

A meeting of the **CORPORATE GOVERNANCE PANEL** will be held in **CIVIC SUITE 0.1A, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON, PE29 3TN** on **TUESDAY, 26 JUNE 2012** at **6:30 PM** and you are requested to attend for the transaction of the following business:-

**Contact
(01480)**

APOLOGIES

1. MINUTES (Pages 1 - 10)

To approve as a correct record the Minutes of the meeting of the Panel held on 28th March and 16th May 2012.

**Miss H Ali
388006**

2. MEMBERS' INTERESTS

To receive from Members declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any Agenda Item. Please see Notes 1 and 2 overleaf.

3. FINAL ACCOUNTS 2011/12 AND AUDIT OF 2010/11 ACCOUNTS
(Pages 11 - 12)

To consider a report by the Head of Financial Services on the final accounts for 2011/12 and the audit of the 2010/11 accounts.

**Mrs E Smith
388157**

4. INTERNAL AUDIT SERVICE - INTERNAL AUDIT PLAN (Pages 13 - 22)

To consider a report by the Audit and Risk Manager regarding the Internal Audit and Assurance Plan for the 12 month period commencing August 2012.

**D Harwood
388115**

5. ANTI-FRAUD AND CORRUPTION MEASURES (Pages 23 - 34)

To receive a report by the Audit and Risk Manager on the Anti-Fraud and Corruption Measures adopted by the Council.

**D Harwood
388115**

6. EXTERNAL AUDIT PLAN 2011/12

To receive a report from the Head of Financial Services on the external audit plan for 2011/12 – **TO FOLLOW**.

**S Couper
388103**

7. INTERNAL AUDIT SERVICE - TERMS OF REFERENCE AND INTERNAL AUDIT STRATEGY (Pages 35 - 36)

To consider a report by the Audit and Risk Manager on the Internal Audit Terms of Reference and Strategy.

**D Harwood
388115**

8. INSPECTION BY THE INTERCEPTION OF COMMUNICATIONS COMMISSIONER (Pages 37 - 62)

To receive a joint report by the Head of Legal and Democratic Services and Fraud Manager on the inspection by the Interception of Communications Commissioner.

**C Meadowcroft /
N Jennings
388021 /
388480**

9. NEW STANDARDS REGIME (Pages 63 - 102)

To consider a report by the Head of Legal and Democratic Services and Monitoring Officer proposing a new Standards regime for the Council.

**Ms C Deller
388007**

10. COMPLAINTS (Pages 103 - 114)

To consider a report by the Head of Legal and Democratic Services on the internal complaints determined by the Local Government Ombudsman in 2011/12 together with the outcome of a review of the Council's feedback procedure.

**A Roberts
388015**

11. TRAINING OF PANEL MEMBERS (Pages 115 - 116)

To consider a report by the Audit and Risk Manager on training opportunities for Panel Members.

**D Harwood
388115**

Dated this 18 day of June 2012



Head of Paid Service

Notes

1. *A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District –*
 - (a) *the well-being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;*
 - (b) *a body employing those persons, any firm in which they are a partner and any company of which they are directors;*
 - (c) *any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or*
 - (d) *the Councillor's registerable financial and other interests.*
2. *A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.*

Please contact Miss H Ali, Democratic Services Officer, Tel No: 01480 388006 / e-mail: Habbiba.Ali@huntingdonshire.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Panel.

Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.

Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (*under Councils and Democracy*).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Democratic Services Manager and we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the CORPORATE GOVERNANCE PANEL held in Civic Suite 0.1A, Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN on Wednesday, 28 March 2012.

PRESENT: Councillor E R Butler – Chairman.

Councillors M G Baker, K J Churchill, R S Farrer, G J Harlock, A R Jennings and P G Mitchell.

31. MINUTES

Having received assurances that Councillor A R Jennings had now been included within the list of those present, the Minutes of the meeting of the Panel held on 7th December 2011 were approved as a correct record and signed by the Chairman.

32. MEMBERS' INTERESTS

Councillors K J Churchill and R S Farrer declared personal interests in Minute No. 33 by virtue of their membership of Cambridgeshire County Council.

33. NEIGHBOURHOOD FORUMS WORKING GROUP

(Councillor S J Criswell, Chairman of the Overview and Scrutiny Panel (Social Well-Being) was in attendance for consideration of this item and declared a personal interest by virtue of his membership of Cambridgeshire County Council).

By way of a report by the Overview and Scrutiny Panel (Social Well-Being) (a copy of which is appended in the Minute Book) the Panel were apprised with the outcome of investigations undertaken by the Working Group appointed by the Panel to review the Neighbourhood Forums in Huntingdonshire.

In introducing the report, Councillor S J Criswell, Chairman of the Overview and Scrutiny Panel (Social Well-Being) reported upon the background to the establishment of the Neighbourhood Forums, which had emerged following the Council's Democratic Structure Review in 2009. The existing arrangements had been based upon the policing boundaries and a review of the current arrangements had been prompted given the perceived view that the Forums were not operating as effectively as they might. Councillor S J Criswell reported that the Working Group had deliberated at some length on a number of factors with a view to ensuring that any new model proposed for the District would meet local needs.

Having welcomed the work undertaken by the Overview and Scrutiny Panel (Social Well-Being), Panel Members made a number of minor suggestions to the draft Constitution for the proposed Local Joint Committees (LJC). The suggestions proposed intended to provide

clarification on the membership of the LJsCs and the terms of Town and Parish Council representation at meetings.

Members of the Panel questioned a number of matters including the proposals for "twin hatters" to have two votes each and the level of public attendance hoped to be generated at meetings. The Panel also expressed some reservations over the likely take up of Town and Parish Councils assisting with the servicing of LJC meetings and made comment that the setting of policing priorities should remain at these meetings.

In noting that a consultation exercise would commence with the Town and Parish Councils and Partners after Cabinet have had sight of the proposals thus far, it was

RESOLVED

that, subject to the comments outlined above, the Overview and Scrutiny Panel's (Social Well-Being) proposals in respect of revised boundaries, composition, voting and constitutional terms for the proposed Local Joint Committees be endorsed for submission to the Cabinet.

34. TOWN AND PARISH COUNCIL CHARTER

The Panel received an update from Mr D Smith, Healthy Communities Manager on the development of a Town and Parish Council Charter which was being developed in conjunction with Cambridgeshire County Council. Members were informed that the purpose of the Charter would be to encourage Town and Parish Councils to become more active participants in localism and would also set out how the three tiers of local government could work together on various issues. The Charter also explains what to expect from each authority and identifies what support and assistance would be provided to one another. Details of the "Community Right to Challenge" and the "Community Right to Bid" would also be included within the document, together with the procedure for dealing with complaints about Town and Parish Councillors, the management of Community Infrastructure Levy contributions and how to deal with conflict resolution. An event had been held in January 2012 to elicit the views of Town and Parish Councils. Those in attendance at the event unanimously expressed their support for the development of a Charter.

In response to a question raised by a Member, the Panel received assurances that all Members would be involved in the process before the Charter was approved by the District and County Council Cabinet at their meetings in September 2012. It was also confirmed that the Cambridgeshire and Peterborough Association of Local Councils were playing an active part in the process.

35. GRANT CERTIFICATION 2010/11

(Mr C McLaughlin and Ms H Clark, PricewaterhouseCoopers LLP were in attendance for consideration of this item).

The Panel received and noted a report by the Head of Financial

Services (a copy of which is appended in the Minute Book) detailing the certification of specific grants received by the Council in 2010/11.

Mr C McLaughlin of PricewaterhouseCoopers LLP drew the Panel's attention to three areas of concern relating to the processing of benefits claims which primarily related to administrative errors. Members questioned whether the audit had demonstrated value for money, given the scale of the fees charged by the auditors in comparison to the value of errors identified. Mr C McLaughlin responded by informing the Panel that audit practices were tightly prescribed and that they were unable to exercise discretion in such cases.

RESOLVED

that the content of the Council's Certification Report 2010/11, together with the action taken to address the issues raised, be received and noted.

36. UPDATE ON 2010/11 FINAL ACCOUNTS

(Mr C McLaughlin and Ms H Clark, PricewaterhouseCoopers LLP were in attendance for consideration of this item).

The Panel received an update from the Managing Director (Resources) on the 2010/11 accounts which were yet to be approved for publication. The Panel were advised that daily meetings with the Head of Financial Services and Accountancy Manager were being held and that a Financial Accounts Specialist had been employed to assist with the finalisation process. Having informed the Panel that they would have sight of the accounts in May 2012 and having reminded them that they had approved delegated authority to the Chairman of the Panel to sign off the final accounts, the Managing Director (Resources) delivered an explanation on the reasons for the delay and indicated that a number of lessons had been learnt from the process. Assurances were delivered that these lessons would be taken into account when finalising the following year's financial statements.

Members of the Panel expressed strong concerns over the delay in the publication of the accounts. In response to a question raised by a Member, it was confirmed that there would be no fine imposed upon the Council for the lateness, but that discussions were currently ongoing with the auditors about their fees for undertaking additional work. The Panel questioned the level of additional costs incurred by the Council for completing the process, particularly now that a Financial Accounts Specialist had been employed to assist with the process.

37. ANNUAL GOVERNANCE STATEMENT 2010/11 - ADDENDUM

With the aid of a report prepared by the Head of Financial Services (a copy of which is appended in the Minute Book) the Panel gave consideration to a proposal to amend the Annual Governance Statement 2010/11. The changes proposed related to the delay with the publication of the 2010/11 accounts which intended to ensure that attention would be given to the adequacy of the arrangements for

timely completion of the Council's final accounts. Whereupon, it was

RESOLVED

that changes to add into the Annual Governance Statement 2010/11 be endorsed by the Panel as outlined within paragraph 2.1 of the report now submitted.

38. CLOSURE OF 2011/12 ACCOUNTS

At this point during the meeting (8:00pm) Councillor A R Jennings took his seat at the meeting.

Pursuant to Minute Nos 11/36 and 11/37, the Panel gave consideration to a report by the Head of Financial Services (a copy of which is appended in the Minute Book) outlining the changes that would be implemented to assist with the finalisation of the 2011/12 accounts. Having had their attention drawn to fundamental and procedural changes that would be implemented within the process, it was

RESOLVED

that the action taken by the Head of Financial Services in respect of the closure of the final accounts 2011/12 be noted by the Panel.

39. PROGRESS REPORT ON ISSUES IDENTIFIED IN THE ANNUAL GOVERNANCE STATEMENT

With the aid of a report by the Corporate Policy and Performance Manager (a copy of which is appended in the Minute Book) the Panel were apprised with progress made to date in respect of the achievement of the action plans supporting the Annual Governance Statement and the Council's improvement plan.

In response to a question raised by a Member, it was confirmed that each of the actions contained within the plan would be completed by the end of the Municipal Year.

RESOLVED

that progress made to date with regards to the implementation of the action plan arising from the Annual Governance Statement and the Council's improvement plan be noted.

40. INTERNAL AUDIT SERVICE: INTERIM PROGRESS REPORT

(Mr C McLaughlin and Ms H Clark, PricewaterhouseCoopers LLP were in attendance for consideration of this item).

The Panel received and noted a report by the Audit and Risk Manager (a copy of which is appended in the Minute Book) summarising the progress made to date in respect of the delivery of the Annual Audit Plan 2011/12 and the performance standards achieved.

Having regard to the performance of the service, the Panel questioned the reasons why no views had been expressed by the external auditors on the Internal Audit Service. Mr C McLaughlin confirmed that an audit of the service would be undertaken and that work in this respect had been scheduled for a later date.

Members of the Panel expressed their disappointment that only 53% of agreed audit actions were being introduced on time. The Panel further questioned the target figure of 60% and expressed the view that a more challenging target for introducing agreed audit actions should be set for the Council.

The Panel received an update on progress with issues identified in previous reports and expressed strong views over the risk to the authority with regard to the current processes and practices employed by the Council in respect of the Code of Procurement and Establishment Control. Having regard to the former, the Panel agreed that a report should be submitted to the September meeting of the Panel outlining the number of tenders and quotations handled by the Council over a year's period, indicating those which have not been handled in accordance with procurement rules. Mr C Meadowcroft, Head of Legal and Democratic Services delivered assurances that a formal procedure was in place which intends to ensure that there are no breaches occurring in respect of tenders and quotations received which exceed the value of £50,000. Having regard to Establishment Control, the Managing Director (Resources) undertook to ensure that Heads of Service were confirming the establishment of their respective service areas.

Finally, the Panel expressed concerns over the service delivery targets set for the Internal Audit Service and made comment that the targets could be tightened to produce a quicker work turnaround. The Panel were advised that the matter had previously been subject to review by the Audit and Risk Manager.

RESOLVED

- (a) that Panel Members' concerns on the content of the report now submitted be noted; and
- (b) that a further report on procurement practices employed by the Council over a year's period be submitted to the Panel at its September 2012 meeting.

41. RISK REGISTER

With the aid of a report by the Audit and Risk Manager (a copy of which is appended in the Minute Book) the Panel were acquainted with changes made to the Risk Register between the period 1st September 2011 to 13th March 2012 inclusive.

Having questioned the methodology used to score risks and received clarification on issues relating to the Council's Business Continuity Plan and Voluntary Redundancy Programme, the Panel

RESOLVED

that the contents of the report now submitted be noted.

42. REVIEW OF THE EFFECTIVENESS OF THE CORPORATE GOVERNANCE PANEL

Consideration was given to a report by the Head of Financial Services (a copy of which is appended in the Minute Book) detailing the outcome of an exercise undertaken by the Panel to review its own effectiveness. Whereupon, it was

RESOLVED

- (a) that the results of the second stage of the review of the effectiveness of the Corporate Governance Panel as indicated within Annex A of the report now submitted be noted;
- (b) that Chief Officers Management Team be requested to ensure that any significant impact on the Council's systems of corporate governance are properly considered when any Officer or Member decisions are being made; and
- (c) that effectiveness reviews be undertaken by all Panels and Committees of the Council, with the results of each review to be submitted to the Corporate Governance Panel for information purposes.

43. COUNCIL CONSTITUTION - FURTHER UPDATE

Consideration was given to a joint report by the Heads of Legal & Democratic and Financial Services (a copy of which is appended in the Minute Book) proposing amendments to the Codes of Financial Management and Procurement, together with a number of other constitutional issues relating to Council Procedure Rules and the Terms of Reference for the Corporate Governance Panel.

Having regard to the Code of Procurement, Members considered a proposal to change the procurement thresholds but unanimously agreed that they should remain as they are at present. Members formed the view that reducing the thresholds would result in an increase in Officer time obtaining three quotes for any goods/services procured between the value of £1,001 and £5,000.

In respect of the proposed changes relating to public speaking at Development Management Panel, Members discussed the last sentence of the proposed wording of Annex (iii) to the Council Procedure Rules (Standing Orders). The Panel concurred that it should be at the discretion of the Chairman of the Development Management Panel whether County Councillors should be entitled to speak.

Following a review of the Panel's own effectiveness held on 29th February 2012 (Minute No. 11/42 above refers) the Terms of Reference for the Panel were subject to review by Members at an informal meeting held on 7th March 2012. Panel Members expressed the view that clarification on their role was needed.

Finally, the Panel considered whether the Council should retain provision for a State of the District Debate in the Council Procedure Rules. Members agreed that this provision should remain within the Constitution.

Given that the changes require amendments to be made to the Council's Constitution, the Panel

RECOMMEND

that the Council

- (a) endorse the amendments to the Code of Financial Management as appended at Annex A to the report now submitted;
- (b) endorse the amendments to the Code of Procurement as appended at Annex B to the report, subject to there being no change made to the procurement thresholds;
- (c) approve amendments to Annex (iii) to the Council Procedure Rules (Standing Orders) as indicated in paragraph 3.6 of the report appended hereto subject to the inclusion of the words "and County Council Members" after the words "Other Members" in the third bullet point and by deleting the final sentence of paragraph 3.6;
- (d) adopt the revised Terms of Reference for the Corporate Governance Panel as set out in Annex C to the report now submitted; and
- (e) retain provision for a State of the District Debate in the Council Procedure Rules.

44. TRAINING OF PANEL MEMBERS

The Panel considered a report by the Head of Financial Services (a copy of which is appended in the Minute Book) regarding suggestions for training for Members based on the anticipated work programme for the Panel in 2012. In doing so, it was agreed that any future training requirements would be addressed by Members of the Panel on a meeting by meeting basis.

Chairman

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the CORPORATE GOVERNANCE PANEL held in the Civic Suite, Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN on Wednesday, 16 May 2012.

PRESENT: Councillors M G Baker, E R Butler
K J Churchill, G J Harlock, P G Mitchell and
R J West.

1. ELECTION OF CHAIRMAN

RESOLVED

that Councillor E R Butler be elected Chairman of the Panel for the ensuing Municipal Year.

Councillor E R Butler in the Chair.

2. MEMBERS' INTERESTS

No declarations were received.

3. APPOINTMENT OF VICE-CHAIRMAN

RESOLVED

that Councillor M G Baker be appointed Vice-Chairman of the Panel for the ensuing Municipal Year.

Chairman

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**FINAL ACCOUNTS 2011/12 AND AUDIT OF THE 2010/11 ACCOUNTS
(Report by the Head of Financial Services)**

1. INTRODUCTION

- 1.1 The Accounts and Audit Regulations no longer require Members to approve the accounts before they are audited but the 2011/12 accounts will be circulated to Panel members for information as soon as they are completed.
- 1.2 The prime purpose of the accounts is to form the official record of what has happened in the last year and, when audited, they will demonstrate that a proper level of financial stewardship has been achieved on behalf of local residents.

2 AUDIT OF THE 2010/11 ACCOUNTS

- 2.1 A final version of the accounts, in which there was significant confidence, was passed to the auditors on the 18 April but the finalisation of the audit has unfortunately been delayed because of the illness of the Audit Manager and their prioritisation of NHS audits. Resources should be available to complete the audit from June 6th.
- 2.2 At the time of issuing this report it was still not certain when the auditors will have completed their work on the 2010/11 accounts and an update will be given at the meeting.

3 2011/12 ACCOUNTS

- 3.1 The Statement of Accounts, prepared in accordance with the CIPFA Code of Practice has to be completed by 30 June ready for audit.

The Head of Financial Services considers that this will be achieved because:

- The 2010/11 accounts created a sound IFRS compliant base from which to prepare the 2011/12 accounts.
- Significant knowledge was gained on IFRS from completing the 2010/11 accounts and a new asset register was developed that specifically supports the IFRS requirements.
- A consultant has supported the completion of the accounts to ensure that they meet the audit requirements.
- Following the retirement of the capital accountant last September the section was restructured to establish a team that would provide extra support on final accounts and thus spread the workload between more staff. The accountant heading that team has worked closely with the consultant in the

finalisation of last year's accounts, the development off the asset register and the 2011/12 accounts.

- Progress on the closedown has been monitored on a much more regular basis so that if any problems emerge they can immediately be responded to.
- There is a clear understanding within the section that, in the current circumstances, asking for help is a strength and not a weakness.

2.2 However, even in an "ordinary" year there is still a significant amount of work required to complete the accounts and the timetable is always tight to complete them by 30 June. They will be circulated informally to Panel Members as soon as they are available.

3.2 The audit is scheduled to start on 23 July 2012 and the audit conclusions will be formally reported to the Panel at its September meeting.

4 RECOMMENDATIONS

4.1 It is recommended that the Panel note the latest position.

ACCESS TO INFORMATION ACT 1985

Final Accounts and Working Papers held in the Accountancy Section

Contact Officers:

Eleanor Smith, Accountancy Manager ☎ 01480 388157

Steve Couper, Head of Financial Services ☎ 01480 388103

**INTERNAL AUDIT SERVICE
INTERNAL AUDIT PLAN
(Report by the Audit & Risk Manager)**

1. PURPOSE

- 1.1 This report allows the Panel to consider and comment upon the internal audit plan for the period commencing August 2012 before it is finalised and approved by the Managing Director (Resources).

2. CODES OF PRACTICE

- 2.1 The 2006 Code of Practice for Internal Audit published by the Chartered Institute of Public Finance and Accountancy (CIPFA) is recognised as proper practice. The Code requires the Audit and Risk Manager to provide a written opinion on the overall adequacy and effectiveness of the Council's control environment each year.
- 2.2 In December 2011, CIPFA issued a Statement on the role of the Head of Internal Audit in public service organisations. This Statement is recognised as best practice. The Statement expands upon the Code in a number of areas and makes clear that audit planning must be comprehensive and consider the whole control environment, both financial and non-financial, and focus on those areas where assurance is most needed, so that the Audit and Risk Manager's annual opinion is a fair reflection of the overall position.

3. STRATEGIC AND ANNUAL PLANNING

- 3.1 The Internal Audit Service maintains a four year strategic audit plan, listing all the risk and system areas that are considered likely to affect the Council's internal control environment. The strategic plan shows the relative importance of each risk (as identified by the risk register) and system area. To allow for more effective planning, a number of audit areas have been combined so that audits can address common risk themes across services, rather than be conducted on a service by service basis.
- 3.2 Discussions are held with the Managing Directors and all Heads of Service to ensure that the strategic plan is reflective of the issues within the Council and to allow new areas to be identified. Panel Members were also given the opportunity to contribute to the planning process. The 2012/13 strategic plan (excluding specialist computer audit reviews) lists 139 separate areas.

The following areas were added this year.

LGSS contract management
Localism Act
Community Infrastructure Levy
Corporate Office
Improvements to income reconciliation
Management of Anti Social Behaviour
Effectiveness reviews of Panels

- 3.3 To prepare the annual audit plan, the strategic plan is reviewed and audits placed in priority order based on risk, materiality and previous audit review findings. An estimate of the days required to undertake each review is then made based upon its proposed scope. The highest priority schemes which can be delivered within the resources available are then included in the plan. The Chief Officers' Management Team are then consulted prior to the plans submission to the Panel.

4 RESOURCING THE AUDIT PLAN

Internal Audit Staffing

- 4.1 To meet the Panel's minimum assurance requirements agreed in March 2009, it is anticipated that for the four year period commencing August 2012, 1,528 days will be required to deliver the necessary assurances and provision of help and advice across the areas listed in the four year strategic plan.

Based on current staffing, the internal audit service will deliver 1,397 days, with the difference of 131 days being delivered via Deloitte's.

The strategic plan commencing 2012/13 can therefore be delivered from the resources that are currently available to the internal audit service.

- 4.2 The initiatives undertaken in 2011/12 regarding continuous assurance on the key financial systems are still being evaluated but they have been well received by Managers and will result in more frequent and structured internal control reviews, jointly performed by managers and auditors. Consequently time allocated to them has been reduced across the four years of the strategic plan from 259 to 135 days, a saving of 124 days (31 days per year). It is likely that a further small saving may still emerge.
- 4.3 Due to the involvement of internal audit staff in the Employee Liaison Advisory Group (ELAG), it has been necessary to allocate time to meet this requirement. Over the four year plan period this is estimated at 84 days. This increases the need to use Deloitte's but by less than the saving due to continuous assurance. The table below summarises this position:

4 Year Strategic Plan			
	Internal Audit	Deloittes	Total
	days	days	days
Starting Point	1,481	171	1,652
Less Continuous assurance saving		-124	-124
Add ELAG time	-84	+84	0
DRAFT PLAN	1,397	131	1,528

Computer Audit Reviews

- 4.4 No specialist computer audit reviews are currently included in the audit plan. An assessment of the number and scope of reviews will be jointly carried out by IMD and Deloittes. The resulting plan will be presented to the Panel at its September meeting.

5. INTERNAL AUDIT PLAN

- 5.1 The draft plan for 2012/13 is attached.
- 5.2 The audit plan for a complex body such as this Council needs to be dynamic to reflect the changing circumstances that will evolve over the course of the next year. History has demonstrated the need to advance, defer, add or remove audits as circumstances change. The true measure of the effectiveness is determined by:

- Delivering the planned number of audit days
- Ensuring the effectiveness of those days
- Being able to justify the reasons for changes to the programme.

- 5.3 It has therefore been agreed by the Managing Director(Resources) that the plan for 2012/13 will be prepared in six month segments. Thus the attached plan details the plan for the first 6 months but just provides the general audit areas for the second six months. The Panel will receive a further report in December which will report on progress to date and detail the plan for the second 6 months (February to July) based on the latest situation.

6. RECOMMENDATION

- 6.1 It is recommended that the Panel:
- a) identify any comments they wish to make to the Managing Director (Resources) before he finalises the audit plan.

ACCESS TO INFORMATION ACT 1985

Strategic Audit Plan
The Council's Risk Register

Contact Officer: David Harwood, Audit & Risk Manager ☎ **01480 388115**



Internal Audit Service

Internal Audit
&
Assurance Plan
2012 - 2013

2012 – 2013 Internal Audit & Assurance Plan

The Internal Audit & Assurance Plan for the period August 2012 to July 2013 has been prepared in accordance with best practice as contained in the 2006 CIPFA Code of Practice for Internal Audit.

The Code requires that Internal Audit provide an opinion on the overall adequacy and effectiveness of the Council's internal control environment and that the opinion should inform the Annual Statement of Assurance on Corporate Governance.

The plan has been developed to take account of this requirement and provides the opportunity for reviews of corporate governance, risk management and operational controls to be undertaken as well as the more traditional financial areas.

All the risks present in the risk register as at 31 May have been included within the four year strategic audit plan, although not all, when considering the service issues identified or alternative assurance available, are required to be audited. Reviews that have clear links to risks within the risk register will consider the effectiveness of the controls that are in place to manage the risks identified. They will also consider the manager's assurance opinion entered into the register.

A summary of the audits planned for the six month period commencing August 2012 are listed on the following pages, together with the name of the Liaison Officer responsible for dealing with any audit report or other issue that arises from an audit review. A further list, detailing the audits anticipated to be delivered in the second half of the year is also included for information purposes.

The annual assurance opinion that I provide will be based upon the findings of the reviews carried out.

In addition to undertaking the audits detailed in the plan, the review of fraud related risk areas will continue. Internal audit will also be involved in providing advice and assistance to managers, advising on new project developments and dealing with any whistleblowing allegations received.

Whilst it is envisaged that all the audits contained in the plan will be undertaken, the identification of any new risks or significant changes in residual risk scores, may require audits to be substituted so as to ensure that reviews are undertaken of areas identified as being of greatest risk to the achievement of Council objectives. Chief Officers and Heads of Service will be informed of any changes before they are introduced.

David Harwood
Audit & Risk Manager
7 June 2012

Corporate Systems

Licensing & Community Safety: C Meadowcroft & S Lammin 5

A review of the arrangements between licensing, community safety and the Police that allow for anti social behaviour issues to be identified and addressed.

Business continuity: C Hall 8

The risk register recognises business continuity and service recovery to be a 'very high' risk. This audit will review the business continuity management procedures in place across a sample of Services and the new arrangements in place to manage this area at senior manager level. This review was included in last year's plan, but was postponed due to Service plans being reviewed.

Emergency planning: E Kendall 7

A review of the procedures and controls that allow the Council to assess the risk of any type of emergency occurring, plan for a co-ordinated response to address that risk, train and prepare staff or volunteers with skills for an emergency and co-ordinate the Council's response. This areas was last reviewed in 2006 and received an limited assurance opinion.

E-marketplace: S Couper 8

The e-marketplace was reviewed in May 2011 as part of the annual creditors audit. The report identified a number of issues dealing with the non-use of e-marketplace within all services, 'rogue' spending and the potential for further savings to be made. This review will examine why employees placing orders for goods and services available in the e-marketplace are not using the service and the steps that could be taken to increase its use so delivering greater savings.

Project Management & Post Implementation Reviews : T Parker 8 5

To review the project management of both capital and revenue projects and the procedures for identifying the benefits subsequently gained from the investment.

One Leisure

One Leisure: S Bell 8

To review the operation of the Pure therapy service, which is currently operated at One Leisure Huntingdon and St Neots and will open at St Ives in 2013. This area has not been reviewed previously.

Total Allocation 49

Customer Services

Choice Based Lettings: J Barber

7

To review the management and administration of the Choice Based Lettings system, considering the housing application process, tenants wishes, management review and offer/allocation of property. This area was last reviewed in 2008 and received a substantial assurance opinion.

Financial Systems

Identification and continuous auditing of key controls

23

Identification and testing of the effectiveness of key controls within the National non-domestic rating system (12 days).

Quarterly testing of compliance with agreed processes to provide assurance on the controls operation will be undertaken on the following systems:

- Debtors
- Council tax
- Creditors
- Main accounting systems

Note: The NNDR review may be delayed if the Huntingdon Business Improvement District bid is successful.

Improvements to Income Reconciliation: J Barber

5

To provide advice and assistance to the Project Board that is reviewing and replacing the software used to manage income and its subsequent reconciliation.

Legal & Democratic Services

Legal debt collection & recovery: C Meadowcroft

8

To review the legal case management system and all aspects of the debt recovery process. This area was last reviewed in June 2008 and received an adequate assurance opinion. It was included in last year's plan but postponed due to the voluntary redundancy of the post holder responsible for the recovery process.

Environmental Management

Facilities Management: P Jose

8

A review of the management of facilities within Pathfinder House, to include caretaking provision, management of floor space, fire alarm testing and utility costs. This area has not been reviewed previously.

Total Allocation 51

Fraud Related Reviews

Responding to Whistleblowing allegations: T Parker	10
To receive, review and provide advice to managers in respect of whistleblowing allegations received.	
Internet monitoring: H Donnellan / C Hall	10
This review will examine employees' use of the internet and the controls in place to identify potential misuse. This review was included in last year's plan, but was postponed due to delays in installation new monitoring software.	
Email review: H Donnellan	5
To review employees use of the Council's email system for private or personal correspondence.	
Establishment control: H Donnellan	3
Controlling the accuracy of the payroll to reduce the opportunity for fraud is a key risk. With the transfer to the HR/Payroll service to LGSS, and the current monitoring procedures, there is a slight increase in risk that establishment control may not be robust.	

Contract & IT Reviews

Tender documents & contract conditions: S Couper/C Meadowcroft	6
To review the process for preparing tender and quotation documents and associated conditions of contract. This area has not been reviewed previously.	
Technical computer audit reviews	
To be determined.	

Partnered Services

LGSS Contract Management: H Donnellan	5
To review the systems and procedures introduced to allow the HR/Payroll service delivered by LGSS to be monitored and contractual service standards delivered.	

Total Allocation 39

Total days allocated 139

Audits anticipated to be delivered from February 2013.

Financial Systems

Identification & continuous auditing of key controls	25
New Homes Bonus grant	3

Fraud related reviews

National Fraud Initiative	6
Housing Benefits	12

Partnered Services

HR/Payroll review	15
Recruitment procedures	10
Employee training & development	5

Corporate Systems

Corporate Plan and performance management	10
Equality & Discrimination	5
New legislation	3
Staff appraisals	5

Operations Division

Equipment servicing	6
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Corporate Office

Commercial rents & estate management	8
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Planning & Housing Strategy

Community Infrastructure Levy	10
Historic Building Grants	5

Total Allocation 128

ANTI-FRAUD & CORRUPTION MEASURES

(Report by the Audit & Risk Manager)

1. INTRODUCTION

1.1 This report:

- outlines the new Local Government Fraud Strategy.
- explains the actions currently taken in a number of potential fraud areas which are resulting in fraud levels in Huntingdonshire that are significantly lower than the perceived average.
- proposes a further report to discuss the Local Government Fraud Strategy “commitments” and recommendations.

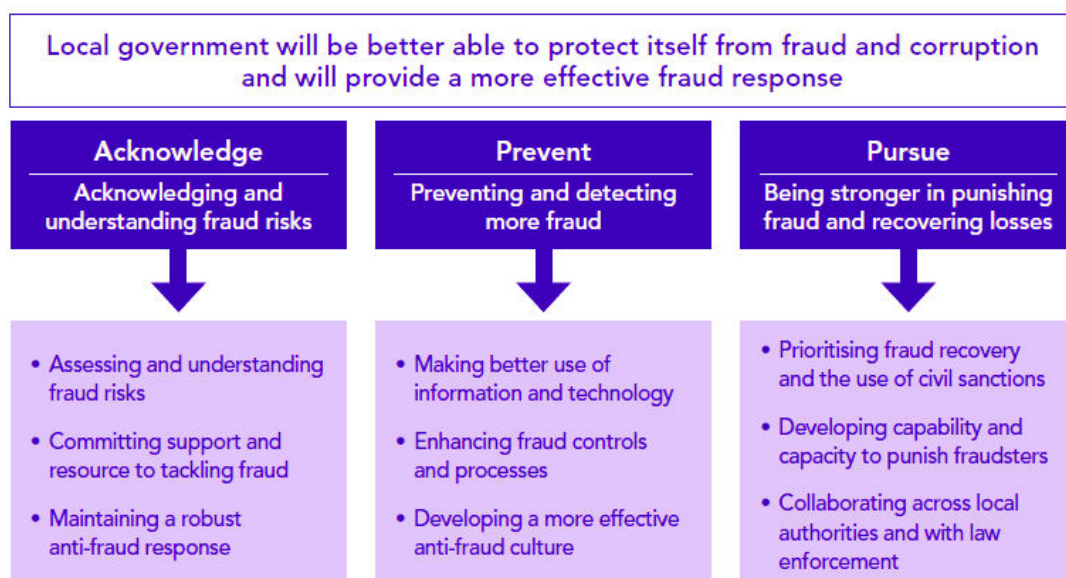
2. LOCAL GOVERNMENT FRAUD STRATEGY

2.1 In April 2012 the Home Office, via the National Fraud Authority (NFA), published the Local Government Fraud Strategy to meet a recommendation made in Fighting Fraud Together (2011), the national plan to reduce fraud. Over 400 individuals from a wide range of council and local government bodies were consulted, including the Council’s Fraud Manager, during its development.

2.2 A copy of the Strategy has been circulated to Members of the Panel.

2.3 Every local authority is being encouraged to implement the recommendations (referred to as ‘commitments’ – see section 4) to help identify and address their own levels of fraud.

2.4 The document calls for local authorities to adopt a tougher approach to tackle fraud, organised around the three themes of Acknowledge, Prevent and Pursue.



3. FRAUD LOSSES

- 3.1 The Strategy suggests that each Council should acknowledge that it is subject to fraudulent action and therefore there are opportunities for savings if cost-effective anti-fraud measures are taken.

The NFA have estimated the Council's level of fraud based on

- statistics submitted to, and published on the website of the Dept of Communities & Local Government.
- An indicative estimate of losses as contained in the Audit Commissions "Protecting the Public Purse 2011" report, and the NFA "Annual Fraud Indicator 2011" report

The resulting **hypothetical** figures for Huntingdonshire are:

Service	Lower Estimate	Upper Estimate
Council Tax	£ 330,000	£ 560,000
Procurement	£ 390,000	£ 650,000
Payroll	£ 40,000	£ 70,000
Total	<u>£ 760,000</u>	<u>£1,280,000</u>

The NFA acknowledges that real losses will depend upon the resilience the local authority has to fraud. Experience across the Council shows that our position is likely to be lower than the NFA's estimates, as explained in the following paragraphs.

Council Tax Fraud

- 3.2 Council Tax fraud is predominantly due to incorrectly claimed discounts and exemptions and the main element is single person discount (SPD). The Council has always been proactive in this area, targeting about 6,000 claims for review each year (between a quarter and a third of the total). Because this is done the Council has achieved lower success rates from the National Fraud Initiative (NFI) data matching than those authorities who have not got this as part of their annual process.

- 3.3 This year, for the first time, all local authorities in Cambridgeshire have provided their Council Tax data to a commercial organisation who have used credit checking and other sources of information to review all SPD claims. Based on their past experience they estimated that the Council should save 4% or £240k.

The output is currently being reviewed but, so far, savings of only £40k have been identified. A report detailing the outcome of the exercise will be presented to Panel at a future meeting.

- 3.4 The Fraud Team, through their work on Housing Benefit and Council Tax benefit claims, identified around 100 fraudulent SPD claims in 2011/12, amounting to £35k.

Whilst not being complacent, the results above suggest the estimates provided by the NFA are too high.

Procurement Fraud

- 3.5 Procurement fraud is any fraud relating to the purchasing of goods and services. It covers the entire procure-to-pay lifecycle, including fraud in the tender/bidder selection and contract award stages (for example, illicit cartel activity or bribery of an official to influence the tendering process) as well as fraud occurring during the life of the contract (for example, false, duplicate or double invoicing).
- 3.6 Procurement fraud is one of the hardest types of fraud to identify, particularly at the pre-contract award phase. It is a difficult area to tackle due to the complexity of procuring goods and services across so many spending areas. The areas that pose the highest risk of fraud are those associated with the selection and evaluation of tenders, and paying for works or services that have not been delivered or have been overvalued.
- 3.7 Panel members will be aware that a piece of work is currently underway to examine the awarding of tenders and it is expected that the findings from that review will be reported to the next meeting. Whilst Panel will be aware of previous concerns surrounding the non compliance with the Code of Procurement, there has been no evidence to date of either individual or systematic cases of procurement fraud.

Payroll Fraud

- 3.8 Any employee can perpetrate fraud against their employer. Responsibility is often delegated down to employees to ensure the smooth running of finances and service delivery. This transference of responsibility brings about its own inherent fraud risks.
- 3.9 Types of employee fraud are wide-ranging and can include misuse of time and resources, fraudulent claims for allowances and expenses, failure to register or declare conflict of interests or the acceptance of gifts and hospitality, as well as the manipulation of finance and payroll systems. It also includes staff pre-employment fraud, where false information is given in order to gain employment.
- 3.10 Internal audit regularly undertake work in respect of employee systems, such as those mentioned above. Whilst a number of cases of fraud are identified each year, mainly through whistleblowing, they have been of low value. One of the strongest defences against employee fraud is maintaining clear controls and separation of duties. The NFA recommends the fraud proofing of new or amended policies, systems and delivery models so that fraud risks can be designed out at the earliest opportunity. However there is a clear balance to be struck between the cost of controls and the potential savings. Internal Audit will ensure that this trade-off is a fundamental element in the decisions on system design or modification.

4. NFA COMMITMENTS

- 4.1 The Strategy sets out a number of key commitments that, if introduced across the entire local government sector will allow authorities to become more aware of their fraud risks whilst becoming more resilient to the threat of fraud.

The commitments are at two levels – national and local.

- National commitments will need the support of the Government, external auditors, other external fraud preventative groups and organisations in order to be developed and introduced.
 - Local commitments need the support of all local government authorities so that effective systems for ensuring that anti-fraud arrangements are in place and working. For example, one of the commitments proposes membership of the national database that retains records of employees who have resigned or being dismissed on account of perpetrating a fraud.
- 4.2 The local commitments are listed in Annex A. A full review of the implications of meeting the local commitments has not yet been completed. It is proposed that a report be presented to the Panel once this has been done.

5. CURRENT ANTI-FRAUD & CORRUPTION MEASURES

- 5.1 A number of best practice documents and guides have been produced in recent years. These include:
- CIPFA ‘Managing the Risk of Fraud’ book (checklist of 56 points)
 - ‘Protecting the Public Purse’ published by the Audit Commission (checklist of 26 points)
 - NFA checklist (of 34 points) which requires both of the above documents to be completed.
- 5.2 Whilst the checklists cover many of the same points, the ‘Protecting the Public Purse’ checklist has been specifically devised for those charged with governance to enable them to review counter-fraud arrangements. It is proposed that a report be submitted to the Panel detailing the arrangements in place to manage the issues in the checklist (attached at Annex B).
- 5.3 Protecting the Public Purse also included a number of recommendations to further improve counter-fraud activity. These are listed at Annex C and it is proposed that these be formally reviewed and reported to the Panel at the same time as the commitment review (see para 4.2).

6. UPDATE ON THE ACTION PLAN FROM THE 2010 REVIEW

The framework of control measures countering fraud were last considered by the Panel in 2010. The framework was based on best practice at the time and three issues were identified:

1. Fraud and corruption awareness training should be provided for employees, members and those managers who have key responsibilities for anti-fraud and corruption arrangements;

An e-learning fraud awareness training module has been written. However the NFA are issuing a fraud e-learning/awareness raising training package which it is intended to compare against the in-house product before a decision is taken as to which product to launch. A short booklet was published on the intranet in 2010 to help raise awareness of the steps that employees can take to counter fraud.

2. Demonstrate that contractors have confidence in the whistleblowing arrangements and are aware how to make a disclosure;

The Council's contract terms and conditions refer to the whistleblowing procedure in place. The internet procurement webpage also has a document that explains to suppliers our approach to whistleblowing and how they can report an issue.

3. Anti-money laundering guidance will be reviewed to reflect legislative changes .

The anti-money laundering guidance has been reviewed. The Code of Financial Management states that no cash payments in excess of £1000 will be accepted. It is unlikely that at such a low level, criminals will consider using the Council for money laundering purposes.

- 6.1 The Council has good 'preventative' internal control measures in place and good 'pursuit' mechanisms which together account for the lower than average extent of fraud perpetrated against it and the prompter identification and resolution for those that do occur.
- 6.2 The risk register contains three risks that deal with the risk of fraud occurring.
 - 75 Fraud, financial or other irregularities occur leading to additional financial costs, unforeseen investigation costs & reputation damage.
 - 144 Housing Benefit fraud goes undetected leading to loss of funds from public purse.
 - 234 Employees of the Council who act in isolation or conjunction with a colleague accept an inducement/bribe leading to them acting outside of agreed policies and procedures and bringing the Council into disrepute.

The controls in place to reduce and manage these risks are considered to be in place and working effectively.

7. BRIBERY

- 7.1 In December 2010 the Panel requested Heads of Service to review and identify service areas that may be susceptible to bribery and introduce controls to minimise the opportunity for bribery to occur.
- 7.2 This review has been completed and a summary of the service areas identified is contained in Annex D.
- 7.3 Separation of duties and the availability of written procedures are the main controls that have been identified to mitigate bribery risks.

8. RECOMMENDATION

- 8.1 It is recommended that the Panel:
- Acknowledge that robust controls are in place to counter-fraudulent activity and that as a result fraud is significantly less than national estimates;
 - Support the aims of the Local Government Fraud Strategy;
 - Note that reports will be received on the approaches to countering fraud as outlined; and
 - Note that a review of service bribery risks has been completed.

BACKGROUND INFORMATION

National Fraud Authority The Local Government Fraud Strategy
Audit Commission Protecting the Public Purse 2011

Contact Office: David Harwood, Audit & Risk Manager ☎ **01480 388115**

Local Government Fraud Strategy Local Commitments

Acknowledge & understanding fraud risks	Preventing & detecting more fraud	Being stronger in pursuing & punishing fraud & recovering losses
<p>The Council should consider:</p> <p>Conducting a fraud risk assessment to identify their own fraud threat and using the fraud loss tool to determine their likely fraud risk exposure.</p>	<p>Deploying data analytic tools in their areas of risk for the purpose of preventing and detecting fraud.</p>	<p>Ensuring that the local authority has access to appropriate specialist investigative resource, including financial investigators, and explore options on whether access to these services can be shared across local authorities.</p>
<p>Membership of the National Anti-Fraud Network (NAFN).</p>	<p>Collaborating with NFI and NAFN to develop data warehouses for the purpose of data matching fraud prevention services across councils.</p>	<p>Making arrangements with other authorities or partners to ensure access to a financial investigator.</p>
<p>Performing a resilience check of their current capabilities and making use of the free resilience tool which can be accessed via the NAFN website.</p>	<p>Developing a programme of activity to embed a strong anti-fraud culture across departments and delivery agents.</p>	<p>Adopting a parallel sanctions policy for the purpose of taking disciplinary, civil and criminal action against fraudsters and consider the use of fraud recovery for all instances of fraud.</p>
<p>Keeping records of all suspected and confirmed fraud cases and reporting annually at an Audit Committee level, or equivalent, on all matters relating to fraud, including an assessment of the effectiveness of the authority's fraud response.</p>	<p>Using the Audit Commission's Changing Organisational Cultures toolkit to improve staff awareness of fraud risks.</p>	<p>Securing appropriate training for fraud practitioners in line with agreed professional standards for all types of investigation.</p>
<p>Review new policies and initiatives where appropriate (or changes to existing policies and initiatives) to evaluate the risk of fraud and build-in strong fraud prevention controls.</p>	<p>Adopting best practice in staff vetting.</p>	<p>Only employing staff to undertake investigations that are suitably qualified and trained and adhere to a professional code.</p>

Local Government Fraud Strategy Local Commitments

Acknowledge & understanding fraud risks	Preventing & detecting more fraud	Being stronger in pursuing & punishing fraud & recovering losses
<p>The Council should consider:</p> <p>Reviewing key systems that may be vulnerable to fraud and ensuring that key fraud risks are managed effectively.</p>	<p>Ensuring that staff and the public have access to a fraud and corruption whistleblowing helpline, and assure themselves that it conforms to the British Standard for whistleblowing arrangements.</p>	<p>Adopting a professional code using the codes held by the Institute of Counter Fraud Specialists as a basis.</p>
<p>Developing a response plan aligned with their fraud risk and this strategy, accompanying guidance documents and checklist and reporting on this to senior management and relevant committees.</p>	<p>Membership to the CIFAS (UK's Fraud Prevention Service) staff fraud database.</p>	<p>Working closely with local law enforcement agencies and putting in place locally agreed service level agreements where appropriate.</p>
<p>Convening a high level oversight board, including the Local Government Association and other relevant bodies, and oversee the delivery of this strategy.</p>	<p>Working in partnership with Registered Social Housing Providers to help them tackle fraud in social housing.</p>	
<p>The Local authority representative groups will work with the NFA to promote the approach outlined in this strategy and encourage members to use the free tools and good practice bank.</p>	<p>Continually review system weaknesses and assess the effectiveness of controls in light of the evolving fraud threats across local government, making best use of shared information and intelligence on known fraud and fraudsters.</p>	
	<p>Adopting the good practice on tackling housing tenancy and council tax exemption fraud outlined in the NFA guidance.</p>	

Audit Commission “Protecting the Public Purse”

Checklist for those charged with Governance

General

1. Do we have a zero tolerance policy towards fraud?
2. Do we have the right approach, and effective counter-fraud strategies, policies and plans? Have we aligned our strategy with Fighting Fraud Locally?
3. Do we have dedicated counter-fraud staff?
4. Do counter-fraud staff review all the work of our organisation?
5. Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?
6. Have we assessed our management of counter-fraud work against good practice?
7. Do we raise awareness of fraud risks?
 - a. with new staff (including agency staff)
 - b. with existing staff?
 - c. with elected members?
 - d. with our contractors?
8. Do we work well with national, regional and local networks and partnerships to ensure we know about current fraud risks and issues?
9. Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?
10. Do we identify areas where our internal controls may not be performing as well as intended? How quickly do we then take action?
11. Do we maximise the benefit of our participation in the Audit Commission NFI and receive reports on the matches investigated?
12. Do we have arrangements in place that encourage our staff to raise their concerns about money laundering?
13. Do we have effective whistleblowing arrangements?
14. Do we have effective fidelity insurance arrangements?

Fighting Fraud with reduced resources

15. Have we reassessed our fraud risks since the change in the financial climate?
16. Have we amended our counter-fraud action plan as a result?
17. Have we reallocated staff as a result?

Audit Commission “Protecting the Public Purse”

Checklist for those charged with Governance

Current Risks & Issues

Housing Tenancy

18. Do we take proper action to ensure we only allocate social housing to those who are eligible?
19. Do we ensure that social housing is occupied by those to whom it is allocated?

Procurement

20. Are we satisfied our procurement controls are working as intended?
21. Have we reviewed our contract-letting procedures since the investigations by the Office of Fair Trading into cartels and compared them with best practice?

Recruitment

22. Are we satisfied our recruitment procedures achieve the following:-
 - a. Do they prevent us employing people working under false identities?
 - b. Do they confirm employment references effectively?
 - c. Do they ensure applicants are eligible to work in the UK?
 - d. Do they require agencies supplying us with staff to undertake the checks that we require?

Personal Budgets (*Not Applicable*)

23. Where we are expanding the use of personal budgets for adult social care, in particular direct payments, have we introduced proper safeguarding proportionate to risk and in line with recommended good practice?
24. Have we updated our whistleblowing arrangements for both staff and citizens, so that they may raise concerns about the financial abuse of personal budgets?

Council Tax

25. Are we effectively controlling the discounts and allowances we give to council taxpayers?

Housing and Council Tax Benefits

26. When we tackle housing and council tax benefit fraud do we make full use of the following:-
 - a. National Fraud Initiative?
 - b. Department for Work and Pensions Housing Benefit matching service?
 - c. Internal Data Matching?
 - d. Private sector data matching?

Audit Commission “Protecting the Public Purse”**Recommendations**

Councils should:-

1. Ensure they keep the capability to investigate fraud that is not referred to Housing Benefits;
2. Improve their use of data, information and intelligence to focus their counter-fraud work;
3. Review their counter-fraud arrangements in the context of the NFA’s strategy for local government “Fighting Fraud Locally”;
4. Work with other social housing providers to improve the use of civil and criminal action to deter tenancy fraudsters;
5. Use the Audit Commission’s council tax single person discount (SPD) fraud predictor toolkit to assess the potential level of such fraud locally;
6. Review their performance against the NFA’s good practice guide on tackling housing tenancy fraud and council tax fraud;
7. Ensure the National Fraud Initiative (NFI) data matches are followed up effectively, including those targeting council tax discount abuse;
8. Follow good practice and match the success of others; and
9. Use the Audit Commissions checklist for those charged with governance (See Annex B) to review their counter-fraud arrangements.

Risks to Services arising through Bribery

Risk of bribery during the process for

- the procurement of contracts for the supply of goods, supplier or services
- the payment of suppliers
- the employment of employees or recruitment process in general
- letting of commercial properties
- the administration of investments
- the allocation of housing
- the process for approving or rejecting planning applications
- the awarding of grants
- the collection of debts
- the approval of events in/on Council land/property
- accepting/giving sponsorship

Risk of bribery in order to

- Avoid enforcement actions (Development Control, Environmental Health, Licensing)
- Obtain a licence or permit
- Delay the start of a charging period or obtain statutory or discretionary relief against charges (NNDR, Council Tax)
- Avoid or obtain a reduction to, or cancellation of, fees and charges (Trade waste, parking fines, markets, general debts)
- Receive a benefit to which not entitled (Resident's car parking permit)
- Gain access to Council assets for unauthorised use (cutting of lawns & hedges, printing services)
- Gain access to private or confidential information held that would not be released via Freedom of Information requests

**INTERNAL AUDIT SERVICE
TERMS OF REFERENCE & INTERNAL AUDIT STRATEGY
(Report by the Audit & Risk Manager)**

1. Introduction

- 1.1 The terms of reference and strategy documents for Internal Audit were last approved by the Panel in June 2010 with the intention to review them again this year.

2. Professional Developments

- 2.1 In May 2011, the Chartered Institute of Public Finance & Accountancy (CIPFA) and the Institute of Internal Auditors (IIA) agreed to collaborate in the development of the internal audit profession in the public sector. As a result, national Public Sector Internal Audit Standards (PSIAS), based upon the mandatory elements of the global IIA's International Professional Performance Framework are being developed.

The PSIAS are due to be published by the end of the year and will consist of the following:

- Definition of Internal Auditing
- Code of Ethics; and
- Standards for the Professional Practice of Internal Auditing.

- 2.2 The PSIAS will apply statutorily to UK central and local government. The CIPFA Audit Panel is drafting a new local government Code of Practice for internal audit which is due to be published alongside the PSIAS.
- 2.3 It would seem sensible to delay review of the Council's terms of reference and strategy documents for Internal Audit until these have been received. Revised documents will then be presented to the Panel for consideration. If the changes are significant, a short presentation will be given before the meeting outlining the main changes and how they will affect the work of Internal Audit.

3. Recommendation

- 3.1 It is recommended that the Panel note this report.

ACCESS TO INFORMATION ACT 1985

None

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**INSPECTION BY THE INTERCEPTION OF COMMUNICATIONS
COMMISSIONER
(Joint Report by Head of Legal & Democratic Services
and Fraud Manager)**

1. INTRODUCTION

- 1.1 Article 8 of the Human Rights Act 1998 (HRA) states that every person shall have the right to respect for his private and family life, home, and correspondence. The Article states that there shall be no interference with this right by any public body except in accordance with the law. The Article, unlike many of the other Articles, does not give an absolute right to privacy, but allows national legislation, compliant with HRA, to limit or suspend the right in prescribed circumstances.
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) was introduced to provide law enforcement agencies with a legal gateway and strict guidance on when and how the subject of an investigation can have their Article 8 rights suspended. Contrary to much press publicity Local Councils can use the powers conferred by RIPA, *but only for the purposes of the detection and prevention of crime.*
- 1.3 Local Councils can use RIPA Authorisations to acquire 'Communications Data'. The Legislation, guidance and Code of Practice for both these areas is provided by the Home Office.
- 1.4 Huntingdonshire District Council (HDC) has had policies in place since 2001 which ensure that officers conducting these activities are fully trained and conversant with both the law and the most recent guidance from the Home Office.
- 1.5 The Council makes careful use of the powers granted under the Act as part of its enforcement functions to gather evidence for use in investigations and as evidence in court. The information obtained normally relates to subscriber information for telephone numbers or web-sites.

2. COMMISSIONERS

- 2.1 RIPA provided for the creation of two commissioners to oversee the two areas of RIPA which affect HDC. The Office of the Surveillance Commissioner (OSC) and the Interception of Communication Commissioner Office (IOCCO) carry out these two separate functions.
- 2.2 The council is required, whether there is a policy in place or not, to provide annual reports to both commissioners on all activity undertaken. The OSC inspect every Local Council affected by RIPA every three years and the IOCCO conduct random inspections.

3 2012 INSPECTION

3.1 HDC was inspected on 13th March 2012 by IOCCO. This inspection lasted a full day and included an pre-inspection review of the Councils policies and procedures, as well as meetings with:

- Head of Legal & Democratic Services who acts as the Councils Senior Responsible Officer;
- Heads of Service who authorise applications for acquisition of Communications Data;
- Fraud Manager who acts as the Councils Central Monitoring Officer for all matters relating to RIPA; and
- The staff manning the Councils 'Single Point of Contact' which forms part of the Councils Fraud Team function.

3.2 The Inspection also included a review of all 18 applications for Communications Data made by the Council in 2011.

3.3. On the 11th April 2012 IOCCO issued the Commissioner's Report following the Inspection. The Summary of findings from the report notes that:

"The public authority is acquiring communications data for the correct statutory purpose and importantly no evidence was found that the Council's powers under Part I Chapter II of RIPA had been used to investigate trivial offences. Overall the Council has a satisfactory level of compliance with the Act and Code of Practice. However, there is room to improve parts of the systems and processes for acquiring communications data."

3.4 A copy of the full IOCCO Report dated 13th March 2012 is attached.

3.5 The report was very positive about the Councils use of RIPA but still provided a number of recommendations for further improvement which are highlighted as Red (urgent action required), Amber (non-urgent action required) and Green (best practice). In all 1 Red action was required, 4 Amber and 3 Green. The specific recommendations and the Council's response are shown in Annex A.

3.6 The Urgent matter had already been identified as part of the pre-inspection process and dealt with by the Council and all applications comply with this recommendation.

3.7 The non urgent actions highlighted have all be accepted and necessary action including some changes to processes have all been completed as recommended.

3.8 The matters highlighted as Best Practice have all been addressed and will be included when the Council reviews its policies and procedures following the introduction of the Protection of Freedoms Act 2012.

4. RECOMMENDATION

that the Panel

- (a) note and accept the findings of the IOCCO report;
- (b) note and endorse the actions taken and proposed by the Council in response to the IOCCO recommendations;
- (c) note the Council's use of powers under RIPA and endorse the adopted approach of using these appropriately, but sparingly;

ATTACHED

HDC Policy- Acquisition of Communications Data -Regulation of Investigatory Powers Act 2000

Interception of Communication Commissioners Office Report 2011

BACKGROUND INFORMATION

Human Rights Act 1998

Regulation of Investigatory Powers Act 2000

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Annex A

Recommendations for Huntingdonshire District Council as a result of the inspection conducted on 13 March 2012

No	Recommendation	Achieved (Yes / No / Partly)	Description / Comments
1.	<p>Page 4 The SPoC should ensure that applicants always complete the latest version of the Home Office and ACPO DCG application template. The Inspector also advised that the Commissioner is happy to support the use of email providing a clear audit trail exists. All of the emails along with their email attachments must be saved electronically for this purpose. The application can be routed from the applicant to the SPoC, who then completes the SPoC report and prepares the relevant Section 22(4) Notice/s and forwards them onto the DP with the application. The DP can then record his or her considerations and approval, insert the time and date of issue on any Section 22(4) Notices, and return the documents to the AO. It would be appropriate for the SPoC to centrally store the emails and their attachments electronically and only print a hard copy when it is required. This will reduce unnecessary bureaucracy and increase the efficiency of the process.</p>	Y	<p>28.5.2012- Review undertaken to ensure only forms made available on the Home Office website are used for RIPA (Comms) Applications. Electronic process considered but due to concerns over delays with DP's not responding to emails in appropriate timescales and management of these through a general email accounting process. Decision made to 'wet-sign' all applications, and that all applications should include copies of notices that will be issued when DP signs application and dates/times the notice.</p>
2.	<p>Page 4 Applicants should ensure that they always specify the crime/offence under investigation (including the relevant legislation or Act) as this is a key part of the necessity test. The SPoC should provide a more robust guardian and gatekeeper role in this respect in future.</p>	Y	<p>28.5.2012 following refresher training all applicants are aware of the need to specify the offence (section/act) which relates to the application. AOs/SPOC aware of need to ensure that this MUST be included before application passed to DP.</p>

3.	<p>Page 5 The SPoC must provide a more robust guardian and gatekeeper function and ensure that only lawful requirements for communications data are undertaken in future. All data requests must be approved by a DP.</p>	Y	<p>28.5.2012- Process Map and Central Log have all been updated to ensure that all applications are signed and dated/times by DP before issued. Refresher training has been undertaken by DP's and AOs in the SPOC.</p>
4.	<p>Page 5 There is no real need to submit separate applications providing that they are for the same investigation, that the source of each of the numbers and the justification for acquiring the data in respect of all of the numbers is outlined. It is recommended that this advice is followed to reduce unnecessary bureaucracy and improve the efficiency of the process.</p>	Y	<p>28.5.2012- SPOC encourage applicants to make it clear that one application can cover multiple CSP notices.</p>
5.	<p>Page 6 The AOs should ensure that any verbal or email communications that take place outside of the system are always recorded on the relevant SPoC log sheet to ensure there is an audit trail of all conduct and actions taken by the AO from the start to the end of the process. The dates of any actions should also be included in the SPoC log.</p>	Y	<p>28.5.2012- Noted. SPOC Log has been updated to reflect this recommendation. SPOC also provide more robust guidance to ensure that all applications can stand on their own without need for 'off the record' discussion about the application content.</p>
6.	<p>Page 7 The Council must ensure that it only acquires data to which it is lawfully entitled in future and that requests for traffic data under Section 21(4)(a) are not made. Paragraph 2.21 of the CoP contains some examples of traffic data and these should be drawn to the attention of relevant staff in the Council so they know they cannot acquire these data sets.</p>	Y	<p>28.5.2012- Refresher training provided to all staff regarding lawful applications and AOs in the SPOC also aware of the need to ensure that applications are made lawfully and only request data permitted by RIPA.</p>
7.	<p>Page 8 The AOs must ensure that in future all Notices are drafted and sent to the DP with the applications in order for them to</p>	Y	<p>28.5.2012- Recommendation accepted and process map reflects this requirement.</p>

	be formally issued by the DP.		
8.	<p>Page 10 It is recommended that the streamlining procedure outline in Paragraph 3.30 in the CoP is adopted by the public authority to streamline the process when dealing with number porting, as well as in cases where it is necessary to take a more proactive approach to widen the data capture, by for example obtaining top up details, to identify the user/s of prepaid mobile phones. The AOs must ensure that Section 16 of the application is completed correctly as it describes the data to be acquired and the correct conduct which are both requirements of the Act. The data can then be acquired by serving an Assurance of an Authorisation on the CSP.</p>	Y	28.5.2012- HDC now uses Assurances of Applications for ported numbers where appropriate rather than making multiple applications for the same data from various CSP's.

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POLICY & GUIDANCE NOTES
ON
ACCESSING COMMUNICATIONS DATA
Under the
REGULATION OF INVESTIGATORY POWERS ACT
2000.

Communications Data

This section gives guidance on the requirements of RIPA when obtaining communications data from a Communication Service Provider (CSP) and must be read in conjunction with the **Accessing Communications Data Draft Code of Practice** (<http://www.homeoffice.gov.uk/docs/pcdcpc.html>).

Communications data includes information relating to the use of a postal service or telecommunication system but **does not** include the contents of the communication itself, contents of e-mails or interactions with websites.

Any person engaged in the obtaining of such information must be properly authorised and act with that authority. Each Directorate shall have a Designated Officer who is not lower in rank than Chief Officer or is 'the officer responsible for the management of the investigation', this may be the Head of Service with responsible for that investigation/enforcement activity . This is to ensure that the person giving the authorisation, whilst understanding the work being done, is sufficiently divorced from the actual activity to make an objective judgement.

Local Authorities may only obtain communications data for the purpose of preventing or detecting crime or of preventing disorder.

The Designated Officer must consider both necessity and proportionality before communications data is obtained. Access to communications data may be authorised in two ways:

1. Through an authorisation order in which case the Council will collect or retrieve the data itself.

Or

2. By a notice in which case a notice is given to the Communication Service Provider (CSP) to collect or retrieve the data and provide it to the Council.

A Designated Officer decides whether or not an authorisation should be granted or a notice given. The authorisation only authorises the conduct of obtaining communications data. Both the application form and the authorisation are not served on the CSP but are retained by the department. The authorisation should be in a standard written format and information recorded must include a unique reference number.

Notices are served on the CSP but will only contain enough information allow them to fulfil their duties under RIPA. The notice should also contain the unique reference number.

Oral authorisations may only be made in exceptional circumstances 'for the purpose, in an emergency, of preventing death or injury or any damage to a person's physical or mental health, or of mitigating any injury or damage to a person's physical or mental health'.

Both the applicant and Designated Officer must record oral authorisations at the time or as soon as possible. Authorisations and notices are valid for one month and this period begins when the authorisation is granted or notice given.

The Designated Officer must cancel all authorisations and notices as soon as they are no longer necessary or the conduct no longer proportionate to what is sought to be achieved. In the case of notices, the relevant CSP operator should be informed of the cancellation. Applications, authorisations and notices for communications data must be retained until the Communications Commissioner has audited them.

Each Local Authority must have at least one person who is the Single Point of Contact (SPOC) whom all notices and authorisations should be channelled through and who will be the only person that deals with the CSPs. The reason for this is that there must be a specific point of accountability in each authority requesting data, not least for oversight purposes, but also should the legality of the request be contested e.g. on human rights grounds. Therefore there cannot be a regional SPOC, or any SPOC, which covers more than one authority although it is allowed to have more than one SPOC within a Local Authority.

A SPOC will also provide for an efficient regime and assist in reducing the burden on the CSP by such requests. The SPOC will amongst other things, be able to advise Designated Officers on whether an authorisation or notice is appropriate, the validity of the application and the practicality of obtaining the data.

SPOC Training and Assessment Requirements

A Local Authority officer can only become a Home Office accredited SPOC after attending appropriate training and undergoing subsequent assessment. Subject to assessment, the Home Office will then issue the SPOC with a PIN number which will be recognised by all CSPs and enable them to access communications data under RIPA.

This PIN number is unique to each SPOC. It is not for the entire Local Authority to use and pass around to different investigators or different investigation departments. It is be beneficial for Designated Person(s) to also attend SPOC training although this is not a requirement at present.

The SPOC for HDC will be located within the Fraud Investigation Team of the Revenue Services Department. A number of officers within that Team will retain Home Office accreditation to ensure that a comprehensive service is provided across the authority.

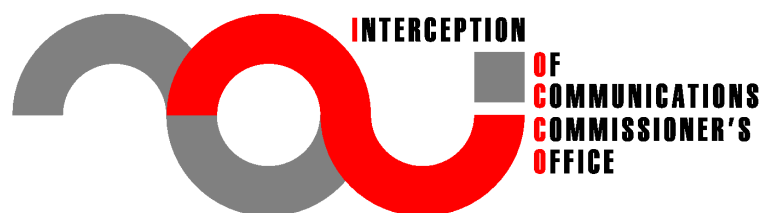
All forms, pro-formas and documentation used for all such activity will be in format approved and provided by the Home Office for the purpose specified. Only the latest such documentation will be used by downloading from the Home Office website.

Appendix 2: List of Designated Officers

DIRECTORATE /SERVICE	NAME	COMMENTS
Council-wide	Chief Executive	
Administration Management	Head of Administration	
Legal and Estates	Head of Legal and Estates	
Directorate of Commerce & Technology	Director	
Revenue Services	Head of Revenue Services	
Financial Services	Head of Financial Services	
Internal Audit	Audit Manager	
Information Management Department	Head Information Management Department & Customer First	
Community Services	Head of Community Services	
Directorate of Operational Services	Director	
Planning Services	Head of Planning Services	
Environmental Health Services	Head of Environmental Health Services	
Environment and Transport	Head of Environment and Transport	
Housing Services	Head of Housing Services	
Operations Management	Head of Operations	

Nick Jennings

Benefits Fraud Manager



Inspections under Part I Chapter II of the Regulation of Investigatory Powers Act (RIPA) by the Interception of Communications Commissioner's Office (IOCCO)

Name of Public Authority	Huntingdonshire District Council
Date of Inspection	13 th March 2012
Inspector	John Cairney

Background to the Inspection: The Interception of Communications Commissioner's Office (IOCCO) is charged with undertaking inspections on behalf of the Interception of Communications Commissioner, Sir Paul Kennedy. IOCCO undertake a revolving programme of inspection visits to all relevant public authorities who are authorised to acquire communications data under Part I Chapter II of the Regulation of Investigatory Powers Act (RIPA), and produce a written report of the findings for the Interception of Communications Commissioner.

The primary objective of the inspection is to ensure that the system in place for acquiring communications data is sufficient for the purposes of the Act and that all relevant records have been kept; ensure that all acquisition of communications data has been carried out lawfully and in accordance with the Human Rights Act (HRA), Part I Chapter II of RIPA and its associated Code of Practice (CoP); and, provide independent oversight to the process and check that the data which has been acquired is necessary and proportionate to the conduct being authorised.

Statistics:

Number of applications which have been made during the previous 12 month period, and, if applicable, since the previous inspection.	18
Number of Authorisations granted under each section of the Act during the previous 12 month period, and, if applicable since the previous inspection.	0
Number of Notices issued under each section of the Act during the previous 12 month period, and, if applicable since the previous inspection.	S21 4(c) – 22 S21 4 (a) (b)&(c) combined – 1
Number of applications which have been rejected by a Designated Person during the previous 12 month period, and, if applicable since the previous inspection.	0

Staffing:

Senior Responsible Officer (SRO)	Colin Meadowcroft, Head of Legal & Democratic Services
SPoC Manager	Nick Jennings, Fraud Manager
Accredited Officers (AOs) (indicate if full time AO, part time AO etc)	Cindy Dickson, Fraud Team Lorraine Southworth, Fraud Team (part time AOs)

Summary of Inspection Findings:

Overall the Council emerged satisfactorily from this first inspection. The public authority is acquiring communications data for the correct statutory purpose and importantly no evidence was found that the Council's powers under Part I Chapter II of RIPA had been used to investigate trivial offences. Overall the Council has a satisfactory level of compliance with the Act and CoP. However there is room to improve parts of the systems and processes for acquiring communications data.

The majority of the applications were completed to a good standard and the Inspector was satisfied they were necessary and proportionate. However some of the applications should not have passed the quality assurance checks which the Accredited Officers (AOs) have a responsibility to conduct, as they did not outline the specific crimes / offences under investigation which is a key part of the necessity test. The AOs must provide a more robust guardian and gatekeeper role in this respect in future.

Unfortunately on two occasions the AOs in the Single Point of Contact (SPoC) did not ensure that the Council acted in an informed and lawful manner. In the first instance communications data was acquired by the SPoC when the acquisition had not actually been approved by a DP. As a result, communications data was acquired unlawfully by the Council. This instance constitutes a reportable error and the fact that the communications data was acquired unlawfully leaves the Council vulnerable to challenge through the court if they attempt to adduce this data in evidence. In another instance the Council served Notice on a CSP to disclose traffic data under Section 21(4)(a) and local authorities do not have the power to acquire this type of data under the Act. Fortunately the CSP refused to comply with the Notice did not disclose the data to the Council. The SPoC must provide a more robust guardian and gatekeeper function in future and ensure that only lawful requirements for communications data are undertaken in future.

One of the roles of the SPoC is to provide an assurance that all Notices are lawful and free from errors. Unfortunately there was a misunderstanding surrounding the issuing of the Section 22(4) Notices which resulted in technical breaches of the Act and CoP occurring which also constitute 'recordable' errors. A number of errors also occurred as the Notices did not correctly specify the statutory purpose under Section 22(2). Fortunately these errors had no bearing on the actual justifications for acquiring the data. Nonetheless it is important that the data is always obtained fully in accordance with the law. The Inspector is satisfied that the AOs now understand the correct procedures to follow which will prevent recurrence of such errors.

The Designated Persons (DPs) are discharging their statutory duties responsibly, with the exception of the one instance where the acquisition of traffic data was approved. Their written considerations are completed to a good standard and they are following the good practice guidance by tailoring their considerations to the individual applications.

The inspection findings are outlined in more detail in the following sections of the report. A number of recommendations arise from the inspection and they are mainly designed to tighten parts of the systems and processes and assist the public authority to achieve the best possible level of compliance with Part I Chapter II of RIPA and its associated CoP. The recommendations are shown in the last column of the inspection tables. Please note that recommendations are shaded red, amber or green. IOCCO have adopted this practice to enable public authorities to prioritise the areas where remedial action is necessary. The red areas are of immediate concern as they mainly involve serious breaches and / or non-compliance with the Act or CoP which could leave the public authority vulnerable to challenge. The amber areas represent non-compliance to a lesser extent. However remedial action must still be taken in these areas as they could potentially lead to breaches. The green areas represent good practice or areas where the efficiency and effectiveness of the process could be improved.

Summary of Recommendations: Red - 1; Amber - 4; Green - 3.

Areas Inspected:

1. Application Process

Acquisition of communications data under the Act involves four roles within a relevant public authority; the Applicant, the Designated Person (DP), the Single Point of Contact (SPoC) and the Senior Responsible Officer (SRO). The Act provides for two alternative means for acquiring communications data, by way of an Authorisation under Section 22(3) or a Notice under Section 22(4).

Baseline	Achieved (Yes / No / Partly)	Description of Procedures & Action Required (if applicable)	Rec No.
Examination of Applications			
A number of applications will be randomly examined by the Inspection team to check that the correct process has been applied and that the data has been obtained lawfully, with the approval of a Designated Person (DP). Public authorities must restrict the use of their powers under Part I Chapter II to obtaining communications data for investigations where they have a clear statutory duty and responsibility to conduct a criminal investigation and they should never be used to investigate trivial offences.	Yes	<p>Applications examined: 18 submitted in the last 12 months and a random sample of applications dating back to March 2010.</p> <p>The Inspector was satisfied the communications data had been acquired for the correct statutory purpose i.e. Section 22(2)(b) 'for the prevention and detection of crime' and that the applications were submitted in relation to criminal offences which the public authority has a statutory duty to investigate.</p> <p>In all but two cases the Inspector was satisfied that the correct process had been applied and that the data had been obtained lawfully, with the approval of a Designated Person (DP). The two exceptions to this will be discussed later in the report.</p> <p>Overall the applications are completed to a good standard.</p>	

Applicant			
<p>The applicant should complete an application form, setting out for consideration by the designated person (DP), the necessity and proportionality of a specific requirement for acquiring communications data. (Para 3.3 CoP). Applications must include all of the requirements specified in Paragraphs 3.5 and 3.6 of the CoP. The Home Office and ACPO Data Communications Group (DCG) have produced a template application form.</p>	<p>Yes</p>	<p>Application / System used: Home Office and ACPO DCG application form template in use. On occasions applicants were using an older version of the template. Applicants are completing their applications electronically but are then printing them out and wet signing them. The whole process is then managed on paper between the SPoC and DP. The SPoC should ensure that applicants always complete the latest version of the Home Office and ACPO DCG application template. The Inspector also advised that the Commissioner is happy to support the use of email providing a clear audit trail exists. All of the emails along with their email attachments must be saved electronically for this purpose. The application can be routed from the applicant to the SPoC, who then completes the SPoC report and prepares the relevant Section 22(4) Notice/s and forwards them onto the DP with the application. The DP can then record his or her considerations and approval, insert the time and date of issue on any Section 22(4) Notices, and return the documents to the AO. It would be appropriate for the SPoC to centrally store the emails and their attachments electronically and only print a hard copy when it is required. This will reduce unnecessary bureaucracy and increase the efficiency of the process.</p>	<p>1</p>
<p>Necessity: Applicants should outline a short explanation of the crime (or other purpose), the suspect, victim or witness and the phone or communications address and how all these three link together. A brief description of the investigation or operation may assist the DP to better understand the reason for the application. In a long term or complex investigation or operation it is important to set the application in context with the overall investigation or operation and set the scene and background. (See Home Office and ACPO DCG application guidance document).</p>	<p>Partly</p>	<p>The principle of necessity was well covered on the majority of the applications. However, a key part of the necessity justification was missing from some of the applications, this being the specific crime under investigation. Applicants should ensure that they always specify the crime / offence under investigation (including the relevant legislation or Act) as this is a key part of the necessity test. The SPoC should provide a more robust guardian and gatekeeper role in this respect in future. On occasions applicants included additional information in this</p>	<p>2</p>

		section which is not relevant to this principle. For example, applicants often outlined the relevance of any time periods which is actually part of the proportionality justification.		
Proportionality: Applicants should outline what is expected to be achieved from obtaining the data and how the level of intrusion is justified when taking into consideration the benefit the data will give to the investigation. The specific date/time periods requested should be justified i.e. how these are proportionate. An explanation as to how the data will be used, once acquired, and how this will benefit the investigation will assist the justification. (See Home Office and ACPO DCG application guidance document).	Yes	Overall this principle was well justified. However, as stated above, many applicants had already addressed the relevance of any timeframes in the necessity section.		
Collateral Intrusion: Applicants should consider and, where appropriate, describe any meaningful collateral intrusion – the extent to which the privacy of any individual not under investigation may be infringed and why that intrusion is justified in the circumstance. Applicants should be aware that that there will only ever be minimal collateral intrusion in relation to subscriber data or that none will be identified at the time the application is made. (See Home Office and ACPO DCG application guidance document).	Yes	Generally applicants have a good understanding that collateral intrusion is minimal in relation to subscriber data.		
Were any examples provided in relation to how communications data has been used to good effect (i.e. what use has been made of the data acquired by the investigating officers? Did it lead to the identification of the offender? How was it of value to the investigation?)	Yes	The Council investigated a £26,000 benefit fraud, but the suspected fraudster evaded arrest. (Case reference 215691 refers). The Council obtained mail redirection data and used it to good effect to locate the fraudster. The suspect was arrested, charged and subsequently sentenced to 4 months imprisonment. The Council is aiming to recover the £26,000.		
Single Point of Contact (SPoC)				
The SPoC should promote efficiency and good practice in ensuring only practical and lawful requirements for communications data are undertaken. The SPoC should provide a “guardian and gatekeeper” function ensuring that public authorities act in an informed and lawful manner. (Para 3.16 CoP).	No	Unfortunately on two occasions the SPoC did not ensure that the Council acted in an informed and lawful manner. In the first instance communications data was acquired by the SPoC when the acquisition had not actually been approved by a DP. As a result communications data was acquired unlawfully by the Council. This instance constitutes a reportable error. The fact that the communications data was acquired unlawfully leaves the Council vulnerable to challenge	3	4

		<p>through the court if they attempt to adduce this data in evidence. The SPoC must provide a more robust guardian and gatekeeper function and ensure that only lawful requirements for communications data are undertaken in future. All data requests must be approved by a DP.</p> <p>Second, the Council requested traffic data under section 21(4)(a), when local authorities are not permitted to acquire traffic data. Regrettably the application was processed by the SPoC and approved by the DP. This will be commented on further in the DP section of the report.</p> <p>Furthermore, the applicants are needlessly creating several applications when a composite one would have sufficed. There is no real need to submit separate applications providing that they are for the same investigation, that the source of each of the numbers and the justification for acquiring the data in respect of all of the numbers is outlined. It is recommended that this advice is followed to reduce unnecessary bureaucracy and improve the efficiency of the process.</p>		
<p>The SPoC should provide objective judgement and advice to both the applicant and the DP. (Para 3.16 CoP). The SPoC should engage proactively with applicants to develop strategies to obtain communications data and use it effectively in support of operations or investigations. (Para 3.17 CoP).</p>	Yes	<p>Applicants are encouraged to speak to the SPoC prior to submitting applications. The Inspector also saw examples where the SPoC had provided advice to the DP.</p>		
<p>The SPoC should be in a position to fulfil the additional responsibilities outlined in Para 3.17 CoP. There should be a full audit trail of all actions taken by the SPoC.</p>	Partly	<p>SPoC log sheets are completed and provide a reasonable audit trail of the actions taken by the AOs from the start to the end of the process. This is supported by a comprehensive central record on an excel spreadsheet. Unfortunately, the individual actions on the SPoC log are not dated which weakens the audit trail. Additionally, there was a lack of an audit trail in relation to actions that had taken place outside of the system. For example, where the AOs had engaged with the applicant, CSP</p>	5	

		or DP to clarify matters. The AOs should ensure that any verbal or email communications that take place outside of the system are always recorded on the relevant SPoC log sheet to ensure there is an audit trail of all conduct and actions taken by the AO from the start to the end of the process. The dates of any actions should also be included in the SPoC log.	
The SPoC may be an individual who is also a DP. The SPoC may be an individual who is also an applicant. The same person should never be an applicant, a DP and a SPoC. Equally the same person should never be both the applicant and the DP. (Para 3.19 CoP).	Yes	The process is kept separate with a different applicant, AO and DP.	
Designated Persons (DPs)			
A DP shall not grant an authorisation or give notice unless they believe that obtaining the data in question by the conduct authorised is proportionate to what is sought to be achieved by obtaining the data. (Section 22(5) Act). A DP must consider the application and record his considerations at the time (or as soon as is reasonably practicable) in writing or electronically. (Para 3.7 CoP). The DP shall assess the necessity for any conduct to acquire or obtain data taking account of any advice provided by the SPoC. (Para 3.10 CoP).	Yes	<p>No. of DPs: 5 Rank / Level of DPs: Head of Service In accordance with Statutory Instrument No. 480/2010: Yes</p> <p>The Inspectors were satisfied that DPs are discharging their statutory duties responsibly.</p> <p>The DPs are completing their written considerations to a good standard. However, it was acknowledged that discussions often take place between the applicant, AO and DP. However at present there is no audit trail in relation to these. A recommendation has already been made in this respect.</p>	
IOCCO recommends that DPs should tailor their written considerations to the individual applications to provide evidence that they have been given due consideration.	Yes	DPs are following this good practice guidance.	
DPs must ensure that they grant authorisations or give notices only for <u>purposes</u> and only in respect of <u>types of communications data</u> that a DP of their office, rank or position in the relevant public authority may grant or give. (Para 3.9 CoP).	No	Unfortunately, in one instance a DP gave an approval for traffic data to be obtained under Section 21(4)(a) of RIPA and the Council does not have this power under the Act. Restrictions are placed on local authorities whereby they may only obtain service use data or subscriber information under Sections 21(4)(b) and (c) of the Act respectively. This error was not picked up by the Council SPoC or the DP and as a result a Section 22(4) Notice was served on the CSP to disclose the data.	6

		<p>Fortunately in this instance the CSP detected the error and refused to comply with the Notice. As a result the Council did not obtain the data to which it was not lawfully entitled. However this instance still constitutes a recordable error as the Council does not have the power under the Act to request traffic data. The Council must ensure that it only acquires data to which is it lawfully entitled in future and that requests for traffic data under Section 21(4)(a) are not made. Paragraph 2.21 of the CoP contains some examples of traffic data and these should be drawn to the attention of relevant staff in the Council so they know they cannot acquire these data sets.</p>	
<p>DPs should not be responsible for granting authorisations or giving notices in relation to investigations or operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable, especially in the case of small organisations or where it is necessary to act urgently or for security reasons. Where a DP is directly involved in the investigation or operation their involvement and their justification for undertaking the role of DP must be explicit in their recorded considerations. (Para 3.11 CoP)</p>	<p>Yes</p>	<p>The DPs will have some knowledge of the individual cases but they are not directly involved in the investigations.</p>	
<p>Content of Section 22(3) Authorisations and Section 22(4) Notices</p>			
<p>An authorisation must comply with all of the requirements outlined in Section 23(1) of the Act and Paragraphs 3.28, 3.43 & 3.44 of the CoP.</p>	<p>N/A</p>	<p>No Authorisations have been granted by the Council.</p>	
<p>A notice must comply with all of the requirements outlined in Section 23(2) of the Act and Paragraphs 3.37, 3.43 & 3.44 of the CoP.</p>	<p>Partly</p>	<p>The Home Office and ACPO DCG template is in use however a number of errors were found in relation to the completion of the Section 22(4) Notices as the statutory purpose had been incorrectly specified as 'Section 21(4)(c) 'prevention & detection of crime' when of course it should read Section 22(2)(b). These instances (14 in total) all constitute recordable errors and they were duly recorded by the SPoC during the inspection. It is important to outline that these errors have no bearing on the actual justifications for acquiring the data. Nevertheless the Council will wish to ensure that they act fully in accordance with the law.</p>	
<p>The 'giving of a notice' means at the</p>	<p>No</p>	<p>The AOs informed the Inspector</p>	<p>7</p>

<p>point at which a DP determines that a notice should be given to a CSP (Para 3.35 CoP). A notice should emanate from the DP and be endorsed in a clear and auditable manner.</p>		<p>that they had always drafted the Notices after the DP had approved the applications. It is the statutory responsibility of the DP to issue Notices and this responsibility cannot be delegated. Any Section 22(4) Notices which do not emanate from the DP constitute 'recordable' errors and these were duly recorded by the SPoC during the inspection. It is important to outline that these errors have no bearing on the actual justifications for acquiring the data. Nevertheless the Council will wish to ensure that they act fully in accordance with the law. The AOs must ensure that in future all Notices are drafted and sent to the DP with the applications in order for them to be formally issued by the DP. The Inspector advised that there is no need to send the Assurance of Authorisation document to the DP in the same way as a Notice.</p>	
<p>SPoCs should be mindful when drafting authorisations and notices to ensure the description of the required data corresponds with the way in which the CSP processes, retains and retrieves its data for lawful. A notice must not place a CSP under a duty to do anything which is not reasonably practicable for the CSP to do. (Section 22(7) Act, Para's 3.29 & 3.38 CoP)</p>	<p>Yes</p>		
<p>Duration, Renewal & Cancellation of Section 22(3) Authorisations and Section 22(4) Notices</p>			
<p>Relevant to all authorisations and notices is the date upon which authorisation is granted or notice given. From that date, when the authorisation or notice becomes valid, it has a validity of a maximum of one month (see footnote 57 CoP). This means the conduct authorised should have been commenced or the notice served within that month. (Para 3.42 CoP).</p>	<p>Yes</p>		
<p>Any valid authorisation or notice may be renewed at any time <u>before</u> the end of the period of one month applying to that authorisation or notice, for a period of up to one month by the grant of a further authorisation or the giving of a further notice. A renewed authorisation or notice takes effect upon the expiry of the authorisation or notice it is renewing. (Sections 23(5), 23(6) & 23(7) Act, Para 3.46 CoP).</p>	<p>Yes</p>	<p>There have been no requirements to renew an authorisation or notice.</p>	
<p>Renewal may be appropriate where there is a continuing requirement to</p>	<p>No</p>	<p>No requirement to date.</p>	

<p>acquire or obtain data that will or may be generated in the future, The reasoning for seeking renewal should be set out in an addendum to the application. Where a DP is granting a further authorisation or giving a further notice they should have considered why it is necessary and proportionate to continue with the acquisition of the data and record the date, and when appropriate, the time of the renewal. (Para 3.47 & 3.48 CoP).</p>			
<p>Where a DP is satisfied that it is no longer necessary or proportionate to acquire the communications data he shall cancel the notice or withdraw the authorisation. (Section 23(8) Act, Para's 3.49, 3.50, 3.52 & 3.53 CoP). Reporting of a cancellation to a CSP may be undertaken on a DPs behalf by the SPoC, but in such cases the DP must confirm the decision in writing or in a manner that produces a record of the notice or authorisation having been cancelled or withdrawn by the DP.</p>	<p>No</p>	<p>There have been no instances when a cancellation of a notice or withdrawal of an authorisation has been appropriate.</p>	
<p>A cancellation notice must include the details outlined in Paragraph 3.51 of the CoP. A withdrawal of an authorisation must include the details outlined in Paragraph 3.54 of the CoP.</p>	<p>N/A</p>		
<p>National Priority Grading System (NPGS)</p>			
<p>Where relevant, the Data Communications Group (DCG) NPGS should be applied to requests for communications data correctly and fairly. (See Footnote 40 of the CoP). The emphasis within Grade 1 and Grade 2 is that the urgent provision of the specific communications data will have an immediate and positive impact on the investigation.</p>	<p>Yes</p>	<p>All requests for data have been correctly submitted as Grade 3.</p>	
<p>Streamlining Procedures</p>			
<p>The streamlining procedure outlined in Paragraph 3.30 of the CoP should be used to reduce unnecessary bureaucracy and speed up the collection of the data when acquiring subscriber data under Section 21(4)(c). This procedure assists with number porting issues and enables the AOs to be more proactive when acquiring subscriber information by widening the data capture. In these instances it may be pertinent to acquire the data in stages. Furthermore, it is often good practice to check with the applicant before the data capture is widened because the direction of the investigation may have changed since</p>	<p>No</p>	<p>The Council has not taken advantage of the procedure outlined in Para 3.30 of the CoP in relation to obtaining subscriber information under Section 21(4)(c). The procedure is particularly useful when dealing with number porting or to widen the data capture in relation to unregistered mobile phones. It was clear that there was a lack of understanding of the process and as a result the SPoC had continued to utilise Section 22(4) Notices rather than Authorisations under Section 22(3). It is recommended that this procedure is adopted by the</p>	<p>8</p>

<p>the application was submitted or the user of the phone or communications address may have been identified through some other means.</p>		<p>public authority to streamline the process when dealing with number porting, as well as in cases where it is necessary to take a more proactive approach to widen the data capture, by for example obtaining top up details, to identify the user/s of prepaid mobile phones. The AOs must ensure that Section 16 of the application is completed correctly as it describes the data to be acquired and the correct conduct which are both requirements of the Act. The data can then be acquired by serving an Assurance of an Authorisation on the CSP.</p>	
<p>The streamlining procedure outlined in Paragraphs 3.31 and 3.32 of the CoP which enable a DP to pre-authorise future subscriber checks at the same time as he or she is approving an application for service use or traffic data under Sections 21(4)(a) or (b) of RIPA, should be used to reduce unnecessary bureaucracy and speed up the collection of the data.</p>	<p>No</p>	<p>This procedure has not been used by the Council as all of the recent applications related to requests for subscriber information under Section 21(4)(c). IOCCO would not advocate that this procedure be used unless the requirements to obtain service use data increase markedly and there is an urgent need to acquire the consequential subscriber information.</p>	
<p>The applicant must outline why it is necessary and proportionate to either widen the data capture under Section 21(4)(c), or obtain the consequential 'future' subscribers in their application. In the latter case they should outline what analytical work they intend to conduct on the service use / traffic data to identify the relevant numbers. It is important that the SPoC gives appropriate advice to the DP and that the DP fully understands what he or she is approving in the application form.</p>	<p>N/A</p>	<p>The applicants must ensure they provide justifications to widen the data capture where the procedure in Para 3.30 is used in future.</p>	
<p>The AOs should spot check the schedules to assure the integrity of the process, i.e. to check that the communications addresses derive from the original service use / traffic data requests and that secure open source checks have been conducted. This should provide a good safety net. Furthermore if an AO finds evidence that applicants or analysts are not following the correct procedures then this should be brought to the attention of the SRO.</p>	<p>N/A</p>	<p>Procedure not used to date.</p>	

2. Training

It is important for all persons involved in the process to receive training and guidance to ensure that communications data is acquired lawfully in accordance with the Act and CoP and used effectively in support of investigations.

Baseline	Achieved (Yes / No / Partly)	Description of Procedures & Action Required (if applicable)	Rec No.
The SPoC is either an accredited officer (AO) or group of AOs trained to facilitate lawful acquisition of communications data. All AOs must complete a course of training and have been issued a SPoC PIN number. (Para 3.15 CoP). When an AO leaves the SPoC their PIN number should be removed from the list of approved AOs.	Yes	PIN list checked: Yes – correct. All members of the SPoC have completed accreditation courses provided by PHF. Cindy Dickson who acts as the main AO has attended refresher training.	
DPs must have current working knowledge of human rights principles, specifically those of necessity and proportionality, and how they apply to the acquisition of communications data under Chapter II of Part I RIPA and its associated CoP. (Para 3.8 CoP).	Yes	The Council has arranged for DPs to attend training seminars provided by PHF.	
SPoCs should make efforts to ensure applicants are appropriately trained in the acquisition of communications data.	Yes	The SPoC is proactive in providing advice and guidance to applicants. The Council has also arranged for applicants to attend training seminars provided by PHF.	

3. Keeping of Records

There are clear rules which must be followed in relation to the keeping of records and these procedures include the recording and reporting of errors. See Chapter 6 of the CoP (CoP) for further information.

Baseline	Achieved (Yes / No / Partly)	Description of Procedures & Action Required (if applicable)	Rec No.
Records to be kept			
Applications, authorisations, copies of notices, and records of the withdrawal of authorisations and the cancellation of notices, must be retained by the public authority in written or electronic form, and physically attached or cross-referenced where they are associated with each other. The public authority should also keep a record of the date, and where appropriate the time, when each notice or authorisation is given or granted, renewed or cancelled. (Para 6.1 CoP).	Yes		
Records kept by the public authority must be held centrally by the SPoC or in accordance with arrangements previously agreed with the Commissioner.	Yes	All of the records are maintained in the main SPoC. Good standard of record keeping.	

There records must be available for inspection by the Commissioner (Para's 6.1 & 6.2 CoP).			
Errors			
Where communications data is acquired or disclosed wrongly a report must be made to the Senior Responsible Officer (SRO) and then to the Commissioner ("reportable error") using the Error Reporting Form within no more than five working days of the error being discovered. (Para's 6.13 & 6.17 CoP). The error report must contain all of the details outlined in Para 6.18 of the CoP.	No	No. errors 'reported' in previous 6 months: 0 Nature of errors (i.e. applicant, SPoC, CSP etc): One reportable error was identified during the inspection in respect of application URN 226200/SPoC31. The SPoC had served a Section 22(4) Notice on a CSP, but the application had not been approved by a DP. The error was reported to IOCCO immediately following the inspection.	
In cases where an error has occurred but is identified by the public authority or the CSP without data being acquired or disclosed wrongly, a record will be maintained by the public authority of such occurrences ("recordable error"). These records must be available for inspection by the Commissioner (Para 6.14 CoP). The records must include the details outlined in Para 6.20 of the CoP.	No	No. errors 'recorded' in previous 6 months: 1 Nature of errors (i.e. applicant, SPoC, CSP etc): The SPoC served a Section 22(4) Notice on a CSP requesting combined data under sections 21(4)(a) (b) and (c), but the Council is not entitled to acquire traffic data under Section 21(4) (a). Fortunately the CSP recognised the mistake and refused to provide the data. A number of recordable errors were identified during the inspection as previously described. These have been duly recorded by the SPoC.	
Where material is disclosed by a CSP in error which has no connection or relevance to any investigation or operation undertaken by the public authority receiving it, the material and any copy of it should be destroyed as soon as the report to the Commissioner has been made. (Para 6.21 CoP).	Yes	No instances. The AOs in the SPoC are fully aware of the procedure to follow in such cases.	
Excess Data			
Where authorised conduct by a public authority results in the acquisition of excess data, or its disclosure by a CSP in order to comply with the requirement of a notice, all the data acquired or disclosed should be retained by the public authority. If having reviewed the excess data it is intended to make use of it in the course of the investigation an applicant must set out the reason(s) for needing to use that material in an addendum to the original application. The DP will then consider the reason(s)	Yes	No excess data acquired but SPoC aware of procedures to follow.	

and consider whether it is necessary and proportionate for the excess data to be used in the investigation or operation.			
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National Anti-Fraud Network (NAFN) Single Point of Contact (SPoC)

During the inspection the Inspector discussed the SPoC facility which NAFN provides. NAFN has received funding from the Home Office so that it can act for any local authority which wishes to use its services and its AOs have been specially trained to the same standard as their police counterparts. NAFN uses an electronic system (Focus) to manage the applications and this system is used by a number of police forces and is fit for purpose. The NAFN AOs are also able to access a number of the online systems provided by the CSPs and therefore the data can be retrieved very quickly and with less expense. In September 2011 NAFN were inspected by IOCCO and were found to have a very good level of compliance with the Act and CoP. They are providing a good service to their local authority members who can use the NAFN SPoC facility with confidence and in the full knowledge that the data will be obtained in accordance with the law. The Home Office is encouraging all local authorities to use the facility. All of the records can be accessed and examined by the IOCCO inspectors from the NAFN offices. The Senior Responsible Officer (SRO) at NAFN is responsible for the integrity of the SPoC system and processes. However the Interception of Communications Commissioner believes that it is important for each local authority that uses NAFN to still appoint a Senior Responsible Officer (SRO) to oversee the process. If any issues arise from the inspection of the NAFN SPoC in relation to an individual local authority, the Inspectors will engage with that local authority's SRO to resolve them. The NAFN SPoC should inform the local authorities who are using their facility when an inspection is due to take place and should of course disseminate the findings. As the Council is making relatively little use of its powers it may be more efficient and cost effective for the Council to use the NAFN SPoC. IOCCO would be grateful to receive notification of any decision concerning the use of the NAFN SPoC facility in order to facilitate future inspection planning and the collection of annual statistics.

Freedom of Information Act (FOIA)

IOCCO is not a "public authority" for the purpose of the FOIA. It is therefore outside the reach of the Act, but it is appreciated that public authorities are not and that they may receive requests for disclosure of our reports. In the first instance the SRO should follow the procedure which is outlined in Paragraph 8.5 of the CoP (Part I Chapter II of RIPA). No disclosure should take place until IOCCO have been fully consulted as it is very important that requests under the FOIA are dealt with in a consistent manner.

Conclusion & Requirement for Action:

IOCCO are extremely grateful for the excellent assistance and cooperation received during this inspection. The recommendations from this inspection are appended to the report in a schedule. It would be appreciated if you would ensure that the Senior Responsible Officer (SRO) oversees the implementation of the recommendations and ensures the schedule is completed and returned electronically to ch2.inspectorate@iocco.gsi.gov.uk by 10th June 2012. In light of the satisfactory level of compliance it will not be necessary to conduct a further inspection within 12 to 18 months. However if the Council decides to use the NAFN SPoC facility the recommendations that the Inspector has made in relation to the process will be redundant and another inspection may not be required as any future inspections will be conducted by IOCCO at the NAFN offices.

**NEW STANDARDS REGIME
Report by the Head of Legal & Democratic Services
and Monitoring Officer)**

1. INTRODUCTION

- 1.1 At its meeting held on 1st December 2011, the Standards Committee was advised, in general terms, of the provisions of the Localism Act 2011 as it related to Standards and the Code of Conduct. The Committee expected that the Regulations due to follow would interpret the detail of the Act and assist the Monitoring Officer in putting in place new 'standards' arrangements for the District Council.
- 1.2 Draft Regulations have only just been published and despite representations to Government requesting a postponement of the commencement date (on the basis that the timescale for adoption of a new Code and its implications was too short) it is unlikely that the implementation date of 1st July 2012 will change. A special meeting of the Committee has therefore been called to ensure that the District Council is ready to comply with the Act by 1st July 2012. The recommendations in this report are based on the assumption that the necessary Regulations have come into effect by this date.

2. BACKGROUND AND ESSENTIAL REQUIREMENTS

- 2.1 Chapter 7 of the Localism Act 2011 relating to Standards makes it a duty for –
- ◆ each “relevant authority” to promote and maintain high standards of conduct by elected Members and Co-opted Members of the Authority;
 - ◆ a “relevant authority” must, in particular, adopt a Code dealing with the conduct that is expected of Members and Co-opted Members of the Authority when they are acting in that capacity;
 - ◆ the Monitoring Officer must establish and maintain a Register of Interests of Members and Co-opted Members of the Authority and provide a means for the disclosure of pecuniary and other interests; and
 - ◆ a relevant Authority must have in place arrangements under which complaints can be investigated and under which allegations of misconduct can be made.
- 2.2 Changes to the way in which requests for dispensation and the appointment of the Standards Committee and Independent Persons also need to be addressed. The intention of the Act is to replace the current standards regime with shorter, more cost-effective and proportionate investigations with less time consuming hearings and procedures. There is local discretion to design a process which meets the District Council's circumstances but that is sufficiently robust to assure members of the public that any complaints will be dealt with appropriately.

2.3 The following paragraphs address each requirement in turn.

3. A NEW CODE OF CONDUCT

3.1 The Model Code of Conduct will be replaced and the District Council and all Parish Councils within Huntingdonshire must adopt a new Code setting out the conduct expected of their Members when acting in their capacity as an elected Member. The Code should be consistent with the following principles –

- (i) selflessness;
- (ii) integrity;
- (iii) objectivity;
- (iv) accountability;
- (v) openness;
- (vi) honesty;
- (vii) leadership

and should provide for the registration (and disclosure) of pecuniary interests and interests other than pecuniary interests.

3.2 To seek to achieve consistency of approach locally, Monitoring Officers across all Cambridgeshire Authorities have produced a draft Code of Conduct which is reproduced as Appendix A hereto.

3.3 The Government also has published illustrative text (Appendix B) setting out what a Council's Code of Conduct might look like under the incoming standards regime.

3.4 For completeness and for comparative purposes, copies of draft Codes produced by the National Association of Local Councils (NALC) and the Local Government Association (LGA) are also enclosed at Appendices C and D.

3.5 Although in the existing Code, no provision is made in the draft Code produced by Cambridgeshire Monitoring Officers for the declaration of gifts and hospitality. The Committee might wish to consider whether the following text relating to gifts and hospitality should be included in the new Code for Huntingdonshire –

- i. You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50? which you have accepted as a Member from any person or body other than the authority;
- ii. The Monitoring Officer will place your notification on a public register of gifts and hospitality; and
- iii. This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

RECOMMENDATION

that the Head of Legal & Democratic Services and Monitoring Officer be authorised to finalise the preferred option and that the Council be recommended to adopt this option as the new Code of Conduct for Huntingdonshire.

4. REGISTRATION AND DISCLOSURE OF MEMBERS' INTERESTS

- 4.1 The Monitoring Officer is required to establish and maintain a Register of Interests of Members and Co-opted Members of the Authority and to define what interests must be registered. The Register of Interests must be made available for inspection and published on the District Council's website. The Monitoring Officer also is responsible for maintaining the Register for Parish Councils which also is required to be open for inspection at the District Council's offices and on the District Council's website and where a Parish Council has a website, the District Council is required to provide the Parish Council with the information required to enable the Parish Council to publish its current Register on its own website.
- 4.2 The Code of Conduct to be adopted by the District Council should contain appropriate requirements for the registration and disclosure, of pecuniary interests and interests other than pecuniary interests.
- 4.3 As previously, an elected Member or Co-opted Member must register their disclosable interests within 28 days of their election to office or co-option. Whilst there is no continuing requirement for a Member to keep the Register up to date except on re-election/re-appointment, it would seem to be good practice for Members to review their registered interests regularly and update their declaration as necessary.
- 4.4 The Secretary of State for Communities and Local Government has now specified the disclosable pecuniary interests for the purposes of Section 30 (3) of the Act. These are broadly equivalent to the current prejudicial interests and are described in Appendix E hereto. The Act extends the requirement for registration to cover not just the Members' own interests but also those of the Members' spouse, or civil partner, or someone living with the Member in a similar capacity provided the Member is aware that the other person has the interest. The duty to disclose interests at and withdraw from meetings and advice on sensitive interests is covered in the proposed Code of Conduct referred to in paragraph 3.2. Failure to disclose without a reasonable excuse is a criminal offence potentially carrying a scale 5 fine (£5,000) and/or disqualification of up to five years.

RECOMMENDATIONS

- (a) that the Head of Legal & Democratic Services and Monitoring Officer be authorised to establish and maintain a new Register of Members' Interests in compliance with the requirements of the Localism Act 2011 and the Council's Code of Conduct and ensure it is available for public inspection in accordance with the Act;
- (b) that the Head of Legal & Democratic Services and Monitoring Officer be authorised to establish and maintain new registers of interest for each Parish Council in Huntingdonshire in compliance with the Localism Act 2011 and the Code of Conduct adopted by the respective Parish Council and ensure that they are available for public inspection in accordance with the Act; and

- (c) that, after consultation with the Chairman of the Committee, the Head of Legal & Democratic Services and Monitoring Officer be requested to arrange sessions to train District, Town and Parish Councillors on the new registration and disclosure requirements.

5. STANDARDS COMMITTEES (APPOINTMENT OF INDEPENDENT PERSONS AND PARISH COUNCIL REPRESENTATIVES)

5.1 The Localism Act repeals Section 55 of the Local Government Act 2000 which imposes a statutory duty to appoint a Standards Committee. Whilst there is no longer a requirement for a Standards Committee, there still will be a need to respond to standards issues and consider how best to deal with any complaints and investigations. Should Members consider that it remains convenient to retain a Standards Committee or Sub-Committee, that body would be an ordinary Committee or Sub-Committee established under Section 102 of the Local Government Act 1972 and thus –

- ◆ its composition would be governed by proportionality and the present restriction to only one member of the Executive on the Committee will cease to apply (*on the recommendation of the former 'Standards For England', the District Council has since 2000 appointed the Committee with appropriate political representation with the support of all parties and included one Cabinet Member in its membership.*)
- ◆ it will be subject to the same requirements on confidential and exempt information as any other Committee;
- ◆ it would not include Independent Members (other than as non-voting co-optees);
- ◆ it would not include Parish Council representatives unless the Council decides to retain them as non-voting co-optees.

Independent Persons

5.2 The four current independent Members will cease to hold office with effect from 30th June 2012. The Act establishes a new category of independent persons and arrangements adopted by Council must include provision for the appointment of at least one independent person. Independent persons must be appointed through a process of public advertisement and application and there are strict rules preventing a person from being appointed if they are a friend or relative to any Member or Officer of the Authority, or of any Parish Council within the Authority's area.

5.3 The functions of the Independent Person(s) are:

- They **must** be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);

- They **may** be consulted by the authority in respect of a standards complaint at any other stage;
- They **may** be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made; and
- They may be involved in the grant of dispensations.

5.4 In response to representations, transitional provisions appear now to enable Councils to re-appoint existing independent Members as independent persons to retain expertise and skills but following a robust recruitment process. Such arrangements only apply to appointments made before 1st July 2013. Whilst the Act gives discretion to appoint one or more independent persons, Members might consider that there appears to be little advantage in that provided that a reserve independent person was retained without need for re-advertisement in the event that the independent person is not available to discharge the function. The remuneration of the independent person would no longer fall under the Scheme of Members' Allowances and can therefore be determined without reference to the Independent Remuneration Panel. As the role of the independent person is likely to be less onerous, it might be appropriate to undertake a review of the function before setting the remuneration.

5.5 At one stage during discussions between the Monitoring Officers of Cambridgeshire Authorities, there was a suggestion that it would be appropriate to co ordinate the advertisement of all vacancies for independent persons with neighbouring authorities so that experienced independent members could be retained as an independent person at a neighbouring authority. The Committee may consider that joint recruitment of independent persons might be appropriate.

Parish Council Representatives

5.6 The District Council will continue to have responsibility for dealing with standards complaints against Members of Parish Councils but the current Parish Council representatives will cease to hold office. The District Council can choose whether it wishes to continue to involve Parish Council representatives (currently two appointed by CPALC with one vacancy) and if so, how many. A Standards Committee or Sub-Committee could be established with co-opted but non-voting Parish Council representatives.

RECOMMENDATIONS

- (a) that the Council be recommended to appoint a Standards Committee comprising seven elected Members of the District Council based on appropriate political proportionality and to include one Member who is a Member of the Executive (*as currently constituted*);
- (b) that the Council be recommended to invite Parish Councils to nominate 2(?) Parish Councillors to be co-opted as non-voting members of the committee;

- (c) that the Head of Legal & Democratic Services and Monitoring Officer be authorised to commence the process for the appointment of at least 2 independent person(s)(one permanent and one able to act in reserve) and to undertake a review of the role and remuneration of the position;
- (d) that a Selection Panel comprising three Members of the Committee be established to short list and interview candidates for the position of independent persons and to recommend an appointment to Council; and
- (e) that the Head of Legal & Democratic Services and Monitoring Officer be authorised to pursue, if appropriate, the possibility of a joint recruitment exercise with Cambridgeshire Authorities to appoint independent persons.

6. **ARRANGEMENTS FOR RESPONDING TO COMPLAINTS (MONITORING OFFICER'S PROTOCOL)**

- 6.1 The Localism Act requires that the Council adopt "arrangements" for dealing with complaints of breach of conduct both by District and Parish Council Members as such complaints can only be dealt with in accordance with such "arrangements". The "arrangements" must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the relevant Code of 'Conduct. The Act repeals the requirements for separate Referrals, Review and Consideration & Hearing Sub-Committees and enables the Council to establish its own process and delegate appropriate powers to any Committee and the Monitoring Officer.
- 6.2 Major changes are required to the current Monitoring Officer's Protocol which is contained in the Part 5 of the Constitution (page 347). Principally this will require amendment to make provisions for the new functions of the independent person. From experience of the nature of complaints which have arisen over the last four years and given the increasing pressure to be placed on the Monitoring Officer in any proposed new approach to the handling of complaints, the Committee might wish to express the view that any new local assessment procedure should include a requirement that complaints made about Parish Councillors should be addressed to the Parish Council under their complaints process in the first instance and only be considered by the Monitoring Officer once local measures have been exhausted unless the town or parish council can demonstrate to the satisfaction of the Monitoring Officer that such a course of action is not practicable.
- 6.3 Most Members have been involved in the Referrals, Review and Consideration & Hearing Sub-Committees over recent years and may wish to comment on how the District Council should respond to complaints in the future bearing in mind that it is the desire to streamline current arrangements.
- 6.4 A draft Monitoring Officer's protocol for the management of complaints and proposed Complaints Procedure Flowchart are

enclosed at Appendices F and G respectively. Member's comments are invited on these proposed procedures.

RECOMMENDATIONS

- (a) that, subject to Members' views, the Head of Legal & Democratic Services and Monitoring Officer be authorised to finalise the protocol for the discharge of functions in relation to allegations that a Member of Huntingdonshire District Council or Parish Council in the District failed to comply with the adopted Code of Conduct; and
- (b) that the Head of Legal & Democratic Services and Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct and authorised to determine allegations in accordance with the agreed protocol.

7. OTHER ISSUES

7.1 The various changes required to the standards regime will have a major impact on the District Council's Constitution. Once decisions have been made by the Council on how it intends to manage standard issues in the future, amendments will have to be made to the following sections -

Article 9 - Standards Committee
Table 1 - Responsibility for Local Choice functions

Part 5 - Codes and Protocols

7.2 Whilst the proposed new Code of Conduct will make appropriate provisions for the disclosure of interests and for Members to withdraw from the meeting room there is a suggestion that the requirement to withdraw could formally be included within the District Council's Procedure Rules (Council Standing Orders).

7.3 If a Member has a disclosable pecuniary interest in any matter, he/she must not -

- ◆ participate in any discussion of the matter at the meeting. (The Act does not define discussion, but this would appear to preclude making representations as currently permitted under paragraph 12 (2) of the Model Code of Conduct); or
- ◆ participate in any vote on the matter, unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

7.4 Failure to comply with the requirements becomes a criminal offence rather than leading to sanctions. The requirement to withdraw from the meeting room can be covered by Standing Orders so that failure to comply will be neither a criminal offence nor a breach of code of conduct. A meeting could also vote to exclude a Member. Under the existing statutory Code, Members are required to leave a meeting if they have a prejudicial interest in the business under consideration.

As the Code to be adopted by the District Council is not statutorily prescribed, Members may feel that it is appropriate to reflect this requirement in Standing Orders to strengthen the obligation to declare a disclosable pecuniary interest and withdraw.

- 7.5 Transitional provisions provide for the determination of any outstanding complaints under the current Code of Conduct if these were received before 1st July 2012. Therefore it may be reasonable to retain the Referrals (Assessment), Review and Consideration & Hearing Sub-Committees constituted for this purpose until 30th September 2012 to enable any outstanding complaints to be considered.

7.6 **Dispensations**

The provisions on dispensations are significantly changed by the Localism Act 2011.

At present, a Member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds:

- that at least half of the Members of a decision-making body have prejudicial interests; and
- that so many Members of one political party have prejudicial interests that it will upset the result of the vote on the matter.

In future, a dispensation will be able to be granted in the following circumstances:

- i. that so many Members of the decision-making body have DPis in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result; and
- ii. that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
- iii. that the authority considers that the dispensation is in the interests of persons living in the authority’s area;
- iv. that, without a dispensation, no Member of the Cabinet would be able to participate on this matter (so, the assumption is that, where the Cabinet would be inquorate as a result, the matter can then be dealt with by an individual Cabinet Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or
- v. that the authority considers that it is otherwise appropriate to grant a dispensation.

As at present, any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by a Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds (i) and (iv) are pretty objective, so it may be appropriate to delegate dispensations on these grounds to the Monitoring Officer, with an appeal to the Standards Committee. Grounds (ii), (iii) and (v) are rather more objective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

7.7 RECOMMENDATIONS

- (a) that, after consultation with the Chairman of the Standards Committee, the Head of Legal & Democratic Services and Monitoring Officer be authorised to make any appropriate variations to the Constitution consequent upon the changes to the District Council's Standards arrangements (7.1);
- (b) that the views of the Committee be requested on whether to amend the Council's Procedure Rules (Standing Orders) to require that a Member must withdraw from a meeting room during the consideration of any item of business in which he/she has a disclosable pecuniary interest (7.2);
- (c) that the Referrals, Review and Consideration & Hearing Sub-Committees as constituted at the meeting of the Committee on 7th July 2011 be re-appointed to enable outstanding complaints to be resolved; and
- (d) that the Committee consider the arrangements that would be appropriate for granting dispensations (7.6).

8. CONCLUSIONS

- 8.1 The Committee/Panel are invited to express their views and consider the recommendations set out in this report.

BACKGROUND PAPERS

Localism Act 2011 (Part 1 - Local Government, Chapter 7, Standards).
Draft Regulations - The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
The Localism Act 2011 (Commencement No 6 and Transitional Savings, Transitional Provisions) Order 2012

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**CAMBRIDGESHIRE AUTHORITIES
MEMBERS' CODE OF CONDUCT**

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should borne in mind when interpreting the meaning of the Code:-

- (i) **Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- (ii) **Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- (iii) **Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- (iv) **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- (v) **Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- (vi) **Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- (vii) **Leadership** Holders of public office should promote and support these principles by leadership and example.

PART 1

GENERAL PROVISIONS

1. INTRODUCTION AND INTERPRETATION

- 1.1. This Code applies to **you** as a member of Cambridgeshire Authorities.
- 1.2. The term “**the Authority**” used in this Code refers to Cambridgeshire Authorities.
- 1.3. “**Member**” means any person being an elected or co-opted member of the Authority.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.
- 1.5. In this code –
- “**Meeting**” means any meeting of
- (a) The Authority;
 - (b) The executive of the Authority;
 - (c) Any of the Authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
 - (d) Any of the Authority’s advisory groups and executive boards, working parties and panels
- 1.6. In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011.

2. SCOPE

- 2.1. You must comply with this Code whenever you act, claim to act or give the impression you are acting in your official capacity as a Member of the Authority.
- 2.2. Where you act as a representative of the Authority:-
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. GENERAL OBLIGATIONS

3.1. You must treat others with respect.

3.2. You must not:-

- (a) do anything which may cause the Authority to breach UK equalities legislation;
- (b) bully any person
- (c) intimidate or attempt to intimidate any person who is or is likely to be:-
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings,
- (d) in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct, do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- (e) conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

4. YOU MUST NOT

4.1. Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is:-
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the authority; or

4.2. Prevent another person from gaining access to information to which that person is entitled by law.

5. YOU MUST NOT

- 5.1. Use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage; and

6. YOU MUST

- 6.1. When using or authorising the use by others of the resources of your authority:-

- (a) act in accordance with your authority's reasonable requirements;
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

- 6.2. Have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

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PART 2

INTERESTS

7. DISCLOSABLE PECUNIARY INTERESTS

- 7.1. Breaches of the rules relating to disclosable pecuniary interests may lead to criminal sanctions being imposed.

- 7.2. You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State and either:

- (a) it is an interest of yours, or
- (b) it is an interest of:
 - (i) your spouse or civil partner;
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you were civil partners

and you are aware that that other person has the interest.

8. REGISTRATION OF DISCLOSABLE PECUNIARY INTERESTS AND PERSONAL INTERESTS

8.1. Subject to paragraph 10 below (sensitive interests), you must, within 28 days of:

- (a) this Code being adopted or applied by the Authority; or
- (b) your election or appointment (where that is later),

notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests and/or Personal Interests you have at that time.

8.2. Subject to paragraph 10 below (sensitive interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest/Personal Interests or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new pecuniary interest or change, pursuant to sub-paragraph 9.1 above.

9. DISCLOSABLE PECUNIARY INTERESTS IN MATTERS CONSIDERED AT MEETINGS OR BY A SINGLE MEMBER

9.1. If you attend a meeting and have and are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at that meeting -

- (a) if the interest is not entered in the Authority's register of members' interests, you must, subject to sub-paragraph 11.1 below, disclose to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. If you have not already done so, you must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure, and
- (b) whether the interest is registered or not you must not – unless you have obtained a dispensation from the Authority's Monitoring Officer –
 - (i) apart from making representations, giving evidence or answering questions, prior to the commencement of the debate on that matter, participate, or participate further, in any discussion of the matter at the meeting; or
 - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

Single member action

9.2. If you are empowered to discharge functions of the Authority acting alone, and have and aware that you have a disclosable pecuniary interest in any matter dealt with, or being dealt with, by you in the course of discharging that function, you must not take any steps, or any further steps, in relation to the matter (except for the purposes of enabling the matter to be dealt with otherwise than by you).

10. SENSITIVE INTERESTS

- 10.1. Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraph 9.1 above.

11. PERSONAL INTERESTS

- 11.1. You have a personal interest in any business of your authority where either -
- (a) it relates to or is likely to affect -
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body -
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

- (viii) the interests of any person from whom you have received a gift or hospitality th an estimated value of at least £50;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- 11.2. In sub-paragraph (1)(b), a relevant person is -
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

PART 3

RELATED DOCUMENTS

12. Arrangements for dealing with alleged breaches of the Cambridgeshire Authorities Members' Code of Conduct.

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

APPENDIX C

Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

APPENDIX C

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [*county*][*borough*][*Authority's area*] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

NALC's template code of conduct for parish councils

As explained in paragraph 13 of LTN 80 – 'Members' conduct and the registration and disclosure of their interests (England)', NALC has produced a template code of conduct for parish councils because:

- it does not recommend that parish councils adopt the LGA's template code of conduct and
- parish councils may not want to draft their own or adopt their principal authority's code of conduct.

Unlike the LGA's template code of conduct, the attached NALC template code of conduct has the following features:

1. It uses concise and clear language to define members' obligations in respect of their conduct.
2. It incorporates members' mandatory obligations in respect of disclosable pecuniary interests. These are yet to be defined by regulations which are expected to be made before 1 July 2012 and will be inserted in Appendix A of the NALC template.
3. It sets out other pecuniary interests and non pecuniary interests in Appendix B of the NALC template about which members have obligations with regard to registration, disclosure, and speaking at meetings.
4. It describes the circumstances in which a parish council may grant a dispensation for members to participate and vote on a matter at a meeting.
5. It accommodates variations to be made to it except in relation to members' mandatory obligations about disclosable pecuniary interests in Appendix A. Substantive amendments to the NALC template code of conduct are not recommended because it establishes (i) the minimum standards for members' conduct which are consistent with the Nolan principles of conduct in public life and (ii) a proportionate range of pecuniary and non pecuniary interests which members are subject to.

It is likely that some of the interests presently included in Appendix B of the NALC template will constitute disclosable pecuniary interests, prescribed by regulation, and that any such interests will need to be included in Appendix A. NALC will publish the final version of its template code of conduct after regulations which define disclosable pecuniary interests have been made.

This briefing was issued by Meera Tharmarajah, Solicitor and Head of Legal Services

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NALC template code of conduct for parish councils

Introduction

Pursuant to section 27 of the Localism Act 2011, X [Parish/Town/Village/Community/Neighbourhood] Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, 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, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

6. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the categories set out in Appendices A and B.
7. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests in Appendices A and B.
8. A member shall register any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
9. A member need only declare on the public register of interests the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'.

APPENDIX D

A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

Declaration of interests

9. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
10. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
11. Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting.
12. A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter before withdrawing. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.

APPENDIX D

13. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate, the member shall disclose the nature of the interest and withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

14. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

Appendix A

Such interests, as prescribed by regulations, are.....

Appendix B

[Unless they are interests prescribed by regulation for inclusion in Appendix A] any interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;
- (iii) any employment or business carried on by the member;
- (iv) any person or body who employs or has appointed the member;
- (v) any person or body, other than the Council, who has made a payment to the member in respect of his/her election or any expenses incurred by him/her in carrying out his/her duties;
- (vi) any person or body who has a place of business or land in the Council's area, and in whom the member has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

APPENDIX D

- (vii) any contract for goods, services or works made between the member's Council and the member or a firm in which he/she is a partner, a company of which he /she is a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.
- (ix) any land in the Council's area in which the member has a beneficial interest;
- (x) any land where the landlord is the Council and the member is, or a firm in which the member is a partner, a company of which the member is a remunerated director, or a person or body of the description specified in paragraph (vi), is the tenant;
- (xi) any land in the Council's area for which the member has a licence (alone or jointly with others) to occupy for 28 days or longer.

 STATUTORY INSTRUMENTS

2012 No.

LOCAL GOVERNMENT, ENGLAND

 The Relevant Authorities (Disclosable Pecuniary Interests)
 Regulations 2012

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	1st July 2012

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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(b) and other securities of any description, other than money deposited with a building society.

(a) 2011 c.20.

(b) 2000 c. 8.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of section 30(3) of the Localism Act 2011 are the interests specified in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Date _____
Name
Parliamentary Under Secretary of State
Department for Communities and Local Government

SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

(a) 1992 c. 52.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a local authority and certain other authorities, on taking office, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

**Huntingdonshire District Council
Draft Model Arrangements
for dealing with standards allegations under the Localism Act 2011**

1 Context

Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority or of a parish council within the authority’s area, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as an Appendix to these arrangements and available for inspection on the authority’s website and on request from the Council’s Offices.

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3 Making a complaint

If you wish to make a complaint, please write to:

“The Monitoring Officer
Huntingdonshire District Council

Or email: colin.meadowcroft@huntingdonshire.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority’s website, next to the Code of Conduct, and is available on request from the Council Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

4 Complaint Process

The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint. If sufficient supporting evidence is not provided, the Monitoring Officer will require the complainant to provide such evidence.

Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

Within 5 working days of receiving a valid Code of conduct complaint and supporting evidence the Monitoring Officer shall:-

- (i) Contact the subject member with a summary of the complaint and evidence; and
- (ii) Ask the subject member to provide a written response to the allegation(s) and supporting evidence within 5 working days.

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 20 working days of receipt of your complaint and the subject member's response. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

5 Criteria for Assessment

The Monitoring Officer has the discretion to refuse any complaints:-

- (i) Containing no or insufficient evidence to demonstrate a breach of the code;
- (ii) Are trivial, malicious or tit for tat;
- (iii) Are anonymous, unless serious and supported by sufficient evidence;
- (iv) Where an investigation would not be in the public interest or the matter would not warrant any sanction;
- (v) Where a substantially similar complaint has previously been considered and no new material evidence has been submitted;
- (vi) Relate to allegations concerning a Member's private life;
- (vii) Relate to conduct in the distant past (over 12 months before)
- (viii) Relate to dissatisfaction with a Council [or Parish Council] decision;
- (ix) Is about someone who is no longer a member of the Council [or relevant Parish council] or who is seriously ill;

6 Informal Resolution

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where a reasonable proposal for local resolution is proposed, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

7 Criminal Conduct

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to refer the matter to the Police or any other relevant regulatory agency. In such cases the complainant and subject member will be notified in writing.

8 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

9 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

10 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

10.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution. Such resolution may include the member accepting

that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee [and the Parish Council where appropriate] for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

10.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

11 **What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may:

- 11.1 Censure or reprimand the member;
- 11.2 Publish its findings in respect of the member's conduct;
- 11.3 Report its findings to Council [or to the Parish Council] for information;

- 11.4 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;
- 11.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 11.6 Recommend to Council that the member be replaced as Executive Leader;
- 11.7 Instruct the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
- 11.8 Remove [or recommend to the Parish Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the Parish Council];
- 11.9 Withdraw [or recommend to the Parish Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 11.10 Exclude [or recommend that the Parish Council 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.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

12 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to the complainant, to the member and to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Standards Committee.

13 Who are the Hearings Panel?

The Hearings Panel is a sub-committee of the Council's Standards Committee comprising a maximum of five members, including not more than one member of the authority's Executive and comprising members drawn from at least two different political parties. Subject to those requirements, it is appointed in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

14 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be “independent” if he/she:

- 14.1 Is, or has been within the past five years, a member, co-opted member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons;
- 14.2 [Is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority’s area], or
- 14.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means:
 - 14.3.1 Spouse or civil partner;
 - 14.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 14.3.3 Grandparent of the other person;
 - 14.3.4 A lineal descendant of a grandparent of the other person;
 - 14.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 14.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 14.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

15 Revision of these arrangements

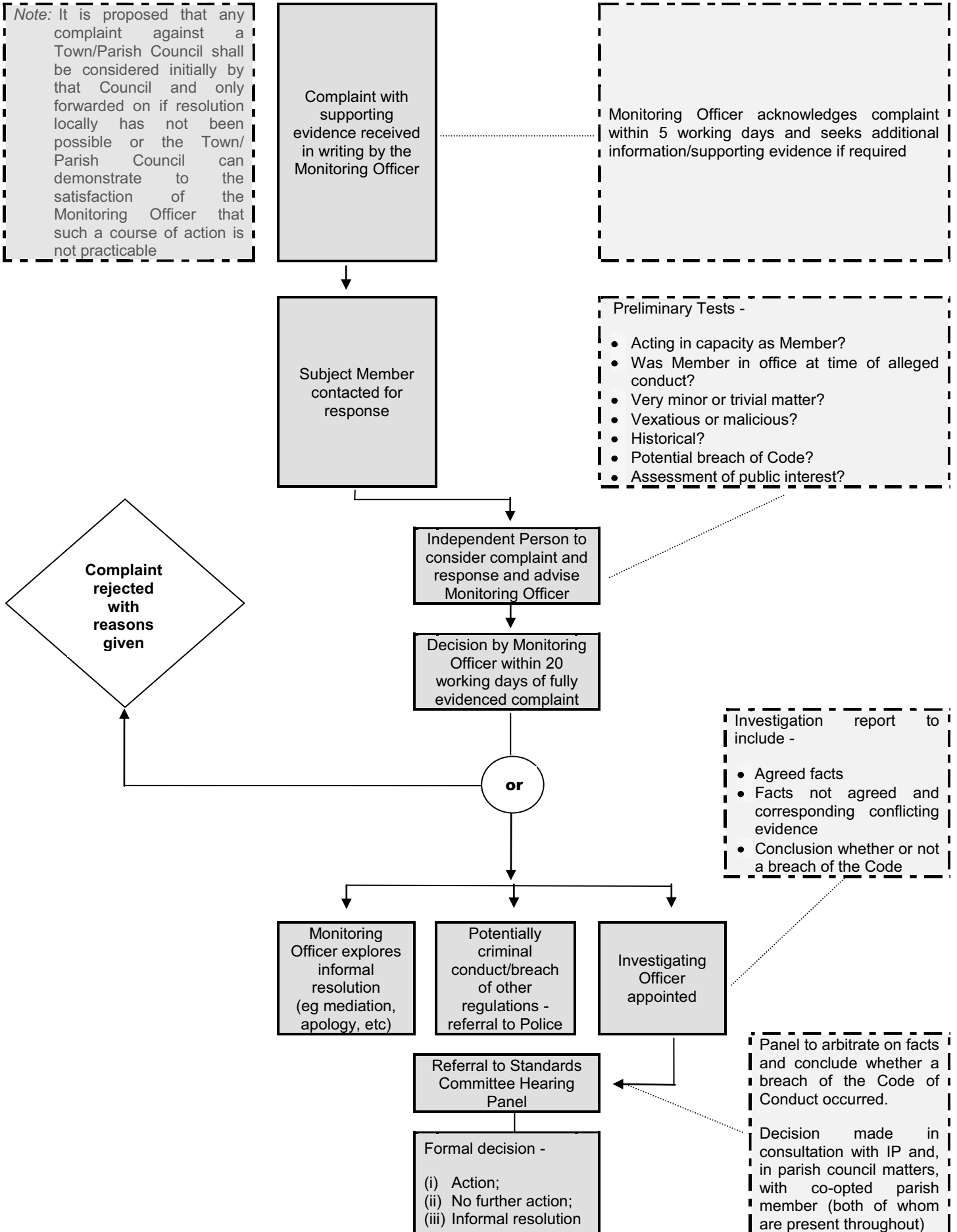
The Council may amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

16 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Cambridgeshire Authorities' Complaints Procedure Flowchart



COMPLAINTS (Report by the Head of Legal and Democratic Services)

1. INTRODUCTION

- 1.1 The purpose of this report is to provide Members with information on internal complaints and a summary of complaints determined by the Local Government Ombudsman. It also proposes some amendments to the Council feedback policy.

2. SUMMARY OF INTERNAL COMPLAINTS

- 2.1 The Council's internal complaints system summarises complaints into six categories as follows:-

- ◆ action of employee;
- ◆ council policy;
- ◆ council procedures;
- ◆ equality of service;
- ◆ failure to respond; and
- ◆ service delivery.

- 2.2 The table attached at Appendix A provides an analysis of complaints by complaint reason, the Division involved and results compared with the previous two years.
- 2.3 The Council captures information relating to verbal complaints. These complaints predominantly relate to the Operations Division and, for the period 2011/12, 284 (350) complaints were received out of 42,630 (41,791) service requests, which represents a complaint rate of 0.7% (0.8%). The figures in parenthesis are for 2010/11.

3. SUMMARY OF OMBUDSMAN COMPLAINTS

- 3.1 The Local Government Ombudsman Service has published its provisional statistics for enquiries and complaints dealt with in relation to the District Council in the year 1st April 2011 to 31st March 2012. The Ombudsman received a total of 19 enquiries and complaints in 2011/12, which represents a decrease on the 24 received in the previous year. The Ombudsman will not normally consider a complaint unless a Council has had the opportunity to deal with the complaint itself. So, if someone complains to the Ombudsman without having taken the matter up with a Council, the Ombudsman will usually refer it back to the Council as a '*premature complaint*' to see if the Council can itself resolve the matter. Of the 19 enquiries, 11 were deemed to be premature, two resulted only in advice being given and six were forwarded to the Investigative Team (three were re-submitted premature complaints and three were new complaints). Last year 14 new complaints were forwarded to the investigative team to pursue.
- 3.2 The following table provides a summary of the decisions reached by the Ombudsman during the year compared with previous years.

Decisions	2009/10	2010/11	2011/12
Report	0	0	0
Injustice remedied during enquiries	0	2	2
No or minor injustice and Other	0	0	2
Not enough evidence of fault	0	10	1
Investigation not justified and Other	2	0	2
No reason to use exceptional power to investigate	4	3	0
No power to investigate	1	3	0
Total	7	18	7

3.3 This table refers only to decisions reached and includes complaints received before the start of the year. Equally, some of the complaints received as set out in paragraph 3.1, will appear in the Ombudsman’s report next year.

3.4 The Ombudsman’s report indicates that two complaints have been settled locally. However, both of them refer to the same matter; that is, the complaint was referred to the Ombudsman by two separate individuals. The Ombudsman found that the Council had delayed seeking legal advice and had not passed on concerns about antisocial behaviour. It was recommended that the Council should pay the complainants compensation for the time and trouble they had taken to submit the complaint and to chase it and to reflect their distress that their complaints were not being listened to. With the approval of the Chairman of the Corporate Governance Panel compensation has been paid to the complainants.

4. LESSONS LEARNED AND EQUALITY AND DIVERSITY

4.1 The Council recently has been the subject of two external assessments. Both have concluded that the Council might make more use of the feedback it receives to maintain and improve services. The Customer Service Excellence assessment states:

“There remains limited evidence that the corporate reporting of complaints sets out publicly the lessons learned...Whilst there have been no complaints, there remains limited evidence within the corporate procedures to demonstrate that there is a process in place that where complaints are upheld, the organisation ensures that the outcome is satisfactory for them.”

In order to demonstrate that the Council does learn from feedback, it is suggested that, in future, the annual report to the Corporate Governance Panel will contain a summary of each complaint together with the lessons that have been learned from it and the action that has been taken.

4.2 Similarly, the Equality Framework assessment has suggested that the Council might “consider looking at customer complaints as an additional data set; monitor in comparison to demographic data to ensure that particular groups are not disproportionately impacted.”

Appendix A

Complaint Reason	Division involved 2009/10 and action	Division involved 2010/11 and action	Division involved 2011/12 and action
Action of Employee	2 Council Tax (NAT) 4 Development Mgt (3 NAT, 1 SI) 6 Benefits (2 NAT, 2 SI, 2 FT) 1 Operations (CIS) 1 Env & Comm Health (NAT) 3 Leisure (3 NAT)	1 Council Tax (CIS) 1 Development Mgt (NAT) 4 Benefits (4 NAT) 5 Cust Servs (3 NAT, 2 SI) 1 Env Mgt (CIS) 2 One Leisure (NAT, SI) 2 Dem & Central Servs (NAT)	1 Council Tax (1 NAT) 1 Development Mgt (1 NAT) 3 Benefits (1 NAT, 1 FT, 1 CIS)
Council Policy	1 Council Tax (NAT) 3 Benefits (NAT))	1 Operations (CIS) 1 Cust Servs (NAT) 5 Housing (NAT) 1 Dem & Central Servs (NAT)	1 Operations (1 NAT) 1 Council Tax (1 NAT) 1 Dem & Central Servs (1 NAT) 1 Env & Comm Health (1 NAT)
Council Procedures	4 Development Mgt (3 NAT, 1CIP) 3 Benefits (2 NAT, 1 CIP) 1 Council Tax (NAT) 2 Operations (NAT) 1 Env & Comm Health (NAT)	4 Development Mgt (NAT) 1 Dem & Central Servs (CIP) 2 Council Tax (CIS, NAT) 3 Cust Servs (2 NAT, CIS) 1 Operations (NAT)	6 Development Mgt (5 NAT, 1 CIP) 1 Housing (1 NAT) 2 Council Tax (2 NAT) 2 Benefits / Doc Centre(1 NAT, 1 SI) 1 Operations (1 NAT)
Equality of Service	1 Council Tax (NAT) 1 Development Mgt (SI)	1 Council Tax (NAT) 1 Development Mgt (NAT) 1 Benefits (NAT)	1 Development Mgt (1 NAT)
Failure to Respond	3 Development Mgt (2 CIS, 1 NAT) 1 Planning Policy (NAT) 1 Dev Mgt + CI Tax ((NAT) 1 Env & Comm Health (NAT)	3 Development Mgt (NAT) 1 Housing (NAT)	1 Development Mgt (1 CIS)
Service Delivery	6 Development Mgt (4 NAT, 1 CIS, 1 SI) 6 Council Tax (4 NAT, 2 CIS) 3 Benefits (3 NAT) 3 Housing (2 NAT, 1 CIS) 5 Operations (4 NAT, 1 CIS) 3 Env & Comm Health (3 NAT) 1 Building Control (NAT)	6 Development Mgt (8 NAT, 1 CIS) 2 Dem & Central Servs (CIP) 1 Benefits (CIS) 4 Housing (2 NAT, 1 CIS, 1 CIP) 2 Env Mgt (2 NAT) 1 Building Control (NAT)	11 Development Mgt (9 NAT, 1 CIP, 1 CIS) 2 Benefits (1 CIS, 1 NAT) 2 Council Tax (2 CIS) 1 Env & Comm Health (1 NAT) 1 Benefits / Doc Centre (1 NAT)
Total	67	58	40

KEY:

NAT	No Action Taken	RTC	Referral to Contractor
CIP	Change in Procedures	CIS	Change in Service
SI	Staff Instruction	FT	Formal Training

Compliments, Complaints and Lessons Learned

Customer Feedback Policy

Compliments, Complaints and Lessons Learned

Our Customer Feedback Policy

1. INTRODUCTION

The District Council is committed to a constant review of and improvements to the delivery of the Council's services for all of our customers. We value customer feedback to help us maintain and improve our services. This note sets out the Council's Customer Feedback Policy for compliments and complaints and how the Council will learn from the feedback it receives.

2. AIMS

All compliments and complaints will be recorded to help us analyse feedback. Customers will be encouraged to provide feedback in person, in writing, by e-mail, by fax, by telephone or via the website. Customers will be advised of our response targets for responding to feedback.

3. PUBLICITY

Customers will be encouraged to provide feedback and information on how they can do this will be publicised:-

- In the Council's Customer Service Centre and customer service outlets, including leisure centres
- In libraries
- In Citizens Advice Bureaux
- On our website

4. DEFINITIONS

What is a compliment?

A customer gives a compliment when he/she provides us with feedback about how well we deliver a service or how helpful an employee has been to them.

What is a complaint?

A complaint should not be defined too narrowly. It is an expression of dissatisfaction about the Council's action or lack of action or about the standard of a service, whether justified or not and whether the action or service was taken or provided by the Council itself or a person or body acting on behalf of the Council.

The definition could include any one of the following situations for our customers:-

- A delay in providing a service
- Failure to provide a service, achieve the Council's published service standards or fulfil statutory responsibilities
- A poor quality service or a mistake has been made
- An inappropriate service
- A service has been removed or withdrawn

- An inappropriate cost has been charged for a service
- An employee's behaviour causes upset
- A policy unreasonably disadvantages one or more members of the public
- Unfair or bias discrimination

Comments which are criticisms or disagreements with Council policies rather than the way they have been carried out should not be regarded as a complaint.

5. HOW TO DEAL WITH A COMPLIMENT

Details of the feedback should be logged by the relevant service who should acknowledge receipt of the customer's comments within five working days.

Head of Service/Activity Manager will write to the team or employee to advise them of the compliment and thank them for providing a high quality service to the customer.

6. HOW TO DEAL WITH A COMPLAINT

The principles that underpin the complaints procedure are that:

- The customer is the most important person in any transaction and has a right to decent, agreed standards of service and care;
- Customers should have easy access to clear information;
- Both the customer and the Council should have a clear understanding of what is expected from each other;
- Systems of redress and compensation should be clearly explained and understood; and
- Services should learn from the complaints received and make sure that this learning influences delivery next time.

The employee or service provider who receives the complaint initially should make every effort to resolve the problem straight away. If a complainant remains dissatisfied, or feels that his/her problem has not been looked at properly, or not been fully understood, they will often want someone else to investigate it further. In this situation, the customer should be informed that the matter they have raised can be treated as a formal complaint.

A separate procedure exists for Call Centre employees and the complaint is covered by the Ops Service Alert system. In this case a Formal Complaint Service Request should be raised. The Call Centre has its own guide to dealing with complaints via the Customer Relationship Management system.

The identity of the person making a complaint should be made known only to those who need to consider the complaint; and should not be revealed to any other person or made public. Care should be taken to maintain confidentiality where particular circumstances demand it.

Formal Complaint Stage 1 – Service Investigation

If a customer says he/she wishes to make a formal complaint the employee should give the customer the options of:

- a. making the complaint in writing – send the customer the Council's Suggestions, Compliments and Complaints feedback pack;
- b. submitting the complaint electronically via:
<https://applications.huntsdc.gov.uk/forms/complaints/complaints.htm>
- c. Making the complaint via fax; or
- d. taking details of the complaint in person or over the telephone.

If d. is chosen, employees should take down the following information:

- a. complainant's details;
- b. complaint details;
- c. what action the customer has already taken;
- d. what resolution the customer is expecting; and
- e. in what form the customer would prefer the response.

In all cases the information should then be forwarded to the Scrutiny and Review Manager in the Legal and Democratic Services Division, who will initiate the formal complaints procedure.

Who?

This should be dealt with by a Head of Service or investigating officer nominated by the Head of Service in the service area that the complaint is within. Generally, it should be a senior manager who was not involved in attempting to resolve the matter within the service.

Complaints relating to the Leisure Centres should be forwarded to the Genral Manager, One Leisure who will refer matters to the relevant Centre Manager as appropriate.

How?

- Pass details of the complaint to your Departmental Feedback Officer. He/she will enter the complaint onto the corporate complaints system.
- Acknowledge the complaint as soon as possible and in any event within five working days. Advise the complainant that unless there are exceptional circumstances, he/she will receive a written response within twenty working days. The acknowledgement letter will seek equalities and diversity information. When this information is returned it should be forwarded to the Scrutiny and Review Manager for monitoring purposes.
- Investigate the complaint, consider your response including any remedy and write to the complainant within the maximum of twenty working days. If after appropriate investigation you consider that the complaint is not justified inform the complaint accordingly. At this stage advise the complainant that he/she should write to or contact the Scrutiny and Review Manager if they wish to pursue the complaint further.
- If you are unable to meet this timescale write to the complainant and tell them why, what action you are taking and when you expect to provide a substantive response.

- The complaint remains open for a period of 30 days to make sure that the customer is satisfied with the response. Advise the complainant that they have 30 days from receipt of the response to take the complaint to the next stage. Following this timescale the complaint will be closed.
- Letter templates for each stage of communication are available on the corporate complaints system.

Formal Complaint Stage 2 – Independent Review

If a complaint has been investigated at the first stage in the process and the customer remains dissatisfied with the response he/she has received, the matter will be referred to the final stage in the complaints process, which is for it to be investigated by an Officer who is independent of the service that is the subject of the complaint.

Who?

This should be investigated by the Scrutiny and Review Manager or a Senior Officer who is independent of the service area to which the complaint relates.

How?

- Acknowledge the complaint within five working days and advise the complainant that, unless there are exceptional circumstances, he/she will receive a written response within twenty working days.
- Investigate and consider the response to the complainant including any remedy and write to the complainant within twenty working days.
- If you are unable to meet this timescale write to the complainant and tell them why, what action you are taking and when you expect to make a substantive response.
- When responding the customer will be advised of their right to complain to the Local Government Ombudsman or to obtain their own independent legal advice if they remain dissatisfied with our response.
- Letter templates for each stage of communication are available on the corporate complaints system.
- Pass details of the complaint to the Departmental Feedback Officer who will enter the information on the corporate complaints system.

7. LOCAL GOVERNMENT OMBUDSMAN

The Ombudsman will not usually investigate a complaint until the Council has had an opportunity to investigate and answer it first.

Complaints involving the Ombudsman will be dealt with by the Scrutiny and Review Manager. Any correspondence from the Ombudsman or concerning a complaint referred to the Ombudsman should be sent immediately to the Scrutiny and Review Manager.

8. UNREASONABLE COMPLAINANT BEHAVIOUR

We will respond sympathetically and patiently to the needs of all complainants, but sometimes we may be unable to do any more to assist them, or to resolve a real or perceived problem. If a complainant is persistently contacting the Council with regard to a complaint, long after the point where a conclusion can be reached to the complainants' satisfaction or the complainant's behaviour becomes unreasonable, you should refer to the Policy on the Management of Unreasonable Complainant Behaviour.

The two stages of the complaints procedure will need to have been completed before the Policy on the Management of Unreasonable Complainant Behaviour is invoked. Further advice should be sought from the Scrutiny and Review Manager.

10. REMEDIES

Where a complaint is found to be justified consideration needs to be given to an appropriate remedy to the complaint. We will try to take some practical action to put things right and will always, so far as possible, put the customer back to the position that he/she would have been in but for our mistake.

One or more of the following may need to be done to put things right:-

- Apologise to the customer
- Provide an explanation and information to the customer
- Provide a service desired by the customer
- Review customer information (leaflets, posters etc)
- Review of working procedures
- Request to review a policy
- Arrange training or guidance for employees
- Financial compensation in exceptional circumstances

In reaching a decision on a remedy for a complaint regard will be had to the Local Government Ombudsman's Guidance on Good Practice 6 – Remedies.

11. DEPARTMENTAL FEEDBACK OFFICER

The Compliments, Complaints and Lessons Learned Procedure requires the designation in each Department of a Feedback Officer. The Departmental Feedback Officers' role will be to record all compliments and complaints and ensure all information is entered on to the corporate complaints system for corporate monitoring.

12. MONITORING

We will monitor trends and performance in our handling of customer feedback and produce reports to the Corporate Governance Panel on an annual basis. Only formal complaints will be reported to the Panel.

To ensure the Council learns from the feedback it receives from its customers the annual report will identify for each complaint what lessons have been learned and what action has been taken.

The Council recognises the need to provide an equal and fair service to all members of the public. One way of helping the Council to check that no-one is receiving less of a service or is less satisfied with it is by monitoring customer compliments and complaints in terms of their implications for equalities and diversity.

13. SOFTWARE SYSTEM

The Council operates a corporate complaints management system. All action in relation to formal complaints should be entered on to the system.

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**TRAINING OF PANEL MEMBERS
(Report by the Head of Financial Services)**

1. WORK PROGRAMME

- 1.1 The anticipated work programme for the Panel for the next year is shown at Annex A
- 1.2 Panel are asked to consider the work programme and decide what training they would like in preparation for the next or future agendas. Normally this training would be for 30-45 minutes immediately prior to the formal meeting but there may be occasions when a separate longer session would be more appropriate.
- 1.3 Training can be provided by appropriate officers, external audit or external trainers (subject to budgetary constraints).

2. RECOMMENDATION

- 2.11 It is recommended that Panel:
- Consider the work programme at Annex A and determine the training to be provided prior to the September meeting.

BACKGROUND INFORMATION

None

Contact Officer: David Harwood, Audit & Risk Manager ☎ **01480 388115**

Anticipated Work Programme

September 2012

- Annual governance statement
- Review of the internal audit service
- Review of the effectiveness of the system of internal audit
- Annual internal audit report
- Effectiveness of the Panel
- Risk management
- Approval of the statement of accounts
- External audit – annual audit and inspection letter
- Countering fraud
- Compliance with the Code of Procurement (request from Panel)

December 2012

- Housing Benefit fraud investigation activity
- Whistleblowing : policy review & investigations
- National Fraud Initiative
- Internal audit plan
- Internal Audit - Terms of reference and strategy
- Review of the risk management strategy

March 2013

- Code of corporate governance
- Internal audit interim progress report
- Risk management
- Progress on annual governance statement
- Review of Council constitution
 - Code of financial management
 - Code of procurement
- External audit
 - Audit plan
 - Grant claims

June 2013

- Draft statement of accounts
- Internal audit plan
- Review of the internal audit service
- Feedback – annual report
- Delivery of the anti-fraud & corruption framework
- External audit : Audit plan

In addition to the items listed above, reports may be submitted on an ad-hoc basis on:

- Awards of compensation
- Ombudsman reviews
- Accounting policies
- Employee's code of conduct
- Money laundering and bribery
- Review of the anti-fraud & corruption strategy