

Thurrock: An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future

Standards and Audit Committee

The meeting will be held at **7.00 pm** on **7 July 2022**

Committee Room 2, Civic Offices, New Road, Grays, Essex, RM17 6SL

Membership:

Councillors Elizabeth Rigby (Chair), Augustine Ononaji (Vice-Chair), Adam Carter, Steve Liddiard, Kairen Raper and Graham Snell

Substitutes:

Councillors Gary Collins, Shane Ralph, Sue Sammons, Lee Watson and Lynn Worrall

Agenda

Open to Public and Press

	Page
1 Apologies for Absence	
2 Minutes	5 - 16
To approve as a correct record the minutes of the Standards and Audit Committee meeting held on 10 March 2022.	
3 Items of Urgent Business	
To receive additional items that the Chair is of the opinion should be considered as a matter of urgency, in accordance with Section 100B (4) (b) of the Local Government Act 1972.	
4 Declaration of Interests	
5 Regulation of Investigatory Powers (RIPA) - Activity Report 2021/22	17 - 48
6 Annual Review of Risk and Opportunity Management and the Policy, Strategy and Framework	49 - 64

7	In Quarter 4 (2021- 22) Review of the Strategic / Corporate Risk and Opportunity Register	65 - 118
8	Audit Progress Report for 2020/21 External Audit	119 - 126
9	Ethical Standards Report	127 - 218
10	Complaints received under Members' Code of Conduct	219 - 222
11	Counter Fraud and Investigation Annual Report	223 - 240
12	Work Programme	241 - 244

Queries regarding this Agenda or notification of apologies:

Please contact Rhiannon Whiteley, Senior Democratic Services Officer by sending an email to Direct.Democracy@thurrock.gov.uk

Agenda published on: **29 June 2022**

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DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

When should you declare an interest *at a meeting*?

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**



Does the business to be transacted at the meeting

- relate to; or
- likely to affect

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a Non-Pecuniary interest? – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- Not participate or participate further in any discussion of the matter at a meeting;
- Not participate in any vote or further vote taken at the meeting; and
- leave the room while the item is being considered/voted upon

If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps

Non- pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature



You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

Our Vision and Priorities for Thurrock

An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

1. **People** – a borough where people of all ages are proud to work and play, live and stay
 - High quality, consistent and accessible public services which are right first time
 - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing
 - Communities are empowered to make choices and be safer and stronger together

2. **Place** – a heritage-rich borough which is ambitious for its future
 - Roads, houses and public spaces that connect people and places
 - Clean environments that everyone has reason to take pride in
 - Fewer public buildings with better services

3. **Prosperity** – a borough which enables everyone to achieve their aspirations
 - Attractive opportunities for businesses and investors to enhance the local economy
 - Vocational and academic education, skills and job opportunities for all
 - Commercial, entrepreneurial and connected public services

Minutes of the Meeting of the Standards and Audit Committee held on 10 March 2022 at 7.00 pm

Present: Councillors Cathy Kent (Chair), Graham Snell (Vice-Chair), Adam Carter, Gary Collins, Augustine Ononaji and Kairen Raper

In attendance: Sean Clark, Corporate Director Resources and Place Delivery
Matthew Boulter, Interim Monitoring Officer
Mark Bowen, Interim Head of Legal Services
Phil Butt, Counter Fraud & Investigations Manager
Gary Clifford, Chief Internal Auditor
Lee Henley, Strategic Lead, Information Management
Jonathon Wilson, Assistant Director, Finance
Rachel Brittain, Binder Dijke Otte (BDO)
Jenny Shade, Senior Democratic Services Officer

Before the start of the Meeting, all present were advised that the meeting was being recorded, with the audio recording to be made available on the Council's website.

28. Minutes

Minutes of the Standard and Audit Committee held on the 25 November 2021 were approved as a correct record.

29. Items of Urgent Business

There were no items of urgent business.

30. Declaration of Interests

There were no declarations of interest.

31. Mid-Year Complaints & Enquiries Report - April 2021 - September 2021

Lee Henley presented the report and stated the number of complaints received for the reporting period was 827. For the same period last year the figure was 520, therefore the reporting period represented an increase in complaints received. Members were referred to the appendices of the report that summarised details of the top 10 complaint areas, Adult Social Care complaints and a summary for Children Social Care complaints.

Councillor Raper referred to paragraph 2.6 of the report, learning lessons from complaints, where the summary had shown a high level of learning but on the Appendix 1 this had not been included to which Lee Henley stated Appendix 1 had detailed only the top 10 areas that had received the most complaints and key learnings had been summarised for those 10 areas. That high level learning had also been identified from complaints and were detailed from page 25 of the report. Councillor Raper referred to where people had been

reminded of these learnings she questioned what was the quality of assurance and who conducted this to which Lee Henley stated that when a complaint was closed which had been upheld, the learning from these complaints is tracked on the complaints system.

Councillor Ononaji referred to the low number of complaints compared to the size of the borough and questioned whether this was because the council was doing very well or residents were unsure of the procedure on how to make complaints. Lee Henley stated this was the first report that was reporting an increase in complaints and the council promoted the complaints procedure for example in adult social care service where leaflets and posters had been provided in care homes detailing the procedures. Councillor Ononaji questioned whether this number was below the target to which Lee Henley stated there was no targets for the number of complaints only a target for upheld complaints, where lower figures were for the better.

Councillor Collins referred to page 26 of the report and referenced the contact centre and questioned whether there had been any other complaints such as obtaining parking permits which should be included in the report. Lee Henley stated Appendix 1 was the top 10 areas of complaints, complaints may have been received on the contact centre but this area were not in the 10 top and therefore would not have been analysed as part of this report.

Councillor Snell acknowledged the number of compliments received.

Councillor Snell referred to page 25 of the report, Housing – Repairs, Mears, and questioned what was being undertaken to monitor their performance, how regular were these monitored and had this made any difference. Lee Henley stated that housing had a robust contract management controls and procedures around monitoring any contractor complaints. Members were referred to the lower number of complaints for housing repairs v. the number of repairs that were undertaken as a council, therefore when put into perspective this was a very low number when compared to the number of repairs undertaken.

Councillor Ononaji acknowledged and congratulated the zero percentage in the number of Maladministration when compared to the last report and that work had been undertaken to reduce this figure. Councillor Ononaji stated there had been no data available within the report to compare from previous months to which Lee Henley stated the report had listed a summary of all the ombudsman decisions within that reporting period along with any compensation payments paid out by the council and provided details for members on the seven local ombudsman cases over the last six months.

RESOLVED

Noted the statistics and performance for the reporting period.

32. Internal Audit Progress Report 2021/22

Gary Clifford presented the progress report that covered the final reports issued since the last progress report to the Standards and Audit Committee in March 2021. The progress report also covered draft reports issued and the work in progress. Members were also referred to Appendix 1, the Internal Audit Progress Report for 2021/22.

Members were provided with an update on the recruitment of the two vacant internal auditor posts in the interviewing of four candidates will take place on the 24 and 25 March for these two vacant posts.

Councillor Collins referred to page 76 of the report and asked for clarification on what a “Advisory” option was for some of the assignments displayed on that table to which Gary Clifford stated this was where a service area came to audit as an issue had been identified and would be looking for audit to go into the service and would be looking for some assurances around the controls and risks within that area.

Councillor Collins questioned whether any workflows were prepared for the work undertaken to which Gary Clifford stated that as part of the ISO work this looked at workflows, practices, procedures and strategies. Other advisory work, such as an issue with a member of staff, they would focus more on the issues that had been identified to them.

Councillor Ononaji referred to paragraph 3.6 of the report and questioned why it had taken so long to fill these vacancies considering the importance of the internal audit. Gary Clifford stated the delays were due to there being a recruitment freeze but directors had now agreed the need for these posts and allowed the recruitment process to commence. Councillor Ononaji stated the report had highlighted several reasons for not having sufficient staff and questioned what could be done going forward which Gary Clifford stated that moving forward the two extra staff would really help the team.

Councillor Kent referred to the interviews taking place next week and questioned when they anticipated the posts would be filled to which Gary Clifford stated this would be dependent on the applicant and the notice period they would have to give and this would not be known until after the interviews.

Lisa Laybourn referred to page 79 of the report and questioned what the action “On-going” in practice meant to which Gary Clifford stated in this instance every service provider who provided spot purchasing contracts would be required to sign up to the council’s terms and conditions. So in respect of the assignment in the report, this would be on-going not just for this year but continue as contracts were let. Lisa Laybourn stated in her experience a procedure would be updated to ensure that was carried out and then close the audit point and questioned whether this could happen to which Gary Clifford stated this would happen when an audit was carried out next in that area.

Charles Clarke referred to paragraph 5.3 of the report, consultation with the council’s external auditors, and stated with the team not having the full complement of staff and the delay of the external audit had there been any

overlaps between the work carried out by the internal and the external auditors. Gary Clifford stated they would contact the external auditors earlier in the year to ensure there would be no overlap.

RESOLVED

That the Standards and Audit Committee: Consider reports issued and the work being carried out by Internal Audit in relation to the 2021/22 audit plan.

33. Internal Audit Strategy 2020/21 to 2022/23 and Annual Internal Audit Plan 2022/23

Gary Clifford presented the report and stated that between December 2019 and March 2020, a comprehensive Audit Needs Assessment process had been undertaken which involved attending meetings with each of the Directorate Management Teams to discuss risks and priorities with Directors, Assistant Directors, and other senior management. As a result, a three-year Strategy for Internal Audit 2020/21 to 2022/23 had been developed. During the latter part of this process, the implications from Covid had started to emerge with changes to working practices, and in some cases, changes to job roles. Due to the continually emerging issues, this was not reflected in the plan but as a result, the scope of some reviews changed during the year to ensure the Internal Audit Service was utilising its resources to best meet the needs of the Council. It had been agreed with the Corporate Director of Resources and Place Delivery that as the pandemic had a continuing impact on how services operate, during 2022/23 it would benefit the Council if we continued to have a six-month rolling plan to allow the service to react proactively to changing risks and priorities. Gary Clifford stated the report heading should have read six-monthly instead of Annual.

Councillor Collins referred to Appendix A, External Factors onto Council, taking into the account the current situation with Russia and Ukraine, the impact of taking in refugees into the borough would also need to be added.

Councillor Collins referred to page 97 of the report, Belmont Road, contract review, and asked for further clarification to which Sean Clark stated this was in regard to the relationship between the council and Thurrock Regeneration Limited (TRL). TRL's main operation was house building in terms of providing social housing and were used for more difficult sites. The Belmont Road site had ran into a number of problems after a contract had been let which therefore made it difficult to continue with. At this stage the contract was still with the council so when the compensation claim came in when the contract had not gone ahead this had rested with the council and not TRL.

Councillor Snell referred to page 97 of the report, Arboriculture Services, questioned whether this was a risk and not that the software would have been tested before it was purchased. Gary Clifford stated this was just for assurance that the software and council were doing what they should do.

Councillor Ononaji referred to page 87 of the report that Covid had had a significant impact on how the council and its staff operated and questioned how prepared the council were should they need to tackle another pandemic. Gary Clifford stated that in terms of IT this had been put in place very quickly and successful to enable staff to work remotely and felt the team would be in a good place if another pandemic were to happen.

Councillor Collins referred to page 105 of the report, ISO 9001 - Environmental Services – and questioned whether auditors were now checking their own work to which Gary Clifford stated this was the last ISO 9001 report that had been brought to the last committee which covered waste, highways and a lot of environment services. The audit had previously been provided by an external consultant who charged the council for this service but the internal audit team were now undertaking this work and going down to the depot to go through the paperwork with staff.

RESOLVED

That the Standards and Audit Committee: Receive and agree the six-month Internal Audit Plan 2022/23.

34. Counter Fraud & Investigation Quarterly Update (Q3)

Phil Butt presented the report that outlined the performance of the Counter Fraud and Investigation team over the last quarter for Thurrock Council as well as the work the team have delivered nationally for other public bodies.

Councillor Carter thanked Phil Butt for the report and welcomed the proactive work that was being undertaken and referred to page 115 of the report, Proactive Work Plan, Training of high-risk areas in counter fraud measures and questioned whether this was a long course or for multiple people to be trained over this time. Phil Butt stated this was on-going due to changes in staff, changes to legislation, having time to adapt to those changes and it was important to keep running the training.

Councillor Collins referred to page 110 of the report, paragraph 3.1 and referred to the two sanctions that had been delivered in cases of proven fraud and questioned what was meant by sanctions. Phil Butt stated there were many examples of a sanction which could mean that someone had been taken to court criminally or a case that had been referred to HR where a parallel investigation had taken place for a member of staff who had been dismissed, or a property recovered.

Councillor Collins referred to page 110 of the report, paragraph 3.1 and referred to the 91 investigations currently being conducted by the CFI team and questioned whether these were Thurrock based and were there any other cases on top of this number to which Phil Butt stated he did not have this number to hand but would confirm the number and respond to members.

Councillor Collins questioned what it would take to trigger a fraud investigation to which Phil Butt stated there were different methods in which allegations were received such as the whistleblowing scheme, through another law enforcement agency such as the Police, another local authority or from a member of the public.

Councillor Ononaji referred to page 110 of the report and referenced that Housing were at the top of all the tables in relation to suspected fraud cases and questioned why housing fraud was so high and what was being done differently to reduce fraud in the housing section. Phil Butt stating the reason was that housing was a big part of the council in the services that they private to the public and not all reports that were received may not be fraud. Over the past couple of years had worked very proactive with the housing department in terms of the comms that were sent out and continued to work very closely with the housing officers offering training and making visits with them to properties. In relation to prevention this was around working with the housing department and undertaking housing audits which had now started again following the Covid lockdown.

Charles Clarke referred to page 110 of the report referred to the 66 reports of suspected fraud and the 38 investigations that had been closed this quarter and questioned whether the value of detected fraud was part of the 66 reports or as part of those on-going investigations. Phil Butt stated this was part of the on-going as some cases could take a year or more to get to court. Charles Clarke questioned whether this also formed part of the 91 investigations to which Phil Butt stated the 91 was the number that was currently being investigated.

Lisa Laybourn referred to serious organised crime and the council's anti money laundering policies and questioned whether there were any additional risks in the current situation with Russia and whether work plans had been adjusted in response of this. Phil Butt stated the current risk with Russia were more cyber related and the likely increase in mandated fraud. The council had its own cyber team who worked behind the scenes on assisting the council to ensure their systems were watertight. The council also worked alongside other enforcement agencies and to be able to look to see what was happening in other areas.

RESOLVED

The Standard and Audit Committee notes on the performance of the Counter Fraud & Investigation service.

35. Audit Progress Report for the Year Ended 31 March 2021

Jonathan Wilson introduced the report that detailed the progress of the audit for 2020/21 financial statements. The audit field work was largely complete. However, a significant proportion of work remained subject to the review processes from senior team members. This review process had been delayed by the absence of a key team member. This audit delay remained consistent

with the wider national position and central government had written to the council to set out proposed actions to address delays to the completion of local authority audits. Further action was being taken by CIPFA to reduce the level of audit work required in subsequent years.

Rachel Brittain, from BDO, apologised to Members for not presenting the completion report to the committee this evening which had been the intention but due to the unexpected absence had not been able to get to that position. A number of factors needed to be considered not only being able to replace that individual quickly but a balance between the efficiency point as well. That conversations were being held with her team and would report back to Jonathan Wilson on what the best way forward would be for the council. Some good progress had been made in a number of areas and not a long way off from where they needed to be but focus was on the crucial review period. A higher level of review queries had been addressed as a result of remote working and had been very evident this year. That work would continue with Jonathan Wilson to agree a timeline to deliver the audit.

Councillor Kent referred to the objection to the accounts which had previously been received and questioned why this had not been mentioned in the report to which Rachel Brittain stated the objection was linked to some of the audit work that had to be undertaken so once this had been completed and review she could then look to finalise the objection and go through that review process as well.

Councillor Collins referred to page 118, paragraph 3.3 of the report, and questioned whether the business practices were going to change by going back to working in the office. Rachel Brittain stated that now the restrictions had been lifted changes had been made to the way they would work with one day in the week the team would work together in the office which was a step forward. BDO would be happy to come to the council offices and undertake work there but was also mindful how the council had changed the ways that they worked. With next year looking to be more hybrid working with a couple of days in the office with the finance team and then a couple of days working with the team in their office to ensure a better balance.

Councillor Ononaji referred to page 117, paragraph 2.1 of the report, and questioned whether it was the absence of this one member of staff was the reason the report had been delayed. He questioned why there was not a back-up or an alternative plan that could have been put in place. Rachel Brittain stated that the teams were organised in a hierarchy structure, with more people doing the work and then the review processes would be undertaken and then she would do the final reviews. The engagement team worked alongside the client and got to know the team, they currently did not have teams that mixed in terms of doing different work and resources would have been allocated to audits so would not have people to step in at short notice. That recruitment was an option but as stated in the report the public sector external audit market was really struggling and there was not a big pool of people that could be called in to cover. Councillor Ononaji stated that practices needed to be reviewed and that one absent member of staff should

not paralyse the whole audit as this was not good practice. Rachel Brittain stated the issue had been unclear as to how long that member of staff was going to be off work and there was little efficiency to bring in someone new into the team if that person was going to return. Rachel Brittain reassured Members that there would be a Plan B in place.

Councillor Snell referred to Appendix 3 and questioned how confident were they that the audit deadline had been extended to the 30 November 2022 to which Rachel Brittain stated at this stage she was not confident that this date could be met or not but would obviously do everything possible to meet that deadline to which Councillor Snell stated this was not particularly encouraging.

Councillor Snell agreed with Councillor Ononaji comments that work needed to be decompartmentalised with a more different and modern way of working approach.

Charles Clarke questioned whether there was a completion date for the 2020/21 audits to which Rachel Brittain stated she would work on a plan and discuss with Jonathan Wilson but at this stage was unable to provide a date as she would need to identify a resource to come in and work through the file and make sure they had everything they needed.

Councillor Kent stated her disappointment in the situation that we were currently in and had concerns on what would happen if there was no end date in sight for this year and for next years and questioned what this would have on the stability and robustness of the council's finances. Councillor Kent also had concerns that if the government did not change the audit process in the future what this would mean to the robustness of the authority's finances.

Jonathan Wilson stated the council had met the deadline last year, one of the very few who had. It had been an unfortunate position this year with one member of staff absent, who would have had so much knowledge at this stage of the audit and to be lost at such a critical point it would have been very hard to replace. Jonathan Wilson shared the concerns of members and believed they had not set a reasonable deadline for next year and should have moved it back further. Highlighted there had been some benefits of working and interacting remotely and working from the office in dealing with queries and needed to maximise both to get the audit work complete. Members were informed that they would be kept updated throughout the whole process as things changed and this may be done outside as well as inside the committee.

RESOLVED

That the Standards and Audit Committee note the progress of the external auditors in completing the audit of 2020/21 financial statements.

36. Ethical Standards

Matthew Boulter presented the report and requested the committee allow officers to refresh the Member code of conduct to bring it up to date with modern expectations and bring it in line with the Local Government Association model code of conduct. As part of the refresh officers would look at introducing a social media protocol to provide guidance for Members and officers, as well as a refresh of the Member/Officer Protocol and the potential to introduce a Member/Member protocol.

Councillor Collins referred to Appendix 3 and questioned whether any further complaints had been received and questioned what action would be taken on those. Matthew Boulter stated this was all that had been reported and as Interim Monitoring Officer he would work to resolve such complaints with the parties concerned. There were few sanctions the Council could apply if a member was found to have broken the code but the Standards and Audit Committee was the appropriate forum to present any breaches of that code. The aim of the report was to refresh the code of conduct to help officers and Members understand the parameters on how best to work with each other and how to set a good quality of overall behaviour.

Councillor Collins referred to the social media protocol and questioned what points would be considered as part of this, to which Matthew Boulter stated the protocol in Thurrock was slightly outdated with no guidance for members or officers on how members could be protected on how they act or were presented on social media. The legal team would be working on the protocol which would set out how members should conduct themselves on social media. Members training on social media would be arranged for the new municipal year to help members gain skills on how to deal with and navigate challenging or aggressive comments on social media.

Councillor Carter welcomed the proposed refresh of the code of conduct.

Councillor Snell agreed the proposed refresh was overdue and when members were elected they would have been made aware of the standards of conduct that they should follow. There needed to be a suitable forum or local sanctions put in place for those members who breached the code. The Committee commented that some Members were also using their personal social media accounts to comment on council business, which they wondered might be addressed in the refresh if permitted by law. Matthew Boulter suggested this committee was the forum to consider any member behaviour to which the committee agreed to add an item "Member Complaints Update" to the work programme on an annual basis.

Councillor Snell agreed that the LGA recommendation was the best way forward to also learn from other local authorities but reiterated there had to be better sanctions in place for those members who continued to challenge their code of conduct.

Charles Clarke questioned whether there were any longer-term plans, apart from training, to set up single social media accounts for members to which Matthew Boulter stated he felt it would be up to individual members on how

they wished to present themselves on social media either through their council or personal social media accounts. He stated Legal colleagues would be able to comment via the refresh whether the Council could require Members to present themselves in an official capacity online.

Councillor Raper stated that if a code of conduct was drawn up for social media a requirement could be that member's personal social media account should not be used for council business. Matthew Boulter stated there was the local legal power to set those expectations and these could be presented to committee members and full council for their decision.

Councillor Collins referred to the social media policy and questioned how members could be protected from continued harassment and abuse online to which Matthew Boulter stated his intention would be to build some resilience amongst members through a training tool-kit to help them navigate social media conversations

Councillor Kent welcomed the report and commented this committee should have the opportunity to see the policy before the report was presented to full council and stated she had not met or been introduced to the previous two monitoring officers and felt that this should be done to build trust and approachability.

RESOLVED

- 1. The committee consider the LGA model Councillor Code of Conduct as set out in Appendix 1 and consider recommending to Council that this is adopted.**
- 2. The committee consider asking the Monitoring Officer to develop a social media policy which should be adopted at the same time as the model code of conduct.**
- 3. The Monitoring Officer to review the current process for handling member code of conduct complaints and the protocol for Member/officer relations and advise on any changes which should be made.**
- 4. Note the contents and actions to be taken as set in the exempt Appendix 3.**

37. Work Programme

Members signed off the work programme for 2021/22.

Members agreed to add a report on "Update on Program and Project Management" to the first meeting of the 2022/23 work programme.

Members agreed to add a report on the "Update Refresh of Members Code of Conduct, the Social Media Protocol and the refresh of Officer/Member and

Member/Member Protocols” to the first meeting of the 2022/23 work programme.

Members agreed to add a report on the “Member Complaints Update” onto the 2022/23 work programme.

The meeting finished at 8.44 pm

Approved as a true and correct record

CHAIR

DATE

**Any queries regarding these Minutes, please contact
Democratic Services at Direct.Democracy@thurrock.gov.uk**

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7 July 2022	ITEM: 5
Standards and Audit Committee	
Regulation of Investigatory Powers Act (RIPA) - Activity Report 2021/22	
Wards and communities affected: N/A	Key Decision: Non-key
Report of: Lee Henley – Strategic Lead for Information Management	
Accountable Assistant Director: Lee Henley – Strategic Lead for Information Management	
Accountable Director: Sean Clark – Corporate Director Resources and Place Delivery	
This report is Public	

Executive Summary

This report provides an update on the usage and activity of RIPA requests during the period 1 April 2021 to 31 March 2022 along with a refreshed RIPA Policy.

1. Recommendation(s)

- 1.1 **To note the statistical information relating to the use of RIPA for the period 1 April 2021 to 31 March 2022.**
- 1.2 **To agree a revised RIPA Policy.**

2. Introduction and Background

- 2.1 The Regulation of Investigatory Powers Act 2000 (RIPA), and the Protection of Freedoms Act 2012, legislates for the use of local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authority's core functions.
- 2.2 The Investigatory Powers Commissioner's Office (IPCO) is responsible for the judicial oversight of the use of covert surveillance by public authorities throughout the United Kingdom.
- 2.3 The RIPA Single Point of Contact (SPOC) maintains a RIPA register of all directed surveillance RIPA requests and approvals across the council.

3. Issues, Options and Analysis of Options

3.1 RIPA Activity:

3.1.1 There were no RIPA surveillance authorisations processed during 1 April 2021 to 31 March 2022. The table below details 2021/22 RIPA volumes along with the figures for 2020/21:

	2020/21	2021/22
Trading Standards	0	0
Fraud	1	0
Covert Human Intelligence Source (CHIS) authorisations	0	0
Total	1	0

Note – Despite RIPA activity levels being low (or none during 2021/22), there is a requirement to report this information to Members. If we don't, the council we will be criticised in any RIPA inspection.

3.1.2 Low numbers of RIPA authorisations are a result of the council utilising other forms of investigation due to its collaboration with the police and/or enforcement work being more overt rather than covert. In addition to this, the COVID pandemic has seen a reduction in the need for a response requiring the use of last resort tactics like covert direct surveillance authorisations. The council continues to work with partners across the public sector to ensure that Thurrock as an area is protected from crime.

3.1.3 The outcomes of the above RIPA directed surveillance authorisations cannot be summarised in detail. This is due to Data Protection requirements and to ensure that any on-going investigations are not compromised as a result of any disclosure of information.

3.1.4 The table below shows the number of requests made to the National Anti-Fraud Network (NAFN) for Communication Data requests:

Application Type:	2020/21	2021/22
Events (Service) Data	1 (Fraud)	1 (Fraud)
Entity (Subscriber) Data	9 (Fraud)	4 (2 Fraud and 2 Trading Standards)
Combined	12 (11 Fraud and 1 Trading Standards)	3 (2 Fraud and 1 Trading Standards)
Totals	22	8

Notes in relation to NAFN applications:

- Events Data – Is information held by a telecom provider including itemised telephone bills and/or outgoing call data.
- Entity Data – Includes any other information or account details that a telecom provider holds e.g. billing information.
- Combined – Includes applications that contain both Events and Entity data.

3.2 Policy Changes:

The RIPA Policy is attached as Appendix A. Changes to the RIPA Policy were made back in July 2021, following on from a RIPA inspection and these changes were reported to Committee at the time. The Policy has been subject to a further review and with the exception for updating the list of Authorising Offices within the Policy, no other changes are considered necessary at this stage.

4. Reasons for Recommendation

- 4.1 This report provides an update on the usage and activity of RIPA requests for 2021/22, along a refreshed RIPA Policy for approval.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The RIPA SPOC has consulted with the relevant departments to obtain the data set out in this report.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 Monitoring compliance with RIPA supports the council's approach to corporate governance and will ensure the proper balance of maintaining order against protecting the rights of constituents within Thurrock.

7. Implications

7.1 Financial

Implications verified by: **Jonathan Wilson**
Assistant Director of Finance

The reported RIPA Activity is funded from within agreed budget envelopes.

7.2 Legal

Implications verified by: **Gina Clarke**
Governance Lawyer Legal Services

There are no specific legal implications from this update report. Whilst the Council is empowered to use covert surveillance in investigations this should only be undertaken where they are necessary and proportionate and the evidence cannot be obtained in another more proportionate way.

7.3 **Diversity and Equality**

Implications verified by: **Natalie Smith**
**Community Development and Equalities
Manager**

There are no such implications directly related to this report.

7.4 **Other implications (where significant)** – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder or Impact on Looked After Children

None.

8. **Background papers used in preparing the report** (including their location on the council's website or identification whether any are exempt or protected by copyright):

None.

9. **Appendices to the report**

Appendix A – RIPA Policy

Report Author:

Lee Henley

Strategic Lead - Information Management

Regulation of Investigatory Powers Act 2000 (RIPA) Policy

Version Control Sheet:

Title:	RIPA Policy.
Purpose:	To advise staff of the procedures and principles to follow to comply with the RIPA Act.
Author:	Lee Henley – Strategic Lead Information Management
Owner:	Mark Bowen – Interim Head of Legal Services
Approved by:	Standards and Audit Committee.
Date:	7 July 2022
Version Number:	5.0
Status:	Final
Review Frequency:	As and when changes to legislation take place
Next review date:	As and when changes to legislation take place

Amendment History / Change Record:

Date	Version	Key Changes / Sections Amended	Amended By
July 2022	5.0	The list of Authorising Officers within Appendix 2 has been updated	Strategic Lead – Information Management
July 2021	4.0	<ul style="list-style-type: none"> • Section 4 (points 5 and 9) - The policy is now clear that the Authorising Officer is responsible and/or accountable for the authorisation of applications and not the Senior Responsible Officer (SRO). The SRO role is a quality assurance role (e.g. to ensure the request meets the crime threshold) • Section 5 - The policy is now clear that the Authorising Officer is responsible and/or accountable for the authorisation of applications and not the Senior Responsible Officer (SRO). • Section 10 – The policy now includes specific information regarding the management and retention of directed 	Strategic Lead – Information Management

		<p>surveillance records. This includes setting out the arrangements to ensure that directed surveillance records are held for as long as necessary</p> <ul style="list-style-type: none">• Section 15 - The policy is clear that records of visits by staff to any social media sites must be documented by staff at all times. A Social Media Activity Log has been set up for service areas to records such checks. The policy also sets out the arrangements in place to check for compliance regarding social media site monitoring	
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Contents:

Content	Page No.
1. A brief overview of Regulation of Investigatory Powers Act 2000 (RIPA)	5
2. Directed Surveillance (i) Necessary (ii) Proportionate (iii) Crime Threshold	6
3. Covert Human Intelligence Sources (CHIS)	9
4. Authorisation Process	10
5. Senior Responsible Officer (SRO) Review and Sign Off	13
6. Judicial Authorisation	13
7. Authorisation Periods	14
8. Urgency	15
9. Communication Data	15
10. Handling of material and use of material as evidence	16
11. Training	17
12. Surveillance Equipment	17
13. The Inspection Process	17
14. Shared Arrangements	17
15. Social Media and online covert activity	18

Appendices:

Document	Page No.
Appendix 1 – Glossary of terms	20
Appendix 2 – List of Authorising Officers	21
Appendix 3 – Briefing report	22
Appendix 4 – Best practice for photographic and video evidence	23
Appendix 5 – Surveillance log	24
Appendix 6 – Authorising Officer's Aide - Memoire	25
Appendix 7 – Flow chart showing the authorisation process	27

1. A brief overview of RIPA

(For text in **bold**, see glossary of terms – Appendix 1)

The Regulation of Investigatory Powers Act (RIPA) was introduced by Parliament in 2000. The Act sets out the reasons for which the use of **directed surveillance** (DS) and **covert human intelligence source** (CHIS) may be authorised.

Local Authorities' abilities to use these investigation methods are restricted in nature and may only be used for the prevention and detection of crime or the prevention of disorder. Local Authorities are not able to use **intrusive surveillance**.

Widespread, and often misinformed, reporting led to public criticism of the use of surveillance by some Local Authority enforcement officers and investigators. Concerns were also raised about the trivial nature of some of the 'crimes' being investigated. This led to a review of the legislation and ultimately the introduction of the Protection of Freedoms Act 2012 and the RIPA Directed Surveillance and Covert Human Intelligence Source (CHIS) (Amendment) Order 2012.

In addition to defining the circumstances when these investigation methods may be used, the Act also directs how applications will be made and how, and by whom, they may be approved, reviewed, renewed, cancelled and retained.

The Act must be considered in tandem with associated legislation including the Human Rights Act (HRA), and the Data Protection Act (DPA).

Further, a Local Authority may only engage the Act when performing its 'core functions'. For example, a Local Authority may rely on the Act when conducting a criminal investigation as this would be considered a 'core function', whereas the disciplining of an employee would be considered a 'non-core' or 'ordinary' function.

Examples of when local authorities may use RIPA and CHIS are as follows:

- Trading standards – action against loan sharks, rogue traders, consumer scams, deceptive advertising, counterfeit goods, unsafe toys and electrical goods;
- Enforcement of anti-social behavior orders and legislation relating to unlawful child labour;
- Housing/planning – interventions to stop and make remedial action against unregulated and unsafe buildings, breaches of preservation orders, cases of landlord harassment;
- Counter Fraud – investigating allegations of fraud, bribery, corruption and theft committed against the Council; and
- Environment protection – action to stop large-scale waste dumping, the sale of unfit food and illegal 'raves'.

The examples do not replace the key principles of necessity and proportionality or the advice and guidance available from the relevant oversight Commissioners.

There are 3 key codes of practice and guidance available in relation to the RIPA Act and these are shown in the links below:

Covert Surveillance and Property Interference - Code of Practice

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf

Covert Human Intelligence Sources - Code of Practice

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/201800802_CHIS_code .pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/201800802_CHIS_code.pdf)

Communications Data - Code of Practice

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf

2. Directed Surveillance

This policy relates to all staff directly employed by Thurrock Council when conducting relevant investigations for the purposes of preventing and detecting crime or preventing disorder, and to all contractors and external agencies that may be used for this purpose as well as to those members of staff tasked with the authorisation and monitoring of the use of directed surveillance, CHIS and the acquisition of communications data.

It is essential that the Chief Executive and Directors should have an awareness of the basic requirements of RIPA and also an understanding of how it might apply to the work of individual council departments. Without this knowledge at senior level, it is unlikely that any authority will be able to develop satisfactory systems to deal with the legislation. Those who need to use or conduct directed surveillance or CHIS on a regular basis will require more detailed specialised training.

The use of directed surveillance or a CHIS must be necessary and proportionate to the alleged crime or disorder. Usually, it will be considered to be a tool of last resort, to be used only when all other less intrusive means have been used or considered.

Necessary

A person granting an authorisation for directed surveillance must consider *why* it is necessary to use covert surveillance in the investigation *and* believe that the activities to be authorised are necessary on one or more statutory grounds.

If the activities are deemed necessary, the authoriser must also believe that they are proportionate to what is being sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.

Proportionate

The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.

The following elements of proportionality should therefore be considered:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

The Council will conduct its directed surveillance operations in strict compliance with the Data Protection Act (DPA) principles and limit them to the exceptions permitted by the Human Rights Act and RIPA, and solely for the purposes of preventing and detecting crime or preventing disorder.

The **Senior Responsible Officer** (SRO) as named in Appendix 2 will be able to give advice and guidance on this legislation. The SRO will appoint a RIPA Single Point of Contact/Coordinating Officer (SPOC) (as named in Appendix 2). The SPOC will be responsible for the maintenance of a **central register** that will be available for inspection by the Investigatory Powers Commissioner's Office (IPCO).

The use of hand-held cameras and binoculars can greatly assist a directed surveillance operation in public places. However, if they afford the investigator a view into private premises that would not be possible with the naked eye, the surveillance becomes intrusive and is not permitted. Best practice for compliance with evidential rules relating to photographs and

video/CCTV footage is contained in Appendix 4. Directed surveillance may be conducted from private premises. If they are used, the applicant must obtain the owner's permission, in writing, before authorisation is given. If a prosecution then ensues, the applicant's line manager must visit the owner to discuss the implications and obtain written authority for the evidence to be used.

The general usage of the council's CCTV system is not affected by this policy. However, if cameras are specifically targeted for the purpose of directed surveillance, a RIPA authorisation must be obtained.

Wherever knowledge of **confidential information** is likely to be acquired or if a vulnerable person or juvenile is to be used as a CHIS, the authorisation must be made by the Chief Executive (or in their absence whoever deputises for this role).

Directed surveillance that is carried out in relation to a **legal consultation** on certain premises will be treated as intrusive surveillance, regardless of whether legal privilege applies or not. These premises include prisons, police stations, courts, tribunals and the premises of a professional legal advisor. Local Authorities are not able to use intrusive surveillance. Operations will only be authorised when there is sufficient, documented, evidence that the alleged crime or disorder exists and when directed surveillance is considered to be a necessary and proportionate step to take in order to secure further evidence.

Low level surveillance, such as 'drive-bys' or everyday activity observed by officers in the course of their normal duties in public places, does not need RIPA authority. If surveillance activity is conducted in immediate response to an unforeseen activity, RIPA authorisation is not required. However, if repeated visits are made for a specific purpose, authorisation may be required. In cases of doubt, legal advice should be taken.

When vehicles are being used for directed surveillance purposes, drivers must at all times comply with relevant traffic legislation.

Crime Threshold

An additional barrier to authorising directed surveillance is set out in the Regulation of Investigatory Powers (Directed Surveillance and CHIS) (Amendment) Order 2012. This provides a 'Crime Threshold' whereby only crimes which are either punishable by a maximum term of at least 6 months' imprisonment (whether on summary conviction or indictment) or are related to the underage sale of alcohol or tobacco can be investigated through Directed Surveillance.

A crime threshold applies to the authorisation of directed surveillance by local authorities under RIPA and the acquisition of Communications Data (CD). It does not apply to the authorisation of local authority use of CHIS.

Thurrock cannot authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment.

Thurrock may therefore continue to authorise use of directed surveillance in more serious cases as long as the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a Magistrate has been granted. Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more could include more serious criminal damage, dangerous waste dumping and serious or serial fraud.

Thurrock may also continue to authorise the use of directed surveillance for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a Justice of the Peace (JP) has been granted.

A local authority such as Thurrock may not authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences.

An Authorising Officer's Aide-Memoire has been produced (Appendix 6) to assist Authorising Officers when considering applications for directed surveillance

3. Covert Human Intelligence Sources (CHIS)

A person who reports suspicion of an offence is not a CHIS, nor do they become a CHIS if they are asked if they can provide additional information, e.g. details of the suspect's vehicle or the time that they leave for work. It is only if they establish or maintain a personal relationship with another person for the purpose of covertly obtaining or disclosing information that they become a CHIS.

If it is deemed unnecessary to obtain RIPA authorisation in relation to the proposed use of a CHIS for test purchasing, the applicant should complete the council's CHIS form and submit to an Authorising Officer for authorisation. Once authorised, any such forms must be kept on the relevant investigation file, in compliance with the Criminal Procedure for Investigations Act 1996 ("CPIA").

The times when a local authority will use a CHIS are limited. The most common usage is for test-purchasing under the supervision of suitably trained officers.

Officers considering the use of a CHIS under the age of 18, and those authorising such activity must be aware of the additional safeguards identified in The Regulation of Investigatory Powers (Juveniles) Order 2000 and its Code of Practice. The most recent order which is SI 2018/715 (<http://www.legislation.gov.uk/uksi/2018/715/made>)

A vulnerable individual should only be authorised to act as a CHIS in the most exceptional circumstances. A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness, and who is or may not be able to take care of himself. The Authorising Officer in such cases must be the Chief Executive, who is the Head of Paid Service, or in their absence whoever deputises for this role.

Any deployment of a CHIS should take into account the safety and welfare of that CHIS. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that an appropriate bespoke risk assessment is carried out to determine the risk to the CHIS of any assignment and the likely consequences should the role of the CHIS become known. This risk assessment must be specific to the case in question. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset.

A CHIS handler is responsible for bringing to the attention of a CHIS controller any concerns about the personal circumstances of the CHIS, insofar as they might affect the validity of the risk assessment, the conduct of the CHIS, and the safety and welfare of the CHIS.

The process for applications and authorisations have similarities to those for directed surveillance but there are also significant differences, namely that the following arrangements must be in place at all times in relation to the use of a CHIS:

- There will be an appropriate officer of the Council who has day-to-day responsibility for dealing with the CHIS, and for the security and welfare of the CHIS; and
- There will be a second appropriate officer of the use made of the CHIS, and who will have responsibility for maintaining a record of this use. These records must also include information prescribed by the Regulation of Investigatory Powers (Source Records) Regulations 2000. Any records that disclose the identity of the CHIS must not be available to anyone who does not have a need to access these records.

4. The Authorisation Process

The processes for applications and authorisations for CHIS are similar as for directed surveillance, but note the differences set out in the CHIS section above. Directed Surveillance applications and CHIS applications are made using forms that have been set up in a shared network drive by the council. These forms must not be amended and applications will not be accepted if the approved forms are not completed.

The authorisation process involves the following steps and is also summarised (in flowchart form) within Appendix 7:

Investigation Officer

1. A risk assessment will be conducted by the Investigation Officer before an application is drafted. This assessment will include the number of officers required for the operation; whether the area involved is suitable for directed surveillance; what equipment might be necessary, health and safety concerns of all those involved and affected by the operation and insurance issues. Particular care must be taken when considering surveillance activity close to schools or in other sensitive areas. If it is necessary to conduct surveillance around school premises, the applicant should inform the head teacher of the nature and duration of the proposed activity, in advance. A Police National Computer (PNC) check on those targets should be conducted as part of this assessment by the Counter Fraud & Investigation team.
2. The Investigation Officer prepares an application. When completing the forms, Investigation Officers must fully set out details of the covert activity for which authorisation is sought to enable the Authorising Officer to make an informed judgment. Consideration should be given to consultation with a lawyer concerning the activity to be undertaken (including scripting and tasking).
3. The Investigation Officer will submit the application form to an authorising officer for approval.
4. All applications to conduct directed surveillance (other than under urgency provisions – see below) must be made in writing in the approved format.

Authorising Officer (AO)

5. The AO considers the application and if it is considered complete the application is signed off and forwarded to the Senior Responsible Officer (SRO). It should be noted that the AO is responsible and/or accountable for the authorisation of applications and not the SRO. The SRO role is a quality assurance role (e.g. to ensure the request meets the crime threshold)
6. An Authorising Officer's Aide-Memoire has been produced to assist AO's when considering applications for directed surveillance. This must be completed by the AO.
7. If there are any deficiencies in the application further information may be sought from the Investigation Officer, prior to sign off.
8. Once reviewed by the SRO (see below), the AO and the Investigation Officer will retain copies and will create an appropriate diary method to ensure that any additional documents are submitted in good time.

Senior Responsible Officer (SRO)

9. The SRO then reviews the AO's approval and countersigns it. As referred to above, the AO is responsible and/or accountable for the authorisation of applications and not the SRO. The SRO role is a quality assurance role (e.g. to ensure the request meets the crime threshold)
10. If the application requires amendment the SRO will return this to the AO for the necessary revisions to be made prior to sign off. Once the SRO is satisfied that concludes the internal authorisation procedure and he or she will countersign the application (see section 5 below). This will allow the Investigation Officer to link in with the RIPA Single Point of Contact, in order to obtain a unique reference number (URN) from the central register (prior to any court authorisation).

Application to JPs Court

11. The countersigned application form will form the basis of the application to the JPs Court (see further below).

Authorised Activity

12. Authorisation takes effect from the date and time of the approval from the JPs Court.
13. Where possible, private vehicles used for directed surveillance purposes should have keeper details blocked by the Counter Fraud & Investigation team.
14. Notification of the operation will be made to the relevant police force intelligence units where the target of the operation is located in their force area. Contact details for each force intelligence unit are held by the Group Manager Counter Fraud & Investigation - Counter Fraud & Investigation team.
15. Before directed surveillance activity commences, the Investigation Officer will brief all those taking part in the operation. The briefing will include details of the roles to be played by each officer, a summary of the alleged offence(s), the name and/or description of the subject of the directed surveillance (if known), a communications check, a plan for discontinuing the operation and an emergency rendezvous point. A copy of the briefing report (Appendix 3) will be retained by the Investigation Officer.
16. Where 3 or more officers are involved in an operation, officers conducting directed surveillance will complete a daily log of activity an example shown at Appendix 5. Evidential notes will also be made in the pocket notebook of all officers engaged in the operation regardless of the number of officers on an operation. These documents will be kept in accordance with the appropriate retention guidelines.
17. Where a contractor or external agency is employed to undertake any investigation on behalf of the Council, the Investigation Officer will ensure that any third party is adequately informed of the extent of the authorisation and how they should exercise their duties under that authorisation.

Conclusion of Activities

18. As soon as the authorised activity has concluded the Investigation Officer will complete a Cancellation Form.

19. The original copy of the complete application will be retained with the central register.

5. Senior Responsible Officer (SRO) Review and Sign Off

The SRO will review the AO approval prior to it being submitted for Magistrates/JP authorisation. This is from a quality assurance aspect only, as the AO has overall responsibility and accountability for signing off applications (and not the SRO).

Once the SRO has countersigned the form this will form the basis of the application to the Magistrates Court for authorisation.

6. Judicial Authorisation

The Authorising Officer or Investigating Officer will provide the court with a copy of the original RIPA authorisation or notice and the supporting documents setting out the case. This forms the basis of the application to the court and should contain all information that is relied upon. The necessity and proportionality of acquiring consequential acquisition will be assessed by the JP as part of their consideration.

The original RIPA authorisation or notice should be shown to the court but also be retained by Thurrock Council so that it is available for inspection by the Commissioners' officers and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT). The Court may also wish to keep a copy so an extra copy should be made available to the Court.

Importantly, the Authorising Officer or Investigating Officer will also need to provide the court with a partially completed judicial application/order form. The order section of the form will be completed by the JP and will be the official record of the JP's decision.

The officer from Thurrock will need to obtain judicial approval for all initial RIPA authorisations/applications and renewals and will need to retain a copy of the judicial application/order form after it has been signed by the JP. There is no requirement for the JP to consider either cancellations or internal reviews.

The authorisation will take effect from the date and time of the JP granting approval and Thurrock may proceed to use the techniques approved in that case.

On the rare occasions where due to out of hours and no access to a Court and Justice of the Peace (JP), then it will be for the officer to make local arrangements with the relevant Her Majesty's Courts and Tribunals Service. In these cases the council will need to provide two partially completed judicial application/order forms so that one can be retained by the JP. They should provide the court with a copy of the signed judicial application/order form the next working day.

In most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. No RIPA authority is required in immediate response to events or situations where it is not reasonably practicable to obtain it (for instance when criminal activity is observed during routine duties and officers conceal themselves to observe what is happening).

Where renewals are timetabled to fall outside of court hours, for example during a holiday period, it is the local authority's responsibility to ensure that the renewal is completed ahead of the deadline.

It is not Thurrock's policy that legally trained personnel are required to make the case to the JP. The forms and supporting papers must by themselves make the case.

7. Authorisation periods

The authorisation will take effect from the date and time of the JP granting approval and Thurrock may proceed to use the techniques approved in that case.

A written authorisation (unless renewed or cancelled) will cease to have effect after 3 months. The Authorising Officer should set a review date at the outset which should be "as frequently as is considered necessary and practicable" (the "norm" is one month after authorisation).

Renewals should not normally be granted more than seven days before the original expiry date. If the circumstances described in the application alter, the applicant must submit a review document before activity continues.

As soon as the operation has obtained the information needed to prove, or disprove, the allegation, the applicant must submit a cancellation document and the authorised activity must cease.

CHIS authorisations will (unless renewed or cancelled) cease to have effect 12 months from the day on which authorisation took effect, except in the case of juvenile CHIS which will cease to have effect after 4 months. Urgent oral authorisations or authorisations will unless renewed, cease to have effect after 72 hours.

8. Urgency

The law has been changed so that urgent cases can no longer be authorised orally. Approval for directed surveillance in an emergency must now be obtained in written form. Oral approvals are no longer permitted. In cases where emergency approval is required an AO must be visited by the applicant with two completed RIPA application forms. The AO will then assess the proportionality, necessity and legality of the application. If the application is approved then the applicant must then contact the out-of-hours HMCTS representative to seek approval from a Magistrate. The applicant must then take two signed RIPA application forms and the judicial approval form to the Magistrate for the hearing to take place.

As with a standard application the test of necessity, proportionality and the crime threshold must be satisfied. A case is not normally to be regarded as urgent unless the delay would, in the judgment of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation. Examples of situations where emergency authorisation may be sought would be where there is intelligence to suggest that there is a substantial risk that evidence may be lost, a person suspected of a crime is likely to abscond, further offences are likely to take place and/or assets are being dissipated in a criminal investigation and money laundering offences may be occurring. An authorisation is not considered urgent if the need for authorisation has been neglected or the urgency is due to the authorising officer or applicant's own doing.

9. Communications Data (CD) and the use of the National Anti- Fraud Network (NAFN)

Communications Data ('CD') is the 'who', 'when' and 'where' of a communication, but not the 'what' (i.e. the content of what was said or written). Local Authorities are not permitted to intercept the content of any person's communications.

Authorising Officers (AO) must not authorise requests for their own service area and will access the restricted area of the National Anti-Fraud Network (NAFN) website using a special code, in order to review and approve the application. When approving the application, the AO must be satisfied that the acquiring of the information is necessary, proportionate and meets the serious crime threshold.

Part 3 of the Investigatory Powers Act 2016 (IPA) replaced part 1 chapter 2 of RIPA in relation to the acquisition of communications data (CD) and puts local authorities on the same standing as the police and law enforcement agencies. Previously local authorities have been limited to obtaining subscriber details (known now as "entity" data) such as the registered user of a telephone number or email address. Under the IPA, local authorities can now also obtain details of in and out call data, and cell site location. This information identifies who a criminal suspect is in communication with and whereabouts the suspect was when they made or received a call, or the location from which they were using an Internet service. This additional data is defined as "events" data.

A new threshold for which CD “events” data can be sought has been introduced under the IPA as “applicable crime”. Defined in section 86(2A) of the Act this means: an offence for which an adult is capable of being sentenced to one year or more in prison; any offence involving violence, resulting in substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal; any offence committed by a body corporate; any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person’s privacy. Further guidance can be found in paragraphs 3.3 to 3.13 of CD Code of Practice.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf

The IPA has also removed the necessity for local authorities to seek the endorsement of a Justice of the Peace when seeking to acquire CD. All such applications must now be processed through NAFN and will be considered for approval by the independent Office of Communication Data Authorisation (OCDA). The transfer of applications between local authorities, NAFN and OCDA is all conducted electronically and will therefore reduce what can be a protracted process of securing an appearance before a Magistrate or District Judge (see local authority procedures set out in paragraphs 8.1 to 8.7 of the CD Code of Practice).

10. Handling of material and use of material as evidence including retention

Material obtained from properly authorised directed surveillance or a source may be used in other investigations. Arrangements shall be in place for the handling, storage and destruction of material obtained through the use of directed surveillance, a source or the obtaining or disclosure of communications data, following relevant legislation such as the Criminal Procedure and Investigations Act (CPIA).

Authorising Officers must ensure compliance with the appropriate data protection and CPIA requirements, having due regard to the Public Interest Immunity test and any relevant Corporate Procedures relating to the handling and storage of material.

Where the product of surveillance could be relevant to pending or future proceedings, it should be retained in accordance with established disclosure requirements for a suitable period and subject to review.

The following arrangements are in place to ensure that directed surveillance records are held for as long as necessary:

- For cases resulting in no prosecution, all information/records will be held for 3 years at which point it will be removed/deleted from council systems
- For cases resulting in prosecution, information/records will be held for 7 years at which point the information will be removed/deleted from council systems

- The Records Management Team will ensure that the above is monitored and complied with and this will include the deletion of email related records.

11. Training

Officers conducting directed surveillance operations, using a CHIS or acquiring communications data must have an appropriate accreditation or be otherwise suitably qualified or trained.

Authorising Officers will be appointed by the Chief Executive and will have received training that has been approved by the Senior Responsible Officer. The Senior Responsible Officer will have appointed the RIPA Coordinating Officer (SPOC) who will be responsible for arranging suitable training for those conducting surveillance activity or using a CHIS.

All training will take place at reasonable intervals to be determined by the SRO or SPOC, but it is envisaged that an update will usually be necessary following legislative or good practice developments or otherwise every 12 months.

12. Surveillance Equipment

All mobile surveillance equipment is kept in secure premises of each investigation and enforcement team in the Civic Offices. Access to the area is controlled by the relevant team, who maintain a spreadsheet log of all equipment taken from and returned to the area.

13. The Inspection Process

The Investigatory Powers Commissioners Office (IPCO) will make periodic inspections during which the inspector will wish to interview a sample of key personnel; examine RIPA and CHIS applications and authorisations; the central register and policy documents. The inspector will also make an evaluation of processes and procedures.

14. Shared Arrangements

Thurrock conducts Counter Fraud & Investigation activities to protect other public authorities who have no counter fraud function but have an ongoing statutory duty to protect the public funds they administer. In rare instances, where activity governed by RIPA is required to support that Counter Fraud work, only officers employed by Thurrock Council are used to conduct that activity, as the tasking agency. Thurrock therefore follows its own RIPA policy which will result in its Authorising Officers' signing off other agencies RIPA surveillance requests.

15. Social Media and online covert activity

The use of the internet may be required to gather information prior to and/or during an operation, which may amount to directed surveillance. Alternatively an investigator may need to communicate covertly online, for example, contacting individuals using social media websites.

Whenever the council intends to use the internet as part of an investigation, it must first consider whether the proposed activity is likely to interfere with a person's Article 8 rights (Right to respect for private and family life), including the effect of any collateral intrusion. Any activity likely to interfere with an individual's Article 8 rights should only be used when necessary and proportionate to meet the objectives of a specific case.

The use of social media for the gathering of evidence to assist in enforcement activities, must comply with the requirements set out below:

- It is not unlawful for a council officer to set up a false identity but it is inadvisable to do so for a covert purpose without authorization. If this is being considered then this must be authorised by the Senior Responsible Officer and/or the RIPA Single Point of Contact. Using photographs of other persons without their permission to support the false identity infringes other laws.
- Where it is necessary and proportionate for officers pursuing an investigation to create a false identity in order to 'friend' individuals on social networks, a CHIS authorisation must be obtained.
- Authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a council officer (i.e. the activity is more than merely reading of the site's content). Where activity is only carrying out a test purchase a CHIS authorisation may not be necessary, however this should be confirmed with the Authorising Officer on a case by case basis.
- Where privacy settings are available but not applied, the data may be considered open source and an authorisation is not usually required. However privacy implications may still apply even if the subject has not applied privacy settings (see section 3.13 of the Covert Surveillance and Property Interference Code). Advice on this must be obtained from the Senior Responsible Officer and/or the RIPA Single Point of Contact prior to undertaking surveillance.
- Officers viewing an individual's open profile on a social network should do so as infrequently as possible in order to substantiate or refute an allegation.
- Where repeated viewing of open profiles on social networks is necessary and proportionate to gather further evidence or to monitor an individual's status, then RIPA authorisation must be considered as repeat viewing of "open source" sites may constitute directed surveillance on a case by case basis. Any decision not to seek authorisation must be made in consultation with an Authorising Officer and that the decision making process should be documented.
- Officers should be aware that it may not be possible to verify the accuracy of information on social networks and if such information is to be used as evidence, then reasonable steps must be undertaken to ensure its validity

Please note, sections 3.10 through to 3.17 of the Surveillance and Property Interference Code (and 4.11 to 4.17 of the CHIS Code) provide detailed information in relation to this subject matter.

Based on the above:

- All online activity conducted in connection with children’s services, enforcement or investigative functions, must be recorded and periodically scrutinised for oversight purposes
- Records of visits by staff to any social media sites must be documented by staff at all times. An example log is shown below (referred to as a Social Media Activity Log)
- The RIPA Single Point of Contact will ensure that service areas are contacted on a quarterly basis, to establish if any on-line activity has been undertaken and if so request the return of the relevant Social Media Activity Logs

Social Media Activity Log:

Date of Monitoring	Name of individual who is the subject of the monitoring	Reason for the monitoring	Was the monitoring a one-off exercise? If not has a directed surveillance request been approved
15/01/2021	E.G. Alan Smith	To undertake checks to establish a child’s attendance at school	Yes it was a one-off exercise with no additional checks/monitoring required

GLOSSARY OF TERMS

Collateral intrusion

The likelihood of obtaining private information about someone who is not the subject of the directed surveillance operation.

Confidential information

This covers confidential journalistic material, matters subject to legal privilege, and information relating to a person (living or dead) relating to their physical or mental health; spiritual counselling or which has been acquired or created in the course of a trade/profession/occupation or for the purposes of any paid/unpaid office.

Covert relationship

A relationship in which one side is unaware of the purpose for which the relationship is being conducted by the other.

Directed Surveillance

Surveillance carried out in relation to a specific operation which is likely to result in obtaining private information about a person in a way that they are unaware that it is happening. It excludes surveillance of anything taking part in residential premises or in any private vehicle.

Intrusive Surveillance

Surveillance which takes place on any residential premises or in any private vehicle. A Local Authority cannot use intrusive surveillance.

Legal Consultation

A consultation between a professional legal adviser and his client or any person representing his client, or a consultation between a professional legal adviser or his client or representative and a medical practitioner made in relation to current or future legal proceedings.

Residential premises

Any premises occupied by any person as residential or living accommodation, excluding common areas to such premises, e.g. stairwells and communal entrance halls.

Senior Responsible Officer (SRO)

The SRO is responsible for the integrity of the processes in order for the Council to ensure compliance when using Directed Surveillance or CHIS.

Service data

Data held by a communications service provider relating to a customer's use of their service, including dates of provision of service; records of activity such as calls made, recorded delivery records and top-ups for pre-paid mobile phones.

Surveillance device

Anything designed or adapted for surveillance purposes.

List of Authorising Officers

Principal RIPA Officers

Mark Bowen - Interim Head of Legal Services	Senior Responsible Officer (SRO)
Matthew Boulter – Interim Monitoring Officer	Deputy SRO
Lee Henley Strategic Lead - Information Management	RIPA Co-ordinating Officer (Single Point of Contact)

Authorising Officers

Chief Executive	Authorising Officer
Sean Clark - Corporate Director Resources and Place Delivery	Authorising Officer
Jackie Hinchliffe - Director of HR,OD & Transformation	Authorising Officer
Julie Rogers - Director of Public Realm	Authorising Officer

Briefing Report

Before any RIPA or CHIS operation commences, all staff will be briefed by the officer in charge of the case using the format of this briefing report. The original will be retained with the investigation file.

RIPA URN

Name and number to identify operation

Date, time and location of briefing

.....

Persons present at briefing

.....

Information (Sufficient background information of the investigation to date to enable all those taking part in the operation to fully understand their role).

Intention (What is the operation seeking to achieve?).

Method (How will individuals achieve this? If camcorders are to be used, remind officers that any conversations close to the camera will be recorded).

Administration (To include details of who will be responsible for maintenance of the log sheet and collection of evidence; any identified health and safety issues; the operation; an agreed stand down procedure – NOTE It will be the responsibility of the officer in charge of the investigation to determine if and when an operation should be discontinued due to reasons of safety or cost-effectiveness – and an emergency rendezvous point. On mobile surveillance operations, all those involved will be reminded that at ALL times speed limits and mandatory road signs MUST be complied with and that drivers must NOT use radios or telephones when driving unless the equipment is ‘hands free’).

Communications (Effective communications between all members of the team will be established before the operation commences).

Best practice regarding photographic and video evidence

Photographic or video evidence can be used to support the verbal evidence of what the officer conducting surveillance actually saw. There will also be occasions when video footage may be obtained without an officer being present at the scene. However it is obtained, it must properly documented and retained in order to ensure evidential continuity. All such material will be disclosable in the event that a prosecution ensues.

Considerations should be given as to how the evidence will eventually be produced. This may require photographs to be developed by an outside laboratory. Arrangements should be made in advance to ensure continuity of evidence at all stages of its production. A new film, tape or memory card should be used for each operation.

If video footage is to be used start it with a verbal introduction to include day, date, time and place and names of officers present. Try to include footage of the location, e.g. street name or other landmark so as to place the subject of the surveillance.

A record should be maintained to include the following points:

- Details of the equipment used
- Confirmation that the date & time on the equipment is correct
- Name of the officer who inserted the film, tape or memory card into the camera
- Details of anyone else to whom the camera may have been passed
- Name of officer removing film, tape or memory card
- Statement to cover the collection, storage and movement of the film, tape or memory card
- Statement from the person who developed or created the material to be used as evidence

As soon as possible the original recording should be copied and the master retained securely as an exhibit. If the master is a tape, the record protect tab should be removed once the tape has been copied. Do not edit anything from the master. If using tapes, only copy on a machine that is known to be working properly. Failure to do so may result in damage to the master.

Stills may be taken from video. They are a useful addition to the video evidence.

Surveillance Log

Daily log of activity, to be kept by each operator or pair of operators.

- A – Amount of time under observation
- D – Distance from subject
- V - Visibility
- O - Obstruction
- K – Known, or seen before
- A – Any reason to remember, subject or incident
- T – Time elapsed between sighting and note taking
- E – Error or material discrepancy – e.g. description, vehicle reg etc.

Operation name or number

Date

Time of activity (from) (to)

Briefing location and time

Name of operator(s) relating to THIS log

.....

Details of what was seen, to include ADVOKATE (as above).

.....

.....

.....

.....

.....

.....

.....

RIPA Authorising Officer's Aide-Memoire

<p>Has the applicant satisfactorily demonstrated proportionality? Court will ask itself should (not could) we have decided this was proportionate. Is there a less intrusive means of obtaining the same information? What is the risk – to the authority (loss), to the community of allowing the offence to go un-investigated? What is the potential risk to the subject? What is the least intrusive way of conducting the surveillance? Has the applicant asked for too much? Can it safely be limited? Remember – Don't use a sledge-hammer to crack a nut! YOUR COMMENTS</p>	<p>Yes</p>	<p>No</p>
--	-------------------	------------------

<p>Has the applicant satisfactorily demonstrated necessity (see below)?</p> <ul style="list-style-type: none"> • What crime is alleged to be committed? • Is the surveillance necessary for what we are seeking to achieve? • Does the activity need to be covert or could the objectives be achieved overtly? • Does this crime come under the Fraud Act 2006 and if so please state which section of the Act this applies to? • Will the offence attract a custodial sentence of 6 months or more? If no, directed surveillance should not be used <p>YOUR COMMENTS</p>	<p>Yes</p>	<p>No</p>
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<p>What evidence does applicant expect to gather? Has applicant described (a) what evidence he/she hopes to gain, and (b) the value of that evidence in relation to THIS enquiry? YOUR COMMENTS</p>	<p>Yes</p>	<p>No</p>
--	-------------------	------------------

Is there any likelihood of obtaining confidential information during this operation? If “Yes” operation must be authorized by the Chief Executive.	Yes	No
Have any necessary risk assessments been conducted before requesting authorization? Details what assessment (if any) was needed in this particular cases. In the case of a CHIS authorization an appropriate bespoke risk assessment must be completed.	Yes	No
When applying for CHIS authorization, have officers been identified to: a) have day to day responsibility for the CHIS (a handler) b) have general oversight of the use of the CHIS (a controller) c) be responsible for retaining relevant CHIS records, including true identity, and the use made of the CHIS.	Yes	No

Have all conditions necessary for authorization been met to your satisfaction? GIVE DETAILS	Yes	No
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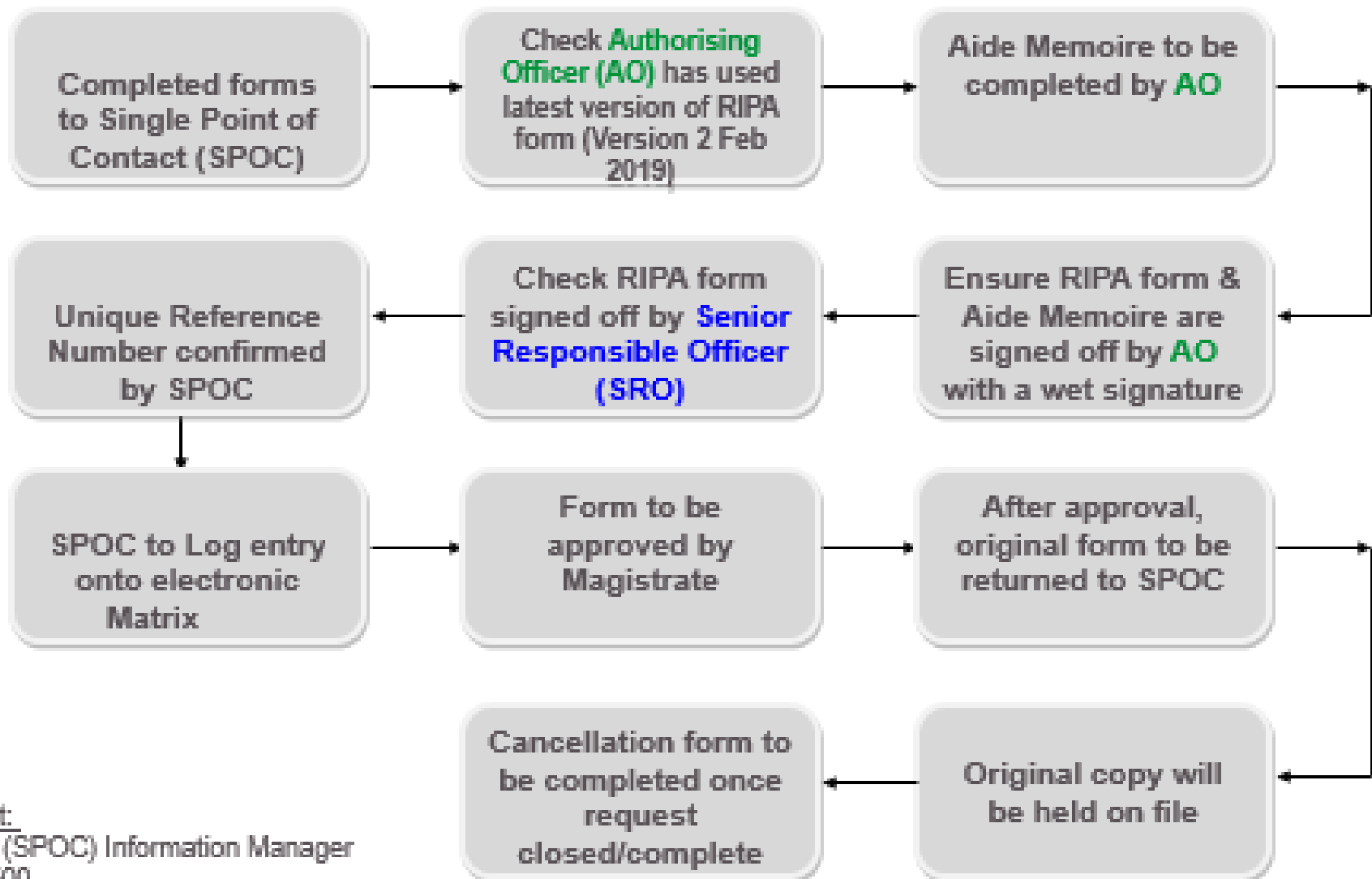
Do you consider that it is necessary to place limits on the operation? IF YES, GIVE DETAILS (e.g. no. of officers, time, date etc.) and REASONS	Yes	No
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Name (Print)		Grade / Rank	
Signature		Date and time	
Expiry date and time [e.g.: authorisation granted on 1 April 2011 - expires on 30 June 2011, 23.59]			

Remember to diarise any review dates and any subsequent action necessary by you and/or applicant. Return copy of completed application to applicant and submit original to Legal Services. Retain copy.

RIPA Process

Appendix 7



7 July 2022	ITEM 6
Standards and Audit Committee	
Annual Review of Risk and Opportunity Management and the Policy, Strategy and Framework	
Wards and communities affected: All	Key Decision: Non-key
Report of: Andy Owen, Corporate Risk & Insurance Manager	
Accountable Assistant Director: Jonathan Wilson, Assistant Director of Finance	
Accountable Director: Sean Clark, Corporate Director of Resource and Place Delivery	
This report is Public	

Executive Summary

One of the functions of the Standards and Audit Committee under the Terms of Reference of the Constitution is to provide independent assurance that the Authority's risk management arrangements are adequate and effective.

To enable Standards and Audit Committee to consider the effectiveness of the Council's ROM arrangements the report is presented on an annual basis.

The report provides details of how the Council's ROM arrangements compare against good practice, outlines the current ROM activity, the proposals to maintain/improve the practice across the organisation and includes the updated ROM Policy, Strategy and Framework.

1. Recommendations

- 1.1 **That Standards and Audit Committee note the results of the review, the current ROM activity and proposals to maintain and improve the practice across the organisation.**
- 1.2 **That Standards and Audit Committee note and approve the updated ROM Policy, Strategy and Framework.**

2. Introductions and Background

- 2.1 Risk and Opportunity Management is an integral part of the Council's Corporate Governance and Performance Management arrangements and the Council has a statutory responsibility under the Account and Audit Regulations to put in place arrangements for the management of risks.
- 2.2 The Council has for a number of years used the ALARM/CIPFA Risk Management Model to test the Council's performance against good practice.

2.3 The ALARM/CIPFA Model breaks down risk management activity into seven strands with five focussed on enablers and two focussed on results:

Enablers Criteria - Risk Management	Results Criteria - Risk Management
A. Leadership & Management B. Policy & Strategy C. People D. Partnerships & Resources E. Processes	F. Risk Handling & Assurance G. Outcomes & Delivery

2.4 The Enabler section covers what an organisation does and the Results section covers what an organisation achieves. Each strand is covered by a series of questions that are designed to explore where the organisation scores against good practice. The answers to the questions are weighted to reflect their relative impact on performance and collated into a final score for each strand.

2.5 These results are then used to calculate the overall scores for the Enabler and Results sections. A summary of Thurrock's scores against the model is outlined below:

ENABLERS		Score
A 4/4	LEADERSHIP & MANAGEMENT	78/100
1	✓ Information and decision making	24/32
2	✓ Escalation and reporting systems	12/12
3	✓ Accountability and management responsibility	24/32
4	✓ Leading risk management implementation	18/24
B 2/2	POLICY & STRATEGY	75/100
1	✓ Risk management policy	50/60
2	✓ Strategy	25/40
C 4/4	PEOPLE	75/100
1	✓ Culture	20/25
2	✓ Responsibility	15/20
3	✓ Skills and guidance - capability	24/35
4	✓ Communication	16/20
D 3/3	PARTNERSHIPS & SHARED RESOURCES	70/100
1	✓ Partnerships and shared services	35/50
2	✓ Finance	20/30
3	✓ Tools	15/20

ENABLERS		Score
E 6/6	PROCESSES	78/100
1	✓ Links to business/service processes overview	25/35
2	✓ Risk Identification and Analysis	25/30
3	✓ Risk response	10/15
4	✓ Risk reporting and review	5/5
5	✓ Information Risk	5/5
6	✓ Service Continuity	8/10
RESULTS		Score
F 2/2	RISK HANDLING & ASSURANCE	71/100
1	✓ Risk handling	43/60
2	✓ Assurance	28/40
G 2/2	OUTCOMES & DELIVERY	70/100
1	✓ Risk management contribution to overall performance	40/60
2	✓ Contribution to specific outcomes	30/40
Additional Questions		
-		Go to additional questions

Comparison to Alarm's National Performance Model for Risk Management

ENABLERS LEVEL KEY	
Level 5 - Driving	85%+
Your Score--> Level 4 - Embedded and integrated	70%+
Level 3 - Working	45%+
Level 2 - Happening	20%+
Level 1 - Awareness	0+

RESULTS LEVEL KEY	
Level 5 - Driving	85%+
Your Score--> Level 4 - Embedded and integrated	70%+
Level 3 - Working	45%+
Level 2 - Happening	20%+
Level 1 - Awareness	0+

2.6 The Council has retained Level 4 - Embedded and integrated for the Enabler and Results criteria.

3. Analysis and Evaluation of Results

3.1 The table below outlines the progress against the model and shows the initial scores back in 2011 compared to the last two years (2020 and 2021).

Strand	Year
--------	------

	2011	2020	2021
A. Leadership & Management	62	75	78
B. Policy & Strategy	34	75	75
C. People	59	74	75
D. Partnership/Shared Resources	56	70	70
E. Processes	67	74	78
F. Risk Handling & Assurance	53	71	71
G. Outcome & Delivery	60	70	70

3.2 The review has revealed that:

- For all 7 strands the Council has retained Level 4 – embedded and integrated (70%+).
- For 3 of the 7 strands the scores have increased slightly on the previous year results and the following aspects have contributed to the improvement:
 - * Leadership & Management – Track record of regular reporting of Annual Review of ROM; Updated ROM Policy; Strategy & Framework and updates on the Strategic/Corporate Risk & Opportunity Register to Standards & Audit Committee via Directors Board and Performance Board and R&O information made available on intranet and internet (through the Committee Management System).
 - * People – Well established arrangements in place for the escalation of risks and opportunities. Arrangements include sign off of items by Directors and/or Directorate Management Teams; Monitoring of any escalations/new items by Performance Board and agreement of the revised Strategic/Corporate R&O Register by Directors Board.
 - * Processes – See previous bullet point for Leadership & Management. Plus, service continuity strengthened through the development of business continuity plans. Exercise of business continuity plans in progress to test plans and to identify any improvement opportunities.
- For 4 of the 7 strands the Council’s score is the same as the previous year’s results. The ROM activity is in line with last year and this has led to no change in the scores for these strands.

3.3 A summary of the current ROM activity and proposals to maintain and further embed the practice across the organisation are included in Appendix 1.

3.4 The ongoing challenge facing the Council is to ensure that adequate ROM arrangements remain in place and form part of the decision making process both at operational and strategic levels.

3.5 As part of the review the ROM Policy, Strategy and Framework has been refreshed and some minor changes made to update the document. The updated ROM Policy, Strategy and Framework are included in Appendix 2.

4. Reasons for Recommendation

4.1 To enable Standards and Audit Committee to consider the effectiveness of the Council’s ROM arrangements the report is presented on an annual basis.

4.2 The report provides details of how the Council's ROM arrangements compare against good practice and outlines the current ROM activity and proposals to maintain and improve the practice across the organisation.

4.3 The report on the review was scheduled to be presented to Standards & Audit Committee March 2022 but deferred to the July 2022 meeting as there were a number of items lined up for the agenda.

5. Consultation (including Overview and Scrutiny, if applicable)

5.1 The results of the annual review, outline of the current ROM activity and proposals to maintain and improve the practice across the organisation were be reported to Directors Board and Performance Board February 2022.

6. Impact on corporate policies, priorities, performance and community impact

6.1 ROM is recognised as a good management practice and how successful the Council is in managing the risks and opportunities it faces will have a major impact on the achievement of the Council's priorities and objectives.

7. Implications

7.1 Financial

Implications verified by: **Jonathan Wilson**
Assistant Director of Finance

Effective risk and opportunity management and the processes underpinning the delivery of services provides a framework to identify, manage and reduced the likelihood of financial claims and/or loss faced by the Council.

7.2 Legal

Implications verified by: **Mark Bowen**
Interim Head of Legal Services

The Council is required to have a sound system of internal control and carry out an annual review of its effectiveness under the Accounts and Audit Regulations 2015 and the Local Audit and Accountability Act 2014. As well as being a statutory requirement, effective risk and opportunity management and the processes underpinning it provide a more robust means to identify and manage risk and reduce the likelihood of legal claims or regulatory challenges against the Council.

7.3 Diversity and Equality

Implications verified by: **Rebecca Lee, Team Manager**
Community Development & Equalities

The management of risk and opportunities provides an effective mechanism for monitoring key equality and human right risks associated with a range of service and business activities undertaken by the Council. It also provides a method for reducing the likelihood of breaching our statutory equality duties.

7.4 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

Risk and opportunity management contributes towards the Council meeting the requirements of Corporate Governance and the Account & Audit Regulations.

8. Background papers used in preparing the report:

- ALARM/CIPFA Risk Management Model - Review papers.

9. Appendices to the report:

- Summary of Current Activity and Proposals to Maintain and Embed the Practice - Appendix 1
- Risk & Opportunity Management Policy, Strategy & Framework - Appendix 2

Report Author

Andy Owen
Corporate Risk & Insurance Manager

Summary of Current ROM Activity and Proposals to Maintain/Embed the Practice

ROM Priorities	Summary of Current ROM Activity
<ul style="list-style-type: none"> • Review and Update the ROM Policy, Strategy and Framework • Maintain Strategic/Corporate level ROM • Maintain and further develop Service level ROM, including project and partnership ROM. • Continue to embed ROM and build skill/capacity for ROM across the Council. 	<ul style="list-style-type: none"> • ROM Policy, Strategy & Framework updated and reported to Standards & Audit Committee 11 Mar 2021, via Directors Board 15 Feb 2021 and Performance Board representatives 05 Feb 2021. • The revised ROM Policy, Strategy & Framework presented to Department Management Teams Apr 2021 to maintain ROM awareness across the Council. • Review and reporting arrangements for the Strategic/Corporate Risk and Opportunity Register established and Performance Board and Department Management Teams made aware of the 2021/22 programme Apr to Jun 2021. • In Quarter 2 Refresh of the Strategic/Corporate Risk and Opportunity Register undertaken during Jul 2021 and reported to Standards & Audit Committee 09 Sept 2021, via Directors Board 17 Aug 2021 and Performance Board 26 Jul 2021. • In Quarter 3 Review of the Strategic/Corporate Risk and Opportunity Register items undertaken during Oct 2021 by Directorates and progress against plans monitored by Directorate Management Teams. Update reported to Performance Board Nov 2021. • In Quarter 4 Review of the Strategic/Corporate Risk and Opportunity Register commenced Jan 2022 and scheduled to be reported to Standards & Audit Committee 10 Mar 2022 (via Directors Board and Performance Board February 2022) but paper deferred to July 2022 meeting as a number of items lined up on the agenda. • Service Planning arrangements, including ROM section of Service Plan 2021/22 template/guidance updated Mar 2021. • Target Operating Model approach applied for transformation of directorates/services Apr 2021 and risk/opportunity considered as part of the process. • Project Management Framework, Guidance and Templates (including Risks, Assumptions, Issues & Dependencies Register) updated by Corporate Programme Team Apr 2021. • ROM principles that should be applied by services when working with Partners or Third Parties included in the Finance Procedure Rules of the Constitution Apr 2021 • Directorate Management Teams & Performance Board made aware of the ROM arrangements, information and guidance Mar 2021. • ROM information regularly updated and made available on the ROM page of the Council’s Intranet Apr 2021 - Mar 2022 • Risk management arrangements reviewed against the ALARM/CIPFA RM Model (including review of the ROM Policy & Strategy). Report was scheduled to presented to Standards and Audit Committee 10 Mar 2022 (via Directors Board and Performance Board February 2022) but paper deferred to July 2022 meeting as a number of items lined up on the agenda.

ROM Priorities	Summary of Proposals to Maintain/Embed the Practice
<ul style="list-style-type: none"> • Review and Update the ROM Policy, Strategy and Framework • Maintain Strategic/Corporate level ROM <p>Maintain and further develop Service level ROM, including project and partnership ROM.</p> <ul style="list-style-type: none"> • Continue to embed ROM and build skill/capacity for ROM across the Council. 	<ul style="list-style-type: none"> • Update ROM guidance in line with revised ROM Policy, Strategy & Framework - Mar 2022. • Update Department Management Teams of the revised ROM Policy, Strategy and Framework to maintain awareness of the ROM arrangements across the Council - Mar 2022. • Review the reporting timeframe/arrangements for Strategic/Corporate Risk and Opportunity Register - by Mar 2022. • Update Department Management Teams of the review and reporting arrangements for the Strategic/Corporate Risk and Opportunity Register - Mar 2022. • Undertake In Quarter 2 Refresh of the Strategic/Corporate Risk and Opportunity Register and report to Standards & Audit Committee via Directors Board and Performance Board representatives - Jul to Sept 2022. • Undertake In Quarter 3 Review of the Strategic/Corporate Risk and Opportunity Register. Items to be reviewed by Directorates and progress against action plans monitored by Directorate Management Teams - Oct 2022. • Undertake In Quarter 4 Review of the Strategic/Corporate Risk and Opportunity Register and report to Standards & Audit Committee via Directors Board and Performance Board representatives - Jan to Mar 2023 • Explore potential digital efficiency solution to support the Strategic/Corporate ROM arrangements and the ongoing review/updating of the Strategic/Corporate Risk & Opportunity Register • Provide support to Directors Board, Performance Board, Directorate Management Teams and Services to further embed the Business Planning, Performance Management and Risk & Opportunity Management Frameworks Feb 2022 to Mar 2023 • Explore potential digital efficiency solutions to support Service level ROM arrangements. • Continue to work with services and the Corporate Programme Team to develop/embed risk & opportunity management arrangements for key projects - Apr 2022 to Mar 2023. • Continue to raise ROM awareness with Department Management Teams - Apr 2022 to Mar 2023. • Maintain regular updates of ROM Information on the ROM page of the Council's Intranet - Apr 2022 to Mar 2023. • Annual review of ROM arrangements against good practice and reporting of developments/outcomes to Standards & Audit Committee via Directors Board and Performance Board - Dec 2022 to Mar 2023.

Risk and Opportunity Management Policy and Strategy

December 2021

Title:	Risk and Opportunity Management Policy and Strategy.
Purpose:	Outlines the overarching ROM framework for Thurrock Council.
Owner:	Andy Owen, Corporate Risk & Insurance Manager
Approved by:	N/A
Date:	December 2021
Version:	1.10
Status:	Draft
Review Frequency:	Annual
Next Review Date:	December 2022
Consultation:	N/A

Purpose

The Risk and Opportunity Management Policy & Strategy outlines the overarching risk and opportunity management framework in Thurrock detailing where a formal approach to risk and opportunity management must be adopted by officers.

The document details the priorities of Corporate Risk and Opportunity Management (CR&OM) over the next year, how risk and opportunity is monitored, reported and escalated across the Council and what duties are placed on officers across the Authority to ensure compliance.

Staff Governed by the Policy and Strategy

The Risk and Opportunity Management Policy and Strategy apply to all staff including and not limited to temporary staff and contractors. A failure to comply could be damaging to the finances and reputation of the Council.

Executive Summary

This combined risk and opportunity management policy and strategy details the Council's framework for managing business risk and opportunity. The risk and opportunity management framework is the culture, processes and structures that are directed towards effective management of potential risks and opportunities that the council faces in delivering its objectives.

Thurrock Council takes risks and recognises that risk is involved in everything it does and that it has a duty to manage these risks. This duty is to staff, residents and people working in the borough, service users, partners and funding agencies. Effective risk and opportunity management makes sound business sense and is good management practice.

The Risk and Opportunity Management Guide expands on the principles laid out in this document and provides guidance on how to undertake a risk and opportunity assessment.

Contents

<u>Title</u>	<u>Page No.</u>
Risk and Opportunity Management Policy	3
Risk Management Strategy	4
• Overview	4
– Risk and Opportunity Management Framework	4
– Key Risk and Opportunity Management Objectives	4
• Defining Risk and Opportunity Management	5
• Corporate Risk and Opportunity Management (CR&OM)	5
• Risk and Opportunity Management in Thurrock Council	5
• Risk and Opportunity Management Priorities for 2021-23	6
• Governance and Compliance	6
– Compliance with the Risk and Opportunity Management Framework	6
– Monitoring, Reporting and Escalating Risk and Opportunity	6 – 7
• Thurrock Council's ROM Maturity – Review	7
• Further Support, Tools, and Guidance	7
• Annex A - ROM Framework	8

Risk & Opportunity Management Policy

Risk needs to be managed and consideration of risk should not stifle innovation. The Council delivers services in an increasingly litigious and risk-averse society and believes that risk management is a tool for exploiting opportunities as well as safeguarding against potential threats. Thurrock Council uses the discipline of risk and opportunity management to promote innovation in support of the Council's strategic priorities and objectives.

The risk and opportunity management framework is the all-encompassing approach that the Council takes towards risk and opportunity management; including the adoption of this Policy & Strategy, the resourcing of Corporate Risk and Opportunity Management (CR&OM) and the consideration of risk and opportunity management in other corporate policies and procedures.

The risk and opportunity management discipline involves the identification, evaluation, management, review and escalation of risk and opportunity. Whenever an officer is involved in an activity which has significant levels of risk, it is important that the risk management process is formalised by, for example, undertaking a risk assessment or detailing risks in a report. The Council recognises that the approach to risk management should be proportionate to the level of risk present.

The management of risk and opportunity is woven throughout the Council's key governance frameworks and as such there are specific requirements for all officers to adopt a formal approach to risk and opportunity management in the following areas;

- Key decision making reports
- Corporate and Service planning processes
- Programme and Project management
- Procurement and commissioning processes
- Partnership working arrangements
- Change management processes.

CR&OM is responsible for developing and embedding the risk and opportunity management framework within which risks and opportunities are to be managed across the Council. This includes developing risk and opportunity management capacity within the Council's workforce through the offer of guidance and support.

All Council officers are responsible for the management of the risks and opportunities that surround their role and adherence to the risk and opportunity management framework.

The Risk and Opportunity Management Policy is reviewed on an annual basis by CR&OM. Standards and Audit Committee Members are consulted as part of this process. The Risk and Opportunity Management Policy was approved by Cabinet and any major changes to the document will be submitted to Cabinet for re approval.

Adherence to the requirements set out in the Risk and Opportunity Management Policy and Strategy is monitored by CR&OM and reported to Standards and Audit Committee, via Directors Board as appropriate.

Risk & Opportunity Management Strategy

Thurrock Council believes that through the proactive management of its significant business risks and opportunities it will be in a stronger position to deliver the strategic priorities and objectives

To this end, CR&OM has been issued the remit of developing and embedding an enterprise-wide risk and opportunity management framework.

There is strong senior management support for risk and opportunity management. The Council has an embedded risk culture and a positive attitude to risk – recognising that well managed risk brings opportunity and innovation.

The Risk & Opportunity Management Framework

Having a robust and systematic risk and opportunity management framework which is embedded throughout the organisation will;

- Help officers to fully understand the event, cause and effects of the risks and opportunities that they face, and in turn make more informed decisions on how best to manage risks and opportunities.
- Allow officers to analyse and prioritise risks and opportunities; helping inform decisions on the management, escalation and communication of risks and opportunities.
- Reinforce officers' understanding of risks/opportunities and how they will be managed; as well as encouraging the assignation of roles and responsibilities for the management of risks/opportunities.
- Provides senior managers and members with the assurance that risks and opportunities are being considered and managed across the organisation, and where necessary the risks and opportunities are escalated for their input and guidance.

Key Risk and Opportunity Management Objectives

In order to realise the organisational benefits of managing risk/opportunity and deliver upon their remit of embedding the risk and opportunity management framework, CR&OM has identified the following objectives;

1. To maintain and review the risk and opportunity management framework which takes into account new and emerging risk and opportunity management good practice.
2. To ensure the Council actively manages the risks to and the opportunities for the achievement of strategic and operational priorities, objectives and plans.
3. To ensure the approach to risk and opportunity management supports the decision making process and risks and opportunities are considered and discussed as part of the arrangements.
4. To ensure the approach to risk and opportunity management supports the programme and project management arrangements and risks/opportunities are considered by the process.
5. To ensure the approach to risk and opportunity management supports officers in the management of risks and opportunities associated with partner organisations, delivery agents and the voluntary sector.
6. To ensure the approach to risk and opportunity management supports the procurement and commissioning process and the management of risk/opportunity as part of the arrangements.
7. To integrate and embed risk and opportunity management throughout the working culture of the Council by providing support and guidance to officers.
8. To monitor adherence to the Risk and Opportunity Management Framework and report on performance to Standards & Audit Committee, via Directors Board and Performance Board.

Defining Risk and Opportunity Management

Thurrock Council's definition of Risk and Opportunity Management is:

“The planned and systematic approach to identify, evaluate and manage the risks to and the opportunities for the achievement of objectives”

This compliments the definition of risk and/or the context of risk management outlined in the various standards and guidance produced (e.g. ALARM, CIPFA, ISO, etc.)

Corporate Risk and Opportunity Management (CR&OM)

CR&OM is based within the Finance Department of the Resources & Place Delivery Directorate and is overseen by the Corporate Risk & Insurance Manager who is mandated to;

- Establish the risk and opportunity management framework through developing procedures, tools and guidance on how to manage risk and opportunity;
- Embed the framework by providing guidance and support to officers across the Council on how to comply with it.

The guidance and templates that CR&OM has developed are available on the Risk and Opportunity Management page on the Council's Intranet, see: [Risk and opportunity management - Thurrock Council intranet](#)

Risk and Opportunity Management in Thurrock Council

Thurrock Council's risk management strategy was first developed in 2005 and it is reviewed on an annual basis. The risk management strategy focussed on the potential negative effects of uncertainty (risk) and as a result, uncertainties that could have beneficial effects (opportunities) were generally overlooked. The framework was therefore revised and Opportunity Management incorporated in the approach. The Risk and Opportunity Management framework was introduced in 2008.

Standards and Audit Committee and Directors Board act as the risk and opportunity management oversight bodies; receiving regular reports throughout the year and providing challenge and support to the whole process. The Cabinet Member for Finance and the Corporate Director of Resources and Place Delivery promote risk and opportunity management across the Council in their respective roles of member and officer risk & opportunity management champions.

The ROM Policy & Strategy provides an overview of the risk management framework within Thurrock Council and outlines CR&OM objectives in the short/medium term to further develop and embed the framework.

Risk and Opportunity Management Priorities 2021-23

The following priorities will be incorporated into Corporate Risk Management's plans for 2021-2023

- Review and update the ROM Policy, Strategy and Framework.
- Maintain Strategic/Corporate level ROM.
- Maintain and further develop Service level ROM, including Project and Partnership ROM.
- Continue to embed ROM and build skill/capacity for ROM across the Council.
- Explore the potential of a digital efficiency solution to support the ROM arrangements at Strategic/Corporate and Service level.

Governance and Compliance

The management of risk is woven throughout the Council's key governance frameworks and as such there are specific requirements for all officers to adopt a formal approach to risk and opportunity management in the following areas;

- Key decision making reports.
- Corporate and Service Planning.
- Programme and Project management.
- Procurement, Commissioning and Contract Management.
- Partnership working arrangements.
- Change management processes.

A formal approach to risk and opportunity management will involve for example, undertaking a risk assessment or detailing risks in a report. The Council recognises that the approach to risk and opportunity management should be proportionate to the level of risk or opportunity involved. For more information refer to the Risk and Opportunity Management Guidance and templates, that are available via the Risk and Opportunity Management page on the Council's Intranet, see link for details: [Risk and opportunity management - Thurrock Council intranet](#)

Compliance with the Risk and Opportunity Management Framework

This policy and strategy is just one part of the Council's risk and opportunity management framework. Other key components include the risk/opportunity rating system, risk and opportunity assessment templates and strategic/corporate risk and opportunity register.

To ensure consistency it is important that these tools are adopted across the Council. Any variations or dispensations will be kept to a minimum and must be approved by CR&OM.

Service Managers, Assistant Directors and Directors have responsibilities to ensure that staff adhere to the risk and opportunity management framework. For more information on the roles and responsibilities of all staff please refer to the Risk and Opportunity Management Framework table, Annex A at the end of this document.

Monitoring, Reporting & Escalating Risk and Opportunity

CR&OM continually monitors the management of risk/opportunity across the Council. This is done through regular reviews of each Directorates/Departments key risks and opportunities.

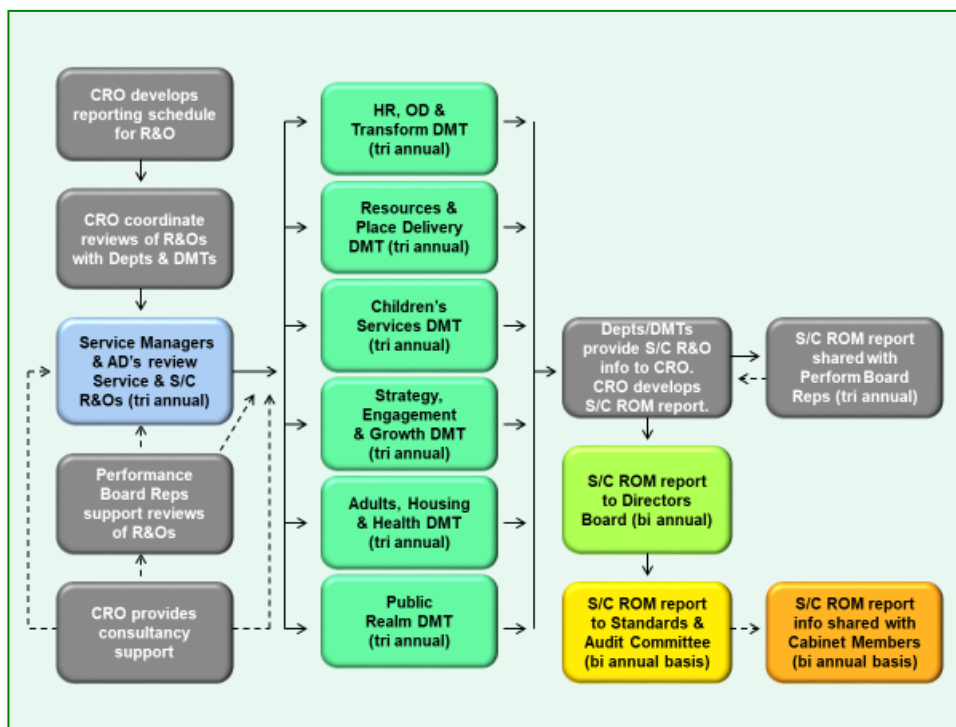
Each Directorates/Departments performance in relation to compliance to the risk and opportunity management framework and management of risk/opportunity is monitored on a regular basis through the directorate/department management teams.

Risks/opportunities are escalated and reported throughout the organisation in a number of different ways. Through the regular review of key service, department and directorate risks and opportunities, a process of aggregation and escalation occurs and the items considered by Directorate/Department Management Teams. The Directorate/Department risks and opportunities with strategic/corporate

significance are then further analysed to develop strategic/corporate risks and opportunities which are reported to Directors Board and Standards & Audit Committee on a bi annual basis.

To inform judgements on key decisions the associated risks, opportunities and management response arrangements are detailed within reports to Cabinet.

Within programmes and projects the monitoring, reporting and escalation of risk/opportunity is less formal. CR&OM provides support to programmes and projects, and the corporate programme and/or project management methodology details the approach that should be followed for monitoring, reporting and escalating risk/opportunity to project and programme boards.



Monitoring & reporting - strategic/corporate risk & opportunity register

Thurrock Council's Risk and Opportunity Management Maturity – Review

The development of the risk and opportunity management framework and the level to which it is embedded in the working practices of the organisation are reviewed against good practice on an annual basis. The improvement opportunities highlighted by the review are used to inform the CR&OM priorities and plans for the short/medium term.

Further Guidance, Tools and Support

The latest version of the Risk and Opportunity Management Policy and Strategy and all other documents are available on the Risk and Opportunity Management page of the Council's Intranet, see: [Risk and opportunity management - Thurrock Council intranet](#). Alternatively the details can be obtained from CR&OM via the following contact:

Andy Owen
 Corporate Risk & Insurance Manager
 Thurrock Council
 Email: aowen@thurrock.gov.uk
 Direct Dial: 01375 652174
 Internal Extension: 63313

Risk and Opportunity Management Framework

Who	Key Roles & Responsibilities	Report Type	By Whom	Frequency
Council	Receive and act upon: <ul style="list-style-type: none"> Reports from Cabinet, S&AC and Head of Paid Service. Reports, recommendations and advice from S&AC 	<ul style="list-style-type: none"> e.g. Annual Governance Statement; ROM Policy, Strategy and Framework report and other relevant reports. 	Cabinet, Standards & Audit Committee.	Annually or as appropriate
Cabinet	<ul style="list-style-type: none"> Agree the ROM Policy, Strategy & Framework and receive reports on them. Hold the political responsibility for ROM within each individual portfolio. Identify a lead portfolio holder for ROM 	<ul style="list-style-type: none"> ROM Policy, Strategy & Framework and other relevant reports. Receive updates on the Strategic/Corporate R&Os & action plans 	Standards & Audit Committee and Directors Board	<ul style="list-style-type: none"> Annually or as appropriate Bi Annual
Standards & Audit Committee	<ul style="list-style-type: none"> Oversee and challenge assurance and the ROM arrangements 	<ul style="list-style-type: none"> Review of ROM Policy, Strategy & Framework Receive updates on the Strategic/Corporate R&Os & action plans Receive assurance on effectiveness of ROM 	Director of Finance & IT	<ul style="list-style-type: none"> Annually Bi Annual Annually
Directors Board	<ul style="list-style-type: none"> Strategic leadership group for ROM Oversee the ROM Policy, Strategy & Framework Responsible for effectiveness of R&O and assurance arrangements and any management or mitigation. Quarterly monitoring of Strategic/Corporate R&Os & associated action plans. 	<ul style="list-style-type: none"> Review of ROM Policy, Strategy & Framework. Reviews of Strategic/Corporate R&Os and action plans. Annual Review of ROM 	Director of Finance & IT	<ul style="list-style-type: none"> Annually Tri Annual Annually
Corporate Risk & Opportunity Management	<ul style="list-style-type: none"> Establish the ROM Policy, Strategy & Framework & alignment of ROM with other key business frameworks & processes Stewardship of the Strategic/Corporate R&O Register Review /Benchmarking of ROM Establish Service level ROM Provide consultancy and advice on ROM 	<ul style="list-style-type: none"> Review of ROM Policy, Strategy & Framework. Reviews of Strategic/Corporate R&Os and action plans. Annual Review of ROM 	Corporate Risk & Insurance Manager	<ul style="list-style-type: none"> Annually Tri Annual Annually
Directors & Assistant Directors	<ul style="list-style-type: none"> Monitoring of Strategic/Corporate R&Os for the directorate or Council. Escalation as appropriate of Strategic/Corporate R&Os to DB Monitoring of high level R&Os facing the directorate or Council (e.g. programme, partnership, project and service R&Os) 	<ul style="list-style-type: none"> Reviews of Strategic/Corporate R&Os and action plans to DB Report to Portfolio Holders on the high level R&Os facing the Directorate or Council 	Directors & Assistant Directors	Tri Annual or as required by Director or PH
Directorate/Department Management Teams	<ul style="list-style-type: none"> Identification and monitoring of Strategic/Corporate and other key risks/opportunities facing the department Escalation as appropriate of S/C R&Os to Directors Board 	<ul style="list-style-type: none"> Review of R&Os and R&O Registers as a standing agenda item at DMT meetings DMT to receive & approve updates to S/C R&Os and action plans 	Directors, Assistant Directors, Service Manager or Lead Officer	Tri Annual or as required by Director or DMT
Performance Board	<ul style="list-style-type: none"> Support the review and development of ROM Policy, Strategy & Framework. Support the development/review of the Strategic/Corporate R&Os register. Review / Benchmarking of ROM 	<ul style="list-style-type: none"> Review of ROM Policy, Strategy & Framework. Reviews of Strategic/Corporate R&Os and action plans. Annual Review of ROM 	Corporate Risk & Insurance Manager	<ul style="list-style-type: none"> Annually Tri Annual Annually
Service Managers	<ul style="list-style-type: none"> Identification, management and review of R&Os within their Service or area of responsibility. Monitoring and escalation as appropriate of R&Os to either Director/Assistant Director or relevant DMT 	<ul style="list-style-type: none"> Review of R&Os and R&O Registers as a standing agenda item at Service SMT meetings. Review of Strategic/Corporate R&Os and action plans to DMT Report to DMT on identified R&Os that require consideration for escalation to the S/C R&O Register 	Service Managers	Tri Annual or as required by Director, Assistant Director or DMT
Programme & Partnership Boards or Project Managers	Responsible for the identification, management and monitoring of R&Os within their given areas.	<ul style="list-style-type: none"> Report on the management of R&Os and escalation of high level R&Os as required or necessary 	Programme Boards, Partnership Boards and Project Managers	Quarterly or as required by Director, Assist Director, DMT or Service Manager
Employees	To manage risk effectively in their job and report hazards, risks or opportunities to their Service Manager, Assistant Director or Director.	<ul style="list-style-type: none"> Report incidents, risks and opportunities following the procedures laid down in corporate policies. 	All Employees	As necessary or required.

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7 July 2022	ITEM: 7
Standards and Audit Committee	
In Quarter 4 (2021/22) Review of the Strategic/Corporate Risk and Opportunity Register	
Wards and communities affected: All	Key Decision: Non-key
Report of: Andy Owen, Corporate Risk and Insurance Manager	
Accountable Assistant Director: Jonathan Wilson, Assistant Director of Finance	
Accountable Director: Sean Clark, Director of Resources and Place Delivery	
This report is Public	

Executive Summary

One of the functions of the Standards and Audit Committee under the Terms of Reference of the Constitution is to provide independent assurance that the authority's risk management arrangements are adequate and effective.

To enable the Standards and Audit Committee to consider the effectiveness of the Council's risk and opportunity management arrangements reports on the review of the register are presented on an annual basis and provide details of how the key risks and opportunities facing the authority are identified and managed.

The Corporate Risk and Insurance Manager has engaged with Services, Department Management Teams, Performance Board and Directors Board during January and February 2022 to review the Strategic/Corporate Risk and Opportunity Register.

This report provides Standards and Audit Committee with the key risks and opportunities identified by the review and the revised Strategic/Corporate Risk and Opportunity Register.

1. Recommendation(s)

- 1.1 That the Standards and Audit Committee note the items and details contained in the Dashboard (Appendix 1).
- 1.2 That the Standards and Audit Committee note the 'In Focus' report (Appendix 2), which highlights the higher priority items identified by the review.

2. Introduction and Background

- 2.1 Risk and Opportunity Management (ROM) describes the planned and systematic approach used to identify, evaluate and manage the risks to and the opportunities for the achievement of the Council's objectives.
- 2.2 ROM makes a significant contribution to the sound Corporate Governance arrangements to meet the requirements set out in the Account and Audit Regulations and is an important part of the Council's overall Performance Management Framework.
- 2.3 In line with the ROM Policy, Strategy and Framework the Strategic/Corporate Risk and Opportunity Register was refreshed during July to August 2021 and the details reported to Standards & Audit Committee 09 September 2021, via Directors Board and Performance August 2021.
- 2.4 A further exercise was undertaken with Services and Department Management Teams during October 2021 to update the register and the outcome presented to Performance Board November 2021
- 2.5 For the In Quarter 4 Review the Corporate Risk and Insurance Manager has engaged with Services, Department Management Teams, Performance Board and Directors Board during January and February 2022 to update the Strategic/Corporate Risk and Opportunity Register.
- 2.6 The report on the review was scheduled to be presented to Standards & Audit Committee March 2022 but deferred to the July 2022 meeting as there were a number of items lined up for the agenda.

3. Issues, Options and Analysis of Options

- 3.1 The outcome of the review is shown in the Dashboard (Appendix 1), In Focus report (Appendix 2) and the following tables.
- 3.2 Appendix 1 – Dashboard
The dashboard provides a summary of the items in the register mapped against the council's priorities, shows the significance of the risks and opportunities, along with the developments to date and the management time frames.
- 3.3 Appendix 2 – Risks and Opportunities In Focus report
This document highlights the higher priority items identified by the review.

The rationale for items being in focus is based on the numeric value of the rating. Any risks/opportunities which are currently rated 16 or 12 automatically become in focus and any which are currently rated 9 or 8 would be considered on a case by case basis for the in focus report.

A summary of the position for each in focus item is included below

Risk - In priority (rating) and then reference number order.

Adult Social Care, Stability and Market Failure - Risk 2 (Rating: 16 Critical/Very Likely)

Adult Social Care has received additional funding in recent years – through a precept as part of the Council Tax and also through the Improved Better Care Fund. A significant proportion of this money has been used to stabilise the market place and deliver sustainability for care providers. This has included increasing the capacity of the contract and brokerage team to ensure contract compliance visits and monitoring to take place in a timely manner – reducing or aiding early identification of risks. The introduction of a Brokerage function has also meant that more realistic costs and fees are negotiated. In addition uplifts have been provided (as described in the risk description) to improve stability and domiciliary care has been retendered. Through the Better Care Fund, we have also been able to enhance capacity through investment in a Bridging Service and through enhancing existing services to ensure that people can come out of hospital when medically fit to do so – even when they are unable to return home. This has helped to reduce Delayed Transfers of Care and Waiting Lists.

The current Covid-19 Pandemic has significantly increased the strain on providers and the system as a whole. A number of residential care providers have had to close temporarily due to Covid-19 outbreaks and this has significantly reduced available capacity and also the ability of providers to fill vacancies. The situation is likely to continue throughout the pandemic. Staffing is a major issue, with increasing staff absence across both residential and domiciliary care sectors. This is having a direct impact on the number of people admitted to care homes and the number of hours available to provide care within the domiciliary care sector. This has led to hard decisions having to be made about how and where hours are distributed, which whilst risk assessed, is leading to some people having less care. This has been compounded by an increase in demand for care services during the period of the pandemic. Additional strain is also being placed on family members who are being asked to provide care to their loved ones where formal care capacity remains unavailable. Increased carer breakdown is a real risk. It is unclear as to whether the demand will be limited to the lifecycle of the pandemic or continue beyond its end.

The Council has provided additional funding to recognise the financial impact placed on providers. This included a 10% financial resilience payment which was made available to all providers for the first 16 weeks of the last financial year (20-21). The Council also enabled payments to providers to be monthly in advance to help with cash flow. The Government also made funding available to support care homes with infection control subject to the homes meeting certain conditions. Whether the vacancies will continue following Covid cannot be foretold. Additional Workforce Capacity Funding has been received to assist with current provider challenges – although difficulties recruiting staff are likely to remain, and the funding is limited to the end of March 2022.

At the same time as the pandemic, capacity issues across the system will be compounded by the usual winter pressures. Capacity depends upon the ability to be able to staff facilities and to cope with the additional demand placed on the system by Covid. Delayed Discharges remain low, which is a reflection of how well Thurrock works with its partners and providers, but the ability to maintain this position remains extremely tenuous and remains dependent upon community capacity and also the capacity of health providers.

Transformation work continues to progress to redesign a system that can respond to some of the current challenges – although some elements and benefits of the work will take time to be realised. This includes developing a new model of care for domiciliary care and a regional Workforce Development strategy focusing on external provision. At the beginning of 2018, the new domiciliary care contract started with providers now well established within the Borough, although one of the organisations who were successful in the tender process have failed to deliver the capacity contracted for; this is further evidence of the fragility of this market. Work has also taken place on alternative approaches to traditional domiciliary care, with two Wellbeing Teams now in place. Wellbeing Teams will enable us to identify the model required and will focus on enhancing Wellbeing and not just on meeting needs. It will also look at how to encourage people in to the care industry and to professionalise a caring role.

Despite the work taking place, the risk of market failure remains extremely high. The sheer number of challenges faced by the care market and the health and care system as a whole at the current time has led to the risk level being kept at 16. Risk to be refreshed in the next review

Impact of Coronavirus - Risk 11

(Rating: 16 Critical/Very Likely)

Recognised that this is not a short term crisis and there is no easy or quick solution to the situation as the position/challenges faced change regularly. Regular monitoring of the position, issues, planned response and recovery undertaken through gold/silver command structure. Member

Oversight and Engagement Board meet weekly as of the end of October in order to monitor the data frequently and respond to the processes now in place since the introduction of the three tier local COVID alert levels. Ongoing regular reports from June 2020 to boards and committees with regard to the response, recovery and the implications of pandemic. The Council continues to strive to meet the challenge of keeping up with and responding to the latest position and government guidance. Focus is shifting to recovery and how we support residents and businesses as the economy is opened up more. The council and our partners are also looking at how we live with COVID and in the short and medium term. The lead up to Christmas and into the New Year saw a return to high levels of infection in the borough, some of the highest in the country for a few weeks, with associated pressure on local hospitals and other health and social care services. However a major incident was not declared and the council did not experience significant service disruption due to staff absence and forecast rating adjusted to 12. We are working closely with government and local partners to promote vaccinations and in particular booster vaccinations to those who have not yet taken up the offer. Risk and management action plan to be refreshed in the next review.

CSC, Service Standards & Inspection Outcome - Risk 6 (Rating: 12 Critical/Likely)

This risk evaluates the impact of increased demand and resource pressures on children's social care quality of service and provision. The pressures outlined throughout previous years remain acute. They include increased volumes, increased complexity and ongoing activity to review high cost placements. The implementation of the early help service model and the Thurrock multi-agency safeguarding hub (MASH) has been successful. The service continues to maximize the external investment and opportunities presented through the Troubled Families Programme and continuously measures impact of the MASH.

The service is demand led and cannot fail to respond to the needs of a child due to budget or resource constraints. Changes on a local, regional and national level can have a significant impact on the demand for services. War and international factors can result in an unplanned increase in the number of unaccompanied asylum seeking children or families with no recourse to public funds. Geographical movement of families across the Eastern Region and London can see a rise in families needing services, including large sibling groups. Areas for improvement were identified in the Ofsted (ILAC) 2019 and a Development Plan created to address this.

As a consequence of Covid19 since March 2020 there has been a significant impact on the way in which we deliver services within children's social care. There has been an impact on the budget which is subject to continuous scrutiny. The Service has recently had a focused visit in June 2021 with a key focus on the local authority's arrangements for the protection of vulnerable children from extra-familial risk. Recommendations for improvement identified and Development Plan updated to address the items. Further Ofsted ILACS Focussed visit completed Jun/Jul 2021, three recommendations for improvement identified and action plan updated to address items.

The level and complexity of some children and young people's needs and the lack of available national resources (specialist placements) to meet those needs is driving up cost pressures. As the Council continues to improve practice regarding the identification and tackling of Child Exploitation there is an increase in demand for service provision in terms of intervention; prevention and victim support. Current and new duties in terms of radicalization also place pressures on the service in terms of workforce capacity. Trends can be predicted based on previous levels of demand but these are subject to variance and there has been an increase in youth violence locally.

The pressures outlined above will not be alleviated in the short term and the risk rating will remain at the higher (red) level for the period covered. It is anticipated that there will be an increase in volumes of contacts into the service, including court delays regarding management of cases. The lack of available of foster placements and residential placements for children with complex needs is a national issue.

Regular reporting of CSC performance and plans to CS Overview and Scrutiny Committee. Risk and management action plan to be refreshed in the next review

CSC, Safeguarding & Protecting Children & YP - Risk 7 (Rating: 12 Critical/Likely)

The nature of the work in terms of safeguarding and supporting children at risk of harm means that this will always be a high risk area although through the application of the S.E.T (Southend, Essex & Thurrock) Child Protection procedures the department actively works to mitigate this risk and reduce the likelihood.

The risk of children and young people coming to harm cannot be completely eliminated and the risk level needs to remain high and ensure clear vigilance across the council and partner agencies. New and emerging risk factors will arise and there is always a potential for agencies 'not knowing, what they don't know' that needs to be guarded against.

Embedding the Multi Agency Safeguarding Hub and Early Offer of Help has supported earlier identification of risk through a multi-agency approach enabling the department to work to intervene at an earlier stage and reduce the risk of harm in some cases. The development and implementation of the Thurrock Local Safeguarding Children Partnership arrangements is further improving the inter-agency arrangements to safeguard and promote the welfare of children and young people living in Thurrock.

The impact for individual children and families, particularly in cases of child death is significant and whilst actions to reduce the likelihood are implemented the impact will remain as critical. There is also a critical impact score in terms of reputational damage if a child is not safeguarded or should a child death or serious injury occur.

The ongoing nature of risk in child protection and safeguarding is such that despite effective mitigation the acknowledgement of the risk needs to remain high and will not reduce. This is not to say that the risks are unmanageable but for effective management the gravity and complexity of the risk needs to be acknowledged.

Managing this risk places inherent pressures on the Children's Social Care budget as a demand led budget. Effective demand and resource management remain a priority for the service within an overriding context of keeping children safe.

Risk will remain constant throughout the period covered. The emergence of Covid19 resulted in a number of changes to service delivery. An Operational Procedures document during the Coronavirus outbreak was implemented for some time and is still being reviewed on a regular basis. This document ensures business continuity is maintained following appropriate risk assessments and government guidelines. Regular reporting of performance and progress against plans to CS Overview & Scrutiny Committee.

Risk and management action plan to be refreshed in the next review

Property Ownership Liability - Risk 14

(Rating: 12 Critical/Likely)

Council properties (except for HRA and parks) moved to corporate function for repair, maintenance planning and budgets transferred. There has been a significant increase of number of properties moving to the Corporate Landlord Function which has resulted in a sharp increase in work streams. Condition and compliance surveys completed and loaded on Concerto database. The Estates Module is live and being populated with current data, training for officers is due to be undertaken in January 2022. This is a significant module which will assist with the management of leases and other property related matters and its implementation represents a significant step forward in the management strategy for the estates. It is unclear how this module will be impacted by the proposed change of IT systems to Microsoft 365. The Management module of Concerto is now live and although the implementation has been and remains labour intensive its use is generally a success. A draft Corporate Landlord Policy and a draft Corporate Landlord Procedure have been drafted, but can only be finalised once the resourcing requirements of the Corporate Property Team are agreed. The Facilities management function was brought back in house in April 2020 and Corporate Property Team restructure needs to be finalised to strengthen the capacity of the service. There is particular concern that vital roles are being undertaken by contract staff with no contingency or succession planning possible. In addition there is a lack of resource where posts remain vacant and where new resource is required to undertake a greater workload both within the Corporate Property and FM teams. A lack of resource in the FM Team with much increased work load particularly within the security team is a major risk with additional shifts having to be covered by on call agency. FM Team would be further impacted in event of COVID outbreak within the teams, security at Civic Offices and Wardens at Thameside would be covered by contractor. Mailroom and reprographics would be major impact but would need to reduce service initially and call on wider team for assistance. Added to this the considerable drain in the last quarter on the FM team in completing the declutter and reorganisation of CO2 there is significant pressure on officers time.

CO1 still remains closed due to electrical fault with a specialist repair scheduled for January 2022. This has had significant impact on the Council's ability to host member meetings and further impacted on officers' time and on two tenants who occupy parts of CO1. Due to the specialist

nature of the work, limited availability of contractors there is significant risk the repair schedule could further be affected.

Proposals to refresh governance arrangements for property matters was submitted in March 2020, this included a revised TOR for Property Board, a new reporting structure and an itemised forward plan to support property management, governance and enhance visibility of Corporate Landlord matters. The constitution has been changed limiting requiring consent for all disposal from the Leader or Cabinet which has resulted in all disposals requiring an ED2 and increased workload. The continually evolving Covid-19 pandemic and the closure and the recommissioning of buildings were carefully planned to ensure health and safety hazards are managed thereby ensuring buildings were safe for re-occupation. Additional national lockdowns and changes to protocols result in the reversal of that process and add additional resource demand for decommissioning and re commissioning buildings and managing changing Covid Requirements, Additionally, the pandemic has necessitated social distancing measures & new working practices to protect staff, visitors and customers from the virus. Risk Assessments and re-occupation plans in accordance with PHE and government guidance are drafted for the Civic Centre and further guidance for other corporate buildings and satellite sites are to be developed and rolled out as appropriate. Due to restriction of staff within Civic Offices no fire marshal system in place, signing in/out procedure, risk if staff do not adhere to system in event of fire evacuation. The recent introduction of the sign in application has gone some way to mitigate this risk although take up and use by staff needs to be assessed.

The Corporate Property Team has been asked to undertake a wider ranging Asset Review with a view to identifying buildings that can be re-tasked or disposed of to generate capital receipts in order to support the overall Council budget. The asset review is progressing and this is a significant piece of work requiring substantial input from an already under resourced team and as it progresses it generates significantly more work once assets are identified to dispose of. A number of disposal have been successfully undertake with more agreed however one major proposed disposal has faltered which may result in the capital receipt target for this financial year not being met. The review of Corporate buildings is largely completed however additional works is still being undertaken in this area. Workloads generally remain an issue within the Estates and Assets teams which would are significant risk of being highly impacted by long term staff sickness or staff leaving post, this is further exacerbated by key functions within the assets team being covered by agency staff with no other internal options.

The current reduction in Capital spend is having a detrimental effect on the day to day management and maintenance of the Council's assets both Operational and Non-Operational as items requiring capital expenditure are potentially deteriorating which will result in additional future cost should the asset remain in the Council's ownership or potential Health and Safety issues if remedial work is not undertaken. This is particularly of importance with reference to the Thameside complex and Impulse Leisure properties where considerable planned and remedial maintenance works are required many of which fall into a health and safety category. In addition the condition of other Council Assets, in particular Coalhouse Fort have the potential to represent a significant liability in terms of repair and maintenance in the coming year. The continuing impact of Covid is having a detrimental effect on our Commercial occupiers and will likely impact on the potential expected rental income for this year and next with the number of void properties also likely to increase. Changes in EPC legislation in April 2023 require EPC ratings of E or above may affect the Council's property portfolio. Currently three of the Council's properties do not comply and there are an additional 207 properties yet to be assessed which will likely resulting in additional capacity required in officer's time and budgets to remedy.

The departmental restructure is progressing with all officers' 121 having been undertaken in line with the proposed time frame & a recruitment drive scheduled for Jan 2022. The impact on moral within the directorate must be noted with a number of staff being put at risk & significate changes proposed to the structure. Risk and Management action plan to be refreshed in the next review.

A13 Widening Project - Risk 18

(Rating: 12 Critical/Likely)

The A13 corridor is a vital part of the transport network in Thurrock and the south Essex area, enabling the economy to grow through expanding businesses, new housing and more jobs.

Major economic growth

Thurrock and the south Essex area has seen major investment in recent years, including the opening of DP World London Gateway Port and Logistics facility, and the continued development of Lakeside retail and entertainment complex. This is part of a planned £20 billion investment in

jobs, homes and infrastructure in Thurrock, including developments led by the private companies at Thames Enterprise Park, Lakeside Basin and the Port of Tilbury. A widened A13 will help support these developments, and also the significant investment planned for other parts of south Essex, including £272 million at Airport Business Park in Southend.

Excellent transport links: Thurrock and the South Essex area already has many excellent transport links with London, the rest of the UK and Europe, by road, river and air. The London Gateway Harbour Empowerment Order 2008 gave legal backing for further improvements to the surrounding road network, including widening the A13. This will be a benefit to traffic flow as currently around 77,000 vehicles each day use the A13 between the A128 (Orsett Cock roundabout) and the A1014 (The Manorway, Stanford-le-Hope).

Funding and partners: DP World London Gateway have contributed to the costs and the rest from government funding, directed through the South East Local Enterprise Partnership (SELEP), and Thurrock Council.

There has been an ongoing review and monitoring of the project and implementation of planned actions to manage identified issues, areas for improvement and potential risks. Good progress has been made in 2021 to date with an anticipated planned substantial completion date (all lanes open to traffic) of March 2022. All new bridges are in operation and the existing bridges have been demolished. The vast majority of earthworks and drainage is complete. The project budget remains a significant risk and is being closely monitored alongside the revised delivery timeline and the remaining project risks. Covid does remain a threat although this has reduced. Emerging risks include - Cold weather impacting road surface laying, production issues during road closure periods due to supply issues and utilities, particularly gas mains around the Orsett Cock roundabout. Update reported to Planning, Transport, Regeneration Overview & Scrutiny Committee, February 2022. Evaluate that Forecast Rating of 8 should be achieved by the Forecast Date of 31/03/2022 providing that all runs to plan and none of the identified emerging or new unexpected risks impact the programme.

Waste Strategy for Thurrock - Risk 22

(Rating: 12 Critical/Likely)

The Waste Strategy for Thurrock has been adopted and preparations for its implementation have begun. National Strategy and Policy are still being consulted upon and decisions are still being finalised. This has the potential to leave the councils strategy for waste at risk of non-compliance in some areas, however as the Strategy is considered a living document, adjustments and amendments are anticipated. If the national strategy becomes such that decisions taken at the start of writing the local strategy may result in service-delivery choices requiring rethinking or changing. The risk is that such choices around vehicle-design etc. are difficult and potentially costly to change once made. Political influence via leadership changes continue to remain a possibility particularly given the program of local elections within the borough.

External consultation has been sourced in order to sense-check the strategy against current national policy and a temporary pause placed on part of the new vehicle procurement process, however this remains time-critical and action may be required imminently if considered necessary from the sense-checking.

Fraud - Risk 25

(Rating: 12 Critical/Likely)

The Counter Fraud & Investigation service has an organisational-wide strategy and proactive work plan to monitor and manage the identified risks. A persistent training and education regime is in place, where experts from the service work with staff, contractors, Members and in the council's supply chain to identify and mitigate the risks, and increase awareness.

The council has current and effective policies on Counter Fraud, Bribery & Corruption and Money Laundering which are kept under constant review, with relevant updates being added or removed where appropriate. These policies acknowledge the threats and install an action plan in identified incidents including, civil & criminal litigation and redress to recover any identified losses. Any control weaknesses identified in investigations are rectified in collaboration with the affected services and Internal Audit through SMART Action Plans.

In the last year the council has come under pressure from COVID-19 and the situation has reduced the traditional work that CFI would complete during a year, however that has not meant the CFI team haven't assisted in the fight against fraud. Due to the pandemic the government announced a number of grants that were to be administered by local authorities, these were collectively known as Business Support Grants (BSG). The CFI team have worked closely with the Revenues team (those responsible for administering the grants) to complete pre and post

assurance checks on all applications that were received. This preventative counter fraud work saw 61 grant applications investigated and stopped, saving over £600,000 of potential losses of public funds.

These risks have sat alongside the 'normal' fraud risks that the council faces every day, namely Single Person Discount fraud, Tenancy Fraud, Right To Buy fraud as well as other forms of fraud such as Procurement/Contract fraud. The fraud awareness programmes that were put to all staff will assist with identifying this risk and early intervention is always key to an organisation combating the risk it faces. These have continued and working alongside our alert system, staff are made aware of fraud trends and or known risks.

Covid 19 has also enabled an easier avenue for 'mandate fraud' which has been highlighted to staff, as we are not in the office spaces we once shared, communication is largely placed within the email systems. This can create the opportunity for criminals to compromise email accounts and facilitate a fraud. Where staff would normally be able to speak directly to a colleague, this now does not happen and must be brought into the risk faced by the council. CFI have been approached by various council who have fallen victim to £1m+ mandate frauds.

CFI has a programme of proactive work proposed to ensure the council's posture against fraud is robust and effective. Details of the proactive work programme are included in the management action plan for the risk.

The risk remains at 12, as new risks have emerged alongside old risks, the new risks have mitigated measures taken, however it is clear that those measures do not affect the 'attempts' we come across and thus it is felt that the risk to the council remains likely and critical. The council can ill afford a substantial loss of funds at this very critical time. Risk and management action plan to be refreshed in the next review.

Local Plan - Risk 27

(Rating: 12 Critical/Likely)

Failure to prepare and maintain an up-to-date Plan will put the Council at risk of possible intervention by the Secretary of State. Should this occur, the Council could lose the ability to plan for future development of Thurrock with its plan-making powers being taken away by the Secretary of State who has the option of directing another body to take over responsibility for preparing the Local Plan. Further sanctions could also come in the form of the loss of the Council's New Homes Bonus and a reduced ability to bid for national funding support for new infrastructure.

A failure on the part of the Council to provide a rolling five-year land supply would also increase the possibility that landowners and developers would be able to obtain planning permission upon appeal to the Secretary of State for speculative, uncoordinated and piece-meal development in the Green Belt.

Finally, the reputational damage and harm to the Council could be substantial as would the abortive costs involved in promoting a Local Plan which will be found unsound at examination.

Despite the problems caused by the pandemic, significant progress has been made in moving the Plan forward with a particular focus being on the development of the Local Plan evidence base. Further progress has also been made in rolling out Local Plan Planning Performance Agreements with landowners and developers promoting sites and in building up towards the launch of the Community Design Charrettes which started in December 2021. A framework version of local Plan is under development with the aim to prepare a Draft Local Plan for Senior Officer and Member review in June/July 2022.

Regular updates on the development of the Local Plan and next steps provided to the Local Development Plan Task Force (a cross party Members working group) throughout the process, A report on the Approach to the Local Plan was also presented to Regeneration Overview & Scrutiny Committee in October. Risk and management action plan to be refreshed in the next review

Major Projects (Place Delivery) - Risk 19

(Rating: 12 Substantial/Very Likely)

The Thurrock growth programme crosses many disciplines within the Council. It requires significant programme management capacity from the Regeneration team to lead the programme alongside a joined up approach with other areas of the authority to ensure that relevant specialisms are brought in as required and programmes and strategies are complementary. Investment needs to be committed to project development stages before outputs and benefits are realised, significant levels of funding are committed at risk to prove feasibility and investment then needs to continue to secure the benefits from the initial funding. External funding is committed to numerous projects, whilst this reduces the financial burden to the Council, compliance with

funding agreements must be achieved to ensure the Council is not exposed financially via claw back mechanisms. Projects span numerous financial years and have to be able to respond to changing market, policy and financial conditions. Strong project and programme managers are essential to ensuring that delivery stays on track and investment secures value for money outputs. Increasing resource capacity in the team via Matrix has provided some additional support and approval has been received to secure 1 additional FTE. The project portfolio could benefit from significant external funding which will put additional pressure on the existing staff resource as more projects are developed. Momentum needs to be maintained in the ongoing restructure to improve working approaches and secure additional resource.

Opportunity - In priority (rating) and then reference number order.

Investment in Growth - Opportunity 12 (Rating: 16 Exceptional/Very Likely)

The Council has successfully secured significant amounts of Local Growth Fund, Getting Building Fund and other funds to directly deliver projects and programmes that benefit local residents and businesses directly or through investment infrastructure. This year there has already been opportunity to secure investment from the Community Renewal Fund. One project supported in Thurrock with a value of £100k now being implemented. In addition £150k secured through Welcome Back Fund.

The Government has delayed announcements on launch of the Shared Prosperity Fund, Levelling Up Fund Round 2. The results of the Towns Fund applications submitted in early 2021 have been announced and have secured, in principal, around £40m investment in Thurrock subject to business cases and due diligence. The Government has designated Thames Freeport and full business case to be submitted 31 Jan 2022.

Backing Thurrock Strategy - Opportunity 13 (Rating: 12 Exceptional/Likely)

Backing Thurrock strategy adopted by Cabinet March 2021. The Action Plan includes a series of projects and initiatives that together seek to maximise the benefits to the local economy from growth in the borough. The Governance arrangements for the strategy are in place and delivery is now underway.

Available resource is being targeted at the most important priorities and projects in the programme highlighted in the action plan.

Delivery underway and good progress made but capacity issues mean that most important actions are being prioritised. Progress against key actions in line with the programme plan/management action plan for the opportunity. Forecast rating reduced to 12 to reflect delivery in year.

Opportunity and management action plan to be refreshed in the next review

Treasury Management/Investment Strategy - Opportunity 15a (Rating: 12 Exceptional/Likely)

Investments identified as having the greater ability to make significant income with the minimum of impact on service provision. Investment Strategy established. Review undertaken and position reported to Council Feb 2021. Ongoing review, monitoring and presentation of investment briefings to Standards & Audit Committee (S&AC), Cabinet, Council and Corporate Overview and Scrutiny Committee (CO&SC) scheduled for 2021/22. Financial Update including position on the treasury and investment outturn projections presented to Cabinet September; Investment Briefing presented to S&AC September; MTFS Update & Budget Proposal reported to CO&SC November; Financial Update presented to Cabinet December, Capital Strategy, including Treasury Management Strategy and surplus for 2022/23 presented to CO&SC January and scheduled to be reported to Council February, General Fund Budget & MTFS reported to Cabinet and CO&SC January. Cross party Shadow Investment Committee established in 2020, meetings commenced in quarter 3 2020, options for the assurance, internal control and governance arrangements considered and discussion paper presented to CO&SC January 2022.

The Council's investment strategy has been paused for new activity following changes to central government lending conditions associated with PWLB borrowing. Existing investments continue to deliver significant income to support service delivery. The pause in new activity will reduce the overall projected level of forecast in the MTFS and reflected in the associated budget reports.

3.4 For members information the Criteria Guide for Impact and Likelihood levels are included under Appendix 3 to show the guidelines used to rate and prioritise the items.

4. Reasons for Recommendation

4.1 One of the functions of the Standards and Audit Committee under the Terms of Reference of the Constitution is to provide independent assurance that the authority's risk management arrangements are adequate and effective

4.2 To enable the Standards and Audit Committee to consider the effectiveness of the Council's risk and opportunity management arrangements reports on the review of the register are presented on an annual basis and provides details of how the key risks and opportunities facing the authority are identified and managed.

5. Consultation (including Overview and Scrutiny, if applicable)

5.1 The Corporate Risk and Insurance Manager has engaged with Services, Department Management Teams, Performance Board and Directors Board to review the Strategic/Corporate Risk and Opportunity Register.

5.2 The updated Strategic/Corporate Risk and Opportunity Register was presented to Directors Board and Performance Board in February 2022

6. Impact on corporate policies, priorities, performance and community impact

6.1 ROM is recognised as a good management practice and how successful the council is in managing the risks and opportunities it faces will have a major impact on the achievement of the council's priorities and objectives.

7. Implications

7.1 Financial

Implications verified by: **Dammy Adewole**
Senior Management Accountant

Effective risk and opportunity management and the processes underpinning it will provide a more robust means to identify, manage and reduce the likelihood of financial claims and/or loss faced by the council.

7.2 Legal

Implications verified by: **Gina Clarke**
Governance Lawyer & Deputy Monitoring Officer

The Accounts and Audit Regulations 2015 requires the Council to have in place a sound system of internal control which includes effective arrangements for the management of risk. Effective risk and opportunity management and the processes underpinning it will provide a more robust means for ensuring that the Council's business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently, and effectively.

7.3 **Diversity and Equality**

Implications verified by: **Rebecca Lee, Team Manager**
Community Development & Equalities

The management of risk and opportunities provides an effective mechanism for monitoring key equality and human right risks associated with a range of service and business activities undertaken by the council. It also provides a method for reducing the likelihood of breaching our statutory equality duties.

7.4 **Other implications (where significant)** – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

Risk and opportunity management contributes towards the council meeting the requirements of Corporate Governance and the Account & Audit Regulations.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Strategic/Corporate Risk and Opportunity Register, January 2022. The document can be accessed via the following shared Risk and Opportunity Management file on Objective: <https://edrms.thurrock.gov.uk:443/id:fA1213633>

9. **Appendices to the report**

- Appendix 1 - Dashboard
- Appendix 2 - In Focus report
- Appendix 3 - Criteria Guide for Impact and Likelihood

Report Author

Name: Andy Owen

Corporate Risk and Insurance Manager

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Dashboard Table - Strategic/Corporate Risk & Opportunity Register January 2022

Appendix 1

Risks									
Risk Ref / Priority	Risk Heading	Director / AD or Strategic Lead	Previous Ratings			Latest Rating In Qtr 4 (2021/22)	DOT	Forecast	
			In Qtr 4 (2020/21)	In Qtr 2 (2021/22)	In Qtr 3 (2021/22)			Rating	Date
People - A borough where people of all ages are proud to work and play, live and stay									
• High quality, consistent and accessible public services which are right first time									
4	Fire Safety Housing Stock	Ewelina Sorbjan	8	8	8	8	→	8	*31/03/22
9	Pay Review Phase 2 (Allowances)	Mykela Pratt	9	9	9	9	→	6	01/04/22
10	Cyber Security	Andy Best	6	6	6	9	↑	6	*31/03/22
16	Delivery of MTF5 21/22 - 23/24	Sean Clark	-	12	12	8	↓	8	28/02/22
22	Waste Strategy for Thurrock	Julie Rogers	-	12	12	12	→	8	31/08/22
23	Emergency Planning	Cheryl Wells	6	6	6	6	→	6	*31/03/22
24	Business Continuity Planning	Performance Board	9	9	9	9	→	6	*31/03/22
25	Fraud	David Kleinberg	12	12	12	12	→	12	*31/03/22
• Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing									
2	ASC Stability and Market Failure	Les Billingham	16	16	16	16	→	16	*31/03/22
3	Housing Needs and Homelessness	Ewelina Sorbjan	9	9	9	9	→	9	*31/03/22
5	Welfare Reforms	Peter Doherty	9	9	9	9	→	9	*31/03/22
6	CSC Service Standards & Inspection Outcome	Janet Simon	12	12	12	12	→	12	*31/03/22
7	CSC Safeguarding & Protecting Children & Young People	Janet Simon	12	12	12	12	→	12	*31/03/22
P26	Failure to Comply With the Prevent Duty 2015	Michelle Cunningham	8	8	8	8	→	8	*31/03/22
Place - A heritage-rich borough which is ambitious for its future									
• Roads, houses and public spaces that connect people and places									
17	Lower Thames Crossing	Colin Black	9	9	9	9	→	9	*31/03/22
18	A13 Widening Project	Keith Rumsey	16	12	12	12	→	8	31/03/22
21	Highway Funding and Standard	Julie Nelder	6	9	9	9	→	9	*31/03/22
• Fewer public buildings with better services									
14	Property Ownership Liability	Sean Clark	12	12	12	12	→	12	*31/03/22
Prosperity - A borough which enables everyone to achieve their aspirations									
• Attractive opportunities for businesses and investors to enhance the local economy									
19	Major Projects (Place Delivery)	Sean Clark	12	12	12	12	→	12	*31/03/22
27	Local Plan	Julie Rogers	16	12	12	12	→	12	*31/03/22
• Commercial, entrepreneurial and connected public services									
15b	Treasury Management & Investment Strategy	Sean Clark	8	8	8	8	→	8	*31/03/22
All Priorities - People, Place & Prosperity									
11	Impact of Coronavirus	Directors Board	16	16	16	16	→	12	*31/03/22

Footnote: Forecast Date: Retained = The risk is managed to the required level (risk appetite) but ongoing monitoring/review required via the S/C R&O Register.
 Removed = The risk is removed from the S/C R&O Register (e.g. risk realised or managed to the required level - risk appetite). For items managed to the required level any ongoing monitoring to be undertaken by Dept., if needed.
 * = The date applies to when the risk/management action plan documentation will be refreshed (e.g. used for medium/long term risks, where the risk circumstances are expected to change over a period of time).
 Priority: **Red** = High, **Amber** = Medium, **Green** = Low. Ratings: Lower is best DOT: Latest v Previous Rating (→) Static, (↑) Increased, (↓) Decreased

Opportunities									
Opp Ref / Priority	Opportunity Heading	Director / AD or Strategic Lead	Previous Ratings			Latest Rating In Qtr 4 (2021/22)	DOT	Forecast	
			In Qtr 4 (2020/21)	In Qtr 2 (2021/22)	In Qtr 3 (2021/22)			Rating	Date
People - A borough where people of all ages are proud to work and play, live and stay									
• High quality, consistent and accessible public services which are right first time									
8	Digital Council Programme	Jackie Hinchliffe	9	9	9	9	➔	9	*31/03/22
• Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing									
1	Health & Social Care Transformation	Les Billingham	6	6	6	6	➔	6	31/03/22
Place - A heritage-rich borough which is ambitious for its future									
• Roads, houses and public spaces that connect people and places									
20	Thurrock Regeneration Ltd	Helen McCabe	6	9	9	9	➔	9	*31/03/22
Prosperity - A borough which enables everyone to achieve their aspirations									
• Attractive opportunities for businesses and investors to enhance the local economy									
12	Investment in Growth	Gerard McCleave	12	12	16	16	➔	16	31/03/22
13	Backing Thurrock Strategy	Gerard McCleave	-	8	12	12	➔	12	31/03/22
• Commercial, entrepreneurial and connected public services									
15a	Treasury Management & Investment Strategy	Sean Clark	12	12	12	12	➔	12	*31/03/22

Page 78

Note: Forecast Date: Retained = The opportunity is managed to the required level but ongoing monitoring/review required via the S/C R&O Register.
 Removed = The opportunity is removed from the S/C R&O Register (e.g. opportunity realised or managed to the required level). For items managed to the required level any ongoing monitoring to be undertaken by Dept., if needed.
 * = The date applies to when the opportunity/management action plan documentation will be refreshed (e.g. used for medium/long term opportunities, where the opportunity circumstances are expected to change over a period of time).
 Priority: **Gold** = High, **Silver** = Medium, **Bronze** = Low. Ratings: Higher is best DOT: Latest v Previous Rating (➔ Static, ⬆ Increased, ⬇ Decreased)

Strategic/Corporate Risk & Opportunity Register January 2022

In Focus Report

The items are split between Risk & Opportunity and listed in Priority (Rating) and then Reference Number Order.

Risks In Focus

UNMANAGED / INHERENT RISK

Risk Description	Risk Owner							
<p>The risk is that a combination of on-going pressures will result in lack of stability in the care market place resulting ultimately in market failure. Whilst the Council has given additional resource in the form of uplifts, they fall short of what is requested. The domiciliary care rate has been increased with the retender of the domiciliary care contract – this has resulted in greater stability, but difficulties remain. For example, issues concerning recruitment and retention. Hospital capacity is still an issue, but our ability to move people on more quickly has increased as a result of increased investment arising from additional adult social care monies – e.g. improved better care fund and social care precept. The additional funding is however limited which is likely to be an additional risk to stability. There is also a risk that additional capacity is used inappropriately as a backstop due to lack of capacity in domiciliary care. The recent and ongoing Covid-19 pandemic has highlighted the pressures on the adult social care market and the extent to which local authorities and the nation are dependent upon the market to provide care for the some of the Country’s most vulnerable people. Covid-19 has also led to a significant increase in demand for care which is pushing provider capacity further still. For providers, fees and rates are still an issue, compounded by the National Living Wage. Despite activity over the last 18 months, the risk of failure is still very real.</p>	<p>Les Billingham</p>							
Link to Corporate Priority								
<p>People - A borough where people of all ages are proud to work and play, live and stay - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing.</p>								
Inherent Risk Rating	Date:	29/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

DASHBOARD

Inherent Risk Rating & Date: 29/07/2021	Residual Risk Rating as at: 29/07/2021	Residual Risk Rating as at: 04/11/2021	Residual Risk Rating as at: 04/01/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022

Comments

Adult Social Care has received additional funding in recent years – through a precept as part of the Council Tax and also through the Improved Better Care Fund. A significant proportion of this money has been used to stabilise the market place and deliver sustainability for care providers. This has included increasing the capacity of the contract and brokerage team to ensure contract compliance visits and monitoring to take place in a timely manner – reducing or aiding early identification of risks. The introduction of a Brokerage function has also meant that more realistic costs and fees are negotiated. In addition uplifts have been provided (as described in the risk description) to improve stability and domiciliary care has been retendered. Through the Better Care Fund, we have also been able to enhance capacity through investment in a Bridging Service and through enhancing existing services to ensure that people can come out of hospital when medically fit to do so – even when they are unable to return home. This has helped to reduce Delayed Transfers of Care and Waiting Lists.

The current Covid-19 Pandemic has significantly increased the strain on providers and the system as a whole. A number of residential care providers have had to close temporarily due to Covid-19 outbreaks and this has significantly reduced available capacity and also the ability of providers to fill vacancies. The situation is likely to continue throughout the pandemic. Staffing is a major issue, with increasing staff absence across both residential and domiciliary care sectors. This is having a direct impact on the number of people admitted to care homes and the number of hours available to provide care within the domiciliary care sector. This has led to hard decisions having to be made about how and where hours are distributed, which whilst risk assessed, is leading to some people having less care. This has been compounded by an increase in demand for care services during the period of the pandemic. Additional strain is also being placed on family members who are being asked to provide care to their loved ones where formal care capacity remains unavailable. Increased carer breakdown is a real risk. It is unclear as to whether the demand will be limited to the lifecycle of the pandemic or continue beyond its end.

The Council has provided additional funding to recognise the financial impact placed on providers. This included a 10% financial resilience payment which was made available to all providers for the first 16 weeks of the last financial year (20-21). The Council also enabled payments to providers to be monthly in advance to help with cash flow. The Government also made funding available to support care homes with infection control subject to the homes meeting certain conditions. Whether the vacancies will continue following Covid cannot be foretold. Additional Workforce Capacity Funding has been received to assist with current provider challenges – although difficulties recruiting staff are likely to remain, and the funding is limited to the end of March 2022.

At the same time as the pandemic, capacity issues across the system will be compounded by the usual winter pressures. Capacity depends upon the ability to be able to staff facilities and to cope with the additional demand placed on the system by Covid. Delayed Discharges remain low, which is a reflection of how well Thurrock works with its partners and providers, but the ability to maintain this position remains extremely tenuous and remains dependent upon community capacity and also the capacity of health providers.

Transformation work continues to progress to redesign a system that can respond to some of the current challenges – although some elements and benefits of the work will take time to be realised. This includes developing a new model of care for domiciliary care and a regional Workforce Development strategy focusing on external provision. At the beginning of 2018, the new domiciliary care contract started with providers now well established within the Borough, although one of the organisations who were successful in the tender process have failed to deliver the capacity contracted for; this is further evidence of the fragility of this market. Work has also taking place on alternative approaches to traditional domiciliary care, with two Wellbeing Teams now in place. Wellbeing Teams will enable us to identify the model required and will focus on enhancing Wellbeing and not just on meeting needs. It will also look at how to encourage people in to the care industry and to professionalise a caring role.

Despite the work taking place, the risk of market failure remains extremely high. The sheer number of challenges faced by the care market and the health and care system as a whole at the current time has led to the risk level being kept at 16. Risk to be refreshed in the next review

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place	Date Implemented
<ol style="list-style-type: none"> 1. New Domiciliary Care Contract 2. Uplifts for providers 3. Development of New Model of Care – Wellbeing Teams 4. Prevention agenda – e.g. Stronger Together, identification and management of Long Term Conditions, Enhanced Primary Care 5. Market Development Strategy 6. Market Diversification – e.g. through Micro Enterprises, Shared Lives 	<p>Implemented or on-going</p>

7. Better Care Together Health and Social Care Transformation Programme 8. Implementation and evaluation of Wellbeing Teams pilot 9. Review use of Better Care Fund for 2019-23. Programme for 2020/21 refreshed, submitted and approved 10. Review of Winter Planning (Refreshed as part of BCF review) 11. Market place diversification 12. Workforce Development Strategy – establishment and implementation of regional strategy 13. Additional Funding – Temporary resilience payments, arrangements to assist with cash flow and additional infection control allocated to providers 14. Government funding for providers to help with the impact of Covid 15. Implementation of the appropriate additional capacity in to the system to help maintain flow from Hospital to the Community (e.g. block booking, bridging facility, mutual aid agreement with Essex CC) 16. Review and risk assessment of existing domiciliary care packages to free up additional hours in order to meet increased Covid demand	
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Residual Risk Rating	Date:	29/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16
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FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action	Implementation Date	Progress
17. Continuation and review of management action 1-16	From July 2021	Ongoing – see comments table.
18. Development of a transformation plan for commissioning – including working with providers to develop an alternative approach to the delivery of support within the home	December 2021	"
19. Arrangement made with some micro enterprises to enable greater capacity for providing support in the home	November 2021	"
20. Further workforce capacity funding released	November 2021	"

Forecast Risk Rating	Forecast Date:	Refresh 31/03/2022	Impact:	Critical (4)	Likelihood:	Likely (3) Very Likely (4)	Rating:	12 16
Revised Residual Risk Rating	Date:	04/01/2022	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

UNMANAGED / INHERENT RISK

Risk Description								Risk Owner	
The Council working with other agencies and the community have a critical role to play in the response to the crisis, shaping the transition and recovery for the borough, local residents and businesses. Failure to maintain plans and resources to deal with the situation will lead to uncoordinated, delayed or an ineffective response and recovery to the crisis and the Council not complying with the requirements of the Coronavirus and Civil Contingencies Acts and missed opportunities to support residents and businesses out of the pandemic								Directors Board	
Link to Corporate Priority									
<ul style="list-style-type: none"> All priorities - People, Place & Prosperity 									
Inherent Risk Rating		Date:	01/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

DASHBOARD

Inherent Risk Rating & Date: 01/07/2021	Residual Risk Rating as at: 01/07/2021	Residual Risk Rating as at: 01/10/2021	Residual Risk Rating as at: 11/01/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022																																																																																																																								
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Comments

Recognised that this is not a short term crisis and there is no easy or quick solution to the situation as the position/challenges faced change regularly. Regular monitoring of the position, issues, planned response and recovery undertaken through gold/silver command structure. Member Oversight and Engagement Board meet weekly as of the end of October in order to monitor the data frequently and respond to the processes now in place since the introduction of the three tier local COVID alert levels. Ongoing regular reports from June 2020 to boards and committees with regard to the response, recovery and the implications of pandemic. The Council continues to strive to meet the challenge of keeping up with and responding to the latest position and government guidance. Focus is shifting to recovery and how we support residents and businesses as the economy is opened up more. The council and our partners are also looking at how we live with COVID and in the short and medium term. The lead up to Christmas and into the New Year saw a return to high levels of infection in the borough, some of the highest in the country for a few weeks, with associated pressure on local hospitals and other health and social care services. However a major incident was not declared and the council did not experience significant service disruption due to staff absence and forecast rating adjusted to 12. We are working closely with government and local partners to promote vaccinations and in particular booster vaccinations to those who have not yet taken up the offer. Risk and management action plan to be refreshed in the next review.

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place	Date Implemented
1. Command structure established and regular meetings of gold and silver (Tactical Coordination Group) commands to monitor and review position, issues, plans, response and recovery.	From Mar 2020
2. Essex Resilience Forum (ERF) multi-agency Strategic Coordinating Group established (includes Thurrock Council) and meeting regularly to coordinate the plans and response for Essex.	March 2020
3. Working from home arrangements introduced and all staff advised that they will be required to work from home except for those who have been identified as delivering front line services or are required to be in Council buildings.	19 March 2020
4. Work undertaken with educational establishments to provide provision for priority group of children and young people (e.g. children who have a parent who is a critical worker, vulnerable children and young people).	March 2020
5. Internet Coronavirus information hub established covering latest Government and Health Information; Thurrock Council Services; Financial Support; Government advice for businesses & services; Fraud, Scams & staying safe online and Bereavement support.	April 2020
6. Intranet Coronavirus information hub established covering latest Government Information and Advice; Working Arrangements; Self-Isolation & Absences; Looking After Your Health & Wellbeing; FAQs and How To Help Prevent The Spread Of The Virus.	April 2020
7. COVID19 Working arrangements policy created as a direct response to the pandemic to support working arrangements and to ensure critical Council services continue during these unprecedented times.	23 Apr 2020
8. Community support network established with partners to provide help for the shielded group and other residents in most need during the outbreak	April 2020
9. Government initiatives and funding support provided to the Council, Businesses and the Community, including:- Funding to the CCG to enable the Council to support the hospital discharge process; Funding for care homes to cover the costs of implementing infection control measures to reduce transmission; Funds to develop tailored outbreak control plans; Hardship funds for those receiving Council Tax Support; Funds to support the re-opening of High Streets; Funding to address rough sleeping; Upfront payment of Business Rate Grant; Deferral of business rate payments to government; Payment of Social Care Grant and further direct support to Businesses (e.g. Business rate relief; Grant support to Rural and Small Businesses, Hospitality and Leisure sectors; Financial support to those businesses with ongoing premises costs but are not on the rating list).	From March
10. Regular monitoring and reporting of financial and budget implications (e.g. expenditure, income, council tax, business rates, housing revenue account and capital programme) to Boards and Committees, including regular engagement with Ministry of Housing, Communities and Local Government (MHCLG).	From June
11. Development and implementation of guidance/risk assessments for Display Screen Equipment and Making the Workplace Safe.	June 2020
12. Commence transition recovery phase in line with government plans and guidance, including introduction of contract tracing scheme; opening of schools, town and shopping centres; improvements to cycling/walking corridors. Including establishment of Recovery Sub Groups of Tactical Coordination Group established to focus on recovery (e.g. People, Assets and H&S; Children & YP; Business, Finance & Economy and Transport)	From May 2020
13. Establishment of ERF level Recovery Co-ordinating Group	From 03 Jul 20
14. Development, release and ongoing review of Thurrock Covid-19 Outbreak Control Plan	From June 20
15. Health Protection Board established.	From 14 Jul 20

16. Public Health contact tracer team and surveillance cell established.								Mid Jul 2020
17. Member Oversight and Engagement Board monitoring of data and response/recovery situation following introduction of the three tier local COVID alert levels								October 2020
18. Continue to respond to latest situation and guidance, including national restrictions, testing and vaccination programmes in place, with weekly briefings to all members & twice weekly minimum public communications								Ongoing
Residual Risk Rating	Date:	01/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action		Implementation Date	Progress					
19. Ongoing implementation of actions 1 - 18 above		From 01/07/2021	Ongoing					
20. Government granted the council funding as part of the Community Vaccine Champions initiative to support increasing uptake of the vaccine.		From Jan 2022	An Action Plan is being developed in conjunction with Thurrock CVS to support a range of activities.					
21. SCG has restarted whilst rates are still high. (see action 2)		December 2021	Ongoing subject to regular review of data					
22. Administering of new business grants as they are announced. (Furtherance of action 9)		Throughout pandemic	Ongoing in line with government guidance and rules.					
Forecast Risk Rating	Forecast Date:	Refresh 31/03/2022	Impact:	Substantial (3) Critical (4)	Likelihood:	Likely (3)	Rating:	9 12
Revised Residual Risk Rating	Date:	11/01/2022	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

UNMANAGED / INHERENT RISK

Risk Description								Risk Owner	
Failure to manage the increases in demand and budget/resource pressures for Children’s Social Care could lead to a breakdown in the quality or performance of the service provided to vulnerable children and results in less favourable outcomes from inspection and damage to reputation of the service does meet the required standards								Janet Simon	
Link to Corporate Priority									
People - A borough where people of all ages are proud to work and play, live and stay – Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing.									
Inherent Risk Rating		Date:	26/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

DASHBOARD

Inherent Risk Rating & Date: 26/07/2021	Residual Risk Rating as at: 26/07/2021	Residual Risk Rating as at: 08/11/2021	Residual Risk Rating as at: 21/01/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022
<p>Impact</p>	<p>Impact</p>	<p>Impact</p>	<p>Impact</p>	<p>Impact</p>	<p>Impact</p>

Comments

This risk evaluates the impact of increased demand and resource pressures on children’s social care quality of service and provision. The pressures outlined throughout previous years remain acute. They include increased volumes, increased complexity and ongoing activity to review high cost placements. The implementation of the early help service model and the Thurrock multi-agency safeguarding hub (MASH) has been successful. The service continues to maximize the external investment and opportunities presented through the Troubled Families Programme and continuously measures impact of the MASH.

The service is demand led and cannot fail to respond to the needs of a child due to budget or resource constraints. Changes on a local, regional and national level can have a significant impact on the demand for services. War and international factors can result in an unplanned increase in the number of unaccompanied asylum seeking children or families with no recourse to public funds. Geographical movement of families across the Eastern Region and London can see a rise in families needing services, including large sibling groups. Areas for improvement were identified in the Ofsted (ILAC) 2019 and a Development Plan created to address this.

As a consequence of Covid19 since March 2020 there has been a significant impact on the way in which we deliver services within children’s social care. There has been an impact on the budget which is subject to continuous scrutiny. The Service has recently had a focused visit in June 2021 with a key focus on the local authority’s arrangements for the protection of vulnerable children from extra-familial risk. Recommendations for improvement identified and Development Plan updated to address the items. Further Ofsted ILACS Focussed visit completed Jun/Jul 2021, three recommendations for improvement identified and action plan updated to address items.

The level and complexity of some children and young people’s needs and the lack of available national resources (specialist placements) to meet those needs is driving up cost pressures. As the Council continues to improve practice regarding the identification and tackling of Child Exploitation there is an increase in demand for service provision

in terms of intervention; prevention and victim support. Current and new duties in terms of radicalization also place pressures on the service in terms of workforce capacity. Trends can be predicted based on previous levels of demand but these are subject to variance and there has been an increase in youth violence locally.

The pressures outlined above will not be alleviated in the short term and the risk rating will remain at the higher (red) level for the period covered. It is anticipated that there will be an increase in volumes of contacts into the service, including court delays regarding management of cases. The lack of available of foster placements and residential placements for children with complex needs is a national issue.

Regular reporting of CSC performance and plans to CS Overview and Scrutiny Committee. Risk and management action plan to be refreshed in the next review

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place								Date Implemented
1. Quality Assurance and Safeguarding functions are in place and robustly applied and a Development Board has been implemented and takes place on a monthly basis.								Ongoing
2. Trix Policies and Procedures have been introduced across Children's Social care. All procedures are subject to review and updating.								Ongoing
3. Joint delivery of the 'Early Offer of Help Strategy' and associated services are now embedded to meet the new the duty placed on Council's to coordinate an early offer of help to families who do not meet the criteria for social care services and ensure that the 'step down and step up' processes are robustly managed.								Ongoing
4. Internal quality assurance audits to evidence appropriate application of thresholds.								Ongoing
5. Ongoing data analysis to enable us to benchmark and target areas for improvement; complete redesign of KPI and trends analysis.								Ongoing
6. Ofsted inspections and action plans to address recommendations included in inspection report and subsequent visits or inspections are continually reviewed and updated.								Ongoing
Residual Risk Rating	Date:	26/07/2021	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action			Implementation Date	Progress				
7. Ongoing implementation and/or application of actions 1 - 6 above as appropriate			From July 2021	1-4 Ongoing 5. Quarterly reporting of CSC key demand indicators, benchmarking data and key performance indicators to CS Overview & Scrutiny Committee. 6. Ofsted Focussed visit completed Jun/Jul 2021, three recommendations for improvement identified and action plan updated to address items.				
Forecast Risk Rating	Forecast Date:	Refresh 31/03/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12
Revised Residual Risk Rating	Date:	21/01/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

UNMANAGED / INHERENT RISK

Risk Description								Risk Owner/	
Failure to ensure that all children and young people in need of help or protection are safeguarded and supported could result in them not achieving their full potential and increasing the risk of a child death or serious injury.								Janet Simon	
Link to Corporate Priority									
People – A borough where people of all ages are proud to work and play, live and stay – Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing.									
Inherent Risk Rating		Date:	26/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

DASHBOARD

Inherent Risk Rating & Date: 26/07/2021	Residual Risk Rating as at: 26/07/2021	Residual Risk Rating as at: 08/11/2021	Residual Risk Rating as at: 21/01/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022

Comments

The nature of the work in terms of safeguarding and supporting children at risk of harm means that this will always be a high risk area although through the application of the S.E.T (Southend, Essex & Thurrock) Child Protection procedures the department actively works to mitigate this risk and reduce the likelihood.

The risk of children and young people coming to harm cannot be completely eliminated and the risk level needs to remain high and ensure clear vigilance across the council and partner agencies. New and emerging risk factors will arise and there is always a potential for agencies 'not knowing, what they don't know' that needs to be guarded against.

Embedding the Multi Agency Safeguarding Hub and Early Offer of Help has supported earlier identification of risk through a multi-agency approach enabling the department to work to intervene at an earlier stage and reduce the risk of harm in some cases. The development and implementation of the Thurrock Local Safeguarding Children Partnership arrangements is further improving the inter-agency arrangements to safeguard and promote the welfare of children and young people living in Thurrock.

The impact for individual children and families, particularly in cases of child death is significant and whilst actions to reduce the likelihood are implemented the impact will remain as critical. There is also a critical impact score in terms of reputational damage if a child is not safeguarded or should a child death or serious injury occur.

The ongoing nature of risk in child protection and safeguarding is such that despite effective mitigation the acknowledgement of the risk needs to remain high and will not reduce. This is not to say that the risks are unmanageable but for effective management the gravity and complexity of the risk needs to be acknowledged.

Managing this risk places inherent pressures on the Children's Social Care budget as a demand led budget. Effective demand and resource management remain a priority for the service within an overriding context of keeping children safe.

Risk will remain constant throughout the period covered. The emergence of Covid19 resulted in a number of changes to service delivery. An Operational Procedures document during the Coronavirus outbreak was implemented for some time and is still being reviewed on a regular basis. This document ensures business continuity is maintained following appropriate risk assessments and government guidelines. Regular reporting of performance and progress against plans to CS Overview & Scrutiny Committee.

Risk and management action plan to be refreshed in the next review

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place								Date Implemented
1. Plan in line with Ofsted inspection in 2019 and will be updated following Focused Visit in June 2021								Nov 2019
2. Local Safeguarding Children's Partnership arrangements established, action plan in place and regularly monitored/reviewed.								July 2020
3. Application of the Southend, Essex & Thurrock Child Protection procedures								Ongoing
4. Quality assurance and safeguarding function of Children's Social Care.								Ongoing
5. Legal framework and court action								Ongoing
6. Continue to strengthen the Thurrock Multi Agency Safeguarding Hub and Early Offer of Help								Ongoing
7. Case Audits								Ongoing
8. Quality assurance framework								Ongoing
9. Continuous Development plan in line with Ofsted inspection 2019, and most recent Ofsted Inspection which is regularly reviewed in the monthly Development Reports								Apr 2020
10. Development of safeguarding arrangements to meet statutory requirements								From July 2020
11. Review of Thurrock Local Safeguarding Children Partnership arrangements.								From July 2020
12. Covid19 protocol implemented and is under constant review								From Apr 2020
Residual Risk Rating	Date:	26/07/2021	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action	Implementation Date	Progress						
13. Ongoing implementation and/or application of actions 1-12 above as appropriate	From July 2021	3-8&10 Ongoing 1&9 Ofsted Focussed Visit completed Jun/Jul 2021, three recommendations for improvement identified and partnership to incorporate response in action plan to address the items. 2&11 Peer review undertaken, recommendations identified and action plan developed and progress monitored by statutory partners and independent chair scrutineer and reported to CS Overview & Scrutiny Committee. 12. Impact of C19 on CSC regularly reviewed/reported to CS overview & Scrutiny Committee						
Forecast Risk Rating	Forecast Date:	Refresh 31/03/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12
Revised Residual Risk Rating	Date:	21/01/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

UNMANAGED / INHERENT RISK

Risk Description							Risk Owner		
The Council is a significant owner and user of operational property and ensuring that buildings comply with appropriate statutory, regulatory and corporate standards is a significant challenge. In addition to the direct consequences of any incident arising from buildings non-compliance, the Council could be faced with damage to its reputation, financial loss, and individual officers facing legal proceedings and in the worst case, the loss of lives of building users. It is therefore imperative that systems are in place to ensure compliance and manage these risks.							Sean Clark		
Link to Corporate Priority									
Place – A heritage-rich borough which is ambitious for its future. Fewer public buildings with better services People – A borough where people of all ages are proud to work and play, live and stay – High quality, consistent and accessible public services which are right first time.									
Inherent Risk Rating		Date:	01/07/2021	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

DASHBOARD

Inherent Risk Rating & Date: 01/07/2021	Residual Risk Rating as at: 01/07/2021	Residual Risk Rating as at: 04/11/2021	Residual Risk Rating as at: 17/01/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022

Comments
<p>Council properties (except for HRA and parks) moved to corporate function for repair, maintenance planning and budgets transferred. There has been a significant increase of number of properties moving to the Corporate Landlord Function which has resulted in a sharp increase in work streams. Condition and compliance surveys completed and loaded on Concerto database. The Estates Module is live and being populated with current data, training for officers is due to be undertaken in January 2022. This is a significant module which will assist with the management of leases and other property related matters and its implementation represents a significant step forward in the management strategy for the estates. It is unclear how this module will be impacted by the proposed change of IT systems to Microsoft 365. The Management module of Concerto is now live and although the implementation has been and remains labour intensive its use is generally a success. A draft Corporate Landlord Policy and a draft Corporate Landlord Procedure have been drafted, but can only be finalised once the resourcing requirements of the Corporate Property Team are agreed. The Facilities management function was brought back in house in April 2020 and Corporate Property Team restructure needs to be finalised to strengthen the capacity of the service. There is particular concern that vital roles are being undertaken by contract staff with no contingency or succession planning possible. In addition there is a lack of resource where posts remain vacant and where new resource is required to undertake a greater workload both within the Corporate Property and FM teams. A lack of resource in the FM Team with much increased work load particularly within the security team is a major risk with additional shifts having to be covered by on call agency. FM Team would be further impacted in event of COVID outbreak within the teams, security at Civic Offices and Wardens at Thameside would be covered by contractor. Mailroom and reprographics would be major impact but would need to reduce service initially and call on wider team for assistance. Added to this the considerable drain in the last quarter on the FM team in completing the declutter and reorganisation of CO2 there is significant pressure on officers time.</p>

CO1 still remains closed due to electrical fault with a specialist repair scheduled for January 2022. This has had significant impact on the Council's ability to host member meetings and further impacted on officers' time and on two tenants who occupy parts of CO1. Due to the specialist nature of the work, limited availability of contractors there is significant risk the repair schedule could further be affected.

Proposals to refresh governance arrangements for property matters was submitted in March 2020, this included a revised TOR for Property Board, a new reporting structure and an itemised forward plan to support property management, governance and enhance visibility of Corporate Landlord matters. The constitution has been changed limiting requiring consent for all disposal from the Leader or Cabinet which has resulted in all disposals requiring an ED2 and increased workload. The continually evolving Covid-19 pandemic and the closure and the recommissioning of buildings were carefully planned to ensure health and safety hazards are managed thereby ensuring buildings were safe for re-occupation. Additional national lockdowns and changes to protocols result in the reversal of that process and add additional resource demand for decommissioning and re commissioning buildings and managing changing Covid Requirements, Additionally, the pandemic has necessitated social distancing measures and new working practices to protect staff, visitors and customers from the virus. Risk Assessments and re-occupation plans in accordance with PHE and government guidance are drafted for the Civic Centre and further guidance for other corporate buildings and satellite sites are to be developed and rolled out as appropriate. Due to restriction of staff within Civic Offices no fire marshal system in place, signing in/out procedure, risk if staff do not adhere to system in event of fire evacuation. The recent introduction of the sign in application has gone some way to mitigate this risk although take up and use by staff needs to be assessed.

The Corporate Property Team has been asked to undertake a wider ranging Asset Review with a view to identifying buildings that can be re-tasked or disposed of to generate capital receipts in order to support the overall Council budget. The asset review is progressing and this is a significant piece of work requiring substantial input from an already under resourced team and as it progresses it generates significantly more work once assets are identified to dispose of. A number of disposal have been successfully undertake with more agreed however one major proposed disposal has faltered which may result in the capital receipt target for this financial year not being met. The review of Corporate buildings is largely completed however additional works is still being undertaken in this area. Workloads generally remain an issue within the Estates and Assets teams which would be significant risk of being highly impacted by long term staff sickness or staff leaving post, this is further exacerbated by key functions within the assets team being covered by agency staff with no other internal options.

The current reduction in Capital spend is having a detrimental effect on the day to day management and maintenance of the Council's assets both Operational and Non-Operational as items requiring capital expenditure are potentially deteriorating which will result in additional future cost should the asset remain in the Council's ownership or potential Health and Safety issues if remedial work is not undertaken. This is particularly of importance with reference to the Thameside complex and Impulse Leisure properties where considerable planned and remedial maintenance works are required many of which fall into a health and safety category. In addition the condition of other Council Assets, in particular Coalhouse Fort have the potential to represent a significant liability in terms of repair and maintenance in the coming year. The continuing impact of Covid is having a detrimental effect on our Commercial occupiers and will likely impact on the potential expected rental income for this year and next with the number of void properties also likely to increase. Changes in EPC legislation in April 2023 require EPC ratings of E or above may affect the Council's property portfolio. Currently three of the Council's properties do not comply and there are an additional 207 properties yet to be assessed which will likely resulting in additional capacity required in officer's time and budgets to remedy.

The departmental restructure is progressing with all officers' 121 having been undertaken in line with the proposed time frame and a recruitment drive scheduled for Jan 2022. The impact on moral within the directorate must be noted with a number of staff being put at risk and significate changes proposed to the structure. Risk and Management action plan to be refreshed in the next review.

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place	Date Implemented
1. Corporate Health and Safety Committee established.	Ongoing
2. Asset Management Strategy drafted, consultation with officers undertaken and final draft awaiting DB approval	2018 & ongoing
3. Comprehensive Asbestos Register in place – review being undertaken to ensure accurate building information in place	2018 & ongoing
4. Property Procedure Rules (PPRs) prepared, consulted with officers and key members, awaiting DB approval. Additional Disposals Procedure prepared and submitted for approval in March 2020.	Ongoing
5. Scheme of Delegations reviewed, amended and implemented.	Ongoing Mar 2019 to Apr 2020

6. Restructure of Regeneration and Assets Service completed in September 2019 and Corporate Property Team transferred to Finance. Apleona FM staff TUPE'd in April 2020.	From Jun 2018
7. Transfer of all phases and budgets completed	Jun 2018 to Jun 2020
8. Compliance and condition surveys for Corporate Landlord Buildings completed April 2020 and new stock condition baseline established and entered into Concerto (new asset management database system), in June 2020.	From July 2018
9. Regular updates on progress and compliance presented to Property Board	From June 2018
10. Retain, Release, Reuse programme for assets implemented	2018 to Aug 2019
11. Corporate Landlord Working Group developed and work undertaken until Aug 2019	Mar 2020
12. New Planned & Preventative Maintenance (PPM) programme and compliance module developed and proposal submitted in March 2020 to refresh Property Board with key reporting milestones set against a clearly defined annual forward plan.	March 2020
13. Closure of Corporate Buildings due to Covid-19 - Risk assessment, closure protocols & inspection regimes implemented and measures introduced for partial use of Civic Centre and Oliver Road Depot.	Dec 2020
14. Development of plans in accordance with government guidance for the recommissioning of corporate buildings due to Covid19	From August 2020
15. An urgent review and restructure of the FM team to cover capacity, skills, technical knowledge and capability constraints.	From Oct 2020
16. Corporate Landlord Policy and Procedure approved following finalisation of resourcing and governance issue associated with PPRs and restructure approved.	From Oct 2020
17. Finalisation of Concerto Estates Management Module and training for staff	From Dec 2020
18. Review and restructure of the Corporate Property Team	

Residual Risk Rating	Date:	01/07/2021	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12
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FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action	Implementation Date	Progress						
19. Ongoing implementation and/or application of actions 1 - 18 above, as appropriate.	From July 2021	Ongoing, including: 10. Review continues and wider exercise to be incorporated. 13 & 14. Decommissioning & Recommissioning of corporate buildings in line with C19 and H&S guidance and requirements. 16. Corporate Landlord Policy & Procedure drafted. 17. Concerto implemented. 18. (link to 6) Restructure ongoing and to be finalised See comments table above for summary of progress.						
Forecast Risk Rating	Forecast Date:	Refresh 31/03/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12
Revised Residual Risk Rating	Date:	17/01/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

UNMANAGED / INHERENT RISK

Risk Description		Risk Owner						
<p>Work is underway to widen the A13 from 2 to 3 lanes in both directions between the A128 (Orsett Cock roundabout) and the A1014 (The Manorway, Stanford-le-Hope).</p> <p>When complete, the widened section will join with the existing 3-lane section of the A13, west of the A128, providing a continuous 3-lane road in both directions between the M25 and Stanford-le-Hope.</p> <p>As part of the work, 4 bridges will be replaced, the Orsett Cock roundabout will be widened and new traffic lights will be installed to help manage vehicle flows. Public bridges will be built and opened before the old bridges are demolished.</p> <p>The Council is undertaking a number of major projects which place significant demands on the Council and failure to increase capacity to meet the demand could impact the successful delivery of the project.</p>		Keith Rumsey						
Link to Corporate Priority								
Place – A heritage-rich borough which is ambitious for its future. Roads, houses and public spaces that connect people and places Prosperity – A borough which enables everyone to achieve their aspirations. Attractive opportunities for businesses and investors to enhance the local economy								
Inherent Risk Rating	Date:	29/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

DASHBOARD

Inherent Risk Rating & Date: 29/07/2021	Residual Risk Rating as at: 29/07/2021	Residual Risk Rating as at: 29/10/2021	Residual Risk Rating as at: 02/02/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022

Comments
<p>The A13 corridor is a vital part of the transport network in Thurrock and the south Essex area, enabling the economy to grow through expanding businesses, new housing and more jobs.</p> <p>Major economic growth Thurrock and the south Essex area has seen major investment in recent years, including the opening of DP World London Gateway Port and Logistics facility, and the continued development of Lakeside retail and entertainment complex. This is part of a planned £20 billion investment in jobs, homes and infrastructure in Thurrock, including developments led by the private companies at Thames Enterprise Park, Lakeside Basin and the Port of Tilbury. A widened A13 will help support these developments, and also the significant investment planned for other parts of south Essex, including £272 million at Airport Business Park in Southend.</p>

FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action			Implementation Date	Progress				
15. Ongoing application of actions 1-14 above as appropriate			From July 2021	1. Continues 2. Complete 3. Continues 4. Complete 5. Continues and working well 6. Continues 7. Continues 8. Continues 9. Continues and working well 10. Complete 11. Continues 12. Continues 13. Complete: DoV and Settlement agreement signed and implemented 14. Continues and working well				
Forecast Risk Rating	Forecast Date:	31/03/2022	Impact:	Critical (4)	Likelihood:	Unlikely (2)	Rating:	8
Revised Residual Risk Rating	Date:	02/02/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

UNMANAGED / INHERENT RISK

Risk Description	Risk Owner								
<p>The Waste Strategy for Thurrock was adopted by Cabinet in November 2020. The strategy called for radical changes to the waste collection regime across the borough, including the introduction of a separate weekly food-waste collection and a move to alternate-weekly residual waste collections (AWC). As part of the move to AWC there is a requirement to procure a number of larger and specialised waste collection vehicles via procurement framework. The purchase of these vehicles is critical to the delivery of the new services and the prompt delivery of these vehicles is time-sensitive to ensure the service can commence on time in September-22 and contribute to the budget savings for the year.</p> <p>The consultations of a number of elements within the Waste Strategy for England including Extended Producer Responsibility (EPR), Consistent Collection and more source-separated recycling collections are still being debated and any potential impact on the strategy for Thurrock is not known in full at this time.</p> <p>These consultations may also have an impact on a number of waste-disposal contracts presently being negotiated for tender and some potentially challenging decisions may have to be made in order to have appropriate and suitable disposal arrangements in place, that have the potential to allow variations should the national strategy dictate.</p> <p>Key Risks are as follows: Timeline: The Strategy roll-out is planned to commence in September-22, and in advance of this roll-out a number of elements need to be in place in the lead up to the start-date. Vehicles are needed, the orders have been placed and a programme of phased deliveries established with the providers, over a period of December-21 to August-22, food-caddies will need sourcing, procuring and delivering prior to the commencement of the scheme, a complete overhaul of the existing waste collection-rounds using Route-Optimisation software is necessary with the new routes having been shared with Trade Unions and operational staff and a communications campaign designed and implemented to support the new scheme to ensure residents are fully aware of all changes and expectations. These elements will need to follow a planned schedule in order to be successful.</p> <p>Political Differences: While the Waste Strategy for Thurrock was approved by Cabinet, there have since been concerns raised by a number of elected members around the collection regime proposed within the Strategy. The Political arena has not changed over the last round of elections, however given the vigorous programme of annual elections within the borough there still remains a potential for a change in leadership that may or may not influence the decisions made as part of the Strategy, as while the overall aim is to improve recycling performance the route to this improvement is open to interpretation and individual political direction regardless of the earlier cross-party co-operations.</p> <p>Government Influences: The Central Government continue to consult around various elements of the Waste Strategy for England, some of which may still have direct financial impacts as they come to fruition. The decision to introduce a mandatory separate food-waste collection by 2023 has determined a number of critical decisions had to be made in order to meet this deadline that may now potentially risk not qualifying for government funding being made available due to said decisions already been taken. The Waste Strategy for Thurrock was written to encompass the current National Strategy, however this stance is fluid and there is a continued risk the Waste Strategy may not now fully embrace the statutory demands of National Policy and may still be subject to further discussion and adjustment.</p>	Julie Rogers								
Link to Corporate Priority									
<p>Place - a heritage-rich borough that is ambitious for its future. Fewer public buildings with better services People – a borough where people of all ages are proud to work and play, live and stay. High quality, consistent and accessible public services that are right first time. Prosperity – a borough that enables everyone to achieve their aspirations. Commercial, entrepreneurial and connected public services.</p>									
Inherent Risk Rating	<table border="1"> <tr> <td>Date:</td> <td>01/07/2021</td> <td>Impact:</td> <td>Critical (4)</td> <td>Likelihood:</td> <td>Very Likely (4)</td> <td>Rating:</td> <td>16</td> </tr> </table>	Date:	01/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16
Date:	01/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16		

DASHBOARD

Inherent Risk Rating & Date: 01/07/2021	Residual Risk Rating as at: 01/07/2021	Residual Risk Rating as at: 01/10/2021	Residual Risk Rating as at: 04/01/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/08/2022

Comments
<p>The Waste Strategy for Thurrock has been adopted and preparations for its implementation have begun. National Strategy and Policy are still being consulted upon and decisions are still being finalised. This has the potential to leave the councils strategy for waste at risk of non-compliance in some areas, however as the Strategy is considered a living document, adjustments and amendments are anticipated. If the national strategy becomes such that decisions taken at the start of writing the local strategy may result in service-delivery choices requiring rethinking or changing. The risk is that such choices around vehicle-design etc. are difficult and potentially costly to change once made. Political influence via leadership changes continue to remain a possibility particularly given the program of local elections within the borough.</p> <p>External consultation has been sourced in order to sense-check the strategy against current national policy and a temporary pause placed on part of the new vehicle procurement process, however this remains time-critical and action may be required imminently if considered necessary from the sense-checking.</p>

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place	Date Implemented
1. The Waste Strategy for Thurrock was formally approved in November 2020.	Nov 2020
2. The procurement process for the new collection vehicles has been completed and the tender awarded to the successful supplier.	Completed
3. Orders for the vehicles placed and delivery programme details are in discussion to finalise delivery dates that will ensure the new collection regime can commence as planned in September-22.	Orders placed
Residual Risk Rating	Date: 01/07/2021
	Impact: Critical (4)
	Likelihood: Likely (3)
	Rating: 12

FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action	Implementation Date	Progress
4. Regular monitoring and consideration of consultations with regard to the Waste Strategy for England and reporting of outcomes and impacts.	From July 2021	4. The Waste Strategy for England have now begun consultation on the potential for mandatory further-separation of dry recyclable materials, which if such changes become law will impact on the planned collection methodology within the WS-4-T and potentially require adjustments to the collection regime, an increase to the numbers and/or types of bins/ receptacles provided to residents and the associated costs to the above.

<p>5. Regular monitoring and reporting to Directors Board, Overview & Scrutiny and Cabinet as appropriate.</p> <p>6. Food caddy procurement and delivery</p> <p>7. Route optimisation exercise.</p> <p>8. Consultation & communication with stakeholders.</p> <p>9. Programme of phased delivery of vehicles</p> <p>10. Roll out of Waste Strategy</p> <p>Single Tipping location for all waste streams</p>	<p>From July 2021</p> <p>From Jan-22 to Aug-22</p> <p>From Jul-21 to Jan-22</p> <p>Ongoing to Sept 2022</p> <p>Dec 21 - Aug 22</p> <p>Sept 2022</p> <p>Ongoing</p>	<p>5. Any such changes as mentioned above will then need to be debated and approved by DB, ONS-C&G & Finance, before implementation</p> <p>6. Specifications have been agreed, procurement documentation is being drawn and is expected to be published in Jan-22 for tender. Deliveries will be timed to coincide with the delivery-schedule for the new food-waste vehicles. A planned schedule of delivery has been laid out, which will ensure food-caddies will be delivered in order of priority to ensure the new food-waste/recycling collection rounds can be implemented commencing Sept-22</p> <p>7. Data-cleansing is being carried out, a 'bin-store' container-audit has been implemented to confirm numbers/sizes etc. for input to the route-optimisation software.</p> <p>8. Ongoing</p> <p>9. Vehicle-deliveries start-date has been slipped from Dec-21 to Jan-22 by the manufacturer, although this is not expected to impact the scheme starting by Sept-22 at this time.</p> <p>10. The roll-out may have to be adjusted to accommodate any changes to mandatory collections as referred to above.</p> <p>11. The council have a number of waste disposal contracts, with many currently being retendered at this time, however all domestic waste collected from the kerbside collections and a number of waste streams from the HWRC are all disposed of at a single bulking/transfer location at Aherns Waste Transfer Station, near Oliver Close Depot. While Aherns have several alternate sites for TBC to utilise in the event of a major incident or sustained period of closure, these locations are all out of the Thurrock area. In such an event there would be a considerable impact on domestic collections where all TBC vehicles were required to use an alternate transfer location, with impacts on collection-times. Travelling and fuel costs, with a high probability of collections not being carried out where vehicles are losing time while travelling out of the Thurrock area.</p>
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Forecast Risk Rating	Forecast Date:	31/08/2022	Impact:	Critical (4)	Likelihood:	Unlikely (2)	Rating:	8
Revised Residual Risk Rating	Date:	04/01/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

UNMANAGED / INHERENT RISK

Risk Description								Risk Owner	
The Council is responsible for and provides a wide range of functions and services.								David Kleinberg	
There is a risk that the Authority experiences significant incidents of fraud, bribery, corruption or other economic crime as well as cases of money laundering. This can subsequently result in losses from the delivery of Council functions and services.									
Link to Corporate Priority									
People – a borough where people of all ages are proud to work and play, live and stay. High quality, consistent and accessible public services which are right first time.									
Inherent Risk Rating		Date:	30/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

DASHBOARD

Inherent Risk Rating & Date: 30/07/2021	Residual Risk Rating as at: 30/07/2021	Residual Risk Rating as at: 03/11/2021	Residual Risk Rating as at: 24/01/2020	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022																																																																																																
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Comments

The Counter Fraud & Investigation service has an organisational-wide strategy and proactive work plan to monitor and manage the identified risks. A persistent training and education regime is in place, where experts from the service work with staff, contractors, Members and in the council's supply chain to identify and mitigate the risks, and increase awareness.

The council has current and effective policies on Counter Fraud, Bribery & Corruption and Money Laundering which are kept under constant review, with relevant updates being added or removed where appropriate. These policies acknowledge the threats and install an action plan in identified incidents including, civil & criminal litigation and redress to recover any identified losses. Any control weaknesses identified in investigations are rectified in collaboration with the affected services and Internal Audit through SMART Action Plans.

In the last year the council has come under pressure from COVID-19 and the situation has reduced the traditional work that CFI would complete during a year, however that has not meant the CFI team haven't assisted in the fight against fraud. Due to the pandemic the government announced a number of grants that were to be administered by local authorities, these were collectively known as Business Support Grants (BSG). The CFI team have worked closely with the Revenues team (those responsible for administering the grants) to complete pre and post assurance checks on all applications that were received. This preventative counter fraud work saw 61 grant applications investigated and stopped, saving over £600,000 of potential losses of public funds.

These risks have sat alongside the 'normal' fraud risks that the council faces every day, namely Single Person Discount fraud, Tenancy Fraud, Right To Buy fraud as well as other forms of fraud such as Procurement/Contract fraud. The fraud awareness programmes that were put to all staff will assist with identifying this risk and early intervention is always key to an organisation combating the risk it faces. These have continued and working alongside our alert system, staff are made aware of fraud trends and or known risks.

Covid 19 has also enabled an easier avenue for 'mandate fraud' which has been highlighted to staff, as we are not in the office spaces we once shared, communication is largely placed within the email systems. This can create the opportunity for criminals to compromise email accounts and facilitate a fraud. Where staff would normally be able to speak directly to a colleague, this now does not happen and must be brought into the risk faced by the council. CFI have been approached by various council who have fallen victim to £1m+ mandate frauds.

CFI has a programme of proactive work proposed to ensure the council's posture against fraud is robust and effective. Details of the proactive work programme are included in the management action plan for the risk.

The risk remains at 12, as new risks have emerged alongside old risks, the new risks have mitigated measures taken, however it is clear that those measures do not affect the 'attempts' we come across and thus it is felt that the risk to the council remains likely and critical. The council can ill afford a substantial loss of funds at this very critical time. Risk and management action plan to be refreshed in the next review.

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place								Date Implemented	
1.	Establishment & proactive enhancement of CFID							Nov 2014	
2.	Fraud and Corruption Policy established and maintained from 2014							From 2014	
3.	Counter Fraud Work Plan established and maintained							2017	
4.	Regular review of policies and procedures from within the council to ensure that it can prevent, detect and deter and fraud and other economic crime.							From Nov 2014	
5.	Counter Fraud and Money Laundering Policies Established and maintained.							2017	
6.	Corporate-wide Bribery & Corruption Risk Review							From Oct 2018	
7.	Corporate-wide Cyber Crime Risk Review							From Dec 2018	
8.	Fraud risk matrix/loss assessment development and roll out							From Jul 2018	
9.	Review of supply chain against identified national crime risks							Oct 2018	
10.	Ad-hoc services to prevent/detect fraud (e.g. operations to prevent/detect housing tenancy fraud, counter money laundering & social care fraud)							From Oct 2018	
11.	Enhanced intelligence programme							Feb 2019	
12.	Application of Counter Fraud Risk Analytics across the council's high risk/threat areas.							From May 2020	
13.	Install improved Anti-Money Laundering (AML) controls at all of the council's Customer Contact Points.							From May 2020	
14.	COVID-19 Business Grants Counter Fraud Programme.							From May 2020	
15.	Fraud e-learning training programme.							Dec 2020	
16.	Training of high risk areas in counter fraud measures							From Jun 2021	
17.	Mandate Fraud – Counter fraud/awareness							July 2021	
Residual Risk Rating		Date:	30/07/2021	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action		Implementation Date	Progress						
18. Ongoing application of actions 1-17 above as appropriate.		From July 2021	Ongoing as appropriate						
19. Renewed Education & Marketing Campaign for Countering Fraud, Bribery, Corruption and Money Laundering		Dec 2021	Renewed information under development.						
20. Review all policies concerning fraud aspects		Jan 2022	Ongoing monitoring/review and update as appropriate						
21. Targeting POCA and Civil Legislation to maximise effect on criminal behaviour		Jun 2022	Ongoing and POCA cases continue to be raised by CFT.						
22. National Fraud Initiative		March 2022	Matching of council data with wider-public sector data to prevent fraud and identify possible fraud.						
23. Training of high risk areas in counter fraud measures		May 2022	Training sessions delivered by CFI staff to teams across the council, particularly those services seeing high volumes of work						
24. Covid -19 Business Grants Counter Fraud		May 2022	CFI continues to assist where required but work diminished due to grants ending.						
Forecast Risk Rating		Forecast Date:	Refresh 31/03/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12
Revised Residual Risk Rating		Date:	24/01/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

UNMANAGED / INHERENT RISK

Risk Description	Risk Owner								
<p>Section 19(1B) - (1E) of the Planning and Compulsory Purchase Act 2004 sets out that all local planning authorities must identify their strategic priorities and have policies to address these in their development plan. The development plan for an area is made up of the combination of strategic policies (which address the priorities for an area) and non-strategic policies (which deal with more detailed matters).</p> <p>To be effective development plans need to be kept up to date. The National Planning Policy Framework states policies in the development plan, should be reviewed to assess whether they need updating at least once every 5 years, and should then be updated as necessary.</p> <p>The main document within our current development plan is the Core Strategy (as amended) which was adopted in 2015 although some policies within it date to 2011. Since then, work has begun on preparing a new Local Plan for the borough which will set out a range strategic and more detailed policies including policies about specific growth areas/sites within the borough. To support the production of this new Plan the Council have commissioned key evidence and undertaken several consultation activities but the complexity of the task and the limited available resource within the planning department has meant that progress on the Plan has been much slower than liked.</p> <p>In terms of next steps, we are hoping to undertake two more formal consultations under Regulation 18 and the one Regulation 19 draft Plan which would be submitted to the Secretary of State and then subject to an independent Examination in Public. It is anticipated that a new Local Plan will be adopted early 2025.</p> <p>The key risks which need to be managed in relation to the Thurrock Local Plan are:</p> <ul style="list-style-type: none"> • Uncertainty surrounding the alignment, design and phasing of the Lower Thames Crossing (LTC) which could have an adverse impact on the availability of land for future development. There is also a risk that any further delay in concluding the LTC DCO process will impact upon the Council's ability to submit its Local Plan for examination. • Impact of Covid-19 in terms of team resources (risk of illness) and the plan-making process specifically with regards to planned face to face consultation events. • Impact of the Census information releases and publication of datasets looking at post pandemic trends on our evidence base production. Unexpected changes could involve us having to re-commission evidence to ensure that the future and existing needs of local communities are appropriately addressed within the Plan. • Further changes to the national planning policy and guidance which could impact upon the content emerging policies and evidence causing delays to the plan making process as the Plan needs to be in conformity with national policies to be found sound. • Potential changes to guidelines about how a Plan should be prepared and its format could involve the Council having halt production of the Local Plan to transition over to the preparation of a different type of Local Plan. • An ongoing failure to recruit and retain experienced policy planners to support and expedite the preparation of the Local Plan. • Reduction in resource allocation towards the Local Plan project which could delay and/or halt the Plan's production. • The impact of local and national political considerations on the plan-making process. <p>Failure to prepare and maintain an up-to-date Plan will put the Council at risk of possible intervention by the Secretary of State and may lead to the loss of plan making powers, the Council's New Homes bonus and the ability to bid for national funding support for new infrastructure.</p>	<p>Julie Rogers Sean Nethercott</p>								
Link to Corporate Priority									
<p>Place – A heritage-rich borough which is ambitious for its future. Roads, houses and public spaces that connect people and places Prosperity – A borough which enables everyone to achieve their aspirations. Attractive opportunities for businesses and investors to enhance the local economy</p>									
Inherent Risk Rating	<table border="1"> <tr> <td>Date:</td> <td>28/07/2021</td> <td>Impact:</td> <td>Critical (4)</td> <td>Likelihood:</td> <td>Very Likely (4)</td> <td>Rating:</td> <td>16</td> </tr> </table>	Date:	28/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16
Date:	28/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16		

DASHBOARD

Inherent Risk Rating & Date: 28/07/2021	Residual Risk Rating as at: 28/07/2021	Residual Risk Rating as at: 08/11/2021	Residual Risk Rating as at: 11/02/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022

Comments
<p>Failure to prepare and maintain an up-to-date Plan will put the Council at risk of possible intervention by the Secretary of State. Should this occur, the Council could lose the ability to plan for future development of Thurrock with its plan-making powers being taken away by the Secretary of State who has the option of directing another body to take over responsibility for preparing the Local Plan. Further sanctions could also come in the form of the loss of the Council’s New Homes Bonus and a reduced ability to bid for national funding support for new infrastructure.</p> <p>A failure on the part of the Council to provide a rolling five-year land supply would also increase the possibility that landowners and developers would be able to obtain planning permission upon appeal to the Secretary of State for speculative, uncoordinated and piece-meal development in the Green Belt.</p> <p>Finally, the reputational damage and harm to the Council could be substantial as would the abortive costs involved in promoting a Local Plan which will be found unsound at examination.</p> <p>Despite the problems caused by the pandemic, significant progress has been made in moving the Plan forward with a particular focus being on the development of the Local Plan evidence base. Further progress has also been made in rolling out Local Plan Planning Performance Agreements with landowners and developers promoting sites and in building up towards the launch of the Community Design Charrettes which started in December 2021. A framework version of local Plan is under development with the aim to prepare a Draft Local Plan for Senior Officer and Member review in June/July 2022.</p> <p>Regular updates on the development of the Local Plan and next steps provided to the Local Development Plan Task Force (a cross party Members working group) throughout the process, A report on the Approach to the Local Plan was also presented to Regeneration Overview & Scrutiny Committee in October.</p> <p>Risk and management action plan to be refreshed in the next review</p>

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place	Date Implemented
<p>In order to manage and/or mitigate the risk of delay to the plan-making process the Council’s Local Development Scheme sets out a range of measures designed to reduce the overall risk of the plan production being de-railed due to the impact of a number of internal or external influences. These include</p> <ol style="list-style-type: none"> 1. The adoption of a staged approach to the development of the local plan evidence base, and where appropriate, assessing a range of alternative scenarios (for example with/without LTC) to help better understand the options available for accommodating future development in a range of different locations. 2. The adoption of an evidence based approach to plan-making to ensure that both Members and the Local Community are made fully aware of the implications and impacts of adopting a range of different spatial options. 3. The setting up of Leaders and Members Briefing sessions to build up a better understanding of the issues to be addressed and cross party support for the emerging Local Plan. 	<p>February 2014 – ongoing</p>

4. Measures to both inform and manage land owner and developer expectations and knowledge of the plan-making process as an important first step in building up their confidence and support for the plan-making process and its ability to deliver positive outcomes for all the parties involved.	
5. Innovative measures designed to support wider public and stakeholder engagement in the plan-making process	
Other measures developed and rolled out to manage and/or mitigate the impact of the risk of the local plan process being frustrated include:	
6. Further and more proactive engagement with National Highways and other Government Departments to bring forward a scheme which promotes rather than hinders the potential for future economic and housing growth in Thurrock.	
7. Greater use and an expanded role for PPA's in funding the development of the LP evidence base and the recruitment of additional staff resources to assist the plan-making process.	
8. Increase the frequency and scope of Member and Community engagement in order to go beyond 'the numbers' and focus on the benefits that that further growth can bring to local communities.	
9. Improved terms and conditions to help recruit and retain experienced planners and greater use of PPAs to expand the capacity of the service to prepare the Local Plan.	
10. Development of new virtual public consultation platforms and approaches	From Dec 2020
11. Roll out of Thurrock Design Charrette process to commence in December 2020 and conclude June/July 2022 Mar 2022.	Dec 20 – Mar 22
12. Prepare draft Regulation 18 Local Plan for public consultation in summer November 2022, including commissioning of a wide range of technical studies and further work to inform to inform the production of the plan	July 20 – Nov 22
13. Ongoing roll out of Thurrock Local Plan Planning Performance Agreements (PPA) with site promoters to help fund the preparation of the Local Plan.	From Jul 2020
14. Build capacity with Ministry of Housing Communities and Local Government (MHCLG), Homes England, Department for Transport, Highways England to help ensure the early delivery of homes and supporting infrastructure	From Jul 2020
15. Subject to resources, the recruitment of additional professional and technical support to prepare the plan via direct appointments as full time staff, secondments from consultancies and short term fixed contracts with Public Practice.	From Jul 2020
16. Ongoing development of the technical evidence base to inform the production of a sound and legally compliant draft Local Plan for publication and consultation in 2023.	From Jul 2020
17. Development and implementation of Member Engagement Strategy	From July 2021
Residual Risk Rating	Date: 28/07/2021 Impact: Critical (4) Likelihood: Likely (3) Rating: 12

FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action	Implementation Date	Progress
18. Ongoing application of items 1-17 above as appropriate	From Jul 2021	1. Ongoing 3&8. Ongoing including Members Briefings to build understanding & maintain cross-party support for the emerging Local Plan, Portfolio Briefings, Local Plan Taskforce meetings, informal cabinet meetings and talking to relevant Overview and Scrutiny committees 4&13. Ongoing engagement with land owner and developers via Local Plan Developer Forum and the Local Plan Planning Performance Agreement (PPA) process 6. Ongoing proactive engagement with NH and Gov depts on LTC scheme 9. Ongoing - working with other services in planning to improve employment terms and conditions to help recruit and retain experienced planners.

<p>19. Potential for significant changes to the planning system following the publication of the Planning White Paper – Planning for the Future.</p>	<p>2021/22</p>	<p>10&11. Thurrock Design Charrette process commenced Dec 2020 via online consultation portal and followed by a series of Design Charrette Workshops across borough. Events for Corringham, E.Tilbury, Horndon, Orsett, S.Ockendon & Stanford le Hope completed. Virtual events for Bulphan & Chadwell scheduled for mid/late Feb 2022. 12. Several pieces of evidence to inform the emerging draft Plan commissioned, draft framework document developed, technical evidence roadmap to be finalised and schedule for writing the Plan to be developed. 14. Ongoing engagement with DLUH&C, Homes E, DfT and Highways E. 15. Ongoing 13, Ongoing 16. Number of technical studies ongoing to build evidence base and will continue in 2022 17. Member briefing workshops, along with Local Development Plan Taskforce sessions to inform/communicate plan-making process details. Work underway to prepare Member Engagement Strategy and to mirror the staged preparation of the Local Plan.</p>
<p>20. Reviewing the Local Development Scheme and publishing an update on our website.</p>	<p>Feb-March 2022</p>	<p>19. The Government has paused the implementation of the planning reforms due to significant opposition from stakeholders, the general public and its own back bench MPs. Further announcements are awaited on the nature scope and timing of any future reforms.</p> <p>Work has commenced on preparing an updated Local Development Scheme. The scheme will need to be reviewed and approved by the Cabinet member for Regeneration, Strategic Planning and External Relationships before it can be published online.</p>
<p>21. Development of high level communication strategy, including redesign of the Local Plan webpages</p>	<p>Feb – May 2022</p>	<p>Work ongoing with communications team and update on web content commenced</p>
<p>22. Update the Council’s Statement of Community Involvement and development of a new Local Plan Engagement Strategy</p>	<p>Feb – May 2022</p>	<p>Work commenced.</p>

Forecast Risk Rating	Forecast Date:	Refresh 31/03/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12
Revised Residual Risk Rating	Date:	11/02/2022	Impact:	Critical (4)	Likelihood:	Likely (3)	Rating:	12

UNMANAGED / INHERENT RISK

Risk Description		Risk Owner						
<p>The growth programme in Thurrock continues to be one of the largest and most exciting opportunities in the country. Thurrock’s reputation as a place full of opportunity has helped attract a number of large scale projects including London Distribution Park at the Port of Tilbury, the continuing investment at DP World London Gateway, expansion of Lakeside, Purfleet Regeneration, Thames Freeport etc. As a direct result of the scale of the growth agenda in Thurrock the Council will be involved in three National Infrastructure Projects over the coming years.</p> <p>Managing these projects alongside the other key regeneration projects will place significant demands on the Council and ensuring the authority have capacity in key areas is important in maintaining momentum and maximising opportunity for the borough.</p> <p>Failure to increase capacity to meet current, future or competing demands could impact the successful delivery of the major schemes and projects.</p>		Sean Clark						
Link to Corporate Priority								
<p>Prosperity – a borough which enables everyone to achieve their aspirations:</p> <ul style="list-style-type: none"> • Attractive opportunities for businesses and investors to enhance the local economy • Vocational and academic education skills and job opportunities for all. <p>Place – a heritage rich borough which is ambitious for its future:</p> <ul style="list-style-type: none"> • Roads, houses and public spaces that connect people and places • Fewer public buildings with better services 								
Inherent Risk Rating	Date:	26/07/2021	Impact:	Critical (4)	Likelihood:	Very Likely (4)	Rating:	16

DASHBOARD

Inherent Risk Rating & Date: 26/07/2021	Residual Risk Rating as at: 26/07/2021	Residual Risk Rating as at: 26/10/2021	Residual Risk Rating as at: 09/02/2022	Residual Risk Rating as at:	Forecast Risk Rating & Date: 31/03/2022
<p>Likelihood</p> <p>Impact</p>	<p>Likelihood</p> <p>Impact</p>	<p>Likelihood</p> <p>Impact</p>	<p>Likelihood</p> <p>Impact</p>	<p>Likelihood</p> <p>Impact</p>	<p>Likelihood</p> <p>Impact</p>

Comments

The Thurrock growth programme crosses many disciplines within the Council. It requires significant programme management capacity from the Regeneration team to lead the programme alongside a joined up approach with other areas of the authority to ensure that relevant specialisms are brought in as required and programmes and strategies are complementary. Investment needs to be committed to project development stages before outputs and benefits are realised, significant levels of funding are committed at risk to prove feasibility and investment then needs to continue to secure the benefits from the initial funding. External funding is committed to numerous projects, whilst this

reduces the financial burden to the Council, compliance with funding agreements must be achieved to ensure the Council is not exposed financially via claw back mechanisms. Projects span numerous financial years and have to be able to respond to changing market, policy and financial conditions. Strong project and programme managers are essential to ensuring that delivery stays on track and investment secures value for money outputs. Increasing resource capacity in the team via Matrix has provided some additional support and approval has been received to secure 1 additional FTE. The project portfolio could benefit from significant external funding which will put additional pressure on the existing staff resource as more projects are developed. Momentum needs to be maintained in the ongoing restructure to improve working approaches and secure additional resource.

EXISTING ACTION / RESIDUAL RISK

Management Action or Mitigation Already in Place								Date Implemented	
1. Overall									
1.1. Managing the impact of various outcomes relating to the UK's exit from the EU								Ongoing	
1.2. Include Brexit contingency in all project budgets to cover the potential for increased construction costs due to potential increases in labour/material costs.								Since Oct 2018	
1.3. Managing the impact of COVID-19 on projects and programmes, including assessment on the cost of the programme of all projects								Ongoing	
1.4. Appropriately qualified team in place.								Ongoing	
1.5. Specialist expertise brought in on a consultancy basis as required.								Ongoing	
1.6. Programme Management methods in place with all projects having a project programme, budget and risk register set up from the outset.								Ongoing	
1.7. Area based Programme Boards operational to ensure cross department buy in.								Ongoing	
1.8. Funding agreements managed to ensure compliance and reduce risk of claw back								Ongoing	
1.9. Increase of capacity required in team (additional FTEs)								Ongoing	
1.10. Standardised project management documentation implemented and consideration of standardised project management software solution.								Jun 2019	
1.11. Continuously improve our ability to deliver projects and share the learnings from other								Ongoing	
2. Grays Underpass									
2.1. Managing costs within GRIP stages with Network Rail								Ongoing	
2.2. Information campaign to help prevent accident or incident at level crossing								Ongoing	
2.3. Performance of Network Rail team monitored and managed through Senior Steering Group								Ongoing	
3. Purfleet Primary School									
3.1. Facilitated discussions with all stakeholders on size of site, budget and programme								Ongoing	
4. Stanford le Hope Transport Interchange									
4.1. Steering Group Meetings established including strong engagement from all stakeholders								Ongoing	
4.2. Detailed design work being undertaken ahead of appointing contractor for phase 1								Ongoing	
Residual Risk Rating		Date:	26/07/2021	Impact:	Substantial (3)	Likelihood:	Very Likely (4)	Rating:	12

Page 108

FURTHER ACTION / FORECAST RISK / REVISED RESIDUAL RISK

Further Management or Mitigating Action		Implementation Date	Progress					
5. Ongoing application or implementation of actions 1-4 above		From 26 Jul 2021	Ongoing, including: 1.4 First phase of project management enhancement completed Feb '22 1.7 Area based Programme Boards to ensure cross dept operational buy in. 1.9 Restructure of Place Delivery team to increase capacity and resource 1.10 Review of governance arrangements to ensure they provide the necessary oversight while also remaining fit for purpose given increased number of projects 4.2 Phase 1 tender for D&C contract issued.					
1. Overall 1.12 Project delivery reviews held monthly examining performance, issues and risks on all projects 1.13 All projects now have a 6 month look ahead, a plan on a page – project management strategies in development. 1.14 New programme and major projects board launched where each project is peer reviewed. 1.15 Thurrock project lifecycle developed and implemented 1.16 Strategic reviews at each stage of lifecycle to be implemented		Complete	Ongoing					
		Complete	Ongoing					
		Complete	Ongoing					
		Complete	Ongoing					
		TBA	Ongoing					
2. Grays Underpass 2.4 Formulating contracting strategy to improve schedule 2.5 Looking at partnering relationship with NR to get better outcomes and mutual benefit 2.6 Developing utility diversion strategy 2.7 Improving design services agreement with NR to protect Council's interests		June '22 April '22						
		Summer '22 Current						
4. Stanford le Hope Transport Interchange 4.3 Concept design work to grip 4 completed before appointing contractor for phase 1		March 2022						
Forecast Risk Rating	Forecast Date:	Refresh 31/03/2022	Impact:	Substantial (3)	Likelihood:	Very Likely (4)	Rating:	12
Revised Residual Risk Rating	Date:	09/02/2022	Impact:	Substantial (3)	Likelihood:	Very Likely (4)	Rating:	12

Opportunities In Focus

UNMANAGED / INHERENT OPPORTUNITY

Opportunity Description							Opportunity Owner		
Opportunity to promote the borough and secure investment in growth through SELEP, Thames Estuary Growth Commission and other Government funding sources to maximise benefit from the growth programme for local residents and businesses. This includes maximising opportunities created by the following: <ul style="list-style-type: none"> • impact of strategic interventions, eg Freeports • third party funding opportunities, eg SELEP • promotion of Thurrock's economic assets and opportunities to attract investment 							Gerard McCleave		
Link to Corporate Priority									
Prosperity – A borough which enables everyone to achieve their aspirations. Attractive opportunities for businesses and investors to enhance the local economy.									
Inherent Opportunity Rating		Date:	15/07/2021	Impact:	Exceptional (4)	Likelihood:	Very Unlikely (1)	Rating:	4

DASHBOARD

Inherent Opp. Rating & Date: 15/07/2021	Residual Opp. Rating as at: 15/07/2021	Residual Opp. Rating as at: 26/10/2021	Residual Opp. Rating as at: 10/01/2022	Residual Opp. Rating as at:	Forecast Opp. Rating & Date: 31/03/2022

Comments

The Council has successfully secured significant amounts of Local Growth Fund, Getting Building Fund and other funds to directly deliver projects and programmes that benefit local residents and businesses directly or through investment infrastructure. This year there has already been opportunity to secure investment from the Community Renewal Fund. One project supported in Thurrock with a value of £100k now being implemented. In addition £150k secured through Welcome Back Fund. The Government has delayed announcements on launch of the Shared Prosperity Fund, Levelling Up Fund Round 2. The results of the Towns Fund applications submitted in early 2021 have been announced and have secured, in principal, around £40m investment in Thurrock subject to business cases and due diligence. The Government has designated Thames Freeport and full business case to be submitted 31 Jan 2022.

EXISTING ACTION / RESIDUAL OPPORTUNITY

Management Action Already in Place							Date Implemented	
1. Bids for Towns Fund investment in Grays and Tilbury submitted 2. Bidding round for Community Renewal Fund managed 3. Horizon scanning for investment opportunities underway 4. Towns Fund bids - funding announcement 5. Freeport - expression of interest submitted and outline business case approved							2020 June 2021 April 2021 July 2021 2021	
Residual Opportunity Rating	Date:	15/07/2021	Impact:	Exceptional (4)	Likelihood:	Likely (3)	Rating:	12

FURTHER ACTION / FORECAST OPPORTUNITY / REVISED RESIDUAL OPPORTUNITY

Further Management Action	Implementation Date	Progress						
6. Ongoing application of actions 1 - 5 as appropriate 7. Confirmation of Towns Fund Proposals by the Board and signed HoT 8. Development of Towns Fund Business Cases 9. Implementation of CRF projects (if approved) 10. Development of Levelling Up Bid 11. Submission of outline business case for Freeport 12. Submission of final business case for Freeport	From Jul 2021 October 2021 Oct 21- Mar 22 August 2021 Autumn 2021 August 2021 January 2022	Actioned. Proposals being finalised in line with timeframe set by Government. Underway. Implementation underway. Awaiting announcement of Round 2 Submitted On track						
Forecast Opportunity Rating	Forecast Date:	31/03/2022	Impact:	Exceptional (4)	Likelihood:	Very Likely (4)	Rating:	16
Revised Residual Opportunity Rating	Date:	10/01/2022	Impact:	Exceptional (4)	Likelihood:	Very Likely (4)	Rating:	16

UNMANAGED / INHERENT OPPORTUNITY

Opportunity Description							Opportunity Owner		
Delivering Backing Thurrock – Economic Development Strategy to maximise opportunities to deliver the Thurrock Growth Programme by acting as an agent of change and a leader of place and collaborate with others to reshape our local economy, address the challenges we face and realise the fantastic growth potential we have in the borough.							Gerard McCleave		
Link to Corporate Priority									
Prosperity – A borough which enables everyone to achieve their aspirations. Attractive opportunities for businesses and investors to enhance the local economy									
Inherent Opportunity Rating		Date:	15/07/2021	Impact:	Exceptional (4)	Likelihood:	Very Unlikely (1)	Rating:	4

DASHBOARD

Inherent Opp. Rating & Date: 15/07/2021	Residual Opp. Rating as at: 15/07/2021	Residual Opp. Rating as at: 26/10/2021	Residual Opp. Rating as at: 10/01/2022	Residual Opp. Rating as at:	Forecast Opp. Rating & Date: 31/03/2022																																																																																																
Page 113 <table border="1"> <tr><td>16</td><td>12</td><td>8</td><td>4</td></tr> <tr><td>12</td><td>9</td><td>6</td><td>3</td></tr> <tr><td>8</td><td>6</td><td>4</td><td>2</td></tr> <tr><td>4</td><td>3</td><td>2</td><td>1</td></tr> </table> Likelihood Impact	16	12	8	4	12	9	6	3	8	6	4	2	4	3	2	1	<table border="1"> <tr><td>16</td><td>12</td><td>8</td><td>4</td></tr> <tr><td>12</td><td>9</td><td>6</td><td>3</td></tr> <tr><td>8</td><td>6</td><td>4</td><td>2</td></tr> <tr><td>4</td><td>3</td><td>2</td><td>1</td></tr> </table> Likelihood Impact	16	12	8	4	12	9	6	3	8	6	4	2	4	3	2	1	<table border="1"> <tr><td>16</td><td>12</td><td>8</td><td>4</td></tr> <tr><td>12</td><td>9</td><td>6</td><td>3</td></tr> <tr><td>8</td><td>6</td><td>4</td><td>2</td></tr> <tr><td>4</td><td>3</td><td>2</td><td>1</td></tr> </table> Likelihood Impact	16	12	8	4	12	9	6	3	8	6	4	2	4	3	2	1	<table border="1"> <tr><td>16</td><td>12</td><td>8</td><td>4</td></tr> <tr><td>12</td><td>9</td><td>6</td><td>3</td></tr> <tr><td>8</td><td>6</td><td>4</td><td>2</td></tr> <tr><td>4</td><td>3</td><td>2</td><td>1</td></tr> </table> Likelihood Impact	16	12	8	4	12	9	6	3	8	6	4	2	4	3	2	1	<table border="1"> <tr><td>16</td><td>12</td><td>8</td><td>4</td></tr> <tr><td>12</td><td>9</td><td>6</td><td>3</td></tr> <tr><td>8</td><td>6</td><td>4</td><td>2</td></tr> <tr><td>4</td><td>3</td><td>2</td><td>1</td></tr> </table> Likelihood Impact	16	12	8	4	12	9	6	3	8	6	4	2	4	3	2	1	<table border="1"> <tr><td>16</td><td>12</td><td>8</td><td>4</td></tr> <tr><td>12</td><td>9</td><td>6</td><td>3</td></tr> <tr><td>8</td><td>6</td><td>4</td><td>2</td></tr> <tr><td>4</td><td>3</td><td>2</td><td>1</td></tr> </table> Likelihood Impact	16	12	8	4	12	9	6	3	8	6	4	2	4	3	2	1
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Comments
<p>Backing Thurrock strategy adopted by Cabinet March 2021. The Action Plan includes a series of projects and initiatives that together seek to maximise the benefits to the local economy from growth in the borough. The Governance arrangements for the strategy are in place and delivery is now underway.</p> <p>Available resource is being targeted at the most important priorities and projects in the programme highlighted in the action plan.</p> <p>Delivery underway and good progress made but capacity issues mean that most important actions are being prioritised. Progress against key actions in line with the programme plan/management action plan for the opportunity. Forecast rating reduced to 12 to reflect delivery in year. .</p> <p>Opportunity and management action plan to be refreshed in the next review</p>

EXISTING ACTION / RESIDUAL OPPORTUNITY

Management Action Already in Place								Date Implemented
1. Backing Thurrock Strategy adopted by Cabinet 2. Governance arrangements established 3. Implementation underway								March 2021 June 2021 May 2021
Residual Opportunity Rating	Date:	15/07/2021	Impact:	Exceptional (4)	Likelihood:	Unlikely (2)	Rating:	8

FURTHER ACTION / FORECAST OPPORTUNITY / REVISED RESIDUAL OPPORTUNITY

Further Management Action		Implementation Date	Progress					
4. Embedding governance and implementing monitoring arrangements 5. Delivering against priorities identified in the action plan, including: <ul style="list-style-type: none"> - Developing Freeport OBC and FBC for submission to Government - Delivering skills action plan - Facilitating delivery of Government funded Welcome Back and Community Renewal Fund (CRF) schemes 		31/07/2021 31/03/2022 " " "	Governance and monitoring arrangements in place OBC submitted and approved. FBD development underway. Skills action plan development underway Welcome back fund delivery underway. CRF delivery underway					
Forecast Opportunity Rating	Forecast Date:	31/03/2022	Impact:	Exceptional (4)	Likelihood:	Very Likely (4) Likely (3)	Rating:	16 12
Revised Residual Opportunity Rating	Date:	10/01/2022	Impact:	Exceptional (4)	Likelihood:	Likely (3)	Rating:	12

UNMANAGED / INHERENT OPPORTUNITY

Opportunity Description							Opportunity Owner		
<p>A mix of approaches (e.g. service reviews, expenditure efficiencies, general income increases, managing demand, transformation, investment, etc.) have been adopted to deliver future balanced budgets and enable services to continue to be provided to meet the needs of residents.</p> <p>All the approaches are important to maintain balanced budgets for the life of the Medium Term Financial Strategy (MTFS) and it is recognised that investments continue to maintain significant income with the minimum of impact on service provision (e.g. in recent years the treasury function and activities have contributed significant income to support the budget position).</p> <p>The Investment Strategy has been paused but current investments continue to provide the Council with significant levels of income and contribute towards the delivery of wider Council services.</p>							Sean Clark		
Link to Corporate Priority									
<p>Prosperity – a borough which enables everyone to achieve their aspirations. Commercial, entrepreneurial and connected public services. People – a borough where people of all ages are proud to work and play, live and stay. High quality, consistent and accessible public services which are right first time.</p>									
Inherent Opportunity Rating		Date:	29/07/2021	Impact:	Exceptional (4)	Likelihood:	Unlikely (2)	Rating:	8

DASHBOARD

Inherent Opp. Rating & Date: 29/07/2021	Residual Opp. Rating as at: 29/07/2021	Residual Opp. Rating as at: 01/10/2021	Residual Opp. Rating as at: 19/01/2022	Residual Opp. Rating as at:	Forecast Opp. Rating & Date: 31/03/2022
<p>16 12 8 4</p> <p>12 9 6 3</p> <p>8 6 4 2</p> <p>4 3 2 1</p> <p>Likelihood</p> <p>Impact</p>	<p>16 12 8 4</p> <p>12 9 6 3</p> <p>8 6 4 2</p> <p>4 3 2 1</p> <p>Likelihood</p> <p>Impact</p>	<p>16 12 8 4</p> <p>12 9 6 3</p> <p>8 6 4 2</p> <p>4 3 2 1</p> <p>Likelihood</p> <p>Impact</p>	<p>16 12 8 4</p> <p>12 9 6 3</p> <p>8 6 4 2</p> <p>4 3 2 1</p> <p>Likelihood</p> <p>Impact</p>	<p>16 12 8 4</p> <p>12 9 6 3</p> <p>8 6 4 2</p> <p>4 3 2 1</p> <p>Likelihood</p> <p>Impact</p>	<p>16 12 8 4</p> <p>12 9 6 3</p> <p>8 6 4 2</p> <p>4 3 2 1</p> <p>Likelihood</p> <p>Impact</p>

Comments

Investments identified as having the greater ability to make significant income with the minimum of impact on service provision. Investment Strategy established. Review undertaken and position reported to Council Feb 2021. Ongoing review, monitoring and presentation of investment briefings to Standards & Audit Committee (S&AC), Cabinet, Council and Corporate Overview and Scrutiny Committee (CO&SC) scheduled for 2021/22. Financial Update including position on the treasury and investment outturn projections presented to Cabinet September; Investment Briefing presented to S&AC September; MTFS Update & Budget Proposal reported to CO&SC November; Financial Update presented to Cabinet December, Capital Strategy, including Treasury Management Strategy and surplus for 2022/23 presented to CO&SC January and scheduled to be reported to Council February, General Fund Budget & MTFS reported to Cabinet and CO&SC January. Cross party Shadow Investment Committee established in 2020, meetings commenced in quarter 3 2020, options for the assurance, internal control and governance arrangements considered and discussion paper presented to CO&SC January 2022.

The Council's investment strategy has been paused for new activity following changes to central government lending conditions associated with PWLB borrowing. Existing investments continue to deliver significant income to support service delivery. The pause in new activity will reduce the overall projected level of forecast in the MTF5 and reflected in the associated budget reports.

EXISTING ACTION / RESIDUAL OPPORTUNITY

Management Action Already in Place								Date Implemented
1. Update on the Medium Term Financial Strategy and proposed investment approach (including principles) reported to and agreed by Cabinet 11 th Oct 2017.								Oct 2017
2. Follow up on the investment approach and the revisions required to the Treasury Management Strategy reported to and agreed by Council 25 th Oct 2017, including increases to the parameters for how much the council can borrow/invest and changes required to bolster the investment programme (e.g. capital cash investments/expenditure, acquisition or development of revenue generating assets, bringing more sites forward for development through Thurrock Regeneration Ltd).								From Oct 2017
3. Capital Strategy (including Treasury Management Strategy), Annual Minimum Revenue Provision Statement, proposed Prudential Indicators and Treasury Management projections reported to and agreed by Council 27 February 2019, via Cabinet 12 February 2019 and Corporate Overview & Scrutiny Committee 31 st January 2019								Feb 2019
4. Continue to develop investment programme in line with codes of practice and guidance to Identify further investment opportunities and achieve a balanced portfolio.								From Feb 2019
5. Review of Capital Strategy (including Investment and Treasury Management Strategy), Annual Minimum Revenue Provision Statement & Prudential Indicators undertaken and reported to Council Feb 2021.								Feb 2021
6. Manage current and explore, develop and implement new opportunities.								Ongoing
7. Regularly review/monitor and report on all investments								Ongoing
8. Pause on new activity under the Council's investment strategy.								Ongoing
9. Cross Party Shadow Investment Committee established and meetings commenced in quarter 3 2020								Q3 2020
10. Continue to follow agreed democratic oversight arrangements for the Council's investment and capital strategy.								Ongoing
Residual Opportunity Rating	Date:	29/07/2021	Impact:	Exceptional (4)	Likelihood:	Likely (3)	Rating:	12

FURTHER ACTION / FORECAST OPPORTUNITY / REVISED RESIDUAL OPPORTUNITY

Further Management Action	Implementation Date	Progress						
11. Ongoing implementation or application of actions 6 - 10 above	From Jul 2021	Ongoing monitoring, review and reporting of treasury management and investment strategy (see Comments table for details).						
12. Review and report Capital Strategy (including Investment and Treasury Management Strategy, Annual Minimum Revenue Provision Statement & Prudential Indicators to Council Feb 2022	Feb 2022	Report scheduled to be presented to Council February 2022						
Forecast Opportunity Rating	Forecast Date:	Refresh 31/03/2022	Impact:	Exceptional (4)	Likelihood:	Likely (3)	Rating:	12
Revised Residual Opportunity Rating	Date:	19/01/2022	Impact:	Exceptional (4)	Likelihood:	Likely (3)	Rating:	12

Criteria Guide for Impact and Likelihood

Appendix 3

Criteria Guide for Impact Levels

Risk

Negative Impact	Description
4 Critical	<ul style="list-style-type: none"> • Inability to deliver a number of strategic objectives or a priority. • Major loss of service, including several important service areas • Major reputation damage - adverse central government response, involving threat of / removal of delegated powers or adverse and persistent national media coverage • Loss of Life • Major personal privacy infringement - All personal details compromised / revealed • Huge financial loss/cost - >£1M in a year. Up to 75% of budget. • Major disruption to project / huge impact on ability to achieve project objectives.
3 Substantial	<ul style="list-style-type: none"> • Inability to deliver an organisational priority or strategic objective. • Major disruption to important service or a number of service areas. • Significant reputation damage - adverse publicity in professional/municipal press or adverse local publicity of a major and persistent nature. • Major injury. • Many individual personal details compromised / revealed • Major financial loss/cost - >£500K - <£1M in a year. Up to 50% of budget • Significant disruption to project / significant impact on ability to achieve the project's objectives.
2 Marginal	<ul style="list-style-type: none"> • Significant disruption to important service or major disruption to non crucial service. • Moderate reputation damage - adverse local publicity / local public awareness • Serious injury • Some individual personal details compromised / revealed • High financial loss/cost – >£100K - <£500K in a year. Up to 25% of budget • Moderate disruption to project / moderate impact on ability to achieve the project's objectives.
1 Negligible	<ul style="list-style-type: none"> • Brief disruption to important service or significant disruption to non crucial service. • Minimal reputation damage - no external publicity and contained within Council • Minor injury or discomfort. • Isolated individual personal detail compromised/ revealed • Low or medium financial loss/cost <£100K in a year. Up to 10% of budget • Minor disruption to project / minor impact on ability to achieve the project's objectives.

Opportunity

Positive Impact	Description
4 Exceptional	<ul style="list-style-type: none"> • Exceptional improvement to service(s) (e.g. quality, level, speed, cost, etc) and/or delivery of strategic objectives/priorities • National award or recognition/elevated status by national government • Positive national press/media coverage • Major improvement to the health, welfare & safety of stakeholders • Income/savings of >£500K in a year or exceptional saving of resource (e.g. time and labour)
3 Major	<ul style="list-style-type: none"> • Major improvement to service(s) (e.g. quality, level, speed, cost, etc) and/or delivery of strategic objective/priority. • Regional recognition for initiative, partnership or arrangement. • Positive publicity in professional/municipal press or sustained positive local publicity. • Significant improvement to the health, welfare & safety of stakeholders • Income and/or savings of >£250K - <£500K in a year or major savings of resource (e.g. time and labour).
2 Moderate	<ul style="list-style-type: none"> • Moderate improvement to service(s) (e.g. quality, level, speed, cost, etc) and/or delivery of strategic objective/priority. • Borough or County wide recognition for initiative, partnership or arrangement. • Positive local publicity / local public awareness • Moderate improvement to the health, welfare & safety of stakeholders. • Income and/or savings of >£100K - <£250K in a year or moderate savings of resource (e.g. time and labour).
1 Minor	<ul style="list-style-type: none"> • Minor improvement to service(s) (e.g. quality, level, speed, cost, etc) and/or delivery of strategic objective/priority. • Local level recognition for initiative, partnership or arrangement. • Minor positive local publicity • Minor improvement to the health, welfare & safety of stakeholders. • Income and/or savings of <£100K in a year or minor saving of resource (e.g. time and labour)

7 July 2022		ITEM: 8
Standards and Audit Committee		
Audit Progress Report for 2020/21 External Audit		
Wards and communities affected: All	Key Decision: Key	
Report of: Sean Clark, Corporate Director of Resources & Place Delivery		
Accountable Assistant Director: Jonathan Wilson, Assistant Director—Finance		
Accountable Director: Lyn Carpenter, Chief Executive		
This report is Public		

Executive Summary

This report details the progress of the audit for 2020/21 financial statements.

Our understanding is that much of the audit field work is substantially complete with most areas of the audit being progressed. However much of the audit work is pending a review by the audit manager and audit engagement lead. With the appointment of a new audit team member to undertake the day-to-day management of the audit and to oversee the review and completion of audit procedures, audit work will restart in July with the expectation it will be completed by end of September and to be reported to this committee in October 2022.

Thurrock's audit delay is in line with the national issue being raised by government and government is taking action to get the timeliness of local audit back on track.

1. Recommendation(s)

1.1 That the Standards and Audit Committee note the progress of the external auditors in completing the audit of 2020/21 financial statements.

2. Introduction and Background

2.1 The external audit field work is substantially complete with most areas of the audit being progressed. All audit work is pending a review from the audit manager and engagement lead.

2.2 Thurrock Council published its draft statement of accounts within the deadline of 31 July 2021. The deadline for publication of audited Statement of

Accounts was 30 September 2021. This deadline was two months earlier than the deadline for 2019/20 financial statements which was 30 November and two months later than the deadline prior to Covid-19 pandemic.

- 2.3 External audit work covering the statement of accounts started back in September 2020.
- 2.4 Initial planning work has been undertaken for use of resources. Much of the field work is to be completed within three months following the issue of an audit opinion.
- 2.5 Covid-19 has made it particularly challenging both producing and auditing the financial statements. This has had an impact on external audit teams, as remote working does not ensure that all members of the team are able to work efficiently and effectively to ensure audit deadlines are met. This is coupled with the increased external audit quality standards by the regulatory bodies, leading to more work for external audit teams.
- 2.6 The government has raised concerns over an unprecedented 91% of 2020/21 local audits missing the statutory deadline of 30 September and is taking action to implement measures to help tackle audit delay.
- 2.7 Since the beginning of the year there has been no completion of audits for local authorities with material infrastructure assets. CIPFA had an urgent consultation on temporary proposals to update the Code of Practice on Local Authority Accounting in the United Kingdom for infrastructure assets which closed on 14 June 2022. These proposed changes will enable local authorities to conclude their audits.

3. Issues, Options and Analysis of Options

- 3.1 The Audit Progress Report included in Appendix 1 sets out the progress to date. The Audit Progress Report will be presented by BDO.
- 3.2 The external audit field work is substantially complete with most areas of the audit being progressed. All audit work is pending a review from the audit manager and engagement lead. Officers have worked hard to support the audit process and have resolved queries quickly and effectively. Outstanding queries have been maintained to a low level throughout the audit.
- 3.3 With the appointment of a new audit team member to undertake the day-to-day management of the audit and to oversee the review and completion of audit procedures, audit work will restart in July with the expectation it will be completed by end of September and to be reported to this committee October 2022.
- 3.4 Since the beginning of the year there has been no completion of audits for local authorities with material infrastructure assets. With the closing of the CIPFA urgent consultation on temporary proposals to update the Code of

Practice on Local Authority Accounting in the United Kingdom for infrastructure assets on 14 June 2022 there is an expectation that local authorities will soon be in a position for their audits to be concluded.

- 3.5 The delays in local audit is a national issue, 91% of 2020/21 local audits missed the statutory deadline of 30 September. This improved to 20% by 30 November, 40% by 31 December and 50% by April 2022.
- 3.6 External audit teams are grappling with the issues of working remotely with some members of the team being new to the profession and therefore require more supervision which is not always possible with remote workings. The market has been suffering generally with a shortage of experienced staff to perform local audits. Each year further quality standards are placed on external auditors by the regulators or changes are made to the external auditing standards which all contribute to increased audit work and therefore compromise the meeting of the audit deadline.
- 3.7 There is national recognition that public sector audits require reform to enable delivery and sustainability. The Redman review provides recommendations to help achieve this in the long term.

4. Reasons for Recommendation

- 4.1 For the committee to note the progress of the external auditors in completing the audit of 2020/21 financial statements

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 All services and senior management have been consulted in the compilation of this document.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The level of resources and how they are allocated will affect the amounts available towards the Council's overall aims and objectives.

7. Implications

7.1 Financial

Implications verified by: **Sean Clark**
Corporate Director of Resources & Place Delivery

The statements are largely governed by the Code. An unmodified opinion sets out independent confirmation of the Council's financial position and provides assurance over the Council's use of resources.

7.2 Legal

Implications verified by: **Mark Bowen**
Deputy Monitoring Officer

There are no specific implications from this report.

7.3 Diversity and Equality

Implications verified by: **Natalie Smith**
Strategic Lead Community Development & Equalities

There are no specific implications from this report.

7.4 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or impact on Looked After Children

There are no specific implications from this report.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- There are various working papers within Corporate Finance.

9. Appendices to the report

- Appendix 1 – Audit Progress Report

Report Author:

Sean Clark

Corporate Director of Resources & Place Delivery

Report to the Standards and Audit Committee

THURROCK COUNCIL

Audit Progress: year ended 31 March 2021





Audit Update

In the progress report I issued in February 2022, I detailed that the 2021 audit has been challenging to deliver, with issues including limited early procedures, staff sickness absence, the longer-term impacts of Covid-19 and remote working, and several accounting estimates requiring significant management judgement. All of which require more detailed consideration in light of revised auditing standards and regulator focus. I also commented that Council officers have, throughout, provided good quality working papers and support to the team. Following on from this progress report I wanted to update the committee on the current proposal to progress the 2020/21 audit.

We have identified a member of the team who will take over the day-to-day management of the audit and oversee the review and completion of the audit procedures. The work will start in July with a view to be completed by end of September and reported to the October 2022 Committee. This timeline has been set to factor in the new team and allow time for them to get up to speed with Thurrock and the progress of the audit procedures, it also allows for annual leave commitments.

During the spring there has also been an urgent consultation on temporary proposals to update the Code of Practice on Local Authority Accounting in the United Kingdom for infrastructure assets and as a result authorities with material infrastructure assets were unable to conclude their audits. The consultation closed on 14 June 2022 which will enable the proposed responses to be actioned within this timeframe.

As I have previously mentioned I have received an objection to the financial statements which will need to be finalised before I can issue the audit opinion and should be also achieved within this timescale.

Rachel Brittain

22 June 2022

AUDIT SECTOR DEVELOPMENTS

Audit Sector developments

The sector has seen a number of pressures arising since the faster close agenda brought the reporting deadline forward for the 31 March 2019 period to 31 July 2019. Only 60% of local government bodies were able to publish audited accounts by this deadline. By exception, there remain a number of 2018/19 audits outstanding to date.

The 31 March 2020 publication deadline, initially pushed back to end September 2020 from July 2020, was then further extended to 30 November 2020. However, only 45% of local government bodies were able to publish audited accounts by this extended deadline, with even traditionally better performing authorities close to or at the deadline date.

Recruitment and retention of staff, reduction of fees and increased regulatory requirements have continued to add to this pressure sector wide. It has been widely recognised that the audit sector, and public sector audit specifically, requires reform to enable it to remain sustainable. The Redman review specifically focuses on recommendations to help achieve this in the longer term.

Alongside these already present pressures, a global pandemic manifested additional impacts and pressure. New challenges of remote working, onboarding and training new staff remotely, communication, IT support and illness within the team directly impacting efficiency and delivery.

The 31 March 2021 publication deadline was set at end September 2021. Audit firms and audit regulation bodies did feedback that this was not realistically achievable. Only 9% of 2021 audits were completed by 30 September 2021, with 20% by 30 November 2021, 40% by 31 December 2021 and 50% by April 2022.



FOR MORE INFORMATION:

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The matters raised in our report prepared in connection with the audit are those we believe should be brought to your attention. They do not purport to be a complete record of all matters arising. This report is prepared solely for the use of the Council and may not be quoted nor copied without our prior written consent. No responsibility to any third party is accepted.

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7 July 2022	ITEM: 9
Standards and Audit Committee	
Ethical Standards	
Wards and communities affected: N/A	Key Decision: Non-Key
Report of: Gina Clarke, Corporate Governance Lawyer & Deputy Monitoring Officer	
Accountable Assistant Director: Mark Bowen, Interim Head of Legal	
Accountable Director: Sean Clark, Corporate Director of Resources and Place Delivery	
This report is Public	

Executive Summary

The committee in March 2022 considered the Local Government Association’s LGA’s model Councillor Code of Conduct, agreed that Monitoring Officer review the process for handling Member Code of Conduct complaints, and the Protocol on Member/Officer relations (with potential to introduce a Member/Member Protocol) and to develop a social media policy.

The committee is asked to recommend to Council that the Local Government Association’s (LGA) model Councillor Code of Conduct and the Social media policy for Members are adopted. The committee is asked to consider the LGA’s Guidance on Member Code of Conduct Complaints Handling.

1. Recommendation(s)

- 1.1 The committee recommend to Full Council the adoption of the Local Government Association Model Councillor Code of Conduct as set out in Appendix 1.**
- 1.2 The committee consider and recommend to Full Council the adoption of the Social Media policy for Members as set out in Appendix 2**
- 1.3 The committee consider the LGA’s Guidance on Member Code of Conduct Complaints Handling and that the Monitoring Officer revises the Council’s existing arrangements to reflect best practice.**

2. Introduction and Background

Model Councillor Code of Conduct:

- 2.1 Following the Localism Act 2011, the code of conduct rules for councillors and the standards process for dealing with allegations of breaches of the code of conduct changed significantly. Whereas previously there was a national code of conduct for councillors drawn up by Standards for England (formerly the Standards Board) and enforced both by the Standards for England and (later) by each local authority. This included imposing sanctions on councillors, which could include suspending them from office.
- 2.2 Standards for England and the national code of conduct were abolished by the 2011 Act, and it is now up to each local authority to adopt their own code of conduct to promote high standards of conduct which must be consistent with the Nolan principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. In addition, each local authority was required to decide on the process for handling code of conduct complaints and the sanctions to enforce their code of conduct. The ability of councils to make sanctions against members was significantly watered down; to a level where many question their effectiveness as the sanction to suspend members from office was abolished.
- 2.3 By virtue of section 27 of the Localism Act 2011 the Council is required to promote and maintain high standards of conduct by Members and co-opted members. Within the limitations imposed by the Localism Act, the Council can and try to do what can be done to prevent behaviour, which could be:
- considered as bullying or harassment to officers, other Members and sometimes to members of the public.
 - to take action to prevent Members from revealing confidential information which they have received in their role as a member; and
 - not to participate in any behaviour which would be felt to be inadvisable or inappropriate.
- 2.4 The Council's current code of conduct was adopted in 2013 and has the potential to be refreshed to give greater clarity on the standard of behaviour expected of Member and to cover issues such as the use of social media and the need to observe confidentiality in electronic communications.
- 2.5 The Local Government Association ('LGA') Model Code was presented to the last meeting of the committee for consideration and to recommend to Council to adopt the Model Code. As the committee has had the opportunity to consider the Model Code, it is proposed that the committee now agree to recommend to Council adopt the Model Code now that the outcome of the Government's consideration of the recommendations of the Committee on Standards and Public Life CPSL report has been published. The Government's response in relation to the CPSL's recommendation that local authorities should be given power to suspend Councillors who are found to

have breached their Council's code of conduct is set out in paragraph 2.20.of. below.

- 2.6 A copy of the LGA model code is attached at Appendix 1. The main provisions of the LGA Model Code of Conduct are summarised below:

The code of conduct applies as soon as a Member sign their declaration of acceptance of the office of councillor form and continues to apply until they cease to be a Councillor. It also applies when acting in the capacity as a Councillor and applies to all forms of communication and interaction including electronic and social media communication. This can include when a member of the public could reasonably have the impression a Member was acting as a councillor.

The Code sets out obligations, which are the minimum standards of conduct required of a councillor. These cover treating people with respect, not to bully, harass any person, a requirement to promote equalities and not unlawfully discriminate against any person, impartiality, confidentiality, and access to information, not bringing the Council into disrepute, use of a Member's position and use of Council resources and facilities. There is also a requirement for a Member to undertake code of conduct training, to co-operate with a code of conduct investigation, not intimidate any person involved in any investigation and comply with any sanctions imposed.

The Code sets out requirements to protect the reputation of Members and the reputation of their Authority - for Members to register and declare interests in situations where a conflict of interest might arise. In addition to the statutory Disclosable Pecuniary Interests which Members must register, declare, and not participate in meetings. This also covers the disclosure of Other Registrable Interests and Non-Registrable Interests. The model code introduces an obligation to register as an Other Registerable Interest any unpaid directorships. Non-registrable interests cover situations where a matter affects a member's financial interest or wellbeing, or that of a friend, relative or close associate.

The model code introduces an obligation not to accept and gifts or hospitality of any value which could give rise to real or substantive personal gain or reasonable suspicion of influence/ from any person who may apply to the council for any permission or licence or significant advantage. Gifts or hospitality of £50.00 or more in value must be registered, as must any significant gift or hospitality which has been offered but has been refused.

- 2.7 The adoption of the code is a council matter and so it is up to Full Council to adopt any changes in the code. Accordingly, it is necessary for the committee to make such recommendations to Full Council.
- 2.8 In many ways the LGA code is clearer of the standards expected of Members then the existing code which was adopted by the council in 2013. It

extends the advice and clarity about the application of the code in more detail. It is open to the council to make any changes to the code it wishes if these are within the scope of the Localism Act. It is worth noting that there has to date been little case law on the meaning of some provisions of the Localism Act and so any code must be considered with that caveat in mind.

Social Media Policy

- 2.9 The use of social media and managing it effectively as an elected member can be challenging. Increasingly complaints received about Members originate or have some basis in social media comments and activities. Many Members will have a single social media account on which they post both councillor and private business. If they were then to be accused of putting something on a private platform not connected with the council, this could potentially be considered as part of a code of conduct complaint and a finding could be made of a breach.
- 2.10 Members of local authorities have enhanced protection in relation to freedom of speech under Article 10 (1) of the European Convention of Human Rights, for Members to hold and express opinions and in summary protects the right for them to criticise, speculate and make value judgements, if there is some reasonable factual basis for their opinion.
- 2.11 However a breach of the Members Code of Conduct can be found where comments are not considered to be political expression but are simply expressions of personal anger and abuse. Therefore, Members how make comments on social media which fall outside their enhanced protections right are liable to found in breach of the Member Code of conduct. A copy of the proposed Social Media policy for Members is attached at Appendix 2. The committee is invited to recommend to Council to adopt the social media policy for the policy to be adopted at the same time as the new code. The requirement for compliance with the proposed policy is intended to assist Members in their use of social media.

Councillor Complaints Process

- 2.12 Section 28 of the Localism Act 2011 requires, the council to have in place arrangements under which allegations that a Member has failed to comply with the council's code of conduct can be investigated and decisions made on such allegations. The Act requires that arrangements agreed by the council must include provision for the appointment by the authority of at least one independent person whose views are to be sought and considered, by the council before it makes its decision on an allegation that it has decided to investigate. However, the Act it does not set out how complaints are to be handled.
- 2.13 The CSPL also made recommendations for a framework in dealing with complaints to ensure consistency and enhance public confidence in the process. In response to requests received by the LGA as part of its

consultation in 2020 on the LGA model councillor code of conduct, it has prepared guidance on handling member code of conduct complaints. The guidance is designed to assist monitoring officers, and anyone nominated by a monitoring officer to conduct investigations on their behalf and to assist councillors in understanding the process (Appendix 3).

- 2.14 The Monitoring Officer plays a key role to drive higher standards and better conduct, by promoting education and support to councillors. Under the existing arrangements, the Monitoring Officer has authority to undertake an initial assessment of complaints. The assessment of a complaint would normally be a two-step process, described in the CPSL report as the 'can/should' stages – the first stage being 'can we deal with this complaint?' and the second being 'should we deal with this complaint?' The first step would be a jurisdictional test the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint. If there is any doubt, however, the allegation should proceed to the second stage. Once these jurisdictional tests have been met the complaint is then assessed against criteria set out in the arrangements and decides what action, if any, to take. These criteria should reflect local circumstances and priorities and be simple, clear, and open. They should ensure fairness for both the complainant and the subject member. In Thurrock, the Monitoring has delegated authority to carry out the initial assessments of complaints as outlined above, and to decide what action if any should be taken.
- 2.15 The council's existing arrangements for handling member code of conduct complaints at Appendix 4, would benefit from being updated to clarify any areas of ambiguity and provide additional clarity to the complaints process and incorporate other processes detailed in the LGA Guidance to reflect best practice, to:
- (i) provide greater clarity as timescales of the steps for assessing complaints
 - (ii) to review and update the assessment criteria against which complaints are initially assessed.
 - (ii) an alternative process for assessment of a complaint by a Panel of Members where the Monitoring Officer considers it appropriate based on specified criteria e.g., where the matter is high profile, or the Monitoring Officer has a conflict of interest
 - (iii) No right of appeal/ review against a decision not to take any further action to operate an efficient and proportionate system.
 - (iv) Best practice for conducting investigations and producing a final report.
- 2.16 It is recommended that the Monitoring Officer updates the Council's existing arrangements to reflect best practice set out in the LGA Guidance Standards Committee may make such amendments to the proposed revised procedures as it considers appropriate. A further report to come back to the next committee meeting for the committee to consider the proposed changes with a recommendation that the committee recommend to Full Council to approve the changes.

Sanctions

- 2.17 One of the recommendations of the CSPL was that local authorities be given the power to suspend councillors without allowances for up to six months for breaches of the code of conduct. The Government's published response of 18 March 2022 to the CPSL's recommendation on such a sanction is:

"There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.

It would be undesirable to have a government quango to police the free speech of councillors; it would be equally undesirable to have a council body (appointed by councillors, and/or made up of councillors) sitting in judgment on the political comments of fellow councillors.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the government's response to the Committee's report on intimidation in public life, the government recommended that every political party establish their own code of conduct for party members, including elected representatives.

The government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour."

- 2.18 The implication of the government's response on sanctions is that the council or a committee of the council has limited powers to only impose certain measures as sanctions which does not in any way interfere with the Councillor's duties or the will of the electorate.
- 2.19 Typical sanctions which can be imposed may include one or a combination of the following:

- Making a finding the Councillor has breached the code and report it to council
- Resolving to formally censure the Councillor
- Recommend to the Councillor's group leader (or in the case of un-grouped councillors, recommend to council) that they be removed from any or all committees or sub-committees, or Outside Body (as appropriate)
- recommend to the Leader of that the subject member be removed from positions of responsibility
- Requiring the Councillor to undergo training.
- if relevant recommend to council that the Councillor be removed from their role as leader of the authority
- if relevant recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.
- Removing equipment/facilities for a specified period where there is a clear link to the breach, and it proportionate to take such action

2.20 In certain circumstances there are criminal sanctions which amount to a criminal offence.

- Section 34 of the Localism Act makes it a criminal offence if a member or co-opted member fails, without reasonable excuse, fails to register or declare disclosable pecuniary interests, or take part in council business at meetings or when acting alone when prevented from doing so by having a pecuniary interest and not having obtained a dispensation. Complaints are investigated by the police and prosecuted by the Director of Public Prosecutions. If convicted a Magistrates Court can impose a fine of up to £5000 and an order disqualifying the person from being a member of a relevant authority for up to five years. There has been one conviction since 2012 when the section came in which led to a conditional discharge and no disqualification.
- If a Councillor commits a criminal offence and is sentenced to a term of imprisonment of 3 months or more, they are automatically disqualified. The same applies to a Councillor who commits certain sexual offences or must make certain notifications or has orders imposed in respect of sexual offences under the recent Local Government (Disqualification) Act 2022

2.21 Accordingly, it is recommended that the committee recommend to Full Council that the LGA model code and the social media policy be adopted by Full Council at the same time. In addition, it is recommended to the committee to consider the LGA guidance for handling member code of conduct complaints and that the Monitoring Officer revises the Council's existing arrangements to reflect best practice.

3. Issues, Options and Analysis of Options

- 3.1 The Committee could decide to not agree the recommendations set in the report. However, this is not recommended as it is important that the Council acts in accordance with best practice when it comes to ethical governance.
- 3.2 The recommendations provide clarity to the Council's ethical governance processes and are clearly understood by members, officers, and the public, and thereby promote high standards of conduct and greater confidence in the Council.

4. Reasons for Recommendation

- 4.1 To ensure that the Council's current ethical framework, within the limitations of the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public and is strengthened. The recommendations would enhance the fairness and transparency of the standards process and protect the integrity of decision-making, whilst maintaining public confidence.
- 4.2 Revising the authority's arrangements reflect best practice and in accordance with the principles, of fairness, transparency, proportionately and impartially thereby giving the public and councillors confidence in the process.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The Standards and Audit Committee are the appropriate consultees for ethical standards, although the changes will be raised for noting at the forthcoming Constitution Working Group.

6. Impact on corporate policies, priorities, performance, and community impact

- 6.1 The Council's Constitution supports the governance of the Council and its decision-making, thereby assisting the Council to meet its corporate policies and priorities, as well as maintaining public confidence.

7. Implications

7.1 Financial

Implications verified by: **Dammy Adewole**
Senior Management Accountant – Resources and Place Delivery

There are no direct financial implications expected from this proposed policy change.

7.2 Legal

Implications verified by: **Gina Clarke**

Corporate Governance Lawyer & Deputy Monitoring Officer

Section 27 of the Localism Act 2011, requires the Council to promote and maintain high standards of conduct by members and co-opted members and to adopt a code dealing with the conduct that is expected of members and co-opted members when they are acting in that capacity.

Section 28 of the Localism Act 2011 requires the Council's code of conduct to be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. The Council may revise its existing code of conduct under section 28(5) of the Localism Act 2011.

The Council's Code of Conduct, Arrangements for handling complaints, and the Protocol for Member/Officer Relations form part of the Constitution. Only Full Council may make changes to the Constitution by virtue of Chapter 2, Part Three – Responsibility for Council functions paragraphs 1.5 and 1.9. In addition, by virtue of paragraph 1.5 approval of a Social Media Protocol to form part of the Constitution would also require Full Council approval.

As the Government has indicated that they are now actively considering the recommendations set out in the CSPL report on Local Government Ethical Standards which included that associated legislative changes be made to the ethical standards regime. An update report to the committee will include details of any proposed changes together with the further details of the proposed changes to the Council's ethical governance arrangements recommended in this report, if agreed.

7.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
Team Manager, Community Development & Equalities

The local and national codes for ethical standards referred to in the body of the report take into consideration equality and diversity requirements as set out in legislation and the Council's policies. A Community Equality Impact Assessment will be completed for any new or revised policy/policies.

7.4 Other implications (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder and Impact on Looked After Children

Not applicable.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Committee on Standards on Public Life report on Local Government Ethical Standards
- LGA model Code of Conduct and supplementary guidance

9. Appendices to the report

- Appendix 1 LGA model Code of Conduct
- Appendix 2 Social Media Guidelines for Councillors
- Appendix 3 LGA Guidance on Member Model Code of Conduct Complaints Handling
- Appendix 4 Thurrock Council's Procedure for making a complaint against a Councillor

Report Author:

Gina Clarke

Corporate Governance Lawyer & Deputy Monitoring Officer

Law and Governance



Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registrable Interest :

- a) any unpaid directorships
 - b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
 - c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- of which you are a member or in a position of general control or management

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Thurrock Council - Social Media Guidelines for Councillors

1. Introduction

This policy aims to ensure appropriate use of social media by Councillors' and Co-opted Members. Users must ensure that they use social media sensibly, responsibly, lawfully, and that Council information remains secure and is not compromised. Also, that use will not expose the Council, its business to security risks, reputational damage, breach of Data Protection laws or legal claims.

This social media policy is to be read in conjunction with the Member code of Conduct.

2. Purpose

This Policy provides support and guidelines on how to use social media, how to effectively manage social media usage. It also provides guidance on some of the risks and pitfalls that specifically apply to Councillors and Co-opted Members and how to avoid these. This guidance is not exhaustive and if you have any queries, you should seek further guidance from the Monitoring Officer.

3. Responsibilities of Councillors and Co-opted Members

- You are personally responsible for any content that you publish on social media or allow to be published in the form of a comment. Your posts are in the public domain and are subject to both the Council's Member Code of Conduct and relevant Law.
- You will need to monitor and, where appropriate, censor or remove the contributions made by others to your site. Make sure you are confident of the validity and nature of the information you publish. Allowing defamatory, untrue, or offensive statements to remain on a site could give rise to a libel action for which you may be personally liable to pay damages, no indemnity from the Council will be available. Abusive, bullying, or racist posts may amount to a criminal offence. Also, Code of Conduct issues could arise where you allow comments to remain on your site, as this could be seen as condoning or endorsing them.
- Also 'liking,' 'sharing' or 're-tweeting' posts could appear to be an endorsement of them and can be a separate instance of publication by you, to which all the legal and Code of Conduct considerations would apply.
- Bear in mind that publishing information and images that are not yours, without permission, may also result in an award of damages against you. Seek permission from the copyright holder in advance.
- Always ensure the security of your devices to prevent unauthorised access by third parties who may make inappropriate use of the device.
- Make use of privacy settings if you do not want the press or public to access your social media platform. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.

4. Principles for using social media

You should follow these guiding principles for any social media activities:

- Keep your posts professional, respectful, and polite – especially when corresponding with others who are discourteous, as you are still governed by the Code of Conduct and rules of confidentiality during online exchanges.
- Make sure that you respect people's confidentiality – do not disclose non-public information from Council meetings, discussions or documents or the personal information of others, including photographs, without their express permission to do so.

- Be credible and consistent – be accurate, fair, thorough, and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
- Be honest about who you are – it is important that any accounts or profiles that you set up are clearly and easily identifiable. As you are personally responsible for the content you publish on any form of social media, it is important to clarify between your professional and private life, possibly having separate accounts. It is recommended that you have separate social media profiles for your role as a Councillor or Co-opted Member and for your private life. Do not use the Council’s logo, or any other Council related material on a personal account or website.
- Do not enter unhelpful online arguments, as everyone online will be witnessing this. Ignore people or block them if they persist in vexatious comments.
- If you make a mistake - admit it. Mistakes happen so do not try to cover it up as there will always be a record of what you have said.
- Be responsive – share what you know and answer any questions in a in a timely manner. Put people in touch with someone who can help if you cannot.
- Think carefully about who to ‘follow’ or ‘befriend’ online. It is inadvisable unless you have good reason for doing so. Online ‘friendships’ with council officers should be avoided as they may compromise the appearance of impartial advice. Following or befriending contractors who have been procured to provide services to the council, a company or member of the public making a planning application or pressure groups, might be construed as having a close personal association with them and therefore a personal interest.

Bias and pre-determination

If you sit on regulatory committees such as planning or licensing, you can have a particular view on an application, but must not go as far as to have predetermined your position on a matter. Bear in mind that any relevant views you might have aired on social media about certain issues could be used as evidence of you making a decision in advance of hearing all relevant information. The Council’s decision is then open to challenge and could be set aside. Also, provisions of the Code of Conduct for Members could be engaged.

Elections

You must not use social media on Council mobile devices or IT equipment, for political/campaign purposes.

Use of social media during Committee Meetings

It is important to consider that use of mobile devices at meetings may give the impression to others that you are not giving sufficient attention to discussions at committee meetings. Bear in mind that this could lead to the relevant decision coming under challenge if you are perceived to have to have made a decision without having properly listened to the debate. It could also result in Code of Conduct complaints.

5. Inappropriate Use of social media by Others

Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.

Anyone receiving threats, abuse, or harassment via their use of social media should report it to their group leader, the Monitoring Officer and /or the police. Other inappropriate content

can be reported to the social media site directly to ask for it to be removed. It is suggested that you that save a screenshot of any inappropriate post as evidence in the circumstances.

Safeguarding is everyone's business, if you have any concerns about other site users, you have a responsibility to report these.

Dated 30 May 2022

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Guidance on Member Model Code of Conduct Complaints Handling

This guidance, together with the guidance prepared for councillors to help them understand and follow the revised Local Government Association (LGA) Model Councillor Code of Conduct (2020), has been prepared in response to requests received by the LGA as part of our consultation in 2020 on the LGA Model Councillor Code of Conduct. It is designed to assist monitoring officers, and anyone nominated by a monitoring officer to carry out investigations on their behalf and to assist councillors in understanding the process. Local authorities may have different practices and arrangements in place. However, the principles of fairness, proportionality, transparency and impartiality will still apply.

21 Sep 2021

1. Introduction

It is vital that the public has confidence in the high standards of local government, and that there is transparency about the conduct of councillors and the mechanisms for dealing with alleged breaches of the Codes of Conduct. Equally, it is vital that councillors themselves have confidence in these mechanisms, and that investigations into such complaints abide by the principles of natural justice.

Any reference in this guidance to ‘you’ is a reference to a monitoring officer, a deputy monitoring officer, or any person nominated by them to carry out their functions. Furthermore, any reference to the ‘subject member’ is a reference to the councillor who is the subject of the allegation and references to an Independent Person means an Independent Person appointed under s. 28(7) of the Localism Act 2011.

Under the Model Code of Conduct, councillors are required to cooperate with any Code of Conduct investigation and respect the impartiality of officers. This is in recognition of the key role monitoring officers have in ensuring what might be contentious and difficult issues are handled fairly. This guidance is to support them in carrying out their duties.

The system of regulation of standards of councillor conduct in England is governed by the Localism Act 2011. Local authorities must have a Code of Conduct for councillors, which must be consistent with the “Seven Principles of Public Life”, selflessness, honesty, integrity, objectivity, accountability, openness and leadership.

Under Section 28 of the Localism Act 2011, local authorities (other than parish and town councils) must have in place ‘arrangements’ under which allegations that an

elected or co-opted councillor of the authority or of a town or parish council within the principal authority's area has failed to comply with the authority's Code of Conduct can be considered and decisions made on such allegations. It is for the principal authority to decide the details of those arrangements, but they must appoint at least one Independent Person whose views are to be taken into account before making a decision on a complaint that they have decided to investigate.

This guidance is for guidance purposes only and where it differs from the authority's own arrangements under the Localism Act then the authority's arrangements should be followed.

s28 (6) A relevant authority other than a parish council must have in place—

(a) arrangements under which allegations can be investigated, and

(b) arrangements under which decisions on allegations can be made.

(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose views may be sought—

(i) by the authority in relation to an allegation in circumstances not within paragraph (a),

(ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and

(iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

The case of *R (Harvey) v Ledbury Town Council 2018* (*R Taylor v Honiton TC*) made clear that allegations of a failure to follow an authority's Code of Conduct can only be considered in accordance with the principal authority's standards arrangements. Though the conduct complained of may give rise to a staff grievance, for example, the subject member cannot receive a sanction outside of the standards arrangements.

Background

More than 100,000 people give their time as councillors. The majority do so with the very best motives, and they conduct themselves in a way that is beyond reproach. However, public perception tends to focus on a minority who in some way abuse their positions or behave badly. Even where behaviour does falls short most issues are resolved easily through a simple apology or through swift action from an officer, a political group or meeting chair. Reference to the Code of Conduct and a formal complaint are very much the last resort where issues remain unresolved.

Anyone who considers that a councillor may have breached the Code of Conduct may make a complaint to that councillor's local authority, usually via the principal authority's monitoring officer. Each complaint must be assessed to see if it falls within the authority's legal jurisdiction, for example whether the subject member was acting as a councillor or representative of the authority at the time. A decision must then be made on whether or not some action should be taken, either as an investigation or some other form of action.

When a matter is referred for investigation or other action, it does not mean that a decision has been made about the validity of the allegation. It simply means that the authority believes the alleged conduct, if proven, may amount to a failure to comply with the Code of Conduct and that some action should be taken in response to the complaint.

The process for dealing with Code of Conduct complaints must be fair and be seen to be fair.

2. Initial assessment of complaints

Responsibilities

The law does not specify how complaints are to be handled. However, in most authorities, initial assessment of complaints that a councillor may have breached the Code of Conduct is usually carried out by the authority's monitoring officer. In other authorities all complaints go to an assessment committee of councillors for consideration. This is a matter for local choice, but the authority should be satisfied that whatever assessment arrangements it adopts, the assessment can be carried out fairly, objectively and without undue delay.

Even where the matter is normally delegated to the monitoring officer, they may reserve the right to refer the matter to a committee of councillors, for example where the monitoring officer has a conflict of interest or the matter is particularly high-profile.

Whichever approach (or any other) is taken, it is important to have published criteria against which complaints can be assessed to aid transparency and consistency (see below).

Independent Persons (IPs) are people who are neither councillors nor officers of the authority but are appointed under Section 28 of the Localism Act 2011 to work with the authority to support them with Code of Conduct complaints and standards issues. Under the Localism Act their views must be sought and taken into account on any matter under investigation, the subject member may seek their views at any stage and the authority may also seek their views at any other stage of the process.

The Committee on Standards in Public Life has recommended that authorities should also seek the views of the IP when initially assessing a case as a further way of ensuring consistency and enhancing public confidence in the framework.

Pre-assessment

Publicising the complaints system

Local authorities, including parish and town councils, should publish information on their websites about the Code of Conduct, about what can and cannot be considered as a complaint, how to complain (including a standard complaints form if appropriate) and where Code of Conduct complaints should be sent to. They should also provide clear details of the procedures they will follow in relation to any written allegation received about a councillor.

Where a principal authority is responsible for handling complaints about its parish and town councillors, it should also make this clear.

The submission of complaints and accessibility

Local authorities should consider that some complainants will not know where to direct their complaint. Some complaints may also need to be considered through more than one of an authority's complaint processes.

Officers dealing with any incoming complaints to the authority will therefore need to be alert to a complaint that a councillor may have breached the Code. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the relevant person for consideration.

Local authorities may produce a complaint form which sets out all the information they expect to receive from a complainant. This can be helpful to both the authority and the complainant. However, authorities cannot compel complainants to use a complaint form.

If an authority does not have a complaint form, it should nevertheless give clear guidelines as to the information that complainants need to provide.

The required information may include:

- the complainant's name, address and other contact details;
- who the complainant is, for example, a member of the public, fellow councillor or officer;
- who the complaint is about and the authority or authorities that the councillor belongs to;
- details of the alleged misconduct including, where possible, dates, witness details and other supporting information;
- equality monitoring data if applicable, for example the nationality of the complainant.

The authority should also make it clear that only in exceptional circumstances would a complainant be granted confidentiality and that as a matter of fairness the complainant's identity would normally be disclosed to the subject member (see section below on confidentiality).

A complaint may arise from an expression of dissatisfaction or concern, which come about in a number of ways initially, including verbally. In such cases, the monitoring officer should ask the complainant whether they want to formally put the matter in writing. If the complainant does not, then the monitoring officer should consider the options for informal resolution to satisfy the complainant. If it is a significant complaint, which the complainant is unwilling to commit to writing (for example because they feel they are being bullied), the monitoring officer may wish to reassure the complainant about confidentiality and draft the complaint for agreement with the complainant.

Under the Localism Act, however, formal complaints must be submitted in writing. This include electronic submissions, though the requirement for complaints to be submitted in writing must be read in conjunction with the Equality Act 2010 and the duty to make adjustments. For example, a complainant may have a disability that prevents them from making their complaint in writing. In such cases, authorities may need to transcribe a verbal complaint and then produce a written copy for approval by the complainant or the complainant's representative.

Authorities should also consider what support should be made available to complainants.

Authorities should not normally allow anonymous complaints as that would be against the principles of transparency and fairness and make matters much more difficult to investigate. However, there may be exceptional compelling reasons why an anonymous complaint could be accepted without detriment to the process

and where the allegation can be evidenced without reference to the complainant. For example, if an anonymous complainant submitted a video showing the councillor acting inappropriately or sent in documentation disclosing an undeclared directorship in a matter relating to local authority business, it may be considered that the public interest in investigating the allegation outweighed the issue of anonymity.

Please note that anonymity and confidentiality are different concepts. Anonymity means the complainant is not known whereas confidentiality means that the complainant is known to the authority but their identity has been withheld for a specific reason.

Complaints which identify criminal conduct or a breach of other regulations by any person may be referred to the police or any other relevant regulatory agency for consideration, in accordance with any agreed protocol. In such cases the authority, in agreement with the other body, should consider pausing the assessment of the complaint pending action by the other body.

Acknowledging receipt of a complaint

When a complaint is received by the local authority the relevant officer should acknowledge its receipt and set out the process to be taken to assess the complaint with an agreed timescale.

The authority may also notify the subject member that a complaint has been received and invite their comments on it within an agreed timescale. In deciding whether or not to notify the subject member they would need to weigh up different factors. For example, would telling the subject member risk that the complainant may be intimidated or evidence destroyed, or if the complaint seems to fall outside of the jurisdiction of the Code is there any need to hear from the councillor? However, the presumption would normally be to invite the subject member to comment as this can help the authority to decide whether a matter can be dealt with informally without the need for a formal investigation, for example.

If the authority does tell the subject member about the complaint, the relevant officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. Additionally, the impact of the Data Protection Act 2018 and UK General Data Protection Regulation (GDPR) should be considered to ensure that any personal data is processed fairly and lawfully at every stage of the process. Reasonable expectations of privacy need to be balanced against the public interest.

Pre-assessment enquiries and reports

When the authority notifies the subject member that a complaint has been made about them, and seeks any relevant comments, the subject member should be given a short timeframe in which to submit their comments such as 10 working days from the date of the notification. In parish cases the principal authority may also notify the clerk and may ask for relevant factual information which would help in the assessment of the complaint.

In notifying the subject member it should be made clear that no judgment one way or the other has been made about whether the allegation is in fact true.

The authority may contact complainants for clarification of their complaint if they are unable to understand the document submitted.

The authority may also carry out preliminary enquiries, for example whether the member was in fact present at the meeting to which the complaint relates. However, such enquiries should be limited to readily-available public records so as not to extend to a more formal investigation.

In authorities where the assessment is carried out by a committee rather than an officer, they may decide that they want the monitoring officer, or other officer, to prepare a short summary of a complaint for the committee to consider. This could, for example, set out the following details:

- Whether the complaint is within jurisdiction;
- The paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the complainant has identified;
- A summary of key aspects of the complaint if it is lengthy or complex;
- Any further information that the officer has obtained to assist the committee with its decision, for example initial comments from the subject member, minutes of meetings or a copy of a councillor's entry in the register of interests. However, it should be noted that these pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject member (although they may have been asked for initial comments) as that would be a matter for any formal investigation should the case proceed;
- The views of the Independent Person.

Assessment

Initial tests

The assessment of a complaint would normally be a two-step process, described by the Committee on Standards in Public Life as the 'can/should' stages – the first

stage being ‘can we deal with this complaint?’ and the second being ‘should we deal with this complaint?’.

The first step would be a jurisdictional test and would assess whether the complaint is:

- against one or more named councillors of the authority or of a parish or town council the authority is responsible for;
- the named councillor was in office at the time of the alleged conduct;
- the complaint relates to matters where the councillor was acting as a councillor or representative of the authority and it is not a private matter;
- the complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint. If there is any doubt, however, the allegation should proceed to the second stage. For example, if it is unclear whether the councillor was acting ‘in capacity’ or not then the second stage of assessment criteria should be used.

Where a matter is being referred to a committee of councillors for assessment, we would expect the monitoring officer only to pass cases which have met the jurisdictional threshold.

Second-stage criteria

Once these jurisdictional tests have been met the authority should have further criteria against which it assesses complaints and decides what action, if any, to take. These criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for both the complainant and the subject member.

Assessing all complaints by established criteria will also protect the authority from accusations of bias. Assessment criteria can be reviewed and amended as necessary, but this should not be done during consideration of a matter.

In drawing up assessment criteria, authorities should bear in mind the importance of ensuring that complainants are confident that complaints about councillor conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers’ and councillors’ time. This is an important consideration where the matter is relatively minor.

The following non-exclusive factors may help an authority to develop local criteria:

1. Does the complaint contain sufficient evidence to demonstrate a potential breach of the Code?
2. Are there alternative, more appropriate, remedies that should be explored first?
3. Where the complaint is by one councillor against another, a greater allowance for robust political debate (but not personal abuse) may be given, bearing in mind the right to freedom of expression;
4. Is the complaint in the view of the authority malicious, politically motivated, or 'tit for tat'?
5. Whether an investigation would not be in the public interest or the matter, even if proven, would not be serious enough to warrant any sanction (see guidance on hearings);
6. Whether a substantially similar complaint has previously been considered and no new material evidence has been submitted within the current administration;
7. Whether a substantially similar complaint has been submitted and accepted;
8. Does the complaint relate to conduct in the distant past? This would include consideration of any reason why there had been a delay in making the complaint;
9. Was the behaviour that is the subject of the complaint already dealt with? For example, through an apology at the relevant meeting;
10. Does the complaint actually relate to dissatisfaction with a local authority decision rather than the specific conduct of an individual? And
11. Is it about someone who is no longer a councillor or who is seriously ill?

Some of these criteria are inevitably subjective. For example, who decides if a complaint is trivial? The complainant may feel they have a genuine grievance even if to a third party it seems relatively minor.

Equally even if a complaint seems to be 'politically motivated' it may nevertheless be highlighting a potentially significant breach of the Code which could not be ignored.

Such criteria can therefore only ever be indicative, and authorities always need to take into account the public interest in taking further action on a complaint. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

In assessing any case, an authority may want to consider the following questions in the context of local knowledge and experience:

Has the complainant submitted enough information to satisfy the authority that the complaint should be referred for investigation or other action?

If the answer is no, it should be made clear to the complainant that there is insufficient evidence to make a decision so unless, or until, further information is received, the authority will take no further action on the complaint. When doing so, the complainant should be given a clear timeline to submit any further evidence or otherwise the file will be closed.

Is the complaint about someone who is no longer a councillor?

The councillor may have been a councillor at the time of the alleged misconduct but may have since ceased to be a councillor. The authority will need to consider whether it still has jurisdiction. If so, then the authority may not want to take any further action unless they believe the matter is so serious, and the councillor may return to the authority that it would still be in the public interest to pursue the matter. If they do pursue the matter the range of potential sanctions is inevitably more limited and may extend only to publication of the report and a formal censure.

If the councillor is still a member of another principal authority, the authority may wish to refer the complaint to that authority if it would also fall within their code of conduct.

If a councillor is still a member of a town or parish council within the principal authority's area, then the principal authority can still deal with the matter if it relates to matters at the town or parish council.

Is the complaint about something that happened so long ago that there would be little benefit in taking action now?

Where a matter happened some time ago then the authority may decide that any further action would be unwarranted. For example, an investigation may be difficult as people's recollections may have faded. The authority may therefore wish to set a time limit for receiving complaints of say six months under normal circumstances. However, it should also be borne in mind that there may be a good reason why a complaint is 'late' – for example, victims of bullying or harassment may have needed time and courage before coming forward or been made aware of other incidents which has prompted them to make a complaint about things in the past.

Does the complaint appear to be trivial, malicious, politically motivated or tit-for-tat?

Where a complaint is rejected on these grounds the authority should be very clear about the reasons why and discourage politically motivated or tit-for-tat complaints in particular. It will, however, need to satisfy itself that, regardless of any alleged motive of the complainant, the complaint itself is not sufficiently serious to warrant any further action regardless of the motive. A complaint may appear on the face of it to be politically motivated, for example, because of the timing of its submission, but if it raises sufficiently serious matters it would nevertheless need to be considered fully.

The assessment criteria that the authority adopts should be made publicly available on its website.

Decision

Initial assessment decisions

Where the decision has been delegated to an officer, the authority should aim to complete their initial assessment of an allegation within 15 working days of receiving a complaint. Where they have asked the subject member for comment, they should allow them up to 10 working days to comment and then make the assessment normally within five working days of any comments being received.

Where the subject member has not commented, and the ten working days has elapsed (and they have not provided a reasonable excuse for the delay) the assessment should nevertheless be made within five working days after that.

Where an Independent Person is invited to give their views prior to assessment these should be done at least a day before the final deadline. Where the Independent Person meets in person with the officer to discuss the case, they should nevertheless record their views in writing for the record after the meeting.

Where the assessment is sent to a committee, the committee should be set up along similar timescales. Any inordinate delay in assessing cases can have a damaging effect on trust in the system and is unfair for both the complainant and subject member.

The authority may reach one of the three following decisions on an allegation:

- no further action should be taken on the allegation;
- the matter should be dealt with through a process of informal resolution in the first instance (see section on informal resolution) or;
- the matter should be referred for a formal investigation (see section on investigations).

Decision to take no action

The authority may decide that no further action is required in respect of a complaint based on its agreed criteria.

Where the authority reaches this decision it should be clear that, where an allegation may have disclosed a potential breach of the Code it has nevertheless made no finding of fact as it does not believe it is in the public interest to pursue the matter any further. Where it has been concluded that no potential breach of the Code of Conduct is disclosed by the complaint (for example because it is outside of jurisdiction), no further formal action can be taken by the authority in respect of it.

There should be no right of appeal against a decision not to take any further action if the system is to be efficient and proportionate.

Where the decision was taken by an officer, the monitoring officer may wish to report to the relevant committee periodically on cases in which there has been no further action taken. These cases should be reported confidentially with the aim of giving the committee a picture of issues within the authority and enabling it to assure itself that decisions made have been broadly reasonable in the whole. They are not there to re-open issues.

Referral for informal resolution

When the authority decides that they should seek to resolve the matter informally in the first instance they should refer to the separate guidance on informal resolution.

Referral for investigation

When the authority decides a matter should be referred for investigation it should refer to the separate guidance on investigations.

Notification of assessment decisions

If the authority decides to take no action over a complaint, then as soon as possible after making the decision they should notify the complainant and subject member of the decision and set out clearly the reasons for that decision, including the views of the independent person.

If the authority decides that the complaint should be referred for formal investigation or informal resolution, they should notify the complainant and subject member, stating what the allegation was and what further action is being taken.

In such cases the authority will need to decide whether or not to give the subject member a copy of the full complaint and whether the complainant, where they had been granted confidentiality, should remain confidential for the time being. In doing so they would need to decide whether doing so would be against the public interest or would prejudice any future investigation. This could happen where it is considered likely that the subject member may intimidate the complainant, or any witnesses involved. It could also happen where early disclosure of the complaint may lead to evidence being compromised or destroyed. If only one part of a complaint has been referred for action or the complaint is against more than one councillor then the authority may wish only to disclose the relevant parts of the complaint. Any decision to withhold information should be kept under review as circumstances change.

If the subject member is a parish or town councillor and the authority has decided to take some action with regard to the complaint, their parish or town council should also be notified via the clerk. In doing so the authority will need to consider whether any of the information is confidential.

A decision notice should be issued within one working day of the decision being made.

Independent Person

If the views of the Independent Person were sought, this should be made clear in the decision letter and state whether the Independent Person agreed with the decision or not. Where the Independent Person did not agree with the decision, the notification should explain how the authority took account of those views in reaching a different decision – for example in concluding that the matter was not in fact within the scope of the Code but was a private matter.

Other issues to consider

Assessments Committee

Where a committee is convened to assess an allegation, it is an ordinary committee of the authority if it is making the decision. This means it must reflect political proportionality unless that has been waived and it is subject to the notice and publicity requirements under Schedule 12A of the Local Government Act 1972.

However, while there should be a presumption that a hearing following an investigation would normally be held in public (see guidance on hearings) there will be a strong presumption towards an assessment being treated as exempt information. The meeting may have to consider unfounded and potentially damaging complaints about councillors, which it would not be appropriate to make

public because of the risk of unfounded reputational damage or the potential risk of prejudicing any future investigation.

Nevertheless, as for any meeting dealing with exempt or confidential information a summary of the outcome would need to be published setting out the main points considered such as:

- the conclusions on the complaint;
- the reasons for the conclusion.

Assessments delegated to officers

Where an assessment decision has been delegated to an officer there is no legislative requirement for a decision notice to be published. Nevertheless, the authority should consider whether an assessment notice should be published in the public interest or not in the same way as they would if it were a committee decision.

What if the subject member is member of more than one authority?

There may be times when the same complaint is made against a member of more than one authority. For example, an allegation may allege that a councillor has failed to register an interest at both district and county level.

In such a case the two authorities should have an agreement about who would carry out the initial assessment (if necessary, under an agreed delegation) and any subsequent action. This avoids the risk of two different actions or conclusions being reached.

The matter would not arise where the councillor was on a town or parish council and also on the 'principal' district, unitary or metropolitan council as the principal authority is responsible for handling both complaints. It could however arise if the parish or town councillor were also on the county council in a two-tier area.

3. Informal resolution

When dealing with allegations, an authority can decide that some form of action other than investigation or 'informal resolution' is needed at a local level. The authority may also decide that informal resolution may be more appropriate than referring a matter to a hearing following completion of an investigation. Where the authority has delegated such a decision to the monitoring officer, we would expect the monitoring officer to seek the views of an Independent Person before taking such a course of action. Where the delegation is held by a committee, we would expect the committee to consult its monitoring officer and an Independent Person before reaching that decision. You may also consider seeking an informal

resolution part way through an investigation rather than completing an investigation if it becomes clear the matter could be resolved amicably. Where informal resolution relates to a formal investigation you must seek the views of an Independent Person before halting or pausing the formal investigation.

Why seek an informal resolution?

An informal resolution is a more proportionate way of dealing with relatively minor allegations, one-off incidents or underlying disagreements between individuals. It should be borne in mind however that dealing with a matter by alternative resolution at the initial assessment stage is making no finding of fact as there has been no formal investigation, so you would need to balance the interest in resolving a matter quickly and satisfactorily against the interest in the complainant having their complaint upheld or the member's desire to clear their name.

Matters which you might consider appropriate for informal resolution may include:

- the same particular breach of the Code by many members, indicating poor understanding of the Code and the authority's procedures;
- a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the authority;
- misunderstanding of procedures or protocols;
- misleading, unclear or misunderstood advice from officers;
- lack of experience or training;
- interpersonal conflict;
- allegations and retaliatory allegations from the same members;
- allegations about how formal meetings are conducted;
- allegations that may be symptomatic of governance problems within the authority, which are more significant than the allegations in themselves.

When would informal resolution not be appropriate?

Complaints should not be referred for informal resolution when you believe an investigation is in the public interest, for example because of the seriousness of the allegations or because it demonstrates a pattern of behaviour. In addition, an allegation which challenges the councillor's honesty or integrity may be better dealt with as a formal investigation because of the potential reputational issues.

Similarly, an informal resolution is not intended to be a quick and easy means of dealing with matters which you consider to be too trivial or time-consuming to investigate. Genuinely trivial cases are better dealt with by a decision to take no action (see guidance on initial assessments). While an alternative resolution can be

a cost-effective way of getting a matter resolved for individual cases, it is not a quick fix particularly where there are more systemic issues. It should not be seen as a routine or cheap way of disposing of an allegation, as it can sometimes be a drawn out, costly and time-consuming process.

You should also take care to avoid it appearing to the complainant that deciding to seek an alternative resolution is sweeping matters under the carpet. The decision should demonstrate to the complainant that their complaint is being addressed and being taken seriously, although perhaps as part of a wider issue.

Importantly, if a complaint merits being investigated, then it should be referred for investigation.

Who can be the subject of informal resolution?

Informal resolution could either be directed at the councillor who is the subject of the complaint, both the subject member and the complainant, or at the authority more generally.

For example, it may be a request that a councillor apologise for remarks made in the heat of the moment. Or you may decide that the authority's resources are better used trying to ensure that the subject member and complainant attempt some form of mediation or reconciliation, or it may be about wider issues for your authority that are raised by the case. For example, a relatively minor alleged infringement of the Code, by a councillor who is accused of misusing their authority's IT equipment, might identify shortcomings in the authority's policy about councillors using that equipment. In such a case you might decide that the best way to deal with the allegation is to ask the authority to review the policy and make recommendations for improvement.

If you decide to seek an informal resolution when assessing a complaint, you should be clear that an investigation into that complaint will not take place provided you are satisfied that the party at whom the resolution is directed has acted in good faith in seeking to comply with it.

Who should you inform if seeking informal resolution?

If you believe a complaint can be dealt with through informal resolution you should consult with the Independent Person and you should inform the subject member and the complainant of your intention and give them the opportunity to comment before you make your final decision. However, you should simply be trying to assess how successful the resolution might be rather than giving them a veto. For example, a complainant may not be happy at receiving an apology as they may expect the matter to be fully investigated but you may nevertheless decide that an apology is reasonable and best use of resources in the circumstances.

When informal resolution has been completed you should notify:

- the subject member;
- the complainant;
- the relevant Independent Person;
- the relevant town or parish council if the subject member is a town or parish councillor.

In addition, you should report back to the standards committee or similar where you have one at the next available opportunity on the outcome of your actions. This would allow the committee to take a holistic view of whether informal resolution is being used appropriately and effectively in the round but should not be seen as an opportunity to re-open the case.

What sort of actions might form an alternative resolution?

Alternative resolution can take a wide range of forms. When considering an alternative resolution, you need to think if the complaint highlights specific issues. For example, if it is against a relatively new councillor, a councillor who has taken on a new role or to do with relatively new procedures is there an issue about lack of understanding or training?

Training may be in anything you consider appropriate, such as:

- the Code of Conduct
- authority procedures and protocols
- chairing skills
- working with external bodies
- wider governance issues
- planning and licensing
- working with officers
- use of authority resources.

Where the issue is more of an inter-personal dispute it may simply be asking the subject member to apologise or to withdraw a remark. You may need to be clear that this does not necessarily mean that the councillor has been found to have breached the Code of Conduct where there has been no formal investigation. It is therefore important where you decide on this course at initial assessment that the action proposed does not imply this. You cannot require the subject member to apologise although you may take that into consideration when thinking of the next steps. Of course, in those cases where the councillor has admitted the breach and offered an acceptable apology, you may decide that no further action is necessary.

Where the allegation highlights wider procedure or cultural issues within the authority, you may wish to consider training for all councillors as a whole or mentoring of particular councillors, or work as an authority on conflict resolution.

You may also decide that the allegation highlights authority procedural failings rather than the specific fault of an individual so you may want to develop or review particular authority protocols and procedures.

Where the allegation is one of a series which in your view highlight that relationships within an authority as a whole have broken down to such an extent that it has become very difficult to conduct the business of the authority then some wider form of reconciliation may be needed rather than simply investigating a whole series of complaints which may of themselves be relatively minor but highlight a pattern of disruption or dysfunction. In such cases it may be helpful to engage an independent mediator who is experienced in group community resolution. Mediation is a formal professional process designed to reach agreed outcomes. Less formal mechanisms may also be used to work with the authority to draw up an action plan to move matters forward and again these are often best done by somebody independent.

In such cases it is particularly important that all parties should understand that a decision to seek an informal resolution without investigating the individual complaints means that no conclusion has been reached about what happened. Furthermore, no decision has been made about whether the subject member(s) failed to comply with the Code. Everyone involved should understand that the purpose of such action is not to find out whether the councillor breached the Code of Conduct but rather to address the underlying causes. This is regardless of how simple it may be to establish the facts.

Where a committee is considering an alternative resolution, it should always consult the monitoring officer. The monitoring officer may be able to advise the committee how viable the proposed resolution is, by providing information on the resources available to them. They may be able to tell the committee how much any proposed resolution might cost and whether, for example, the authority has access to the facilities or resources needed to accomplish it, such as qualified mediators.

Where the matters involve the town or parish council the principal authority cannot compel the town or parish council to meet the costs, but it may discuss with them the implications that other town and parish councils have experienced when they have failed to take action at an early stage. These have included officer and councillor resignations, community disharmony, national level publicity and reputational damage, staff grievances and settlement costs, excessive Freedom of Information Act (FoIA) and Data Subject Access requests, additional external audit inspections and fees and legal challenges and costs.

In considering such issues it is incumbent on the town or parish council to recognise there will be a need to invest in resolutions to the issues and it may be that where they are unwilling to seek to resolve the issues they face, the principal authority may take that into account when assessing future complaints.

Role of the monitoring officer

Role of the monitoring officer

When a matter has been referred for alternative resolution, you should inform the relevant parties (see above). You should take care over how the decision is conveyed. It is important that the wording does not imply that the councillor is culpable where there has been no formal investigation. It is also important that councillors do not feel they have been found guilty without an investigation of the allegation. Above all avoid the risk that both parties could end up potentially feeling dissatisfied.

You should set a time limit by which the action must be taken and make it clear what will happen if it is not undertaken, or not undertaken to your satisfaction. If, within that time limit, you are satisfied with the outcome you should notify the relevant parties. The matter is then closed.

If you are not satisfied within the timescales, you must then notify the relevant parties of whether the matter is nevertheless now closed or whether you intend to take further action. In doing so you should consult with the relevant Independent Person.

You should report any outcomes to your standards committee.

What are the next steps if the informal resolution does not work?

In certain cases, you may decide that no further action is required. For example, if the subject member has made what you consider to be a reasonable apology or has attended the training, then there is little merit in pursuing the issue even if the complainant may remain dissatisfied. An investigation should not be viewed as something that can take place after an alternative resolution has been attempted and is simply not to the satisfaction of the complainant. There is a risk otherwise that alternative resolution will not be taken seriously, and the complainant will not cooperate if it is seen merely as a precursor to an investigation.

On the other hand, where a subject member has categorically refused to comply with the proposed resolution, has failed to cooperate or has taken action you consider inadequate then you should consider whether a formal investigation is

needed, or where the resolution has been proposed during or at the end of a formal investigation, whether the matter should be referred for a hearing. Bear in mind that deliberate and continued failure to cooperate with a monitoring officer who is trying to deal with a standards issue may amount to a breach of the Model Code. In deciding on next steps, you should always bear in mind the public interest and your agreed criteria for considering whether a matter needs further investigation.

4. Investigations

Introduction and background

This guidance deals with good practice where it has been decided that an allegation that the Code of Conduct may have been breached merits a formal investigation.

The Localism Act does not specify how an investigation should be carried out or by whom but simply asks principal authorities to have arrangements in place to handle allegations that the Code may have been broken. In practice we would expect authorities to delegate the day-to-day handling of a formal investigation to their monitoring officer. Monitoring officers are at the heart of the standards framework. They promote, educate and support councillors in following the highest standards of conduct and ensuring that those standards are fully owned locally.

Principles of investigation

While an investigation under the Localism Act 2011 is not covered by the right to a fair hearing under Article 6 of the European Convention on Human Rights as the outcome of any hearing will not impact upon the rights of the councillor to carry on the role as a councillor, any investigation must nevertheless abide by the principles of natural justice (*R (Greenslade) v Devon County Council* 2019). That means that the councillor must know what they are accused of and be given the opportunity to comment on the allegations.

Any investigation should therefore bear in mind some key principles:

- **Proportionality.** That is, the investigation should strive to be proportionate to the seriousness or complexity of the matter under investigation. Where a matter is straightforward or relatively simple, for example where the facts are not in dispute, there may be no need for any formal investigation, but a report can simply be written up (see attached table). Equally not all of the steps in this guidance need be followed in every instance of a formal investigation – a judgment must be made in each case based on its complexity and contentiousness.

- Fairness. The investigation should make sure that the subject member knows what they are accused of and has an opportunity to make comments on the investigation, including on a draft report. Again, this may depend on the nature of the complaint – for example, an alleged failure to declare an interest may be largely a factual matter which needs little or no investigation rather than one that needs to involve evidence from other parties. A councillor quickly admitting to an error may not need further detail to be probed.
- Transparency. As far as is practical and having regard to an individual’s right to confidentiality, investigations should be carried out as transparently as possible – all parties should be kept up to date with progress in the case.
- Impartiality. An investigator should not approach an investigation with pre-conceived ideas and should avoid being involved where they have a conflict of interest.

Managing conflicts of interest

A first consideration when deciding how an investigation is to be handled will be to see whether any conflicts of interest arise for you. As monitoring officer, you may have taken the decision that an allegation needs a formal investigation. It would not be a conflict of interest if you yourself then undertook that investigation. You have simply decided in the first instance that there is on the face of it a case to answer but have made no judgment. An investigation is to then establish what exactly did happen and if it does in fact amount to a breach of the code. So, there is no conflict in deciding that a matter needs investigating and then carrying out that investigation yourself.

However, there may be other areas where a potential conflict of interest could arise. For example:

- If you were asked to investigate an allegation against a councillor and you had advised them on the same issue previously, regardless of whether or not they had followed your advice;
- If you have been involved in assisting the complainant in formulating their allegation (*Her Majesty's Advocate v Alexander Elliot Anderson Salmond*);
- If you were the complainant or a potential key witness to the incident. In such situations, you should delegate the investigation to somebody else (see section on delegation of investigations);
- Where you have tried unsuccessfully to resolve a complaint informally, for example where one of the parties has refused to cooperate or refused to accept an apology (see guidance on informal resolution). In such a case there may be a perception that you have already made some judgment in the matters at hand.
- If you find that you have a direct or indirect interest in an investigation, for example if a family member or friend is involved. Instead, you should notify

the subject member and the complainant so that the conflict is on the record, explaining that you will not take any part in the investigation, the reason why and who will carry out the investigation in your place.

Also bear in mind that if you do the investigation personally a conflict may arise later in the process if the matter goes to a hearing, and you are asked to act as adviser to the hearing. You may therefore wish to consider at the start of an investigation whether you would want to ask someone else to carry out the investigation if you think you would be better supporting any hearing panel (see guidance on holding a hearing). We believe that you should not conduct an investigation and advise a hearing about the same case. You therefore need to consider whether it is more important to investigate the matter and delegate the role of advising a potential hearing, or to delegate the investigative role.

Delegation of investigations

Monitoring officers can delegate investigations to their deputy or to any other named individual. However, if they do, monitoring officers should maintain the function of overseeing the investigation unless they are conflicted out – see section on conflicts of interest – in which case they should make arrangements for another suitable person to oversee the investigation.

Under Section 5(1)(b) of the Local Government and Housing Act 1989, local authorities must provide you with sufficient resources to perform your duties. In many authorities, monitoring officers will be able to appoint another officer to carry out their investigation. Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities where they do not already exist formally. This is to make sure that an experienced officer is available to carry out an investigation or supervise it, should the need arise.

Authorities may also decide to outsource the investigation to another organisation or individual. This can be particularly helpful if it is a complex investigation which may absorb an individual's time or where it is politically high-profile or contentious or where there are possible conflicts of interest and it is therefore helpful to have somebody independent from the authority carrying out the investigation. You may wish to agree a decision to outsource an investigation with an Independent Person.

Where you delegate the investigation, you should record the scope of the delegation in writing and keep this on the investigation file. This is to ensure that there is no confusion concerning the role and authority of the person delegated to conduct the investigation. You should be particularly clear about who is responsible for writing the draft and final reports. You should also have agreed timelines for delivery of the report. Where it is likely that this initial timeline cannot be met, for example because of unavailability of people for interviews or

because further issues emerge, you should have a mechanism to agree and record any extension and again you may wish to consult with the Independent Person.

If you intend to advise a hearing panel should the matter go for a hearing, you should avoid being involved in the preparation of the investigation report. However, you may want to be able to reserve the right to decide when the report is of an acceptable quality to be put to the hearing and, if the recommendation from the investigator is that there is no breach of the Code you should be clear about who signs off that report and decides on no further action. We recommend that the views of the Independent Person are also sought where no further action is being taken.

You should inform the relevant parties when you delegate an investigation or make sure that the investigator has done this, so that they know who is dealing with the case and in case they need to provide the investigator with more information.

Disclosure of information

You must treat any information you receive during the course of an investigation as confidential to the investigative process until the investigation is completed unless there is a statutory requirement to disclose it, for example when there are parallel criminal investigations being undertaken. Similarly, all parties involved in the conducting of the investigation should be advised of the confidential nature of the proceedings.

Starting an investigation

When you decide to start a formal investigation or receive instructions to carry out an investigation, be clear what it is you are investigating. If the initial complaint had made several different allegations be clear whether you are investigating them all or only part of the allegations. You should also be clear which parts of the Code you are investigating against although you may decide to include other or different provisions during the investigation as it develops.

Having established the scope of the investigation you should inform:

- the subject member;
- the complainant;
- the relevant Independent Person and
- the relevant town or parish council if the subject member is a town or parish councillor.

We would suggest that the notice sent to the town or parish council is sent to the parish clerk, unless sending it to the chair of the council is more appropriate because of the parish clerk's involvement in the complaint (or deputy chair if the

chair is the subject member). You may wish to set out what action you consider the town or parish council should take (if any) with regards the complaint and requirements related to confidentiality given that town or parish council standing orders may require the clerk to report the complaint to the council.

You should explain to all parties what it is you are investigating and what will happen next. You should also inform the subject member that they have the right to seek the views of the Independent Person and be represented at any interviews with the investigator.

Conducting the investigation

You must always be aware of your obligations under the Data Protection Act 2018, UK General Data Protection Regulations the Human Rights Act 1998 and other relevant legislation, when carrying out an investigation.

When conducting an investigation, you should be able to make inquiries of any person you think necessary. However, there is no obligation for them to respond. If you have difficulties obtaining a response, or a person refuses to cooperate with the investigation you should not let this delay the investigation but make sure that is clear in any report you write.

By law, a monitoring officer can require their authority to provide them with any advice or assistance they need to help them with their duties. However, you cannot require a parish or town council to meet the costs of any investigation into a parish or town councillor or any costs incurred by the parish or town council in providing advice and assistance with the investigation.

Evidence of new breaches

During the course of an investigation, you may uncover evidence of conduct by councillors that breaches the Code of Conduct but extends beyond the scope of the investigation referred to you. Your powers as an investigator relate only to the allegation that you have been given. While that means you may consider other parts of the Code than those initially considered if they are relevant to the matter in hand, you may also uncover evidence of a possible breach that does not directly relate to the allegation you are investigating. If this happens, you should tell the person you obtained the information from that you cannot investigate the possible breach as part of your existing investigation. You should tell them that they may wish to make a separate complaint to the authority and if the authority considers it needs further action it could be subsequently added to your investigation or dealt with as a separate matter.

Alternatively, if the matters are serious issues in your view, you may wish to refer the matters to the authority yourself as a new complaint for them to make an initial

assessment on through their scheme of delegation. If you hold that delegation (for example as monitoring officer) you may wish to ask someone else to take a view on whether the investigation should be extended.

Referring cases back to the authority

During the course of an investigation, it may be necessary to reappraise if an investigation remains the right course of action, for example, if:

- You believe that evidence is uncovered suggesting a case is less serious than may have seemed apparent to the authority originally and that a different decision might therefore have been made about whether to investigate it or not;
- You conclude after examining the matter in detail that in fact the matters under investigation were not done by the subject member in their role as a councillor or as a representative of the authority but rather in a private capacity;
- You have uncovered something which is potentially more serious and the authority may want to consider referring it to the police, for example;
- The subject member has died, is seriously ill or has resigned from the authority and you are of the opinion that it is no longer appropriate to continue with the investigation;
- The subject member has indicated that they wish to make a formal apology which you consider should draw a line under the matter.

In this context ‘seriously ill’ means that the councillor has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition. You would be expected to establish this from a reliable independent and authoritative source other than the subject member. This would include where a councillor claims they are suffering from stress brought on by the investigation.

Ultimately it will be for the monitoring officer (or as otherwise defined in the authority’s procedures for handling complaints) to conclude whether the investigation should continue. In reaching that decision, the authority should consult with the Independent Person before deciding to defer or end the investigation.

If the matter has been deferred or ended you should notify the subject member and the complainant of the decision and provide timescales within which the matter will be dealt with if it has been deferred. This would not always be appropriate, however, particularly if the matter has been referred to the police.

Deferring an investigation

An investigation should be deferred when any of the following conditions are met:

- There are ongoing criminal proceedings or a police investigation into the councillor's conduct;
- You cannot proceed with your investigation without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceeding;
- Your investigation might prejudice another investigation or court proceeding.

An investigation may also need to be deferred:

- when there is an ongoing investigation by another regulatory body;
- because of the serious illness of a key party;
- due to the genuine unavailability of a key party.

When it is clear that there is an ongoing police, or other investigation, or related court proceedings, you should make enquiries about the nature of the police, or other investigation, or the nature of any court proceedings. It may be helpful to have an agreed Protocol with the local police about handling overlapping cases as the police may want you to carry on your investigation in the first instance.

If at any time during the investigation you become aware of any circumstances that might require the investigation to be deferred, you should normally notify the subject member of this but again you would need to be careful where there are other proceedings ongoing. If you are not the monitoring officer, you should notify the monitoring officer and seek their consent to the deferral. You or the monitoring officer may also wish to consult with the Independent Person.

The decision to defer an investigation should be taken by the monitoring officer. If you have asked someone else to carry out the investigation, they will need to gather sufficient information from the complainant, subject member, and from the police or other organisation involved, to enable you, as the monitoring officer, to come to a decision. You may wish to seek legal advice at this stage. The reason for the decision to defer should be specifically set out in the investigation file with supporting documentation attached.

In some cases, it will be possible to investigate some of the alleged conduct, where there is no overlap with another investigation or court proceedings. The investigator should highlight those areas where investigation may be possible in the investigation plan.

In some cases, it will be possible to investigate the alleged conduct in parallel with another investigation, for example where the Local Government and Social Care Ombudsman is investigating an authority's decisions and you are investigating the conduct of an individual councillor involved in making the decision. You may need to work closely with the other organisation and agree the steps that each party will take.

You should ask the police, other relevant organisation or individual in writing to keep you informed of the outcome of any police or other investigation, court proceedings or other relevant matter. You should note any important dates, for example of committal hearings, in the investigation plan review. In addition, you may wish to make further contact with the police, other body or individual to ask for an update on the matter.

A deferred investigation should be kept under regular review, in the interests of natural justice. You may wish to seek legal advice at regular intervals, for example every three months, from the date of the deferral decision about the reasonableness of continued deferral.

Once a decision is taken to begin the investigation again you should notify in writing:

- the subject member;
- the complainant;
- the relevant Independent Person; and
- the relevant town or parish council if the subject member is a town or parish councillor.

You should also review the investigation plan in light of the outcome of any police investigation or court proceedings.

Confidentiality

You should treat the information that you gather during your investigation as confidential. This will help ensure that your investigation is seen as fair. Maintaining confidentiality reduces the risk of evidence being viewed as biased and preserves the integrity of the investigation.

We recommend that you also ask the people you interview, and anyone else aware of the investigation, to maintain confidentiality. You should remind councillors of their obligations under the Code of Conduct regarding the disclosure of information that they receive in confidence.

Members of the public are not covered by the Code of Conduct. A person making an allegation about a councillor is under no responsibility to the subject member to

keep that complaint confidential, but if they do decide to publish the complaint and it is untrue then the complainant may well expose themselves to an action for defamation.

When the complaint has been received by the authority, the authority is then a data controller in respect of the personal data contained within the complaint and also a body subject to the FoIA.

Were the authority to receive a subject access request (SAR) from the subject member, then the response is likely to be that the complaint will be disclosed to the subject member anyway for comment. Schedule 2 s.7 of the Data Protection Act 2018(DPA) includes an exemption from DPA rights where the function is designed to protect members of the public against dishonesty, malpractice or seriously improper conduct and the function is of a public nature. Local authority investigations are likely to fall under this scope and therefore relevant articles of the UK GDPR including subject access (article 15) do not apply.

There is of course an exemption against disclosure of third-party personal data, but the complainant can be assumed to have agreed to the processing of their own personal data. Some thought needs to be given as to whether other third-party data needs to be redacted, but sufficient information does need to be provided to the subject member to allow them to comment on the complaint.

If a request for information about the complaint was received under the FoIA from a third party, then there would be clear grounds for refusing that request during an ongoing investigation.

If you receive a request from a journalist for example, who is asking if a councillor is under investigation for a specific issue, it would be reasonable to confirm or deny the fact but explain that no further comment can be made until the investigative process is complete.

Any draft report that you issue on the outcome of the investigation should be marked as confidential. This is to preserve the integrity of any further investigation that you may need to undertake.

Timescales for an investigation

There are many factors that can affect the time it takes to complete an investigation. Nevertheless, it is important that there are realistic targets from the outset for the completion of an investigation. This allows the monitoring officer to monitor the progress of investigations and explore reasons for any delays where they have delegated the investigation. We recommend that most investigations are carried out, and a report on the investigation completed, within a maximum of six months of the original complaint being referred for an investigation.

This will not always be possible, particularly where there is overlapping jurisdiction or you are waiting for a key piece of evidence from an external body but if it is to take longer than that, specific permission should be discussed between the monitoring officer and the Independent Person, and a note made as to the reasons why.

Refusal by the subject member or other relevant party to cooperate, for example by not making themselves available for an interview without good reason, should not be a reason for delay but should be reflected in the report. If the subject member refuses to cooperate that of itself is a potential breach of the Model Code and may be something that any decision maker in a case may want to take account of.

Draft reports

The investigator should produce a draft report. If they are not the monitoring officer, they should share the draft initially with the monitoring officer and the independent person so that they can satisfy themselves that the investigation is of an acceptable standard and met the scope of the complaint. Once the monitoring officer is satisfied, the draft report should then be sent to the relevant parties with a deadline for commenting.

Where criticism is made of a third party (for example a witness) who will not otherwise have an opportunity to comment on a draft report then a Maxwellisation process (Maxwellisation is the process by which people who may be subject to criticism in public reports can comment on those proposed criticisms before the report is published) should be followed before a draft report is completed.

You are under no obligations to accept any comments made but where you do not accept comments you should make a note explaining why. Exceptionally you may need to issue a second draft if there have been significant changes.

Completion of an investigation

On completion of an investigation, the monitoring officer may decide:

- to take no further action;
- to seek to resolve the matter informally; or
- to refer the matter to a hearing if it is part of the authority's procedures to refer the matter to a separate hearing by a panel or standards committee (see guidance on hearings).

In doing so the monitoring officer must consult with the relevant Independent Person.

In general, the investigation should be regarded as completed when the monitoring officer receives the final report and accepts that no further investigation is necessary.

Purpose of the report

The report should be treated as an explanation of all the essential elements of the case and a justification for why you have concluded there has been a breach or not. The report should cover:

- agreed facts;
- any disputed facts together with your view, if appropriate, as to which version is more likely;
- whether those facts amount to a breach of the code or not; and
- your reasons for reaching that conclusion.

Final reports

The final report should be issued by the monitoring officer and must be sent to:

- the subject member;
- the complainant;
- the relevant Independent Person;
- the relevant parish or town council of which the subject member is a councillor.

The report must make one of the following findings on the balance of probabilities:

- that there have been one or more failures to comply with the Code of Conduct;
- that there has not been a failure to comply with the Code.

If the monitoring officer considers that there has been no breach of the Code, that should usually be the end of the matter though they may want to send the report or a summary to the standards committee where you have one for information purposes only or to consider wider lessons.

If the monitoring officer considers that there has been a breach of the Code, the monitoring officer will decide what action, if any, to take and notify the relevant parties. For example, they may decide to seek an informal resolution at this stage or decide that the matter is merely a technical breach which will not lead to any sanction. In doing so the monitoring officer should consult with the independent person.

If the monitoring officer decides the matter should be referred for a hearing, the report should be accompanied by information explaining that a hearing will be held and the procedure to be followed. (see guidance on holding a hearing)

Publishing a report

Where a matter has been referred to a hearing you do not need to publish the report as that will be dealt with at the Hearings Stage.

Where you have concluded that there has been no breach, that no further action is needed, or the matter has been resolved in some other way you do not need to publish the investigation report but you should report the matter to your standards committee. If the matter has generated local interest you may consider putting out a brief statement explaining the outcome and your reasoning. The report may also be disclosable under a Freedom of Information request but that would need to be considered depending on the content of each report, the need to redact personal information and careful consideration given to the public interest test as to whether it should be disclosed or not.

Report checklist

Your report should contain the information listed below.

- a ‘confidential’ marking
- a ‘draft’ or ‘final’ marking
- the date
- the legislation under which the investigation is being carried out
- a summary of the complaint
- the relevant sections of the Code
- evidence
- your findings of fact
- your reasoning
- your finding as to whether there has been a failure to comply with the Code.

The level of detail required will vary for each report, depending on the complexity of information to be considered and presented. The report should, however, contain documents that you have relied on in reaching your conclusions. These may include:

- a chronology of events
- summaries of conversations, correspondence and notes of interviews with witnesses.

In addition, the covering letter you send with the draft report should explain that the report does not necessarily represent your final finding. You should also

explain that you will produce a final report once you have considered any comments received on the draft report.

When you send the final report, you should also explain that the report represents your final findings and, if it is to be subject to a hearing, it will be for the panel to decide if they agree with your view or not. It is important that the report has the date of its completion on the front page. This provides clear evidence of when the time within which a hearing should be held begins.

The date of the hearing should be within three months from the date the monitoring officer, or delegated officer, completes the final report (see guidance on hearings).

There should be no appeal allowed either for the subject member or the complainant. Where a breach has been found and the matter is going to a hearing the parties will have their chance to have their say on the investigation at that stage. Where no breach has been found, no action taken or the matter otherwise resolved, that will be the end of the matter.

5. Investigation practicalities

Outsourced investigations

There are a number of reasons why you might outsource an investigation. This may be because of the complexity of the matters means that you want an experienced investigator to carry out the investigation. High-profile or politically contentious cases may require a greater degree of independence from the authority to be demonstrated. It may also be because the authority's investigatory resources internally are limited or at capacity due to other workloads.

In addition, most successful investigation report writers have experience of writing reports for lay people or councillors. They understand that their reports need to be clear enough for someone with no legal background to understand how they reached their decision. They also need to be clear enough to show what factors were taken into account when reaching that decision. You would need to consider if you have that capacity in your organisation.

Objectivity is also important. It may be difficult for an officer to consider whether a colleague was bullied or treated disrespectfully for example. There will be cases when an officer can investigate a complaint where a colleague is the complainant. However, this can only be done if you are sure that they have the necessary impartiality to conduct the investigation, with no perception of bias.

It is important, however, to stay in control of outsourced investigations. To do so you will need to do the following:

1. Agree the scope of any delegation. In particular be clear who has responsibility for preparing the investigation report and if necessary, presenting it to a hearing panel;
2. Agree the scope of the investigation. In particular be clear what allegations are being investigated and what should happen if the investigator discovers evidence of further potential breaches of the Code of Conduct;
3. Agree a firm deadline. You need to agree when the case will be completed and consider whether there will be any financial implications if the case is not completed on time;
4. Agree interim deadlines. You should agree when you will receive key pieces of work including the investigation plan, the draft report and the final report. If the investigating officer is new, then you may wish to programme in regular investigation updates;

Agree the payment structure. You may want to consider how you structure the payment for investigations. It is not unreasonable to pay per stage of work completed, and for any additional investigative stages to be agreed as and when they occur.

Start of an investigation

Draw up an investigation plan. This will help focus you on making the investigation as effective as possible. The plan should include:

- The complaint made against the subject member. You may find it necessary to seek clarification from the complainant;
- The paragraphs of the Code of Conduct that may have been breached. Please note that you do not need to accept the complainant's interpretation of what paragraphs may have been breached. It is helpful to breakdown each potential failure to comply into the component parts of each provision. For example, in considering whether a councillor has misused their position improperly to gain an advantage you may need evidence to demonstrate that:
 - 1) the councillor used their position;
 - 2) the councillor used their position improperly;
 - 3) the councillor conferred or attempted to confer an advantage or disadvantage.
- The facts which need to be determined to establish if the councillor breached the Code and to decide what the appropriate finding might be. They need to include:
 - 1) facts which would establish if the conduct happened as alleged;

2) facts that would need to be proven to show that the conduct constituted a breach of the Code;

3) facts which might aggravate or mitigate the alleged breach, for example, provocation or an apology.

- The evidence that you would need to determine the issues outlined in your plan. This includes who you will need to interview and why;
- The evidence that has already been supplied by the complainant;
- How you plan to gather any further evidence you are likely to need;
- Any documents you are likely to need to see such as minutes of meetings or register of interest forms and you can get them from;
- If you are not the monitoring officer and are doing the investigation under delegation, make sure you have confirmation on the extent and scope of the investigation and build in check-in points with the monitoring officer on progress;
- How long you think it is likely to take you.

If at any stage in the investigative process there are significant changes to any of the above areas, an investigation plan review may need to be completed.

Contact the complainant and subject member to advise them of your contact details and provide them with a preliminary timescale for the investigation. You should also remind the subject member of their right to seek the views of an Independent Person.

At the end of your investigation, you should have documents which chart the approach you took to the investigation, the reasons for this approach, and when you changed your approach if appropriate. You do not need to share these documents with the parties involved in the investigation – they are for you to use as you wish. Their main function is as a planning tool, but they also provide an audit trail should your investigation be the subject of a complaint or review.

The investigation

Information requests

Documentary evidence should be sought before you conduct any interviews and at the earliest opportunity. The list in your investigation plan should form the basis of the first contact you make with the parties and other witnesses.

You may invite the subject member to provide an initial response to the allegation in writing when first making written contact with them. This gives councillors the opportunity to admit to the breach if they would like to do so, and could then save

time and effort for all involved. A written response may also provide you with additional useful information before the interview stage.

Where you make a specific request for information this should be made in writing, even if the initial contact is made by phone. Explain the authority you have for asking for the documents and the broad purpose for which you need the document, for example 'an investigation into the conduct of Councillor X'. You do not need to provide the detail of the complaint against the councillor at this stage. You should also outline the confidentiality requirements that relate to the information request and set a deadline for response.

In certain cases, you may wish for a subject member or other party not to be made aware of a request for evidence. For example, if you consider that this might lead to destruction of evidence by one of the parties or to the improper collaboration of witnesses. In such circumstances it may be appropriate to arrange to meet with the witness, having given them a brief outline of your role. You can then make your request for the relevant documents during the meeting. It is important here that you explain what powers you have to obtain information. If in doubt, it may be prudent to seek legal advice on how to proceed.

If the request for information is refused it is likely to prove time consuming and legally complex to try to pursue the matter. It may be easier to see if there is another route to obtaining the same information.

Interviewing

Your goal in interviewing is to obtain the most informed, reliable evidence possible. It is not to ambush or catch out interviewees.

Order of interviews

You may have spoken the subject member initially for their initial reaction, but you will normally interview the subject member again formally at the end of the investigation, when you have gathered all your evidence, if they have not admitted to the breach at first contact. This will give you the opportunity to put that evidence to the subject member and obtain their responses to it.

Where practicable it may be best to carry out consecutive interviews on the same day if you are concerned that witnesses may collude or use information provided to them.

You may also wish to re-interview the complainant near the end of the investigation on the same timescale as you are interviewing the subject member. This may allow you to get them to agree facts. It also gives them an opportunity to comment on issues that have been raised during the course of the investigation and

provides an opportunity to present potential inconsistencies to the relevant parties for comment.

The format of the interview

It might be more appropriate to conduct face-to-face or virtual interviews than telephone interviews if:

1. the matters involved are sensitive;
2. the interviewee is vulnerable;
3. you or they will need to refer to multiple documents during the interview;
4. the interviewee wishes to have a representative or colleague present;
5. the interview is with the subject member.

It may be more appropriate to conduct a telephone interview if:

1. there are significant resource implications, either in terms of cost or time in conducting a face-to-face interview;
2. the interview does not fall into one of the categories outlined above.

If a subject member or witness insists on a face-to-face interview, then serious consideration should be given to their request. You should specifically check that there is no medical or disability-related reason for their request. If there is, then you should conduct a face-to-face interview. If there is no medical or disability-related reason, then the decision is at your discretion. If you still wish to proceed with a telephone interview despite their request, then you should outline your decision in writing on the file. This is to show that it was both proportionate and reasonable.

Do not conduct joint interviews. It is important that each witness gives their own account without having their recollection influenced by hearing another person's account. An interviewee may, however, have a friend or adviser present. If so that person should not be someone who is a witness, and they should be asked to keep the matters confidential. If an interviewee is a vulnerable person or a minor, you may wish to ensure that you are accompanied by another person.

The venue

If you are conducting a face-to-face interview, try to ensure that the venue is:

1. mutually convenient on neutral territory – this would generally include local authority offices but this may not always be appropriate;
2. in a private room where you cannot be overheard;

3. a place where the interviewee will feel comfortable and is unlikely to be seen by people whose presence may intimidate or upset them, for example, the complainant or subject member;
4. is safe for you, the investigating officer - please refer to any authority policy on lone working.

Occasionally it may be appropriate to conduct an interview at the home of the interviewee. This should generally be at the request of the interviewee, but you should only do this if you feel safe and there is no suitable alternative.

Information you should provide interviewees

You should provide the following information in writing to the interviewee:

1. Confirmation of the agreed time, date and venue or that it is a telephone or virtual interview.
2. Confirmation that the interview will be recorded, if appropriate.
3. Confirmation that the interviewee can have a legal or other representative with them, but that the representative must not be a potential witness in the investigation. Ask that they provide you with the name and status of their representative before the interview.
4. Why you are conducting the interview.
5. How the information they give you in the interview may be used.
6. The circumstances in which the information that they give you during the interview may be made public.
7. The confidentiality requirements that they are under as an interviewee.
8. Details and copies of any documents you may refer to during the interview.
9. In the case of the subject member, details and copies of any evidence you have gathered and which you may refer to in your report.

You do not have to disclose witness testimony prior to the interview, depending on the nature of that testimony and whether you want the interviewee's account prior to putting the witness's testimony to them. However, you may wish to disclose a witness's testimony during an interview once you have obtained the interviewee's own account.

You could also consider providing an outline of the areas you intend to cover at interview.

Note: if you only need to confirm one or two factual details with a local authority officer you may contact them by phone and do not need to forewarn them.

However, when obtaining this information, you should:

1. orally outline all of the information you would otherwise have provided in writing as set out above;

2. check that they are happy to give it to you then, rather than at an agreed date in the future;
3. confirm the detail of information they do provide, in writing.
4. **Special circumstances**

If an interviewee has additional needs, for example a disability (seen or unseen) or language barrier you should make reasonable provisions to cater for their specific needs. If an interviewee is vulnerable or a minor, then they should always be accompanied by a third party at the interview.

Structuring an interview

Interviews should be planned in advance. You can plan your questions using the following suggested format:

1. Divide the information you require into discrete issues. For example, **Issue 1**: The planning meeting on date x; **Issue 2**: The planning meeting on date y.
2. Make a note of the evidence you have already obtained about each issue.
3. Note how you would briefly summarise the evidence to the interviewee.

Conducting the interview

All important interviews should be recorded where possible or else detailed notes taken which are agreed afterwards with the interviewee. The only exception is when the interview is likely to cover only a small number of factual matters. In this case, it may be more appropriate to resolve these factual matters in writing. Before recording an interview, you should:

1. obtain the consent of the interviewee before you start recording the interview;
2. ask them to record their consent on the record once you have started and; offer to send the interviewee a copy of the transcript or draft interview statement, whichever is applicable.

If they ask, you can send them a copy of the recording too. If you are concerned that the interviewee may share the transcript with other witnesses, you can delay sending the transcript or recording until you have completed all of your interviews.

The interviewee should not normally be allowed to make a recording of the interview. This is to prevent collusion between interviewees and any possibility of record tampering.

Interview recordings should be destroyed as soon as a transcript of the interview has been produced and agreed as accurate.

At the start of the interview

When the interviewee arrives, try and put them at ease;

1. Before you start the formal interview, inform the interviewee that there is a standard interview preamble that you must take them through. This ensures that any rapport you have established is unlikely to be lost when you take them through the legal framework of the interview;
2. Confirm that the interview will be recorded and put the recording device in a visible place on the desk;
3. With their permission start recording;
4. Ask them to confirm for the record that they consent to the recording;
5. Confirm for the record who you are, and why you are conducting the Interview;
6. State the date and time for the record;
7. Confirm that they received your letter outlining the arrangements for the interview;
8. Confirm that they read and understood your letter and ask if they have any questions about any of the information within it;
9. If the interview is with the subject member, repeat orally all of the information contained in your letter;
10. If the interviewee is at all unclear about anything, then repeat orally all of the information contained in your letter;
11. Explain that they can take a break whenever they choose;
12. Explain that you will offer them a break if the interview goes over an hour, even if they have not said that they want one;
13. Tell them how long the interview is likely to take and ask them if they have a time by which it needs to end;
14. Explain that they can ask you to rephrase a question if they don't understand it.

During the interview

1. Start the interview with the subject member with some background questions. These could include 'how long have you been a councillor, or 'what training have you had on the Code of Conduct?'
2. Do not ask multiple questions. Ask one question at a time, and do not ask another question until the interviewee has answered your first question;
3. Do not dart back and forth between different issues as you are liable to confuse yourself and the interviewee;
4. Tackle one subject issue at a time;
5. Ask open questions about information the interviewee or other witnesses have provided about the issue;

6. Drill down. In other words, ask open questions about one specific issue until you have all the information you need on it;
7. Where relevant ask the interviewee to reconcile differing accounts;
8. Ask closed questions to confirm the information you have obtained about the specific issue;
9. Move onto the next issue using the same method. Start with a broad open question about the subject, drill down for information with specific open questions. Conclude the area by asking closed questions to confirm what you have been told;
10. Do not ask leading questions, for example, 'You said this to the clerk, didn't you?';
11. Do not ask the interviewee to speculate;
12. Accurately put the evidence of other interviewees to the interviewee and ask for their response;
13. When asked, explain the relevance of your question;
14. Do not allow the interviewee's lawyer or representative to answer a question;
15. You must allow the interviewee to stop and obtain advice whenever they choose;
16. If the interviewee becomes upset or unwell you must offer them a break;
17. Never raise your voice. Only interrupt if the interviewee is being unreasonable or is not providing relevant information;
18. You should be mindful of avoiding oppressive or repetitive questioning. If an interviewee will not properly answer a question, despite significant attempts to obtain a satisfactory response, then you should move on to another point or issue;
19. Do not question the subject member about matters which fall outside the scope of the complaint;
20. If the interviewee wants a break, record the time of the break on the record and the time you resume the interview. Ask the interviewee to confirm for the record that you did not discuss anything about the case with them during the break.

Closing the interview

1. State the time the interview finished;
2. Thank the interviewee for their time and outline what will happen next;

After the interview

1. Send the interviewee a copy of the transcript;
2. State in the letter that if you do not hear from them by a specified date, you will assume the transcript is agreed;

3. If the content of the transcript is disputed, check the discrepancies against the recording;
4. If the transcript is confirmed by the recording, write to the interviewee to inform them of this. In these circumstances, if the matter is referred to a hearing, submit the transcript, the recording, the interviewee's letter outlining the dispute, and your response.

Evaluating the information after an interview

1. Review your investigation plan in light of the information gathered during the interview;
2. Review all the evidence you have gathered to determine if there are any gaps in it;
3. Take a view on all disputed relevant matters. Your own opinion on the evidence is sufficient. However, if you are unable to come to a decision, you may need to seek further information or decide that you are unable to reach a conclusion;
4. Weigh up all the evidence and decide if the alleged conduct occurred;
5. If you decide that the subject member acted as alleged, you will need to consider whether their conduct involved a failure to comply with the Code of Conduct;
6. If you decide the subject member breached the Code, consider whether you have evidence of any mitigating or aggravating circumstances. If not, you may need to seek further information.

Drafting the report

When you have concluded your investigation, you will need to write up your findings in a report which should contain the following information:

1. who the report is for;
2. who the report is by;
3. the date of the report.

Executive summary

This should include:

1. the full allegation and who it was made by;
2. the provisions of the Code of Conduct that were considered;
3. a conclusion as to whether there has been a failure to comply with the Code the finding;
4. any relevant extracts from the Code and any other legislation or protocols considered in the report.

Evidence gathered and the investigator's consideration

1. Set out all the relevant evidence you have gathered even if it does not support the conclusions you have reached;
2. State what you consider has taken place based upon your evaluation of this evidence;
3. Set out undisputed facts as facts. Do not summarise them or preface them 'he said' or 'the minutes state'. If they are undisputed just state them as fact.
4. Where there is a disputed fact, outline the different views and your conclusion on them. You need to form a conclusion based on the balance of probabilities. Also state why you have reached this conclusion. For example:
 - The clerk, Councillor Jones and Councillor Smith met at Councillor Jones's house on y date at x time;
 - At interview the clerk stated that Councillor Jones said.....
 - At interview Councillor Smith stated that Councillor Jones told the clerk...
 - At interview Councillor Jones stated that he told the clerk...
 - I have considered the following issues when deciding what Councillor Jones said to the clerk... I consider at on the balance of probabilities Councillor Jones told the clerk...because...
5. Include any mitigating or aggravating factors, such as the state of mind of those involved.
6. When you refer in the report to material in the evidence bundle, identify the document referred to.

Summary of the material facts

Summarise the facts needed to confirm the conclusions you have reached. Where there was a disputed fact, you will only need to include the conclusion you came to.

If the subject member has made additional submissions which you do not consider relevant to the case outline why you do not deem information or opinions submitted by the subject member to be relevant.

Reasoning as to whether there has been a failure to comply with the Code of Conduct

1. Make each alleged breach in turn.

2. Outline which part of the Code of Conduct you are considering. Explain the test you are applying when determining if there has been a failure to comply with the Code.
3. Explain in detail, giving reasons, why you do or do not consider that the conduct constitutes a breach of the Code.
4. Do not introduce any new facts or opinions. You must only refer to evidence or opinions that have been outlined earlier in the report.

Make sure your explanation of the test you are applying, and the reasons for your conclusions, are detailed and clear enough to understand for a lay person with no legal background.

Finding

You should make a finding about each alleged breach of the Code:

1. Outline in detail the reason for your decision
2. Refer to aggravating or mitigating facts, which must be outlined in the facts section earlier in the report.

Schedule

Your report should include any documents taken into account:

1. Exhibit all the evidence upon which you have relied when reaching your conclusion;
2. In complex cases it may be appropriate to provide a chronology;
3. Provide a list of unused material if appropriate.

Issuing a draft report

You should send a draft report, sending a copy to the subject member and the complainant and inviting their comments by a specified date. If you have carried out an investigation on behalf of the monitoring officer, you should first of all make sure they are happy that the draft is to an acceptable standard.

The draft should not be sent to other witnesses or parties interviewed, but you should seek confirmation of their evidence from them before issuing the report.

Ensure that the draft report is clearly marked as 'Draft' and 'Confidential' (though it can be discussed with a legal representative) and make clear that the report may be subject to change and does not represent your final conclusion.

If you have found the subject member in breach, make sure that the evidence that you have relied upon when reaching this conclusion is clearly marked in the report.

You must consider whether any of the information in the draft report is sensitive personal information that should not go into the public domain, for example, medical reports details or personal contact details. Information of this nature should be edited from the draft and final report unless it is essential to the reasoning.

Comments on the draft

Responses to your draft may reveal the need for further investigation, or they may add nothing of relevance. Occasionally changes may be significant enough for you to consider issuing a second draft.

Once you have considered whether the responses add anything of substance to the investigation, you will be able to make your final conclusions and recommendations.

Where comments on the draft are critical of the investigation or the investigator, you may need to consider how to respond to the complaints made. You should not let such criticisms prevent a draft report being finalised, however, unless this is unavoidable. In particular, the investigation process, including writing the report, should not be suspended while a complaint about the investigation is dealt with. Complaints about the conduct of investigators should be dealt with in the same way as other service complaints.

You should keep a written record of your consideration of any comments received on the draft. It is best practice to provide a written response to the party explaining your position or referring them to the relevant paragraph of the report. This can be done when they are sent the final report. You should avoid getting drawn into lengthy correspondence with the subject member or other interested parties where they disagree with the draft. You should confine comments to matters of fact rather than personal opinions as to how the investigation was done or the opinion you have reached. However, you will need to show that you took all reasonable steps to address concerns.

If you receive further comments after the final report has been issued you should explain that the investigation is now closed and refer them to the person who is dealing with any hearing if appropriate.

The final report

You must state that the report represents your final finding. If you have found the subject member in breach you should make sure the reasoning for that conclusion and any supporting evidence is clear. You must consider whether any of the information in the report or evidence bundle is confidential information that should not go into the public domain, for example, medical details, personal contact

details or signatures. All information of this nature should be edited from the final report unless it is essential to the reasoning.

You should send the final report to the monitoring officer if you are not the monitoring officer who will then issue the report. If you are the monitoring officer, you must send your report to:

1. The subject member
2. The Independent Person

A copy may also be made available to the complainant and others as you think appropriate.

The monitoring officer must decide whether:

1. There has been no breach and therefore no further action will be taken;
2. There have been one or more breaches, but no further action is needed;
3. There have been one or more breaches, but the matters should be resolved in a way other than by a hearing; or
4. That the matters be referred to a hearing.

This should be made clear in the letter accompanying the report and if the monitoring officer decides that the matter should be referred to a hearing panel, they should arrange for that to happen as soon as possible (see separate section on hearings). The letter should also make clear what if any aspects of the report are confidential but that it can be discussed with a legal representative. If the matter is being referred to a hearing it should be made clear that the whole report remains confidential until the time of the Hearing to avoid prejudicing any considerations.

Confidentiality during the investigation

While it is important during the course of an investigation to preserve confidentiality so as not to compromise the integrity of the investigation, in practice in some circumstances, maintaining the confidentiality of an investigation can be difficult. However, it is important that you take all reasonable steps to maintain the confidentiality of your investigation, as failure to do so may compromise the investigation. To help maintain confidentiality:

1. Mark all of your letters, transcripts and reports as confidential;
2. Outline why you have marked it confidential but clearly inform subject members in writing that they can appoint a solicitor, or other person, to act as their representative. You must also clearly inform them that they can disclose any relevant document to this representative.
3. You should state that their representative should not be someone who may be involved in the investigation;

4. It is important that you make it clear to all parties that they should make any approach to witnesses in writing. This is to avoid confusion that might arise about the investigative process;
5. When arranging interviews ask interviewees to identify the name of any person who is accompanying them to the interview. Also ask them to state what their relationship is to the interviewee. You should explicitly state, in writing, that they should not be accompanied by anyone who may be called as a witness in the investigation;
6. If you think it is possible that witnesses may discuss their testimonies with each other, you should not send the transcripts of any interviews until all of the interviews have been concluded. This may mean that you send interview transcripts out with the draft report;
7. Where you are interviewing a number of people who have close relationships with one another, it may be prudent to interview them immediately after each other. This reduces any opportunity for collaboration.

If confidentiality is breached you should write to the party reminding them of the confidentiality requirements and, if they are a councillor, of their duties under the Model Code of Conduct. If you have evidence that information was disclosed to a party prior to their interview, you can take this into account when evaluating the reliability of the witness's evidence. If the disclosure was made by a councillor, you can consider making a formal complaint about their conduct.

6. The hearings process

Once a formal investigation has taken place, the monitoring officer may refer the matter to a hearing.

There is no prescription in the legislation that says a matter has to go to a hearing or how that hearing may be conducted. Whatever approach you decide to take it must follow the rules of natural justice and comply with the obligations to ensure a fair hearing under Article 6 of the Human Rights Act. In line with the principle of proportionality the approach you take may depend upon the seriousness of the issue. For example, if you are satisfied that the investigation has allowed all sides to have their say the panel may simply review the report without further reference to the parties.

This guidance is written however on the presumption that a hearings panel of some form, consisting of elected councillors, will be convened.

The legislation stipulates that, where it is a town or parish council case, the matter is dealt with by the principal authority.

Throughout this guidance we will refer to panel, but by that we mean a committee or a sub-committee which the local authority (or a committee, such as an Audit or Standards Committee) has delegated responsibility to determine the outcome of certain complaints that individual councillors have breached the Code of Conduct.

Convening a hearing

At the end of the investigation, a hearing may be called where the investigator has concluded that there has been a breach of the Code of Conduct and the monitoring officer has concluded that the matter cannot otherwise be resolved informally (see guidance on informal resolution).

For reasons of fairness and proportionality a hearing should wherever possible take place within three months of the date on which the investigator's report was completed. Where that is not possible, for example because the matter is awaiting the outcome of other matters being dealt with by outside bodies or other investigations into the subject member, the monitoring officer should notify the relevant parties of the reason for the delay and provide an estimated timescale.

However, the hearing should not take place sooner than 14 days after the investigation report has been issued unless the subject member agrees. This is to allow them sufficient time to prepare their defence and consider any witnesses they may wish to call for example (see section on the pre-hearing process below)

Once a date has been set for a Hearing the monitoring officer should notify:

- the subject member;
- the investigator;
- the relevant Independent Person;
- the complainant if appropriate;
- the clerk of any relevant town or parish council.

They should also outline the hearing procedure; the subject member's rights and they should additionally ask for a written response from the subject member within a set time. This is to find out whether the subject member:

- wants to be represented at the hearing
- disagrees with any of the findings of fact in the investigation report, including reasons for any of these disagreements
- wants to give evidence to the hearing, either verbally or in writing
- wants to call relevant witnesses to give evidence to the standards committee
- wants to request any part of the hearing to be held in private
- wants to request any part of the investigation report or other relevant documents to be withheld from the public.

The investigator should also be asked if they wish to call any witnesses.

If the subject member is unable to make the specified date the panel may arrange for the hearing to be held on a different date, provided that they are satisfied that the subject member has given an acceptable reason. Where the subject member does not give an acceptable reason or does not reply within a specified time, the panel should proceed with the date and may consider the report in the subject member's absence if the subject member does not go to the hearing. The subject member should not be able to evade having the case heard simply by refusing to cooperate and the Model Code makes failure to cooperate a potential breach. However, the panel should make clear at the start of the hearing that they have considered whether they can proceed in the absence of the subject member and should record their reasons.

If one or more witnesses are unavailable on the given date the monitoring officer, in consultation with the chair of the panel, should decide how material they would be to the hearing and whether another date needs to be looked for. Witnesses, especially members of the public, often play an important part in the process and should be treated with courtesy and respect although it may be that their views were already sought as part of the investigation so the panel would need to evaluate how they could proceed without them. Witnesses should be kept promptly informed of the relevant dates, times and location of the hearing.

Except in the most complicated cases, the panel should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total. When scheduling hearings, you should bear in mind that late- night and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to repetition or important matters being forgotten.

Role of the monitoring officer

It is important that the panel receives high quality, independent advice. For this reason, a monitoring officer should be the main adviser to the standards committee, unless they have an interest in the matter that would prevent them from performing this role independently. This may be because they have carried out the investigation or have another conflict (see guide on investigations). If this situation arises, a monitoring officer should arrange for another appropriately qualified officer to advise the standards committee.

The monitoring officer or other legal adviser's role in advising the panel is to:

- make sure that members of the standards committee understand their powers and procedures
- make sure that the procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible

- make sure that the subject member understands the procedures the panel will follow
- provide advice to the panel during the hearing and their deliberations.
- help the panel produce a written decision and a summary of that decision.

Monitoring officers play an important role in advising their councillors on a day-to-day basis. When performing this role, monitoring officers need to be aware of the potential conflicts of interest that can arise, as these conflicts could prevent them from advising the panel at a later stage.

Monitoring officers will need to be aware of the potential conflicts involved in investigating a matter, advising the panel and advising councillors (see also guidance on investigations).

However, conflicts of interest are not likely to arise simply from informal discussions between councillors and monitoring officers.

You may wish to consider options for reducing the likelihood of such conflicts, including:

- arranging for another officer to advise councillors
- continuing to advise councillors, while identifying possible scenarios that may lead to future conflicts.

You should also ensure that if your advice could be relevant to an investigation, you have another appropriately experienced officer who is prepared to support the panel in its hearings and deliberations.

Smaller authorities in particular may find it useful to make arrangements with neighbouring authorities to make sure that when a conflict arises, an appropriately experienced officer is available to advise the panel.

Composition of the panel

The panel should be drawn from the main body of the standards committee. If the panel includes independent representatives or parish representatives, they do not have voting rights by law.

You will need to be clear whether political proportionality applies to the panel or whether it has been waived by the local authority.

All panel members should have undergone suitable training.

Holding a pre-hearing

As soon as a date has been set for a hearing the panel should hold a private pre-hearing. This could be done in writing or just between the monitoring officer and the Committee chair for expediency. The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself. The pre-hearing should also decide who will chair the panel.

At the pre-hearing the panel should:

- Decide whether any of the findings of fact in the investigation report are in dispute and, if so, how relevant they are likely to be at the hearing. For example, if the dispute is about the time of a particular conversation but that time is not relevant to whether the Code has been breached or not, there would be little point focussing on that. On the other hand, if that alleged discrepancy were material the panel needs to satisfy itself how it would resolve that difference at the hearing.
- Consider any additional evidence it considers is required at the hearing.
- Identify any witnesses it thinks it would want to hear from.
- Decide if witnesses which the subject member or investigator may want to call are relevant bearing in mind the nature of the issue and the need for proportionality. For example, if an incident has occurred at full council there would be no need to call every member as a witness but equally the panel may feel it needs to hear from a couple of witnesses representing different sides. Similarly, if the subject member decides to call a number of character witnesses the panel should take a view as to how relevant that is and how many would suffice.
- Consider whether there are any parts of the hearing that are likely to be held in private or whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' material (see section on confidentiality below) though the final decision will rest with the panel on the day. The presumption should be to hold a public hearing unless there is specific exempt or confidential information as defined by Part VA of the Local Government Act 1972 so identifying that at the pre-hearing will have some bearing on publication of any relevant papers.
- Identify any potential conflicts of interest, for example any close associations with the people involved or potential witnesses. The monitoring officer will advise if any conflicts mean that a councillor should stand down from the panel.

It is important that at the pre-hearing panel members do not debate the merits of the case.

Note that this pre-hearing would not of itself be a formal meeting so would not be open and often these matters can be dealt with through correspondence. Once the pre-hearing has been held the monitoring officer should write to everyone involved in the complaint at least two weeks before the hearing. This should confirm the date, time and place for the hearing, note whether the subject member or investigator will be represented at the hearing. It should also list those witnesses, if any, who will be asked to give evidence and outline the proposed procedure for the hearing.

The hearing

A hearing is like any other committee or sub-committee of the authority and as such must follow the rules that apply to committees. This means that it must reflect the political proportionality of the local authority as a whole unless the authority has waived proportionality and that only elected members of the authority are entitled to vote at the Hearing. The rules around access to information also apply as they do to other committees – that is the hearing will be in public unless there are lawful reasons for all or part of it to be heard as exempt or confidential matters.

Panel members should bear in mind that it is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities.

The panel should work at all times in a demonstrably fair, independent and politically impartial way. This helps to ensure that members of the public, and councillors, have confidence in its procedures and findings. Decisions should be seen as open, unprejudiced and unbiased. All concerned should treat the hearing process with respect and with regard to the potential seriousness of the outcome, for the subject member, the local authority and the public. For the subject member, an adverse decision by the committee can result in significant reputational damage.

Representatives

The subject member may choose to be represented by counsel, a solicitor, or by any other person they wish. This should have been agreed at the pre-hearing and if the panel has any concern about the person chosen to represent the subject member, they should have made that clear beforehand. The panel does, however, have the right to withdraw its permission to allow a representative if that representative disrupts the hearing. However, an appropriate warning will usually be enough to prevent more disruptions and should normally be given before permission is withdrawn.

Evidence

The panel, through its chair, controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned.

In many cases, the panel may not need to consider any evidence other than the investigation report and any other supporting documents. However, the panel may need to hear from witnesses if more evidence is needed, or if people do not agree with certain findings of fact in the report.

The panel can allow witnesses to be questioned and cross-examined by the subject member, the investigator or their representatives. Alternatively, the panel can ask that these questions be directed through the chair. The panel can also question witnesses directly and the Independent Person should also be asked if they wish to ask any questions. It is not a legal requirement that the Independent Person attend the hearing, but it is best practice and the authority must have regard to their views when reaching a decision. If the Independent Person does not attend therefore, there must be an agreed mechanism for receiving their views.

If the panel believes, however, that questions are irrelevant or oppressive then the chair should stop that particular line of questioning.

Generally, the subject member is entitled to present their case as they see fit, which includes calling the witnesses they may want and which are relevant to the matters to be heard. However, the panel has the right to govern its own procedures as long as it acts fairly. For this reason, the panel may limit the number of witnesses if the number is unreasonable. This should have been agreed at the pre-hearing.

Making a finding

Once the panel has heard all the relevant evidence it should suspend the hearing and retire in private to consider its finding.

Before retiring the chair should invite the Independent Person to give their views to the panel which the local authority must have regard to. These views should be given in the open session so that all sides can have a chance to challenge them as necessary. If the Independent Person retires with the panel, they should not take part in any decision making as they are not part of the formal decision-making process. In addition, they should ensure that any views they give to the panel are also made publicly to the meeting.

Any officer who retires with the panel is there to advise on matters of procedure and law. Any advice given, however, must then be conveyed back publicly to the meeting.

If the panel, after retiring, decides that it needs to reconsider certain matters it is able of reconvening to ask further questions.

Once the panel has reached its decision it should reconvene to inform the subject member. Where a breach has been found, it should then invite representations as to any aggravating or mitigating factors (see below) before retiring again to consider an appropriate sanction.

It is good practice to make a short written decision available on the day of the hearing, and to prepare the full written decision in draft on that day, before people's memories fade. The officer providing administrative support to the panel will normally also draft minutes of the meeting.

The panel should give its full written decision to the relevant parties as soon as possible after the hearing. In most cases this should be within one week of the hearing.

The relevant parties are:

- the subject member
- the complainant
- the relevant Independent Person
- any parish or town councils concerned.

Where appropriate the subject member's political group may also be informed of the decision if the sanction requires group action (see below) and should also be sent to the next full council meeting.

Sanctions

There is no definitive list of possible sanctions (*The Government's response to the Committee on Standard in public life 2019 is awaited*). If the panel finds that a subject member has failed to follow the Code of Conduct and that they should be sanctioned, it needs to be clear which sanctions it has the power to impose and which matters are reserved to council or need to be referred to a relevant political group.

Typical sanctions may include one or a combination of the following:

- report its findings in respect of the subject member's conduct to council (or the relevant parish council)
- issue (or recommend to the parish council to issue) a formal censure
- recommend to the subject member's group leader (or in the case of ungrouped councillors, recommend to council) that they be removed from any or all committees or sub-committees of the authority (or recommend such action to the parish council)
- recommend to the leader of the authority that the subject member be removed from positions of responsibility

- instruct the monitoring officer to (or recommend that the parish council) arrange training for the subject member
- recommend to council (or recommend to the parish council) that the subject member be removed from all outside appointments to which they have been appointed or nominated by the authority (or by the parish council);
- recommend to council (or recommend to the parish council) that it withdraws facilities provided to the subject member by the authority for a specified period, such as a computer, website and/or email and internet access; or
- recommend to council (or recommend that the parish council) that it excludes the subject member from the authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending council, committee and sub-committee meetings and/or restricts contact with officers to named officers only
- if relevant recommend to council that the subject member be removed from their role as leader of the authority
- if relevant recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.

Note that where the subject member is a parish or town councillor, the matter is referred back to their council to say that a breach of the Code has been found and with a recommended sanction. The town or parish council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They cannot overturn the finding that there has been a breach of the Code and if they wish to impose a different sanction they should seek advice from the clerk and/or the monitoring officer. The panel should also ask the parish or town council to report back to the monitoring officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.

Note that under the Model Code of Conduct failure to comply with a sanction may of itself be a breach of the Code.

When deciding on a sanction, the panel should ensure that it is reasonable, proportionate and relevant to the subject member's behaviour. Before deciding what sanction to issue, the panel should consider the following questions, along with any other relevant circumstances:

- What was the subject member's intention?
- Did the subject member know that they were failing to follow the Code of Conduct?
- Did the subject member get advice from officers before the incident? Was that advice acted on or ignored?
- Has there been a breach of trust?

- Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- What was the result or potential result of failing to follow the Code of Conduct?
- How serious was the incident?
- Does the subject member accept they were at fault?
- Did the subject member apologise to the relevant people?
- Has the subject member previously been warned or reprimanded for similar misconduct or failed to follow the Code of Conduct before?
- Is the subject member likely to do the same thing again?
- How will the sanction impact on the subject member's ability to carry out their role?

Sanctions involving restricting access to an authority's premises or equipment or contact with officers should not unnecessarily restrict the subject member's ability to carry out their responsibilities as an elected representative or co-opted member.

Mitigating factors may include:

- an honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice;
- a councillor's previous record of good service;
- substantiated evidence that the councillor's actions have been affected by ill-health;
- recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the councillor;
- compliance with the Code since the events giving rise to the complaint.

Aggravating factors may include:

- dishonesty or breaches of trust;
- trying to gain an advantage or disadvantage for themselves or others;
- bullying;
- continuing to deny the facts despite clear contrary evidence;
- seeking unfairly to blame other people;
- failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code;
- persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

Publicising the findings

The panel should arrange for a decision notice to be published on the website of any authorities concerned, and anywhere else the panel considers appropriate.

If the panel finds that the subject member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding.

If the panel finds that the subject member failed to follow the Code but that no action is needed, the public summary should:

- say that the councillor failed to follow the Code, but that no action needs to be taken;
- outline what happened;
- give reasons for the panel's decision not to take any action.

If the panel finds that a councillor failed to follow the Code and it imposed a sanction, the public summary should:

- say that the councillor failed to follow the Code;
- outline what happened;
- explain what sanction has been imposed;
- give reasons for the decision made by the panel.

The panel's reports and minutes should be available for public inspection in the same way as other local authority committee papers.

Appeals

Given that the framework and sanctions are meant to be light-touch and proportionate, there should be no right of appeal against a decision on a Code of Conduct complaint.

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Part 2 – Procedure for making Complaints against a Councillor for breach of the Code of Conduct

1 Introduction

- 1.1 This Procedure provides for the receipt, initial assessment, investigation and determination of complaints made under the Code of Conduct for Members
- 1.2 The following terms used in this Procedure are defined as follows.

Complainant	the person making the complaint
Member	the elected councillor or co-opted member subject to the complaint
Investigator	either an officer of the Council and / or an independent Investigator whom the Monitoring Officer has asked to investigate a complaint
Monitoring Officer	the Council officer with statutory responsibilities under section 5 of the Local Government and Housing Act 1989 and as set out below in this Code – in Thurrock Council, the Monitoring Officer is currently the Assistant Director of Law and Governance
Independent Person	a person or persons appointed by the Council to advise it or the Member on the determination of complaints
Members Advisory Panel	the Members' Advisory Panel is a Working Group of the Council's Standards and Audit Committee which will conduct a local hearing to consider whether the Member has failed to comply with the Code of Conduct and, if so, whether to recommend actions in respect of the Member to the Monitoring Officer
Appellant	the person appealing a decision under this Procedure
Respondent	the person responding to an appeal

2 How to make a complaint

- 2.1 Any person may make a complaint under the Code of Conduct. Complaints must:
- 2.1.1 Be made in writing, i.e. by email or letter addressed to the

**Monitoring Officer
Legal Services
Civic Offices
New Road
Grays
RM17 6SL**

or to the contact email address on the Council's website.

- 2.1.2 Include the full name and address of the Complainant;
- 2.1.3 Identify the Member complained of;
- 2.1.4 Set out the nature and substance of the alleged breach of the Code of Conduct for Members. It is recommended that complaints include or attach evidence to support the allegation.

2.2 Upon receipt of a complaint complying with 2.1 above, the Monitoring Officer will send a copy of the Complaint to the Member and the Independent Person.

3 Initial assessment

- 3.1 The Council's Monitoring Officer will receive and assess all complaints to determine whether the complaint should be investigated. If the Monitoring Officer considers that s/he can resolve the complaint through informal mediation or discussion, s/he may take this step before determining whether a complaint should be investigated.
- 3.2 The following complaints are normally not suitable for investigation, save where the Monitoring Officer accepts there are exceptional circumstances:
 - 3.2.1 Complaints that are really about Council services, its policies or performance. Such complaints will be referred to the relevant service area in accordance with the Council's Complaints Policy.
 - 3.2.2 Complaints that are really about the political policies or performance of a councillor in their role. Such complaints will be referred to the councillor and / or their political group for response.
 - 3.2.3 Complaints that relate to another authority or an alleged breach of another authority or body's Code of Conduct.
 - 3.2.4 Vexatious or frivolous complaints or complaints which are intended to insult individuals.
 - 3.2.5 Minor or "tit-for-tat" complaints that do not justify the time and resources of an investigation.
 - 3.2.6 Complaints which relate to matters or events more than 3 months before the date when the complainant first became aware of the matters or events.
 - 3.2.7 Complaints by a member against another member will not normally be investigated until the Monitoring Officer considers that other processes – for example, informal mediation or political group processes have been exhausted.
 - 3.2.8 Complaints by officers should be first made under the Member / Officer Protocol
 - 3.2.9 Complaints that are already subject to other internal or external processes will not be investigated until those other processes have completed to enable the complaint to be resolved by other means. Determination of such complaints will be suspended until the other process is finalised.

- 3.3 In making decisions at 3.1 and 3.2, the Monitoring Officer will consult the Council's independent person (or where it has more than one independent person, one of the independent persons).
- 3.4 The Monitoring Officer may request further evidence or information from the Complainant. The Monitoring Officer may request an initial response from the Councillor complained of (or any other person) or take any other steps s/he considers reasonable to assist her determination.
- 3.5 The Monitoring Officer will inform the complainant and member in writing of their decision within 30 days of receipt of the complaint. Where the Monitoring Officer is not able to respond within this time, s/he will inform the complainant and member of the date by which a decision will be made.
- 3.6 The Complainant will have 7 days from the date of the Monitoring Officer's letter to ask for a review of a decision not to investigate a complaint. The application for review must be submitted in writing to the Monitoring Officer setting out the reasons for the review. The review will be determined by the Council's Chief Executive. If the Chief Executive considers the review should be upheld, the complaint will be investigated in accordance with Section 4.

4 Investigation

- 4.1 The Monitoring Officer will arrange for the complaint to be investigated by either an officer of the Council and / or an independent investigator. The Monitoring Officer may provide terms of reference for the investigation, which will focus on investigation of the factual evidence in support or against the allegation. The Member concerned has a duty to co-operate with the investigation.
- 4.2 The Investigation will follow its terms of reference and will include but is not limited to:
- 4.2.1 An opportunity for the Complainant to provide further evidence to support their allegation and / or the names of witnesses that they consider may provide relevant evidence.
 - 4.2.2 An opportunity for the Member to provide further evidence to support their allegation and / or the names of witnesses that they consider may provide relevant evidence.
 - 4.2.3 Taking evidence from any witnesses (or considering any documents) the Investigator considers may be relevant to the investigation.
- 4.3 If the Investigator considers that the terms of reference of the investigation may require amendment – for example, there is evidence of an additional potential breach of the Code of Conduct – he will raise this with the Monitoring Officer who will determine the appropriate course of action.
- 4.4 The Investigation will take no longer than 2 months from the date of the appointment of the investigator, unless the Monitoring Officer agrees that the investigation period should be extended.

4.5 The Investigator will provide a written report to the Monitoring Officer in respect of the allegations.

5 Members' Advisory Panel hearing

5.1 The Monitoring Officer will report the matter to the Members' Advisory Panel (Panel) which will conduct a local hearing to consider whether the Member has failed to comply with the Code of Conduct and if so, whether to recommend action in respect of the Member to the Monitoring Officer. The Members' Advisory Panel (a Working Group of the Standards and Audit Committee) will be held within 30 days of receipt by the Monitoring Officer of the investigation report to determine recommendations on the complaint. The Independent Person will be present at the Panel's Hearing and may advise both the Panel and the Member.

5.2 The Panel Hearing will normally take the following order:

- **Investigation Report**

The Investigator will present their report and evidence (and may call witnesses). The Complainant and Member may question the investigator and any witnesses

- **The Complainant's Case**

The Complainant presents their evidence and calls any witnesses. The Member may then question the Complainant and any witnesses.

- **The Member's Case**

The Member presents their evidence and calls any witnesses. The Complainant may then question the Member and any witnesses.

- **Final Submissions**

The Complainant and Member will present their final submissions in this order.

5.3 The Panel may ask questions of any person at any time.

5.4 After hearing final submissions, the Panel will withdraw to consider its decision and may consult with the Independent Person when doing so.

5.5 After reaching its decision, the Panel will either announce its recommendation at the hearing or inform the parties that the decision will be provided in writing to them within 7 days. Any verbal decision must be followed by written confirmation of the decision and its reasons within 7 days.

6 Sanction

6.1 Where a member is found in breach of the Code of Conduct, there is no statutory power to sanction the Member. The Panel may decide to recommend to the Monitoring Officer:

6.1.1 That no further action is necessary

- 6.1.2 To impose one or more of the following sanctions (or any other lawful sanction as advised by the Monitoring Officer)
 - 6.1.3 Censure or reprimand the member
 - 6.1.4 Publish its findings in respect of the member's conduct
 - 6.1.5 Report its findings to Council for information
 - 6.1.6 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council
 - 6.1.7 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities
 - 6.1.8 Recommend to Council that the member be replaced as Executive Leader
 - 6.1.9 Instruct the Monitoring Officer to arrange training for the member
 - 6.1.10 Remove from all outside appointments to which he/she has been appointed or nominated by the authority
 - 6.1.11 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
 - 6.1.12 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings
- 6.2 Before reaching its decision, the Complainant and Member have the right to make submissions as to the appropriate sanction (if any). Where the decision is communicated in writing, the Council will re-convene the Panel Hearing to consider the question of sanction and the above procedure will apply. In such situations, either party may submit its representations in writing to the Monitoring Officer in advance of the re-convened hearing.

7 Appeals against a determination hearing decision

- 7.1 There is no right of appeal by either party against a decision of the Monitoring Officer or of the recommendations of the Member's Advisory Panel;
- 7.2 If you feel that the authority has failed to deal with the complaint properly, a complaint may be made to the Local Government Ombudsman.

8 Governance

- 8.1 The Panel Hearings are not subject to the Council's Procedure Rules as they apply to Committees save as required by law or as set out below.
- 8.2 The Council's Access to Information Rules will apply to Panel Hearings and so will normally be held in public.

- 8.3 The quorum for the Panel shall be two elected Members of the Council drawn from at least two different political parties and two Independent Members.
- 8.4 The Panel has power to postpone the hearing and / or adjourn a part heard hearing to a later if, in either case, it considers this is necessary to allow it to hold a fair hearing but taking into account the need to determine all complaints in a prompt manner.
- 8.5 The Chair of the Panel shall have a second and casting vote.
- 8.6 The Panel may determine the length of the hearing and any individual stages, e.g. the length of final submissions, taking into account the nature and complexity of the complaint and evidence and ensuring that both parties have a reasonable opportunity to present their case. The Panel will inform the parties of any time limits at the start of the meeting.
- 8.7 The Panel will take advice from the Monitoring Officer or any legal advisor appointed by the Monitoring Officer to advise the Panel in her/his absence at any time during the hearing or while they are considering the outcome.
- 8.8 Decisions will be made by simple majority and the standard of proof to be applied is the balance of probabilities in any findings against the member. Abstentions are not permitted.

7 July 2022	ITEM: 10
Standards and Audit Committee	
Complaints received under the Members' Code of Conduct	
Wards and communities affected: N/A	Key Decision: Non-Key
Report of: Gina Clarke, Corporate Governance Lawyer & Deputy Monitoring Officer	
Accountable Assistant Director: Mark Bowen, Interim Head of Legal	
Accountable Director: Sean Clark, Corporate Director of Resources and Place Delivery	
This report is Public	

Executive Summary

This report sets out, in summary, details of complaints against members of the Council received during the municipal year 2021/22.

1. Recommendation(s)

1.1 That the Committee note the outcomes on complaints received under the Members' Code of Conduct.

2. Introduction and Background

2.1 This report provides an update on complaints received under the Members' Code of Conduct during the municipal year 2021/22.

2.2 The current Members' Code was adopted by the Council in 2013. It was a requirement under the Localism Act 2011 that all councils adopt a Code of Conduct and that the Code adopted must be based upon the Nolan Principles of Conduct in Public Life. The Council also has arrangements for dealing with complaints

2.3 Below is a table setting out details of code of conduct complaints received during the last municipal year. The table omits details of the identities of the complainant and the subject member, as the Council needs to adhere to the requirements of the Data Protection Act. The names of parties involved in code of conduct complaints are kept confidential unless it is appropriate to disclose the names as part of a formal investigation and consideration by a Hearing Panel of the Audit Standards Committee.

2.4 One complaint was made by a Councillor, all the other complaints were made by members of the public.

3. Issues, Options and Analysis of Options

Date complaint received	Nature of the complaint and paragraph of the code alleged to have been breached	Monitoring Officer Assessment	Status
16.08.21	Failed to make decision on merit (para 2.3). In relation to a decision made by a school.	Initial Assessment Decision issued – finding no failure. Cllr was not acting in their capacity as a councillor No further action to be taken on the complaint	Closed
24.09.22	Disrespect and not valuing others (para 2.9). Councillor failed to answer complainant’s questions relating to council business.	Initial Assessment Decision issued – finding no potential breach of the code. No further action to be taken on the complaint	Closed
7.10.21	Disrespect and not valuing others (para 2.9) Promote & support high standards (2.10) Councillor’s comments on social media about an individual.	Informal resolution. Apology sent to the complainant	Closed
7.10.21	Conferring an improper disadvantage on the complainant and others (para 2.1) Failed to have in accordance with legal obligations etc) Disrespect and not valuing others (para 2.9) relating planning decision	Initial Assessment Decision issued – finding no potential breach of the code No further action to be taken on the complaint	Closed
5.11.21	Failed to make decision on merit (para 2.3) Accountable (para 2.4) Openness (para 2.5) Promote & support high standards (2.10) relating to a planning decision	Initial Assessment Decision issued – finding no potential breach of the code. No further action to be taken on the complaint	closed
28.02.22	Bullying and disrespect - (para 2.9) related to comments post on social media about the complainant.	Informal resolution complainant and subject councillor not to post comments on social media about each other	Closed

- 3.1 The report is to note complaints received and actions taken so no options are to be considered.
- 3.2 The current internal system for logging Member complaints is being developed in tandem with the refresh of the code of conduct.

4. Reasons for Recommendation

- 4.1 To ensure that the Council's current ethical framework, within the limitations of the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public and is strengthened.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 Not applicable.

6. Impact on corporate policies, priorities, performance, and community impact

- 6.1 The Council's Constitution supports the governance of the Council and its decision-making, thereby assisting the Council to meet its corporate policies and priorities, as well as maintaining public confidence.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Senior Management Accountant – Resources and Place Delivery

There are no direct financial implications.

7.2 Legal

Implications verified by: **Gina Clarke**
Corporate Governance Lawyer & Deputy Monitoring Officer

Section 27 of the Localism Act 2011, requires the Council to promote and maintain high standards of conduct by members and co-opted members and to adopt a code dealing with the conduct that is expected of members and co-opted members when they are acting in that capacity.

Section 28 of the Localism Act 2011 requires the council to have in place arrangements "for handling complaints that a member or co-opted member of

the Council, or of a Committee of Sub-Committee of the Council, has failed to comply with Code of Conduct.

7.3 **Diversity and Equality**

Implications verified by: **Roxanne Scanlon**
**Community Engagement and Project
Monitoring Officer**

There are no diversity implications.

7.4 **Other implications** (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder and Impact on Looked After Children

Not applicable.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None.

9. **Appendices to the report**

None.

Report Author:

Gina Clarke

Corporate Governance Lawyer & Deputy Monitoring Officer

Law and Governance

7 July 2022	ITEM: 11
Standards and Audit Committee	
Counter Fraud & Investigation Annual Report	
Wards and communities affected: All	Key Decision: Non-key
Report of: Michael Dineen, Strategic Lead for Counter Fraud & Investigation	
Accountable Assistant Director: David Kleinberg, Assistant Director for Counter Fraud, Investigation & Enforcement	
Accountable Director: Julie Rogers, Director of Public Realm	
This report is Public	

Executive Summary

The Counter Fraud & Investigation (CFI) team is responsible for the prevention, detection and deterrence of all instances of alleged fraud and economic crime affecting the authority including: allegations of fraud, theft, corruption, bribery and money laundering.

The work of the service is led by the annual Counter Fraud Strategy which is approved following consultation with the council's services and intelligence from partners in government and policing.

This report outlines the performance of the team over the last year (2021/22) as well as proposes the new Counter Fraud strategy and proactive work plan to tackle fraud for the council in 2022/23.

1. Recommendations

- 1.1 The Committee notes the performance of the Counter Fraud & Investigation team over the last year.**
- 1.2 The Committee approves the Counter Fraud & Investigation strategy and work programme for 2022/23.**

2. Introduction & Background

- 2.1 The council's CFI team is responsible for delivering the corporate counter fraud programme which includes proactive activity to enhance the council's controls as well as respond to intelligence from that proactive work and information from other sources.**

2.2 The team was reorganised in early 2015 where enhanced measures and capabilities to prevent, detect and deter attacks from criminality were installed. Those measures include digital forensic capabilities to respond to the changing environment as well as criminal finances, to investigate, seize and confiscate criminal assets.

2.3 In 2021/22 the CFI cost just over £1.5m, with the team being able to detect more than £2.3m of fraud from various sources whilst recovering £1.9m. When calculated, the CFI detected £1.47 for every £1 spent and the budget for the year 2021/22 ended in a surplus of just over £1.2m which was able to be reinvested into the council.

3. Performance

3.1 CFI can comment on the following statistics for the previous year 2021/22:

- 517 Fraud Alerts have been sent out to internal and external partners
- 508 Intelligence Reports have been sent to other Law Enforcement agencies assisting in their investigations.
- 317 reports of suspected fraud have been received
- 187 Investigations have been undertaken by CFI
- 130 Investigations were closed by CFI
- 90 active investigations are currently being conducted
- The value of open investigations is £7,144,099

3.2 The detailed annual report shown in **Appendix 1** provides the background to these figures as well as the overall programme of work delivered by the service in the last year.

3.3 It is clear that the pandemic has reduced the traditional work that CFI would complete during a year, however that has not meant the CFI team haven't assisted in the fight against fraud. Due to the pandemic the government announced a number of grants that were to be administered by local authorities, these were collectively known as Business Support Grants (BSG).

3.4 The CFI team have worked closely with the Revenues team (those responsible for administering the grants) to complete pre and post assurance checks on all applications that were received.

3.5 The CFI have completed the following pre/post assurance checks

- 588 checks completed
- 21 applications refused
- 157 applications required further documentation

- 410 applications processed and paid

The preventative counter fraud work saw 21 grant applications investigated and stopped immediately, potentially saving £378,000 of potential losses of public funds. There were also 157 applications that required further investigation due to 'flags' the CFI identified. This could have potentially saved a further £2,826,000 in public funds if all were deemed not payable.

4. Proactive Work Plan for 2022/23

- 4.1 CFI has a programme of proactive work proposed to ensure the council's posture against fraud is robust and effective. **Appendix 1** sets out the proposed proactive work programme this year.
- 4.2 The work programme is a working document and if during the year changes or additions to the plan are proposed between the CFI and the Section 151 Officer, these will be brought back to the Committee for approval.

5. Reasons for Recommendation

- 5.1 This report provides a detailed update to the Committee on the improved counter-fraud measures for the Council and how it is reducing fraud under the council's counter-fraud strategy.

6. Consultation (including Overview and Scrutiny, if applicable)

- 6.1 All Directors and Heads of Service were consulted with the new strategy to be taken by the Council in its anti-fraud approach.

7. Impact on corporate policies, priorities, performance and community impact

- 7.1 Work undertaken to reduce fraud and enhance the Council's anti-fraud and corruption culture contributes to the delivery of all its aims and priorities supporting corporate governance.

8. Implications

8.1 Financial

Implications verified by: **Laura Last**
Senior Management Accountant (supporting Public Realm Directorate and Strategy, Engagement & Growth Directorate)

The Fraud team generated a £1.2m surplus in 21/22 which was reinvested in council services.

8.2 Legal

Implications verified by: **Deirdre Collins**
Barrister, Law & Governance

The work completed by CFI assists the council with its legal obligations as noted below;

The Accounts and Audit (England) Regulations 2015 section 4 (2) require that:

The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions and which includes the arrangements for the management of risk.

8.3 Diversity and Equality

There are no diversity or equality issues within this report

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project
Monitoring Officer, Adults, Housing & Health

8.4 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

None.

9. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

10. Appendices to the report

Appendix 1 – CFI Annual Report 2021/22 & Annual Strategy & Proactive Work Plan for 2022/23

Report Author:
Michael Dineen

Strategic Lead, Counter Fraud & Investigation

Counter Fraud & Investigation



See it. Report it. Stop it.

Counter Fraud & Investigation Annual Report 2021/22 & Annual Strategy & Proactive Work Plan 2022/23

Performance and Partnerships

Our key role is to protect Thurrock and Castle Point Councils from fraud and economic crime and has been since 2014, however, in 2019 we saw growth in our national capability providing expertise to other public bodies to reduce economic crime, which has seen us work with several police agencies across the UK and complete work on behalf other local authorities.

In 2020/21 this grew even further with the expansion of our national capability, The National Investigation Service (NATIS), who formed a working collaboration with The Department of Business, Energy, and Industrial Strategy (BEIS) as well as a collaboration with the Cabinet Office.

This collaboration has moved even further in 2021/22, with NATIS becoming ringfenced and agreeing a 3-year funding package not only from BEIS but also HM Treasury. This is a direct result from the great work the team have provided over the last two years, when uncertainty and reduction in workforces were seen across all sectors, NATIS has grown year on year and will continue to do so into 2022/23 with the professionalism and dedication seen over the last few years.

CFI activity since its launch



£45m
Detected
Fraud



£15m
Recovered
from
Criminals



Over 200
Public
Bodies
Supported



208
Insider Threats
Identified



39
Organised Crime
Groups (OCGs)
Disrupted



43
Law Enforcement
Agencies Assisted

Governance & Accountability

The provision of a national capability brings with it national responsibilities and oversight. Recognising our role and responsibilities, we sought assistance from national bodies to implement an appropriate inspection regime to provide assurance over our work.

The governance structure overseeing the directorate's work is now formed of several independent bodies:

Local & Central Government – Standards & Audit Committees

- Monitoring of Performance against each annual strategy for the bodies to provide assurance of crime risk and organisational governance

Investigatory Powers Commissioner's Office

- Inspections to monitor the use of investigative tactics regulated by the Regulation of Investigatory Powers Act 2000, Investigatory Powers Act 2016 and Human Rights Act 1998

Home Office - National Police Information Risk Management Team

- Inspections to monitor the security of data used in the department

College of Policing

- Delivery of Accredited programmes for all the officers in the directorate, including Professionalising Investigation Practice (PIP) & Intelligence Professionalisation Programme (IPP) accreditations

Crown Prosecution Service

- Conduct reviews of Criminal Investigation casework prior to accepting for prosecution, held to the Crown Prosecutors Code as well as Police & Criminal Evidence Act and Criminal Procedure Act 1984 & Investigations Act 1996

UK Forensic Science Regulator

- The Regulator ensures that the provision of forensic science services by CFI across the criminal justice system is compliant to an appropriate regime of scientific quality standards.

Governance & Accountability

National Crime Agency – Proceeds of Crime Regulator

- CFI uses a number of powers afforded by Parts 2, 5 and 8 of the Proceeds of Crime Act 2002. The National Crime Agency is the regulator of these powers.

UK Accreditation Service

- CFI has its own forensic laboratory to deal with digital media, recovering material from electronic devices for use in in criminal or civil outcomes. All laboratories conducting this work in the UK must now be accredited to ISO17025 (International Standards). CFI has worked towards this accreditation for 2 years. This year the final inspection will take place to accredit CFI's laboratory to ISO17025 standards.

Results & Statistics

The Counter Fraud & Investigation team's work has been affected by COVID-19 since 2020 and this has affected the overall work as well as traditional targets of the CFI. The work being completed in 21/22 was hindered by the pandemic, however the CFI have not simply given into the difficult working conditions, instead looking to diversify its capabilities, and become a point of excellence utilising its ringfenced teams.

Although it was difficult for the CFI in the past year, the CFI still received hundreds of referrals and the figures of the work completed by the CFI are below.

The following gives results for the work CFI completed on behalf of Thurrock Council

- 317 reports of suspected fraud have been received and these can be broken down into crime type categories

Housing	Transport	Revenues	RTB	Theft	Grants	Social Care	Worker (Insider Threat)	DWP Referral	Other
144	12	27	79	2	4	4	11	10	24
£5,741,500	£9,000	£335,517	£6,679,719	£0	£29,693	£0	£46,000	£0	£133,500

- 90 active investigations are currently being conducted

Housing	Money Laundering	Social Care	Revenues	Transport	Worker (Insider Threat)	Theft	Grant	RTB	Procurement	With Legal	Cyber
44	6	4	3	3	11	3	3	6	1	5	1
£1,216,200	£3,619,000	£224,000	£314,849	£2,250	£10,000	£1,000	£95,000	£506,800	£1,000,000	£155,000	£0

The total value of open investigations is **£7,144,099**

COVID-19 RESPONSE

The pandemic has reduced the normal levels of work that CFI would complete during a year, however that has meant the CFI team have had to adapted in the fight against fraud. Due to the pandemic the government announced several grants that were to be administered by local authorities.

The CFI team have worked closely with the Revenues team (those responsible for administering the grants) to complete pre and post assurance checks on all applications that were received.

The CFI have completed the following pre/post assurance checks in 2021/22

- 588 checks completed
- 21 applications refused
- 157 applications required further documentation
- 410 applications processed and paid

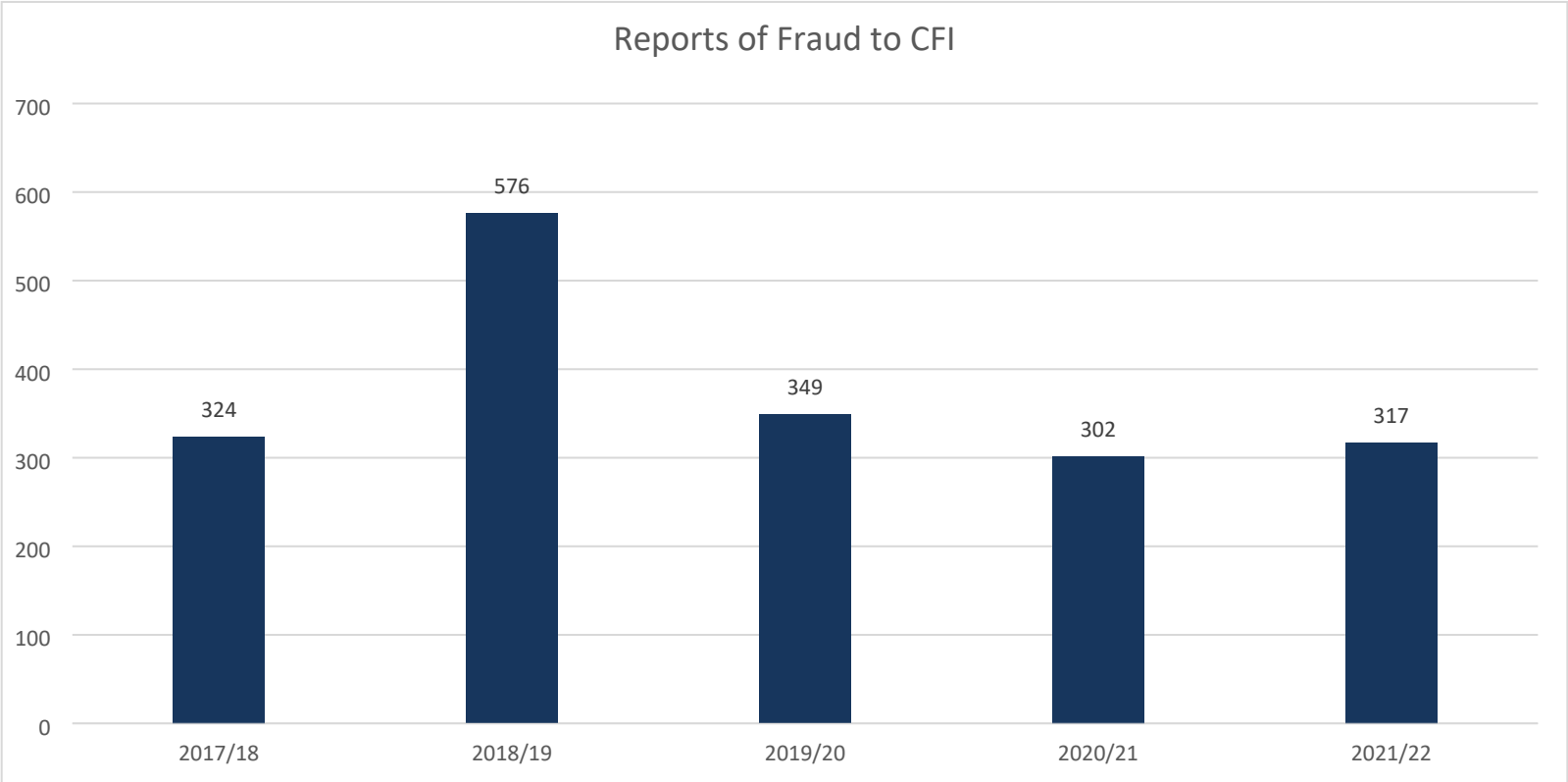
The preventative counter fraud work saw **21** grant applications investigated and stopped, potentially saving **£525,000** of potential losses of public funds.

The following tables detail the Referrals, Sanctions and Compliance activities completed by the team across partners for 2021/22. This year is starkly different to previous years due to the COVID19 pandemic and various lockdowns the team have worked under.

Comparison to Previous Years (Referrals to CFI)

The table below shows the number of investigations completed year on year for the last 5 years

	2017/18	2018/19	2019/20	2020/21	2021/22
Number of Fraud Referrals	324	576	349	302	317

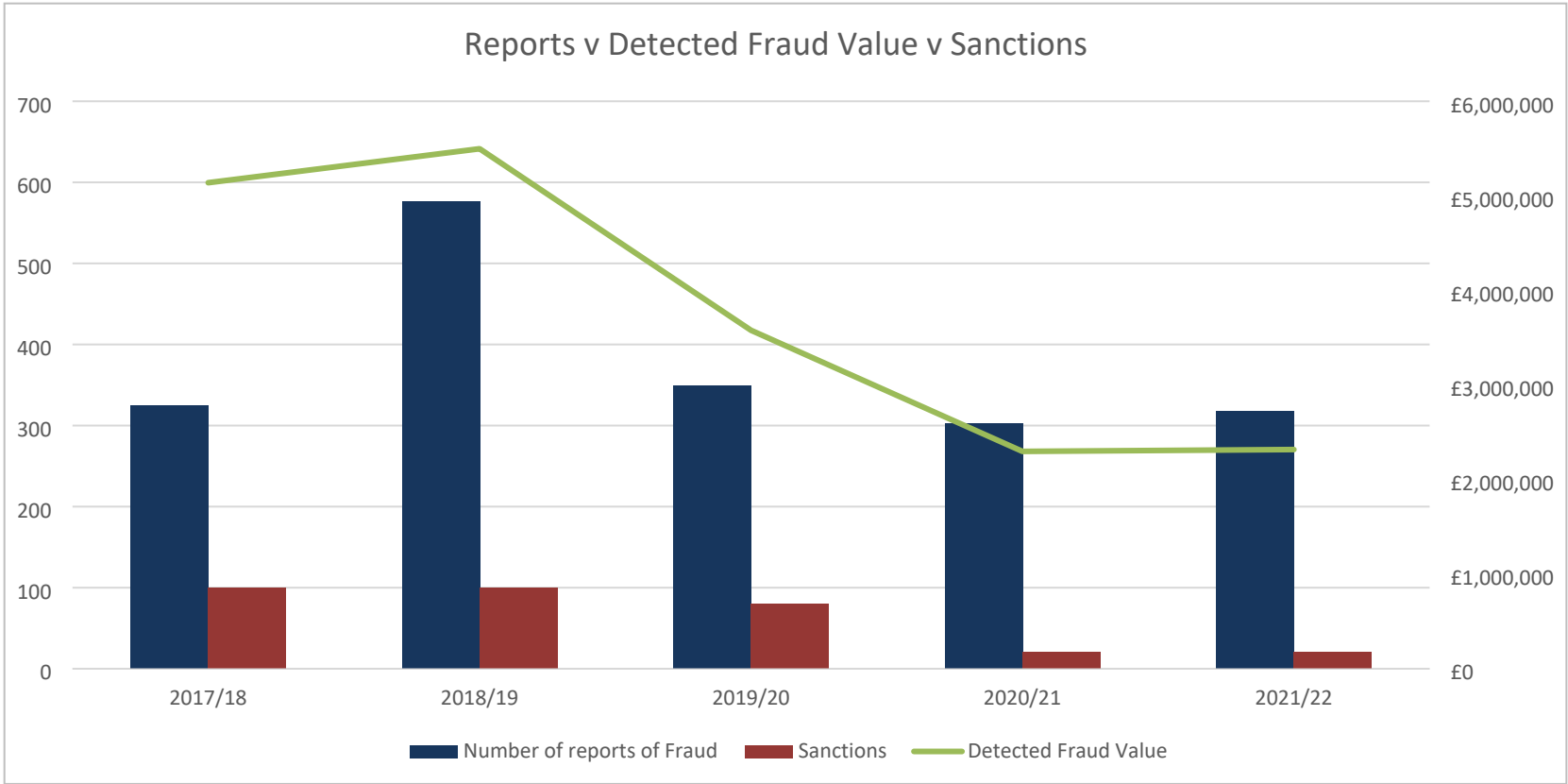


As can be seen from the above table, referrals are increasing from last year and CFI expect this to continue into 2022/23, with Fraud being at the centre of media interest. CFI will look to take advantage of this interest by continuing development and promotion of the work it completes and how, residents and employees of Thurrock can assist in its successes.

Comparison to Previous Years (Reports v Detected Fraud Value v Sanctions)

The table below shows the number of referrals, detected fraud value and number of sanctions year on year for the last 5 years.

	2017/18	2018/19	2019/20	2020/21	2021/22
Number of reports of Fraud	324	576	349	302	317
Sanctions	100	100	80	20	20
Detected Fraud Value	£5,138,836	£5,497,805	£3,578,285	£2,298,200	£2,317,686



As can be seen from the figures above, since the pandemic struck the UKL in 2020, CFI has seen a decrease in the number of sanctions. This is directly linked to the pandemic and the availability of sanctions, including court time. Although, the CFI have continued to detect a level amount of fraud throughout this time period.

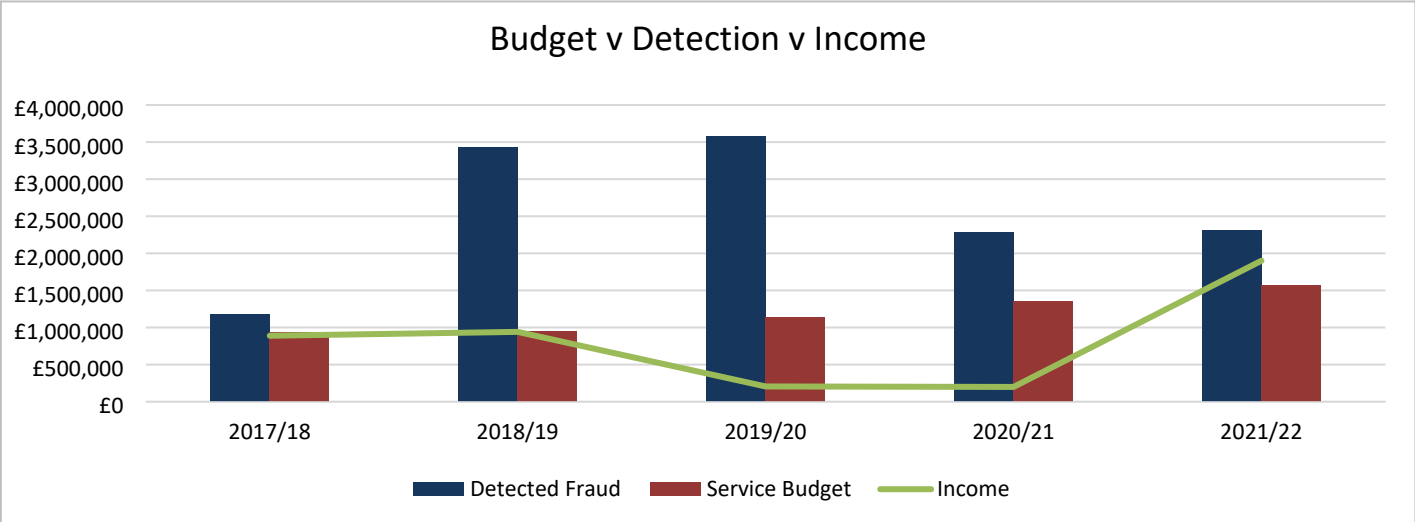
Finances

The Counter Fraud & Investigation (CFI) is the Thurrock Council service that protects the council from fraud and economic crime. In addition, the service also provides a full Counter Fraud Service to other government authorities. Partners can join the service with a financial contribution or with the secondment of its staff into the team. In some cases where CFI is providing a partner’s on-site counter fraud resource CFI will have an ‘on-site’ budget to maintain the counter fraud & investigation operations for that partner which will not be reflected in this report.

The CFI also hosts The National Investigation Service, which is commissioned by external partners where funding is pre-agreed, and the contribution is controlled by ongoing agreements.

As can be seen from below, the CFI cost just over **£1.5m** in 2021/22, with the team being able to detect more than **£2.3m** of fraud from various sources whilst recovering **£1.9m**. When calculated, the CFI detected **£1.47** for every **£1** spent and the budget for the year 2021/22 ended in a surplus of just over **£1.2m** which was able to be reinvested into the council.

	2017/18	2018/19	2019/20	2020/21	2021/22
Detected Fraud	£1,179,987	£3,426,474	£3,578,285	£2,287,500	£2,317,686
Service Budget	£939,313	£945,876	£1,144,949	£1,360,983	£1,570,587
Income	£889,097	£941,155	£205,334	£198,755	£1,900,318



Operational Activity

Social Housing Fraud

Last year 8 social housing properties were recovered by the team in 2021/22 which shows an improvement on 2020/21 but is still lower than average. This figure was still hampered by several lockdowns during last year and the lack of evictions with regards to abandonment of property, which was difficult to prove during the pandemic.



8
**Social Housing
Properties
Recovered**

Case Example

A Thurrock social housing tenant was placed removed from her tenancy address following a domestic incident. The tenant was due to return to her social housing address but had not appeared to do so and had “disappeared”. A CFI investigation identified that she was at an address in the South-West of England. Deploying regional investigation officers, a visit was conducted to the SW address where the tenant was found and spoken to. The tenant received a Notice to Quit, and a notice of service was signed by the officers and Housing updated to this effect. The Thurrock Housing property was recovered within one month and the tenancy allocated to another person in need.

A referral was sent through from a Tenancy Management Officer concerning a tenant who had not responded to several attempts of contact made by Housing. In addition to this, neighbours had also reported that they had not seen the tenant for some time. Enquiries were conducted by the Fraud Team, which was followed up with several visits by Officers to speak with neighbours, where further concerns were raised that other ‘individuals’ had been reported as being seen visiting the address. The investigation was subsequently concluded with the Tenant being tracked down to a family address in another local borough. The tenant was found staying with family for much needed ‘mental health’ support; following a report from the Fraud Team the TMO subsequently assisted the Tenant with their needs so that the property could be made available to those in need.

Operational Activity

Insider Threats

Case Example

CFI worked with another Council department that identified a member of staff was privately providing the services usually offered by that person's Council department, for a fee, to seemingly expedite applications submitted by members of the public to receive special support services for young people. These services were being offered privately, during work time or when the staff member was off sick. CFI identified that the services were being advertised through a website, which was attributed to the staff member through the contact information detailed on the site. Working together with HR the staff member was suspended, formally interviewed, and later resigned from service.

Grant Fraud

Case Example

The LA had identified several properties that were linked by landlord ownership however, all were vacant at the point of applying for Business Support Grants that were being administered by the council on behalf of HMG. CFI officers located the landlord, built an intelligence picture, including financial information as well as other social media material that assisted in identifying that the landlord was not entitled to claim for the grants. The subject was arrested and interviewed under caution by CFI officers. This has now resulted in a case file being prepared for the legal department.

Another Small Business Grant was paid by the authority to a bank account in relation to an application made for a local business. The bank account provided was subsequently found to be in the name of a third party who was not associated to the local business in any way; this information came to light when the true business owner made their own application for a small business grant payment. The "original false" application was therefore investigated and found to contain contact information for the business to which it did not relate, which indicated it had been impersonated. The suspects were identified, arrested, and interviewed and their electronic items seized. Financial enquiries confirmed how the illicitly gained funds were spent and analysis of phone communications showed that the suspects had discussed "spending the money". These individuals will now face prosecution.

Operational Activity

Intelligence Dissemination and Prevention

CFI works closely with policing partners and other law enforcement bodies to protect the public purse. Intelligence is lawfully shared under statute, including the new Data Protection Act 2018 where crime is suspected.

CFI's Criminal Intelligence Bureau works closely with law enforcement to develop intelligence that will assist in protection of the public. Over the last year **517 Alerts** and guidance notes were disseminated by CFI across all our local authority and public partner service areas.

The Criminal Intelligence Bureau has also disseminated **508 Intelligence Reports** to other agencies to assist with their criminal investigations.

CFI's specialist expertise has been used by other local authority services to protect the public including tactical support to other enforcement teams in Planning, Trading Standards and Housing to Human Resources, Procurement, ICT as well as other fraud departments.

Collaborative Operational Activity

Our Digital Forensics Unit are available to others for advice and support, which was seen this year after a LA approached CFI to firstly advise prior to multiple searches. The DFU provided search and seizure advice regarding digital devices (including network isolation with faraday bags) and on the day of the warrant DFU were on standby to provide further advice and subsequently received devices that afternoon that required prompt action. The suspects had refused PIN codes on phones which had been placed in faraday bags, but needed to be kept 'ON', to aid forensic analysis to defeat passcodes.

Devices were received on the day, decanted within a network isolation environment, put on charge, and subsequently processed over the following days. Sophisticated software was used to crack passcodes where possible, resulting in the extraction of full file systems and in some cases partial extractions. In total 9 devices were submitted on the date of seizure with primary devices processed and ready for OIC on encrypted media by 21 days later. Assistance with the data review has been provided via telephone. The processing of secondary devices was also completed within 20 days.

Counter Fraud & Investigation Annual Strategy 2022/23

Our Fraud Control Strategy

Our Strategy ensures all of our actions are considered and justified.

The Counter Fraud & Investigation team's work ensures that we are able to identify at an earlier stage intelligence relating to the key priorities below, particularly those affecting the most vulnerable of society.

Who are We?

A specialist function to protect public finance from fraud and serious crime, using our legal framework as a local authority service

What is Our Purpose?

- 1 Protect the public purse from crime
- 2 Support the wider-public sector with shared, advanced capabilities

What are Our Priorities?

Crimes affecting a vulnerable adult or child

Insider threats in local government

Organised crime targeting local government

Improving local government's resilience to cyber crime

How do we Succeed?

Always acting Ethically in everything that we do, working to our values, attitudes and principles

Consider opportunities to work collaboratively with others for the benefit of our purpose, sharing our knowledge, experience and expertise

Apply the 4 'P' Strategy to Prevent, Protect and Prepare local government for economic crime, pursuing offenders where necessary

Ensure our teams are fully equipped to respond to the threats faced from economic crime

Proactive Work Plan 2022/23

Risk Area	Activity	When	Current Status	Responsible Officer	Date Complete
Council-wide	<p>Training of high risk areas in counter fraud measures</p> <p>Ensure understanding of the threats posed to those areas. To be tailored to the areas and ongoing support offered via a Single Point of Contact with CFI. This is a yearly activity that CFI will continue to deliver.</p>	July 2022 to June 2023		Phil Butt/Rob Kleinberg	
Council-wide	<p>Review all relevant policies concerning fraud aspects of the council's business</p> <p>Ensuring that all hold the most up to date legislative information as well as ensuring best practice is always adhered to.</p>	Jan 2023		Michael Dineen	
Council-wide	<p>A Fraud Health Check on the Social Care Application Process</p> <p>Ensuring the applicants that apply for Social Care assistance are entitled to and worthy of such care assistance, specifically direct payment care.</p>	Apr 2023		Phil Butt	
Council-wide	<p>Targeting POCA and Civil Legislation to maximise effect on criminal behaviour</p> <p>Ensure that CFI utilise the appropriate legislation to maximise the effects on criminals and ensure that our vision of protecting the public purse is adhered to by promoting this work.</p>	June 2023		Roger Noakes	

As well as the proactive work, the CFI will continue to work on all the reactive investigations that continues every day from the referrals it receives. This is predominately the work that is required to be completed to ensure a successful CFI as can be seen throughout this report.

**Standards & Audit Committee
Work Programme
2022/23**

Dates of Meetings: 7 July 2022, 20 October 2022, 24 November 2022 and 2 March 2023

Topic	Lead Officer
7 July 2022	
Audit Progress Report for 2020/ 21 External Audit	BDO / Jonathan Wilson
Regulation of Investigatory Powers Act (RIPA) 2000 – Activity Report 2021 /22	Lee Henley
Counter Fraud & Investigation Annual Report & Strategy	David Kleinberg
Annual Review of Risk and Opportunity Management and the Policy, Strategy and Framework	Andy Owen
In Quarter 4 (2021/22) Review of the Strategic/Corporate Risk and Opportunity Register	Andy Owen
Ethical Standards Report	Matthew Boulter
Complaints received under the Members' code of conduct	Matthew Boulter
Red Reports (as required)	

20 October 2022

Annual Complaints & Enquiries Report 2021/22	Lee Henley
Annual Information Governance Report	Lee Henley
Counter Fraud & Investigation Performance Report Q1	David Kleinberg
Internal Audit Charter 2022	Gary Clifford
Refresh of the Strategic/Corporate Risk and Opportunity Register	Andy Owen
Investment Briefing	Sean Clark
A13 Widening Project	Sean Clark / Colin Black
Stanford Le Hope Transport Projects	Sean Clark / Colin Black
Audit Completion Report	BDO / Jonathan Wilson
Financial Statements and Annual Governance Statement 2020/21	BDO / Jonathan Wilson
Chief Internal Auditor's Annual Report – Year ended 31 March 2022	Gary Clifford
Update on Program and Project Management	Sean Clark
Red Reports (as required)	

24 November 2022

Regulation of Investigatory Powers Act (RIPA) - Activity Report 2022/23 (April to September)	Lee Henley
Internal Audit Progress Report 2022/23	Gary Clifford
Counter Fraud & Investigation Performance Report Q2	David Kleinberg
Member Complaints Update	Matthew Boulter
Red Reports (as required)	
2 March 2023	
Internal Audit Progress Report 2022/23	Gary Clifford
Counter Fraud & Investigation Quarterly Update (Q3)	David Kleinberg
Internal Audit Strategy 2021/22 to 2023/23 and Annual Internal Audit Plan 2023/24	Gary Clifford
Audit Progress Report for the Year Ended 31 March 2022	Jonathan Wilson

Reports for 2023/24:

Clerk: Rhiannon Whiteley
Last Updated: May 2022

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