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ASHFIELD DISTRICT COUNCIL

Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Audit Committee

Date:	**Monday, 10th February, 2020**
Time:	**10.00 am**
Venue:	**Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield**

For any further information please contact:

Lynn Cain

l.cain@ashfield.gov.uk

01623 457317

If you require an adjustment to enable you to participate or access the meeting, please contact the Democratic Services team at least 48 hours before the meeting.

AUDIT COMMITTEE

Membership

Chairman:	Councillor Dave Shaw

Councillors:

John Baird	Jim Blagden
Christian Chapman	Arnie Hankin
Kevin Rostance	David Walters

FILMING/AUDIO RECORDING NOTICE

This meeting may be subject to filming or audio recording. If you have any queries regarding this, please contact Members' Services on 01623 457317.

SUMMONS

You are hereby requested to attend a meeting of the Audit Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.

Carol Cooper-Smith
Chief Executive

AGENDA

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AUDIT COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Monday, 16th December, 2019 at 11.00 am

Present:	Councillor Dave Shaw in the Chair; Councillors John Baird, Christian Chapman, Arnie Hankin and David Walters.
Apology for Absence:	Councillor Jim Blagden.
Officers Present:	Bev Bull, Lynn Cain, Ruth Dennis, Joanne Froggatt and Peter Hudson.
In Attendance:	Hannah McDonald (CMAP), Mandy Marples (CMAP) and John Pressley (Mazars).

AC.14 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

No declarations of interest were made.

AC.15 Minutes

RESOLVED
that the minutes of the meeting of the Committee held on 30th September, 2019, be received and approved as a correct record.

AC.16 Treasury Management Mid-Year Report 2019/20

The Council's Chief Accountant presented a mid-year 2019/20 Treasury Management report to Members in accordance with the requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA) Treasury Management Code of Practice.

The update covered the following:-

- An economic update for the 2019/20 financial year as at 30th September, 2019;
- The Council's capital position (prudential indicators);
- The Council's investment portfolio for 2019/20;
- The Council's borrowing position for 2019/20.

RESOLVED that

a) the Treasury Management mid-year report, as presented, be received and noted;

b) Cabinet be recommended to approve the changes to the 2019/20 Prudential Indicators for the Capital Financing Requirement, the Operational Boundary and the Authorised Limit to reflect the impact of in-year changes to the 2019/20 Capital Programme.

AC.17 <u>Corporate Risk - Current Position</u>

The Service Manager, Corporate Services and Transformation presented the Corporate Risk Register to the Committee and outlined the framework used to identify and assess risk, how risk was monitored at a corporate level and the process for examining the Council's risk appetite as required.

Members' acknowledged the proposed changes to the Corporate Risk Strategy, following recommendations from an internal audit review in 2018, which were considered appropriate in order to facilitate greater understanding of risk maturity and improved organisational performance against the Alarm national performance model for risk management in public services.

Members took the opportunity to consider elements of the Risk Register including the addition of new corporate risks and the current significant risks as highlighted. Committee also discussed updates in relation to the 5 recommendations arising from the Risk internal audit review undertaken during 2018.

RESOLVED that

a) the Corporate Risk Register and progress against current corporate risks including significant items, as presented, be received and noted;

b) the proposed changes to the Corporate Risk Strategy be also noted and endorsed prior to Cabinet approval being duly sought.

AC.18 <u>Audit Progress Report</u>

Mandy Marples, CMAP's Audit Manager, presented the report and summarised audit progress as at 16th December, 2019 with 6 assignments having reached their conclusion during the period.

Members were advised that of the 6 completed assignments, the Door Access Control review had resulted in a limited assurance with 8 actions being agreed by management to be implemented without delay. In relation to the Procurement review, 4 actions had been agreed by management and it had been decided that CMAP would allocate days to enable the review to be revisited as part of the 2020/21 Audit Plan.

Members took the opportunity to ask questions concerning the outstanding moderate and low risk recommendations and what actions were being taken by management to escalate and address the issues to ensure compliance as necessary.

RESOLVED
that audit assignment progress as at 16th December, 2019, as presented to Committee, be received and noted.

AC.19 Section 100A Local Government Act 1972; Exclusion of the Press and Public

RESOLVED
that in accordance with the provisions of Section 100A of the Local Government Act 1972, the press and public be now excluded from the meeting during the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Part 1 of Schedule 12A of the Act and in respect of which the Proper Officer considers the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The meeting adjourned at 11.53am and reconvened at 12.00 noon.

AC.20 Q2 2019/20 Investment Property Performance

The Council's Service Manager, Commercial Development gave Members an update in relation to the content and movement of the Council's investment property portfolio during quarter 2 of the 2019/20 financial year.

RESOLVED
that performance in relation to the Council's investment property portfolio, as presented, be received and noted.

The meeting closed at 12.24 pm

Chairman.

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Audit Strategy Memorandum

Ashfield District Council

Year ending 31 March 2020

MAZARS

CONTENTS

Mazars LLP

Park View House
58 The Ropewalk
Nottingham
NG1 5DW

Audit Committee

Council Offices
Urban Road
Kirkby in Ashfield
Nottinghamshire
NG17 8DA

February 2020

Dear Sirs / Madams

Audit Strategy Memorandum – Year ending 31 March 2020

We are pleased to present our Audit Strategy Memorandum for Ashfield District Council for the year ending 31 March 2020

The purpose of this document is to summarise our audit approach, highlight significant audit risks and areas of key judgements and provide you with the details of our audit team. As it is a fundamental requirement that an auditor is, and is seen to be, independent of its clients, Section 7 of this document also summarises our considerations and conclusions on our independence as auditors.

We consider two-way communication with you to be key to a successful audit and important in:

- reaching a mutual understanding of the scope of the audit and the responsibilities of each of us;
- sharing information to assist each of us to fulfil our respective responsibilities;
- providing you with constructive observations arising from the audit process; and
- ensuring that we, as external auditors, gain an understanding of your attitude and views in respect of the internal and external operational, financial, compliance and other risks facing Ashfield District Council which may affect the audit, including the likelihood of those risks materialising and how they are monitored and managed.

This document, which has been prepared following our initial planning discussions with management, is the basis for discussion of our audit approach, and any questions or input you may have on our approach or role as auditor.

This document also contains specific appendices that outline our key communications with you during the course of the audit, and forthcoming accounting issues and other issues that may be of interest.

Client service is extremely important to us and we strive to continuously provide technical excellence with the highest level of service quality, together with continuous improvement to exceed your expectations so, if you have any concerns or comments about this document or audit approach, please contact me on 0115 964 4744 .

Yours faithfully

David Hoose

Mazars LLP

1. ENGAGEMENT AND RESPONSIBILITIES SUMMARY

Overview of engagement

We are appointed to perform the external audit of Ashfield District Council (the Council) for the year to 31 March 2020. The scope of our engagement is set out in the Statement of Responsibilities of Auditors and Audited Bodies, issued by Public Sector Audit Appointments Ltd (PSAA) available from the PSAA website: https://www.psaa.co.uk/managing-audit-quality/statement-of-responsibilities-of-auditors-and-audited-bodies/

Our responsibilities

Our responsibilities are principally derived from the Local Audit and Accountability Act 2014 (the 2014 Act) and the Code of Audit Practice issued by the National Audit Office (NAO), as outlined below:

Audit opinion

We are responsible for forming and expressing an opinion on the financial statements.

Our audit is planned and performed so to provide reasonable assurance that the financial statements are free from material error and give a true and fair view of the financial performance and position of the Council for the year.

Value for Money

We are required to conclude whether the Council has proper arrangements in place to secure economy, efficiency and effectiveness in it its use of resources. We discuss our approach to Value for Money work further in section 5 of this report.

Reporting to the NAO

We report to the NAO on the consistency of the Council's financial statements with its Whole of Government Accounts (WGA) submission. We expect that Ashfield District Council will be below the thresholds required for this reporting, but we are required to issue an assurance statement to the National Audit Office confirming income, expenditure, assets and liabilities of the Council.

Electors' rights

The 2014 Act requires us to give an elector, or any representative of the elector, the opportunity to question us about the accounting records of the Council and consider any objection made to the accounts. We also have a broad range of reporting responsibilities and powers that are unique to the audit of local authorities in the United Kingdom.

Our audit does not relieve management or those charged with governance, of their responsibilities. The responsibility for safeguarding assets and for the prevention and detection of fraud, error and non-compliance with law or regulations rests with both those charged with governance and management. In accordance with International Standards on Auditing (UK), we plan and perform our audit so as to obtain reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether caused by fraud or error. However our audit should not be relied upon to identify all such misstatements.

As part of our audit procedures in relation to fraud we are required to enquire of those charged with governance as to their knowledge of instances of fraud, the risk of fraud and their views on management controls that mitigate the fraud risks.

The Council is required to prepare its financial statements on a going concern basis by the Code of Practice on Local Authority Accounting. As auditors, we are required to consider the appropriateness of the use of the going concern assumption in the preparation of the financial statements and the adequacy of disclosures made.

For the purpose of our audit, we have identified the Audit Committee as those charged with governance.

2. YOUR AUDIT ENGAGEMENT TEAM

Engagement Partner

David Hoose
David.hoose@mazars.co.uk
0115 964 4744

Audit Manager

Michael Butler
Michael.butler@mazars.co.uk
0121 232 9710

Audit Assistant Manager

Callum Kilby
Callum.kilby@mazars.co.uk
0116 281 6503

3. AUDIT SCOPE, APPROACH AND TIMELINE

Audit scope

Our audit approach is designed to provide an audit that complies with all professional requirements.

Our audit of the financial statements will be conducted in accordance with International Standards on Auditing (UK), relevant ethical and professional standards, our own audit approach and in accordance with the terms of our engagement. Our work is focused on those aspects of your business which we consider to have a higher risk of material misstatement, such as those affected by management judgement and estimation, application of new accounting standards, changes of accounting policy, changes to operations or areas which have been found to contain material errors in the past.

Audit approach

Our audit approach is a risk-based approach primarily driven by the risks we consider to result in a higher risk of material misstatement of the financial statements. Once we have completed our risk assessment, we develop our audit strategy and design audit procedures in response to this assessment.

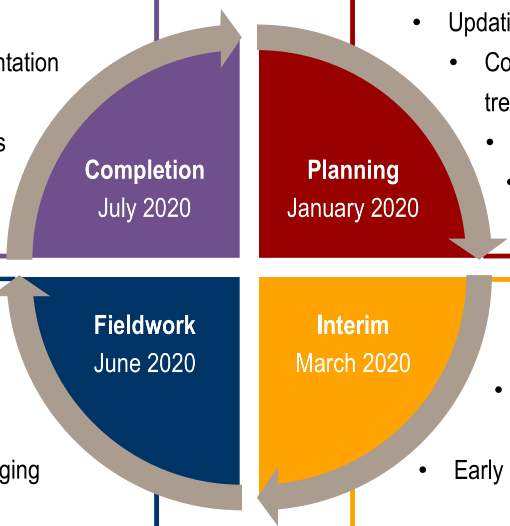
If we conclude that appropriately-designed controls are in place then we may plan to test and rely upon these controls. If we decide controls are not appropriately designed, or we decide it would be more efficient to do so, we may take a wholly substantive approach to our audit testing. Substantive procedures are audit procedures designed to detect material misstatements at the assertion level and comprise tests of details (of classes of transactions, account balances, and disclosures) and substantive analytical procedures. Irrespective of the assessed risks of material misstatement, which take into account our evaluation of the operating effectiveness of controls, we are required to design and perform substantive procedures for each material class of transactions, account balance, and disclosure.

Our audit will be planned and performed so as to provide reasonable assurance that the financial statements are free from material misstatement and give a true and fair view. The concept of materiality and how we define a misstatement is explained in more detail in section 8.

The diagram below outlines the procedures we perform at the different stages of the audit.

- Final review and disclosure checklist of financial statements
- Final partner review
- Agreeing content of letter of representation
- Reporting to Audit Committee
- Reviewing post balance sheet events
- Signing our opinion

- Initial opinion and value for money risk assessments
- Updating our understanding of the Council
- Considering proposed accounting treatments and accounting policies
- Development of our audit strategy
- Agreement of timetables
- Preliminary analytical procedures



- Review of draft financial statements
- Reassessment of audit strategy, revising as necessary
- Delivering our planned audit testing
- Continuous communication on emerging issues
- Clearance meeting

- Documenting systems and controls
- Walkthrough procedures
- Controls testing, including general and application IT controls
- Early substantive testing of transactions

3. AUDIT SCOPE, APPROACH AND TIMELINE (CONTINUED)

Reliance on internal audit

Where possible we will seek to utilise the work performed by internal audit to modify the nature, extent and timing of our audit procedures. We will meet with internal audit to discuss the progress and findings of their work prior to the commencement of our controls evaluation procedures.

Where we intend to rely on the work of internal audit, we will evaluate the work performed by your internal audit team and perform our own audit procedures to determine its adequacy for our audit.

Management's and our experts

Management makes use of experts in specific areas when preparing the Council's financial statements. We also use experts to assist us to obtain sufficient appropriate audit evidence on specific items of account.

Items of account	Management's expert	Our expert
Defined benefit liability	**Barnett Waddingham** *Actuary for Nottinghamshire Pension Fund*	**PWC** Consulting actuary appointed by the NAO
Property, plant and equipment valuation	**Internal Valuer** *Valuation of Council Dwellings* **External Valuer** *Other PPE Assets and Investment Properties*	None. We expect to use third party information provided via the NAO to support our challenge of valuation assumptions.
Financial instrument disclosures	**Link Asset Management** *Treasury management advisors*	Not applicable

Service organisations

International Auditing Standards (UK) define service organisations as third party organisations that provide services to the Council that are part of its information systems relevant to financial reporting. We are required to obtain an understanding of the services provided by service organisations as well as evaluating the design and implementation of controls over those services. The table below summarises the service organisations used by the Council and our planned audit approach.

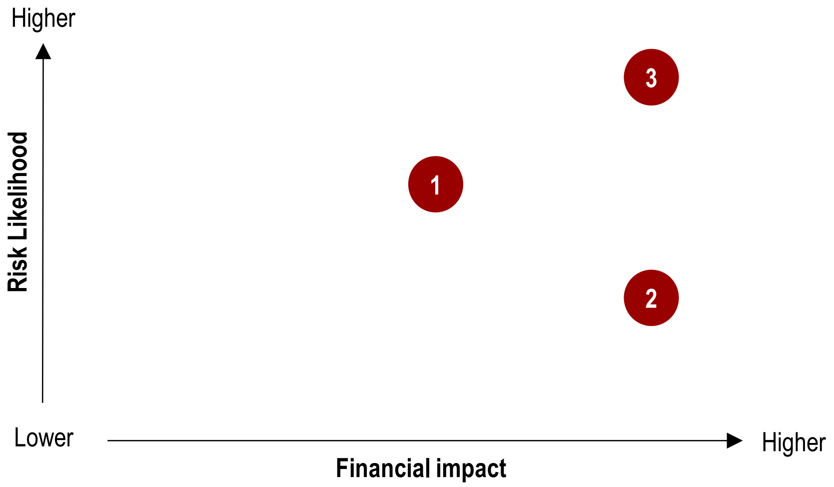
Items of account	Service organisation	Audit approach
Pension cost (cost of services) Net Interest on defined benefit liability Re-measurements of the net defined benefit liability (OCI) Net Pension liability	**Nottinghamshire Pension Fund** *The IAS 19 pension entries that form part of the Council's financial statements are material and are derived from actuarial valuations. The process of obtaining these is co-ordinated by and uses information held and processed by the service organisation.*	We will review the controls operating at the Council over these transactions to gain an understanding of the services provided by the service organisation. Where we conclude that we do not have a sufficient understanding of the services by the service organisation we will seek to obtain assurance by using another auditor to perform procedures that will provide the necessary information about relevant controls at the service organisation.

4. SIGNIFICANT RISKS AND KEY JUDGEMENT AREAS

Following the risk assessment approach discussed in section 3 of this document, we have identified relevant risks to the audit of financial statements. The risks that we identify are categorised as significant, enhanced or standard, as defined below:

Significant risk	A significant risk is an identified and assessed risk of material misstatement that, in the auditor's judgment, requires special audit consideration. For any significant risk, the auditor shall obtain an understanding of the entity's controls, including control activities relevant to that risk.
Enhanced risk	An enhanced risk is an area of higher assessed risk of material misstatement at audit assertion level other than a significant risk. Enhanced risks incorporate but may not be limited to: • key areas of management judgement, including accounting estimates which are material but are not considered to give rise to a significant risk of material misstatement; and • other audit assertion risks arising from significant events or transactions that occurred during the period.
Standard risk	This is related to relatively routine, non-complex transactions that tend to be subject to systematic processing and require little management judgement. Although it is considered that there is a risk of material misstatement, there are no elevated or special factors related to the nature, the likely magnitude of the potential misstatements or the likelihood of the risk occurring.

The summary risk assessment, illustrated in the table below, highlights those risks which we deem to be significant. We have summarised our audit response to these risks on the next page.



4. SIGNIFICANT RISKS AND KEY JUDGEMENT AREAS (CONTINUED)

We provide more detail on the identified risks and our testing approach with respect to significant risks in the table below. An audit is a dynamic process; should we change our view of risk or approach to address the identified risks during the course of our audit, we will report this to the Audit Committee.

Significant risks

	Description of risk	Planned response
1	**Management override of controls** Management at various levels within an organisation are in a unique position to perpetrate fraud because of their ability to manipulate accounting records and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. Due to the unpredictable way in which such override could occur there is a risk of material misstatement due to fraud on all audits.	We plan to address the management override of controls risk through performing audit work over accounting estimates, journal entries and significant transactions outside the normal course of business or otherwise unusual.
2	**Property, plant and equipment valuation** Land and buildings are a significant balance on the Council's balance sheet. The valuation of land and buildings is complex and is subject to a number of management assumptions and judgements. Due to the high degree of estimation uncertainty associated, we have determined there is a significant risk in this area. This risk covers: - HRA Council Dwellings - Investment Properties - Other PPE related assets	We plan to address this risk by: • critically assess the Council's valuers scope of work, qualifications, objectivity and independence to carry out the required programme of revaluations; • consider whether the overall revaluation methodologies used by the Council's valuers are in line with industry practice, the CIPFA Code of Practice and the Council's accounting policies; • assess whether valuation movements are in line with market expectations by using third party information provided by Gerald Eve to provide information on regional valuation trends; • critically assess the treatment of the upward and downward revaluation movements in the Council's financial statements with regards to the requirements of the CIPFA Code of Practice; • critically assess the approach that the Council adopts to ensure that assets are not subject to revaluation in 2019/20 are materially correct, including considering the robustness of that approach in light of the valuation information reported by the Council's valuers; and • test a sample of items of capital expenditure, disposals and reclassifications (where balances are material) to confirm that the amounts used and accounting treatment applied is appropriate in line with the CIPFA Code of Practice.

4. SIGNIFICANT RISKS AND KEY JUDGEMENT AREAS (CONTINUED)

	Description of risk	Planned response
3	**Defined benefit liability valuation** The defined benefit liability relating to the Local Government pension scheme represents a significant balance on the Council's balance sheet. The Council uses an actuary to provide an annual valuation of these liabilities in line with the requirements of IAS 19 Employee Benefits. Due to the high degree of estimation uncertainty associated with this valuation, we have determined there is a significant risk in this area.	We plan to address this risk by: • critically assess the competency, objectivity and independence of the Nottinghamshire Pension Fund's Actuary; • liaise with the auditors of the Nottinghamshire Pension Fund to gain assurance that the controls in place at the Pension Fund are operating effectively. This will included the processes and controls in place to ensure data provided to the Actuary by the Pension Fund for the purposes of the IAS 19 valuation is complete and accurate; • test payroll transactions at the Council to provide assurance over the pension contributions which are deducted and paid to the Pension Fund by the Council; • review the appropriateness of the Pension Asset and Liability valuation methodologies applied by the Pension Fund Actuary, and the key assumptions included within the valuation. This will include comparing them to expected ranges, utilising information by PWC and consulting actuary engaged by the National Audit Office; and • agree the data in the IAS 19 valuation report provided by the Fund Actuary for accounting purposes to the pension accounting entries and disclosures in the Council's financial statements.
4	**Revenue recognition** Auditing standards include a presumption that there is a significant risk in relation to the timing of income recognition, and in relation to the judgements made by management as to when income has been earned. However, audit teams are allowed to consider the level of risk associated with each organisation and rebut where appropriate.	We do not consider this to be a significant risk for Ashfield District Council for the following reasons: • the level of risk is considered to be low for Local Authorities; • majority of the Council's income is derived from grant funding, taxation (Council Tax and Business Rates) or rental income with the remaining balance considered to be low and generally represents a number of low value, high volume transactions; and • incentive and/ or opportunity to commit material fraudulent revenue recognition is deemed low We therefore rebut this risk and do not incorporate specific risk procedures over and above our standard fraud procedures to address the management override of controls risk (Identified at point 1).

4. SIGNIFICANT RISKS AND KEY JUDGEMENT AREAS (CONTINUED)

Key areas of management judgement

Key areas of management judgement include accounting estimates which are material but are not considered to give rise to a significant risk of material misstatement. These areas of management judgement represent other areas of audit emphasis.

	Area of management judgement	Planned response
1	**Provision for the impairment of doubtful debts** Given the current economic climate, there is a level of uncertainty to the appropriateness of the Council's doubtful debt provision. This could result is an overstatement of receivables.	We plan to address this judgement by: • reviewing the level of reported debt as at 31 March and consider the implications for any material change; • ensuring that management's methodology for calculating the provision has been consistency applied and is in line with the requirements of the Code; • testing the collectability of both significant and a sample of other non-significant debtor balances; and • re-performing the basis of the calculation for the impairment of debtors.
2	**Business rate appeals provision** Due to the timing of appeals and the process itself, management have to make an assumption over the likelihood of these appeals being successful. Therefore, the provision contains a level of judgement and associated risk. This could result an understatement of liabilities.	We plan to address this judgement by: • reviewing the basis of the Council's calculation of its provision by recalculating the provision, evaluating the key assumptions of the provision, vouching movements in the provision and confirming completeness of entries; • assessing whether the provision has been calculated and recorded in accordance with the Council's accounting policy; • assessing whether the amount provided as at 31 March is appropriate, taking in to consideration the Council's anticipated actual liability; and • assessing whether the reconciliation of movements during the period and description of the nature of the provision have been adequately disclosed in the financial statements.
3	**Minimum revenue provision (MRP)** Local authorities are required each year to set aside part of their revenues as a provision for debt in respect of capital expenditure financed by borrowing or long term credit arrangements. The amount set aside is not prescribed and statutory guidance is available for the Council to adopt and interpret. Therefore, the provision contains a level of judgement and associated risk.	We plan to address this judgement by: • reviewing the Council's MRP policy to ensure that it has been developed with regard to the statutory guidance and asses for any change; • assessing whether the provision has been calculated and recorded in accordance with the Council's policy; • assessing whether the amount provided for the period is appropriate, taking in to account the Council's Capital Financing Requirement; and • confirming that any charge has been accounted for in accordance with the Code.

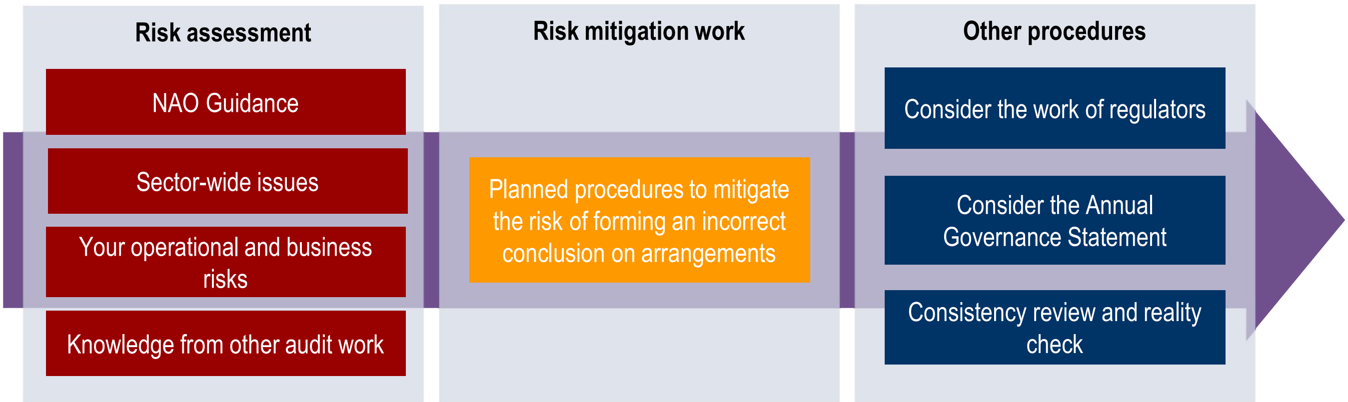
5. VALUE FOR MONEY

Our approach to Value for Money
We are required to form a conclusion as to whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The NAO issues guidance to auditors that underpins the work we are required to carry out, and sets out the overall criterion and sub-criteria that we are required to consider.

The overall criterion is that, 'in all significant respects, the Council had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.'

To assist auditors in reaching a conclusion on this overall criterion, the following sub-criteria are set out by the NAO:
- informed decision making;
- sustainable resource deployment; and
- working with partners and other third parties.

A summary of the work we undertake to reach our conclusion is provided below:



Significant Value for Money risks
The NAO's guidance requires us to carry out work at the planning stage to identify whether or not a Value for Money (VFM) exists. Risk, in the context of our VFM work, is the risk that we come to an incorrect conclusion rather than the risk of the arrangements in place at the Council being inadequate. As outlined above, we draw on our deep understanding of the Council and its partners, the local and national economy and wider knowledge of the public sector.

For the 2019/20 financial year, we have identified the following significant risk(s) to our VFM work:

- **Financial Sustainability – Sustainable resource deployment**
- **Commercialisation of Investment Properties strategy – Informed decision making**

These risks have been identified and further details document on the next page.

5. VALUE FOR MONEY (CONTINUED)

Description of significant risk	Planned response
Financial Sustainability – Sustainable resource deployment *The continued financial pressure that all Local Government bodies are facing; both locally and within the wider sector are well documented. There is an increased/ significant pressure on bodies to identify cost saving measures to ensure a balanced budget, whilst dealing with a significant decrease in grant funding and an increase in service demand.* *The Council have reviewed their budgets under their current medium term financial plan arrangements with the expectation of obtaining a balanced budget for 2020/21, whilst currently identifying a gap for the following financial years (although the Council has strategies in place going forward to address this gap).* *The budget is based on a number of assumptions and holds a level of risk to whether the Council will be able to generate additional revenues or deliver any cost savings that are crucial in order to meet and deliver the associated budget gap.*	We will critically review whether the Council has arrangements in place to ensure financial sustainability, specifically that the Medium Term Financial Plan (MTFP) has duly taken in to consideration the latest available information on factors such as: • funding reductions; • business rates reform; • fair funding; • salary and general inflation; • demand pressures • restructuring costs; and • sensitivity analysis given the degree of variability in the above factors. We will review the delivery of savings in 2019/20 and progress to identify savings for 2020/21 and future financial years, to understand and evaluate the financial impact on the Council's revenue reserves. We will also review any strategy's that the Council have in place to reduce the budget gap and ensure that theses appear reasonable and in line with the Council's expected activities.
Commercialisation of Investment Properties strategy – Informed decision making *The Council has identified the use of its capital and treasury activities as a way of establishing a new income stream and in turn obtaining additional revenue over a number of financial year's.* *The Council has made a number of material purchases over the past 12 months, with the potential investment of around £22m in 2019/20 in addition to what has already been spent.* *Whilst the investment strategy is projected to deliver financial returns for the Council (both revenue and capital), the strategy represents a significant monetary value and exposure to risk that may have not been anticipated or carefully evaluated.* *Risk factors include:* • *insufficient commercial investment experience, including both the property and the wider market itself; and* • *poor investment decisions due to the controls and processes currently in place (i.e. Due Diligence).*	We will critically review whether the Council has: • exposed itself to too much financial risk through its borrowing and investment decisions; • ensured that it has been mindful of changes in the accounting and regulatory environment when undertaking any sensitivity analysis as part of its investment decision making process; • ensured that an appropriate level of legal and due diligence work has been undertaken prior to making specific investment decisions; • responded appropriately to the revised Statutory Guidance on Local Government investments, to ensure that there is appropriate transparency to understand the exposure that the Council has a result of its borrowing and investment decisions; and • ensured that Members have sufficient expertise to understand the complex transactions that they have ultimate responsibility for approving.

6. FEES FOR AUDIT AND OTHER SERVICES

Fees for work as the Council's appointed auditor

The table below shows the scale fees set by PSAA as communicated in our fee letter of 25 April 2019. At this stage of the audit we are notifying clients that due to regulatory changes in audit requirements since the fees were agreed by PSAA – notably around increased work on PPE and Pensions – that fees are likely to have to increase in 2019/20. This is in line with other suppliers under the PSAA audit contracts who increased fees substantially in 2018/19. Any proposed increases to the fee to address, for example, changes to the identified risks or other additional required work will be discussed with the S151 Officer before approval is sought from PSAA.

Service	2018/19 fee	2019/20 fee (as per fee letter)	2019/20 Actual fee
Code audit work	£43,148	£43,148	TBC

Fees for non-PSAA work

In addition to the fees outlined above in relation to our appointment by PSAA, we have not been separately engaged by the Council to carry out any additional work.

Should the Council wish us to undertake any additional work, before agreeing to this week we consider whether there are any actual, potential or perceived threats to our independence. Further information about our responsibilities in relation to independence is provided in section 7.

7. OUR COMMITMENT TO INDEPENDENCE

We are committed to independence and are required by the Financial Reporting Council to confirm to you at least annually, in writing, that we comply with the Financial Reporting Council's Ethical Standard. In addition, we communicate any matters or relationship which we believe may have a bearing on our independence or the objectivity of the audit team.

Based on the information provided by you and our own internal procedures to safeguard our independence as auditors, we confirm that in our professional judgement there are no relationships between us and any of our related or subsidiary entities, and you and your related entities creating any unacceptable threats to our independence within the regulatory or professional requirements governing us as your auditors.

We have policies and procedures in place which are designed to ensure that we carry out our work with integrity, objectivity and independence. These policies include:

- all partners and staff are required to complete an annual independence declaration;
- all new partners and staff are required to complete an independence confirmation and also complete computer-based ethics training;
- rotation policies covering audit engagement partners and other key members of the audit team;
- use by managers and partners of our client and engagement acceptance system which requires all non-audit services to be approved in advance by the audit engagement partner.

We confirm, as at the date of this document, that the engagement team and others in the firm as appropriate, and Mazars LLP are independent and comply with relevant ethical requirements. However, if at any time you have concerns or questions about our integrity, objectivity or independence please discuss these with David Hoose in the first instance.

Prior to the provision of any non-audit services David Hoose will undertake appropriate procedures to consider and fully assess the impact that providing the service may have on our auditor independence. Included in this assessment is consideration of Auditor Guidance Note 01 as issued by the NAO, and the PSAA Terms of Appointment.

No threats to our independence have been identified.

Any emerging independence threats and associated identified safeguards will be communicated in our Audit Completion Report.

8. MATERIALITY AND MISSTATEMENTS

Summary of initial materiality thresholds

Threshold	Initial threshold (£'000s)
Overall materiality	1,740
Performance materiality	1,392
Trivial threshold for errors to be reported to the Audit Committee	52

Materiality

Materiality is an expression of the relative significance or importance of a particular matter in the context of financial statements as a whole. Misstatements in financial statements are considered to be material if they, individually or in aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

Judgements on materiality are made in light of surrounding circumstances and are affected by the size and nature of a misstatement, or a combination of both. Judgements about materiality are based on consideration of the common financial information needs of users as a group and not on specific individual users.

The assessment of what is material is a matter of professional judgement and is affected by our perception of the financial information needs of the users of the financial statements. In making our assessment we assume that users:

- have a reasonable knowledge of business, economic activities and accounts;
- have a willingness to study the information in the financial statements with reasonable diligence;
- understand that financial statements are prepared, presented and audited to levels of materiality;
- recognise the uncertainties inherent in the measurement of amounts based on the use of estimates, judgement and the consideration of future events; and
- will make reasonable economic decisions on the basis of the information in the financial statements.

We consider materiality whilst planning and performing our audit based on quantitative and qualitative factors.

Whilst planning, we make judgements about the size of misstatements which we consider to be material and which provides a basis for determining the nature, timing and extent of risk assessment procedures, identifying and assessing the risk of material misstatement and determining the nature, timing and extent of further audit procedures.

The materiality determined at the planning stage does not necessarily establish an amount below which uncorrected misstatements, either individually or in aggregate, will be considered as immaterial.

We revise materiality for the financial statements as our audit progresses should we become aware of information that would have caused us to determine a different amount had we been aware of that information at the planning stage.

Our provisional materiality is set based on a benchmark of gross revenue expenditure. We will identify a figure for materiality but identify separate levels for procedures designed to detect individual errors, and also a level above which all identified errors will be reported to the Audit Committee.

We consider that gross revenue expenditure remains the key focus of users of the financial statements and, as such, we base our materiality levels around this benchmark.

We expect to set a materiality threshold at 2% of gross revenue expenditure.

8. MATERIALITY AND MISSTATEMENTS (CONTINUED)

Based on 2018/19 audited financial statements we anticipate the overall materiality for the year ending 31st March 2020 to be in the region of £1,740k.

After setting initial materiality, we continue to monitor materiality throughout the audit to ensure that it is set at an appropriate level.

Performance Materiality
Performance materiality is the amount or amounts set by the auditor at less than materiality for the financial statements as a whole to reduce, to an appropriately low level, the probability that the aggregate of uncorrected and undetected misstatements exceeds materiality for the financial statements as a whole. Our initial assessment of performance materiality is based on low inherent risk and that minimal errors were identified in last year's audit, meaning that we have applied 80% of overall materiality as performance materiality.

We have also calculated materiality for specific classes of transactions, balances or disclosures where we determine that misstatements of a lesser amount than materiality for the financial statements as a whole, could reasonably be expected to influence the decisions of users taken on the basis of the financial statements. We have set specific materiality for the following items of account:

Item of account	Specific materiality (£'000s)
Officer's remuneration	5*
Termination payments	49
Member's allowances and expenses	52
External audit costs	6

** Reflecting movement from one salary band to another*

After setting initial materiality, we continue to monitor materiality throughout the audit to ensure that it is set at an appropriate level.

Misstatements
We aggregate misstatements identified during the audit that are other than clearly trivial. We set a level of triviality for individual errors identified (a reporting threshold) for reporting to the Audit Committee that is consistent with the level of triviality that we consider would not need to be accumulated because we expect that the accumulation of such amounts would not have a material effect on the financial statements. Based on our preliminary assessment of overall materiality, our proposed triviality threshold is £52k based on 3% of overall materiality. If you have any queries about this please do not hesitate to raise these with David Hoose.

Reporting to the Audit Committee
To comply with International Standards on Auditing (UK), the following three types of audit differences will be presented to the Audit Committee:

- summary of adjusted audit differences;
- summary of unadjusted audit differences; and
- summary of disclosure differences (adjusted and unadjusted).

APPENDIX A – KEY COMMUNICATION POINTS

ISA (UK) 260 'Communication with Those Charged with Governance', ISA (UK) 265 'Communicating Deficiencies In Internal Control To Those Charged With Governance And Management' and other ISAs (UK) specifically require us to communicate the following:

Required communication	Audit Strategy Memorandum	Audit Completion Report
Our responsibilities in relation to the audit of the financial statements and our wider responsibilities	✓	
Planned scope and timing of the audit	✓	
Significant audit risks and areas of management judgement	✓	
Our commitment to independence	✓	✓
Responsibilities for preventing and detecting errors	✓	
Materiality and misstatements	✓	✓
Fees for audit and other services	✓	
Significant deficiencies in internal control		✓
Significant findings from the audit		✓
Significant matters discussed with management		✓
Our conclusions on the significant audit risks and areas of management judgement		✓
Summary of misstatements		✓
Management representation letter		✓
Our proposed draft audit report		✓

APPENDIX B – FORTHCOMING ACCOUNTING AND OTHER ISSUES

Financial reporting changes relevant to 2019/20

There are no significant changes in the Code of Practice on Local Authority Accounting for the 2019/20 financial year.

Financial reporting changes in future years

Accounting standard	Year of application	Commentary
IFRS 16 – Leases	2020/21	The CIPFA/LASAAC Code Board has determined that the Code of Practice on Local Authority Accounting will adopt the principles of IFRS 16 Leases, for the first time from 2020/21. IFRS 16 will replace the existing leasing standard, IAS 17, and will introduce significant changes to the way bodies account for leases, which will have substantial implications for the majority of public sector bodies. The most significant changes will be in respect of lessee accounting (i.e. where a body leases property or equipment from another entity). The existing distinction between operating and finance leases will be removed and instead, the new standard will require a right of use asset and an associated lease liability to be recognised on the lessee's Balance Sheet. In order to meet the requirements of IFRS 16, all local authorities will need to undertake a significant project that is likely to be time-consuming and potentially complex. There will also be consequential impacts upon capital financing arrangements at many authorities which will need to be identified and addressed at an early stage of the project.

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central midlands audit partnership

Ashfield District Council –
Internal Audit Plan 2020-21 & Audit Charter

Audit Committee: 10th February 2020

Ashfield
DISTRICT COUNCIL

Contents Page

Our Vision

To bring about improvements in the control, governance and risk management arrangements of our Partners by providing cost effective, high quality internal audit services.

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CMAP central midlands audit partnership

Providing Excellent Audit Services in the Public Sector

Introduction

Purpose of Report

The purpose of this report is for the Board to approve the Internal Audit Charter and Annual Internal Audit Plan for 2020-21.

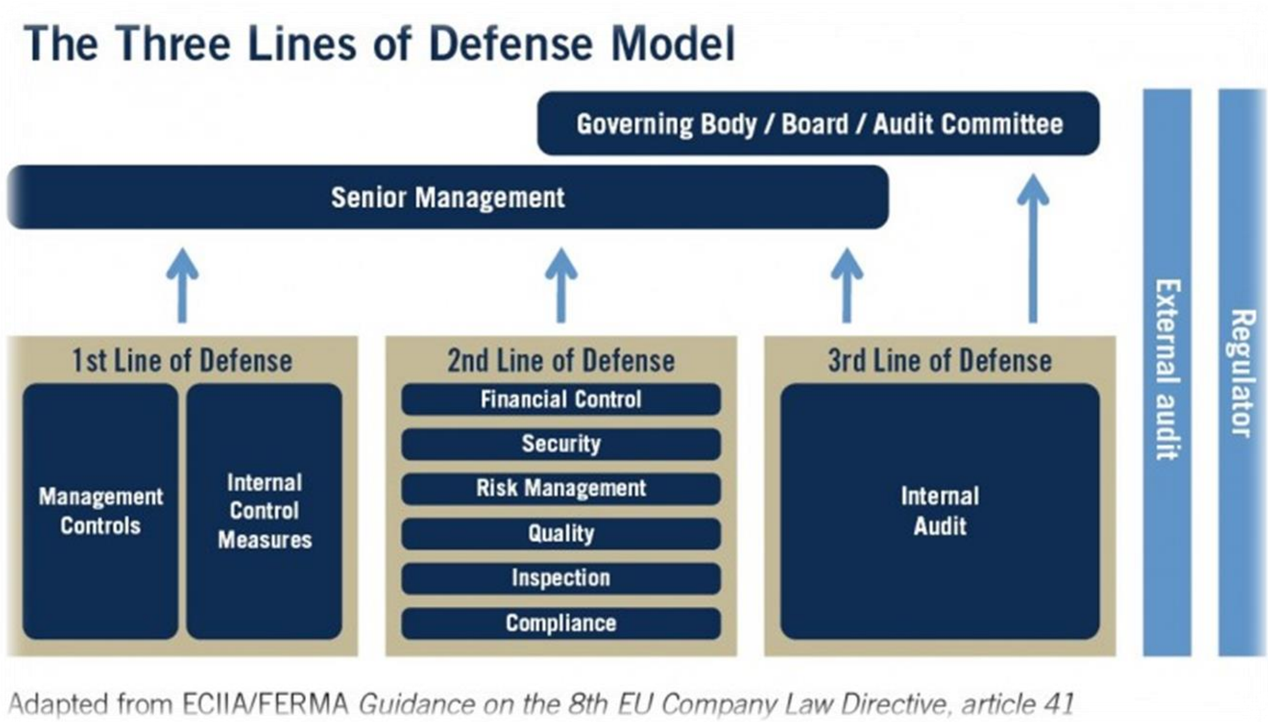
Role of Internal Audit

All local authorities must make proper provision for internal audit in line with the 1972 Local Government Act (S151) and the Accounts and Audit Regulations 2015.

The organisation's internal audit service is provided by Central Midlands Audit Partnership (CMAP). The Partnership was formed as a Joint Board under section 101 of the Local Government Act 1972. It currently serves 6 public sector organisations and Derby City Council is the host authority. The legal agreement between the Partners runs for 5 years from 2016 until March 2020. This agreement is currently under review.

Internal Audit provides the Audit Committee and senior management with objective assurance on the organisation's overall control environment, comprising the systems of governance, risk management, and internal control and highlights control weaknesses together with recommendations for improvement. This helps senior management demonstrate that they are managing the organisation effectively. Internal Audit's work significantly contributes to the organisation's statutory Annual Governance Statement (AGS).

Internal Audit is part of the organisation's governance framework which can be summarised in the three lines of defence model shown below.

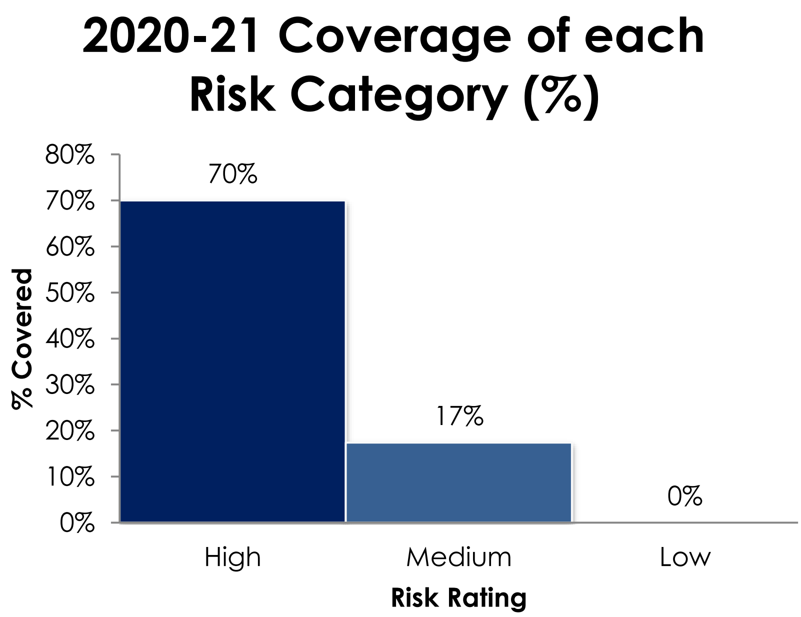


Internal Audit Plan

The Public Sector Internal Audit Standards (PSIAS) state that annually the Chief Audit Executive is responsible for developing a risk-based plan. In this instance, the Chief Audit Executive is Mandy Marples, Audit Manager.

The annual Audit Plan sets out proposals on how this will be achieved in the year ahead. It is a flexible Plan that allows Internal Audit to respond to emerging and changing risks during the year.

The Audit Plan must incorporate sufficient work to enable the Chief Audit Executive to give an opinion on the adequacy of the organisation's overall control environment. Equally Internal Audit must be adequately resourced with the necessary level of skilled and experienced staff to deliver the Audit Plan.



Progress in completing the audit plan, will be submitted to the Audit Committee as part of regular Internal Audit Progress reports.

Internal Audit Charter

An Internal Audit Charter is a formal document that defines internal audit's purpose, authority, responsibility and position within an organisation. The Internal Audit Charter describes how internal audit will provide value to the organisation, the nature of the services it will provide and the specific focus or emphasis required of internal audit to help the organisation achieve its objectives.

Having an Internal Audit Charter also establishes the internal audit activity's position within the organisation, including reporting lines, authorising access to records, personnel, and physical properties relevant to the performance of engagements; also defining the scope of internal audit activities. A copy of the current Internal Audit Charter is attached at Appendix B. It is the role of the Audit Committee to review and approve the 'Internal Audit Charter' on an annual basis.

Approach to Audit Planning

Internal Audit takes into account the organisation's risk management framework, including using risk appetite levels set by management for the different activities or parts of the organisation. If a framework does not exist, Internal Audit must determine its own judgment of risks following a thorough consultation process. We endeavour to consult with relevant managers to further understand the risk areas where internal audit assurance will be appropriate.

A risk based audit plan has been compiled in consultation with the organisation's management, using the organisations' risk registers and CMAP's bespoke risk assessment model which considers the following 8 measures of risk

Impact	Materiality	Potentially, how much money could the organisation lose if this area is not properly controlled?
	Criticality	How critical is this function to the effective running of the organisation's core activities?
	Sensitivity	How important is this area in the opinion of senior management and the Board?
	Strategic Effect	How does this function affect the organisation's long term aims and objectives?
Likelihood	Changes	What changes (staffing, procedural, IT, legislative) has this area been subject to?
	Complexity	How complex is the area under review?
	Review Process	How often is this area reviewed by audit and other agencies?
	Inherent Risks	How susceptible is this area to fraud and irregularity?

Once the scores for each of the 80 auditable areas identified have been input to the risk model, along with the date when the area was last audited, the risk model will automatically generate a plan of suggested audit coverage. Senior management are consulted on the proposed plan and their views are taken account of before producing the final, ranked list of areas to audit. This year's risk assessment identified 10 High risk areas, 69 Medium risk areas and 1 Low risk area.

The organisation's External Auditors were also consulted to ensure that the proposed coverage, where possible, complements their work.

Types of Audit Work

Key Financial Systems Audit - Much of Internal Audit's assurance work comes from the review of the risks and controls associated with the organisation’s financial systems. External Audit will also review the work on the key financial systems to assist them when determining their opinion on organisation’s annual accounts.

Systems / Risk Based Audits - The auditor’s prime role is to review the internal control systems developed by management to mitigate operational risks and report upon the adequacy of those controls (see below for control examples). An organisation’s overall internal control system is the product of all of those systems and processes that the organisation has created to deliver its business objectives, both financial and non-financial.

Control categories with examples

Preventive	Detective	Directive	Corrective
Separation of duties, access controls, authorisation	Exception Reports, reconciliations, control totals, error reports	Accounting manuals, documented procedures, training and supervsion	Error, incident and complaint handling, virus isolation

Separation of Duties	Organisational	Authorisation	Personnel	Supervision	Physical	Accounting	Management
Division of duties between the appointment and payment of staff	Budgets, Performance taregts and KPI's	Authority Levels, spending limits, passwords and user ID	Recruitment and selection, staff appraisal procedures	Day-to-day oversight of staff and physical activities	Door entry systems, restricted access to files	Control account and bank reconciliation	Team meetings and briefings, CRSA

Source: Chartered Institute of Internal Auditors – Resources – Control

IT Audit – Typically our IT auditing coverage focuses on the following:

- **Infrastructure** - Infrastructure audits cover perimeter defences, authentication, management and monitoring, and devices. Infrastructure audits help provide assurance that the organisation’s private network is protected from internet attacks, unauthorised or inappropriate access via local or remote attacks, and also ensure the organisation has the necessary monitoring and incident analysis to maintain and analyse the Network.
- **Applications** - Application audits cover thin and fat client applications, and both internal (Intranet) or external (Web) applications. Applications audits typically focus on CIAA (**C**onfidentiality, **I**ntegrity, **A**vailability and **A**ccountability risks) to ensure attackers cannot exploit vulnerabilities to gain unauthorised access to sensitive corporate data.

Governance/Ethics Reviews - The governance framework comprises the systems and processes, and culture and values, by which the organisation is directed and controlled. Internal Audit reviews corporate systems such as Risk Management, Health & Safety, Data Quality, Anti–Fraud and should consider organisational ethics, values and culture.

Procurement/Contract Audit - Procurement involves the process of acquisition from third parties, and spans the whole life cycle from the initial concept (determining the need), through buying and delivery, to the end of a service contract. The audit approach to procurement should primarily concern the organisation's corporate procurement strategy and associated management structures and processes, including contract procedure rules and detailed procurement guidance.

Client Support Work

To support the organisation, a number of days have also been set aside for the following:

Audit Management – There are certain management tasks that are specific to each Partner organisation, such as, reporting to Audit Committee, Audit Risk Assessment & Planning etc. These require a contingency of days to be planned.

Advice & Emerging Issues - On an ad-hoc basis, Audit is called upon to provide risk and control advice on issues throughout the organisation. This consultancy work is a very important service and requests for Audit input are considered to be a good measure of the quality of the Audit service and of the satisfaction of our clients.

Anti-Fraud/Probity/Investigations - Internal Audit has an important role to play in ensuring that management has effective systems in place to detect and prevent corrupt practices within the Organisation. Internal Audit's role includes promoting anti-fraud best practice, testing and monitoring systems through probity work and advising on change where it is needed. Internal Audit also may be involved in the investigation of suspected internal fraud, theft or major irregularity (where there is some form of alleged financial irregularity, which may have resulted in financial loss to the organisation).

Follow-up Audits - Internal Audit is committed towards ensuring that control improvements are achieved and all agreed actions are acted upon. We have developed a recommendation tracking database, which allows us to monitor, follow-up and report upon the status of all management's actions in respect of agreed audit recommendations.

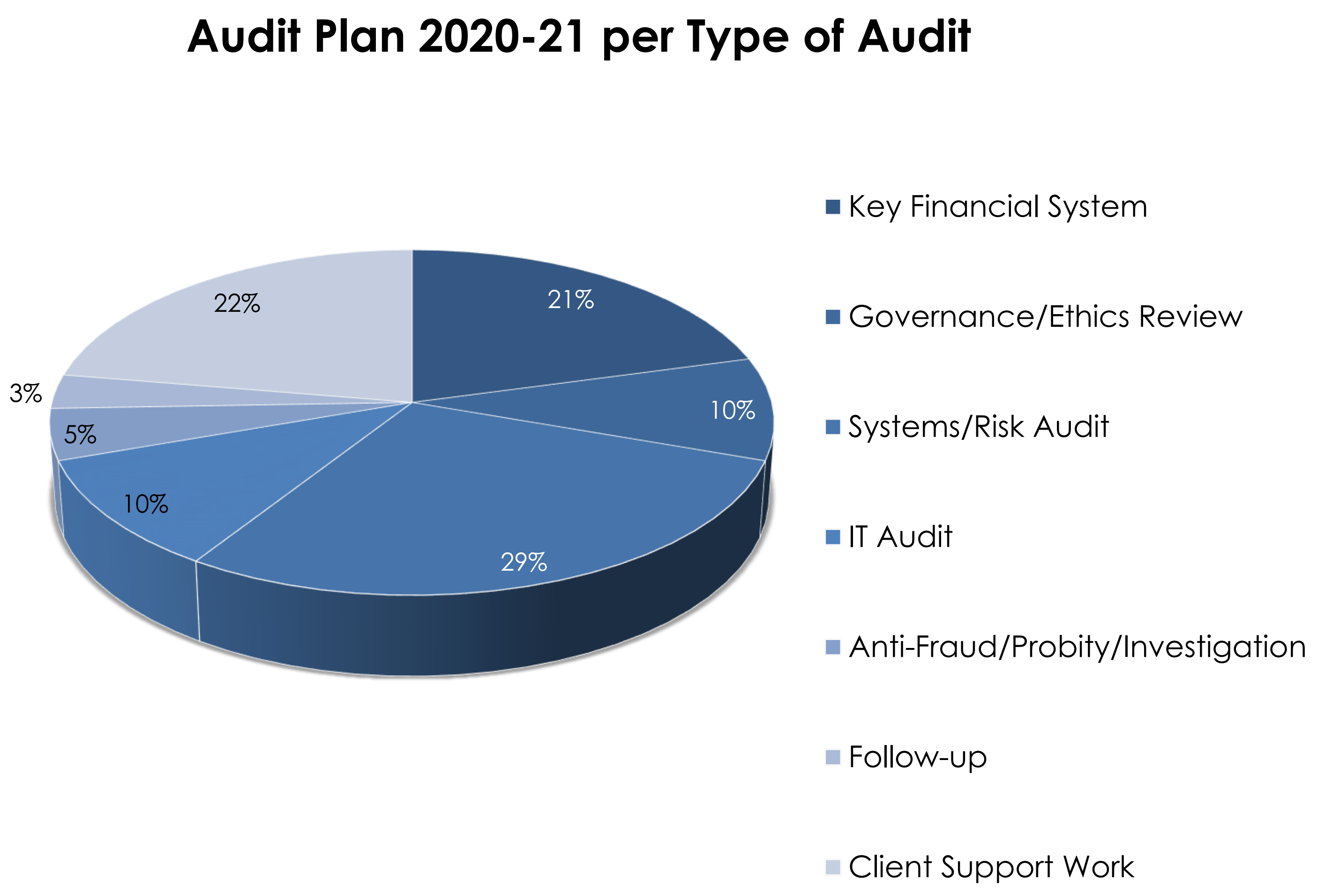
Brought Forward Jobs - A number of incomplete audits from the 2019-20 Audit Plan will need to be concluded in 2020-21.

Appendix A - Audit Plan Detail

Our risk assessment of the organisation activities, in consultation with senior management, has concluded that the following audits will be undertaken in 2020-21:

Audit Plan Assignments	Risk Rating	Indicative Quarter
Key Financial Systems Reviews		
Accounting Systems	High	Q4
Taxation	Medium	Q3
Creditors (including purchase cards)	Medium	Q3
Debtors	Medium	Q2
Payroll	High	Q2
Governance/Ethics Reviews		
Risk Management	Medium	Q2
Environmental Health	Medium	Q2
Anti-Fraud/Probity/Investigation		
Disabled Facilities Grants	Medium	Q1
NFI/Anti-Fraud	Medium	Q1
System/Risk Reviews		
Business Continuity & Emergency Planning	Medium	Q2
Corporate Improvement/Transformation	High	Q3
Commercial Property Portfolio	High	Q3
People Management	Medium	Q4
Complex Case Work	Medium	Q1
Rents	Medium	Q1
IT Audit Reviews		
IT Applications	High	Q1
IT Asset Inventory	High	Q2
Follow-up		
Contracts Register	Medium	Q3
Procurement	High	Q2

The detailed scopes of each audit assignment will be agreed with the relevant managers nearer the commencement of the audit. The cost of the Internal Audit Service is £100,293, subject to annual review.


Audit Plan 2020-21 per Type of Audit
21%
10%
29%
10%
5%
3%
22%
Key Financial System
Governance/Ethics Review
Systems/Risk Audit
IT Audit
Anti-Fraud/Probity/Investigation
Follow-up
Client Support Work

Appendix B - Audit Charter

Purpose & Mission

The purpose of the Organisation's internal audit service is to provide independent, objective assurance and consulting services designed to add value and improve the Organisation's operations. The mission of internal audit is to enhance and protect organisational value by providing risk-based and objective assurance, advice, and insight. The internal audit service helps the Organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management, and control processes.

Standards for the Professional Practice of Internal Auditing

The internal audit service will govern itself by adherence to the mandatory elements of The Institute of Internal Auditors' (IIA) International Professional Practices Framework, including the Core Principles for the Professional Practice of Internal Auditing, the Code of Ethics, the International Standards for the Professional Practice of Internal Auditing, and the Definition of Internal Auditing. The Chief Audit Executive will report periodically to **senior management**[1] and the **Board**[2] regarding the internal audit service's conformance to the Code of Ethics and the Standards.

Authority

The Chief Audit Executive will report functionally to the Audit Committee and administratively (i.e., day-to-day operations) to the Director of Legal & Governance. To establish, maintain, and assure that the Organisation's internal audit service has sufficient authority to fulfil its duties, the Audit Committee will:

- Approve the internal audit service's charter.
- Approve the risk-based internal audit plan.
- Approve the internal audit service's budget and resource plan.
- Receive communications from the Chief Audit Executive on the internal audit service's performance relative to its plan and other matters.
- Make appropriate inquiries of management and the Chief Audit Executive to determine whether there is inappropriate scope or resource limitations.
- The Chief Audit Executive will have unrestricted access to, and communicate and interact directly with, the Audit Committee, including in private meetings without management present.

[1] The PSIAS defines **senior management** as "Those responsible for the leadership and direction of the Council" which in this instance is the organisation's **Corporate Leadership Team.**

[2] The Standards require that Internal Audit report to the **Board.** CIPFA have via the Public Sector Internal Audit Standards (PSIAS) Guidelines, determined that 'Board' may refer to an audit committee to which the governing body has delegated certain functions. In this instance this would be the **Audit Committee**.

The Audit Committee authorises the internal audit service to:

- Have full, free, and unrestricted access to all functions, records, property, and personnel pertinent to carrying out any engagement, subject to accountability for confidentiality and safeguarding of records and information.
- Allocate resources, set frequencies, select subjects, determine scopes of work, apply techniques required to accomplish audit objectives, and issue reports.
- Obtain assistance from the necessary personnel of the organisation, as well as other specialised services from within or outside the organisation, in order to complete the engagement.

Independence & Objectivity

The Chief Audit Executive will ensure that the internal audit service remains free from all conditions that threaten the ability of internal auditors to carry out their responsibilities in an unbiased manner, including matters of audit selection, scope, procedures, frequency, timing, and report content. If the Chief Audit Executive determines that independence or objectivity may be impaired in fact or appearance, the details of impairment will be disclosed to appropriate parties.

Internal auditors will maintain an unbiased mental attitude that allows them to perform engagements objectively and in such a manner that they believe in their work product, that no quality compromises are made, and that they do not subordinate their judgment on audit matters to others.

Internal auditors will have no direct operational responsibility or authority over any of the activities audited. Accordingly, internal auditors will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair their judgment, including:

- Assessing specific operations for which they had responsibility within the previous year.
- Performing any operational duties for the organisation or its affiliates.
- Initiating or approving transactions external to the internal audit service.
- Directing the activities of any organisation employee not employed by the internal audit service, except to the extent that such employees have been appropriately assigned to auditing teams or to otherwise assist internal auditors.

Where the Chief Audit Executive has or is expected to have roles and/or responsibilities that fall outside of internal auditing, safeguards will be established to limit impairments to independence or objectivity.

Internal auditors will:

- Disclose any impairment of independence or objectivity, in fact or appearance, to appropriate parties.
- Exhibit professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.
- Make balanced assessments of all available and relevant facts and circumstances.

- Take necessary precautions to avoid being unduly influenced by their own interests or by others in forming judgments.

The Chief Audit Executive will confirm to the Audit Committee, at least annually, the organisational independence of the internal audit service.

The Chief Audit Executive will disclose to the Audit Committee any interference and related implications in determining the scope of internal auditing, performing work, and/or communicating results.

Scope of Internal Audit Activities

The scope of internal audit activities encompasses, but is not limited to, objective examinations of evidence for the purpose of providing independent assessments to the Audit Committee, management, and outside parties on the adequacy and effectiveness of governance, risk management, and control processes for the organisation. Internal audit assessments include evaluating whether:

- Risks relating to the achievement of the organisation's strategic objectives are appropriately identified and managed.
- The actions of the organisation's officers, directors, employees, and contractors are in compliance with the organisation's policies, procedures, and applicable laws, regulations, and governance standards.
- The results of operations or programs are consistent with established goals and objectives.
- Operations or programs are being carried out effectively and efficiently.
- Established processes and systems enable compliance with the policies, procedures, laws, and regulations that could significantly impact the organisation.
- Information and the means used to identify, measure, analyse, classify, and report such information are reliable and have integrity.
- Resources and assets are acquired economically, used efficiently, and protected adequately.

The Chief Audit Executive will report periodically to senior management and the Audit Committee regarding:

- The internal audit service's purpose, authority, and responsibility.
- The internal audit service's plan and performance relative to its plan.
- The internal audit service's conformance with The IIA's Code of Ethics and Standards, and action plans to address any significant conformance issues.
- Significant risk exposures and control issues, including fraud risks, governance issues, and other matters requiring the attention of, or requested by, the Audit Committee.
- Results of audit engagements or other activities.
- Resource requirements.

- Any response to risk by management that may be unacceptable to the organisation.

The Chief Audit Executive also coordinates activities, where possible, and considers relying upon the work of other internal and external assurance and consulting service providers as needed. The internal audit service may perform advisory and related client service activities, the nature and scope of which will be agreed with the client, provided the internal audit service does not assume management responsibility.

Opportunities for improving the efficiency of governance, risk management, and control processes may be identified during engagements. These opportunities will be communicated to the appropriate level of management.

Responsibility

The Chief Audit Executive has the responsibility to:

- Submit, at least annually, to senior management and the Audit Committee a risk-based internal audit plan for review and approval.
- Communicate to senior management and the Audit Committee the impact of resource limitations on the internal audit plan.
- Review and adjust the internal audit plan, as necessary, in response to changes in the organisation's business, risks, operations, programmes, systems, and controls.
- Communicate to senior management and the Audit Committee any significant interim changes to the internal audit plan.
- Ensure each engagement of the internal audit plan is executed, including the establishment of objectives and scope, the assignment of appropriate and adequately supervised resources, the documentation of work programs and testing results, and the communication of engagement results with applicable conclusions and recommendations to appropriate parties.
- Follow up on engagement findings and corrective actions, and report periodically to senior management and the Audit Committee any corrective actions not effectively implemented.
- Ensure the principles of integrity, objectivity, confidentiality, and competency are applied and upheld.
- Ensure the internal audit service collectively possesses or obtains the knowledge, skills, and other competencies needed to meet the requirements of the internal audit charter.
- Ensure trends and emerging issues that could impact the organisation are considered and communicated to senior management and the Audit Committee as appropriate.
- Ensure emerging trends and successful practices in internal auditing are considered.
- Establish and ensure adherence to policies and procedures designed to guide the internal audit service.

- Ensure adherence to the organisation's relevant policies and procedures, unless such policies and procedures conflict with the internal audit charter. Any such conflicts will be resolved or otherwise communicated to senior management and the Audit Committee.
- Ensure conformance of the internal audit service with the Standards, with the following qualifications:
    - If the internal audit service is prohibited by law or regulation from conformance with certain parts of the Standards, the Chief Audit Executive will ensure appropriate disclosures and will ensure conformance with all other parts of the Standards.
    - When the Standards are used in conjunction with requirements issued by CIPFA, the Chief Audit Executive will ensure that the internal audit service conforms with the Standards, even if the internal audit service also conforms with the more restrictive requirements of CIPFA.

Quality Assurance & Improvement Programme (QAIP)

The internal audit service will maintain a quality assurance and improvement programme that covers all aspects of the internal audit service. The program will include an evaluation of the internal audit service's conformance with the Standards and an evaluation of whether internal auditors apply The IIA's Code of Ethics. The program will also assess the efficiency and effectiveness of the internal audit service and identify opportunities for improvement.

The Chief Audit Executive will communicate to senior management and the Audit Committee on the internal audit service's quality assurance and improvement programme, including results of internal assessments (both on-going and periodic) and external assessments conducted at least once every five years by a qualified, independent assessor or assessment team from outside the internal audit service.

Central Midlands Audit Partnership

Report To:	**AUDIT COMMITTEE**	**Date:**	**10th FEBRUARY 2020**
Heading:	**TREASURY MANAGEMENT STRATEGY (TMS)**		
Portfolio Holder:	**COUNCILLOR DAVID MARTIN – CABINET MEMBER (INWARD)**		
Ward/s:	**ALL**		
Key Decision:	**YES**		
Subject to Call-In:	**YES**		

Purpose of Report

This report outlines the Council's Treasury Management Strategy for the financial year 2020/21. The report includes:

- Treasury Management Policy;
- Treasury Management Strategy Statement (TMSS)
- Borrowing Strategy
- Annual Investment Strategy
- Minimum Revenue Provision Policy;
- Prudential Indicators and Treasury Management Indicators
- Treasury Management Practices: Risk Management.

It has been prepared in accordance with the Treasury Management in the Public Services Code of Practice (the Code), issued by the Chartered Institute of Public Finance and Accountancy (CIPFA), and Ministry for Housing, Communities and Local Government (MHCLG) Local Government Investment Guidance.

Recommendation(s)

1) For Audit Committee to review and note the contents of the Treasury Management Strategy (TMS) for 2020/21

2) For Audit Committee to recommend to Cabinet that they approve the Treasury Management Policy Statement incorporating:
   - Treasury Management Strategy Statement (TMSS)
   - Borrowing Strategy
   - Annual Investment Strategy
   - Minimum Revenue Provision (MRP) Policy;
   - Prudential Indicators and Treasury Management Indicators
   - Treasury Management Practices: Risk Management.

Reasons for Recommendation(s)
In accordance with Financial Regulation C.31. The Audit Committee is responsible for providing effective scrutiny of the Treasury Management Strategy and policies.

Alternative Options Considered
None. It is a requirement of the CIPFA Treasury Management Code for all Local Authorities to have a Treasury Management Strategy (TMS) and a requirement of MHCLG Statutory Guidance on Local Government Investments to have an Investment Strategy.

Detailed Information
The TMS contains:

- Treasury Management Strategy Statement (TMSS), which outlines what treasury management is and how it is managed by its borrowing an investment activities
- Annual Borrowing Strategy, which outlines sources of borrowing
- Annual Investment Strategy for Treasury Management investments, which sets the limits for the maximum amounts to be invested and the types of investments the Council may consider.
- MRP Policy which states how the Council will apply MRP charges.
- Annex A of Appendix 1 contains the proposed Prudential Indicators and Treasury Management Indicators for the Authority,
- Annex B shows the borrowing and investment position of the Council as at 30th September 2019 as well as projections for future interest rates
- Annex C shows the Treasury Management Practice (TMP) for risk management of the Authority.

1. Operational Boundary and Authorised Limits

   The Authority is looking to increase its borrowing requirement primarily to fund the proposed acquisition of new Investment Properties and the borrowing requirements associated with the new Kirkby Leisure Centre. The additional borrowing is added to the Capital Financing Requirement (CFR). The CFR represents capital expenditure which is still to be financed. The Council should under normal circumstances not borrow any more than its CFR. The Operational Boundary sets a warning level for which total external debt should not exceed.

The proposed Operational Boundary has been set at a level which is slightly above the CFR to allow for working capital requirements. The Authorised Limit is the absolute maximum level for external debt. The proposed Authorised Limit has been set at a level which is greater than the proposed Operational Boundary by a level which matches the financed part of the Capital Programme. The rationale for doing this is to ensure the capital programme can still be financed, should the expected non borrowing funding not be available.

2. Minimum Revenue Provision (MRP) Policy

The Minimum Revenue Provision charge is the means by which capital expenditure which is financed by borrowing or credit arrangements, is paid for by council tax payers. Local Authorities are required each year to set aside some of their revenues as provision for this debt.

The Council is proposing the following minor changes (largely increasing transparency) to its MRP policy:

- Details of the annuity rates to be used in the MRP calculation. This being the average annual PWLB certainty rate when calculating the annuity rate for projects where payments are likely to phased, and using the PWLB certainty rate applicable on the day where expenditure is incurred in a single transaction e.g. Investment Properties.
- The Council will not charge MRP on Housing Revenue Account borrowing (no change)
- Voluntary Revenue Provision (VRP) may be made at the discretion of the Section 151 Officer. VRP may be reversed in future financial years if required.
- For leases that are included on the balance sheet the MRP charge will be the same as the principal repayment on the lease.

3. Prudential Indicators

Prudential Indicators are designed to show the Council's capital expenditure plans are affordable, prudent and sustainable. They include the estimated effect that future capital expenditure will have on individual council tax payers and on individual rent payers.

The estimate of the ratio of financing costs to net revenue stream for the Housing Revenue Account (HRA) remains relatively static over the three years. (See paragraph a) Annex A). The reason for this is that there is not expected to be any new borrowing costs; the ratios will fall slightly as HRA historic debt costs are expected to remain static in future years and HRA revenues are expected to increase slightly.

The estimate of the ratio of financing costs to net revenue stream for the General Fund is expected to increase significantly as a result of additional borrowing for the proposed acquisition of Investment Properties and for new Kirkby Leisure Centre (but with no net additional cost to the revenue budget).

Estimates of the incremental impact of capital investment decisions on Council Tax Band D equivalents is £59.62 in 2020/21, £39.40 in 2021/22 and £21.92 in 2022/23. This represents the estimated amount of Council Tax within the District's annual Council Tax charge from each Band D equivalent that will be used to fund future capital investment. These levels also reflect the use of borrowing to purchase Investment Properties and the new Kirkby Leisure Centre. There is no incremental impact to Council Dwelling Rent payers as there is no borrowing proposed for the HRA.

4. Treasury Management Practices (TMPs)

   The Treasury Management Practices were last revised as part of the TMS for 2019/20. The Council has revised its criteria for specified and unspecified investment for TMP1 Risk Management (See Annex D). TMP1 also now includes the Treasury Management Role of the Section 151 Officer. All other TMPs remain unchanged.

Implications

Corporate Plan:
The Treasury Management Strategy will support delivery of the priorities in the Corporate Plan.

Legal:
It is a requirement of the CIPFA Treasury Management Code for all Local Authorities to have a Treasury Management Strategy. It is a requirement of MHCLG Statutory Guidance on Local Government Investments to have an Investment Strategy.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	The Council will be required to make an MRP provision for leased assets this will replace the existing rental payment so should have no overall General Fund impact. The option to charge voluntary revenue provision may increase the charge in year but the total charged to finance the borrowing over the asset lives remain unchanged. The financial implications of this Strategy are factored into the Medium Term Financial Strategy.
General Fund – Capital Programme	No implications
Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

Risk:

Risk	Mitigation
The Minimum Revenue Provision (MRP) policy is no longer suitable.	Careful monthly monitoring of Capital Expenditure should ensure an appropriate and prudent MRP provision is made annually. Revisions to the Policy in line with Code of Practice updates.

The Annual Investment Strategy is no longer suitable for the Authority.	Information received from our Treasury Management Advisors should allow the Council to take necessary action to mitigate against any risks.

Human Resources:
Not applicable.

Equalities:
Not applicable.

Other Implications:
Not applicable.

Reason(s) for Urgency
Not applicable.

Reason(s) for Exemption
Not applicable.

Background Papers
- CIPFA Prudential Code 2017 Edition
- CIPFA Treasury Management Code 2017 Edition
- Statutory Guidance on Local Government Investments (3rd Edition) Issued under Section 15(1)(a) of the Local Government Act 2003.

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Appendix 1

Ashfield District Council

Treasury Management Strategy Statement

Minimum Revenue Provision Policy Statement and Annual Investment Strategy

2020/21

1 INTRODUCTION

1.1 Background

1.1.1 The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.

1.1.2 The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer-term cash flow planning, to ensure that the Council can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans, or using longer-term cash flow surpluses. On occasions, when it is prudent and economic, any debt previously drawn may be restructured to meet Council risk or cost objectives.

1.1.3 The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.

1.1.4 CIPFA defines treasury management as:

"The management of the organisation's borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

1.2 External Context

1.2.1 The information relating to the overall global position of the UK financial markets is provided by the Council's Treasury Management Advisers, Link Asset Services. They continue to update the Council with information including on-going market activity surrounding inflation, interest rates and the banking sector.

1.2.2 Brexit uncertainty continues to have an impact on the UK economy. A general election took place on the 12th December 2019 and the current expectation is that the UK will leave the EU on the 31st January 2020.

1.2.3 Consumer Price Inflation has been hovering around the Bank of England's target of 2% during 2019, but fell to 1.7% in August and September. It is likely to remain close to 2% over the next two years and so it does not pose any immediate concern to the Monetary Policy Committee (MPC) of the Bank of England at the current time. However, if there was a no deal Brexit, inflation could rise towards 4%, primarily because of imported inflation on the back of a weakening pound.

1.2.4 The Bank Rate has remained unchanged since 2nd August 2018 at 0.75%. If there was a no deal Brexit, there will be a significant level of disruption to the economy and growth could weaken even further than currently: the MPC would then be likely to cut Bank Rate in order to support growth. The MPC has relatively little room to make a big impact and it would probably suggest that it would be up to the Chancellor to provide help to support growth by way of a fiscal boost by e.g. tax cuts, increases in the annual expenditure budgets of government departments and services and expenditure on infrastructure projects, to boost the economy. The Government has already made moves in this direction.

1.2.5 Historically, the cheapest method of long-term borrowing has been from the Public Works Loans Board (PWLB). All PWLB interest rates were increased by 1% on 9th October 2019, meaning other sources of borrowing may be cheaper. The Council will consider other sources of borrowing. However, it is likely that the administration arrangements needed for alternative sources of long-term borrowing result in the PWLB remaining the preferred source. For short term and medium term loans, borrowing from other local authorities will be considered if the interest rates are lower than those offered by the PWLB.

1.3 Key Principles

1.3.1 The Council will follow three key principles with regards to its treasury activity:

Public service organisations should put in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of their treasury management activities.

Their policies and practices should make clear that the effective management and control of risk are prime objectives of their treasury management activities and that responsibility for these lies clearly within their organisations. Their appetite for risk should form part of their annual strategy, including any use of financial instruments for the prudent management of those risks, and should ensure that priority is given to security and portfolio liquidity when investing treasury management funds.

They should acknowledge that the pursuit of value for money in treasury management, and the use of suitable performance measures, are valid and important tools for responsible organisations to employ in support of their business and service objectives; and that within the context of effective risk management, their treasury management policies and practices should reflect this.

1.4 Reporting requirements

1.4.1 The Cabinet are required to receive and approve, as a minimum, three main treasury management reports each year, which incorporate a variety of policies, estimates and actuals. Council are required to approve the Treasury Management Strategy including the Annual Investment Strategy.

1.4.2 **Treasury Management Strategy including Annual Investment Strategy, prudential and treasury indicators (this report)** - The first, and most important report covers:

- the capital plans (including prudential indicators);
- a minimum revenue provision (MRP) policy (how residual capital expenditure is charged to revenue over time);
- the treasury management strategy (how the investments and borrowings are to be organised) including treasury indicators; and
- an investment strategy (the parameters on how investments are to be managed).

1.4.3 **A mid-year treasury management report** – This will update members with the progress of the capital position, amending prudential indicators as necessary, and whether any policies require revision. This report is presented to the Audit Committee.

1.4.4 **An annual treasury report** – This provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the annual estimates within the strategy.

1.5 **Scrutiny**

The above reports are required to be adequately scrutinised before being recommended to the Council or/and Cabinet. This role is undertaken by the Audit Committee.

Table 1 below shows the reporting timetable for Treasury Management reports

Table 1 – Reporting timetable

Report to Council and Cabinet	**Frequency**
Treasury Management Strategy / Annual Investment Strategy and MRP Policy	Annually before the start of the year (1st April)
Reports to Cabinet	**Frequency**
Mid-Year Treasury Management Report	Annually mid year (November/December)
Treasury Outturn Report	Annually after the year end and by the 30 September
Reports to Audit Committee	**Frequency**
Receives each of the above reports in advance of Council/Cabinet (where applicable) and makes recommendations as appropriate	In advance of year/mid-year/after year end and by 30 September

1.6 **Capital Strategy**

1.6.1 In December 2017, CIPFA issued revised Prudential and Treasury Management Codes. The revised Prudential Code requires all local authorities to produce a Capital Strategy report, which is intended to provide the following: -

- a high-level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services.
- an overview of how the associated risk is managed; and
- the implications for future financial sustainability

1.6.2 The aim of this report is to ensure that all elected Members of the Council fully understand the overall strategy, governance procedures and risk appetite entailed in this Strategy.

1.6.3 The Capital Strategy will include capital expenditure, investments and liabilities and treasury management in sufficient detail to allow all members to understand how stewardship, value for money, prudence, sustainability and affordability will be secured.

1.6.4 The Capital Strategy is required to be approved by Council before the start of the new financial year in accordance with the Prudential Code 2017. The capital strategy will be received by Audit Committee in advance of Council for scrutiny and recommendations.

1.7 **Non-Treasury Management Investments**

1.8.1 The MHCLG issued revised Statutory Guidance on Local Government Investments (2018). The statutory guidance extended the definition of investment and states that the:

“The definition of an **investment** covers all of the financial assets of a local authority as well as other non-financial assets that the organisation holds primarily or partially to generate a profit; for example, investment property portfolios. This may therefore include investments that are not managed as part of normal treasury management processes or under treasury management delegations.

The Guidance requires that for each financial year, a local authority should prepare an Investment Strategy, which should be approved by full Council.

1.7.1 This Council will ensure that all the organisations non-treasury management investments are included in a non-treasury management investment strategy, which will be incorporated into the Capital Strategy. This will set out, where relevant, the organisations risk appetite and specific policies and arrangements for non-treasury investments. It will be recognised that the risk appetite for these activities may differ from that for treasury management.

1.7.2 The Council recognises that investment in other financial assets and property primarily for financial return, taken for non-treasury management purposes, requires careful investment management. Such activity includes loans supporting service outcomes, investment in subsidiaries, and investment property portfolios.

1.7.3 The Council will maintain a schedule setting out a summary of existing material investments, subsidiaries, joint ventures and liabilities including financial guarantees and the organisations risk exposure.

1.8 **Treasury Management Strategy**

1.8.1 The Treasury Management Strategy covers two main areas:

Capital issues

- the capital plans and the prudential indicators;
- the minimum revenue provision (MRP) policy.

Treasury management issues

- the current treasury position;
- treasury indicators which limit the treasury risk and activities of the Council;
- prospects for interest rates;
- the borrowing strategy;
- policy on borrowing in advance of need;
- debt rescheduling;
- the investment strategy;
- creditworthiness policy;
- Apportioning interest to the Housing Revenue Account and
- the policy on use of external service providers.

1.8.2 These elements cover the requirements of the Local Government Act 2003, the CIPFA Prudential Code, MHCLG MRP Guidance, the CIPFA Treasury Management Code and MHCLG Investment Guidance.

1.9 Cash and Cash Flow Management

1.9.1 It is important that the Council maintains regular cash flow projections to ensure that the Council has enough cash to meet its liabilities in a timely manner, minimises borrowing costs and, where practical to do so, invest surplus cash balances.

1.10 Money Laundering

1.10.1 Money Laundering has the objective of concealing the origin of money generated through criminal activity. Legislation has given a higher profile to the need to report suspicions of money laundering. The Proceeds of Crime Act (POCA) 2002 established the main offences relating to money laundering. In summary, these are:

- Concealing, disguising, converting transferring or removing criminal property.
- Being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property.
- Acquiring, using or possessing criminal property.

1.10.2 These apply to all persons in the UK in a personal and professional capacity. Any person involved in any known or suspected money laundering activity in the UK risks a criminal conviction.

1.10.3 The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism.

1.10.4 The Money Laundering Regulations 2007, whilst not legally obliged to apply by public sector bodies, responsible public bodies should employ policies and procedures which reflect the essence of the UK's anti-terrorism and anti-money laundering regimes.

1.11 Training

1.11.1 The CIPFA Code requires the responsible officer to ensure that members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny.

1.11.2 Those charged with governance have a personal responsibility to ensure they have the appropriate skills and training for their role.

1.11.3 A training session delivered by Link Asset Services, the Council's treasury management advisors was held for the Audit Committee and extended to all members on the 16 December 2019. The training needs of Members and treasury management officers will be reviewed in year.

1.12 Treasury management consultants

1.12.1 The Council currently uses Link Asset Services, Treasury solutions as its external treasury management advisors.

1.12.2 The Council recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon our external service providers.

1.12.3 It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

1.12.4 The scope of investments within the Council's operations now includes both conventional treasury investments, (the placing of residual cash from the Council's functions), and more commercial type investments, such as investment properties. The commercial type investments require specialist advisers, and the Council has a Commercial Manager to undertake this activity seeking external advise as appropriate.

2 THE CAPITAL PRUDENTIAL AND TREASURY INDICATORS

2.1 The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

2.2 The Council will ensure that all of its capital and investment plans and borrowing are prudent and sustainable. In doing so it will take into account its arrangements for the repayment of debt (including through MRP) and consideration of risk and the impact, and potential impact, on the authority's overall fiscal sustainability. While indicators for sustainability are required to be set over a minimum 3 year rolling period, indicators should be set in line with a capital strategy and asset management plan that is sustainable over the longer term. There should also be separate indicators for the Housing revenue Account (HRA).

2.3 **Capital expenditure**

Table 2 below summarises the Council's capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. The Capital Programme for 2019/20 to 2022/23 has been agreed by Cabinet and final approval being sought by Council in March 2020. Members will be asked to approve the capital expenditure forecasts at least annually.

Table 2 - Capital Expenditure

Capital expenditure £m	2018/19 Actual	2019/20 Estimate	2020/21 Estimate	2021/22 Estimate	2022/23 Estimate
General Fund	**1.943**	**9.004**	**7.285**	**2.153**	**3.289**
HRA	**5.932**	**9.232**	**14.142**	**11.685**	**10.338**
Commercial activities/ non-financial investments	**8.767**	**45.585**	**20.000**	**20.000**	**0.000**
Total	**16.642**	**63.821**	**41.427**	**33.838**	**13.627**

Table 3 below summarises how the capital expenditure plans will be financed by capital or revenue resources. Any shortfall of resources results in a borrowing need.

Table 3 - Financing of the Capital Expenditure

Financing of capital expenditure £m	2018/19 Actual	2019/20 Estimate	2020/21 Estimate	2021/22 Estimate	2022/23 Estimate
Capital receipts	1.349	1.299	1.180	1.180	1.180
Capital grants	1.797	3.167	1.706	0.818	0.794
Capital reserves	3.767	7.933	12.962	10.505	9.158
Direct Revenue Financing	0.870	0.233	0.000	0.000	0.000
Borrowing Requirement	**8.859**	**51.189**	**25.579**	**21.335**	**2.495**

Table 4 identifies the capital expenditure and borrowing requirement within table 3, which specifically relates to the planned level of investment in Commercial Investment Property.

It shows the forecast Commercial Investment Property borrowing requirement as a percentage of the overall borrowing requirement and the financing costs associated with the borrowing requirement for Commercial Investment Property.

Table 4 Commercial Investment Property

Commercial activities / non-financial	2018/19 Actual	2019/20 Estimate	2020/21 Estimate	2021/22 Estimate	2022/23 Estimate
Capital Expenditure	8.767	45.585	20.000	20.000	0.000
Borrowing Requirement	**8.767**	**45.585**	**20.000**	**20.000**	**0.000**
Percentage of total net financing need %	**99.0%**	**89.1%**	**78.2%**	**93.7%**	**0.0%**
Cumulative Financing costs	0.017	0.505	2.172	3.215	3.917

2.4 **The Council's borrowing need (the Capital Financing Requirement)**
The second prudential indicator is the Council's Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources (it is the historic unfunded capital expenditure). It is essentially a measure of the Council's indebtedness and therefore its underlying borrowing need. Any capital expenditure above, which is financed by borrowing will increase the CFR. The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the indebtedness in line with each assets life, and so charges the economic consumption of capital assets to revenue as they are used. The CFR includes any other long-term liabilities (e.g. PFI schemes, finance leases). Whilst these increase the CFR, and therefore the Council's borrowing requirement, these types of scheme include a borrowing facility by the PFI or lease provider and so the Council is not required to separately borrow for these schemes. The Council currently has no PFI schemes or other long-term liabilities.

2.5 IFRS 16 Lease accounting becomes effective on 1st April 2020. This accounting standard requires that both finance leases and operating leases are included on the Balance Sheet. Previously the requirement was only for finance leases to be shown on the Balance Sheet. This in effect means that any existing operating leases and any new leases the Council enters into will need to be treated as capital expenditure and increase the CFR. The Council is currently assessing the impact of the introduction of this new standard, although it is not expected to be material. The capital prudential indicators will be revised once the effect of the standard is known.

2.6 Core funds and expected investment balances
As outlined above the underlying borrowing for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. The Council's current strategy is to

maintain actual borrowing and investments below their underlying levels, sometimes known as internal borrowing.

2.7 Table 5 below outlines the Balance Sheet Summary and Forecast excluding the Planned Commercial Investment Property. It shows the actual external debt (the treasury management operations), against the underlying capital borrowing need (CFR), highlighting the Council's level of under/over borrowing. It also includes a forecast for the year-end balances for usable reserves and working capital (the resources available to internally borrow against), and shows the forecast level of investment or new external debt.

Table 5 - Balance Sheet Summary and Forecast (Excluding Planned Commercial Investment Property)

31st March:	2019	2020	2021	2022	2023
Capital Financing Requirement	124.7	136.9	138.6	146.8	147.7
Less: External Borrowing	-81.7	-80.7	-80.7	-80.7	-74.2
Under(Over) Borrowing	**43.0**	**56.1**	**57.9**	**66.1**	**73.5**
Less: Usable Reserves	-51.7	-56.1	-53.7	-48.0	-46.8
Plus: Working Capital Required	0.6	-1.8	-1.8	-1.8	-1.8
Investments / (New Borrowing)	**8.1**	**-1.8**	**-2.4**	**-16.3**	**-24.9**

2.8 The Council has an increasing CFR due to the future planned unfunded capital expenditure. The above position for 2019/20 assumes a loan due to mature in February 2020, will be re-financed. It is forecast by the end 2020/21 there will be a need to borrow, however this is likely to be a short term borrowing need as the level of cash falls each year-end, due to the profile of Council Tax income, after which cash levels increase. From 2021/22 there is a forecast long term borrowing need. This position is continually reviewed due to the level of reserves and working capital having many variables and due to slippage in delivery of the capital programme making forecasting with certainty difficult. The associated costs for this level of borrowing have been provided for in the Medium Term Financial Strategy.

Table 6 below outlines the Balance Sheet Summary and Forecast including the Planned Commercial Investment Property programme. Therefore showing a higher CFR reflecting the net of the increase in unfunded capital expenditure less the increase in MRP associated with the Planned Commercial Investment Property programme.

Table 6 - Balance Sheet Summary and Forecast (Including Planned Commercial Investment Property)

31st March:	2019	2020	2021	2022	2023
Capital Financing Requirement	124.7	165.6	186.9	214.5	214.4
Less: External Borrowing	-81.7	-80.7	-80.7	-80.7	-74.2
Under(Over) Borrowing	**43.0**	**84.9**	**106.2**	**133.8**	**140.2**
Less: Usable Reserves	-51.7	-56.1	-53.7	-48.0	-46.8
Plus: Working Capital Required	0.6	-1.8	-1.8	-1.8	-1.8
Investments / (New Borrowing)	**8.1**	**-27.0**	**-50.7**	**-84.0**	**-91.6**

2.9 This shows that if the Planned Commercial Investment Property capital expenditure is incurred there will be additional new borrowing required. The interest costs on the new borrowing and the MRP charge associated with the Planned Commercial Investment Property are included in the appraisal of individual Commercial Investment Property decisions and the purchases are only completed, if the interest and MRP costs are recovered from the associated income stream, and a minimum target return is achieved.

2.10 **Affordability prudential indicators**
The strategy details the overall capital and control of borrowing prudential indicators, but within this framework, prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances.

2.11 **Ratio of financing costs to net revenue stream (See Appendix A Table 1)**
This indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream. The estimates of financing costs include current commitments and the proposals in the budget report.

2.12 **Treasury indicators for debt (See Appendix A Table 8 and 9)**
There are three debt related treasury activity limits. The purpose of these are to restrain the activity of the treasury function within certain limits, thereby managing risk and reducing the impact of any adverse movement in interest rates. However, if these are set to be too restrictive they will impair the opportunities to reduce costs / improve performance. The indicators are:

- Upper limits on variable interest rate exposure. This identifies a maximum limit for variable interest rates based upon the debt position net of investments
- Upper limits on fixed interest rate exposure. This is similar to the previous indicator and covers a maximum limit on fixed interest rates;
- Maturity structure of borrowing. These gross limits are set to reduce the Council's exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.

2.13 **Treasury Indicators: limits to borrowing activity**

2.13.1 **The operational boundary (See Appendix A Table 6)**. This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt and the ability to fund under-borrowing by other cash resources.

2.13.2 **The authorised limit for external debt (See Appendix A Table 5)**. A further key prudential indicator represents a control on the maximum level of borrowing. This represents a limit beyond which external debt is prohibited, and this limit needs to be set or revised by the full Council. It reflects the level of external debt which while not desired, could be afforded in the short term, but is not sustainable in the longer term. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although this power has not yet been exercised.

The latest Affordability Prudential Indicators and Treasury Indicators are attached at Appendix 'A'.

TREASURY MANAGEMENT STRATEGY STATEMENT

2.14 The capital expenditure plans set out details of the service activity of the Council. The treasury management function ensures that the Council's cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to meet this service activity and the Council's capital strategy. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions and the annual investment strategy.

2.15 This Council defines its treasury management activities as:

The management of the authority's borrowing, investments and cash flow, its banking, money market and capital market transactions; the effective control of the risks associated with those risks; and the pursuit of optimum performance consistent with those risks.

This Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation, and any financial instruments entered into to manage these risks.

This Council acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management.

2.16 The investment policy objective of this Council is the prudent investment of its treasury balances. The Council's investment priorities are the security of capital and liquidity of its investments so that funds are available for expenditure when needed. Both the CIPFA code and MHCLG guidance require the Authority to invest its funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return or yield. The generation of investment income to support the provision of local authority services is important, but secondary, objective.

2.17 The Council's borrowing objectives are to minimise the revenue costs of debt whilst maintaining a balanced loan portfolio. The Council will set an affordable borrowing limit each year in compliance with the Local Government Act 2003 and will have regard to the CIPFA Prudential Code for Capital Finance in Local Authorities when setting that limit.

2.18 **Current portfolio position**
The Council's current treasury portfolio position is set out in **<u>Appendix 'B'</u>**.

2.19 **Prospects for interest rates**
The Council has appointed Link Asset Services as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The details of their latest view is shown in **<u>Appendix 'C'</u>** to this report.

2.20 **Borrowing strategy**

2.20.1 The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with loan debt as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as investment returns are low and counterparty risk is still an issue that needs to be considered.

2.20.2 Against this background and the risks within the economic forecast, caution will be adopted within the treasury operations. The S151 Officer will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances. Any decisions will be reported to the appropriate decision making body at the next available opportunity.

2.20.3 The approved sources of long term and short term borrowing are:

- 2.20.3.1 Public Works Loans Board (PWLB) and any successor body.
- 2.20.3.2 Any institution approved for investments (see Annual Investment Strategy below)
- 2.20.3.3 Any bank or building society authorised to operate in the UK.
- 2.20.3.4 UK public bodies including pension funds (excluding Nottinghamshire County Council Pension Fund)
- 2.20.3.5 Capital Market bond investors.

2.20.4 In addition, capital finance may be raised by the following methods that are not classed as borrowing, but may be classed as other debt liabilities:

- 2.20.4.1 Operating and Finance leases
- 2.20.4.2 Hire Purchase
- 2.20.4.3 Sale and leaseback

2.20.5 **LOBOs:** The Council holds £25.5m of LOBO (Lender's Option Borrower's Option) loans where the lender has the option to propose an increase in the interest rate at set dates, following which the Council has the option either to accept the new rate or to repay the loan at no additional cost. No LOBOs have options during 2020/21. The next option will be in 2023/24. The Council understands that lenders are unlikely to exercise their options in the current low interest rate environment; there remains an element of refinancing risk. The Council will take the option to repay LOBO loans at no cost if it has the opportunity to do so. It is unlikely that the Council will take out any new LOBO loans in the future.

2.21 **Policy on borrowing in advance of need**

The Council will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates, and will be considered carefully to ensure that value for money can be demonstrated and that the Council can ensure the security of such funds. Risks associated with any borrowing in advance activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

2.21.1 Within the range of prudential indicators there are a number of key indicators to ensure that the Council operates its activities within well-defined limits. One of these is that the Council needs to ensure that its gross debt does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2020/21 and the following two financial years. This allows some flexibility for limited early borrowing for future years, but ensures that borrowing is not undertaken for revenue or speculative purposes.

2.21.2 The Director of Finance reports that the Council complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view takes into account current commitments, existing plans, and the proposals in the 2020/21 annual budget report.

2.22 Debt rescheduling

2.22.1 As short-term borrowing rates will be considerably cheaper than longer term fixed interest rates, there may be potential opportunities to generate savings by switching from long-term debt to short-term debt. However, these savings will need to be considered in the light of the current treasury position and the size of the cost of debt repayment (premiums incurred).

2.22.2 The reasons for any debt rescheduling to take place will include:

- the generation of cash savings and / or discounted cash flow savings;
- helping to fulfil the treasury strategy;
- Enhance the balance of the portfolio (amend the maturity profile and/or the balance of volatility).

2.22.3 Consideration will also be given to identify if there is any residual potential for making savings by running down investment balances to repay debt prematurely as short term rates on investments are likely to be lower than rates paid on current debt.

2.23 Apportioning interest to the Housing Revenue Account

2.23.1 The Council currently operates a one pool approach. The interest charges are initially charged to the General Fund and recharged to the Housing Revenue Account (HRA) through the Item 8 (item 8 of Part I and item 8 of Part II of Schedule 4 to, the Local Government and Housing Act 1989) adjustment. The Council has fixed an interest rate of 4.43% by which it will charge the Capital Financing Requirement (CFR) of the HRA. The HRA CFR currently is £80.081m. If this does not change the annual interest amount charged to the HRA will be £3.548m.

2.23.2 The Council will credit the HRA each year with its share of interest receivable. This will be calculated by multiplying the average HRA reserve balance by the average interest receivable percentage.

3 ANNUAL INVESTMENT STRATEGY

3.9 **Investment policy**

3.9.1 The Council's investment policy has regard to the MHCLG's Guidance on Local Government Investments ("the Guidance") and the CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2017 ("the CIPFA TM Code"). The Council's investment priorities will be security first, portfolio liquidity second, and then return.

3.9.2 In accordance with the above guidance from the MHCLG and CIPFA, and in order to minimise the risk to investments, the Council applies minimum acceptable credit criteria in order to generate a list of highly creditworthy counterparties which also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the Short Term and Long Term ratings.

3.9.3 Ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration, the Council will engage with its advisors to maintain a monitor on market pricing such as "credit default swaps" and overlay that information on top of the credit ratings.

3.9.4 Other information sources used will include the financial press, share price and other such information pertaining to the banking sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.

3.10 **Creditworthiness policy**

3.10.1 The primary principle governing the Council's investment criteria is the security of its investments, followed by liquidity, although the yield or return on the investment is also a key consideration. After this main principle, the Council will ensure that:

- It maintains a policy covering both the categories of investment types it will invest in, criteria for choosing investment counterparties with adequate security, and monitoring their security. This is set out in the specified and non-specified investment sections below; and
- It has sufficient liquidity in its investments. For this purpose, it will set out procedures for determining the maximum periods for which funds may prudently be committed. These procedures also apply to the Council's prudential indicators covering the maximum principal sums invested.

3.10.2 The S151 Officer will maintain a counterparty list in compliance with the following criteria and will revise the criteria and submit them to Council for approval as necessary. These criteria are separate to that which determines which types of investment instrument are either specified or non-specified as it provides an overall pool of counterparties considered high quality which the Council may use, rather than defining what types of investment instruments are to be used.

3.10.3 Credit rating information is supplied by Link Asset Services, our treasury advisors, on all active counterparties that comply with the criteria below. Any counterparty failing to meet the criteria would be omitted from the counterparty (dealing) list.

3.10.4 The intention of the strategy is to provide security of investment and the minimisation of risk. The aim is to generate a list of highly creditworthy counterparties which will also enable diversification and thus avoidance of concentration risk.

The Council's general policy objective is to invest its surplus funds prudently. The Council's investment priorities are:

highest priority - security of the invested capital;
followed by - liquidity of the invested capital (this enables the Council to react to changing circumstances);
finally - an optimum yield which is proportionate with security and liquidity.

Investments made by the Council's Officers are restricted to the following organisations:-

(a) Banks or Building Societies who currently meet the Link Asset Services suggested investment duration
(b) Nationalised Industries and Statutory Corporations
(c) Other Government Institutions
(d) Other Local Authorities
(e) Money Market Funds
(f) Bills of Exchange which have been accepted by authorised institutions
(g) United Kingdom Gilt-edged Securities
(h) Negotiable instruments such as Certificates of Deposit, Treasury Bills and Corporate Bonds
(i) Approved counterparties from countries with a minimum sovereign credit rating of AAA with reference to the lowest rating from Fitch, Moody's or Standard & Poor's, with the exception of UK.

Total investments with any one institution shall not exceed £5m.

Total investments of over 365 days shall not exceed £5m in total.

The Council's operational bank account is currently provided by Barclays Bank and a new contract has been entered into to be effective from April 2020 (5+1+1 years).

3.10.5 **Use of additional information other than credit ratings.**
Additional requirements under the Code require the Council to supplement credit rating information. Whilst the above criteria relies primarily on the application of credit ratings to provide a pool of appropriate counterparties for officers to use, additional operational market information will be applied before making any specific investment decision from the agreed pool of counterparties. This additional market information (for example Credit Default Swaps, negative rating Watches/Outlooks) will be applied to compare the relative security of differing investment counterparties.

3.11 Specified investments/unspecified investments

3.11.1 Investments are categorised as specified and non-specified investments.
Specified investments defined by MHCLG guidance as those:

- Denominated in pound sterling,
- Due to be repaid within 12 months of arrangements,
- Not defined as capital expenditure by legislation,
- Invested with one of:
    - The UK Government
    - A UK local authority, parish council, or community council, or

- A body or investment scheme of “high credit quality”

The Council now defines “high credit quality” organisations as those having a minimum sovereign credit rating of AAA.

Non-specified investments - those with less high credit quality, may be for periods in excess of one year, and/or are more complex instruments which require greater consideration by members and officers before being authorised for use. Once an investment is classed as non-specified, it remains non-specified all the way through to maturity.

3.11.2The Council does not currently hold any non-specified investments. The Council is setting a limit of £5m for non-specified investments to allow for use of non-specified investments, should it be considered appropriate to use these in the future and so the Council it is not restricted by the strategy. Non-specified investments will be limited to long-term investments, i.e. those that are due to mature 365 days or longer from the date of arrangements, and instruments that are more complex such as diversified or property funds.

3.12 **Country and sector limits**

Due care will be taken to consider the country, group, and sector exposure of the Council’s investments. The Council has determined that it will only use approved counterparties from countries with a minimum sovereign credit rating of AAA from rating agencies.

Total investments with any one group shall not exceed £5m.

Sector limits will be monitored regularly for appropriateness.

3.13 **Investment strategy**

3.13.1 **In-house funds**. Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. While most cash balances are required in order to manage the ups and downs of cash flow, where cash sums can be identified that could be invested for longer periods the value to be obtained from longer term investments will be carefully assessed.

- If it is thought that Bank Rate is likely to rise significantly within the time horizon being considered, then consideration will be given to keeping most investments as being short term or variable.

- Conversely, if it is thought that Bank Rate is likely to fall within that time period, consideration will be given to locking in higher rates currently obtainable, for longer periods.

Investment returns expectations. Bank Rate is forecast to increase steadily but slowly over the next few years to reach 1.25% by quarter 1 2022/23. Table 7 below shows the forecast Bank Rates for financial year ends (31 March):

Table 7 - Forecast Bank Rates for financial year ends (31 March):

Year	Base Rate
2019/20	0.75%
2020/21	1.00%
2021/22	1.00%
2022/23	1.25%

3.13.2 Table 8 below shows the forecast investment earnings rates for returns on investments placed for periods up to about three months during each financial year are as follows:

Table 8 – Forecast Investment Rates

Year	Average Return
2019/20	0.75%
2020/21	0.75%
2021/22	1.00%
2022/23	1.25%
2023/24	1.50%
2024/25	1.75%
Later Years	2.25%

3.13.3 The overall balance of risks to these forecasts is currently towards the downside and are dependent on how strong GDP growth turns out, how quickly inflation pressures rise and how quickly the Brexit negotiations move forward positively.

3.13.4 **Investment treasury indicator and limit** - **Total principal funds invested for greater than 365 days**. This limit is set with regard to the Council's liquidity requirements and to reduce the need for early sale of an investment. It is based on the availability of funds beyond each year-end. The Council's investment treasury indicator and limit for 2020/21 is to be £5m.

3.14 **Investment Liquidity**

In consultation with the external treasury advisors, the Council will review its balance sheet position, level of reserves and cash requirements in order to determine the length of time for which investments can be prudently committed. Investments will be placed at a range of maturities, including having money on-call in order to maintain adequate liquidity.

3.15 **External Fund Manager**

External fund managers can be appointed to manage a portfolio of investments. The Council currently has no funds externally managed and is unlikely to do so in the short to medium term.

3.16 **End of year investment report**

At the end of the financial year, the Council will report on its investment activity as part of its Annual Treasury Report.

4 MINIMUM REVENUE PROVISION (MRP) STATEMENT

4.1 An underpinning principle of the local authority financial system is that all capital expenditure has to be financed either from capital receipts, capital grants (or other contributions) or eventually from revenue. The amount charged to the revenue budget for the capital expenditure is known as Minimum Revenue Provision (MRP), although there has been no statutory minimum since 2008.

4.2 The Local Government Act 2003 requires the Council to have regard to the Ministry of Housing Communities and Local Government (MHCLG) 'Guidance on Minimum Revenue Provision'. The latest guidance was issued in February 2018.

4.3 The broad aim of the MHCLG Guidance is to ensure a prudent provision is made from revenue over time to cover the total amount of capital expenditure needed to be met from revenue. A prudent provision is considered to be, where the period over which MRP is charged is aligned to the period over which the capital expenditure provides benefits (asset life). MRP cannot be negative, and can only be zero if the CFR is nil or negative, or if the charge is fully reduced by reversing previous overpayments. A maximum asset life of 50 years can be used, unless in the opinion of an appropriately qualified professional advisor the life of the asset is expected to exceed 50 year.

4.4 The MHCLG Guidance requires the Council to approve an Annual MRP Statement each year, and recommends a number of options for calculating a prudent amount of MRP. However, the guidance gives flexibility in how MRP is calculated, providing the calculation is 'prudent'. The following policy included in the statement incorporates options recommended in the Guidance as well as locally determined prudent methods.

4.5 In accordance with the latest MHCLG Guidance, for capital expenditure financed by borrowing, the Council has four broad options:

- The 4% reducing balance method.
- The straight line asset life method
- The annuity asset life method
- The Depreciation method.

4.6 Minimum Revenue Provision Policy

4.7 Regulation 28 of the 2003 Regulations requires the Council to calculate in each financial year a prudent provision to ensure that debt is repaid over a period that is reasonably commensurate with that over the capital expenditure provides benefits (asset life).

4.8 For pre 2008 supported borrowing, the Council will move to a 50 year Annuity method, charging MRP based on a corresponding 50 year PWLB borrowing rate. This is more prudent than the current 4% reducing balance as this calculation extends to over 300 years.

4.9 For post 2008 it is proposed that unsupported borrowing, and any new borrowing, MRP will be calculated as follows:

- For assets with a life of 10 years or less, the straight line asset life method (as is currently the case).
- For assets with a life in excess of 10 years, the annuity asset life method will be used.

4.10 The asset life method calculation requires estimated useful lives of assets to be input in to the calculations. These life periods will be determined by the Chief Financial Officer (S151), with regard to the statutory guidance and advice from professional valuers if required.

4.11 The annuity rate used for the MRP charge will be the Public Works Loans Board (PWLB) certainty rate on the date the capital expenditure is incurred, where a one-off capital payments is made i.e. for investment properties. For all other capital expenditure funded from borrowing, where the expenditure is incurred over a period of time, the average annual PWLB certainty rate for the financial year will be used.

4.12 The Chief Financial Officer (S151) may also determine that if, in their opinion, the straight line method is more prudent for an asset with a life in excess of 10 years then this option may be used.

4.12.1 MRP will be not be charged until the later of: the year after capital expenditure is incurred or the year after the asset becomes operational.

4.13 Capital Receipts from the sale of investment properties funded as prudential borrowing will be used to reduce the Capital Financing Requirement by the outstanding prudential borrowing for the asset sold.

4.14 No MRP will be charged for assets in the Housing Revenue Account.

4.15 Voluntary Revenue Provision (VRP) may be made at the discretion of the S151 Officer.

4.16 For leases that are included on the balance sheet the MRP charge will be the same as the principal repayment on the lease.

Annex A Prudential Indicators

Prudential Indicators of Affordability

The Council is required to consider all of its available resources in the medium term (usually defined as three years) together with total plans for expenditure. Any known significant variations beyond this timeframe also need to be taken into account.

The Prudential indicators for affordability are as follows:

a) Estimate of the ratio of financing costs to the net revenue stream for the next three years split between the Housing Revenue Account and the General Fund

For the next three years the Council is required to calculate an estimated ratio of its financing costs to net revenue stream for both the General Fund and the Housing Revenue Account (HRA). For the HRA this is calculated by dividing the HRA capital financing costs by the total estimated Council Dwelling Income. For the General Fund this is calculated by dividing the General Fund capital financing costs by the estimated Council Tax Receipt plus Central Government Grants. The General Fund indicator is shown both including and excluding the capital financing costs for the Investment Properties still to be acquired.

The suggested indicators for the next three years are displayed in Table 1 below.

Table 1 – Ratio of financing costs to net revenue stream for the Housing Revenue Account and General Fund.

	2020/2021 %	**2021/2022 %**	**2022/2023 %**
Housing Revenue Account	13.79	13.12	12.42
General Fund	26.60	43.90	58.01
General Fund – Excluding Investment Properties still to be purchased	14.59	20.63	27.48

b) Estimate of the incremental impact of capital investment decisions on the Council Tax and Rent Levels

Authorities are required to estimate for the next three years the impact on the Council Tax (General Fund) and Rent levels (HRA) of the capital programme including running costs and financing costs. These indicators have been prepared using the revised Capital Programme, approved by Cabinet on the 25th November 2019. The capital financing costs for the Investment Properties have been included in the indicators in table 2 below. It is expected that the rental income for the Investment Properties will exceed their capital financing costs.

The suggested indicators for the incremental impact for the next three years are shown in Table 2 below.

Table 2 - Incremental Impact of capital investment decisions on Council Tax and Rent Levels

	2020/2021 £	2021/2022 £	2022/2023 £
General Fund (Band D)	59.62	39.40	21.92
General Fund (Band D) – Excluding Investment Properties still to be purchased	36.31	7.72	13.95
HRA (52 weeks)	0	0	0

Table 2 includes Minimum Revenue Provision (MRP) and interest payable as the incremental charges for capital investment funded by borrowing. MRP is not charged until the later of i) the year following purchase or ii) the year the asset becomes operational. Therefore, the MRP charges are included in the calculations in the year it is estimated the MRP charges will be made. The ratio for the General Fund is calculated by estimating the interest payable on the average capital borrowing requirement plus the MRP charges and dividing this by the estimated number of band D equivalents.

There is not anticipated to be any new borrowing for the HRA between 2020/21 – 2022/23.

c) Net borrowing and the Capital Financing Requirement split between the General Fund and the Housing Revenue Account

In order to ensure that in the medium term borrowing is only undertaken for capital purposes, local authorities are required to ensure that external borrowing does not exceed, except in the short term, the total of their capital financing requirement over the planning period. In broad terms the capital financing requirement reflects an authority's need to borrow for capital purposes and is a measure of the assets contained on the balance sheet which have as yet not been fully financed, i.e. there is still some indebtedness outstanding.

It is necessary to estimate the capital financing requirement at the end of the forthcoming year and the subsequent two years for both the Housing Revenue Account and General Fund activities these are presented in Table 3 below.

Table 3 – Estimates of Capital Financing Requirement.

	31st March 2021	31st March 2022	31st March 2023
	£m	£m	£m
Housing Revenue Account	80.081	80.081	80.081
General Fund	107.724	136.360	136.259
Total	187.805	216.441	216.340

d) Capital Expenditure

Estimates of capital expenditure for the next three years split between the General Fund and the Housing Revenue Account

The estimated total capital expenditure per year for 2020/21 to 2022/23, as detailed in the Capital Programme Report approved by Cabinet on the 25th November 2019, is shown below in Table 4:

Table 4 – Housing Revenue Account and General Fund Capital Expenditure estimates.

	2020/2021	2021/2022	2022/2023
	£m	£m	£m
Housing Revenue Account	14.142	11.685	10.338
General Fund	27.285	22.153	3.289
Total	41.427	33.838	13.627

External Debt

e) Authorised Limit

For the next three years the authority is required to set an authorised limit for its total external debt, gross of investments. This is calculated by taking into account current external debt, new borrowing for loans which mature or for capital purposes and the need to borrow on a short term basis to cover for temporary shortfalls in revenue income and expenditure.

The future authorised limits for the next three years are contained in Table 5 below.

Table 5 – Authorised Limits for External Debt

	2020/2021	2021/2022	2022/2023
	£m	£m	£m
Borrowing	206	232	231
Other Financial Instruments	0	0	0

f) Operational Boundary

As well as an authorised limit the local authority must also set an operational boundary for its external debt for the next three years. The operational boundary is based on the most likely or prudent but not worst case scenario in relation to cash flow.

The future Operational Boundary for the next three years are shown in Table 6.

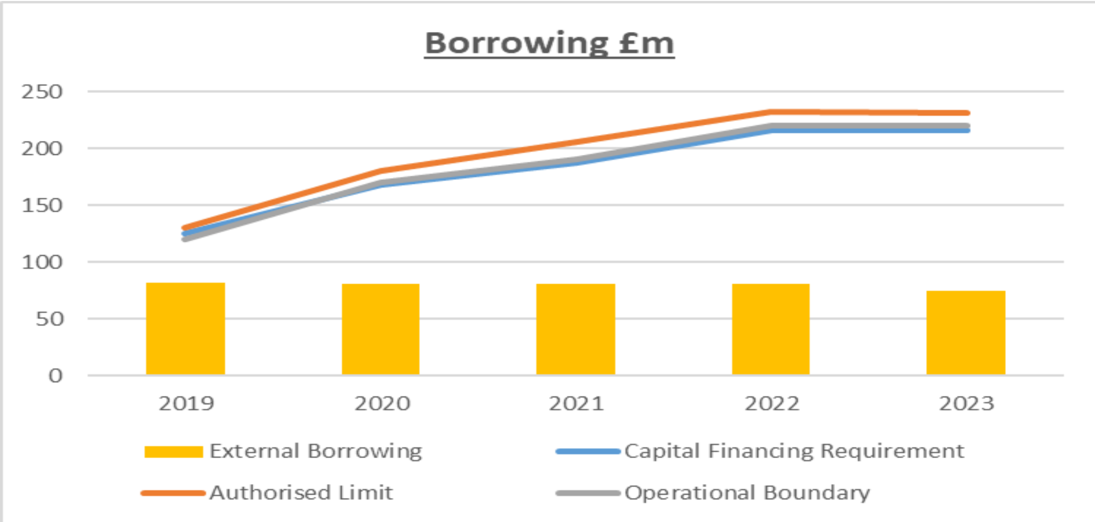
Table 6 – Operational Boundary for External Debt

	2020/2021	2021/2022	2022/2023
	£m	£m	£m
Borrowing	191	220	220
Other Financial Instruments	0	0	0

g) Comparison of External Debt to Capital Financing Requirement, Operational Boundary and Authorised Limit

Table 7 below shows the gap between the existing external debt to the Capital Financing Requirement, Operational Boundary and Authorised Limit

Table 7 – Borrowing



Prudential Indicators for Treasury Management

The prudential indicators for prudence have to be set taking into account those relating to affordability as outlined above and are as follows:

Treasury Management

a) Interest rate exposure

Local authorities are required to set limits for the next three years for the upper limits on exposure to the effects of changes in interest rates. The indicators relate to both fixed and variable rate interest, and are net of any investments.

Depending on the level of interest rates and their expected movement in the year, the Council may take up all of its new borrowings in the form of either fixed or variable rate debt. The figures Table 8 give the following maximum levels, when compared to the operational boundary, of exposure to fixed and variable interest rates, which are prudent limits for the forthcoming years:

Table 8 - Interest Rate Exposure

Principal Outstanding	**2020/2021**	**2021/2022**	**2022/2023**
	£m	**£m**	**£m**
Fixed Rates	206.0	232.0	231.0
Variable Rates (No more than 40% of the operational boundary).	82.4	92.8	92.4

b) Maturity Structure of borrowing

For the next three years' the authority is required to set both lower and upper limits for the maturity structure of its borrowing. This indicator relates only to fixed rate debt and is therefore a measure of the longer-term exposure to interest rate risk.

Table 9 shows the proposed lower and upper limits for all three years, given the current structure of the Council's debt portfolio:

Table 9 - Maturity Structure of Debt

Maturity Structure of Fixed Rate Borrowing	Forecast Position for 31/03/2020	Lower Limit (%)	Upper Limit (%)
Under 12 months	0.00%	0%	5%
Under 24 months	0.00%	0%	10%
Under 5 years	16.00%	0%	20%
Under 10 years	22.38%	0%	25%
Under 20 years	38.45%	0%	40%
Under 30 years	38.45%	0%	50%
Under 40 years	74.58%	0%	80%
Under 50 years	100.00%	0%	100%
50 years and above	0.00%	0%	0%

c) Principal sums invested for more than 364 days

Where a local authority invests, or plans to invest for periods of more than 364 days it must set an upper limit for each year for the maturity of such investments. The purpose of setting this limit is to contain any exposure to losses, which might arise in the event of having to seek early repayment of the investment and / or adverse movements in shorter-term interest rates.

It is suggested, that the use of longer-term investments be limited to a maximum of £5m in each of the next three years to tie in with the Council's already approved policy of not investing more than £5m with any one bank or building society at the same time.

Annex B Council's current treasury portfolio position

Table 1 - Current Debt and Investment Portfolio Position 30th September 2019

External Borrowing:	£m
Fixed Rate PWLB	40.236
Fixed Rate Other Loans (Banks)	15.000
LOBO Loans	25.500
Total Gross External Debt	**80.736**
Treasury Investments:	
Money Market Funds	(6.450)
Call Accounts	(3.719)
Fixed Term Deposits	(4.000)
Total Treasury Investments	**(14.169)**
Total Net External Debt	**66.567**

Table 2 – Council Loans at the 30th September 2019

Market Loans	£m
Fixed Rate Loans (Banks)	
Barclays Bank	5.000
Barclays Bank	5.000
Hampshire County Council	5.000
Sub Total	**15.000**
Lender Option Borrower Option (LOBO)	
Commerzbank AG Frankfurt am Main	1.000
FMS Wertmanagement AöR	1.500
Dexia Credit Local	5.000
Lancashire County Council	2.000
Danske Bank	5.000
Dexia Municipal Agency	5.000
Commerzbank AG Frankfurt am Main	6.000
Sub Total	**25.500**
Public Works Loans Board (PWLB)	**40.236**
Grand Total	**80.736**

Table 3 – Council Money Market Fund investments as at the 30th September 2019

Money Market Fund	£m
Aberdeen GBP Liquidity Fund	5.000
Insight Sterling Liquidity Fund	1.450
Total	**6.450**

N.B. for both of these investment the Authority is classed as professional investor under MIFID II regulation.

Table 4 – Council Call Account Investments as at 30th September 2019

Call Accounts	£m
Barclays Bank	£0.169
Handelsbanken	£3.550
Total	**£3.719**

Table 5 - Fixed Term Deposits as at 30th September 2019

Fixed Term Deposits	£m
Suffolk County Council	2.000
Thurrock Council	2.000
Total	**4.000**

Annex C - Prospects for interest rates

The Council has appointed Link Asset Services as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table gives our central view.

Link Asset Services Interest Rate View	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23
Bank Rate View	0.75	0.75	0.75	0.75	0.75	1.00	1.00	1.00	1.00	1.00	1.25	1.25	1.25	1.25
3 Month LIBID	0.70	0.70	0.70	0.80	0.90	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.30	1.30
6 Month LIBID	0.80	0.80	0.80	0.90	1.00	1.10	1.10	1.20	1.30	1.40	1.50	1.50	1.50	1.50
12 Month LIBID	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.40	1.50	1.60	1.70	1.70	1.70	1.70
5yr PWLB Rate	2.30	2.40	2.40	2.50	2.50	2.60	2.70	2.80	2.90	2.90	3.00	3.10	3.20	3.20
10yr PWLB Rate	2.60	2.70	2.70	2.70	2.80	2.90	3.00	3.10	3.20	3.20	3.30	3.30	3.40	3.50
25yr PWLB Rate	3.20	3.30	3.40	3.40	3.50	3.60	3.70	3.70	3.80	3.90	4.00	4.00	4.10	4.10
50yr PWLB Rate	3.10	3.20	3.30	3.30	3.40	3.50	3.60	3.60	3.70	3.80	3.90	3.90	4.00	4.00

The above forecasts have been based on an assumption that there is some sort of muddle through to an agreed deal on Brexit at some point in time. Given the current level of uncertainties, this is a major assumption and so forecasts may need to be materially reassessed in the light of events over the coming weeks or months.

It has been little surprise that the Monetary Policy Committee (MPC) has left Bank Rate unchanged at 0.75% so far in 2019 due to the ongoing uncertainty over Brexit. In its meeting on 1 August, the MPC became more dovish as it was more concerned about the outlook for both the global and domestic economies. That's shown in the policy statement, based on an assumption that there is an agreed deal on Brexit, where the suggestion that rates would need to rise at a "gradual pace and to a limited extent" is now also conditional on "some recovery in global growth". Brexit uncertainty has had a dampening effect on UK GDP growth in 2019, especially around mid-year. If there were a no deal Brexit, then it is likely that there will be a cut or cuts in Bank Rate to help support economic growth. The September MPC meeting sounded even more concern about world growth and the effect that prolonged Brexit uncertainty is likely to have on growth.

Investment and borrowing rates

- Investment returns are likely to remain low during 2020/21 with little increase in the following two years. However, if major progress was made with an agreed Brexit, then there is upside potential for earnings.

- Borrowing interest rates were on a major falling trend during the first half of 2019-20 but then jumped up by 100 bps on 9.10.19. The policy of avoiding new borrowing by running down spare cash balances has served local authorities well over the last few years. However, the unexpected increase of 100 bps in PWLB rates requires a major rethink of local authority treasury management strategy and risk management.

- There will remain a cost of carry, (the difference between higher borrowing costs and lower investment returns), to any new long-term borrowing that causes a temporary increase in cash balances as this position will, most likely, incur a revenue cost.

Annex D Treasury Management Practices

TMP1 RISK MANAGEMENT
a) GENERAL STATEMENT

The MHCLG issued Investment Guidance in 2018, and this forms the structure of the Council's policy below.

The key intention of the Guidance is to maintain the current requirement for councils to invest prudently, and that priority is given to security and liquidity before yield. In order to facilitate this objective the guidance requires this Council to have regard to the CIPFA publication Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes. This Council adopted the Code on 04/03/2019 and will apply its principles to all investment activity. In accordance with the Code, the Corporate Finance Manager has produced its treasury management practices (TMPs). This part, TMP 1(1), covering investment counterparty policy requires approval each year.

Annual investment strategy - The key requirements of both the Code and the investment guidance are to set an annual investment strategy, as part of its annual treasury strategy for the following year, covering the identification and approval of following:

- The strategy guidelines for choosing and placing investments, particularly non-specified investments.
- The principles to be used to determine the maximum periods for which funds can be committed.
- Specified investments that the Council will use. These are high security (i.e. high credit rating, although this is defined by the Council, and no guidelines are given), and high liquidity investments in sterling and with a maturity of no more than a year.
- Non-specified investments, clarifying the greater risk implications, identifying the general types of investment that may be used and a limit to the overall amount of various categories that can be held at any time.

The investment policy proposed for the Council is:

Strategy guidelines – The main strategy guidelines are contained in the body of the treasury strategy statement.

Specified investments – These investments are sterling investments of not more than one-year maturity, or those which could be for a longer period but where the Council has the right to be repaid within 12 months if it wishes. These are considered low risk assets where the possibility of loss of principal or investment income is small. These would include sterling investments which would not be defined as capital expenditure with:

1. The UK Government (such as the Debt Management Account deposit facility, UK treasury bills or a gilt with less than one year to maturity).
2. Supranational bonds of less than one year's duration.
3. A local authority, housing association, parish council or community council.
4. Pooled investment vehicles (such as money market funds) that have been awarded a high credit rating by a credit rating agency. For category 4 this covers pooled investment vehicles, such as money market funds, rated AAA by at least two of the three main rating agencies i.e. Standard and Poor's, Moody's and / or Fitch rating agencies.
5. A body that is considered of a high credit quality (such as a bank or building society For category 5 this covers bodies with a minimum Short Term rating of Standard and Poor's P-2 or the Moody's and Fitch equivalent).

Within these bodies, and in accordance with the Code, the Council has set additional criteria to set the time and amount of monies which will be invested in these bodies. These criteria are a maximum investment of £5m in any one institution and a maximum duration of up to 1 year or duration as advised by our treasury management advisers.

Non-specified investments – are any other type of investment (i.e. not defined as specified above). The identification and rationale supporting the selection of these other investments and the maximum limits to be applied are set out below. Non-specified investments would include any sterling investments with:

	Non Specified Investment Category	**Limit (£)**
a.	**Supranational bonds greater than 1 year to maturity** **(a) Multilateral development bank bonds** - These are bonds defined as an international financial institution having as one of its objects economic development, either generally or in any region of the world (e.g. European Reconstruction and Development Bank etc.). **(b) A financial institution that is guaranteed by the United Kingdom Government** (e.g. National Rail) The security of interest and principal on maturity is on a par with the Government and so very secure. These bonds usually provide returns above equivalent gilt edged securities. However the value of the bond may rise or fall before maturity and losses may accrue if the bond is sold before maturity.	AAA long term ratings £5m £5m
b.	**Gilt edged securities** with a maturity of greater than one year. These are Government bonds and so provide the highest security of interest and the repayment of principal on maturity. Similar to category (a) above, the value of the bond may rise or fall before maturity and losses may accrue if the bond is sold before maturity.	£5m
c.	**The Council's own banker** if it fails to meet the basic credit criteria. In this instance balances will be minimised as far as is possible.	£250k

NOTE 1. This Authority will seek further advice on the appropriateness and associated risks with investments in these categories.

Within category c, and in accordance with the Code, the Council has developed additional criteria to set the overall amount of monies which will be invested in this body. The intention will be to keep overnight balances to a minimum. Any balance on this account will be when the Authority has not had the opportunity to transfer balances to an approved counterparty.

The monitoring of investment counterparties - The credit rating of counterparties will be monitored regularly. The Council receives credit rating information (changes, rating watches and rating outlooks) from Link Asset Services as and when ratings change, and counterparties are checked promptly. On occasion ratings may be downgraded when an investment has already been made. The criteria used are such that a minor downgrading should not affect the full receipt of the principal and interest. Any counterparty failing to meet the criteria will be removed from the list immediately by the Section 151 Officer, and if required new counterparties which meet the criteria will be added to the list.

b) APPROVED COUNTRIES FOR INVESTMENTS

This list is based on those countries which have sovereign ratings of AAA. The Authority will continue to invest with counterparties in the UK despite the UK only currently having an AA rating.

Based on lowest available rating

AAA

- Australia
- Canada
- Denmark
- Germany
- Luxembourg
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

AA

- U.K.

THIS LIST IS AS AT 16.12.19

c) TREASURY MANAGEMENT SCHEME OF DELEGATION

(i) Full Council

- receiving and reviewing reports on treasury management policies, practices and activities;
- approval of annual strategy.

(ii) Cabinet

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices;
- budget consideration and approval;
- approval of the division of responsibilities;
- receiving and reviewing regular monitoring reports and acting on recommendations;
- approving the selection of external service providers and agreeing terms of appointment.

(iii) Audit Committee

- reviewing the treasury management policy and procedures and making recommendations to the responsible body.

d) THE TREASURY MANAGEMENT ROLE OF THE SECTION 151 OFFICER

The S151 (responsible) officer *(see TM Code page 38 (iv)*

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance;
- submitting regular treasury management policy reports;
- submitting budgets and budget variations;
- receiving and reviewing management information reports;
- reviewing the performance of the treasury management function;
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function;
- ensuring the adequacy of internal audit, and liaising with external audit;
- recommending the appointment of external service providers.

The above list of specific responsibilities of the S151 officer in the 2017 Treasury Management Code has not changed. However, implicit in the changes in both codes, is a major extension of the functions of this role, especially in respect of non-financial investments, (which CIPFA has defined as being part of treasury management). *Further responsibilities also include:*

- preparation of a capital strategy to include capital expenditure, capital financing, non-financial investments and treasury management, with a long term timeframe
- ensuring that the capital strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money
- ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the authority
- ensure that the authority has appropriate legal powers to undertake expenditure on non-financial assets and their financing
- ensuring the proportionality of all investments so that the authority does not undertake a level of investing which exposes the authority to an excessive level of risk compared to its financial resources
- ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long term liabilities
- provision to members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees
- ensuring that members are adequately informed and understand the risk exposures taken on by an authority
- ensuring that the authority has adequate expertise, either in house or externally provided, to carry out the above
- creation of Treasury Management Practices which specifically deal with how non treasury investments will be carried out and managed, to include the following *(TM Code p54): -*
    - *Risk management (TMP1 and schedules), including investment and risk management criteria for any material non-treasury investment portfolios;*
    - *Performance measurement and management (TMP2 and schedules), including methodology and criteria for assessing the performance and success of non-treasury investments;*

- *Decision making, governance and organisation (TMP5 and schedules), including a statement of the governance requirements for decision making in relation to non-treasury investments; and arrangements to ensure that appropriate professional due diligence is carried out to support decision making;*

- *Reporting and management information (TMP6 and schedules), including where and how often monitoring reports are taken;*

- *Training and qualifications (TMP10 and schedules), including how the relevant knowledge and skills in relation to non-treasury investments will be arranged.*

Ashfield
DISTRICT COUNCIL

Report To:	**AUDIT COMMITTEE**	**Date:**	**10th FEBRUARY 2020**
Heading:	**CAPITAL STRATEGY**		
Portfolio Holder:	**COUNCILLOR DAVID MARTIN – CABINET MEMBER (INWARD)**		
Ward/s:	**ALL**		
Key Decision:	**YES**		
Subject to Call-In:	**YES**		

Purpose of Report

The Council's Proposed Capital Strategy has been prepared in accordance with the Chartered Institute Public Finance and Accountancy (CIPFA) Prudential Code for Capital Finance in Local Authorities. The framework established by the Prudential Code supports local strategic planning, local asset management planning and proper option appraisal. The objectives of the Prudential Code in respect to the Capital Strategy are:

1. To ensure that the capital expenditure plans of local authorities are affordable, prudent and sustainable and that treasury management decisions are taken in accordance with good professional practice and in full understanding of the risks involved.
2. A requirement to look at capital expenditure and investment plans in the light of overall organisational strategy and resources and ensure that decisions are made with sufficient regard to the long term financing implications and potential risks to the authority.
3. To ensure that the authority takes capital expenditure and investment decisions in line with service objectives and properly takes account of stewardship, value for money, prudence, sustainability and affordability.
4. The Capital Strategy should set out the long term context in which capital expenditure and investment decisions are made and gives due consideration to both risk and reward and impact on the achievement of priority outcomes.

In accordance with the MHCLG revised Statutory Guidance on Local Government Investments (2018), each financial year, a local authority should prepare an Investment Strategy, which should be approved by full Council. The investment strategy must include non-treasury management investments.

This Commercial Property Investment Strategy, included at Annex 1 to the capital strategy is this Council's non-treasury management investment strategy.

The MHCLG Guidance and CIPFA's Prudential Property Investment guidance requires the Commercial Property Investment Strategy to include quantitative indicators to allow risk exposure as a result of its non-treasury management investments to be assessed. The indicators are included as Annex 2.

Recommendation(s)

1) For Audit Committee to review and note the contents of the Capital Strategy (CS) for 2020/21 including the Annexes 1-3;

2) For Audit Committee to recommend that Cabinet and Council approves:
    - Capital Strategy
    - Commercial Property Investment Strategy;
    - Commercial Property Indicators.

Reasons for Recommendation(s)

It is a requirement of the CIPFA Prudential Code for all Local Authorities to have a Capital Strategy approved by Full Council.

MHCLG Statutory Guidance on Local Government Investments require that the Council has an Investment Strategy that covers non-treasury management investments and includes quantitative indicators approved by Full Council.

Alternative Options Considered

None. It is a requirement of the CIPFA Prudential Code for all Local Authorities to have a Capital Strategy and a requirement of MHCLG Statutory Guidance on Local Government Investments to have an Investment Strategy covering non-treasury management investments.

Detailed Information

The proposed Capital Strategy is contained in Appendix 1. There are three Annexes to Appendix 1 of the report which are:

1. Annex 1 describes the Commercial Property Investment Strategy.
2. Annex 2 Commercial Investment Property indicators which are required by MHCLG guidance and CIPFA .
3. Annex 3 shows the process for acquiring Commercial Investment Properties.

The Commercial Property Investment Strategy details the target minimum net income return, this was previously set at 3.5% this has reduced to 2.5% as a consequence of the increase of 1% in the Public Works Loans Board (PWLB) borrowing rate in October 2019.

Implications

Corporate Plan:
This Capital Strategy will allow delivery of the priorities in the Capital Programme.

Legal:
It is a statutory requirement to produce a Capital Strategy from 2019/20. Relevant statutory powers and requirements are described in the Appendix to this report.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	No Implications
General Fund – Capital Programme	
Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

Risk:

Risk	Mitigation
The detailed Capital Strategy is not fit for purpose	The Capital Strategy is reviewed and updated annually for changes in direction and changes to guidance and legislation.

Human Resources:
Not Applicable.

Equalities:
Not applicable.

Other Implications:
Not applicable.

Reason(s) for Urgency
Not applicable.

Reason(s) for Exemption
Not applicable.

Background Papers

- CIPFA Prudential Code 2017 Edition
- CIPFA Treasury Management Code 2017 Edition
- CIPFA Prudent Property Investment
- MHCLG Statutory Guidance on Local Government Investments (3rd Edition) Issued under Section 15(1)(a) of the Local Government Act 2003.

<u>Report Author and Contact Officer</u>

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Appendix 1

ASHFIELD DISTRICT COUNCIL
CAPITAL STRATEGY 2019/20 – 2023/24

1 Introduction

1.1 Ashfield District Council's Corporate Capital Strategy is the policy framework document that sets out the principles to be used to guide the allocation of capital investment across all the Council's services and informs decisions on capital spending priorities contained within the Council's 5 year Capital Programme.

1.2 Capital investment is technically described as "Expenditure on the acquisition, creation, or enhancement of 'long term assets'". Capital investment seeks to provide long-term solutions to the Council's priorities and operational requirements. Expenditure for capital purposes therefore gives rise to new assets, increases the value and/or useful life of existing assets or, generates an income stream to the Council via non-treasury investments. Expenditure outside this definition will be, by definition, 'revenue' expenditure.

1.3 Most of the Council's long term assets are properties that are used in service delivery. The Council's land, buildings and infrastructure asset base of some 7,600 properties has a current use Balance Sheet value of £317m (2018/19 published accounts).

1.4 The Capital Strategy is presented to Council as a Policy Framework document, and links with the Treasury Management Strategy, Medium Term Financial Strategy (MTFS) and the approved Capital Programme. Although this Strategy focuses on the Council's management of its own investment in assets, a wider view of capital investment throughout the area by both the public and private sectors will have a major influence on meeting Council aims and objectives.

1.5 The Capital Strategy (and specifically the Commercial Investment Strategy element of the Capital Strategy) are key drivers to secure the future financial sustainability of the Council.

1.6 The legal background to Capital Expenditure is contained in the Local Government Act 2003, particularly the following sections:

- S1 – power to borrow
- S3 – affordable borrowing limit
- S15 – regard to Guidance issued

1.7 Guidance is also issued by Government, the latest guidance issued by the Ministry of Housing Communities and Local Government - MHCLG (formerly the Department of Local Government (DCLG)) being Investment Guidance (2018) and Minimum Revenue Provision (MRP) Guidance (2018).

1.8 Council's should also comply with professional codes that are issued, the key ones being:

- CIPFA Prudential Property Investment (November 2018). This is new guidance issued after the previous Capital Strategy had been approved.
- CIPFA Prudential Code (2017)
- CIPFA Treasury Management Code of Practice (2017).

1.9 The Capital Strategy sets out a number of guiding principles. In considering the principles, the Council needs a balance between guidance and prescription to allow a flexible approach to be taken but reflective of times of uncertainty. This Strategy focuses on the key policies for the allocation of capital resources to schemes in line with Council priorities and statutory responsibilities. The management of the Council's operational Capital Programme which 'sits' under this Capital Strategy is also supported by the Council's approved Financial Regulations.

1.10 CIPFA Treasury Management Code 2017 states:

- 'Where a capital strategy is produced by a local authority this may include the setting of detailed treasury management policies, while being clear that overall responsibility remains with full Council.'
- 'This organisation will ensure that all the organisation's investments are covered in the capital strategy, investment strategy or equivalent, *(that is this strategy for Ashfield District Council and contains both)* and will set out, where relevant, the organisation's risk appetite and specific policies and arrangements for non-treasury investments. It will be recognised that the risk appetite for these activities may differ from that for treasury management.'

2 Identifying Need

2.1 There are a number of internal and external influences that will affect the Council's Capital Strategy in the short, medium and long term.

2.2 External influences will include, but are not limited to potential partners such as central government, priorities of the Local Enterprise Partnership (LEP), County Council and the private sector.

2.3 Internal influences will be driven by the Council's Corporate Plan which sets out the Council's vision and priorities for the District and is available on the Council's website **https://www.ashfield.gov.uk/your-council/about-the-council/corporate-plan/.** A new Corporate Plan is developed every four years, the current corporate plan was approved by Council on the 26th September 2019.

2.4 The Council's Corporate Plan 2019-2023 sets out the following six priorities;

- Health & Happiness
- Homes & Housing
- Economic Growth & Place

- Cleaner & Greener
- Safer & Stronger
- Innovate & Improve

2.5 Aligned to the Corporate Plan are a number of subsidiary and complementary plans and strategies. Examples include;

- Medium Term Financial Strategy
- Treasury Management Strategy
- 30 Year HRA Business Plan
- Housing Strategy
- Digital Transformation Strategy
- Commercial Investment Strategy
- Service Plans

Capital investment will therefore be made in a range of areas to support the Council's core activities and priorities including asset investment to support its existing asset base and service plans, ICT and business improvement investment to support its Transformation programme. Investment in other delivery vehicles such as a Housing Company are being considered to deliver priorities regarding housing units.

3 Capital Scheme Prioritisation

3.1 Due to competing demands for limited resources, the Council prioritises capital investment based on a number of different factors such as:

- Its contribution to corporate priorities
- Whether it facilitates delivery of statutory or non-statutory and essential/non-essential services.
- The ability of the project to leverage additional funding, or secure a future income stream – therefore preference will be given to those projects with:
    - A payback of 10 years or less
    - A positive net present value over the life of the asset based on a discount rate reflecting use of capital resources (Treasury Green book figure 3.5 %)
- The affordability of the revenue implications of the project
- The risk of not undertaking the capital expenditure, eg Health and Safety implications or legislative requirements.

3.2 Non financial indicators can also be used, for example, there are many benefits to including sustainability or environmental criteria in the decision-making process when it comes to allocating capital resources. Outcomes (for example jobs created or safeguarded) and outputs (for example, number of new homes built) should also be considered.

4 Prudential Approach

4.1 The Prudential Code requires Councils to consider six things when it agrees its Capital Programme:

- Service objectives – are spending plans consistent with our aims and plans?
- Stewardship of assets – is capital investment being made on new assets at the cost of maintaining existing assets?
- Value for money – do benefits outweigh the cost?
- Prudence and sustainability – can the Council afford the borrowing now and in the future?
- Affordability – what are the implications for council tax? (revenue implications)
- Practicality – can the Council deliver the programme?

4.2 Prudence is a difficult concept to define. In deciding whether an investment decision is prudent there should, as a minimum, be an initial consideration of the relationship between:

- the capital cost and
- the business cost (being the revenue costs associated with the use of the asset).

4.3 The authority needs to consider whether this choice represents the best use of resources having looked at all available options. Above all, the authority should be confident that the preferred option is the best value for money, and the quality is sufficient to meet the Council's needs.

4.4 Investments in property are seen as medium to long term investments therefore the value for money is assessed on this basis to ensure that over a longer period of time the investment is value for money and provides a return to the Council which, as a minimum exceeds what could be earned through investing in Money Markets.

4.5 The question of affordability in relation to capital projects is easier to address as the list of cost components is easier to define. Whilst the list is not exhaustive, it will typically include:

- Capital Costs
  - Feasibility costs
  - Initial build/purchase
  - Disposal/demolitions/decommissioning costs
  - Project management costs - internal and external
  - Fees: Surveyors, Clerk of works

- Revenue costs
  - Ongoing rental charges
  - Ongoing facilities management charges
  - Utilities costs
  - Maintenance (planned and reactive)
  - Financing costs (where appropriate, Minimum Revenue Provision (MRP) and Interest costs)
  - staffing implications
  - Business Rates

4.6 Feasibility costs may be capitalised provided the scheme leads to the eventual construction of an asset, if not, any such costs incurred must be charged to revenue.

4.7 In assessing whether an investment is sustainable, the authority should consider:

- how it fits into any future policy or environmental framework
- the future availability of resources to implement and continue to maintain any capital asset arising
- the potential for changes in the need for the asset, e.g. demographic developments
- the potential for changes in the nature of the driver, problem, or policy the capital expenditure is seeking to address.
- The security on loans made
- The liquidity of investments

4.8 In terms of Practicality, the Council must ensure it has the right skills and resources available at the right time to be able to fully resource and deliver its Capital Programme ambitions. Some of the projects may be specialist in nature and, as such, will require external expertise and support in order to deliver the schemes, including good project management skills.

5 Capital Funding

5.1 Capital Funding Sources:

5.1.1 The Council's Capital Programme is currently funded from the following sources;

- Capital Receipts
- Prudential Borrowing
- Developers Contributions e.g. s106 receipts
- Partner contributions
- Revenue Contributions/Reserves
- Capital Grants e.g. Disabled Facilities Grant
- Proportion of Housing Right to Buy receipts
- Major Repairs Reserve (for Council Housing investments)

5.1.2 The Council can recycle capital receipts generated from the disposal of assets back to fund both General Fund and HRA capital projects. The Council also has in place a Flexible Use of Capital Receipts Strategy (Originally approved October 2018) which may be used to support delivery of the Council's Transformation Programme.

5.1.3 However with limited property available for sale, capital receipts are gradually being eroded. And with continuing budgetary pressures being placed on the Council's General Fund the ability to use Direct Revenue Financing (use of reserves) is reducing and consequently the Council may need to either find alternative sources or curtail its ambitions for capital spend in future years.

5.1.4 The Council owns a number of assets including investment properties and through on going monitoring of assets and stock condition information, the continuation of holding such assets is reviewed in the light of suitability and sufficiency and decisions are taken on whether to:

- Hold and continue to maintain and refurbish them, or
- Dispose of and generate a capital receipt for funding the Capital Programme.

5.1.5 The Council has entered into an agreement with the MHCLG in which the authority will recycle within a rolling 3 year period Right to Buy (RTB) receipts arising from retaining “additional” receipts from RTB disposals into new social housing dwellings within the District. The RTB receipts retained, must be applied to fund up to 30% of the capital costs of new build and acquisitions of affordable housing. The Council currently anticipates all receipts will be utilised on eligible schemes as and when they arise.

5.2 Prudential Borrowing

5.2.1 Under the Prudential Framework local authorities are free to make their own judgements as to whether new borrowing is affordable and prudent, subject to a duty to follow agreed professional principles, which are contained within the Prudential Code.

5.2.2 Prudential borrowing to fund capital projects may, depending on the nature of the capital investment, bring with it the need to make a charge to revenue to reflect the cost of borrowing. This includes Minimum Revenue Provision (MRP) and interest. The MRP policy that applies to capital decisions funded by prudential borrowing is set out within the Council’s Treasury Management Strategy.

5.3 S106 Developer Contributions

5.3.1 Developer contributions are sought, as part of the planning application process to mitigate the impact of development and overcome what would otherwise be a potential reason to potentially refuse a planning application. These S106 Developer Contributions are a means of supporting infrastructure costs such as play areas, transport networks, schools, etc.

5.4 Housing Revenue Account

5.4.1 Capital commitments are funded via surpluses from within the Council’s Housing Revenue Account (HRA). The production of a 30 year HRA Business Plan, which is regularly reviewed, enables the funding needs of the Council’s housing stock to be planned for and accommodated.

5.4.2 The HRA originally had a debt cap which was set at £80.081m in 2012. However, the Government recently announced the removal of this cap allowing Councils to once again borrow against the value of its housing stock for improving the existing stock as well as delivering new stock.

5.4.3 The HRA Capital Programme is to a large extent driven by the amount of surplus generated which in turn is influenced by:

- The amount of income raised from rents which for four years from 1/4/2016 has been limited by Government to a year on year decrease of 1%. Increases of CPI plus 1% will again be permissible from 2020/21.
- The number of Right to Buy sales that take place and impact on the HRA stock and therefore future rent income receivable.

5.4.4 The resulting HRA Capital Programme provides for renovation and improvement of existing housing stock, refurbishment and limited estate regeneration.

6 New Delivery Models

6.1 In response to reducing capital resources the Council has looked to new delivery models to continue its capital investment in the District, which levers in other partners and innovative financing. These include a Housing Company, which the Council may establish to deliver new affordable rented properties in the District.

6.2 In the context of the Capital Strategy, the Council is investing in property to produce an on-going revenue stream to contribute to the funding of the Council's revenue budget to sustain the delivery of key services to the District's residents. This capital expenditure will be funded where available, in the form of capital receipts and/or prudential borrowing.

6.3 At the time of writing the Council currently has a portfolio of 'investment properties' of around £36.243m generating gross investment income of £2.85m per annum. The purchase of the investment properties is funded by prudential borrowing and results in revenue costs of MRP and potentially interest. Prudential borrowing can be internal borrowing, against cash-backed reserves and working capital or external borrowing, loans from a third party. Interest costs are incurred where external borrowing in undertaken. The Council's strategy in respect of 'investment properties' is detailed in the Commercial Investment Strategy (Non- Treasury Management Investment Strategy) included at Annex 1.

6.4 In September 2019 both Kirkby-in-Ashfield and Sutton-in-Ashfield were named in the list of 100 towns invited to develop proposals to receive funding through a Town Deal, with up to £25m available for each town. Sutton has also been included on the list of 100 towns which can apply for funding through the Future High Streets Fund (FHSF) of up to £25m which is a competitive process. Proposals and bids are currently being progressed.

7 The Current Capital Programme 2019/20 – 2023/24

7.1 A copy of the current 5 year Capital Programme can be found on the Council's website and the latest update to the Capital Programme was reported to Cabinet at November 2019. The current programme covers the following key areas and major schemes:

- Area schemes & General Fund Schemes
    - Investment Properties
    - Kirkby Leisure Centre
    - Purchase of Vehicles
- Housing Revenue Schemes
    - Decent Homes schemes
    - New Build and acquisitions of affordable housing
    - Davies Avenue Scheme – affordable housing

7.2 In assessing what schemes are included in the Capital Programme, the Council will ensure all schemes are properly appraised and prioritised through a scoring matrix as agreed by Council. This appraisal process will take account of the key criteria set out in this Strategy.

8 Service Enhancements & Building Asset Maintenance

8.1 The Council has a property land and buildings portfolio utilised for service delivery (eg leisure centres) and for operational delivery (offices and depots). It is important that these are maintained on a regular basis and receive upgrades and replacement if required when resources allow. This programme will be informed by the stock condition surveys alongside any service developments that may be proposed. It may also be required that some surplus assets are either disposed of (including demolition) if no longer fit for purpose or required.

8.2 As part of the agile working initiative opportunities for rationalisation of operational land and buildings may be identified. Equally, the retained operational land and buildings may require enhancement.

8.3 Included in the land and buildings portfolio are a number of Commercial Properties, which are providing an income stream to the Council. They are not deemed to be investments properties as they are held to support the economic development of Ashfield and are not held solely for returns or capital appreciation. The Council's risk exposure to be managed, in relation to these Commercial Properties include loss of income stream due to voids periods and maintenance costs.

9. Grants & Contributions

9.1 The Council will make contributions to 3rd party schemes (including Disabled Facility Grants) as partner funding contributions to schemes not being directly delivered by the Council, to meet statutory grant requirements or to support particular initiatives.

9.2 The Council will also, where appropriate, seek grant funding and contributions to support the delivery of capital schemes.

10 Vehicles and Fleet

10.1 The Council has a significant fleet in order to deliver its operational services. The Council has traditionally purchased outright all of its fleet including refuse collection vehicles, which require a significant up-front investment. Whilst the current capital programme continues with this approach, other funding methods will be evaluated and may also be utilised (e.g. lease, Contract Hire with Maintenance, etc) in order to achieve the most cost effective approach to vehicle provision.

11 Service Transformation & Invest to Save

11.1 The Council still faces significant shortfalls in its revenue budget in the Medium term. Therefore, it will continue to invest in technologies and programmes which deliver ongoing savings to the Councils finances. These schemes will require initial Capital investment but must demonstrate a payback and ongoing savings as part of the evaluation process. A business case will need to be made for all proposals, which must include a financial appraisal.

11.2 These schemes can range from enhancements to buildings to make them more energy efficient, to ICT investment, to service transformation programmes. Where available, capital receipts will be used to fund one-off revenue costs associated with the Transformation Programme, in accordance with the Flexible Use of Capital Receipts Strategy.

12 Capital Project Delivery and Investment Risk Management

12.1 The Council, like all Council's is exposed to a broad range of risks:

- **Financial risks** related to the investment of the Council's assets and cash flow, market volatility, currency etc.
- **Macroeconomic risks** related to the growth or decline of the local economy, interest rates, inflation and to a lesser degree, the wider national and global economy amongst others.
- **Credit and counterparty risks** related to investments, loans to institutions and individuals and counterparties in business transactions.
- **Operational risks** related to operational exposures within its organisation, its counterparties, partners and commercial interests.
- **Strategic risks** related to key initiatives undertaken by the Council such as significant purchases, new ventures, commercial interests and other areas of organisational change deemed necessary to help the Council meet its goals.
- **Reputational risks** related to the Council's dealings and interests, and the impact of adverse outcomes on the Council's reputation and public perception.

- **Environmental and social risks** related to the environmental and social impact of the Council's strategy and interests.
- **Governance risks** related to ensuring that prudence and careful consideration sit at the heart of the Council's decision-making, augmented by quality independent advice and appropriate checks and balances that balance oversight and efficiency.

12.2 The Council must manage and mitigate these risks where possible but there is inherent risk in undertaking major Capital Projects (particularly acquisition of Investment Properties) and this needs to be recognised. Therefore, for each scheme, risk assessments and risk registers need to be prepared and monitored to ensure, as far as possible, risks are managed.

13 Governance & Monitoring

13.1 The Prudential Code sets out a clear governance procedure for the setting and revising of a Capital Strategy and Prudential Indicators i.e. this should be done by the same body that takes the decisions for the local authority's budget – i.e. Full Council.

13.2 The Prudential Code also states that decisions around capital expenditure, investment and borrowing should align with the processes established for the setting and revising of the budget. The Financial Procedure Rules (FPR) set out clear procedures for the approval of capital expenditure, including:

- approval of the capital programme – Full Council (FPRs para B.1)
- additions/changes to the capital programme – Cabinet/Council (FPRs para B.8)

13.3 The Audit Committee has delegated powers responsible for Governance and Treasury Management within the Council. They scrutinise and recommend an annual Treasury Management Strategy (incorporating an Investment Strategy and Borrowing Strategy) to Council for approval as part of the annual approval of budget. They also receive monitoring reports on Treasury activity and a year-end Annual Report.

13.4 The S151 Officer is responsible for ensuring that all matters required to be taken into account are reported to the decision-making body for consideration. They also have to declare that they consider the strategy to be prudent and affordable, are integrated into the Treasury Management Strategy and other Strategic Plans, and that all the revenue implications are included in the MTFS.

14 Knowledge and Skills

14.1 In order to deliver this Capital Strategy it is important that the Council employs and /or has access to competently skilled people in order to manage the delivery of the Capital Programme. The Council's S151 Officer has the overall responsibility for the Capital and Treasury Management activities so needs to be professionally qualified and undertake ongoing CPD in these areas. This should be underpinned by experienced staff who can support the S151 Officer in meeting these requirements. Additionally, professional advice can be bought in from external providers. The Council currently retains Link Asset Services as its Treasury Management Advisors.

14.2 Training should also be provided to those Members and Officers that are involved in the monitoring and delivery of the Capital Strategy and Programme and this should be regularly updated. Appropriate project management training should also be provided to project leads, Officers and Members responsible for each of the Capital schemes.

Annex 1

ASHFIELD DISTRICT COUNCIL
COMMERCIAL PROPERTY INVESTMENT STRATEGY

1. Key Principles

1.1 The core function of the Council is to deliver statutory and other services to local residents. Reductions in government funding has required local authorities to look at the options for balancing the budget. Investing in property helps the Council to generate an additional on-going revenue income stream that it can then use to reduce its net costs of providing services.

1.2 This is achieved by buying property that has a tenant who pays rent to the owner of the property – the landlord. The tenant needs to be of good financial standing and the property and lease must meet certain standards such as being in a commercially popular location and have a number of years left on the lease providing a certain and contractually secure rental income stream into the future.

1.3 The Council funds the purchase of the property by prudential borrowing and/or use of Capital Receipts where these are available. The rental income paid by the tenant must exceed the cost of capital (MRP and interest). The annual surplus then supports the Council's budget position, and enables the Council to continue to provide services for local people.

1.4 Historically, property has proved to be one of, if not the best, investment in terms of capital growth over the last 50 years. If the Council owns the property for 20 years plus, and the property is managed and maintained appropriately, the Council can expect to see an increase in the value of the property as well as a net annual surplus of revenue.

1.5 The increase in value is realised when the property are sold. The sales proceeds from the sale of property result in a capital receipt for the Council. The capital receipt will be used to extinguish the debt outstanding in the Capital Financing Requirement in relation to the property sold, and the remaining capital receipt can be used to fund further capital investments or applied to revenue transformation costs under the Flexible Use of Capital Receipts Policy. In both cases, the additional capital receipt will support the delivery of services for local people.

Purpose

2.1 The Commercial Property Investment Strategy:

- Clarifies the legal powers used to operate the Strategy and ensure continued compliance.
- Sets out what the Council wants to achieve when acquiring property assets for investment purposes – primarily to provide an income stream with a margin over the cost of capital.

- Identifies criteria for acquiring and owning property assets for investment purposes to ensure risks are minimised.
- Includes an outline of the process involved in acquiring property assets for investment purposes.
- Is part of a wider policy framework supporting what the Council does and why.

2.2 Each acquisition will be evaluated on its merits to consider the relevant purpose(s), legal powers, financial powers and any other implications. The evaluation will address the potential within the market place for future uplift or loss in value of the asset being considered for acquisition, as well as the security of income from the tenant in occupation.

3. Legal Powers

3.1 Local authorities have very wide powers to acquire, sell, appropriate and develop land, such that it is rare to need to use the powers in the Localism Act 2011. Specific property related powers are very wide and include the following:

- Sections 120 to 123 of the Local Government Act 1972
- Section 227, Town and Country Planning Act 1990
- Section 233, Town and Country Planning Act 1990
- Local Authorities (Land) Act 1963 (development)
- Housing Act 1985
- Sections 24-26 Local Government Act 1988

3.2 There are various powers that would usually be sufficient for the Council to undertake any property acquisition, sale or related project in its area where at least part of the motivation is connected with the broad benefit or improvement of its area, as it is in the case of this strategy.

3.3 Section 120 of the Local Government Act 1972 to acquire land (inside or outside of their area) for the purposes of any of their functions, and then this gives us the power to borrow as contained in Section 1 of the Local Government Act 2003 - A local authority is empowered to borrow money for any purpose relevant to its functions under any enactment.

4. Objectives of the investment activity

4.1 Acquisition to generate an income stream is a natural progression from acquisition for regeneration purposes. The two can also be combined – an example of this is if an acquisition is made which offers a secure income stream and the option for future regeneration of a site. Therefore, the reasons for buying and owning property investments are primarily in this order:

1. Financial gain to fund our services to local people
2. Market and economic opportunity – the time is right

3. Economic development and regeneration activity in Ashfield

4.2 The UK commercial property investment market is very well established, attracts global investors and is defined as a ‘mature asset class’. It has a wide range of new and established investors including institutions, pension funds, specialist property companies, charities, family trusts and individuals.

4.3 The Chartered Institute of Public Finance and Accountancy (CIPFA) defines investment property as “…used solely to earn rentals or for capital appreciation or both…”.

4.4 Returns from property ownership can be both income driven (through the receipt of rent) and by way of appreciation of the underlying asset value (capital growth). The combination of these is a consideration in assessing the attractiveness of a property for acquisition.

4.5 Property prices and returns are a function of the property type, condition, use and location, together with the lease structure and covenant strength of the tenant (in the case of a let property). Lease contracts will reflect all liability and outgoings being the responsibility of the tenant.

4.6 What should be sought by the Council are property investments which produce the best returns possible, whilst carrying an acceptable level of risk. The main mitigation measure in managing risk is to target investments which are let to ‘blue chip’ tenants, on relatively long leases with little or no landlord management involvement – typically the tenant is responsible for all property costs such as repair, maintenance and outgoings. In this way, the Council will be primarily buying a secure income stream and the buildings themselves become almost secondary considerations.

4.7 Any property asset coming onto the market could be for a number of reasons. Investors seek to buy and sell in many different circumstances - rebalancing their portfolio, seeking cash to influence balance sheet or share price, requirement for a more “liquid” asset, short-term investment taking advantage of small capital growth, moving into different property classes, etc.

5. Priorities & Risk in Property Investment

5.1 The Priorities for the Council when acquiring property interests for investment purposes are (in order of importance):

- **Covenant Strength** - in the case of a let property, the quality of the tenant and, more importantly, their ability to pay the rent on time and in full. The Council’s primary reason and objective for this strategy is financial gain to sustain delivery of key services to residents. The underlying principles of a Property Investment Strategy imply, assume and default to nothing taking higher priority than financial gain. It is however worth noting that the Council, as a public body, may not wish to invest in properties where the occupiers are generally seen to be undertaking a business which is contrary to its corporate values.

- **Lease length** - in the case of a let property, the unexpired length of the term of the lease or a tenant’s break clause is of key importance in ensuring that the landlord’s revenue stream is uninterrupted. The Council will take into consideration the risks associated with a tenant vacating and the potential to attract good quality replacement tenants at acceptable rental levels. Generally, occupiers are moving away from 25 year leases which were more common back in the late twentieth century with 10 to 15 years now becoming more acceptable unless some form of lease break provisions are included in favour of the tenant.

- **Rate of return -** the rate of return from the property (for example through annual rental incomes) will need to be equivalent or better to the returns that could be earned from alternate investments, such as placing monies on deposit, following adjustment for risks and potential growth. The property will also need to produce an annual return in excess of the cost of capital (Interest and MRP).

- **Risk** – rate of return is one side of the coin; risk is the other. In general, the higher the sought level of return from an investment, the higher level of risk that it carries. For example, if a property is let at an attractive rent which would create a good return, it could still be risky if the tenant does not possess good covenant strength and could default at any time.

- **Lease Terms** – The terms of leases vary and even those held on an “Institutionally acceptable basis” can be very different in nature particularly as such leases have developed over time. The Council is seeking to invest in modern leases with full repairing and insuring obligations on the Tenant and a full Service Charge recovery to include any management fees where applicable. This will ensure a certain income/return to the Council.

- **Growth -** property has the potential for both revenue and capital growth. The Council will take into account that potential when assessing the strength of the investment opportunity. Property values can fall as well as rise and mechanisms to minimise revenue reductions should be identified. Generally, the nature of standard, institutional leases is that rent review clauses are upward only which protects landlords from any downward pressure on rental income giving some security as to the level of income.

- **Location -** should a tenant default or vacate, the location of the property is the key factor in influencing the ability to re-let and find another tenant. Location is also important when considering future redevelopment or regeneration opportunities. Ideally the Council will be able to undertake inspections and to deal with any management issues without the need to employ specialists or agents. When appropriate opportunities surface in Ashfield, they will be evaluated against the same criteria as those opportunities located outside of the District. In this way, this investment activity does not discriminate against location. Any investment decision is subject to the appropriate justification, business case and governance.

- **Sector -** information as to the sector of use of the property (e.g. office, retail, industrial, leisure) will assist in deciding on the risks associated with specific properties and the mix of sectors within the portfolio.

- **Building Age and Specification -** in the case of a let property, whilst the Council, as an investor, may be principally concerned with the characteristics of the tenant and lease, the age and specification of the property will also affect the ability of the Council to let or sell the property in the future. It must also be taken into consideration in respect of the cost of protecting the investment. An example of this would be the undertaking of repairs and refurbishment if the cost cannot be fully recovered from the tenant.

5.2 In summary, the strategy for acquiring investment property assets is therefore to:

- Seek property let to tenants who are of strong covenant strength and sound financial standing with at least more than five years remaining on an FRI lease.
- Minimise risk.
- Maximise rental income and minimise management costs to ensure the best return is generated.
- Identify opportunities for future growth, redevelopment or regeneration via property in commercially popular or development areas.
- Prioritise the Ashfield area.
- Pursue opportunities to increase returns and improve the investment value of commercial assets

6. Reporting Requirements and Governance

6.1 Commercial Property Investment Strategy

6.1.1 In accordance with the MHCLG revised Statutory Guidance on Local Government Investments (2018), each financial year, a local authority should prepare an Investment Strategy, which should be approved by full Council. The investment strategy must include non-treasury management investments.

6.1.2 This Commercial Property Investment Strategy, which is incorporated into the Capital Strategy is this Council's non-treasury management investment strategy.

6.1.3 The MHCLG revised Statutory Guidance on Local Government Investments (2018) requires the Commercial Property Investment Strategy to include quantitative indicators to allow risk exposure as a result of its non-treasury management investments to be assessed. The indicators are included as Annex 2.

6.2 Acquisition Decision Making and Reporting

6.2.1 The acquisition process has been defined, and implemented to ensure roles and responsibilities are clearly defined, outcomes are understood, and unnecessary risk has been avoided. This process is included in Annex 3 of this Strategy.

6.2.2 Where time constraints allow, which is more often not the case, a collective Cabinet decision will be sought; however a faster, robust decision-making process must be available to ensure Ashfield's competitiveness is maintained.

In most, if not all, circumstances where the Council is negotiating an acquisition by Private Treaty, the Vendor is likely to want to proceed swiftly with the transaction for financial reasons. Furthermore, where the Council may purchase at auction, the contract is signed at the end of the auction; therefore, authorisations/delegations must be in place in advance. As such, the Officers will look to use existing provisions within the Scheme of Delegation and Access to Information Procedure Rules to ensure a decision can be taken expediently. In all cases, a full written report and decision record will be prepared and required notices will be published in accordance with Governance requirements. Specifically:

1. Where timeframes do not allow a collective Cabinet decision, the Leader of the Council will take a delegated Executive Decision.

2. Where a potential purchase is a key decision and/or will contain exempt information but the full 28 days' notice cannot be given due to the urgency of the matter it is anticipated that a General Exception will be applied (Rule 15). This will give five clear days' notice of the decision which is about to be made. The Monitoring Officer will inform the Chairman of the Overview and Scrutiny Committee and publish the required notices.

3. Where there is a greater urgency and 5 clear days' notice cannot be given, the Special Urgency provisions will be used (Rule 16). In this case, the permission of the Chairman of the Overview and Scrutiny Committee (or if they are unable to act, the Chairman of the Council or, in their absence, the Vice Chairman of the Council) will be obtained before making the decision. The Rule 16 notice will be published.

4. In such cases it is expected that the decision will need to be implemented without delay and therefore it is anticipated that the decision will not be subject to call in.

5. The report will explain the reasons in each case as to why a decision is not to be called in.

6. The Leader must report to the next available Council meeting any decisions, which are made pursuant to Rule 16.

6.3 **Post Acquisition Monitoring Arrangements**

6.3.1 A Commercial Investment Working Group operates within the Council and is attended by:

- Chief Executive/Deputy Chief Executive
- Director of Resources and Business Transformation
- Monitoring Officer/Deputy Monitoring Officer
- Section 151 Officer/Deputy Section 151 Officer
- Commercial Development Service Manager

6.3.2 The Group meets bi-monthly and discusses:

- Progress of commercial investments being pursued
- New opportunities for commercial investments
- Factors impacting or influencing opportunities for commercial investments
- Performance of and factors impacting or influencing existing commercial investments

6.3.3 A quarterly Commercial Property Performance Report is presented to the group which details:

- the rentals payment performance of the Commercial Property Investment tenants;
- financial performance of Commercial Property (as defined in 8.3 of the Capital Strategy) and Commercial Property Investments;
- the state of the market which covers how each sector e.g. industrial, office, retail, leisure is performing;
- Tenant Covenant, which covers default risk (payments not being made), failure risk (business failure) and delinquency risk (payments being late).

6.3.4 A mid-year report and outturn report on Commercial Property Investment Performance detailing the information in 6.3.3 is reported to Audit Committee.

6.3.5 The Commercial Development Service Manager will periodically visit and inspect Commercial Property Investments. A visit to all existing the Commercial Property Investments has been undertaken in January 2020.

7. <u>Risk Management</u>

7.1 Risk Mitigation on acquisition

7.1.1 In order to mitigate the risks of investing in commercial property, the considerations outlined 5.1 are always evaluated and the processes in 6.2. are undertaken. An acquisition process has been defined, and implemented to ensure roles and responsibilities are clearly defined, outcomes are understood, and unnecessary risk has been avoided. This process is included in Annex 3 of this Strategy.

7.1.2 A fair value assessment is conducted on purchase and provides sufficient security for the underlying capital invested.

External Advice

7.1.3 The Council’s Commercial Property team has the relevant investment and management knowledge/experience to manage the investment property portfolios. Nevertheless, officers take external advice on a number of occasions such as:

- Appointing a representing agent in line with Contract Procedure Rules to represent and advise Ashfield on potential acquisitions.

- Seeking external legal advice, via the Legal Shared Service, on various matters during conveyancing and indeed, to represent Ashfield directly, in complex transactions or in jurisdictions where English Law does not apply.
- Commissioning external Chartered Surveyors to carry out surveys on properties prior to purchase, with their reports forming a key part of the decision-making process and to carry out valuations of investment properties.

7.2 **Risk Mitigation post acquisition**

Annual Review of Fair Value

7.2.1 An annual review will be undertaken of the Commercial Property Investment portfolio fair value as per the Council's revaluation programme as outlined in the accounting policies and agreed with the external auditors. The fair value will be compared to the debt outstanding and appropriate provision will be made if there is a fall in the value of the assets.

Commercial Property Investment Earmarked Reserve

7.2.2 The Council has established a Commercial Property Investment Earmarked Reserve, which is to mitigate against the risk of business failure and lease events.

7.2.3 The reserve will be used to cover:

- Loss of investment return
- Capital financing costs (mrp and interest costs are still incurred, if the income stream is lost)
- Business Rates (the Council will be liable to pay the Business Rates, if the property is vacant)
- Capital Expenditure (may be necessary to fund dilapidation works to get the property to a standard to enable relet.

7.2.4 It will also be used to fund any debt outstanding following the sale of a Commercial Property Investment where the capital receipt does not extinguish the debt outstanding for the property.

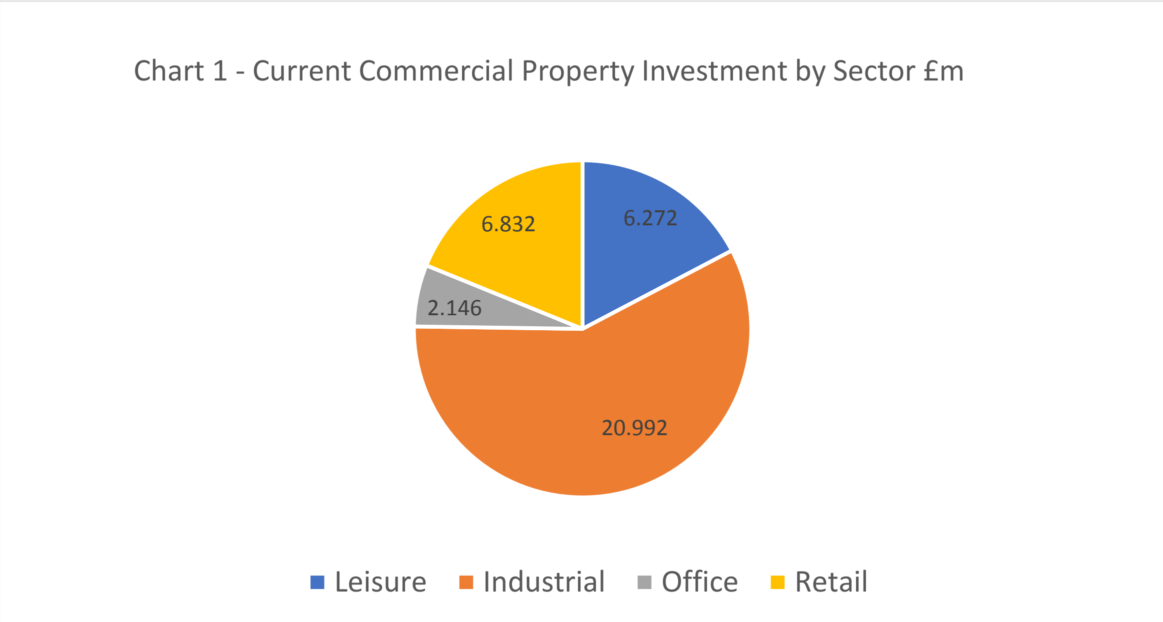
7.2.5 An annual review of the Commercial Property Investment Earmarked Reserve will be carried out as part of the Medium Term Financial Strategy to assess whether there are sufficient resources held in the Reserve. Where it is deemed there are insufficient resources, provision will be made to top up the reserve over a period of time as part of the budget setting process (through the Medium Term Financial Strategy).

Annex 2

Commercial Property Investment Portfolio and Indicators

Commercial Property Investments Portfolio

The Council currently hold 11 Commercial Property Investments at a cost of £36.242m. The costs of the existing Commercial Property Investments portfolio is shown by sector in Chart 1.



The current capital programme includes approval for further Commercial Property Investments as detailed in Table 1.

Table 1 – Approved Future Commercial Property Investments

	2019/20 Actual as at 24/01/2020	2019/20 (Forecast)	2020/21	2021/22	2022/23
	£m	£m	£m	£m	£m
Cumulative spend on Commercial Investment Property	36.242	58.560	85.000	105.000	105.000

The Ministry of Housing, Communities and Local Government (MHCLG) recommend the following indicators for non-treasury investments e.g. Commercial Property Investments.

a) Debt to Net Service Expenditure

Table 2 shows the gross external debt on Commercial Property Investments at the end of each financial year divided by the Net Service Expenditure for each financial year. It assumes all future planned Commercial Property Investments are funded from external borrowing and therefore increases the debt in the indicator.

Table 2 demonstrates how many times greater the Commercial Property Investments debt is to the estimated Net Service Expenditure.

Table 2 Debt to Net Service Expenditure

	2019/20 (Actual)	2019/20 (Forecast)	2020/21	2021/22	2022/23
Debt to Net Service Expenditure	2.50	4.05	6.49	7.71	7.03

The Debt to Net Service is increasing as the purchase of investment properties funded by borrowing increases in line with the approved capital programme, There are no investment property purchases planned for 2022/23. The level of debt outstanding reduces as MRP is charged to the General Fund.

b) Commercial Income to Net Service Expenditure

Table 3 shows the expected income from Investment Properties divided by the Net Service Expenditure. The Commercial Income to Net Service Expenditure is increasing as the annual Commercial Income increases as more Investment Properties are purchased.

Table 3 Commercial Income to Net Service Expenditure

	2019/20 (Actual)	2019/20 (Forecast)	2020/21	2021/22	2022/23
Commercial Income to Net Service Expenditure	17.4%	19.2%	39.9%	49.2%	50.4%

This is in line with the corporate strategy, to increase the acquisition of investment properties to deliver an income stream, which will be spent in Ashfield to sustain services for our residents and businesses.   This also means the exposure to the risks associated with Commercial Property Investments are increasing. The strategy for risk mitigation is set out in Section 7 of the Commercial Property Investment Strategy.

c) Investment Cover Ratio

Table 4 shows the expected net income from Commercial Property Investments divided by the Interest Expense. The estimates for 2019/20 are substantially higher than future years as MRP is charged on investment properties in the year following purchase, reducing the net income in future years. In 2019/20 the purchase of investment properties is expected to be £45.6m.

The Council uses the Annuity Method to calculate its MRP for Investment Properties. The Annuity Method charges less MRP in the early years following purchase and more MRP in the later years. The total amount of MRP charged over the life of the asset will equal the amount of prudential borrowing. If after 2021/22 no further investment properties are purchased, then the Investment Cover ratio will reduce after 2022/23 as the net income reduces as MRP increases.

This indicator has been calculated on the basis that all the Commercial Property Investments have been funded by external borrowing, and interest is being incurred.

Table 4 Investment Cover Ratio

	2019/20 (Actual)	**2019/20 (Forecast)**	**2020/21**	**2021/22**	**2022/23**
Investment Cover	2.03	1.93	1.05	0.99	0.94

d) Loan to Value Ratio

Table 5 shows the Capital Financing Requirement (debt to be funded) for the Investment Properties divided by their estimated valuations.

Table 5 Loan to Value Ratio

	2019/20 (Actual)	**2019/20 (Forecast)**	**2020/21**	**2021/22**	**2022/23**
Loan to Value Ratio	102.05%	103.26%	102.70%	101.98%	100.53%

In the early years, the loan value is expected to exceed the asset value. The main reason for this is due to acquisition costs e.g. stamp duty, agent fees etc. being included in the cost of the Commercial Property Investments that have been funded by borrowing, these costs are not included in the property valuation.

The loan to value is expected to continue to reduce as the capital financing requirement (unfunded debt) reduces as MRP payments are made. The investment properties will be valued regularly. Any increase in Investment Property values will reduce the loan to value ratio and consequently any decrease in value is likely to increase the loan to value ratio.

e) Target Net Income Returns

Table 6 compares the Target Net Income Return with the Actual Net Income Return. The Actual Net Income Return is calculated by dividing the Estimated Investment Property Income less MRP and Interest Costs by the Investment Property Purchases. Similar to c) above the estimated net income return is expected to be greater in 2019/20 as MRP on the investment properties purchased in year is not charged until the following year or when the asset becomes operational.

Similar to see c) above if no further Investment Properties are purchased after 2021/22 then the Net Income Return is expected to reduce after 2022/23 as MRP increases.

Table 6 Target Net Income Returns

	2019/20 (Actual)	2019/20 (Forecast)	2020/21	2021/22	2022/23
Target Net Income Return	2.50%	2.50%	2.50%	2.50%	2.50%
Estimated Net Income Return	4.10%	2.78%	2.53%	2.52%	2.67%

The Target net income return was previously set at 3.5% this has reduced to 2.5% in line with the increase of 1% in the Public Works Loans Board (PWLB) borrowing rate in October 2019.

f) Gross and Net Income

Table 6 compares the estimated gross income with the estimated net income. The net income is the estimated gross income net of interest and MRP charges. As per e) above the net income assumes that interest on external borrowing will be paid.

Table 7 Gross and Net Income

	2019/20 Actual	2019/20 Forecast	2020/21	2021/22	2022/23
	£000s	£000s	£000s	£000s	£000s
Gross Income	£2,506	£2,706	£5,146	£6,546	£7,246
Net Income	£1,484	£1,628	£2,151	£2,646	£2,808

Again, as per c) and d) above if no further Investment Properties are purchased after 2021/22 then the Net Income is expected to reduce after 2022/23 as MRP increases.

Note: In all of the above indicators where net income return are included, the estimate assumes that interest on external borrowing will be incurred. The Council depending on its cash reserve position may choose to use internal borrowing to finance part or all of its investment property purchases. If internal borrowing is used the net income will increase as interest payable costs are saved.

g) Break Clauses or Lease Expiries

All of the investment property leases have either i) a break clause which gives the lessee the option to either continue leasing the property or to end the property lease or ii) an expiry date where the tenant vacates the property unless a new lease contract is signed.

There is a risk for the Council with both break clauses and lease expiries, if the existing tenant choose to leave the property. The risks this exposures the Council to and risk mitigation are, detailed in the Commercial Investment Property Strategy.

Risk mitigation includes spreading the dates when break clauses and lease expiries occur across the Council's Commercial Property Investment portfolio.

Table 8 below shows the years when the Council has a break clause or expiry on its current Commercial Property Investment portfolio.

Table 8 Break Clauses or Expiries

Financial Year	Number of Breaks or Expiries
2019/20	0
2020/21	0
2021/22	1
2022/23	1
2023/24	1
2024/25	2
2025/26	1
2026/27	0
2027/28	0
2028/29	1
2029/30	0
2030/31	0
2031/32	0
2032/33	3
2033/34	0
2034/35	0
2035/36	1

The Commercial Development Service Manager actively managers this position, by negotiating with tenants by re-gearing leases at the appropriate time, which includes changing the options for break clauses and lease expiry.

Annex 3

Investment Property Acquisition Process

2019-2023

Reviewed: January 2020

Process and Responsibilities for Commercial Property Investment

As a process, the investment portfolio will require work from various services within Ashfield District Council due to the complex nature of property selection, evaluation and acquisition. Adhering to this process will minimise risk and ensure adherence to Statute and the Prudential Code.

This document should be read alongside the Investment Property Acquisition process map found at the end of this document.

Stage 1 – Identification Stage

Stage 1 may be repeated several times in identifying suitable properties for purchase. The steps required help to ensure that only suitable properties are brought forward as potential investments. The due diligence undertaken here includes, and is not limited to, the tenant covenant, location, the overall market, assessment of risks and the details within the lease.

Step	Element	Document(s) Involved	Responsibility
1	**Opportunity identified** - This can be either by way of direct research by ADC employees or by outside approach from agents. Once a property is identified, an initial financial investment model is produced to determine if the minimum income target can be met.	• Property Brochure	Service Manager – Commercial Development
2	**Min NIY possible?** - The initial financial appraisal outlines the yield that would be obtained with the target of achieving at least 2.5% net initial yield (NIY). All evaluation is done on the basis of external borrowing from the PWLB at the rates current on the given day.	• Financial appraisal	Service Manager – Commercial Development
3	**Collate available documents and send to finance and legal –** Title(s) and Lease(s) may not be available in the first instance for every opportunity.	• Brochure • Financial appraisal • Dunn and Bradstreet reports • Titles and Leases	Service Manager – Commercial Development
4a	**Preliminary Finance due diligence –** Finance will examine the appraisal and credit reports to determine if there is any reason not to proceed; these reasons will be documented and circulated.	• Record of issues (email or otherwise)	Corporate Finance Manager
4b	**Preliminary Legal due diligence –** Legal will examine the available documents (and undertake their own research) to determine if there is any reason not to proceed; these reasons will be documented and circulated.	• Record of issues (email or otherwise)	Director of Legal and Governance
5	**Inspect Property** – Officers will undertake a visual inspection of the property and surrounding area. This inspection informs the	N/A	Service Manager –

	creation of the Briefing note and the Evaluation Matrix.		Commercial Development
6	**Appraise property against matrix and write briefing note –** Taking feedback received from Legal and Finance in conjunction with other sources, the Briefing note and risk assessment are completed and the Evaluation matrix is completed. These documents encapsulate the meaningful aspects of the work thus far and are prepared in order to submit the property for consideration by the Leader / Deputy Leader.	• Briefing note • Evaluation Matrix	Service Manager – Commercial Development
7	**Meet with leadership to present and obtain authority to make and offer –** a meeting will held to table the property as an option and discuss the findings of work to date. Normal attendees (at a minimum) are The Chief Executive Officer, the Service Manager – Commercial Development, the Corporate Finance Manager, and Director of Legal and Governance. After the meeting, and if agreed, the Leader will formally cascade approval to offer on the property. A maximum offer is approved after discussion; although opening offers are always placed below.	• Authority to bid	Service Manager – Commercial Development
8	**Place offer** – After receiving approval, offer letters are drafted, approved and submitted to the vendor's agent. The offer letter contains ADC's offer and terms , such as: • The proposed time for signed Executive Decision Records, surveys, completion • Conditions to be included in the Heads of Terms (HoT), such as receipt of a full legal pack before the process starts. • Exclusivity from agreed HoT. An accepted offer is notified normally by telephone and is followed by receipt of an email with Draft HoT attached.	• Offer letter	Service Manager – Commercial Development

Stage 2- Conveyancing Stage

This stage begins once a bid has been accepted for an investment property. The ongoing due diligence in the first stage would also be brought forward to mitigate risks. Further analysis of the tenant, the building, the lease etc, are evaluated to ensure risk is mitigated.

Step	Action	Document(s) Involved	Responsibility
9	**Agree the Heads of Terms** – After reviewing the received Draft Heads of Terms and making any required amendments, the revised Heads of Terms are returned to the vendor's agent. This process will repeat until both parties are satisfied that the Heads of Terms reflect the agreed position, at which point they are formally approved by both sides. These will then be sent to the Service Manager – Commercial Development and the Director of Legal and Governance.		Service Manager – Commercial Development
10	**Make contact with Vendor's solicitors; receive and verify Legal pack** – Once received by Legal, the appointed solicitor will make contact with the Vendor's solicitor via email or phone to indicate that they are representing ADC in the transaction. ADC Legal will provide the necessary details for receipt of the legal pack; upon receiving the Legal pack, the ADC's solicitor will verify its contents and raise any queries with the other side's solicitor whilst awaiting instructions from the Commercial Property team following a signed Executive Decision Record from the Leader.		Director of Legal and Governance
11a	**Instruct surveys (external) –** After agreeing Heads of Terms, quotes will be sought for conducting building surveys of the property in question. Generally, the property brochure provided at the beginning of the process is provided to at least three Survey firms, with the deadline by which inspections and reports must be completed and received by ADC (this element of the process has a 10 working day time limit from the date of Agreed Heads of Terms being received). Quotes are generally received within 24 hrs and the quote that represents best value for money (taking price, quality and time into account) is selected.		Service Manager – Commercial Development
11b	**Write Urgency Notice/ Report for the Executive Decision Record–** An urgency notice is required for these transactions which must be signed by the Chair of the Scrutiny Committee. The Leader, or delegated person, is obligated to contact the Chair to explain the details of the transaction prior to gaining a		Service Manager – Commercial Development

	signature. An urgency notice is required due to the Decision being Key and the constrained timeframe for the process to be completed. The Report for the Executive Decision Record is the briefing note written earlier with the addition of Recommendations, Implications, Reasons for Urgency, and Exemptions, as per the standard ADC report format. Once a draft is produced by the Service Manager, it is circulated to Legal and Finance for review/amends until it is finally complete and approved by all parties. Then the Leader, Chief Exec and the Service Manager will meet to review the report and answer any remaining questions. Once the Leader is satisfied, the EDR is signed by the Leader and forwarded to Democratic Services, along with the report. A copy of both should also be supplied to Legal for the case file.		
12a	**Notify other side of the EDR** – Once the EDR is signed, an email should be sent to the other side's solicitor noting that the EDR has been signed, meaning that the purchase is officially approved.		Director of Legal and Governance
12b	**Instruct legal –** The Estates Manager will complete the official instructions for Legal to undertake the conveyancing process.		Service Manager – Commercial Development
13	**Conveyancing process –** The conveyancing process is distinctly different for every property purchase, given the unique circumstances that each purchase presents, though each has common activities, i.e. examining titles, searches and queries, contract/Lease examination and amendment, etc.		Director of Legal and Governance
14	**Determine level of borrowing and source / Option to tax (if applicable) –** Finance will determine the level of borrowing need for the purchase as well as whether this should be internal or external borrowing. Finance work closely with their Treasury Management Advisers. They will seek advice to determine whether it is preferable to externally borrow now and risk the cost of carry i.e. interest payable being greater than the interest payable or whether it is best to borrow internally of temporarily if affordable. If the property is being sold as a Transfer of a Going Concern (TOGC), finance will complete a		Corporate Finance Manager

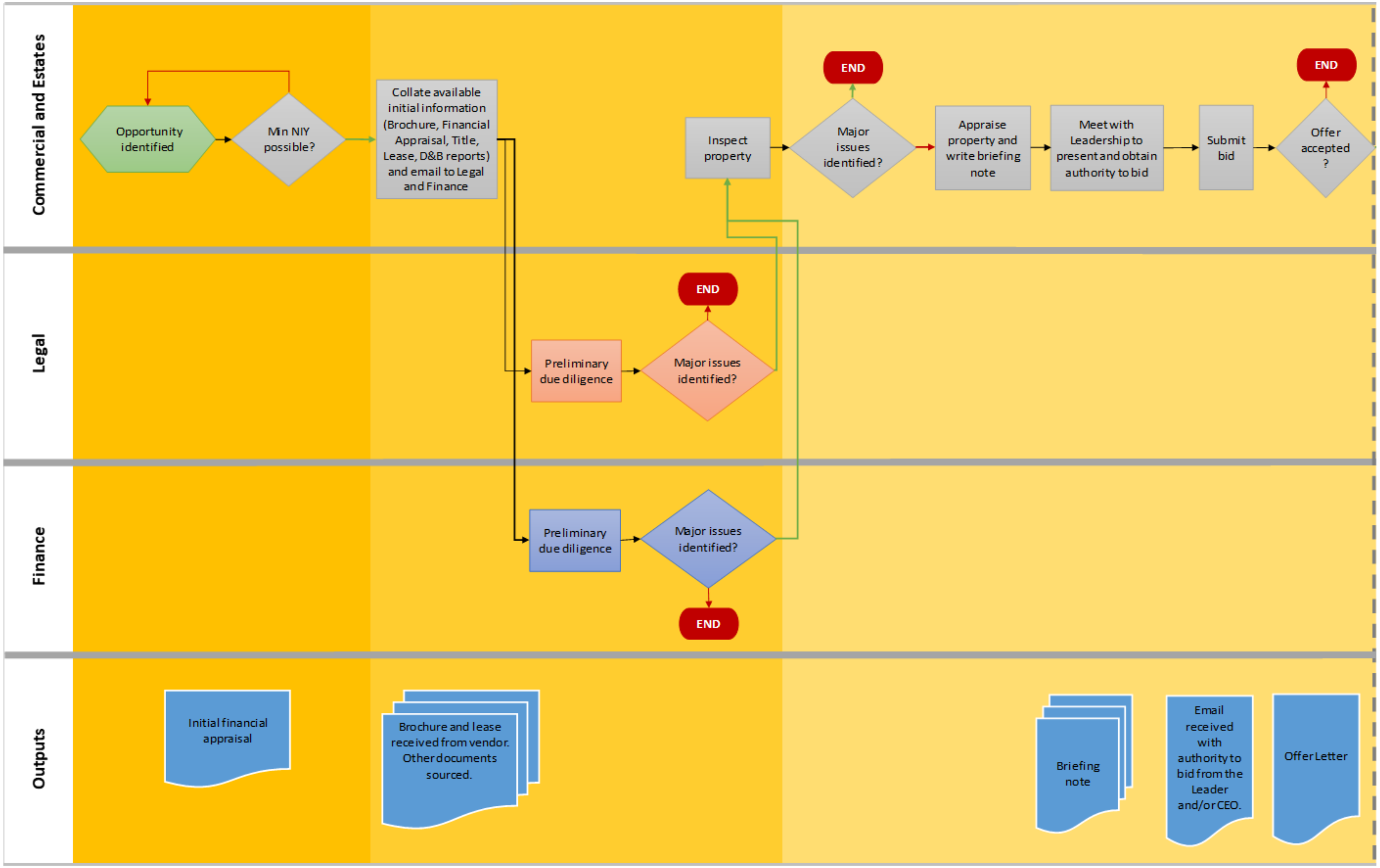
	form to Opt to Tax the property (VAT 1614A). When granted by HMRC, VAT must be paid and passed to HMRC on rents, but VAT will not apply on the purchase of the property. If for whatever reason the purchase does not complete then this can be rescinded by simply informing the HMRC.		
15	**Arrange Insurance –** Once the Surveys have been returned, the values provided therein by the Surveyor will be passed to Finance to arrange appropriate insurance cover for the property, with the date of commencement to be the completion date.		Corporate Finance Manager
16	**Secure funds –** Having previously determined the source of funding, Finance will take steps to secure the funds in anticipation of making payment.		Corporate Finance Manager
17	**Transfer payment** – Once Legal is satisfied that completion can occur, the solicitor will notify Finance that the money can be transferred. Funds will be transferred no later than 1700hrs on the day prior to completion. Failure to meet this deadline risks incurring additional costs in penalties as noted in the sale contract.		Corporate Finance Manager
18	**Complete –** At the agreed date/time, ADC's solicitor and the Vendor's Solicitor will carry out the completion process.		Director of Legal and Governance

Stage 3- Post-completion Stage

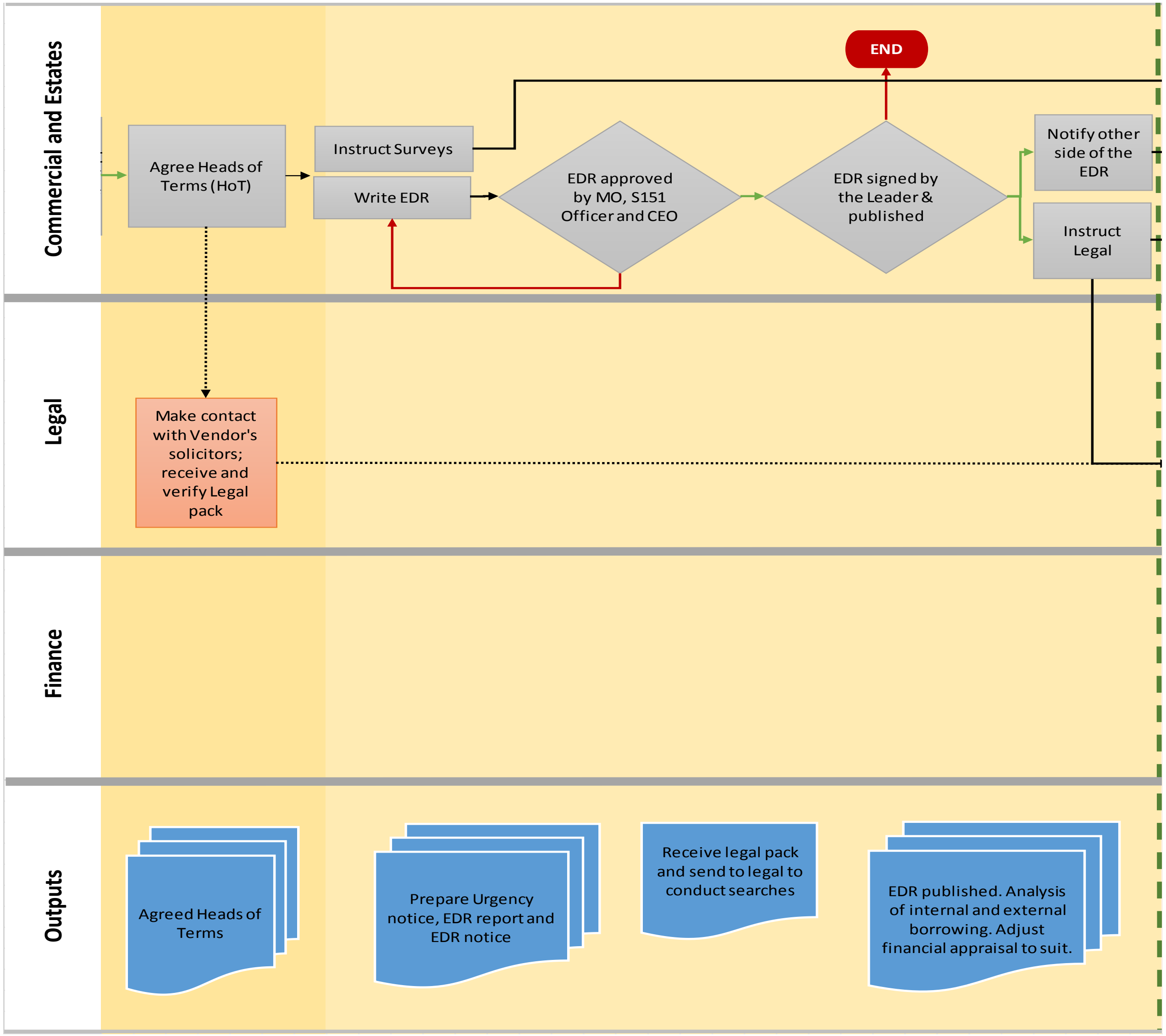
After completion, work remains to complete the entire process before day-to-day management begins.

Stage	Action	Document(s) Involved	Responsibility
19	**Post completion**		Director of Legal and Governance
20	**Authorise Stamp Duty payment to HMRC**		Service Manager – Commercial Development
21	**Update Budget –** The budget will be updated at the next available opportunity to include the expected Rental Income, Minimum Revenue Provision and Interest Payable, if applicable.		Corporate Finance Manager

Investment Property Acquisition Process Map - Stage 1: Identification & Bid



Investment Property Acquisition Process Map - Stage 2:EDR and Instructions (Time Limited – 5 working days)



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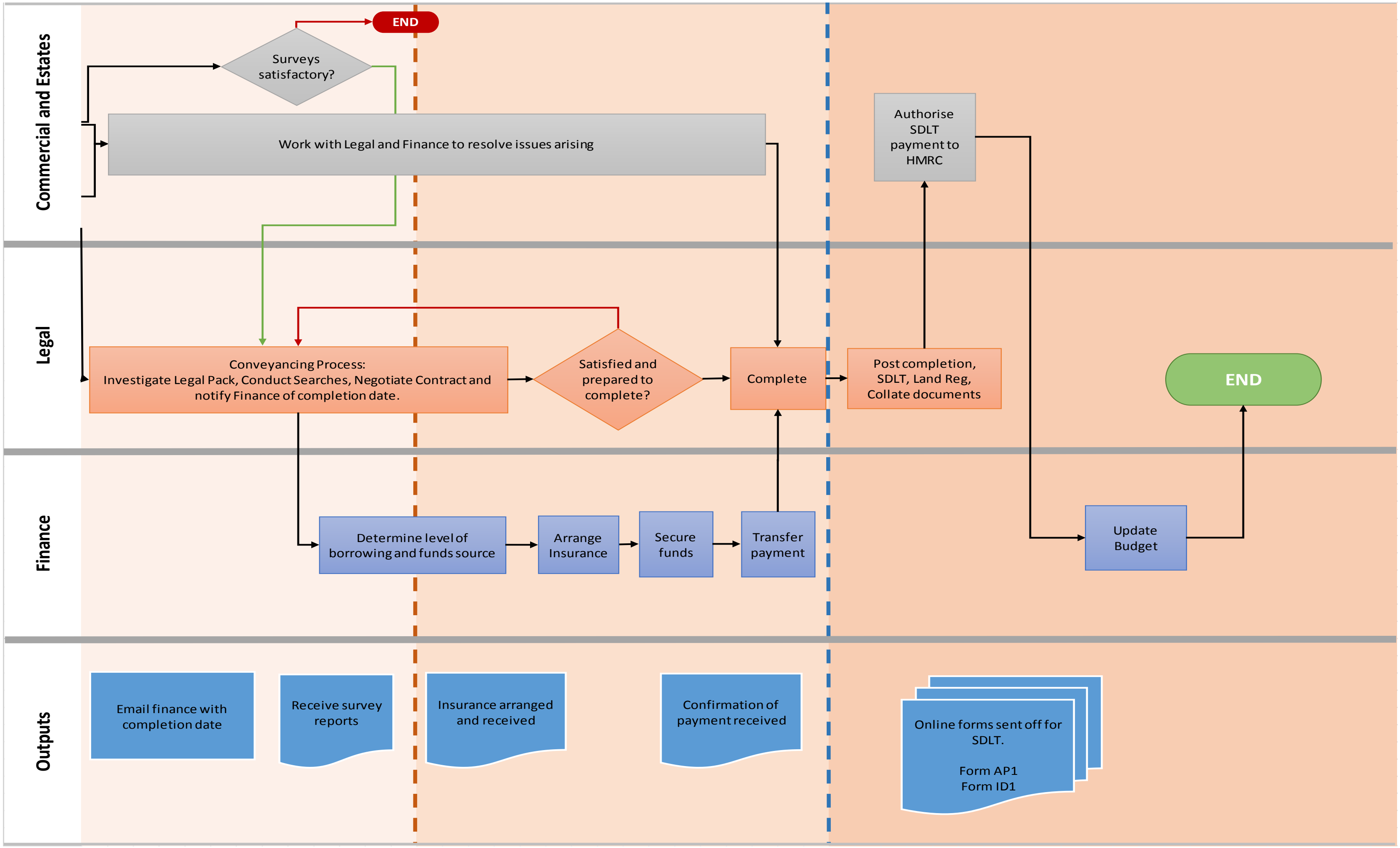
<u>Investment Property Acquisition Process Map</u> - Stage 3: Due Diligence, Completion and Post-completion (Time limited – 15 working days)



Report To:	**AUDIT COMMITTEE**	**Date:**	**10 FEBRUARY 2020**
Heading:	**CORPORATE GOVERNANCE UPDATE INCLUDING REVISED POLICIES AND PROCEDURES**		
Portfolio Holder:	**N/A**		
Ward/s:	**N/A**		
Key Decision:	**NO**		
Subject to Call-In:	**NO**		

Purpose of Report

Robust Corporate Governance ensures organisations are doing the right things in the correct manner in an open, honest, inclusive and accountable way. Good governance leads to good management, performance and outcomes.

The Council has a framework of policies and procedures in place which collectively make up its governance arrangements. The Council should have in place various policies and procedures which set out its approach to preventing, detecting and investigating fraud and corruption. These policies and procedures have been updated and Committee is being asked to consider and approve the revised draft policies and procedures.

The report also provides the Committee with an annual update in relation to how the Whistleblowing Policy has operated in the preceding 12 months.

The report also considers whether the Local Code of Corporate Governance requires amendment and updates the Committee in relation to the actions outlined in the 2018-2019 Annual Governance Statement.

Recommendation(s)

Committee is asked to:

1. **Approve the following revised policies and procedures:**

    - **Anti-Fraud and Corruption Strategy**
    - **Anti-Bribery Policy**
    - **Anti-Money Laundering Policy Statement and Procedures**
    - **Fraud Response Plan**
    - **Prosecution Policy**
    - **Whistleblowing Policy**
    - **Local Code of Corporate Governance**

2. **Note how the Whistleblowing Policy has operated during 2019.**

3. **Note progress made in relation to the actions outlined in the 2018-2019 Annual Governance Statement and make any comments or observations;**

4. **Note the proposed process for the preparation of the 2019-2020 Annual Governance Statement.**

Reasons for Recommendation(s)

Fraud and Corruption are serious issues which can affect the services the Council provides, undermine the achievement of corporate objectives and impact upon the public's confidence in the integrity of Council Officers and Elected Members. The Council is therefore committed to the prevention, detection and investigation of all forms of fraud and corruption whether these are attempted from within or external to the organisation.

The Council is committed to creating an environment that is based on the prevention of fraud and corruption. This is achieved by promoting openness and honesty in all Council activities.
The revised policies recommended to Committee set out the Council's approach to fraud and how the Council goes about preventing, detecting and enforcing identified fraudulent activity.

The periodic review of policies and procedures ensures the Council's approach is up to date and accords with current thinking and best practice.

It is best practice for the Local Code of Governance to be reviewed annually to inform the Governance Framework for the following year.

To ensure the Committee is adequately informed to enable it to monitor the operation of the Whistleblowing Policy in accordance with the recommendation of Central Midlands Audit Partnership (CMAP) in its audit report relating to Anti-Fraud and Corruption.

Alternative Options Considered
(with reasons why not adopted)

To not approve the revised policies and procedures as drafted is not recommended as the Council's existing policies and procedures should be reviewed regularly and kept up to date otherwise the Council is at potentially greater risk of experiencing fraudulent activity or for it to go undetected.

Members may make suggested amendments to the policies and procedures provided these are in line with legislation and best practice.

Detailed Information

BACKGROUND

The policies detailed below collectively underpin the way the Council approaches the risks from fraud the Council faces, and its approach to prevention, detection and investigation of potential fraudulent acts. It is considered prudent to review and update these policies on a regular basis to ensure they remain fit for purpose and in compliance with the latest legislation.

THE POLICIES

The following amended policies, strategies and procedures are appended to the report and are recommended for approval:

- Anti-Fraud and Corruption Strategy
- Anti-Bribery Policy
- Anti-Money Laundering Policy Statement and Procedures
- Fraud Response Plan
- Prosecution Policy
- Whistleblowing Policy
- Local Code of Corporate Governance

A. Anti-Fraud and Corruption Strategy

The strategy explains that as custodian of the public purse, the Council has a duty to ensure public money is protected from fraud and corruption. Fraud is the intentional distortion of financial statements or other records by persons internal or external to the Authority, which is carried out to conceal the misappropriation of assets or otherwise for gain. Corruption is the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any other person.

The Council is therefore committed to creating an environment that is based on the prevention of fraud and corruption. This is achieved by promoting openness and honesty in all Council activities. The strategy explains what the Council does to prevent, detect and investigate fraud. The strategy sets out the reporting processes for potential fraud and corruption. The strategy also incorporates the Housing Benefit and Council Tax Support Anti-Fraud Policy.

The Strategy has been reviewed with only minor changes made to correct typing errors and to ensure consistency of terminology. The recommended changes are shown as track changes in the attached Strategy.

B. Anti-Bribery Policy

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial or contractual advantage which is done either directly or via a third party. Bribery is a criminal offence.

The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose. The Council does not, and will not, accept bribes or improper inducements.

The Council is committed to the prevention, deterrence and detection of bribery.

This Policy provides a framework to enable the Council's employees, Elected Members and other relevant persons to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

The Policy has been reviewed with only minor changes made to correct typing errors and to ensure consistency of terminology. The recommended changes are shown as track changes in the attached Policy.

C. Anti-Money Laundering Policy Statement and Procedures

Money laundering describes offences involving the integration of the proceeds of crime or terrorist funds into the mainstream economy. Money laundering is the channelling of "bad" money into "good" money in order to hide the fact the money originated from criminal or terrorist activity.

The Procedure explains what an employee or an Elected Member should do if they know or suspect that money laundering activity is taking, or has taken place. The Council must have a Money Laundering Reporting Officer (MLRO) and the procedure explains that this is the Monitoring Officer. The procedure sets out what the MLRO does if a report of money laundering is made.

The Procedure has been reviewed with minor changes made to correct typing errors and to ensure consistency of terminology, new legislation has been referenced and additional paragraphs included to explain circumstances that may be susceptible to money laundering and details identification and record-keeping requirements. The recommended changes are shown as track changes with the additional paragraphs highlighted in yellow in the attached Procedure.

D. Fraud Response Plan

The Fraud Response Plan has been developed to provide assurance of a consistent, thorough and effectively managed response to any allegations of fraud affecting the Council.

The Monitoring Officer is responsible for overseeing investigations of suspected fraud or corruption. The plan sets out how the Monitoring Officer will manage investigations, how evidence will be collected and retained, the interviewing of witnesses and what happens at the conclusion of the investigation.

The Plan has been reviewed with only minor changes made to correct typing errors and update job titles. The recommended changes are shown as track changes in the attached Plan.

E. Prosecution Policy

This Policy sets out broad principles that will guide prosecutions. It also seeks to provide consistent guidelines for making decisions to prosecute. It is not intended to be prescriptive or exhaustive. The Council will exercise its discretion when appropriate, about the extent of involvement or action (as applicable) required, looking at each case individually.

A two-stage test will be undertaken prior to a decision to prosecute being made. First, an assessment of the available evidence **("the evidential test")** to determine whether or not there is enough evidence to secure a realistic prospect of conviction, will be undertaken. The second part of the test is an assessment of the interests of justice **("the public interest test")** i.e. understanding the extent the public interest needs to see that justice is seen to be done. Only where **both** the evidential and public interest tests are satisfied will a prosecution ever follow.

The Policy has been reviewed with minor changes made to correct typing errors, to clarify that a prosecution decision is based on a "realistic prospect of conviction" and to recognise civil enforcement penalties. The recommended changes are shown as track changes in the attached Policy.

F. Whistleblowing Policy

The Council also has in place a Whistleblowing Policy which sets out a process for people to confidently report concerns, such as fraud. This policy makes it clear that people can report their concerns without fear of reprisals.

Paragraph 8.1 of the Whistleblowing Policy states that:

"The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. This Officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report these to the Standards and Personnel Appeals Committee and the Audit Committee once a year. The Whistleblowing Policy will also be reviewed on a bi-annual basis."

The Policy had minor amendments made by in March 2019. A review of the policy has been undertaken. It is recommended that the policy is amended to include the details of the Head of Law and Governance (Monitoring Officer) at Mansfield District Council as an external contact for whistleblowing complaints. This Council's Monitoring Officer provides reciprocal arrangements for Mansfield District Council.

The revised policy will also be reported to the Standards and Personnel Appeals Committee on 18 March 2020 for approval.

Application of Policy during the Preceding 12 Months

Since the last report to Committee there has been 1 reported incident of whistleblowing drawn to the Monitoring Officer's attention. During the whole of the 2019 period, 4 whistleblowing complaints were received in total. Given the confidential nature of the complaints this report can only refer anonymously and in high level terms. A summary of the complaints received during 2019 are set out below:

COMPLAINT REFERENCE	NATURE OF COMPLAINT	STATUS OF COMPLAINT	OUTCOME/ACTION TAKEN
2019-01	Anonymous complaint received via a Trade Union. Complaint related to alleged breaches of the agile working guidelines.	Closed.	An investigation was carried out. The complaint was not substantiated. Recommendations made in respect of: • Time recording whilst agile working • Clarifying some elements of the guidelines • Communication of the guidance to employees
2019-02	Anonymous complaint alleging unfair treatment of staff and management conduct.	Closed.	Insufficient detail was provided to follow up the complaint formally. No further action.
2019-03	Anonymous complaint received via a Trade Union. Complaint alleged officers took annual leave instead of sick leave.	Closed.	An investigation was carried out. The complaint was not substantiated.
2019-04	Anonymous complaint via an Elected Member. Complaint related to alleged inappropriate use of Council resources.	Closed.	A high level review was undertaken in conjunction with the CEO based on the limited information provided. There was no justification for carrying out a detailed investigation. Based on the content and tone of the complaint there is a possibility the complaint was vexatious.

Previous Application of Policy

The following table sets out the application of the Whistleblowing Policy since 2010 to the present date:

YEAR	TOTAL NUMBER OF COMPLAINTS	NO FURTHER ACTION	MANAGEMENT RECOMMENDATIONS	DISCIPLINARY/GRIEVANCE INVESTIGATION
2010	4	1	2	1
2011	0	N/A	N/A	N/A
2012	3	0	2	1 (ACTION TAKEN)
2013	1	0	0	1 (ACTION TAKEN)
2014	4	1	1	3 (2 WITH ACTION TAKEN)
2015	2	1	1	0
2016	2	0	1	1
2017	3	1	1	1
2018	3	1	0	2
2019	4	3	1	0

G. Local Code of Corporate Governance

Governance ensures organisations are doing the right things in the correct manner in an open, honest, inclusive and accountable way. Good governance leads to good management, performance and outcomes.

The Council has a framework of policies and procedures in place which collectively make up its governance arrangements including the policies presented for approval with this report. This Local Code of Corporate Governance sets out the Council's arrangements and is based on the guidance "Delivering Good Governance in Local Government" published by CIPFA (the Chartered Institute of Public Finance and Accountancy) and SOLACE (the Society of Local Authority Chief Executives) in 2016.

The CIPFA/SOLACE guidance identifies seven core principles and various sub principles; the recommended Local Code of Corporate Governance is based on these seven core principles. The seven principles are:

A. Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law

B. Ensuring openness and comprehensive stakeholder engagement

C. Defining outcomes in terms of sustainable economic, social and environmental benefits

D. Determining the interventions necessary to optimise the achievement of the intended outcomes

E. Developing the Council's capacity, including the capability of its leadership and the individuals within it

F. Managing risks and performance through robust internal control and strong public financial management

G. Implementing good practices in transparency, reporting and audit to deliver effective accountability

The Local Code of Corporate Governance informs the Annual Governance Statement.

The Local Code of Governance is subject to annual review to inform the governance framework for the following year. The revised Code is attached with changes shown in track changes. One minor change to the Code is suggested to acknowledge the establishment of the Discover Ashfield Board.

UPDATE IN RESPECT OF THE ACTIONS SET OUT IN THE 2018-2019 ANNUAL GOVERNANCE STATEMENT

The Annual Governance Statement

The Annual Governance Statement is prepared in order to publically report on the extent to which the Council has complied with its Local Code of Governance.

The Annual Governance Statement looks at how the effectiveness of the Council's governance arrangements have been monitored and evaluated during the year and looks at any planned changes.

Improvement Actions

As part of the Council's drive to continuously improve its existing governance framework to meet changing conditions, the following actions were identified in the 2018-2019 Annual Governance Statement to take place during 2019-2020:

Improvement Action	Lead Officer	Target Date	Update
Community Engagement Strategy – monitoring and evaluating engagement	Interim Director of Place and Communities & Assistant Director Place and Wellbeing	March 2020	Research has been undertaken to unearth best practice examples, which may be suitable for Ashfield and the beginnings of a strategy has been developed. Meetings have taken place with a number of officers across the Council to understand what could be built upon, and a meeting took place with Scrutiny Panel A, to link to the piece of work they are undertaking.

			In the recent Working Together group meeting, ideas were explored and considered, around the subject of community engagement, based on a visit to Wigan Council, who have recently received an award from the LGA for the Wigan Deal. It is anticipated that these two things could come together, to create a meaningful strategy, created through engagement with staff and residents. Due to other commitments, mainly the Leisure Transformation Programme, further development of the strategy has not taken place. Capacity options to develop the strategy further are being explored.
Digital Transformation Programme	Director of Resources & Business Transformation Service Manager Corporate Support and Transformation	Business Case Approval - July 2019 Ongoing Implementation	Completed Ongoing implementation aligned to Strategy, Blueprint and Roadmaps on key elements covering Self-Serve / Technology / Data & People
New Corporate Plan with new performance measures	Chief Executive & Service Manager Corporate Support and Transformation	July 2019	Completed
Consultation with tenants on new resident involvement structure/opportunities	Director of Housing and Assets	To commence June 2019 and complete December 2019	Completed

Development of a system to track and evaluate the outcome and implementation of decisions	Director of Legal and Governance & Service Manager Corporate Support and Transformation	December 2019	The use of Pentana is being trialled at the moment with the intention of rolling the system out for the start of the next municipal year.
Tenants Charter	Director of Housing and Assets	To commence June 2019 and complete December 2019	Completed
Standards and Personnel Appeals Committee – 2019/20 work plan item to consider in detail the report of the Committee on Standards in Public Life and ways the Council may implement best practice recommendations.	Director of Legal and Governance	March 2020	The Committee members have met on a number of occasions to consider the best practice recommendations. Three reports have been presented to the Standards and Personnel Appeals Committee to date with a further update report due to be presented to the next meeting in March 2020. The adoption of the best practice recommendations will continue into the next municipal year.

Significant Governance Issues

While the effectiveness review and other developments during 2018-2019 demonstrated that the Council's corporate governance arrangements and the internal control framework were fit for purpose and effective, as part of continuing efforts to improve governance arrangements the following significant governance issues were identified for improvement during 2019-2020:

Key Improvement Area	Lead Officer	Target Date	Update
FINANCIAL SUSTAINABILITY	Corporate Finance Manager &	Ongoing	Central Government delayed implementation of the Fair Funding

The year 2019/20 is the final year of the four-year financial settlement provided by the Government. The Fair Funding Review and the move to 75% retained business rates and the proposed business rates reset provides further uncertainty in respect of the Council's finances after 2020. Although the MTFS was refreshed in February 2018 the changing landscape of local government finance and the potential for changes to the Corporate Plan requires more frequent updates of the MTFS and the savings strategy. The MTFS has been updated to reflect further changes since that date including savings and investments for 2019/20 and the reduced level of New Homes Bonus achieved compared with the level assumed and planned for in the February 2018 MTFS. A further revised MTFS will be taken to Cabinet following the closure and audit of the 2018/19 accounts.	Section 151 Officer		Review, Business Rates re-set and proposed changes to the level of Business Rates retention. Instead of a 3 year Spending Round, Local Authorities instead were advised of a one year settlement for 2020/21, consequently significant uncertainty remains about future levels of central government funding beyond 2020/21. Corporate Leadership Team (CLT) and Cabinet have worked throughout the year considering options to close the MTFS funding gap for 2020/21 and beyond. The Council is now able to set a balanced budget for 2020/21 and has a strategy in place to address the estimated funding gaps in future years. Future levels of New Homes Bonus (NHB) funding remains uncertain and the Council's MTFS assumption is prudent assuming no legacy payments will be made for NHB earned in 2019/20 for 2020/21. A revised MTFS will be taken to Council in March 2020 when the 2020/21 Budget and Council Tax is set and a further update will be taken after the 2019/20 accounts have been closed and audited.
INVESTMENT IN COMMERCIAL PROPERTIES	Corporate Finance Manager & Section 151 Officer	Ongoing	

2017/18 saw the introduction of a new regulatory environment with CIPFA's new Prudential and Treasury Management Codes. These changes will start to impact significantly in 2019/20. The Council put in place a Capital Strategy and Treasury Management Strategy which brings together policies around Capital, Debt and Investment. These strategies were approved by Council on 4 March 2019. Through the Capital Programme the Council has purchased commercial investment properties totalling £24 million to date (March 2019) and has increased its borrowing requirement. This Council has also set out in its Capital Strategy an aspiration to invest at a rate of £20m per year for the next four years to generate income to sustain delivery of services to residents. Guidance currently awaited from CIPFA may require that this aspiration is revisited and a revised strategy to Council may be necessary. It will remain essential to effectively manage the investment portfolio in light of the ever changing economic climate whilst also having a clear understanding of how such risks and rewards impact on the Council's financial position.			Updated Treasury Management and Capital Strategies will be considered at Audit Committee on 10 February 2020 and will be considered at Council for approval on 5 March 2020. The Council has purchased Commercial Investment Properties totalling £36.2m to date (January 2020) and is currently considering the acquisition of 3 further properties (£22m). The Capital Strategy sets out an aspiration to invest a total of £105m in Investment Properties to generate income to sustain delivery of services to residents. Council approved (5 September 2019) that the planned £20m investment for 2020/21 be brought forward to 2019/20. The CIPFA Guidance has been issued and considered and the view is that the Council is compliant with this.

The new Capital Strategy provides the opportunity to fully explore a wide range of investment options based upon the Council's risk appetite whilst also ensuring proper due diligence and long term planning to reflect current and planned treasury positions.			A revised Capital Strategy will be considered at Audit Committee on 10 February, Cabinet on 24 February for approval by Council on 5 March 2020.
DATA MATCHING AND NATIONAL FRAUD INITIATIVE A review was carried out in 2018/19 to identify how the Council uses NFI and data matching to enable the corporate approach to be developed. An exercise was also carried out regarding Council Tax Single Person Discount. The Council must now determine an action plan to prioritise improvements. The refreshed approach will give the Council the opportunity to develop and embed their anti-fraud culture.	Service Manager – Revenues and Benefits	December 2019	Throughout 2019-20 the work on NFI data matching has continued. In the summer of 2019 the 2019-20 Single Person Discount (SPD) review was completed with the help of CMAP. A further, unscheduled data matching process was undertaken in the Autumn of 2019 which involved Housing Benefit claim data being matched to HMRC records to identify potential fraud in declared earnings and savings. This is now complete. In December 2019 the Council signed up to the NFI Premium SPD Review service which involved over 19,000 records being data matched against Credit Reference data. The target data matches are currently being worked on, with a target completion date of 30th April 2020. The Data Matching Group held a meeting in December 2019 to discuss the NFI product,

			covering the APP Check module, and the Re-Check module (targeted data matching selected by the Council). The Group was given advanced notice of the National Fraud review this year which will start in the Autumn with the data extraction process by all participating services. Draft Terms of Reference and an Action Plan for the Group have been drafted and will be finalised shortly.
LOCAL PLAN The Council decided to withdraw its emerging local plan in September 2018 and to commence the preparation of a new plan. The Local Development Scheme (LDS) was approved by Cabinet on 1 October 2018 and this provides a detailed report on the process to be followed and the timetable, which includes target milestones. The Council met with MHCLG in May 2019 to discuss the progress made with the new plan. It is anticipated the initial draft of the plan will be completed by January 2020 and, by March 2020, it is expected that public consultation on the draft plan will be underway. The Local Plan itself is not expected	Interim Director of Place and Communities and Assistant Director, Planning and Regulatory Services	In accordance with the LDS timetable	Members and officers have met regularly to establish the vision and direction of the Local Plan. The Call for Sites was carried out in accordance with established timescales. Following discussion with Councillors a further call for sites was undertaken to understand the potential for a village approach in the longer term. An assessment of all sites submitted has been undertaken. The Council has also commissioned consultants to undertake the Sustainability Appraisal which is underway and has jointly commissioned a Gypsy and Traveller Study, employment study and is currently considering a joint retail study. The Council is also in the

to be adopted until Summer 2022.			process of commissioning work on understanding and underpinning infrastructure requirements for new villages. Officers and members are currently working together to produce spatial visions to be tested through the Sustainable Appraisal process. This is due to be passed to consultants shortly. Some delay has slipped into the programme with the call for additional sites and the general election in 2019. It is intended to recapture some slippage later in the programme to keep the overall adoption as close to the original timeframes as possible. An ambitious programme has been developed to consult in April/May and additional meetings have been programmed for the members working group along with a potential Extraordinary Cabinet.
EU Exit A Deal or No-Deal EU Exit is expected to have an impact on Ashfield residents and businesses as well as on the Council's services. The Council will continue to be required to participate and actively engage with the Nottinghamshire Local Resilience Forum.	Director of Resources & Business Transformation	Ongoing	Ongoing Brexit Lead Officer & Member Champion designated. Ongoing participation in teleconferences with MHCLG/Home Office / LGA / Resilience Forum.

'Rising Tide' monitoring and impact reports will continue to be presented to CLT and to Cabinet/Council (if required) to outline the Council's response and support interventions.			Internal Brexit Officers Group set up and tasked with key actions. Bi-weekly updates to CLT. Monthly updates to Members. Added to Corporate Risk Register

PROPOSED PROCESS FOR THE PREPARATION OF THE ANNUAL GOVERNANCE STATEMENT 2019-2020

- The initial review of the effectiveness of the Council's governance framework will be conducted by the Council's Director of Legal and Governance (Monitoring Officer) supported by the Assistant Director - Corporate Services and Transformation.

- The findings reported by External Audit and other external review bodies and the work of Internal Audit and other internal assurance providers will be considered as part of the review.

- To inform the process, the Corporate Leadership Team will carry out a Corporate Assurance Assessment and each Director will provide a Statement of Assurance.

- The Constitution review, performance reporting and risk management arrangements will also be taken into account.

- The results of all this review work will be set out in a draft Annual Governance Statement prepared by the Director of Legal and Governance (Monitoring Officer) supported by the Assistant Director - Corporate Services and Transformation. This draft will be prepared during February and March 2020.

- The Corporate Leadership Team will review the draft Statement and consider whether the improvements proposed represent an appropriate and proportionate response to any significant governance issues identified.

- The draft Governance Statement, modified to reflect the views of the Corporate Leadership Team, will be considered by a Member Working Group made up of the Council's Audit Committee.

- The Director of Legal and Governance (Monitoring Officer) will finalise the Annual Governance Statement by the end of May 2020 in readiness for the finalisation of the 2019/20 Statement of Accounts.

- The Audit Committee at its meeting in July 2020 will formally approve the Annual Governance Statement.

PUBLICATION

Once the strategies, policies and procedures have been approved by the Audit Committee they will be published internally on the Council's Intranet and externally on the Council's website.

ANTI-FRAUD AND CORRUPTION STRATEGY GROUP

In order to ensure the Council takes a corporate approach to dealing with fraud and corruption, the Anti-Fraud and Corruption Strategy Group continues to meet on a quarterly basis. The Group consists of Director of Legal and Governance (Monitoring Officer) and representatives from Finance, Legal, Estates, Revenues and Benefits, Housing, CMAP, Communications, Procurement and Human Resources with other officers brought on to the group as necessary. The Group develops and delivers an annual work plan.

Implications

Corporate Plan:

The aim of the Council is to ensure that we continue to remain financially sustainable, whilst at the same time ensuring that we continue to provide the key services on which our residents and businesses rely.

It is important that the Council has the most effective infrastructure and support to enable:-

- The delivery of the Corporate Plan
- Financial sustainability to continue to deliver key services
- A productive workforce that delivers services well

Legal:

Each of the policies deals with the relevant legislative frameworks.

The Council's Local Code of Corporate Governance is based on the CIPFA/SOLACE guidance as set out in the report.

The Council is required by law to undertake an annual review of the effectiveness of its systems of control and produce and annual governance statement – Regulation 6 of the Accounts and Audit Regulations 2015.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	Whilst there are no direct financial implications, if such policies are not in place and adhered to, there is potential for fraud and financial loss to the Council. There is a budget of £10k which is specifically for the purpose of funding costs associated with fraud which falls to the Monitoring Officer to release and monitor.

General Fund – Capital Programme	As above.
Housing Revenue Account – Revenue Budget	As above.
Housing Revenue Account – Capital Programme	As above.

Risk:

Risk	Mitigation
• Policies Failure to review and update policies and procedures would potentially increase the risk of fraudulent activity taking place which affects the Council, or that the Council is not able to effectively deter or detect fraudulent activity taking place.	Policies have been reviewed and revised to ensure they are kept up to date and are accurate (as presented to Committee for approval). Work plan to improve systems and processes Anti-Fraud and Corruption Strategy Group oversees implementation of the work plan and keeps the policies under review. Fraud Risk Assessment exercise Roll out of training Publication of policies
• Local Code of Corporate Governance Failure to review the Local Code of Corporate Governance would mean the governance framework is not complied with and would impact on the annual governance statement process. Failure to monitor progress in relation to action and significant issues set out in the annual governance statement.	The review ensures compliance with the governance framework and assists with the annual governance review.
• Whistleblowing Policy Failure to maintain integrity and confidence in the policy	Annual reporting to the Audit Committee and Standards and Personnel Appeals Committee. Annual update on the application of the policy. Update reporting in accordance with the policy to the Whistleblower (if identified). Identification of trends in disclosure to inform Management.

and its applications.	

Human Resources:

Training will be rolled out to relevant employees and Elected Members. All employees will be made aware of the revised policies and will be accessible to all for future reference.

Regular review, maintenance and consistent application of the Whistleblowing Policy infers good employment practices. As such it is important to maintain the integrity of the policy.

Environmental/Sustainability

There are no Environmental/Sustainability issues identified in the report or the policies reviewed.

Equalities:

The policies themselves do not highlight any equality issues. Any equalities issues will be identified when dealing with specific investigation or in the application of the policies and procedures as relevant.

Other Implications:
None.

Background Papers
None.

Report Author and Contact Officer

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ASHFIELD DISTRICT COUNCIL

ANTI FRAUD AND CORRUPTION STRATEGY

Director of Legal and Governance (Monitoring Officer)

APPROVED:
Audit Committee – [10 February 2020]

REVIEW:
November 2021

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Version Control

Version Number	Date Issued
Original	April 2009
Revised V1	February 2011
Revised V2 & Website	January 2014
Revised V3	Nov 2017
Revised V4	February 2020

Introduction

Fraud and Corruption are serious issues which can affect the services the Council provides, undermine the achievement of corporate objectives and impact upon the public's confidence in the integrity of Council Officers and Elected Members.

Ashfield District Council takes its duty to ensure stewardship of public money very seriously and has a zero tolerance to all forms of fraud and corruption. The Council is therefore committed to the prevention, detection and investigation of all forms of fraud and corruption whether these are attempted from within or external to the organisation.

For the purpose of this document fraud and corruption are defined as follows:

Fraud: 'The intentional distortion of financial statements or other records by persons internal or external to the Authority, which is carried out to conceal the misappropriation of assets or otherwise for gain.'

Fraud is a deliberate act by an individual or group of individuals. Fraud is therefore always intentional and dishonest.

Corruption: The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any other person.

The Anti-Fraud and Corruption Strategy consists of a series of procedures designed to deter and detect any attempted fraudulent or corrupt act and covers:

- Culture
- Prevention
- Detection and Investigation
- Training

Where effective and efficient, a pro active strategy will be adopted within the Council. The Revenues and Customer Services team has a bespoke strategy (see Appendix D) which incorporates a number of measures and processes to prevent and detect fraud. The Central Midlands Audit Partnership (CMAP) evaluate the risk of fraud when developing the strategic audit work plan and designing appropriate test programmes.

Culture

Ashfield District Council is committed to creating an environment that is based on the prevention of fraud and corruption. This is achieved by promoting openness and honesty in all Council activities.

The Council requires all individuals and organisations associated in whatever way with the Council to act with integrity and that Elected Members, employees and representatives, at all levels, will lead by example in these matters.

The Council's Elected Members and employees play an important part in creating, maintaining and promoting this culture. They are encouraged to voice any serious

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concerns about any aspect of the Council's activities. The Council has an Anti Money Laundering Policy and also a Whistleblowing Policy, which ensures any concerns raised will be properly investigated in a professional and confidential manner. Both of these polices are available on the Council website:

www.ashfield.gov.uk

The effectiveness of our culture will be measured through the monitoring of incidents reported and through periodic surveys of general public, employee and Elected Member perceptions.

Prevention

Employees

The Council recognises that a key preventative measure in the fight against fraud and corruption is to recruit employees who have high standards in terms of propriety and integrity. The Council strives to achieve this through effective recruitment policies and procedures which include:

i) Obtaining written references prior to appointing employees, including those employed on a temporary or contract basis.
ii) Undertaking Disclosure and Barring Service checks for designated posts.
iii) Pre-employment checks such as identity confirmation, right to work, qualifications

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Upon appointment all employees are issued with the Employees' Code of Conduct and are required to sign a statement to the effect that this has been read and understood. The Employees' Code of Conduct details the standards all employees must uphold to maintain the integrity of the Council's activities. The Code includes rules regarding relationships, personal interests, gifts and hospitality and confidentiality.

All employees must operate and adhere to the Council's Financial Regulations and Contract Procedure Rules. These documents are introduced as part of the induction process and training courses are provided. They can also be accessed on the Council website and intranet.

Employees are expected to comply with the National and Local Scheme of Conditions of Service and the ethics and standards associated with the professional body to which they may belong.

The Council has Disciplinary Procedures which will be used where the outcome of an investigation indicates improper behaviour by employees.

Elected Members

All Elected Members have a duty to the citizens of Ashfield to ensure that the Council uses its resources prudently and in accordance with the law. As such they are required to operate and adhere to the Council's Constitution incorporating the Members' Code of Conduct. The Code includes rules regarding relationships, personal interests, gifts and hospitality and confidentiality.

All Elected Members must operate and adhere to the Council's Financial Regulations and Contract Procedure Rules.

The Monitoring Officer and Chief Finance Officer

The Monitoring Officer and Chief Finance Officer have key roles in providing advice to all Elected Members and employees about issues relating to the powers of the Council, maladministration, financial impropriety, probity and policy framework and budget issues.

The Monitoring Officer encourages the promotion and maintenance of high standards of conduct within the Council, particularly through the provision of support to the Standards and Personnel Appeals Committee.

The Chief Finance Officer undertakes the statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper arrangements for the administration of the Council's financial affairs. This role is supported by work undertaken by CMAP.

Systems

Each Director is responsible for the successful implementation of controls designed to prevent and detect fraud within their Directorate.

Management at all levels are responsible for ensuring that their teams are aware of the Council's Financial Regulations and Contract Procedure Rules and that the requirements of each are being met.

Directors are responsible for ensuring that adequate and appropriate training is provided for employees and that checks are carried out from time to time to ensure that proper procedures are being followed.

Working with others

Arrangements are in place and continue to develop to encourage the exchange of information between the Council and other Agencies on national and local fraud and corruption activity in relation to Local Authorities. These include:

- Chartered Institute of Public Finance and Accountancy (CIPFA)
- Nottinghamshire and Midland Chief Auditor Groups
- Police
- National Anti-Fraud Network
- Cabinet Office (for NFI)

Internal Audit

The Accounts and Audit Regulations 1996 and 2009 requires the Council to maintain an adequate and effective system of internal audit. CMAP independently review the adequacy, efficiency and effectiveness of internal controls within the Council's systems by undertaking a comprehensive programme of work targeted at key risk areas.

Any weaknesses in internal control are reported to management with proposed recommendations to address the issues raised. It is the responsibility of management to ensure that corrective action is taken. The independent review of systems and the implementation of agreed recommendations contribute to the prevention and detection of fraud and corruption.

External Audit

Independent external audit is an essential safeguard of the stewardship of public money. All external auditors are required, under the Local Government Finance Act 1982, to carry out their audits in accordance with the Code of Practice.

This Code emphasises management's role in preventing and detecting fraud and corruption. External Audit review the Council's arrangements in meeting this objective.

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Detection and Investigation

The preventative measures undertaken by the Council, particularly the implementation of sound control systems, have been designed to deter fraud and provide indicators of fraudulent activity.

It is often the alertness of employees and the public to such indicators that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may be in progress.

The Council aims to have a proportionate pro-active strategy towards fraud prevention and detection. Fraud discovery is also generated by chance or 'tip-off' and the Council has in place arrangements to enable such information to be properly dealt with. Where fraud, theft or corruption is suspected either by employees, Elected Members or members of the public, reporting procedures exist as indicated below:

> **Appendix A** explains the procedures to be followed by an **employee** of the Council
>
> **Appendix B** explains the procedures to be followed by an **Elected Member** of the Council
>
> **Appendix C** explains the procedures to be followed by a **member of the public / outside organisation**
>
> The Anti-Fraud and Corruption Strategy, Housing Benefit and Council Tax support is set out in **Appendix D**

The investigation of any other suspected fraud or corruption is normally carried out by CMAP. Upon completion of the investigation, an audit report is issued to the Monitoring Officer who, with the Chief Executive, has joint responsibility for determining what further action to take. A copy of the report will also be issued to the Director concerned and the Chief Finance Officer.

The reporting procedure is essential as it ensures:

i) The consistent treatment of information regarding any suspected fraud and/or corruption
ii) An effective investigation by an experienced audit team

iii) The proper implementation of a structured response to any suspected act of fraud and/or corruption
iv) The investigation will be undertaken in accordance with the Regulation of Investigatory Powers Act 2000 (if relevant)

Depending on the nature and anticipated extent of the allegations, CMAP will normally work closely with the Monitoring Officer and other agencies such as the Police to ensure that all allegations and evidence are properly investigated and reported upon.

The Council will request the Police to charge offenders where financial impropriety is discovered. The decision on impropriety is a matter for the Monitoring Officer in consultation with the Chief Executive and the Chief Finance Officer.

The Council's Disciplinary Procedures will be used where the outcome of the audit investigations indicates improper behaviour has occurred regardless of whether this has been referred to the Police.

TRAINING

The Council recognises that the continuing success of the Anti-Fraud and Corruption Strategy, and its credibility, will depend largely on the effectiveness of employees throughout the organisation.

Senior Management will be responsible for ensuring that all employees are properly trained in the procedures that they should follow when undertaking their duties.

Elected Members will also receive training in relation to anti-fraud and corruption.

CONCLUSION

The Council has in place a clear network of systems and procedures to assist in the fight against fraud and corruption and hence protect public funds and assets.

The Council maintains a continuous overview of such arrangements through its employees, particularly through CMAP, the Monitoring Officer and the Chief Finance Officer.

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APPENDIX A

EMPLOYEE FRAUD REPORTING PROCEDURE

If you suspect a fraud, theft or corruption is being committed within the Council or committed against the Council, there are a few simple guidelines that should be followed:

1. Make an immediate note of your concern

Note all relevant details:

- what was observed;
- details of conversations;
- date, time and name of the parties involved.

Do not attempt to investigate the matter yourself.

2. Convey your suspicions to your Section Manager or Director

In accordance with Financial Regulations C.11 if a manager becomes aware of or suspects a fraud, theft or corruption he/she must immediately notify the Chief Executive, the Chief Finance Officer and the Monitoring Officer. Upon receipt of such notification these officers shall take steps considered necessary. This will usually include one or more of the following actions:

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- The matter being investigated by CMAP
- Referral to the Police
- Referral to the External Auditor

Alternatively, due to the seriousness and sensitivity of the issue and who is thought to be involved, you may take the matter directly to one of the following:

- Chief Executive Officer
- Monitoring Officer (Director of Legal and Governance)
- Chief Finance Officer

The Council has a Whistleblowing Policy which provides protection for employees against harassment or victimisation where concerns have been raised in good faith.

3. Report the matter promptly, if you feel your concerns are warranted

Any delay may cause the Council to suffer further financial loss.

The above demonstrates a number of ways in which your concerns can be raised within the Council. If you are not satisfied with the action taken, you may wish to take the matter outside the Council. The following are contact points:

- An Elected Member of the Council
- Your Trade Union, relevant professional bodies or regulatory organisations.
- The Nottinghamshire Police non-emergency line 101

If you do take the matter outside the Council, you need to ensure that you do not disclose confidential or privileged information.

APPENDIX B

ELECTED MEMBER FRAUD REPORTING PROCEDURE

If you suspect a fraud, theft or corruption is being committed within the Council or committed against the Council, or have had concerns raised with you, there are a few simple guidelines that should be followed:

1. Make an immediate note of your concern

Note all relevant details:

- what was observed;
- details of conversations;
- date, time and name of the parties involved.

Do not attempt to investigate the matter yourself.

2. Convey your suspicions

Report your concerns to the Chief Executive or the Monitoring Officer

3. Report the matter promptly

Any delay may cause the Council to suffer further financial loss.

The above demonstrates a number of ways in which your concerns can be raised within the Council. If you are not satisfied with the action taken, you may wish to take the matter outside the Council. The following are contact points:

- The Nottinghamshire Police non-emergency line 101

If you do take the matter outside the Council, you need to ensure that you do not disclose confidential or privileged information.

APPENDIX C

MEMBER OF THE PUBLIC - FRAUD REPORTING PROCEDURE

What should you do if you suspect fraud, theft or corruption?

1. Make an immediate note of your concern

Note all relevant details:
- what was observed;
- details of conversations;
- date, time and name of the parties involved.

Do not attempt to investigate the matter yourself.

2. Convey your suspicions in writing marked CONFIDENTIAL to the following:

Chief Executive or the Monitoring Officer
Ashfield District Council
Urban Road
Kirkby-in-Ashfield,
NOTTINGHAM
NG17 8DA

If the suspected fraud relates to Housing Benefit/Council Tax Benefit, forward your suspicions in writing marked CONFIDENTIAL to:

Service Manager, Revenues and Benefits
Revenues and Customer Services
Ashfield District Council
Urban Road
Kirkby-in-Ashfield
NOTTINGHAM
NG17 8DA

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The service can be contacted during normal working hours on (01623) 450000 or Contact the National Benefit Fraud Hotline on 0800 854 440.

The above demonstrates a number of ways in which your concerns can be raised to the Council. If you are not satisfied with the action taken, you may wish to take the matter outside the Council. The following are contact points:

- An Elected Member of the Council
- The Nottinghamshire Police on a non-emergency line 101

APPENDIX D

Anti-Fraud and Corruption Policy

Housing Benefit and Council Tax Support

Version Control

Version Number	Date Issued
Original	December 2004
Revised V1	April 2005
Revised V2	October 2006
Revised V3	April 2009
Revised V4	April 2012
Revised V5 Website	March 2014
Revised V6	November 2017
Revised V7	January 2020

Housing Benefit and Council Tax Support - Fraud Prevention

1. Statement of intention

Ashfield District Council (the Council) is committed to the delivery of a high quality Housing Benefit and Council Tax Support service to its citizens. Benefits are for those who are the most vulnerable in society and should be assessed and paid within Government guidelines in an efficient and effective manner.

The Council is committed to ensuring that its citizens receive the benefits and support to which they are entitled to and will strive to ensure that those people, who need to access the service, do so.

However, the Council recognises that some people will attempt to obtain support to which they have no entitlement. Occasionally this is done with planning and intention. Where intention and planning is involved, then the Council will consider the background to the incident and, where appropriate, initiate proceedings under appropriate legislation.

2. Working Practices to prevent and detect fraud

Verification of Housing Benefit/Council Tax Support claims

Information provided by the claimant on the application form will be verified by Housing Benefit/Council Tax Support Officers. All supporting evidence will be scanned onto the W2 document management system and retained as evidence to support the claim. All supporting documents will be verified as original documents by the Benefits Officers before the claim is assessed for entitlement (in so far as can reasonably be achieved).

Full use of the DWP's CIS (Customer Information System), in accordance with the Memorandum of Understanding signed by Ashfield District Council and the DWP, is also required in order to verify customer income details.

Housing Benefit staff use the VEP Alert Service to assist in processing Housing Benefit and Council Tax Support claims. The VEP service provides electronic alerts to users to prompt them to access the service where there has been a change in a claimant's/partner's employment or pension. Benefits staff will receive notification of starts in employment or changes to earnings and non-state pensions that could impact on Housing Benefit payment in real time. Use of this information is not permitted for any other purpose.

Benefit Officers have the power to make reasonable requests for evidence to support benefit applications to ensure that any potential fraud and error is minimised before any payment of Housing Benefit or Council Tax Support is made.

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Fraud Prevention and Detection

Ashfield District Council's Revenues and Benefits Service undertake work to prevent or detect fraudulent claims for Housing Benefit and Council Tax Support. Work is also undertaken to detect fraudulent claims for certain Council Tax Discounts and Exemptions.

The following anti-fraud activities are built in to the normal working processes of the Revenues and Benefits Service.

Housing Benefit and Council Tax Support

- ✓ Verification Framework (principle of)

  The Council is committed to the principles of the Verification Framework. Secure and effective administration of the Housing Benefit and Council Tax Support scheme is encompassed within the Framework. The VF is guidance produced by the DWP to provide LAs with minimum standards for the collection of evidence and ongoing checks in both HB and CTS cases. The intention is that by adhering to the VF, the amount of fraud and error entering the system will be reduced, and any that does enter will be detected more readily.

  Since the introduction of VF all new cases, reviews and change of circumstances have been subject to the VF and any fraudulent cases that have been detected have been passed for investigation and prosecutions and sanctions have been applied in appropriate cases.

- ✓ The DWPs' Housing Benefit Matching Service (HBMS)
- ✓ National Fraud Initiative (NFI) – Data Matching Service
- ✓ The VEP Alert Service – real time information (from HMRC) about changes of earnings, benefits and pensions of HB claimants
- ✓ ATLAS notifications – the Automatic Transfer of DWP information to LA systems
- ✓ Undertaking joint working with the DWP's Fraud and Error Service
- ✓ Undertaking home visits to help deter and detect fraud
- ✓ Operating the Royal Mail's "Do Not Redirect Service"

- ✓ CIS – DWP's Customer information System

  - On-line access is available to benefit records held by the Department for Work and Pensions, thus ensuring details supplied by claimants can be verified instantaneously.

- ✓ Service Level Agreements/Joint Working Partnerships

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Real Time Information (RTI) – earnings data matching cross-referencing internal benefits records¶

To facilitate effective joint working between the Council and other organisations e.g. DWP's Fraud and Error Service (FES) and DWP's Operational Intelligence Unit (OIU).

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- ✓ Benefit Fraud Hotline

  Contact the National Benefit Fraud Hotline on 0800 854 440. Calls are free and confidential. Those reporting suspected fraud are not required to give their name and address. Lines are open Monday to Friday 8.00am to 6.00pm.

- ✓ Prosecution Policy

  The Policy ensures a firm and consistent approach to dealing with those who abuse the system and also a meaningful deterrent to those who are contemplating doing so.

- ✓ Un-cashed Housing Benefit cheques

  Checking of claims where Housing Benefit cheques remain unpresented for six months or more.

Council Tax and Business Rates – Fraud Detection

- Single Person Discount – biennial review to identify council tax discounts that should no longer be claimed.
- Empty Properties – biennial review to identify properties that are listed as unoccupied that are now occupied.
- Business Rates – Unreported changes affecting the Rateable Value (preventing Business Rates avoidance)

3. Training

New starters within the Revenues Services and the Customer Services will receive Fraud Awareness Training within the first three months of their arrival. All other Revenues and Customer Service Centre staff will attend refresher sessions as determined within the PDR process. This will help to ensure that the number and quality of referrals remains high.

In addition to this, employees from other Service Areas and Members can be provided with Housing Benefit Fraud awareness training on request.

Additional ad-hoc training will be provided as and when the need arises.

4. Integrity

The Council will require all employees involved in the administration of benefits to report to the Service Manager, Revenues and Benefits details of any property that they are renting to tenants and any Housing Benefit / Council Tax Support claims with which they have some connection. An example would be where an employee is a landlord of a tenant who is in receipt of Housing Benefit from Ashfield District Council

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If a revenues and benefits officer has knowledge of a claim where the claimant/claimant's partner is a close family member (as defined in Regulation 2 of the Housing Benefit (General) Regulations 1987) then the officer must report this case to the Service Manager, Revenues and Benefits.

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Gifts and hospitality offered to Council employees as a consequence of their role as an employee of the Council should be discouraged. Invitations, hospitality and gifts should only be accepted with the prior approval of the Service Manager, Revenues and Benefits and should be registered in the Register of Declarations of Hospitality in accordance with agreed procedures.

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Any employee found to be involved in an offence under the Social Security Administration Act 1992, or any other criminal offence involving claims to benefit/support either at this Council, or any other Local Authority or the Department for Work and Pensions, will be subject to the Council's disciplinary procedures and possible prosecution proceedings.

5. Suspected Fraud

All Housing Benefit assessors are required to be vigilant in carrying out their duties and, in the case of suspected Housing Benefit Fraud, to report the case to the DWP's Fraud and Error Service for full investigation.

Case Referral to DWP (Fraud and Error Service)

Staff with access to the Civica system who suspect fraud or irregularity with a Housing Benefit and/or Council Tax Support claim will:-

- Flag up their concerns about the claim to a Benefit Senior Officer to Benefit Team Leader
- The Claim will be reviewed by the Senior Benefit Officer and/or Team Leader to confirm that there appears to be a possible fraud

Once potential fraud has been confirmed then the following guidance will apply.

Fraud and Error Service HB fraud referrals – Housing Benefit Claims

Each local authority has nominated a SPOC (Single point of Contact) to manage the fraud referral and investigation process. The SPOC is responsible for ensuring that a fraud referral and supporting evidence is submitted to FES in the prescribed manner, responding to FES enquiries, and ensuring that appropriate action is taken at the conclusion of investigation or compliance activity.

In FES, the SPOC is the person that the local authority would contact if there was a query, or an issue to be resolved.

Any potential fraud identified through the administration of HB, including Housing Benefit Matching Service (HBMS), National Fraud Initiative (NFI) and VEP Alerts, should be referred to the Department for Work and Pensions Fraud and Error Service (DWP FES),

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- The FES team will assess the referral and decide if Criminal Investigation or Low Level Fraud action is appropriate.
- Referrals from HBMS, NFI and RTI should be submitted to DWP on the Single Fraud Investigation (SFI) referral template.
- The template should be fully completed with the claimant's details, allegation type and HB claim details.
- For VEP Alerts referrals officers should include screenshots taken from the housing benefit system in the email with the SFI referral template.

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- The screenshots should show the RTI data that supports the referral, including:
    a. employer or pension provider name
    b. start and end dates of earnings/pension income
    c. amounts received.
- Where an LA is unable to provide screenshots, the data must be included in the SFI referral template.
- The template and any screenshots will then be emailed to the appropriate DWP FES Regional Email Inbox via secure email (GCSX)
- The information provided should be as comprehensive as possible, giving all relevant details in a clear, logical order.

In matters relating to Housing Benefit Administration and the investigation of potential fraudulent claims all ADC Housing Benefit Staff and DWP Fraud Investigators must adhere to relevant legislation and codes of practice.

The following is a list of relevant legislation (not exhaustive)

- The Theft Act 1968 (as amended 1978)
- The Magistrates Courts (taking of Witness statements) Act 1981
- The Police & Criminal Evidence Act 1984 (PACE)
- The Social Security Administration Act (1992)
- The Criminal Procedures and Investigation Act 1996
- The Social Security Administration (Fraud) Act 1997
- The Data Protection Act 1998
- The Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000
- The Freedom of Information Act 2000
- The Social Security Fraud Act 2001
- The Fraud Act 2006

6. Feedback

If a case is referred to the DWP's Fraud team and not investigated, for whatever reason, the DWP fraud Officer should provide an explanation as to why the case could not be taken to prosecution.

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Feedback may also be given to staff at the end of an investigation, to advise them of the outcome. The overall aim of providing feedback is to encourage staff to make further referrals in the knowledge that they have helped stop or prevent a fraud.

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7. IT and physical security

The Revenues Service as a whole, is housed in a secure environment with restricted access away from the general public.

Access to the Revenues IT system is kept secure by password protection. A clear audit trail is recorded on the system so that any abuse of trust can be identified back to the perpetrator.

The Revenues & Benefits team operates a clear desk policy, which means that any records containing personal information are locked away securely at the end of each day.

8. Sanctions

General

The Council is committed to protecting public funds through its action against fraud. To this aim, the Council's Benefit Fraud Prosecution Policy represents a robust stance against those perpetrating benefit frauds. The Service Manager, Revenues and Benefits is responsible for the implementation of the policy.

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Although Housing Benefit fraud cases are no longer investigated by Local Authorities, responsibility for the Housing Benefit fraud remains with the local authority.

Range of Sanctions

The Council has a range of sanctions available if fraud is found. Once the DWP Investigating officer has determined a potential fraudulent claim they are required to recommend an appropriate sanction to the council.

The Benefits Service will consider each case on its own merits and will determine whether the DWP recommendation is accepted.
There are four options available:-

1. **Prosecution**

Criminal proceedings may be brought against alleged offenders and the case heard in Court with a view to obtaining a criminal conviction and an appropriate sentence.

Prosecution proceedings will usually be instigated only after the evidential and public interest tests are satisfied as detailed in the Code for Crown Prosecutors.

Prosecution will be considered where:

a) It was not a first offence, or
b) The fraud has been deliberate and calculated, or
c) The fraud had continued over a long period; or

d) The person has failed to attend an interview under caution; or
e) There were other persons involved in the fraud, or
f) The person has declined the offer of an Administrative Penalty or withdrawn agreement to pay and Administrative Penalty; or
g) The person has declined the offer of an official caution

In these circumstances the council may prosecute. There will be no requirement to repay the overpayment.

The council may prosecute using our own legal service, the police or other agency solicitors who will all adhere to The Code for Crown Prosecutors.

The decision to prosecute is a serious step and has implications for all concerned. The council will ensure that decisions to prosecute are made in a fair, consistent and equitable manner. In exceptional circumstances an alternative to prosecution may be considered. Other factors will be taken into consideration before prosecution is recommended.

2. Formal Caution

A caution is an oral warning given in certain, less serious circumstances as an alternative to prosecution to a person who has committed an offence. It is intended to be a meaningful penalty and deterrent where other actions are not appropriate. If a person declines the offer of a caution the case will be recommended for prosecution.

A caution will be considered where the amount of the overpayment is up to £2,000 where the evidence indicates that:

a) It was a first offence, or
b) There was no planning involved, or
c) There was no other person involved in the fraud, and
d) The person's circumstances and demeanour towards the offence indicates that a caution would be the most appropriate action.

In these circumstances the council may issue an official Local Authority Caution and require full repayment of the overpayment.

3. Administrative Penalties

In accordance with Social Security legislation, Administrative Penalties will be considered as an alternative to prosecution in Housing Benefit fraud cases. A financial penalty amounting to a statutorily determined percentage of the gross adjudicated overpayment can be offered to a person where there is enough evidence to prosecute.

4. Overpayment Recovery and Civil Court Action

A strict requirement to repay monies fraudulently obtained is in itself another major deterrent to fraud, and may be additional to any other sanctions that are applied. Recovery may also include Civil Court action.

The Council has four options for prosecuting its cases:

- The Council's Legal Services

- DWP solicitors
- The Police and Crown Prosecution Service
- Agent solicitors

The Council would normally use its own Legal Services and would only uses the Crown Prosecution Service for joint-working cases. The Police would only be involved in very serious cases and/or where there has been a need to have the alleged offender arrested.

9. Sanctions procedure

In a case where DWP Investigating officer considers a sanction should be considered they will forward the file to the council together with a fraud overpayment report recommending the appropriate sanction action. This will have followed either an interview under caution (IUC) or at least two failed attempts to IUC. The final appointment letter will usually be hand delivered to the relevant persons address and either given in person or posted through the letterbox.

The Benefits Service appointed officers will review the case and check for procedural and/or administrative errors and omissions. The recommendation will be checked to ensure that it is consistent with this policy, if necessary recommending an alternative sanction.

The Service Manager, Revenues and Benefits has delegated authority allowing formal cautions and administrative penalties recommended by the DWP's Fraud and Error Service to be accepted.

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All recommendations for prosecution proceedings will be referred to the Director for Resources and Business Transformation before formal acceptance is made.

10. Partnership Working

Department for Work & Pensions (DWP) – Fraud and Error Service

The Council is committed to Joint-Working with its counterparts at the Department for Work & Pensions Fraud and Error Service (FES). The Council is a signatory to the DWP Counter Fraud Joint Working Partnership Agreement and is committed to the achieving the minimum standards required.

Meetings with the local FES liaison officers ensure compliance with the agreement and any deviations from the standard can be resolved.

Nottinghamshire Police

The Council may involve itself in Community Action Days where there is a benefit fraud interest. Work is in progress to finalise the information sharing protocol (APAC)

11. Sharing good practice

Good practice forums

The Council will continue to actively participate with other Local Authorities and the DWP with regards to sharing good practice and benchmarking.

12. Overpayment recovery

The Council is committed to ensuring overpayments of Housing Benefit and Council Tax Support are recovered. Recovery action is viewed as an important element of the Council's counter fraud activity.

Where overpayments have arisen as a result of fraud as defined in Regulation 102 (3) of the Housing Benefit (General) Regulations 1987 then the Council will consider imposing the maximum rate of recovery from any ongoing entitlement to benefit.

Alternatively, debtors will be pursued to the point of obtaining an order of the County Court.

Landlords who receive Housing Benefit directly will, in appropriate circumstances, have overpayments recovered from any future Housing Benefit payable to their tenants. Each case will be considered on its merits. Landlords will be advised of this action.

13. Publicity

Statistics relating to the number and type of sanctions imposed will be reported to the Service Manager, Revenues and Benefits on a monthly basis.

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Information regarding successful prosecutions and sanctions will be supplied to the Council's Senior Communications Officer for inclusion in internal and external publications.

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ASHFIELD DISTRICT COUNCIL

ANTI-BRIBERY POLICY

Director of Legal and Governance
(Monitoring Officer)

APPROVED:
Audit Committee – [10 February 2020]

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Deleted: 27 November 2017

REVIEW:
November 2021

Deleted: 19

Version Control

Version Number	Date Issued
Original	November 2017
Revised V1	February 2020

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Policy Statement

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial or contractual advantage which is done either directly or via a third party. Bribery is a criminal offence.

The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose. The Council does not, and will not, accept bribes or improper inducements.

The Council is committed to the prevention, deterrence and detection of bribery. It has a zero-tolerance approach towards bribery.

The Council aims to make anti-bribery compliance business as usual, rather than a one-off exercise.

The Bribery Act 2010

There are four key offences under the Bribery Act 2010 (the Act):

- **Bribery by another person -** under Section 1 of the Act it is an offence to offer, promise or give a bribe.
- **Accepting a bribe -** Section 2 of the Act also makes is an offence to request, agree to receive, or accept a bribe.
- **Bribing a foreign official -** Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.
- **Failing to prevent bribery -** A corporate offence is created by Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by, or of, persons associated with the organisation. The Council fits the definition of a "commercial organisation".

Penalties

An individual guilty of an offence under Sections 1, 2 or 6 of the Act is liable:

- On conviction in a Magistrates' Court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5,000, or to both.
- On conviction in a Crown Court, to imprisonment for a maximum term of 10 years, or to an unlimited fine, or both.

Organisations are liable for these fines and if found guilty of an offence under Section 7 of the Act are liable to an unlimited fine.

Public Contracts and Failure to Prevent Bribery

Under the Public Contracts Regulations 2015 a company is automatically barred from competing for public contracts where it is convicted of a corruption offence, including bribery. The Council will, in such cases, exclude organisations convicted of any such offences from participating in tenders for public contracts with it.

Objectives of this Policy

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

Relevant Persons include those permanently and temporarily employed by the Council, agency staff, consultants, contractors, volunteers, partners and Elected Members.

The Council requires all Relevant Persons to:

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

Scope of this Policy

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

Responsibility to control the risk of bribery occurring resides at all levels of the Council. It does not rest solely within assurance functions, but in all sections, Directorates and corporate functions.

This policy covers all relevant persons at all levels and grades.

The Council's Commitment to Action

The Council commits to:

- Settings out a clear Anti-Bribery Policy and keeping it up to date.
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times.
- Training all employees and Elected Members so that they can recognise and avoid occurrences of bribery by themselves and others.

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- Encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately.
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution.
- Taking firm and vigorous action against individuals involved in bribery.
- Provide information to all employees on how to report breaches and suspected breaches of this policy.
- Include appropriate clauses in contracts to prevent bribery.

Adequate Procedures

The Council will put in place adequate procedures which it will apply proportionately, based on the risk of bribery in the Council. The Council will base its procedures on the recommended six principles which are not prescriptive. The principles are intended to be flexible and outcome focused ensuring procedures are robust and effective.

The six principles are as follows:

- **Proportionate procedures** – procedures to prevent bribery should be proportionate to the bribery risks faced and the nature, scale and complexity of activities. They are also clear, practical, accessible, effectively implemented and enforced.
- **Top level commitment** – top level management should be committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable. The Council's Corporate Leadership Team, the Cabinet and the Audit Committee have all endorsed this policy.
- **Risk Assessment** – the Council assesses the nature and extent of its exposure to potential external and internal risks of bribery routinely and as an integral part of its usual procedures. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.
- **Due Diligence** – the Council applies due diligence taking a proportionate and risk based approach in respect of persons who perform, or will perform, services for, or on behalf of, the Council, in order to mitigate identified bribery risks.
- **Communication (including training)** – the Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood through communication, including training that is proportionate to the risks it faces.
- **Monitoring and Review** – the Council monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

The Council is committed to the implementation of these principles.

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Bribery is not tolerated

It is unacceptable to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given.
- Give, promise to give or offer a payment, gift or hospitality to a government official, agent or representative to facilitate or expedite a routine procedure.
- Accept payment from a third party where it is known or suspected that it is offered with the expectation that it will obtain a business advantage for them.
- Accept a gift or hospitality from a third party where it is known or suspected that it is offered or provided with an expectation that a business advantage will be provided by the Council in return.
- Retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy.
- Engage in activity in breach of this policy.

Facilitation Payments

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

Gifts and Hospitality

This policy is not meant to change the requirements of the Council's gifts and hospitality policies for Elected Members and Employees.

Employees may, depending upon the circumstances, accept nominal gifts and hospitality. Employees must always exercise caution when accepting gifts and hospitality. Employees must declare the offer or acceptance of gifts and hospitality with a value over £25 as set out in the Employees' Code of Conduct.

Elected Members may, depending upon the circumstances, accept gifts and hospitality. Gifts or hospitality offered or accepted with a value of over £50 must be declared as set out in the Members' Code of Conduct.

When deciding whether or not to accept an offer of a gift or hospitality the context is very important. An offer from an organisation seeking to do business with or provide a service to the Council or in the process of applying for permission or some other decision from the Council is unlikely to ever be acceptable, regardless of the value of the gift.

Responsibilities of Relevant Persons

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all Relevant Persons who are required to avoid activity which breaches this policy.

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All Relevant Persons must:

- Ensure they read, understand and comply with this policy.
- Raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.
- As well as the possibility of civil legal action and criminal prosecution, employees who breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

Raising a Concern

The Council is committed to ensuring that there is a safe, reliable and confidential way of reporting any suspicious activity and wants Relevant Persons to know how to raise concerns.

All have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner it is brought to attention, the sooner it can be resolved.

There are various channels to help raise concerns. The Council's Whistleblowing Policy sets out how concerns may be raised. Preferably the disclosure will be made and resolved internally. Ideally, concerns should be raised initially with a line manager or Director. If this is not possible concerns may be raised with the Chief Executive, the Monitoring Officer, the Chief Finance Officer or the Central Midlands Audit Partnership. Alternatively, concerns may be raised with the External Auditor.

Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publically, such as via the press or on social media. Concerns can be made anonymously. In the event that an incident of bribery, corruption or wrong doing is reported, the Council will act as soon as possible to evaluate the situation. It has clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in an investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

Employees who raise concerns or report wrongdoing, including those employees who reject an offer made to them that could be perceived as bribery, may understandably be worried about the repercussions. The Council aims to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if this turns out to be mistaken.

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The Council is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

If you have any questions about these procedures, please contact the Monitoring Officer.

Other Relevant Policies

Further information on relevant Council policies and practice can be found in the following documents:

- The Constitution:
  - Financial Regulations
  - Contract Procedure Rules
  - Members' Code of Conduct
  - Employees' Code of Conduct
- Anti-Fraud and Corruption Policy
- Whistleblowing Policy
- Anti-Money Laundering Policy Statement and Procedures
- Prosecution Policy
- Fraud Response Plan

Useful Links

The Bribery Act 2010
Bribery Act Guidance
CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption
Local Government Fraud Strategy – Fighting Fraud Locally

Policy Review

The Monitoring Officer and the Audit Committee will ensure the continuous review and amendment of this policy to ensure that it remains compliant.

The policy should be reviewed bi-annually as a minimum.

ASHFIELD DISTRICT COUNCIL

ANTI-MONEY LAUNDERING POLICY STATEMENT AND PROCEDURES

Director of Legal and Governance
(Monitoring Officer)

APPROVED:
Audit Committee – [10 February 2020]

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Deleted: 27 November 2017

REVIEW:
November 2019

Version Control

Version Number	Date Issued
Original	November 2017
Revised V1	February 2020

Introduction

The Council is committed to the highest possible standards of conduct and has, therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

Scope of this Policy

This policy applies to those permanently and temporarily employed by the Council, agency staff, consultants, contractors, volunteers, partners and Elected Members.

Its aim is to enable those who work on behalf of, or with the Council and its Elected Members to respond to a concern they have in the course of their dealing for the Council. Individuals who have a concern relating to a matter outside of work should contact the Police.

This policy sits alongside the following Council policies:

- The Constitution:
  - Financial Regulations
  - Contract Procedure Rules
  - Members' Code of Conduct
  - Employees' Code of Conduct
- Anti-Fraud and Corruption Policy
- Whistleblowing Policy
- Anti-Bribery Policy
- Prosecution Policy
- Fraud Response Plan

Failure by an employee to comply with the procedures set out in this policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy.

What is Money Laundering?

Money laundering describes offences involving the integration of the proceeds of crime or terrorist funds into the mainstream economy. Money laundering is the channelling of "bad" money into "good" money in order to hide the fact the money originated from criminal or terrorist activity.

The relevant legislation is the:

- Proceeds of Crime Act 2002 (as amended)
- Terrorism Act 2000 (as amended)
- Money Laundering Regulations 2007
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
- Money Laundering and Terrorist Financing (Amendment) Regulations 2019

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The Proceeds of Crime Act 2002 creates the following offences:

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Failure to disclose one of the offences listed above where there are reasonable grounds for knowledge or suspicion
- Doing something that might prejudice an investigation, for example, falsifying documentation
- Tipping off a person who is, or is suspected of being, involved in money laundering in such a way as to reduce the likelihood of, or prejudice, an investigation

The Terrorism Act 2000 makes it an offence to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

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The risk of the Council contravening the money laundering legislation is low, however, it is still extremely important that all those working for the Council and its Elected Members are familiar with their responsibilities to report potential money laundering activities.

Potential or suspected money laundering activity should be reported to the Money Laundering Reporting Officer (MLRO).

Requirement of the Money Laundering Legislation

The main requirements of the legislation are:

- To appoint a Money Laundering Reporting Officer (MLRO)
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures
- Maintain client identification procedures in certain circumstances

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The Money Laundering Reporting Officer (MLRO)

The Council has designated the Monitoring Officer as the Money Laundering Reporting Officer (MLRO).

The Monitoring Officer can be contacted as follows:

By post: Council Offices, Urban Road, Kirkby-in-Ashfield, Nottinghamshire, NG17 8DA

By telephone: 01623 457009
By e-mail: r.dennis@ashfield.gov.uk

In the absence of the Monitoring Officer, concerns should be raised with the Chief Finance Officer (p.hudson@ashfield.gov.uk).

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Circumstances that may be Susceptible to Money Laundering

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- Sale of Council land/buildings (as sale proceeds could be in cash)
- Sales of Council residential properties (under the right-to-buy scheme)
- Receipt of cash payments
- Investments – this would cover activities such as the issues of local bonds or transfers to or from non UK banks

Indicators that should raise suspicion include:

- Where the person you are dealing with is excessively secretive or obstructive
- Where a transaction seems unusual, such as an unusually large cash payment
- An overpayment or duplicate payment in cash where the refund is requested by cheque
- Where a customer pays funds to the Council but then ends the transaction for no apparent reason, or unexpectedly asks for money to be refunded or forwarded to a third party
- Where a customer tells you that funds are coming from one source and at the last minute the source changes
- Absence of an obvious legitimate source of funds e.g. where an individual is on a low income and is purchasing a property from the Council
- Movement of funds overseas, particularly to a high risk country
- Individuals and companies that are insolvent but have funds
- Purchase of property (e.g. a Council house) where no mortgage is involved

Identification, information about source of money, and record-keeping

In some circumstances, you may wish to seek confirmation of the identity of an individual involved in a transaction with the Council (such as the purchase of a property from the Council). This could be, for instance, where the individual is not represented by a solicitor who would be expected to have carried out the necessary checks. Evidence of identification and details of the transaction must be kept for at least 5 years.

Where there is no obvious source of funds, you may consider asking the individual to explain the source of the funds and to provide evidence to substantiate the explanation. Assess whether you think their explanation is valid: for example, the money may have been received from an inheritance or from the sale of another property.

Reporting Procedure

Where you know or suspect that money laundering activity is taking, or has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you **MUST DISCLOSE THIS AS SOON AS PRACTICABLE TO THE MLRO**. The disclosure should be at the earliest opportunity not weeks or months later, any delay may make you liable to prosecution.

The disclosure report must include as much detail as possible including:

- Full details of the people involved
- Full details of the nature of their/your involvement
- The types of money laundering activity involved
- The dates of such activities
- Whether the transactions have happened, are ongoing or are imminent
- Where they took place
- How they were undertaken
- The amount of money/assets involved
- Why you are suspicious
- Attach copies of all relevant documentation

The MLRO must then consider if there are reasonable grounds for knowledge or suspicion of money laundering and if so, to prepare a report to the National Crime Agency (NCA).

Once a report has been made to the MLRO you must follow any directions she gives you. You must NOT make any further enquiries into the matter yourself. You must NOT take further steps in the transaction without authorisation from the MLRO. All Elected Members and those working for the Council must cooperate with the MLRO and the NCA during any subsequent money laundering investigation.

At no time and under no circumstances should you voice any suspicions to the person whom you suspect of money laundering, otherwise you may commit an offence of "tipping off".

Consideration of the Disclosure by the Money Laundering Reporting Officer

The MLRO must promptly consider the information provided and carry out other reasonable enquiries she thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required. The MLRO must consider if:

- There is actual or suspected money laundering taking place; or
- There are reasonable grounds to know or suspect that is the case; and
- Whether she needs to seek consent from the NCA for a particular transaction to proceed.

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If the MLRO considers that a report to the NCA is necessary, this must be done as soon as practicable and made on the NCA's standard reporting form and in the prescribed manner.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then she shall mark the report accordingly and give her consent for any ongoing or imminent transactions to proceed.

All disclosure reports made to the MLRO and the NCA should be kept confidential and retained for a minimum of 5 years.

The MLRO commits a criminal offence if she knows, or suspects, or has reasonable grounds to do so, through a disclosure being made to her, that another person is engaged in money laundering and she does not disclose this as soon as practicable to the NCA.

Training

The Council will:

- Make all those working for the Council and its Elected Members aware of this policy and their responsibility to report potential money laundering activity
- Give targeted training to those most likely to encounter money laundering.

Policy Review

The Monitoring Officer and the Audit Committee will ensure the continuous review and amendment of this policy to ensure that it remains compliant.

The policy should be reviewed bi-annually as a minimum.

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ASHFIELD DISTRICT COUNCIL

FRAUD RESPONSE PLAN

Director of Legal and Governance
(Monitoring Officer)

APPROVED:
Audit Committee – [10 February 2020]

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Deleted: 27 November 2017

REVIEW:
November 2021

Deleted: 19

Version Control

Version Number	Date Issued
Original	November 2017
Revised V1	February 2020

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INTRODUCTION

The Fraud Response Plan has been developed to provide assurance of a consistent, thorough and effectively managed response to any allegations of fraud affecting the Council.

REPORTING FRAUD

Employees and Members are required to report – to their line manager or a Nominated Individual – if they have concerns about possible fraud affecting the Council; this includes suspected fraud involving employees, Elected Members, Contractors, Suppliers, members of the public.

For purposes of reporting concerns about possible fraud or corrupt behaviour, the **Nominated Individuals** are:

- The Chief Executive
- The Monitoring Officer
- The Corporate Finance Manager (as Chief Finance Officer)
- The Head of Internal Audit (Central Midlands Audit Partnership – CMAP)

Line Managers or Nominated Individuals will consider any expression of concern and determine whether:

(i) It is sufficiently well founded to merit a formal investigation; or
(ii) No further action is required.

If (i) refer to the Monitoring Officer.

If (ii) explain to the reporter the reason for the decision and retain a written note of the concern and the determination made.

MANAGING INVESTIGATIONS

The Monitoring Officer is responsible for overseeing investigations of suspected fraud or corruption. To discharge that responsibility she shall:

- Ensure that the Chief Executive is informed without delay of any allegations involving Elected Members or members of the Corporate Leadership Team;
- Ensure that the Chief Executive is informed of allegations against other employees, suppliers or contractors where available evidence indicates that the allegation may be well founded;
- Consult with the Chief Executive and Monitoring Officer on the need to inform police, external audit or other parties – at the time of the initial referral or at any time during the investigation;
- Consider the need to comply with the Regulation of Investigatory Powers Act (RIPA). The Council has a RIPA Policy which sets out the process for carrying out investigations requiring compliance with RIPA;
- Appoint and provide Terms of Reference to an Investigating Officer;

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- Ensure that the Investigating Officer has access to the resources required to conduct the investigation in line with the Terms of Reference;
- Ensure that the subject of any investigation receives timely and appropriate notification; and
- Advise the Head of Internal Audit (CMAP) of any investigation initiated who will enter the details on the Fraud Log.

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The Investigating Officer shall be a senior officer of the Council or an appropriately qualified member of CMAP. The Investigating Officer shall:

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- carry out the investigation in line with the Terms of Reference issued by the Monitoring Officer;
- ensure that the investigation complies with the Council's Disciplinary Procedure;
- maintain a Diary of Events recording the progress of the investigation and any matters arising;
- keep the Monitoring Officer advised of the progress of the investigation;
- keep the Monitoring Officer advised of the resources committed to the investigation;
- ensure that the Monitoring Officer is informed without delay if new evidence indicates a need to inform the police or other parties; having gathered sufficient evidence for the purpose;
- gather sufficient evidence to support a conclusion as to whether or not the concern under investigation is well founded;
- issue a report recommending one or more of the following:
  - criminal proceedings be instituted by the Council;
  - evidence gathered be forwarded to the police;
  - internal disciplinary action;
  - no action be taken against individuals; and
- recommend, if appropriate, a review of aspects of the internal control framework.

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The Investigating Officer shall, at a minimum, provide the Monitoring Officer with weekly updates on the progress of the investigation.

The Investigating Officer shall be provided with such advice and guidance as may be required by Legal Services and HR to ensure that there are no breaches of HR policies, employment law or other relevant legal requirements (such as Data Protection) and to assist with the assessment of any potential criminal proceedings.

The Chief Executive shall determine the content and timing of any statements made to the media or to another third party about an instance of suspected fraud or corruption. No other employee shall make such a statement without the Chief Executive's express authority.

EVIDENCE GATHERING

The Investigating Officer shall be responsible for gathering, recording and for the secure custody of the evidence required for the investigation. The following guidance shall be followed in the evidence gathering process to ensure that the Council can demonstrate that it takes a consistent approach to all investigations.

Physical Evidence

Physical evidence might include: written quotations, tenders and contracts; written correspondence; cheques, paying-in slips or other vouchers; items of Council property; CCTV footage and photographs.

Evidence is to be collected and secured without delay. The Investigating Officer shall record the date, time and location at which each item of evidence is secured and the individual securing the evidence. If evidence consists of several items, for example many documents, each one shall be tagged with a reference number corresponding to the written record. The Investigating Officer shall ensure that all evidence is held securely and record any individuals other than the Investigating Officer who are subsequently allowed access.

Where the Investigating Officer considers that the current condition of land, real property or other assets is relevant to an investigation, sufficient photographs shall be taken to evidence conditions at a time and date that the Investigating Officer shall certify. The Investigating Officer shall record the individual who takes any photographs commissioned and each photograph taken shall be annotated to show location; date and time taken; and the facts that it evidences (e.g. length of grass on an area of public open space; state of disrepair of a Council property; condition under which assets are stored).

Where photographs evidence the behaviour of the subject of the investigation (or other relevant parties) the Investigating Officer shall ensure and certify that they were obtained in a manner consistent with RIPA requirements.

Evidence Held in Electronic Format

If it is suspected that relevant information is held on a subject's official PC or laptop, the Investigating Officer shall:

- ensure that **no attempt is made to access such information** as this will change the data accessed and compromise its value as evidence;
- liaise with the Service Manager, ICT to ensure that:
    - the PC/laptop is isolated and placed in a secure container for transport to an appropriate forensic consultant;
    - the subject's access permission to be suspended to prevent any alteration of data held on shared areas; and
    - copies are secured of any relevant data held on shared areas.

If it is suspected that there is relevant information on the subject's business e-mail account, the Investigating Officer shall liaise with the Service Manager, ICT to suspend the subject's e-mail account and arrange for the subject's e-mail transactions to be secured.

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If it is considered that mobile phones or data recording media that have been issued to the subject by the Council for business purposes might hold relevant information, the Investigating Officer shall take custody of them. The Investigating Officer shall again ensure that **no attempt is made to access such information** and arrange for the secure transport of those items to an appropriate forensic consultant.

The Investigating Officer shall consult with the HR Manager and the Service Manager, ICT if it is suspected that other employees may hold relevant information in electronic format.

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The Investigating Officer shall consult with the Chief Executive and Monitoring Officer if it is suspected that relevant information may be held by an Elected Member in electronic format.

Witnesses

The Investigating Officer shall seek to identify all potential witnesses to any matters under investigation. To do so:

- direct questions may be put to the individual raising the matter;
- processes may be analysed to determine individuals involved in relevant transaction flows (e.g. processing and certification of creditor invoices);
- office layouts may be analysed to identify individuals who might have witnessed events or overheard conversations;
- the subject of the investigation should (when interviewed) be given the opportunity to identify supporting witnesses.

The Investigating Officer should carry out preliminary enquiries to determine which, if any, potential witnesses can provide evidence useful to the investigation. It should be made clear to any reluctant witness that an employee's contractual obligations include a requirement to co-operate with any investigation of misconduct (except where there is a risk of self-incrimination).

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Where the Investigating Officer determines that a witness can provide significant, relevant information a written statement shall be taken. Other than in exceptional circumstances, the Investigating Officer shall agree with the witness a time and date for the interview that allows:

- the Investigating Officer to plan the interview and identify the key themes to be pursued and the facts to be established;
- the Investigating Officer to ensure that someone is available to make a contemporaneous record of the interview; and
- the witness to refer to diaries or other prompts to memory.

Unless time pressures preclude doing so, the Investigating Officer shall provide the witness with a copy of the notes made of the interview and invite the witness to sign and return that copy if they are satisfied that the notes represent an accurate record of the interview.

Interview with Subject

Unless the evidence gathered from other sources makes it clear that the concerns under investigation are unfounded, the Investigating Officer shall interview the subject of the investigation. The purpose of any first interview shall be for information gathering purposes and the following general conditions should be met:

- the Investigating Officer shall prepare a written schedule of questions based upon an analysis of:
    - the original concern referred to the Monitoring Officer;
    - the Terms of Reference issued;
    - evidence obtained; and
    - witness statements

  to identify the information required from the subject.
- The HR Manager shall be advised of the intention to interview and given the opportunity to comment on the proposed schedule of questions and any employment law or issues of Council policy that need to be addressed.
- The Investigating Officer shall ensure that a second officer attends the interview for the purpose of maintaining a contemporaneous record of the questions posed and the subject's responses and any other statements. Audio recording equipment may be used if it is available and the subject agrees (in which case a copy will be provided to the subject).
- The Investigating Officer shall at the start of the interview tell the subject:
    - what is being investigated;
    - the role of the Investigating Officer;
    - the issues about which information/clarification are to be sought;
    - that the subject is not being interviewed under caution and that statements made during the interview would not be admissible for a criminal prosecution; but
    - that the recorded statement may be used as evidence in a disciplinary hearing.

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DISCIPLINARY ARRANGEMENTS

The outcome of an investigation may be one of the following:

- Evidence of criminal activity leading to a referral to the Police and subsequent prosecution(s): in such circumstances the Monitoring Officer shall consult with the HR Manager to determine whether it is appropriate to undertake disciplinary action in parallel with criminal proceedings.
- Evidence of criminal activity leading to a referral to the Police and a subsequent decision not to proceed with a prosecution: in such circumstances the Monitoring Officer shall determine whether the Council should mount a private prosecution. If the decision is taken to prosecute, the Monitoring Officer shall again consult with the HR Manager to determine whether it is appropriate to undertake disciplinary action in parallel with criminal proceedings.
- Evidence provides assurance that there has been no criminal behaviour but indicates possible misconduct on the part of one or more employees: in such

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circumstances the Monitoring Officer shall consult with the HR Manager to determine whether it is appropriate for the Investigating Officer to be involved in the disciplinary process.

- Evidence provides assurance that there has been no criminal behaviour but indicates possible misconduct on the part of one or more Elected Members: in such circumstances Monitoring Officer shall consult with the Chief Executive to determine what action is appropriate.
- Evidence provides assurance that there has been no criminal behaviour or misconduct: in such circumstances the Monitoring Officer shall notify the Head of Internal Audit (CMAP), who will close the entry in the Fraud Log. The Monitoring Officer will also ensure that the subject of the investigation receives prompt notification of this outcome.

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If the decision is taken that an employee may have a disciplinary case to answer, the investigative process to be followed must comply with the Council's Disciplinary Procedure.

RECOVERY PROCESS

The Monitoring Officer shall be responsible for commissioning and managing actions taken to limit losses suffered by the Council as a result of discovered fraud; to facilitate the recovery of such losses; and to mitigate risks arising from identified control deficiencies. The Monitoring Officer shall:

- consider on receiving a referral whether the potential materiality of losses is such as to require immediate action to stop losses. The Monitoring Officer shall keep the issue of action to stop loss under continuous review in light of progress reports from the Investigating Officer.
- consider on receiving a referral whether weaknesses in controls or supervision identified require immediate action to mitigate ongoing risks. The Monitoring Officer shall keep the issue of action to remedy control deficiencies under continuous review in light of progress reports from the Investigating Officer.

If investigations establish that the Council has suffered financial losses as a result of dishonesty, recovery options are, broadly speaking:

- to claim against the relevant insurance policy;
- to take civil action against the individual(s) responsible;
- to make a claim on an employee's accumulated superannuation benefits; or
- to agree recovery terms with the individual(s) responsible.

The Monitoring Officer shall ensure that the Council's Insurance Officer is made aware of potential losses and that any necessary notifications are made to the Council's insurers. The Monitoring Officer shall liaise with the Insurance Officer to ensure that the Council does not, by action or omission, invalidate its insurance cover. The Monitoring Officer shall liaise with the Insurance Officer to ensure that properly quantified claims can be made without delay and that the Council claims to the full extent of its insurance coverage.

The Monitoring Officer shall determine the civil recovery action most likely to remedy losses suffered by the Council.

- in the event that the individual(s) responsible make an offer of restitution issues to be considered would include: whether the amounts offered address fully the Council's losses and costs; and the impact of such an offer on criminal proceedings or proceedings by third parties.
- in the event that the individual(s) responsible are members of the Local Government Superannuation Scheme, the Scheme's Regulations provide for the forfeiture of pension rights after conviction.

REVIEW PROCESS

The Monitoring Officer has a responsibility for the maintenance of the Council's internal control framework. At the conclusion of any investigation of suspected fraud or corruption, the Monitoring Officer shall ensure that a review is undertaken to identify:

- whether there are fundamental weaknesses in the control framework that made that incident of fraud or corruption possible;
- whether there were any failures on the part of management to operate designated controls that allowed the fraud or instance of corruption possible; and
- whether there are any practical opportunities to address those control issues.

The Monitoring Officer will normally commission CMAP to undertake such reviews and the results of any review will be reported to Audit Committee as part of the Annual Governance Statement.

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REPORTING AND ACCOUNTABILITY

The Head of Internal Audit (CMAP) shall maintain a Fraud Log, recording all expressions of concern received by the Monitoring Officer and detailing the response to, and outcome of, each response. The Annual Governance Statement shall contain a summary of those referrals, the responses, and the outcomes. The Annual Governance Statement shall also summarise the results of the reviews commissioned by the Monitoring Officer.

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ASHFIELD DISTRICT COUNCIL

LEGAL SERVICES PROSECUTION POLICY

Director of Legal and Governance (Monitoring Officer)

APPROVED:
Audit Committee – [10 February 2020]

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Deleted: 27 November 2017

REVIEW:
November 2022

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Version Control

Version Number	Date Issued
Original	April 2009
Revised V1	February 2011
Revised V2 & Website	January 2014
Revised V3	Nov 2017
Revised V4	Jan 2020

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BACKGROUND

The Council has a variety of statutory and regulatory functions for which, within its administrative area, it is the relevant enforcing authority.

This policy sets out broad principles that will guide prosecutions. It also seeks to provide consistent guidelines for making decisions to prosecute. It is not intended to be prescriptive or exhaustive. The Council will exercise its discretion when appropriate, about the extent of involvement or action (as applicable) required, looking at each case individually.

This policy is intended to provide broad guidance to officers involved in the charging decisions and prosecution of regulatory offences. In either case, it enables officers to determine the appropriate course of action to take where criminal activity is involved.

POLICY STATEMENT

Ashfield District Council is committed to the highest possible standards of probity and accountability. It is committed to defending the public purse, and the public at large but subject to consideration of the factors set out in this policy.

The Council adopts a presumption in favour of prosecution against perpetrators of criminal conduct, if there is sufficient evidence to initiate a prosecution and taking such action is in the public interest. The Council will treat each case on its own merits.

The same broad principles apply equally to those matters for which the Council has a statutory or regulatory mandate to protect the interests of the wider public.

SCOPE OF THE POLICY

<u>Link to Other Local Policies</u>

A number of departments within the Council with statutory, regulatory or other enforcement powers have in place their own enforcement policies that focus on service specific operational considerations. It is not anticipated that the department policies will conflict with this policy, they are expected to complement this policy, providing detailed operational context specific to the enforcement remit of the relevant service(s) to which they relate. In the event, however, that a conflict may arise, clarification should be sought from the Director of Legal and Governance.

UNDERTAKING OUR OWN PROSECUTIONS

These arise from statutory or regulatory powers vested in the Council, as enforcing authority for specific statutory or regulatory crime within the administrative area of Ashfield. These powers will either arise by way of a power or a duty to act.

A power provides the Council with discretion over whether or not to investigate the commission of an offence. Whatever decision is arrived at must be capable of objective justification. In practice, this translates into assessing what the most appropriate action and/or sanction should be in the circumstances under consideration. Not every case would therefore result in an investigation, or prosecution.

A duty in the event of breach of regulatory or statutory provisions invariably means that there is no discretion afforded to the Council whether or not to investigate the commission of an offence. Therefore when there is a duty to act the Council must act.

Following an investigation, a two-stage test will be undertaken prior to a decision to prosecute being made. First, an assessment of the available evidence **("the evidential test")** to determine whether or not there is enough evidence to secure a realistic prospect of conviction, will be undertaken. This part of the two stage process is a professional assessment and in all cases will be undertaken by officers in Legal Services.

The second part of the test is an assessment of the interests of justice **("the public interest test")** i.e. understanding the extent the public interest needs to see that justice is seen to be done. This assessment will typically be undertaken jointly between officers of the Legal Service and relevant case officers from the service area involved in the investigation of the offence.

Only where **both** the evidential and public interest tests are satisfied will a prosecution ever follow. In coming to a decision the Code for Crown Prosecutors will also be applied.

SANCTIONS

There are a range of sanctions to be considered in deciding the action to take in relation to the public interest test. For each of the sanctions identified below, non-exhaustive examples are provided of the sort of considerations that may be taken into account:

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Take No Action

The Council may consider taking no action in the following circumstances:

- it is a first offence;
- there was voluntary disclosure by the offender;
- the age of the offender (at the date on which action is being considered);
- there are significant physical, mental or other welfare considerations;
- there has been undue delay between the date of the offence and the date on which a decision on sanction is being made, unless the:
    - seriousness of the offence is significant
    - delay is caused wholly or partly by the offender
    - discovery of the offence is recent
    - investigation of the offence has, out of necessity, been lengthy and complex

The relevant test is determining whether the public interest would be best served by proceeding with a prosecution in the circumstances. Each case is to be determined on its own unique facts.

Issue a Local Authority Caution

The Council may consider issuing a caution in the following circumstances:

- it is a first offence;
- the offence is minor;
- the offence was committed as a result of a genuine mistake or misunderstanding, balanced against the seriousness of the offence;
- there was no planning involved/criminality was opportunistic;
- the offence was admitted during an interview under caution;
- genuine expression of remorse/regret by the offender;
- the public interest merit in prosecution is questionable e.g. there might be social, medical or other welfare factors which ordinarily mitigate against a decision to prosecute;
- the offender has put right the loss or harm caused (but care should be taken to ensure offenders do not avoid prosecution solely because they make recompense).

Although across relevant services, cautions may be administered by third tier officers or higher, they should only ever be offered where there is prior assessment by Legal Services that there is sufficient evidence available to secure a conviction. This is because where a caution is offered, and the offender refuses to accept the caution, the case must proceed to prosecution.

A service area register of cautions administered by the Council is held by the Director of the appropriate service department.

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Prosecution

A decision to prosecute will be made where there is sufficient admissible evidence to provide a realistic prospect of conviction which has been properly obtained and there is a public interest to prosecute.

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Other Options

Informal Warnings, cautions or fixed/civil penalties. In appropriate circumstances, these may be suitable methods of disposal following an investigation. The enforcement of the service area policies will detail which alternative options are available to individual services within the Council. Their application in service specific contexts should not be construed as being inconsistent with this policy.

Appendix A contains a suggested checklist for use in assessing the appropriate sanction in any given case and explains the rationale to be used in assessing whether or not to refer a matter for prosecution. It should be noted that this list is not exhaustive.

LIAISON & COOPERATION WITH OTHER AGENCIES

The Council may liaise with other agencies as necessary (e.g. the Police, Crown Prosecution Service, Social Services) concerning a potential prosecution.

There will be occasions when it is necessary to undertake multi-agency investigations and/or prosecutions because criminal activity or statutory/regulatory breaches cut across the remit of other agencies in addition to the Council. Examples include prosecutions where offences have been committed in neighbouring authorities.

Between the Council service or directorate involved in such initiative and the external organisation, arrangements exist to identify which authority will be the lead within the operation. Where the Council service is the lead, this prosecution policy will apply to the prosecution of offenders resulting from the operation.

MONITORING OF POLICY STATEMENT & GUIDANCE

This policy and guidance will be reviewed every three years by the Director of Legal and Governance.

Appendix A

Procedural Guidance

Introduction

This table below explains the rationale to be used in assessing whether or not to refer a matter for prosecution or, as may be the case, whether or not to prosecute.

Issue	**Points to consider**	**Yes/No**[1]
Evidence	Is there sufficient evidence to secure a realistic prospect of conviction	
	Is all the evidence admissible?	
	Has all the evidence been obtained appropriately?	
	Has the evidence been reviewed by Legal Services?	
Degree of criminality	How was the offence committed?	
	Was it opportunist?	
	How much planning went into the offence?	
	Was this a deliberate offence?	
	Was there collusion?	
Persistent offender	Has the offender previously been convicted of a similar or other relevant offence?	
	Has the offender previously committed a similar or other relevant offence, for which they received a sanction (other than conviction following a prosecution)?	
Position of Trust	Is the offender in a position of trust?	
Duration	How long did the offence continue?	

Voluntary disclosure	How did the offence come to the attention of the Council?	
	Was the offence admitted at the earliest opportunity?	
	Did the offender lie?	
Widespread offence	Is the offence part of a local trend?	
Social/Medical factors	Are there any mitigating personal circumstances?	
	Are there any mental or physical disabilities? (Evidence must be provided by a medical professional)	
	Is the perpetrator fit to stand trial? (Evidence will be required from a medical professional and may ultimately be a question for the court to determine)	
	Would sanction significantly impact on children or other vulnerable person(s)?	
Equality considerations Public Interest	Do the factual circumstances impact on one or more of the equality strands in the Equality Act 2010?	
	What value is there for the Council and/or the general public for a prosecution to proceed?	

ASHFIELD DISTRICT COUNCIL

WHISTLEBLOWING POLICY

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Director of Legal and Governance
(Monitoring Officer)

APPROVED:
Audit Committee – [10 February 2020]
Standards Committee – [18 March 2020]

Deleted: 1 March
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REVIEW:
March 2020

Version Control

Version Number	Detail
Original	January 2008
Revised V1	January 2011
Revised V2 due	1st July 2013
Revised V2 (Website)	25 February 2014
Revised V3	14th April, 2014
Revised V4	20 July 2015
Revised V5	14 March 2016
Revised V6	28 March 2018
Revised V7	18 March 2019
Revised V8	[18 March 2020]

WHISTLEBLOWING POLICY

1. Introduction

1.1 All of us at one time or another has concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice or dangers to the public or the environment, it can be difficult to know what to do.

1.2 You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the organisation. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do.

1.3 Ashfield District Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees and others with serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis. This policy document makes it clear that you can do so without fear of reprisals. This Whistleblowing Policy is intended to encourage and enable you to raise serious concerns within the Council rather than overlooking a problem or reporting it outside.

2. Aims of this Policy

2.1 This policy aims to:

- encourage you to feel confident in raising concerns at the earliest opportunity
- provide avenues for you to raise concerns and receive feedback on any action taken
- allow you to take the matter further if you are dissatisfied with the Council's response
- reassure you that you will be protected from reprisals or victimisation for whistleblowing in good faith

3. Scope of this Policy

3.1 In this Policy, "Whistleblowing" means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council.

3.2 This Policy is intended to enable those who become aware of wrongdoing in the Council affecting some other person or service, to report their concerns at the earliest opportunity.

3.3 The Policy is not intended to replace existing procedures:

- If your concern relates to your own treatment as an employee, you should raise it under the existing grievance or harassment procedures

- If a member of the public has a concern about services provided to him/her, it should be raised as a complaint to the Council
- Complaints of misconduct by Councillors are dealt with under a separate procedure (the Monitoring Officer can advise you in relation to this process)

3.3 Under this Policy you should report any serious concerns that you have about service provision or the conduct of officers or Council Members or others acting on behalf of the Council that:

- make you feel uncomfortable in terms of known standards
- are not in keeping with the Council's Standing Orders and policies
- fall below the established standards of practice
- is improper behaviour

The concern may be something that relates to:

- conduct which is an offence or a breach of the law
- disclosures relating to miscarriages of justice
- the deliberate breaching of a Council policy or official code or regulation
- misuse of public funds or other assets
- possible fraud or corruption
- the endangering of health and safety of the public and/or other employees,
- damage to the environment
- the deliberate concealment of information which would constitute evidence of any of the above

4. Safeguards

Your Legal Rights

4.1 This policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in good faith.

The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

Rarely, a case might arise where it is the employee that has participated in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Council cannot promise not to act against such an employee, but the fact that they came forward may be taken into account.

Harassment or Victimisation

4.2 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith. The Council's disciplinary procedures will be used against any employee who is found to be harassing or victimising the person raising the concern or who has disclosed the name of the whistleblower to any person other than those named in this document.

Confidentiality

4.3 The Council will do its best to protect a person's identity when a concern is raised. During the course of an investigation attempts will be made to find independent corroborating evidence to allow a person's identity to remain confidential. However, it must be recognised that in some circumstances identities will have to be revealed to the person the allegation is made against and those making the allegation may be asked to provide written or verbal evidence in support of the allegation. If the matter is reported to the Police or another external body they may be unable to guarantee to withhold a person's identity.

4.4 If a person's identity is to be disclosed, he or she will be told before the disclosure and the reasons why disclosure is necessary. The Council will offer advice and guidance on the procedures and arrangements in the event of a person having to give evidence to an external body or in court.

Anonymous Allegations

4.5 This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Monitoring Officer in consultation with the Chief Executive Officer.

4.6 In exercising the discretion, the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources

If you choose to use this method of reporting, the allegation should contain as much information as possible to ensure the allegation is considered as a credible concern that requires further investigation.

Untrue Allegations

4.7 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations appropriate action that could include disciplinary action may be taken against you. It will be a matter for the Monitoring Officer to form a view of whether an allegation has been made maliciously or vexatiously and to refer her view to the relevant Director if disciplinary action needs to be considered.

5. How to raise a concern

Make an immediate note of your concern

5.1 Note all relevant details. Set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation.

Reporting your concern

5.2 This will depend on the seriousness and sensitivity of the issues involved or who is thought to be involved in the malpractice. You should normally raise concerns initially with your line manager or Director. If this is not appropriate you should contact:

Position	Contact	E-mail
Chief Executive	(01623) 457250	c.cooper-smith@ashfield.gov.uk
Monitoring Officer	(01623) 457009	r.dennis@ashfield.gov.uk

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Field Code Changed

If you suspect fraud or corruption you may also approach the officer detailed below. This is consistent with the Council's Financial Regulations and the Anti-Fraud and Corruption Strategy.

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Position	Contact	E-mail
Chief Finance Officer	(01623) 457362	p.hudson@ashfield.gov.uk

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You may also inform:

Position	Contact
Head of Law and Governance (Monitoring Officer) at Mansfield District Council	(01623) 463463

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5.3 You can raise your concerns in writing, by telephone or in person. All correspondence should be addressed to the Monitoring Officer and marked 'Strictly Private and Confidential' and sent to:

The Monitoring Officer
Ashfield District Council
Council Offices
Urban Road
Kirkby-in-Ashfield
Nottingham
NG17 8DA

5.4 The earlier you express the concern, the easier it is to take action.

5.5 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

5.6 You may wish to consider raising your concern with a colleague first and you may find it easier to do so if there are two (or more) of you who have shared the same experience or concerns.

5.7 You may invite your trade union or professional association to raise a matter on your behalf. It is expected that in the first instance the procedure detailed at 5.2 will be followed.

6. What the Council will do

6.1 The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally
- be investigated by Internal Audit (Central Midlands Audit Partnership)
- be referred to the Police
- be referred to the external auditor
- form the subject of an independent inquiry

6.2 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, discrimination issues) will normally be referred for consideration under those procedures.

6.3 Some concerns may be resolved by agreed action without the need for investigation.

6.4 Where the concern has been raised includes a contact name and address, then within ten working days of a concern being received, the Council will write to you:

- acknowledging that the concern has been received
- indicating how it proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made
- telling you if further investigations will take place, and if not, why not

6.5 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

6.6 When any meeting is arranged, you have the right, if you so wish, to be accompanied by a Trade Union or professional association representative or a workplace colleague who is not involved in the area of work to which the concern relates. If you wish, the meeting may take place away from the Council Offices.

6.7 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.

6.8 The person investigating the concerns will produce a written report that:

- outlines the concerns/allegations
- details the investigation procedure
- gives the outcomes of the investigation
- details recommendations where appropriate

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6.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

7. How the matter can be taken further

7.1 This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- A Councillor of Ashfield District Council
- A prescribed person - See Gov.uk Guidance – Whistleblowing: List of prescribed people and bodies
  Website: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2
- The Comptroller and Auditor General
  The Comptroller and Auditor General
  National Audit Office
  157-197 Buckingham Palace Road
  London
  SW1W 9SP
  Tel: 020 7798 7999
  Website: www.nao.org.uk/contact-us/whistleblowing-disclosures/
- The independent charity Public Concern at Work on
  Work Helpline: (020) 7404 6609
  E-mail: whistle@pcaw.co.uk
  Website: www.pcaw.co.uk
- ACAS
  Helpline number: 0300 123 1100 Monday-Friday: 8am-8pm and Saturday 9am-1pm
  Website: http://www.acas.org.uk/index.aspx?articleid=1919
- A Solicitor
- The Police
- Your Local Member of Parliament

If you raise concerns outside the Council you should ensure that it is to one of these contacts. A public disclosure to anyone else could take you outside the protection of the Public Disclosure Act and of this Policy. **When raising a concern externally**

remember to make it clear that you are raising the issue as a whistleblower; this gives you additional statutory rights.

You should not disclose information that is confidential to the Council or to anyone else, except to those included in the list of contacts.

8. The Responsible Officer

8.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. This officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report these to the Standards and Personnel Appeals Committee and the Audit Committee once a year. The Whistleblowing Policy will also be reviewed on bi-annual basis.

ASHFIELD DISTRICT COUNCIL

ASHFIELD DISTRICT COUNCIL

LOCAL CODE OF CORPORATE GOVERNANCE

Director of Legal and Governance
(Monitoring Officer)

APPROVED:
Audit Committee – [10 February 2020]

REVIEW:
November 2021

Deleted: 019

Version Control

Version Number	Date Issued
Original	November 2017
V2	December 2018
Revised v3	February 2020

Introduction

Governance ensures organisations are doing the right things in the correct manner in an open, honest, inclusive and accountable way. Good governance leads to good management, performance and outcomes. It ensures the Council delivers the visions and priorities set out in its Corporate Plan.

Corporate governance is part of the overall control framework and contributes to the Council's robust governance arrangements.

Ashfield District Council is committed to good corporate governance. The Council has a framework of policies and procedures in place which collectively make up its governance arrangements. This Local Code of Corporate Governance sets out the Council's arrangements and is based on the guidance "*Delivering Good Governance in Local Government*" published by CIPFA (the Chartered Institute of Public Finance and Accountancy) and SOLACE (the Society of Local Authority Chief Executives) in 2016.

The Guidance assumes that each Council will develop its own approach to governance, ensuring its resources are directed to its individual priorities and in accordance with its own policies.

The fundamental principles of corporate governance are openness, inclusivity, integrity and accountability. The CIPFA/SOLACE guidance identifies seven core principles and various sub principles; the Council's Local Code of Corporate Governance is based on these seven core principles.

The seven principles are:

- Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law
- Ensuring openness and comprehensive stakeholder engagement
- Defining outcomes in terms of sustainable economic, social and environmental benefits
- Determining the interventions necessary to optimise the achievement of the intended outcomes
- Developing the Council's capacity, including the capability of its leadership and the individuals within it
- Managing risks and performance through robust internal control and strong public financial management
- Implementing good practices in transparency, reporting and audit to deliver effective accountability

The Code sets out the documents, systems, processes and actions the Council undertakes to fulfil its commitment to and compliance with this Code. The Code supports the Council's review of the effectiveness of its system of internal control and informs the Annual Governance Statement which accompanies the Annual Statement of Accounts.

The Audit Committee is responsible for approving the Code. The Chief Executive and the Monitoring Officer are responsible for ensuring the Code is kept up to date and reviewed annually.

The Principles

The Council aims to achieve good standards of governance by:

A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
B. Ensuring openness and comprehensive stakeholder engagement
C. Defining outcomes in terms of sustainable economic, social, and environmental benefits
D. Determining the interventions necessary to optimise the achievement of the intended outcomes
E. Developing the entity's capacity, including the capability of its leadership and the individuals within it
F. Managing risks and performance through robust control and strong public financial management
G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability

Putting principles into effect

	Principle	This will be achieved by
A	Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law	• Corporate Plan • The Constitution • Member's Code of Conduct • Employees' Code of Conduct • Anti-Fraud and Corruption Policy & Strategy • Equalities policies • Whistle-blowing Policy • Anti-Bribery Policy Statement and Procedures • Anti-Money Laundering Policy Statement and Procedures • Member/Officer Protocol • Registers of Interests – Members and officers • Registers of Gifts and Hospitality • Officer and Member development strategies • Corporate Complaints procedures • Modern Slavery and Human Trafficking Transparency Statement • Modern Slavery and Human Trafficking Policy Statement • Member Complaints Process • Annual Governance Statement • Financial Regulations • Contract Procedure Rules • Social Media Policy – Members and officers • Standards and Personnel Appeals Committee • Overview and Scrutiny function • Audit Committee • Licensing Committee • Planning Committee • Report template for decision-making which incorporates financial, legal, HR, equalities and risk appraisal. Each of the statutory officers is able to operate with the appropriate independence; the organisational culture respects and supports their integrity and provides the staffing arrangements to support their work.
B	Ensuring openness and comprehensive stakeholder engagement	• The Constitution • Corporate Plan • Community Engagement and Consultation Strategy • Forward Plan

		- Council Website – includes meeting agendas and minutes of current and archived meetings and decisions - Public Questions at Council - Public speaking at Planning Committee - Petition Scheme - Publications Scheme - Overview and Scrutiny functions - Council Social Media - Citizens' Panel - Engagement with Youth Forum - Ashfield Community Partnership - Co-location with DWP and Police - Partnership Protocols - Formal shared service arrangements - External audit assessment of Value for Money - Satisfaction Surveys - Budget consultation/engagement - The Council's booklet "*Ashfield Matters*"
C	Defining outcomes in terms of sustainable economic, social, and environmental benefits	- Corporate Plan - Forward Plan - Corporate report templates including legal, financial, Human Resource, equalities and risk appraisal - Corporate Risk Management framework - Audit Committee review of risks - MTFS - Capital Programme including Capital Gateway assessment process - Project Management Framework - Business Case development - Weighted Benefit Model - Service Plans - Performance management processes - Contract Procedure Rules - Procurement Strategy
D	Determining the interventions necessary to optimise the achievement of the intended outcomes	- The achievement of its Corporate Plan objectives are planned through a number of Programme Boards, which encompass: - Regeneration - Commercial Investment Working Group

		○ Digital and Service Transformation Board ○ Health and Well Being ○ Discover Ashfield ○ Efficiency • Business cases • Project framework • Weighted Benefit Mode • MTFS, capital programme • Budget setting and monitoring processes • Corporate report templates including legal, financial, human resource and risk appraisal • Council's website • Overview and Scrutiny functions • Consultation arrangements • Service Plans • Weekly Corporate Leadership Team meetings • Regular Senior Leadership Team Meetings • Directorate Management Team meetings • 1-2-1 meetings • Performance framework and reporting • Value for Money assessment by external auditor
E	Developing the entity's capacity, including the capability of its leadership and the individuals within it	• Corporate Plan • The Constitution • Members' Code of Conduct • Employees' Code of Conduct • Equalities policies • Officer and Member development strategies • Personal Development Reviews • Officer Competency framework • Clearly defined roles – job descriptions, person specifications • Recruitment and selection procedures • Staff surveys • Cross Party Update Group • Peer Challenge
F	Managing risks and performance through robust internal control and strong public financial management	• Corporate Risk Register is regularly updated and considered by the Audit Committee • Directorate risk registers • Performance monitoring and reporting

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		• Corporate report templates including legal, financial, human resource, equalities and risk appraisal • Overview and Scrutiny function • MTFS • Capital Programme • Financial Regulations • Budget reporting and monitoring • Anti-Fraud and Corruption Policy & Strategy • Equalities policies • Whistle-blowing Policy • Anti-Bribery Policy Statement and Procedures • Anti-Money Laundering Policy Statement and Procedures • Emergency Planning and procedures and Business Continuity Plans • Information management policies and procedures including implementation of GDPR • Publication Scheme • Procurement Strategy • Contract Procedure Rules • Assessment of Value for Money by external auditors • Health and Safety Policies and Procedures
G	Implementing good practices in transparency, reporting, and audit to deliver effective accountability	• Council's website and social media channels • Council Website – includes meeting agendas and minutes of current and archived meetings and decisions • Community Engagement and Consultation Strategy • Pay Policy published • Publication Scheme • Local Code of Corporate Governance – updated annually • Annual Governance Statement and Corporate Assurance Checklist are updated annually • Reporting of performance • Publication of Annual Report and Statement of Accounts • External auditors annual audit letter is published • Audit Committee

		• Peer Challenge

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