



Leicester
City Council

MEETING OF THE AUDIT AND RISK COMMITTEE

DATE: MONDAY, 29 SEPTEMBER 2014
TIME: 5:30 pm
PLACE: THE OAK ROOM, GROUND FLOOR, TOWN HALL, TOWN HALL SQUARE, LEICESTER.

Members of the Committee

Councillor Westley (Chair)
Councillor Dr. Moore (Vice-Chair)

Councillors Alfonso, Dr Chowdhury, Desai, Grant, and Naylor

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for Monitoring Officer

Officer contact: Angie Smith
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Tel. 0116 454 6354
Email. Angie.Smith@Leicester.gov.uk

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PUBLIC SESSION

AGENDA

**1. TRAINING SESSION PRIOR TO MAIN MEETING -
REGULATION OF INVESTIGATORY POWERS ACT
(RIPA) 2000**

The City Barrister and Head of Standards, and Information Governance Manager will outline the Council's policy and compliance with the Regulation of Investigatory Powers Act (RIPA) 2000.

2. APOLOGIES FOR ABSENCE

3. DECLARATIONS OF INTEREST

Members are asked to declare any interests they may have in the business on the agenda.

4. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of the Audit and Risk Committee held on 30th July 2014 have been circulated, and the Committee is asked to confirm them as a correct record.

**5. REGULATION OF INVESTIGATORY POWERS ACT [Appendix A](#)
(RIPA) 2000: BI-ANNUAL PERFORMANCE REPORT
JANUARY 2014 - JUNE 2014**

The Director of Information Services submits a report on the performance of the Council in authorising Regulatory Investigation Powers Act (RIPA) applications, from 1st January 2014 to 30th June 2014. The Committee is recommended to receive the report and note its contents, and make any recommendations or comments it sees fit either to the Executive or Director of Information Services.

**6. PROPOSED CHANGES TO THE CONTRACT [Appendix B](#)
PROCEDURE RULES AND FINANCE PROCEDURE
RULES**

The Director of Finance submits a report to inform the Audit and Risk Committee of proposed changes to the Contract Procedure Rules (CPR) and Finance Procedure Rules (FPR). The Committee is asked to consider the new CPR and changes to the FPR, and make any comments to Officers and/or Full Council.

7. COUNTER FRAUD ANNUAL REPORT 2013-14 [Appendix C](#)

The Director of Finance, the Director of Local Services and the Director of Housing submit a joint report, which provides information on counter-fraud activities during 2013-14 and 1 April 2014 to 30 June 2014. The Committee is recommended to receive the report, and make any recommendations or comments it sees fit wither to the Executive, the Director of Finance, the Director of Local Services or the Director of Housing.

8. REVIEW OF THE ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY AND STRATEGY [Appendix D](#)

The Director of Finance submits to the Audit and Risk Committee a report on the review of the Anti-Fraud, Bribery and Corruption Policy and Strategy. The Committee is asked to receive the report, approve the Anti-Fraud, Bribery and Corruption Policy and make any recommendations or comments it sees fit either to the Executive or Director of Finance.

9. ANNUAL GOVERNANCE REPORT 2013/14 AND LETTER OF REPRESENTATION [Appendix E](#)

The External Auditor submits a report which summarises the 2013/14 audit of Leicester City Council.

The Audit and Risk Committee are asked to note the report and approve the letter of representation.

10. ANNUAL GOVERNANCE STATEMENT 2013 - 2014 [Appendix F](#)

The Director of Finance submits a report to the Audit and Risk Committee for approval of the Council's Annual Governance Statement 2013-2014. The Committee is recommended to approve the report.

11. STATUTORY STATEMENT OF ACCOUNTS 2013-14 [Appendix G](#)

The Accounts and Audit (England) Regulations 2011 require that the Council present its audited Statement of Accounts by the 30th September following the end of the financial year, and that these accounts are adopted by the Audit and Risk Committee.

The Director of Finance submits a report which gives details of the final Statutory Statement of Accounts for the year 2013-14. The Audit and Risk Committee is recommended to approve the accounts.

Details of the Statement of Accounts will be circulated to Members of the Committee as soon as they are available.

12. ANNUAL REPORT OF THE AUDIT AND RISK COMMITTEE TO COUNCIL FOR THE MUNICIPAL YEAR 2013-14 [Appendix H](#)

The Director of Finance submits the Annual Report of the Audit and Risk

Committee that will be presented to Council on 13th November 2014. The report sets out what the Committee has achieved over the municipal year 2013-14.

There is no specific requirement for such a report. However, best practice for the Audit and Risk committee is to be able to demonstrate its effectiveness in overseeing the City Council's control environment and this is reflected in the Committee's terms of reference. The Audit and Risk Committee is recommended to approve the report for submission to Council.

13. ANY OTHER URGENT BUSINESS



Leicester
City Council

WARDS AFFECTED: ALL

IMPB 12th September 2014
Audit and Risk Committee

29th September 2014

Regulation of Investigatory Powers Act 2000
Bi-Annual Performance Report January 2014 – June 2014

Report of the Director of Information Services

1. Purpose of the Report

The report advises on the performance of The Council in authorising Regulatory Investigation Powers Act (RIPA) applications, from 1st Jan 2014 to 30th June 2014.

2. Summary

The Council applied for 1 Directed Surveillance authorisation and 0 communications data authorisations in the period above.

3. Recommendations

The Committee is recommended to:

- 3.1 Receive the Report and note its contents.
- 3.2 Make any recommendations or comments it sees fit either to the Executive or Director of Information Services.

4. Report

- 4.1 The Council applied for 1 Directed Surveillance Authorisations and 0 communications data authorisations in 2014 (Appendix A).
- 4.2 Any communications data authorisations will be carried out via the National Anti-Fraud Network (NAFN) system on our behalf. The

Interceptions of Communications Commissioner's Office (IOCCO) has recently carried out their regular inspection of NAFN.

4.3 The Council has not undergone any inspections by either the Office of the Surveillance Commissioner (OSC) or the IOCCO in this period.

4.4 The Council currently has 4 trained Authorising officers in place (Alison Greenhill, Kamal Adatia, Ann Branson and Jill Craig). The newly appointed Director of Local Services and Enforcement will be offered Authorising Officer training once he is in post.

4.6 A summary of RIPA authorisations is published annually on the Council's website by the central information governance team.

4.7 The OSC has this month published its annual report, which is attached. It shows a downward trend nationally in applications made.

4.8 A concern raised by the OSC was the level of RIPA knowledge amongst Magistrates. The Council, when organizing future RIPA training for officers, will extend the invitation to the local court.

4.8 The Council received an IOCCO circular this month highlighting its concerns on data quality. This will be circulated to Authorising Officers for information.

4.9 NAFN will hold its AGM and annual summit in Leicester in November. The Information Governance Manager will attend on behalf of the Council.

5. Financial, Legal Implications

5.1 Financial Implications

There are no financial implications arising directly from this report, although the Council could incur legal costs should procedures not be correctly followed – Colin Sharpe, Head of Finance, ext. 37 4081.

5.2 Legal Implications

There are no legal implications arising directly from this report, although the Council could incur legal costs should procedures not be correctly followed – Kamal Adatia, City Solicitor, ext. 37 1402.

6. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting Information
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Climate Change	No	
Crime and Disorder	No	
Human Rights Act	No	Yes. HRA Article 8 must be considered for all applications
Elderly/People on Low Income	No	
Risk Management	No	

7. Report Author / Officer to contact:

Lynn Wyeth, Information Governance Manager, Information and Customer Access
- Ext 37 1291

29th September 2014

Appendix A

Direct Surveillance Authorisations Jan 2014 – June 2014

No	Date	Auth Off	URN	Service Area & Description	Reason	Post Code
1	19.03.14	AG	387668	Revenue & Benefits	Benefit Fraud	LE5

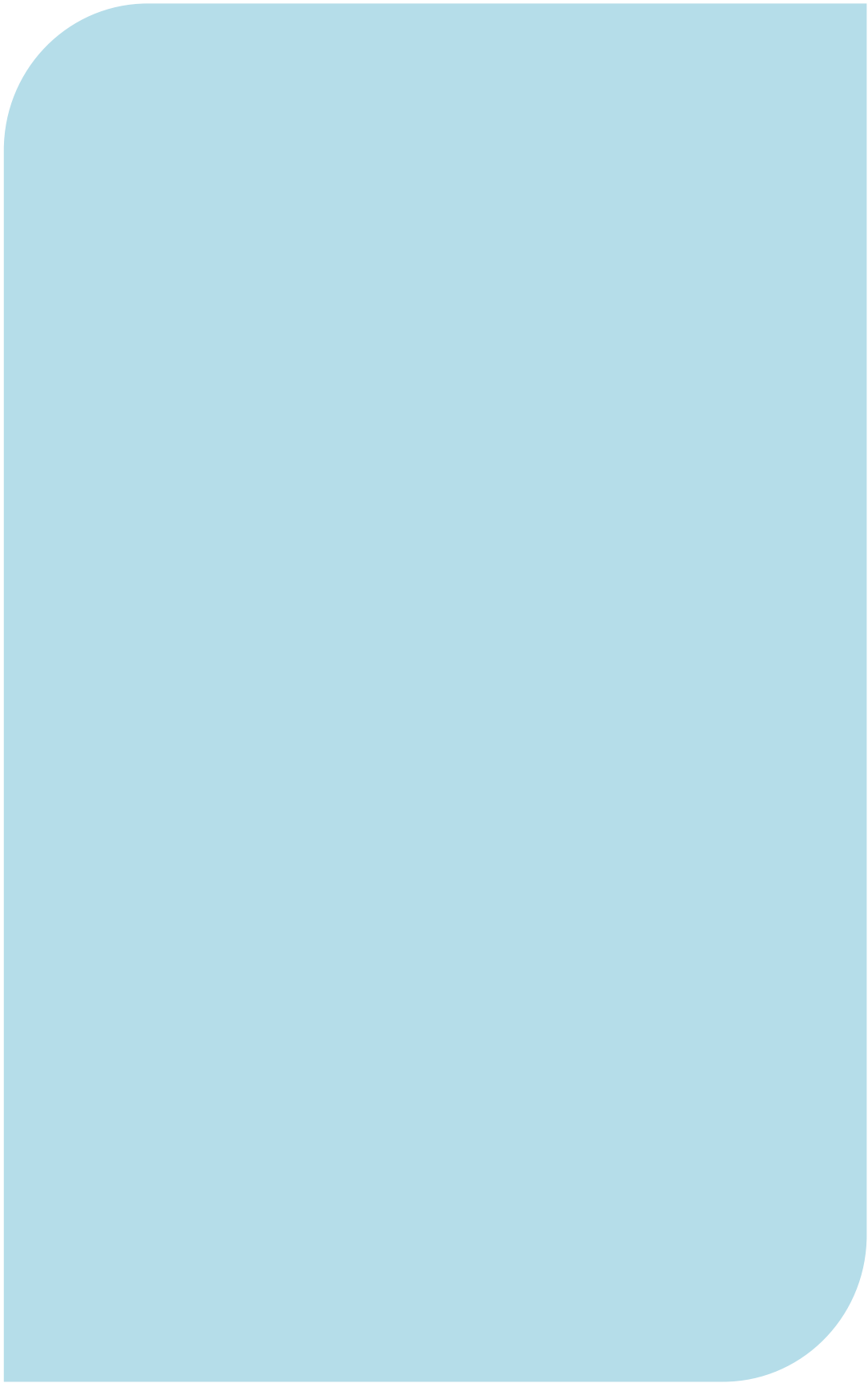


Office of Surveillance
Commissioners

ANNUAL REPORT

of the Chief Surveillance Commissioner
to the Prime Minister and
to the Scottish Ministers
for 2013-2014

HC 343
SG/2014/92



ANNUAL REPORT

of the Chief Surveillance Commissioner

to the Prime Minister and

to the Scottish Ministers

for **2013-2014**

Chief Surveillance Commissioner:
The Rt. Hon. Sir Christopher Rose

Presented to Parliament
pursuant to section 107(3)
of the Police Act 1997

Ordered by the House of Commons
to be printed on 4 September 2014

Laid before the Scottish Parliament
by the Scottish Ministers
4 September 2014

HC 343
SG/2014/92



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1. Introduction

- 1.1. This is my eighth report since taking up my appointment as the Chief Surveillance Commissioner in July 2006 and relates to the period 1st April 2013 to 31st March 2014.
- 1.2. My statutory responsibilities have not changed; they are to keep under review:
 - 1.2.1. The performance of functions under Part III of the Police Act 1997 ('PA97');
 - 1.2.2. Except in relation to the interception of communications and intelligence services, the exercise and performance of the powers and duties conferred or imposed by or under Parts II and III of the Regulation of Investigatory Powers Act 2000 ('RIPA'); and
 - 1.2.3. The exercise and performance of the powers and duties conferred or imposed by or under the Regulation of Investigatory Powers (Scotland) Act 2000 ('RIP(S)A').
- 1.3. The powers and duties of the Surveillance Commissioners in scrutinising and deciding whether to approve authorisations under PA97 (property interference) and under RIPA and RIP(S)A (intrusive surveillance) have been explained in earlier reports and are publicly available on our website. Since 1st January 2014, the Surveillance Commissioners now grant prior approval for the renewal of all law enforcement "relevant sources" (commonly termed undercover officers)¹.
- 1.4. There is a right to appeal against Commissioners' decisions to me. There have been no appeals lodged during this reporting period.
- 1.5. In performance of my duty under all three Acts to report annually, I continue to prepare a combined report.
- 1.6. I also act as the Investigatory Powers Commissioner for the Sovereign Base Areas, Cyprus, under the Regulation of Investigatory Powers Ordinance 2012. My office undertakes an annual inspection and I report separately to the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia.

¹ Currently limited to "relevant sources" authorised under RIPA. There is no equivalent regime in Scotland under RIP(S)A, although this is expected to be introduced by way of a RIP(S)A Order in due course.

2. Overview of the year

- 2.1. The statistics relating to property interference, intrusive surveillance, directed surveillance and CHIS (covert human intelligence source) are set out in section 4. From next year, we shall also provide statistics relating to the authorisation of “relevant sources”.
- 2.2. The main change to OSC business in this reporting year has been the introduction of responsibilities in relation to “relevant sources”. I refer to this in paragraphs 5.1 – 5.15.
- 2.3. The Protection of Freedoms Act 2012 has now been in operation for a sufficiently long period for me to comment upon its perceived impact. I provide details at paragraphs 5.16 – 5.25.
- 2.4. We continue to witness on inspections the effect of reduced resources and the loss of experienced officers. The financial climate of recent years has led to an increased number of public authority collaborations, many of which are now on a regional scale. This requires a flexible approach to our inspection regime.
- 2.5. Public authorities continue to tackle traditional criminality, but are increasingly faced with the challenges brought about by the criminal use of new technology, much of that criminality being conducted in the virtual on-line world. As a corollary, such technological advancement also provides public authorities with fresh ways of obtaining their intelligence. It is my role to ensure that such investigative activity is lawful, though the statutory basis is not always easy to find.
- 2.6. This has been a year in which the covert tactics used by law enforcement agencies and the security and intelligence services have been frequently in the media. Others comment on this as they see fit. For my part, it is not my responsibility to give a view upon how much or how little use is made of the tactics that I oversee. That is a matter initially for Parliament and then for those individual officers to whom the law has granted the power to authorise, within such financial and other constraints as are imposed on them by those determining policy for the public authority by which they are employed.
- 2.7. Within the past year, my Surveillance Inspectors have undertaken the inaugural inspection of Police Scotland, following the completed merger of that country’s constituent individual forces in 2013.

3. Particular matters relating to the OSC

Reporting to the Prime Minister and the Scottish Ministers

- 3.1. During the reporting period I have not made a report to the Prime Minister or the Scottish Ministers about matters relating to the performance of the powers conferred by the Acts.

OSC guidance

- 3.2. My Commissioners will provide an updated version of their 2011 Guidance to public authorities later in 2014. This document is written specifically for those working in public authorities who may wish to seek or authorise covert tactics, and I continue to see no need to give this Guidance wider publication.
- 3.3. In line with other departments and bodies, my office was required to redevelop its website in line with new government standards. This has been a positive development, as my Secretariat will now be able to update the site content itself without the need for intervention by others. It is planned to develop a new section of the website later this year, which will provide controlled access for key officials within the public authorities and enable the provision of more immediate updates to the Commissioners' Guidance and such other matters as may be helpful.
- 3.4. The new website provides general advice to those with an interest in our work, as to who we are and what we do. It does not, for obvious reasons, contain details about operational activity or methods, nor the extent or types of covert activity undertaken by those so empowered. My Annual Reports (all of which are available on the website) provide this type of detail where it can appropriately be disclosed.
- 3.5. My office is frequently asked for advice by public authorities about matters of interpretation in relation to particular cases. There is a danger that they view any response from my office as a panacea for any future challenge, or that this removes the need for them to reach their own decisions. I understand that these areas of activity by public authorities can throw up all sorts of variables and make decisions on particular facts hard to reach. That is why Parliament has determined that officers of a suitably senior rank must reach their decision whether or not to authorise on the merits of each individual case. My Commissioners, Surveillance Inspectors, and Secretariat cannot, nor should they, provide advice on individual scenarios. Were they to do so, this might jeopardise later considerations for approval and the inspection process, both of which must remain impartial.
- 3.6. The Commissioners' Guidance is therefore concerned with matters of general principle. Armed with this Guidance, Authorising Officers can consider their decision based on the individual application presented to them, and ought to make the most of internal legal advice usually available from within their public authority. The old adage "please do not ask for credit as a refusal may offend" has some resonance within this context.

- 3.7. Where guidance is given, during an inspection, or following a one-off enquiry to my office, this should not be seen as representing the views of the Commissioners, or as having lawful authority. The trial judge is the ultimate arbiter of fairness and admissibility of evidence. I also warned in my report last year of the dangers of extrapolation – guidance should not be viewed as a “one size fits all” solution. Each case must, to satisfy the considerations of individual human rights, be assessed on its own merits.

Inspection programme

- 3.8. The public authorities which I currently inspect are at Appendix E. As reported last year, many now have formal or informal collaborative arrangements in place. Where possible, we organise the inspection programme to take this into account – both for expediency and to avoid unnecessary duplication.

Oversight of local authority authorisations granted by magistrates

- 3.9. The changes brought about for local authorities by The Protection of Freedoms Act 2012 have now had time to bed in. My Surveillance Inspectors and Assistant Surveillance Commissioners have identified a downward trend in the number of applications made and authorisations granted, which may or may not be attributable to this enactment. A number of local authorities have decided not to engage in covert activity as a matter of policy, but the reasons for that decision vary and are not always expressed.
- 3.10. What has become clear is that the knowledge and understanding of RIPA among magistrates and their staff varies widely. Adequate training of magistrates is a matter for others, but I highlight the need. The public is not well served if, through lack of experience or training, magistrates are not equipped effectively to exercise the oversight responsibility which the legislation requires. I am aware, for example, of one magistrate having granted an approval for activity retrospectively, and another having signed a formal notice despite it having been erroneously completed by the applicant with details of a different case altogether.
- 3.11. I provide further detail at paragraphs 5.16 – 5.25.

Commissioners' meetings

- 3.12. The Commissioners have met on three occasions during the reporting period.

Presentations and conferences

- 3.13. Our capacity to address presentations and conferences remains limited. My Chief Surveillance Inspector has been able to represent my office on several law enforcement agency authorising officer courses and will continue to do so when core business allows.

- 3.14.** My Chief Surveillance Inspector and one of my Surveillance Inspectors will (in May 2014) observe one of the newly introduced Senior Authorising Officer courses run by the College of Policing, which has a particular bearing on the authorisation of “relevant sources” at that more senior level, following the introduction of Statutory Instrument 2013/2788².

Liaison

- 3.15.** My Chief Surveillance Inspector continues to be my main point of contact with external stakeholders. She is a member of the ACPO RIPA Peer Review Group, and has occasional meetings with the Chair and Secretary of the National Undercover Working Group. She also liaises with those in the Home Office charged with responsibility for RIPA and PA97, and with her opposite numbers in similar oversight bodies.
- 3.16.** During the past year, my office has provided advice to both the Home Office and Her Majesty’s Inspectorate of Constabulary on matters relating to the use and authorisation of undercover operatives by law enforcement agencies and the terms of the 2013 Statutory Instrument number 2788. One of my Surveillance Inspectors has devoted a considerable amount of time and effort to this on my behalf.
- 3.17.** My office has also provided comments to the consultation by the Home Office on the planned revisions to the RIPA and PA97 associated Codes of Practice.

Home Office support

- 3.18.** The Home Secretary is required by PA97 to provide me with the support necessary to fulfil my responsibilities.
- 3.19.** My office is independent of government, and yet my officials and Inspectorate are subject to Home Office travel and accommodation restrictions that may meet the needs of those requiring the occasional night away from home, but are frequently inadequate for those who spend approximately a third or more of their year working away from home for up to a week at a time. My Chief Surveillance Inspector is also required to report to a Home Office official for line management purposes, despite the fact that she, as was the case for her predecessor, works directly, and solely, to me.
- 3.20.** As I have stated in many previous reports, my office is required, again through being tied to the Home Office procurement regime, to have telecommunication and IT facilities provided at excessive ongoing cost, and with equipment that is not capable of providing the necessarily secure means we require. The equipment by which most of our notification and prior approval process is managed is now seriously antiquated and will, purportedly, become defunct in 2018.

² The Regulation of Investigatory Powers (Covert Human Intelligence Sources: Relevant Sources) Order 2013

- 3.21.** During the past year, my office has needed to appoint two new Surveillance Inspectors – one to replace the newly appointed Chief Surveillance Inspector, and the other to provide increased manpower for the new “relevant source” responsibilities. Changes to the structure of my Secretariat have also required there to be a recruitment process for a Senior Executive Officer and an Executive Officer. Despite my independence, I have not been allowed – as has previously been the case – to undertake my own recruitment process, but have been tied to that used for the wider Civil Service. That it has taken no less than seven months to achieve this, through no delay on this office’s part, is a matter that ought to concern those responsible.

Changes in personnel

- 3.22.** In August 2013, my previous Chief Surveillance Inspector, Mr Sam Lincoln, decided to move on from the OSC after eight years with us. He was a proactive and invigorating Chief Inspector and made a major contribution to the raising of compliance standards by public authorities throughout the UK. He was succeeded in September 2013 by Mrs Clare Ringshaw-Dowle who had been one of my Surveillance Inspectors for the past 8½ years.

Recognition

- 3.23.** I wish to record, once again, my thanks to the Commissioners, Assistant Commissioners, Surveillance Inspectors and members of my Secretariat, for the indispensable support which they have given me in performing my statutory role. My thanks also go to the staff of the Security & Protection Group, Northern Ireland and to the staff of the Police Division of the Scottish Government for the important administrative support they provide to the Commissioners in Northern Ireland and Scotland respectively.

Expenditure

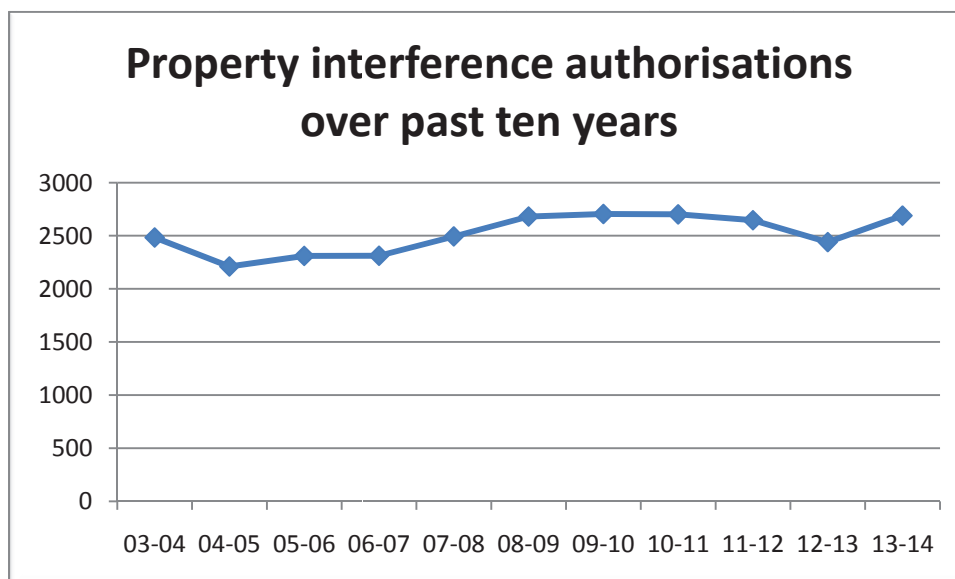
- 3.24.** I summarise the expenditure of the OSC at Appendix F. My budget for the year was £1.6m and, partly due to staffing changes and the miscalculation by others of our accommodation costs, my end of year actual expenditure was £118k under budget.
- 3.25.** I have been allocated a slightly increased budget (£1.7m) in the forthcoming year to reflect my office’s new responsibilities under Statutory Instrument 2013/2788, but in real terms this will merely cover the cost of employing an additional Surveillance Inspector. A bid for additional monies to cover the associated costs of the prior approval and notification process was unsuccessful: when the new procedures have been in place for sufficient time for their actual cost to become apparent, I shall seek any necessary further monies. (I describe the present position in paragraphs 5.7 to 5.10 below.)

4. Statistics relating to the use of property interference and covert surveillance

General

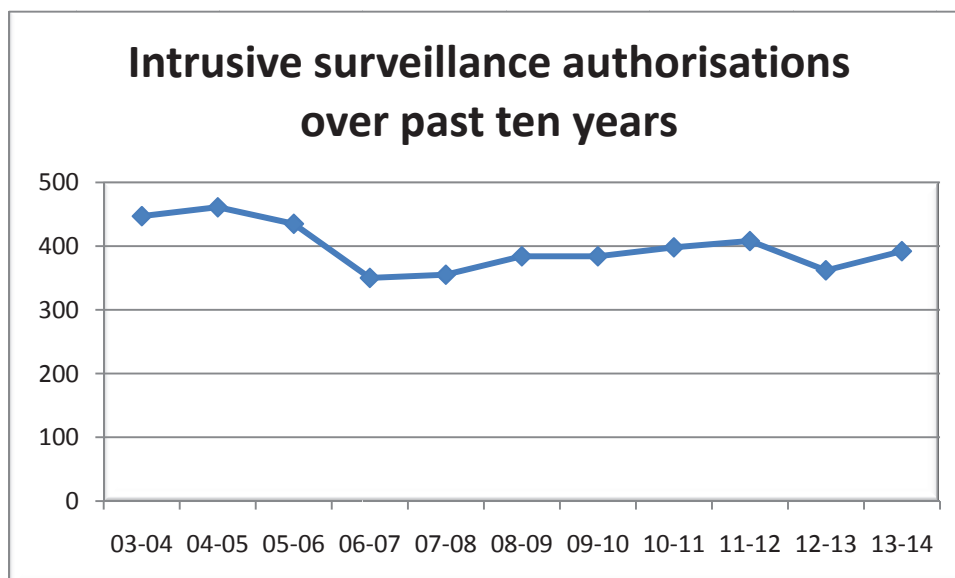
- 4.1. Statistics provided by law enforcement agencies and those taken from my Secretariat's database for property interference and intrusive surveillance authorisations for the past three years are set out in tables at Appendices A-D. The chart comparisons below show the overall trend for each type of activity over the past ten years as reported to me when I request statistics for my report. Statistics can only provide a general record and ought not to be misconstrued. It is not for me to promote more or less covert activity, but to report upon that usage and the performance, in compliance terms, of those empowered to use such tactics.
- 4.2. The following statistics and illustrative charts are based upon a return rate of 100% from the law enforcement agencies, and of 96.6% from all other public authorities. I am once again slightly disappointed that a few public authorities appear to treat my request for statistical returns as an option. My Secretariat provides more than adequate notice for this information to be collated: in any case, it ought to be quickly attainable from the Central Record that each public authority is required to maintain under the Home Office Codes of Practice.
- 4.3. I have therefore decided that, as from next year, those public authorities which have failed to respond within the set deadline will be named in my annual report.
- 4.4. It is worth reiterating that these statistics only reflect the information provided to me, which I must assume is accurate. The figures would not reveal covert activity conducted outwith the formal authorisation process: part of the inspection process is directed to identifying whether any such activity is likely to have occurred.

Property interference



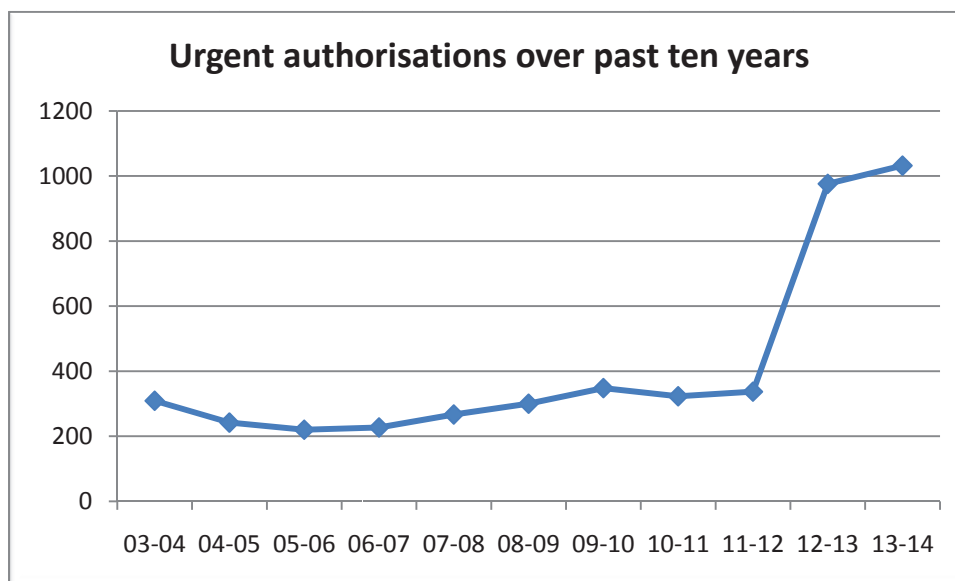
- 4.5.** Excluding renewals, property interference authorisations were granted on 2,689 occasions; an increase of 249 on the previous year. No authorisations were quashed by Commissioners.

Intrusive surveillance



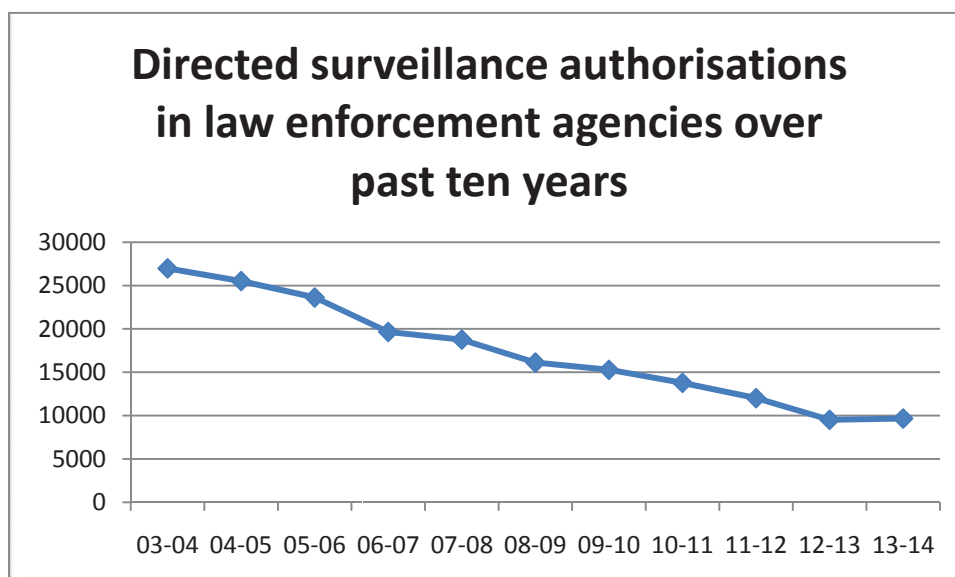
- 4.6.** The number of intrusive surveillance authorisations increased slightly this year compared to last, from 362 to 392. Two authorisations were quashed by a Commissioner.

Urgency provisions

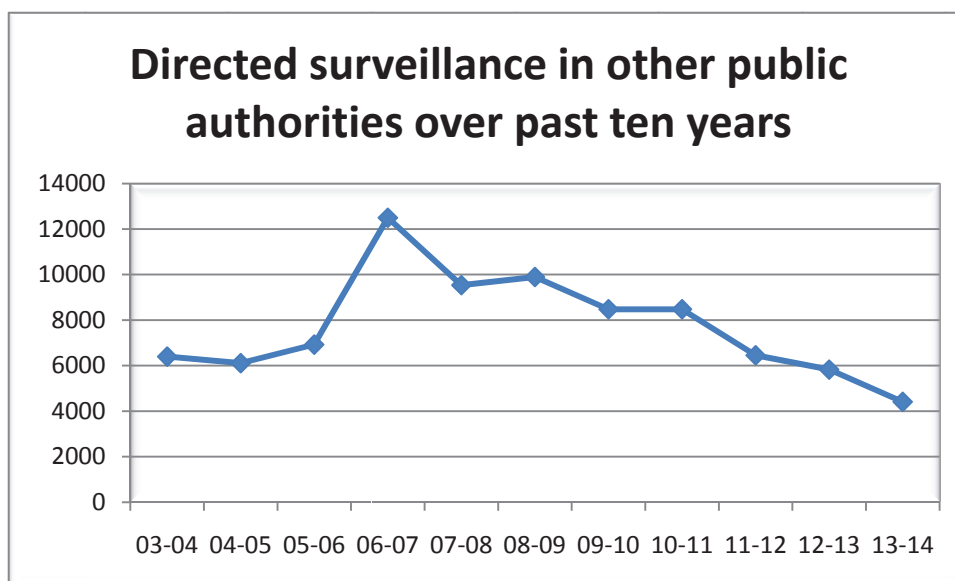


- 4.7. The urgency provisions allowed by the legislation were reportedly used on 1,032 occasions. In 2012-13 I had noted a significant increase, and this increase has continued into this reporting year, though at a far less exponential rate. Without a protracted exercise involving the public authorities concerned, it is difficult to conjecture as to the reason for the high number of such authorisations. It is worth stating that the urgency provisions represent below 5% of the total number of authorisations granted in 2013-14.

Directed surveillance

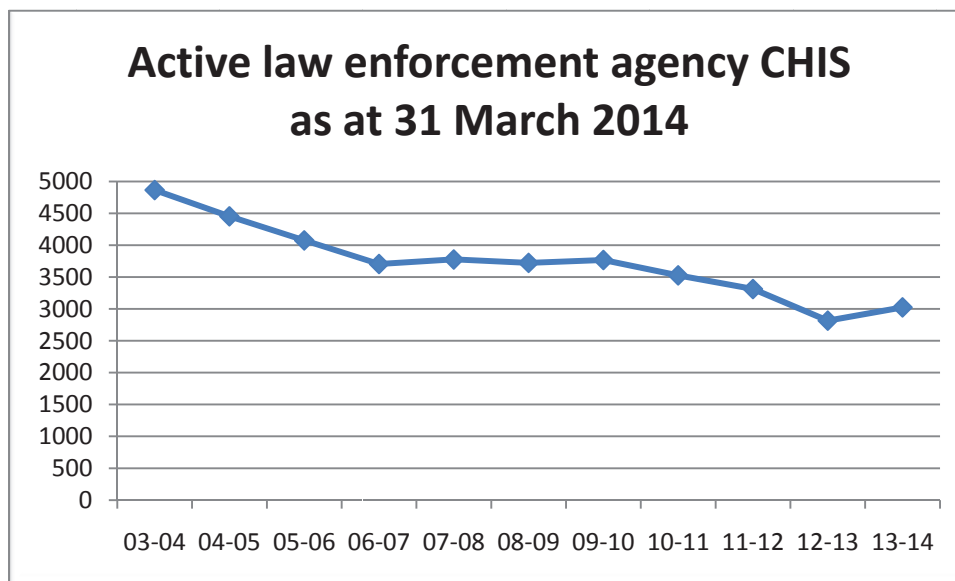


- 4.8. Law enforcement agencies authorised the use of directed surveillance on 9,664 occasions, with 1,484 extant at the end of March 2014. This reflects a very slight increase on the previous year when the comparable figures were 9,515 and 1,118.

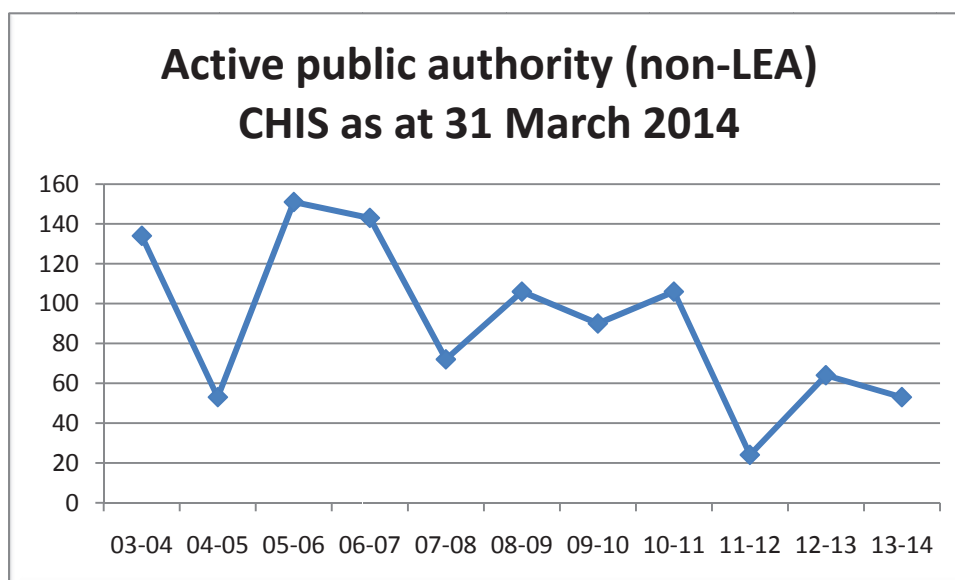


- 4.9.** Other public authority returns showed that directed surveillance had been authorised on 4,412 occasions. This shows a continued downward trend (from 5,827 such authorisations in the previous year). As I explained in last year's report, the vast majority (73%) of these authorisations were obtained by the Department for Work & Pensions and may well include authorisations which had more traditionally been authorised by benefit teams working within local councils.
- 4.10.** A total of 517 were presented to a magistrate for approval under The Protection of Freedoms Act 2012. Just 26 were rejected.

Covert Human Intelligence Sources



- 4.11.** During this reporting year, 4,377 CHIS were authorised by law enforcement agencies; 3,523 were cancelled within the same year (including some who may have been already authorised from preceding years); and at the end of March 2014, 3,025 remained authorised.



- 4.12.** Within other public authorities, there remained 53 authorised CHIS at the end of the reporting period. Only a handful (3.7%) of these public authorities use CHIS, often for matters such as trading standards investigations.

Section 49 – encryption

- 4.13.** During the period to which this report relates, NTAC³ granted 76 approvals from 76 applications. Permission was not sought in six cases after NTAC approval. From the remainder, 37 had permission granted by a Circuit Judge, of which 33 have so far been served. Of these, seven were complied with and 17 were not (this includes orders obtained in the last reporting year but not progressed at the time of the last report); the remainder are still being processed. It was decided not to proceed with four of the eleven people who were charged with an offence. So far, in the period of this report, NTAC has been informed that there have been two convictions with other cases still in progress.
- 4.14.** One conviction related to the importation of controlled substances, the other related to an IIOC⁴ offence. Other offences include: domestic extremism, terrorism, insider dealing, fraud, evasion of excise duty, drug trafficking, people trafficking and drug possession with intent to supply.
- 4.15.** These statistics are provided by NTAC who are able to be accurate regarding the number of approvals granted. However, unless informed by the case team, the statistics cannot properly reflect the snapshot at the time of this report. However, it appears that there has been delay in serving some notices after approval has been granted and information regarding the progress of the cases although requested is not as prompt as it should be. Notices, once approved, should be served without delay and the information supplied to NTAC as soon as possible.

Irregularities

- 4.16.** Law enforcement agencies reported to me 79 irregularities during the period covered by this report, and other public authorities reported four. This compares to totals in previous years as follows (99 reports in 2012-13; 81 in 2011-12; and 129 in 2010-11). The nature of such irregularities changes little from one year to another, and has included such matters as installation of surveillance equipment without a valid authorisation; overdue switching off of a recording device after cancellation of the authorisation; and inadvertent trespass (property interference) where one police force boundary meets another. In no case has there been anything to suggest wilful misconduct or bad faith.
- 4.17.** It is worth reiterating that 83 reports represents a tiny proportion of the total number of authorisations legitimately granted in the same period and the fact that such reports are made to me and, for the most part, relate to short periods of unauthorised activity, demonstrates that the reporting authorities have in place effective oversight processes. Such reports are invariably accompanied by a full explanation of what led to the error or oversight and what steps have been taken by the public authority to seek to avoid any recurrence.

³ National Technical Assistance Centre

⁴ Indecent Images of Children

- 4.18.** Failure to obtain an authorisation under the Acts for which I have oversight is not unlawful, and where irregularities have been reported, I have no sanction. But it is nonetheless important that I am advised of such matters, to ensure that robust internal oversight can be demonstrated, that irregularities do not become, in effect, a regularity; and lest there be consequences for the safety of any future legal process which ought to be drawn to the attention of those concerned.

5. Key issues arising from my inspections

Police undercover operations

- 5.1.** This aspect of policing has continued to be the subject of heightened interest amongst the public, the media, Parliament, and the courts. In my report for 2011-12, paragraph 5.5, I indicated that, if undercover officers, whatever professional nomenclature may be applied to them, fulfil the functions of a CHIS as defined in Part II of RIPA, they should be authorised and managed accordingly. In the absence of much substantive case law, my Commissioners have provided guidance for a number of years on matters of compliance in relation to such CHIS, and my Surveillance Inspectors, many of whom have vast experience from running such operations in their previous careers, have continued to pay particular attention to these authorisations (and the associated records required to be maintained under Statutory Instrument 2000/2725⁵) during their routine inspections.
- 5.2.** During this reporting year, there have been several developments following the original disclosures by Mark Kennedy. In some cases, extensive reports are readily available in the public domain, and others will no doubt provide further details in due course.
- 5.3.** There are several cases currently before courts and tribunals which stem from the revelations arising from the case of Mark Kennedy and others.
- 5.4.** The Chief Constable of Derbyshire Constabulary, Mr Mick Creedon, is undertaking a review (named Operation Herne) of certain activities by undercover officers, including the use of deceased children's identities for use by undercover operatives; the alleged sexual relationships conducted by undercover officers as part of their "legend"; alleged "smears" against the family of murdered teenager Stephen Lawrence; and other kindred matters. Mr Creedon has already placed within the public domain some emergent findings.
- 5.5.** In early March 2014, Mark Ellison, QC, published a report into possible police corruption and the use of undercover tactics in the investigation of the murder of Stephen Lawrence.
- 5.6.** HMIC is due to deliver to the Home Secretary (perhaps by the time this report has been published) its findings from an extensive review of undercover policing. As previously stated, one of my Surveillance Inspectors has provided assistance to the HMIC team as part of a reference group and, as a fellow oversight body, the OSC looks forward to the findings in that report in due course.

⁵ The Regulation of Investigatory Powers (Source Records) Regulations 2000

- 5.7.** The biggest recent development for the OSC has been the introduction of a prior approval process⁶ for “relevant sources” – those undercover operatives employed by the law enforcement agencies who have been authorised for longer than twelve months (either continuously or cumulatively in respect of a particular operation). From 1st January 2014, such “relevant sources” must be granted a renewal of their use and conduct by a Senior Authorising Officer (the ranks, generally Chief Constable or an equivalent, are set out in Statutory Instrument 2013/2788) subject to the prior approval of a Surveillance Commissioner. In addition, any newly authorised “relevant source” must be notified to the Surveillance Commissioners, as must their subsequent cancellation.
- 5.8.** The Statutory Instrument came into effect very soon after it had been laid before Parliament and both the OSC and the law enforcement community have had to determine our processes and procedures in fast time. I am pleased to report that, with a few teething troubles which were to be expected, the prior approval and notification process appears to have settled in very quickly.
- 5.9.** What has become readily obvious, however, is the amount of paperwork involved. Once again, the antiquated means of getting these highly sensitive documents from the law enforcement agencies to the Surveillance Commissioners is adding to the vulnerability of the machines to overload and possible failure. A secure means of transferring such documentation via IT systems as opposed to outmoded facsimile machines, is now a dire need.
- 5.10.** The Surveillance Commissioners have only just begun to consider these “relevant sources” and it is too early for me to report on their views about the content and quality of the documentation containing the decisions of those senior law enforcement officers. I am able, however, to provide a necessarily restricted overview of the findings of my Surveillance Inspectors over the course of the past year. I do not normally provide this level of detail, but in light of the aforementioned scrutiny from various parties, I do so in greater detail for this past year.
- 5.11.** The following matters have all been raised through the appropriate channels with the Chair of the National Undercover Working Group, and by my Surveillance Inspectors during their numerous inspections of law enforcement agencies over the past few years, so, though they may be new to some readers of this report, they have long been notified to those responsible for RIPA compliance.

⁶ Currently limited to “relevant sources” authorised under RIPA. There is no equivalent regime in Scotland under RIP(S)A, although this is expected to be introduced by way of a RIP(S)A Order in due course.

- 5.12.** My Surveillance Inspectors sometimes find a lack of clarity, on documentation and in practice, about which officers are fulfilling the functions required by Section 29(5) of RIPA. These officers perform a vital function in the day to day management and oversight of undercover operatives (“relevant sources”) on behalf of, and reporting directly to, the Authorising Officer. We have strongly criticised the agencies where we have identified that those undertaking these roles are part of the wider operational team.
- 5.13.** My Surveillance Inspectors still encounter CHIS risk assessments for undercover operatives that are overly generic or too formulaic. The focus must be on the individual and their unique abilities, experience, risks, etc. Using a “one-size fits all” risk assessment, with just the pseudonym or URN (unique reference number) changed each time, is unlikely to bear close scrutiny in court or otherwise.
- 5.14.** When additional undercover operative(s) are added to an existing operation, all Authorising Officers must clearly set out their consideration of necessity, collateral intrusion, proportionality and risks in relation to each new operative, with clear use and conduct parameters: different operatives may have different roles to portray and subjects to engage. Their authorisation validity (as dictated by Statutory Instrument 2013/2788) should always be made clear on the form to assist in running a timeline and ensuring any notifications/renewal requests to the OSC are not overlooked.
- 5.15.** Formal reviews should provide the Authorising Officer with an update on what has occurred since the previous one. There can be too much “cut and paste” content several months into a longer-running operation. Collateral intrusion, in particular, is all too often a formulaic entry, month after month. By way of example of the importance of this statutory consideration, there are currently before the courts matters which appear to have involved collateral intrusion of the most intimate nature.

The impact of The Protection of Freedoms Act 2012

- 5.16.** The Protection of Freedoms Act 2012 has now become a more routine practice for those in local authorities (in England and Wales) wishing to use Part II of RIPA for the prevention or detection of crime. In my last report, I noted some of the challenges this may present to a local authority wishing to tackle criminality that is of sufficient concern to residents, but would be unlikely to meet the stipulated minimum six months sentence upon conviction.
- 5.17.** Over the past year, my Surveillance Inspectors and Assistant Surveillance Commissioners have completed in excess of 140 council inspections in England and Wales. On each inspection, senior officers are asked about the impact of The Protection of Freedoms Act 2012 and how they are tackling criminality for which directed surveillance can no longer be authorised. (There is no such limitation in relation to the use of a CHIS, but this tactic tends not to be widely used by councils, as the statistics show.) My Inspectorate team also looks at the level of use of covert tactics by the public authority over recent years, and explores the likely reasons behind any significant change.

- 5.18.** Whilst I cannot generalise too much, it would be fair to say that there has been a continuing steady decline in the use of directed surveillance by local councils which may, or may not, have resulted from the introduction of the need to seek a magistrate's approval. In one borough council there had been 47 directed surveillance authorisations between 2010 and the introduction of The Protection of Freedoms Act 2012 and none in the 16 months thereafter.
- 5.19.** For several years now, we have seen a gradual, though in some cases very severe, diminution in the funding and resources available to public authorities. We are often told that the cost of conducting surveillance, in terms of manpower, time and equipment, is now difficult to justify.
- 5.20.** Although the wherewithal to conduct such activity may have disappeared, the problems which it had traditionally tackled have not. Councils have, therefore, resorted to different measures, such as a more overt response to criminality, through increased patrols by neighbourhood wardens and the like, or increased working with other bodies and the private/commercial sector to tackle anti-social activities.
- 5.21.** Not all criminality can be successfully tackled through overt means alone. A clear example is benefit fraud: we have seen a gradual reduction of the use of directed surveillance by locally based benefits teams in councils, as this now tends to be authorised and managed, albeit with council officers' assistance, by the Department for Work & Pensions.
- 5.22.** Where councils have continued to use their RIPA powers, we have sometimes identified a lack of a corporate approach to the new process. Some councils have established or used existing relationships with their local magistrates' court to ensure that both parties were prepared for the impact of the new Act; some have gone so far as to provide a training input to local magistrates and their clerks, so they understand RIPA and the type of case and associated documentation which will be presented to them.
- 5.23.** Other councils have gone to the court with their RIPA paperwork, only to find a complete lack of awareness of the process, and this has led, in some cases, to delays. By the time the magistrate finally looks at the case, the intelligence behind it might now be unreliable, or the resources to undertake the surveillance no longer available for the desired duration.
- 5.24.** We have also identified a range of approaches by public authorities as to who should present the case to the magistrate. I have always argued that this should be the Authorising Officer – the person statutorily responsible for making judgements as to the necessity, collateral intrusion and proportionality of the proposed activity. However, my Inspectorate has rarely encountered this in practice – instead, the more likely officer to attend the court, by dint of their specialised training and perceived familiarity with RIPA, is a member of the legal team, the applicant, the lead investigating officer, or a member of the Trading Standards team. I am aware that the Home Office guidance makes no stipulation, but, as a matter of good practice, I continue to urge the attendance of the Authorising Officer.

- 5.25.** It is also disappointing that public authorities find such disparate levels of knowledge within the magistrates' court. This is a matter that ought to have been tackled by those responsible for their training. Most public authorities now require their Authorising Officers to have completed RIPA training before they can so act, and this is obviously good, if not essential, practice which should be no less a requirement for magistrates.

Collaborative working arrangements

- 5.26.** I have commented in previous reports about the growth of collaborative arrangements, and in the past year there have been further joint ventures between police forces and councils, and the establishment of regional teams serving a wide variety of enforcement/investigative interests. My Inspectorate will continue to ensure that there is a compliant legal basis for any covert activities undertaken by these units or collaborative partnerships and that the policies and processes underpinning those activities are satisfactory.
- 5.27.** Wherever possible, the annual inspection programme seeks to ensure that collaborative entities are inspected either jointly, or individually during a defined period, alongside their counterparts. By doing so, my Surveillance Inspectors can better assess those collaborative processes and corporate standards, and seek to lessen the impact of the inspection process in terms of the required engagement of key members of staff.
- 5.28.** I have not had cause to inspect any private organisation that has conducted covert activity on behalf of a public authority, but I continue to reserve the right to do so as may be necessary.

Availability of senior officers

- 5.29.** I acknowledge that, in these straightened times, there are heavy demands placed upon senior officers within public authorities. Nonetheless, there have been a number of occasions in the past year, in both law enforcement and other public authorities, when the Senior Responsible Officer or Chief Officer has been unavailable to meet my Inspectors. Given that they provide notice well in advance of inspection dates, I expect senior officers to make themselves available unless there are genuinely extenuating circumstances.

Social Networks

- 5.30.** This is now a deeply embedded means of communication between people and one that public authorities can exploit for investigative purposes. I am reasonably satisfied that there is now a heightened awareness of the use of the tactic and the advisable authorisations under RIPA that should be considered. Although there remains a significant debate as to how anything made publicly available in this medium can be considered private, my Commissioners remain of the view that the repeat viewing of individual "open source" sites for the purpose of intelligence gathering and data collation should be considered within the context of the protection that RIPA affords to such activity.

- 5.31.** In cash-strapped public authorities, it might be tempting to conduct on line investigations from a desktop, as this saves time and money, and often provides far more detail about someone's personal lifestyle, employment, associates, etc. But just because one can, does not mean one should. The same considerations of privacy, and especially collateral intrusion against innocent parties, must be applied regardless of the technological advances. It is worth repeating something I said in my 2011-2012 report, paragraph 5.18:

“There is a fine line between general observation, systematic observation and research and it is unwise to rely on a perception of a person's reasonable expectations or their ability to control their personal data. Like ANPR and CCTV, the Internet is a useful investigative tool but they each operate in domains which are public and private. As with ANPR and CCTV, it is inappropriate to define surveillance solely by the device used; the act of surveillance is of primary consideration and this is defined at section 48(2-4) of RIPA (monitoring, observing, listening and recording by or with the assistance of a surveillance device). The Internet is a surveillance device as defined by RIPA section 48(1). Surveillance is covert “if, and only if, it is conducted in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is, or may be taking place.” Knowing that something is capable of happening is not the same as an awareness that it is or may be taking place. The ease with which an activity meets the legislative threshold demands improved supervision.”

- 5.32.** Access to social networking sites by investigators in all public authorities is something we examine on inspections. Many, particularly the law enforcement agencies, now have national and local guidance available for their officers and staff. However, many local authorities and government departments have still to recognise the potential for inadvertent or inappropriate use of the sites in their investigative and enforcement role. Whilst many have warned their staff of the dangers of using social media from the perspective of personal security and to avoid any corporate damage, the potential need for a RIPA authorisation has not been so readily explained.
- 5.33.** I strongly advise all public authorities empowered to use RIPA to have in place a corporate policy on the use of social media in investigations. Some public authorities have also found it sensible to run an awareness campaign, with an amnesty period for declarations of any unauthorised activity or where, for example, officers have created false personae to disguise their on line activities.

Common inspection findings

- 5.34.** I do not, for obvious reasons, divulge in this Report details of operations, or authorisation contents, nor comment upon the performance of individual public authorities. The inspection reports completed by my Assistant Surveillance Commissioners and Surveillance Inspectors, and endorsed by me, contain sufficient detail for the Chief Officer of each public authority to appreciate the context of the findings and any accompanying recommendations. It is, I am pleased to report, a rare occasion for remedial action not to result.

- 5.35.** Where it has not, this has usually been due to the absence or departure of key officers. Where the recommendations have to be repeated at the following inspection, this is specifically highlighted. It may sometimes be the case that the public authority has done all it can to remedy the compliance failings, but it is the nature of RIPA and PA97, that an authorisation will only be as good as its author. That is why training, feedback and internal quality assurance plays a key role between formal OSC inspections.
- 5.36.** The overall quality of authorisations within law enforcement agencies has now, in general, reached a good standard and, in some cases, very good indeed. In other public authorities, a knowledgeable and thoughtful Authorising Officer, who can make all the difference, is somewhat rarer.
- 5.37.** The following are the main issues upon which we have cause to comment:
- Unsubstantiated and brief, or, conversely, excessively detailed intelligence cases
 - Poor and over-formulaic consideration of potential collateral intrusion and how this will be managed
 - Poor proportionality arguments by both applicants and Authorising Officers – the four key considerations (identified by my Commissioners and adopted within the Home Office Codes of Practice) are often not fully addressed
 - A surfeit of surveillance tactics and equipment being requested and granted but rarely fully used when reviews and cancellations are examined
 - At cancellation, a lack of adequate, meaningful update for the Authorising Officer to assess the activity conducted, any collateral intrusion that has occurred, the value of the surveillance and the resultant product; with, often, a similarly paltry input by Authorising Officers as to the outcome and how product must be managed
 - On the CHIS documentation, a failure to authorise a CHIS promptly as soon as they have met the criteria; and in many cases (more typically within the non-law enforcement agencies) a failure to recognise or be alive to the possibility that someone may have met those criteria
 - Some risk assessments can be over-generic and not timeously updated to enable the Authorising Officer to identify emergent risks
 - Discussions that take place between the Authorising Officer and those charged with the management of the CHIS under Section 29(5) of RIPA are not always captured in an auditable manner for later recall or evidence
 - As resources become stretched within police forces, the deputy to the person charged with responsibilities for CHIS under Section 29(5)(b) often undertakes those functions: as with an Authorising Officer, this is a responsibility which cannot be shared or delegated
 - Outside pure documentary issues, a lack, in some public authorities, of ongoing refresher training for those that require it; and a need for an improved level of personal engagement in the oversight process by the Senior Responsible Officer.

The need for inspection

- 5.38.** I, along with my Inspectorate team, am often asked why an OSC inspection is necessary when there has been no use of the powers I oversee, or where compliance levels have attained good heights.
- 5.39.** Without OSC inspection of public authorities, there would be no external, independent oversight of several hundred organisations which have a mandate to conduct investigations and tackle criminal behaviour. Although these bodies may be able to achieve this effectively through overt means, Parliament and the public expect there to be someone who can check and test such a claim. My Inspectors and Assistant Surveillance Commissioners occasionally discover activities that ought to have been authorised, particularly, for example, in social media monitoring.
- 5.40.** My inspections are not so frequent as to be burdensome, and require no preparation on the part of those being inspected – though most elect to prepare. Hurriedly delivered training just prior to the arrival of my Surveillance Inspectors and Assistant Surveillance Commissioners, or errors identified through a last minute internal check of the Central Record and documentation, make a poor impression, however well-intentioned.
- 5.41.** Also, although good levels of compliance can be, and usually are, achieved and maintained, change in a few key parties, or excessive restructuring and cost saving measures, can cause standards to slip.

Public reassurance

- 5.42.** During the past year disclosures by Edward Snowden; inquiries into the police service for historical actions; and current court hearings about interception and the activities of undercover officers have given rise to public concern.
- 5.43.** No system of oversight can ever be perfect. But the OSC is, predominantly, judge-based and its complete independence underpinned by the legislation. I, and those assisting me, have unfettered access to the records of authorised covert activities, and can question, and if necessary challenge, those charged with their authorisation and management. The statistics provided by the public authorities show a relatively small increase in the use of the powers by the law enforcement agencies, with a considerable decline in the authorisation of directed surveillance by the other public authorities over the past year. It is also highly unlikely, given the robust processes and internal scrutiny in place within public authorities, let alone ever-tightened resources, that, save in very rare circumstances, unauthorised activity has occurred.
- 5.44.** In general, all public authorities welcome the OSC inspection process and wish to achieve good levels of compliance with the legislation. We have never encountered an Authorising Officer who does not recognise the weight and importance of his statutory role of independence and responsibility. Having read the several hundred reports completed for me this year, I am satisfied that the public has no cause for any general concern. If it were otherwise I would say so.

6. The year ahead

- 6.1. I anticipate continued development of collaboration agreements in England and Wales.
- 6.2. My office will undertake the inaugural inspection of the National Crime Agency in May 2014.
- 6.3. I will monitor the impact of Statutory Instrument 2013/2788 as it affects my office in its management of the notification and prior approval renewal process of “relevant sources”.
- 6.4. I will monitor the impact of these additional responsibilities on my budget and request additional funding if the increase for the coming financial year proves to be insufficient.
- 6.5. I will continue to press the Home Office for a satisfactory and affordable secure means of communication amongst my geographically dispersed Commissioners and Surveillance Inspectors and with our stakeholders.
- 6.6. I will await the outcome of the Scottish Independence Referendum in September 2014 and the impact on my jurisdiction in Scotland of subsequent legislation, if any.

Appendix A

**AUTHORISATIONS GIVEN UNDER PART III OF THE POLICE ACT 1997 (AS AMENDED)
DURING LAST THREE YEARS**

	2011-2012			2012-2013			2013-2014		
	England, Wales & N.I	Scotland	Total	England, Wales & N.I	Scotland	Total	England, Wales & N.I	Scotland	Total
Total number of authorisations (not including renewals)	2495	151	2646	2343	97	2440	2631	58	2689 ⁷

PRIOR APPROVALS

	2011-2012			2012-2013			2013-2014		
	England, Wales & N.I	Scotland	Total	England, Wales & N.I	Scotland	Total	England, Wales & N.I	Scotland	Total
Number of cases	212	24	236	225	18	243	183	4	187 ⁸
By category:									
• Dwelling	156	20	124	158	16	174	141	3	144
• Office premises	34	3	52	47	2	49	31	1	32
• Hotel bedroom	19	1	23	17	0	17	11	0	11
• Matters subject to legal privilege	3	0	4	1	0	1	0	0	0
• Confidential journalistic material	0	0	0	1	0	1	0	0	0
• Confidential personal information	0	0	0	1	0	1	0	0	0

⁷ Statistics provided by the law enforcement agencies.

⁸ Statistics provided from the Office of Surveillance Commissioners Authorisation Register (OSCAR) database.

Appendix B

**AUTHORISATIONS GIVEN UNDER PART III OF THE POLICE ACT 1997 (AS AMENDED)
FOR THE LAST THREE YEARS BY OFFENCE**

	2011-2012			2012-2013			2013-2014		
	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total	England, Wales & N.I.	Scotland	Total ⁹
Assault	45	1	46	51	0	51	65	1	66
Burglary/Robbery	119	1	120	269	0	269	235	0	235
Bribery and Corruption	-	-	-	35	0	35	28	0	28
Conspiracy	6	0	6	34	0	34	77	0	77
Drug trafficking	1334	95	1429	1397	71	1468	1295	49	1344
Firearms offences (including armed robbery)	175	4	179	115	4	119	83	1	84
Fraud	-	-	-	59	0	59	92	1	93
Kidnap/extortion	117	2	119	140	0	140	150	2	152
Money laundering	184	5	189	148	0	148	105	1	106
Murder/loss of life	191	30	221	189	11	200	146	2	148
Organised illegal immigration	24	0	24	13	0	13	19	0	19
Sexual offence	-	-	-	40	2	42	39	0	39
Tax evasion	21	0	21	14	0	14	8	0	8
Terrorism	18	2	20	14	0	14	16	1	17
Other	261	11	272	49	1	50	31	0	31

⁹ Statistics extracted from the Office of Surveillance Commissioners Authorisation Register (OSCAR) database.

Appendix C

**AUTHORISATIONS GIVEN UNDER PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 AND THE
REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000
DURING THE LAST THREE YEARS**

	2011-2012			2012-2013			2013-2014		
	England, Wales & N.I	Scotland	Total	England, Wales & N.I	Scotland	Total	England, Wales & N.I	Scotland	Total
Total number of authorisations (not including renewals)	364	44	408	336	26	362	383	9	392¹⁰

¹⁰ Statistics provided by the law enforcement agencies.

Appendix D

**AUTHORISATIONS GIVEN UNDER PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000
AND THE REGULATION OF INVESTIGATORY POWERS (SCOTLAND) ACT 2000
IN THE LAST THREE YEARS BY OFFENCE**

	2011-2012			2012-2013			2013-2014		
	England, Wales & N.I	Scotland	Total	England, Wales & N.I	Scotland	Total	England, Wales & N.I	Scotland	Total ¹¹
Assault	10	0	10	5	0	5	15	0	15
Bribery and Corruption	-	-	-	3	0	3	4	0	4
Burglary/Robbery	10	0	10	3	0	3	9	0	9
Conspiracy	2	0	2	0	0	0	5	0	5
Drug trafficking	169	15	184	79	4	83	118	0	118
Firearms offences (including armed robbery)	21	1	22	4	0	4	9	0	9
Fraud	-	-	-	2	0	2	7	1	8
Kidnap/extortion	11	0	11	3	0	3	3	0	3
Money laundering	19	1	20	2	0	2	9	0	9
Murder/loss of life	81	22	103	31	4	35	53	2	55
Organised illegal immigration	2	0	2	3	0	3	1	0	1
Sexual offence	-	-	-	1	0	1	5	0	5
Tax evasion	4	0	4	0	0	0	0	0	0
Terrorism	2	2	4	1	0	1	2	0	2
Other	33	3	36	1	0	1	2	0	2

¹¹ Statistics extracted from the Office of Surveillance Commissioners Authorisation Register (OSCAR) database.

Inspection priorities

Appendix E

Subject to annual inspection

British Transport Police
 Department for Work and Pensions
 Environment Agency
 HM Revenue and Customs
 Home Office – Immigration Enforcement
 Home Office – Border Force
 National Crime Agency (*formerly the Serious Organised Crime Agency*)
 National Offender Management Service - HM Prison Service
 National Resources Wales
 Northern Ireland Prison Service
 Office of Fair Trading (*now the Competition and Markets Authority*)
 Police forces for England and Wales
 Police Scotland
 Police Service of Northern Ireland
 Port of Dover Police
 Port of Liverpool Police
 Royal Mail Group plc
 Royal Military Police
 Scottish Prison Service

Subject to inspection every other year

British Broadcasting Corporation
 Care Quality Commission
 Civil Nuclear Constabulary
 Department for Environment and Rural Affairs
 Department for Business, Innovation and Skills
 Driver and Vehicle Standards Agency
 Gangmasters Licensing Authority
 Health and Safety Executive
 Independent Police Complaints Commission
 Marine Scotland
 MoD Police and Guarding Agency
 NHS Counter Fraud and Security Management Service
 NHS Scotland Counter Fraud Services
 Office of Communications
 Office of the Police Ombudsman for Northern Ireland
 Police Investigations and Review Commissioner
 Royal Air Force Police and Security Service
 Royal Navy Police
 Scottish Accountant in Bankruptcy
 Scottish Environmental Protection Agency
 Serious Fraud Office
 Transport Scotland
 Welsh Assembly Government

Subject to inspection every third year

Charity Commission

Department of Health – Medicines and Healthcare Products Regulatory Agency

Financial Conduct Authority

Fire and Rescue Services in England and Wales

Fire and Rescue Services in Scotland

Food Standards Agency

Gambling Commission

General Pharmaceutical Council

HM Chief Inspector of Education, Children's Services and Skills

Local Authorities (Unitary, Metropolitan, London Boroughs, County, District, Scottish and Welsh)

Maritime and Coastguard Agency

Office of the Information Commissioner

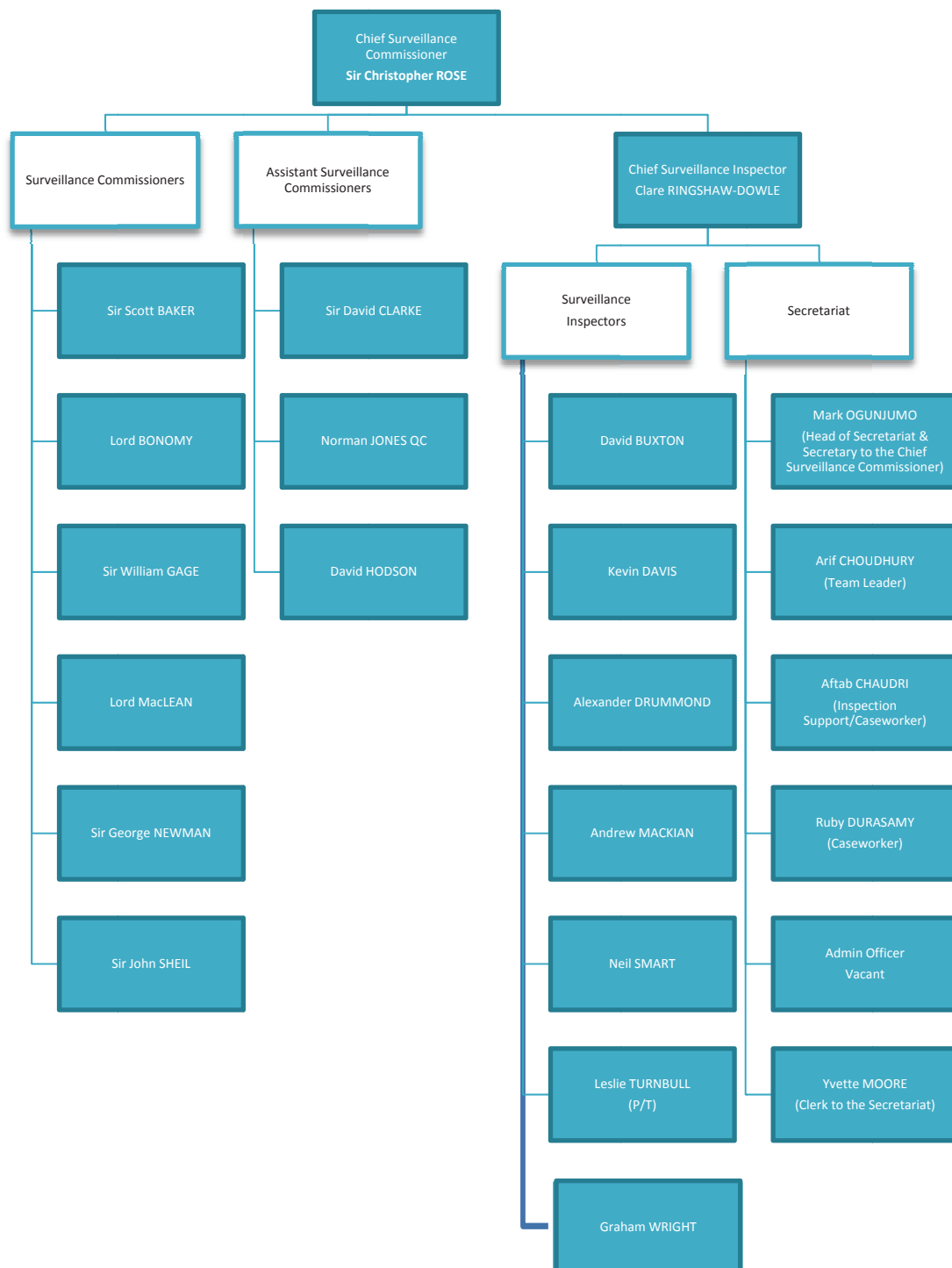
Postal Services Commission

Appendix F

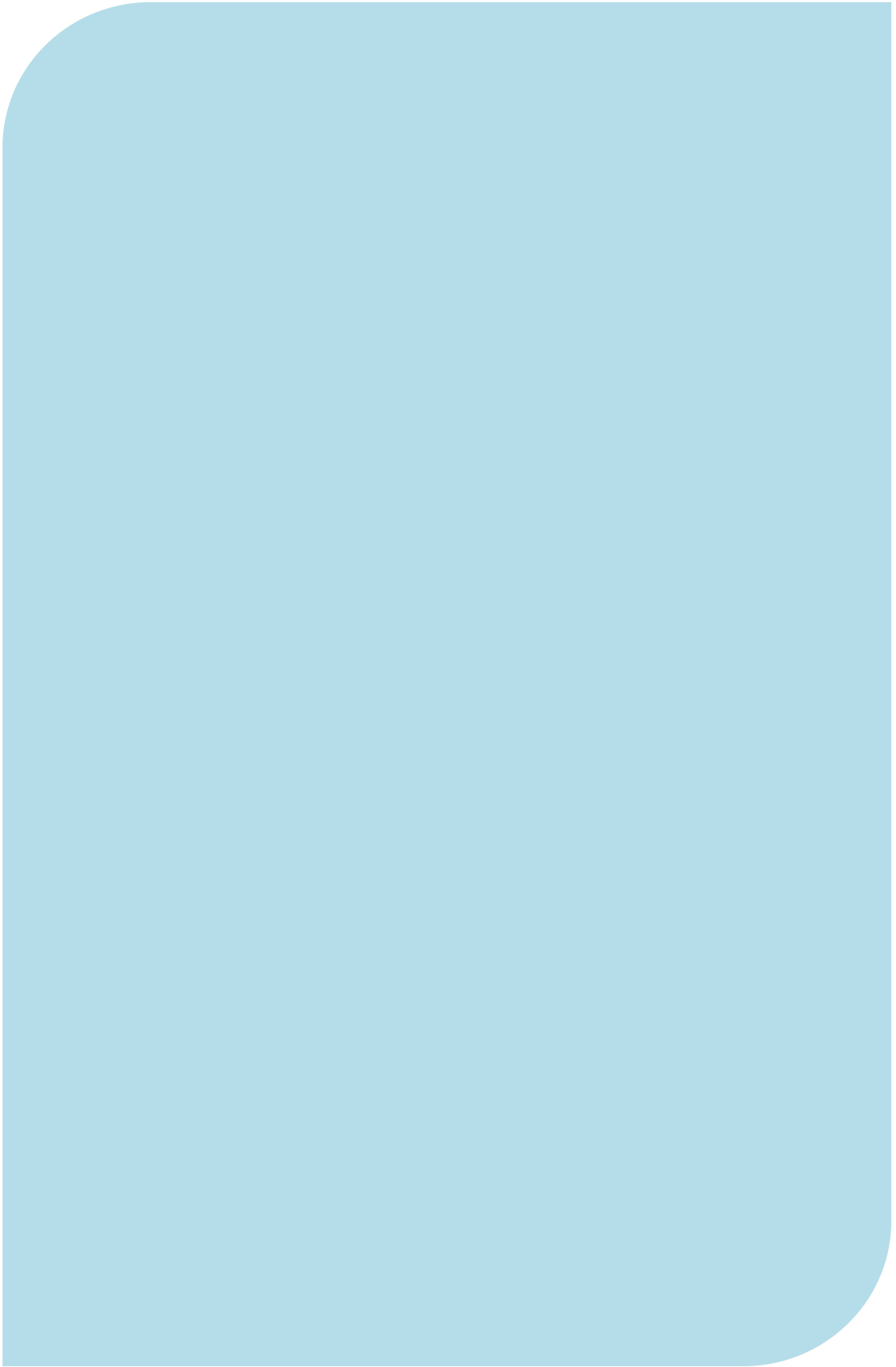
OSC expenditure for April 2013 – March 2014

Description	Total (£)
Staff costs, including recruitment and training	1,207,257
Travel and subsistence	119,880
Conferences and meetings	14,303
IT and telecommunications	1,650
Stationery, including printing, postage and publications	5,253
Office and security equipment	11,875
Accommodation	123,600
Other	670
Total	1,484,488

MEMBERS OF THE OFFICE OF SURVEILLANCE COMMISSIONERS AS AT 31 MARCH 2014



Members who have left during the reporting period:
 HH Dr Colin Kolbert
 Mr Sam Lincoln





Office of Surveillance
Commissioners

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Leicester
City Council

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All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Audit & Risk Committee

29 September 2014

PROPOSED CHANGES TO THE CONTRACT PROCEDURE RULES AND FINANCE PROCEDURE RULES

Report of the Director of Finance

1. Purpose of Report

- 1.1. To inform the Committee of proposed changes to the Contract Procedures Rules (CPR) and Finance Procedure Rules (FPR).

2. Recommendations

- 2.1. The Committee is asked to consider the new CPR and changes to the FPR and make any comments to Officers and/or Full Council.

3. Summary

- 3.1. The CPR are a legal requirement for the Council and set out the rules and processes which must be followed when entering into contracts for the purchase/hire of goods, disposal of assets and purchase of works and services.
- 3.2. Over the past year, a number of changes to council policy, procurement legislation and the Council's procurement structure have taken place which mean the rules need to be updated. Additionally a general need to update the CPR to address issues and improve procurement processes has been identified.
- 3.3. New CPR have been drafted with consultation with senior management and relevant service areas across the Council, including Finance, Legal and Internal Audit. These are attached as Appendix 1. It is proposed to present these to Full Council for approval on 13th November 2014, although timescales may change if there are delays to the new procurement legislation coming into force.
- 3.4. To ensure consistency between the Council's rules and the law, it is anticipated that the new CPR will take effect from the same date as the new Public Contract Regulations (the UK law which implement the EU Directive referred to above). This date has not yet been set, but is expected to be before the end of the current financial year.
- 3.5. As part of this process it was identified that there was some cross-over between the CPR and FPR and therefore changes to the section 3 of the FPR would be needed to ensure there was no contradiction between the two sets of Rules. It is also proposed to

amend the rule which effectively prevents payment in advance to contractors, as this is often justified, particularly when working with SMEs and VCOs. These proposed changes are set out at Appendix 2.

4. Report

4.1. The key changes from the current rules:

- a) Requirement to source low value contracts locally where possible and ensure quotes are sought from local companies where the opportunity is not advertised;
- b) Change in processes to reflect the existing 'PAN' process ("Advertised Quotation") which has maximised the number of low value opportunities made available to local business via Source Leicestershire;
- c) Thresholds changed so current £2.5k threshold is changed to £10k; giving greater flexibility of process compared to current policy for contracts between £1k and £10k, whilst maintaining the recent strategy of advertising these contracts wherever possible;
- d) The current requirement to follow a full tender procedure for contracts over £30k is lifted to £75k to make procurement easier, and allow greater flexibility in how procurement processes are customised to the supply market to ensure they are accessible for local SMEs and VCOs;
- e) New higher thresholds for works contracts to align with the higher EU thresholds for works;
- f) Removal of the network of Approved Procuring Officers which is replaced by reference to Specialist Procurement Teams and the new Procuring Officer, who will in most cases be somebody within one of those teams, as is already current policy;
- g) To reflect this centralisation, a lot more of the approvals are required from the Head of Procurement/City Barrister rather than Divisional Directors; however a procurement process cannot start or be awarded without the approval of the service area;
- h) Updated to reflect new legislation/policy and remove some of the inconsistencies;
- i) Greater flexibility in relation to clarifying/negotiating with bidders to encourage a more commercial approach;
- j) Rules focus on what must be done with guidance to be developed on what should be done
- k) Addition of Appendix 2 to allow the rules to be applied to schools more practically.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

There are no significant direct financial implications from changing these rules. It is anticipated that the resource required to conduct the processes set out is already in place in the council's procurement teams. The rules are aimed at ensuring procurement activity derives best value and maximum economic benefit for Leicester

5.2. Legal Implications

Legal Services have been consulted in drafting the new Rules and their comments considered at each new draft. The Rules have been drafted to ensure the Council

complies with current and forthcoming legislation in terms of procurement and to protect the Council from legal challenge when conducting procurement activity.

6. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References within the Report
Equal Opportunities	Yes	Procurement has the potential to impact on all of these implications, and the guidance which is being developed to accompany these Rules will detail how this should be done. The centralisation of procurement activity to a fewer number of professionals will help ensure this is done in a consistent and proportionate manner.
Policy	Yes	
Sustainable and Environmental	Yes	
Crime and Disorder	Yes	
Human Rights Act	Yes	
Elderly/People on Low Income	Yes	
Corporate Parenting	Yes	
Health Inequalities Impact	Yes	
Risk Management	Yes	Risk Management and Internal Audit have been consulted when developing these new procedures which have been drafted to provide appropriate controls to risks that occur during all procurement processes. The Rules sit alongside the Council's Risk Management Strategy and Policy.

7. Consultations

7.1. See paragraph 3.3 above.

8. Report Author

8.1. Neil Bayliss
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PREAMBLE

Defined words are shown with initial capital letters and definitions given in Appendix 1 at the end of these Rules.

1. The Contract Procedure Rules

- 1.1 These Contract Procedure Rules are a legal requirement and are part of the Council's Constitution. Section 135 of the Local Government Act 1972 requires every local authority to make standing orders with respect to Contracts for the supply of goods or for the execution of works and provides that local authorities may make standing orders in respect of other Contracts. Contract Procedure Rules fulfil these statutory requirements. Contract Procedure Rules set out the basic principles that must be followed by everyone proposing to enter into any Contract on behalf of the Council. Following these Contract Procedure Rules ensures that the Council meets its legal obligations and therefore it is important that all Officers understand, apply and adhere to Contract Procedure Rules.
- 1.2 The Public Contracts Regulations 2014, which are derived from EU public procurement law also require the Council to follow specific processes for certain Contracts. Contract Procedure Rules are designed to ensure that open, fair and transparent processes are applied throughout the whole commissioning and procurement cycle in order to help secure best value and continuous improvements for the Council and protect the Council (and its officers and members) in the event of challenge and dispute.
- 1.3 Contract Procedure Rules apply to all the Council's departments (including arrangements with the Voluntary & Community Sector (VCS)). This means that every department, internal trading department and organisation or external partner managing Contracts on the Council's behalf must comply with the Contract Procedure Rules.
- 1.4 If there is any doubt or lack of clarity as to the meaning or application of these Contract Procedure Rules, Officers must seek advice from Procurement Services and/or Legal Services.

2. Aims

- 2.1 These Contract Procedure Rules aim to:
 - 2.1.1 achieve best value and deliver savings from the market;
 - 2.1.2 achieve accountability and transparency at all levels within the Council, and ensure an adequate audit trail is maintained;
 - 2.1.3 ensure that Officers comply with legal requirements and follow proper, fair and proportionate procedures for the involvement and selection of Bidders and the award of Contracts;
 - 2.1.4 ensure that all procurement processes reflect appropriate quality requirements and that Submissions are judged by objective criteria set out in Invitation to Tender or Request for Quotation documentation;

- 2.1.5 ensure that all procurement processes are delivered within an appropriate legal framework;
- 2.1.6 ensure that appropriate levels of monitoring exist to ensure compliance and that these Contract Procedure Rules are regularly reviewed to take account of new requirements;
- 2.1.7 ensure that as many potential suppliers as possible are able to identify opportunities and to put themselves forward
- 2.1.8 ensure that the Council's wider policy objectives are promoted (including environmental sustainability, economic regeneration, business continuity);
- 2.1.9 reduce the risk of fraud, bribery and corruption.

3. Compliance with Contract Procedure Rules

- 3.1 Where the Council fails to comply with procurement legislation, it leaves itself open to challenges from Bidders/Contractors who may bring claims for damages against the Council. Non-compliance may also lead to the Council being fined and/or having funding withdrawn.
- 3.2 Failure to comply with the provisions of Contract Procedure Rules may be considered as misconduct and result in disciplinary action. Where it is considered appropriate, misconduct may be reported to the Police with potential criminal consequences for any person involved.
- 3.3 Responsibility for compliance with Contract Procedure Rules rests with anyone who carries out procurement of goods, services or works for, or on behalf of, the Council.

4. Procurement Guidance

- 4.1 The Head of Procurement, where appropriate in consultation with the City Barrister, may from time to time publish procurement processes and/or guidance to amplify and fine tune the steps to be taken as part of procurement and contract management processes or vary the standard procurement documents.
- 4.2 Where there is any ambiguity or conflict between these Contract Procedure Rules and or guidance issued under this Rule, the provisions of Contract Procedure Rules shall take precedence.

5. Processes

- 5.1 Tender and Quotation processes assist Procuring Officers in meeting their obligation to deliver a fair and transparent procurement process that encourages competition and delivers best value solutions that meet the requirements of the Council.
- 5.2 The higher the value and risk, the more rigorous the process. The Council recognises the administrative cost involved in tendering Contracts and provides for less exhaustive processes for lower value Contracts. These Contract

Procedure Rules set value levels and describe how these will apply together with the procedures that must be followed. A risk assessment should be conducted as required by the Council's Risk Management Strategy and Policy and this will inform the procurement process and documentation in many ways.

- 5.3 The use of electronic quotation and tendering processes helps to reduce the burden, improve transparency and reduce the Council's carbon footprint.
- 5.4 The procedures are designed in incremental steps depending upon the value of the Contract. Contracts that exceed the EU Thresholds are subject to the most rigorous processes.

6. Transparency

- 6.1 The Council is required to ensure that its processes are fair and transparent and will publish data in accordance with the requirements stated in the Local Government Transparency Code 2014 and any additions or amendments thereto.

7. Social Value

- 7.1 On 31st January 2013 the Public Services (Social Value) Act 2012 came into effect. The Act requires the Council under certain circumstances to consider how the economic, social and environmental wellbeing of Leicester may be improved by services that are to be procured, and how procurement activity may secure these improvements.
- 7.2 The statutory requirements of the Public Services (Social Value) Act 2012 only apply to services contracts over the EU Threshold; however, the Council will, wherever possible, implement the principles of social value procurement into the commissioning and procurement of all Large and EU Contracts, and where appropriate Intermediate Contracts.

8. Collaboration

- 8.1 There may be demonstrable benefits of collaborative procurement with the wider public sector, as well as (where permitted) the private and voluntary sectors, and the Council should consider taking advantage of these where appropriate and including the opportunity for others to join in Contracts that it is procuring.

9. Best Value & the Delivery of Savings

- 9.1 All Officers must be mindful of their responsibility in securing Best Value through all procurement activity and must consider how savings can be delivered.

10. Contracts Database and Electronic Tendering System

- 10.1 Procuring Officers must record all Intermediate, Large and EU Contracts in the Contracts Database.

- 10.2 With the introduction of the Electronic Tendering System, many of the requirements for security and segregation required for the processing of Submissions are covered by the security features built into the System. In addition the System is fully auditable.
- 10.3 In exceptional circumstances there may be occasions when use of the Electronic Tendering System is not appropriate or possible. E-mail or hard copy Submissions may be required.
- 10.4 Any reference in these Rules to “written”, or “in writing”, will be satisfied by an e-mail or process within the Electronic Tendering System.

11. Contract Management

- 11.1 Contracts must be properly managed after they have been awarded to ensure compliance and continuous improvement. Therefore in addition to the processes by which Contracts are established, these Contract Procedure Rules also cover aspects of Contract management which relate to ongoing Contract variation, price control or termination of Contracts at any time during the Contract period.
- 11.2 The majority of the ‘life’ of most Contracts is spent in Contract management and effective performance management will help ensure that the Contract delivers what is intended at the intended price. Contracts should include an appropriate framework for Contract monitoring, quality assurance and measurement of continuous improvement. The need to maintain proper and auditable records cannot be over emphasised.

GENERAL PROVISIONS

12. Status

- 12.1 In the event of any inconsistencies between the provisions of Contract Procedure Rules and the provisions of the law, then the provisions of the law shall prevail.
- 12.2 These Contract Procedure Rules:
- 12.2.1 are made under Section 135 of the Local Government Act 1972 and all other relevant enabling powers;
 - 12.2.2 are applicable to all Members, Officers and staff, including agency staff, interims and consultants, of the Council;
 - 12.2.3 are applicable to all departments of the Council, including the Council's trading organisations and organisations for which the Council is the accountable body;
 - 12.2.4 are applicable where the Council is acting as agent for another body (principal) unless the principal directs otherwise;
 - 12.2.5 must be adopted by any external Contractor that is acting as an agent of the Council and empowered to form Contracts on behalf of the Council and by any person who is not an Officer of the Council engaged to manage a Contract on behalf of the Council;
 - 12.2.6 shall be interpreted so far as possible to ensure the aims set out at Rule 2 of these Contract Procedure Rules are achieved;
 - 12.2.7 are not applicable to expenditure between or within Council departments
 - 12.2.8 are applicable to Maintained Schools, as detailed/amended in Appendix 2, but are not applicable to Academies or Free Schools.

13. Scope

- 13.1 These Contract Procedure Rules are applicable to the formation of Contracts and to any matters as may arise in the process of managing Contracts including those which change, vary or terminate any Contract during its term, or extend its term.
- 13.2 These Contract Procedure Rules are applicable to all Contracts for the:
- 13.2.1 provision, supply, hire to the Council of goods, works or intellectual property;
 - 13.2.2 for the provision of services, including consultancy, to the Council;
 - 13.2.3 works and services Concession Contracts;
 - 13.2.4 disposal of capital assets;
- which may include Contracts from which the Council receives an income.

- 13.3 These Contract Procedure Rules apply to the award of a contract where a sub-contractor or supplier is to be nominated by the Council to a main Contractor.
- 13.4 These Contract Procedure Rules are not applicable to:
- 13.4.1 Contracts for the acquisition or disposal of any interest in land;
 - 13.4.2 Contracts of employment;
 - 13.4.3 Contracts for the lending or borrowing of money;
 - 13.4.4 Grants that are given to support the aims and objectives of an organisation or as gap funding, so long as they fall outside of the following definition of procurement (taken from the Public Contract Regulations 2014): “the acquisition by means of a public contract of works, supplies or services by [the Council] from economic operators chosen by [the Council], whether or not the works, supplies or services are intended for a public purpose”;
 - 13.4.5 Arrangements with other public bodies which meet the criteria set out in the Public Contract Regulations (EU Dir., Art. 12), so long as the advice and prior written approval of the City Barrister has been obtained.

14. Private Interests

- 14.1 No Member, Officer or agent of the Council, shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the Council.
- 14.2 Employees shall comply with the Code of Conduct for Officers (Appendix V of the Local Conditions of Service). Section 7 of the Code deals with ‘Balancing Personal and Work Life’ and includes requirements for registering interest and maintaining the highest standards of probity and fairness.
- 14.3 Members’ interests are governed by the Code of Conduct for Members. This includes the requirement for Members to declare interests in Contracts to the City Barrister.
- 14.4 Whenever any Member, Officer or other person involved in a procurement process on behalf of the Council has any interest, or could be perceived to have any interest, in a Bidder or potential Bidder, this interest must be notified in writing to the Procuring Officer, or (e.g. in the case of the Procuring Officer), to the Head of Procurement and/or City Barrister. Any such interest must be declared even if it has been declared on an earlier occasion, either generally or in relation to another contract/procurement exercise. The Head of Procurement, in consultation as appropriate with the City Barrister, will decide how, if at all, the process, or the role of the Officer concerned, should be adjusted to ensure fairness can be demonstrated, and to reduce any potential accusation of misconduct, eliminate bias and maintain the integrity of the process.

THRESHOLDS

15. Financial Parameters

- 15.1 Before the procurement of any Contract is begun the Commissioning Officer must calculate its Estimated Value in accordance with this Rule.
- 15.2 The Estimated Value shall be calculated as follows:
- 15.2.1 Where the Contract period is fixed the Estimated Value shall be the total estimated maximum value of the supplies, services or works to be supplied over the period covered including any extensions to the Contract;
 - 15.2.2 Where the Contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;
 - 15.2.3 For trials or pilots the Estimated Value shall be the value of the scheme or contracts which may be awarded as a result;
 - 15.2.4 For Concessions the Estimated Value shall include the total income, regardless of source, to the Contractor over the Contract period;
 - 15.2.5 The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties;
 - 15.2.6 Periodic purchases for the same requirement, whether that is from the same or different suppliers, must be aggregated over a minimum of a 12-month period;
 - 15.2.7 Requirements for any department or section of the Council should be included (no department or section is permitted to regard itself as a 'discrete operational unit' within the terms of the Public Contracts Regulations);
 - 15.2.8 Where the Council may be contributing only part of the total value of a Contract, it is nevertheless the total Estimated Value that must be applied in determining the correct procedures to be applied under these Rules;
 - 15.2.9 The value should be calculated considering the total consideration that the Contractor(s) will receive in return for carrying out the Contract, whatever the nature or source of the consideration.
- 15.3 Where there is any doubt as to the Estimated Value then the procedure for the higher categorisation must be used.
- 15.4 The requirement shall be looked at as a whole and must not be artificially split to avoid competition.
- 15.5 In calculating the Estimated Value, the Commissioning Officer shall take account of historic cost and an assessment of future trends or, where the requirement is new, the best estimate of value available at the time.

15.6 The following table sets out the thresholds for categorisation of Contracts into value bands based on the Estimated Value as calculated following the principles set out above.

Contract Categorisation	Value	Value
	Goods & Services	Works & Concessions
Minor Contract	£0 - £1,000	£0 - £5,000
Small Contract	£1,000 - £10,000	£5,000 - £25,000
Intermediate Contract	£10,000 - £75,000	£25,000 - £250,000
Large Contract	£75,000 – EU Threshold	£250,000 – EU Threshold
EU Contract	Over EU Threshold	Over EU Threshold

15.7 Subject to the prior written approval of the Head of Procurement the Procuring Officer may make use of the “Small Lots” provision within the Public Contract Regulations (EU Dir., Art. 5, para. 10), and therefore not aggregate the value of all requirements. The Procuring Officer must follow a procedure to award the Contract based on the value of that ‘Small Lot’ alone and how it would be categorised in the table in Rule 15.6 above.

APPROVALS & REPORTING

16. Procurement Plan

- 16.1 The Executive is responsible for periodically approving a Procurement Plan. The Procurement Plan will consist of a list of EU Contracts expected to be procured to alert Members, the public and potential Bidders.
- 16.2 Before procurement of any EU Contract reaches the Advertisement stage, it must be approved by the Executive through either:
- 16.2.1 Inclusion in the Procurement Plan; or
 - 16.2.2 Approval of a separate Executive Decision report recommending commencement of procurement.
- 16.3 Where an EU Contract is being procured without an Advertisement stage, it must be approved by the Executive through either:
- 16.3.1 Inclusion in the Procurement Plan; or
 - 16.3.2 Approval of a separate Executive Decision report recommending the procurement;
- Prior to the Contract being awarded.
- 16.4 The award of any EU Contract pursuant to a procedure approved by the Executive as per Rule 16.2 or 16.3 is delegated to the appropriate Divisional Director in consultation with the Head of Procurement and the City Barrister.
- 16.5 The award of all non-EU Contracts is delegated to Officers as set out in Rule 28 below.

17. Procurement Pipeline

- 17.1 The Head of Procurement will maintain a Procurement Pipeline and make this available on the Council's website to Members, the public and potential Bidders, which will comprise:
- 17.1.1 the Procurement Plan; and
 - 17.1.2 a similar list of known Intermediate Contracts and Large Contracts.

18. Procurement Strategy

- 18.1 The Executive is responsible for periodically approving a Procurement Strategy, which will include the Council's approach to procurement and how procurement and management of Contracts will contribute to the overall aims and objectives of the Council.

19. Monitoring & Reporting

- 19.1 The Audit & Risk Committee will receive a report at least annually to include:
- 19.1.1 Delivery of the Procurement Strategy;
 - 19.1.2 Achievement of the Procurement Plan;

- 19.1.3 Compliance with these Rules, including a summary of Waivers;
- 19.1.4 Any changes to these Rules made under Rule 20 below; and
- 19.1.5 Any proposals for changes to these Rules to be made to Full Council.

20. Minor Amendments to these Rules

- 20.1 The Chief Operating Officer, in consultation with the Head of Procurement and the City Barrister, may from time to time amend the thresholds in the table in Rule 15.6.
- 20.2 The City Barrister, in consultation with the Head of Procurement, may from time to time amend these Rules:
 - 20.2.1 To correct an error or clarify an ambiguity;
 - 20.2.2 To reflect changes in the management structure, working practices and responsibilities, e.g. as set out elsewhere in the Constitution; and
 - 20.2.3 To reflect changes in the Law where otherwise these rules would not be constituent with the Law;
- 20.3 If changes to these Rules are made pursuant to Rule 20.1 or 20.2 above, the City Barrister shall cause such changes to be published and the Constitution to be amended.

21. Periodic Review of the Rules

- 21.1 The Head of Procurement and City Barrister, in consultation with the Chief Operating Officer, shall at least every five years review these Rules and, if deemed appropriate, propose amendments to Full Council, following an initial report to Audit & Risk Committee.

22. Financial Approval

- 22.1 Before procurement of any Contract reaches the Advertisement stage, it must have financial approval from the appropriate Officer, as set out in the table below:

Contract Categorisation	Financial Approval
Minor Contract	Budget Holder(s)
Small Contract	Budget Holder(s)
Intermediate Contract	Head of Service
Large Contract	Divisional Director and Head of Finance
EU Contract	Divisional Director and Head of Finance

EXCLUSIONS, EXEMPTIONS & WAIVERS

23. No Competition

- 23.1 The actions permitted under this Rule must be considered alongside the requirements of EU Directives, the Treaty on the Functioning of the European Union (TFEU), Acts of Parliament and UK Regulations, all of which take precedence over these Rules. Procuring Officers should seek advice from Procurement Services and Legal Services.
- 23.2 The Commissioning Officer may directly negotiate the award of a Contract without competition, to one or more Contractors for the following social care/education services:
- 23.2.1 residential placements sought for an individual with a registered care provider of their choice;
 - 23.2.2 supported living services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990;
 - 23.2.3 individual school placements sought for a child with Special Educational Needs (SEN);
 - 23.2.4 social care and special education packages managed by or on behalf of individual clients under the personalisation agenda; and
 - 23.2.5 where certain needs of an individual (whether an adult or a child) require a particular social care package, which is only available from a specific Contractor in the opinion of the Divisional Director.

In each case the Divisional Director must ensure that the Contractor meets the relevant national minimum standards (for example those standards set by the Health and Social Care Act 2008, OFSTED and HMI) and that a record of the reasons for the choice of the Contractor is maintained on the individual's case notes. A written record of the annual cumulative expenditure with each Contractor will be maintained by each division and made available for audit.

- 23.3 The Commissioning Officer may award a Minor or Small Contract without competition, following direct negotiation, to one or more Contractors from the VCS where, if the Council were not to contract with the VCS organisation it would significantly affect customers, or other greater gains or benefits would be lost.

24. Exemptions & Waivers

- 24.1 The Commissioning Officer may request an Exemption to the Contract Procedure Rules to directly negotiate the award of a Contract without competition by completing a Form for Exemptions & Waivers (FEW) for Contracts for:
- 24.1.1 goods, services or works which are available only as proprietary or patented articles; services or works from one Contractor for which there is no reasonably satisfactory alternative available in the

European Union; and for repairs to, or the supply of, parts of existing proprietary or patented articles or Works, including machinery or plant;

- 24.1.2 works of art, museum specimens or historical documents (the completion and authorisation of a FEW is not required if the Contract is for the Arts & Museum Service);
- 24.1.3 particular artistes and performers and bought-in productions (the completion and authorisation of a FEW is not required if the Contract is for De Montfort Hall);
- 24.1.4 those genuine unforeseen emergencies (not of the Council's own making), where immediate action is required, including in order to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004;
- 24.1.5 Goods, Services or Works where one of the criteria for use of the Negotiated Procedure without Prior Publication set out in the Public Contract Regulations is met;
- 24.1.6 certain services set out in the Public Contract Regulations: (EU Dir., Art. 10):
 - a) certain legal services;
 - b) certain financial services;
 - c) public passenger transport services by rail or metro;
 - d) certain civil defence, civil protection or danger protection services.

24.2 When none of the circumstances listed in Rule 24.1 apply, the Commissioning Officer may, following consultation with the Head of Procurement, request a Waiver of the Contract Procedure Rules by completing a Form for Exemptions & Waivers (FEW).

24.3 The following table sets out who may authorise Exemptions and Waivers.

Contract Categorisation	Exemption	Waiver
Minor Contract	Head of Service	Head of Service
Small Contract	Divisional Director	Divisional Director & Head of Procurement
Intermediate Contract	Divisional Director & Head of Procurement	Divisional Director & Head of Procurement
Large Contract	Divisional Director & Head of Procurement	Divisional Director & Head of Procurement & City Barrister
EU Contract	Divisional Director & Head of Procurement & City Barrister	Divisional Director, Head of Procurement, City Barrister & Chief Operating Officer

24.4 Exemptions and Waivers may also be authorised by the Executive supported by formal advice from the Head of Procurement and City Barrister.

25. In-House

- 25.1 Where an in-house service is able to provide the Goods, Services or Works required by another department/service of the Council, the Commissioning Officer should consult with the in-house service prior to commencing a procurement exercise.
- 25.2 Where the Commissioning Officer considers it more advantageous to the Council as a whole to procure the service externally rather than use the in-house service, the Contract Procedure Rules must be followed.
- 25.3 Where the Commissioning Officer decides to engage the in-house service, these Contract Procedure Rules do not apply.

TERMS AND CONDITIONS

26. Contract Duration

- 26.1 A Contract may not be of indeterminate duration or have a duration exceeding five years without the approval of the Head of Procurement and appropriate Divisional Director.
- 26.2 A Framework Agreement may not be of indeterminate duration or have a duration exceeding four years without the approval of the Head of Procurement and City Barrister.

27. Contract Terms

- 27.1 For Minor Contracts, the Commissioning Officer may place a Purchase Order including the Council's Standard Terms & Conditions.
- 27.2 For Small and Intermediate Contracts, the Procuring Officer may use:
 - 27.2.1 Appropriate Industry Standard Contract Templates, e.g. NASS, JCT or NEC; or
 - 27.2.2 The Council's Standard Contract Templates for the appropriate type of contract;

provided no significant amendments are made to these templates. If these templates require significant amendment or bespoke terms and conditions are required, the Procuring Officer must engage Legal Services to provide appropriate terms and conditions.

- 27.3 For Large and EU Contracts, the Procuring Officer must engage Legal Services to provide appropriate terms and conditions.

28. Execution of Contracts

- 28.1 For Small Contracts, the Procuring Officer must complete a Delegated Powers Certificate (DPC) for authorisation by the Head of Procurement and Budget Holder. Once the DPC is authorised, the Procuring Officer may award the Contract.
- 28.2 For Intermediate Contracts, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Head of Service. Once the DPC is authorised, the Procuring Officer may award the Contract.
- 28.3 For Large and EU Contracts with no Standstill Period, following completion of the evaluation procedure, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Divisional Director. Once the DPC is appropriately authorised, Legal Services may issue the Contract to the Contractor(s) for execution.
- 28.4 For Large and EU Contracts with a Standstill Period, following completion of the evaluation procedure, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Divisional Director.

Once the DPC is appropriately authorised, the Procuring Officer may issue the notices under Rule 56.1 to commence the Standstill Period. On completion of the Standstill Period, the DPC must be again authorised by the Head of Procurement, and, if a challenge is received, by the City Barrister. Once the DPC has again been appropriately authorised, Legal Services may issue the Contract to the Contractor(s) for signature.

28.5 For Contracts awarded pursuant to Rule 23.2, the City Barrister and appropriate Divisional Director may agree in writing alternative arrangements for the execution of Contracts.

28.6 Large and EU Contracts must be executed in accordance with Article 15.05 (Authority to sign contracts and other documents) of the Constitution.

28.7 Letters of Intent may only be issued ahead of the full Contract with the prior written approval of the City Barrister.

29. Mandatory Clauses

29.1 The proposed terms of Contract must include the provisions:

29.1.1 Permitting the termination of the Contract and the recovery of any sums paid where there has been evidence of bribery or corruption.

29.1.2 Entitling the Council to terminate part or all of the Contract or to obtain substituted provision of the supplies, services and works to be supplied under the Contract in the event of a breach of contract by or the insolvency of the Contractor.

29.1.3 Stating the price (and/or any mechanism by which the price, any additional price or discounts are to be ascertained), and where appropriate, setting out the mechanisms for payment such as BACS, and requiring the inclusion of purchase orders numbers on invoices.

29.1.4 For Intermediate, Large and EU Contracts, prohibiting the Contractor from sub-contracting, assigning or otherwise transferring the contract without the prior written consent of the Council and providing that the Contractor shall remain liable to the Council for any part of the Contract that may be sub-contracted.

29.1.5 Requiring compliance by the Contractor with any relevant legislative requirements, including where appropriate, in respect of:

- a) health and safety, including the setting up of appropriate systems and procedures for the supplies, services and works procured;
- b) the prevention of inequality and the promotion of equality;
- c) the observance of human rights in the performance of functional activity under the Contract (as if the Contractor were a public body);
- d) Freedom of Information and Environmental Information Regulations, and requiring the Contractor to co-operate with the Council in dealing with requests, the Contractor accepting that

- information will be liable to disclosure and allowing for requirements as to local transparency on contracts and tenders;
- e) data protection, confidentiality and information security;
 - f) clinical governance; and
 - g) workforce transfer legislation, where appropriate, including associated codes of practice.
- 29.1.6 Setting out indemnities for any claim in respect of employer's liability or public liability arising from the Contract, including if appropriate infringement of intellectual property rights, and appropriate insurance requirements of the Contractor;
 - 29.1.7 Setting out indemnities in respect of claims made against the Council made in respect of a Contractor's activities and the provision of satisfactory insurance against such claims;
 - 29.1.8 In cases where the Contractor's activities are of a type that can normally be so insured, requiring provision to the Council of evidence of satisfactory professional indemnity insurance held by the Contractor.
 - 29.1.9 Where appropriate, requiring the provision to the Council of adequate Intellectual Property protection together with an indemnity protection;
 - 29.1.10 Requiring the provision to the Council of adequate warranties (or direct covenants) from manufacturers of mechanical and engineering supplies, or for supplies of other products, where the Council's requirements have prescribed or prohibited materials or where a duty of skill and care is appropriate to the manufacture of the product in contracts for the purchase of goods;
 - 29.1.11 If necessary, ensuring that appropriate vetting and barring is undertaken to ensure the safety of vulnerable groups;
 - 29.1.12 For professional consultancy contracts, requiring fair dealing in the case of conflict of interest;
 - 29.1.13 Where appropriate for Large and EU Contracts, obliging the Contractor to maintain continuous improvement throughout the Contract period which may result in efficiencies to the Council's benefit;
 - 29.1.14 Requiring the Contractor to grant reasonable access to the Council to information relating to the Contract, and to undertake appropriate monitoring and compliance procedures;
 - 29.1.15 Where appropriate, requiring relevant and proportionate social value considerations, such as prompt payment of sub-contractors.

USE OF PROCEDURES

30. Principles

- 30.1 A Contract of a lower categorisation may be procured via a procedure for a Contract of a higher categorisation, especially when the requirement is complex or the Contract could be considered high risk.
- 30.2 Where a collaborative procurement process is being led, or has already been conducted, by another public sector body, the Contract Procedure Rules (or equivalent) of that public body shall apply to the process, so long as all relevant legislation is complied with.
- 30.3 The Commissioning Officer and Procuring Officer must ensure that any Quotation/Tender, if accepted, is reasonable in all the circumstances and represents value for money for the Council.

31. Minor Contracts

- 31.1 For Minor Contracts, the Commissioning Officer should obtain at least one written quotation, preferably from a local Bidder.
- 31.2 Whilst there is only a requirement for one quotation the Commissioning Officer must consider whether additional quotations are in the Council's best interests.
- 31.3 Where it is not practical or possible to obtain a written quotation, the Commissioning Officer must obtain at least one oral quotation and record this contemporaneously.

32. Small Contracts

- 32.1 Small Contracts must be procured by one of the Specialist Procurement Teams and/or using the Electronic Tendering System, unless agreed otherwise by the Head of Procurement.
- 32.2 Small Contracts must be procured in one of four ways (listed in descending order of preference):
 - 32.2.1 An Advertised Quotation process;
 - 32.2.2 A Quick Quotation process;
 - 32.2.3 A Targeted Quotation process; or
 - 32.2.4 Use of a Non-LCC Framework Agreement (with approval from the Head of Procurement).

33. Intermediate Contracts

- 33.1 Intermediate Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.
- 33.2 Intermediate Contracts must be procured in one of four ways (listed in descending order of preference):

- 33.2.1 An Advertised Quotation process;
- 33.2.2 A Competition for Funding process;
- 33.2.3 Use of a Non-LCC Framework Agreement; or
- 33.2.4 A Targeted Quotation process (with the approval of the Head of Procurement).

34. Large Contracts

- 34.1 Large Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.
- 34.2 Large Contracts must be procured in one of four ways (listed in descending order of preference):
 - 34.2.1 An Open Tender process;
 - 34.2.2 A Restricted Tender process;
 - 34.2.3 A Competition for Funding process; or
 - 34.2.4 Call-Off from a Non-LCC Framework Agreement.

35. EU Contracts

- 35.1 EU Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.
- 35.2 EU Contracts must be procured in one of the following ways (listed in descending order of preference):
 - 35.2.1 An Open Tender procedure;
 - 35.2.2 A Restricted Tender procedure;
 - 35.2.3 Use of a Non-LCC Framework Agreement;
 - 35.2.4 An Innovation Partnership or Design Contest procedure;
 - 35.2.5 A Competitive Procedure with Negotiation; or
 - 35.2.6 A Competitive Dialogue procedure.
- 35.3 The Innovation Partnership or Design Contest procedures, Competitive Procedure with Negotiation, and Competitive Dialogue procedure may only be used with the approval of the Head of Procurement and City Barrister.

PROCUREMENT PROCEDURES

36. Advertised Quotation

- 36.1 The Procuring Officer must advertise the requirement for an appropriate period of time to allow interested parties to respond.
- 36.2 A Request for Quotation (RfQ) document must be made available to all interested parties who respond to the advertisement. The RfQ must contain or identify:
- 36.2.1 Instructions for the completion and return of Quotations;
 - 36.2.2 A Specification setting out the Council's requirements;
 - 36.2.3 The proposed terms and conditions of Contract;
- and for Intermediate Contracts:
- 36.2.4 The procedure for the evaluation of Quotations.
- 36.3 Quotations received in accordance with the instructions contained in the RfQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the RfQ to make a decision on which Bidder(s), if any, will be awarded the Contract.

37. Quick Quotation

- 37.1 The Procuring Officer must use the Electronic Tendering System to notify a random selection of appropriate organisations which have pre-registered on the Electronic Tendering System and invite them to quote.
- 37.2 A minimum of five organisations must be invited to quote. If there are insufficient appropriate organisations pre-registered on the Electronic Tendering System, a Quick Quotation Procedure may not be used.
- 37.3 A Request for Quotation (RfQ) document must be made available to the selected organisations who respond to the advertisement. The RfQ must contain or identify:
- 37.3.1 Instructions for the completion and return of Quotations;
 - 37.3.2 A Specification setting out the Council's requirements;
 - 37.3.3 The proposed terms and conditions of Contract; and
 - 37.3.4 The procedure for the evaluation of Quotations.
- 37.4 Quotations received in accordance with the instructions contained in the RfQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the RfQ to make a decision on which Bidder(s), if any, will be awarded the Contract.

38. Targeted Quotation

- 38.1 The Procuring Officer must obtain four written Quotations of which at least two shall be from local organisations. Where this is not reasonably practical, the

Procuring Officer must make a file note to evidence reasonable effort to obtain the required Quotations.

- 38.2 The Procuring Officer must log all details of the Quotations or other responses for future reference.
- 38.3 The Evaluation Panel may make the decision on whether or not to award the contract after considering all offers and shall keep a written record of their decision including reasons for the decision.

39. Competition for Funding

- 39.1 The Competition for Funding process is to be used for where the Council has an amount of funding to support the achievement of certain outcomes or delivery of services.
- 39.2 The Procuring Officer must advertise the Competition for Funding for an appropriate period of time to allow interested parties to respond.
- 39.3 A Competition for Funding (CFF) document must be made available to all interested parties who respond to the Advertisement. The CFF must contain or identify:
 - 39.3.1 Instructions for the completion and return of Submissions;
 - 39.3.2 A Specification setting out the Council's requirements;
 - 39.3.3 The proposed terms and conditions of Contract;
 - 39.3.4 The procedure for the selecting successful Bidders, and allocating the available funding between them.
- 39.4 Submissions received in accordance with the instructions contained in the CFF (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the CFF to make a decision on which Bidder(s), if any, will be awarded the funding.

40. Open Tender

- 40.1 The Procuring Officer must advertise the requirement on the Source Leicestershire website (or other appropriate website) for an appropriate period of time to allow interested parties to respond.
- 40.2 An Invitation to Tender (ITT) document must be made available to all interested parties who respond to the advertisement. The ITT must contain or identify:
 - 40.2.1 Instructions for the completion and return of Tenders;
 - 40.2.2 A Specification setting out the Council's requirements;
 - 40.2.3 The proposed terms and conditions of Contract; and
 - 40.2.4 The procedure for the evaluation of Tenders.
- 40.3 Tenders received in accordance with the instructions contained in the ITT (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel

in line with the procedure set out in the ITT to make a decision on which organisation(s), if any, will be awarded the Contract.

- 40.4 When using an Open Tender process for an EU Contract, the Procuring Officer must comply with the process set out in the Public Contract Regulations.

41. Restricted Tender

- 41.1 The Procuring Officer must advertise the requirement on the Source Leicestershire website (or other appropriate website) for an appropriate period of time to allow interested parties to respond.
- 41.2 A Pre-Qualification Questionnaire (PQQ) document must be made available to all interested parties who respond to the advertisement. The PQQ must contain or identify:
- 41.2.1 Instructions for the completion and return of PQQs;
 - 41.2.2 A brief overview of the Council's requirements; and
 - 41.2.3 The procedure for the evaluation of PQQs.
- 41.3 PQQs received in accordance with the instructions contained in the PQQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the PQQ to make a decision on which Bidders, if any, are to be invited to tender.
- 41.4 An Invitation to Tender (ITT) document must be made available to Bidders selected to be invited to tender following the procedure set out above. The ITT must contain or identify:
- 41.4.1 Instructions for the completion and return of Tenders;
 - 41.4.2 A Specification setting out the Council's requirements;
 - 41.4.3 The proposed Terms and Conditions of Contract; and
 - 41.4.4 The procedure for the evaluation of Tenders.
- 41.5 Tenders received in accordance with the instructions contained in the ITT (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the ITT to make a decision on which Bidder(s), if any, will be awarded the Contract.
- 41.6 When using a Restricted Tender process for an EU Contract, the Procuring Officer must comply with the process set out in the Public Contract Regulations.

42. Innovation Partnership and Design Contest

- 42.1 An Innovation Partnership or Design Contest process may only be used with the approval of the Head of Procurement.
- 42.2 When using an Innovation Partnership or Design Contest process for an EU Contract, the Procuring Officer must comply with the process set out in the Public Contract Regulations.

43. Competitive Procedure with Negotiation

- 43.1 A Competitive Procedure with Negotiation may only be used in the circumstances set out in the Public Contract Regulations and with the approval of the Head of Procurement and City Barrister.
- 43.2 When using a Competitive Procedure with Negotiation process for an EU Contract, the Procuring Officer must comply with the process set out in the Public Contract Regulations.

44. Competitive Dialogue

- 44.1 A Competitive Dialogue process may only be used with the approval of the Head of Procurement and City Barrister.
- 44.2 When using a Competitive Dialogue process for an EU Contract, the Procuring Officer must comply with the process set out in the Public Contract Regulations.

USE OF FRAMEWORK AGREEMENTS & DYNAMIC PURCHASING SYSTEMS

45. Value Categorisation of Framework Agreements & DPSs

- 45.1 Categorisation of Framework Agreements and DPSs will follow that set out in Rule 15.6 for Contracts. The Estimated Value should consider the total expected value of all Call-Off Contracts over the maximum duration of the Framework Agreement by all organisations who may use the Framework Agreement or DPS.

46. LCC Framework Agreements

- 46.1 Where the Council is the contracting authority, the Framework Agreement must be established by following these Contract Procedure Rules as if it were a Contract.
- 46.2 The Framework Agreement must set out a methodology for how contracts under the Framework Agreement will be called off. Completion of this process will replace the procedures required by these Rules for Call-Off Contracts.
- 46.3 Additional Contractors may only be added to a Framework Agreement during the term of the Framework Agreement in circumstances where:
- 46.3.1 it is not an EU Contract; and
 - 46.3.2 the Invitation to Tender states:
 - a) that additional organisations may be added to the Framework Agreement during the term of the Framework Agreement;
 - b) how and when additional organisations can apply to be added to the Framework Agreement; and
 - c) that the same evaluation criteria and award methodology are applied when deciding whether to award the Framework Agreement to additional organisations as was applied at the time of the original award.

47. Non-LCC Framework Agreements

- 47.1 The Council may use Framework Agreements set up by other public authorities or Public Buying Organisations where the Framework Agreement entitles the Council to do so, subject to the approval of the Head of Procurement. Such approval is not required for Minor Contracts.
- 47.2 Where the Council's Call-off Contract is itself a Large Contract or an EU Contract, the City Barrister must authorise the use of the Framework Agreement.
- 47.3 The Procuring Officer must follow the methodology and all requirements set out in the Framework Agreement when awarding a Call-Off Contract under the Framework Agreement.

48. Dynamic Purchasing Systems (DPSs)

- 48.1 A Dynamic Purchasing System may only be established with the approval of the Head of Procurement.
- 48.2 A Dynamic Purchasing System must be established and used in accordance with the Public Contract Regulations.

CONDUCTING A PROCUREMENT PROCESS

49. Fairness & Equal Treatment

- 49.1 The Procuring Officer must give all Bidders the same information about the proposed Contract and procurement process and in particular information relating to the Tender/Quotation process, specification, award methodology and evaluation criteria.
- 49.2 The Procuring Officer must ensure that all processes set out in the procurement documentation issued to Bidders are followed.
- 49.3 Between the Advertisement and deadline for receipt of Submissions or where no Advertisement is placed (e.g. in the second stage of a Restricted Tender procedure or in a Targeted Quotation procedure), the issue of documents to Bidders, the Procuring Officer may respond to questions of clarification received from Bidders, but must ensure that Rule 49.1 is complied with, to the extent that any response given to one Bidder may be relevant to other Bidders.

50. Advertisement

- 50.1 Wherever stated in the Procurement Procedures section above, procurement procedures must be advertised on the Source Leicestershire website. This website may be substituted with another appropriate advertising medium at the discretion of the Head of Procurement.
- 50.2 Advertising on Source Leicestershire is a minimum requirement and does not preclude further Advertisement as deemed appropriate by the Procuring Officer (e.g. in the local newspaper, trade or professional journal, the Council website).
- 50.3 For all procurement procedures that are advertised, the Procuring Officer must allow a reasonable time between the date of the Advertisement (or where no Advertisement is placed (e.g. in the second stage of a Restricted Tender procedure or in a Targeted Quotation procedure), the issue of documents to Bidders) and the deadline for receipt of Submissions, having regard to:
 - 50.3.1 the requirements of the Public Contract Regulations;
 - 50.3.2 the amount of effort likely to be required to make a Submission; and
 - 50.3.3 the urgency of the requirement.
- 50.4 The Advertisement must express the nature and purpose of the procurement procedure, stating where further details may be obtained.
- 50.5 For EU Contracts, the Procuring Officer must ensure that the Advertisement is first despatched to the OJEU before it is published on Source Leicestershire or in any other media.
- 50.6 No Advertisement should contain any more information than that published in the OJEU (if an OJEU Contract Notice is required).

- 50.7 For EU Contracts, the Procuring Officer may use a Prior Information Notice (PIN) followed by an invitation to confirm interest in place of an OJEU Contract Notice, as permitted by the Public Contract Regulations.

51. Specification

- 51.1 The Specification must be a clear written statement of the Goods, Services or Works required, in sufficient detail to:
- 51.1.1 enable the Tenderer to submit a competitive price, demonstrating quality and added value;
 - 51.1.2 ensure that Goods, Services or Works supplied will meet the requirement of the Council; and
 - 51.1.3 define the precise output and/or outcomes required.
- 51.2 Unless justified by the subject matter of the Contract, the Specification shall not refer to a specific make or source, or a particular process which characterises the Goods, Services or Works provided by a specific organisation, or to trade marks, patents, types or a specific origin or production with the effect of favouring or eliminating certain organisations or certain products. Such reference shall be permitted on an exceptional basis, where a sufficiently precise and intelligible description of the subject-matter of the Contract is not possible and this is agreed by the Commissioning Officer and the Procuring Officer. Such reference shall be accompanied by the words 'or equivalent'.

52. Opening of Submissions

- 52.1 The PQQ, RfQ, CFF or ITT must specify the latest day and hour for the receipt of Submissions.
- 52.2 Wherever possible, the Procuring Officer should use the Electronic Tendering System for the receipt of Submissions.
- 52.3 For Large and EU Contracts, where the Electronic Tendering System is not used:
- 52.3.1 Tenders must be returned to an Officer designated by the Head of Procurement. The Designated Officer must have no other involvement in the procurement process.
 - 52.3.2 Tenders must be received in a plain sealed envelope or parcel addressed to the Designated Officer. The envelope or package must bear the word "Tender" followed by the subject to which it relates.
 - 52.3.3 On receipt, envelopes containing Tenders must be date and time stamped by the Designated Officer and shall remain in the Designated Officer's secure custody until they are opened, which shall not be before the stated closing date/time.
 - 52.3.4 The Designated Officer must open the Tenders at one time in the presence of at least one other Officer. Each Officer must initial each Tender once opened which must also be date stamped.

- 52.3.5 Particulars of all Tenders opened must be entered by the Designated Officer upon a written record which must be signed by the Officers present at the opening, together with a written note of any Tenders rejected at the point of opening and the reasons for their rejection.
- 52.3.6 The Designated Officer must retain a copy of the record and forthwith send a copy to the Procuring Officer with the Tenders.
- 52.4 For Quotations, completed CFFs and Tenders not covered by Rule 52.3 above, where the Electronic Tendering System is not used:
 - 52.4.1 Submissions must be returned to an officer designated by the Head of Procurement. The Designated Officer must have no other involvement in the procurement process.
 - 52.4.2 On receipt, envelopes containing Tenders must be date and time stamped by the Designated Officer and shall remain in the Designated Officer's secure custody until they are opened, which shall not be before the stated closing date/time.
- 52.5 Where Submissions are received by e-mail, the requirement in Rules 52.3 and 52.4 for date and time stamping, and initialling is removed, and the requirements for labelling envelopes should be applied to the subject of the e-mail instead.
- 52.6 Where the Electronic Tendering System is not used, completed PQQs may be returned directly to the Procuring Officer.
- 52.7 The Head of Procurement may authorise the acceptance of Submissions received via the Electronic Tendering System after the stated date and time where:
 - 52.7.1 there is clear evidence of technical issues preventing the Bidder sending their Submission ahead of the deadline, as acknowledged by the provider of the Electronic Tendering System; and
 - 52.7.2 the Bidder gains no other advantage through the acceptance of their Submission.
- 52.8 Where the Electronic Tendering System has not been used a Submission received after the closing date and time may be opened and evaluated if there is clear evidence of it having:
 - 52.8.1 been posted by first class post at least a day before the closing date; or
 - 52.8.2 been posted by second class post at least three days before the closing date; or
 - 52.8.3 been placed in the custody of a courier who has provided reasonable written assurance of delivery prior to the closing date and time.
- 52.9 Submissions not received in compliance with the Rules set out for Bidders will be rejected, except where the City Barrister considers that there are exceptional circumstances and that the Bidder who made the Submission has gained no

advantage from its non-compliance, he may determine to accept the Submission and authorise that it be opened and evaluated together with any other Submissions. The City Barrister shall record in writing the reasons, which must be consistent with the application of public procurement law, for which the Submission has been accepted. Any such reason shall not be deemed to set any precedent.

53. Reserved Contracts

- 53.1 The Procuring Officer may reserve a Contract for sheltered workshops, mutuals or social enterprises as long as this is clearly set out in all appropriate documentation, including the Advertisement. Where an EU Contract is reserved for sheltered workshops, mutuals or social enterprises, the approval of the Head of Procurement and City Barrister must be sought and the criteria and processes set out in the Public Contract Regulations for reserved contracts must be followed.

54. Clarification of Submissions

- 54.1 Bidders are not permitted to alter their Submissions after opening save in accordance with the instructions provided to Bidders, this Rule or Rule 55 below.
- 54.2 Following the closing date for receipt of Submissions but before acceptance/shortlisting of any Submission, the Procuring Officer may correspond or discuss with Bidders in order to seek clarification of its Submission.
- 54.3 A written note of the discussions must be made to record the date, time, and detail of the discussion. Where the Electronic Tendering System is being used, clarification should be conducted via or recorded on the Electronic Tendering System.
- 54.4 Any clarification of Submissions during a procurement process must always ensure fair and equal treatment of all Bidders is maintained. Clarification of Submissions is at the Council's discretion.

55. Negotiation

- 55.1 Subject to the prior written approval of the Head of Procurement, for all Contracts except EU Contracts, following the closing date for receipt of Submissions, but before acceptance of any Submissions, the Procuring Officer in consultation with the Commissioning Officer may negotiate with the Bidder(s) in an attempt to secure improvements in the price or economic advantage.
- 55.2 When conducting Negotiations, the following rules shall apply:
- 55.2.1 At no time during the negotiations must a Bidder be informed of the detail of any other Submission or as to whether or not the Tender he submitted was the lowest.
- 55.2.2 During negotiations in person there must always be present at least two Officers of the Council.

- 55.2.3 A written note of the negotiations must be made and retained by one of the Officers present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.
 - 55.2.4 Post Tender Negotiations shall not enable any material departure from the published specification and/or Contract Terms. The City Barrister, in consultation with the Head of Procurement and appropriate Divisional Director, shall determine whether any proposed change to the specification constitutes a material departure and whether as a consequence other Bidders shall be permitted to participate in Negotiations and/or whether new Tenders should be invited, to avoid any potential allegations of competition being distorted.
- 55.3 Post Tender Negotiations are not allowed for EU Contracts; however, clarifications of errors or discrepancies in Tenders may take place in accordance with Rule 54.

56. Standstill Period

- 56.1 For Tenders for EU Contracts, the Procuring Officer must notify all Bidders of the decision regarding the acceptance or rejection of their Tender, including:
- 56.1.1 the successful Tenderer's score;
 - 56.1.2 the score (if any) of the Tenderer receiving the notice;
 - 56.1.3 the characteristics and (if appropriate) relative advantages of the successful Tenderer's Tender;
 - 56.1.4 any reasons why the Tenderer receiving the notice did not meet the Specification;
 - 56.1.5 the name of the Tenderer to be awarded the Contract, and
 - 56.1.6 the date when the Standstill Period required in accordance with Rule 56.2 will come to an end.

A Standstill Period may be applied to Large Contracts and Call-Off Contracts from Framework Agreements that themselves constitute EU Contracts.

- 56.2 For EU Contracts, the Standstill Period must last a minimum of 10 calendar days from the day of sending the notice in Rule 57 to the date on which the Council enters into the Contract, if the notice is sent electronically. Where the notice is sent by other means then the Standstill Period must last a minimum of either 15 days from the day of sending the notice or 10 days from the day of receipt of the notice by the last Tenderer to receive the notice. In all cases counting the day after sending the notice as day one. The Standstill Period must end on a working day.
- 56.3 If, during the Standstill Period, a formal challenge is received from a Tenderer, the authorisation of the Head of Procurement and City Barrister to award the Contract must be sought.

57. Contract Award

- 57.1 Following the appropriate authorisation of a DPC (see Rule 28), and including, where applied, the completion of the Standstill Period), the Procuring Officer must notify the successful Bidder(s) of the acceptance of their Submission.
- 57.2 For Intermediate, Large and EU Contracts the Procuring Officer must also notify in writing all unsuccessful Bidders at the same time as the successful Bidder(s).
- 57.3 For EU Contracts and other Contracts for which the Public Contract Regulations stipulate that an OJEU Contract Notice is required, the Procuring Officer shall ensure that an OJEU Contract Award Notice is placed within the timescales required by the Public Contract Regulations.
- 57.4 The Procuring Officer must ensure that all Intermediate, Large and EU Contracts are entered onto the Contracts Database.

CONTRACT MANAGEMENT & CONTRACT AMENDMENTS

58. Contract Management

- 58.1 The appropriate Divisional Director must ensure that for each Intermediate, Large or EU Contract, a person is designated as the Contract Manager. The Contract Manager may be a Council Officer or a Contractor/consultant. The Commissioning Officer may be, but need not be, the Contract Manager.
- 58.2 The Contract Manager is responsible for managing the performance of the Contract and the Contractor(s) throughout its Contract period, including ensuring that Best Value is obtained and that the Council and Contractor both fulfil their respective obligations under the Contract.

59. Financial Parameters for Contract Amendments

- 59.1 When considering Contract Extensions and Variations as set out in Rules 60 and 61 below the categorisation of a Contract should follow the table at Rule 15.6 but the value should include the value for the original period of the contract and any proposed extension or variation (including any further options for additional extensions/variations) whether provided for in the original Contract or not.

60. Contract Extensions

- 60.1 Where a Minor, Small or Intermediate Contract provides for the proposed extension, the appropriate Head of Service shall be authorised to extend the period of the Contract. The Head of Service must inform the Head of Procurement of the extension.
- 60.2 Where a Large or EU Contract provides for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract in consultation with the Head of Procurement.
- 60.3 Where a Minor or Small Contract does not provide for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract. The Divisional Director must inform the Head of Procurement of the extension.
- 60.4 Where an Intermediate Contract does not provide for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract in consultation with the Head of Procurement and City Barrister so long as this does not give cause to an increase in value of more than 100% of the original Contract Value. If the proposed extension will give cause to an increase to the original Contract Value of more than 100% the Divisional Director must seek the authorisation of the Head of Procurement and City Barrister.
- 60.5 Where a Large Contract does not provide for the proposed extension, the appropriate Divisional Director shall seek authorisation to extend the period of the Contract from the Head of Procurement and City Barrister.

60.6 Where an EU Contract does not provide for the proposed extension, the appropriate Divisional Director shall seek authorisation to extend the period of the Contract from the Head of Procurement and City Barrister.

61. Contract Variations

61.1 No variation may be authorised under this Rule that:

61.1.1 Introduces conditions which, had they been part of the initial award procedure, would have allowed for the admission of tenderers other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted;

61.1.2 Extends the scope of the contract considerably to encompass goods, services or works not initially covered; or

61.1.3 Changes the economic balance of the Contract in the favour of the Contractor in a manner which was not provided for in the terms of the initial Contract.

61.2 The Contract Manager may make changes to the Contract or delivery of the Contract where these have been explicitly foreseen within the terms of the Contract or where changes are of a minor nature and will not significantly affect the overall delivery or cost of the Contract. The Contract Manager must maintain a written record evidencing the detail of the change and both parties' agreement to the change.

61.3 The appropriate Head of Service shall be authorised to vary a Minor, Small or Intermediate Contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter. The Head of Service must inform the Head of Procurement of the variation.

61.4 The appropriate Divisional Director shall be authorised to vary a Large Contract, so long as this does not give cause to an increase in value of more than 50% of the original Contract Value, whether caused by this one variation or the aggregation of this variation with ones that have previously been authorised. In such cases the Divisional Director must inform the Head of Procurement of the variation. If the proposed variation will give cause to an increase to the original Contract Value of more than 50% the Divisional Director must seek the authorisation of the Head of Procurement. This authorisation must be issued before the goods/services/works that are the subject of the Variation are provided/carried out, or in the case of an emergency, immediately thereafter.

61.5 The appropriate Divisional Director shall be authorised to vary an EU Contract, so long as this does not give cause to an increase in value of more than 5% of the original Contract Value, whether caused by this one variation or the aggregation of this variation with ones that have previously been authorised. In such cases the Divisional Director must inform the Head of Procurement of the variation. If the proposed variation will give cause to an increase to the original Contract Value of more than 5% the Divisional Director must seek the authorisation of the Head of Procurement and City Barrister ensuring the Council remains within the provisions of the Public Contract Regulations. This

authorisation must be issued before the goods/services/works that are the subject of the Variation are provided/carried out, or in the case of an emergency, immediately thereafter.

62. Novation of Existing Contracts

- 62.1 The novation of a Contract to a new Person requires the prior written approval of the City Barrister. The Head of Procurement must be informed of the novation.

63. Early Termination of Contracts

- 63.1 Following consultation with the City Barrister and Head of Procurement the Divisional Director shall be authorised to terminate any Contract before the expiry of its agreed term or the provision of the goods, works or services is complete.

64. Execution of Contract Amendments

- 64.1 For Small and Intermediate Contracts, the Contract Manager must complete a DPC detailing the Contract Amendment for the appropriate authorisations. Once the DPC is appropriately authorised, the Contract Manager may confirm the Contract Amendment in writing to the Contractor(s), so long as the Contract Manager is authorised to do so under Article 14 of the Constitution. If the Contract Manager is not authorised to do so, another Officer, so duly authorised may do so.
- 64.2 For Large Contracts and EU Contracts the Contract Manager must complete a DPC for the appropriate authorisations detailing the Contract Amendment. Once the DPC is appropriately authorised, Legal Services may issue the Contract Documents to the Contractor(s) for signature.

APPENDIX 1: DEFINITIONS

Terms defined in the Public Contract Regulations 2014 have the same meaning when used in these Rules.

Terms defined in the Council's Constitution have the same meaning when used in these Rules. Where a job title is used and that job title is no longer appropriate, the Chief Operating Officer will identify the postholder to replace the stated job title. To ensure effective operation of these rules, the Head of Procurement and City Barrister may delegate their responsibilities under these Rules to appropriately skilled Officers.

Other terms are defined by these Rules.

In all of the above cases, hyperlinks are provided to the appropriate definition wherever the term is used.

Where necessary, additional definitions are provided below:

“Best Value” A statutory framework that ensures that councils are required to plan, deliver and continuously improve local authority services. Each local authority has a duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

“Bidder” means a person or organisation who responds to an Advertisement or invitation and participates in a procurement procedure to win a Contract.

“Call-Off Contract” – see “Framework Agreement” below.

“Commissioning Officer” means a person appointed by a Head of Service or Chief Officer to identify and specify the requirement, and provide specialist service/technical input into the Procurement Procedure.

“Contract” means the agreement between the Council and the Contractor comprising the conditions of Contract, Specification and any defined schedules or other matters referred to in the ITT/RfQ and/or the Contractor's Submission.

“Contract Manager” means a person appointed by a Head of Service or Chief Officer to manage the performance of a Contract throughout its Contract period. The duties of a Contract Manager shall begin when the Contract is awarded and shall cease when it is completed or terminated.

“Procuring Officer” means a person appointed by the Head of Procurement for the purpose of carrying out the appropriate duties set out in these Contract Procedure Rules. A Procuring Officer may be appointed specifically for the purpose of a single Contract or for a range of Contracts.

“Contractor” means any person or organisation contracted to sell, provide or buy Goods, Service or Works. This term applies after a Contract is formed.

“EU Threshold” means [pending finalisation of Public Contract Regulations 2014]

“Evaluation Panel” means the Procuring Officer, the Commissioning Officer and any other individuals designated by them to participate in evaluating Submissions. All such individuals must have the relevant skills and experience to make value judgements on the Submissions received. For Large and EU Contracts, the Evaluation Panel must include at least one other Officer to evaluate the technical quality elements of the Submission in addition to the Commissioning Officer.

“Grant” means a sum of money awarded following the receipt of a successful application against published criteria. The issue of funds will be reliant on the entering into of an agreement and the submission to published compliance and monitoring criteria.

“Local” means a business having a base from which the goods/services/works will be delivered with a LE postcode

“Services subject to the Lighter Regime” means [pending finalisation of Public Contract Regulations 2014].

“Specialist Procurement Teams” Procurement Services (Finance Division), ICT Contract & Procurement Team (Information and Access Division) and Social Care & Public Health Procurement Team (Care Services and Commissioning Division).

“Specification” means a clear written statement of the Goods, Services or Works, in sufficient detail to:

- a) enable the Bidder to submit a competitive price, demonstrating quality and added value.
- b) ensure that Goods, Services or Works supplied will meet the requirement of the Council.
- c) define the precise output and/or outcomes required.

“Submission” means a completed, CFF, ITT, RfQ, PQQ or other similar document submitted by a Bidder as part of a procurement procedure.

“Tenderer” means any person offering to sell to or purchase from the Council any Goods, Services or Works. This term applies before a Contract is formed and includes unsuccessful Tenderers.

“Voluntary & Community Sector” or **“VCS”** means voluntary, community and social enterprise organisations.

APPENDIX 2: INTERPRETATION OF THE CONTRACT PROCEDURE RULES FOR MAINTAINED SCHOOLS

Part 1: Interpretation of the Rules for Schools

1. Scope & Definitions

- 1.1 The Contract Procedure Rules apply to Maintained Schools, but not to Academies or Free Schools.
- 1.2 The Contract Procedure Rules, as amended by this Appendix, shall form part of the Scheme for Financing Schools.
- 1.3 All references to officers and staff of the Council, shall be interpreted to cover all employees in schools, including Teachers and Head Teachers, and Governors.
- 1.4 The following terms will be substituted when interpreting these Rules for Schools:
 - 1.4.1 'City Barrister' shall be replaced by 'Chair of Governors' except in Rules 20 and 21;
 - 1.4.2 'Council' shall be replaced by 'School' except the first reference in Rule 1.1;
 - 1.4.3 'Divisional Director' shall be replaced by 'Head Teacher';
 - 1.4.4 'Head of Procurement' shall be replaced by 'Head Teacher' except in Rules 20 and 21;
 - 1.4.5 'Head of Finance' shall be replaced by 'Head Teacher';
 - 1.4.6 'Head of Service' shall be replaced by 'Head Teacher';
 - 1.4.7 'Member' shall be replaced by 'Governor';
 - 1.4.8 'Officer' shall be replaced by 'School Employee';

It is recognised that this may lead to the Head Teacher consulting with him/herself (etc.) but these references are maintained for consistency with the Council's Rules, and may be applicable should the Head Teacher choose to delegate some of his responsibility, (e.g. those of the Divisional Director in the Council's Rules).

- 1.5 It is acknowledged that Schools may not have specialist procurement staff, and therefore it is the Chair of Governors' responsibility to ensure that the School Employees who carry out these duties have access, where necessary, to appropriate support, guidance and professional advice to follow these Rules and act lawfully. The Council may provide its own internal guidance for the use of Schools and provide initial advice and support.

Part 2: Amended Rules for Schools

The following Rules are amended for Schools as set out below. All other Rules remain unchanged, except for the application of the interpretation set out in Part 1 above.

6. Transparency

6.1 This Rule does not apply to Schools.

10. Contracts Database & Electronic Tendering System

10.1 This Rule does not apply to Schools.

10.3 Schools may use an Electronic Tendering System, e-mail or traditional paper-based processes when carrying out procedures under these Rules.

14. Private Interests

14.2 to 14.3 Replace this Rule with “School Employees and Governors shall comply with the School’s codes of conduct and the requirements of the Scheme for Financing Schools, which includes the requirement for the Governing Body to maintain a register of business interests.”

15. Financial Parameters

15.2.7 Replace this Rule with “Each School may be considered to be a discrete operational unit when considering the aggregate value of a requirement, except when more than one school choose to procure jointly, at which stage the aggregate of all the schools procuring together must be considered.”

16. Procurement Plan

16.1-16.5 This Rule does not apply to Schools.

17. Procurement Pipeline

17.1 This Rule does not apply to Schools.

18. Procurement Strategy

18.1 This Rule does not apply to Schools.

19. Monitoring & Reporting

19.1 This Rule does not apply to Schools.

22. Financial Approval

22.1 Replace this Rule with “Before procurement of any Contract reaches the Advertisement stage, it must have financial approval from the appropriate Officer, as set out in the table below:

Contract Categorisation	Financial Approval
Minor Contract	Budget Holder(s)
Small Contract	Head Teacher
Intermediate Contract	Chair of Governors
Large Contract	Chair of Governors
EU Contract	Chair of Governors

24. Exemptions & Waivers

24.1 The Commissioning Officer may request an Exemption to the Contract Procedure Rules to directly negotiate the award of a Contract without competition:

24.1.3 particular artistes and performers and bought-in productions;
[other sub-paragraphs remain unchanged]

24.2 When none of the circumstances listed in Rule 24 applies, the Commissioning Officer may, request a Waiver of the Contract Procedure Rules.

24.3 The following table sets out who may authorise Exemptions and Waivers.

Contract Categorisation	Exemption	Waiver
Minor Contract	Head Teacher	Head Teacher
Small Contract	Head Teacher	Chair of Governors
Intermediate Contract	Chair of Governors	Chair of Governors
Large Contract	Chair of Governors	Chair of Governors
EU Contract	Chair of Governors	City Barrister

24.4 This Rule does not apply to Schools.

27. Contract Terms

27.2 Replace this Rule with “For all Contracts, the Procuring Officer may use, as appropriate:

27.2.1 Appropriate Industry Standard Contract Templates, e.g. NASS, JCT or NEC; or

27.2.2 The Council’s Standard Contract Templates for the appropriate type of contract; or

27.2.3 Contract Terms developed for the Contract and approved by the Head Teacher.”

27.3 This Rule does not apply to Schools.

28. Execution of Contracts

28.1 to 28.4 This Rule does not apply to Schools. Replace with “Employees so authorised by the Head Teacher may sign Contract s on behalf of the School on completion of an appropriate procurement procedure as set out in these Rules.”

28.5 Replace this Rule with “Contracts with a value of over £60,000 per annum and a total value over £1,000,000 must be approved by the Head of Finance (Children’s Services) prior to being signed on behalf of the School.”

32. Small Contracts

32.1 This Rule does not apply to Schools.

32.2 Remove “(listed in descending order of preference)”.

33. Intermediate Contracts

33.1 This Rule does not apply to Schools.

33.2 Remove “(listed in descending order of preference)”.

34. Large Contracts

34.1 This Rule does not apply to Schools.

34.2 Remove “(listed in descending order of preference)”.

35. EU Contracts

32.2 Remove “(listed in descending order of preference)”.

35.2 This Rule does not apply to Schools.

52. EU Contracts

52.2 This Rule does not apply to Schools.

32.2 Remove “(listed in descending order of preference)”.

57. EU Contracts

57.1 Replace this Rule with “After the completion of the Standstill Period, or, if no Standstill Period is applied, the Procuring Officer must notify the successful Bidder(s) of the acceptance of their Submission.”

57.4 This Rule does not apply to Schools.

64. Execution of Contract Amendments

64.1 Replace this Rule with “Once the Contract Amendment is appropriately authorised, the Contract Manager may confirm the Contract Amendment in writing to the Contractor(s), so long as the Contract Manager is so authorised to do so. If the Contract Manager is not authorised to do so, another Officer, so duly authorised may do so.”

64.2 This Rule does not apply to Schools.

Appendix 2

Proposed Changes to Financial Procedure Rules

3.0 FINANCIAL ADMINISTRATION

3.1 In the following sub-sections 3.2, 3.3, 3.4 and 3.6 references are made to the use of RMS. Where RMS is not used, alternative arrangements must be approved by the Director of Finance.

3.2 Authorised Officers

3.2.1 Divisional Directors shall authorise appropriate officers to undertake the following duties. No other officers may undertake the functions of an authorised officer:

- (a) Raising purchase requisitions, normally on RMS, for works, supplies or services;
- (b) Approving purchase requisitions or otherwise generating official orders;
- (c) Certifying, normally on RMS, the receipt of works, supplies or services;
- (d) Approving personnel variations, time sheets, officer expense claims, petty cash, imprest accounts, change floats, cash advance forms, debtors accounts, internal recharges and end of year stock certificates; and
- (e) Certification for cheques, BACS authorisation, CHAPS authorisation and grant claims;
- (f) Certifying payments for goods, works and services.

3.2.2 Divisional Directors shall ensure that authorised officers have appropriate seniority and expertise to ensure that they are able to discharge the functions assigned to them for the purposes of these rules. Authorised Officers are accountable to their Divisional Directors for the exercise of these functions.

3.2.3 Divisional Directors shall ensure that arrangements are made for effective separation of duties when designating authorised officers, in order to provide adequate internal check over all transactions, and comply with any guidance given by the Director of Finance. Divisional Directors shall ensure that the arrangements for authorised officers are consistent with the budgetary control framework for their division (see Section 4 of these Rules) and that in particular cost centre managers' ability to manage their budgets is safeguarded.

3.2.4 Divisional Directors shall maintain, in a single place, an up-to-date record of all authorised officers, together with specimen signatures where appropriate. Lists of authorised officers can be found on InterFace.

3.2.5 References to **Authorised Officers** in the rest of this section of Financial Procedure Rules shall be read in the context of the above.

3.3 Orders for Works, Supplies and Services

3.3.1 The Director of Finance is responsible for providing a corporate system for raising purchase requisitions and creating orders (RMS). This system shall be used for all orders, except in emergencies, or in accordance with other arrangements specifically approved by the Director of Finance. In giving such approval, the Director of Finance shall ensure the alternative arrangements provide for effective financial control, and shall have regard to the continuing viability of the corporate arrangements.

3.3.2 Official orders shall be issued for all purchases, excluding the following items:

- i. Purchases through petty cash and imprest accounts.
- ii. Recurring charges such as gas, electricity and telephone charges and other charges for which a payments register or other method of recording/monitoring payments is more appropriate than an order.

3.3.3 When raising or approving purchase requisitions or placing orders, authorised officers, shall ensure that contract procedure rules have been complied with (this will be satisfied by placing orders with approved suppliers).

3.3.4 In those exceptional circumstances in which the corporate system is not used, Divisional Directors shall only obtain official order forms in accordance with arrangements approved by the Director of Finance and shall be responsible for their control and use.

3.3.5 Where urgent orders are given orally, they shall be confirmed immediately by an official order.

3.3.6 Requisitions and orders should be specific, e.g. they should state quantity, weight, size, grade, quality, and where practicable, price. Where supplies are ordered under contract, it is particularly important that the order and contract have the same specification of supplies required.

3.4 Payments for Works, Supplies and Services

3.4.1 The Director of Finance is responsible for providing a corporate system for the payment of accounts (RMS). Divisional Directors shall use this system for all payments except in accordance with other arrangements specifically approved by the Director of Finance. In giving such approval, the Director of Finance shall ensure that the alternative arrangements provide for effective financial control, and shall have regard to the continuing viability of the corporate arrangements.

3.4.2 Authorised officers shall ensure that payments for works, supplies or services are not made unless:

(a) Works, supplies or services have been appropriately procured. In this context, this means:

(i) Works, supplies or services have been supplied in accordance with an official order, and the amount invoiced is correctly payable. The official order number should be quoted on the invoice; or

(ii) Payment is in respect of a service regularly supplied (e.g. gas and electricity), and the amount invoiced is properly payable; or

(iii) Payment is made for works, supplies or services under contract, and the amount is properly payable under the terms of that contract.

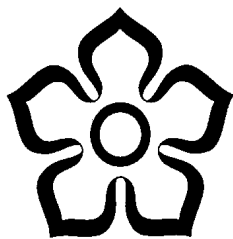
(b) Works, supplies or services have been evidenced as received. This means:

(i) The works, supplies or services have been certified as received by an authorised officer (normally done through RMS); or

(ii) They have been certified as received under specific alternative arrangements which have been approved by a divisional director.

(c) Appropriate payment documentation exists. This means an invoice or contract certificate which satisfies VAT regulations.

3.4.5 Notwithstanding the above, a payment can be made where the Council has a clearly established contractual obligation to make a payment. The Head of Procurement should be advised of the circumstances.



Leicester
City Council

WARDS AFFECTED
All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Audit and Risk Committee

29 September 2014

Counter-Fraud Annual Report 2013 -14

Joint Report of the Director of Finance, the Director of Local Services and the Director of Housing

1. Purpose of the Report

- 1.1. Responsibility for the City Council's counter-fraud work is shared between the Corporate Counter-Fraud Team and the Revenues & Benefits Investigations Team both within Financial Services, the Trading Standards Team within Local Services and the Tenancy Fraud Team within Housing.
- 1.2. The report, which is attached, provides information on counter-fraud activities during 2013 -14 and 1 April 2014 to 30 June 2014.

2. Recommendations

The Committee is recommended to:

- 2.1. Receive the report.
- 2.2. Make any recommendations or comments it sees fit either to the Executive, the Director of Finance, the Director of Local Services or the Director of Housing.

3. Summary

- 3.1. The annual report includes information on reports issued, the main influences on the level and standard of performance during 2013-14 and the key priorities for counter-fraud work in 2014-15.
- 3.2. The key issues identified within the report are:
 - The continued external fraud threats to the Authority, in particular relating to cheque irregularities, the receipt of false invoices and organised criminal activity.

- The review of fraud services being undertaken by the Head of Revenues and Benefits.
 - The submission of 2 regional funding bids to the DCLG's £16m fighting fraud fund.
- 3.3. To deliver effective counter-fraud activities requires significant investment both from managers and from staff generally. Professional development, which is a key component of our counter-fraud work and strategy, must be relevant and topical so requires constant refreshing. New and emerging threats by increasingly sophisticated fraudsters and the opportunities for on line fraud require an equally sophisticated and vigilant response from the Authority. In addition, support from all parts of the Council is essential in ensuring the effectiveness of this work.
- 3.4. As part of its work, the Corporate Counter-Fraud Team has investigated suspected financial irregularities and made recommendations to reduce the risk of further losses and improve performance, efficiency, effectiveness and economy in the use of resources by the Council.
- 3.5. The Revenues & Benefits Investigation Team has investigated suspected Housing Benefit and Council Tax Fraud and when appropriate worked closely with the Department for Work and Pensions to sanction offenders through prosecution, financial penalties and cautions.
- 3.6. The Trading Standards Service is responsible for fair trading, consumer credit, product safety, food standards, weights & measures and age restricted products.

4. Report

- 4.1. See the Counter-Fraud Review of the Year 2013-14, attached.

5. Financial, Legal and Other Implications

5.1. Financial Implications

Fraud can cause the Council significant loss and activity to prevent and detect fraud is a clear financial investment. Whilst it is impossible to quantify in any reliable way the full implications across the Council, sanctions were issued in relation to £749,973.00 of overpaid Housing Benefit and Council Tax Benefit in the year 2013 – 2014.

Colin Sharpe

Head of Finance

5.2. Legal Implications

Fraud is a criminal offence and therefore represents breach of the law. Other forms of financial irregularity, though not criminal, may be in breach of regulation. The conduct of counter-fraud work of all kinds is bound by law

and regulation and the Council is careful to ensure that its activities in this area are properly discharged.

Kamal Adatia

City Barrister & Head of Standards

5.3. Climate Change Implications

This report does not contain any significant climate change implications and therefore should not have a detrimental effect on the Council's climate change targets.

Louise Buckley, Graduate Project Officer (Climate Change)

6. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting Information
Equal Opportunities Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	Yes	This report is concerned with fraud and corruption, both of which are criminal offences.
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	
Risk management	Yes	Whole document

7. Background papers – Local Government Act 1972

- 7.1. Files held by Revenues and Benefits, Trading Standards and Housing
 Leicester City Council's Anti-Fraud and Corruption Policy and Strategy
 Leicester City Council's Finance Procedure Rules
 Leicester City Council's Constitution
 Leicester City Council's Code of Conduct for Behaviour at Work
 Leicester City Council's Information Security Policy Statement
 Leicester City Council's Prosecutions Policy
 Leicester City Council's Investigators Code of Conduct

Public Bodies Corrupt Practices Act 1889

Chartered Institute of Public Finance & Accountancy (CIPFA) publication
Managing The Risk of Fraud

The Prevention of Social Housing Fraud Act 2013

8. Consultations

Mike Watson, Income Collection Manager, Housing Property Services ext 395550

9. Report Author

Caroline Jackson, Head of Revenues and Benefits, ext 385100

Roman Leszczyszyn, Head of Regulatory Service, Environmental Services, ext 296590

Alison Greenhill
Director of Finance



**COUNTER-FRAUD
REVIEW OF THE YEAR
2013-14**

COUNTER-FRAUD REVIEW OF THE YEAR 2013-14

1. Introduction

- 1.1 This is a report to the Audit & Risk Committee on the work delivered by Leicester City Council's Corporate Counter-Fraud Team, Revenues & Benefits Investigations Team, Trading Standards Service and Tenancy Fraud Team during the year 2013-14. It also outlines the future direction of fraud services following an organisational review.
- 1.2 The organisational review has resulted in the creation of a new Corporate Investigations Team and the deletion of the Corporate Counter Fraud Team and the Revenues and Benefits Investigations Team.
- 1.3 The Corporate Counter-Fraud Team (CCFT) was established by the Council to investigate suspected financial irregularities involving matters other than Housing Benefit and Council Tax Benefit.
- 1.4 The Revenues & Benefits Investigations Team investigated fraud relating to Housing Benefit and the Council Tax Reduction Scheme.
- 1.5 The Trading Standards Service is responsible for fair trading, consumer credit, product safety, weights & measures and age-restricted products.
- 1.6 The Tenancy Fraud Team has investigated suspected illegal sublets with a view to returning Council properties back to the Authority. It is envisaged that any suspected tenancy frauds will be passed to the new Corporate Investigations Team for consideration enabling Housing officers to concentrate on managing tenancies.

2 The Year in Summary

- 2.1 The Council continues to benefit from having teams of fully qualified and experienced Accredited Counter-Fraud Specialists whose skill and ability continues to protect Leicester City Council and its residents from fraud and loss.

Corporate Counter-Fraud Team

- 2.2 During the period covered by this report the team comprised the Principal Investigations Officer (PIO), a Corporate Counter Fraud Officer, one temporary part time Accounting Technician and two part time clerical support officers who between them worked 33 hours per week.
- 2.3 The team has investigated a wide variety of suspected irregularities including cheque manipulation and counterfeiting, thefts, employees carrying out private businesses during works time or whilst on sick leave, corruption,

contract and procurement irregularities and misuse of City Council facilities.

- 2.4 The team has made unannounced visits to Council premises to secure evidence including data held on digital devices. Team members have interviewed employees, members of the public and contractors. They have liaised with the police over potentially criminal matters.
- 2.5 The PIO considers management requests for access to employees' emails, Internet access and computers before they are authorised by the Director of Finance. During 2013-14 twenty six such requests for information were processed compared to forty nine in the previous year. Seven requests were received between 1 April 2014 and 31 June 2014. The majority of requests were for information from more than one system and some requests were for information relating to a number of users.
- 2.6 The PIO is also the City Council's Key Contact for the Audit Commission's National Fraud Initiative (NFI) data matching exercise and coordinates the Council's response to the Audit Commission's annual on line fraud survey and CIPFA's benchmarking exercise.
- 2.7 The NFI data required by the Audit Commission for the 2014/15 exercise will be submitted in October and the resulting matches are expected to be available in February 2015.
- 2.8 Fraud awareness training has been delivered to 123 employees including schools staff. The team also posts fraud warnings on INSITE and the schools Extranet. These are especially useful to alert employees to new and emerging threats.

Revenues & Benefits Investigations Team

- 2.9 The team consisted of an Investigations Manager and eleven Investigation Officers.
- 2.10 During 2013-14 the team issued 182 sanctions which related to £749,973.00 of overpaid Housing Benefit or Council Tax Benefit. Although this sum is large, it represents less than 1% of the Council's annual expenditure on Housing Benefit and Council Tax Benefit.
- 2.11 The Department for Work and Pensions (DWP) have commenced the implementation program for the Single Fraud Investigation Service (SFIS) to tackle welfare benefit fraud. All Local Authorities in England and Wales have been notified of their date of transfer which will be on a monthly basis up to and including March 2016. Leicester's benefit fraud function will be transferred on 1st March 2016. Negotiations are on-going regarding the implications on staff.
- 2.12 The Revenues and Benefits Investigations Team provided investigation expertise on a suspected fraudulent insurance claim made against the authority and there are currently two further cases under investigation.

The Council was shortlisted in the finals of the LGC Fraud Awards in March 2014 for its work in tackling insurance fraud.

2.13 Annual performance statistics for the Revenues and Benefits Team are attached at Appendix 1 and some case studies are attached at Appendix 2.

Trading Standards Service

2.14 The Trading Standards Service currently comprises a single investigation team consisting of eight Trading Standards Officers and one manager. The service now employs a full time accredited financial investigator who works on their cases but also for other departments within LCC. The focus of the Trading Standards Service is on investigation and enforcement of fair trading issues in a broad sense.

2.15 During the period April 2013 to March 2014 the Trading Standards Service has opened 25 investigations into suspected frauds and it has been involved in eight major operations. These major operations were supported by the police where their assistance was required.

2.16 Six magistrates' warrants were obtained and executed at a mixture of business and residential addresses. Of the five warrants executed three of the cases are at the reporting stage. We further assisted York Trading Standards in executing a warrant on a Leicester based Business.

2.17 On three occasions we have carried out rapid response to police incidents where the police have, during their own operation or at an incident, stumbled across counterfeiting operations

2.18 There were nine major operations under investigation for fraud at the end of the year. In addition to the major investigations, a number of other frauds were and continue to be under investigation. Local car dealers, door step crime and home improvements continue to feature highly in the complaints received. Some case studies are included at Appendix 3.

2.19 Legal services are currently processing five prosecution files where the charges are fraud or fraud based.

2.20 Between 1st April and 30th June 2014 nine fraud investigations have commenced and one warrant has been obtained and executed

2.21 Not all complaints and tip-offs result in an investigation and not all investigations result in prosecution. Cases are triaged before allocation and reviewed throughout the investigation to determine whether we should continue. Despite having our own bespoke Trading Standards legislation, the Fraud Act 2006 is used when it is more appropriate.

- 2.22 We are also able to enforce against non-compliant traders by means of civil law, i.e. via an injunction, under the Enterprise Act 2002. However, this approach is not always effective and we have reviewed the way that we approach these cases. One trader that was dealt with in this manner is being prosecuted under the Fraud Act 2006 and another is under investigation.
- 2.23 The Trading Standards Service works closely with other neighbouring local authorities to share intelligence and good practice. We are active members of Trading Standards East Midlands, a regional forum which affords the Trading Standards Service the ability to obtain operational support for large and complex investigations. We are also part of the National Trading Standards Policy Board (NTSB), an organisation that shares information across the country and may be able to provide funding and/or support for major operations. Lessons learned and intelligence from such operations is then shared nationally.
- 2.24 The Accredited Financial Investigator (AFI) undertakes financial investigations under the Proceeds of Crime Act 2002 (POCA) into both Money Laundering and confiscation of assets after conviction. This is specifically aimed at depriving offenders of the proceeds from their criminal conduct, including fraud related offences. The AFI is currently undertaking financial investigations on behalf of several other sections within the City Council in addition to Trading Standards and has successfully obtained Court Orders as a result of the confiscation investigations undertaken. This has enabled Trading Standards, this year, to compensate all of the victims of successfully prosecuted frauds.

3. Review of Performance

Corporate Counter-Fraud Team

- 3.1 The Corporate Counter-Fraud Team considered all cases of non-Housing Benefit suspected fraud and irregularity referred to it. Referrals were risk scored according to the seriousness of the allegation. In some cases an investigation was undertaken, in others, managers were given advice and assistance to enable them to take appropriate action, not only to deal with the matter of concern but also to help prevent recurrences.
- 3.2 The team had a number of performance targets which are reflected in the table below.

Table 1: Caseload statistics for the Corporate Counter-Fraud Team 2013-14

File Holdings		Investigations	Advice & Assistance	Total
1	Cases brought forward at 01/04/2013	29	18	47
2	New cases in 2013- 2014	38	47	85
3	Cases carried forward at 01/04/2014 (including Advice & Assistance)	13	14	27

Performance Indicators

4	Investigations commenced in less than 10 days (including advice & assistance)	77
5	Cases open greater than 10 months at 31/03/2014	9
6	Total open cases at 31/03/2014 (including advice & assistance)	27
7	Total cases closed (including advice & assistance)	105
8	Cases registered and closed within 6 months of the commencement of investigation	86

		<u>Target</u>	<u>Actual</u>
9	Percentage investigations commenced within 10 days	90%	90%
10	Reports issued within 20 days of closure	90%	100%
11	Investigations closed within 6 months of investigation commencing	100%	82%
12	Files open more than 10 months old at year end	0%	33%

Table 2: Caseload statistics for the Corporate Counter-Fraud Team 1 April 2014 to 30 June 2014

File Holdings		Investigations	Advice & Assistance	Total
1	Cases brought forward at 01/04/2014	13	14	27
2	New cases 1 April 2014-31 June 2014	5	12	17
3	Cases carried forward at 01/07/2014 (including Advice & Assistance)	11	14	25

Performance Indicators

4	Investigations commenced in less than 10 days (including advice & assistance)	13
5	Cases open greater than 10 months at 30/06/2014	8
6	Total open cases at 30/06/2014 (including advice & assistance)	25
7	Total cases closed (including advice & assistance)	19
8	Cases registered and closed within 6 months of the commencement of investigation	14

		Target	Actual
9	Percentage investigations commenced within 10 days	90%	76%
10	Reports issued within 20 days of closure	90%	100%
11	Investigations closed within 6 months of investigation commencing	100%	100%
12	Files open more than 10 months old at	0%	30%

- 3.3 The team has continued to work closely with management and in many cases issues that have arisen as a result of the investigation are addressed before the investigation is concluded. This approach means that management is more actively involved and that the Counter Fraud Team has been able to deal with more cases. Appropriate details from cases investigated are also reported to senior management to ensure that the organisation learns and responds accordingly and policy making is influenced.

Revenues & Benefits Investigations Team

- 3.4 The team secured a total of 182 sanctions during 2013-2014. The sanctions, against those found to have committed benefit fraud offences, consisted of 22 Formal Cautions (Warnings), 67 Administrative Penalties (Fines) and 93 Prosecutions. (See Table 1 below for the last four years' performance statistics).
- 3.5 The agreement that the Authority has with the Department for Work and Pensions (DWP) that joint investigations led by the Council are prosecuted via

our own Legal Services Section and those investigations led by the DWP are prosecuted via The Crown Prosecution Service (CPS) continues to work well. This arrangement allows greater control over the time taken to conclude proceedings and is in keeping with the true spirit of joint working.

- 3.6 The Council continues to benefit from the assistance of the Authority's part funded Financial Investigator who is looking to ensure that the Proceeds of Crime Act 2002 is fully utilized where appropriate in cases of Benefit Fraud. The Financial Investigator is based in the Trading Standards service and is now funded jointly between Trading Standards and Revenues & Benefits.
- 3.7 There are currently no national targets for benefit fraud investigations. This has led some local authorities to reduce the resources applied to benefit fraud. However, the Revenues & Benefits Section recognises the need for a fully staffed Investigations Team.

Table 1: Summary of Revenues & Benefits Investigations Activity

	2010-11	2011-12	2012-13	2013-14
Benefit Caseload	42,300	42,300	42,981	41,082
Total number of referrals received	1,412	1,259	1,349	1,238
Referrals passed to DWP to investigate	238	191	12	23
Referrals passed to R&B staff to resolve issues with claimant.	393	389	638	620
Cases allocated for full investigation	806	680	682	573
Cases closed with no fraud proven	454	395	461	485
Formal Cautions issued (warnings)	76	48	30	22
Administrative penalties issued (fines)	107	108	65	67
Prosecutions secured	98	129	126	93
Total Sanctions	281	285	221	182
Investigations closed	735	857	732	667
Sanctions per '000 caseload	6.69	6.78	5.14	4.44
% of investigations sanctioned	38%	33%	30%	27%

- 3.8 The Council continues to benefit from successful prosecutions being reported in the local media on a regular basis. Publicity raises awareness within the community and hopefully acts as a deterrent to would be fraudsters.

Tenancy Fraud Team

- 3.9 Enquiries undertaken by the tenancy fraud team have resulted in 28 properties being brought back in to stock and 3 Right to Buys being stopped during 2013-2014. Between April 2014 and June 2014 one property was brought back in to stock.
- 3.10 A decision on how to best use the funding secured last year from the DCLG to tackle tenancy fraud will be made once the new investigations review is complete. The new Corporate Investigations Team will seek to work

collaboratively with surrounding districts and it is already envisaged that officers will be undertaking enquiries on behalf of Oadby and Wigston Borough Council and other social landlords within Leicestershire to identify tenancy fraud and bring about criminal proceedings under The Prevention of Social Housing Fraud Act 2013.

4. The Year Ahead

- 4.1 This report is being written almost half way through the 2014 -15 year and at a time when an organisational review of fraud services is nearing completion. The objectives identified below are those that the teams have been working to and many of them will continue to be valid under the new structure. There will, of course, be other objectives for the new Corporate Investigations Team and these will be presented to the Committee later this year.
- 4.2 Two of the key objectives for the new Corporate Investigations Team will be to undertake more proactive fraud searching exercises and to work more closely with other local authorities in the area to identify and tackle fraud that crosses LA boundaries.
- 4.3 The DCLG have recently introduced a Counter Fraud Funding Scheme invited local authorities to apply for funding from their Counter Fraud Fund. The scheme is worth up to £16 million over the years 2014/15 and 2015/16 and is intended to assist local authorities adjust to changes resulting from the introduction of the Single Fraud Investigation Service.
- 4.4 With this in mind the Head of Revenues and Benefits has submitted 2 bids to the DCLG with Leicester as the lead authority for Leicester, Leicestershire and Rutland. The Corporate Investigations Manager will lead the project.

4.5 Major objectives for the Corporate Counter Fraud-Team for 2014-15 have been and continue to be :

- To manage the caseload within the resources available.
- To provide advice and assistance to managers in those cases where an investigation is not required by the counter fraud team.
- To support the Council in its efforts to deal with fraud and irregularity whether internally focused or from customers or other third parties against the Council. In particular working with managers to increase fraud awareness and ensure that appropriate safeguards are in place to prevent, deter and detect fraud.
- To raise awareness, particularly at schools, of the continued threat of cheque irregularities and bogus invoices.
- To manage the 2014/15 National Fraud Initiative exercise, ensuring that all data sets are considered and appropriate action taken where irregularities have occurred.

4.6 Major objectives for the Revenues & Benefits Investigations Team for 2014-15 have been, and continue to be:

- To uncover and take action against those found to be committing benefit fraud.
- To ensure that appropriate sanctions are imposed.
- To build upon the good working practices already established with the DWP fraud service by continuing to attend regular liaison meetings to address and resolve any issues.
- To look into the suitability and availability of refresher training for the Investigators to reinforce their accredited professional qualification.
- To participate in the NFI exercise in relation to benefit matches and raise investigations on appropriate cases.
- To identify, through the use of data matching, potential fraudulent claims for Single Person Discount and investigate accordingly.
- To work with Housing Services to review the Authority's housing stock of approximately 22,000 properties in an effort to identify potential tenancy fraud.
- To take all necessary steps ahead of the implementation of the Single Fraud Investigation Service.

4.7 Major objectives for the Trading Standards Service for 2014-15 are to tackle the following:

- Doorstep crime targeting vulnerable citizens
- Counterfeiting, in particular, the supply of illicit tobacco
- Sale of tobacco and alcohol to children
- Car sales, safety and related fraud
- Anti-Counterfeiting – clothing /electrical items.

5. Acknowledgment

- 5.1 The Director of Finance acknowledges the efforts of all members of the Corporate Counter-Fraud Team, Revenues & Benefits Investigations Team, Trading Standards Service and Tenancy Fraud Team and the help, co-operation and support of Members and officers of the City Council.

Caroline Jackson
Head of Revenues and Benefits

Roman Leszczyszyn
Head of Regulatory Service

Annual performance statistics for the Revenues and Benefits Investigations Team 1 April 2013 to 31 March 2014 Appendix 1

Awaiting Registration & Scoring	
HB referrals awaiting registration	38

PLEASE COMPLETE/CHECK ALL CELLS IN : GREY
 Monthly HB figures
 Figures in 'BLUE' are formulas (DO NOT OVERTYPE)

Registered	This month	YTD	Allocated to IO's	YTD	Screened Out	YTD	Overloaded	YTD
HB files	96	1238	50	573	43	620	0	23

Time taken to Allocate & Commence investigations	This month	YTD	cases > than 10 days	YTD
Registered and allocated within 10 days	91	1217	2	4
Investigations commenced within 10 days of allocation	31	435	10	65

Closed - (exc. S/O & O/L)	This month	YTD
HB	44	667

Closed - (inc. S/O & O/L)	This month	YTD	Inv's closed >6 mths old
HB	87	1222	13

Cases C/F	Prev. Mth	This Mth
HB	350	361

Investigations In Progress (exc. Sanctions) -	This Month	> 6 mths old
HB	361	134

Sanctions	Prev. Mth	This Mth	YTD - Total
Cautions Accepted	1	0	22
Administrative Penalties Accepted	3	7	67
Prosecutions - Successful (Guilty)	7	5	93
Total Sanctions	11	12	182
Referred to Solicitors for prosecution this month	7	0	N/A
Total files with Solicitors	58	58	N/A

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Performance statistics for the Revenues and Benefits Investigations Team 1 April 2014 to 31 June 2014

Appendix 1

Awaiting Registration & Scoring	
HB referrals awaiting registration	109

PLEASE COMPLETE/CHECK ALL CELLS IN : GREY
 Monthly HB figures
 Figures in 'BLUE' are formulas (DO NOT OVERTYPE)

Registered	This month	YTD	Allocated to IO's	YTD	Screened Out	YTD	Overloaded	YTD
HB files	17	158	16	99	1	58	0	0

Time taken to Allocate & Commence investigations	This month	YTD	cases > than 10 days	YTD
Registered and allocated within 10 days	17	154	0	5
Investigations commenced within 10 days of allocation	12	57	3	29

Closed - (exc. S/O & O/L)	This month	YTD
HB	53	142

Closed - (inc. S/O & O/L)	This month	YTD	Inv's closed >6 mths old
HB	55	201	26

Cases C/F	Prev. Mth	This Mth
HB	354	316

Investigations In Progress (exc. Sanctions) -	This Month	> 6 mths old
HB	316	124

Sanctions	Prev. Mth	This Mth	YTD - Total
Cautions Accepted	3	2	5
Administrative Penalties Accepted	3	7	12
Prosecutions - Successful (Guilty)	7	4	14
Total Sanctions	13	13	31
Referred to Solicitors for prosecution this month	17	9	N/A
Total files with Solicitors	67	69	N/A

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Case Studies for Revenues & Benefits Investigations Team

Case Study 1

A Leicester woman claimed that her partner left her and their children and she therefore claimed as a single parent. She was awarded Housing Benefit, Council Tax Benefit and Income Support based on her circumstances. Following an investigation it was established that her partner had never left and they had colluded with a view to her claiming benefit as a single parent whilst he was working full time. The case was jointly prosecuted by the Department for Work and Pensions and Leicester City Council and the claimant was charged with fraudulently claiming in excess of £27,000.00. She was found guilty and sentenced to 8 months in prison which was suspended for 18 months, she was also ordered to complete 100 hours community punishment order.

Case Study 2

A data match was received via the National Fraud Initiative (NFI) indicating that a Leicester woman had no right to remain in the UK, no right to work and no recourse to public funds. The UK Border Agency confirmed that the information on the data match was correct. The claimant was interviewed under caution and admitted that she had failed to declare that her right to remain had been revoked. She was found guilty of fraudulently claiming benefit totalling almost £34,000.00 at Leicester Crown court and was sentenced to 6 months in prison.

Case Study 3

A referral was received from a Revenues and Benefits Officer alleging that a claimant had commenced work that had not been declared. The claimant was interviewed under caution and confirmed that she knew that the work should have been declared straight away. She was overpaid a total of £1,387.74 of housing Benefit and Council Tax Benefit and accepted an Administrative Penalty as an alternative to prosecution.

Case Studies for the Trading Standards Team

Case Study 1 PHI

Subject 1, Subject 2, Subject 3 and Subject 4 all previously worked for Zenith Staybrite and left Zenith in early 2009 and set up PHI. TS received complaints and visited premises where they found approximately 2,000 Zenith Staybrite customer files containing personal details. PHI had used the details to contact past Zenith Staybrite customers stating that they were from linked to staybrite in some way. Of the 25 witnesses who provided statements the majority were in their 60's, 70's and 80's. At least 2 of the witnesses were suffering from Alzheimer's and did not have capacity to enter contracts. Three victims have since died.

PHI failed to disclose business names details or provide customers with details of their right to cancel contracts. They took large deposits from customers upfront and then failed to carry out the work or where customers cancelled failed to refund their money. All 4 defendants pleaded guilty to conspiracy to commit fraud by false representation. Subject 1 and Subject 4 also pleaded guilty to failing to provide cancellation rights (s 3 of Fraud Act). All of the suspects received suspended sentences and community service orders.

Following the conviction for conspiracy to defraud confiscation proceedings were pursued by LCC. The table below represents the findings of the court that in total £50,000 was to be paid as proceed of crime and all victims that had provided us with statements were able to receive compensation.

The four subject's Proceeds of Crime liability is set out in the table below.

	Main Subject Name	Benefit amount assessed	Order amount assessed	Amount Paid To Date	Compensation from confiscation order amount
Subject	One	£29,047.00	£10,000.00	£0	
Subject	Two	£9,766.51	£4,000.00	£4,000.00	
Subject	Three	£29,047.00	£18,000.00	£18,000.00	£9,472.00
Subject	Four	£18,000.00	£18,000.00	£18,000.00	£9,472.00
	Total	£85,860.51	£50,000.00	£40,000.00	£18,944.00

Case Study 2 Operation Law

The Subject was convicted and jailed for nine months for 19 frauds for making false representations in relation to sale of vehicles. Trading Standards were able to show that he sold the vehicles for a total of £88,857, making about £30,000 in profit.

The subject also admitted seven counts of using false instruments, relating to cleverly-forged documents. (legislation: Fraud Act 2006 and Forgery and Counterfeiting Act 1981)

Case Study 3

In October 2012 Leicester City Trading Standards Service received a complaint from a couple who, in total, paid in excess of £85,000.00 to an individual who claimed to be an experienced Clairvoyant and Spiritual Healer of 37 years and offered a 100% guarantee with immediate results for many ailments and matters. The defendant made several promises to consumers that he could treat the family member and that all monies paid would be returned in full, however no improvement was ever seen in the family member and no monies have ever been returned to date. The defendant uses many aliases to further disguise his true identity.

Leicester City Council Trading Standards Service commenced an investigation into both the predicate offences in relation to offences committed under Section 1 of the Fraud Act 2006 of (Fraud by false representation) and offences under Regulation 9 of the Consumer Protection from Unfair Trading Regulations 2008 (Misleading action) and further commenced a POCA Money Laundering Investigation.

Our investigations revealed that the Defendant was operating nationwide and was not always himself based in Leicester. Due to the scale and extent of the offending identified and the potential organised crime group (OCG) to which the defendant appears to be part of, a joint investigation and partnership approach was commenced with Leicestershire Police. As a result of this partnership approach the Police have now agreed to take the lead on this investigation, whilst the operational lead for the money laundering investigation has been maintained by The LCC accredited financial investigator. The prosecution file is currently with the CPS for review.

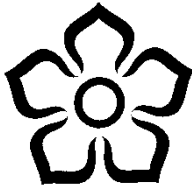
Case Study 4 Operation Blair

Practical Security Solutions Ltd

This was a joint investigation between Leicester City and Leicestershire Trading Standards into a business cold calling and offering to fit free burglar alarms. A number of false claims were made during the sale pitch which often involved a salesman staying in excess of 2 hours. What started out as a free alarm ended up

costing typically £3000. Customers were generally elderly and /or otherwise vulnerable.

After a 6 week trial the three suspects were found guilty Trial. Pre-sentence reports have been ordered and a Proceeds of Crime investigation is underway.



Leicester
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All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Audit and Risk Committee

29th September 2014

Review of the Anti-Fraud, Bribery and Corruption Policy and Strategy

Report of the Director of Finance

1. PURPOSE OF REPORT

- 1.1 The Terms of Reference of the Audit and Risk Committee include the requirement “To review and approve, on an annual basis, the Council’s anti-fraud and corruption policies and procedures”.
- 1.2 The purpose of this report is to present to the Committee a review of the Anti-Fraud, Bribery and Corruption Policy and Strategy. The aim is to ensure that Members and Officers consider the measures in place to prevent, deter and detect fraud.
- 1.3 The revised Anti-Fraud and Corruption policy includes a number of key priority areas.
- 1.4 The purpose of the policy is to ensure that Members and Officers take the necessary steps to prevent, deter, detect and investigate fraud and that the Council has in place proper procedures to prevent corruption including bribery.

2. RECOMMENDATIONS

- 2.1 The Audit and Risk Committee is recommended to:
 - a) Receive the report;
 - b) Approve the Anti-Fraud, Bribery and Corruption Policy; and,
 - c) Make any recommendations or comments it sees fit either to the Executive or Director of Finance.

3. SUMMARY

- 3.1 The Council has had an Anti-Fraud and Corruption Policy for a number of years and demonstrates its commitment to addressing fraud and corruption. The policy is

reviewed annually and this latest review focusses on key risk areas identified through investigations undertaken by the Council's fraud teams.

- 3.2 A key feature of the Counter Fraud Strategy will be to put into place a counter fraud, bribery and corruption plan linked to the Council's overall strategic objectives. High fraud risk areas will be targeted using proactive fraud techniques and appropriate key priorities will be identified.
- 3.3 The revised Anti-Fraud, Bribery and Corruption Policy is included as Appendix 1.

4. REPORT

- 4.1 The prevention, detection and investigation of financial irregularities including fraud and corruption (which may involve bribery) are an important activity for local authorities.
- 4.2 The current economic climate continues to challenge many individuals and some may be tempted to commit fraud. It is important that the Council recognises where the threats lay and what steps can be taken to mitigate the risks.
- 4.3 The cost of fraud to the public purse is significant. In November 2013 the Audit Commission published its annual document "*Protecting the Public Purse*". It reported that figures provided by the National Fraud Authority indicate that fraud against local government costs more than £2 billion. This is broadly the same as last year when the cost was estimated to be £2.2 billion.
- 4.4 The Audit Commission reported that in 2012/13 local authorities detected fewer frauds than in 2011/12, had they detected the same number of frauds the reported loss would have been far greater.
- 4.5 In 2012/13, the National Fraud Authority estimated that procurement fraud would cost local authorities £876 million, making it the single largest area of financial loss to fraud in local government. In 2012/13, the total value of detected procurement fraud by local authorities was £1.9 million. This suggests that far greater attention should be given to tackling procurement fraud.
- 4.6 £2.3 million of fraud was committed against schools, £1.9 million of this involved internal fraud.
- 4.7 Local government bodies are targeting their investigative resources more efficiently and effectively. Nationally, excluding housing tenancy frauds, more than 107,000 cases of fraud, with a value of £178 million were detected in 2012/2013. This compares with 124,000 cases of fraud, with a value of £179 million in 2012/2013. Whilst the majority of these frauds relate to Housing Benefit and Council Tax some Councils are noticing an increase in fraud in other areas. In 2012/2013 102 cases of Right To Buy fraud were detected, an increase of 168% since 2011/2012 and 200 cases of social care fraud worth £4 million were reported, a 64% increase in value since 2011/2012.
- 4.8 The Councils' Counter Fraud specialists recognise that emerging and growing risks include business rates, Right to Buy discounts, tenancy fraud, social care fraud, frauds

perpetrated against schools and external fraudsters attempting to extract money from the Council. Ongoing risks include procurement fraud and insurance fraud.

- 4.9 The Head of Procurement is introducing new contracting and procurement procedures which will provide better value for money for the Council and reduce the risk of fraud, bribery and corruption.
- 4.10 The Summary, Conclusions and Recommendations from “Protecting The Public Purse” are attached at Appendix 2. These include recommendations specifically aimed at Local Authorities.
- 4.11 The Audit Commission’s checklist for those responsible for governance and questions for Councillors are attached at Appendix 3.
- 4.12 The Annual Counter Fraud Report for 2013/14 and the first three months of this financial year is also being presented to this Committee and appraises Members of the Council’s position in relation to the checklist.
- 4.13 Fraud awareness training is available and is routinely delivered in some parts of the Council. The Corporate Counter Fraud Team have provided customised training to address specific risks, including risks associated primarily with schools and details are available on Interface and the School’s Extranet. The Benefits Investigations Team have also provided training to Housing Benefits Officers to assist them in identifying potentially fraudulent claims.
- 4.14 There continue to be a number of attempted frauds against the Council from external organisations. These include invoices being received for goods neither ordered nor received, in some cases followed up by demands made by telephone. There have also been numerous forged and counterfeit cheque frauds, mostly affecting schools. Fraud Warning Notices are posted on Interface and the School’s Extranet to alert employees of the danger. The Corporate Counter Fraud Team has worked closely with the bank to ensure that misappropriated funds are reimbursed and to find out what steps the Council can take to prevent losses.
- 4.15 The Anti-Fraud and Corruption Policy sets out the Council’s stance on fraud, bribery and corruption. The Executive, Members, Directors, Heads of Service, managers and employees need to ensure that processes and procedures are in place to prevent, deter, detect and investigate fraud. Where the Council suffers loss, procedures for recovery also need to be in place.
- 4.16 Any act of dishonesty by or on behalf of, or against the Council, e.g. theft of monies, could fall within the ambit of this policy.
- 4.17 For the purposes of this report the terms fraud, bribery and corruption are defined as follows:

Fraud – the theft of monies or goods from the Council or any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss.

Bribery - giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

Corruption - Forms of corruption vary, but include bribery, extortion, cronyism, nepotism, patronage and embezzlement. By its nature corruption can be difficult to detect as it usually involves two or more people entering into a secret agreement.

5. REVIEW OF THE CURRENT ANTI-FRAUD & CORRUPTION POLICY AND STRATEGY

- 5.1 The policy identifies the need to embed the risk of fraud and bribery into the culture of the organisation, in other words to ensure that managers and employees consider the risks as part of their day-to-day duties. Guidance on this and further advice for managers is provided in documentation supporting the Policy.
- 5.2 The Policy also identifies the need to provide adequate investigative resources to support managers in deterring, detecting and preventing fraud, bribery and corruption. An organisational review of the Counter Fraud Service has been undertaken and The Head of Revenues and Benefits will present a report to Members explaining the new arrangements later in the year.
- 5.3 The Head of Revenues and Benefits is also developing a mechanism to measure the level of fraud across the Council and assess potential losses. This piece of work is in its early stages and will be developed following the completion of the organisational review.

6. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

6.1 Financial Implications

There are no direct financial implications arising from this report. However, theft, fraud and corruption, including bribery, are all offences of a financial nature and can cause significant financial loss to the Council.

Colin Sharpe
Head of Finance

6.2 Legal Implications

Fraud is a criminal offence and therefore represents breach of the law. Other forms of financial irregularity, though not criminal, may be in breach of Council Regulations. The conduct of counter-fraud work of all kinds is bound by law and regulation and the Council is careful to ensure that its activities in this area are properly discharged.

The Bribery Act 2010 applies to the Council and/or senior Council personnel (Officers and/or Members) to the extent that it is covered by the offences of bribing another person, being bribed and bribing a foreign public official. Council Officers could be liable for offences committed with their 'consent or connivance'.

In addition, to the extent that it engages in commercial activities, the Council (and any company established by it) is also covered by an offence of failure to prevent bribery (subject to the defence that is available). A defence is available in respect of the offence of failing to prevent bribery if the Council (or company) can show that it had in place adequate procedures designed to prevent persons associated with the Council from undertaking such conduct (bribery).

Guidance about commercial organisations preventing bribery may be issued from time to time and there needs to be a mechanism in place for adopting such guidance as and when it is issued.

Kamal Adatia

City Barrister & Head of Standards

6.3 **Climate Change Implications**

This report does not contain any significant climate change implications and therefore should not have a detrimental effect on the Council’s climate change targets.

Louise Buckley, Graduate Project Officer (Climate Change)

7. **OTHER IMPLICATIONS**

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	No	
Policy	Yes	Whole document
Sustainable and Environmental	No	
Crime and Disorder	Yes	Whole document
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	
Risk Management	Yes	Whole document

8. **BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

9. **CONSULTATIONS**

None

10. **REPORT AUTHOR**

Linda Fletcher, Principal Investigations Officer 0116 4544044

Leicester City Council Anti-Fraud, Bribery and Corruption Policy and Strategy

1. Policy Statement

Leicester City Council is totally committed to maintaining a zero tolerance towards fraud, bribery and corruption and to the prevention, deterrence, detection and the investigation of all forms of fraud, bribery and corruption affecting its activities. It is also the policy of the Council to prosecute perpetrators of financial irregularity in accordance with the Council's Prosecution Policy. Additionally the Council vigorously pursues any overpaid or fraudulently obtained monies and applies for compensation orders where appropriate.

This policy applies equally to the Executive, elected Members, directors, managers, employees (including those employed through agencies) consultants, those contracted to deliver services for or on behalf of Leicester City Council and agents of Leicester City Council. It also applies to third parties including members of the public and third party organisations.

2. Policy Objectives

To establish and promote a culture of integrity, openness and honesty in the conduct of the Council's business, thereby reducing levels of fraud, bribery, corruption and financial irregularity by:

- Embedding risk management including fraud and bribery into the culture and operations of the Council.
- Providing a framework for managers to enable them to detect, deter and prevent fraud, bribery and corruption.
- Providing adequate investigative resources to support managers to deter, detect and prevent fraud, bribery and corruption.

3. Desired outcomes from the Policy

- Higher profile and awareness of fraud, bribery and corruption throughout the Council.
- Greater management awareness of the risks of fraud, bribery and corruption.
- Improved management controls arising from better risk assessments.
- Improved compliance with Council policy, procedures and practices, for example Finance Procedure Rules and Contract Procedure Rules, as evidenced by ongoing management monitoring, Internal Audit reviews and the level of identified fraud and irregularity.

4. **Strategy**

In order to implement its policy objectives the Council will:

- Put in place a counter fraud, bribery and corruption plan linked to the Council's overall strategic objectives. The plan will incorporate a risk-based approach to managing threats of fraud, bribery and corruption and will identify a small number of key priorities.
- Stimulate commitment from the Executive, elected Members, directors, Heads of Service and managers to reducing fraud, bribery and corruption losses to an absolute minimum.
- Ensure that policies and procedures designed to prevent and deter fraud, bribery and corruption are adopted and consistently implemented across the Council. This will be demonstrated by including the risk of fraud and bribery in operational risk registers and the Strategic Risk Register.
- Ensure that any new policies and procedures consider the risk of fraud, bribery and corruption and are designed to minimise the risk of financial irregularity and loss.
- Utilise the full range of integrated actions available to prevent, deter, detect, sanction and seek redress for fraud, bribery and corruption.
- Measure the level of fraud and corruption across the Council and introduce and maintain measures to reduce it.
- Require support by the Executive, elected Members and directors to foster a zero tolerance culture against fraud, bribery and corruption in the organisation.
- Provide the necessary resources and appropriate authority to management and those tasked with countering and dealing with fraud, bribery and corruption.
- Provide clear and easily accessible advice and guidance, both on Interface and on the Council's website, about how suspected fraud or irregularity should be reported.

5. **Measuring success**

The following indicators will be used to report on the outcomes arising as a result of the application of the Anti-Fraud and Corruption Policy and Strategy

- The number of suspicions of fraud identified by, or referred to, the Corporate Counter Fraud Team or the Revenues & Benefits Investigations Team.
- The number of cases investigated in which fraud or corruption is proven.
- The value of amounts misappropriated (of all kinds including employee time)

- Housing Benefit and Council Tax Benefit Fraud sanctions.
- The number of employees disciplined for offences involving fraud, bribery or corruption

Summary and recommendations

Summary

This report shows those responsible for governance in local government bodies how they can fight fraud more effectively.

- Fraud costs the UK public sector more than £20 billion a year and local government more than £2 billion.
- In a time of austerity, preventing fraud is even more important to protect the public purse.
- Every pound lost through fraud cannot be spent on providing public services.

Local government bodies detected fewer frauds in 2012/13, excluding housing tenancy frauds, compared with the previous year. For these frauds:

- local government bodies detected 107,000 cases, with a value of £178 million, down by 14 per cent and 1 per cent respectively compared with 2011/12;
- housing benefit (HB) and council tax benefit (CTB) fraud accounted for over two-thirds of the total fraud loss value in 2012/13, at £120 million, but only 44 per cent of the total cases detected;
- the average value of all detected non-tenancy frauds increased by 15 per cent in 2012/13; and
- had local government bodies detected the same number of cases as in 2011/12, the reported loss would have been far greater.

107,000
cases, with a
value of
£178m

London boroughs detected more fraud than in 2011/12.

- London boroughs increased both the number and value of frauds detected by 36 per cent in 2012/13.
- But most non-London regions showed a decline in the number of detected fraud cases in 2012/13, ranging from 6 per cent to 46 per cent.

The pace of local authority activity to tackle housing tenancy fraud is accelerating.

- Local authorities recovered over 2,600 homes from tenancy fraudsters, a 51 per cent increase since 2011/12.
- London councils detected over half (58 per cent) of all tenancy fraud, although the capital accounts for only a quarter of all council housing in England.
- Councils outside London more than doubled the number of tenancy fraud cases they detected, reflecting their increasing commitment to, and success in, tackling this fraud.

There is significant variability in detected non-benefit fraud levels between similar councils.

- Over three-quarters (76 per cent) of all detected non-benefit fraud cases are found by one quarter (25 per cent) of councils.
- Some councils, notably 79 district councils, reported no detected non-benefit fraud.

76% of all non-benefit frauds found, were detected by 25% of councils

Some councils' capacity to investigate fraud is reducing. All councils need to consider how they prioritise resources.

- In all regions, more councils reduced investigative capacity in 2012/13 than increased it, although most stayed the same.
- London boroughs have done more than other councils to re-focus their counter-fraud resources towards non-benefit frauds.

Some councils are starting to focus more attention on those fraud risks that are growing. In 2012/13, they detected:

- 102 cases of Right to Buy fraud, up 168 per cent since 2011/12; and
- 200 cases of social care fraud worth £4 million, a 64 per cent increase in cases and 82 per cent increase in value since 2011/12.

200 cases of social care fraud, worth £4m, were found in 2012/13

Councils face reduced funding and new national counter-fraud arrangements. They need to assess fraud risks effectively to target resources where they will produce most benefit. They should:

- maintain their capacity to investigate non-benefit fraud following the introduction of the Single Fraud Investigation Service (SFIS);
- follow the lead of London boroughs and focus more effort on detecting non-benefit fraud, which directly affects their revenue; and
- ensure they have the right skills to investigate all types of fraud, which vary in complexity.

Councillors have a crucial role in supporting the right approach to deter and detect fraud. They can draw on a wide range of assistance to help them do so. They can:

- ensure their council understands local fraud risks;
- compare their council's performance in countering fraud with similar councils;
- ensure their council deploys counter-fraud resources proportionate to risk and focuses on areas of greatest local harm;
- encourage their council to focus more on deterrence, by widely publicising action against fraudsters; and
- increase staff confidence in whistle-blowing arrangements by providing corporate leadership of, and support for, whistle-blowers.

Recommendations

All local government bodies should:

- use our checklist for councillors and others responsible for governance (Appendix 2) to review their counter-fraud arrangements; and
- actively pursue potential frauds identified through their participation in the National Fraud Initiative (NFI).

Councils in particular should:

- Actively promote a **vigorous counter-fraud culture** (para 110) by:
 - enforcing robust sanctions for fraud and publicise the action taken, to enhance local deterrence (para 115);
 - encouraging councillors to play an enhanced role in managing the risk of fraud effectively (para 71 & 113); and
 - reviewing their own whistle-blowing arrangements in line with current best practice and applying the lessons learned from the findings of the 2013 Public Concern at Work research on whistle-blowing (para 133).
- Develop a **clear strategy** to tackle fraud by:
 - reviewing their own counter-fraud strategies in the context of the national Fighting Fraud Locally (FFL) strategy to tackle local authority fraud (para 120); and
 - reviewing their own arrangements against FFL good practice guidance to be issued in 2013 and 2014 about frauds in schools, business rates and personal budgets (para 123).
- **Work in partnership** to reduce fraud by:
 - considering how best to maximise the benefit of the Prevention of Social Housing Fraud Act, including closer partnership working with local housing associations (para 63);
 - exploring joint working with other councils, particularly smaller councils with limited investigative capacity (para 43); and
 - realising the benefits of county councils and district councils working together to tackle blue badge fraud (disability parking) in two-tier areas (para 94).
- Prepare effectively for the introduction of the **Single Fraud Investigation Service** by:
 - considering the impact that SFIS will have on their capacity to tackle non-benefit frauds (para 45);
 - maintaining a capability to investigate non-benefit related fraud, proportionate to the risk (para 35);
 - working with SFIS to ensure the approach taken to tackling benefit fraud continues to reflect local priorities and risks (para 46).

- Allocate **sufficient resources** to tackling fraud by:
 - focusing more on detecting and recording non-benefit fraud, particularly district councils (para 25); and
 - targeting their counter-fraud resources where they will produce the most benefit, assessing the risk of harm against the measures needed to reduce it (para 18).

- Improve their use of **data to measure their performance** in tackling fraud by:
 - challenging their performance in tackling non-benefit frauds, in particular against the results achieved by the top performing councils (para 25);
 - considering whether to apply the National Fraud Authority's (NFA's) Annual Fraud Indicator methodology to assess the local impact of the most financially significant frauds (para 18);
 - maximising the benefits of reporting frauds through the Action Fraud website (para 146); and
 - requesting an individual fraud briefing from their external auditor (para 144).

The Department for Communities and Local Government should consider:

- extending powers for councils to investigate all frauds, to protect the public purse (para 49); and
- what arrangements need to be put in place to collect and publish data on detected fraud against local public bodies, after the closure of the Audit Commission (para 152).

Action Fraud should provide regular and timely feedback to all local government bodies that use the Action Fraud reporting arrangements (para 147).

Fighting Fraud Checklist for Governance

Protecting the public purse 2013

November 2013

General	Yes	No
1. Do we have a zero tolerance policy towards fraud?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
2. Do we have the right approach, and effective counter-fraud strategies, policies and plans? Have we aligned our strategy with <i>Fighting Fraud Locally</i>?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
3. Do we have dedicated counter-fraud staff?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
4. Do counter-fraud staff review all the work of our organisation?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
5. Does a councillor have portfolio responsibility for fighting fraud across the council?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
6. Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
7. Have we assessed our management of counter-fraud work against good practice?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		

General	Yes	No
8. Do we raise awareness of fraud risks with:		
■ new staff (including agency staff);	<input type="radio"/>	<input type="radio"/>
■ existing staff;	<input type="radio"/>	<input type="radio"/>
■ elected members; and	<input type="radio"/>	<input type="radio"/>
■ our contractors?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
9. Do we work well with national, regional and local networks and partnerships to ensure we know about current fraud risks and issues?		
	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
10. Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?		
	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
11. Do we identify areas where our internal controls may not be performing as well as intended? How quickly do we then take action?		
	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
12. Do we maximise the benefit of our participation in the Audit Commission National Fraud Initiative and receive reports on our outcomes?		
	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
13. Do we have arrangements in place that encourage our staff to raise their concerns about money laundering?		
	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		

General		Yes	No
14. Do we have effective arrangements for:			
■ reporting fraud?; and	<input type="radio"/>	<input type="radio"/>	
■ recording fraud?	<input type="radio"/>	<input type="radio"/>	
Previous action			
2013 Update			
15. Do we have effective whistle-blowing arrangements? In particular are staff:			
■ aware of our whistle-blowing arrangements?	<input type="radio"/>	<input type="radio"/>	
■ have confidence in the confidentiality of those arrangements?	<input type="radio"/>	<input type="radio"/>	
■ confident that any concerns raised will be addressed?	<input type="radio"/>	<input type="radio"/>	
Previous action			
2013 Update			
16. Do we have effective fidelity insurance arrangements?			
	<input type="radio"/>	<input type="radio"/>	
Previous action			
2013 Update			
Fighting fraud with reduced resources		Yes	No
17. Have we reassessed our fraud risks since the change in the financial climate?			
	<input type="radio"/>	<input type="radio"/>	
Previous action			
2013 Update			
18. Have we amended our counter-fraud action plan as a result?			
	<input type="radio"/>	<input type="radio"/>	
Previous action			
2013 Update			
19. Have we reallocated staff as a result?			
	<input type="radio"/>	<input type="radio"/>	
Previous action			
2013 Update			

Current risks and issues	Yes	No
Housing tenancy		
20. Do we take proper action to ensure that we only allocate social housing to those who are eligible?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
21. Do we take proper action to ensure that social housing is occupied by those to whom it is allocated?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
Procurement		
22. Are we satisfied our procurement controls are working as intended?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
23. Have we reviewed our contract letting procedures since the investigations by the Office of Fair Trading into cartels, and compared them with best practice?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
Recruitment		
24. Are we satisfied our recruitment procedures:		
■ prevent us employing people working under false identities;	<input type="radio"/>	<input type="radio"/>
■ confirm employment references effectively;	<input type="radio"/>	<input type="radio"/>
■ ensure applicants are eligible to work in the UK; and	<input type="radio"/>	<input type="radio"/>
■ require agencies supplying us with staff to undertake the checks that we require?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		

Current risks and issues	Yes	No
Personal budgets		
25. Where we are expanding the use of personal budgets for adult social care, in particular direct payments, have we introduced proper safeguarding proportionate to risk and in line with recommended good practice?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
26. Have we updated our whistle-blowing arrangements, for both staff and citizens, so that they may raise concerns about the financial abuse of personal budgets?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
Council tax discount		
27. Do we take proper action to ensure that we only award discounts and allowances to those who are eligible?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		
Housing benefit		
28. When we tackle housing benefit fraud do we make full use of:		
■ National Fraud Initiative;	<input type="radio"/>	<input type="radio"/>
■ Department for Work and Pensions Housing Benefit matching service;	<input type="radio"/>	<input type="radio"/>
■ internal data matching; and	<input type="radio"/>	<input type="radio"/>
■ private sector data matching?	<input type="radio"/>	<input type="radio"/>
Previous action		
2013 Update		

Emerging fraud risks	Yes	No
<p>29. Do we have appropriate and proportionate defences against emerging fraud risks:</p> <ul style="list-style-type: none"> ■ business rates; ■ Right to Buy; ■ Social Fund and Local Welfare Assistance; ■ council tax reduction; ■ schools; and ■ grants? 	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Previous action		
2013 Update		

Source: Audit Commission (2013)



cutting through complexity™

Report to those charged with governance (ISA 260) 2013/14

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Leicester City Council

17 September 2014



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This report is addressed to the Authority and has been prepared for the sole use of the Authority. We take no responsibility to any member of staff acting in their individual capacities, or to third parties. The Audit Commission has issued a document entitled *Statement of Responsibilities of Auditors and Audited Bodies*. This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. We draw your attention to this document which is available on the Audit Commission's website at www.auditcommission.gov.uk.

External auditors do not act as a substitute for the audited body's own responsibility for putting in place proper arrangements to ensure that public business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.

If you have any concerns or are dissatisfied with any part of KPMG's work, in the first instance you should contact John Cornett, the appointed engagement lead to the Authority, who will try to resolve your complaint. If you are dissatisfied with your response please contact Trevor Rees on 0161 246 4000, or by email to trevor.rees@kpmg.co.uk, who is the national contact partner for all of KPMG's work with the Audit Commission. After this, if you are still dissatisfied with how your complaint has been handled you can access the Audit Commission's complaints procedure. Put your complaint in writing to the Complaints Unit Manager, Audit Commission, 3rd Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF or by email to complaints@audit-commission.gsi.gov.uk. Their telephone number is 0303 4448 330.

This document summarises:

- the key issues identified during our audit of the financial statements for the year ended 31 March 2014 for the Authority; and
- our assessment of the Authority's arrangements to secure value for money.

Scope of this report

This report summarises the key findings arising from:

- our audit work at Leicester City Council ('the Authority') in relation to the Authority's 2013/14 financial statements; and
- the work to support our 2013/14 conclusion on the Authority's arrangements to secure economy, efficiency and effectiveness in its use of resources ('VFM conclusion').

Financial statements

Our *External Audit Plan 2013/14*, presented to you in March 2014, set out the four stages of our financial statements audit process.



This report focuses on the second and third stages of the process: control evaluation and substantive procedures. Our on site work for these took place during March 2014 (interim audit) and August/September 2014 (year end audit).

We are now in the final phase of the audit, the completion stage. Some aspects of this stage are also discharged through this report.

VFM conclusion

Our *External Audit Plan 2013/14* explained our risk-based approach to VFM work, which follows guidance provided by the Audit Commission. We have now completed our work to support our 2013/14 VFM conclusion. This included:

- assessing the potential VFM risks and identifying the residual audit risks for our VFM conclusion; and
- considering the results of any relevant work by the Authority and other inspectorates and review agencies in relation to these risk areas.

Structure of this report

This report is structured as follows:

- Section two summarises the headline messages.
- Section three sets out our key findings from our audit work in relation to the 2013/14 financial statements of the Authority.
- Section four outlines our key findings from our work on the VFM conclusion.

Our recommendations are included in Appendix 1.

Acknowledgements

We would like to take this opportunity to thank officers and members for their continuing help and co-operation throughout our audit work.

This table summarises the headline messages. Sections three and four of this report provide further details on each area.

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Proposed audit opinion	We anticipate issuing an unqualified audit opinion on the Authority's financial statements by 30 September 2014. We will also report that the wording of your Annual Governance Statement accords with our understanding of your arrangements.
Audit adjustments	We are pleased to report that our audit of your financial statements did not identify any material adjustments. The Authority made a small number of non-trivial adjustments, most of which were of a presentational nature. There was no impact on the General Fund. There are no unadjusted audit differences.
Accounts production and audit process	The Authority has good processes in place for the production of the accounts and good supporting working papers. Officers dealt efficiently with audit queries and the audit process has been completed within planned timescales. We have worked with officers throughout the year to discuss the specific risk areas for this year's audit. The Authority addressed the issues appropriately as set out on pages 5 and 6.
Control environment	The Authority's organisational control environment is effective overall, and we have not identified any significant weaknesses in controls over key financial systems. Recommendations arising from our work are set out in Appendix 1.
Completion	At the date of this report our audit of the financial statements is substantially complete. Before we can issue our opinion we require a signed management representation letter. We confirm that we have complied with requirements on objectivity and independence in relation to this year's audit of the Authority's financial statements.
VFM conclusion and risk areas	We have concluded that the Authority has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources. We therefore anticipate issuing an unqualified VFM conclusion by 30 September 2014.

We have identified no issues in the course of the audit of that are considered to be material.

We anticipate issuing an unqualified audit opinion in relation to the Authority's financial statements by 30 September 2014.

The wording of your Annual Governance Statement accords with our understanding of your arrangements.

Proposed audit opinion

We anticipate issuing an unqualified audit opinion on the Authority's financial statements following approval of the Statement of Accounts by the Audit and Risk Committee on 29 September 2014.

Audit differences

In accordance with ISA 260 we are required to report uncorrected audit differences to you. We also report any material misstatements which have been corrected and which we believe should be communicated to you to help you meet your governance responsibilities.

We did not identify any material misstatements.

We did identify a small number of presentational adjustments required to ensure that the accounts are compliant with the *Code of Practice on Local Authority Accounting in the United Kingdom 2013/14* ('the Code'). We understand that the Authority will be addressing these where significant.

There are no unadjusted audit differences.

Annual Governance Statement

We have reviewed the Annual Governance Statement and confirmed that:

- it complies with *Delivering Good Governance in Local Government: A Framework* published by CIPFA/SOLACE; and
- it is not misleading or inconsistent with other information we are aware of from our audit of the financial statements.


We have worked with officers throughout the year to discuss specific risk areas. The Authority addressed the issues appropriately.

In our *External Audit Plan 2013/14*, presented to you in March 2014, we identified the key risks affecting the Authority's 2013/14 financial statements. Since then we identified an additional risk around accounting for the business rates retention scheme, which we have detailed below. We have now completed our testing of these areas and set out our evaluation following our substantive work.

The table below sets out our detailed findings for each of the risks that are specific to the Authority.


Additionally, we considered the risk of management override of controls, which is a standard risk for all organisations.

Our controls testing and substantive procedures, including over journal entries, accounting estimates and significant transactions that are outside the normal course of business, or are otherwise unusual, did not identify any issues.

Key audit risk	Issue	Findings
	<p>During the year, the Local Government Pension Scheme for Leicestershire (the Pension Fund) has undergone a triennial valuation with an effective date of 31 March 2013 in line with the Local Government Pension Scheme (Administration) Regulations 2008. The Authority's share of pensions assets and liabilities is determined in detail, and a large volume of data is provided to the actuary in order to carry out this triennial valuation.</p> <p>The IAS 19 numbers to be included in the financial statements for 2013/14 are based on the output of the triennial valuation rolled forward to 31 March 2014. For 2014/15 and 2015/16 the actuary will then roll forward the valuation for accounting purposes based on more limited data.</p> <p>There is a risk that the data provided to the actuary for the valuation exercise is inaccurate and that these inaccuracies affect the actuarial figures in the accounts. Most of the data is provided to the actuary by Leicestershire County Council who administer the Pension Fund.</p>	<p>We agreed the data provided to the actuary back to the systems and reports from which it was derived, and tested the accuracy of this data.</p> <p>We liaised with PwC, auditors for the Pension Fund, in accordance with a protocol set by the Audit Commission.</p> <p>We have no matters to raise with you as a result of this work.</p>

We have worked with officers throughout the year to discuss specific risk areas. The Authority addressed the issues appropriately.

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Key audit risk	Issue	Findings
	<p>On 1 April 2013 a new system of business rates retention began which saw the Council enter a pooling arrangement with Central Government and Leicestershire & Rutland Combined Fire Authority. Some of the guidance relating to the changed requirements was late in being issued.</p> <p>This meant that the new national arrangements and associated pooling arrangements presented new accounting challenge for all councils this year and brought a risk that business rates income and associated accounting entries may be misstated.</p>	<p>We reviewed the accounting treatment for business rates and found it to be inline with the CIPFA guidance.</p>

The Authority has good processes in place for the production of the accounts and good quality working papers.

Officers dealt efficiently with audit queries and the audit process could be completed within the planned timescales.

The Authority has implemented the majority of the recommendations in our ISA 260 Report 2012/1

Accounts production and audit process

ISA 260 requires us to communicate to you our views about the significant qualitative aspects of the Authority's accounting practices and financial reporting. We also assessed the Authority's process for preparing the accounts and its support for an efficient audit.

We considered the following criteria:

Element	Commentary
Accounting practices and financial reporting	<p>The Authority has good financial reporting arrangements in place.</p> <p>We consider that accounting practices are appropriate.</p>
Completeness of draft accounts	<p>We received a complete set of draft accounts on 1 July 2014.</p>
Quality of supporting working papers	<p>Our <i>Accounts Audit Protocol</i>, which we issued in March 2014, and discussed with the corporate finance team.</p> <p>The quality of working papers was of a good standard and assisted the delivery of a smooth audit engagement.</p>
Response to audit queries	<p>Officers were proactive in resolving audit queries, this meant responses were timely and of a good standard.</p>

Prior year recommendations

As part of our audit we have specifically followed up the Authority's progress in addressing the recommendations in last year's ISA 260 report.

The Authority has implemented the majority of the recommendations in our ISA 260 report 2012/13.

Of the five recommendations raised, three have been fully implemented and two are in progress.

Appendix 1 provides further detail.

The Authority's organisation control environment is effective, and controls over the key financial systems are sound.

During March 2014 we completed our control evaluation work. We reported to members at the Audit and Risk Committee on 30 July 2014 that during our interim audit visit we identified instances where there was no evidence of review of the monthly bank reconciliation and lack of evidence to support the reconciliation. This has been addressed and we have no matters to report following our review of the year end bank reconciliation.

Organisational control environment

Controls operated at an organisational level often have an impact on controls at an operational level and if there were weaknesses this would have implications for our audit.

We obtain an understanding of the Authority's overall control environment and determine if appropriate controls have been implemented.

Controls over key financial systems

Where we have determined that this is the most efficient audit approach to take, we test selected controls that address key risks within the financial systems. The strength of the control framework informs the substantive testing we complete during our final accounts visit.

Our assessment of a system will not always be in line with your internal auditors' opinion on that system. This is because we are solely interested in whether our audit risks are mitigated through effective controls, i.e. whether the system is likely to produce materially reliable figures for inclusion in the financial statements.

Key findings

Based on the work of your internal auditors and our own testing, the controls over all of the key financial systems are sound.

Internal audit gave a partial assurance rating in their report on housing rents. They have included recommendations which have been agreed by officers. All other reports on key financial systems received full or substantial assurance ratings.

Control environment summary

The strength of the control framework informs the substantive testing we complete during our final accounts visit.

The Authority's organisational control environment is effective overall, and we have not identified any significant weaknesses in controls over key financial systems.

Recommendations arising from our work are set out in Appendix 1.

We confirm that we have complied with requirements on objectivity and independence in relation to this year's audit of the Authority's financial statements.

Before we can issue our opinion we require a signed management representation letter.

Once we have finalised our opinion and conclusion we will prepare our *Annual Audit Letter* and close our audit.

Declaration of independence and objectivity

As part of the finalisation process we are required to provide you with representations concerning our independence.

In relation to the audit of the financial statements of Leicester City Council for the year ended 31 March 2014, we confirm that there were no relationships between KPMG LLP and Leicester City Council, its directors and senior management and its affiliates that we consider may reasonably be thought to bear on the objectivity and independence of the audit engagement lead and audit staff. We also confirm that we have complied with Ethical Standards and the Audit Commission's requirements in relation to independence and objectivity.

We have provided a detailed declaration in Appendix 1 in accordance with ISA 260.

Management representations

You are required to provide us with representations on specific matters such as your financial standing and whether the transactions within the accounts are legal and unaffected by fraud. We have provided a template to the Head of Finance for presentation to the Audit Committee. We require a signed copy of your management representations before we issue our audit opinion.

Other matters

ISA 260 requires us to communicate to you by exception 'audit matters of governance interest that arise from the audit of the financial statements' which include:

- significant difficulties encountered during the audit;
- significant matters arising from the audit that were discussed, or subject to correspondence with management;

- other matters, if arising from the audit that, in the auditor's professional judgment, are significant to the oversight of the financial reporting process; and
- matters specifically required by other auditing standards to be communicated to those charged with governance (e.g. significant deficiencies in internal control; issues relating to fraud, compliance with laws and regulations, subsequent events, non disclosure, related party, public interest reporting, questions/objections, opening balances etc).

There are no others matters which we wish to draw to your attention in addition to those highlighted in this report or our previous reports relating to the audit of the Authority's 2013/14 financial statements.

Our VFM conclusion considers how the Authority secures financial resilience and challenges how it secures economy, efficiency and effectiveness.

We have concluded that the Authority has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Background

Auditors are required to give their statutory VFM conclusion based on two criteria specified by the Audit Commission. These consider whether the Authority has proper arrangements in place for:

- securing financial resilience: looking at the Authority's financial governance, financial planning and financial control processes; and
- challenging how it secures economy, efficiency and effectiveness: looking at how the Authority is prioritising resources and improving efficiency and productivity.

We follow a risk based approach to target audit effort on the areas of greatest audit risk. We consider the arrangements put in place by the Authority to mitigate these risks and plan our work accordingly.

The key elements of the VFM audit approach are summarised in the diagram below.

Work completed

We performed a risk assessment earlier in the year and have reviewed this throughout the year.

We have not identified any significant risks to our VFM conclusion and therefore have not completed any additional work.

Conclusion

We have concluded that the Authority has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

VFM criterion	Met
Securing financial resilience	✓
Securing economy, efficiency and effectiveness	✓



Appendix 1: Key issues and recommendations

We have given each recommendation a risk rating and agreed what action management will need to take.

The Authority should closely monitor progress in addressing specific risks and implementing our recommendations.

We will formally follow up these recommendations next year.

This appendix summarises the progress made to implement two recommendations identified in our *ISA 260 Report 2012/13*. Three other recommendations made last year, all relating to procedures around bank reconciliations, have been fully implemented.

There are no new matters identified this year where we need to make recommendations.

Priority rating for recommendations		
<p>1 Priority one: issues that are fundamental and material to your system of internal control. We believe that these issues might mean that you do not meet a system objective or reduce (mitigate) a risk.</p>	<p>2 Priority two: issues that have an important effect on internal controls but do not need immediate action. You may still meet a system objective in full or in part or reduce (mitigate) a risk adequately but the weakness remains in the system.</p>	<p>3 Priority three: issues that would, if corrected, improve the internal control in general but are not vital to the overall system. These are generally issues of best practice that we feel would benefit you if you introduced them.</p>

No.	Risk	Issue and recommendation	Management response / responsible officer
1	2	<p>Issue and recommendation in 2012/13 ISA 260</p> <p>Related party disclosures: Assurance about related party transactions relates to the year of account and it is important that declarations are received from all members in position each year.</p> <p>Last year we reported that related party declarations had not been returned by three councillors, with the impact that there may be significant matters undisclosed. This continues to be an issue. For 2013/14, six councillors have not returned their annual declaration.</p> <p>Recommendation: Publish the names of members who fail to return related party declarations.</p> <p>The Chair of the Audit and Risk Committee may wish to consider what further actions are available.</p>	<p>Principal Accountant – Corporate Accountancy (comments):</p> <p>We have continued to make efforts to secure a return from all members, including making it possible to respond via email and providing improved guidance notes.</p>

We have given each recommendation a risk rating and agreed what action management will need to take.

The Authority should closely monitor progress in addressing specific risks and implementing our recommendations.

We will formally follow up these recommendations next year.

No.	Risk	Issue and recommendation	Management response / responsible officer
2	2	<p>Issue and recommendation in 2012/13 ISA 260</p> <p>Journal controls: Last year we reported that, although only authorised finance staff can raise journals, and that there is a degree of authorisation through granting appropriate permissions when staff take up their posts, there is no check that journals processed are complete or accurate.</p> <p>Our recommendation was to produce a report of non-routine journals raised by finance staff, and provide evidence that journals are authorised by a senior member of the finance team. This was agreed by officers.</p>	<p>Principal Accountant – Corporate Accountancy (comments):</p> <p>We have developed a report that allows managers to review journals containing items over a given threshold. This has been publicised/demonstrated at the department’s Principal Accountants Group. At present, we have left this control to Principal Accountants to use as they see best. The report has been used corporately to review year end items in Period 14. Requirements around this will be reviewed again during 2014/15 to determine if further procedures should be put in place.</p>

The Code of Audit Practice requires us to exercise our professional judgement and act independently of both the Commission and the Authority.

Requirements

Auditors appointed by the Audit Commission must comply with the Code of Audit Practice (the 'Code') which states that:

"Auditors and their staff should exercise their professional judgement and act independently of both the Commission and the audited body. Auditors, or any firm with which an auditor is associated, should not carry out work for an audited body that does not relate directly to the discharge of auditors' functions, if it would impair the auditors' independence or might give rise to a reasonable perception that their independence could be impaired."

In considering issues of independence and objectivity we consider relevant professional, regulatory and legal requirements and guidance, including the provisions of the Code, the detailed provisions of the Statement of Independence included within the Audit Commission's Standing Guidance for Local Government Auditors ('Audit Commission Guidance') and the requirements of APB Ethical Standard 1 *Integrity, Objectivity and Independence* ('Ethical Standards').

The Code states that, in carrying out their audit of the financial statements, auditors should comply with auditing standards currently in force, and as may be amended from time to time. Audit Commission Guidance requires appointed auditors to follow the provisions of ISA (UK & I) 260 Communication of *Audit Matters with Those Charged with Governance* that are applicable to the audit of listed companies. This means that the appointed auditor must disclose in writing:

- Details of all relationships between the auditor and the client, its directors and senior management and its affiliates, including all services provided by the audit firm and its network to the client, its directors and senior management and its affiliates, that the auditor considers may reasonably be thought to bear on the auditor's objectivity and independence.
- The related safeguards that are in place.

- The total amount of fees that the auditor and the auditor's network firms have charged to the client and its affiliates for the provision of services during the reporting period, analysed into appropriate categories, for example, statutory audit services, further audit services, tax advisory services and other non-audit services. For each category, the amounts of any future services which have been contracted or where a written proposal has been submitted are separately disclosed. We do this in our *Annual Audit Letter*.

Appointed auditors are also required to confirm in writing that they have complied with Ethical Standards and that, in the auditor's professional judgement, the auditor is independent and the auditor's objectivity is not compromised, or otherwise declare that the auditor has concerns that the auditor's objectivity and independence may be compromised and explaining the actions which necessarily follow from this. These matters should be discussed with the Audit Committee.

Ethical Standards require us to communicate to those charged with governance in writing at least annually all significant facts and matters, including those related to the provision of non-audit services and the safeguards put in place that, in our professional judgement, may reasonably be thought to bear on our independence and the objectivity of the Engagement Lead and the audit team.

General procedures to safeguard independence and objectivity

KPMG's reputation is built, in great part, upon the conduct of our professionals and their ability to deliver objective and independent advice and opinions. That integrity and objectivity underpins the work that KPMG performs and is important to the regulatory environments in which we operate. All partners and staff have an obligation to maintain the relevant level of required independence and to identify and evaluate circumstances and relationships that may impair that independence.

We confirm that we have complied with requirements on objectivity and independence in relation to this year's audit of the Authority's financial statements.

Acting as an auditor places specific obligations on the firm, partners and staff in order to demonstrate the firm's required independence. KPMG's policies and procedures regarding independence matters are detailed in the *Ethics and Independence Manual* ('the Manual'). The Manual sets out the overriding principles and summarises the policies and regulations which all partners and staff must adhere to in the area of professional conduct and in dealings with clients and others.

KPMG is committed to ensuring that all partners and staff are aware of these principles. To facilitate this, a hard copy of the Manual is provided to everyone annually. The Manual is divided into two parts. Part 1 sets out KPMG's ethics and independence policies which partners and staff must observe both in relation to their personal dealings and in relation to the professional services they provide. Part 2 of the Manual summarises the key risk management policies which partners and staff are required to follow when providing such services.

All partners and staff must understand the personal responsibilities they have towards complying with the policies outlined in the Manual and follow them at all times. To acknowledge understanding of and adherence to the policies set out in the Manual, all partners and staff are required to submit an annual ethics and independence confirmation. Failure to follow these policies can result in disciplinary action.

Auditor declaration

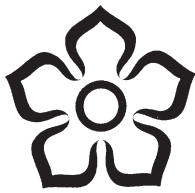
In relation to the audit of the financial statements of Leicester City Council for the financial year ending 31 March 2014, we confirm that there were no relationships between KPMG LLP and Leicester City Council, its directors and senior management and its affiliates that we consider may reasonably be thought to bear on the objectivity and independence of the audit engagement lead and audit staff. We also confirm that we have complied with Ethical Standards and the Audit Commission's requirements in relation to independence and objectivity.



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Leicester
City Council

WARDS AFFECTED
All

Appendix F

FORWARD TIMETABLE OF CONSULTATION AND MEETING

Audit and Risk Committee

29 September 2014

Annual Governance Statement 2013 - 2014

Report of the Director of Finance

1. Purpose of Report

- 1.1. To seek the approval of Audit and Risk Committee for the Council's Annual Governance Statement 2013 – 2014.

2. Recommendations (or OPTIONS)

- 2.1. The Committee is recommended to approve the Council's Annual Governance Statement 2013 - 2014 as detailed within this report.

3. Summary

- 3.1. The Council is required to publish, as part of its financial accounts reporting, an Annual Governance Statement. This statement should assure the people of Leicester that the Council operates in accordance with the law and has due regard to proper standards of behaviour and that it safeguards the public purse. This statement has to be completed by the end of September each year.

4. Report

- 4.1. Members are reminded that the format required is dictated to a large extent by the principles of the Chartered Institute of Public Finance and Accountancy (CIPFA)/Society of Local Authority Chief Executives (SOLACE) framework 'Delivering Good Governance in Local Government'. The Annual Governance Statement (AGS) 2013-14 is attached as Appendix 1.
- 4.2. The AGS was produced last year with the support of both the Strategic and Operational Boards, albeit under an extremely tight timescale. This year the process began earlier to allow more meaningful contributions to be made by Divisions. The previous, labour intensive process used to complete this statement was agreed last year as no longer being fit for purpose and, aside from the time restraint, this new process has worked well again, in its second year.

- 4.3 The steps taken, as agreed by Strategic Directors on 29 April and Operational Directors on 7 May, to complete the 2013-14 Statement have been:
- Strategic Directors reviewed last year's 'Director's Certification' and considered what this year's content and highlights should be;
 - Divisional Directors then reviewed last year's 'Director's Certification' and considered what should this year's content and highlights be in consultation with their Strategic Director. In particular, Directors needed to review and update the areas of significant risk or priorities for action identified last year;
 - Submissions (from those Directors listed within the 'Consultations' at section 7 below) were sent to the Head of Internal Audit and Risk Management by the end of June 2014;
 - Final version approved by the Corporate Management Team at its meeting on 3 September.
- 4.4 The final step in the process is now for the approved Annual Governance Statement 2013-14 to be presented for agreement here to the Committee, along with the financial accounts of which this is part.

5. FINANCIAL IMPLICATIONS

5.1. Financial Implications

5.1.1 'There are no financial implications arising directly from this report, although the annual governance statement helps to provide assurance about the proper use of the Council's resources'. Colin Sharpe, Head of Finance – 37 4081.

5.2. Legal Implications

5.2.1 There are no direct Legal implications. Kamal Adatia, City Barrister and Head of Standards – 37 1401.

6. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within Supporting information
Risk Management	Yes	All of the paper.
Climate Change	No	
Equal Opportunities	No	
Policy	Yes	All of the paper.
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

7. Consultations

Andy Keeling, Chief Operating Officer
 Miranda Cannon, Director, Delivery, Communications and Political Governance
 Kamal Adatia, City Barrister and Head of Standards
 Alison Greenhill, Director of Finance
 Ruth Lake, Director, Adult Social Care and Safeguarding
 Tracie Rees, Director, Care Services and Commissioning
 Liz Blyth, Director, Culture and Neighbourhood Services
 Andrew L Smith, Director, Planning, Transportation and Economic Development
 Ann Branson, Director, Housing
 Jill Craig, Director, Information Services
 Rod Moore, Director, Public Health
 Finance Division Senior Management Team

8. Report Author

8.1. Tony Edeson, Head of Internal Audit and Risk Management – 37 1621.

LEICESTER CITY COUNCIL

ANNUAL GOVERNANCE STATEMENT 2013-14

1. Background

Leicester City Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards and that public money is safeguarded and properly accounted for and used economically, efficiently and effectively.

It also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In discharging this overall responsibility, Leicester City Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, and which includes arrangements for the management of risk.

Leicester City Council has approved and adopted a code of corporate governance, which is consistent with the principles of the Chartered Institute of Public Finance and Accountancy/Society of Local Authority Chief Executives (CIPFA/SOLACE) framework *Delivering Good Governance in Local Government*. A copy of the code is on our website under 'Council and Democracy' or can be obtained from Customer Services.

This statement is produced in fulfilment of the requirements of regulations 4(2) and 4(3) of the Accounts and Audit (England) Regulations 2011.

2. Introduction

The Council's governance framework comprises both the systems and processes and the culture and values by which the authority is directed and controlled, and its activities through which it accounts to, engages with and leads the community. It enables the Council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate and cost-effective services.

Local Government has been undergoing significant change and the environment in which it works is increasingly complex. As well as being provided directly, public services are increasingly delivered through commissioning, partnerships and collaboration, with many shared services and partnership boards now in existence. The introduction of new structures and ways of working provides challenges for managing risk, ensuring transparency and demonstrating accountability.

The system of internal control is the significant part of the Council's governance framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and may only provide reasonable, not absolute, assurance of effectiveness.

The system of internal control is based on a continuous process designed to identify and prioritise the risks to the achievement of the Council's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The governance framework has been in place at Leicester City Council for the year ended 31 March 2014 and up to the date of approval of the accounts.

3. The Governance Framework

The Council has in place an assurance framework that takes the Council's principal strategic and organisational objectives as its starting point, including the City Mayor's 2013-14 Delivery Plan. Key strategies and plans translate these objectives into deliverable actions. High-level risks that threaten the achievement of objectives are identified in the strategic and operational risk registers. It is the responsibility of management to establish and maintain effective systems of governance and internal control to ensure that the Council's service objectives are delivered and risks to those objectives are managed in accordance with the Council's Risk Management Strategy and Policy.

In order that the Council's business is delivered in a way that promotes public trust and confidence, there must be sufficient assurance that sound internal control arrangements are in place and operating effectively. The assurance framework brings together various internal and external sources of assurance with internal audit being fundamental to this.

The Council is also required to carry out, at least annually, a review of the effectiveness of its system of internal control. This is done by all Directors by means of positive assurance in the form attached at Appendix 1. The intention of the assurance framework is, therefore, to set out a structured and coordinated process, drawing together the outcomes of the various assurance, governance and control mechanisms to ensure that the Annual Governance Statement is comprehensive in its coverage and reliable in its content

4. Review of Effectiveness

The Council is committed to the maintenance of a system of internal control which:

- Demonstrates openness, accountability and integrity;
- Monitors and reviews compliance with policies, procedures, laws and regulations and effectiveness against agreed standards and targets;
- Monitors and reviews the effectiveness of the operation of controls that have been put in place;
- Identifies, profiles, controls and monitors all significant strategic and operational risks.

The risks identified are subject to regular review and appropriate controls are identified to manage them. The results of that review, together with the three measures below, provide the core information for the preparation of the Annual Governance Statement:

- An independent review of the effectiveness of internal control carried out by the Council's Internal Audit team
- An annual review of the Effectiveness of the System of Internal Audit, as required by the Accounts and Audit Regulations (England) 2011
- The External Auditor's Annual Audit Letter and Annual Governance Report which include findings from the work of other inspection regimes,

Leicester City Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the executive managers within the Council who have responsibility for the development and maintenance of the governance environment, Internal Audit's annual report and the Summary of Internal Audit Conclusions, and by comments made by the external auditors and other review agencies and statutory inspectorates.

The Council's Local Code of Corporate Governance complies with CIPFA/SOLACE's guidance *Delivering Good Governance in Local Government* and includes a self-assessment of compliance with the six core principles of good governance. The results of that assessment are set out in the Directors' Certification at Appendix 1.

5. Significant Governance Issues

The Council's control frameworks enable the identification of any areas of the Council's activities where there are significant concerns in the financial controls, governance arrangements or the management of risk. Having considered all the principles within the CIPFA 'Code of Practice on Managing the Risk of Fraud and Corruption', we are satisfied that the Council has adopted a response that is appropriate for its fraud and corruption risks and commits to maintain its vigilance to tackle fraud.

Overall, it can be concluded that controls are operationally sound and that the Council's financial management arrangements conform with the governance requirements of the CIPFA 'Statement on the Role of the Chief Financial Officer in Local Government (2010)' as set out in the Application Note to 'Delivering Good Governance in Local Government: Framework'.

Areas of significant risk or priorities for action have been identified and are listed at Appendix 1 below. This is in two parts:

- Those items identified in the Annual Governance Statement for 2012-13, with the action taken since to address them
- Additional items identified in 2013-14, together with a summary of the action being taken or planned to make the necessary improvements.

We propose over the coming year to take steps to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

Signed:

..... (City Mayor) (Date)

..... (Chief Operating Officer) (Date)

..... (Director of Finance) (Date)

**Appendix 1 - Leicester City Council Annual Governance
Statement 2013-14**
Directors' Certification

Leicester City Council is required to demonstrate that its governance processes and procedures comply with the six CIPFA/SOLACE fundamental principles of corporate governance. These are listed below with the principal sources of evidence or assurance:

A. Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area:

- Major strategic documents setting out the vision for specific areas of work are in place, including the Economic Action Plan, Health and Wellbeing Strategy, Climate Change programme of action, Children & Young People's Plan and Heritage Action Plan.
- A major programme of work is being successfully delivered to support regeneration and economic development in the City. This includes a £400m programme of capital projects and programme of activity to support business growth and increased employment levels for Leicester's residents. Appropriate programme management and partnership arrangements are in place, most notably the Leicester & Leicestershire Enterprise Partnership.
- The City Mayor's Delivery Plan gives the current focus in terms of priorities and activity and reflects the City Mayor's vision from his manifesto. A review of progress and performance against the 2013/14 plan is being compiled for reporting in due course.
- The Council has an equality and diversity strategy which is being implemented to ensure we meet our public sector equality duties and focus on the needs of communities particularly in relation to the 'protected characteristics' defined by the 2010 Equality Act.
- Robust safeguarding arrangements are in place to mitigate the risk of harm to children and vulnerable adults, supported by established Safeguarding Boards.
- Departments have established their own performance management arrangements to underpin both the City Mayor's Delivery Plan and the wider operational activity of divisions including, where appropriate, departmental plans and regular performance monitoring and reporting.

B. Members and officers working together to achieve a common purpose with clearly defined functions and roles;

- The Council's Constitution has been updated to reflect a changed governance framework, with particular reference to the Mayoral Model and is kept under regular review.
- The 'Political Conventions' within the Constitution have been revised to offer clearer advice on member and officer co-working.

- Formal and informal working between the Executive and officers is well established.
- Lead Directors are in place to support scrutiny commissions.

C. Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;

- The code of conduct and standards regime for elected members which was introduced in July 2012 is becoming embedded and has been reviewed to ensure it remains fit for purpose. New independent members have been appointed to fill vacancies which existed on the Standards Committee.
- The staff code of conduct was revised and agreed in 2013/14.
- A programme of reviews of key human resources policies and associated procedures continues and includes, for example, a review of the attendance management policy and procedure.
- The number of complaints to the Local Government Ombudsman has reduced.
- More robust management practices have been introduced around issues such as attendance management and controls around spending e.g. agency staff, consultancy, etc.
- There are regular mechanisms for engagement with the recognised trade unions around staffing and workforce issues.
- There are well established programme and management standards along with corporate oversight and support to ensure those involved in the governance and delivery of projects and programmes understand and are able to adhere to the expected standards.
- There is an established and effective system of internal control and internal audit, aimed at ensuring proper use of resources and giving assurance on the effectiveness of the arrangements for the management of risk. The system of internal audit, which includes the fulfilment of its role by the Audit & Risk Committee, has been reviewed for effectiveness.

D. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;

- Financial, legal, equalities and sustainability implications are considered within the decisions taken.
- Strategic and operational risk registers are regularly considered and reviewed.
- Information assets and the supporting information infrastructure are subject to appropriate governance controls to mitigate risk whilst supporting partnership working and compliance with transparency requirements.

- Processes for forward planning, taking and publication of Executive decisions under the mayoral model are defined and are supported by officer guidance.
- There is a recognised approach for taking officer executive decisions in line with recently changed legislation on this issue.
- There is a need to continue to look at how scrutiny is supported to ensure that it works efficiently and effectively. Currently, lead Directors support each scrutiny commission along with the dedicated scrutiny support team who have recently been released from supporting ward community meetings (when that support function transferred to Community Services) and are now focused solely on supporting scrutiny. An annual report on the work of scrutiny has been produced. Other development work includes improving the scoping of scrutiny reviews and providing specific training for members involved in scrutiny.
- A Capital Advisory Board is now well established, chaired by the Strategic Director for City development and Neighbourhoods. This has senior officer representation from legal, finance, property, procurement, governance and programme management who provide rigorous challenge and oversight of capital projects and programmes at key gateway points.
- An independent equal pay audit was commissioned in 2013/14 to ensure that the Council's pay structure remains transparent and free from gender bias. This found no significant areas of concern and that, in general, risk of the Council being vulnerable to equal pay claims to be low. Recommendations from the audit are being actively implemented.

E. Developing the capacity and capability of members and officers to be effective;

- There is a nominated workforce development lead for member development. A new training handbook for members was published in 2013/14 and this includes training sessions specifically for scrutiny members on aspects such as chairing and effective scrutiny reviews.
- The accommodation strategy seeks to maximise the productivity of the workforce and support positive collaboration.
- The Leicester Leaders training and development programme has successfully engaged many senior managers.
- The HR service has been reviewed to ensure resources are properly aligned to priority areas of support.
- It is recognised there are aspects of people management that need to be improved. A strategic HR work programme for 2013-2017 has been developed with a focus on these areas, including workforce planning, staff performance management, workforce development and workforce representation.

- A framework and training programme is under development to support service redesign and transformation which continues to be a major demand in terms of skills and capacity given the scale of change and savings that still need to be achieved.
- A new staff intranet was launched in 2013/14, which provides a key source of guidance for staff on policies, procedures, governance and other aspects of the Council's operations.
- Work is currently underway to develop and implement an internal jobs market as a means of effectively recruiting staff and minimising the costs associated with redundancy.

F. Engaging with local people and other stakeholders to ensure robust public accountability.

- There is a more robust and consistent approach to consultation through the work of the Research & Intelligence Team.
- The consultation platform, Citizen Hub, provides an effective on-line approach to support consultations across the Council.
- There is a strong focus on media engagement and external communication with core capacity boosted to support this.
- Key strategic partnerships are in place around major themes and operating in accordance with legislation where relevant, such as Health and Wellbeing.
- A City Mayor's Faith and Community Forum has been established to support effective engagement with key communities, especially (but not exclusively) those identifying with the protected characteristic of religion or belief. This is key to supporting integration and cohesion with the city and our public sector equality duty.
- A short digest of our constitution has been published on our website aimed at making the key governance arrangements of the Council clearer and more accessible and we have reviewed our website in terms of guidance for the public in relation to engagement in policy development and decision-making.
- A new corporate website is in development which will have improved functionality in terms of supporting on-line transactions and engagement and will provide key up to date and relevant information to the public in an easily accessible and user friendly format.
- The Council has reviewed the services it commissions from the voluntary and community sector to support engagement with key communities across the protected characteristics of faith, race, sexual orientation and gender identity and is putting in place newly commissioned services to support this key work.
- The Council has in place processes for responding to external audit and inspection arrangements, with particular reference to the annual audit of the Council's published financial statements and the Annual Governance Statement.

Significant Governance Issues

The Council's control frameworks enable the identification of any areas of the Council's activities where there are significant weaknesses in the financial controls, governance arrangements or the management of risk. Overall, it can be concluded that controls are operationally sound.

The areas of significant risk or priorities for action that have been identified are listed below. This is in two parts:

A. Items identified in the Annual Governance Statement for 2012-13, with the action taken since to address them.

Area of significant risk or priority for action	Comment	Action planned	Action taken
2012-13			
Medium-term financial strategy	The Council has made £85m of spending cuts since 2010-11 in response to a 40% real terms cut in government funding. Whilst this has been carefully managed and the Council continues to live within its available resources, the government's most recent spending plans (July 2013) indicate a continued trajectory of unprecedented reductions. The methodology adopted by government further adversely affects deprived authorities such as Leicester, who are more reliant on government grant.	The Council continues to manage its medium term-financial strategy carefully, with significant input from the City Mayor and Executive. A process has been agreed and is under way to address the funding challenges the Council faces. In previous budget strategies the Council has agreed £85m of spending reductions in order to deliver a balanced budget. This also includes a managed reserves strategy to enable the City Mayor and Executive to properly plan and consider future reductions appropriately.	The Council's spending review programme is designed to address the need to reduce budgets.

Area of significant risk or priority for action	Comment	Action planned	Action taken
Performance management	There is a need to develop the Council's performance management process, with particular reference to the City Mayor's Delivery Plan requirements and to ensure adequate coverage of operational service delivery performance.	Further development work on the required performance indicators and the supporting IT and management systems. Internal Audit has included a review of the new performance management arrangements in its 2013-14 audit plan.	Departments have established their own performance management arrangements to underpin the City Mayor's Delivery Plan and other strategic plans, as well as wider operational delivery. This is supported by key systems including the new Liquid Logic system across adult and children's social care, although some of these systems are still bedding in.
Capital programme monitoring	Monitoring of capital schemes is always challenging, with risks associated with delivery of schemes to specification, on time and within budget.	Establishment of a corporate capital board to ensure that appropriate governance, project management and procurement arrangements are in place for capital projects across the Council.	A Capital Advisory Board is now well established, chaired by the Strategic Director for City development and Neighbourhoods. This has senior officer representation from legal, finance, property, procurement, governance and programme management who provide rigorous challenge and oversight of capital projects and programmes at key gateway points.
Voluntary and community sector engagement	There is a need for a more co-ordinated approach to managing our engagement with the Voluntary and Community Sector (VCS) and to be aware at an earlier stage of any emerging issues.	The Council has appointed a Voluntary & Community Sector (VCS) Engagement Manager. The new appointment will play a key role in liaising with the voluntary and community sector and will maintain an overview of our relationships and engagement with the VCS, as well as identifying what we can do as a Council to improve engagement and help ensure the sector is able to respond effectively as a key strategic and delivery partner for the Council.	The VCS Engagement Manager has been in post now for 12 months and is providing a key point of contact for the VCS and is actively engaged in networking and communications across the sector. The Council has also just reviewed the services it commissions in relation to three strands of activity: <ul style="list-style-type: none"> • Support for the City's VCS; • Engagement to support a cohesive Leicester; and, • Support for volunteering in the city. New services across these three strands are being commissioned and will need to be embedded and proactively managed to maximise impact in the future.

Area of significant risk or priority for action	Comment	Action planned	Action taken
<p>Implications of the appointment of the Police and Crime Commissioner and the establishment of the Leicestershire Police and Crime Panel.</p>	<p>Police and Crime Panels (along with elected Police and Crime Commissioners) were introduced by the 2011 Police Reform and Social Responsibility Act. The Act gives the elected Commissioner responsibility for holding the Chief Constable to account, securing an efficient and effective local police force and carrying out functions in relation to community safety and crime prevention.</p> <p>The Leicester City, Leicestershire and Rutland Police and Crime Panel is responsible for publicly scrutinising the actions and decisions of the Police and Crime Commissioner and holding him to account. The Panel should also act as a support for the Commissioner in carrying out his responsibilities.</p> <p>The Panel is made up of one representative from each of the local authorities in the Leicestershire Police Service area. In addition, three further members have been co-opted from Leicester City Council to ensure the Panel better represents the geographical and political balance of the area. The Panel also has two independent co-opted members (who must not be members of any local authority).</p>	<p>Leicester City Council panel members to continue to provide reporting and scrutiny links between the panel and Council Committees.</p>	<p>The Assistant Mayor with responsibility for Neighbourhood Services and the Strategic Director for City Developments & Neighbourhoods represent the city council on the Leicestershire Police and Crime Panel</p> <p>The city's Community Safety Partnership – "the Safer Leicester Partnership" ensures that both strategic and operational links are made between the work of the PCC and that of the city within the community safety agenda.</p>

Area of significant risk or priority for action	Comment	Action planned	Action taken
Health and Social Care Act 2012	This Act signalled wide-ranging reorganisation of the NHS with significant implications for local government. It places greater emphasis on integration between health agencies, social care and other council services to deliver person-centric support that promotes early intervention, independence and health & wellbeing.	Continued integration of the public health function within the City Council along with a greater understanding of the risks this brings. Continued support for the Health & Wellbeing Board (statutorily required now under the Act). Monitoring of delivery of the H&WBB's agreed priorities.	The main actions taken to govern this transition include: <ul style="list-style-type: none"> • Successfully delivery of the Public Health Transition which transferred a range of public health responsibilities, funding and staff from the former PCT to the Council (and other bodies) from April 2013 • Establishment of the Health and Wellbeing Board as a Committee of the Council in April 2013 and regular meetings of the H&WB Board throughout 2013/14 • The development and approval of 'Closing the Gap' the Joint Health and Wellbeing Strategy 2013-16 which was approved by the H&WB Board in April 2013. The H&WB Board received regular up-dates on progress towards implementing the Strategy through 2013/14 • In terms of additional assurance, Leicester City Council applied to LGA's health and wellbeing system improvement programme and participated in a Health and Wellbeing Peer Challenge in February 2014. The Peer review confirmed that Leicester's Health and Wellbeing Board is appropriately established and operating and that public health transition 'landed well' in the local authority.

Area of significant risk or priority for action	Comment	Action planned	Action taken
Continuing variable compliance with rules and procedures.	There is an increased risk that controls will be diluted as a result of streamlining of management structures in response to the current financial pressures. The consequent loss of experienced staff increases the risk of error. Moreover, these factors combined with the increased incentive brought about by financial hardship during a recession increase the risk of fraud.	Internal Audit assurance work in the 2013-14 audit plan.	Continuing requirement. Strengthening of senior management monitoring of compliance. Internal Audit has maintained an extensive programme of planned audit reviews supplemented by specially commissioned audits undertaken on the basis of risk to the Council. Service management has responded constructively to the conclusions of audit reviews and the recommendations made. Any matters of concern together with any non-implementation of recommendations are reported to the Audit & Risk Committee on a regular basis throughout the year.

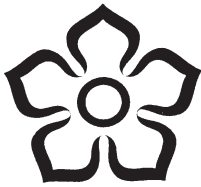
Previous years		
Area of significant risk or priority for action	Comment	Action taken
Continuing variable compliance with rules and procedures	As 2012-13 above.	As 2012-13 above.
Management and letting of contracts	Significant work is being carried out to develop a procurement approach which delivers value for money from procuring goods and services whilst improving the skills and knowledge within the procurement teams. Some concerns remain, however, in relation to the management of contracts and the Internal Audit Contract Audit Plan for 2012-13 includes a number of contracts and procurement-related audits to help provide assurance in relation to this area.	Internal Audit has re-established its contract audit capacity. It now has a programme of contract audits, the scope of which includes the processes for procurement and contract management. Contract audit was a priority in the 2013-14 Internal Audit plan.

B. Additional items identified in 2013-14, together with a summary of the action being taken or planned to make the necessary improvements.

Area of significant risk or priority for action	Comment	Action planned
Management of Payments to Service Users	An Internal Audit identified significant weaknesses in the procedure for managing payments to service users.	Implementation of the Audit recommendations will be managed in a joint response by the Adult Social Care and Business Service Centre teams.
Improve engagement with stakeholders within Adult Social Care.	Adult Social Care has now approved a Stakeholder Engagement Strategy to ensure effective engagement and increase co-production with their stakeholders.	Fully implement the Stakeholder Engagement Strategy.

Therefore, all Directors have confirmed that they understand the responsibilities placed upon them and in particular that:

- Subject to the identified areas of significant risk and priorities for action, all of the services for which they are responsible have in place processes and procedures that align to these principles and to the best of their knowledge and belief these processes are operating satisfactorily;
- The Directors as a management team set the ‘tone from the top’, embedding core values and principles throughout all Council service areas.



Leicester
City Council

Appendix G

**WARDS AFFECTED:
ALL WARDS (CORPORATE ISSUE)**

AUDIT & RISK COMMITTEE

29th September 2014

STATUTORY STATEMENT OF ACCOUNTS 2013/14

REPORT OF THE DIRECTOR OF FINANCE

1. INTRODUCTION

- 1.1. The Accounts and Audit (England) Regulations 2011 require that the Council present its audited Statement of Accounts by the 30th September following the end of the financial year, and that these accounts are adopted by the Audit & Risk Committee.
- 1.2. The regulations also require those charged with governance – the Audit & Risk Committee – to approve a letter of management representation.
- 1.3. Auditors are to present the committee with their Annual Governance Report which details the conclusions of their audit work and any recommendations they wish to make.

2. RECOMMENDATIONS

- 2.1. The Audit & Risk Committee is recommended to:
 - 2.1.1. Note the auditors' Annual Governance Report and the recommendations contained within it
 - 2.1.2. Adopt the audited accounts for the year ended 31st March 2014
 - 2.1.3. Approve the letter of representation submitted by the Director of Finance

3. SUMMARY

- 3.1. The statutory accounts are prepared in accordance with the Code of Practice on Local Authority Accounting in the UK. Separate management accounts are presented to the Executive and to the Overview Select Committee, which set out the revenue and capital outturn for the authority. The financial position of the authority is presented in a different way in the statement of accounts. The

outturn reports focus on the in-year financial performance in a format consistent with the Council's budgets, while the statement of accounts shows the in-year performance in a standard format adopted by all local authorities, including a balance sheet showing the underlying financial position. Despite the wide variations in the way the position is presented, the key point is that both the outturn reports and the accounts are consistent.

3.2. There have been no substantial changes in the accounting standards or the Council's accounting policies during the 2013/14 financial year, although it should be noted there were some changes to the requirements for accounting for defined benefit pension schemes which required restating some comparative 2012/13 figures.

3.3. The core financial statements are:

- Movement in reserves statement

This shows the movement in the year on the different reserves held by the authority. This statement distinguishes between "usable reserves" which can be used to fund expenditure or reduce local taxation and "unusable reserves" which are effectively accounting entries and not actual cash.

- Comprehensive income and expenditure statement

This shows the Council's actual performance for the year in accordance with the Code of Practice. This means that the accounts are prepared on a different basis than that used to set the Council's budget and raise Council Tax. There are a number of statutory adjustments that are made to the surplus or deficit shown on this statement to arrive at the balance on the General Fund. The level of uncommitted general balances at 31st March 2014 was £24.6m, as set out in the 2013/14 revenue outturn report.

- Balance sheet

The Balance Sheet shows the net worth of the Council in terms of its assets and liabilities. It shows the net value of the organisation including the balances and reserves, its long term indebtedness, together with fixed and net current assets employed in its operations. The 2013/14 Balance Sheet shows the Council has net assets of £1.2bn

- Cash flow statement

This statement summarises the movements in cash holdings during the year in common with the presentation required for commercial companies, although the statement is of less significance in the Local Authority context.

4. AMENDMENTS TO THE DRAFT FINANCIAL STATEMENTS

- 4.1. During the audit period, the need for certain amendments to the draft financial statements has come to light. None of these adjustments are considered material, and there has been no change to the level of the General Fund balance presented in the draft financial accounts.
- 4.2. A list of the amendments agreed with audit will be presented alongside the final accounts to the Committee.

5. LETTER OF REPRESENTATION

- 5.1. The letter of representation is a letter signed by the Director of Finance and approved by the Audit & Risk Committee.
- 5.2. It is designed to give auditors assurance on the information included in the Statement of Accounts and to affirm that the primary responsibility for the content of the Statement of Accounts remains with the Council.

6. ANNUAL GOVERNANCE REPORT

- 6.1. The Annual Governance Report details the conclusions of the external audit and makes any recommendations deemed necessary. Management responses to the recommendations are contained within it.

7. FINANCIAL IMPLICATIONS

- 4.1 The report is exclusively concerned with financial issues.

8. LEGAL IMPLICATIONS

- 5.1 The timetable and the arrangements for the reporting of the Council's statement of accounts are governed by statute. These statutory requirements have been complied with.

9. OTHER IMPLICATIONS

<u>OTHER IMPLICATIONS</u>	<u>YES/NO</u>	<u>PARAGRAPH REFERRED</u>
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights / People on low incomes	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

10. BACKGROUND PAPERS

Revenue and capital outturn reports presented the Overview Select Committee on 31st July 2014
Closure of Accounts working papers – held in the Accountancy Section

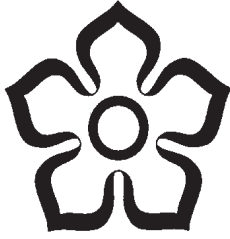
11. CONSULTATIONS

All departments are consulted during the Authority's close down period.

12. AUTHOR

Alistair Cullen
Principal Accountant – Corporate Accountancy
X374042

Alison Greenhill
Director of Finance



Leicester
City Council

WARDS AFFECTED:
ALL

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Audit & Risk Committee
Council

29 September 2014
13 November 2014

Annual Report of the Audit & Risk Committee to Council for the municipal year 2013-14

Report of the Director of Finance

1 PURPOSE OF REPORT

- 1.1 To present to the Council the annual report of the Audit & Risk Committee setting out what the Committee has achieved over the municipal year 2013-14.
- 1.2 There is no specific requirement for such a report. However, best practice is for the Audit & Risk Committee to be able to demonstrate its effectiveness in overseeing the City Council's control environment and this is reflected in the Committee's terms of reference. This report was presented to the Committee for approval at its meeting on 29 September 2014.

2 RECOMMENDATIONS

- 2.1 The Audit & Risk Committee is recommended to approve this report for submission to the Council.
- 2.2 The Council is recommended to receive this report.

3 SUMMARY

- 3.1 The Audit & Risk Committee has considered a wide range of business in fulfilment of its central role as part of the Council's system of corporate governance and internal audit and control. It has conducted its business in an appropriate manner through a programme of meetings and has fulfilled the expectations placed upon it.
- 3.2 The report covers the municipal year 2013-14 rather than the financial year so as to align with members' terms of office.

4 REPORT

- 4.1 The Committee's terms of reference had been reviewed and updated immediately prior to the beginning of the municipal year and the Committee had approved these at its meeting on 8 May 2013 and by the Council on 23 May. A further update of the terms of reference was approved by the Committee at its final meeting of the municipal year, 15 April 2014. The terms of reference formally confer upon the Committee the role of 'the board' for the purposes of the Public Sector Internal Audit Standards, issued jointly by CIPFA and the IIA as the recognised professional standards for internal audit.
- 4.2 The Committee is well established and has continued to make an important contribution to the effectiveness of the City Council's internal control and corporate governance frameworks. It is also a central component of the Council's system of internal audit.

Achievements of the Committee

- 4.3 During the municipal year 2013-14, the Committee met on seven occasions:

- 13 June 2013
- 16 July 2013
- 24 September 2013
- 24 October 2013
- 14 November 2013
- 19 March 2014
- 15 April 2014

The Committee's terms of reference require it to meet at least three times a year. All of the Committee's meetings have been properly constituted and quorate.

- 4.4 The appendices to this report give further information on the activities of the Committee during the municipal year 2013-14:

- Appendix 1 - a summary of the Committee's work according to its responsibilities under its terms of reference.
- Appendix 2 – an assessment of the effectiveness of the Committee against the criteria in *Audit Committees - Practical Guidance for Local Authorities and Police*, CIPFA 2013.

- 4.5 Key outcomes from the Committee's work:

The responsibilities of the Committee are set out in its terms of reference:

- The Committee has continued to keep its own terms of reference under review to ensure compliance with current best practice.
- Members considered their training needs in support of their role on the Committee. In furtherance of this, Members received briefings on a number of relevant topics including: the role of the Committee itself; the Council's risk management strategy, risk register process and handling of

insurance claims against the Council; the revenues and benefits counter-fraud process including prosecutions; public health; and the published statement of accounts.

Internal Audit

- The Committee considered the Internal Audit annual and quarterly plans and monitored their delivery and outcomes during the year. The Committee also received the Internal Audit annual report and summary of conclusions as part of the assurance framework on the adequacy of the Council's overall system of internal control.
- The Committee reserves the right to summon relevant officers to attend its meetings to discuss in more depth specific issues raised by Internal Audit reports. This has helped to maintain the profile of the Committee and its role in promoting adherence to procedures and improved internal control.
- The Committee received and approved the annual review of the effectiveness of the Council's system of internal audit, as required under regulation 6(3) of the Accounts and Audit (England) Regulations 2011. Further detail on this is given below at paragraph 4.12.

Fraud

- The Committee maintained an effective overview of the Council's measures to combat fraud and financial irregularity. Specifically, the Committee:
 - Considered the annual counter-fraud report, which brought together the various strands of counter-fraud work in 2012-13 with examples of the types of work carried out by the teams involved
 - Reviewed and supported the Council's participation in the National Fraud Initiative and the outcomes thereof
 - Reviewed the Council's activity and performance under the Regulation of Investigatory Powers Act 2000.

External audit

- The Committee considered the external auditor's plans and progress and the outcomes of this work, with particular reference to the annual audit of the Council's statutory financial statements.
- The external auditor places reliance on Internal Audit work in connection with the external audit of the Council's accounts and the certification of certain grant claims and returns. The Committee has received reports on the outcomes of such work and to this extent is fulfilling its responsibility to promote an effective working relationship between the two audit functions.

Risk Management

- The Committee confirmed the Risk Management Strategy and Policy and Corporate Business Continuity Management Strategy. The Committee maintained a regular overview of the risk management arrangements including the Council's strategic and operational risk registers and

'horizon-scanning' for potential emerging risks to the Council and its business.

- The Committee received specific reports on the tendering for the Council's insurance arrangements and on an independent review of the Council's business continuity arrangements.
- The management of the Internal Audit and Risk Management functions by one head of service has meant good coordination between the two related disciplines, including reporting to the Committee.

Corporate Governance

- During 2013-14, the Committee has fulfilled the responsibilities of 'the board' for the purposes of the City Council's conformance to the CIPFA Public Sector Internal Audit Standards in terms of the overseeing of the Council's arrangements for audit, the management of risk and the corporate governance assurance framework.
- The Committee maintained its oversight of the Council's corporate governance arrangements. The Council's updated assurance framework, which maps out the process for collating the various sources of assurance and from them preparing the Council's statutory¹ Annual Governance Statement, was reviewed and approved by the Committee.
- Alongside this was the approval by the Committee of the updated Local Code of Corporate Governance.
- The Committee approved the draft Annual Governance Statement for 2012-13. This was the first to be produced under the new governance reporting structure, which allowed the AGS to be completed more efficiently and be more meaningful. The assurance framework of which this is part was approved by the Committee at the end of the previous municipal year.
- This annual report to Council is part of the governance arrangements, through giving a summary of the Committee's work and contribution to the good governance of the City Council and demonstrating the associated accountability.

Financial reporting

- The Committee received and approved the Council's statutory Statement of Accounts for 2012-13 and associated external audit reports. It approved the Council's letter of representation, by means of which the City Council gives assurance to the external auditor; there were no significant items that were not reflected in the Council's accounting statements.

Effectiveness of Committee's work

- 4.6 In considering the above, it is concluded that the Committee fulfilled in all material respects the requirements of its terms of reference.

¹ Regulation 4(3) of the Accounts and Audit (England) Regulations 2011

- 4.7 The work of the Committee is reflected in the external auditor's Annual Governance Report, which is issued to the Committee as 'those charged with governance'. In this statement for the 2012-13 financial statements (considered by the Committee in 2013-14) the auditors confirmed that their audit opinion would be 'unqualified' and that the Council has 'made proper arrangements to secure economy, efficiency and effectiveness in its use of resources'.
- 4.8 The Committee considered at its meeting on 16th July 2013 the annual review of the effectiveness of the system of internal audit, as required by the Accounts and Audit (England) Regulations 2011. This review found that for 2012-13 the Audit & Risk Committee met all of the main indicators of being an effective audit committee as set out by CIPFA at the time². The criteria include:
- Regular meetings
 - Sufficient independence of other functions
 - Constructive meetings, conducted freely and openly and without political influence
 - Properly updated and approved terms of reference with a sufficient spread of responsibilities for internal and external audit, governance and risk management
 - Playing a sufficient part in the management of Internal Audit including approval of audit plans, review of Internal Audit performance and the outcomes of audit work plus management's responses to it
 - Maintaining a proper overview of the relationship with and the work of the external auditor.
- 4.9 The CIPFA guidance was updated in 2013 and an updated assessment has been conducted in the preparation of this report. The outcome is given in Appendix 2. There are no significant areas of fundamental non-conformance with the revised best practice guidance. There are points of detail that will be considered in the next annual review of the Committee's terms of reference.
- 4.10 As has been acknowledged in previous years, annual changes in membership are to be expected but can hinder the development of expertise and knowledge acquired by members. As a result, and given the complexities of the Committee's business, meetings of the Committee are normally preceded by a briefing or training session on a particular topic, usually linked to that meeting's agenda. Overall, during 2013-14, the Committee's membership was such as to ensure both continuity and that the Committee had a positive effect on the Council's control environment.
- 4.11 The Head of Internal Audit & Risk Management attends all meetings of the Committee. In addition, and in the interests of providing the full range of legal, constitutional and financial advice and expertise, meetings of the Committee are routinely attended by the Director of Finance and the City Barrister &

² Chartered Institute of Public Finance & Accountancy: *Audit Committees: Practical Guidance for Local Authorities*, 2005.

Head of Standards (who is also the Council's designated monitoring officer) or their representatives.

Conclusions

- 4.12 The Committee fulfilled all of the requirements of its terms of reference and the good practice guidance issued by CIPFA.
- 4.13 It is the view of the Head of Internal Audit & Risk Management and the Director of Finance that during the municipal year 2013-14 the Audit & Risk Committee made a significant contribution to the good governance of the City Council. Through its work, it has reinforced the Council's systems of internal control and internal audit and has given valuable support to the arrangements for corporate governance, legal compliance and the management of risk.
- 4.14 There remains a need to support members with relevant training and briefings on the Committee's responsibilities for internal and external audit, risk management and internal control and governance. These are technically complex subjects, particularly in the context of the governance of a large local authority and especially during a period of continued financial stringency and change. The effectiveness of the Committee is enhanced by having members who have sufficient expertise and experience, attributes which benefit from continuity of membership.

5 FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1 Financial Implications

An adequate and effective Audit & Risk Committee is a central component in the governance and assurance processes intended to help ensure that the Council operates efficiently, cost effectively and with integrity. Its support for the processes of audit and internal control will help the Council as it faces the financially challenging times ahead.

Colin Sharpe, Head of Finance (Corporate Resources) x37 4081

5.2 Legal Implications

The Audit & Risk Committee aids the fulfilment by the Council of its statutory responsibilities under the Accounts and Audit Regulations 2011 for monitoring the Council's system for internal control. It is an important part of the way the duties of the Director of Finance are met as the responsible financial officer under s151 of the Local Government Act 1972.

Kamal Adatia, City Barrister & Head of Standards, x37 1401

5.3 Climate Change Implications

This report does not contain any significant climate change implications and therefore should not have a detrimental effect on the Council's climate change targets.

Louise Buckley, Graduate Project Officer (Climate Change), 37 2293

6 Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph references within supporting information
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	Yes	4.5 – references to fraud
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities	No	
Risk Management	Yes	The whole report concerns the audit, risk management and governance process, a main purpose of which is to give assurance to Directors and this Committee that risks are being properly identified and managed appropriately by the business.

7 BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Minutes of the Audit & Risk Committee 13 June, 16 July, 24 September, 24 October and 14 November 2013, 19 March and 15 April 2014.

8 CONSULTATIONS

City Barrister & Head of Standards.

9 REPORT AUTHOR

Steve Jones, Audit Manager, Internal Audit, Financial Services, extension 37 1622.

Summary of work of the Audit & Risk Committee – municipal year 2013-14

This table shows the activities of the Audit & Risk Committee during the municipal year 2013-14 alongside the terms of reference of the Committee as approved immediately prior to the municipal year (9th April and 8th May 2013).

There is no area that has not been covered at least sufficiently by the Committee.

Terms of Reference	Date considered	Item	Outcome
1. AUDIT FRAMEWORK			
1.1 Internal Audit			
On behalf of the Council, to approve the Head of Internal Audit's annual report and opinion, considering the level of assurance given over the Council's corporate governance arrangements and decide on appropriate actions.	24.9.13	Summary of Internal Audit Conclusions 2012-13	Approved
	24.9.13	Internal Audit Annual report 2012-13	Approved
To consider, challenge and approve (but not direct) Internal Audit's strategy and plan and monitor performance on an annual basis.	16.7.13	Internal Audit Q1 and Q2 Operational Plans 2013-14	Approved
	24.10.13	Internal Audit Q3 Operational Plan 2013-14	Approved
	19.3.14	Internal Audit Q4 Operational Plan 2013-14	Approved
	15.4.14	Internal Audit Annual Plan 2014-15	Approved
	15.4.14	Internal Audit Q1 Operational Plan 2014-15	Approved
To receive summaries of Internal Audit reports and the main issues arising.	24.9.13	Internal Audit Update – February and March 2013	Approved
	14.11.13	Internal Audit Update Q1 and Q2 2013-14 (April 2013 to September 2013)	Approved
	19.3.14	Internal Audit Update Q3 2013-14 (October to December 2013)	Approved
To review and challenge management's responsiveness to the internal audit findings and recommendations, seeking assurance that appropriate action has been taken where necessary and agreed recommendations have been implemented within a reasonable timescale.	As last item	Internal Audit Updates - as last item	Approved
To monitor and assess the role and effectiveness of the Internal Audit function.	16.7.13	Review of the Effectiveness of the System of Internal Audit 2012-13	Approved
In fulfilling these functions, the Audit & Risk Committee fulfils the role of 'board' for the purposes of the <i>Public Sector Internal Audit Standards</i> .	16.7.13	Training on 'How to be an Effective Audit & Risk Committee'	Training for Committee

Summary of work of the Audit & Risk Committee – municipal year 2013-14

Terms of Reference	Date considered	Item	Outcome
1.2 External Audit			
On behalf of the Council, to review with the external auditor and inspection agencies the findings of their work including any major issues which are unresolved; key accounting and audit judgments; and the levels of errors identified during the audit. The Committee should obtain explanations from management and from external auditors, where necessary, as to why errors might remain unadjusted.	24.9.13	Annual Governance Report 2012-13 and Letter of Representation	Approved
	14.11.13	External Auditor's Annual Audit & Inspection Letter 2012-13	Approved
	19.3.14	Certification of Grant, Claims and Returns 2011-12 Annual Report (external auditor)	Approved
To consider the scope and depth of external audit work and to assess whether it gives value for money.	19.3.14	Annual External Audit Plan for 2013-14	Approved
To liaise with the Audit Commission (or such other body that assumes this responsibility) over the appointment of the Council's external auditor and conduct such other related functions as required by the local public audit regime.	N/A	This has not been needed during the 2013-14 municipal year.	
To facilitate effective relationships between external and internal audit, inspection agencies and other relevant bodies and ensure the value of these audit relationships is actively promoted.	Various	Reference to joint working or coordination is made in various internal and external reports, with particular reference to the audit of the main financial systems.	Noted
To approve any instances of non-audit work by the external auditors in accordance with the <i>Policy for Engagement of External Auditors for Non-Audit Work</i> and report any such instances to the Council.	N/A	This has not been needed during the 2013-14 municipal year.	
2. RISK MANAGEMENT FRAMEWORK			
On behalf of the Council, to consider and challenge the effectiveness of the Council's Risk Management Strategy and Framework, including the Risk Management and Insurance Services function.	13.6.13	Risk Management & Insurance Services update	Approved
	16.7.13	Risk Management & Insurance Services update	Approved
	24.10.13	Training - LCC Risk Management Strategy and Risk Register reporting process plus insurance policies and claims handling	Training for Committee
	24.10.13	Risk Management & Insurance Services update	Approved
	24.10.13	Tenders for the Council's Insurance Arrangements	Noted
	14.11.13	Independent Review of Business Continuity Management Arrangements at LCC	Approved
	19.3.14	Risk Management & Insurance Services update	Approved
	15.4.14	Risk Management & Insurance Services update	Approved

Summary of work of the Audit & Risk Committee – municipal year 2013-14

Terms of Reference	Date considered	Item	Outcome
(Continued)	15.4.14	Business-critical activities; business continuity plans – final update	Approved
To consider and approve, on behalf of the Council, the Council's Risk Management Strategy and its key risk management policies including the Council's statement of overall risk appetite.	24.10.13 and 19.3.14	Risk Management & Insurance Services update including Corporate Risk Management Policy Statement and Strategy 2014 and Business Continuity Management (BCM) Policy Statement and Strategy 2014	Approved
To approve, on an annual basis, the Risk Management and Insurance Services function's terms of reference and its annual plan.	24.10.13	Risk Management & Insurance Services update including Corporate Risk Management Policy Statement and Strategy 2014	Approved
To review (and take any actions as a consequence of) reports from the Head of Internal Audit & Risk Management in respect of the status of key current and emerging risks and internal controls relating to those risks (the Operational and Strategic Risk Registers).	13.6.13	Risk Management & Insurance Services update	Approved
	16.7.13	Risk Management & Insurance Services update	Approved
	24.10.13	Risk Management & Insurance Services update	Approved
	19.3.14	Risk Management & Insurance Services update	Approved
	15.4.14	Risk Management & Insurance Services update	Approved
3. INTERNAL CONTROL AND GOVERNANCE FRAMEWORK			
To review the adequacy of the Council's internal control framework through review of its system of internal control and system of internal audit and overseeing the production and approval of the Council's Annual Governance Statement prepared in accordance with the Local Code of Conduct Governance.	15.4.14	Annual review of the Council's, Assurance Framework, Local Code of Corporate Governance and annual review of the Committee's terms of reference	Approved
	16.7.13	Review of the Effectiveness of the System of Internal Audit 2012-13	Approved
	24.9.13	Draft Annual Governance Statement 2012-13	Approved
To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts. (The Committee is to do this before approving the Council's published financial statements. The Committee should take note of any adjustments set out in the external auditor's report and agree any such adjustments where management has declined to do so or set out the reasons for not doing so.)	24.9.13	Annual Governance Report 2012-13 and Letter of Representation	Approved
To maintain an overview of the Council's Constitution in respect of contract procedure rules, finance procedure rules and codes of conduct and behaviour.	Various	Reference is made to constitutional requirements and rules of procedure where relevant in internal and external audit reports.	Noted

Summary of work of the Audit & Risk Committee – municipal year 2013-14

Terms of Reference	Date considered	Item	Outcome	
(Continued)	15.4.14	Corporate Procurement Plan 2014-15	Approved	
To review and approve, on an annual basis, the Council's anti-fraud, bribery and corruption and its disclosure (whistle-blowing) policies and procedures.	16.7.13	Counter-Fraud Annual Report 2012-13	Approved	
	24.10.13	Regulation of Investigatory Powers Act 2000 (RIPA) – Annual Performance Report	Approved	
	14.11.13	Fraud: Revenues & Benefits Process including Prosecutions	Training for Committee	
	14.11.13	National Fraud Initiative - annual report	Approved	
	19.3.14	Counter-Fraud update report - first half-year 2012-13	Approved	
	19.3.14	Audit Commission Fraud Briefing <i>Protecting the Public Purse 2013</i> (presented by external auditor KPMG)	Noted	
	15.4.14	RIPA Stats and Performance report January - December 2013	Approved	
	Annually, to assess all significant risk issues considering: <ul style="list-style-type: none"> Changes since the last annual assessment and the Council's response; The scope and quality of management's ongoing monitoring of risks and the system of internal control; The incidence of significant control failings in relation to all significant risks and their impact. 	13.6.13 16.7.13 24.10.13 19.3.14 15.4.14	Risk Management & Insurance Services updates	Approved
To review regular reports from Internal Audit and Risk Management on risk and internal controls, considering: <ul style="list-style-type: none"> The effectiveness of systems of internal control across the Council 		24.9.13	Summary of Internal Audit Conclusions 2012-13	Approved
		4.12.12 7.2.13 9.4.13	Internal Audit Update reports	Approved
		<ul style="list-style-type: none"> Reports on major control issues and their impact on the Council's risk profile. 	Various as above	Risk Management & Insurance Services updates
14.11.13			Independent Review of BCM Arrangements at LCC	Approved
15.4.14	Business-critical activities; business continuity plans – final update		Approved	
To consider and decide on appropriate actions relating to the Council's compliance with its own and other published or regulatory policies, standards and controls, including:	24.9.13	Summary of Internal Audit Conclusions 2012-13	Approved	
	24.9.13 14.11.13 19.3.14	Internal Audit Update reports (which include reference to the various legal and policy requirements as relevant to the specific subject matter)	Approved	

Summary of work of the Audit & Risk Committee – municipal year 2013-14

Terms of Reference	Date considered	Item	Outcome
(Continued)	24.9.13	Draft Annual Governance Statement 2012-13	Approved
<ul style="list-style-type: none"> o Information assurance including compliance with the Data Protection Act; o Freedom of Information Act; o Health & Safety at Work; o The Disclosure Policy o Complaints; o Raising Concerns at Work; and o Others as appropriate. 	15.4.14	Surveillance Policy – as part of RIPA 2000 Annual Performance Report	Noted
	15.4.14	Corporate Compensation Policy	Noted
	24.10.13	Project Assurance Process	Noted
	4. FINANCIAL REPORTING FRAMEWORK		
To review and approve the Council's published financial statements, the external auditor's annual opinion and other reports to Members and to monitor management action in response to issues raised.	16.7.13	Draft Statement of Accounts 2012-13	Approved
To review and approve the annual statement of accounts and the annual Letter of Representation on behalf of the Council, giving particular attention to critical accounting policies and practices, decisions requiring a significant element of judgement, how any unusual transactions should be disclosed and the clarity of the disclosures.	24.9.13	Statutory Statement of Accounts 2013-13 Annual Governance Report 2012-13 and Letter of Representation	Approved
	24.9.13	Understanding the Statement of Accounts	Training for Committee
To bring to the attention of the Council any concerns arising from the financial statements or from the audit.		None.	
5. OTHER MATTERS			
To consider, approve or make recommendations in respect of any other matters referred to it by the City Mayor, Chief Operating Officer (as the Head of Paid Service) or a Director or any Council body.	Training and briefings on:		
	13.6.13	How to be an Effective Audit & Risk Committee	Training for Committee
	16.7.13	Training needs assessment for Members of the Committee	Training for Committee
	19.3.14	Public Health – local authority responsibilities	Training for Committee
To consider any relevant matters reserved for Member-level decision as detailed in Rules of Procedure.		None	
To present an annual report to the Council on the Committee's conduct, business and effectiveness.	24.9.13 (Council 21.11.13)	Draft A&R Committee annual report to Council 2012-13	Approved. Presented to Council 21.11.13
	19.3.14	A&R Committee 2014-15 planned agendas and meeting dates	Approved

Audit & Risk Committee – municipal year 2013-14

August 2014 - Review of conformance to CIPFA *Practical Guidance for Audit Committees* (2013 Edition)

	Good practice questions	Yes	Partly	No	Notes and actions
Audit committee purpose and governance					
1	Does the authority have a dedicated audit committee?	Y			
2	Does the audit committee report directly to full council? (Applicable to local government only.)	Y			
3	Do the terms of reference clearly set out the purpose of the committee in accordance with CIPFA's Position Statement?	Y			<p>Though we conform to the criteria, compliance could be strengthened by addressing the following:</p> <ul style="list-style-type: none"> • Ref 3(5): We do not routinely take reports of other inspections agencies (e.g. Ofsted, CQC) to A&R Committee • Ref 4(2): Closer working with the Standards Committee? • Ref 4(3): Decide whether review of Treasury Management arrangements should be within the Committee's specific remit and if so, update ToR accordingly • Ref 5(5): Update ToR to specify minimum four meetings a year (currently three).
4	Is the role and purpose of the audit committee understood and accepted across the authority?	Y			
5	Does the audit committee provide support to the authority in meeting the requirements of good governance?	Y			
6	Are the arrangements to hold the committee to account for its performance operating satisfactorily?	Y			
Functions of the committee					

Audit & Risk Committee – municipal year 2013-14

August 2014 - Review of conformance to CIPFA *Practical Guidance for Audit Committees* (2013 Edition)

	Good practice questions	Yes	Partly	No	Notes and actions
7	Do the committee's terms of reference explicitly address all the core areas identified in CIPFA's Position Statement?	Y			Subject to Q3 above.
	good governance	Y			
	assurance framework	Y			'Internal Control and Governance Framework'
	internal audit	Y			
	external audit	Y			
	financial reporting	Y			
	risk management	Y			
	value for money or best value			N	This is implied but is not explicit in the terms of reference.
	counter-fraud and corruption.	Y			
8	Is an annual evaluation undertaken to assess whether the committee is fulfilling its terms of reference and that adequate consideration has been given to all core areas?	Y			
9	Has the audit committee considered the wider areas identified in CIPFA's Position Statement and whether it would be appropriate for the committee to undertake them?		P		There has been no specific consideration of this by the Committee but there is no area in the Position Statement that has been fundamentally omitted in the Committee's remit or activity in 2013-14.
10	Where coverage of core areas has been found to be limited, are plans in place to address this?	Y			Further revision of the Committee's terms of reference.
11	Has the committee maintained its non-advisory role by not taking on any decision-making powers that are not in line with its core purpose?	Y			
Membership and support					
12	Has an effective audit committee structure and composition of the committee been selected?	Y			

Audit & Risk Committee – municipal year 2013-14

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	Good practice questions	Yes	Partly	No	Notes and actions
	This should include:				
	separation from the executive	Y			
	an appropriate mix of knowledge and skills among the membership	Y			
	a size of committee that is not unwieldy	Y			
	where independent members are used, that they have been appointed using an appropriate process.	N/A			
13	Does the chair of the committee have appropriate knowledge and skills?	Y			
14	Are arrangements in place to support the committee with briefings and training?	Y			
15	Has the membership of the committee been assessed against the core knowledge and skills framework and found to be satisfactory?	Y			With the exception of Treasury Management (which is not specified in the Committee's terms of reference).
16	Does the committee have good working relations with key people and organisations, including external audit, internal audit and the chief financial officer?	Y			
17	Is adequate secretariat and administrative support to the committee provided?	Y			
Effectiveness of the committee					
18	Has the committee obtained feedback on its performance from those interacting with the committee or relying on its work?		P		The opportunity is there from the full Council on presentation of the Committee's annual report.
19	Has the committee evaluated whether and how it is adding value to the organisation?	Y			Such evaluations are done as part of the annual report and as part of the annual Review of the Effectiveness of the System of Internal Audit, which includes the Committee.

Audit & Risk Committee – municipal year 2013-14

August 2014 - Review of conformance to CIPFA *Practical Guidance for Audit Committees* (2013 Edition)

	Good practice questions	Yes	Partly	No	Notes and actions
20	Does the committee have an action plan to improve any areas of weakness?		P		The Committee has a forward planner for agenda items including scheduled training sessions to address identified needs. Regular review of the Committee's terms of reference and associated governance documentation gives the opportunity to improve any necessary areas, e.g. Q3 and Q7 above.

Ends

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