

NOTICE
OF
MEETING



AUDIT AND PERFORMANCE REVIEW PANEL

will meet on

TUESDAY, 28TH JUNE, 2016

at

7.00 PM

in the

COUNCIL CHAMBER - GUILDHALL,

TO: MEMBERS OF THE AUDIT AND PERFORMANCE REVIEW PANEL

COUNCILLOR PAUL BRIMACOMBE (CHAIRMAN)
COUNCILLORS STUART CARROLL, DR LILLY EVANS, LYNNE JONES,
JACK RANKIN, MJ SAUNDERS, ADAM SMITH (VICE-CHAIRMAN) AND
EDWARD WILSON

SUBSTITUTE MEMBERS
COUNCILLORS MALCOLM BEER, JOHN COLLINS, DAVID EVANS,
RICHARD KELLAWAY, ROSS MCWILLIAMS, COLIN RAYNER,
WESLEY RICHARDS, JOHN STORY AND SIMON WERNER

Karen Shepherd
Democratic Services Manager
Issued: 20/06/2016

Members of the Press and Public are welcome to attend Part I of this meeting.

The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the
Panel Administrator

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AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>WARD</u>	<u>PAGE NO</u>
1.	<u>APOLOGIES</u> There were no apologies for absence received.		-
2.	<u>DECLARATIONS OF INTEREST</u> To receive any declarations of interest.		3 - 4
3.	<u>MINUTES</u> To approve the Part I minutes of the meetings held on 7 th April 2016 and 15 th May 2016.		5 - 10
4.	<u>PLANNING ENFORCEMENT</u> To receive a presentation on Planning Enforcement.		Verbal
5.	<u>2015/16 SHARED AUDIT AND INVESTIGATION SERVICE ANNUAL REPORT AND SELF-ASSESSMENT OF COMPLIANCE WITH THE PUBLIC SECTOR INTERNAL AUDIT STANDARDS</u> To consider the report.		11 - 28
6.	<u>ANTI FRAUD AND ANTI CORRUPTION POLICES</u> To considered the policies.		29 - 88
7.	<u>2015-16 ANNUAL GOVERNANCE STATEMENT</u> To consider the report.		To Follow
8.	<u>PERFORMANCE AND TRANSFORMATION STRATEGY UPDATE</u> To consider the report.		To Follow

MEMBERS' GUIDANCE NOTE

DECLARING INTERESTS IN MEETINGS

DISCLOSABLE PECUNIARY INTERESTS (DPIs)

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
 - a) that body has a piece 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) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

PREJUDICIAL INTERESTS

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

DECLARING INTERESTS

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

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Public Document Pack Agenda Item 3

AUDIT AND PERFORMANCE REVIEW PANEL

THURSDAY, 7 APRIL 2016

PRESENT: Councillors Paul Brimacombe (Chairman), Cllr Richard Kellaway, Dr Lilly Evans, Lynne Jones, Jack Rankin and Edward Wilson

Officers: Steve Mappley, Catherine Hickman, Paul Ohsan Ellis, Richard Bunn, Russell O'Keefe and David Cook.

APOLOGIES

Apologies were received from Councillors Carroll, Targowska and Smith. Councillor Kellaway attended as a substitute.

DECLARATIONS OF INTEREST

There were no declarations of interest received.

MINUTES

The Part I minutes of the meeting held on 16 February 2016 were approved as a true and correct record subject to the following amendments:

- Page 7 change 'processes' to processed with regards to benefit claims.
- Page 8 'fresh hold' be replaced with threshold.
- Page 10 – Internal Audit Plan, there were 726 days in the plan, 3.8 FTE and 202 days work each which was 1360 capacity days for the year to cover both authorities plans.

The Chairman raised concern that senior managers in the authority are being asked to sign quality assurance statements and he did not agree with this as it was a duplication of effort as this should be picked up via their job descriptions. The Chairman felt that we should not be doing more than was statutory required as there was no need in putting in too much governance arrangements than required. Quality assurance was important but he did not wish to see duplication when a light touch approach would work. A better system should be introduced that added value.

AUDIT PROCESS

The Panel received a presentation on the Internal Audit Planning Process from Catherine Hickman, Service Manager and Paul Ohsan Ellis, Team Leader Internal Audit, Shared Audit and Investigation Service.

The Panel were informed that the audit planning process currently in operation had evolved as a result of the following:

- 2011 - review of the Audit and Investigation Service
- Challenges of the current financial climate
- To deliver a function that is aligned to a LEAN environment
- Statutory requirements

The Audit Plan had been produced in consultation with CMT, the S151 Officer, External Audit and this Panel. The Internal Audit Plan was a formal mechanism to allow the S151 Officer to discharge their legal responsibilities and also aid the Chief Audit Executive to report to the Audit and Performance Review Panel their audit opinion on the council's internal control, risk management and governance environment and this also feeds in to the Annual Governance

Statement process which was a statutory document that sits alongside the published set of financial accounts.

The Panel were informed that the audit plan was split into distinct sections:

- Key Financial Systems these were the audits of functions that underpin the council achieving its objectives.
- The Governance Building Blocks that are important key cornerstones of good governance.
- The key risks are those that if unmanaged could have a major impact on the council achieving its objectives and as such are reviewed to ensure that the appropriate treatment measures put in place by management are effective and efficient.
- Auditor Judgements are those that have been identified by management that are not a key risk but management are requesting that internal audit look at these areas.
- Servicing the Business holds areas where audit aid management in achieving their objectives through reviews, advice and consultancy services including key areas such as governance.

The plan was aligned to the Corporate Risk Register (CRR) and the Key Risks shown in the audit plan have been identified using set criteria which included; when they were last reviewed, whether follow up action was required, whether it was a new key risk on the CRR. Key risks to the Council can be fluid and so there was a mechanism in place whereby the Insurance and Risk Manager informed of any changes to the key risks on a monthly basis and where required the audit plan would be amended.

With regards to audit reporting and management responses the Panel were informed how Audit reported their findings and how it assesses the category of risk for the concerns identified. The auditor used the risk criteria for impact as shown in the Council's Risk Management Strategy. It was at this point that management could challenge the cause and category of risk reported. Once agreed management then responded to the audit management action plan detailing whether they would treat, transfer, tolerate or terminate the risk.

The Panel were shown the audit opinion categories which were:

- Complete and effective
- Substantially complete and generally effective
- Range of Risk Mitigation Controls was incomplete and risks were not effectively mitigated
- There was no effective Risk Management process in place

For 2016/17 a mechanism has been put in place so from the time of issue of the draft report, management would be given one month to implement concerns reported that they are to treat, transfer or terminate and then internal audit would re-visit the service before issuing a final audit opinion. Each internal audit final report is copied to the Insurance and Risk Manager for insertion in to the CRR and therefore the Risk Management cycle was complete.

The Chairman thanked officers for their presentation and the Panel requested that in future reports they would like to see evidence of movement between categories following the issue of draft reports and also evidence of challenge by managers.

INTERNAL AUDIT PLAN

The Chairman informed that they would be using the minutes of the last meeting and the presentation received to aid discussion on the Internal Audit Plan.

On page 10 of the agenda in the minutes it was reported that 'The Chairman questioned the status of appendix A, if it changed year on year and what the percentage of stable items verses dynamic items were The Panel were informed that the key financial systems were audited each year whilst the remainder were chosen from strategic and management risks; it was the audits chosen from risks that had the fluidity.' The Chairman mentioned that this had been addressed in the presentation.

Catherine Hickman informed the Panel that the report re-submitted the 2016/17 Internal Audit Plan to the Audit and Performance Review Panel to address the points raised at the previous meeting on 16 February 2016.

The Chairman asked if we knew the total population of functions that could be audited and was informed that table 1 on page 16 showed the 127 risks audited.

Cllr E Wilson mentioned that the question was about functions and not just risks and was informed that they only audited the risks and tested the effectiveness of controls.

The Chairman reported that if we were only looking at risks you have to be confident that your first assumption is correct, if not you would be looking at the wrong area. The Panel were informed that as long as you have a robust risk assessment process then this approach worked well. The other option would be to audit everything we do and this would be expensive. The Chairman said there was the option to incorporate random checks and asked CMT to consider this to help keep the organisation honest.

Cllr E Wilson also questioned who was putting items on the risk register as if they wanted to be scrupulous they could keep item of and thus they would not be audited. The Panel were informed that there were also financial systems in place to prevent fraud and that senior manager had a robust system in place checking returns.

The Chairman said that the Panel would recommend that CMT consider how items not on the Risk Register were monitored and that CMT are assured that robust controls were in place. They were also asked to consider the introduction of spot checks and if undertaken by other managers that these were signed off so everything was verifiable.

Resolved unanimously that the Audit and Performance Review Panel approved the 2016/17 Internal Audit Plan.

RBWM KEY RISKS REPORT

Steve Mappley, Insurance and Risk Manager, introduced the report that dealt with risk management as part of the Council's governance arrangements. The report informed the Panel of developments over the past 12 months and included what the authority's strategic risks were as well as an overview of the risk management work.

With regards to the Annual Risk Management Strategy it had been slightly revised to make it more user friendly with the addition of the responsible officers roles. As the risk assessment process could be viewed as crude CMT would be asked to consider a different approach to how we used probability.

The Chairman reported that it was a good approach and introducing a hierarchy of objectives introduced a level of granularity that could show how a low level risk could have a domino effect. The Chairman also recommended that proximity be also examined to see if this could be added to the equation when assessing risk. It was reported that officers had looked at proximity but the science behind this was limited.

Cllr E Wilson also mentioned that you could introduce diminishing return to make sure we provide good value for money for our residents.

Cllr Jones asked if there was an incident that was not on the risk register how would it be reported back to the Panel and how would we get lessons learnt. The Panel were informed that audit would be instructed to look at such incidents and there had been an incident that was reported to the Panel.

The Chairman mentioned that the Panel would be interested that if there was a transgression what lessons had been learnt, was it on the Risk Register, the risk analysis and where processes changed as a result. Would like CMT to adopt and own this.

Cllr E Wilson asked if lead Members were aware of the tolerance levels regarding risk and was informed that this should be incorporated in lead Member briefings. It was recommended that CMT investigate that this was so. The Chairman mentioned that if on a fail fast learn fast policy then we could take more risks, this was important for the Transformation Programme.

Cllr Kellaway questioned why important issues such as the Borough Local Plan, flood prevention or recruitment and retention were not in the register and was informed that they would be listed as operational risks.

Resolved Unanimously that members endorse the council's policy and strategy to identify, monitor and manage its risks.

LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC

RESOLVED UNANIMOUSLY: That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on following items on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act.

The meeting, which began at 7.00 pm, finished at 8.40 pm

CHAIRMAN.....

DATE.....

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AUDIT AND PERFORMANCE REVIEW PANEL

WEDNESDAY, 11 MAY 2016

PRESENT: Councillors Stuart Carroll, Jack Rankin, Adam Smith (Vice-Chairman), Lisa Targowska and Edward Wilson

Officers: Simon Fletcher and David Cook

APOLOGIES

Apologies for absence were received from Cllr Brimacombe, Cllr Dr Evans and Cllr Jones.

Cllr Adam Smith was in the Chair.

DECLARATIONS OF INTEREST

There were no declarations of interest received.

OPERATIONS AND CUSTOMER SERVICES BUSINESS PLAN

Simon Fletcher, Strategic Director of Operations and Customer Services, introduced the report that provided a refreshed 2015/16 - 2018/19 Operations and Customer Services Directorate Business Plan, setting out the purpose, structure and cost of services within the directorate and the key improvement outputs agreed with Lead Members for each service area over the next three years. The report also provided outturn performance for 2015/16.

The Panel were informed that there have been a number of changes to the Directorate during 2015/16 and these were reflected in the refreshed Business Plan.

As part of the Senior Leadership Restructure which took place in January 2016, the name of the Directorate changed from Operations to Operations & Customer Services. This restructure also saw the Libraries, Arts and Heritage Service move to our Directorate. Contracts and Commissioning and Business Transformation had been removed as distinct services and this resulted in a reduction of heads of service from 8 to 5.

Section 2.4 of the report showed how the Directorate continuously reviewed their performance against targets and used this information to set challenging targets to drive performance. The report provided examples of these stretched targets.

Cllr Smith reported that it was a well written document that was easy to read. It was good to see the customer focus and challenging targets being set.

Cllr Wilson said he would like to see all Directorates producing similar reports and asked if officers were aware of their responsibilities in meeting the objectives in the plan. The Panel were informed that the Plan was communicated to officers and there were named officers with responsibilities for meeting the targets / outcomes. Manifesto commitments had also been incorporated.

Cllr Smith reported that Members had the responsibility to promote and challenge the Plan as the services came into direct contact with our residents.

Cllr Rankin mentioned that with regards to KO2 Deliver a cost neutral mechanism for issuing Penalty Charge he would not like to see over zealous charges to meet a target. The Panel were informed that you could not set a target for penalty charges but we could look at the cost per transaction. One year ago the cost of issuing PCN was £50, the challenge was to

increase public awareness to decrease the need to issue notices as well as decreasing the cost of issuing notices.

Cllr E Wilson reported that Members received complaints about dog fouling and there needed to be Member challenge when producing such reports to help identify issues that were important to our residents.

Cllr Carrol questioned if the digital transaction targets were realistic given the low base and was informed that if we got the processes for the right services then it was expected to see an increased uptake. It was agreed that it would be challenging.

Cllr Smith said that on page 11 paragraph 3.2 the word 'out' should be removed from 'continue to drive out efficiencies' and that the structure chart on page 13 should ready the Leader and other elected Members. Cllr Smith also mentioned that whilst looking at sickness levels the report mentions the importance of our staff but there is little mention of staff within the report.

With regards to sickness levels Cllr E Wilson felt that the report should show the number of incidents of sickness and the number of long term sickness levels. The Panel were informed that long term sickness had increased and officers were looking at reducing sickness levels.

Cllr Smith asked if KO8 10% reduction in the cost of waste collection and Disposal was achievable and was informed that this would be achieved by increasing recycling and driving down costs.

Cllr E Wilson asked if it was true that the Council offered a free garden waste collection on a Saturday and was informed that this was a legacy that was not promoted, about 3,000 residents used the service at a cost of about £50k per year.

The Panel considered corporate complaints and although it was important to reduce the level of complaints it was equally valuable as a way of learning how we were doing. It was expected that there would be an increase in complaints as we made it easier to complain and if there were common issues arising from multiple complaints.

Cllr Smith questioned if the highway satisfaction output could be achieved given the budget pressure from the Stafferton Link road and was informed that this would be a challenging target due to a back log of work, however the budget remained the same as the Stafferton pressure was being funded from other budget streams.

Cllr E Wilson questioned why only 700 children had been targeted for road safety education and was informed that there was limited resources and thus the right age groups were being targeted.

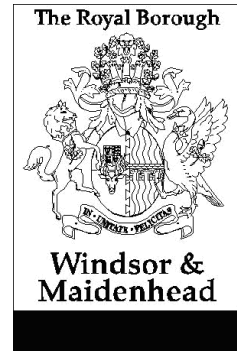
Cllr E Wilson also mentioned that with the review of local parking schemes being undertaken better use of local Members should be considered and that local ward Members should be contacted at the start of the process.

Resolved unanimously: That the Audit and Performance Panel reviewed and noted the objectives and in particular Key Outputs of the refreshed 2015/16 – 2018/19 Operations Directorate .Business Plan and noted Q4 performance.

The meeting, which began at 7.00 pm, finished at 8.00 pm

CHAIRMAN.....

DATE.....



Report for:
ACTION

Contains Confidential or Exempt Information	NO - Part 1
Title	2015/16 Shared Audit and Investigation Service Annual Report and Self-Assessment of Compliance with the Public Sector Internal Audit Standards
Responsible Officer(s)	Richard Bunn, Interim Head of Finance
Contact officer, job title and phone number	Catherine Hickman, Service Manager, Shared Audit and Investigation Service 07917 265742
Member reporting	Cllr Paul Brimacombe
For Consideration By	Audit and Performance Review Panel
Date to be Considered	28 June 2016
Implementation Date if Not Called In	Ongoing
Affected Wards	All
Keywords/Index	Audit and Investigation

Report Summary

1. This report and supporting appendices summarise the Shared Audit and Investigation Service (SAIS) activity and outline the progress in achieving the 2015/16 Audit and Counter Fraud Plans as at 31 March 2016. In addition, it summarises the outcome of a self-assessment of the Internal Audit Service against the CIPFA/IIA Public Sector Internal Audit Standards (PSIAS). This report compliments the 2015/16 Interim Audit and Investigation Report presented to Audit and Performance Review Panel (A&PRP) on 10 December 2015.
2. The work of the shared Audit Investigation Service ensures the Council meets its legislative requirements, as well as the requirements of the A&PRP's Terms of Reference.
3. It recommends that Members note the activity of the Audit and Investigation Service during the 2015/16 financial year.

If recommendation is adopted, how will residents benefit?

Residents will benefit through the Council's control environment (comprising risk management, control and governance) operating effectively and resources are being used economically, efficiently and effectively to their advantage.	Ongoing
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1. DETAILS OF RECOMMENDATION

RECOMMENDED:

- i) That A&PRP note the Shared Audit and Investigation Service activity for the financial year ended 31 March 2016, progress in achieving the 2015/16 Internal Audit Plan and note the outcome of the self-assessment of the Shared Internal Audit Service against the PSIAS.

2. REASON FOR RECOMMENDATION AND OPTIONS CONSIDERED

- 2.1 Regulation 6 (1) of the Accounts and Audit (England) Regulations (2015) requires the Council to undertake an adequate and effective internal audit of its accounting records and the system of internal control in accordance with proper internal audit practices.
- 2.2 Proper practices for Internal Audit are defined in the CIPFA/IIA PSIAS and require that the 'Chief Audit Executive' (Service Manager, Shared Audit and Investigation Service) delivers an annual internal audit opinion and report that can be used by the organisation to inform its Annual Governance Statement (AGS).
- 2.3 The annual internal audit opinion must conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control. The Annual Report is required to incorporate:-
- The opinion.
 - A summary of the work that supports the opinion.
 - A statement on conformance with the PSIAS.
 - Whether there have been any restrictions imposed on the scope of the work of the Internal Audit function of the Shared Audit and Investigation Service.
- 2.4 The Annual Report, see [Appendix A](#) and the reports' supporting appendices cover these legislative requirements and those of the A&PRP Terms of Reference.

Option	Comments
Accept the Annual Report and the report recommendation. Recommended	This will ensure that the Council meets its statutory requirements and the A&PRP complies with the responsibilities set out within their Terms of Reference.
Accept this report with amendments.	Members may wish to request that this report be amended / altered if there are material issues which have not received sufficient emphasis or if there are specific issues the report is deficient in.
Not approve this report.	This may expose the Council to unnecessary risks by not having an adequate internal control framework leading to poor performance and poor outcomes for service users/residents. It may result in a qualification in the External Auditors' Annual Management Letter.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered
Residents have confidence that public funds are being used economically, efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation/ loss.	Failure of the Council to meet its statutory requirements and failure of the A&PRP to discharge its responsibilities.	Council meets its statutory requirements to provide an adequate and effective internal audit of its accounting records and system of internal control. A&PRP discharges its responsibilities.	n/a	n/a	31 March 2016
Unqualified External Audit Financial Accounts and Management Letter.	Adverse comment and a qualified External Audit Management Letter if the Council fails to maintain an adequate Internal Audit function.	Unqualified External Audit Management Letter as Council meets its requirements to provide an adequate and effective Internal Audit function.	n/a	n/a	31 March 2016
Residents have confidence that public funds are being used economically, efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation/ loss.	Loss of residents' confidence. Council reputation may be affected.	Gain residents' confidence. Council reputation protected.	n/a	n/a	31 March 2016

4. FINANCIAL DETAILS

a) Financial impact on the budget

Revenue – base budget costs for employees in the SAIS
Capital – None.

b) Financial Background (optional) – N/a

5. LEGAL IMPLICATIONS

5.1 Internal Audit carry out their activities under:

- Regulations 6 (1), 6(3) and (4) of the Accounts and Audit (England) Regulations 2015.
- S151 Local Government Finance Act 1972.
- CIPFA/IIA Public Sector Internal Audit Standards 2013 (Revised 2016).

5.2 Investigatory activities are carried under:

- Fraud Act 2006
- Criminal Justice Act 1987
- Theft Act 1968
- Forgery and Counter Fraud Act 1981
- Social Security Administration Act 1992.
- Welfare Reform Act 2012.

6. VALUE FOR MONEY

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

6.2 Internal audit assists the Council in ensuring its assets are used economically, efficiently and effectively and that they are properly safeguarded against misappropriation and loss.

7. SUSTAINABILITY IMPACT APPRAISAL - N/a

8. RISK MANAGEMENT

Risks	Uncontrolled	Controls	Controlled Risk
Failure of the SAIS to adequately plan and undertake audit reviews leading to failure of the Council to meet its statutory requirements. The Council's key systems and services are consequently at risk of not achieving their objectives in the most economic, efficient and effective way thus being exposed to misappropriation/loss.	High	Ensure and demonstrate internal audit coverage and compliance with nationally recognised standards. Provide a regular written progress report on the work of Internal Audit to those charged with governance. Ensure and demonstrate that corporate investigations are undertaken in accordance with legislation and local approved governance arrangements.	Low

Failure to provide assurance that the work of the SAIS properly supports the governance framework and the content of the AGS and the requirement for additional External Audit work at an enhanced cost to the Council.	High	Internal audit coverage included as part of the governance assurance framework and informing the AGS.	Low
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9. LINKS TO STRATEGIC OBJECTIVES

9.1 The Strategic and Annual Internal Audit Plans, which are developed from the Council’s Corporate Risk Register help the Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

N/a

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

N/a

12. PROPERTY AND ASSETS

N/a

13. ANY OTHER IMPLICATIONS

N/a

14. CONSULTATION

14.1 Consultations were undertaken with internal stakeholders (Members of the A&PRP, Corporate Management Team, S151 Officer, Directorate Management Teams, Insurance and Risk Manager) and the key external stakeholder of External Audit, KPMG, in preparing the 2015/16 Internal Audit and Counter Fraud Plans.

14.2 Management and staff have been consulted prior to and during the course of the audit and investigation reviews to ensure that work is timed to suit both parties, to incorporate managements’ priorities and to agree a course of action to implement the outcome of those reviews.

15. TIMETABLE FOR IMPLEMENTATION

15.1 The timetable for completion of the 2015/16 Internal Audit and Counter Fraud Plans was 31 March 2016.

16. APPENDICES

- Appendix A – 2015/16 Shared Audit and Investigation Service Annual Report
- Appendix A(I) – 2015/16 Internal Audit Plan Status as at 31st March 2016
- Appendix A(II) – 2015/16 Investigation Team Activity
- Appendix A (III) – Action Plan Arising from 2015/16 PSIAS Self – Assessment.

17. BACKGROUND INFORMATION

- 2015/16 Internal Audit and Counter Fraud Plans and working papers.

18. CONSULTATION (MANDATORY)

Name of Consultee	Post held and Department	Date sent	Date response received	See comments in paragraph :
Internal				
Cllr Paul Brimacombe	Chair of Audit and Performance Review Panel			
Corporate Management Team (CMT)	Managing Director, All Strategic Directors, Interim Head of Finance	11/06/2016	11/06/2016	MD - comments
External Audit	KPMG			

Report History

Decision type:		Urgency item?	
Key decision entered into the Forward Plan		N/a	
Report no.	Full name of report author	Job title	Full contact no:
	Catherine Hickman	Service Manager, Shared Audit and Investigation Service	07917 265742

2015/16 SHARED AUDIT AND INVESTIGATION SERVICE ANNUAL REPORT
Service Manager, Shared Audit and Investigation Service

Introduction

1. The 2015/16 Internal Audit Plan was approved by the Audit and Performance Review Panel on 17th February 2015. The emphasis on developing the Audit Plan is based on mandatory and legislative requirements and where possible audit place reliance on the risks set out in the Corporate Risk Register (CRR) which are in place to assist the Council in achieving its key objectives.
2. This report has been prepared to meet the requirements of the CIPFA/IIA Public Sector Internal Audit Standards (PSIAS), introduced with effect from 1 April 2013 (revised 2016), to deliver an annual internal audit opinion and report that can be used by the organisation to inform its Annual Governance Statement (AGS). The annual internal audit opinion must conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control. The Annual Report is required to incorporate:-
 - the opinion;
 - a summary of the work that supports the opinion;
 - a statement on conformance with the PSIAS; and
 - whether there have been any restrictions imposed on the scope of the work of the Internal Audit function of the Shared Audit and Investigation Service.
3. The body of this report also includes a summary of the performance of the Corporate Investigation Team.

Internal Audit Opinion

4. During the year, the Internal Audit Team has undertaken audits of key financial systems (in order to compliment the work of External Audit), as well as focusing, where appropriate, on the Council's identified key strategic and key operational risks, as identified in the CRR in addition to assurances required by the S151 Officer and the Service Manager, Shared Audit and Investigation Service.
5. The overall audit opinion, which is largely a reflection of the system and procedural controls against the identified risks and mitigating treatment measures, for the audits that have been completed and a final report issued, is that they are "Substantially Complete and Generally Effective" but with the exceptions as detailed below in paragraphs 13 to 16. Based on the above and taking into account other sources of assurance, including External Audit, most key controls are in place and are operating effectively, with the majority of residual risks being reduced to an acceptable level. It should be noted that the overall opinion is a statement of the audit view of whether the objectives are being met; it is not a statement of fact.
6. There have been no restrictions imposed on the scope of the work of the Internal Audit function of the Shared Audit and Investigation Service.

PERFORMANCE SUMMARY

7. Key progress of the Shared Audit and Investigation Service during 2015/16 was:-
- Assurance given to management on the Council's key risks and further strengthening of the CRR through independent verification of risks and treatment measures.
 - Additional management requests for work to be undertaken using audit contingency demonstrating confidence in the work of Internal Audit.
 - Skills transfers taking place in relation to Agresso and Schools audits. There has been the ability to undertake direct comparisons between systems and identify existing best practices.
 - The audit process has continued to be refined using Lean principles.
 - On request of management and in specific audit areas, knowledge on common areas is being shared.
 - Development of areas of expertise is emergent.
 - Increased Audit and Investigation work has been undertaken for Bracknell Forest Council, Buckinghamshire County Council and Oxfordshire County Council, resulting in increased income for the Service and income targets for the year being exceeded.
 - Good results obtained for Investigation activity.
8. 92% of the approved Internal Audit Plan was achieved with the reviews at draft report stage or completed. The remaining 8% consisted of audit reviews with fieldwork in progress which are targeted to be completed early in the 2016/17 financial year, a vacant Auditor post early in the year, additional work within the area of Corporate Governance and an over allocation for Contingency.
9. Appendix A(I) presents the progress made against the 2015/16 Internal Audit Plan and Audit Opinions. It shows audits completed or at draft stage as at 31 March 2016.
10. For the reviews completed to final report stage, the following breakdown of classification is included table 1 below.

Table 1 – Audit opinion classification

Overall Audit Opinion	Summary of Audit Opinion	No of Audits (2015/16)	No of Audits (2014/15)
1	Complete and Effective	3	0
2	Substantially Complete and Generally Effective	16	17
3	Range of Risk Mitigation Controls is incomplete and risks are not effectively mitigated	3	4
4	There is no effective Risk Management process in place	0	2
Total		22	23

11. For those audit reviews categorised as an overall audit opinion of 2 there were some common themes identified which prevented the top audit opinion category from being awarded. These included;
 - Governance – Roles and Responsibilities, Policies and Procedures, Risk Management, Performance Management.
 - Reconciliations – Finance Systems
 - Business Continuity
 - Access controls
12. Management have agreed through countermeasure responses to concerns raised, those required to achieve the highest audit opinion category. In addition to this, from the 2016/17 financial year, the Shared Service has agreed with senior management to implement a new procedure within the audit process whereby management are given one month after the issue of the draft report to implement countermeasures and should audit find this to be the case, then an amended audit opinion will be awarded.
13. The three audit reviews receiving the third category of audit opinion (Range of Risk Mitigation Controls is incomplete and risks are not effectively Mitigated) completed to Final Report stage are summarised below. Management Action Plans have been agreed for each review.

Debtors

14. Since the last review, a Debt Recovery Strategy and Policy has been approved by Cabinet. The key opportunities for improvement include;
 - Training needs to be delivered to appropriate officers responsible for raising invoices and debt recovery.
 - Monitoring and chasing clients for payment.
 - Ownership of debt by service area.
 - Review of aged Sundry Debts required (including Social Care debts).
 - Reduced outstanding debts over 12 months old.

Health & Safety

15. Opportunities for improvement for this area include the following;
 - Governance, including awareness of Policy and Procedures and training.
 - Completion and review of self-assessments.
 - Undertaking of self-audits.
 - Action Plans in place that are regularly monitored.
 - Monitoring and reporting of health and safety incidents and near misses.

Commissioning

16. The findings from this audit were reported in the Interim Report.

Outstanding responses

17. Responses remain outstanding in respect of the following audits:-
- 2014/15 Processing
 - 2014/15 Assessments
 - Technology Obsolescence
 - IT Infrastructure
 - Capital Programme
 - Adult Social Care Demographic Growth
18. Audit reports are presented using lean terminology, using the concern, finding, management action and management are given the opportunity to treat, tolerate, terminate or transfer the concerns and associated risks. Management Action Plans have been put in place to address issues identified during audit work and audit follow up verification will confirm whether agreed countermeasures for Extreme and Major concerns have been actioned within agreed timescales.
19. Where concerns are classified as being Extreme or Major that have been tolerated by management, these are highlighted to the Audit and Performance Review Panel. There have been no cases of Extreme or Major concerns being tolerated by management.

Additional Work Requested by Members / Management

20. Contingency days have been used to respond to ten Management requests in respect of the following reviews.
- Health and Safety (Part II)
 - Commissioning
 - Homecare costs
 - IG Governance Toolkit
 - Local Enterprise Partnership
 - Department of Transport, Bus Operators and Delegated Schools Certification Grants
21. The reviews below have been reported in the 2015/16 Interim Audit Report
- Repairs and Renewal Grants
 - Mail Merge Errors
 - Pay Award Check
 - Planning Returns

Corporate Investigations

22. The year 2015/16 was successful for the Corporate Investigations element of the Service with total potential financial savings identified of £265,465. This was comprised of £127,965 of actual overpayments that are potentially recoverable and £137,500 of notional savings identified (which are the value placed on the fraud) by the “Fighting Fraud and Corruption Locally” publication issued by the CIPFA Counter Fraud Centre and “Protecting the Public Purse”. A summary of the performance by the Corporate Investigations Team is shown in Appendix A(II).

23. In addition, Corporate Investigations have been involved in the following;
- Annual review of the Fraud Policies (Anti-Fraud and Anti-Corruption, Sanctions and Prosecutions, Anti Bribery, Anti Money Laundering, Regulation of Investigatory Powers Act).
 - Collation of Transparency Information on investigations to publish on RBWM's Website.
 - Fraud Awareness training prepared for the Senior Leadership Team programmed and delivered in April 2016.
 - Setting up processes for the reactive investigation of the Council Tax Reduction Scheme cases.
 - Development and delivery of pro-active fraud drives in new areas.

Regulation of Investigatory Powers Act

24. No investigations have been undertaken during 2015/16 that has required Regulation of Investigatory Powers Act surveillance approval to be requested.

Public Sector Internal Audit Standards Self-Assessment

25. A set of Public Sector Internal Audit Standards was introduced by CIPFA/IIA, which came into effect from 1 April 2013 (subsequently updated in March 2016). The Standards recognise that a professional, independent and objective internal audit service is one of the key elements of good governance and they encompass the mandatory elements of the Institute of Internal Auditors International Professional Practices Framework.
26. A self-assessment was undertaken to assess compliance with the Standards and an Action Plan has been developed for areas that require work to fully comply with them. Currently, the Internal Audit Team 'generally conforms'. The Action Plan accompanies this report at Appendix (III) and the self-assessment is available on request.

**2015/16 Royal Borough of Windsor and Maidenhead Internal Audit Plan Status
(as at 31 March 2016)**

AUDIT TITLE	DIRECTORATE	STATUS	OPINION
<u>2014/15 Audits</u>			
<u>Key Operational Risks</u>			
Transforming Social Care	Adult and Community Services	FINAL	2
<u>Mandatory Key Systems</u>			
Processing Assessments	Operations	DRAFT	
<u>Management Request</u>			
Health and Safety (Part I)*	Corporate Services	FINAL	3
<u>2015/16 Audits</u>			
<u>Mandatory Key Systems</u>			
Payroll	Adult, Children & Health Services	DRAFT	
Debtors	Corporate & Community Services	FINAL	3
Creditors	Corporate & Community Services	DRAFT	
General Ledger	Corporate & Community Services	FINAL	2
Cash & Bank Reconciliation	Corporate & Community Services	Draft Emerging Findings Memo	
Cash & Banking Arrangements	Corporate & Community Services	FINAL	2
Cash Flow, Investments, Loans (Treasury Management)	Corporate & Community Services	FINAL	1
Pensions Governance	Corporate & Community Services	FINAL	1
Pensions Payroll & Administration incl. assurance for partners	Corporate & Community Services	FINAL	1
Capital Programme, Accounting, Expenditure Monitoring	Corporate & Community Services	DRAFT	
Housing Benefits/CTRS	Operations & Customer Services	WIP	
Council Tax	Operations & Customer Services	DRAFT	
NNDR	Operations & Customer Services	DRAFT	
<u>Governance Building Blocks</u>			
Health and Social Care Act	Adult, Children & Health Services	DRAFT	
Risk Management (follow up)	Corporate & Community Services	DRAFT	
Financial Management (including budget monitoring, budgetary control, Economy outside of MTFP and MTFP).	Corporate & Community Services	DRAFT	

<u>Key Strategic Risks</u>			
Projects fail to deliver planned benefits	Corporate & Community Services	FINAL	2
Computer Audit Contract including IT Data Security & Data quality	Corporate & Community Services	DRAFT	
Technology Obsolescence	Corporate & Community Services	DRAFT	
Crime and Disorder including Security Threats	Corporate & Community Services	FINAL	2
Section 106 Agreements	Corporate & Community Services	FINAL	2
<u>Key Operational Risks</u>			
Customer Needs Assessment	Adult, Children & Health Services	FINAL	2
Adult Social Care - Demographic Growth	Adult, Children & Health Services	DRAFT	
<u>Secondary, Special and Middle Schools</u>			
Manor Green School	Adult, Children & Health Services	FINAL	Exempt
Adoption	Adult, Children & Health Services	FINAL	2
School Trips	Adult, Children & Health Services	FINAL	2
Borough Local Plan	Corporate & Community Services	FINAL	2
Commercial Rents	Corporate & Community Services	FINAL	2
Flooding	Operations & Customer Services	DRAFT	
IT Infrastructure	Operations & Customer Services	DRAFT	
Waste Management	Operations & Customer Services	FINAL	2
<u>Auditor Judgement</u>			
Wessex Primary School & Nursery	Adult, Children & Health Services	FINAL	Exempt
The Royal (Crown Aided) School	Adult, Children & Health Services	FINAL	Exempt
Oldfield Primary School	Adult, Children & Health Services	DRAFT	Exempt
Kings Court First School	Adult, Children & Health Services	FINAL	Exempt
Contract Management	Cross Cutting	Draft Emerging Findings Memo	
<u>Servicing the Business</u>			
- Contingency			
Commissioning	Adult, Children & Health Services	FINAL	3
Homecare Costs	Adult, Children & Health Services	FINAL	Exempt
Delegated Schools Grant	Adult, Children & Health Services	FINAL	Cert

Local Enterprise Partnership	Corporate & Community Services	FINAL	Cert
Mail Merge Errors	Corporate & Community Services	FINAL	Exempt
Pay Award Check	Corporate & Community Services	FINAL	Exempt
Planning Returns	Corporate & Community Services	FINAL	2
Repairs & Renewal Grant	Corporate & Community Services	FINAL	Cert
Health and Safety (Part II)*	Cross Cutting	FINAL	3
Information Governance Toolkit	Operations & Customer Services	FINAL	Cert
Department of Transport Grant Certifications	Operations & Customer Services	FINAL	Cert
Bus Operators Grant Certification	Operations & Customer Services	FINAL	Cert

Definitions

-
- 1 Complete and Effective
 - 2 Substantially Complete and Generally Effective
 - 3 Range of Risk Mitigation Controls is incomplete and risk are not effectively mitigated
 - 4 There is no effective Risk Management process in place

Exempt = not subject to an assurance opinion.
Cert = Grant Certification

*A second audit of this area was commissioned in 2015/16 and the findings of the two audits have been combined in to one report, which was issued in 2015/16.



Appendix A(II)

Shared Audit and Investigation Service

**Royal Borough of Windsor and Maidenhead
2015/16 Investigation Team Activity**

Royal Borough of Windsor & Maidenhead	
Council Tax Reduction Scheme	£9,972
Council Tax Discount/Exemption	£38,833
Business Rates Discount/Exemption	£64,532
Direct Payments	£7,490
Employee Fraud	£5,072
Blue Badges – return of seized badges issued by other local authorities	10
Blue Badges – Referred for cancellation	1 * Notional Value £500
<i>NFI Activity</i>	
Pension Overpayment	£2,066
Taxi Licence revoked	1
Blue Badges - Referred for cancellation	274 * Notional Value £137,000
Bus Passes – Referred for cancellation	271
<i>Other</i>	
2 Employee Fraud Investigations	
1 Disciplinary Investigation	
1 Fact Finding Investigation	
1 Social Care investigation – ongoing with TVP	
Grievance Investigation – ongoing	
Actual Overpayments Identified	£127,965
Notional Savings Identified	£137,500
Total Financial Savings Identified for 2015/16	£265,465

* The Audit Commission estimate the notional value of a Blue Badge as £500 per annum.

Shared Audit and Investigation Service
PSIAS Self-Assessment

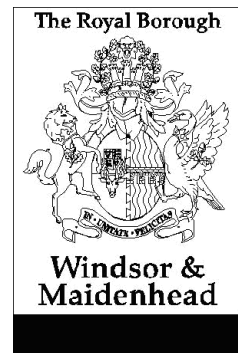
Action Plan Arising From 2015/16 Self-Assessment

Note that for the purposes of this self-assessment the Service Manager, Shared Audit & Investigation Service (SAIS), fulfils the role of the Chief Audit Executive (CAE).

Action number	Ref.	Action Required	Responsible Officer	Target Date
1	2.1	Internal Audit Team to undertake refresher training with regards the Bribery Act prior to the External Assessment.	Team Manager, Internal Audit	July 2016
2	2.4	Internal Audit Team to maintain CPD schemes for individuals, to improve their proficiency, effectiveness and quality of service.	Team Manager, Internal Audit	June 2016
3	2.5	Auditors need to be reminded of their requirement to have regard to the Standards of Public Life's Seven Principles of Public Life.	Service Manager, (SAIS)	Completed
4	3.3	Audit Charter to include arrangements for avoiding conflicts of interest if Internal Audit undertakes non-audit activities.	Service Manager, (SAIS)	September 2016
5	3.3	Audit Charter to be updated to ensure that it makes reference to all of the points set out in Attribute Standard 1000 – Purpose, Authority and Responsibility.	Service Manager, (SAIS)	September 2016
6	8.5 & 20.14	Annual declarations of interest made by members of the Shared Service to be reviewed by the Service Manager, (SAIS) to consider the impact, if any, they may have on the service being provided.	Service Manager, (SAIS)	May 2016
7	8.6	Approved Audit Protocol for the Shared Service to set out guidelines for gifts and hospitality in line with Corporate Governance policies. See Action Point 3 above.	Team Manager, Internal Audit	September 2016
8	8.6	Internal Audit Team to be reminded of the guidelines relating to offers of Gifts and Hospitality.	Team Manager, Internal Audit	Completed
9	9.4	Job descriptions to be reviewed and each auditor is issued with a current job description which is in line with their grade.	Team Manager, Internal Audit	September 2016
10	9.8 20.14 b 28.4	An Information Technology (IT) Needs Assessment to be undertaken to determine whether current staff have the necessary knowledge relating to IT risks and controls.	Service Manager, (SAIS)	September 2016
11	11.2	Mechanism to be put in place to carry out periodic assessments for individual auditors against defined skills and competencies as part of the annual appraisal process.	Service Manager, (SAIS)	August 2016
12	11.4	Professional Development logs to be maintained by individual auditors.	Team Manager, Internal Audit	September 2016
13	12.1	Quality Assurance Improvement Programme (QAIP) to be implemented for the Shared Service.	Service Manager, (SAIS)	August 2016

14	16.1	Results of the QAIP to be reported to the Audit and Performance Review Panel.	Service Manager, (SAIS)	June 2017
15	28.3	Internal audit activity to evaluate the design, implementation and effectiveness of the organisation's ethics-related objectives, programmes and activities.	Service Manager, (SAIS)	September 2016
16	35.3	Consideration to be given to reviewing and approving the Control Evaluation Sheets (CES) prior to the auditors commencing fieldwork.	Service Manager, (SAIS)	May 2016
17	39.3	Access to internal audit records on the network should be restricted in accordance with expectations of the Service Manager and Team Manager.	Team Manager, Internal Audit	June 2016
18	39.5	Updated Archiving Policy for the Shared Service to be approved and adopted.	Team Manager, Internal Audit	June 2016
19	40.2	Audit engagement supervision to be recorded and retained for the Shared Service where applicable (Terms of Reference, CES, Review Sheet, Draft Report, Final Report).	Team Manager, Internal Audit	May 2016
20	45.1	Auditors to report that engagements are "conducted in conformance with the PSIAS" when they comply/are applicable.	Service Manager, (SAIS)	July 2016

Report for: ACTION



Contains Confidential or Exempt Information	NO - Part I
Title	Resubmission of Corporate Anti-Fraud and Anti-Corruption Policy
Responsible Officer(s)	Richard Bunn, Interim Head of Finance
Contact officer, job title and phone number	Catherine Hickman, Service Manager – Shared Audit and Investigation Service, 07917 265742
Member reporting	Cllr Paul Brimacombe
For Consideration By	Audit and Performance Review Panel
Date to be Considered	28 June 2016
Implementation Date if Not Called In	Immediately
Affected Wards	All

REPORT SUMMARY

This report presents the Corporate Anti-Fraud and Anti-Corruption Policy which aids the Panel to discharge their responsibilities as stated in its Terms of Reference.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Anti-fraud and anti-corruption work undertaken by the council is supported by robust policies and procedures thereby protecting both the interests of the residents and the council.	Immediately

1. DETAILS OF RECOMMENDATION

RECOMMENDATION: That Audit and Performance Review Panel consider and approve the Corporate Anti-Fraud and Anti-Corruption Policy.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Background

- 2.1 Fraud and corruption undermine the aims of the council to deliver high quality services and provide value for money by being fully accountable, honest and open in everything that it does.
- 2.2 The council seeks to ensure that measures are taken to prevent, detect and investigate fraudulent or corrupt acts whether it is attempted on or from within the council.
- 2.3 The Council remains committed to a ‘three pronged’ campaign against all fraud by:-
- enhancing measures for the prevention of fraud
 - Implementing more effective deterrence
 - Improving detection measures
- 2.4 The Council’s Anti Fraud and Anti Corruption Policy accommodates these three main aims by putting in place mechanisms that will prevent, deter and detect all known forms of fraud and corruption. The Policy summarises the responsibilities of Member, Officers, School Governors, Management and Employees and outlines the process to be followed where suspicion of irregularity is raised. The Policy equally applies to employees of school governing bodies.
- 2.5 It is important that the Anti Fraud and Anti Corruption Policy does not conflict with any other existing Council Policies. Wherever possible, due consideration will be given to following the current regulatory framework.
- 2.6 The policy supports the council’s get tough stance on fraud and corruption and it’s commitment to the prevention, detection and investigation into such matters. It embodies a series of measures designed to prevent any attempted fraudulent or corrupt act and the steps to be taken if such an act occurs. The work of the Corporate Investigations function within the Shared Audit and Investigation Service is built around the content of the Policy.
- 2.7 This report presents the Policy, which is attached at Appendix A (one copy with tracked changes and one without for ease of reading) will be made available on hyperwave.

Option	Comments
Approve the Policy. Recommended	This will ensure that activity undertaken on behalf of the council, complies with legislation.
Amend the Policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.
Not approve the Policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Residents have confidence that public funds are being used economically, efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation / loss.	<p>Significant financial losses to the Council.</p> <p>Loss of residents confidence.</p> <p>Council reputation may be affected.</p>	<p>Financial losses are identified and recovered.</p> <p>Gain residents confidence.</p> <p>Council reputation protected.</p>	N/A	N/A	31 March 2017

4. FINANCIAL DETAILS

Financial impact on the budget

There are no financial implications.

	2015/16	2016/17	2017/18
	Revenue £'000	Revenue £'000	Revenue £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

	2015/16	2016/17	2017/18
	Capital £'000	Capital £'000	Capital £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

- 5.1 Corruption Act 1906
- Fraud Act 2006
- Criminal Procedures and Investigations Act (CPIA) 1996
- Data Protection Act 1998
- Freedom of Information Act 2000

Human Rights Act 1998
 Local Government Finance Act 1992
 Police and Criminal Evidence Act (PACE) 1984
 Proceed of Crime Act 2002
 Regulation of Investigatory Powers Act (RIPA) 2000
 The Council Tax (Administration and Enforcement) Regulations 1992

6. VALUE FOR MONEY

6.1 Investigation work is planned to assist the council in ensuring that its assets are used efficiently and effectively and that they are being properly safeguarded against misappropriation, loss and fraud.

7. SUSTAINABILITY IMPACT APPRAISAL

7.1 N/A

8. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
1. Failure to have and follow appropriate fraud policies leads to breach of legislation resulting in fines, investigation and reputation damage.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low
2. Failure to provide an investigation service leads to major event, fraud and/or mismanagement of monies.	High	An appropriate investigations service is in place.	Low
3. Failure to have an investigation service in place to investigate potential losses.	High	An appropriate investigations service is in place.	Low

9. LINKS TO STRATEGIC OBJECTIVES

9.1 Helps the council accomplish its objectives by undertaking investigations into misappropriation, loss or fraud.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 N/A

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 N/A

12. PROPERTY AND ASSETS

12.1 N/A

13. ANY OTHER IMPLICATIONS

13.1 N/A

14. CONSULTATION

14.1 Consultation has taken place with the Corporate Management Team and S151 Officer.

15. TIMETABLE FOR IMPLEMENTATION

Date	Details
29/06/16	Policy will be implemented with immediate effect.

16. APPENDIX

16.1 Appendix A – Corporate Anti-Fraud and Anti-Corruption Policy.

17. BACKGROUND INFORMATION

17.1 Previous versions of the above mentioned Policy.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Corporate Management Team (CMT)	Managing Director, All Strategic Directors, Head of Finance	02/06/16	09/02/16	MD - Updates to Policy approved.
Legal Services				
Human Resources				
Cllr Brimacombe	Chair of the Audit and Performance Panel			

REPORT HISTORY

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Catherine Hickman	Service Manager, Shared Audit and Investigation Service	07917 265742

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
CORPORATE ANTI-FRAUD AND ANTI-CORRUPTION POLICY**

1. INTRODUCTION

The Royal Borough of Windsor and Maidenhead ('RBWM', 'The Council') aims to deliver high quality services and provide value for money by being fully accountable, honest and open in everything that it does.

Fraud and corruption undermine these aims by diverting resources from legitimate activities, damaging public confidence in the Council and adversely affecting staff morale.

To achieve its strategic priorities, the Council seeks to ensure that measures are taken to prevent, detect and investigate fraudulent or corrupt acts whether it is attempted on or from within the Council. The aim of this policy is to reduce losses from fraud and corruption to an absolute minimum.

2. DEFINING FRAUD

Fraud includes:

- a) falsification or alteration of accounting records or other documents;
- b) misappropriation of assets or theft;
- c) suppression or omission of the effects of transactions from accounting records of other documents;
- d) recording transactions which have no substance; and
- e) wilful misrepresentation of transactions or of the Council's state of affairs.

The Fraud Act 2006 defines fraud in three classes:

- a) fraud by false representation;
- b) fraud by failing to disclose information; and
- c) fraud by abuse of position.

3. DEFINING CORRUPTION

The Council defines corruption as the offering, giving, soliciting or accepting of any inducement or reward which would influence the actions taken by the Council, its Members or Officers. Examples where this might occur::

- a) tendering and awarding of contracts;
- b) pecuniary interests of Members and Officers;
- c) the award of permissions, planning consents and licenses; and
- d) the disposal of assets.

4. FRAMEWORK FOR PREVENTION AND DETECTION

It is a management responsibility to maintain the internal control system and to ensure that the Council's resources are properly applied in the manner and on the activities intended. This includes responsibility for the prevention and detection of fraud and other illegal acts.

5. KEY PRINCIPLES AND CULTURE

The Council is determined that the authority follows the ten general principles enumerated by the Committee on Standards of Public Life

- a) selflessness;
- b) honesty and integrity;
- c) objectivity;
- d) accountability;
- e) openness;
- f) personal judgement;
- g) respect for others;
- h) duty to uphold the law;
- i) stewardship; and
- j) leadership.

The Council expects Members (elected and co-opted) and employees (including agency staff, consultants and contractors) to lead by example in ensuring effective opposition to fraud and corruption. This includes ensuring adherence to legislation, local rules and regulations, National and Local Codes of Conduct and that all procedures and practices are beyond reproach.

6. RAISING CONCERNS

Employees at all levels should be alert to the possibility of fraud and corruption. They are expected and encouraged to raise any concerns relating to fraud and corruption . These can be raised in any way that the employee prefers, including with their line manager, through a Strategic Director, with the Shared Audit and Investigation Service or through the Council's Whistleblowing Policy(*'Raising concerns at work'*) . Whichever route is chosen, the employee can be assured that concerns raised in good faith will be fully investigated and, wherever possible, those raising concerns will be heard in confidence.

When management receive concerns from employees or others regarding potential fraud or corruption, they should immediately contact the Service Manager- Shared Audit and Investigation Service with details of the concerns. The Service Manager- Shared Audit and Investigation Service will make preliminary enquiries and in consultation with the Section 151 Officer will determine whether there are grounds for an investigation.

Councillors, service users, suppliers, partner organisations and members of the public are encouraged to report any concerns. These concerns about fraud and corruption should be reported either directly to the Service Manager- Shared Audit and Investigation Service or via the Council's Whistleblowing Policy.

If employees feel that they are unable to use internal routes then they can contact the council's external auditors:

KPMG LLP
Darren Gilbert
100 Temple Street,
Bristol
BS1 6AG

Darren.Gilbert@KPMG.co.uk

Although the Council encourages its staff to report concerns acting in good faith, any maliciously motivated and unfounded allegations may be dealt with through the Council's disciplinary code.

7. CORPORATE GOVERNANCE

The main corporate policies and procedures which formulate the Council's framework for minimising risk and the prevention of fraud and corruption include:

- a) Anti-Fraud and Anti-Corruption Strategy
- b) Internal Audit Charter
- c) Contract Procedure Rules
- d) Finance Procedure Rules
- e) Human Resources Disciplinary Policy and Procedure
- f) Human Resources Code of Conduct for Employees
- g) Human Resources Recruitment and Selection Code of Practice
- h) Members' Code of Conduct
- i) Anti-Money Laundering Policy
- j) Officers' Code of Conduct;
- k) Prosecution and Sanction Policy;
- l) Risk Management Policy and Strategy
- m) Scheme of Delegation
- n) Whistleblowing Policy; and
- o) Anti-Bribery Policy

8. CORPORATE RESPONSIBILITY

Heads of Service must ensure that all employees in their service are familiar with the corporate policies and procedures listed above, in addition to any other relevant rules and regulations specific to their service. Failure to adhere to these policies and procedures could result in the instigation of disciplinary procedures.

9. RECRUITMENT

The Council recognises that one of the most important issues relating to the prevention of fraud and corruption is the effective recruitment of staff and therefore takes pre-employment screening seriously.

Employee recruitment is required to be in accordance with procedures laid down by the Head of Human Resources. As part of these procedures, particular reference is made to:

- a) verifying the identity of the applicant;
- b) obtaining satisfactory references prior to appointment;
- c) verifying the applicant is able to work legitimately in the UK;
- d) verifying and retaining copies of certificates for stated qualifications;
and
- e) undertaking Disclosure and Barring Service checks, where appropriate.

These practices apply to all permanent appointments including those where employees have entered the organisation as an agency worker or consultant in the first instance.

10. SYSTEM OF INTERNAL CONTROL

The risk of fraud and corruption can be minimised by good financial management, sound internal control systems, effective management supervision, and by raising public, member and employee awareness of fraud.

Internal control is the whole system of controls, financial and otherwise, established to provide reasonable assurance of:

- a) proper aims and objectives;
- b) efficient and effective operations;
- c) reliable management information and reporting;
- d) legitimate expenditure;
- e) compliance with laws and regulations;
- f) performance management; and
- g) security of assets and income.

Weaknesses in the design and operation of administrative and financial internal control systems may increase the risk of fraud. Systems should contain efficient, effective, and well-documented internal controls for:

- a) adequate segregation of duties;
- b) proper authorisation and approval procedures;
- c) adequate physical security over assets; and
- d) reliable monitoring and reporting arrangements.

is management's responsibility to install adequate internal controls and rectify weaknesses if they occur. To help management discharge this responsibility, systems may be subject to review by both Internal and External Audit. Auditors are responsible for reporting to management on significant weaknesses in the control environment, including deficiencies in the operation of internal controls and highlighting exposure to the risk of fraud. Audit concerns are promptly followed up to ensure issues highlighted are appropriately actioned.

Management should instigate occasional deterrent compliance checks on the operation of internal controls within their service and are encouraged to seek advice from the Shared Audit and Investigation Service on what checks should be carried out. This work should be used to inform the Annual Governance Statement.

11. RISK MANAGEMENT

Major fraud risks relating to services should be included within Service Risk Registers and subject to regular review to ensure that appropriate controls are in place to mitigate those risks.

12. ROLE OF STATUTORY OFFICERS

The Council has a statutory responsibility, under Section 151 of the Local Government Act 1972, to ensure the proper administration of its financial affairs and also to nominate one of its Officers to take responsibility for those affairs. The Council's nominated Section 151 Officer is the Head of Finance.

The Council's Monitoring Officer is responsible under Section 5 of the Local Government and Housing Act 1989 to guard against, inter alia, illegality, impropriety and maladministration in the Council's affairs.

13. EFFECTIVE ACTION

Responsibility for investigating suspected fraud and corruption against the Council rests with the Shared Audit and Investigation Service. This is to ensure that the investigation is performed only by properly trained officers in accordance with :

- a) Corruption Act 1906
- b) Criminal Procedures and Investigations Act (CPIA) 1996;

- c) Data Protection Act 1998;
- d) Fraud Act 2006;
- e) Freedom of Information Act 2000;
- f) Human Rights Act 1998;
- g) Local Government Finance Act 1992;
- h) Police and Criminal Evidence Act (PACE) 1984;
- i) Proceeds of Crime Act 2002; and
- j) Regulation of Investigatory Powers Act (RIPA) 2000
- k) The Council Tax (Administration and Enforcement) Regulations 1992.

14. PROCEDURE

All referrals will initially be risk assessed and material instances of fraud or irregularity in the Council will be referred to the Shared Audit and Investigation Service.

The Shared Audit and Investigation Service will ensure the following objectives are met:

- a) investigations are undertaken fairly, objectively and in accordance with relevant laws and regulations, so as to avoid jeopardising the outcome on legal and procedural technicalities;
- b) to protect the evidence;
- c) to prove or disprove the original suspicions of fraud;
- d) if proven, to support the findings by producing effective evidence;
- e) to present evidence in an appropriate format accepted by the Crown Prosecution Service or the appropriate disciplining service; and
- f) to apply appropriate sanctions and redress against those individuals and organisations that seek to defraud.

15. COMPLETION

Once an investigation is completed the Shared Audit and Investigation Service may have responsibilities in relation to:

- a) recommending improvements to systems;
- b) attendance at disciplinary hearings and tribunals;
- c) attendance at Court as a witness; and
- d) reporting to the Audit and Performance Review Panel.

Conclusions will be based on fact allowing management to take forward any required disciplinary and/or criminal proceedings as they determine appropriate.

16. DISCIPLINARY

The Council has in place disciplinary procedures which must be followed whenever staff are suspected of committing a fraudulent or corrupt act.

The disciplinary procedures are set out and available on Hyperwave. The Managing Director has overall responsibility for ensuring that the disciplinary procedure is managed effectively. Line managers, under the overall direction of Heads of Service, are responsible for day to day management and ensuring compliance with disciplinary policies and procedures.

17. REPORTING AND PUBLICITY

Incidents of fraud and corruption are reported through the following mechanisms:

- a) Corporate Management Team;
- b) Audit and Performance Review Panel; and
- c) External Auditors (currently KPMG).

Where evidence of fraud and corruption is found, appropriate sanctions will be sought in line with the Council's Prosecution and Sanctions Policy. The details of any proven act of fraud or corruption, including action taken by the Council will be publicised to employees, Members and the public. This is aimed at deterring further attempts of fraud or corruption by demonstrating the seriousness with which the Council views such cases. In agreement with the Section 151 Officer and the Monitoring Officer, the Council will report criminal activity to the Police at the appropriate stage.

18. COUNCIL TAX INVESTIGATIONS

The Investigation Team within the Shared Audit and Investigation Service is also responsible for undertaking investigations within the Council Tax Reduction Scheme. This involves:

- a) investigating suspected fraud by false statement and/or failure to declare changes in circumstances or other method;
- b) making random checks on claimants; and
- c) maximising recovery of overpayments.

Where evidence of fraud and corruption is found, appropriate sanctions will be sought in line with the Council's Prosecution and Sanctions Policy. Successful prosecutions will be publicised to help deter further fraud.

19. WORKING WITH OTHERS

Arrangements are in place to encourage the exchange of information between the Council and other agencies on national and local fraud and corruption activity. This includes participation in the National Fraud Initiative which matches data across a wide range of public service organisations in order to detect fraud or erroneous payments.

20. MONEY LAUNDERING

The Proceeds of Crime Act 2002 details the three principal money laundering offences as:

- a) assisting another to retain the benefit of crime;
- b) acquisition, possession or use of criminal proceeds; and
- c) concealing or transferring proceeds to avoid prosecution.

In addition there are related offences for failing to report where a person has knowledge, suspicion or reasonable grounds for knowledge or suspicion that money laundering has taken place, as well as for tipping off a person that a disclosure has taken place.

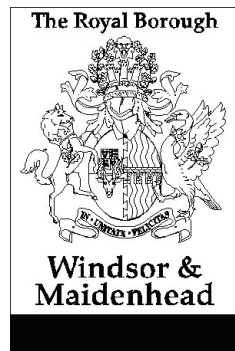
Council Officers and Members who suspect money laundering activities should report their concern to the Council's nominated Money Laundering Reporting Officer (MLRO), the Section 151 Officer (Head of Finance). Further details are contained in the Anti-Money Laundering Policy.

21. CONCLUSION AND REVIEW

The Council has systems and procedures to deter and investigate fraud and corruption. It will ensure these arrangements are fair and are monitored and updated to keep pace with future developments in preventative, deterrent and detection techniques regarding fraudulent or corrupt activity.

To this end, the Council maintains a continuous review of these arrangements through, in particular the Audit and Performance Review Panel, the Section 151 Officer (Head of Finance), Shared Audit and Investigation Service, External Audit and the Monitoring Officer.

Report for: ACTION



Contains Confidential or Exempt Information	NO - Part I
Title	Resubmission of the Bribery Policy.
Responsible Officer(s)	Richard Bunn, Interim Head of Finance
Contact officer, job title and phone number	Catherine Hickman, Service Manager – Shared Audit and Investigation Service, 07917 265742
Member reporting	Cllr Paul Brimacombe
For Consideration By	Audit and Performance Review Panel
Date to be Considered	28 June 2016
Implementation Date if Not Called In	Immediately
Affected Wards	All

REPORT SUMMARY

This report presents the Corporate Anti-Fraud and Anti-Corruption Policy which aids the Panel to discharge their responsibilities as stated in its Terms of Reference

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Anti-fraud and anti-corruption work undertaken by the council is supported by robust policies and procedures thereby protecting both the interests of the residents and the council.	Immediately

1. DETAILS OF RECOMMENDATION

RECOMMENDATION: That Audit and Performance Review Panel consider and approve the Bribery Policy.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Background

- 2.1 The Bribery Act 2010 received the Royal Assent on 8th April 2010. Whilst the Act's main focus is commercial organisations, the purpose of the Act is to provide a more modern, effective, specific and comprehensive scheme of bribery offences.
- 2.2 To facilitate this, the Bribery Act 2010:
- Replaces old and fragmented legislation with a modern and consolidated bribery law.
 - Creates offences of offering, promising or giving of a bribe and requesting, agreeing to receive or accepting of a bribe either in the UK or abroad, in the public or private sectors.
 - Creates a specific, discrete offence of bribery of a foreign public official.
 - Creates a new offence in relation to commercial organisations that fail to prevent a bribe being paid.
- 2.3 Historically, bribery has been seen as the offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of their public legal duties, and has been dealt with as corruption.

OFFENCES

- 2.4 The Bribery Act 2010 has laid out more formally what could be considered bribery and introduces four offences:
- Bribing another person
 - Being bribed
 - Bribery of a foreign public official
 - A corporate offence of failure to prevent bribery
- 2.5 It will, however, be a defence if an organisation has "adequate procedures" in place to prevent bribery, although "adequacy" is not yet defined in the Act and guidance will be issued by the Secretary of State for Justice.

PENALTIES

- 2.6. Individuals found guilty under the Bribery Act 2010 of bribing another person, being bribed or bribing foreign officials could face the following penalties:
- On summary conviction, imprisonment for not more than 12 months or a fine, or both.
 - On conviction of an indictment, to imprisonment for not more than 10 years or a fine, or both.

ACTIONS REQUIRED

2.7 It is likely that the Council can already demonstrate “adequate procedures” designed to stop incidences of bribery. In as much as there are various existing policies, strategies, codes and guidance, these will all need to be updated to include reference to bribery as a specific offence.

2.8 This report presents the Policy, which is attached at Appendix A (one copy with tracked changes and one without for ease of reading).

Option	Comments
Approve the policy. Recommended	This will ensure that activity undertaken on behalf of the council, complies with legislation.
Amend the policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.
Not approve the policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Residents have confidence that public funds are being used economically, efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation / loss.	Significant financial losses to the Council. Loss of residents confidence. Council reputation may be affected.	Financial losses are identified and recovered. Gain residents confidence. Council reputation protected.	N/A	N/A	31 March 2017

4. FINANCIAL DETAILS

Financial impact on the budget

There are no financial implications.

	2015/16	2016/17	2017/18
	Revenue £'000	Revenue £'000	Revenue £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

	2015/16	2016/17	2017/18
	Capital £'000	Capital £'000	Capital £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

5.1 Relevant legislation includes the Bribery Act 2010

6. VALUE FOR MONEY

6.1 Investigation work is planned to assist the Council in ensuring that its assets are used efficiently and effectively and that they are being properly safeguarded against misappropriation, loss and fraud.

7. SUSTAINABILITY IMPACT APPRAISAL

7.1 N/a

8. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
1. Failure to have and follow appropriate fraud policies leads to breach of legislation resulting in fines, investigation and reputation damage.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low
2. Failure to provide an investigation service leads to major event, fraud and/or mismanagement of monies.	High	An appropriate investigations service is in place.	Low

Risks	Uncontrolled Risk	Controls	Controlled Risk
3. Failure to have an investigation service in place to investigate potential losses.	High	An appropriate investigations service is in place.	Low

9. LINKS TO STRATEGIC OBJECTIVES

9.1 Helps the Council accomplish its objectives by undertaking investigations into misappropriation, loss or fraud.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 N/A

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 N/A

12. PROPERTY AND ASSETS

12.1 N/A

13. ANY OTHER IMPLICATIONS

13.1 N/A

14. CONSULTATION

14.1 Consultation has taken place with the Corporate Management Team and S151 Officer.

15. TIMETABLE FOR IMPLEMENTATION

Date	Details
29/06/16	Policy will be implemented with immediate effect.

16. APPENDIX

16.1 Appendix A – Bribery Policy

17. BACKGROUND INFORMATION

17.1 Previous versions of the above mentioned policy.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Corporate Management Team (CMT)	Managing Director, All Strategic Directors, Interim Head of Finance	02/06/16	09/06/16	MD - Updates to Policy approved.
Legal Services				
Human Resources				
Cllr Brimacombe	Chair of the Audit and Performance Review Panel			

REPORT HISTORY

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Catherine Hickman	Service Manager, Shared Audit and Investigation Service	07917 265742

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
ANTI-BRIBERY POLICY**

1. POLICY STATEMENT

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero tolerance towards bribery. We aim to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

2. OBJECTIVE

This policy provides a coherent and consistent framework to enable the Council's employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

We require that all personnel including those permanently employed, temporary agency staff and contractors:

- a) act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible; and
- b) comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

3. SCOPE

This policy applies to all of the Council's activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels, in every service.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

4. COMMITMENT

The Council commits to:

- a) setting out a clear anti-bribery policy and keeping it up to date;
- b) making all employees aware of their responsibilities to adhere strictly to this policy at all times;
- c) training all employees so that they can recognise and avoid the use of bribery by themselves and others;
- d) encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately;
- e) rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution;
- f) taking firm and vigorous action against any individual(s) involved in bribery;
- g) provide information to all employees to report breaches and suspected breaches of this policy;
- h) include appropriate clauses in contacts to prevent bribery.

5. THE BRIBERY ACT

The Bribery Act defines bribery as ‘an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage’.

There are four key offences under the Act:

- a) bribery of another person (section 1);
- b) accepting a bribe (section 2);
- c) bribing a foreign official (section 6); and
- d) failing to prevent bribery (section 7).

The Bribery Act 2010 (http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.” Therefore, we are a “commercial organisation”.

6. ADEQUATE PROCEDURES

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures in the recommended areas of six principals. These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national enterprises. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

7. PROPORTIONATE PROCEDURES

An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.

8. TOP LEVEL COMMITMENT

The Managing Director, Strategic Directors and Members are committed to preventing bribery by persons associated with it. Bribery is never acceptable.

9. RISK ASSESSMENT

The Council will assess the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

10. DUE DILIGENCE

The Council applies due diligence procedures, taking a proportionate and risk-based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

11. COMMUNICATION

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

12. MONITORING AND REVIEW

The Council monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary. The Council is committed to proportional implementation of these principles.

13. PENALTIES

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- a) on conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both;
- b) on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

14. BRIBERY IS NOT TOLERATED

It is unacceptable to:

- a) give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- b) give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- c) accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- d) accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- e) retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy;
- f) engage in activity in breach of this policy.

15. FACILITATION PAYMENTS

Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. Facilitation payments are not tolerated and are illegal.

16. GIFTS AND HOSPITALITY

The Council's Gifts and Hospitality guidance notes are held on the 'Declaration of the Offer/Receipt of Gifts and Hospitalities Guidance Notes' form. Additional guidance is held in the Anti-Fraud and Anti-Corruption Guidance Notes for Employees. In determining whether to accept a gift or hospitality employees should consider the following:

- Whether the company or individual is seeking a contract;
- Whether the company or individual regularly submits, has submitted, is likely to or is in the process of submitting a planning application, or has been granted planning permission;
- Whether a contract with the company/individual is under negotiation;
- Whether the final contract sum has been agreed;
- Whether the hospitality is genuinely instructive or constitutes more of a social function;
- The level and location of the hospitality;
- The frequency of the hospitality;
- Whether it is directed at you or to a group.

Officers are required to make a declaration within 28 days of receiving or being offered any gift or hospitality over the value of £25.00.

It is wise to err on the side of caution. Any gift that is clearly expensive should raise questions with you and should be declined. The offer, however, should still be recorded. You should always consider how such a gift or hospitality could be perceived by others. If you are in any doubt, and for your own protection, you should seek advice from your Service Manager or ultimately from your Strategic Director. There are some instances where gifts and hospitality must not be accepted. These are when dealing with planning applications, negotiating a contract and before a final contract sum is agreed. The overriding guidance to take account of is 'when in doubt, opt out'.

Examples of 'gifts and hospitality'

- Lunches;
- Presents e.g. drink, food, diaries, calendars, stationery, tickets for events;
- Cash, cheques or any other form of reward;
- Being paid or paid for to go anywhere (inside and outside of working hours)
- Visits abroad
- Hospitality tents

The general procedures to be followed in considering whether or not to accept or offer gifts and hospitality are as follows:

- All gifts and hospitality offered, whether received or not, must be recorded and entered in your Directorate's 'Register of Gifts and Hospitality' held by your Strategic Director.
- All hospitality, wherever possible, should be agreed beforehand by your Strategic Director.
- If you find yourself stuck in an awkward situation and unable to get authorisation beforehand, register the acceptance of the gift or hospitality if at all possible, pay for yourself, and then discuss with your Strategic Director whether it is appropriate for the Council to reimburse these expenses.
- Only modest gifts including gifts of a promotional nature e.g. calendars, diaries etc, and gifts of a sort normally given out by that company are acceptable.
- Fees and rewards, whether cash, cheques or air miles, other than as part of your proper remuneration are not acceptable. Gifts offered but not received should be returned with a polite and courteous explanation. The same applies to when hospitality has to be declined. In this instance the company should be courteously informed of our procedures and standards. All gifts and hospitality given must be registered in the 'Register of Gifts and Hospitality' held by your Strategic Director.
- No cash or cheques should be given.
- It is not normal for gifts to be given, except as part of a promotion or marketing initiative, therefore if you wish to express your gratitude by the way of a gift you must seek prior approval from your Strategic Director.
- Any hospitality to be given out, beyond normal working lunch, should also be agreed beforehand by your Strategic Director. If you are in any doubt you should seek advice from your Strategic Director.

17. PUBLIC CONTRACTS AND FAILURE TO PREVENT BRIBERY

Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. This organisation has the discretion to exclude organisations convicted of this offence.

18. STAFF RESPONSIBILITIES

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy.

Staff must:

- a) ensure that you read, understand and comply with this policy; and
- b) raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.
- c) As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

19. RAISING A CONCERN

The Council is committed to ensuring that we all have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns. We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns – these are explained in the Raising Concerns at Work (Whistleblowing) Policy. Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

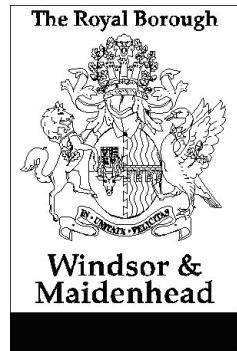
We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith. If you have any questions about these procedures, please contact the Service Manager, Shared Audit and Investigation Service, Catherine Hickman.

20. OTHER RELEVANT RBWM POLICIES

Anti-Fraud and Anti-Corruption Policy, Anti-Money Laundering Policy, Raising Concerns at Work (Whistleblowing) Policy, Codes of Conduct, Contract Procedure Rules and Finance Procedure Rules.

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Report for: ACTION



Contains Confidential or Exempt Information	NO - Part I
Title	Resubmission of Anti-Money Laundering Policy
Responsible Officer(s)	Richard Bunn, Interim Head of Finance
Contact officer, job title and phone number	Catherine Hickman, Service Manager – Shared Audit and Investigation Service, 07917 265742
Member reporting	Cllr Paul Brimacombe
For Consideration By	Audit and Performance Review Panel
Date to be Considered	28 June 2016
Implementation Date if Not Called In	Immediately
Affected Wards	All

REPORT SUMMARY

This report presents the Corporate Anti Money Laundering Policy which aids the Panel to discharge their responsibilities as stated in the Terms of Reference

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Anti-fraud and anti-corruption work undertaken by the council is supported by robust policies and procedures thereby protecting both the interests of the residents and the council.	Immediately

1. DETAILS OF RECOMMENDATION

RECOMMENDATION: That Audit and Performance Review Panel consider and approve the Anti-Money Laundering Policy.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Background

- 2.1 Money laundering legislation requires local authorities to establish internal procedures to prevent the use of their services for money laundering.
- 2.2 The legislation is not limited to major organised crimes, but covers proceeds of all crimes, however small.
- 2.3 The Council recognises that, in so far as it charges for some of the services which it supplies, it is a potential target for criminals wishing to launder money. As the Council has a duty to manage and account for financial transactions and to assure the residents of its area that it is taking all reasonable steps to assist in the prevention of crime, it has chosen to adopt this policy on Money Laundering.
- 2.4 The Council will apply the Policy in all of its financial dealings (whether with the public, private companies, other public bodies, or any other person or organisation) and instructs all Members, Officers and Employees of the Council to comply with this Policy.
- 2.5 The defence to the offences under the legislation is to make an ‘authorised disclosure’ to an approved person. Approved persons are Customs Officers, Police Officers and the Council’s Money Laundering Reporting Officer (MLRO).
- 2.6 This report presents the Policy, which is attached at Appendix A (one copy with tracked changes and one without for ease of reading).

Option	Comments
Approve the policy. Recommended	This will ensure that activity undertaken on behalf of the council, complies with legislation.
Amend the policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.
Not approve the policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Residents have confidence that public funds are being used economically,	Significant financial losses to the Council.	Financial losses are identified and recovered.	N/A	N/A	31 March 2017

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation / loss.	Loss of residents confidence. Council reputation may be affected.	Gain residents confidence. Council reputation protected.			

4. FINANCIAL DETAILS

Financial impact on the budget

There are no financial implications.

	2015/16	2016/17	2017/18
	Revenue £'000	Revenue £'000	Revenue £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

	2015/16	2016/17	2017/18
	Capital £'000	Capital £'000	Capital £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

5.1 Relevant legislation includes;

- a) The Terrorism Act 2000;
- b) The Anti-Terrorist Crime and Security Act 2001;
- c) The Proceeds of Crime Act 2002;
- d) Serious Organised Crime and Police Act 2005: and
- e) The Money Laundering Regulations 2007.

6. VALUE FOR MONEY

- 6.1 Investigation work is planned to assist the council in ensuring that its assets are used efficiently and effectively and that they are being properly safeguarded against misappropriation, loss and fraud.

7. SUSTAINABILITY IMPACT APPRAISAL

- 7.1 N/A

8. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
1. Failure to have and follow appropriate fraud policies leads to breach of legislation resulting in fines, investigation and reputation damage.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low
2. Failure to provide an investigation service leads to major event, fraud and/or mismanagement of monies.	High	An appropriate investigations service is in place.	Low
3. Failure to have an investigation service in place to investigate potential losses.	High	An appropriate investigations service is in place.	Low

9. LINKS TO STRATEGIC OBJECTIVES

- 9.1 Helps the council accomplish its objectives by undertaking investigations into misappropriation, loss or fraud.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

- 10.1 N/A

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

- 11.1 N/A

12. PROPERTY AND ASSETS

12.1 N/A

13. ANY OTHER IMPLICATIONS

13.1 N/A

14. CONSULTATION

14.1 Consultation has taken place with the Corporate Management Team and S151 Officer.

15. TIMETABLE FOR IMPLEMENTATION

Date	Details
29/06/16	Policy will be implemented with immediate effect.

16. APPENDIX

16.1 Appendix A – Anti-Money Laundering Policy

17. BACKGROUND INFORMATION

17.1 Previous versions of the above mentioned policy.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Corporate Management Team (CMT)	Managing Director, All Strategic Directors, Head of Finance	02/06/16	09/06/16	MD - Updates to Policy approved.
Legal Services				
Human Resources				
Cllr Brimacombe	Chair of the Audit and Performance Panel			

REPORT HISTORY

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Catherine Hickman	Service Manager, Shared Audit and Investigation Service	07917 265742

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
ANTI-MONEY LAUNDERING POLICY**

1. INTRODUCTION

Money laundering legislation requires local authorities to establish internal procedures to prevent the use of their services for money laundering. Money laundering legislation in the UK is primarily governed by the following legislation:

- a) the Terrorism Act 2000;
- b) the Anti-Terrorist Crime & Security Act 2001;
- c) the Proceeds of Crime Act 2002;
- d) Serious Organised Crime and Police Act 2005; and
- e) the Money Laundering Regulations 2007.

2. SCOPE OF THIS POLICY

This Policy applies to all employees and contractors of the Council. The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations.

Staff should report any suspicions to the appointed Money Laundering Reporting Officer (MLRO) and it is for the MLRO to consider if the circumstances warrant the completion of a 'suspicious activity report' (SAR), which is sent to the National Crime Agency.

Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them in accordance with the Council's Disciplinary procedures.

3. WHAT IS MONEY LAUNDERING?

The legislation is not limited to major organised crimes, but covers proceeds of all crimes, however small. The primary money laundering offences and thus prohibited acts under the legislation are:

- a) concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
- b) entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328 of the 2002 Act); or
- c) acquiring, using or possessing criminal property (section 329 of the 2002 Act); or
- d) becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorist Act 2000); or
- e) failing to disclose suspected money laundering

The defence to these offences is to make an 'authorised disclosure' to an approved person. Approved persons are Customs Officers, Police Officers and the Council's Money Laundering Reporting Officer (MLRO).

4. SUSPICIOUS ACTIVITY

Some indications of suspicious activity are:

- a) any unusually large cash payment;
- b) any overpayment or duplicate payment in cash where the refund is requested by cheque; or
- c) if a 'third party' is involved in any transaction (e.g. someone paying cash to settle someone else's bill.)

The Council should be alert to large amounts of cash accepted as a payment, which would normally arouse suspicion.

Officers involved in Treasury Management and cashiering activities are the most likely to encounter attempts to launder money but all staff should be alert to the possibilities.

All organisations and each individual are required by law to try to prevent and to report any attempts to 'launder' money.

5. THE COUNCIL'S OBLIGATIONS

Organisations conducting "relevant business" must:

- a) appoint a MLRO to receive disclosures from employees of money laundering activity (their own or anyone else's);
- b) implement a procedure to enable the reporting of suspicions of money laundering;
- c) maintain client identification procedures in certain circumstances; and
- d) maintain record keeping procedures.

6. THE MONEY LAUNDERING REPORTING OFFICER

If you have any suspicions, you must contact the MLRO. The Council's nominated MLRO is the S151 Officer.

7. DISCLOSURE PROCEDURE

Reporting to the MLRO: Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO. The disclosure should be within *hours* of the information coming to your attention, not weeks or months later. **SHOULD YOU NOT DO SO, YOU MAY BE LIABLE TO PROSECUTION.**

Once you have reported the matter to the MLRO you must follow any directions they may give you. You must **NOT** make any further enquiries into the matter yourself: Any necessary investigation will be undertaken by the National Crime Agency (NCA).

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the SOCA or NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit a criminal offence of “tipping off”. Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

On receipt of the disclosure the MLRO will:

- a) consider the report and make such further enquiries as are necessary to form a view on whether a person is engaged in money laundering;
- b) consider all other relevant information in making this judgement;
- c) ensure that nothing is done which could alert the person or business concerned that a report and an investigation could ensue;
- d) make a report to SOCA, if appropriate, making full notes of the reasons for doing so;
- e) co-operate with any enquiries made by the proper authorities; and
- f) maintain all records of disclosures and reports for at least five years.

8. CLIENT IDENTIFICATION PROCEDURE

Each section of the Council must maintain certain procedures where a transaction or series of linked transactions amounts to 15,000 Euros (approximately £10,000) or more These are to:

- a) require satisfactory evidence of the identity of both internal and external clients at the outset of the matter;
- b) require that if satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot precede any further;

- c) recognise the greater potential for money laundering when the client is not present; and
- d) require that where a client appears to act for another that reasonable measures are taken to establish the identity of that person.

Staff involved in Treasury Management should ensure that all dealings are carried out in accordance with the Treasury Management Strategy and Treasury Management Policies which ensure that transactions are only undertaken with approved counterparties.

9. RECORD KEEPING PROCEDURE

Each service of the Council conducting relevant business must maintain records for at least five years of:

- a) client identification evidence obtained; and
- b) details of all relevant business transactions carried out for clients

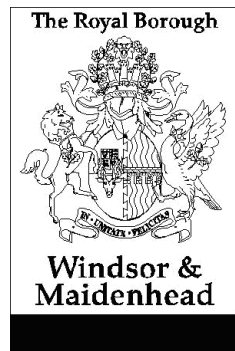
The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail.

10. FURTHER INFORMATION AND ADVICE

For any further information or guidance, please contact the MLRO (S151 Officer).

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Report for: ACTION



Contains Confidential or Exempt Information	NO - Part I
Title	Resubmission of Corporate Prosecution and Sanction Policy
Responsible Officer(s)	Richard Bunn, Interim Head of Finance
Contact officer, job title and phone number	Catherine Hickman, Service Manager – Shared Audit and Investigation Service, 07917 265742
Member reporting	Cllr Paul Brimacombe
For Consideration By	Audit and Performance Review Panel
Date to be Considered	28 June 2016
Implementation Date if Not Called In	Immediately
Affected Wards	All

REPORT SUMMARY

This report presents the Corporate Prosecution and Sanction Policy which aids the Panel to discharge their responsibilities as stated in its Terms of Reference

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Anti-fraud and anti-corruption work undertaken by the council is supported by robust policies and procedures thereby protecting both the interests of the residents and the council.	Immediately

1. DETAILS OF RECOMMENDATION

RECOMMENDATION: That Audit and Performance Review Panel consider and approve the Corporate Prosecution and Sanction Policy.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Background

- 2.1 The council has responsibility for a number of enforcement activities and to protect public funds administered by the council from fraud and corruption. To fulfil these responsibilities the council may be required to prosecute offenders. The use of prosecution will be governed by the following statement and the principles of this shall apply equally to any criminal offences committed against the council, against funds for which the council has responsibility or committed contrary to legislation the council has responsibility for enforcing. The principles of this statement, its objectives and the Crown Prosecutions Services' own Code for Crown Prosecutors will however be the guide as to whether or not the council prosecutes offenders.

Option	Comments
Approve the policy. Recommended	This will ensure that activity undertaken on behalf of the council, complies with legislation.
Amend the policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.
Not approve the policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Residents have confidence that public funds are being used economically, efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation / loss.	<p>Significant financial losses to the Council.</p> <p>Loss of residents confidence.</p> <p>Council reputation may be affected.</p>	<p>Financial losses are identified and recovered.</p> <p>Gain residents confidence.</p> <p>Council reputation protected.</p>	N/A	N/A	31 March 2017

4. FINANCIAL DETAILS

Financial impact on the budget

There are no financial implications.

	2015/16	2016/17	2017/18
	Revenue £'000	Revenue £'000	Revenue £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

	2015/16	2016/17	2017/18
	Capital £'000	Capital £'000	Capital £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

5.1 Code for Crown Prosecutors.

6. VALUE FOR MONEY

6.1 Investigation work is planned to assist the council in ensuring that its assets are used efficiently and effectively and that they are being properly safeguarded against misappropriation, loss and fraud.

7. SUSTAINABILITY IMPACT APPRAISAL

7.1 N/A

8. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
1. Failure to have and follow appropriate fraud policies leads to breach of legislation resulting in fines, investigation and reputation damage.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low

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Risks	Uncontrolled Risk	Controls	Controlled Risk
2. Failure to provide an investigation service leads to major event, fraud and/or mismanagement of monies.	High	An appropriate investigations service is in place.	Low
3. Failure to have an investigation service in place to investigate potential losses.	High	An appropriate investigations service is in place.	Low

9. LINKS TO STRATEGIC OBJECTIVES

9.1 Helps the council accomplish its objectives by undertaking investigations into misappropriation, loss or fraud.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 N/A

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 N/A

12. PROPERTY AND ASSETS

12.1 N/A

13. ANY OTHER IMPLICATIONS

13.1 N/A

14. CONSULTATION

14.1 Consultation has taken place with the Corporate Management Team and S151 Officer.

15. TIMETABLE FOR IMPLEMENTATION

Date	Details
29/06/16	Policy will be implemented with immediate effect.

16. APPENDIX

16.1 Appendix A – Corporate Prosecution and Sanction Policy.

17. BACKGROUND INFORMATION

17.1 Previous versions of the above mentioned ⁷² policy.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Corporate Management Team (CMT)	Managing Director, All Strategic Directors, Head of Finance	02/06/16	09/06/16	MD - Updates to Policy approved.
Legal Services				
Human Resources				
Cllr Brimacombe	Chair of the Audit and Performance Panel			

REPORT HISTORY

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Catherine Hickman	Service Manager, Shared Audit and Investigation Service	07917 265742

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD **CORPORATE PROSECUTION AND SANCTION POLICY**

Introduction

The Royal Borough of Windsor and Maidenhead will prosecute any person who commits a criminal offence against the systems, processes and functions of the Council and/or assaults or threatens any member or employee of the Council, if there is sufficient evidence and if, in the opinion of the Council, it is in the public interest to do so.

When deciding if it is in the public interest, all officers authorised to decide whether to prosecute on behalf of the Council will be guided by the Code for Crown Prosecutors. Whenever it is appropriate, the Council will consider offering other sanctions as an alternative to prosecution.

The Council will consider each case on its own merits before deciding whether or not to prosecute. If it is the case that the Council has suffered a material/financial loss, it may take separate action to stop further payments/ recover money, irrespective of whether it decides to take criminal proceedings, and where steps to prevent further losses or recover losses already incurred are not available or desirable in the course of any criminal proceedings.

Alternatives to Prosecution - Cautions

In the issuing of Cautions the Council will be guided by the relevant statutory Guidance, currently the Ministry of Justice – Simple Caution for Adult Offender guidance.

Alternatives to Prosecution - Statutory Sanctions

The Council may consider a Statutory Sanction, whether a monetary penalty or otherwise, as an alternative to prosecution for an offence where the imposition or offer of such a sanction for the specified offence or offences is prescribed by law.

Code for Crown Prosecutors – The Evidential Test

When making a decision on whether to prosecute, the Council will first consider whether there is sufficient evidence:

- a) is there sufficient evidence of the commission of an offence to provide a realistic prospect of conviction? And
- b) is the evidence reliable and able to be used in court?

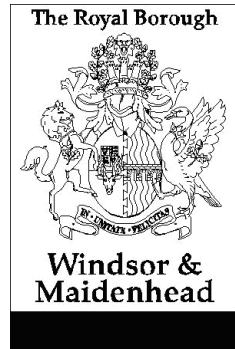
Code for Crown Prosecutors – The Public Interest Test

Once the Evidential Test has been satisfied, the Council will then consider whether the Public Interest Test is satisfied. The Public Interest Test will be assessed following the guidance in the “Code for Crown Prosecutors” to ensure that any prosecution is in the public interest.

Other Sanctions or Penalties

Where a person engages in conduct which is not criminal, but is otherwise prohibited by legal statute or regulation applicable to the functions of the Council, or fails in their legal obligation to the Council, the Council may consider the imposition or offer of a sanction or monetary penalty where to impose a monetary penalty or sanction for the given circumstances is prescribed by law.

Report for: ACTION



Contains Confidential or Exempt Information	NO - Part I
Title	Resubmission of Regulatory of Investigatory Powers Act Policy
Responsible Officer(s)	Richard Bunn, Interim Head of Finance
Contact officer, job title and phone number	Catherine Hickman, Service Manager – Shared Audit and Investigation Service, 07917 265742
Member reporting	Cllr Paul Brimacombe
For Consideration By	Audit and Performance Review Panel
Date to be Considered	28 June 2016
Implementation Date if Not Called In	Immediately
Affected Wards	All

REPORT SUMMARY

This report presents the Regulatory of Investigatory Powers Act Policy which aids the Panel to discharge their responsibilities as stated in its Terms of Reference.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Anti-fraud and anti-corruption work undertaken by the council is supported by robust policies and procedures thereby protecting both the interests of the residents and the council.	Immediately

1. DETAILS OF RECOMMENDATION

RECOMMENDATION: That Audit and Performance Review Panel consider and approve the Regulation of Investigatory Powers Act Policy.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Background

- 2.1 Article 8 (Right to Respect for Private and Family Life) of the Human Rights Act 1998 (HRA) states that every person shall have the right to respect for their 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 where national legislation, compliant with HRA, states that the right can be suspended.
- 2.2 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.
- 2.3 Local councils can use RIPA Authorisations to conduct 'Covert Directed Surveillance' or acquire 'Communications Data'. The Legislation, guidance and Code of Practice for both these areas is provided by the Home Office.
- 2.4 The Royal Borough of Windsor and Maidenhead (the 'Council') has had policies and procedural guidance in place since 2003, 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.
- 2.5 In October 2012, the Government introduced a stricter regime for Local Authorities when using the provisions of RIPA. The Protection of Freedoms Act 2012 was introduced and restrictions imposed by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012, both of which came into force on 1 November 2012. This included the requirement for all applications to be authorised by a Justice of the Peace (JP) and that all RIPA activity, as defined in the Home Office Guidance, to only take place where 'serious crime' was being investigated.
- 2.6 In early 2013, the Home Office produced new guidance and Codes of Practice for the amended requirements that Local Authorities are required to meet.

Commissioners

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

2.9 This report presents the Policy and Procedure, which is attached at [Appendix A](#) and will be made available on hyperwave.

Option	Comments
Approve the policy and procedure. Recommended	This will ensure that activity undertaken on behalf of the council, complies with legislation.
Amend the policy and procedure.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.
Not approve the policy and procedure.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Residents have confidence that public funds are being used economically, efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation / loss.	Significant financial losses to the Council. Loss of residents confidence. Council reputation may be affected.	Financial losses are identified and recovered. Gain residents confidence. Council reputation protected.	N/A	N/A	31 March 2017

4. FINANCIAL DETAILS

Financial impact on the budget

There are no financial implications.

	2015/16	2016/17	2017/18
	Revenue £'000	Revenue £'000	Revenue £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

	2015/16	2016/17	2017/18
	Capital £'000	Capital £'000	Capital £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

5.1 Relevant legislation includes the Regulation of Investigatory Powers Act (RIPA) 2000

6. VALUE FOR MONEY

6.1 Investigation work is planned to assist the Council in ensuring that its assets are used efficiently and effectively and that they are being properly safeguarded against misappropriation, loss and fraud.

7. SUSTAINABILITY IMPACT APPRAISAL

7.1 N/A

8. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
1. Failure to have and follow appropriate fraud policies leads to breach of legislation resulting in fines, investigation and reputation damage.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low
2. Failure to provide an investigation service leads to major event, fraud and/or mismanagement of monies.	High	An appropriate investigations service is in place.	Low
3. Failure to have an investigation service in place to investigate potential losses.	High	An appropriate investigations service is in place.	Low

9. LINKS TO STRATEGIC OBJECTIVES

9.1 Helps the Council accomplish its objectives by undertaking investigations into misappropriation, loss or fraud.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 N/A

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 N/A

12. PROPERTY AND ASSETS

12.1 N/A

13. ANY OTHER IMPLICATIONS

13.1 N/A

14. CONSULTATION

14.1 Consultation has taken place with the Corporate Management Team and S151 Officer.

15. TIMETABLE FOR IMPLEMENTATION

Date	Details
29/06/16	Policy will be implemented with immediate effect.

16. APPENDIX

Appendix A - Regulation of Investigatory Powers Act Policy

17. BACKGROUND INFORMATION

17.1 Previous versions of the above mentioned policy.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Corporate Management Team (CMT)	Managing Director, All Strategic Directors, Head of Finance	02/06/16	09/06/16	MD - Updates to Policy approved.
Legal Services				
Human Resources				
Cllr Brimacombe	Chair of the Audit and Performance Panel			

REPORT HISTORY

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Catherine Hickman	Service Manager, Shared Audit and Investigation Service	07917 265742



**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
POLICY**

ON THE ACQUISITION OF COMMUNICATIONS DATA,
AND USE OF COVERT SURVEILLANCE
AND COVERT HUMAN INTELLIGENCE SOURCES
(*REGULATION OF INVESTIGATORY POWERS ACT 2000*)

Approved by Audit and Performance Review Panel (28 June 2016)
Takes Effect – Immediately after Approval

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD POLICY

ON THE ACQUISITION OF COMMUNICATIONS DATA, AND USE OF COVERT SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES (REGULATION OF INVESTIGATORY POWERS ACT 2000)

Statement

Officers and employees of (and contractors working on behalf of) the Royal Borough of Windsor and Maidenhead may, in the course of their investigatory, regulatory and enforcement duties, need to make observations of persons in a covert manner, to use a Covert Human Intelligence Source or to acquire Communications Data. These techniques may be needed whether the subject of the investigation is a member of the public, the owner of a business or a Council employee.

By its very nature, this sort of action is potentially intrusive and so it is extremely important that there is a very strict control on what is appropriate and that, where such action is needed, it is properly regulated in order to comply with Legislation and to protect the individual's rights of privacy.

Privacy is a right, but in any democratic society, it is not an absolute right. The right to a private and family life, as set out in the European Convention on Human Rights, must be balanced with the right of other citizens to live safely and freely, which is the most basic function that every citizen looks to the state to perform.

Drawing on the principles set out in the Regulation of Investigatory Powers Act 2000 and the Data Protection Act 1998, this policy sets out the Royal Borough's approach to Covert Surveillance, the use of Covert Human Intelligence Sources and the acquisition of Communications Data.

The policy also sets out Members' oversight of this area, adopts a set of procedures and appoints appropriate officers to ensure that these areas are properly controlled and regulated.

Policy

- 1.1 It is the policy of The Royal Borough of Windsor and Maidenhead (the Authority) that all Covert Surveillance, the use of Covert Human Intelligence Sources (informants) and the acquisition of Communications Data by those working for or on behalf of this Authority (investigators) will be carried out in accordance with this policy and the associated procedure. (the RIPA Procedure). Any member, officer or employee who deliberately or recklessly breaches this policy will normally be considered to have committed an act of gross misconduct and will be dealt with accordingly.
- 1.2 In so far as the Regulation of Investigatory Powers Act (RIPA) allows, Covert Surveillance and the use of Covert Human Intelligence Sources (informants) will always be subject to the RIPA application process. (This does NOT affect monitoring activities where the actions undertaken do not amount to covert surveillance.) Where officers wish to undertake covert surveillance or use informants but where RIPA is not available, a similar process of considering the proportionality and necessity of any such activities must be carried out before the activities are undertaken and approval gained from a RIPA authorising officer.
- 1.3 When acquiring Communications Data officers are instructed to use the RIPA process if it is available to them, unless they have a statutory power which allows access to such data (in which case either route may be used).

Appointments

- 1.4 The Council appoints the Managing Director as the *Senior Authorising Officer (SAO)* and *Senior Responsible Officer (SRO)* for all purposes under RIPA.
- 1.5 The Council appoints the Service Manager, Shared Audit and Investigation Service as the *RIPA Monitoring Officer (RMO)* and direct that they monitor the use of RIPA within this Council and reports to members on the activities the policy covers. They are also directed to ensure that appropriate training is made available to *Authorising Officers (AOs)* when it is required.
- 1.6 The Council directs that only those appointed by this policy as AOs may authorise covert surveillance, the use of informants or the acquisition of communications data.
- 1.7 The Council appoints Directors, Assistant Head of Service and Service Manager levels or equivalent, who also meet the training criteria as AOs, subject to a maximum number of six (including the SAO). The Council instructs the RMO to maintain a list of all those currently authorised as part of the RIPA Procedures.
- 1.8 The Council directs the SAO to appoint such persons as he may from time to time see fit to be *Single Points of Contact (SPOC)* (or to make such other arrangements as he deems appropriate) for the purposes of acquiring communications data by the use of RIPA.
- 1.9 In order for the Council's RIPA authorisations to take effect, they must be approved by a Magistrate. The RMO is directed to maintain a list, as part of the RIPA Procedures, of all those so authorised.

Oversight and Reporting

- 1.10 The RMO shall report to elected Members on the use of RIPA regulated activity by officers of the Council every six months. Such a report shall be presented to the Members (or to such a sub-committee as the full council shall deem appropriate to constitute for oversight purposes) by the RMO and the SRO. The report **must not** contain any information that identifies specific persons or operations but must be clear about the nature of the operations carried out and the product obtained.
- 1.11 Alongside this report, the RMO and SRO will report details of 'Non-RIPA' surveillance in precisely the same fashion.
- 1.12 Elected Members shall have oversight of the Council's policy and shall review that policy annually. At that review (or following any six-monthly report) elected Members shall make such amendments as they deem necessary to the Council's policy, and may give such directions as they deem necessary to the RMO and SRO in order to ensure that the Council's policy is followed.
- 1.13 Elected Members shall not interfere in individual authorisations. Their function is to, with reference to the reports, satisfy themselves that the Council's policy is robust and that it is being followed by all officers involved in this area. **Although it is elected members who are accountable to the public for council actions, it is essential that there should be no possibility of political interference in law enforcement operations.**

RIPA Procedures

- 1.14 The RMO is instructed to create a set of procedures that provide instruction and guidance for the use of surveillance and informants, and the acquisition of communications data. They are further instructed to maintain and update the RIPA Procedures, ensuring that they continue to be both lawful and examples of best practice.
- 1.15 The reference to 'maintain and update' in this section includes the duty to remove AOs from the list if they cease to be employed in a relevant role or if they no longer satisfy the requirements to be an AO, and the right to add names to that list so long as (a) they satisfy the policy and regulatory requirements and (b) at no time does the number of AOs exceed six.
- 1.16 If a change is required, in the opinion of the RMO, in order to comply with this section, they is authorised to make that change without prior approval from any person.
- 1.17 The RMO must report any changes made under this section to Members when they undertake their annual oversight of the Policy, as set out above.

Training

- 1.18 In accordance with this Code of Practice, AOs **must** receive full training in the use of their powers. They must be assessed at the end of the training, to ensure competence, and must undertake refresher training at least every two years. Training will be arranged by the RMO. Designated AOs who do not meet the required standard, or who exceed the training intervals, are prohibited from authorising applications until they have met the requirements of this paragraph. AOs must have an awareness of appropriate investigative techniques, Data Protection and Human Rights Legislation.
- 1.19 Those officers who actually carry out surveillance work must be adequately trained prior to any surveillance being undertaken. A corporate training programme will be developed to ensure that AOs and staff undertaking relevant investigations are fully aware of the legislative framework.

Exceptions, Notes and Complaints

- 1.20 CCTV cameras operated by this Council are NOT covered by this policy, unless they are used in a way that constitutes covert surveillance; only under those circumstances must the provisions of this policy and the RIPA Procedures be followed.
- 1.21 Interception of communications, if it is done as part of normal business practice, does NOT fall into the definition of acquisition of communications data. (This includes, but is not limited to opening of post for distribution, logging of telephone calls, for the purpose of cost allocation, reimbursement, benchmarking, etc.; logging E Mails and internet access for the purpose of private reimbursement.)
- 1.22 If any person wishes to make a complaint about anything to which this policy applies is invited to use the Council's Complaints Procedure. Any complaint received will be treated as serious and investigated in line with this Council's policy on complaints. **Regardless of this, the detail of an operation, or indeed its existence, must never be admitted to as part of a complaint. This does not mean it will not be investigated, just that the result of any investigation would be entirely confidential and not disclosed to the complainant.**

Adoption and Amendment of the Policy

- 1.23 This version of the Policy was approved by the Audit and Performance Review Panel on behalf of the Council on 28 June 2016, after which it came into immediate effect. It replaces all previous policies on these subjects.

Note: The procedures issued under para 1.14 may be found on [hyperwave](#).

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