriate enforcement authority to investigate whether a criminal offence has been committed.

7. Review

- This policy and procedure will be reviewed to respond to any changes and at least every three years.
- The Governance and Ethics Committee will be required to review and approve any revisions to the Anti Money Laundering Policy.

DETAILED GUIDANCE AND PROCEDURES

8. What is money laundering?

- Money laundering is the term used for a number of offences involving proceeds of crime or terrorist funds. The term goes beyond the transformation of the proceeds of crime into apparently legitimate money or assets; it also covers a range of activities, which do not necessarily need to involve money.
- It includes all forms of using, possessing or transferring criminal property or terrorist property (as well as facilitating the use or possession) regardless of how it was obtained.
- “Criminal property” is widely defined as a person’s benefit from criminal conduct. It includes all property, in the UK or abroad, including money, and also includes an interest in land or a right in relation to property other than land. It can also refer to a reduction in a liability. It does not matter how small the value of the benefit is.
- “Terrorist property” means money or other property that is likely to be used for the purposes of terrorism, proceeds of the commission of acts of terrorism, and acts carried out for the purposes of terrorism.
- Money laundering activity can include a single act (for example, possessing the proceeds of one’s own crime), complex and sophisticated schemes involving multiple parties, multiple methods of handling and transferring criminal property, or concealing criminal property or entering into arrangements to assist others to conceal criminal property.

8.6 The broad definition of money laundering means that potentially anybody (and therefore any Council employee, irrespective of what sort of Council business they are undertaking) could contravene the money laundering offences if they become aware of, or suspect the existence of criminal or terrorist property, and continue to be involved in the matter without reporting their concerns.

9. What is the law?

9.1 Formally, the following acts constitute money laundering:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK (Section 327 of the Proceeds of Crime Act 2002); or
- Entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328);
- Acquiring, using or possessing criminal property (section 329); or
- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorism Act 2000).

- 9.2 These are the primary money laundering offences and thus prohibited acts under the legislation. There are also two secondary offences: **failure to disclose** any of the primary offences and **tipping off**. Tipping off is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation.
- 9.3 Potentially any member of staff could be implicated by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it.
- 9.4 All the money laundering offences may be committed by an organisation or by the individuals working for it. Whilst it is considered most unlikely that a member of staff would commit one of the three principle offences, the failure to disclose a suspicion is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion. Whilst stressing the importance of reporting your suspicions, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

10. What are the penalties?

- The consequences for staff of committing an offence are potentially very serious, including up to 14 years' imprisonment and/or an unlimited fine.

11. How do I know whether money laundering is taking place?

- 11.1 There is no clear definition of what constitutes suspicion – common sense will be needed. Although you do not need to have actual evidence that money laundering is taking place, mere speculation or gossip is unlikely to be sufficient to give rise to knowledge or suspicion that it is. However, if you deliberately disregard the obvious, this will not absolve you of your responsibilities under the legislation.

12. Risks and indications of money laundering activity:

- 12.1 It is impossible to give a definitive list of ways in which to spot money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:

General:

- A new client;
- A secretive client: e.g., refuses to provide requested information without a reasonable explanation;
- Concerns about the honesty, integrity, identity or location of a client;
- Illogical third party transactions: unnecessary routing or receipt of funds from third parties or through third party accounts;

- Involvement of an unconnected third party without logical reason or explanation;
- Payment of a substantial or unusual sum in cash;
- Overpayments by a client, particularly where a refund is requested by cheque or bank transfer, which could be an attempt to launder cash proceeds of criminal activity into the legitimate banking sector ;
- Absence of an obvious legitimate source of funds or assets – a client could have been offered a bribe or kick-back to make a transaction or to pay for services, using somebody else’s criminal proceeds;
- Movement of funds overseas, particularly to a higher risk country or tax haven;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location or type of a client) is out of line with normal expectations;
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational e.g. rent or rates being paid on a property which becomes unoccupied; services being offered at below market rates.
- The cancellation or reversal of an earlier transaction, particularly where a refund is requested by cheque or bank transfer;
- Requests for release of client account details other than in the normal course of business;
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the client’s needs are inconsistent with the use of such structures;
- Poor business records or internal accounting controls;
- A previous transaction for the same client, which has been, or should have been, reported to the MLRO.

Property Matters:

- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking);
- Funds received for property deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination.

12.2 Facts that tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise.

13. **Examples of money laundering activity:**

Consider the following hypothetical scenarios:

- A social worker is assessing a service user’s finances to calculate how much he should pay towards the cost of care, and then goes on to arrange for services to be provided and charged for. In the course of this process the social worker becomes aware of, or suspects the existence of criminal property. In this scenario the social worker may commit an offence under section 328 of POCA by “being

concerned in an arrangement” which s/he knows/suspects “facilitates the acquisition, retention use or control of criminal property” if they do not report their concerns. Any lawyer involved could also be guilty of an offence if they assist in the transaction.

- A care service provider is new to the market and offering services at what appears to be excellent value. In the course of undertaking procurement due diligence, it becomes apparent that the care staff may not all have the right to work in the UK. This service provider may be a front end for a variety of criminal activity, including people trafficking or modern slavery, and criminals may be obtaining the benefit of free or cheap labour. Again there is a risk of committing an offence under section 328 of POCA, if concerns are not reported.

14. What should I do if I suspect a case of money laundering?

- 14.1 First please ensure you are aware of the Tipping Off offences (see section 16 below). Where you know or suspect that money laundering activity is taking or has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO or Deputy MLRO named above. Should you not do so, then you may be liable to prosecution.
- 14.2 If you are in any doubt as to whether or not to file a report with the MLRO then you should err on the side of caution and do so. Remember, failure to report may render you liable to prosecution (for which the maximum penalty is an unlimited fine, five years’ imprisonment, or both).
- 14.3 You must still report your concerns, even if you believe someone else has already reported their suspicions of the same money laundering activity. Such reports to the MLRO will be protected in that they will be exempt from disclosures requested under the Freedom of Information Act.
- 14.4 Your report to the MLRO must include as much detail as possible including:
- Full details of the people involved e.g. name, date of birth, address, company names, directorships, phone numbers, etc;
 - Full details of the nature of their and your own involvement;
 - If you are concerned that continuing the transaction would amount to a prohibited act under sections 327 to 329 of the 2002 Act, then your report must include all relevant details, as consent will be needed from the National Crime Agency (NCA) via the MLRO for the transaction to proceed.
 - You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline;
 - The types of money laundering activity involved. if possible, cite the section number(s) under which the report is being made e.g. a principal money laundering offence under the 2002 Act (or 2000 Act),

or general reporting requirement under section 330 of the 2002 Act (or section 21A of the 2000 Act), or both;

- The dates of such activities, including whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets involved;
- Why, exactly, you are suspicious along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable the MLRO to prepare a report to the National Crime Agency (NCA) if appropriate. You should also enclose copies of any relevant supporting documentation.

14.5 Once you have reported the matter to the MLRO you must follow any directions given to you. You must not make any further enquiries into the matter yourself. All members of staff will be required to co-operate with the MLRO and other authorities during any subsequent investigation.

14.6 There are various defences against non-disclosure, including: where you have a reasonable excuse for non-disclosure (e.g. a lawyer may be able to claim legal professional privilege for not disclosing the information); where you did not know or suspect that money (or other criminal property) was being laundered and had not been provided with appropriate training by the Council.

14.7 Given the low risk to the Council of money laundering activity, this Guidance Note will provide sufficient training for most members of staff, although further guidance may be issued from time to time and targeted training provided to those staff more directly affected by the legislation.

15. What will the MLRO do?

15.1 Upon receipt of a disclosure report, the MLRO must note the date of receipt on the report, acknowledge receipt and advise the discloser of the timescale within which they can expect a response.

The MLRO will consider the report and any other available internal information he thinks relevant e.g.

- reviewing other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held.

15.2 The MLRO will undertake such other reasonable inquiries deemed appropriate in order to ensure that all available information is taken into account in deciding whether a report to the National Crime Agency (NCA) is required. Such enquiries should be made in such a way as to avoid

any appearance of tipping off those involved. The MLRO may also need to discuss the report with you.

- 15.3 Once the MLRO has evaluated the disclosure report and any other relevant information, s/he must make a timely determination as to whether:
- there is actual or suspected money laundering taking place; or
 - there are reasonable grounds to know or suspect that is the case; and
 - whether he needs to seek consent from the NCA for a particular transaction to proceed.
- 15.4 There are a small number of exemptions for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information) however, if in any doubt, always disclose.
- 15.5 Where the MLRO concludes that there are no grounds to suspect money laundering, or suspects money laundering but has a good reason for non-disclosure, then this must be noted on the report accordingly and consent given in writing for any ongoing or imminent transactions to proceed. The MLRO should consult with the Chief Executive before reaching a non-disclosure decision. Consent can then be given for a transaction to continue, where applicable.
- 15.6 In cases where legal professional privilege may apply, the MLRO must liaise with the Chief Executive to decide whether there is a reasonable reason for not reporting the matter to NCA.
- 15.7 Where consent is required from NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.
- 15.8 All disclosure reports referred to the MLRO and reports subsequently made to NCA must be retained by the MLRO in a confidential file kept securely for that purpose, for a minimum of five years.

16. Tipping Off Offences

- Where you suspect money laundering and report it to the MLRO, be very careful what you say to others afterwards: you may commit a further offence of “tipping off” (section 333 of the 2002 Act) if, knowing a disclosure has been made, you say or do anything which is likely to prejudice any investigation that might be conducted. Even saying “I can’t say” can amount to tipping off. If and when clearance is given by the MLRO and/or the NCA, you should proceed as if nothing has happened.

16.2 You must not make any reference on a file to a report having been made to the MLRO because, should the client exercise their right to see the file under Data Protection or FOI Acts, such a note will obviously “tip them off” and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

17. Specific obligations when conducting ‘relevant business’

17.1 Money laundering may occur in a wide variety of personal and business transactions, and all Council staff should remain vigilant to the presence of criminal property, and should report their suspicions as set out in this procedure. However, there is also a class of activities known as ‘relevant business’, and for these activities, some specific and additional obligations are created.

17.2 ‘Relevant business’ would usually refer to the accountancy and audit services carried out by the financial service functions within the Council and the financial, company and property transactions undertaken by Legal Services.

17.3 Under the 2017 Regulations, the Council is responsible for ensuring that those of its staff who are most likely to be exposed to money laundering (‘relevant’ employees) can make themselves fully aware of the law and, where necessary, are suitably trained. Areas of the Council’s business that could be deemed to be ‘relevant’ are required to obtain, verify and maintain evidence and records of the identity of new clients and transactions undertaken, and report suspicions to the MLRO.

17.4 Relevant business is defined with reference to the nature of the activities undertaken rather than referring to organisations as a whole. There is the possibility that some of the Council’s business could be classed as “relevant” for the purposes of the legislation:

- the provision, by way of business, of advice about the tax affairs of another person by a body corporate,
- the provision, by way of business, of accountancy services by a body corporate,
- the provision, by way of business, of audit services,
- the provision, by way of business, of legal services by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction),
- the provision, by way of business, of services in relation to the formation, operation or management of a company or a trust,
- the activity of dealing in goods of any description, by way of business, whenever a transaction involves accepting a total cash payment of 15,000 euros (approximately £13,400 as at September 2019) or more.
- the activity of dealing in and managing investments ‘by way of business’.

18. What do I do if I am involved in an activity deemed to be ‘relevant business’?

- The 2017 Regulations impose specific obligations on those carrying out relevant business, requiring them to:
- obtain sufficient knowledge to ascertain the true identity of clients, by maintaining client identification procedures;
- ensure evidence of identity obtained and details of transactions undertaken are held for at least 5 years.
- Where the Council is carrying out relevant business (e.g. financial and certain legal services) and:
 - forms an ongoing business relationship with a client; or
 - undertakes a one-off transaction involving payment by, or to, the client of 15,000Euro (approximately £13,400) or more; or
 - undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £13,400) or more; or
 - it is known or suspected that a one-off transaction (or a series of them) involves money laundering;

then the Client Identification Procedure (Customer Due Diligence – see section 19) should be followed before any business is undertaken with that client.

19. Client Identification Procedure (Customer Due Diligence)

- Satisfactory evidence of identity establishes, to the satisfaction of the person receiving it, that the client is who they claim to be. The Council’s Client Identification Procedure requires basic identity checks for **existing clients** as follows:
 - internal clients: signed, written instructions on Council headed notepaper or an email on the internal email system at the outset of the business relationship;
 - external clients: signed, written instructions on the organisation in question’s headed paper at the outset of the business relationship.

19.2 The reason for this low level procedure (simplified due diligence) is because the Council’s risk of exposure to money laundering is assessed as low, so the procedure is considered appropriate to this perceived risk. The risk assessment takes account of regulations that restrict the extent to which services can be provided and the organisations with which the Council can contract.

19.3 Customer due diligence should be carried out over the lifetime of the business relationship, proportionate to the risk, and based on the officers’ knowledge of the client and regular scrutiny of the transactions involved.

- 19.4 The Client Identification Procedure should enable us to have confidence in accepting instructions from a known client. If, however, you are undertaking work for a **new client**, then you may also wish to seek additional evidence, for example:
- check the organisation's website to confirm the identity of personnel, its business address and any other details;
 - meet the client at their business address;
 - confirm that the organisation is included in the telephone directory;
 - ask the key contact officer to provide evidence of personal identity and position within the organisation, for example:
 - passport, photo ID card, driving licence;
 - signed, written confirmation from the Head of Service or Chair of the relevant organisation that such person works for the organisation.
 - where there is a beneficial owner who is not the client, the Council should take reasonable measures to verify their identity, and where the beneficial owner is a trust or similar, the Council should understand the nature of the control structure of that trust.
- 19.5 The law states that particular care must be taken when the client is not physically present when being identified; this is often likely to be the case for the Council.

20. Record Keeping Procedure

- Each Service of the Council conducting relevant business must maintain records of:
 - client identification evidence obtained; and
 - details of all relevant business transactions carried out for clients for at least five years. This is so that they may be used as evidence in any subsequent investigation into money laundering by the authorities.
- 20.2 The precise nature of the records is not prescribed by law, however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording in what form any funds were received or paid. In practice, the business units of the Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard.

21. Conclusion

- 21.1 Given the nature of the Council's services and for whom these services can be provided, instances of suspected money laundering are unlikely to arise very often, if at all. However, we must be mindful of the legislative requirements, as failure to comply with them may render individuals liable to prosecution.

Other Relevant Documentation

The following policies, procedure documents and codes of conduct should be read in conjunction with the Anti Money Laundering Policy:

- Anti-Fraud & Corruption Policy and Procedure
- Whistleblowing Policy and Procedure

This page is intentionally left blank

Anti Fraud and Corruption Policy

Document Control

Document Ref:		Date Created:	7 June 2019
Version:	0.2 (update to V1 on sign off)	Date Modified:	
Revision due	June 2022		
Author:	Julie Gillhespey, Internal Audit Manager	Sign & Date:	
Owning Service	Finance and Governance Group		
Equality Impact Assessment: (EIA)	Date undertaken:		
	Issues (if any):		
Chair of Finance and Governance Group	Sign & Date:		

Change History

Version	Date	Description	Change ID
0.1	June 2019	Initial draft.	
0.2	Sept 2019	Amendments from FAGG review	JB

This Policy is not for publication externally



Contents

1. Purpose	3
2. Applicability	3
3. Policy	3
4. Implementation	5
5. Roles and Responsibilities	5
6. Counter Fraud Service	6
7. Acknowledgement and Assessment of Risk	7
8. Culture and Corporate Governance	7
9. Whistleblowing Procedure	7
10. Failure to comply with WBC Anti Fraud and Corruption Policy	8
11. Review	8
Glossary	9
Other Relevant Documentation	10
Appendix 1 – Types of Fraud / Examples	11
Appendix 2 – Key Fraud Indicators	13
Appendix 3 – CIPFA Fighting Fraud and Corruption Locally 2016-19 – action checklist.....	14

1. Purpose

- 1.1 The purpose of this policy is to explain how the Council aims to ensure the proper use and protection of public funds and assets.
- 1.2 West Berkshire Council has a zero tolerance stance to all forms of fraud, corruption and theft, both from within the Council and from external sources. We recognise fraud can:
- Undermine the standards of public service that the Council is attempting to achieve;
 - Reduce the level of resources and services available for the residents of West Berkshire; and
 - Result in major consequences which reduce public confidence in the Council.
- 1.3 This Policy/Guidance has been approved by the Finance and Governance Group.

2. Applicability

- 2.1 This Policy applies to:
- 2.1.1 All non-school based employees working for the Council, including those working from home or at non-Council locations.
- 2.1.2 Other persons including Elected Members, Consultants, Agency staff and Contractors working for the Council, external organisations working with the Council, whilst engaged on Council business.
- 2.2 It is the responsibility of each employee and other person mentioned in Section 2.1 to familiarise themselves with and adhere to this Policy.
- 2.3 Adherence to this Policy is a condition of working for the Council or using its assets.

3. Policy

- 3.1 The Council will create and promote an 'anti-fraud' culture which highlights the Council's zero tolerance to fraud, bribery, corruption and theft.
- 3.2 The Council will not tolerate fraud or corruption by its councillors, employees, suppliers, contractors, partners or service users and will take all necessary steps to investigate all allegations of fraud or corruption and pursue sanctions available in each case, including removal from office, disciplinary action, dismissal and/or prosecution. The required ethical standards are included in both our Members Code of Conduct and Employees Code of Conduct, in addition to the Council's Constitution, including Financial and Contract Rules of Procedure.
- 3.3 The Policy is based upon three key themes: **Acknowledge, Prevent and Pursue**, and adheres to the "Local Government Counter Fraud and Corruption Strategy 2016-19: Fighting Fraud and Corruption Locally", which is supported by

the Chartered Institute of Public Finance and Accountancy (CIPFA) Counter Fraud Centre:

Acknowledge: Acknowledging and understanding fraud risks	
Committing Support	The Council's commitment to tackling the threat of fraud is clear. We have strong whistleblowing procedures and support those who come forward to report suspected fraud. All reports will be treated seriously and acted upon. We will not, however, tolerate malicious or vexatious allegations.
Assessing Risks	We will continuously assess those areas most vulnerable to the risk of fraud as part of our risk management arrangements. These risk assessments will inform our internal controls and counter fraud priorities. In addition, Internal Audit will carry out work in these high risk areas to assist management in detecting existing and new types of fraudulent activity.
Robust Response	We will strengthen measures and controls which mitigate fraud risk . Internal Audit will work with management to ensure new and existing systems and policy initiatives are adequately protected against fraud.

Prevent: Preventing and Detecting more fraud	
Better use of Information Technology	We will review opportunities to make greater use of data and analytical software to prevent and detect fraudulent activity. We will look for opportunities to share data and fraud intelligence to increase our capability to uncover potential and actual fraud.
Continuous improvement in Systems of Control	Where fraud and corruption has occurred due to a breakdown in the Council's systems or procedures, Corporate Directors/ Heads of Service will ensure that appropriate improvements in systems of control are implemented in order to prevent re-occurrence.
Anti-Fraud Culture	We will promote and develop a strong counter fraud culture , raise awareness , provide training and provide information on all aspects of our counter fraud work. This will include publicising the results of all proactive work, fraud investigations, successful sanctions and any recovery of losses due to fraud.

Pursue: Being stronger in punishing fraud and recovering losses	
Fraud Recovery	A crucial element of our response to tackling fraud is recovering any monies lost through fraud . This is an important part of our strategy and will be rigorously pursued, where possible.
Punishing Fraudsters	We will apply realistic and effective sanctions for individuals or organisations where an investigation reveals fraudulent activity. This may include legal action, criminal and/or disciplinary action, where appropriate.
Enforcement	Appropriately trained investigators will investigate any fraud detected through the planned proactive work; cases of suspect fraud referred from internal or external stakeholders, or received via the whistleblowing procedure. We will also work with relevant internal and external partners / external agencies / organisations.
Publicity	The Council's public relations (PR) team will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. PR will also try to ensure that the results of any action taken, including prosecutions, are also reported in the press.

4. **Implementation**

- 4.1 This Policy will be supported and implemented by the development and publication of Standards (requirements), Procedures (how to) and Guidance (advice).

5. **Roles and Responsibilities**

Stakeholder	Specific Responsibilities
Chief Executive	Accountable for the effectiveness of the council's arrangements for countering fraud and corruption.
s151 Officer	To ensure the council has adopted and implemented an appropriate Anti-Fraud and Corruption Policy/ Strategy and that the Council has an adequately resourced and effective Internal Audit service to deliver counter fraud activity.
Monitoring Officer	Statutory responsibility to ensure that the Council operates within the law. Overall responsibility for the Members Code of Conduct.
Monitoring Officer	Maintenance and operation of the Whistleblowing Procedure.
Finance and Governance Group	To monitor the adequacy and effectiveness of the arrangements in place for combating fraud and corruption (Monitoring Officer, S151 Officer and Audit Manager are part of this group).
Members	<p>To comply with the Members Code of Conduct and related council policies and procedures, to be aware of the possibility of fraud, corruption, bribery, money laundering, and theft, and to report any genuine concerns accordingly.</p> <p>The Governance and Ethics Committee is responsible for enforcing and dealing with complaints against Councillors insofar as they relate to breaches of the Code of Conduct.</p>
External Audit	<p>Statutory duty to ensure that the Council has adequate arrangements in place for the prevention and detection of fraud, corruption, bribery and theft.</p> <p>It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern.</p>
Internal Audit	<p>Responsible for developing and promoting the requirements of an Anti-Fraud and Corruption Strategy and monitoring and/or undertaking the investigation of any suspected financial irregularity, fraud or corruption. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this strategy and that action is identified to improve controls and reduce the risk of recurrence.</p> <p>To undertake reviews of system controls including financial controls.</p> <p>All officers will notify the Audit Manager of any allegations of</p>

	theft/fraud/corruption they are made aware of. The Audit Manager will maintain a log of these instances, the agreed action for investigation and the outcome. The Audit Manager will report a summary of the log to the Governance & Ethics Committee.
Directors, Heads of Service, Service Managers	<p>To promote staff awareness, and ensure that all suspected or reported irregularities and immediately referred as per the council's Whistleblowing Policy/Procedure.</p> <p>To ensure that there are controls and mechanisms in place within their service areas to assess the risk of fraud, corruption, bribery and theft, and to reduce these risks by implementing strong internal controls.</p> <p>Responsible for ensuring that employees are aware of the Council's HR policies and procedures, and the Financial and Contract Rules of Procedure.</p>
Money Laundering Reporting Officer (MLRO)	Responsible for anti-money laundering measures within the Council. Responsible for receiving disclosure reports and for reporting, where relevant, to the National Crime Agency (NCA).
Staff, as set out 2.1.1 and 2.1.2 above	<p>To comply with Council policies and procedures, including the Financial and Contract Rules of Procedure, Gifts and Hospitality Procedure, and codes of conduct associated with professional and personal conduct and conflict of interest.</p> <p>To be aware of the possibility of fraud, corruption, bribery and theft. To remain vigilant, and to report any genuine concerns to management, the Internal Audit Manager, or via the whistleblowing procedure.</p>
Public, Service Users, Partners, Suppliers, Contractors and Consultants	To report any genuine concerns / suspicions in accordance with the council's whistleblowing procedure.

6. Counter Fraud Service

6.1 A counter fraud service is established which:

- 6.1.1 Ensures that the resources dedicated are sufficient and those involved are trained to deliver a professional counter fraud service;
- 6.1.2 Proactively deters, prevents and detects fraud, bribery, corruption and theft;
- 6.1.3 Investigates suspected or detected fraud, bribery, corruption and theft;
- 6.1.4 Enables the Council to apply appropriate sanctions and recover all losses. In addition wherever possible, the council seeks to recover all proven financial losses through court action or by invoicing an individual.

- 6.1.5 Provides recommendations to inform policy, system, risk management and control improvements, thereby reducing the Council's exposure to fraudulent activity;
- 6.1.6 Creates an environment that enables the reporting of any genuine suspicions of fraudulent activity. However, no malicious or vexatious allegations or those motivated by personal gain will be tolerated, and, if proven, we may take disciplinary or legal action; and
- 6.1.7 Works with our partners and other investigative bodies to strengthen and continuously improve our arrangements to prevent fraud and corruption.

7. Acknowledgement and Assessment of Risk

- 7.1 As with any risk faced by the Council, it is the responsibility of managers to ensure that fraud risk is adequately considered when preparing risk assessments in support of achieving strategic priorities, business plans, projects and programmes objectives and outcomes. In making this assessment it is important to consider the risk of fraud occurring rather than the actual incidence of fraud having occurred in the past. Once the fraud risk has been evaluated, appropriate action should be taken to mitigate those risks on an ongoing basis.
- 7.2 Any changes in operations or the business environment must also be assessed to ensure any impacts, which might increase the risk or otherwise change the risk of fraud, bribery, corruption, theft or money laundering, are properly taken into account.

8. Culture and Corporate Governance

- 8.1 Good corporate governance procedures are a strong safeguard against fraud and corruption. Adequate supervision, recruitment and selection, scrutiny and healthy scepticism should not be seen as distrust but simply as good management practice shaping attitudes and creating an environment opposed to fraudulent activity.
- 8.2 Whilst all stakeholders in scope have a part to play in reducing the risk of fraud and corruption, WBC's Members, Directors and Management are ideally positioned to influence the ethical tone of the organisation and play a critical role in fostering a culture of high ethical standards and integrity.

9. Whistleblowing Procedure

- 9.1 Individuals who are concerned about malpractice in the Council can use the Whistleblowing Procedure where they believe that one or more of the following is either happening, has taken place, or is likely to happen in the future:
- a criminal offence
 - a breach of a legal obligation
 - a miscarriage of justice
 - a danger to the health and safety of any individual
 - damage to the environment
 - a deliberate attempt to conceal any of the above

- 9.2 Workers (including agency employees, contractors, volunteers and elected members) making whistleblowing disclosures are protected from dismissal or other detrimental action if they reasonably believe that it is in the public interest.
10. **Failure to comply with WBC Anti Fraud and Corruption Policy**
- 10.1 This document provides staff and others with essential information regarding the Council's approach to anti-fraud and corruption, and sets out conditions to be followed. It is the responsibility of all to whom this Policy document applies to adhere to these conditions. Failure to do so may result in:
- withdrawal of access to relevant services
 - informal disciplinary processes
 - formal disciplinary action.
- 10.2 Additionally, if a criminal offence is suspected (for example under the Fraud Act 2006), the Council may contact the police or other appropriate enforcement authority to investigate whether a criminal offence has been committed.
- 10.3 **Review**
- 10.4 This policy will be reviewed to respond to any changes and at least every three years.

Glossary

Fraud

Fraud is defined by the Fraud Act 2006 as follows:

A person is guilty of fraud if she/he is in breach of any of the following:

- Fraud by false representation: that is if a person:
 - a) Dishonestly makes a false representation; and
 - b) Intends, by making the representation:
 - i. To make a gain for him/herself or another; or
 - ii. To cause loss to another or to expose another to the risk of loss.
- Fraud by failing to disclose information; that is if a person:
 - a) Dishonestly fails to disclose to another person information which s/he is under a legal duty to disclose; and
 - b) Intends, by failing to disclose the information:
 - i. To make a gain for him/herself or another; or
 - ii. To cause loss to another or to expose another to the risk of loss.
- Fraud by abuse of position; that is if a person:
 - a) Occupies a position in which s/he is expected to safeguard, or not to act against the financial interests of another person;
 - b) Dishonestly abuses that position; and
 - c) Intends, by means of the abuse of that position to:
 - i. To make a gain for him/herself or another; or
 - ii. To cause loss to another or to expose another to the risk of loss.

In addition, the Fraud Act deals with offences relating to the possession of articles for use in fraud, making or supplying articles for use in frauds, participation by a sole trader in fraudulent business, and obtaining services dishonestly, personally or for another.

Corruption

Corruption is the deliberate misuse of your position for direct or indirect personal gain. It includes offering, giving, requesting or accepting a bribe or reward, which influences your actions or the actions of someone else. The Bribery Act 2010 makes it possible for officers to be convicted where they are deemed to have given their consent or tacit approval in giving or receiving a bribe.

The Act also created the Corporate Offence of “Failing to prevent bribery on behalf of a commercial organisation”.

To protect itself against the corporate offence, the Act also requires organisations to have “adequate procedures in place to prevent bribery”. This strategy, the WBC Codes of Conduct and the Council’s Whistleblowing procedure are designed to meet that requirement.

Bribery

The Bribery Act 2010 came into force in the UK on 1st July 2011. It amends and reforms the UK criminal law and provides a modern legal framework to combat bribery in the UK and internationally. Staff need to be aware of their obligations under this Act, which sets out the criminality of accepting and giving of bribes. This applies to both individual staff and the Council corporately.

The Bribery Act creates the following offences:

- Active bribery: promising or giving a financial or other advantage;
- Passive bribery: agreeing to receive or accepting a financial or other advantage;
- Bribery of foreign public officials; and
- The failure of commercial organisations to prevent bribery by an associated person (corporate offence).

The penalty under the Bribery Act is an unlimited fine and/or imprisonment up to a maximum of 10 years. These responsibilities are set out within the council's Anti-Bribery Policy.

Theft

Theft is the physical misappropriation of cash or other tangible assets. A person is guilty of "theft" if s/he dishonestly takes property belonging to another, with the intention of permanently depriving the other of it (i.e. treating as their own property to dispose of, regardless of the other's rights).

Money Laundering

Money Laundering is most often known as the process by which criminals attempt to 'recycle' the proceeds of criminal activities in order to conceal its origin and ownership whilst retaining use of the funds. It also refers to the concealment, use or transfer of any 'criminal property' or 'terrorist property'.

Any service that receives money from an external person or body is potentially vulnerable to money laundering. The need for vigilance is vital and any suspicion concerning the appropriateness of a transaction should be reported and advice sought from the Money Laundering Reporting Officer (MLRO). Details of the MLRO can be found within the Council's Anti Money Laundering Policy.

The Council recognises its responsibilities under the Money Laundering Regulations 2017 and the Proceeds of Crime Act 2002. These responsibilities are set out within the Council's Anti Money Laundering Policy.

Other Relevant Documentation

Further information on relevant Council policy and practice, and relevant publications can be found in the following documents:

- The Constitution, includes Contract and Financial Rules of Procedure
- Officer Code of Conduct
- Disciplinary Code
- Whistleblowing Procedure
- Anti-Bribery Policy
- Anti-Money Laundering Policy
- Recruitment Procedures
- Internal Audit Strategy
- The Local Government Transparency Code (at Gov.uk)
- National Fraud Initiative (NFI) (at Gov.uk)
- Fighting Fraud and Corruption Locally (at Gov.uk, and the Chartered Institute of Public Finance & Accountancy).

Appendix 1 – Types of Fraud / Examples

Local authorities have reported a wide range of fraud types. The main areas of fraud that were reported in Fighting Fraud Locally 2001 continue to feature as significant risks. However there are also new fraud types emerging, and some of these are more prevalent in particular parts of the country. It is clear that a one-size-fits-all approach is not appropriate and therefore the Council needs to remain vigilant and be aware of these types of fraud risks.

Known Fraud Risks Remaining Significant

Tenancy – Fraudulent applications for housing or successions of tenancy, and subletting of the property.

Procurement – Tendering issues, split contracts, double invoicing.

Payroll – False employees, overtime claims, expenses.

Council tax – Discounts and exemptions, council tax support.

Blue Badge – Use of counterfeit/altered badges, use when disabled person is not in the vehicle, use of a deceased person's Blue Badge, badges issued to institutions being misused by employees.

Grants – Work not carried out, funds diverted, ineligibility not declared.

Pensions – Deceased pensioner, overpayments, entitlement overstated.

Schools – Procurement fraud, payroll fraud, internal fraud.

Personal budgets – Overstatement of needs through false declaration, multiple claims across authorities, third party abuse, posthumous continuation of claim.

Internal fraud – Diverting council monies to a personal account; accepting bribes; stealing cash; misallocating social housing for personal gain; working elsewhere while claiming to be off sick; false overtime claims; selling council property for personal gain; wrongfully

Emerging / Increasing Fraud Risks

Business rates – Fraudulent applications for exemptions and reliefs, unlisted properties.

Right to buy – Fraudulent applications under the right to buy/acquire.

Money laundering – Exposure to suspect transactions.

Insurance Fraud – False claims including slips and trips.

Disabled Facility Grants – Fraudulent applications for adaptations to homes aimed at the disabled.

Concessionary travel schemes – Use of concession by ineligible person, including Freedom Passes.

No recourse to public funds – Fraudulent claim of eligibility.

New Responsibilities – Areas that have transferred to local authority responsibility e.g. Public Health grants, contracts.

Commissioning of services – Including joint commissioning, third sector partnerships – conflicts of interest, collusion.

Local Enterprise Partnerships – Voluntary partnerships between local authorities and businesses, procurement fraud, grant fraud.

Immigration – Including sham marriages. False entitlement to services and payments.

Cyber dependent crime and cyber enabled fraud – Enables a range of

claiming benefit while working.

Identity fraud – False identity / fictitious persons applying for services / payments.

fraud types resulting in diversion of funds, creation of false applications for services and payments.

Appendix 2 – Key Fraud Indicators

A number of frauds can come to light because of suspicions aroused by, for instance, the behaviour of certain individuals. It is impossible to give a definitive list of fraud indicators or warning signs. However, the following are indicators that may, either alone or cumulatively with other factors, suggest the possibility of fraud and may therefore warrant further investigation or enquiry.

Unusual employee behaviour: Refusal to comply with normal rules and practices, fails to take leave, refusing promotion, managers by-passing subordinates, subordinates by-passing managers, living beyond means, regularly working long hours, job dissatisfaction / unhappy employee, secretiveness or undue defensiveness.

Financial irregularities: Key documents missing (e.g. invoices, contracts); absence of controls and audit trails; missing expenditure vouchers and official records; general ledger out of balance; bank and ledger reconciliations are not maintained or cannot be balanced; excessive movements of cash or transactions between accounts; numerous adjustments or exceptions; constant overdue pay or expense advances; duplicate payments; ghost employees on the payroll; large payments to individuals; excessive variations to budgets or contracts.

Poor procurement practice: Too close a relationship with suppliers/contractors; suppliers / contractors who insist on dealing with only one particular member of staff; unjustified disqualification of any bidder; lowest tenders or quotes passed over with minimal explanation recorded; defining needs in ways that can be met only by specific contractors; single vendors; vague specifications; splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval.

Disorganisation: Understaffing in key control areas; consistent failures to correct major weaknesses in internal control; inadequate or no segregation of duties.

Inadequate supervision: Policies not being followed; lack of senior management oversight; inadequate monitoring to ensure that controls work as intended (periodic testing and evaluation); low staff morale, weak or inconsistent management.

Lax corporate culture: Management frequently override internal control; climate of fear or a corporate culture; employees under stress without excessive workloads; new employees resigning quickly; crisis management coupled with a pressured business environment; high employee turnover rates in key controlling functions.

Poor work practices: Lack of common sense controls; work is left until the employee returns from leave; post office boxes as shipping addresses; documentation that is photocopied or lacking essential information; lack of rotation of duties; unauthorised changes to systems or work practices.

Appendix 3 – CIPFA Fighting Fraud and Corruption Locally 2016-19 – action checklist

A local authority is self-regulating in respect of counter fraud. It should aim to show that it undertakes realistic self-assessment and has identified and understands the major risks. It should acknowledge the problems and put in place plans which can demonstrate that it is taking action with visible outcomes. It should aim to create a transparent process and report the results to the corporate management team and those charged with governance.

The following checklist is recommended, to measure the council's local counter fraud and corruption culture and response:

- ☐ The local authority has made a proper assessment of its fraud and corruption risks, has an action plan to deal with them and regularly reports to its senior Board and its members.
- ☐ The local authority has undertaken an assessment against the risks in Protecting the Public Purse: Fighting Fraud Against Local Government (2014) and has also undertaken horizon scanning of future potential fraud and corruption risks.
- ☐ There is an annual report to the audit committee, or equivalent detailed assessment, to compare against Fighting Fraud and Corruption Locally (FFCL) 2016 and this checklist.
- ☐ There is a counter fraud and corruption strategy applying to all aspects of the local authority's business which has been communicated throughout the local authority and acknowledged by those charged with governance.
- ☐ The local authority has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business.
- ☐ The risks of fraud and corruption are specifically considered in the local authority's overall risk management process.
- ☐ Counter fraud staff are consulted to fraud-proof new policies, strategies and initiatives across departments and this is reported upon to committee.
- ☐ Successful cases of proven fraud/corruption are routinely publicised to raise awareness.
- ☐ The local authority has put in place arrangements to prevent and detect fraud and corruption and a mechanism for ensuring that this is effective and is reported to committee.
- ☐ The local authority has put in place arrangements for monitoring compliance with standards of conduct across the local authority covering:
 - codes of conduct including behaviour for counter fraud, anti-bribery and corruption
 - register of interests
 - register of gifts and hospitality
- ☐ The local authority undertakes recruitment vetting of staff prior to employment by risk assessing posts and undertaking the checks recommended in FFCL 2016 to prevent potentially dishonest employees from being appointed.
- ☐ Members and staff are aware of the need to make appropriate disclosures of gifts, hospitality and business. This is checked by auditors and reported to committee.
- ☐ There is a programme of work to ensure a strong counter fraud culture across all departments and delivery agents led by counter fraud experts.
- ☐ There is an independent whistle-blowing policy which is monitored for take-up and can show that suspicions have been acted upon without internal pressure.

- ☐ Contractors and third parties sign up to the whistle-blowing policy and there is evidence of this. There should be no discrimination against whistle-blowers.
- ☐ Fraud resources are assessed proportionately to the risk the local authority faces and are adequately resourced.
- ☐ There is an annual fraud plan which is agreed by committee and reflects resources mapped to risks and arrangements for reporting outcomes. This plan covers all areas of the local authority's business and includes activities undertaken by contractors and third parties or voluntary sector activities.
- ☐ Statistics are kept and reported by the fraud team which cover all areas of activity and outcomes.
- ☐ Fraud officers have unfettered access to premises and documents for the purposes of counter fraud investigation.
- ☐ There is a programme to publicise fraud and corruption cases internally and externally which is positive and endorsed by the council's communication team.
- ☐ All allegations of fraud and corruption are risk assessed.
- ☐ The fraud and corruption response plan covers all areas of counter fraud work:
 - prevention
 - detection
 - investigation
 - sanctions
 - redress
- ☐ The fraud response plan is linked to the audit plan and is communicated to senior management and members.
- ☐ Asset recovery and civil recovery is considered in all cases.
- ☐ There is a zero tolerance approach to fraud and corruption which is always reported to committee.
- ☐ There is a programme of proactive counter fraud work which covers risks identified in assessment.
- ☐ The fraud team works jointly with other enforcement agencies and encourages a corporate approach and co-location of enforcement activity.
- ☐ The local authority shares data across its own departments and between other enforcement agencies.
- ☐ Prevention measures and projects are undertaken using data analytics where possible.
- ☐ The local authority actively takes part in the National Fraud Initiative (NFI) and promptly takes action arising from it.
- ☐ There are professionally trained and accredited staff for counter fraud work. If auditors undertake counter fraud work they too must be trained in this area.
- ☐ The counter fraud team has adequate knowledge in all areas of the local authority or is trained in these areas.
- ☐ The counter fraud team has access (through partnership/ other local authorities/or funds to buy in) to specialist staff for:
 - surveillance
 - computer forensics
 - asset recovery
 - financial investigations

☐ Weaknesses revealed by instances of proven fraud and corruption are scrutinised carefully and fed back to departments to fraud proof systems.

Terms of Reference

Chief Executive / Chair of Governance & Ethics Committee

Audit Committee Effectiveness Review

August 2019

1 Introduction

- 1.1 The audit plan for 2019/20 includes an allocation for a review of the effectiveness of the Audit Committee.
- 1.2 During 2018 an external assessment was carried out of the effectiveness of West Berkshire Council's Internal Audit service, and its conformance with Public Sector Internal Audit Standards. The resulting report included a suggestion that Internal Audit should consider undertaking a review of remit and effectiveness of the Council's Governance and Ethics Committee, using the checklist from the CIPFA Audit Committees Practical Guidance for Local Authorities (2018).
- 1.3 CIPFA's guidance recommends that a review of the effectiveness of the body that perform the role of the audit committee should be undertaken regularly, to ensure they have the right level and mix of skills necessary to be effective.
- 1.4 CIPFA's position statement on Audit Committees (2018) states that the purpose of an audit committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and governance processes. By overseeing both internal and external audit it makes an important contribution to ensuring that effective assurance arrangements are in place. The position statement goes on to set out the core functions, and characteristics of a good audit committee
- 1.5 CIPFA also carried out surveys of Local Authority audit committees, during 2016, and issued briefings of the survey results covering structure, membership, training and support. General conclusions and recommendations were made, including focus on committee composition, knowledge and experience of members, scope of assurance, constructive challenge, and improving the visibility of the work done by committees.
- 1.6 CIPFA developed a self-assessment checklist to support the Audit Committees Practical Guidance for Local Authorities. The National Audit Office (NAO) have also developed a similar checklist (2017), based on the core principles from HM Treasury's Audit & Risk Assurance Committee Handbook (Code of Practice 2011), for central government bodies.
- 1.7 Our audit will not provide a formal opinion on controls, but will conclude on the extent to which the Governance and Ethics Committee operates in accordance with the published guidance.

2 Objectives

The following audit objectives have been identified for the review.

2.1 To ensure that the Governance and Ethics Committee are able to provide effective independent oversight and assurance on the adequacy of risk management, the internal control environment and the integrity of financial reporting and governance:

We will utilise the survey and checklist approaches set out by CIPFA and the NAO, to establish and assess the attributes and activities of the Governance & Ethics Committee. This will include a survey / self-assessment by the members of the Committee. We will also review the Committee's terms of reference and meeting agendas and minutes, and other relevant documentary evidence.

The attributes and activities to be covered will include:

- a) Terms of Reference, remit and reporting lines of the Committee including any escalation routes, and provision of an annual report outlining the work done during the year.
- b) Composition of the Committee, including the size of the Committee; the level and mix of skills and experience; political representation and independence; and the inclusion of any executive board members.
- c) Effectiveness of the Chair, including how the Chair is appointed.
- d) Provision of training, including attendance / response to training.
- e) Meeting frequency and attendance, including ensuring that relevant officers are called to attend meetings.
- f) Meeting agendas, including alignment to the CIPFA position statement.
- g) Provision of constructive challenge, and focus on improvement.

3 Approach to the work

- 3.1 To survey, by means of a tailored questionnaire and selected interviews, the attributes and activities of the Governance and Ethics Committee. The survey would encompass the Committee Chair and members, as well as relevant officers. Also, attendance at a committee session to observe how the committee works in practice. Internal Audit will collate and analyse the results against the CIPFA guidance and CIPFA survey recommendations. We may contact respondents with any subsequent queries, or if any clarification is required. A summary report and any recommendations will then be shared with the Committee.

4 Reporting

- 4.1 It is intended to have a rough draft report prepared by the end of December 2019. The report will outline the responses to the questionnaire and interviews, along with draft conclusions and recommendations.
- 4.2 The draft report and recommendations will be shared with the members of the Committee for their consideration, and formally presented at the next meeting of the Committee.

Internal Audit Progress Update Report

Committee considering report: Governance and Ethics Committee on 25 November 2019

Portfolio Member: Councillor Howard Woollaston

Date Head of Service agreed report (for Corporate Board) 15 October 2019

Date Portfolio Member agreed report: 07 November 2019

Report Author: Julie Gillhespey - Audit Manager

Forward Plan Ref: GE3638

1. Purpose of the Report

- 1.1 To update the Committee on the outcome of Internal Audit work carried out during quarters one and two of 2019-20.
- 1.2 The Public Sector Internal Audit Standards (PSIAS), as adapted by CIPFA's "Local Government Application Note", require the Audit Manager to provide periodic updates to senior officers and members on performance against the Audit Plan. As stated in the Council's approved Internal Audit Charter quarterly updates are required to be presented to Committee. Due to the timing of the committee meetings the first update report provides an update for quarters one and two of the 2019/20 Audit Plan.
- 1.3 The periodic reports aim to provide a progress update against the work in the Audit Plan together with highlighting any emerging significant issues/risks that are of concern.

2. Recommendation

- 2.1 To note the content of the report.

3. Implications

- 3.1 **Financial:** None
- 3.2 **Policy:** None
- 3.3 **Personnel:** None
- 3.4 **Legal:** None
- 3.5 **Risk Management:** None
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 None, the PSIAS require periodic updates to be provided on progress Audit Plan.

Executive Summary

5. Introduction / Background

- 5.1 A summary of the Internal Audit work that is in progress is set out in Appendix C. Details of completed work is set out in Appendix D. The following table summarises the results of the audit work where an opinion was given.

Type	Very weak	Weak	Satisfactory	Well Controlled	Very Well Controlled
Key Financial Systems				1	
Other Systems		2	1	2	
Schools			2	1	

- 5.2 For this reporting period there were two central audits that had an opinion of weak. These were the Purchase of Adult Residential Care and S106 Agreements.

- 5.3 Key findings for the Weak opinions:-

(1) Purchase of Adult Residential Care:

- (a) The care placement procedures for social care workers / managers are not clear and there are weaknesses in the recording of the options identified and the rationale of the decision taken.
- (b) New care providers checks are not comprehensive / adequately recorded.
- (c) The details of the searches, options identified and the quotes obtained in relation to identifying suitable accommodation for MH /LD clients are not clearly recorded.

(2) S106 Agreements:

- (a) We are reliant on developers informing us when contributions are due rather than being pro-active with carrying out site visits.
- (b) There were a number of agreements where progress had not been effectively monitored.
- (c) There is no governance group / body with specific responsibilities for overseeing the Developer Contributions fund.

- 5.4 There were two Follow-up reviews completed in the period, Implementation of the Property Database and the Asset Management Strategy/ Plan (the key areas of weakness for both audits were highlighted in previous update reports to Committee). Unfortunately, in both cases the Follow-up review concluded that unsatisfactory progress had been made to implement the agreed recommendations. The Follow-up documents are provided as a Part II item, to inform members of the detail of the Follow-up work and outcomes. The Follow-up documents will provide

members with the necessary information to be able to query with managers the lack of progress/their plans to improve the situation.

- 5.5 Under the Public Sector Internal Audit Standards (PSIAS) there is a requirement to have an external assessment of the internal audit service every five years. This was undertaken in May 2018. The resulting Action Plan formed the basis of a Quality Assurance and Improvement Programme (QAIP) for the team, an update on progress against the plan is set out at Appendix E.

6. Proposal

- 6.1 Note the results of the audit work carried out, and the progress made on implementing the Action Plan that resulted from the PSIAS assessment.

7. Conclusions

- 7.1 No significant/fundamental weaknesses were identified in the Council's internal control framework through the work carried out by Internal Audit during the first two quarters of 2019/20.
- 7.2 Good progress has been made on implementing the QAIP, with all but two areas being implemented. Work will continue to progress the outstanding points, with the aim to have them completed by the end of the financial year.

8. Appendices

- 8.1 Appendix A – Data Protection Impact Assessment – N/A
- 8.2 Appendix B – Equalities Impact Assessment – N/A
- 8.3 Appendix C – Completed Audit Work
- 8.4 Appendix D – Current Audit Work
- 8.5 Appendix E – Quality Assurance and Improvement Programme Update

Appendix A

Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via dp@westberks.gov.uk

Directorate:	
Service:	
Team:	
Lead Officer:	
Title of Project/System:	
Date of Assessment:	

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
<p>Will you be processing SENSITIVE or “special category” personal data?</p> <p><i>Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Will you be processing data on a large scale?</p> <p><i>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Will your project or system have a “social media” dimension?</p> <p><i>Note – will it have an interactive element which allows users to communicate directly with one another?</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Will any decisions be automated?</p> <p><i>Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Will your project/system involve CCTV or monitoring of an area accessible to the public?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Will you be using the data you collect to match or cross-reference against another existing set of data?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Will you be using any novel, or technologically advanced systems or processes?</p> <p><i>Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.

Appendix B

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:**
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Executive to make:	
Summary of relevant legislation:	
Does the proposed decision conflict with any of the Council's key strategy priorities?	
Name of assessor:	
Date of assessment:	

Is this a:		Is this:	
Policy	Yes/No	New or proposed	Yes/No
Strategy	Yes/No	Already exists and is being reviewed	Yes/No
Function	Yes/No	Is changing	Yes/No
Service	Yes/No		

1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	
Objectives:	
Outcomes:	
Benefits:	

2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this
Age		
Disability		
Gender Reassignment		
Marriage and Civil		

Partnership		
Pregnancy and Maternity		
Race		
Religion or Belief		
Sex		
Sexual Orientation		
Further Comments relating to the item:		
3 Result		
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?		Yes/No
Please provide an explanation for your answer:		
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?		Yes/No
Please provide an explanation for your answer:		

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

4 Identify next steps as appropriate:	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	

Name:

Date:

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.

This page is intentionally left blank

1) COMPLETED AUDITS

Directorate/Service	Audit Title	Date Audit finalised	Overall Opinion
Resources			
Human Resources	Payroll	19/06/2019	Well Controlled
Communities			
Education	Education Capital Programme	12/06/2019	Satisfactory
Adult Social Care	Purchase of Care Residential	30/08/2019	Weak
Children and Families	Unaccompanied Asylum Seeking Children	06/06/2019	Well Controlled
Education	Theale Primary	03/07/2019	Well Controlled
Education	Spurcroft Primary	05/06/2019	Satisfactory
Education	Stockcross Primary	02/05/2019	Satisfactory
Economy and Environment			
Development and Planning	S106	19/09/2019	Weak
Transport and Countryside	Public Transport	05/09/2019	Well Controlled

NOTE

The overall opinion is derived from the number/significance of recommendations together with using professional judgement. The Auditor's judgement takes into account the depth of coverage of the review (which could result in more issues being identified) together with the size/complexity of the system being reviewed.

2) COMPLETED FOLLOW UPS

<u>Directorate/Service</u>	<u>Audit Title</u>	<u>Date follow up finalised</u>	<u>Overall Opinion - Report</u>	<u>Opinion - Implementation progress</u>
Resources				
Finance and Property	Property Database Implementation	15/04/2019	Very Weak	Unsatisfactory
Finance and	Asset Management	06/08/2019	Very Weak	Unsatisfactory

Property	Strategy/Plan			
----------	---------------	--	--	--

1) CURRENT AUDITS

Directorate – Corporate / Service	Audit Title	Current Position of Work	Audit Plan Year
Corporate	National Fraud Initiative	Commencing the next national exercise	2019/20
Corporate	Property Investment	Draft Report Issued	2018/19
Corporate	GDPR	Ready for Review	2018/19
Corporate	Digitalisation Agenda	Background	2019/20
Corporate	Effectiveness of the Governance and Ethics Committee	Background	2019/20
Resources			
Finance and Property	Council Tax	Testing	2019/20
Finance and Property	Council Tax Reduction Scheme	Testing	2019/20
Commissioning	Contract Management	Ready for Review	2018/19
Communities			
Adult Social Care	Better Care Fund	Testing	2018/19
Adult Social Care	DoLS	Background	2019/20
Children and Families	Turnaround Families Grant Claim work	Ongoing	2019/20
Children and Families	Social Worker Recruitment and Retention Scheme	Background	2019/20
Education Service	St Paul's Primary	Draft Issued	2018/19
Education Service	St Finian's Primary	Ready for Review	2019/20
Education Service	John Rankin Infant and Junior	Being Drafted	2019/20
Economy and Environment			
Development and Planning	CIL	Ready for Review	2018/19

Public Protection and Culture	Environmental Health Shared Service – Licensing	Testing	2019/20
Public Protection and Culture	Building Control Shared Service	Testing	2019/20

2) CURRENT ADVISORY REVIEWS/OTHER WORK

Directorate/Service	Audit Title	Current position of work
Children and Family Service	Data Security Incident (email sent internally to incorrect recipient which had confidential data on the attachment).	Work completed – findings/recommendations need to be written up
Human Resources	Assisting HR with a Grievance Investigation	Completed
	Fraud Investigation	Ongoing

3) CURRENT FOLLOW-UPS

Directorate/Service	Audit title
Resources	
Finance and Property	Procurement Cards
Communities	
Adult Social Care	Direct Payments – Use of Payment Cards
Economy and Environment	

QUALITY ASSURANCE AND IMPROVEMENT PROGRAMME – UPDATE FOR G&E COMMITTEE NOVEMBER 2019

RECOMMENDATIONS

<u>No.</u>	<u>Recommendation</u>	<u>Response</u>	<u>Responsible Person</u>	<u>Agreed Deadline</u>	<u>Progress Update</u>
1	<p>The following should be added to the audit charter at its next revision:-</p> <ul style="list-style-type: none"> • a definition for consulting services; • reference to the core principles of internal audit; the code of ethics for internal auditors; • the seven principles of Public life; and the Accounts and Audit Regulations (England) 2015; • the role of Internal Audit in dealing with the Council's fraud risks; • a statement on Internal Audit's resources and whether these are sufficient to deliver an effective internal audit service; and the Audit Manager's current reporting lines. 	<p>Agreed</p> <p>This will be actioned at the next review of the charter which will be as part of preparing next year's audit plan.</p>	Audit Manager	February 2019	Implemented
2	<p>Following the outcome of the external quality assessment, produce a quality assurance and improvement plan for the Service and report this to the Governance and Ethics Committee.</p>	<p>Agreed</p> <p>This will be compiled and included in the report item covering the external assessment outcome.</p>	Audit Manager	July 2018	Implemented

<u>No.</u>	<u>Recommendation</u>	<u>Response</u>	<u>Responsible Person</u>	<u>Agreed Deadline</u>	<u>Progress Update</u>
3	Strengthen the Service by the introduction of an additional post to the team. Whilst this could be a post at auditor or senior auditor level if the funds are available, the advantages of employing an apprentice should not be overlooked.	Agreed As part of next year's budget setting process the Audit Manager will submit a Budget Pressure Bid to request additional resource for the team for consideration by senior officers and members.	Audit Manager	As part of the Budget setting process for 2019/2020	Implemented. A budget pressure was submitted/approved to change the auditor post to a senior post. A further budget pressure has been submitted for 2020/21 requesting funding for an additional post.
4	As the team is relatively small, the Audit Manager should introduce alternative ways of obtaining assurance, such as data analytics, control and risk self-assessments, and third party assurances.	Agreed	Audit Manager	By the end of the current financial year	Work in Progress We have recently implemented data analytics software. The Risk Management processes need be further refined/risk registers more detailed before considering a cultural shift to requiring managers to undertake control and risk self assessments. Assurance mapping has commenced.

SUGGESTIONS FOR IMPROVEMENT

<u>No.</u>	<u>Suggestion</u>	<u>Response</u>	<u>Responsible Person</u>	<u>Agreed Deadline</u>	<u>Progress Update</u>
1	Consider undertaking a review of the remit and effectiveness of the Governance and Ethics committee using the checklist from the CIPFA guidance for audit committees.	Agreed An item will be put on the agenda for the Governance and Ethics Committee to discuss and agree a timeframe for this.	Audit Manager	By the end of the current financial year.	Implemented A review has commenced.
2	To provide greater transparency on the objectives of the annual audit plan, it is suggested that the individual audits are mapped or cross-referenced to the relevant strategic risks and Council objectives that they are addressing.	Agreed This will be undertaken as part of the compilation of next year's audit plan.	Audit Manager	February 2019	Work In Progress Discussions were held with the Performance, Research & Consultation Manager regarding the changes being made to the Risk Management process. The intention is to link the Risk Registers more closely with Service Plan objectives/targets. This information would then help to inform the audit plan and provide the necessary links to Council objectives etc rather than the Audit Manager carrying out a separate exercise to map out the same information.

<u>No.</u>	<u>Suggestion</u>	<u>Response</u>	<u>Responsible Person</u>	<u>Agreed Deadline</u>	<u>Progress Update</u>
3	Consider delegating more of the audit supervision and review functions to the Senior Auditors to perform. This could include introducing a peer review process where the Senior Auditors undertake the initial review of each other's work.	Agreed As one of the senior posts will be vacant in a week's time, being able to action this point will be dependent on when we can recruit a replacement. We anticipate this will take six months after the recruitment of a replacement senior auditor.	Audit Manager	See response column	Implemented
4	It is suggested that a statement setting out the limitations on distribution and use of the contents of the audit reports is added to the standard report template used by the Service	Agreed	Audit Manager	Immediate effect	Implemented
5	It is further suggested that a statement is added to each individual audit report confirming that the audit has been carried out in accordance with the requirements of the PSIAS. Where this is not the case, a statement should be included to explain why this is the case	Agreed	Audit Manager	Immediate effect	Implemented

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank