

Notice of Audit and Governance Committee



Date: Thursday, 16 February 2023 at 6.00 pm

Venue: Committee Room, First Floor, BCP Civic Centre Annex, St Stephen's Rd, Bournemouth BH2 6LL

Membership:

Chairman:

Cllr J Beesley

Vice Chairman:

Cllr L Fear

Cllr M F Brooke
Cllr D Butt
Cllr M Cox

Cllr A Filer
Cllr M Howell
Cllr T Johnson

Cllr M Phipps

All Members of the Audit and Governance Committee are summoned to attend this meeting to consider the items of business set out on the agenda below.

The press and public are welcome to view the live stream of this meeting at the following link:

<https://democracy.bcpCouncil.gov.uk/ieListDocuments.aspx?MIId=5406>

If you would like any further information on the items to be considered at the meeting please contact: Democratic Services on 01202 096660 or email democratic.services@bcpCouncil.gov.uk

Press enquiries should be directed to the Press Office: Tel: 01202 118686 or email press.office@bcpCouncil.gov.uk

This notice and all the papers mentioned within it are available at democracy.bcpCouncil.gov.uk

GRAHAM FARRANT
CHIEF EXECUTIVE

8 February 2023



Maintaining and promoting high standards of conduct

Declaring interests at meetings

Familiarise yourself with the Councillor Code of Conduct which can be found in Part 6 of the Council's Constitution.

Before the meeting, read the agenda and reports to see if the matters to be discussed at the meeting concern your interests



What are the principles of bias and pre-determination and how do they affect my participation in the meeting?

Bias and predetermination are common law concepts. If they affect you, your participation in the meeting may call into question the decision arrived at on the item.

Bias Test

In all the circumstances, would it lead a fair minded and informed observer to conclude that there was a real possibility or a real danger that the decision maker was biased?

Predetermination Test

At the time of making the decision, did the decision maker have a closed mind?

If a councillor appears to be biased or to have predetermined their decision, they must NOT participate in the meeting.

For more information or advice please contact the Monitoring Officer
(susan.zeiss@bcpcouncil.gov.uk)

Selflessness

Councillors should act solely in terms of the public interest

Integrity

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

Objectivity

Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

Accountability

Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this

Openness

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

Honesty & Integrity

Councillors should act with honesty and integrity and should not place themselves in situations where their honesty and integrity may be questioned

Leadership

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

AGENDA

Items to be considered while the meeting is open to the public

1. **Apologies**

To receive any apologies for absence from Councillors.

2. **Substitute Members**

To receive information on any changes in the membership of the Committee.

Note – When a member of a Committee is unable to attend a meeting of a Committee or Sub-Committee, the relevant Political Group Leader (or their nominated representative) may, by notice to the Monitoring Officer (or their nominated representative) prior to the meeting, appoint a substitute member from within the same Political Group. The contact details on the front of this agenda should be used for notifications.

3. **Declarations of Interests**

Councillors are requested to declare any interests on items included in this agenda. Please refer to the workflow on the preceding page for guidance.

Declarations received will be reported at the meeting.

4. **Confirmation of Minutes**

To confirm as a correct record the minutes of the Meeting held on 12 January 2023.

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5. **Public Issues**

To receive any public questions, statements or petitions submitted in accordance with the Constitution. Further information on the requirements for submitting these is available to view at the following link:-

<https://democracy.bcpccouncil.gov.uk/ieListMeetings.aspx?CommitteeID=151&Info=1&bcr=1>

The deadline for the submission of public questions is 4 clear working days before the meeting.

The deadline for the submission of a statement is midday the working day before the meeting.

The deadline for the submission of a petition is 10 working days before the meeting.

6. **External Auditor Update**

There will be a verbal update from the Council's external auditor Grant Thornton.

7. **Annual evolution of Policies for 2023/24 : Whistleblowing Policy, Anti-Fraud & Corruption Policy, Declaration of Interests, Gifts & Hospitality Policy and the Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy**

An annual review of the Council's:

- Anti-Fraud & Corruption Policy,
- Whistleblowing Policy,
- Declaration of Interests, Gifts & Hospitality Policy (for Officers)
- Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy

has taken place to ensure they are updated in line with best practice and legislation.

Some minor changes have been made to the Council's **Anti-Fraud & Corruption Policy** including updating manager guidance to clarify arrangements for contacting the Police and the Insurance Team where a theft or burglary has occurred. Appendix C of the policy 'Anti-Money Laundering Requirements' has also been updated with additional possible indicators of money laundering to look out for and an updated link to relevant legislation.

The **Whistleblowing Policy** has been updated with some minor changes including amendments to the outcome template letter, an updated Children's safeguarding contact number and Employment Rights Act legislation reference. Some minor amendments have also been made to the Seven Stage Whistleblowing Policy (Appendix 1) to clarify the process. In addition in Section 6 of the policy 'How Is This Policy Implemented' the process to follow if the individual is dissatisfied with the outcome response or the process followed has been highlighted.

Some changes have been made to the Council's **Declaration of Interests, Gifts & Hospitality Policy (for Officers)** including a clearer statement that the Council requires all employees to consider their specific job role, not just their Council employment and personal circumstance when deciding whether to make a declaration. Guidance has been added on the Council giving/ receiving donations and clarification made for giving/receiving sponsorship. Additional clarification has also been made of terms used regarding officer tiers in Appendix A.

The **Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy** has been updated with some minor changes to include reference & links to Home Office Code of Practices for Covert Surveillance and Property interference (Aug 2018), Interception of Communications (Dec 2022) and Covert Human Intelligence Sources (Dec 2022). Links to other relevant legislation have also been added throughout the document.

8. Financial Regulations - Annual evolution for 2023/24

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Evolutionary changes to the Council's Financial Regulations are summarised in this report and shown in red text throughout the document at Appendix A and include:

A very minor clarification for maintained schools has been added, using waiver sign off as an example, to recognise schools have the ability to sign off certain financial matters according to their own schemes of delegation hierarchy.

References to Poole Housing Partnership managing the Poole locality side of the Housing Revenue Account have been removed.

Part G, Procurement and Contract Procedures, has been subject to layout changes to the format, numbering and ordering to more naturally follow the order of activity associated in a procurement process and to align to the 'Government Commissioning & Procurement Playbook'.

For simplicity the whole of Part G has been shown in red text, to indicate a change from previous versions, but the actual requirements in the context of what is expected of Council staff when commissioning and procuring works, goods and services are not fundamentally different.

There are three changes to the Corporate Schedule of Financial Delegations, Appendix 1 to the Regulations. These changes include :

- Revenue Virement delegation clarification (RV6)
- A new expenditure delegation (EX13) for special severance payments to align with statutory guidance (May 2022)

Expansion of a previous delegation, covering only business rates, to now include Council Tax and any other tax rebate relief (TR1) where the Council must implement a fully funded government programme or scheme.

9. Review of the Council's Constitution - Recommendations of the Constitution Review Working Group

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The report summarises the issues considered by the Constitution Review Working Group and sets out a series of recommendations arising from the Working Group for consideration by the Committee.

Any recommendations arising from the Committee shall be referred to full Council for adoption.

10. Next meeting

The next meeting of the Committee will be on Thursday 09 March 2023 at 6pm.

No other items of business can be considered unless the Chairman decides the matter is urgent for reasons that must be specified and recorded in the Minutes.

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BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
AUDIT AND GOVERNANCE COMMITTEE

Minutes of the Meeting held on 12 January 2023 at 6.00 pm

Present:-

Cllr J Beesley – Chairman

Cllr L Fear – Vice-Chairman

Present: Cllr M F Brooke, Cllr D Butt, Cllr M Howell, Cllr T Johnson and
Cllr M Phipps

163. Apologies

There were no apologies for absence.
Councillor M Cox and Councillor A Filer were present at the meeting on a virtual basis (without entitlement to vote).

164. Substitute Members

There were no appointed substitute members.

165. Declarations of Interests

There were no declarations of interest.

166. Confirmation of Minutes

RESOLVED that the Minutes of the meeting of the Committee on 01 December 2022 be confirmed as a correct record.

167. Public Issues

There were no public issues.

168. External Auditor – Audit Progress & Sector Update

Grant Thornton, as the Council's appointed External Auditors, presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'A' to these Minutes in the Minute Book, providing an update for the Committee on progress to date in delivering their responsibilities.

The report included an update on both their 2020/21 and 2021/22 audit work particularly the two substantive issues which had been causing delay in completion of the 2020/21 audit opinion.

In relation to the Financial Statements Audit 2020/21, the Committee was informed that, since the last meeting of the Committee, progress had been made following the formal issue, in November 2022, of a Statutory

Instrument that came into effect on 25 December 2022 and which imposed a Statutory Override. It was explained that the implication was to effectively take infrastructure outside the scope of the audit. The new arrangement had been underpinned by CIPFA guidance and training to support implementation and the aspiration was that this part of the audit work could now be completed by the end of January 2023.

In respect of the outstanding issue of the Dorset Pension Fund audit by Dorset Council's external auditors it was reported that, following eventual receipt in October 2022 of the necessary letter of assurance, an error had been identified which may impact upon the accounts of the BCP Council. The effect of this was being addressed and processed at Officer level through a series of meetings and a clearer way forward was reported to have now been identified.

The Committee was reminded of the presentation of the Auditor's Annual Report for 2020/21 to a special meeting of the Audit and Governance Committee on 20 October 2022. The Committee was also provided with details of other statutory audits which had been completed and was provided with information about the processing and receipt of public objections to the accounts. Assurance was given that each objection or public communication was carefully considered. Members questioned the Auditor about his approach to issues raised and it was explained that the Auditor's primary interest and focus was to ensure the proper recording of expenditure within a strictly limited remit and timeframe. Although this remit was extended by the Auditor's additional Value for Money ('VfM') responsibilities, the stated preference was, wherever possible, to resolve issues through a process of consultation between the public and the Council before incurring the costs of additional work at the audit level. Members of the Committee underlined the importance that they considered needed to be placed upon this public element of the audit process and examples of specific concerns being raised were highlighted.

Work on the 2021/22 financial statements audit was reported to have commenced although the Committee was advised that the allocated Audit Manager within Grant Thornton had submitted his resignation and would be leaving the company in January 2023. On this basis, Grant Thornton reported that they had decided to pause work on the 2021/22 audit whilst the complex task of sourcing an appropriately qualified and experienced replacement was undertaken within a difficult market for recruitment. Members of the Committee expressed considerable concern at this development and about the potential impact on BCP Council of the resulting pause and a number of alternative options were discussed.

The Chairman of the Committee advised that, in parallel with discussion at the Committee, meetings at senior Member and Officer level had taken place and gave assurance that there was close involvement in identification of an acceptable and pragmatic way forward. This also aimed to ensure, on behalf of the Committee, that best endeavours were being deployed by Grant Thornton towards sourcing an appropriate individual and to recommencing the audit work as soon as possible. Grant Thornton also

confirmed the level of priority that would be given to the BCP Council auditing work once a new employee was in place. The Chairman offered further meetings with the Auditors if necessary and undertook to provide the meetings of the Committee in February and in March with an update as well as keeping Members updated directly if there was any progress in the interim.

The report also included by way of the regular Sector Update a summary of emerging national issues and developments that may be relevant to the Council.

RESOLVED that the Audit and Governance Committee notes the External Auditor's progress to date in delivering their responsibilities and the sector update provided.

Voting Unanimous

169. Treasury Management Monitoring report for the period April to December 2022 and Treasury Management Strategy 2023/24

The Assistant Chief Financial Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'B' to these Minutes in the Minute Book. Members noted an amendment to the tabulation in paragraph 52 of the report a copy of which had been circulated prior to the meeting. The Committee was reminded of the requirement under the Chartered Institute of Public Finance and Accountancy ('CIPFA') Treasury Management Code of Practice that regular monitoring of the Treasury Management function was reported to Members. The report included a summary of the contextual economic background and a tabulation of interest rate projections provided by the Council's Treasury Consultants. Summaries of the Council's borrowings and investments as at 31 December 2022 were also provided. There was confirmation of compliance with Prudential Code indicators during the period April to November 2022.

The Committee received a statement of the Council's overall Treasury Management position for 2022/23 and noted the prediction of an underspend of £2m reflecting the increase in interest rates and the continuing receipt of significant grants from Central Government.

Members were reminded of the CIPFA requirement to produce an annual Treasury Management Strategy and the Strategy for 2023/24 was set out with the report. It was explained that recent changes in the CIPFA Treasury Arrangements and Prudential Codes required a number of changes to the Strategy and these were outlined. The key changes were adoption of a new treasury benchmark indicator, amendments to the knowledge and skills register for members and officers involved in the function and changes to quarterly reporting arrangements. It was also noted that, going forward, Environmental, Social and Governance ('ESG') issues would be addressed within treasury management policies and practices.

The Chairman recorded his thanks for the work and achievements of the Treasury Management team over the reporting period.

RESOLVED that Audit and Governance Committee

- a) notes the reported activity of the Treasury Management function for the period ending 31 December 2022;**
- b) approves the Treasury Management Strategy 2023/24 and Treasury Management Policy, Practices and Schedules included in Appendix 1 and 2 of the report to the Committee.**

Voting: For - 4, Against – 0; Abstain – 3.

170. Risk Management – Corporate Risk Register Update

On behalf of the Risk and Insurance Manager, the Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'C' to these Minutes in the Minute Book.

The report provided the latest quarterly update on corporate risk and Members were reminded that the previously agreed revised reporting format now included a 'direction of travel' risk scoring and, in respect of each risk, included reference to the adopted risk response category. Definition of the four category types were set out and explained. The Committee was also informed that, as part of continuing development in terms of the reporting of risk registers, the format of the report for the Committee now also included a section for each risk which outlined the link to the relevant Corporate Objective(s).

Presentations had been made to a special meeting of the Committee on 01 December 2022 regarding corporate risks CR13 (Failure to deliver the transformation programme) and CR20 (Failure to adequately deliver the ambitions of the climate change emergency declaration) and the changes identified by the Committee at that time had been incorporated.

The Committee was advised of material updates to the register made during the quarter in addition to the updates made on an ongoing basis. These included changes to corporate risks CR15 (Effective People Strategy), CR8 (Inability to run an election/referendum) and CR15 (Risk to Reputation of Place & Council if summer arrangements are not managed).

In respect of risk CR8 (Inability to run an election/referendum) it was explained that it was usual to escalate the risk in the period of the run up to Local Elections. Members were also informed that risk CR17 (Risk to reputation of Place and Council if summer arrangements are not managed) had reverted to Service level.

In relation to CR20 (Failure to adequately deliver the ambitions of the climate emergency declaration), the Committee requested information

about the proposed timeframe for consideration of a specific planned response and Action Plan and a timetable would be provided setting out the timetable for consideration through Overview and Scrutiny and Cabinet leading to a report to the Council meeting on 21 March 2023.

The Committee identified issues relating to corporate risk CR19 (Determination of planning applications) where further clarification would be provided.

There was also discussion about whether the issues relating to completion of the audit of accounts should be included as a corporate risk. The Chairman assured the Committee that all the steps being taken to resolve this important issue were being carefully recorded and consistently reported through to the Committee in order that effective monitoring of the situation was maintained at Audit and Governance Committee level with appropriate and relevant senior Members and Officers closely involved.

RESOLVED that the Audit and Governance Committee notes the update provided in this report relating to Corporate Risks.

Voting: Unanimous

171. Annual Governance Statement 2021/22 – Action Plan and update

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'D' to these Minutes in the Minute Book.

Members were reminded of the Audit and Governance Committee responsibility for considering the arrangements for Corporate Governance including reviewing and approving the Annual Governance Statement ('AGS') Action Plan which identified actions to be taken to address the significant governance issues identified in the 2021/22 AGS.

Progress against the agreed Action Plan was reported to the Committee. In particular the improvement journey of Children's Social Services was monitored through various Officer and Councillor forums, including the Improvement Board and Children's Overview and Scrutiny Committee, and externally through the Department for Education ('DfE') Advisor and Ofsted. In relation to relationships with external bodies, various governance arrangements were being comprehensively reviewed to including updating of documentation and, in addition, a Parks Governance review being undertaken by a Council Senior Solicitor was expected to conclude by the end of March 2023. It was reported that draft documentation, including definitions, guidance, templates and registers relating to Partnerships had also been produced, with agreement, adoption and roll out expected by the agreed action plan date of March 2023.

Members were reminded that factors outside the control of the Council which were giving rise to delay in completion of the 2020/21 external audit were not part of the Action Plan itself although were reflected within the AGS as a 'significant governance issue'. The Committee were of the view

that the broader subject of external audit and particularly auditing the statement of accounts was something that should be considered by the new Council following the elections in May.

The updated Financial Management Code self-assessment reported in July 2022 concluded that BCP Council was compliant with the Code. Some identified further opportunities for improvement had been identified and actions in progress would be concluded at various points during 2023.

It was reported that the AGS was required to cover the year ending 31 March 2022 but also up to “the date of the publication of the Statement of Accounts”. As the publication of Statement of Accounts had been delayed, the report also considered whether any additional significant governance issues have arisen which required inclusion in the 2021/22 AGS. Two issues, public inspection feedback and financial sustainability, were accordingly considered and explanations provided within the report which meant that the AGS 2021/22 would remain unchanged from when it was reported to the Committee on 28 July 2022.

In response to issues raised by Members, the Chief Executive confirmed that any Members who considered that there were significant governance issues or weaknesses could meet with him to discuss issues of concern and that, if appropriate, further areas of work for the Committee would be identified. The Chairman of the Committee would be kept informed of issues raised and comparison with best practice nationally taken into account. This was already happening as the Council's Constitution was being reviewed with best practice and specialist advice a central element of the review process.

RESOLVED that Audit and Governance Committee notes:

- a) the progress made to address the significant governance issues on the BCP Council AGS Action Plan 2021/22 and the opportunities for further improvement in line with the Financial Management Code;**
- b) that the wording in the AGS 2020/21 for the delay in the completion of the 2020/21 external audit has been slightly amended to include the delay caused by receiving required confirmation from the auditor of the Dorset Pension Fund;**
- c) the feedback from the public inspection period and other potential significant governance issues which may have arisen since the publication of the draft have been considered and that no amendment to the AGS 2021/22 has been made.**

Voting: Unanimous

172. Assurance Framework & Internal Audit Planning Consultation 2023/24

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'E' to these Minutes in the Minute Book.

Members were reminded that the report represented an opportunity to consult with the Audit and Governance Committee before bringing a final report back to the Committee in March 2023. In compliance with the Public Sector Internal Audit Standards the report outlined the BCP Assurance Framework and the proposed approach for the 2023/24 Internal Audit Plan.

It was reported that the Assurance Framework had been updated in line with the best practice 'Three Line' model which explained how key organisational roles should work together to facilitate, and provide assurance upon, strong governance and risk management.

Sixteen key assurance functions had been identified and, for each of these, 'first line' responsibility for management of risk management and governance processes had been identified. The 'second line' set out corporate and management oversight, including advice, expertise, and compliance, and the 'third line', Internal Audit. It also identified those instances where some external assurance sources existed. It was explained that the Assurance Framework was also used to help develop the Internal Audit Plan.

The proposed 2023/24 Internal Audit Plan approach showed the amount of resource required to provide core audit work (including high risk, key assurance and key financial audits) and fraud work and, subject to budget approval, would remain materially the same as 2022/23.

This resource was considered sufficient to be able to deliver the Chief Internal Auditor's Annual Opinion. It was noted that there would be a minor decrease in overall level of resource, mainly due to the reduction in use of agency staff and some minor variances in resource allocation, for example, to support the Council's equality work.

The Committee commented on the high level allocation of resource and delivery approach within the proposed draft 2023/24 Internal Audit Plan.

RESOLVED that Audit and Governance Committee agrees the BCP Council Assurance Framework.

Voting: Unanimous

173. Internal Audit - Quarterly Audit Plan Update

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'F' to these Minutes in the Minute Book.

The report detailed progress made on delivery of the 2022/23 Audit Plan for the period October to December (inclusive) 2022. Eleven audit

assignments were reported to have been completed with ten 'Reasonable' audit opinions and one 'Partial' audit opinion. Twenty-two audit assignments were in progress. Implementation of audit recommendations was satisfactory and none have required escalation to Audit and Governance Committee.

The results of a 'light touch' review of Government issued guidance on the making and disclosure of special severance payments were reported and the result of the review was that reasonable arrangements were in place.

The Committee also received an update on staffing issues within the Internal Audit function. Through careful management of resource on the high-risk areas in the Audit Plan, the Chief Internal Auditor confirmed his expectation to provide the annual overall opinion on the internal control environment.

RESOLVED that Audit and Governance Committee notes progress made and issues arising on the delivery of the 2022/23 Internal Audit Plan.

Voting: Unanimous

174. Forward Plan - Refresh

The Head of Audit and Management Assurance presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'G' to these Minutes in the Minute Book.

The report set out items to be considered by the Audit and Governance Committee for the 2022/23 municipal year in order to enable it to fulfil its terms of reference.

It was noted that a report from the Constitution Review Working Group would be submitted to the February 2023 meeting of the Committee.

It was also noted that the report on 'Statement of Accounts' was likely to be made to the March 2023 meeting.

RESOLVED that Audit and Governance Committee approves the forward plan set out at Appendix A of the report to the Committee.

Voting: Unanimous

The meeting ended at 8.17 pm

CHAIRMAN

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AUDIT AND GOVERNANCE COMMITTEE



Report subject	Annual evolution of Policies for 2023/24 : Whistleblowing Policy, Anti-Fraud & Corruption Policy, Declaration of Interests, Gifts & Hospitality Policy and the Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy
Meeting date	16 February 2023
Status	Public Report
Executive summary	<p>An annual review of the Council's:</p> <ul style="list-style-type: none"> • Anti-Fraud & Corruption Policy, • Whistleblowing Policy, • Declaration of Interests, Gifts & Hospitality Policy (for Officers) • Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy <p>has taken place to ensure they are updated in line with best practice and legislation.</p> <p>Some minor changes have been made to the Council's Anti-Fraud & Corruption Policy including updating manager guidance to clarify arrangements for contacting the Police and the Insurance Team where a theft or burglary has occurred. Appendix C of the policy 'Anti-Money Laundering Requirements' has also been updated with additional possible indicators of money laundering to look out for and an updated link to relevant legislation.</p> <p>The Whistleblowing Policy has been updated with some minor changes including amendments to the outcome template letter, an updated Children's safeguarding contact number and Employment Rights Act legislation reference. Some minor amendments have also been made to the Seven Stage Whistleblowing Policy (Appendix 1) to clarify the process. In addition in Section 6 of the policy 'How Is This Policy Implemented' the process to follow if the individual is dissatisfied with the outcome response or the process followed has been highlighted.</p> <p>Some changes have been made to the Council's Declaration of Interests, Gifts & Hospitality Policy (for Officers) including a clearer statement that the Council requires all employees to consider their specific job role, not just their Council employment and personal circumstance when deciding whether to make a declaration. Guidance has been added on the Council giving/receiving donations and clarification made for giving/receiving sponsorship. Additional clarification has also been made of terms used regarding officer tiers in Appendix A.</p>

	<p>The Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy has been updated with some minor changes to include reference & links to Home Office Code of Practices for Covert Surveillance and Property interference (Aug 2018), Interception of Communications (Dec 2022) and Covert Human Intelligence Sources (Dec 2022). Links to other relevant legislation have also been added throughout the document.</p>
Recommendations	<p>It is RECOMMENDED that Audit & Governance Committee:</p> <ul style="list-style-type: none"> • Approve the Council's Anti-Fraud & Corruption Policy, Whistleblowing Policy, Declaration of Interests, Gifts & Hospitality Policy (for Officers) and the Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy for the 2023/24 financial year. • Delegate any changes required as part of the review of the Policies by the Equalities Impact Assessment Panel on 9 February 2023 to the Head of Audit & Management Assurance.
Reason for recommendations	To ensure Council policies are regularly reviewed and updated in line with best practice and legislation.
Portfolio Holder(s):	Cllr Drew Mellor, Leader of the Council
Corporate Director	Graham Farrant, Chief Executive
Report Authors	<p>Nigel Stannard Head of Audit & Management Assurance ☎01202 128784 ✉ nigel.stannard@bcpcouncil.gov.uk</p>
Wards	Council-wide
Classification	For recommendation approval

Background

1. The Audit & Governance Committee Terms of Reference states the committee should consider and approve arrangements for counter-fraud and corruption.
2. This report provides an updated Anti-Fraud & Corruption Policy, Whistleblowing Policy, Declaration of Interests, Gifts and Hospitality Policy (for Officers), and Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy following an annual review to ensure they are in line with best practice and current legislation.
3. All four policies form part of the Council's governance arrangements for preventing, detecting and acting upon fraud and corruption.

Anti-Fraud & Corruption Policy (see Appendix A)

4. The purpose of the Council's Anti-Fraud & Corruption Policy is to:
 - highlight relevant legislation
 - set out the Council's approach to countering fraud and corruption
 - detail roles and responsibilities of officers and councillors and
 - provide further detailed guidance for officers and managers
5. Several changes have been made to the policy as part of the annual evolution as summarised below:
 - Manager guidance has been added regarding contacting the Police where a theft or burglary has occurred, and also to notify the Insurance Team.
 - Statement included that Financial Regulations gives the Chief Internal Auditor the right to refer cases directly to the Police where a clear criminal offence has occurred.
 - Anti-Money Laundering Requirements (Appendix C) has updated legislation & link and now includes need to investigate the circumstances where a refund is requested.
 - Anti-Money Laundering Requirements (Appendix C) has been expanded with further possible indicators of money laundering to look out for and report any concerns.

Whistleblowing Policy (see Appendix B)

6. The Council's Whistleblowing Policy seeks to enable individuals to feel confident in raising concerns in the public interest about suspected serious wrongdoing in the Council and its services without fear of reprisals or victimisation even where the concern or allegations are not subsequently confirmed by the investigation.
7. Several changes have been made to the policy as part of the annual evolution as summarised below:
 - Update to a Children's safeguarding contact number and reference to a section of Employment Rights Act legislation.
 - Minor amendments made to Appendix 1 Seven Stage Whistleblowing Policy to clarify the process.
 - Outcome template letter amended to ask for receipt confirmation and to advise that feedback will be sought.
 - Repeated in Section 6 'How Is This Policy Implemented' the process to follow if the individual is dissatisfied with the outcome response or the process followed.

Declaration of Interests, Gifts & Hospitality Policy (for employees) (see Appendix C)

8. The purpose of the Declaration of Interests, Gifts & Hospitality Policy is to protect the Council and employees against conflicts of interest and allegations of impropriety. The public must be confident that decisions made by employees of whatever nature are made for good and proper reasons and are not influenced inappropriately by the interests of individual employees, their relatives or friends.
9. Several changes have been made to the policy as part of the annual evolution as summarised below:
 - A clearer statement that the Council requires all employees to consider their specific job role, not just their Council employment and personal circumstance when deciding whether to make a declaration (also added to Appendix B flowchart).

- Guidance added on the Council giving/receiving donations and clarification made for giving/receiving sponsorship.
- Additional clarification made of terms used re officer tiers in Appendix A.

Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy (see Appendix D)

10. The BCP Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy explains the type of surveillance the Council can and cannot undertake and also explains those limited circumstances where covert surveillance, requiring external authorisation, may be appropriate.
11. A few minor changes have been made to the policy as part of the annual evolution as summarised below:
 - Added reference and links under Section 8 to Home Office Code of Practices for Covert Surveillance and Property interference (Aug 2018), Interception of Communications (Dec 2022) and Covert Human Intelligence Sources (Dec 2022).
 - Added links to Regulation of Investigatory Powers Act 2000 (RIPA) and RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (and as amended 2012) and Investigatory Powers Act (IPA) 2016 which came into force on 11 June 2019.
 - Added links to the European Convention on Human Rights (ECHR), RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 Statutory Instrument 2010 No. 521 and The Protection of Freedoms Act 2012.

Training and Awareness

12. Training and awareness will be carried out on the annually reviewed policies to ensure they are widely communicated, recognised and available.

Options Appraisal

13. An options appraisal is not applicable for this report

Summary of financial implications

14. There are no direct financial implications from this report. All four policies seek to establish strong governance arrangements to prevent fraud and corruption including financial loss through wrongdoing.

Summary of legal implications

15. The relevant legal implications (including non-compliance) are included in the attached policies.

Summary of human resources implications

16. Council Policies generally apply to all relevant individuals acting on behalf of the Council. Some of the content and requirements of the four policies in this report only apply to council employees and where this is the case specific other arrangements may exist for other individuals acting on the Council's behalf such as Councillors or contractors.

Summary of sustainability impact

17. There are no direct sustainability impact implications from this report.

Summary of public health implications

18. There are no public health implications from this report.

Summary of equality implications

19. The equality implications have been considered as part of the development of the policies attached to this report. Equality impact assessment screening tool forms have been reviewed and updated. The Policies will be formally presented to the Equalities Impact Assessment Panel on 9 February 2023. Audit & Governance Committee are asked to delegate any changes arising from this process to the Head of Audit & Management Assurance. No material changes are anticipated as experts from the Panel have already informally reviewed the Policies.

Summary of risk assessment

20. There are no direct risk assessment implications from this report.

Background papers

None

Appendices

Appendix A - Anti-Fraud & Corruption Policy

Appendix B - Whistleblowing Policy

Appendix C - Declarations of Interests, Gifts & Hospitality Policy (for Officers)

Appendix D - Regulation of Investigatory Powers Act (RIPA) & Investigatory Powers Act (IPA) Policy

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Anti-Fraud & Corruption Policy

Live from 1 April 2023

Annual evolution changes to this policy are shown in red text each year

Finance

Author: Head of Audit & Management Assurance

Version: V2023.1

Review Date: Annual evolution, next due April 2024



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1 PURPOSE OF THIS POLICY

Public trust and confidence in the way the Council conducts its business is vital in preserving its reputation as an organisation that operates with integrity and high standards as it strives to achieve its objectives as stated in the Council's Corporate Strategy.

Public confidence will be weakened if fraud and corruption occur and will be strengthened if positive action is taken to prevent, detect, and deal with fraudulent acts.

The purpose of this document is to:

- Highlight relevant legislation
- Set out the Council's approach to countering fraud and corruption
- Detail roles and responsibilities of officers and councillors
- Provide further detailed guidance for officers and managers

2 WHO MUST COMPLY WITH THIS POLICY?

This policy applies to:

- Any person who is currently employed, directly or indirectly by Bournemouth, Christchurch and Poole Council (BCP) including those whose relationship is with a wholly owned entity, including trading companies and Arm's Length Management Organisations (ALMOs);
- Elected or Co-Opted councillors; and
- Any other individual who undertakes activities on behalf of the Council including for example, volunteers, partners, contractors, etc.

Failure to comply with the procedures set out in this policy may lead to a criminal offence being committed and disciplinary action being taken. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

3 STATEMENT FROM THE CHIEF EXECUTIVE

I am fully committed to implementing and maintaining the highest standard of corporate and financial governance and ethical behaviour throughout BCP Council's activities and by all councillors and colleagues.

The diverse nature of services provided by the Council means that there are many areas where we could be a target for fraud. BCP Council will ensure that we understand the main fraud and corruption risks we are facing and will strive to ensure we have robust processes in place to prevent it occurring in the first instance. We will also ensure that our anti-fraud measures continue to evolve to meet the changing challenges of potential fraudsters.

We recognise that fraud against the Council harms residents and taxpayers of Bournemouth, Christchurch and Poole and for that reason fraud and corruption will not be tolerated. We will deal openly and forcefully with councillors, employees, contractors, service providers or the public who act dishonestly or with the intent to defraud the Council or our partners.

All councillors and colleagues have a personal responsibility to promote a culture of good governance by ensuring that effective measures are in place to prevent fraud, corruption and other irregularities and by promptly identifying and reporting potential instances for investigation.

4 LEGISLATION AND DEFINITIONS

FRAUD

The Chartered Institute of Public Finance defines fraud as “any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss”.

Please note, where this policy refers to ‘fraud’ this also encompasses theft.

The [Fraud Act 2006](#) created a general criminal offence of fraud and identified three main ways in which it can be committed:

- Making false or misleading representations
- Failing to disclose to another person information which he/she is under a legal duty to disclose
- Abuse of a position of trust

CORRUPTION

There is no universally recognised definition of corruption however a good working definition is: The abuse of entrusted power for private gain. Forms of corruption include lack of impartiality, cronyism, and embezzlement.

WHISTLEBLOWING

The [Public Interest Disclosure Act 1998](#) aims to protect individuals who make certain disclosures of information in the public interest, to allow such individuals to bring action in respect of victimisation, and for connected purposes.

As the types of disclosures covered by the Public Interest Disclosure Act 1998 extend beyond fraud and corruption, the Council maintains a separate Whistleblowing Policy.

MONEY LAUNDERING

Money Laundering is a process by which the illegal proceeds of crime are converted into assets which appear to have a legitimate origin so they can be retained permanently or recycled into further criminal enterprises.

[The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (and as amended 2019) require the Council to put in place best practice procedures and policies to prevent and protect their services from being used for potential money laundering activities.

The Council’s arrangements for complying with these regulations are found at Appendix C.

BRIBERY

The [Bribery Act 2010](#) defines bribery as giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith.

The Council's arrangements for complying with the Bribery Act 2010 are found at Appendix D.

CRIMINAL FINANCES

Part 3 of the [Criminal Finances Act 2017](#) entered into force on 30 September 2017 creates the corporate criminal offence of failure to prevent tax evasion.

The Council's arrangements for complying with the Criminal Finances Act 2017 are found at Appendix E.

THEFT

The [Theft Act 1968](#) defines theft as "a person is guilty of theft if they dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it."

SOCIAL HOUSING FRAUD

The [Prevention of Social Housing Fraud Act 2013](#) made tenancy fraud a criminal act.

OTHER RELEVANT LEGISLATION

There is other related fraud and corruption legislation not detailed here (e.g. Proceeds of Crime Act 2002 and the Regulation of Investigatory Powers Act 2000 (RIPA) and Investigatory Powers Act (IPA) 2016 which came into force on 11 June 2019).

5 COUNCIL RESPONSIBILITIES

The Council has a statutory duty under Section 151 of the Local Government Finance Act 1972 to make arrangements for the proper administration of their financial affairs. BCP has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business.

The Accounts and Audit Regulations (England) 2015 require the Council to have appropriate control measures in place to enable the prevention and detection of inaccuracies and fraud. The Council is committed to an effective anti-fraud approach designed to reduce losses by:

- Acknowledging and understanding fraud risks faced.
- Preventing fraud happening and detecting it when it does occur.
- Pursuing and punishing fraudsters and recovering losses.

All officers and councillors are expected to follow the 'Nolan' [seven principles of public life](#) which are the ethical standards expected of public office holders. The principles are selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Detailed roles and responsibilities in relation to fraud and corruption are set out in Section 13 of this document.

6 FRAUD AND CORRUPTION RISKS

The Council regularly reviews its exposure to the risk of fraud and corruption. Internal Audit supports the maintenance of a risk register of all Council fraud and corruption risks. Management are responsible for ensuring that fraud and corruption risks are identified within their service area, and appropriate mitigating actions are put in place.

All officers and managers have a role in identifying and managing the risks of fraud and corruption within the Council. The risk of fraudulent or corrupt activity is assessed as part of the Council's overall risk management arrangements.

The Internal Audit Plan includes targeted reviews of service areas which have been identified as at high risk of fraud and corruption. Internal Audit also provide specialist investigative resources to support management with some aspects of external fraud risks to the Council.

Internal Audit participates in a number of anti-fraud networks through which they are alerted to new and emerging risks.

7 DETERRENCE, PREVENTION AND DETECTION

DETERRENCE

A strong anti-fraud culture is an effective deterrent to potential fraudsters, whether internal or external to the Council, who may be considering committing or attempting to commit fraudulent or corrupt acts.

The Council is committed to embedding an anti-fraud culture where staff at all levels regard fraud and corruption as unacceptable, are vigilant in the workplace to the indicators of fraud and corruption and are confident in the mechanisms for reporting and investigating fraud. Arrangements include HR policies and procedures, staff fraud awareness training and the Council's Whistleblowing Policy which encourages individuals to raise concerns.

Acts of fraud and corruption by employees are considered to be gross misconduct which, if proven, will lead to dismissal. The Council will consider the full range of sanctions, including prosecution, and where appropriate cases will be referred to the Police for further investigation.

PREVENTION

The Council's codes of conduct, declaration of interests, gifts & hospitality policy, financial regulations, procurement guidance and recruitment procedures have all been designed to reduce the risk of fraud and corruption. Managers have a responsibility to ensure that employees are aware of, and comply with, these and other relevant policies.

Managers are responsible for assessing the potential risk exposure of fraud and corruption within their own service's activities and for implementing strategies to reduce this risk. They are responsible for ensuring that robust systems are in place which meet key control objectives and minimise the potential for fraud and corruption. They must regularly ensure that the controls are appropriate and working as intended.

They must also ensure that opportunities for fraud are identified and eliminated from systems at the earliest opportunity. Further guidance for officers and managers can be found in Appendix A.

Internal Audit provide advice to managers to ensure they are fully aware of the need to consider the preventative aspects of fraud and corruption work.

The recruitment of appropriate personnel to the organisation is essential in maintaining a strong anti-fraud culture. Procedures for recruitment include obtaining references, right to work and criminal record checks.

DETECTION

The implementation and review of robust systems of internal control by management is critical to detecting irregularities. Important controls to detect potential fraud include management checks, reconciliation processes and exception reports.

Internal Audit carry out a programme of counter-fraud work every year and report the outcomes to the Audit & Governance Committee.

8 REPORTING CONCERNS

EVERYONE TO WHOM THIS POLICY APPLIES is responsible for

- Contacting the Police immediately if a crime is in progress, or an emergency response is required.
- Making an immediate note of the concerns (recording all relevant details, such as what was said in phone or other conversations, the date, the time and the names of anyone involved)
- Promptly reporting the suspicions to your line manager or Internal Audit (see contact details below). If the concern falls under the Council's Whistleblowing Policy the employee will be afforded protection from any detriment
- Not telling anyone else about the suspicions
- Not approaching or accusing individuals directly
- Not reporting the matter to the Police (unless under the circumstance above)
- Not carrying out an investigation (as this may damage any subsequent investigation)
- In cases of suspected money laundering, immediately advising the Council's designated Money Laundering Reporting Officer (See Employee Obligations under the Council's Anti Money Laundering Requirements Appendix C)

Concerns can be reported to Internal Audit via the following:

- Fraud Hotline: 01202 817888
- Fraud email: fraud@bcpcouncil.gov.uk

MANAGERS are additionally responsible for

- **Contacting the Police where a theft or burglary has occurred or has been reported by an employee as having taken place (and the Insurance Team notified).**
- Ensuring any concerns raised with them are promptly notified to the Head of Audit & Management Assurance. The investigation process will follow the Fraud Response Plan (see Appendix B).

9 INVESTIGATIONS & SANCTIONS

INVESTIGATION

The Chief Internal Auditor is responsible for determining the nature of any investigative work required in respect of any allegation of fraud or corruption, usually in consultation with the service manager.

Investigations will follow the procedures outlined in the fraud response plan as shown at Appendix B.

Financial Regulations set out rights of access for the Chief Internal Auditor and nominated representatives to enable an effective investigation to be undertaken.

SANCTIONS

Acts of fraud and corruption by employees are considered to be gross misconduct which, if proven, will lead to dismissal. The Council will consider the full range of sanctions, including prosecution, and where appropriate cases will be referred to the Police for further investigation.

The decision to refer cases to the Police will be taken by the Chief Internal Auditor following consultation with the relevant manager, the Monitoring Officer and the Chief Financial Officer. A protocol has been established to guide and document this process, which ensures that the application of sanctions is done in a comprehensive, consistent, and proportionate manner.

Financial Regulations give the Chief Internal Auditor the right to refer cases directly to the Police where **a clear criminal offence has occurred, or** it is considered that an internal inquiry would compromise the integrity of the investigation and/or otherwise prejudice the interests of the Council or the general public.

The Council will take all possible action to recover losses from fraud and corruption, including expenses incurred during an investigation, using criminal and civil law to the fullest extent.

10 FRAUD AWARENESS

Mandatory fraud awareness training is in place for all employees, through an [E-learning portal](#), to reinforce key anti-fraud messages and ensure a consistent level of awareness across the organisation. In addition to this, specialist training is available to officers, in particular those areas identified as at risk from bribery or money laundering.

Regular communications are issued by Internal Audit to promote fraud awareness by communicating information on corporate anti-fraud policy and guidance to staff, schools and Councillors including examples of recent frauds.

The Council ensures that those undertaking anti-fraud work, including investigation and systems review, do so within ethical and professional frameworks and with appropriate training, accreditation and resources for the role.

11 WORKING WITH OTHERS

The Council works in partnership with other organisations including other Local Authorities to share knowledge of fraud risks and specialist anti-fraud resources, investigate allegations, and also to provide a co-ordinated response.

The Council is committed to exchanging information with other local and national agencies to identify and prevent fraud. The Council is committed to full participation in the National Fraud Initiative and other data-matching exercises.

12 MONITORING

The Council's arrangements for countering fraud and corruption are measured and reported upon in the following ways:

- Records are maintained of whistleblowing reports and fraud investigations, including the outcome of police investigations, subsequent application of sanctions, and recovery of losses.
- The Council participates regularly in fraud surveys and benchmarking exercises.
- The Council aspires to continually improve its resilience to fraud and Internal Audit measures improvement using the CIPFA 'Code of Practice on Managing the Risk of Fraud and Corruption' tool.
- Annual report to the Audit & Governance Committee covering the outcomes of all anti-fraud work and the effectiveness of the Whistleblowing Policy.

13 DETAILED RESPONSIBILITIES

All Employees	<p>Employee responsibilities are:</p> <ul style="list-style-type: none">• to uphold the highest standards of conduct, propriety and accountability by adherence to legal and Council requirements, rules, procedures and practices including the 'Nolan' seven principles of public life.• to be open, honest and politically neutral in their work• to comply with the Council's Anti-Fraud & Corruption Policy• to comply with the Council's Employee Code of Conduct• to comply with the Council's Declaration of Interests, Gifts & Hospitality Policy including making a 'base' declaration where required and keeping this declaration up to date.• to be aware of the possibility of fraud and corruption both internal and external• to report any concerns or suspicions regarding fraud, corruption or other irregularities, if need be via the Whistleblowing Policy• to report any vulnerabilities or suspicions of money laundering in accordance with guidance issued by the Money Laundering Reporting Officer
Managers	<p>In addition, Manager's responsibilities are:</p> <ul style="list-style-type: none">• to create an atmosphere where honesty and integrity are valued highly, and fraud, corruption and dishonesty are not tolerated

	<ul style="list-style-type: none"> • to promote staff awareness and ensure staff understand their own responsibilities • to make available appropriate training to employees • to ensure that there are mechanisms in place within their service areas to assess the risk of fraud & corruption. • to ensure that any systems under their control have been designed to minimise the likelihood of acts of fraud and corruption • to notify the Chief Internal Auditor immediately of any suspected fraud, irregularity, improper use or misappropriation of the Council's property and/or resources • pending investigation and reporting, managers must take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration • to act in accordance with the Whistleblowing Policy to support any employees who have 'blown the whistle' • to ensure declarations of interests, gifts & hospitality forms are held centrally with the service directorate or with the Monitoring Officer for Tier 4 and above officers. • to instigate the Council's disciplinary procedures where the outcome of an audit or special investigation indicates improper behaviour
Chief Internal Auditor	<ul style="list-style-type: none"> • to consider the adequacy of the Council's anti-fraud and corruption arrangements • to support the preparation and maintenance of an Anti-Fraud & Corruption Policy • to liaise with the Police and Courts in the investigation and prosecution of fraud and corruption as necessary • to determine the nature of any investigation work required in respect of any allegation of fraud or corruption. • to ensure that actions are identified to improve controls and reduce the risk of recurrence of irregularities • to produce an annual report to the Audit & Governance Committee covering the outcomes of all anti-fraud work and the effectiveness of the Whistleblowing Policy
Chief Finance Officer	<ul style="list-style-type: none"> • to develop, maintain and implement an Anti-Fraud & Corruption policy (and associated whistleblowing policy) that stipulates the arrangements to be followed for preventing, detecting, reporting and investigating suspected fraud and irregularity • to advise on the controls required for fraud prevention and detection • to appoint a Money Laundering Reporting Officer and Deputy to ensure that systems are in place to counter opportunities for money laundering and that appropriate reports are made • to ensure that effective preventative measures are in place to reduce the opportunity for bribery occurring in accordance with statutory requirements of the Bribery Act 2010 • to ensure rights and powers of internal auditors and fraud investigators are upheld at all times across the organisation
Monitoring Officer	<ul style="list-style-type: none"> • to advise councillors and officers on ethical issues, standards and powers to ensure that the Council operates within the Law and statutory Codes of Practice

Chief Executive	<ul style="list-style-type: none"> • to support and promote the development of a strong anti-fraud & corruption culture.
Councillors	<ul style="list-style-type: none"> • to support and promote the development of a strong anti-fraud & corruption culture. • to adopt high standards of conduct in order to uphold “general principles of conduct” and all other legal requirements, rules, procedures and practices • to immediately notify an appropriate officer of any suspicions of fraud or corruption • to report any suspected breach of the Code of Conduct by another Councillor to the Standards Board
Audit & Governance Committee	<ul style="list-style-type: none"> • to consider arrangements for anti-fraud and corruption, including ‘whistle-blowing’ including approval of the Anti-Fraud & Corruption Policy and the outcomes of any investigations in relation to this policy
Standards Committee	<ul style="list-style-type: none"> • to monitor and advise upon the content and requirement of Codes, Protocols and other procedures relating to standards of conduct for councillors
External Audit	<ul style="list-style-type: none"> • to establish an understanding of management processes in place to prevent & detect fraud • to establish an understanding of how the Audit & Governance Committee gain assurance from management over the identification and responding to risks of fraud in the Council. • to respond to whistleblowing disclosures when acting as an external prescribed person or body.
Partners, Contractors, Suppliers, Public	<ul style="list-style-type: none"> • to be aware of the possibility of fraud and corruption against the Council and report any genuine concerns or suspicions to a Manager, Internal Audit, the Chief Executive or a Councillor.

14 FURTHER INFORMATION AND EVIDENCE

Consultees

The following individuals/groups have been consulted during this year's evolution of this policy:

Name
Internal Audit
Statutory Officers Group

Equalities Impact Assessment

Assessment date	Reviewed as part of this year's evolution. Minor amendments have been made which have been assessed by Service Unit Equality Champion as having no equalities impacts. Updated EIA assessment as per Appendix H.
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Document Control

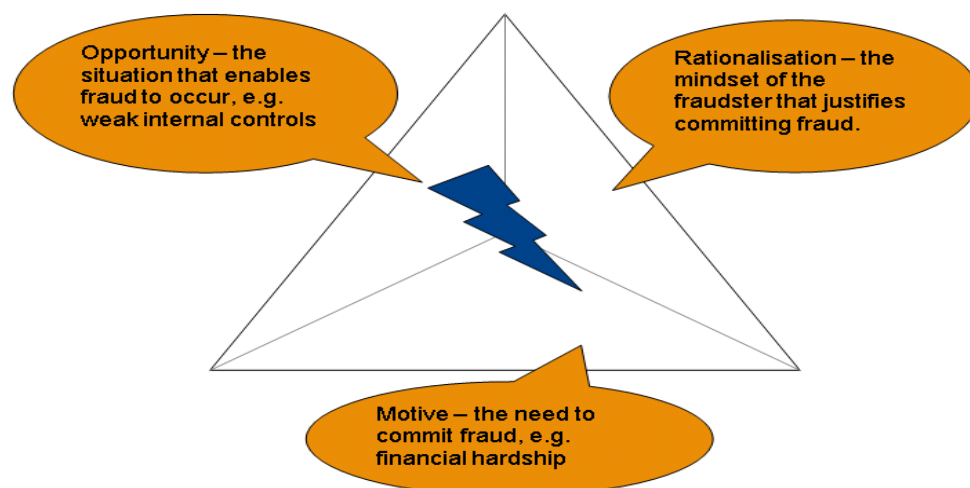
Approval body	Audit and Governance Committee
Approval date	16 February 2023
V1 – December 2018	New Policy created (please note any version changes in the future will be shown in red text)
V2 – March 2020	Annual policy review. Added Criminal Finances Act 2017 Requirements (new Appendix E). Added new definition of Corruption. Updated legislation/link <u>The Money Laundering, Terrorist Financing (Amendment) and Transfer of Funds (Information on the Payer) Regulations 2019</u> and value to not take any cash payment amended from £12,000 to £10,000 (same as Financial Regulations). Some other minor changes made including reformatting to BCP corporate formatting requirements.
V2021.1 – March 2021	Annual policy review. Included reference to new BCP Declaration of Interests, Gifts & Hospitality Policy. Updated contact details and made some minor best practice wording changes. Appended EIA screening tool.
V2022.1 – March 2022	Annual policy review. Updated definition of corruption. Included Regulation of Investigatory Powers Act 2000 and Investigatory Powers Act 2016 under other relevant legislation. Minor other wording and contact detail changes.
V2023.1 – March 2023	Added manager guidance to contact the Police where a theft or burglary has occurred and to notify the Insurance Team. Added statement that Financial Regulations give the Chief Internal Auditor the right to refer cases directly to the Police where a clear criminal offence has occurred. Anti-Money Laundering Requirements Appendix C: updated legislation/link to <u>The Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022</u>. Anti-Money Laundering Requirements Appendix C: added need to investigate the circumstances where a refund is requested, and expanded indicators to look for to include attempts to make any large cash payments / deposits, attempts to make any abnormally large payment / deposits, and requests a refund for a series of overpayments.

FURTHER GUIDANCE FOR OFFICERS & MANAGERS

WHY DOES FRAUD OCCUR?

Three key elements exist in most acts of fraud and corruption and are shown in the diagram below;

The Fraud Triangle



1. Opportunity

The fraudster will usually look for opportunities to commit fraud. They may have heard stories from others who have cheated an organisation in a certain way before and may seek to copy this. Detailed knowledge of internal systems may make it easier for fraud to occur, particularly if the fraudster is aware of its weaknesses or has excessive control responsibility.

Weak internal controls make it easier for fraud to be successful and reduce the likelihood of it being identified. Managers are therefore responsible for ensuring that any systems under their control have been designed to minimise the likelihood of acts of fraud and corruption.

2. Motive/Incentive/Pressure

A person who commits fraud may be pressured to, or need to, commit fraud. It might be due to a financial need such as living beyond their means, debts, a desire for material goods, or to feed an addiction. The sense of beating the system may also act as a motivator.

3. Rationalisation

A fraudster will often justify to themselves why they have committed fraud. They may see their act as revenge for inadequate pay or excessive workload. They may convince themselves that they'll pay the money back one day; or that the organisation is so big it won't miss the small amount taken.

TRUST & HONESTY

- Almost all internal fraud involves the abuse of trust
- Reliance on trust and honesty is not a fraud control

WARNING SIGNS OF POTENTIAL FRAUD

Supplier Invoices

- There is no record of an official order made
- The invoice contains errors in details such as officer's name and addresses
- Goods have not been received
- Stated website has limited contact information
- Invoices and or supporting documents appear inadequate/photocopied or obviously altered

Customer Applications and Payments

- Gaps in information given
- Unable to supply identification
- Unable to provide original documents
- Unwilling to meet at their home
- Large transactions paid by cash
- Overpayments made and refunds requested

Internal

- A person has a sudden change of lifestyle without apparent reason or unexplained and sudden wealth
- Noticeable personality or routine changes - continually works after hours, comes in frequently on weekends, insists on taking work home, requests for unusual patterns of overtime
- Possessiveness of job and records - reluctant to take holiday, go off sick or share responsibility
- Misfiled or missing documents such as receipts, estimates, correspondence.
- Computer enquiries made which are not necessary/relevant to job role
- Suppliers & contractors insisting on dealing with a particular officer
- Unexplained budget pressures
- Poor audit trails

EXAMPLE KEY CONTROLS

Some "key" controls that should ensure systems are robust are detailed below:

- Pre-employment checks are carried out for all new staff.
- Sound accounting processes, prompt financial reporting, budgets independently monitored, apparent discrepancies investigated, bank accounts promptly reconciled.
- Supervision of high fraud risk areas like cash collection.
- Independent monitoring and checking of data and supporting documentation.
- Proper arrangements for the receipt, recording and checking of goods received or services rendered.
- Responsibility for financial tasks clearly defined, documented and understood.
- Adequate separation of duties ensuring that more than one employee is involved in tasks like income collection and payment processing.
- Proper authorisation procedures which require approval of material transactions
- Physically securing and accounting for controlled stationery and cheques.
- Payment only on production of original supporting documentation.
- Processes to monitor compliance with these controls by, for example, reviewing completion of control documents and reconciliations.

REPORTING CONCERNS – Guidance for EMPLOYEES	
✓	✗
<ul style="list-style-type: none"> • do raise the matter <ul style="list-style-type: none"> ○ the sooner the problem is raised and looked into the sooner any wrong doing can be stopped. • do make an immediate note of your concerns <ul style="list-style-type: none"> ○ it is important that you make an immediate note of key details such as what caused your suspicion, when things happened and who was involved. • do pass on your suspicions to someone in authority <ul style="list-style-type: none"> ○ for an employee this would normally be your Line Manager, however this may not always be appropriate (see “Reporting Concerns” under the Anti-Fraud & Corruption Policy) • do check the Council’s whistle-blowing policy <ul style="list-style-type: none"> ○ this will give you more information on how you can safely raise a genuine suspicion within the Council and who you should talk to. 	<ul style="list-style-type: none"> • don’t do nothing <ul style="list-style-type: none"> ○ if you are worried that some wrong-doing is happening within the Council, please don’t keep it to yourself. • don’t be afraid to raise your concern <ul style="list-style-type: none"> ○ the Council’s whistle-blowing policy will provide safeguards. • don’t approach or accuse any individual directly • don’t try to investigate the matter yourself <ul style="list-style-type: none"> ○ both the above could only make matters worse and prejudice the official investigation.

N.B. The regulations for Money Laundering have specific and clear guidance for what to do if you suspect Money Laundering is occurring. Check the Anti-Money Laundering Requirements at Appendix C.

REPORTING CONCERNS – Guidance for MANAGERS	
✓	✗
<ul style="list-style-type: none"> • do be responsive to staff concerns <ul style="list-style-type: none"> ○ you need to encourage staff to be able to raise any genuine concerns with you. You should reassure them that if they raise concerns with you, they will be protected from victimisation or reprisal. • do note details <ul style="list-style-type: none"> ○ get as much information as possible from the person raising the concern. If they have made notes or have documentary evidence, ask for copies of these. • do evaluate the information objectively and consult <ul style="list-style-type: none"> ○ before you take the matter further, you need to decide whether the suspicions seem justified. Consider the facts as you have them and consult with Internal Audit about what should happen next. 	<ul style="list-style-type: none"> • don’t ignore concerns raised with you <ul style="list-style-type: none"> ○ as a Manager you should reassure staff about raising concerns. • don’t approach or accuse any individuals directly <ul style="list-style-type: none"> ○ you may inadvertently tip off a fraudster before evidence has been collected. • don’t convey your suspicions to anyone other than those with the proper authority to investigate • don’t try to investigate the matter yourself

<ul style="list-style-type: none"> • do deal with the matter promptly <ul style="list-style-type: none"> ○ the sooner the problem is passed on by you for investigation the sooner the potential fraud or corruption can be stopped • do advise the Chief Internal Auditor who will advise on the appropriate course of action, in line with the Fraud Response Plan Appendix B 	<ul style="list-style-type: none"> ○ both the above could only make matters worse and prejudice the official investigation.
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Further advice can be sought from Internal Audit on any of the above areas by e-mail fraud@bcpcouncil.gov.uk or phone 01202 817888.

FRAUD RESPONSE PLAN

Please note that this is intended as a guide and not all stages will be followed in all circumstances or necessarily in the order detailed below.

Stage 1 – Commencing an Investigation

Decisions to proceed with an investigation will be made by the Chief Internal Auditor (in liaison with the appropriate service manager). The Chief Internal Auditor will determine the involvement of other officers including the Chief Finance Officer and the Head of Human Resources, and the applicability of the Council's Whistleblowing Policy.

Stage 2 – Appointment of Investigating Officers

For each investigation, the first step will be to appoint an Investigating Officer. This will usually be an officer from the service concerned who will consult on the detailed investigation process with Internal Audit. The Chief Internal Auditor will appoint a lead officer from Internal Audit and decide on the overall lead for the investigation (depending on its nature/significance).

Stage 3 – Planning the Investigation

The Investigating Officer will need to liaise with the Internal Audit lead officer to ensure that a plan of action is drawn up. Internal Audit will as a matter of priority ensure that all relevant evidence including documentary records pertaining to the investigation are immediately secured.

Stage 4 – Referral to Police

If the investigation relates to a suspected criminal offence, the Chief Internal Auditor will need to consider (in conjunction with the Manager, the Monitoring Officer and the Chief Financial Officer) whether to inform the Police. If they decide that a formal police investigation is necessary, then liaison with the Police will normally be via the Internal Audit lead officer.

Stage 5 – Gathering Evidence

The Investigating Officer will ensure, in conjunction with the Internal Audit lead officer that all evidence of fraud or corruption relating to the investigation is gathered legally, objectively, systematically and in a well documented manner. Where this is being carried out in conjunction with a Police investigation the Internal Audit lead officer will be responsible for preparing any required statement and assembling all evidence and exhibits. The Internal Audit lead officer will keep the Investigating Officer fully informed of all developments with any Police investigation.

Stage 6 – Progress Reviews

During the investigation, the Investigating Officer/lead Internal Auditor will produce interim reports (which can be verbal reports) on progress and findings.

Stage 7 – Conclude Investigation and Improve System Controls

The Investigating Officer/lead Internal Auditor will produce a final report that may be used by management as a basis for disciplinary action, where necessary, in liaison with Human Resources. An issues report will identify any system weaknesses that enabled the fraud to occur and improvements recommended.

Stage 8 – Recovering Losses

The Investigating Officer/Lead Internal Auditor will ensure that all opportunities are followed to obtain compensation for any losses incurred including insurance, voluntary restitution or compensation claims.

Stage 9 – Press Release

The decision to issue press statements about fraud or corruption cases that have been investigated and proven by the Council will be made by the Investigating Officer, Chief Internal Auditor, and Monitoring Officer together with the Council's Communications Team. They will take account of, on a case by case basis, any sensitive and legal issues involved and the need for confidentiality.

ANTI-MONEY LAUNDERING REQUIREMENTS

1 INTRODUCTION

What is money laundering?

Money laundering is a process by which the illegal proceeds of crime are converted into assets which appear to have a legitimate origin, so that they can be retained permanently or recycled into further criminal enterprises.

The source of money, either in cash, paper or electronic form (often referred to as “dirty money”) is disguised and is given the appearance of being clean funds. These are normally used to hide the proceeds of serious criminal activities such as but not limited to terrorism, drug smuggling, theft and fraud.

Legislation

The legislation which is relevant to this Anti-Money Laundering Policy is:

- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“MLR”) as amended by [The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019](#) and [The Money Laundering and Terrorist Financing \(Amendment\) \(No. 2\) Regulations 2022](#)
- The Proceeds of Crime Act 2002 (“POCA”) (as amended by the Serious Organised Crime and Police Act 2005)
- The Terrorism Act 2000 (“TA”) (as amended by the Anti-Terrorism and Security Act 2001 and the Terrorism Act 2006).

Money Laundering Regulations

The Council is not defined as a ‘regulated business’ under the regulations and therefore is not legally obligated to apply the provisions of all of the regulations. However, the Council is committed to complying with the spirit of the legislation and regulations as advocated by the Chartered Institute of Public Finance & Accountancy’s (CIPFA) guidance.

The money laundering legislation, regulations and this policy aim to provide preventative measures to reduce the risk of money laundering occurring and to aid identification of any money laundering activity that may occur.

While the risk to the council of contravening the legislation is low, it is important that all employees are familiar with their responsibilities. Serious criminal sanctions may be imposed for breaches of the legislation.

2 THE COUNCIL’S AND EMPLOYEES’ OBLIGATIONS

Council’s Obligations

Under the legislation and best practice guidance the Council must:

- Appoint a Money Laundering Reporting Officer (“MLRO”) (Compliance and Nominated Officer) to receive disclosures from employees and councillors of money laundering activity (Paragraph 3);

- Implement a procedure to enable the reporting of suspicions of money laundering (Paragraph 4);
- Maintain client identification procedures (due diligence) where appropriate;
- Maintain record keeping procedures (Paragraph 5);
- Undertake an assessment of the money laundering risk that the Council is exposed to (Paragraph 6);
- Train relevant employees on their anti-money laundering responsibilities (Paragraph 7).

Employees' Obligations

Under the legislation and best practice guidance employees must:

- Immediately report any suspected money laundering activity (**see section 9, Possible indicators of money laundering**) to the Money Laundering Reporting Officer (MLRO) as detailed in the Money Laundering Disclosure Procedure section below
- Not take any cash payment over £10,000 (please note this can be a single transaction or a series of related transactions) and formally report any attempt to do so to the MLRO.
- Verbally report any cash transactions over £5,000 but lower than £10,000 to the MLRO (see Money Laundering Disclosure Procedure section below)
- **Investigate the circumstances where a refund is requested.**
- Not discuss money laundering suspicions with anyone other than the MLRO
- Undertake customer due diligence wherever possible.

3 THE MONEY LAUNDERING REPORTING OFFICER (MLRO)

The Money Laundering Reporting Officer (MLRO) for the Council is the Head of Audit & Management Assurance. The MLRO is responsible for receiving disclosures regarding suspicions of money laundering activity, evaluating the information provided and, determining whether to report suspicions of money laundering to the National Crime Agency.

Disclosures of suspected money laundering must be made to the MLRO using the Money Laundering Disclosure Procedure in paragraph 4 below. If the MLRO is unavailable the Deputy Money Laundering Officer (Deputy Chief Internal Auditor) must be contacted in their absence.

4 MONEY LAUNDERING DISCLOSURE PROCEDURE

Disclosure by an Employee

Numerous scenarios could occur where Council employees in the course of their job become aware of potential money laundering activity. In order to prevent the risk of prosecution, employees need to be aware of the need to report these instances.

Where an employee knows or suspects that a money laundering activity is taking/has taken place or becomes concerned that their involvement in a matter may breach legislation, they must disclose this to the MLRO **immediately**.

The suspected money launderer **must not** be informed in any way that a report has been made against them.

The disclosure must include as much detail as possible and should include:

- Names and addresses of persons involved (if a company/public body please include nature of business)
- Nature, value and timing of activity involved
- Suspicions regarding the activity

Once the employee has reported the matter to the MLRO they must follow any directions they are given. The employee **must not** make any further enquiries into the matter.

Consideration of Disclosure by the Money Laundering Reporting Officer

Upon receipt of a disclosure, the MLRO must note the date and acknowledge it.

The MLRO will consider the disclosure and any other available internal information they think relevant. This may include:

- Reviewing other transaction patterns and volumes
- The length of any business relationship involved
- The number of any one-off transactions and linked one-off transactions
- Clarification of events with the discloser
- Any identification evidence held.

The MLRO will undertake such other reasonable enquiries they think appropriate in order to ensure that all available information is taken into account in deciding whether a report to the National Crime Agency (NCA) is required (such enquiries being made in such a way as to avoid any appearance of “tipping off” those involved).

Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:

- There is actual or suspected money laundering taking place; and
- There are reasonable grounds to know or suspect that this is the case; and
- Whether he needs to seek consent from the NCA for a particular transaction to proceed.

5 CUSTOMER DUE DILIGENCE

The Council is not defined as a ‘regulated business’ under the regulations but as the Council is committed to complying with the spirit of the regulations customer due diligence best practice should be followed wherever possible:

- Identify the person seeking to form the business relationship or conduct the transaction (this could be an individual or a company)
- Verify their identity using reliable, independent sources of information
- Identify who benefits from the transaction
- Monitor transactions to make sure they are consistent with what you understand about that person or company
- Understand the source of their funds
- Ensure there is a logical reason why they would want to do business with the Council

6 MONEY LAUNDERING RISK

The Council will produce a risk assessment to identify and assess the risk of money laundering and terrorist financing that the Council faces. In addition, money laundering will form part of the Council's Fraud Risk Register.

7 TRAINING

In support of this policy, the Council will:

- Make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the anti-money laundering legislation; and
- Give targeted training to those most likely to encounter money laundering.

8 OFFENCES UNDER THE ACTS

The broad definition of money laundering means that potentially anybody (and therefore any Council employee, irrespective of what sort of Council business they are undertaking) could contravene the money laundering regulations if they become aware of, or suspect the existence of criminal property, and continue to be involved in the matter without reporting their concerns.

Primary money laundering offences:

1. Concealing, disguising, converting, transferring criminal property or removing it from the UK
2. Entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
3. Acquiring, using or processing criminal property

Secondary money laundering offences:

- Failure to disclose any of the three primary offences
- "Tipping off" whereby somebody informs a person or persons who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation

Failure to report suspicious money laundering activities or be involved in money laundering activities may lead to a criminal offence being committed and disciplinary or legal action being taken against you. Any internal disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

9 PRACTICAL GUIDANCE

Possible Indicators of Money Laundering

The success of money laundering often depends upon a transaction appearing 'normal' however there are a number of ways to identify possible money laundering.

Beware of potential transactions where the other party:

- Enters into transactions which make little or no financial sense, or which go against normal practice;
- Cancels transactions without good reason and requests a cheque for previously deposited funds;
- Attempts to make any large cash payments / deposits;
- Attempts to make any abnormally large payment / deposits;
- Makes large overpayments of fees or money on account;
- Requests a refund for a series of overpayments;
- Is happy to enter into an apparent bad deal for them;
- Is unwilling to explain the purpose of a transaction or method of payment or refuses to provide information requested without reasonable explanation;
- Suddenly changes their pattern of activity or method of payment;
- Enters into arrangements beyond their apparent financial means or if the Buyer or Seller's financial profile does not fit (particularly in relation to property transactions);
- Unnecessarily routes funds through third party accounts or has overly complicated financial systems; and / or
- Uses more than one Solicitor / Conveyancer in the sale or purchase of a property or land or if there is an unexplained and unusual geographic use of a solicitor in relation to a property's location

Similarly, you will need to be wary if information about the customer reveals criminality or association with criminality (e.g. previous benefit fraud or suspected benefit fraud).

ANTI-BRIBERY REQUIREMENTS

1 INTRODUCTION

This policy appendix is in place to ensure compliance with the Bribery Act 2010. It explains the process through which the Council intends to maintain high standards and to protect the organisation, employees, councillors and business partners against allegations of bribery and corruption.

The Council is committed to the highest possible standards of openness, probity and accountability and to conduct its business in an honest and open way, and without the use of corrupt practices or acts of bribery to obtain an unfair advantage.

The Council attaches the utmost importance to this policy and any breach of this policy will be regarded as a serious matter and is likely to result in disciplinary action and possibly criminal prosecution.

2 WHAT IS BRIBERY?

The [Bribery Act 2010](#) defines bribery as giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith.

The Bribery Act 2010 introduced the following criminal offences:

- **The offence of bribing another person (section 1).** This can occur where a person offers, promises or gives a financial or other advantage to another individual to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity. It is not an issue whether the person given the bribe is the same person who will perform the function or activity concerned.
- **The offence of being bribed (section 2).** This is where a person receives or accepts a financial or other advantage to perform a function or activity improperly. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate benefit or not.
- **Bribery of a foreign public official (section 6).** This is where a person directly or through a third party offers, promises or gives any financial or other advantage to a foreign public official in an attempt to influence them as a public servant and to obtain or retain business, or any other related advantage in the conduct of business.
- **A corporate offence of failure to prevent bribery (section 7).** A commercial organisation* could be guilty of bribery where a person associated with the organisation, such as an employee, agent or even a sub-contractor, bribes another person intending to obtain or retain business for the organisation or to obtain or retain an advantage in the conduct of business for the organisation.

*The Council accepts that public bodies (in particular its commercial activities) may be classed as a "commercial organisation" in relation to the corporate offence of failing to prevent bribery. In any event, it represents good governance and practice to have adequate procedures in place to protect the Council, councillors, employees and partners from reputational and legal damage. It is in the interests of everybody connected to the Council to act with propriety at all times.

3 WHAT ARE THE CONSEQUENCES?

An individual guilty of a criminal offence under sections 1, 2 or 6 of the Bribery Act, in addition to potential disciplinary action, is liable on conviction in:

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

The Council, if convicted under sections 1,2, or 6 will also face the same level of fines and if guilty of an offence under section 7, is liable to an unlimited fine.

4 WHAT DO I NEED TO DO AS AN EMPLOYEE?

- **Be aware of the Bribery Act 2010** and this document
- **Declare any conflicts of interests** in accordance with the Council's Declaration of Interests, Gifts & Hospitality Policy.
- **Declare any gifts or hospitality** in accordance with the Council's Declaration of Interests, Gifts & Hospitality Policy.
- **Abide by separation of duties** in systems
- **Comply with delegated authority limits** for decisions
- **Ensure transparency of all activities** by retaining sufficient documentation for all transactions
- **Complete the Fraud Awareness e-learning module**
- **Speak up if you have any concerns** (see 'Reporting Concerns' section of the Council's Anti-Fraud & Corruption Policy and/or the Council's Whistleblowing Policy)

5 WHAT HAS THE COUNCIL PUT IN PLACE TO PREVENT BRIBERY OCCURRING?

The Council has put in place robust arrangements which comply with Ministry of Justice Guidance which focuses on the Six Principles for Bribery Prevention:

1. Proportionate Procedures

There are several policies and procedures which are in place that contribute towards prevention, detection and investigation of bribery including:

- Constitution and Scheme of Delegation
- Financial Regulations
- Procurement Guidelines
- Anti-Fraud & Corruption Policy
- Whistleblowing Policy
- Declaration of Interests, Gifts & Hospitality Policy
- Internal Audit Plan
- Risk Management Framework
- Codes of Conduct for councillors and Employees
- Disciplinary Procedures and Rules

2. Top level commitment

- A strong anti-fraud culture is established and outlined in the Council's Anti-Fraud & Corruption Policy. Councillors and senior management are committed to ensuring anti-bribery arrangements are robust and adequate.

3. Risk Assessment

- An annual Fraud and Corruption Risk Assessment is undertaken which considers the risk of bribery across all service areas
- All managers are responsible for regularly reviewing the risks from Fraud and Corruption in their business

4. Due diligence

- All necessary efforts are made to ensure that business partners are known and that business relationships are transparent and ethical

5. Communication (including training)

- Commitment to embedding anti-bribery within the Council is in place via policies, procedures and anti-fraud training arrangements.
- Consistent and proportionate sanctions are applied in line with disciplinary policies and the Anti-Fraud & Corruption Policy

6. Monitoring and review

- Internal Audit regularly review systems assessed as at high risk of bribery
- The relevant policies and procedures are regularly reviewed

CRIMINAL FINANCES ACT 2017 REQUIREMENTS

1 INTRODUCTION

This policy appendix is in place to ensure compliance with the Criminal Finances Act 2017 Part 3 (CFA 2017).

The CFA 2017 introduces a new Corporate Criminal Offence of failure to prevent the facilitation of tax evasion. Under the CFA 2017, the Council, if found to be facilitating tax evasion, could face an unlimited fine and consequent damage to its reputation.

The Council aims to conduct its financial affairs in a law abiding way and does not tolerate either the commitment or facilitation of tax evasion.

The Council attaches the utmost importance to this policy and any breach of this policy will be regarded as a serious matter and is likely to result in disciplinary action and possibly criminal prosecution.

2 LEGISLATION

Part 3 of the CFA 2017 entered into force on 30 September 2017, and creates the corporate criminal offence of failure to prevent tax evasion.

Tax evasion is the illegal non-payment or under-payment of taxes, usually as the result of making a false declaration (or no declaration) of taxes due to the relevant tax authorities, which results in legal penalties if the perpetrator is caught.

Tax avoidance, by contrast, is seeking to minimise the payment of taxes without deliberate deception. This is often legitimate but is sometimes contrary to the spirit of the law, e.g. involving the exploitation of loopholes.

Importantly the corporate criminal offence of facilitation only applies to tax evasion. The third party must be found guilty of tax evasion before the Council can be found to have facilitated it.

It is a criminal offence for anyone to evade paying tax of any kind, and also to help anyone to do so. Any individual found to be guilty of this could be subject to criminal proceedings under existing legislation. However, under the Criminal Finances Act 2017 in the event of there being both:

- a) Criminal tax evasion by either a UK or overseas taxpayer (as an individual or an entity) under existing law, and,
- b) Criminal facilitation of this offence by an 'associated person' of the Council

then the Council will automatically be charged with the corporate offence of failing to prevent its representatives from committing the criminal act of facilitation unless it can demonstrate that it had 'adequate' or 'reasonable procedures' in place to prevent that facilitation. If found guilty, the typical consequences for the Council could be an unlimited fine and reputational damage and the potential disbarment from public/governmental contracts.

The scope of 'associated persons' is widely drafted and includes Council officers, its employees, workers, agents, sub-contractors and other people/organisations that provide services for, or on behalf of Council.

3 WHAT DO I NEED TO DO AS AN EMPLOYEE/ASSOCIATE?

Staff and associates are reminded that they are required at all times to abide by the Council's policies, procedures and guidance.

Failure to comply with these policies, procedures and guidance, including in particular failure to comply with the obligations detailed in this policy, may result in disciplinary action for staff and the termination of arrangements with associates.

Should staff or associates be concerned that another employee or associate is facilitating a third party's tax evasion, they should report this to their (own) manager. The Council's Whistle-Blowing Policy can also be engaged.

4 WHAT HAS THE COUNCIL PUT IN PLACE TO PREVENT FACILITATION OF TAX EVASION?

It is a defence to the corporate criminal offence of facilitating tax evasion if the Council can prove that it has in place such prevention procedures as it is reasonable to expect in the circumstances.

Government guidance suggests an appropriate set of prevention measures which gives due recognition to the following:

1. Risk assessment

The Council's systems of risk and control are designed to ensure regularity. The Council's Internal Audit Team conduct regular compliance checks paying specific attention to areas of high risk (as identified from the Council's Fraud Risk Register) and report any concerns to management and the Audit & Governance Committee.

The following are common Council tax evasion risks which management and employees have a duty to prevent. This list is by no means exhaustive:

- **Incorrect VAT treatment/reclaim**
 - Employee agrees to mis-describe services provided to a third-party in order to facilitate a VAT reclaim by them.
 - Employee authorises a VAT invoice from a supplier knowing that they are not VAT registered.
- **Income Tax\National Insurance Payments**
 - Off payroll working (IR35) - Council fails to identify workers and associates that should be paid via the payroll system rather than the creditors system. A supplier wishes to be treated as a self-employed contractor so that payments to them are paid gross and they can evade paying the appropriate income tax and national insurance liabilities. Council officer helps the supplier by falsifying information on the Employment Status Questionnaire

- Failure to deduct the tax and NI at the correct rate. For example, a manager agrees to allow one of their staff to claim home to work travel through an expense claim. However, knowing that it is against Council policy and to help their employee from having to pay tax which is properly due, they allow their employee to describe the claim as travel away from the office.
- An employee is rewarded by way of a gift voucher over and above HMRC trivial gift limits (currently £50).
- **Incorrect Expense claims**
Employee authorises an expense claim with photocopied receipts knowing that the claimant will use the original receipts to support a tax reclaim.
- **Construction Industry Scheme**
Supplier submits an artificially low labour breakdown on their invoice to avoid tax being deducted on the labour element or no tax being deducted at all. A lack of understanding as to what work comes within the scope of the scheme or the implications of not applying the scheme.
- **Paying the wrong entity**
Employee accepts request to pay one entity knowing that the goods/services have been provided by another entity and that the purpose of the change is to evade tax.
- **Incorrect gift aid**
Employee allows a payment for goods/services to be described as a donation so that the donor can claim tax relief.
- **Payment in Kind**
Third parties not employed by the Council perform work in return for a payment in kind e.g. travel to a conference or use of facilities, knowing that no tax will be paid on the payment.
- **Direct Payments (for Care & Support Services)**
Failure to ensure deduction of Income Tax and National Insurance from payments made to personal assistants by recipients of Direct Care Payments.
- **Grants**
Failure to ensure that grant funding is used for its intended purpose. The Council gives a grant to an organisation for a specific project or service which may include the employment of staff. Staff are paid without the appropriate deduction of Income Tax and National Insurance.
- **Payment to overseas workers**
Using a third-party to pay in-country workers on the Council's behalf, where you know that there is a withholding obligation, and that the third-party will not comply with that obligation.

2. Proportionality of risk-based prevention procedures.

The Council has systems of controls in place to address specific risks. These controls include policy and guidance documents such as the Council's Whistle-Blowing Policy and Anti-Fraud & Corruption Policy.

3. Top level commitment.

This policy appendix has been endorsed by the Corporate Management Board and the Audit & Governance Committee as part of the Anti-Fraud and Corruption Policy.

4. Due diligence.

Reasonable care and caution is exercised when processing all transactions particularly high value/high risk area payments. Regular monitoring takes place and particular caution is exercised when making payment to new suppliers.

5. Communication (including training).

All staff, especially those involved in processing and approving financial transactions, will be made aware of this policy via their induction. Information is also available on the Council's intranet.

6. Monitoring and review

Regular monitoring and review of systems of controls and policies is carried out by Internal Audit and any findings/concerns reported to management and the Audit & Governance Committee.

GUIDANCE NOTE FOR SCHOOLS

The 'Schools Financial Value Standards' issued by the Department for Education contains the following advice:

1	<p>What are adequate arrangements against fraud and theft?</p> <p>Schools need a robust system of controls to safeguard themselves against fraudulent or improper use of public money and assets. Arrangements should both prevent malpractice and enable prompt detection should it nonetheless occur.</p>
2	<p>What are possible types of fraud and theft?</p> <p>The list below gives examples but cannot be exhaustive:</p> <ul style="list-style-type: none"> • theft (e.g. retaining cash collected for school dinners, trips, etc. for personal use; taking away school assets for personal use); • false claims (e.g. for travel which did not take place, for un-worked overtime etc.); • unauthorised purchase of equipment for personal use; • improper use of petty cash for personal purposes; • failing to charge appropriately for goods or services (e.g. not charging for school rooms used for private functions) or providing improper gifts or hospitality; • processing false invoices for goods or services not received and pocketing the proceeds; • making false entries on the payroll, such as inventing a fictitious employee and arranging to be paid an additional salary; • payment of inappropriate bonuses; • misusing school financial systems to run a personal business; • improper recruitment (e.g. employing a family member or individual known personally to an employee without following appropriate recruitment procedures); • buying from a supplier or contractor known personally to an employee without following required procurement procedures or declaring a business interest; • separating purchases to avoid tendering thresholds; and • suppliers or contractors failing to deliver the agreed goods or services but still being paid in full
3	<p>Noting any instance of fraud or theft detected in the last 12 months</p> <p>All schools should keep a written log of any instances of fraud or theft detected. This should include attempted fraud or theft, so long as this wouldn't prejudice any ongoing action such as legal action against the perpetrator(s). This log will help the school to identify patterns of misconduct and any weaknesses in their current arrangements which need to be addressed.</p>
4	<p>Why you need to have adequate arrangements in place to guard against fraud and theft</p> <p>Schools manage substantial sums of public money and consequently need to safeguard public funds. Local authorities would be likely to take strong action against maintained schools that appeared persistently vulnerable to fraud and theft.</p>
5	<p>How to ensure that your school has adequate arrangements in place to safeguard against fraud and theft</p> <p>The governing body will expect the head teacher and other senior staff to assure them that adequate arrangements are in place, rather than seeking to put operational arrangements in place themselves. The main features of such arrangements are likely to include:</p> <ul style="list-style-type: none"> • financial management checks, reconciling accounts at the end of each month and keeping an audit trail of documents; • separation of duties – no one employee should be responsible for both validating and processing a transaction, for example certifying that goods have been received and

	<p>making the payment for them;</p> <ul style="list-style-type: none"> • strictly limited access to systems for authorising and making payments; • spot checks on systems and transactions – this will help identify new risks and measure the effectiveness of existing controls. It also indicates to staff that fraud prevention is a high priority; • investigation and logging of every incident of irregularity, including instances of attempted fraud; • careful pre-employment checks on staff who will have financial responsibilities; and • making employees' financial responsibilities clear through written job descriptions and desk instructions.
6	<p>Make the information available to all staff</p> <p>The governing body and head teacher should inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them, and the consequences of breaching these controls. This information should be included in induction for new school staff and governors. Staff should be reminded of this information if an incident occurs.</p>
7	<p>What to do if adequate arrangements are not in place in your school</p> <p>Adequate arrangements will need to be put in place as soon as possible. If you are unsure how to do this and are a maintained school, you should contact your local authority urgently. You need to identify which arrangements are not adequate and agree an action plan to address them with a deadline for implementation. Once the new arrangements are in place, you should evaluate their effectiveness and regularly review the school's full arrangements to make sure they remain adequate.</p>
8	<p>What to do if fraud or theft is suspected or discovered (including any instances of attempted fraud or theft)</p> <p>Maintained schools should contact their local authority (LA) for help and support in instances where fraud or theft is suspected or discovered and should always report the matter to the LA's Internal Auditors.</p>
9	<p>Further information</p> <p>For maintained schools, your Local Authority should be able to provide further information and support on establishing adequate arrangements to safeguard against fraud and what should happen if fraud is suspected or discovered. In addition, these websites\contacts provide help and advice:</p> <ol style="list-style-type: none"> 1. <u>School Fraud Risk - CIPFA</u> This self-assessment checklist can be used by organisations in order to check their own health against the fraud risk areas 2. Department for Education (DfE) – <u>www.education.gov.uk</u> – this website contains a wide range of information and resources for schools. <u>Here</u> you can access information on the supporting legal framework for school revenue funding, audit and whistle-blowing policy. 3. Action Fraud – <u>www.actionfraud.police.uk</u> this website is the UK's national fraud reporting centre and provides information of what fraud is and the different types of fraud. 4. Institute of School Business Leadership (ISBL) – <u>www.isbl.org.uk</u> – provides information and training for all those involved in school business management including on fraud. 5. Internal Audit is able to provide advice to Maintained Schools on financial control systems. <p>Telephone 01202 817888 or e-mail fraud@bcpcouncil.gov.uk</p>

IN YEAR MINOR AMENDMENTS AND EDITING LOG

Minor Amendments and Editing Log

The Chief Finance Officer has primary responsibility for developing, maintaining, and implementing the Anti-Fraud & Corruption Policy. Where changes affect the powers or responsibilities of councilors approval of the Audit & Governance Committee is required.

It is recognised there may be a need to clarify or update certain elements of the Anti-Fraud & Corruption Policy from time to time, this may require minor amendments or editing. The Chief Finance Officer has delegated to the Head of Audit & Management Assurance the ability to make minor amendments and editing changes. Any such changes will be logged in the table below.

Date	Description of amendments or editing	Page
-	-	-

Equality Impact Assessment: conversation screening tool

Policy/Service under development/review:	Anti-Fraud & Corruption Policy
What changes are being made to the policy/service?	Annual policy refresh including amendments to police referral procedures and updated anti-money laundering requirements.
Service Unit:	Finance
Persons present in the conversation and their role/experience in the service:	Chief Internal Auditor Service Equality Champion
Conversation dates:	19/01/2023
Do you know your current or potential client base? Who are the key stakeholders?	Key stakeholders are <ul style="list-style-type: none"> any person who is currently employed, directly or indirectly by Bournemouth, Christchurch and Poole Council (BCP) including those whose relationship is with a wholly-owned entity, including trading companies and Arm's Length Management Organisations (ALMOs); Elected or Co-Opted councillors; and Any other individual who undertakes activities on behalf of the Council including for example, volunteers, partners, contractors, etc.
Do different groups have different needs or experiences in relation to the policy/service?	All protected characteristics have been considered, and no different needs or experiences have been identified as a result of these updates.
Will the policy or service change affect any of these service users?	No as these changes apply equally to all key stakeholders
What are the benefits or positive impacts of the policy/service change on current or potential service users?	None identified
What are the negative impacts of the policy/service change on current or potential service users?	None identified
Will the policy or service change affect employees?	Yes, as this policy applies to all BCP Council employees

Will the policy or service change affect the wider community?	No, as this policy only affects BCP Council employees
What mitigating actions are planned or already in place for those negatively affected by the policy/service change?	No negative impacts have been identified; thus no mitigating actions are required
Summary of Equality Implications:	No equalities implications have been identified as a result of the changes to this policy

Whistleblowing Policy

Live from 1 April 2023

Annual evolution changes to this policy are shown in red text each year

Finance

Author: Head of Audit & Management Assurance

Version: V2023.1

Review Date: Annual evolution, next due April 2024



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1 PURPOSE OF THIS POLICY

- 1.1 Bournemouth, Christchurch and Poole Council (BCP) (hereafter referred to as 'the Council') is committed to high standards of conduct and to compliance with legal obligations and good practice. The Council's intent is to expose and deal with malpractice and it expects its employees, and others who help to deliver its services, to report all instances where they have reasonable suspicions of wrongdoing. Failure to report wrongdoing may lead to financial or reputational damage, poor staff morale and erosion of trust.
- 1.2 The term whistleblowing is generally used only with reference to workers (referred to in Law as making a protected disclosure) and has a specific legal definition pursuant to the Public Interest Disclosure Act 1998 (PIDA), i.e. a disclosure of information which, in the reasonable belief of the worker, is made in the public interest. This Policy is primarily intended to deal with wrongdoing alleged against the Council or its employees and therefore the protected disclosures should relate to Council business. The disclosure of information must always be more than an un-particularised allegation or mere opinion.
- 1.3 The Council recognises that, as a public body, it might receive a disclosure of information not just from its workers but from members of the public. A disclosure made by any person who is not a worker of the Council does not meet the legislative definition of whistleblowing (a protected/qualifying disclosure) and will be addressed by applying other relevant Council Policies.
- 1.4 The Council recognises that it is a [prescribed person](#) and that workers from external organisations may approach the Council to report suspected or known wrongdoing in relation to Health and Safety, Consumer Protection and Food Standards. The relevant individual services have their own procedures for dealing with such disclosures.
- 1.5 This policy incorporates the requirements of PIDA into the Council's governance framework and provides managers with the necessary information to consider cases of whistleblowing. The legislation is contained in Part IV A of the Employment Rights Act 1996 sections 43A to [43L](#), 47B, 103A and secondary legislation identifying the prescribed persons to report concerns to and the specific areas each covers.
- 1.6 In addition, this policy aims to ensure that those covered by this policy:
- feel confident in raising concerns in the public interest about suspected serious wrongdoing in the Council and its services without fear of reprisals or victimisation even where the concern or allegations are not subsequently confirmed by the investigation;
 - can raise concerns in confidence and receive feedback on any action taken;
 - receive a response to concerns and are aware of how to pursue them if they are not satisfied;
 - and are protected from possible reprisals or victimisation where they have reported concerns in the public interest.

- 1.7 The Council will take any action necessary in proportion to the nature of the complaint. The Policy's intent is to ensure that whenever a qualifying person (see 3.1-3.3) has a reasonable belief that their disclosure is in the public interest and meets with one or more of the circumstances in paragraph 3.7 (a to f), they will be protected from detriment (for example victimisation, bullying or being disciplined).

2 WHO MUST COMPLY WITH THIS POLICY?

- 2.1 This policy applies to:
- any person who is currently employed by Bournemouth, Christchurch and Poole Council (BCP),
 - Elected or co-opted councillors,
 - Any other individual who undertakes activities on behalf of the Council including for example, volunteers, partners, contractors, foster carers etc.
- 2.2 It is expected that all organisations that are part or wholly owned by the Council will have their own whistleblowing arrangements which ensure that proper reporting arrangements are in place which are consistent with the requirements of the PIDA and that staff are fully protected in line with this legislation. If such organisations do not have their own Whistleblowing Policy arrangements, then the Council's will apply.
- 2.3 All organisations that carry out activities on behalf of the Council, for example providers of commissioned services, are expected to have appropriate and robust whistleblowing arrangements which are consistent with the requirements set out in legislation and in this policy.
- 2.4 The Department for Education state that Maintained schools should have their own [in-house whistleblowing procedures](#). Maintained schools can make representation to the Head of Audit and Management Assurance (HAMA) to act as an external representative.
- 2.5 The [Academy Trust Handbook](#) (also known as the Academies Financial Handbook) sets out the requirements for Academies in respect of their whistleblowing arrangements. In doing so, the Handbook (section 2.43) states that "The academy trust **must** have procedures for whistleblowing, to protect staff who report individuals they believe are doing something wrong or illegal."

3 WHAT IS THE POLICY?

Who is protected

- 3.1 An employee* is protected by the legislation from any detriment as a result of having made a qualifying protected disclosure and/or from being dismissed where it could be found that the main reason for their dismissal (if there is more than one) was because they had made such a disclosure.

*The terms 'worker' and 'employee' are interchangeable for the purposes of this policy.

- 3.2 Other people protected are:
- Most agency employees,
 - Some trainees such as apprentices,
 - Former employees who have made disclosures whilst still employed (and they suffer a detriment after employment).
- 3.3 The people described in 3.1 and 3.2 will be referred to as 'qualifying individuals' in the rest of this policy.

Who is not protected

- 3.4 The following individuals, whilst having to comply with this policy, are not protected by the relevant legislation:
- Councillors
 - Volunteers
 - Public appointments
 - Self-Employed persons
 - Foster Carers/Shared Lives providers
 - Interns
 - Former employees who have made disclosures after leaving the Council.
- 3.5 These people will be offered support, confidentially as far as possible, and will be provided with a contact who can receive complaints which might otherwise be considered whistleblowing type concerns. Members of the public maybe signposted to a relevant 'prescribed person' to send their concern to if the Council is not the appropriate body.
- 3.6 Councillors are not employees of the Council and are therefore not protected under whistleblowing legislation. However, Councillors should raise any concerns via the proper democratic processes of the Council, by contacting one or more of the following:
- Leader of the Council
 - Head of Paid Service
 - Monitoring Officer
 - The relevant Overview and Scrutiny Board

Types of disclosure covered by this policy

- 3.7 PIDA specifies what 'Qualifying Disclosures' are. The qualifying individual disclosing information must have a reasonable belief that their disclosure is made in the public interest and tends to show that any of the following apply:
- (a) that a criminal offence has been committed, is being committed or is likely to be committed,
 - (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he/she is subject,
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur,
 - (d) that the health or safety of any individual has been, is being or is likely to be endangered,
 - (e) that the environment has been, is being or is likely to be damaged, or
 - (f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

- 3.8 There can be some confusion between grievances and whistleblowing. Whistleblowing is the raising of a concern about a danger or risk so that it may be investigated, while a grievance seeks redress for a wrong done to oneself (or a group of employees if the individual is also one of those employees).
- 3.9 This policy does not apply to raising grievances about a person's personal situation and thus does not replace existing procedures for resolving personal differences or conflicts. If an employee has concerns in respect of a personal grievance (e.g. bullying, harassment, discrimination) they should consult the Grievance Policy and Procedure, their immediate manager, Human Resources (HR) and/or Legal Services who can advise them about the correct procedure to follow.

Safeguarding Concerns raised by Council Employees

- 3.10 Employees have a duty to report in a timely way any concerns or suspicions they may have that an adult or child at risk, is being, or is at risk of being, harmed and the Council has specific arrangements in place to address concerns raised, which are summarised below:

If you think someone may be at immediate risk of serious harm, contact the Police.

- 3.11 Children's Safeguarding:
To report Children's safeguarding concerns staff should contact the Multi Agency Safeguarding Hub via email childrensfirstresponse@bcpcouncil.gov.uk or via telephone on **01202 123334**

An allegation against someone who works with children and young people or a concern about their suitability to work with children and young people should be reported direct to the Local Authority Designated Officer (LADO) - lado@bcpcouncil.gov.uk or via telephone 01202 817600.

For emergency safeguarding concerns outside of office hours contact can be made with the children's social care Emergency Duty Service via telephone on 01202 738256

- 3.12 Adults Safeguarding:
For safeguarding concerns relating to Bournemouth, Christchurch or Poole residents, get in touch with the ASC Contact Centre who are responsible for receiving and assessing Adults safeguarding concerns via email asc.contactcentre@bcpcouncil.gov.uk or via telephone: 01202 123654.

For emergency safeguarding concerns outside of office hours contact can be made with the adult social care Emergency Duty Service on 0300 123 9895.

- 3.13 A safeguarding concern (Children's or Adults) raised by an employee may also be a 'qualifying disclosure' under whistleblowing legislation (as per paragraph 3.7). If the concern relates to wrongdoing alleged against the Council or its employees, the employee will be protected under this policy and should be reported to the Head of Audit & Management Assurance (HAMA) who is responsible for annual reporting (see paragraph 6.6).

4 WHAT IS EXPECTED FROM THE WHISTLEBLOWER?

- 4.1 Employees will normally raise their concerns with their line manager. The matter will then be dealt with in line with the **seven**-stage procedure at Appendix 1.
- 4.2 If a qualifying individual makes a disclosure within the Council, they are expected to:
- have reasonable grounds for suspicion about the malpractice;
 - have a reasonable belief that the disclosure is in the public interest; and
 - not make the disclosure for personal gain.
- 4.3 Failure to comply with the expectations above, including, making a frivolous or malicious disclosure may result in disciplinary action being taken.

Disclosures that are not proved

- 4.4 A qualifying disclosure that is not confirmed by subsequent investigation will not lead to any action, penalty or detriment against the person making the allegation or disclosure providing the provisos contained in 4.2 apply.

Disclosures to other organisations

- 4.5 The Council is committed to addressing all genuine and serious concerns raised and therefore disclosures should be made to the Council in the first instance. However, if a qualifying individual feels unable to use the procedure described in this policy the disclosure should be made to a prescribed person, so that their employment rights are protected.
- 4.6 If a qualifying individual decides they cannot go to the Council with the disclosure first, they should contact a [prescribed person or body](#).

Anonymous disclosures

- 4.7 Whilst this policy is intended to deter people from making anonymous disclosures, they will be considered to the extent that it is reasonable and practicable to do so. It is often difficult to attach equal weight to anonymous allegations due to the investigator's difficulty in confirming or following up evidence.

5 HOW IS THE WHISTLEBLOWER PROTECTED?

- 5.1 The following safeguards and principles should be applied in all cases.

Confidentiality and Anonymity

- 5.2 The Council's Whistleblowing Policy seeks to protect the identity of the individual making a disclosure. However, in alleged cases of serious wrongdoing, it must be appreciated that the Council cannot guarantee that this will be maintained particularly if external legal action results from the disclosure. In some cases, a qualifying individual's concern may require further action and they may have to act as a witness and/or provide evidence, for example serious criminal offences which are referred to the Police.

- 5.3 Anyone within the Council who inappropriately breaches a whistleblower's confidentiality or anonymity will be subject to disciplinary action which may lead to dismissal.
- 5.4 If a disclosure relates to a child at risk or abuse of a vulnerable adult, then the Council is required to investigate this under separate procedures and this takes priority over any request for anonymity.

Harassment and Victimisation

- 5.5 The Council acknowledges that the decision to report a concern can be a difficult choice for an individual to make, not least because of the fear of reprisal from those responsible for the malpractice. Any qualifying individual who makes a 'qualifying disclosure' which meets the requirements of the PIDA is legally protected against victimisation or harassment for whistleblowing.
- 5.6 Anyone within the Council who harasses or victimises a whistleblower will be subject to disciplinary action which may lead to dismissal.
- 5.7 Managers are responsible for monitoring how whistleblowers are subsequently treated after raising a concern. They will ensure that any harassment or victimisation is dealt with under disciplinary arrangements.
- 5.8 Any qualifying individual who believes they have been victimised as a result of making a disclosure or whistleblowing should report their concerns to their Service Director (or the Corporate Director if this is more appropriate).

6 HOW IS THIS POLICY IMPLEMENTED?

Procedure

- 6.1 Disclosures will be dealt with under the following stages. Not all disclosures will follow all stages in the order below, subject to the circumstances of each case. The action taken by the Council will be reasonable and proportionate, depending on the nature of the concern.
- 6.2 Disclosures will be dealt with under the following stages:
- Stage 1 – Informal Resolution
 - Stage 2 – Formal Resolution
 - Stage 3 – Response for a Formal Resolution
 - Stage 4 – Investigation
 - Stage 5 – Responding to the Investigation
 - Stage 6 – Confirmation of the Outcome
 - Stage 7 – Lessons learnt in consultation with the whistleblower
- Further details can be found in Appendix 1 – Seven Stage Whistleblowing Procedure.
- 6.3 If the individual is dissatisfied with the outcome response or the process followed, they should put their concern in writing to the Chief Executive and request that the investigation is reviewed. Public Concern at Work may also be contacted on 020 3117 2520.

Implementation and Communication

- 6.4 New staff joining the Council will be given information and guidance on the policy during their corporate induction and it will be integrated into training and documents relating to conduct and behaviour. The policy will be publicised using the Council's intranet site.
- 6.5 All managers will be expected to take note of their responsibilities in relation to allegations and protecting whistleblowers from any adverse treatment. Where appropriate, management should seek advice from HR and/or Legal Services.
- 6.6 The responsibility for ensuring that the Council adheres to this policy rests with all managers, who have an obligation to support and encourage staff to speak out, to protect them from detriment and to take action where staff are subjected to any disadvantage relating to whistleblowing.

How will the policy be monitored?

- 6.7 The Council has a responsibility for registering the nature of all concerns raised and to record the outcome. The Head of Audit & Management Assurance (in liaison with Human Resources) will produce an annual report to the Audit and Governance Committee in respect of the number, type and outcomes reported of whistleblowing allegations.

How long will disclosure records be kept?

- 6.8 Staff disciplinary cases - see Human Resources Retention & Destruction schedule and liaise with HR Business Partner.
- 6.9 Internal Audit investigations - 3 years.
- 6.10 Proven cases following a criminal investigation - see Government guidance paragraph 5.

7 SUPPORTING INFORMATION

- 7.1 Individuals who have major concerns arising from their employment may wish to seek advice from their union or the whistleblowing charity [Protect](#) (02031 172520), to see whether the information which they wish to report would meet the definition of a 'qualifying disclosure' and whether they should be using this procedure, or an alternative.
- 7.2 The Department for Business, Energy and Industrial Strategy has published '[Whistleblowing: Guidance for Employers and Code of Practice](#)'.

8 FURTHER INFORMATION AND EVIDENCE

Consultees

The following individuals/groups have been consulted during this year's evolution of this policy:

Internal Audit
Statutory Officers Group
Head of Human Resources

Equalities Impact Assessment

Assessment date	Reviewed as part of this years' evolution. Minor amendments have been made which have been assessed by Service Unit Equality Champion as having no equalities impacts. Updated EIA assessment as per Appendix 3.
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Document Control

Approval body	Audit & Governance Committee
Approval date	16 February 2023
V1 – December 2018	New Policy created (please note any version changes in the future will be shown in red text)
V2 – March 2020	Policy annual review. Some minor changes made including reformatting to BCP corporate formatting and changed "Department for Business Innovation and Skills", to "Department for Business, Energy and Industrial Strategy".
V2021 – March 2021	Policy annual review. Several links and Adults safeguarding contact details updated. Added section in relation to the Council acting as a prescribed person. Added links to templates for initial response and outcome confirmation to the whistleblower. Appended updated EIA screening tool.
V2022 – March 2022	Policy annual review. Added various areas following review against ISO37002 Whistleblowing Management Systems including; impact of not reporting wrongdoing, retention of disclosure records, requesting feedback from the whistleblower, breaches of a whistleblower's confidentiality or anonymity process, assessing the risk of detriment to the whistleblower, and ensuring timely response to the disclosure. Clarified Policy primary purpose to deal with protected disclosures relating to Council business. Clarified process regarding safeguarding concerns (Children's or Adults) raised by an employee. Other minor wording changes and updated links and contact details.
V2023 – March 2023	Policy annual review. Update to a Children's safeguarding contact number and reference to a section of Employment Rights Act legislation. Some minor amendments made to Appendix 1 Seven Stage Whistleblowing Policy to clarify the process. Outcome template letter amended to ask for receipt confirmation and to advise that feedback will be sought. Repeated in Section 6 'How Is This Policy Implemented' the process to follow if the individual is dissatisfied with the outcome response or the process followed.

SEVEN STAGE WHISTLEBLOWING PROCEDURE

The individual does not need to declare their disclosure as a “Disclosure in the Public Interest” for it to be acted upon. Management must be aware of their responsibilities in identifying and reporting the disclosure in line with this policy.

When making a disclosure, give as much information as possible about:

- The nature of the problem
- The background (with dates if possible)
- Who is involved
- The reasons you are concerned

Every qualifying disclosure must be notified immediately to the HAMA who will keep a log and register the details (the HAMA can be contacted via email: nigel.stannard@bcpcouncil.gov.uk or via telephone: 01202 128784. In each instance, when the matter is resolved, the HAMA must be notified promptly, and the register will be updated. If the allegation is without foundation or resolved informally, the register will reflect this, but it is crucial that a record is maintained of all allegations for transparency and audit purposes.

Stage 1 – Informal Resolution

In some situations, the issue may be resolved without the need for a major investigation. If an individual is aware or concerned about misconduct or wrongdoing taking place inside the organisation that he or she thinks may damage or undermine the interests of the wider public they are advised in the first instance to share the details with their line manager or Service Director, who in consultation with the HAMA will see if it can be resolved without following the formal resolution stages of this policy.

The applicable line manager and HAMA will decide on the basis of the information provided how the matter can be resolved including assessing the risk of detriment to the whistleblower. This may include informal resolution or formal consideration. The outcome will be explained to the whistleblower and it may be agreed to end the process at this point. Move to straight to stage 6 if no formal resolution is deemed necessary.

Stage 2 – Formal Resolution

If the individual feels unable to discuss their concerns with their line manager or Service Director or does not accept that the response at the informal resolution stage is sufficient or believes that senior management is involved in the matter of concern, more formal resolution will be required. The HAMA, Monitoring Officer or the Head of Paid Service should be contacted.

If the allegation concerns one or more of these officers, the disclosure may be made to the Council's External Auditors or any another relevant [prescribed person or body](#).

It should be noted that a qualifying individual making disclosures to a prescribed person, such as an industry regulator, must reasonably believe that the matter falls within the regulator's area of responsibility and that the information and any allegations contained in it are substantially true.

At this stage, the person making the disclosure (the 'whistleblower'), will be asked whether he or she wishes their identity to be disclosed and will be reassured regarding protection from possible reprisals or victimisation.

He or she may also be asked to consider making a written or verbal statement. In the latter case, a summary of the interview will be made which will be agreed by both parties.

Details of the disclosure will be considered by the HAMA, or the Monitoring Officer or the Head of Paid Service or his/her representative, including any recommendations for further action.

Stage 3 – Response for a Formal Resolution

The HAMA, Monitoring Officer or the Head of Paid Service or representative who has received the disclosure will take any urgent action they deem necessary and then decide how to respond to the disclosure, having regard to all the circumstances, including the evidence available. Preliminary inquiries will be made to establish the nature of the issue and how best to respond in the public interest.

Depending on the nature of the issue raised and the findings of the preliminary enquiry, the response, in the judgement of the HAMA, Monitoring Officer or the Head of Paid Service will decide whether one or more of the following courses of action is appropriate:

- a management investigation in consultation with HR and Legal Services;
- a disciplinary investigation in accordance with the Council's policies;
- a referral for consideration under other procedures;
- a referral to the Police;
- a referral to the External Auditor;
- an independent investigation;
- amendment of procedures;
- no action due to lack of sufficient evidence; or
- decide as to the non-relevance/significance to this policy.

The whistleblower will be notified of the intended response to the disclosure in a timely manner (usually within one calendar month) and the reasons for it. **The template letters below are available as a guide but other forms of written communication, such as embedding similar content in an email, may be more suitable in certain circumstances.** The timeframes for an initial response to a formal disclosure will depend on the nature and complexity of the concern raised.

Move straight to stage 6 if no form of investigation is deemed necessary.

Stage 4 – Investigation

Where the decision has been made to carry out an investigation, a manager or other person will be appointed as the investigating officer.

He or she will agree terms of reference with the HAMA, Monitoring Officer or the Head of Paid Service or relevant representative and identify a provisional date when the investigation should be completed by. The investigation will be carried out observing the strictest confidentiality. The investigation is essentially a 'fact finding' exercise, to establish the facts and determine what further action may be necessary and make recommendations accordingly. A report will be produced detailing the findings and recommendations for review by the HAMA.

The investigating officer will have regard to the human rights of any individuals affected by the investigation. The investigation may also serve as the information gathering part of the Council's disciplinary procedures. In such cases this will be made clear to any people who may be subject to such investigation and any right to be accompanied will be made clear.

Normal support arrangements - e.g. counselling/unions/HR - will be available as required, to the whistleblower, any person accused of being involved in, or having concealed, wrong-doing and any others affected.

Stage 5 – Responding to the Investigation

The HAMA, Monitoring Officer or the Head of Paid Service or representative will decide whether any further action is necessary as a result of the investigation report and recommendations. If the result of the investigation is that there is a case to be answered by any individual, the relevant Council policy or procedure will be followed.

The amount of contact between the officers considering the issues and the employee raising the concern will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern.

The Council will take all steps to ensure that the whistleblower suffers no reprisals or victimisation as required by the Public Interest and Disclosure legislation.

Stage 6 – Confirmation of the Outcome

So far as legally possible and subject to rights of confidentiality, the whistleblower will be informed of the outcome of the **response to the disclosure (stage 1 & 3) or the outcome of any investigation (stages 4 & 5)** and how the matter has been resolved. **The template letters below are available as a guide but other forms of written communication, such as embedding similar content in an email, may be more suitable in certain circumstances.** In consultation with the whistleblower any ongoing protection measures will be agreed. If the whistleblower is dissatisfied with this response, they should put their concern in writing to the Chief Executive and request that the investigation is reviewed.

Stage 7 – Lessons learnt in consultation with the whistleblower

The HAMA, Monitoring Officer or the Head of Paid Service or representative will collect feedback from the whistleblower **where this is practical and if the whistleblower is willing to do so.**

Service / Team
Address Line 1
Address Line 2
Town / City Postcode



Mr/Mrs

Date: (Insert date)

Address Line 1

Our Ref: 000000000000

Address Line 2

Contact:

Town

Email: (Insert Council email address)

Postcode

Tel: (Insert work telephone address)

Draft letter to Employee (Whistleblower) confirming how matter will be progressed

Dear

Reporting of concern under Whistleblowing Procedure

I am writing to confirm acknowledgement of the concerns you have raised under the Council's Whistleblowing Procedure (available on the Council's Intranet) and to outline how the matter will be taken forward.

Firstly, thank you for raising concerns. It is important for employees to bring forward any issues of concern which could damage public trust and confidence in the services provided by the Council.

After initial consideration of the issues that you have raised, I have made the decision that. [Either](#): a) the concerns you have raised fall more properly within the Council's Grievance Policy [\(or some other policy\)](#) (copy attached), and if you wish to take the matter further you should follow the process outlined in that document. [Explain reasons](#)
You can seek support from a member of the HR Team who will be able to talk through the process with you. [\(Insert name and contact\)](#) Or b) I believe that your complaint warrants a formal investigation. [Provide further details, e.g. Management investigation, Internal Audit investigation, Police referral, referral to regulatory body](#)

I will act as the Designated Officer in this case / It has been agreed that [\(Name & Role\)](#) to be the Designated Officer in this case. [\(delete as appropriate\)](#)

If you are asked to attend a meeting as part of the investigation you may of course be accompanied by either a Trade Union representative or workplace colleague.

It is anticipated that it will take [\(insert indicative timescales\)](#) before I can advise you of progress. You will be contacted by [\(insert details\)](#)

I/Designated Officer will keep you informed. Once the investigation is complete I/Designated Officer write to you and confirm the outcomes of the investigation into the concerns you have raised.

In the meantime, if you require any support you should contact [\(Name & Role\)](#)
The Council will treat this matter confidentially in accordance with the terms of the Whistleblowing Policy.

If you have any queries about the contents of this letter, please let me know.

Yours sincerely,
[\(Insert title\)](#)

Service / Team
Address Line 1
Address Line 2
Town / City Postcode



Mr/Mrs

Date: (Insert date)

Address Line 1

Our Ref: 000000000000

Address Line 2

Contact:

Town

Email: (Insert Council email address)

Postcode

Tel: (Insert work telephone address)

Draft letter to Employee (Whistleblower) confirming outcome of concerns

A meeting with person who has raised concerns may take place to advise them of the outcome. In this case, the letter should be confirmation of what was discussed at that meeting.

Dear

Outcome of Investigation into concerns raised under Council's Whistleblowing Policy

I refer to the concerns you raised under the Council's Whistleblowing Policy on (insert date). I am writing to confirm the outcome of the management investigation that took place.

Conclusions of the Investigation

The principal conclusions of the investigation were as follows:

- Either the full findings of the investigation report or a summary of the findings may be listed here.
- If the concern was unfounded, this needs to be made clear with reasons.

As a result of this investigation, the following action has been taken:

- Describe changes (if any) in operational practice
- (Where relevant) The (employee in question) has been formally counselled about their role in this matter, and the situation will be closely monitored to ensure no reoccurrence in the future
- (Where relevant) the (employee in question) has been dealt with under the Disciplinary/Capability Policy and:

I would like to thank you again for bringing this matter to our attention.

I trust you feel that this has been dealt with satisfactorily. If you are dissatisfied with this response or the process that has been followed, in accordance with the Whistleblowing Policy, you can put your concern in writing to the Chief Executive and request that the investigation is reviewed. You may also seek advice from Public Concern at Work who can be contacted on 020 3117 2520.

Please confirm receipt of this communication. I will be in touch subsequently to seek any feedback to assist with lessons learned from the process (Stage 7 of the Whistleblowing Policy).

If applicable - Should you wish, we can arrange a meeting to discuss the contents of this letter, please contact me on (insert details)

Yours sincerely

Senior Manager overseeing investigation.

IN YEAR MINOR AMENDMENTS AND EDITING LOG

The Chief Finance Officer has primary responsibility for developing, maintaining, and implementing the Whistleblowing Policy. Where changes affect the powers or responsibilities of councilors approval of the Audit & Governance Committee is required.

It is recognised there may be a need to clarify or update certain elements of the Whistleblowing Policy from time to time, this may require minor amendments or editing. The Chief Finance Officer (CFO) has delegated to the Head of Audit & Management Assurance (HAMA) the ability to make minor amendments and editing changes. Any such changes will be logged in the table below.

Date	Description of amendments or editing	Page
-	-	-

Equality Impact Assessment: conversation screening tool

Policy/Service under development/review:	Whistleblowing Policy
What changes are being made to the policy/service?	Annual policy refresh including minor amendments such as an update to a contact number and reference to legislation. Also some minor clarification amendments to Appendix 1 Seven Stage Whistleblowing Policy and the outcome template letter.
Service Unit:	Finance
Persons present in the conversation and their role/experience in the service:	Chief Internal Auditor Service Equality Champion
Conversation dates:	31/01/2023
Do you know your current or potential client base? Who are the key stakeholders?	Key stakeholders are <ul style="list-style-type: none"> • any person who is currently employed by Bournemouth, Christchurch and Poole Council (BCP) • Elected or Co-Opted councillors; and • Any other individual who undertakes activities on behalf of the Council including for example, volunteers, partners, contractors, etc.
Do different groups have different needs or experiences in relation to the policy/service?	No protected characteristics are affected differently by the changes to this policy
Will the policy or service change affect any of these service users?	No as these changes apply equally to all key stakeholders
[If the answer to any of the questions above is 'don't know' then you need to gather more evidence and do a full EIA. The best way to do this is to use the Capturing Evidence form]	
What are the benefits or positive impacts of the policy/service change on current or potential service users?	None identified
What are the negative impacts of the policy/service change on current or potential service users?	None identified

Will the policy or service change affect employees?	Yes, as this policy applies to all BCP Council employees
Will the policy or service change affect the wider community?	No, as this policy only affects the key stakeholders identified above
What mitigating actions are planned or already in place for those negatively affected by the policy/service change?	No negative impacts have been identified; thus no mitigating actions are required
Summary of Equality Implications:	No equalities implications have been identified as a result of the changes to this policy

Declaration of Interests, Gifts and Hospitality Policy (for Officers)

Live from 1 April 2023

Annual evolution changes to this policy are shown in red text each year

This policy has been produced collaboratively by Internal Audit, Human Resources and Law & Governance

Author: Nigel Stannard, Head of Audit & Management Assurance

Version: V2023.1

Review Date: Annual evolution, next due April 2024



1. Purpose Statement

- 1.1 The purpose of the policy is to protect the Council and employees against conflicts of interest and allegations of impropriety. The public must be confident that decisions made by employees of whatever nature are made for good and proper reasons and are not influenced inappropriately by the interests of individual employees, their relatives or friends.
- 1.2 The Council is entitled to put in place a series of precautionary measures to ensure that conflicts or potential conflicts of interest are notified to the Council at an early stage.
- 1.3 The [Bribery Act 2010](#), and the [Local Government Act 1972](#) are relevant.
 - The Bribery Act 2010 makes it an offence for an employee to give advantage to someone in return for favours in relation to the Council's business.
 - [Section 117 of the Local Government Act 1972](#) requires that employees notify the authority in writing of any direct or indirect financial interests which they have in any Council contracts, or proposed contracts, of which they become aware. Breach of Section 117 is a criminal offence subject to a fine.
- 1.4 All but incidental gifts and hospitality received by a council employee may be perceived as a potential conflict or may be viewed as a potential bribe. The Council generally requires all but incidental gifts and hospitality to be declared on Form 1 or Form 2 as appropriate.

2 Who the policy applies to

- 2.1 This policy applies to all BCP Council employees, including casual, part-time and temporary staff including those supplied by employment agencies.
- 2.2 This policy does not apply to BCP 'maintained' schools' employees where an individual school policy exists. A BCP 'maintained' school may use all or parts of this policy if they wish to do so.

3 This policy replaces

- 3.1 This policy replaces sections of any legacy Councils' respective Code of Conduct or any standalone policies, procedures or guidance of legacy Councils relating to conflicts of interest and or accepting/declaring gifts or hospitality.
- 3.2 This policy operates in conjunction with the BCP Council Code of Conduct for employees and the disciplinary procedure. The BCP Code of Conduct states 'Employees are required to follow the 'Declaration of interests, gifts and hospitality policy' (this policy).

4 Approval process

- 4.1 The Audit & Governance Committee reviews and annually approves the policy as part of their role to ensure the adequacy of governance arrangements in place to prevent fraud and corruption.

5 Links to Council Strategies

- 5.1 This policy supports BCP Council's Corporate Strategy, specifically the core value "we have integrity" and also supports "we are a modern, accessible and accountable council".

6 The Policy

In relation to Conflict of Interest

- 6.1 A conflict of interest is a conflict between the public duty and the private interest of an individual in which that individual private capacity interest could improperly influence the performance of their Council duties and responsibilities.
- 6.2 Employees may hold interests for which they cannot see obvious potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct. The perception of an interest can be as damaging as an actual conflict of interest.
- 6.3 The Council requires all employees to declare the following interests:
- a direct or indirect financial interest in any contracts with the Council or under consideration by the Council. The financial interests of a person with whom you live also counts for this purpose (this is a requirement of Section 117 of the Local Government Act 1972; it is potentially a criminal offence not to declare such an interest);
 - a financial interest or employment or other role in any business or organisation which has a business, funding or regulatory relationship with the Council;
 - any personal membership that they or their partner/relative/close friend may have with any organisation or association not open to the public without formal membership and/or commitment of allegiance and/or has secrecy about rules or membership or conduct;
 - any partner/relative/close friend who has an interest in an organisation which could have a relationship with the Council; and
 - any partner/relative/close friend who works for the Council or is a BCP councillor.

This list is not exhaustive, employees should additionally refer back to 6.2 and consider whether their specific job role or personal circumstance requires any further declaration.

- 6.4 Appendix A includes the definitions of the terms used in this section.

In general terms – Relating to receiving gifts and hospitality

- 6.5 If it is likely that a typical member of the public would think that a specific gift or incidence of hospitality is inappropriate, then it probably is and should therefore be declined. It is always better to be cautious and politely decline any offer of a gift or hospitality.
- 6.6 The overriding principle is that employees should not compromise their position as public service workers by accepting gifts or hospitality and allowing themselves to reach the position where they might be, or might be thought by others to have been, influenced in making a certain decision as a consequence.
- 6.7 Employees must:

- Treat any offer of a gift or hospitality if it is made to them personally with extreme caution;
- Not receive any payment or fee other than their salary;
- Never accept cash or cheques or other monetary gifts (including gift vouchers) of any kind*;
- Always refuse offers of gifts, hospitality or services to them (or their family members) from organisations or persons who do, or might, provide work, goods or services, to the Council or who require a decision from the Council**; and
- Always report any such offers above to their line manager.

*Any exceptions to this specific policy bullet point must be agreed in writing by the Chief Executive and lodged with the Monitoring Officer.

**Incidental promotional gifts, such as calendars, diaries, pens, mugs etc. may be accepted, but should be declared if the total estimated value is £25 or more.

In specific terms – Relating to receiving gifts

- 6.8 A gift is any item or service that an employee receives free of charge. It also includes any goods or services which are personally offered at a discounted rate or on terms not available to the general public. It does not include staff offers / discounts which are negotiated corporately.
- 6.9 When deciding whether or not to accept an offer of a gift, the context is very important. An offer from an organisation seeking to do business with or provide services to the Council or in the process of applying for permission or some other decision from the Council should not be accepted, regardless of the value of the gift. By contrast, a gift estimated to be worth less than £25 given at Christmas by a service user as a gesture of appreciation to an employee will generally be acceptable.
- 6.10 Employees must declare (on Form 1 or Form 2 as appropriate) all instances where gifts are accepted or where they are declined except in these specific circumstances:
- Employees may accept a gift which is a one-off or infrequent gesture, from a service user and which has only a small or token value, estimated to be less than £25 in value, without making a declaration or obtaining the approval of a more senior officer.
 - If the gift is from a representative of an organisation or persons who, or might, provide work, goods or services to the Council or who require a decision from the Council and is incidental promotional items such as a calendar, diary, pen etc with an estimated total combined value of less than £25, then these may be accepted without needing to be declared.
- Note, employees should always politely and courteously decline a gift if the estimated value is more than £25 or becomes more frequent than one-off.*
- 6.11 If as a result of their employment an employee becomes aware that he or she is likely to become a beneficiary in a service user's Will, this must always be reported to their line manager and Service Director to consider any appropriate action. If as a result of their employment an employee becomes a beneficiary in a service user's Will, this must always be reported to their line manager and Service Director. The employee must not accept the bequest, regardless of its size or value unless granted explicit permission by their Service Director. Permission is very unlikely to be granted unless the legacy is of little financial value, such as a sentimental item.
- 6.12 In exceptional circumstances a gift from a third-party representative (not a service user) may be accepted if the employee is accepting the gift of behalf of the Council (or residents) and they deem that refusing the gift would cause significant offence; for example, a gift from a 'twinning association'. In this circumstance the relevant Corporate Director or

Service Director must be informed as soon as possible, and they will decide what will happen to the gift and will complete an officer decision record.

In specific terms – relating to receiving hospitality

- 6.13 Hospitality is the offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event offered as a result of being employed by BCP Council.
- 6.14 Employees may accept hospitality including invitation to events or functions where the employee is demonstrably representing the Council. e.g. opening ceremonies, trade shows, events where they are invited to speak, events hosted or sponsored by the Council, working lunches provided to enable the parties to continue to discuss business, refreshments offered in connection with any meeting, meals or refreshments funded by other public sector partners as part of joint working or collaboration, meals or refreshments provided as part of a ceremony or event to promote or launch a project or initiative supported by the Council.
- 6.15 Hospitality accepted, after applying 6.14 above, must be declared (on Form 1 or Form 2) as appropriate if the estimated value is more than £50. Hospitality accepted, as per 6.14 above, does not need to be declared if the estimated value is less than £50.
- 6.16 The following hospitality should not be accepted***:
- hospitality of any kind attended in the employee's own time and/or where the employee is not demonstrably representing the Council;
 - hospitality offered to a partner/relative/close friend (of the employee);
 - hospitality from a tenderer in the immediate period before tenders are invited or during the tender process. If employees are carrying out site visits as part of the tender process, they can accept the offer of light refreshments (only) provided it is proportionate and not extravagant;
 - Lavish or extravagant hospitality including meals; or
 - Offers of holidays, overnight stays, air or rail travel, use of a company's own holiday accommodation, after dinner speaker celebrity events, sporting or cultural events (e.g. theatre tickets, football match, golfing event).

***Any exceptions to these specific policy bullet points must be agreed in writing by the Chief Executive and lodged with the Monitoring Officer.

- 6.17 Hospitality declined, after applying 6.16 above, must be declared (on Form 1 or Form 2 as appropriate) if the estimated value is more than £50. Hospitality declined, as per 6.16 above, does not need to be declared if the estimated value is less than £50.

In specific terms – relating to giving hospitality

- 6.18 Only Service Directors, Corporate Directors and the Chief Executive have authority to approve expenditure to give hospitality; where they consider this to be in the interests of the service or the Council and is capable of public justification.

In specific terms – relating to **BCP Council receiving and giving sponsorship or donations**

- 6.19 Where an external organisation **or individual** wishes to sponsor a BCP Council activity, whether by invitation, tender, negotiation or voluntarily, **or make a donation to the Council** this policy will apply. **Only Service Directors, Corporate Directors and the Chief**

Executive can approve acceptance of sponsorship or donations, where they consider this to be in the interests of the service or the Council and is capable of public justification, including consideration of the following criteria:

- Does the sponsorship/donation contribute to the Council's Corporate Objectives?
- Is there a risk of damage to the Council's reputation?
- Could it be construed as influencing Council decisions, for example, procurement?
- Will there be any additional or on-going resource requirements associated with the donation (e.g. officer time, maintenance costs)?

6.20 From time to time BCP Council sponsors, or gives grants for, sporting and cultural events such as exhibitions, plays or performances, or games. No employee or any member of the employee's family should receive any benefit from such sponsorship or grant in a direct or indirect way without there being full disclosure, **in advance of the award**, to their line manager **(and must declare on Form 1 or 2 as appropriate)**.

7 How to use this policy

7.1 Whilst implementing the requirements of this policy employees must follow the 'Procedures for declaring interests, gifts and hospitality (accepting and declining)' in Appendix B.

8 Roles and responsibilities

8.1 Core roles & responsibilities of all Employees

- Make a personal declaration to their Line Manager/Team Leader/Head of Service and keep this declaration up to date as required (Form 1 or Form 2 as appropriate).
- Nil declarations are required for employees who use their own discretion to make eligibility decisions, award decisions or grant permissions (for example planning officers and officers who approve grants). Where local service arrangements exist this policy requirement must also be complied with.
- Work with the Line Manager/Team Leader/Head of Service to agree any mitigation (of conflict risks) actions or strategy.
- Maintain discussion with the Line Manager/Team Leader/Head of Service at one to one meetings to ensure on-going review of the mitigation actions or strategy.
- Declare on Form 1 or Form 2 as appropriate any gifts or hospitality accepted or declined (*One-off gifts from a service user or incidental promotional items such as calendars and pens, with a total estimated value of less than £25, do not need to be declared*).

8.2 Additional roles & responsibilities of Line Managers/Team Leaders/Heads of Service

- Regularly promote and ensure Policy compliance in their teams/service areas.
- Where a potential conflict of interest is declared by an employee, assess any risk to the Council and the employee.
- Work with the employee to agree any mitigation (of conflict risks) actions or strategy and document this on the employee's declaration (Form 1 or Form 2 as appropriate).
- Escalate to the Service Director any issues that cannot be satisfactorily agreed.
- Ensure all completed Form 1s are held centrally within the Service Directorate.
- Maintain discussion with the employee at one to one meetings to ensure on-going review of the mitigation actions or strategy.
- Lead on any disciplinary action that may be necessary where employees have failed to comply with this Policy.

8.3 Additional roles & responsibilities of Heads of Service (Tier 4 officers, including any acting)

- Make a personal declaration on Form 2 of interests, gifts and hospitality (accepted and declined), to the Monitoring Officer; nil declarations are required, and officers must keep this declaration up to date as required.

8.4 Additional roles & responsibilities of Service Directors (Tier 3 officers, including any acting)

- Make a personal declaration on Form 2 of interests, gifts and hospitality (accepted and declined), to the Monitoring Officer; nil declarations are required, and officers must keep this declaration up to date as required.
- Regularly promote and ensure Policy compliance in their teams/service areas.
- Securely store (for their Service area) all employee declarations of interest, gifts and hospitality accepted and declined in the prescribed BCP Council format (Form 1).
- Determine any mitigation (of risk) actions or strategy in escalation instances, where the employee, Line Manager/Team Leader/Head of Service have been unable to agree.
- Escalate to the Corporate Director any issues that cannot be satisfactorily agreed.
- In exceptional circumstance, determine what happens to gifts which have been wrongly accepted by an employee in their service area.
- In the case of an employee being a beneficiary in a service user's Will, determine the appropriate course of action in line with 6.11.
- Lead on any disciplinary action that may be necessary where a line manager/team leader/head of service has failed to comply with this Policy.

8.5 Additional roles & responsibilities of Corporate Directors (Tier 2 officers, including any acting)

- Make a personal declaration on Form 2 of interests, gifts and hospitality (accepted and declined), to the Monitoring Officer; nil declarations are required, and officers must keep this declaration up to date as required.
- Promote and ensure Policy compliance in their teams/service areas.
- Seek annual assurance from Service Directors that arrangements relating to this policy are operating effectively within their directorates.
- Lead on any disciplinary action that may be necessary where a Service Director (Tier 3 officer) has failed to comply with this Policy.

8.6 Additional roles & responsibilities of the Monitoring Officer

- Make a personal declaration on Form 2 to the Chief Executive, of interests, gifts and hospitality (accepted and declined); nil declarations are required, and the Monitoring Officer must keep this declaration up to date as required.
- Promote and ensure Policy compliance in their teams/service areas.
- Securely store Head of Service, Service Director, Corporate Director and Chief Executive (Council Tier 4 officers and above) declarations of interest, gifts and hospitality accepted and declined in the prescribed BCP Council format.
- Prepare an annual report to the BCP Audit & Governance Committee summarising the declarations of interest, gifts and hospitality (accepted and declined) of the Council's Tier 4 officers and above.

8.7 Additional roles & responsibilities of the Chief Executive

- Make a personal declaration on Form 2 of interests, gifts and hospitality (accepted and declined), to the Monitoring Officer; nil declarations are required, and the Chief Executive must keep this declaration up to date as required.
- Promote and ensure Policy compliance amongst the Corporate Management Board (CMB).
- Securely store the Monitoring Officer's declarations of interest, gifts and hospitality accepted and declined in the prescribed BCP Council format.
- Lead on any disciplinary action that may be necessary where a Corporate Director (Tier 2 officer) has failed to comply with this Policy.

9 Enforcement and sanctions

- 9.1 Employees must comply with the requirements in this Policy. Failure to do so is a disciplinary matter, and disciplinary action may be taken, regardless of whether the actions amount to a criminal offence.
- 9.2 Criminal charges will apply if an employee fails to declare an interest in a contract or proposed contract or they or a relative have abused their position to influence Council contracts for their or their relative's gain.
- 9.3 It is also a criminal offence for any employee to demand or accept a gift or reward in return for allowing oneself to be influenced as a local government employee.

10 Further information and evidence

10.1 Employees should be aware that:

- Under the Bribery Act 2010, both individuals and organisations are liable for conviction in court, imprisonment and/or fines if found guilty of an offence;
- Fraud is defined as “deliberate deception intended to provide a direct or indirect personal gain”; and that
- Corruption is defined as the “abuse of entrusted power for private gain”.

10.2 Any queries or concerns about whether a particular interest or offer of, or the receipt of a gift or hospitality is appropriate, or if any clarification is required about this policy employees should approach their line manager in the first instance.

10.3 If a line manager is unable to answer the query, the line manager, can seek clarification from the Head of Audit & Management Assurance, the Head of Human Resources or the Monitoring Officer.

Consultees

The following individuals/groups have been consulted during this year's evolution of this policy:

Name
Internal Audit
Statutory Officers Group

Equalities Impact Assessment

Assessment date	Reviewed as part of this years' evolution. Minor amendments have been made which have been assessed by Service Unit Equality Champion as having no equalities impacts. Updated EIA assessment as per Appendix D.
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Document Control

Approval body	Audit & Governance Committee
Approval date	16 February 2023
V2020.1 – March 2020	Policy introduced w.e.f. 1 st April 2020.
V2021.1 – March 2021	Annual policy refresh. Introduced Nil declarations requirement for employees who use their own discretion to make eligibility decisions,

	award decisions or grant permissions (using Form 1). Some minor wording amendments. Amended Tier 2 Officer requirements relating to assurance from Service Directors. Appended EIA screening tool.
V2022.1 – March 2022	Annual policy refresh. Clarified need to for employees to comply with this policy when using their own discretion to make eligibility decisions, award decisions or grant. Added responsibility of Line Managers/Team Leaders/ Heads of Service to ensure all completed Form 1's are held centrally within the Service Directorate. Added responsibility of Service Directors to, in the case of an employee being a beneficiary in a service user's Will, determine the appropriate course of action. Updated definition of corruption as "abuse of entrusted power for private gain". Introduced Officer decision record required for the acceptance of gifts that are done to avoid causing significant offence. Clarified that the Gifts flowchart does not apply to a gift from a third-party representative (not a service user) which may be accepted if the employee is accepting the gift of behalf of the Council (or residents) and they deem that refusing the gift would cause significant offence. Amended Gifts flowchart to clarify that any gift of value over £25 from a representative of organisation or persons who do, or might, provide work, goods or services to the Council or who require a decision from the Councils should never be accepted. On Forms 1 and 2 added sections for the approving manager to detail why they have made their decision about the declaration/gift/hospitality. Added Appendix E – Frequently Asked Questions. Added if as a result of their employment an employee becomes a beneficiary in a service user's Will, this must always be reported to their line manager and Service Director and also clarified that permission to accept is very unlikely to be granted unless the legacy is of little financial value, such as a sentimental item.
V2023.1 – March 2023	Annual policy refresh. List of areas the Council requires all employees to declare interests expanded to include consideration if their job role or personal circumstance requires any further declaration (and added to Appendix B flowchart). Guidance added on the Council giving/receiving donations and clarification made for giving/receiving sponsorship. Additional clarification made of terms used re officer tiers in Appendix A.

Appendix A – Definitions of terms (relevant to para 6.3)

“Partner” means a spouse, civil partner or the other member of a couple consisting of two people who are not married to each other but are living together as a couple.

“Close Friend” means someone who you know well and whom you regard with liking, affection or loyalty. A closer relationship is implied than that of mere acquaintance or work colleague.

“Relative” means a parent, grandparent, child, grandchild, sibling, aunt, uncle, niece, nephew, cousin, step-child/sibling/parent, mother/father/son/daughter/brother/sister in-law. All of the aforementioned include adoptive relationships and relationships of full blood or half blood and including the relatives of the employee’s partner. For these purposes, relative also includes a guardian or special guardian or ward.

“Business” means any company, partnership or other business arrangement in which the employee has an interest, whether in the form of shares, dividends, bonds, or otherwise and where the value of that interest exceeds 5% of the value of the business. Business also includes any business in which the employee is employed.

“Business Interest” and “business relationship” shall be construed in relation to the terms “Business” and relationship to “Partner”, Close Friend” and “Relative” above.

“Business Associate” means a person with whom the employee has a business relationship.

“Tier 4 officer or above” = Head of Service, Service Director, Corporate Director, Chief Executive.

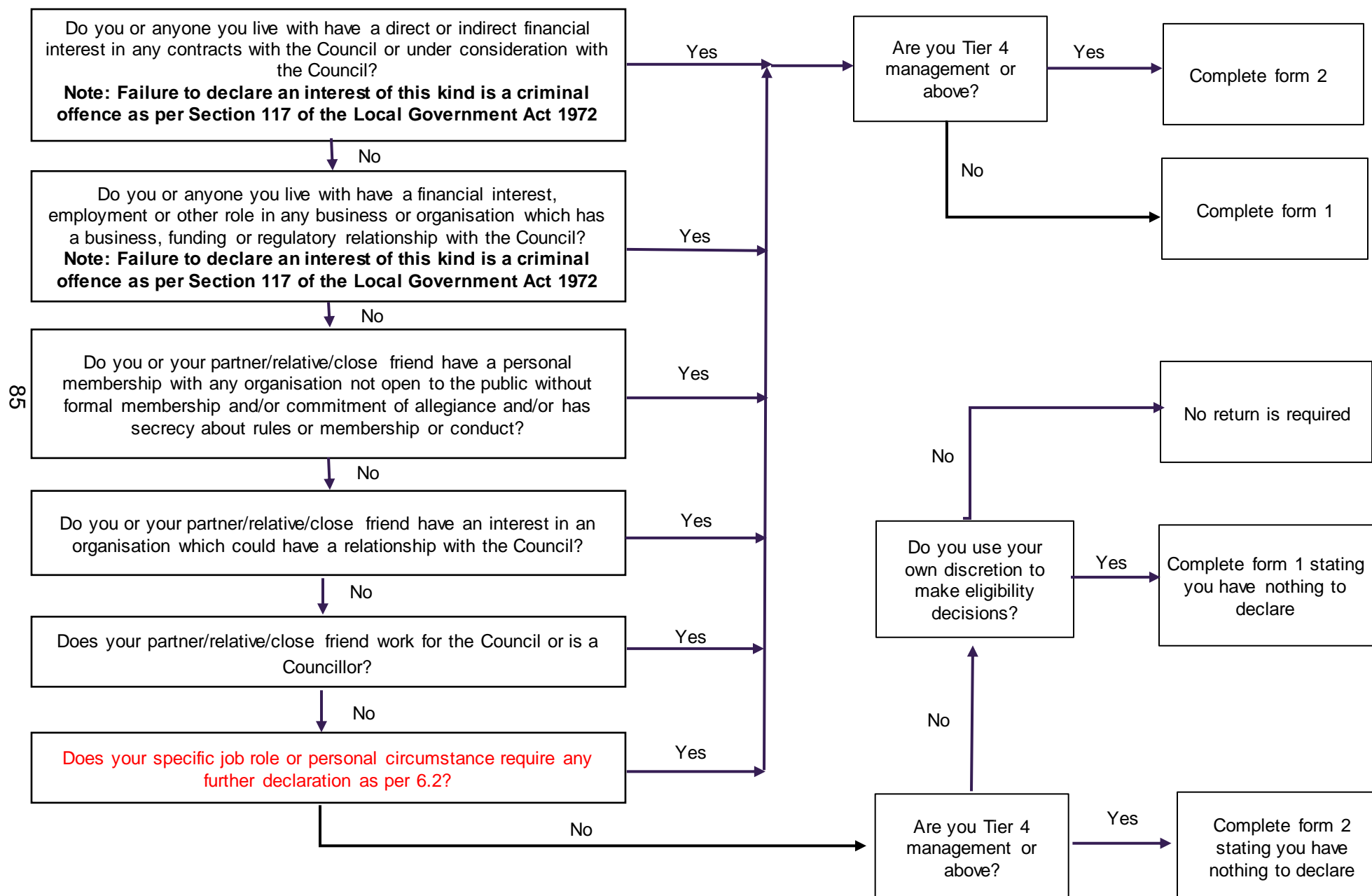
“Tier 4 officer” = Head of Service.

“Tier 3 officer” = Service Director

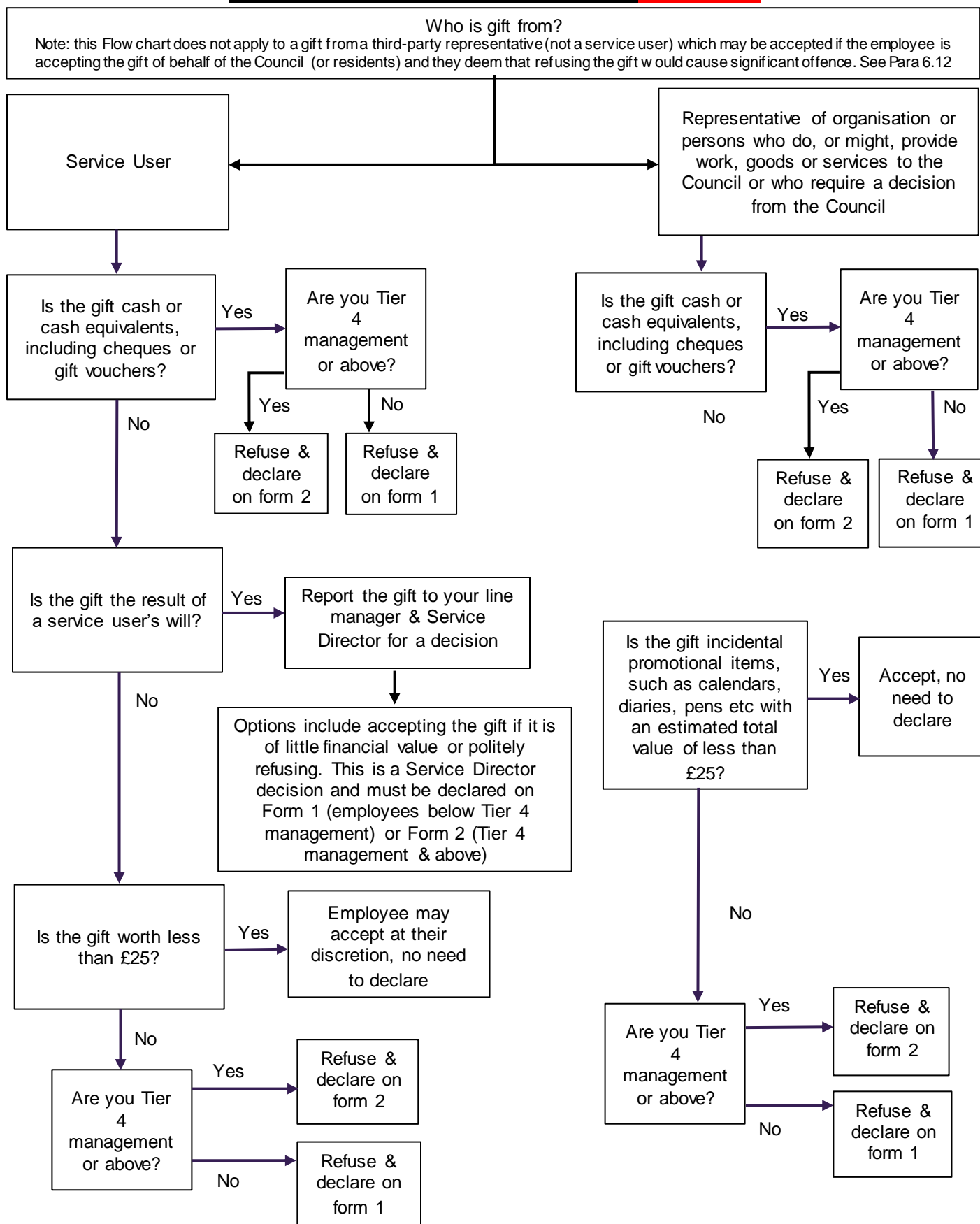
“Tier 2 officer” = Corporate Director

“Tier 1 officer” = Chief Executive

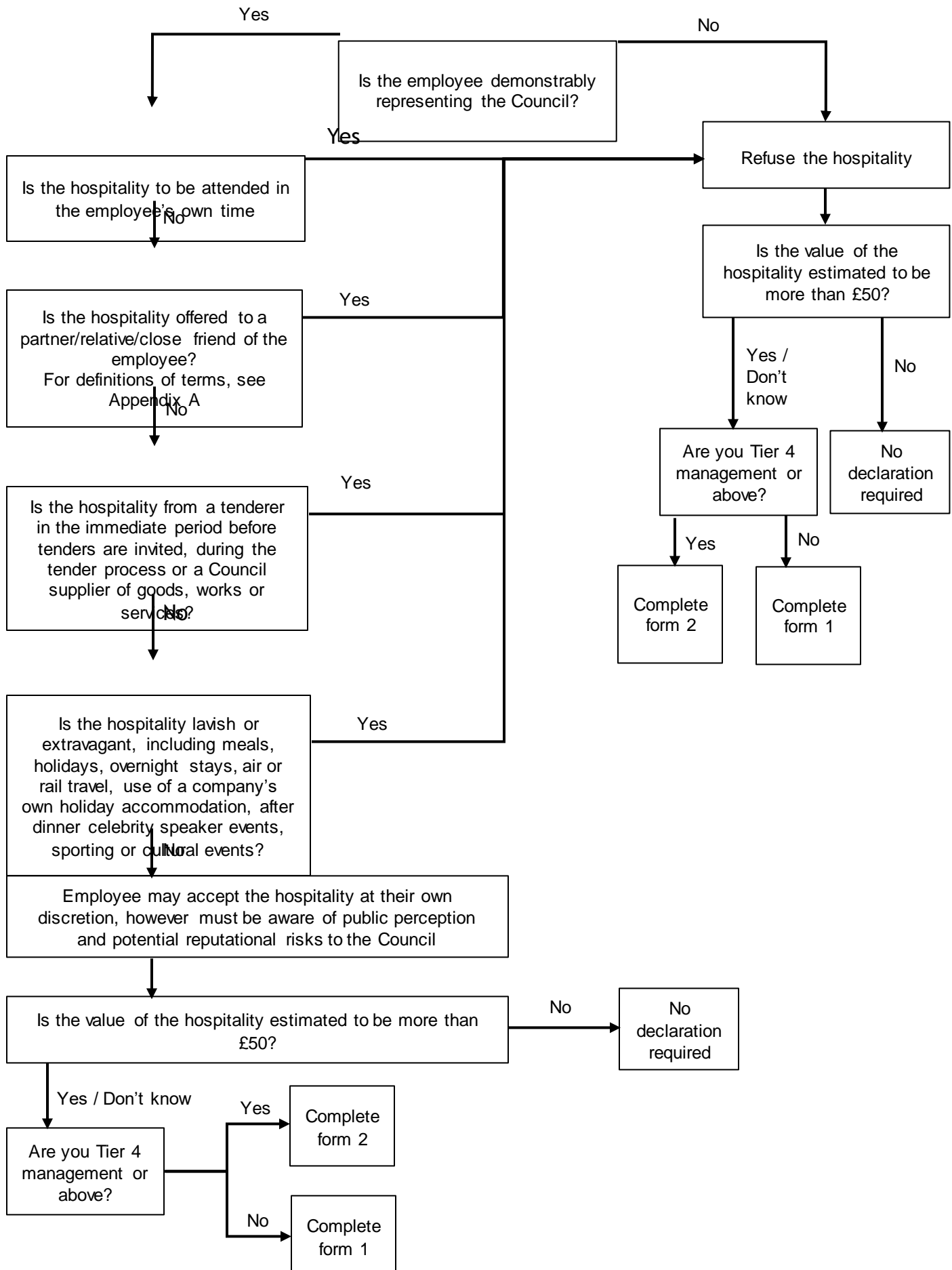
Declarations of Interest procedure (6.1 to 6.3)



BCP Gifts Flowchart (6.8 to 6.12)



Hospitality flowchart (6.13 to 6.17)



DECLARATION OF INTEREST, GIFTS OR HOSPITALITY



FORM 1

PART A – To be completed by the employee making the declaration																	
Employee Name:																	
Job Title:																	
Service:																	
Section / Team:																	
Date of Declaration:																	
Type of Declaration:	<table><tbody><tr><td>Other Employment</td><td><input type="checkbox"/></td><td>Close Personal Relationship</td><td><input type="checkbox"/></td></tr><tr><td>Gift and / or Hospitality</td><td><input type="checkbox"/></td><td>Financial Interest</td><td><input type="checkbox"/></td></tr><tr><td>Business Interest</td><td><input type="checkbox"/></td><td>Personal / Other Interest</td><td><input type="checkbox"/></td></tr><tr><td>Organisation not open to the Public</td><td><input type="checkbox"/></td><td>'Nil' Return</td><td><input type="checkbox"/></td></tr></tbody></table>	Other Employment	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>	Gift and / or Hospitality	<input type="checkbox"/>	Financial Interest	<input type="checkbox"/>	Business Interest	<input type="checkbox"/>	Personal / Other Interest	<input type="checkbox"/>	Organisation not open to the Public	<input type="checkbox"/>	'Nil' Return	<input type="checkbox"/>
Other Employment	<input type="checkbox"/>	Close Personal Relationship	<input type="checkbox"/>														
Gift and / or Hospitality	<input type="checkbox"/>	Financial Interest	<input type="checkbox"/>														
Business Interest	<input type="checkbox"/>	Personal / Other Interest	<input type="checkbox"/>														
Organisation not open to the Public	<input type="checkbox"/>	'Nil' Return	<input type="checkbox"/>														
<p>Please provide as much detail as possible in relation to your declaration.</p> <p>In the case of other employment, please include details relating to who the other employer will be, the nature of the role (including duties and responsibilities) and the times/days that you are proposing to work.</p> <p>In the case of gifts and hospitality received, please include details of the donor, the reason for the offer and the estimated value.</p> <p>In the case of a close personal relationship with a fellow employee, please provide details of that person.</p>																	
Please forward your completed form to your line manager for consideration.																	
PART B - To be completed by the approving manager																	

The Manager is responsible for considering the contents of this form and making a decision on the declaration.	
I confirm that I consider:	Please tick
The declared personal interest or offer of gift or hospitality to be acceptable within the employee's role and no further action is required	<input type="checkbox"/>
Reason(s) why this declaration is acceptable	
The declared personal interest or offer of gift or hospitality to be acceptable within the employee's role, providing that the changes and/or actions detailed below are completed.	<input type="checkbox"/>
Reason(s) why this declaration is acceptable subject to the following changes and mitigating actions	
The declared personal interest or offer of gift or hospitality to be unacceptable within the employee's role for the reasons detailed below.	<input type="checkbox"/>
Reason(s) why this declaration is unacceptable and action to address	
Line Manager's Name:	
Job Title:	
Date:	
A copy of the completed form should be e-mailed to the employee and a copy held centrally within the Service Directorate	

DECLARATION OF INTEREST, GIFTS OR HOSPITALITY



FORM 2 (for Tier 4 Officers and above)

PART A – To be completed by the employee making the declaration

Employee Name:			
Job Title:			
Service:			
Date of Declaration:			
Type of Declaration:	Other Employment	<input type="checkbox"/>	Close Personal Relationship <input type="checkbox"/>
	Gift and / or Hospitality	<input type="checkbox"/>	Financial Interest <input type="checkbox"/>
	Business Interest	<input type="checkbox"/>	Personal / Other Interest <input type="checkbox"/>
	Organisation not open to the Public	<input type="checkbox"/>	'Nil' Return <input type="checkbox"/>
<p>Please provide as much detail as possible in relation to your declaration.</p> <p>In the case of other employment, please include details relating to who the other employer will be, the nature of the role (including duties and responsibilities) and the times/days that you are proposing to work.</p> <p>In the case of gifts and hospitality received, please include details of the donor, the reason for the offer and the estimated value.</p> <p>In the case of a close personal relationship with a fellow employee, please provide details of that person.</p>			
Please forward your completed form to your line manager for consideration			

PART B - To be completed by the approving manager

The Manager is responsible for considering the contents of this form and making a decision on the declaration. In situations where the declaration relates to a Service Director, approval should be sought from the relevant Corporate Director. For declarations involving a Corporate Director and the Chief Executive, approval should be sought from the Monitoring Officer (i.e. Director of Law & Governance). For the Monitoring Officer's declaration, approval should be sought from the Chief Executive.

I confirm that I consider:

Please tick

The declared personal interest or offer of gift or hospitality to be acceptable within the employee's role and no further action is required.

☐

Reason(s) why this declaration is acceptable

The declared personal interest or offer of gift or hospitality to be acceptable within the employee's role, providing that the changes and/or actions detailed below are completed.

☐

Reason(s) why this declaration is acceptable subject to the following changes and mitigating actions

The declared personal interest or offer of gift or hospitality to be unacceptable within the employee's role for the reasons detailed below.

☐

Reason(s) why this declaration is unacceptable and action to address

The declared 'Nil' Return to be acceptable.

☐

Line Manager's Name:

Job Title:

Date:

A copy of the completed form should be e-mailed to the employee and to the monitoring.officer@bcpcouncil.gov.uk.

Appendix D - Equality Impact Assessment: conversation screening tool

Policy/Service under development/review:	Declaration of Interests, Gifts & Hospitality
What changes are being made to the policy/service?	Annual policy refresh including minor amendments such as adding guidance re giving/receiving donations, clarifying guidance re giving/receiving sponsorship, clarifying terms re officer tiers, and emphasising the need to consider whether the officer's circumstances require declarations to be made
Service Unit:	Finance
Persons present in the conversation and their role/experience in the service:	Chief Internal Auditor Service Equality Champion
Conversation dates:	25/01/2023
Do you know your current or potential client base? Who are the key stakeholders?	Key stakeholders are all BCP Council employees, including casual, part-time and temporary staff including those supplied by employment agencies
Do different groups have different needs or experiences in relation to the policy/service?	All characteristics have been considered, and no groups with different needs or experiences have been identified as a result of these changes
Will the policy or service change affect any of these service users?	No as these changes apply equally to all BCP Council employees
What are the benefits or positive impacts of the policy/service change on current or potential service users?	None identified
What are the negative impacts of the policy/service change on current or potential service users?	None identified
Will the policy or service change affect employees?	Yes, as this policy applies to all BCP Council employees
Will the policy or service change affect the wider community?	No, as this policy only affects BCP Council employees
What mitigating actions are planned or already in place for those negatively affected by the policy/service change?	No negative impacts have been identified, thus no mitigating actions are required
Summary of Equality Implications:	No equalities implications have been identified as a result of the changes to this policy

Appendix E – Frequently Asked Questions

Not sure if you need to make a declaration? read through these FAQ or scenarios to help you decide.

Are you an Officer who is below Tier 4? *Tier 4 officer or above = Head of Service, Service Director, Corporate Director, Chief Executive.*

- You must complete a 'base' declaration (Form1) but only if you have something to declare, your completed declaration needs to be sent to your Service Director who is responsible for keeping it safe and confidential in a local record.
- Keep your 'base' declaration up-to-date in as near to real time as possible, to do this in practice simply add whatever needs adding or deleting from your base declaration and re-send to your Service Director.

Are you a Tier 4 Officer or above? *Tier 4 officer or above = Head of Service, Service Director, Corporate Director, Chief Executive.*

- You must complete a 'base' declaration (Form2) even if you have nothing to declare, your completed declaration needs to be sent to the Monitoring officer, monitoring.officer@bcpcouncil.gov.uk who maintains the safe and confidential corporate record. This record is commonly known as the senior officer record of declarations.
- Keep your 'base' declaration up-to-date in as near to real time as possible, to do this in practice simply add whatever needs adding or deleting from your base declaration and re-send to the Monitoring Officer.

Do you recruit new staff?

As part of your induction responsibilities, you need to make all new employees aware of the BCP Policy and explain the requirement, or not depending on grade, to produce a 'base' declaration Form 1 or 2.

Are you a temporary or casual employee?

The policy applies to all BCP Council employees, including casual, part-time and temporary staff including those supplied by employment agencies. You need to make a declaration as guided by the Policy.

I cannot see any conflict, so why do I need to make a declaration? its none of the Council's business what I do in my spare time.

A conflict of interest is a conflict between the public duty and the private interest of an individual in which that individual private capacity interest could improperly influence the performance of their Council duties and responsibilities.

Employees may hold interests for which they cannot see obvious potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct. The perception of an interest can be as damaging as an actual conflict of interest.

What type of interests do I need to declare?

- a direct or indirect financial interest in any contracts with the Council or under consideration by the Council. The financial interests of a person with whom you live also counts for this purpose (this is a requirement of Section 117 of the Local Government Act 1972; it is potentially a criminal offence not to declare such an interest);
- a financial interest or employment or other role in any business or organisation which has a business, funding or regulatory relationship with the Council;
- any personal membership that they or their partner/relative/close friend may have with any organisation or association not open to the public without formal membership and/or commitment of allegiance and/or has secrecy about rules or membership or conduct;
- any partner/relative/close friend who has an interest in an organisation which could have a relationship with the Council; and
- any partner/relative/close friend who works for the Council or is a councillor.

What type of gifts do I need to declare?

A gift is any item or service that an employee receives free of charge. It also includes any goods or services which are personally offered at a discounted rate or on terms not available to the general public. It does not include staff offers / discounts which are negotiated corporately.

When deciding whether or not to accept an offer of a gift, the context is very important. An offer from an organisation seeking to do business with or provide services to the Council or in the process of applying for permission or some other decision from the Council should not be accepted, regardless of the value of the gift. By contrast, a gift estimated to be worth less than £25 given at Christmas by a service user as a gesture of appreciation to an employee will generally be acceptable.

Are there any gifts I can accept without making a declaration?

Employees may accept a gift which is a one-off or infrequent gesture, from a service user and which has only a small or token value, estimated to be less than £25 in value, without making a declaration or obtaining the approval of a more senior officer. Please note, employees should always politely and courteously decline a gift from a service user if the estimated value is more than £25 and/or becomes more frequent than one-off.

If the gift is from a representative of an organisation or persons who, or might, provide work, goods or services to the Council or who require a decision from the Council and is incidental promotional items such as a calendar, diary, pen etc with an estimated total combined value of less than £25, then these may be accepted without needing to be declared.

What if I have been included in someone's Will, in my capacity as a Council employee (provided a service to the individual)?

If as a result of your employment you become a beneficiary in a service user's Will, you must always report this to your line manager and Service Director. You must not accept the bequest, regardless of its size or value unless granted explicit permission by your Service Director. Permission will only be granted where the legacy is of little financial value, such as a sentimental item.

Can I accept gifts on behalf of the Council?

In exceptional circumstances a gift from a third-party representative (not a service user) may be accepted if the employee is accepting the gift of behalf of the Council (or residents) and they deem that refusing the gift would cause significant offence; for example, a gift from a 'twinning association'. In this circumstance the relevant Corporate Director or Service Director must be informed as soon as possible, and they will decide what will happen to the gift.

What type of hospitality (offered) can I accept?

Employees may accept hospitality including invitation to events or functions where the employee is demonstrably representing the Council. e.g. opening ceremonies, trade shows, events where they are invited to speak, events hosted or sponsored by the Council, working lunches provided to enable the parties to continue to discuss business, refreshments offered in connection with any meeting, meals or refreshments funded by other public sector partners as part of joint working or collaboration, meals or refreshments provided as part of a ceremony or event to promote or launch a project or initiative supported by the Council.

Hospitality accepted, fitting the above criteria, must be declared (on Form 1 or Form 2) as appropriate if the estimated value is more than £50. Hospitality accepted, fitting the above criteria, does not need to be declared if the estimated value is less than £50.

What type of hospitality (offered) must I refuse?

The following hospitality should not be accepted***:

- hospitality of any kind attended in the employee's own time and/or where the employee is not demonstrably representing the Council;
- hospitality offered to a partner/relative/close friend (of the employee);
- hospitality from a tenderer in the immediate period before tenders are invited or during the tender process. If employees are carrying out site visits as part of the tender process, they can accept the offer of light refreshments (only) provided it is proportionate and not extravagant;
- Lavish or extravagant hospitality including meals; or
- Offers of holidays, overnight stays, air or rail travel, use of a company's own holiday

accommodation, after dinner speaker celebrity events, sporting or cultural events (e.g. theatre tickets, football match, golfing event).

***Any exceptions to these specific policy bullet points must be agreed in writing by the Chief Executive and lodged with the Monitoring Officer.

Hospitality declined, after applying criteria above, must be declared (on Form 1 or Form 2 as appropriate) if the estimated value is more than £50. Hospitality declined, after applying criteria above, does not need to be declared if the estimated value is less than £50.

Can I give hospitality to colleagues or a third party and charge it to my p-card, budget or the Council more generally?

Only Service Directors, Corporate Directors and the Chief Executive have delegated authority to approve expenditure to give hospitality; where they consider this to be in the interests of the service or the Council and is capable of public justification.

What are the sanctions in place?

Failure to follow the Policy is a disciplinary matter, and disciplinary action may be taken, regardless of whether the actions amount to a criminal offence.

Criminal charges will apply if an employee fails to declare an interest in a contract or proposed contract or they or a relative have abused their position to influence Council contracts for their or their relative's gain.

It is also a criminal offence for any employee to demand or accept a gift or reward in return for allowing oneself to be influenced as a local government employee.

Who can I check with, if I have a specific question regarding this Policy?

If a line manager is unable to answer the query, you or the line manager, can seek clarification from the Head of Audit & Management Assurance, the Head of Human Resources or the Monitoring Officer.

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BCP Council Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy

April 2023

Policy Owner: Monitoring Officer and Chief Internal Auditor
Author/s: Internal Audit, Law & Governance
Version: v2023.1
Review Date: Annual evolution, next due March 2024



1. Purpose Statement

- 1.1 This policy ensures compliance with the regulatory framework for the use of covert surveillance techniques by BCP Council as set out in the [Regulation of Investigatory Powers Act 2000 \(RIPA\)](#) and [RIPA \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(and as amended 2012\)](#).
- 1.2 This policy also covers access to, or the acquisition of, Communications Data covered by the [Investigatory Powers Act \(IPA\)](#) 2016 which came into force on 11 June 2019. See 6.3.
- 1.3 Surveillance plays a necessary part in modern life. Most of the surveillance carried out by or on behalf of BCP Council will be overt. That is, there will be nothing secretive, clandestine or hidden about it. Overt surveillance is not covered by RIPA.
- 1.4 Covert surveillance is surveillance carried out in a manner calculated to ensure that the person subject to the surveillance is unaware that it is, or may be, taking place. If certain activities are conducted by council officers, then RIPA regulates them in a manner that is compatible with the [European Convention on Human Rights \(ECHR\)](#), particularly Article 8, the right to respect for private and family life.
- 1.5 BCP Council will only use covert surveillance where it is proportionate to do so and where overt measures have been exhausted or are not possible. Covert surveillance will not be undertaken unless absolutely necessary.

2. Who the policy applies to

- 2.1 Those officers who may conduct or authorise covert surveillance investigations.
- 2.2 In most cases investigations carried out by council officers will not be subject to RIPA, as they involve overt rather than covert surveillance.

3. This policy replaces

- 3.1 This policy replaces the legacy policies, procedures and guidance of the three preceding authorities that now make up BCP council.

4. Approval process

- 4.1 This policy will be approved by the Audit and Governance Committee.

5. Links to Council Strategies

- 5.1 This policy has been prepared based on Government legislation and requirements laid out under the Regulation of Investigatory Powers Act 2000 (and as amended) and taking into account accompanying guidance and codes of practice.
- 5.2 This policy links to the following BCP Council policies and strategies:
 - Information Security Policy
 - Information Governance Policy
 - Equality & Diversity Policy
 - Safeguarding Strategy

6. The Policy

- 6.1 In some circumstances, it may be necessary for BCP Council employees or contractors, in the course of their duties, to make observations of a person or person(s) in a covert manner, i.e. without that person's knowledge. By their nature, actions of this sort may constitute an interference with that person's right to privacy and may give rise to legal challenge as a potential breach of Article 8 of the European Convention on Human Rights and the Human Rights Act 1998 ('the right to respect for private and family life').
- 6.2 RIPA limits local authorities to using two types of covert surveillance techniques, as set out below (see Appendix A for definitions):
- **Directed surveillance**
 - **Covert Human Intelligence Source (CHIS)**
- 6.3 IPA is the main legislation governing the **access to or acquisition of Communications data**; it does not fully replace all pre-existing RIPA requirements but does introduce some important and significant variations to authorisation and regulatory oversight in particular. The use of IPA (see Appendix A for more detail) is unlikely to be used by the Council.
- 6.4 Employees and contractors (where applicable) of BCP Council cannot, according to law, carry out **intrusive surveillance** (see Appendix A for definition) within the meaning of the Regulation of Investigatory Powers Act 2000 nor will they interfere with property or wireless telegraphy.
- 6.5 BCP Council employees and contractors (where applicable) will adhere to the authorisation procedure (see Appendix B) before conducting any covert surveillance.
- 6.6 Officers of BCP Council may only seek authorisation to engage in directed surveillance, to use a CHIS or to access/acquire IPA communications data where the need meets the statutory tests that it is necessary for the "prevention or detection of crime or disorder" and where it has been demonstrated to be necessary and proportionate in what it seeks to achieve. Only a Council nominated Authorising Officer can give this approval. If in any doubt, advice from the RIPA Senior Responsible Officer (SRO) or the RIPA Administrator must be sought (see roles and responsibilities section).
- 6.7 The Revised Code of Practice which came into effect in August 2018 requires the highest levels of authorisation where 'confidential information' is likely to be acquired and at BCP Council this is the Head of Paid Service in consultation with the RIPA SRO. Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material, or where information identifies a journalist's source.
- 6.8 BCP Council will ensure the code of practice is complied with through appropriate training given to officers and annual Audit and Governance oversight of RIPA usage.
- 6.9 BCP Council is subject to audit and inspection by the Investigatory Powers Commissioner's Office (IPCO) and it is important that compliance with RIPA and accompanying guidance can be demonstrated in every case. BCP Council will hold a central record of RIPA authorisations in line with [section 8 of the Code Practice](#).
- 6.10 Types of surveillance that can and cannot be carried out by Local Authorities and further information is set out in Appendix A.

7. Authorisation of RIPA application to a Magistrates Court

- 7.1 [Statutory Instrument 2010 No. 521](#) restricts Authorising Officers in Local Authorities to be Directors, Heads of Service or Service managers or equivalent. In BCP Council only certain officers, within these categories of managers, are designated as Authorising Officers (See section 9).
- 7.2 All other reasonable and less intrusive options to gain the required information must be considered before an authorisation is applied for and the RIPA application must detail why these options have failed or have been considered not appropriate in the circumstances of the individual investigation.
- 7.3 [The Protection of Freedoms Act 2012](#) requires that Local Authorities seeking RIPA authorisation are subject to judicial approval in the local Magistrates' Court. If the Authorising Officer authorises an application under RIPA, the application must be presented to a Magistrate for final approval. Authorisation will not take effect until a Magistrate has made an order approving the grant of the authorisation. It is vital that any surveillance for which authorisation has been sought does not start until such a time as it has been approved by a Magistrate.
- 7.4 It is necessary for the council to obtain judicial approval for all initial RIPA authorisations/applications and renewals. There is no requirement for the Magistrate to consider either cancellations or internal reviews.
- 7.5 When considering an application, the Authorising Officer must:
- Have regard to the contents of this document, the training provided and any other guidance or advice given by the RIPA SRO;
 - Satisfy themselves that the RIPA authorisation will be:
 - In accordance with the law
 - Necessary in the circumstances of the particular case; and
 - Proportionate to what it seeks to achieve;
 - Assess whether or not the proposed surveillance is proportionate considering the following elements:
 - The custodial sentence applicable to the offence being investigated
 - Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence
 - Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others
 - Whether the activity is an appropriate use of the legislation and a reasonable way, having considered all practical alternatives, of obtaining the necessary result
 - Evidencing, as far as reasonably practicable, what other methods had been considered and why were not implemented;
 - Take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (called 'collateral intrusion'), and consider whether any measures should be taken to avoid or minimise collateral intrusion as far as possible (the degree of likely collateral intrusion will also be relevant to assessing whether the proposed surveillance is proportionate);
 - Consider any issues which may arise in relation to the health and safety of council employees and agents and ensure that a risk assessment has been undertaken;
 - Ensure that the equality impact of any proposed surveillance is considered through the completion of an Equality Impact Assessment (EIA).
- 7.6 When authorising the conduct or use of a CHIS, the Authorising Officer must also:
- Be satisfied that the conduct and/or use of the CHIS is proportionate to the objective sought to be achieved;

- Be satisfied that appropriate arrangements are in place for the management and oversight of the CHIS. These arrangements must address health and safety issues by the carrying out of a formal and recorded risk assessment;
- Consider the likely degree of intrusion for all those potentially affected;
- Consider any adverse impact on community confidence that may result from the use or conduct of the CHIS or the information obtained;
- Ensure that records contain the required particulars of the CHIS and that these are not available except on a 'need to know' basis.

7.7 If an application is granted, the Authorising Officer must set a date for its review and ensure that it is reviewed on that date. Records must be kept in relation to all RIPA applications and authorisations and, to facilitate this, each investigation or operation should be given a unique reference number (URN) by the RIPA Administrator. Any subsequent forms relating to the same investigation or operation should be identified by the means of the same URN.

7.8 Authorisations will have effect until the date for expiry specified on the relevant form. They will only be granted for the designated period of three months for directed surveillance and twelve months for the use or conduct of a CHIS. No further operations should be carried out after the expiry of the relevant authorisation unless it has been renewed. It will be responsibility of the officer in charge of an investigation to ensure that any directed surveillance or use of a CHIS is only undertaken under an appropriate and valid authorisation, and therefore, they must be mindful of the date when authorisations and renewals will cease to have effect. The RIPA Administrator will perform an auditing role in this respect but the primary responsibility rest with the officer in charge of the surveillance investigation.

7.9 Authorisations will be reviewed at appropriate intervals to update the Authorising Officer on progress on the investigation and whether the authorisation is no longer required. Reviews should take place on a monthly basis unless the Authorising Officer considers they should take place more regularly. The results of the review should be recorded and retained.

7.10 Authorisations must be 'cancelled' as soon as they become unnecessary. Authorisations should not be allowed to lapse and must be formally cancelled or renewed, whichever is required, before the expiry date. The responsibility for ensuring that authorisations are cancelled rests primarily with the officer in charge of the surveillance investigation who should submit a request for cancellation to the RIPA Administrator.

7.11 If it is required, a renewal must be authorised (by a Magistrate) prior to the expiry of the original authorisation. Applications for renewal should be made on the appropriate form shortly before the original authorisation period is due to expire. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date and any collateral intrusion that has occurred. Renewals may be granted more than once, provided the criteria for granting that authorisation are still met. However, if the reason for requiring the authorisation has changed from the purpose for which it was originally granted, then it should be 'cancelled' and new authorisation sought. Any renewal should seek to begin on the day when the original authorisation would otherwise have expired.

7.12 Following the completion of any case involving the use of RIPA a written assessment review should be undertaken by the Authorising Officer in charge of the surveillance. This written assessment should detail the information obtained and how it was used to take the case forward. The written assessment must be passed to the RIPA

Administrator and stored with any other URN records for that case be provided as part of any inspection by the IPCO.

- 7.13 Records must be maintained for a period of at least three years from the cancellation of the authorisation. Following which they shall be securely destroyed in accordance with the guidance from the council's Information Governance team on document retention.

8. How to use this policy and useful documents

- 8.1 Appendix A: Surveillance that can and cannot be carried out by LA's
- 8.2 Appendix B: RIPA Authorisation Process
- 8.3 Appendix C: Does RIPA apply? Directed Surveillance Flowchart
- 8.4 Appendix D: Covert Human Intelligence Source Flowchart
- 8.5 Appendix E: Accessing Communications Data Flowchart
- 8.6 Appendix F: Equality Impact Assessment for this policy
- 8.7 [Equality Impact Assessment templates \(on the BCP Council intranet\)](#)
- 8.8 [Home Office guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance](#)
- 8.9 [Revised Code of Practice Covert Surveillance and Property interference](#)
- 8.10 [Revised Code of Practice Interception of Communications](#)
- 8.11 [Revised Code of Practice Covert Human Intelligence Sources](#)
- 8.12 [Home Office RIPA Forms](#)

9. Roles and responsibilities

Role	Responsibilities
Senior Responsible Officer (SRO) Director of Law & Governance (and Monitoring Officer) Deputy SRO will be Chief Executive	<ul style="list-style-type: none"> The integrity of the process in place within the council for the directed surveillance, management of CHIS and acquisition of communications data Overall responsibility for the management and oversight of requests and authorisations under RIPA Ensuring that all authorising officers are trained to an appropriate standard Ensures compliance with Part 2 of the Act and with the Home Office Codes of Practice Oversight of the reporting of errors to the relevant Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors Engagement with the Investigatory Powers Commissioner's Office (IPCO) inspectors when they conduct their audits or inspections, where applicable Where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner
Authorising Officer Regulatory Services Manager Director of Communities	<ul style="list-style-type: none"> The only officers in BCP Council who can authorise applications (and renewals) under RIPA for onward consideration by a Magistrate or IPA for onward consideration by NAFN Must 'cancel' authorisations where the case has concluded and undertake reviews in relation to any investigation carried out Must not delegate their powers in relation to RIPA to any other officers <p>Note: The officer who authorises a RIPA application should also carry out the review, renewal and cancellation. If the original Authorising Officer is not available to undertake the review, renewal or</p>

Chief Executive and Corporate Directors	cancellation, (in the case of illness or has left the Council in the interim only) this can be undertaken by another Authorising Officer. In exceptional circumstances it may be necessary for the Chief Executive or a Corporate Director to act as an Authorising Officer
RIPA Administrator Head of Audit and Management Assurance Deputy RIPA Administrator will be Audit Manager (Deputy Chief Internal Auditor)	<ul style="list-style-type: none"> • Issue a unique reference number to each authorisation requested under RIPA or IPA – reference numbers will be sequential and start at BCP01. • Retain a copy of the application and authorisation together with any supplementary documentation and notification of the approval given by the authorising officer • Maintain a central RIPA records file matrix entering the required information as soon as the forms/documents are received in accordance with the relevant Home Office Code of Practice • Review and monitor all forms and documents received to ensure compliance with the relevant law and guidance in consultation with the RIPA Senior Responsible Officer and inform the Authorising Officer of any concerns • Chase failures to submit documents and/or carry out reviews/cancellations
All Staff	<ul style="list-style-type: none"> • Must not engage in directed surveillance of any type unless authorised to do so, formally by a designated Authorising Officer
Audit and Governance Committee	<ul style="list-style-type: none"> • Monitor the Council's usage of its powers under RIPA on an annual basis

10. Enforcement and sanctions

10.1 Compliance with the provisions of RIPA, the Home Office Codes of Practice and this policy and procedures should protect the council, its officers and agencies working on its behalf against legal challenge. Section 27 of RIPA states that “conduct... shall be lawful for all purposes if an authorisation...confers an entitlement to engage in that conduct on the person whose conduct it is and his conduct is in accordance with the authorisation”. If correct procedures are not followed, the council could be rendered liable to claims, complaints and significant costs and the use of the information obtained may be disallowed in any subsequent legal proceedings.

10.2 The Investigatory Powers Commissioner's Office (IPCO) conducts audits and inspections of the use of investigatory powers to ensure that public bodies that are authorised to use investigatory powers are doing so lawfully and in line with best practice. They produce thorough and impartial reports which support and inform the work of the IPC and the Judicial Commissioners. The IPCO also carries out ad-hoc investigations into potential non-compliance.

10.3 Any failure to follow this policy will be considered gross misconduct and investigated accordingly.

11. Further information and evidence

11.1 The Home Office has [Codes of practice and guidance](#) for making an application under the Regulation of Investigatory Powers Act (2000).

11.2 Individuals who feel that the Local Authority has applied the principles of this policy incorrectly can appeal to the IPCO.

Consultees

The following individuals/groups have been consulted during this year's evolution of this policy:

Internal Audit
Law & Governance

Equalities Impact Assessment

Assessment date	Reviewed as part of this year's evolution. Minor amendments have been made which have been assessed by Service Unit Equality Champion as having no equalities impacts. Updated EIA assessment as attached at Appendix F.
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Document Control

Approval body	Audit & Governance Committee
Approval date	16 February 2023
V1.1 – April 2021	New Policy created (please note any version changes in the future will be shown in red text)
V2.1 – March 2022	Policy annual review. Introduced new combined Regulation of Investigatory Powers Act and Investigatory Powers Act Policy. Clarified that the use of IPA is unlikely to be used by the Council. Introduced requirement for a Council nominated Authorising Officer to give approval for IPA communications data access/acquisition before onward consideration by NAFN. Introduced requirement for unique reference number to be obtained from the RIPA Administrator for IPA authorisation requests. Added section for Policy consultation, equalities impact assessment date and document control. Included details of full approval process for IPA in Appendix A (Surveillance that can and cannot be carried out by LA's). Some amendments made to Appendix B (RIPA Authorisation Process) including use of necessary forms and clarified surveillance can only take place until the expiry date is reached. Amendments made to Appendix E (Accessing Communications Data Flowchart) including reference to serious crime, necessary and proportionate question, need to obtain approval from Authorising Officer and assignment of unique reference number by RIPA Administrator. Some other minor wording changes made.
V3.1 – March 2023	Policy annual review. Added reference and links under Section 8 to Home Office Code of Practices for Covert Surveillance and Property interference (Aug 2018), Interception of Communications (Dec 2022) and Covert Human Intelligence Sources (Dec 2022). Added links to Regulation of Investigatory Powers Act 2000 (RIPA) and RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (and as amended 2012) and Investigatory Powers Act (IPA) 2016 which came into force on 11 June 2019. Also added links to the European Convention on Human Rights (ECHR), RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 Statutory Instrument 2010 No. 521 and The Protection of Freedoms Act 2012.

12. Glossary

12.1 The following terms are useful to know in regards to RIPA & IPA:

- RIPA - Regulation of Investigatory Powers Act 2000
- IPA - Investigatory Powers Act
- CHIS - Covert Human Intelligence Source
- SPoC - Single Point of Contact
- SRO - Senior Responsible Officer

- IPCO - Investigatory Powers Commissioner's Office
- NAFN - National Anti-Fraud Network
- CSP- Communications Service Provider

APPENDIX A –Surveillance that can and cannot be carried out by LA's

Intrusive Surveillance

Intrusive surveillance is a specific form of covert surveillance which local authorities cannot, according to law, carry out within the meaning of the RIPA nor will they interfere with property or wireless telegraphy. The ability to undertake intrusive surveillance is limited to the Police and Security Services who, in certain circumstances and within RIPA requirements, must obtain a High Court order to authorise.

Intrusive surveillance is any form of covert surveillance taking place in any residential premise or any private vehicle.

Directed Surveillance

Directed surveillance is a specific form of covert surveillance and may only be authorised under RIPA for the purpose of preventing or detecting criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment or are related to the underage sale of alcohol and tobacco.

As the description implies the form of surveillance is 'directed' at a specific individual or business.

Authorised directed surveillance would be needed for example, when using mobile, hidden recording devices or cameras to record what is going on in a shop selling alcohol and tobacco.

Covert Human Intelligence Source (CHIS)

A CHIS is a specific form of covert surveillance and is defined as the use of an individual to create a relationship with a subject, for the purposes of obtaining information, where the purpose of the relationship is not disclosed to the subject. Interaction with the subject of surveillance is therefore required in order for an individual to be regarded as a covert human intelligence source (CHIS).

For example, CHIS would be required for developing a relationship with a person in a shop, to obtain information about the seller's suppliers of an illegal product e.g. illegally imported products.

The provisions of RIPA relating to CHIS do not apply where a situation would not normally require a relationship to be established for the covert purpose of obtaining information. For example;

- Where members of the public volunteer information to the council as part of their normal civic duties;
- Where members of the public volunteer to make test purchases on behalf of the Council;
- Where the public contact telephone numbers set up by the council to receive information;
- Where members of the public are asked to keep diaries of incidents in relation to, for example, planning enforcement, anti-social behaviour or noise nuisance. However, in certain circumstances, RIPA authorisation may be required if the criteria in section 26(2) of the Act are met.

Activity not falling within the definition of covert surveillance requiring authorisation

Some covert surveillance activity does not constitute intrusive or directed surveillance for the purposes of Part II of the 2000 Act and no directed or intrusive surveillance authorisation is required to be obtained for such activity. Such activity includes:

- Covert surveillance by way of an immediate response to events;
- Covert surveillance as part of general observation activities;
- Covert surveillance not relating to the statutory grounds specified in the 2000 Act;
- Overt use of CCTV and ANPR systems;
- Covert surveillance authorised as part of an equipment interference warrant under the 2016 Act;
- Certain other specific situations of covert surveillance that is not directed surveillance or Covert Human Intelligence Source (CHIS) – such as covert recording of noise where the recording is of decibels only or non-verbal noise (such as machinery, music or an alarm).

Communication Data

Acquisition of Communications data is the 'who', 'when', 'where' and "how" of a communication, but not the 'what' (i.e. the content of what was said or written).

Under IPA 2016 a local authority can only obtain authorisation for less intrusive types of communications data acquisition, called Entity Data, to investigate 'applicable crime'. Under no circumstances can local authorities be authorised to obtain traffic data under IPA.

Local authorities are not permitted to intercept the content of any person's communications and it is an offence to do so without lawful authority.

For access to communication data, a Single Point of Contact (SPoC) is required to undertake the practical facilitation with the communications service provider (CSP) in order to obtain the data requested. The SPoC must have received training specifically to facilitate lawful acquisition of communications data and effective co-operation between the local authority and CSP. The SPoC does not need to be an officer of the authority, the National Anti-Fraud Network provides a SPoC service to local authorities and BCP have access to this on-line service.

Approval of the on-line application by an Authorising Officer under this Policy is required before a request is progressed (see Appendix E for process to follow). Approval for the acquisition of communications data must then be granted by the Office for Communications Data Authorisations (OCDA) but NAFN will arrange that. NAFN will also report statistics on the use of IPA powers to the regulator IPCO.

Social Networking Sites

The Internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered. Where a person acting on behalf of the local authority is intending to engage with others online without disclosing their identity a CHIS authorisation may be needed.

In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where reasonable steps are taken to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not be required.

Depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as an investigation. This is regardless of whether the individual has sought to protect such information by restricting its access by activating privacy settings.

Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy.

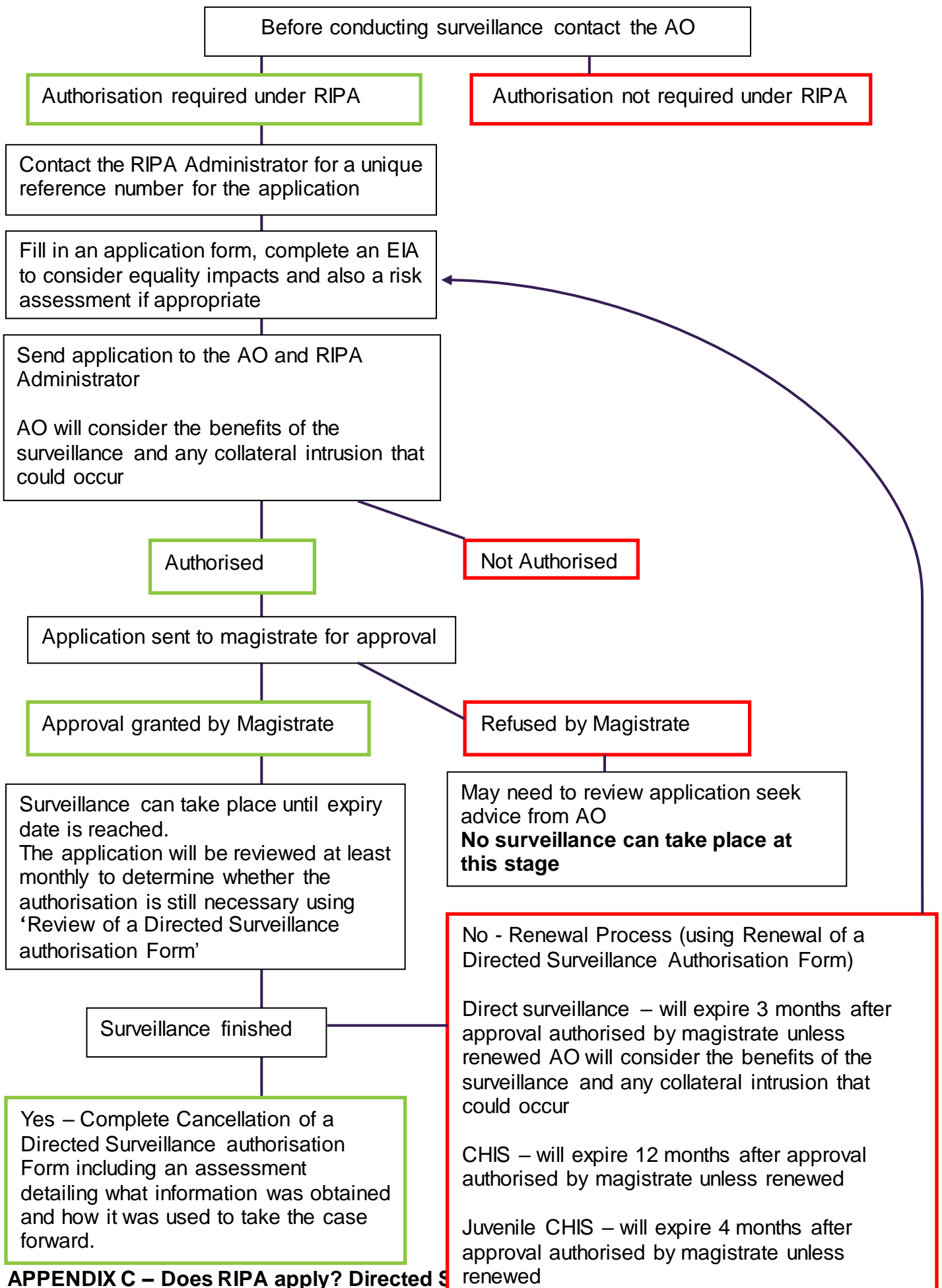
Simple reconnaissance of such sites is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where information is systematically collected or recorded about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online.

CCTV

If CCTV is accompanied by clear signage, then the monitoring will be overt. If it is intended to use CCTV for covert monitoring, for example by using either hidden cameras or without any signs warning that CCTV is in operation then RIPA authorisation is likely to be required.

If a law enforcement agency wishes to use BCP Council CCTV for directed surveillance then they must provide the authorisation (redacted if necessary) and only utilise the CCTV equipment in accordance with that authorisation.

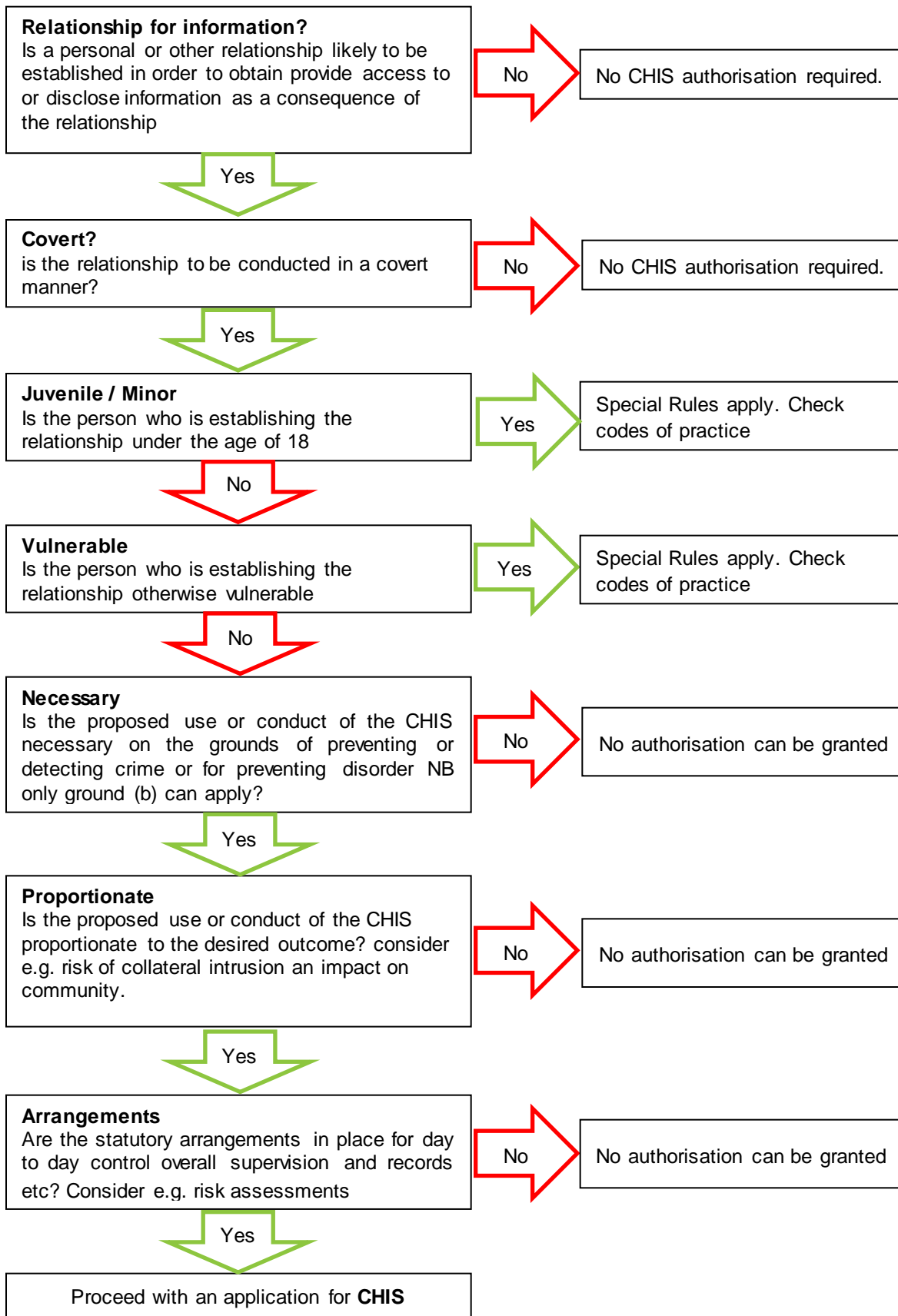
APPENDIX B - RIPA Authorisation Process



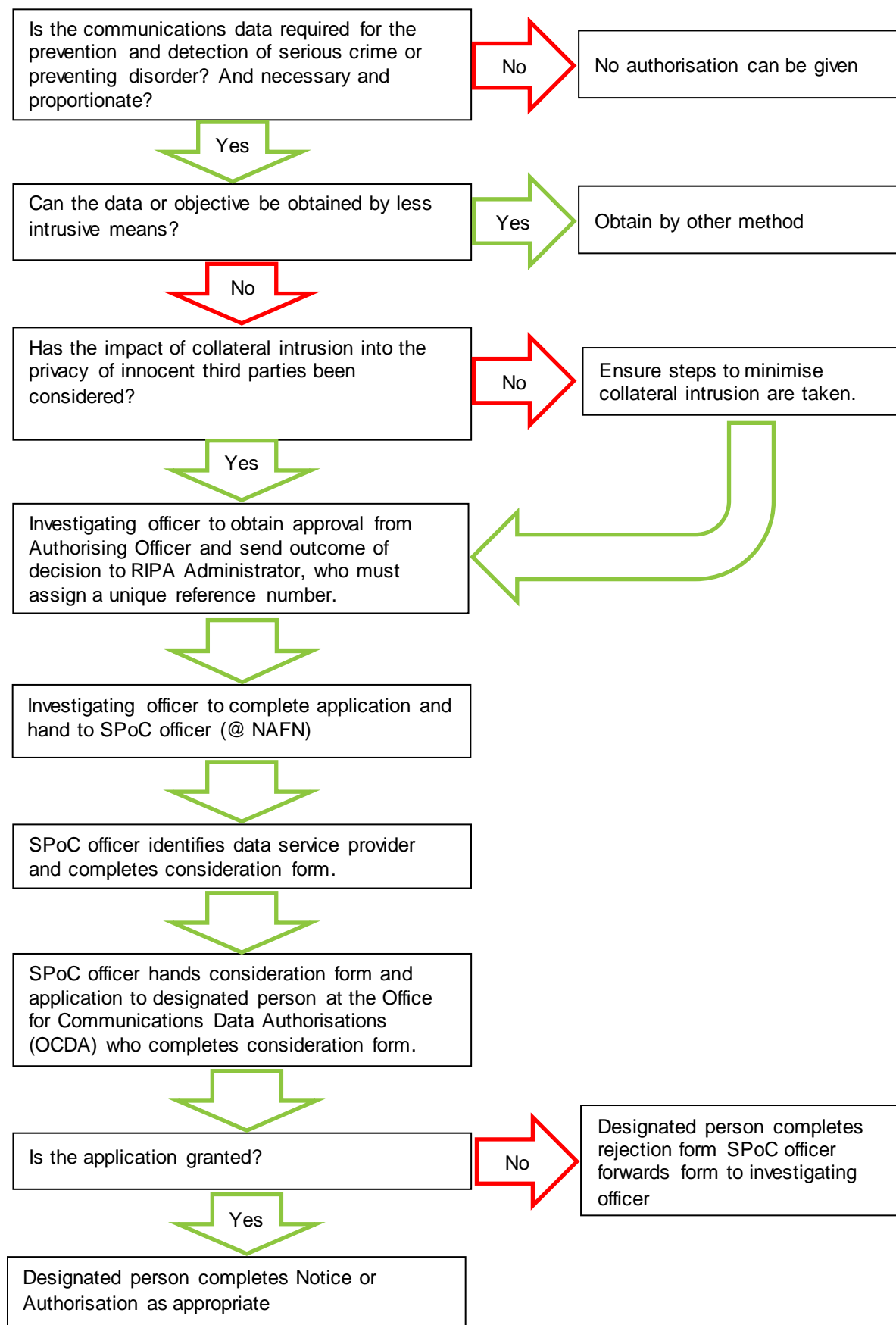
APPENDIX C – Does RIPA apply? Directed S

Is the surveillance to be carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is taking

APPENDIX D - Covert Human Intelligence Source Flowchart



APPENDIX E - Accessing Communications Data Flowchart



Note: If at any time during the process, the data is no longer required for any reason. The SPoC officer should be informed and the Designated Person will complete the relevant cancellation notice which is forwarded to the Data service Provider

Equality Impact Assessment: conversation screening tool

Policy/Service under development/review:	BCP Council Regulation of Investigatory Powers Act (RIPA) and Investigatory Powers Act (IPA) Policy
What changes are being made to the policy/service?	Annual policy refresh including adding reference and links under Section 8 to Home Office Code of Practices and also adding links to legislation references in the document.
Service Unit:	Law and Governance
Persons present in the conversation and their role/experience in the service:	Chief Internal Auditor Service Equality Champion
Conversation dates:	25/01/2023
Do you know your current or potential client base? Who are the key stakeholders?	The client base is anyone the authority may choose to conduct covert surveillance about. This could, therefore, apply to any resident or staff member of BCP. BCP Council has not conducted covert surveillance under RIPA since its creation (1/4/2019), and the predecessor authorities had not for a number of years prior to that.
Do different groups have different needs or experiences in relation to the policy/service?	BCP Council's aim is that no resident or staff member should have a different experience of the policy because of any protected characteristic. The policy requires an equality impact assessment to be carried out prior to application so a detailed assessment can be made based on the circumstances to ensure any equality implications are taken into consideration.
Will the policy or service change affect any of these service users?	The policy will ensure that there is a rigorous procedure in place for dealing with requests to conduct covert surveillance and ensure uniformity of process.
[If the answer to any of the questions above is 'don't know' then you need to gather more evidence and do a full EIA. The best way to do this is to use the Capturing Evidence form]	
What are the benefits or positive impacts of the policy/service change on current or potential service users?	Surveillance plays a necessary part in modern life. It is used not just in the targeting of criminals, but also as a means of protecting the public from harm and preventing crime. The policy implements legal requirements approved by Parliament and is designed to safeguard the human rights of individuals. The policy operates in a neutral way in respect of individuals. To ensure this, the policy asks to applicants to consider the equality impacts of covert surveillance for each individual application.
What are the negative impacts of the policy/service change on current or potential service users?	None
Will the policy or service change affect employees?	Yes, it impacts staff as it sets out the legal parameters within which staff may employ covert surveillance techniques and also how the authority may legally use covert surveillance to monitor staff.
Will the policy or service change affect the wider community?	Yes, the policy will confirm a lawful approach to establishing covert surveillance for the whole community.

What mitigating actions are planned or already in place for those negatively affected by the policy/service change?	None required at this stage
Summary of Equality Implications:	<p>The policy notes that any use of activities under RIPA will be as a last resort and council policy is not to undertake such activities unless absolutely necessary.</p> <p>In the few circumstances where the council may use this policy it ensures that any covert surveillance is conducted within the parameters set out by Parliament and, therefore, protects human rights. This policy ensures that an equitable approach is taken towards individuals and requires that assessments are made of the equality impact when authorisations are requested.</p> <p>No equalities implications have been identified as a result of the changes to this policy</p>

AUDIT AND GOVERNANCE COMMITTEE



Report subject	Financial Regulations - Annual evolution for 2023/24
Meeting date	16 February 2023
Status	Public Report
Executive summary	<p>Evolutionary changes to the Council's Financial Regulations are summarised in this report and shown in red text throughout the document at Appendix A and include:</p> <p>A very minor clarification for maintained schools has been added, using waiver sign off as an example, to recognise schools have the ability to sign off certain financial matters according to their own schemes of delegation hierarchy.</p> <p>References to Poole Housing Partnership managing the Poole locality side of the Housing Revenue Account have been removed.</p> <p>Part G, Procurement and Contract Procedures, has been subject to layout changes to the format, numbering and ordering to more naturally follow the order of activity associated in a procurement process and to align to the 'Government Commissioning & Procurement Playbook'.</p> <p>For simplicity the whole of Part G has been shown in red text, to indicate a change from previous versions, but the actual requirements in the context of what is expected of Council staff when commissioning and procuring works, goods and services are not fundamentally different.</p> <p>There are three changes to the Corporate Schedule of Financial Delegations, Appendix 1 to the Regulations. These changes include :</p> <ul style="list-style-type: none"> ○ Revenue Virement delegation clarification (RV6) ○ A new expenditure delegation (EX13) for special severance payments to align with statutory guidance (May 2022) ○ Expansion of a previous delegation, covering only business rates, to now include Council Tax and any other tax rebate relief (TR1) where the Council must implement a fully funded government programme or scheme.
Recommendations	<p>It is RECOMMENDED that Audit & Governance Committee:</p> <ul style="list-style-type: none"> • approve the Financial Regulations as shown in Appendix A before referral to Council for adoption.

Reason for recommendations	The Council's Financial Regulations are subject to annual evolution to align to the start of each financial year.
Portfolio Holder(s):	Cllr Drew Mellor, Leader of the Council
Corporate Director	Graham Farrant, Chief Executive
Report Authors	Nigel Stannard Head of Audit & Management Assurance ☎01202 128784 ✉ nigel.stannard@bcpcouncil.gov.uk
Wards	Council-wide
Classification	For Recommendation Approval

Background

1. BCP Council's Financial Regulations currently form Part 5 of The Constitution.
2. Council agreed that the Financial Regulations (the Regulations) will be subject to a business as usual 'annual evolution' so they remain up-to-date and receptive to the rapidly changing internal and external environment in which the Council operates. Such 'annual evolution' will be approved by Council.
3. As far as is practical, subject to when Council meetings fall, the evolution of the Regulations will align to as close to the start of the financial year as possible. For 2023/24 Council meets on 21 March 2023 so this evolution of Financial Regulations will be live from 1 April 2023.
4. Evolutionary changes are shown in red text; this method transparently highlights the changes and negates the need for a page turn comparison to find out what has changed. Only the latest evolution is shown in red text, changes from previous year revert to standard black text.
5. The Chief Finance Officer (CFO) is responsible for maintaining and updating the Regulations and the Corporate Schedule of Financial Delegations, which is Appendix 1 of the Regulations. The CFO has delegated authority from Council to make in-year amendments and editing changes which may be occasionally necessary, such as in cases of new or revised legislation or UK law or to correct errors, ambiguity or where unintended interpretation matters arise. This delegation will also be used if any officer designations (job or role names) need changing, as a result of any restructuring for example, most likely within Appendix 1.
6. This annual evolution is formally known as BCP Financial Regulations EVO23.v1, where 23 stands for the financial year and v1 stands for the version agreed by Council. If the CFO makes any delegated amendments as per paragraph 5 above then this will be shown as v2, v3 and so on, as required.

Changes in BCP Financial Regulations EVO23.v1

7. The bullet points below summarise the evolutionary changes made:

- A very minor clarification for maintained schools has been added, using waiver sign off as an example, to recognise schools have the ability to sign off certain financial matters according to their own schemes of delegation hierarchy.
- References to Poole Housing Partnership managing the Poole locality side of the Housing Revenue Account have been removed.
- Part G, Procurement and Contract Procedures, has been subject to layout changes to the format, numbering and ordering to more naturally follow the order of activity associated in a procurement process and to align to the 'Government Commissioning & Procurement Playbook (including the use of 'Playbook' headings), which is likely to increasingly influence policy and legislative changes expected during 2023 and 2024.

For simplicity the whole of Part G has been shown in red text, to indicate a change from previous versions, but the actual requirements in the context of what is expected of Council staff when commissioning and procuring works, goods and services are not fundamentally different.

- There are three changes to the Corporate Schedule of Financial Delegations, Appendix 1 to the Regulations.
 - A Revenue Virements delegation, RV6, has been clarified to avoid any doubt in what can be corrected by the CFO (or their representative) if budget upload errors are identified or where budgets previously held centrally need apportioning to services.
 - A new Expenditure delegation, EX13 Special Severance Payments, has been added to reflect requirements of new statutory guidance (May 2022).
 - The previous delegation to allow the CFO to implement any central government fully funded business rate relief schemes (where implementation requires the Council to use its discretionary powers under either Section 47 of the Local Government Finance Act 1988 or Section 13A of the Local Government Finance Act 1992) has been expanded to include Council Tax or other tax rebate relief schemes meeting the same criteria. This delegation (TR1) is in place to allow swift implementation of national schemes such as those during the covid pandemic or in response to cost-of-living crisis.

8. There are no material changes in any other sections of the Regulations. Minor changes include replacing terminology or government guidance which have been superseded.

BCP Debt Management Policy

9. The Financial Regulations, Part F, Financial Systems and Procedures, Income, provides the strategic framework for debt collection and debt management within BCP Council. The BCP Debt Management Policy contains the operational detail and procedures to supplement the Regulations.
10. It should be noted that this detailed operational policy is in the process of being subject to annual evolution to ensure it remains up-to-date and will be approved by the Director Strategy Group for the 2023/24 financial year.

Options Appraisal

11. The Council could choose to update, refresh, evolve the Financial Regulations on a less frequent basis than annually. There is an inherent and obvious risk with such an approach that the Financial Regulations could become out of date and fail to keep pace with the rapidly changing internal and external environment in which the Council operates.

Summary of financial implications

12. The Financial Regulations provide the governance framework for managing the Council's financial affairs. 'How to' guidance and procedures are in place to compliment the specific requirements of the Regulations.

Summary of legal implications

13. The Financial Regulations are Part 5 of the Council's Constitution and apply to every councillor and officer acting behalf of the Council.
14. The Local Government Act 1972 (Section 151) makes the Chief Finance Officer responsible for the proper administration of the Council's financial affairs. The Regulations are issued pursuant to these responsibilities.

Summary of human resources implications

15. The Financial Regulations apply to every councillor and officer acting behalf of the Council.

Summary of sustainability impact

16. Part G of the Financial Regulations includes requirements for commissioning officers and the Strategic Procurement Team (SPT) to follow to ensure the Council considers environmental sustainability when procuring works, goods and services.
17. A requirement to obtain local supplier quotes (BH, DT and SO postcodes) is included for purchases which are less than £25,000.

Summary of public health implications

18. There are no direct public health implications from this report.

Summary of equality implications

19. There are no direct equality implications from this report.

Summary of risk assessment

20. Lack of compliance and awareness is the most significant and impactful risk in a Financial Regulations context. A continuous and evolving training, supporting and promoting programme exist utilising a range of activities including formal training, one-off bespoke awareness sessions, blogs and staff communications.

Background papers

None

Appendices

Appendix A - BCP Financial Regulations EVO23.v1

PART 5

FINANCIAL REGULATIONS

BOURNEMOUTH, CHRISTCHURCH AND POOLE (BCP) COUNCIL



FINANCIAL REGULATIONS

Live from 01-04-2023 (EVO23v1)

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PART C	FINANCIAL PLANNING AND BUDGETING
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PART E	INTERNAL CONTROL, AUDIT AND RISK MANAGEMENT
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PART G	PROCUREMENT AND CONTRACT PROCEDURES
PART H	EXTERNAL ARRANGEMENTS (Including Partnerships, External funding bids and Trading)
APPENDIX 1	CORPORATE SCHEDULE OF FINANCIAL DELEGATIONS
APPENDIX 2	FUNCTIONS OF THE AUDIT & GOVERNANCE COMMITTEE
APPENDIX 3	MINOR AMENDMENTS AND EDITING LOG

Within these Regulations **Chief Finance Officer (CFO)** means:

- Officer with statutory responsibility for the proper administration of the Council's financial affairs in accordance with S151 of the Local Government Act 1972, i.e. Chief Operating Officer.
- Or those officers authorised to act on their behalf. (in accordance with Financial Services Scheme of Delegation)

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PART A STATUS OF FINANCIAL REGULATIONS

PURPOSE

- 1 These Financial Regulations (Regulations) provide the governance framework for managing the Council's financial affairs.

STATUTE

- 2 The Local Government Act 1972 (Section 151) makes the Chief Finance Officer (CFO) responsible for the proper administration of the Council's financial affairs. These Regulations are issued pursuant to these responsibilities and form part of the Council's Constitution (part 5).

SCOPE

- 3 The Regulations set out the Council's requirements in respect of:
 - Financial management roles and responsibilities
 - Financial planning and budgeting
 - Financial monitoring and control
 - Internal control, audit and risk
 - Financial systems and procedures
 - Procurement activity
 - External arrangements
- 4 The Regulations apply to the control of both the General Fund finances (including BCP maintained schools) and the Housing Revenue Account (including any neighbourhood accounts therein). Wholly owned companies of BCP Council will adhere to the Regulations unless exceptions are agreed by their respective Boards.
- 5 Appendix 1 to the Regulations comprises the 'Corporate Schedule of Financial Delegations' which sets out the approved financial limits within which officers and councillors may conduct the Council's business. This schedule does not apply to BCP maintained schools who will operate their own schemes of delegation and other processes such as procurement decisions and waiver sign off of Part G to these Regulations vary accordingly.
- 6 The Regulations are supported by a series of financial procedures and strategies which provide more detailed direction on the arrangements in respect of:
 - Anti-fraud and corruption policy (including money laundering guidance and reporting)
 - Risk management strategy
 - Financial document retention
 - Income collection and local debt recovery systems
 - Asset management including disposals and acquisitions
 - Procurement strategy and code

COMPLIANCE

- 7 These Regulations, and the appendices, apply to every councillor and officer of the Council and to anyone acting on its behalf, including agencies and partnerships with whom the Council does business and for whom the Council is the relevant accounting body.
- 8 All councillors and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is undertaken in accordance with the law, properly authorised, and achieves value for money. In doing so, proper consideration must be given at all times

to matters of probity and propriety in managing the assets, income and expenditure of the Council.

- 9 Failure to comply with any part of these Regulations may constitute misconduct and lead to formal disciplinary action.
- 10 The term 'Manager' used throughout the Regulations refers to members of the Council's extended management team including the Chief Executive, Corporate Directors, Service Directors, Heads of Service and Team Managers as appropriate and as they relate to the specific matters set out within these Regulations. For maintained schools the Governing Body is defined as the 'Manager' for the purposes of these Regulations.
- 11 If decisions have been formally delegated to others, such as to The Head Teacher or to individuals as specified in Service Schemes of Delegation, reference to the term 'manager' in these Regulations should be read as referring to them.

MAINTAINING AND UPHOLDING THE REGULATIONS

- 12 The CFO is responsible for:
 - a. Maintaining and updating these Regulations and the Corporate Schedule of Financial Delegations. Minor amendments and editing changes, including in year changes necessary to align with new or revised legislation or UK law, are logged on page 61.
 - b. Ensuring that any revisions affecting the powers of councillors are approved by Council on the recommendation of the Council Leader and in consultation with the Monitoring Officer (MO).
 - c. Reviewing and reissuing the financial procedures as necessary to support the effective operation of these Regulations.
 - d. Reporting, where appropriate, any breaches of these Regulations to councillors on at least an annual basis.
 - e. Reporting to councillors all waivers and exemptions of Regulations, requested by Services and approved (by the CFO) during the course of any financial year which they have delegated authority to determine.
 - f. Interpreting and/or arbitrating should any uncertainty or dispute arise pursuant to these Regulations in consultation with the MO.
- 13 The Regulations are subject to an annual 'evolution' which will be approved by Council and will incorporate:
 - a. Minor amendments and editing changes, described at 12a above, into the relevant section of the Regulations.
 - b. Changes of a more fundamental nature, as identified by a proportionate officer working group made up from representatives of Services and Schools.
- 14 For transparency purposes all changes in the annual 'evolution' will be flagged using red text, this will enable both experienced and inexperienced users of the Regulations to clearly identify where changes have occurred year on year. Changes from previous years 'evolution' will be incorporated into standard colour text, only the latest 'evolution' is shown in red text.

PART B FINANCIAL MANAGEMENT ROLES & RESPONSIBILITIES

PRINCIPLES

- 1 A transparent framework of financial management responsibilities and decision making is essential to the effective management of the Council's financial affairs.
- 2 All councillors and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public monies.

COUNCILLORS

- 3 Councillors' responsibilities for the overall management of the Council's financial affairs are exercised through:
 - **Council**, which is responsible for approving the Council's Key Policy Framework as defined within the Constitution and for setting the budget.
 - **The Leader and Cabinet – “the Executive”**, which is responsible for recommending the key policy framework and budget to Council; making decisions in respect of the executive functions of the Council in accordance with the Key Policy Framework and Budget approved by Council. Executive decision making can be delegated to a formally constituted committee of the Cabinet, an individual cabinet member, an officer or a joint committee in accordance with the Scheme of Delegation as set out in the Council's Constitution.
 - **The Audit & Governance Committee**, which is responsible for maintaining a continuous review of the Council's regulatory framework, approving the Annual Statement of Accounts for publication, oversight of audit, governance, counter fraud and corruption, risk management and treasury management activity. This Committee's full functions and responsibilities are set out in Appendix 2.
 - **The Standards Committee**, which is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Councillors' Code of Conduct, and for monitoring the operation of the Code.

OFFICERS

- 4 Officer responsibilities for the overall management of the Council's financial affairs are variously set out by legislation, the provisions of the Council's Constitution and the Council's Corporate and Service Schemes of Delegation.
- 5 Certain legislation requires the Council to designate particular officers as the 'appropriate officer' for the performance of certain functions. 'Appropriate Officer' functions include the responsibilities of the Head of Paid Service (HPS), the Monitoring Officer (MO) and Chief Finance Officer (CFO) in managing the overall financial affairs of the Council. Formal recognition is also given to the particular responsibilities and functions of the Council's Chief Internal Auditor (CIA) in accordance with best practice advice and guidance. The role of the CIA is set out in CIPFA's 'The Role of The Head of Internal Audit'.

THE HEAD OF PAID SERVICE (HPS)

- 6 The HPS is designated as the Chief Executive and is responsible for the corporate and strategic management of the Council. The HPS is responsible for establishing the management style, direction and leadership of the organisation including overall staff management arrangements, monitoring performance and achievement. The HPS is responsible, together with the MO, for the system of record keeping in relation to Councils' decisions.

THE MONITORING OFFICER (MO)

- 7 The MO is responsible for promoting and maintaining high standards of financial conduct and provides support to the Standards Committee. The MO is also specifically responsible for:
- Reporting any actual or potential breaches of the law or maladministration to Council and/or to Cabinet.
 - Ensuring that procedures for recording and reporting key decisions are operating effectively.
 - Ensuring that Cabinet decisions and the reasons for them are made public.
 - Ensuring that all councillors are aware of decisions made by the Cabinet and of those made by cabinet member, officers, or a joint committee which has delegated Cabinet responsibility.
 - Advising all councillors and officers about who has authority to take a particular decision.
 - Maintaining an up-to-date Constitution and reporting any proposed changes to Council for approval.

THE CHIEF FINANCE OFFICER (CFO)

- 8 The CFO has statutory and delegated duties in relation to the financial administration and stewardship of the Council. The statutory responsibilities cannot be overridden and arise from:
- Section 151 of the Local Government Act 1972
 - The Local Government Finance Act 1988
 - The Local Government and Housing Act 1989
 - The Accounts and Audit Regulations 2015 (and as amended)
 - The Local Authorities Goods and Services Act 1970
 - The Local Government Acts 2000 and 2003
 - The Localism Act 2011
- 9 The CFO's responsibilities include:
- The proper administration of the Council's financial affairs including all arrangements concerning financial planning, financial control, accounting, taxation, income, debt management, insurances, investments, banking, bonds, loans, leasing, borrowing, trust and pension funds, and the payment of creditors, salaries, wages and pensions.
 - Determining the contents of Financial Procedures and ensuring compliance with these and Financial Regulations.
 - Preparing the Revenue Budget and reporting to the Council on the robustness of the estimates and the adequacy of reserves.

- d. Preparing the Capital Programme, ensuring effective forward planning and sound financial management in its compilation.
 - e. Ensuring that accurate and timely financial information is available to enable effective budget monitoring and reporting and taking action if overspends or shortfalls in income emerge.
 - f. Reporting to Council if it is likely that any proposed action or decision will lead to unbudgeted or unlawful expenditure or activity.
 - g. Advising on the systems of internal control necessary for sound financial management and decision making, and to ensure that public funds are properly safeguarded and used economically, efficiently, and effectively.
 - h. Maintaining an adequate and effective internal audit function and effective counter theft, fraud and corruption arrangements.
 - i. Preparing the Council's risk management strategy and advising on the management of strategic, financial and operational risks.
 - j. Determining the accounting procedures and records for the Council and ensuring that they are applied consistently.
 - k. Preparing and publishing the Council's annual statement of accounts and governance statement for approval by Audit & Governance Committee in accordance with all applicable codes of practice on local authority accounting.
 - l. Making proper arrangements for the audit of the Council's accounts in accordance with statutory and legislative provisions.
 - m. Preparing and implementing an effective treasury management strategy and effecting all investments and borrowings within the limits imposed by the Council.
 - n. Advising on, monitoring and reporting on performance in relation to Prudential Indicators set by the Council for capital expenditure, external debt and treasury management.
 - o. Ensuring that effective asset management arrangements are in place.
 - p. Advising on the risks and financial implications associated with joint working, external funding and trading opportunities.
- 10 The CFO may allocate their day-to-day responsibilities to an appropriate representative in accordance with the Financial Services Scheme of Delegated Authority to Officers and/or the Corporate Schedule of Financial Delegations.

THE CHIEF INTERNAL AUDITOR (CIA)

- 11 The CIA is designated by the CFO as part of the Service Scheme of Delegation further to Part 3 (Schedule 1) of the Council's Constitution and plays a key role in providing assurance to the councillors, the CFO, the HPS and Corporate Management Board about the probity, practical deployment and effectiveness of financial management at the Council.
- 12 The CIA has rights of access to information and data held by officers or councillors of the Council at all reasonable times and is responsible for the overall co-ordination and deployment of external and internal audit resources at the Council. The CIA also has the right to report on any relevant matter of concern to senior management and councillors outside normal line management arrangements should they deem this necessary in protecting the interests of the Council and/or local taxpayers.

MANAGERS

- 13 Whilst the CFO has overall responsibility for the finances of the Council, managers are responsible for the day-to-day management of their respective Unit's finances. Their responsibilities in relation to financial management include:
- a. Promoting and ensuring compliance with these Regulations and associated Financial Procedures and taking corrective action in the event of any non-compliance.
 - b. Preparing annual Revenue Budget estimates and Capital Programme estimates in accordance with the guidance issued by the CFO.
 - c. Ensuring that the financial implications of all proposals, or any matter which is liable to materially affect the resources of the Council, are agreed with the CFO or their nominated representative in advance of any decision making report to councillors.
 - d. Managing service delivery and containing expenditure within the agreed revenue and capital budgets.
 - e. Maintaining sound systems of internal control and implementing agreed internal and external audit recommendations.
 - f. Complying with the Council's counter theft, fraud and corruption policy and reporting suspected fraud and financial irregularities immediately to internal audit for investigation.
 - g. Complying with the Council's risk management strategy and notifying the CFO immediately of significant risks to the Council's financial position.
 - h. Ensuring that all financial transactions are recorded through the main accounting system.
 - i. Assisting cash flow through timely billing of income due and minimising advance payments wherever possible.
 - j. Ensuring that all expenditure incurred complies with the requirements of these Regulations, the procurement code and has the necessary budgetary approval.
 - k. Controlling resources and containing staff numbers within approved establishment and budget levels and ensuring that all employee appointments and payments are properly authorised in compliance with the Council's policies.
 - l. Ensuring that all claims for funds, including grants, are compiled and submitted by the due dates.
 - m. Ensuring the proper security and safe custody of all assets under their control.
 - n. Ensuring that the risks and financial implications associated with joint working, external funding and trading opportunities are properly evaluated, and that no such arrangements are entered into without the prior approval of the CFO.
 - o. Ensuring that financial authorities are operated in accordance with the limits contained within the Corporate Schedule of Financial Delegations (Appendix 1), and that a written record of authorised officers is maintained.

ALL EMPLOYEES

- 14 In addition to the specific responsibilities set out above the Council expects all employees to:
- a. Act in good faith, adopting the highest standards of integrity, propriety and impartiality in accordance with the 'Nolan principles' (7 principles of public life which apply to all people appointed to work in local government).

1. Selflessness

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

2. Integrity

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

3. Objectivity

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

4. Accountability

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

5. Openness

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

6. Honesty

Holders of public office should be truthful.

7. Leadership

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

- b. Exercise due care in relation to all resources, assets, income and expenditure within their care or control.
- c. Ensure that proper records and documentation are maintained of the Council's assets and financial transactions in accordance with advice and requirements of the CFO.
- d. Comply with these Regulations, the associated financial procedures and any additional guidance issued to ensure the effective control of the Council's resources.
- e. Co-operate in audits of the Council's financial systems.
- f. Report any suspected financial irregularities for investigation to the Chief Internal Auditor.

PRINCIPLES

- 1 The purpose of financial planning and budgeting is to set out and communicate the Council's objectives, resource allocations and related performance targets, and to provide an agreed basis for subsequent management control, accountability and reporting.
- 2 Budgets are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. The Budget is the financial expression of the Council's ambitions and priorities. The budget process must ensure that resources are:
 - Required in accordance with the law and properly authorised.
 - Used only for the purpose of achieving approved policies, objectives and service priorities.
 - Held securely for use when required.
 - Used appropriately to avoid waste, inefficiency and/or loss.

It is unlawful for the Council to budget for a deficit.

- 3 As such the Budget sets agreed parameters around the annual resource allocations, activities and functions of Services and is constructed within the context of a medium term financial plan (MTFP). The MTFP represents a multi-year forecast (usually 3 or more years) to identify and address those issues which have medium to long term implications for the Council.
- 4 The Capital Programme sets out the resource allocations to be made to capital schemes. Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the organisation, such as land, buildings, and major items of plant, equipment and vehicles.
- 5 To enable councillors to make informed decisions, all Council, Cabinet and Committee reports must incorporate a separate section on 'financial implications'. Reports must show the costs or savings of proposals together with any approved budget provision, future commitments, potential risks, tax implications, and any other financial consequences which may arise from the options and recommendations and must be produced in consultation with the CFO or their nominated representative.

COUNCILLORS

- 6 Councillors' responsibilities for financial planning and budgeting are exercised through:
 - **Council**, which is responsible for approving the Council's key policy framework and for setting the Budget. This approval encompasses:
 - All the plans and strategies making up the Policy Framework, including the Council's corporate plan/strategy.
 - The MTFP.
 - The revenue budget (The Budget), proposed by the Cabinet to Council for approval on the advice of the CFO. The Budget will include details of proposals for local taxation levels, contingency funds and use of and levels of all reserves.
 - The capital budget (The Capital Programme).

Council may amend the Budget and the Capital Programme or ask the Cabinet to reconsider it before approving in exceptional circumstances in consultation with the CFO. Any councillor or group of councillors who wish to submit alternative budget proposals must do so no less than 3 clear working days before the Budget setting meeting. The CFO will only support alternative proposals which deliver a balanced budget to be taken forward to the Council for consideration.

- **The Cabinet** is responsible for proposing the key policy framework and budget to Council. Cabinet is also responsible for monitoring performance against revenue and capital budgets and taking executive decisions to deliver priorities, within the Budget and key policy framework agreed by the Council. It is responsible for issuing guidance on the detail of the Budget in consultation with the CFO as soon as possible following the Budget's approval by Council.

REVENUE BUDGET (THE BUDGET)

7 The CFO is responsible for:

- a. Advising the Council on the Cabinet's budget proposals in accordance with their responsibilities under S151 of the Local Government Act 1972. (Council may amend the Revenue Budget or ask the Cabinet, in consultation with the CFO, to reconsider it before approving)
- b. Ensuring that an annual Revenue Budget and Council Tax Report are prepared in the context of a medium term financial plan for consideration by Cabinet and approval by Council.
- c. Maintaining a resource allocation process that properly reflects the Council's policy framework, ambitions and priorities.
- d. Advising the Cabinet on the format of the budget and its responsibility for issuing guidance on budget preparation taking due account of:
 - legal requirements
 - medium-term planning prospects and known issues
 - the corporate strategy and Council priorities
 - available resources
 - spending pressures
 - government initiatives and public policy requirements
 - internal policy directives
- e. Advising the Cabinet and Council on a prudent level of reserves and any appropriate contingency provisions.
- f. Undertaking the statutory consultation with NDR payers.
- g. Issuing detailed procedures to managers on the preparation of Revenue Budget estimates.

8 Managers are responsible for:

- a. Preparing annual Revenue Budget estimates in accordance with the guidance issued by Cabinet and the detailed procedures issued by the CFO, ensuring that these are a realistic reflection of agreed priorities, and advising cabinet members on service implications. (see d. above)
- b. Establishing detailed budgets for each service area in advance of the financial year (along with indicative estimates for the two years thereafter) and requiring such budgets to be properly managed by responsible named budget holders.
- c. Integrating financial and budget plans with service planning.
- d. Ensuring that any earmarked reserves held are applied to their intended purposes.
- e. Giving due and proper regard to the asset management concerns of the wider organisation in planning service delivery, consulting in advance with the Corporate

Property Officer (CPO) in any financial planning or budgeting decision to be made relating to the use of Council land and property.

CAPITAL BUDGET (THE CAPITAL PROGRAMME)

9 The CFO is responsible for:

- a. Ensuring that a multi-year rolling Capital Programme (usually 3,4 or 5 years) is prepared for consideration by the Cabinet for recommendation to Council for approval as part of the MTFP and annual budget setting process.
- b. Issuing strategic guidance on capital schemes and controls and defining what will be regarded as capital having proper regard to Government regulations and accounting conventions.
- c. Issuing detailed guidelines which take account of legal, regulatory and code of practice requirements, medium-term planning prospects, affordability and whole life costing.
- d. Ensuring that the revenue implications of the Capital Programme are contained within the Revenue Budget and MTFP.
- e. Ensuring that all schemes relying on the use of prudential borrowing powers are properly appraised and provide value for money.
- f. Reporting to Cabinet on the overall position and the availability of resources to support the Capital Programme.
- g. Issuing detailed procedures to managers on the preparation of capital budget estimates.
- h. Ensuring that sources of funding (general fund, capital grants, self-financing, etc.) are identified for the entire Capital Programme.

10 Managers are responsible for:

- a. Complying with the guidance issued by the CFO regarding capital schemes and controls and in the preparation of the Capital Programme.
- b. Ensuring that all capital schemes put forward for consideration have been properly appraised and that each scheme and estimate includes a project plan, progress targets, and sets out the funding sources including all associated revenue expenditure.
- c. Undertaking a comprehensive annual review of the Capital Programme and consequential revenue expenditure, for inclusion in the MTFP.

FINANCIAL IMPLICATIONS OF DECISIONS

11 The CFO is responsible for:

- a. Issuing guidance in relation to the presentation of financial implications within the Council's decision making processes.
- b. Ensuring the adequacy of the financial implications information presented within individual decision making reports and for appropriate sign-off.

12 Managers are responsible for:

- a. Ensuring that all decision making reports properly set out the financial implications of the proposed actions in accordance with guidance issued by the CFO.
- b. Arranging for all financial implications to be validated and formally signed-off by the CFO, or their nominated representative, prior to their progression through the approval process.
- c. Consulting with relevant parties where there may be financial implications for other cabinet members, committees or services.

PRINCIPLES

- 1 To ensure the Council does not exceed its overall budget, Services (and appropriate corporate projects and programmes where relevant) are required to manage their own income and expenditure within the cash limited budgets allocated to them to be spent on agreed service activities and functions.
- 2 Any forecasted revenue overspends, or income shortfalls should be mitigated through a compensating underspend or over-achievement of income elsewhere. Any under-spending or over-achievement of income cannot be carried forward from one year to the next without the approval of the CFO and should generally be restricted to specific items of a 'one off' nature where monies will be spent for an identified purpose in the following financial year.
- 3 No expenditure may be incurred on a capital project unless the project has been approved in accordance with the Corporate Schedule of Financial Delegations (Appendix 1) or as part of the annual Council approval of the Capital Programme. Any forecast overspending must be contained within the overall Capital Programme and reported to the approved senior officer Capital Programme Board. Similarly, variations to the approved budgets for capital schemes and re-phasing or slippage between years must be reported to the approved senior officer Capital Programme Board and approved in accordance with the limits set out in the Corporate Schedule of Financial Delegations (Appendix 1).
- 4 The term virement refers to transfers of budgets between or within cost centres. Virement may only be used in the very specific circumstances set out in the Regulations and the Corporate Schedule of Financial Delegations (Appendix 1).

CONTROL OF REVENUE BUDGETS

- 5 The CFO is responsible for:
 - a. Establishing and maintaining a robust framework of budget management and control which ensures that:
 - Budget management is exercised within annual cash limits and the MTFP.
 - Appropriate, accurate and timely information is available to Corporate Management Board, managers and budget holders that enable budgets to be monitored and controlled effectively.
 - Revenue expenditure is recorded on the Council's financial systems and is committed only against approved budget headings and associated structure of detailed cost centres.
 - All officers responsible for committing expenditure comply with these Regulations.
 - Each cost centre is allocated to a named budget holder determined by the relevant manager.
 - Significant variances from budget are investigated and reported by budget holders on a regular basis.
 - b. Monitoring and controlling the quantum of income and expenditure against budget allocations overall. They must ensure monitoring reports are prepared for Corporate Management Board and councillors' consideration on a regular basis

throughout the financial year (to be determined and advised by the CFO) and a report after the year end setting out the revenue outturn.

- c. Ensuring that budget monitoring reports include:
- Sufficient information and explanatory notes to allow cabinet members to fully exercise their duties in respect of the resources for which they have portfolio responsibilities.
 - Explanations of all variations to cost centres which are projected to be in excess of £100,000.
 - Information which summarises the delivery of any savings programmes.
 - Information which summarises available contingencies, balances and reserves.

6 Managers are responsible for:

- Ensuring that effective budgetary control arrangements exist and are observed within their respective Service, or in respect of any projects or programmes for which they are responsible in accordance with these Regulations.
- Ensuring spending remains within the relevant cash limits by controlling income and expenditure, monitoring performance and taking corrective action where variations from budget are forecast.
- Ensuring that expenditure is coded correctly and committed only against approved budget headings.
- Supporting the regular reporting of financial performance, variances, and forecasts within the areas of their responsibility to Cabinet by the CFO.
- Reporting to Cabinet and Council as necessary the financial implications of any new in-year proposal or amendment that will:
 - Create financial commitments in future years;
 - Change existing policies, initiate new policies or result in existing policies ceasing to operate;
 - Materially extend or reduce the Council's services.

CONTROL OF CAPITAL BUDGETS

7 The CFO is responsible for:

- Ensuring that governance arrangements are in place to regularly review progress against the Capital Programme.
- Maintaining a record of the current capital budget and expenditure on the Council's financial systems and ensuring compliance with financial reporting standards.
- Reporting to Cabinet the financial position against the approved Capital Programme.
- Ensuring that governance arrangements are in place, via an approved senior officer Capital Programme Board, to review proposed changes to the Capital Programme before subsequent approval by Cabinet.

8 Managers are responsible for:

- Ensuring that no expenditure is incurred on a capital project prior to its agreed inclusion within the Capital Programme and until a financial report has been approved by Cabinet. Equally, no scheme requiring Government or other body sanction and/or funding either in full or part may begin until the sanction and/or funding has been officially confirmed.
- Support the monitoring and reporting of capital expenditure and receipts against approved capital budgets, on project slippage and variations, and on any changes in projected expenditure.

- c. Reporting to Cabinet if proposed sources of funding are not secured.
- d. Ensuring that adequate records and audit trails are maintained in respect of all capital contracts.

VIREMENT

- 9 The term virement refers to transfers of resources between or within approved cost centres or budget headings and Service/Business Plans for both revenue and capital purposes. A virement does not create any net additional budget. Instead the virement mechanism exists to enable the Cabinet, Managers and their staff to manage their budgets with a degree of flexibility within the overall Policy Framework and Budget set by Council, thereby optimising the use of resources throughout the financial year. The virement schemes for revenue and capital do not exist as a means of remedying poor budgetary control or financial planning for known commitments and service priorities, or otherwise excuse Managers and budget holders from the need to manage their budgets prudently and responsibly. Nor may virements be affected after the year end to retrospectively fund over or under spending unless approved in advance by the CFO.
- 10 The CFO is responsible for:
 - a. Controlling and administering the virement mechanism in accordance with guidance and limits set out in the Corporate Schedule of Financial Delegations, Appendix 1.
 - b. Recording approved virements in the Council's financial systems and reflecting the impact of these in budget monitoring reports to the Cabinet.
- 11 Managers are responsible for:
 - a. Ensuring all proposed virements complies with the limits and approval requirements set out in the Corporate Schedule of Financial Delegations, Appendix 1.
 - b. Notifying all proposed virements in writing to the CFO or their representative.
- 12 Council shall approve allocations of resources from approved contingencies and reserves in excess of the approved contingencies and reserves recommended by Cabinet.
- 13 Cabinet shall approve allocations of resources from approved contingencies and reserves.

REVENUE CARRY FORWARDS (VIREMENTS) BETWEEN YEARS

- 14 Medium term financial planning (usually between 3 to 5 years) allows the Council to think beyond the constraints of any given financial year and annual budget and prepare for future events. In doing so it is important to ensure a suitable mechanism to allow for the carry forward of in-year budget under or overspends - in effect a virement of resources between accounting years – as deemed necessary by the CFO for MTFP purposes. The ability to choose to do so can serve to:
 - Empower budget holders to think beyond immediate service needs and plan over longer time frames to achieve significant changes and improvements and make best use of resources.
 - Hold budget holders to account for their budget management performance in so far as budget overspends will not be written down at the end of each financial year but will have to be dealt with on an on-going basis.

- 15 Carry forwards (virements) between years are not 'automatic' and will not be routinely determined. Where they are determined to be necessary by the CFO, in the context of the MTFP, and are subsequently approved by the Cabinet:
- Carry forward (previous year) overspending will constitute a first call on in year service budgets.
 - Carry forward (previous year) underspending must normally be spent in year on one-off proposals/projects usually of an 'invest to save' nature aimed at reducing on-going service pressures in future.
- 16 All internal surpluses arising from in-house trading activities/business units shall be retained for the benefit of the Council subject to any provision to do otherwise set out in the MTFP.
- 17 BCP maintained schools' balances will be treated in accordance with the provisions set out in the **DfE Framework as agreed and applied locally in the Scheme for Financing Schools.**

PART E INTERNAL CONTROL, AUDIT AND RISK MANAGEMENT (including prevention of theft, fraud and corruption)

PRINCIPLES

- 1 Sound systems of internal control are essential to the proper economic, efficient and effective use of resources, the achievement of objectives, and the safeguarding of public funds.
- 2 Audit is a key management tool that councillors and senior officers should rely on to provide an independent and objective assessment of the probity, legality and value for money of Council arrangements.
- 3 Legislation requires that the Council provides for both internal and external audit.

External audit provides an independent assessment of the Council's financial statements and the adequacy of its arrangements for securing value for money.

Internal audit evaluates and reports on the adequacy of the Council's control systems in securing the proper, economic, efficient and effective use of resources.

- 4 There is a basic expectation that councillors and all officers will act with integrity and with due regard to matters of probity and propriety, and comply with all relevant rules, regulations, procedures and codes of conduct, including those in relation to receipt of gifts and hospitality and declaration of conflicts of interest.
- 5 The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by councillors, employees, customers of its services, third party organisations contracting with it, or other agencies or individuals with which it has any business dealings.
- 6 Risk management is an integral part of effective management and planning. It is concerned with identifying and managing key obstacles to the achievement of objectives.

COUNCILLORS

- 7 Councillors' responsibilities for internal control, audit and risk management are exercised through:
 - **Council**, which has formal responsibility for upholding proper practice and the good governance of the Council as a whole.
 - **The Cabinet**, which is responsible for ensuring effective systems of management and financial control are exercised across the organisation.
 - **The Audit & Governance Committee**, which is responsible for keeping under review all aspects of the Council's audit and governance arrangements, risk management framework and internal control environment. A full list of the Audit & Governance Committee's responsibilities can be found at Appendix 2.
- 8 Councillors have a role to support and promote a zero-tolerance culture towards theft, fraud and corruption.

INTERNAL CONTROL

9 The CFO is responsible for:

- a. Advising on effective systems of internal control to ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with statutes, regulations and other relevant statements of best practice.
- b. Conducting an annual review of the effectiveness of the system of internal control and publishing the results of this within the Annual Governance Statement (AGS) for inclusion in the Council's Annual Statement of Accounts.

10 Managers are responsible for:

- a. Implementing effective systems of internal control including adequate separation of duties, clear authorisation levels, and appropriate arrangements for supervision and performance monitoring.
- b. Complying with the controls set down in these Regulations and any financial procedures.
- c. Taking corrective action in respect of any non-compliance by staff with relevant rules, regulations, procedures and codes of conduct.
- d. Planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their objectives, standards and targets.

INTERNAL AND EXTERNAL AUDIT (and other inspections)

11 The CFO is responsible for:

- a. Maintaining an adequate and effective internal audit service in accordance with the Accounts and Audit Regulations Act 2015 and further to Section 151 of the Local Government Act 1972.
- b. Ensuring that the rights and powers of internal and external auditors and fraud investigators are upheld at all times across the organisation.
- c. Ensuring that the statutory requirements for external audit are complied with and that the external auditor is able to effectively scrutinise the Council's records.
- d. Ensuring that audit plans and resulting activities are reported to the Audit & Governance Committee.

12 The CIA is responsible for:

- a. Notifying the External Auditors of any matter that they would rightly expect to be informed of in order to support the function of an effective and robust external audit service.
- b. Ensuring effective liaison between internal and external audit functions.
- c. Overseeing the management, planning, reporting and conduct of all internal audits and counter fraud work.
- d. Preparing an annual report and opinion for councillors' consideration.

13 Managers are responsible for:

- a. Ensuring that auditors (internal and external) have access to all documents and records for the purposes of the audit and are afforded all facilities, co-operation and explanation deemed necessary.

- b. Cooperating in the production of annual audit plans by highlighting any areas of risk that may benefit from audit review.
 - c. Implementing audit recommendations within agreed timescales.
- 14 The Council may be subject to audit, inspection or investigation by external bodies such as HM Revenues & Customs, and various other Inspectors of service at any time, all councillors and officers of the Council will cooperate fully with such inspections as necessary.

PREVENTION OF THEFT, FRAUD AND CORRUPTION (including Bribery)

- 15 The CFO is responsible for:
- a. Developing, maintaining and implementing an Anti-Fraud & Corruption Policy (and in conjunction with Human Resources a Whistleblowing Policy) that stipulates the arrangements to be followed for preventing, detecting, reporting and investigating suspected fraud and irregularity.
 - b. Advising on the controls required for fraud prevention and detection.
 - c. Appointing a Money Laundering Reporting Officer and Deputy to ensure that systems are in place to counter opportunities for money laundering and that appropriate reports are made.
 - d. Ensuring that effective preventative measures are in place to reduce the opportunity for bribery occurring in accordance with statutory requirements of the Bribery Act 2010. *(or as updated)*
- 16 The Chief Internal Auditor (CIA) has the right to:
- a. Determine the nature of any investigation work required in respect of any allegation of wrongdoing, and/or any other action required.
 - b. Require any councillor or staff of the Council to provide any information or explanation needed in the course of an investigation subject to the lawful limits set out in relevant legislation.
 - c. Refer investigations to the Police in consultation with the CFO and MO; under normal circumstances the relevant service manager would also be consulted.
 - d. Access all Council premises and property, all data, records, documents, and correspondence relating to any financial matter or any other activity of the Council.
 - e. Refer cases directly to the Police, in consultation with the CFO and MO, if it is believed an internal enquiry would compromise the integrity of the investigation and /or otherwise prejudice the interests of the Council or the general public.
- 17 Managers are responsible for:
- a. Complying with the Council's Anti-Fraud & Corruption Policy.
 - b. Ensuring that there are sound systems of internal control within their respective service areas for fraud prevention and detection.
 - c. Reporting cases of suspected theft, fraud or irregularity to the Chief Internal Auditor immediately for investigation and complying with the Council's Whistleblowing Policy.
 - d. Reporting any vulnerabilities or suspicions of money laundering in accordance with guidance issued by the Money Laundering Reporting Officer.
 - e. Maintaining local staff registers of interest, gifts and hospitality within their service areas.

- 18 All employees are responsible for:
- a. Complying with the Council's Anti-Fraud & Corruption Policy.
 - b. Reporting cases of suspected theft, fraud or irregularity immediately for investigation, if needs be via the Council's Whistleblowing Policy.
 - c. Reporting any vulnerabilities or suspicions of money laundering in accordance with guidance issued by the Money Laundering Reporting Officer.
 - d. Ensuring that they are familiar with the Employee Code of Conduct, or **relevant local school's** Code of Conduct, for school employees, and requirements to declare personal interests and record offers of gifts and hospitality.

RISK MANAGEMENT

- 19 The CFO is responsible for preparing the Council's Risk Management Strategy and its promotion throughout the Council and for advising on the management of strategic, financial and operational risks.
- 20 Managers are responsible for:
- a. Implementing the Council's Risk Management Strategy.
 - b. Integrating risk management within business planning and performance management arrangements.
 - c. Mitigating, monitoring and reporting on risks.
 - d. Maintaining and testing business continuity plans.
 - e. Giving due regard to specialist advice in areas such as health and safety, insurance, crime and fire prevention.

PRINCIPLES

- 1 Good systems and procedures are essential to the effective management and administration of the Council's financial affairs. A financial system is defined as any system (computerised or not) and associated procedures used for making and recording the financial transactions of the Council. This includes:
 - **Accounting**-The main accounting system provides the prime source of financial data for management accounts, statutory accounts and government returns. It is essential that this system complies with legislation and proper accounting practice and that all information is recorded accurately, completely and in a timely manner, and that any errors are detected promptly and rectified. Financial information recorded in the main accounting system should require a minimum amount of manipulation in order to create management accounts, returns and budget reports.
 - **Income**-Effective systems are necessary to ensure that all income due is collected, receipted, recorded and banked properly. Where possible income should be collected in advance to improve cash flow and avoid costs of debt collection. All reasonable efforts will be made to collect monies owed to the Council and debts will only be written off once all reasonable actions to pursue the debt have been exhausted or where it would prove uneconomical to pursue. The CFO agreed corporate system must be used unless agreed.
 - **Expenditure on works, goods and services**-Expenditure may only be incurred where budgetary provision is available. Payment should be made through the corporate ordering and invoicing process, using a corporately approved purchasing card, by entering into a formal contract arrangement or through raising a purchase order. Exceptionally a payment requisition may be raised.
 - **Expenditure on salaries, wages, allowances and expenses**-Expenditure may be incurred where budgetary provision is available and where payment is made through the Council's combined human resource and payroll system.
 - **Banking**-All transactions through the Council's bank accounts must be properly processed, recorded and reconciled. Reconciliations must be subject to management review and sign off in a timely manner.
 - **Treasury management, financing and leasing**-Decisions relating to the management of the Council's investments, cash flows, borrowing and leasing must be in accordance with the annual Treasury Management Strategy Statement.
 - **Taxation**-Effective systems must be in place to ensure that all tax liabilities and obligations are properly reported and accounted for, and that losses, fines and penalties are avoided. Procedures must be in place to ensure that taxation issues are properly considered during the options appraisal stage of projects.
 - **Asset management**-The Council's assets must be properly recorded, safeguarded from loss/harm and utilised effectively, and any acquisitions/disposals undertaken in accordance with the Corporate Schedule of Financial Delegations, Appendix 1.
 - **Insurance**-Appropriate insurance cover is necessary to indemnify the Council against the possibility of financial costs which may arise from certain unplanned events and claims such as damage to its property, injury to employees or to the public.
 - **Recharges and internal trading accounts**-Where required for financial reporting purposes, back office costs should be allocated to services using a relevant basis of apportionment and in accordance with accounting codes of practice. Where

relevant and strictly necessary, internal charges between services should be accounted for on a timely basis using CFO agreed recharge mechanisms.

ACCOUNTING

2 The CFO is responsible for:

- a. Determining the Council's main accounting (and budgeting) system for the preparation of the Council's accounts and for monitoring all income and expenditure.
- b. Determining any other financial systems which may sit outside of the main accounting system and ensuring that these are sound and properly integrated and interfaced. It is a requirement that the options appraisal for new systems should include ease of integration and interfacing with the main accounting system. Any such interface must require little or no manual intervention.
- c. Issuing guidance on the use and maintenance of the main accounting system and related financial systems and ensuring that supporting records and documents are retained.
- d. Ensuring that regular balance sheet and holding account reconciliations are undertaken.
- e. Preparing the Council's consolidated accounts, balance sheet and Annual Governance Statement (AGS) for audit and publication and issuing guidance (including a detailed timetable and plan) to ensure achievement of the statutory deadline.
- f. Ensuring all relevant staff are trained and competent in the use of the main accounting system and any subsidiary finance systems managed under the CFO's control.
- g. Ensuring there is a documented and tested disaster recovery plan as part of an agreed business resilience strategy for the Council's main accounting system and any subsidiary finance systems.

3 Managers are responsible for:

- a. The financial management of services, cost centres, projects or programmes for which they are responsible, further ensuring that proper accounting and financial systems exist incorporating adequate internal controls to safeguard against waste, loss or fraud.
- b. Ensuring that the main accounting system is used to accurately record financial transactions in accordance with guidance issued by the CFO.
- c. Ensuring an adequate audit trail of financial information and compliance with the Council's policies in respect of the retention of documents.
- d. Ensuring that the use of any service specific financial system (and changes to existing, including upgrades/new versions) has the express approval of the CFO, and is adequately documented, tested and interfaced with the main accounting system and all relevant staff have been properly trained in its use. It is a requirement that the option appraisal for new systems should include ease of integration and interfacing with the main accounting system, and that automatic interfaces that require no manual intervention are required.
- e. Complying with the timetables required by the CFO to enable the production of consolidated accounts, budgets and statutory information.
- f. Ensuring staff are aware of and have access to these Regulations and any supplementary advice and guidance issued by the CFO.
- g. Ensuring there is a documented and tested disaster recovery plan as part of an agreed business resilience strategy for any service specific financial system.

4 The CFO is responsible for:

- a. Providing all necessary corporate systems for the administering of invoicing, credit notes, income collection and debt recovery.
- b. Approving any local Service specific procedures, systems and documentation used where for whatever good reason corporate systems cannot be used.
- c. Ensuring that claims for Government grants and other monies are made properly and promptly.
- d. Ensuring that all monies received are properly receipted and recorded and banked promptly.
- e. Administering the process for writing off irrecoverable debts and monitoring and reporting on write off levels.
- f. Issuing advice and guidance on the detailed procedures to be followed in writing off bad debts from the accounts.
- g. Recommending and implementing the Council's debt management policy in consultation with Corporate Management Board.

5 Managers are responsible for:

- a. Using the CFO approved corporate systems for invoicing, income collection and debt recovery.
- b. Administering any local systems for invoicing, income collection and debt recovery as approved by the CFO which must properly segregate duties between staff raising accounts and those responsible for income collection. (where the CFO has agreed that compliance with 5a. is not possible or in the Council's best interest).
- c. Ensuring that fees and charges for the supply of goods and services are reviewed at least annually, consulting with the CFO and cabinet member on the financial effect of the review and obtaining Cabinet approval for any proposal to introduce new charges. (For managers in BCP maintained schools consultation/approval is instead required from the Chair of Governors)
- d. Collecting all income from within the budgets for which they are responsible.
- e. Collecting payment at point of sale wherever possible, to improve cash flow, using the system provided by the CFO.
- f. Timely initiation of 'sales invoices' in respect of all fees and charges due using the system provided by the CFO.
- g. Complying with the Corporate Schedule of Financial Delegations, Appendix 1, when writing off debts, when waiving, suspending or refunding fees, charges or contributions and maintaining appropriate records of those decisions.
Once raised on the accounting system, no bona fide debt can be cancelled except by full payment or by being formally written off in the accounts. Cancellations/Credit notes can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt and must not be used for any other purpose.
- h. Providing operational data and information to ensure that claims for Government grants and other monies due are made properly and promptly.
- i. Issuing official receipts for all cash and cheque income and maintaining all other documentation for income collection purposes and ensuring controlled stationery is securely stored. (except in BCP maintained schools where the Chair of Governors can agree proportionate arrangements)
- j. Keeping all income received in secure storage prior to banking and ensuring cash holdings do not exceed insurance limits.
- k. Ensuring that cash income is never used to cash personal cheques or used to make any other payments.
- l. Ensuring that where post, likely to contain money, is opened locally at least two staff are present to properly identify, record and safeguard. (It is accepted this may not always be practical, in such cases managers must agree alternative arrangements with the CFO).

- m. Ensuring all income received is paid in fully and promptly in the form in which it was received into an approved Council bank account, income kiosk or cash office, also ensuring all details are properly recorded on paying in slips which are retained for audit purposes.
- n. Reporting immediately, to the Money Laundering Reporting Officer (MLRO) (the Chief Internal Auditor), all instances of attempts by customers to pay for works, goods or services in cash:
 - that are in excess of £5,000 but lower than £10,000;
 - that are suspicious in any way such as, but not limited to, multiple use of high denomination notes, multiple and frequent disaggregation of payment of a higher value outstanding debt;

In such instances the Manager must accept the cash and not make any further enquiries into the matter themselves or share the information with anyone except the MLRO and their respective Service Director. Under no circumstance should the customer handing over the cash be told of the reporting to the MLRO nor should a formal record on any personal file of the reporting to the MLRO be made otherwise a criminal offence may be committed.

- o. Any cash payment in excess of £10,000 must be refused.

EXPENDITURE ON WORKS, GOODS AND SERVICES

6 The CFO is responsible for:

- a. Ensuring that an effective overarching Procurement Strategy is in place (Purpose, Principles and Priorities).
- b. Ensuring that effective Procurement Regulations (Part G) are in place, and which are supported by detailed procurement guidance on the ordering, certification and payment for all works, goods and services. (The Procurement Code).
- c. Agreeing any exceptions to the normal procurement process outlined in the Procurement Regulations (Part G).
- d. Providing a corporate purchase to pay system for the electronic ordering, receipt and payment for works, goods and services.
- e. Processing all payments due on receipt of a valid invoice or contract certificate which satisfies VAT regulations, and confirmation that works, goods and services have been received.
- f. Agreeing any exceptions to the requirement to raise purchase orders for all works, goods and services outside of the Council's main purchasing/ordering system.
- g. Agreeing the use and administering the issuing of p-cards and processing of resulting payments.
- h. Agreeing the use of all pre-loaded payment cards.
- i. Approving any payment in advance for goods or services exceeding £25,000 or in excess of 6 months if the amount exceeds £1,000.
- j. Approving any payments in advance for works.

7 Managers incurring expenditure on works, goods and services are responsible for:

- a. Complying with the requirements of the Council's Procurement arrangements set out in Part G of these Regulations.
- b. Ensuring that all purchase orders are raised using the Council's corporate purchasing system prior to any works, goods and services being received or paid for. The Council has a "No Purchase Order, No Pay Policy" except for the following circumstances where a purchase order is not required for:
 - payments made on the basis of a formal stage payment contract
 - payments made on the basis of a formal periodic payment contract (the periodic payment may be fixed or variable in value)
 - statutory or legislative charges, levies or fines (including those for taxation, pension fund)
 - purchases appropriately made through p-card (procurement /payment cards) or pre-loaded card

- continuous charges for utilities supply
 - periodic payments such as rents or rates
 - treasury management payments
 - payments to volunteers
 - payments made from CFO approved interfaced Council database systems (such as Children's and Adult Social Care systems and Libraries)
 - exceptions agreed with the CFO (for BCP maintained schools the Chair of Governors may agree other circumstances where purchase orders are not required)
- c. Ensuring that no purchase orders are placed without the proper approvals and financial authorities set out in the Corporate Schedule of Financial Delegations (Appendix1).
- d. Receipting all works, goods and services on the corporate purchasing system.
- e. Ensuring the proper completion and authorisation of payment certification vouchers, including confirming that the invoice has not previously been paid.

1 BCP maintained schools may use alternative purchase order systems

2 In exceptional circumstances, to be agreed by the CFO, verbal, email or in person orders may need to be raised retrospectively in the Council's corporate purchasing system using the 'Confirmation order' facility

- f. Ensuring that payments are made only where works, goods and services have been received to the correct price, quantity and quality standards.
- g. Gaining CFO approval for any payments in advance for goods or services exceeding £25,000 or in excess of 6 months if the amount exceeds £1,000.
- h. Gaining CFO approval for any payments in advance for works.
- i. Gaining CFO approval for the use of p-cards and pre-loaded cards.
- j. Ensuring that all p-cards and pre-loaded cards are appropriately controlled, that transactions are reviewed and authorised by the relevant line manager, are for proper business purposes and are supported by receipts which must be stored electronically on the 'receipt imaging' function.
- k. Reporting any lost or stolen p-cards or pre-loaded cards immediately to the Chief Internal Auditor.

EXPENDITURE ON SALARIES, WAGES, ALLOWANCES & EXPENSES (including making 'on-payroll' payments for non-salaries as directed in law by HMRC)

- 8 Council is responsible for determining how officer support for executive and non-executive roles within the Council will be organised. The Head of Paid Services/Chief Executive Officer is responsible for overall staff management arrangements including ensuring that proper systems of evaluation are used in determining remuneration.
- 9 The CFO is responsible for ensuring that the Head of Human Resources (HHR) operates sound arrangements for the payment of salaries, pensions and expenses to officers and councillors.
- 10 The HHR is responsible for:
- a. Providing a corporate payroll system for recording all payroll data and generating payments to employees and councillors, including payment of pensions and expenses.
 - b. Ensuring the corporate payroll system properly and efficiently interfaces with the main accounting system and that any chart of accounts held within the payroll system is kept up to date.
 - c. The proper calculation of all pay and allowances, National Insurance and pension contributions, income tax and other deductions.
 - d. Completing all HM Revenues & Customs (HMRC) returns regarding PAYE and providing advice and guidance on employment related taxation.
 - e. Maintaining an accurate and up to date record of the Council's establishment.

- f. Agreeing with BCP maintained schools the use of any local payroll arrangements having been adequately assured that the alternative system is well controlled, managed and resulting in the correct payments being made to the correct staff.
- g. Agreeing with managers all circumstances where a wage or salary is to be paid outside of the main HR/payroll system.
- h. Agreeing all 'on payroll' arrangements, required by HMRC, for payments to individuals not directly employed by the Council (e.g. IR35 tax).
- i. Agreeing the use of the corporate payroll system for recording payroll data and generating payments to employees of third-party organisations (and where a fee or charge is applied agreeing this with CFO).

11 Managers incurring expenditure on salaries, wages, allowances and expenses are responsible for:

- a. Controlling resources and containing staff numbers within approved establishment and budget levels.
- b. Ensuring that all employee appointments, including temporary staff, are made in compliance with the Council's policies.
- c. Ensuring that the HR/Payroll system is updated promptly of starters and leavers, and all information relating to employees pay and expenses.
- d. Ensuring that all payments made to employees are properly authorised in compliance with the requirements and financial limits set out in the Council's human resources policies.
- e. Ensuring that any overpayment (error) is recovered. Managers do not have delegated authority to write-off any overpayment.
- f. Ensuring that all expenses claims are reviewed and authorised by the relevant line manager prior to payment. Staff subsistence should never be paid or reimbursed using p-cards or pre-loaded cards, the Council's HR/payroll system must be used to reimburse staff expenses in all such cases.
- g. Ensuring that all persons employed by the Council are paid through the Council's corporate payroll system.
- h. Ensuring that any proposal to engage a person via a contract of service* (rather than a contract of employment) is assessed by the HHR for compliance with relevant legislation to determine if payments need to be 'on payroll' or 'off payroll' via invoice. This includes engagements via Employment Agencies and Single Person Companies or Partnerships.
*Where a Contract of Service is proposed see Appendix 1 section EX9 for required approval route
- i. Managers in BCP maintained schools must have the approval of the HHR if they wish to use their own alternative payroll arrangements.

BANKING (including 'Client Cash Floats' and local Bank Accounts)

12 It is the responsibility of Cabinet to approve the banking arrangements of the Council.

13 The CFO is responsible for:

- a. Managing the Cabinet approved banking contract on a day-to-day basis.
- b. Managing and operating all the Council's bank accounts and ensuring that all payment methods, whether physical or electronic, have the appropriate authorisations, approvals and signatures.
- c. Ensuring that adequate controls are in place for the control of payment methods (including cheques) covering access, ordering, custody, preparation, signing and despatch as appropriate.
- d. Ensuring regular reconciliations are carried out between all bank accounts and the financial records of the Council.
- e. Approving the operation of any 'client cash floats' for disbursement of cash to clients.

- f. The Council will not operate petty cash accounts and therefore no cash payments will be made to purchase works, goods or services.
- g. Approving the operation of any local bank accounts in Services.

14 Managers are responsible for:

- a. Ensuring that no bank accounts are opened in the name of the Council other than with the express written authority of the CFO.
- b. Reporting to the CFO on the nature and state of any bank accounts for which they are responsible. Reconciliations must be subject to management review and sign off in a timely manner.
- c. The proper administration of any 'client cash floats' or local bank accounts including record keeping, document retention, paying in income, reconciliation and control of cheques including ordering, custody and security, preparation, signing and despatch.
- d. Using 'client cash floats' for client cash disbursements only and ensuring such floats are not used to purchase works, goods or services or to reimburse staff expenses.

TREASURY MANAGEMENT, FINANCING AND LEASING

15 The CFO is responsible for:

- a. Preparing and presenting an annual Treasury Management Strategy to Audit & Governance Committee and/or Cabinet prior to submission to Council for approval.
- b. Implementing, reviewing and reporting on the progress and performance of the strategy and recommending any changes to Audit & Governance Committee on a quarterly basis.
- c. Effecting all investments and arranging borrowings within the limits imposed by the Council and reporting on the funding methods used.
- d. Advising on any proposal for leases, borrowings, credit arrangements, and hire purchase arrangements to Council for approval.
- e. Advising on any proposals to set up or acquire interest in a company, joint company, joint venture or partnership to Council for approval.
- f. Ensuring that the use of any financial derivatives is intra vires and properly risk assessed and monitored.
- g. Ensuring compliance with all applicable laws, regulations and codes of practice relating to treasury management and capital finance including the registration of all Council owned stocks, bonds, mortgages and loans.
- h. Ensuring that cash flow forecasting and monitoring systems are in place.

16 Managers are responsible for:

- a. Assisting cash flow through timely billing of income due, due consideration of contracts payment terms and minimising advance payments wherever possible.
- b. Supporting cash flow forecasting and notifying the treasury team in advance of any high value receipts or payments that may impact on investments and borrowings.
- c. Ensuring no loans or guarantees are given to third parties and that interest in companies, joint ventures or other enterprises are not acquired without the approval of Council and following advice from the CFO.
- d. Ensuring that no leases, borrowings, credit arrangements or hire purchase arrangements are entered into without the approval of Council and following advice from the CFO.
- e. Arranging for all trust funds to be held in the name of the Council wherever possible and ensuring that trust funds operate within the law and the specific requirements for each trust. All officers acting as trustees by virtue of their position with the

Council shall deposit securities relating to the trust to the custody of the CFO unless the deeds specifically require otherwise.

- f. Arranging the secure administration of funds held on behalf of third parties and ensuring that the systems and controls for administering such funds are approved by the CFO and subject to regular audit.

TAXATION

17 The CFO is responsible for:

- a. Ensuring that transactions comply with relevant statutory requirements and authorities.
- b. Approving the systems for all PAYE returns to HM Revenues & Customs (HMRC).
- c. Completing a monthly return of VAT inputs and outputs to HMRC, ensuring prompt recovery of sums due, and reconciliation of tax records to the main accounting system.
- d. Making monthly Construction Industry Scheme returns to HMRC.
- e. Managing the Council's partial exemption position.
- f. Preparing and submitting Voluntary Disclosure Notices to HMRC and recovery of any revenues due.
- g. Providing advice and guidance on taxation issues.

18 Managers are responsible for:

- a. Ensuring that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.
- b. Seeking advice on the potential tax implication of any new initiatives for the delivery of Council activity and services.
- c. Ensuring that the taxation implications of proposed land and building acquisitions and sales and proposed capital schemes are properly identified and considered at the planning stage.
- d. Ensuring that contractors fulfil the necessary construction industry tax deduction scheme requirements where construction and maintenance works are undertaken.
- e. Ensuring that advice and guidance on taxation issued by the CFO is followed and adhered to by staff in their service, project or programme.
- f. Ensuring that all persons employed by the Council are added to the Council's payroll and tax deductions forms part of payments made to them. (with approved exceptions agreed by the CFO and HHR where individuals concerned are bona fide self-employed or are employed by a recognised agency)

ASSET MANAGEMENT

19 The CFO is responsible for:

- a. Ensuring that asset registers are maintained in the appropriate format for accounting purposes for all fixed assets valued in excess of the limit set out in the Schedule of Financial Delegations to Officers, and that valuations are made in accordance with the local authority accounting code of practice.
- b. Establishing an asset management plan that details short, medium and long term use of assets, and establishes arrangements for monitoring and reporting asset performance.
- c. Ensuring that all asset acquisitions and disposals are properly recorded within asset records by the CPO.
- d. Arranging for all assets to be adequately insured.
- e. Prescribing the records to be maintained for any stocks and stores and for inventories of moveable assets.

- f. Approving the write off of deficiencies in any stocks, stores and inventory items subject to the limits set out in the Schedule of Financial Delegation to Officers.

20 The Corporate Property Officer (CPO) is responsible for:

- a. Maintaining up to date records of all land and buildings, including values and plans, for inclusion in the corporate fixed asset register, and of the Council's housing stock in the format prescribed by the CFO and at least on an annual basis.
- b. Arranging for the regular valuation of assets for accounting purposes to meet the requirements specified by the CFO.
- c. Ensuring that all land and buildings are maintained so as to best protect and safeguard the Council's interests.
- d. Arranging the disposal of surplus assets in compliance with any approved asset management strategy/plan(s) that apply and subject to the necessary approvals.
- e. The acquisition of land and buildings on behalf of the Council in accordance with any asset management strategy/plan(s) that apply, Capital Programme and medium term financial plan, and subject to the necessary approvals.
- f. Notifying the CFO of acquisitions and disposals so that the accounting records can be updated.
- g. Ensuring all rents, charges or fees due in respect of investment land and buildings are raised and all income is collected and accounted for in the Council's accounting systems.
- h. Ensuring all lessees and other prospective occupiers of Council land or buildings are not allowed to occupy the property until a lease or agreement in a form approved by the Monitoring Officer has been completed.
- i. Ensuring all title deeds are passed to Legal Services who act as custodian for all title deeds for Council properties and land.

21 The Head of ICT & Customer Support is responsible for:

- a. Maintaining up to date records of all ICT equipment, including values, for inclusion in the corporate fixed asset register in the format prescribed by the CFO.
- b. Purchasing, maintenance and disposal of all ICT equipment.

22 Managers are responsible for:

- a. Providing the Corporate Property Officer (CPO) with all relevant information and documentation for the purposes of maintaining an up to date and complete fixed asset register.
- b. Ensuring the proper security and safe custody of assets under their day-to-day operational control and reporting any assets that are lost, stolen or destroyed to the insurance team, facilities management and internal audit as appropriate.
- c. Complying with guidance issued by the CFO on the disposal of assets including selling, gifting, swapping or donating the asset subject to the limits set out in the Schedule of Financial Delegations to Officers.
- d. Ensuring all rents, charges or fees due in respect of operational land and buildings, under their day-to-day service control, are raised and all income is collected and accounted for in the Council's accounting systems.
- e. Complying with guidance issued by the Head of ICT & Customer Support including the purchase, maintenance and security, maintenance of ICT asset registers and disposal of ICT equipment.
- f. Maintaining local inventories of moveable assets (non-ICT) for all items with a purchase price exceeding £1,000 (and for determining a lower £ value if deemed appropriate, such as for desirable items e.g. digital cameras).
- g. Ensuring that stocks, stores and inventory items are held securely and kept to a minimum, proportionate to the needs of the service.

- h. Ensuring that any cash holdings are kept to a minimum, within insurance limits and held securely.
- i. Seeking approval to write off deficiencies in any stocks, stores, or inventory items, subject to the limits set out in the Corporate Schedule of Financial Delegations (Appendix 1).
- j. Ensuring that assets are used only in the course of the Council's business unless specific permission has been given otherwise by a designated officer as shown in the Corporate Schedule of Financial Delegations (AM10).

INSURANCE

- 23 The CFO is responsible for:
 - a. Determining the nature and level of insurance cover to be effected.
 - b. Effecting insurance cover and processing and settlement of all claims.
- 24 Managers are responsible for notifying the CFO promptly of:
 - a. All new risks, properties or vehicles which require to be insured.
 - b. Any alterations affecting insurance arrangements.
 - c. Any loss, damage or claim.
- 25 Managers must not effect any local insurance arrangements without the approval of the CFO.

RECHARGES AND INTERNAL TRADING ACCOUNTS

- 26 The CFO is responsible for:
 - a. Maintaining an appropriate system of internal recharges which ensures that the full cost of each service is identified in accordance with reporting requirements.
 - b. Where relevant and strictly necessary all internal charges and recharges should be processed in a regular and timely basis using relevant bases of apportionment, allocation or recharging mechanisms.
 - c. Advising on the operation of internal trading accounts.
- 27 Managers are responsible for:
 - a. Agreeing the basis of internal charges/recharges in advance of the financial year as part of the budget setting process.
 - b. Maintaining appropriate systems to calculate recharges or justify their apportionment.
 - c. Providing data to enable recharges to be processed on a regular and timely basis and responding in the event of any disputed charges.
 - d. Complying with guidance issued by the CFO in relation to the operation of trading accounts.

PART G PROCUREMENT & CONTRACT PROCEDURES

BCP maintained schools should augment this section of Financial Regulations with Buying Procedures and Procurement Law for Schools guidance issued by the DfE. <https://www.gov.uk/guidance/buying-procedures-and-procurement-law-for-schools>. If specific DfE guidance content differs to Part G, BCP Council requirements, then DfE guidance content applies.

PRINCIPLES

1. Goods, services, works and concessions must be procured in a way that is lawful, ensure transparency and accountability, represents value for money (VFM) and serves to deter fraud and corruption.
2. All procurement and contractual commitments made by the Council must:
 - a. Involve the Strategic Procurement Team (SPT) in all procurement processes where the whole life contract value is over £25,000. Standard tender processes or documentation cannot be changed without the approval of the Head of Strategic Procurement.
 - b. Comply with all relevant statutory provisions including the Public Contracts Regulations 2015 (PCR15) and the Concession Contracts Regulations 2016 (CCR16) (or as amended).
 - c. Ensure goods, services, works and concessions are procured by the most efficient, transparent processes, by sustainable and ethical means, ensuring accountability, achieving value for money and deriving maximum benefit to support BCP Council's corporate strategies and plans.
 - d. Cover the whole life value, from the initial definition of the business need through to the end of the useful life of the asset or service contract including any licensing upgrades, maintenance, parts, recycling, staffing costs and disposals.
 - e. Offer best value and protect the Council from any loss arising from the failure of a contractor to perform the contract.
 - f. Ensure that the Council pays a fair and proper price (or receives a fair and proper price in the case of concessions).
 - g. Follow procurement guidance which provides further advice and support pursuant to these Regulations (found on Financial Services - Procurement intranet pages).
 - h. Feature early planning to put us in a position to conduct orderly transitions to new contract arrangements, whether extending, re-tendering.

STANDARDS

3. The following standards must be adopted:
 - a. The highest standards of probity and ethical governance are always maintained and adhered to.
 - b. All Officers and Councillors must declare any personal interest or conflict of interest in any procurement or contract, failure to do so could be deemed to be either corrupt practice or maladministration or could not withstand public scrutiny.
 - c. All suppliers are treated equally, and procurement takes place in an open and transparent manner which does not favour unfairly one supplier over another.
 - d. Legal, Finance, IT, Human Resources, Property, Sustainability Team, Insurance and other professional advice appropriate to the individual procurement exercise will be obtained.
 - e. The tender and procurement processes are as accessible as possible to SME/VCSE suppliers.

- f. The contract value of all goods, services and works, for the purposes of determining the correct threshold, is an aggregation of the whole life value from award and includes implementation prior to live service and extends to contract end, not just annual, including any optional extensions and including VAT (where applicable). Consideration should also be given to costs related to, but not limited to, delivery, licensing, implementation, upgrades, maintenance, parts, recycling, staffing costs, decommissioning and disposals.
- g. In the case of a works concession contract or a services concession contract, the value shall be calculated on the basis of the total net turnover (where *turnover* is defined as equivalent to revenue or sales (net of discounts and sales taxes) i.e. total money in (not net of expenditure)) of the concessionaire generated over the duration of the contract, as estimated by the Council, in consideration for the works and services that are the object of the concession.
- h. No goods will be delivered, nor services or works begun without a proper contractual commitment and/or purchase order being in place.
- i. All contracts must have a clearly defined duration, including extensions where required, provision(s) for modifications and termination and must not have a provision to automatically renew.
- j. Industry and/or Council standard contracts/terms/conditions must be used wherever possible as approved by Legal Services.
- k. Where bespoke advice or drafting of contracts is required, the MO must approve the document prior to tendering or obtaining quotes and in any event before any contract is executed and any terms and conditions must not be held against the best interests of the Council.
- l. The general principle is that unlimited liability is not permitted because it is disproportionate, can have the effect of deterring bidders, raising prices due to the inclusion of large risk premiums and it runs contrary to government policy on growth and supporting business.
- m. All tender processes over £25,000 are to be undertaken using the Council's e-tendering system unless other than agreed by the Head of Procurement (e.g., for a collaborative procurement where BCP Council is not the lead, or a Framework requires otherwise).
- n. When appointing interim staff or consultancy services (contract of employment or contract for service) refer also to the Corporate Schedule of Financial Delegations in Appendix 1 (EX9, 10 & 11).

BREACHES

- 4. Breaches of Financial Regulations (Part G) are extremely serious matters and will be fully investigated and reported on following referral or discovery. Any breach of these Regulations could lead to disciplinary action being taken against the individual(s) concerned.
 - a. Where it is evident that any part of Part G has not been followed then a breach has occurred.
 - b. Service Directors and managers are responsible for reporting all known or discovered breaches of these Regulations to the CFO as soon as they become aware of such instances.
 - c. Service Directors may be required to supplement the CFO's annual report on breaches to the Audit & Governance Committee with a more detailed report

explaining the circumstances of the breach and the remedial action taken or planned by way of remedy.

EMERGENCIES

5. Emergencies (serious risk to life or serious and immediate risk of loss or damage), only applies to extreme major incidents or unforeseen events such as a natural disaster and does not allow for accelerated procurement due to urgency, in which case the waiver process applies.
 - a. In the case of an extreme emergency where there is immediate danger to the safety of persons or serious risk of immediate loss or damage to the Council's assets or interests, or the interests of another party, the Chief Executive, Corporate Director, CFO, MO or Service Director, may place such emergency contracts/orders as necessary by means that are reasonable under the circumstances.
 - b. The Chief Executive, Corporate Director, CFO, MO or Service Director may delegate another officer of the Council to place such emergency contracts/orders but remains accountable for any resulting expenditure or activity.
 - c. The CFO and appropriate Cabinet Member must be advised of any emergency contract/order within five working days.
 - d. In such an event, the Head of Procurement shall be advised of the use of the procedure and a waiver be sent as soon as reasonably practicable for all procurements of any value.

USE OF CORPORATE CONTRACTS

6. At all levels of category spend, where an appropriate corporate contract exists, it must be used.
 - a. If a corporate contract is deemed not suitable by SPT, this must be recorded under the PDR Gateway 1, describing reason why a current corporate contract cannot deliver the Council's requirements/specifications and that VFM must be demonstrated.
 - b. Where a corporate contract does not exist, the service(s) is responsible for ensuring they:
 - i. Contact the SPT who are responsible for selecting the most appropriate procurement route to market and tender processes.
 - ii. The SPT will identify if similar contracts are being let, or due to be let, with a view to aggregating requirements and/or modifying existing contracts.
 - c. Although such contracts are available to them, this is not a requirement for BCP maintained schools.

EARLY ENGAGEMENT

7. Proportionate preliminary early engagement should be undertaken to inform the development and understand the deliverability of your requirements including the feasibility of alternative options that could help us better deliver services. Over £25,000 the SPT must be consulted.

- a. The early engagement must be conducted in a fair and transparent manner and must not to be treated as a call for competition and a contract must not be awarded.
- b. It can be conducted with a view to informing suppliers of the procurement plans and requirements and inform the Pipeline.

LEGAL OBLIGATIONS AND COUNCIL POLICY OBJECTIVES

8. Legal obligations and Council policy objectives must be considered in all procurement processes and where appropriate and proportionate, incorporated into the specification, evaluation process and the terms and conditions of the contract.
 - a. Legal obligations and Council policy objectives that must be met as a minimum are:
 - i. Risk Assessment and Business Continuity Impact Assessment
 - ii. Sustainability Decision Impact Assessment
 - iii. Social Value Considerations (The Public Services (Social Value) Act 2012)
 - iv. Equality Impact Assessment
 - v. UK General Data Protection Regulation (UK GDPR)

TUPE

9. Transfer of Undertakings (Protection of Employment) Regulations (TUPE)
 - a. The manager in consultation with Legal Services and the SPT is responsible for ensuring:
 - i. That when any employee either of the Council or of a service provider may be affected by any transfer arrangement, the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) are considered, and legal advice is obtained before proceeding with inviting tenders or quotations.
 - ii. Specific documents including staffing costs relating to the transfer, including pension liabilities are provided to bidders at the time of tender.

PROCUREMENT TIMELINE

10. SPT will determine minimum & maximum advertising timeline depending on the proportionality and complexity of the tender against procurement legislation, which must be set out in the tender documents and in recorded in the PDR Gateway 1.
 - a. Suppliers need sufficient time to develop and price solutions, raise clarifications and respond with high-quality responses to tender documentation.

CONTRACT LENGTH

11. The SPT with the manager will decide the length of a contract, consideration should be given to the complexity of the requirement, as well as the resources and investment at stake. The timeframe should be realistic and sufficient for both sides to perform their contractual obligations.
 - a. The SPT will ensure that there is sufficient time built in for decisions relating to extensions or termination. The length of contract is also subject to specific restrictions laid down in PCR15 and CCR16.

FRAMEWORKS

12. Frameworks or Dynamic Purchasing System (DPS Framework)
- a. The use of any existing Framework or DPS must be signed off by the Head of Procurement before use.
 - b. Contracts/Call-Offs based on Framework/DPS Agreements shall always be awarded in accordance with the rules set out within it.

PROCURING WITH EXTERNAL GRANTS

13. Officers must, in advance of undertaking any procurement activity, ensure the SPT has full access to any relevant paperwork and guidance to ensure they are fully conversant and compliant with all the requirements of the relevant funding bodies.

LIGHT TOUCH REGIME

14. Only Light Touch service contracts defined under PCR15 can use this process. All procurement processes covered by the Light Touch Regime must be agreed and run by the SPT.

PROVIDER SELECTION REGIME

15. All procurements covered by the Provider Selection Regime (Health and Care Act 2022) must be followed as directed by the SPT.

CONCESSIONS

16. Where a manager is considering entering into an arrangement which could constitute a Concession Contract, advice must be sought from the SPT.
- a. The route to market and concession processes below and above CCR16 thresholds will be determined and run by the SPT in accordance with these regulations (Part F).

SPECIFICATIONS

17. References are avoided within specifications which have the effect of favouring or eliminating any suppliers by specifying a particular material or a specific make.

a. Under £25,000	The manager is responsible for ensuring a specification is created that describes the Councils requirements in sufficient detail including the considerations required in Legal obligations and Council policy objectives, to enable the submission of equal and transparent competitive bids.
b. Over £25,000	The manager must consult the SPT to ensure a specification is created that describes the Councils requirements in sufficient detail including the considerations required in Legal obligations and Council policy objectives, to enable the submission of equal and transparent competitive bids.

PAYMENT IN ADVANCE

18. The manager is responsible for ensuring approval for a payment in advance must be made in accordance with Part F (7)(g) & (h). Examples that may apply, but not limited to, include lease arrangements, ICT software licensing and support agreements, subscriptions, maintenance agreements and works, goods or services received from utility companies.
- a. Requirements of such must be included in the relevant specifications and T&C's and the payment in advance is limited to the actual requirement of the T&C's and no more.
 - b. Whilst a contract and agreement may be for longer than 12 months, no payment in advance may exceed 12 months.
 - c. A Waiver must be obtained for all types of payments in advance.

PERFORMANCE BONDS

19. The manager is responsible for ensuring:
- a. In a contract for the execution of works the requirements for any performance bond or guarantee are as follows:

i. £0 to £500,000	Consider the requirement, or not, for and value of performance bond or guarantee further to their risk assessment.
i. £500,000 up to PCR15 works threshold	Consult the CFO and MO to consider the requirement, or not, for and value of performance bond or guarantee further to their joint risk assessment.
ii. Over PCR15 works threshold	Bond or guarantee is normally required, the terms to be approved by the MO. The CFO must agree the value or percentage value of the contract of such a bond or guarantee.

- b. The risk assessment considers other ongoing contracts with the same contractor and the aggregate contract values in determining the need for a performance bond or guarantee.
- c. Such bonds or guarantees be taken up by the contractor with an insurance company, bank or other financial institution or body approved by the CFO. (Except for 'schedule of rates' contracts or any other contract exception agreed by the MO and CFO).
- d. Where the works contract has been let via an available Framework Agreement, then any retention or performance bond requirements of that framework agreement must prevail.

EVALUATION CRITERIA AND SCORING MATRIX

20. The SPT is responsible for ensuring that a scoring matrix is prepared for all tenders over £25,000 against criteria derived from the requirements in the specification and price elements. The evaluation criteria, weightings and price elements must be issued with the tender and are clear and transparent to bidders.

- a. Invitations to tender should include relevant and proportionate evaluation criteria, derived from the elements defined under Legal obligations and Council policy objectives that might improve and secure improvement in respect of the economic, social and environmental well-being of the relevant area.
- b. Tenders are to be assessed with a minimum of 10% of the quality score being allocated to sustainability, social value and equalities.

WAIVERS

21. If it is not possible to comply with the normal financial regulations relating to procurement activity, service managers can request a 'waiver' from the CFO. Such requests must be submitted to the SPT in advance of the procurement.
 - a. The ability of the CFO to approve waiver requests will be limited at all times by the specific requirements of the relevant legislation.
 - b. The Service Director will inform the Cabinet Member of his/her intention to seek a waiver if the amount of the waiver exceeds £150,000 or if in his/her opinion the granting of any other waiver may warrant Cabinet Member approval.
 - c. The CFO will be responsible for producing an annual report on waivers of financial regulations and submit this report to the Audit & Governance Committee for scrutiny and potential follow up action.
 - d. Service Directors are responsible for ensuring that a Waiver is completed, as guided within the waiver form.
 - e. Waivers will not be granted retrospectively unless under emergency requirements Section 5 and any such requests will be treated seriously and constitute a breach.
 - f. Waiver approvals are for a time limited period, normally not more than 2 years, in exceptional circumstances the CFO may agree to a period of up to 4 years (subject to PCR15 thresholds).
 - g. Waivers are required in the following procurement circumstances:

Waivers for procurements under £25,000	i. Accelerated procurement where the Council would suffer significant negative impact if the full operational or strategic procurement approach is applied.
	ii. Unable to invite or obtain 3 bids or competition absent for technical reasons
Waivers for all contract values	iii. Payments in advance for goods, services or works
	iii. Propose not to use an available Corporate Contract

- h. Where a waiver has been granted, it is the responsibility of the manager to review arrangements before the waiver period lapses to ensure that a subsequent breach does not occur.
- i. Where a waiver has been granted, the SPT are responsible for publishing a contract award notice on Contracts Finder and entering the details of the contract onto the Contract Register where required.

APPROVAL TO PROCEED WITH PROCUREMENT OVER £25,000

22. Procurement Decision Record (to Publish) – Gateway 1

The SPT are responsible for ensuring that a 'Procurement Decision Record - (PDR) to Publish' is completed and approved at Gateway 1 before the opportunity can be 'Published' (or at the release of tender documents in the case of a Framework Contract further competition stage) for tenders over £25,000 and all concessions.

COMPETITION REQUIREMENTS

23. Competition Requirements

a. £0-£5,000:	<ul style="list-style-type: none"> i. Obtain at least one written, value for money quote. ii. Ensure verbal quotes are retrospectively followed up by a written quote (by email if preferred) before placing the order.
b. £5,000 - £25,000	<ul style="list-style-type: none"> i. Provide the same specification to suppliers and receive back a minimum of three comparative written quotations, at the same time, from suppliers prior to placing order. ii. For BCP maintained schools the Department for Education statutory guidance in respect of schemes for financing schools (normally updated annually) requires three quotes to be obtained for all spend to exceed £10,000 in any one year. iii. For quotes originally estimated to be under £25,000, the manager must ensure that, where the value of a requirement has subsequently been identified as being over £25,000, advice from the SPT must be sought.
c. Over £25,000 & All Concessions	<ul style="list-style-type: none"> i. Contact the SPT who are responsible for selecting the most appropriate procurement route to market and tender processes. ii. The SPT will identify if similar contracts are being let, or due to be let, with a view to aggregating requirements and/or modifying existing contracts.

LOCAL SUPPLIERS

24. Local Suppliers must be used wherever possible under £25,000. A local supplier is defined, for this purpose, as operating within the BH, DT and SO postcode regions.

a. £0-£5,000:	The quote should, where possible, be from a local supplier prior to placing order.
b. £5,000 - £25,000	Ensure at least one of these quotes, where possible, must be from a local supplier.

ADVERTISING

25. Advertising

a. Under £25,000	If a manager considers advertising under £25,000 is appropriate, it must be discussed with SPT to develop a solution.
b. Over £25,000 & All Concessions	The SPT must ensure a contract notice is placed on the Contracts Finder website and the Council's e-tendering portal. In addition, for all procurements over the relevant PCR15 or CCR16 threshold, the SPT must publish a contract notice on the Find a Tender Service (FTS) website.

TENDER CLARIFICATIONS

26. Tender Clarifications

a. Under £25,000	Consult SPT only if formally advertised in accordance with section 24 above.
b. Over £25,000	The SPT is responsible for ensuring that clarification questions (direct or public) received during the tender period are answered within the set tender period and appropriate responses provided by the Service are uploaded via the e-Tendering system by the SPT.

EVALUATIONS

27. The evaluation criteria, weightings and price elements for procurements over £25,000 must be scored against the score guide issued with the tender documents and as recorded in the PDR Gateway 1.
- a. For procurements under £25,000 consult the SPT only if formally advertised in accordance with sections 25 and 26 above.
 - b. The SPT are responsible for ensuring:
 - i. Compliance and due diligence checks are undertaken before evaluation begins.
 - ii. Evaluators are provided with the compliant tender(s) and scorecards with instructions for individual evaluation purposes.
 - iii. A date and time are agreed with the evaluators for the return of all evaluation scores and the evaluators record responses/comments against all criteria and are concise and accurately recorded for audit and transparency purposes.
 - iv. Appropriate moderation is completed in accordance with published documents.
 - v. Evaluation of price and quality is in accordance with the tender and that evaluator scores are based on the question asked against the requirement (specification) and not a predefined opinion or experience.

ABNORMALLY LOW BIDS

28. Abnormally Low Bids will be reviewed by the SPT in accordance with the SPT's specific guidance relating to abnormally low bids.

FINANCIAL APPRAISALS

29. The Council has a responsibility to assure ourselves of the solvency and competency of suppliers that bid for our contracts. The key principle is to safeguard the delivery of public services, while being proportionate, fair and not overly risk averse.
- a. The SPT and Accountancy are responsible for ensuring:
 - i. That a financial appraisal risk assessment is completed on procurements valued over £25,000 to determine the level of financial checking required on a supplier as part of the procurement process.
 - ii. That the appropriate financial appraisal as determined by the financial appraisal risk assessment is completed on the preferred supplier prior to notification of the procurement outcome to bidders.
 - iii. That the method for each level of financial appraisal has been determined and agreed by the CFO.
 - iv. That any risks identified through the financial appraisal of a preferred supplier are notified to the Head of Procurement prior to the notification of the outcome to bidders. The Head of Procurement will be responsible for the making the decision as to whether to continue with contract award.

APPROVAL TO AWARD PROCUREMENT DECISION RECORD (PDR)

30. PDRs to Award
- a. PDR between £5,000 and £25,000
 - i. The manager must complete a PDR for all contracts let between £5,000 and £25,000. A copy of the PDR must be sent to the SPT who will complete an entry on the council's Contract Register.
 - b. PDR Over £25,000 - Procurement Decision Record (PDR) – Gateway Two
 - i. SPT is responsible for ensuring that a 'Procurement Decision Record' (PDR) to Award is completed and approved at Gateway 2 once the evaluation has been completed and the successful supplier is identified for all tenders over £25,000 and Concessions.

AWARD PROCESS

31. Award Process
- a. For procurements under £25,000 consult the SPT only if formally advertised in accordance with sections 25, 26 and 27 above.
 - b. The award process for all contracts over £25,000 including all concessions of any value is the responsibility of the SPT who will ensure that unsuccessful and successful letter(s) are issued to the relevant suppliers.
 - c. The SPT is responsible for ensuring:
 - i. The mandatory standstill period of a minimum of 10 calendar days is observed here applicable for above threshold procurements.

- ii. The relevant standstill letter(s) are issued to the successful and unsuccessful suppliers, giving the reasons for the decision and time to challenge the decision within the standstill period.
- iii. No Officer of the council, other than those authorised from the SPT or Legal Services, should be in contact with the suppliers during the standstill period if applicable.
- iv. That provided the standstill period, if applicable, has ended without challenge, the SPT will issue an award letter to the successful supplier(s).

AWARD NOTICES

32. Award Notices

- a. For procurements under £25,000, and if formally advertised in accordance with sections 25, 26, 27 and 31 above, consult the SPT only
- b. For contracts over £25,000 the SPT must ensure an award notice is placed on the Contracts Finder website, the Council's e-tendering portal and record the contract award in the Council's Contract Register.
- c. In addition, for all procurements over the relevant PCR15 or CCR16 thresholds, SPT must publish an award notice on the Find a Tender Service (FTS) website.

CONTRACT COMPLETION

- 33. Legal Services must support the drawing up of the contract documentation (derived from the original tender process) to be signed by both BCP Council and the successful supplier.

CONTRACT MOBILISATION & IMPLEMENTATION

- 34. Immediately following contract award and prior to the contract start date, mobilisation is a key phase in setting up an outsourcing project for success:
 - a. The SPT and the manager are responsible for engaging with the Contractor after the contract has been awarded to ensure the implementation requirements are delivered, activities identified, timescales are established, and expectations met as set out in the tender.
 - b. Adequate time should be set aside for mobilisation activities in the planning of a procurement to make sure that the right contract management processes and relationship can be developed prior to contract going live.

BUYING

- 35. After a tender or quotation has been accepted in writing (via BCP Councils e-tendering system if over £25,000) it must have a written contract and/or proper Council purchase order, in accordance with Part F (7), issued before goods are supplied, services delivered or works begin.

CONTRACT MANAGEMENT

- 36. Commissioning & Procurement Service responsibilities:
 - a. There is compliance with the specification, pricing and contract terms.

- b. Contract performance and key performance indicators (where applied) are monitored and enforced on a regular basis with any reduction in performance addressed.
- c. Regular budget monitoring and cost reconciliation of payments takes place to ensure the contract sum is not exceeded.
- d. Effectively managing disputes and resolutions using appropriate contractual and non-contractual levers.
- e. Conducting contract risk assessments.

37. In the case of Corporate Contracts / Frameworks the SPT shall be responsible for 36(a) with support from the senior user(s) of the Contract / Framework.

SUPPLIER RELATIONSHIP MANAGEMENT

38. Managers Responsibilities

- a. Understanding the practicalities of how the goods, services, works or concessions are delivered under the contract.
- b. Day-to-day management including robust administration.
- c. Consulting the SPT where there is any deviation identified in 36(a) above, to ensure compliance.

CONTRACT EXTENSIONS

39. The manager must consult the SPT to ensure no contract extensions are instructed or implied without a signed PDR to extend by the Head of Procurement.

CONTRACT MODIFICATIONS & VARIATIONS

40. The manager must consult the SPT to ensure:

- a. All proposed contract modifications or variations (i.e., change to scope, price, period) are made well in advance of the requirement.
- b. No contract modification or variation is instructed without a signed PDR from the Head of Procurement.

CONTRACT END - DE-COMMISSION/END CONTRACT

41. When exiting a contract, the manager is responsible for preparing and planning for the end of the contract in advance of the expiry date and, as a minimum consider:

- a. How to prevent service disruption.
- b. Any data needing transfer from the supplier back to the Council.
- c. Suppliers' equipment is returned (if applicable).
- d. TUPE implications.
- e. Disposals.

DISPOSALS

42. Managers are responsible for:

- a. Complying with guidance issued by the CFO on the disposal of assets including selling, gifting, swapping or donating the asset subject to the limits set out in the Schedule of Financial Delegations to Officers in Appendix 1.
- b. Disposal of surplus or obsolete plant and machinery or other non-land or buildings asset (and excluding ICT equipment) – must be discussed with SPT.

DOCUMENT RETENTION

43. SPT are responsible for ensuring that:

- a. For contracts over £5,000 proportionate records must be maintained and retained throughout the life of the contract and retained for a minimum of 7 years after the contract end date.
- b. For all contracts over £5,000, a copy of the contract (including pricing and specification) must be sent to the SPT for recording on the Contracts Register.

PROCUREMENT & CONCESSION PIPELINES

44. The SPT will prepare and maintain a comprehensive pipeline of recurrent contracts and planned new contracts.

- a. Procurement pipelines must look ahead a minimum of 18 months to support procurement resourcing and bidder planning as well as service preparation and planning.
- b. The SPT are responsible for publishing the Council's pipeline in the public domain. This includes the Council's planned procurements and commercial activity, looking forward at least 18 months and up to five years ahead.

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PART H EXTERNAL ARRANGEMENTS

PRINCIPLES

- 1 All partnerships, shared services and joint working arrangements with outside bodies must be properly evaluated for risk before they are entered into and be supported by clear governance, accounting and audit arrangements.
- 2 External funding can prove an important source of income, but funding conditions must be carefully examined and evaluated for risk before any agreement is entered into to ensure they are compatible with the aims and objectives of the Council.
- 3 Legislation enables the Council to trade and/or to provide discretionary services to third parties including the general public, in the main through the establishment of trading companies/other delivery models. All such work must be within the legal framework and the respective risks and financial benefits associated with such work must be properly considered and a proportionate business case approved before any trading activities take place.

PARTNERSHIPS, SHARED SERVICES, POOLED BUDGETS AND JOINT WORKING

- 4 The CFO is responsible for advising on the financing, accounting and control of partnership, shared service, pooled budget and joint working arrangements including:
 - a. Financial viability in current and future years.
 - b. Risk appraisal and risk management arrangements.
 - c. Resourcing and taxation.
 - d. Audit, security and control requirements.
 - e. Carry forward arrangements (between accounting periods).
- 5 The Monitoring Officer (MO) is responsible for advising on legal and legislative arrangements and for promoting and maintaining the same high standards of conduct in such arrangements as normally apply throughout the Council.
- 6 Managers are responsible for:
 - a. Ensuring that the CFO and MO are involved in the planning for any such arrangements at an early stage.
 - b. Ensuring that any such arrangements do not impact adversely upon Council services, that risk assessments have been carried out and that appropriate approvals have been obtained before entering into any agreements.
 - c. Ensuring that agreements and arrangements are properly documented.
 - d. Maintaining local registers of partnerships entered into.
 - e. Providing appropriate information to the CFO to enable relevant entries to be made in the Council's accounts.
 - f. Ensuring that appropriate mechanisms are in place to monitor and report on performance.
 - g. Consulting with the Corporate Property Officer if there is any proposal to utilise Council land or buildings in pursuit of a partnership, shared service, pooled budget or joint working initiative.

EXTERNAL FUNDING

- 7 The CFO is responsible for:
- a. Approving bids for external funding that may be put forward by councillors or managers prior to submission of any bid.
 - b. Ensuring that any match funding or part funding requirements are considered prior to entering into any agreement, that future Revenue Budgets reflect these requirements, and that any longer-term sustainability costs have been properly assessed.
 - c. Approving bids where delegated to do so in line with the requirements of the Corporate Scheme of Financial Delegations (Appendix 1).
 - d. Ensuring that all external funding is received and properly recorded in the Council's accounts and in the name of the Council.
 - e. Maintaining a central register of external funding/grant arrangements.
 - f. Ensuring that all audit requirements are met.
- 8 Managers are responsible for ensuring that:
- a. The CFO is involved in preparing for, and approving, any bid for external funding prior to submission of such bids. (This includes joint bids where the Council is not lead body)
 - b. The sustainability of funding is assessed for risk; all agreements entered into are consistent with and support the Council's service priorities.
 - c. The necessary approvals are obtained to accept funding in line with the requirements of the Corporate Scheme of Financial Delegations (Appendix 1).
 - d. All claims for funds are made by the due date.
 - e. Work is progressed in accordance with the agreed project plan and all expenditure is properly incurred and recorded.

TRADING (including providing discretionary services to third parties and the public)

- 9 The MO is responsible for providing or obtaining all necessary legal advice to ensure that all such proposals are undertaken within the legal framework.
- 10 The CFO is responsible for:
- a. Issuing guidance on the assessment of trading opportunities and options.
 - b. Advising on and approving the financial implications of any proposed trading arrangements between the Council and third parties.
 - c. Advising on the establishment and operation of trading accounts to ensure that the accounting and control processes comply with Council and statutory requirements and that the results of trading operations are properly recorded and reported.
 - d. Ensuring appropriate insurance arrangements are in place.
- 11 Managers are responsible for:
- a. Identifying trading opportunities and evaluating the respective risks and financial benefits in accordance with the guidance issued by the CFO.
 - b. Obtaining all necessary legal advice to ensure the terms and conditions of all trading contracts are reasonable and are proportionately documented.
 - c. Obtaining business case approval, in line with the requirements of the Corporate Scheme of Financial Delegations (Appendix 1), before any negotiations are concluded to trade or work for third parties.
 - d. Maintaining a local register of all trading contracts entered into.
 - e. Collecting all contractual income due and ensuring the Council is not put at risk from any bad debts.

- f. Ensuring that no contract will be subsidised by the Council providing financial assistance either directly or indirectly.
- g. Ensuring that such contracts do not impact adversely impact upon services provided by the Council.
- h. Ensuring that the service has the appropriate expertise to undertake the contract.
- i. Complying with guidance issued by the CFO in relation to the operation of trading accounts and the proper recording and reporting of trading results.

Glossary of Common Terms

Budget	A plan expressed in financial terms that is an estimate of the resource required to deliver the services/priorities of the Council
Budget Heads	A main area of revenue or capital spend as defined by the Budget and/or Capital Programme
Business Plan	A plan defined for the purposes of service planning and reporting at the Council as specified by the Chief Executive
Cost centre	A budgeting level which usually reflects a whole service area, or main sub-category of a service. It encompasses a number of standard 'subjective' coding areas such as those used for staffing related costs, supplies & services, income etc.
Capital	The organisation's total assets less its liabilities
Capital expenditure	Expenditure to acquire fixed assets that will be of use for more than the year in which they are acquired, and which adds to the Council's tangible assets rather than simply maintaining existing ones
Intra Vires	Acting within the statutory powers of the organisation
Joint Venture	Collaboration between two or more economically independent organisations (in practice one of which will be from the private sector) to achieve a joint aim, either contractually (gain/share) or through setting up a separate jointly owned entity
Outsourcing	The entering into of a contract with a provider (private sector, social enterprise/third sector, mutual or joint venture) to deliver services
Corporate purchase to pay system	An end-to-end system for managing Purchase Orders, receipts and invoices
p-cards	A term to describe all forms of 'purchasing/payment cards' including credit cards, debit card, store cards (excludes pre-loaded card)
Revenue	Income or expenditure, arising from or spent on, day to day activities and short-lived commodities or consumables
Service plan	A plan setting out priorities and service ambitions
A service specific financial system	Any system that supplements, integrates or interfaces with the main accounting system – examples (but not limited to) HR system, social care records system, asset management systems
Shared Service	A voluntary collaboration between public sector bodies to deliver services/provide facilities
Ultra Vires	Acting beyond the statutory powers of the organisation
Value for Money (VFM)	The simple National Audit Office definition is 'Optimal use of resources to achieve intended outcomes and purpose'. The more complex Audit Commission definition is 'obtaining maximum benefit over time with the resources available, achieving the right local balance between economy, efficiency and effectiveness, or spending less, spending well and spending wisely to achieve local priorities. VFM is high when there is optimum balance between all three elements, when costs are relatively and comparatively low, productivity is high and successful outcomes have been achieved'.

Acronyms

AGS	Annual Governance Statement
CCR16	Concession Contracts Regulations 2016
CFO	The Chief Finance Officer
CIA	The Chief Internal Auditor
CPO	Corporate Property Officer (the CFO)
CPV (code)	Common Procurement Vocabulary Code
CPQ	Construction Pre-qualification Questionnaire
FTS	Find a Tender Service (Replacement to OJEU as of 23:00 on 31.12.2020)
FMS	The budgeting and <u>financial management system</u> used at the Council (FUSION)
HHR	Head of Human Resources
HMRC	Her Majesty's Revenue and Customs
HPS	The Head of Paid Service (designated as the Chief Executive)
ICE	Institution of Civil Engineers
ITQ	Invitation to quote
ITT	Invitation to tender
LEA	Local Education Authority
LMS	Local Management for Schools Scheme
MO	The Monitoring Officer
MLRO	The Money Laundering Reporting Officer (the Chief Internal Auditor)
MTFP	Medium Term Financial Plan
NI(C)	National Insurance (contributions)
OJEU	Official Journal of the European Union – Replaced by UK e-Notification Service (Find a Tender Service - FTS) as of 23:00 on 31.12.2020
PAYE	Pay as you earn
PCR15	Public Contracts Regulations 2015
PCN	Penalty Charge Notice
SOPPs	Accounting <u>Standards of Professional Practice</u> (Code of Practice on Local Authority Accounting:)
SORP	Statement of Recommended Practice
SQ	Selection Questionnaire
TMS	Treasury Management Strategy
SeRCOP	Service (expenditure)Reporting Code of Practice
SPT	Strategic Procurement Team
VFM	Value for Money
VAT	Value Added Tax

CORPORATE SCHEDULE OF FINANCIAL DELEGATIONS

INTRODUCTION

- 1 The Corporate Schedule of Financial Delegations sets out the powers and duties delegated to various senior officers in the Council. Senior officers may appoint appropriate 'authorised officers' to act on their behalf (see 3 below), these delegations must be recorded in local Service Schemes of Delegation. (This schedule (appendix 1) does not apply to BCP maintained schools who will operate their own schemes of delegation).
- 2 This Corporate Schedule also sets out the approved financial limits within which senior officers may conduct the Council's business. Changes to the limits/values contained within this Corporate Schedule may only be made with the approval of the Chief Executive Officer. Additionally, any changes to councillor's approval levels also require the approval of Council.
- 3 For those items marked * (asterisk) the relevant senior officer has discretion to appoint appropriate authorised officers to act on their behalf. In all cases the relevant senior officer remains accountable for the effective operation of the financial thresholds and authorities and must:
 - Maintain a local written record of delegations to authorised officers and post this on the Council's intranet pages.
 - Provide the MO/CFO with the local written record of delegations to authorised officers at any time they require it (if not transparently posted on the intranet).
 - Ensure that an appropriate segregation of duties is in operation, for example between ordering and paying for goods, between claiming and approving expenses.
 - Ensure compliance (from those authorised officers) with the financial limits in this Schedule and any within the Financial Regulations (e.g. limits relating to waivers, extensions and variations) and HR Policies (e.g. limits relating to overtime, allowances, honoraria and expenses).

Note – If an individual has a formal 'Power to Deputise' delegation via a properly job evaluated Job Description then this Corporate Schedule of Financial Delegations can be read as apply to them (i.e. without formal delegation recording requirements as per 3 above).

- 4 This Corporate Schedule is not a standalone document and should be read in conjunction with the relevant section of the Council's Financial Regulations and Constitution which is shown in brackets at the top of each section within this Corporate Schedule. The 'Approver' is responsible for obtaining all appropriate advice from support services such as Human Resources (HR), Legal, Finance, ICT, Property services before making decisions to approve.
- 5 Legacy Councils in this schedule mean Bournemouth Borough Council, Christchurch Borough Council and Borough of Poole (but not Dorset County Council (DCC)).
- 6 The term cabinet member, in the approver column, means the appropriate or relevant cabinet member pertaining to the decision (not any available cabinet member). Alternatively, the Leader may determine who the appropriate or relevant cabinet member is.

FINANCIAL MONITORING AND CONTROL (FINANCIAL REGULATIONS – PART D)

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
Revenue Virement (RV) - the term 'either individually or in aggregate for the financial year' is being used to prevent disaggregation or fragmentation of virement to circumvent the required approvals			
RV1	To approve any virement (either individually or in aggregate for the financial year).	Over £1M	Council (after advice from the CFO)
RV2	To approve any virement (either individually or in aggregate for the financial year).	Over £500k and up to £1M	Cabinet / cabinet member (after advice from the CFO)
RV3	To approve virement within or between Service/Business Plans and/or projects/programmes in their portfolio areas (either individually or in aggregate for the financial year).	Over £100k and up to £500k	Corporate Director (after advice from the CFO*)
RV4	To approve virement within their Service/Business Plans and/or within or between projects/programmes for which they are responsible (either individually or in aggregate for the financial year).	Up to £100k	Service Director* (after advice from the CFO*)
RV5	To approve virement from within existing Service/Business Plans or between Service/Business Plans, projects or programmes within their areas of responsibility into new or otherwise unplanned functions and activities if savings are available to be re-directed into the new activity.	Up to £100k	Service Director* (after advice from the CFO*)
RV6	To approve the: <ul style="list-style-type: none"> • correction of errors to the initial budget upload • correction of errors to an approved virement • distribution of any centrally held budgets, as presented to Council agreeing the annual budget, where there is no change to the overall net budget of the Council or the council tax requirement within the main Financial System	Unlimited	CFO*
Revenue virement is only permissible in the following circumstances: <ul style="list-style-type: none"> • to reflect a reorganisation/restructure • to reflect a change in corporate priorities • the receipt of additional income, grant or other funding (and the associated expenditure) • the distribution or redistribution of centrally held budgets • the correction of errors to initial budget upload 			The following virement are generally not permitted <ul style="list-style-type: none"> • virement between capital and revenue • virement between controllable and non-controllable (recharges and capital financing) codes

FINANCIAL MONITORING AND CONTROL (FINANCIAL REGULATIONS – PART D)

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
<u>Capital Virement (CV)</u>			
CV1	To approve virement between individually approved schemes	Over £1M	Council (via Budget Monitoring Report after advice from the CFO)
		Over £500k and up to £1M	Cabinet / cabinet member (after advice from the CFO)
		Over £100k and up to £500k	Corporate Director (after advice from the CFO*)
		Up to £100k	Service Director * (after advice from the CFO*)
CV2	To approve re-phasing between years of individually approved schemes.	Any value	Service Director * (after advice from the CFO*)
CV3	To approve the correction of errors to initial budget load or approved virement within the main Financial System.	Any value	CFO*
<u>The Capital Programme (CP) (approving new schemes in-year and approving changes to external funding in-year)</u>			
CP1	To approve a new project, programme or scheme that is not in the Capital Programme (as approved as part of the annual budget setting process) and where a new external capital grant(s) is awarded to cover the costs of the project, programme or scheme, or it is proposed to transfer a scheme from one Council Fund to another (e.g. General Fund to HRA)	As per CV1 above	As per CV1 above
CP2	To approve a new project, programme or scheme that is not in the Capital Programme (as approved as part of the annual budget setting process) and CP1 does not apply – so new borrowing or other new external funding sources is required to cover the costs of the project, programme or scheme.	As per CV1 above	As per CV1 above
CP3	To approve a project, programme or scheme if the external funding or borrowing sources are different from the external funding or borrowing sources agreed at the original approval point. (e.g. prudential borrowing approved but borrowing required is now greater/less)	As per CV1 above	As per CV1 above

FINANCIAL SYSTEMS AND PROCEDURES (FINANCIAL REGULATIONS – PART F)

INCOME

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
INC1	Sundry debt write-offs (not cancellation) (Sundry debt 'cancellation' can only occur in circumstances where the original debt was raised in error, in all other circumstances this write-off procedure applies)	Up to £1k	Service Director *
		£1k to £25k	Service Director
		£25k to £100k	Corporate Director in consultation with CFO and cabinet member
		Over £100k	Head of Paid Service in consultation with the CFO and Leader
INC2	Council tax, NDR, write offs and housing benefits overpayment recovery	Up to £1k	The Head of Revenues & Benefits*
		Over £1k and up to £10k	The Head of Revenues & Benefits
		Over £10k	CFO
INC3	Council Housing tenant rent arrears write offs (including former tenants)	Up to £1k	Service Director (for Housing) *
		Over £1k and up to £5k	Service Director (for Housing)
		Over £5k	Service Director, CFO and MO
INC4	Fees & charges	Increase/decrease of existing	Service Director in consultation with cabinet member & CFO
		Any waiving, suspending or refunding of existing	Service Director
		Agreeing any new	Cabinet (and Council if over £1M annual value)
INC5	Any means tested or assessed financial contributions	Waiving, suspending or refunding up to £1k (aggregate not individual)	Service Director *
		Waiving, suspending or refunding over £1k (aggregate not individual)	Service Director in consultation with CFO *
INC6	Penalty Charge Notices (PCN) write offs	Unlimited	Service Director (responsible for Parking Services) *

EXPENDITURE (all approvals assume the availability of an approved budget/allocation, except EX7)			
REF	DESCRIPTION	CATEGORY	APPROVER
EX1	Approving capital scheme details prior to the placement of any initial order/contract to start on site or commit to purchase a service. Such approval shall reference back to the ‘three categories’ of approvals agreed in the ‘Annual Approval of The Capital Programme Report’ or other such report where Council agreed The Capital Programme. The three categories of approval are Unconditional, Conditional, Requires subsequent Cabinet approval - in most cases the agreed Capital Programme is only a broad allocation of funding and not approval to proceed (unless the ‘unconditional’ category was approved by Council.	Unconditional	Service Director *
		Conditional	Service Director and CFO to agree conditions have been met
		Requires subsequent approval	Cabinet / cabinet member
REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
EX2	Approving placement of orders (any commitments including contract award letters) with suppliers/contractors for goods and services	Any value	Service Director *
EX3	Receiving and receipting goods, services and works	Any value	Service Director *
EX4	Approving payment of invoices or contract stage payments (where the corporate purchasing system has not been used)	Any value	Service Director *
EX5	Approving expenditure on P- Cards+ Individual transaction limit Monthly transaction limit Variations to transaction limits above (individual or monthly)	Up to £1000	Service Director *
		Up to £5000	Service Director *
		Any variation	CFO *
EX6	Approving individual client cash floats (exceptional use) (client cash floats should not be confused with petty cash which have been abolished)	Up to £500	Service Director *
		Over £500	Service Director and CFO *
EX7	Approving ‘Emergency expenditure’ – incurring such expenditure by any means that is reasonable in the circumstances (in response to a major civil emergency, disaster or similar such event)	Any value	Any one of the following in rank order BCP Gold Commander, Chief Executive, any Corporate Director, CFO, MO
EX8	Approving all expenditure on salaries, wages, allowances and expenses, for establishment posts, in compliance with the Council’s HR policies	Any value	Service Director*

+ the term p-card means purchasing card, payment card, credit card or whatever card type BCP Council chooses to use.
EX5 does not apply to pre-loaded cards which must be approved by the CFO

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
EX9	<p>Appointment of Interim Staffing (contract of employment or contract for service)</p> <p>Individuals used to fill any temporary new post and existing posts, where there is a need to pay above the job evaluated rate, in circumstances where for whatever reason it is not possible and/or desirable to make a permanent appointment into the post. Such posts will generally be senior managerial or of a specialist professional nature, but where the post-holder is appointed on a temporary basis. The focus is on the individual and their specialist skills and knowledge. Interims may be considered appropriate at a time when the service or team concerned, or the wider Council is in a phase of rapid transition or when there are specific legislative or national drivers for change which need to be implemented in a defined time period. Interims may be employed directly by the Council on a fixed-term contract (including by way of the Professional Register) or via a procurement process, either as an employee, if retained through the Professional Register, or as an agency worker, or on a self-employed basis under a contract for services. In the latter case, payment is normally negotiated on a day rate as opposed to an hourly rate and must be approved by the HHR.</p> <p>Business case must include identification of previously agreed budget source</p>	Up to £25k	Service Director * Additional approval of HHR if contract for service is preferred over a contract of employment to ensure IR35 tax compliance
		Over £25k and up to £100k	Service Director to complete a business case for approval by Corporate Director Additional approval of HHR if contract for service is preferred over a contract of employment to ensure IR35 tax compliance
		Over £100k (or if the day rate is greater than £750 per day)	Corporate Director to complete a business case for approval by the Chief Executive Additional approval of HHR if contract for service is preferred over a contract of employment to ensure IR35 tax compliance
EX10	<p>Appointment of a Consultant (contract for service)</p> <p>Individuals or organisations used to provide objective advice and assistance of a specialist nature, where existing Council employees do not have the necessary relevant expertise or where in-house capacity is insufficient. Such arrangements may relate to the strategy, structure, management, or operations of the Council, or specific professional input to a project in pursuit of the Council's purposes and objectives (typically, there will be no corresponding Council post on the authorised staffing establishment). Consultancy assistance is provided outside the Council's established staffing structure and "business as usual" environment when in-house skills are not available. As a result, the use of consultants will be for a defined (and preferably short-term) period and to achieve specific outcomes.</p> <p>Business case must include identification of previously agreed budget source</p>	Up to £25k	Service Director *
		Over £25k and Up to £100k	Service Director to complete a business case for approval by Corporate Director
		Over £100k (or if the day rate is greater than £750 per day)	Corporate Director to complete a business case for approval by the Chief Executive
EX11	<p>Approving where a 'Contract for Service' is to be offered to a bona fide self-employed individual who has held employment with the Council (or legacy Councils) in the last 3 years.</p>	Any value	Chief Executive (with advice from CFO and HHR)

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
EX12	Approving where a permanent or fixed term (exceeding 18 months) 'Contract of Employment' is to be offered to any individual made redundant (compulsory or voluntary) within the last 12 months from any role within the Council (or legacy Councils)	Any Value	Corporate Director (after advice from CFO and HHR)
EX13	Special Severance Payments (any severance exceeding statutory entitlement) Including: Payments reached under a settlement agreement, write-offs of any outstanding loans, payments to employees for retraining related to their termination of employment, pay or compensation in lieu of notice where the amount of the payment is not greater than the salary due in the period of notice set out in the employee's contract, pension strain payments arising from employer discretions to enhance standard pension benefits.	Up to £20,000	Service Director, Director of People & Culture, CFO
		£20,000 to £100,000	Service Director, Director of People & Culture, CFO, MO, HPS, Leader of the Council
		Over £100,000	Full Council (as per Localism Act)

TREASURY MANAGEMENT, FINANCING & LEASING

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
TM1	Placing of treasury investments and all approvals to borrow	In line with Treasury Management Strategy (TMS) and appended policies and within any operational lower limits	CFO* as authorised to transact in accordance with TMS. Any variation from TMS requires Council sign off.
TM2	Approving all leases, credit arrangements or hire purchase arrangements	All such arrangements	CFO* to determine approval route specific to the individual circumstance
TM3	Approving any funds (and the system of administration) to be held on behalf of third parties.	All such arrangements	Service Director* and CFO*

ASSET MANAGEMENT

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER
AM1	Writing off deficiencies in stocks, stores & inventories (limits/value/threshold is 'book' value/accounting value not estimated sales value)	Up to £1,000	Service Director *
		£1k to £50k	Service Director * and CFO
		Over £50k	Cabinet / cabinet member (after advice from CFO)
AM2	Acquisition of freehold & leasehold land & buildings. The acquisition of a freehold, leasehold, or any other interest in land or buildings subject to the purchase being no more than	Up to £350k (capital value)	Corporate Property Officer *
		£350k to £500k (capital value)	Cabinet / cabinet member
		Over £500k (capital value)	Council

	market value unless 'Special Purchaser' assumptions can be made.		
AM3	Acquisition of freehold & leasehold land & buildings at more than market value and 'Special Purchaser' assumptions cannot be made.	Any value	Council
AM4	Disposal of freehold & leasehold land & buildings. Disposal by way of a sale, lease, licence, wayleave, easement, deed of variation, renewal, surrender, modification of covenant, or other disposal of an interest in land or buildings using any method that achieves best consideration.	Up to £350k (capital value)	Corporate Property Officer *
		£350k to £500k (capital value)	Cabinet / cabinet member
		Over £500k (capital value)	Council
AM5	Agreeing disposals of any land or building asset not to the highest bidder or where there is a difference between the estimated open market value (or best consideration) and the actual sales price. (Seek legal advice if land is open space).	Up to £350k (capital value)	Corporate Property Officer in consultation with the CFO
		£350k to £500k (capital value)	Cabinet / cabinet member
		Over £500k (capital value)	Council
AM6	Value for including items in fixed assets register	Over £10k	Service Director *
AM7	Disposal of surplus or obsolete plant and machinery or other non-land or buildings asset (and excluding ICT equipment) ** (limits/value/threshold is 'book' value/accounting value not estimated sales value)	Any disposal not to the highest bidder (or gifted at nil value)	Service Director* and CFO*
		Any disposal £0k to £100k to the highest bidder	Service Director* and CFO*
		Any disposal £100k to £500k to the highest bidder	Corporate Director* and CFO*
		Any disposal over £500k	Cabinet / cabinet member and CFO
AM8	Any acquisition of ICT equipment and ICT services	All acquisitions	By ICT services or with the approval of the Head of ICT *
AM9	Any disposal of ICT equipment including donations to schools or charities **	Any or nil value, no exceptions	All disposals through ICT Services
AM10	Approving the use of Council assets outside of normal Council business activity and after obtaining MO* and insurance advice from the CFO*	Any land or buildings	Corporate Property Officer *
		Non land or buildings (and excluding ICT equipment)	Service Director *
		ICT equipment	Head of ICT *

**Also refer to the Council's Corporate Disposals Policy

EXTERNAL ARRANGEMENTS (FINANCIAL REGULATIONS – PART H)

REF	DESCRIPTION	LIMIT / VALUE / THRESHOLD	APPROVER (after obtaining advice from the CFO, MO and HHR)
EA1	Entering the Council into partnership, shared service, pooled budget or joint working arrangements (including Memoranda of Understanding)	Any (including where a direct financial contribution is not obvious)	In accordance with the Council's Constitution Part 2, Article 12 - Decision making, Section 3 - Types of decisions).
EA2	External trading contracts, arrangements or concepts – business case approval, (providing discretionary services to a third party, including the public, in exchange for a fee)	Any contract up to £100,000	Service Director *
		New contracts between £100,000 and £0.5M	Corporate Director
		Incremental contracts between £100,000 and £0.5M	Service Director
		All Contracts over £0.5M	Cabinet / cabinet member
EA3	Submitting any bid for external funding (including joint bids where the Council is not lead body)	Any value	Service Director * with the agreement of the CFO *
EA4	Accepting external funding (BCP aggregate total including any 'match-funding' element and partner(s) share(s) if BCP is lead body or 'host')	Up to £100,000	Service Director * and CFO *
		Between £100,000 and £1.0M	Cabinet / cabinet member (with advice from the CFO)
		Over £1.0M	Council (with advice from the CFO)

For the purposes of EA2 above the following definitions apply:

- New (trading) contracts = the contract, arrangement/concept has not previously been traded
- Incremental (trading) contracts = the contract, arrangement/concept has already been approved applying the approval thresholds above, subsequent incremental trading growth through a series of additional contracts

OTHER DELEGATIONS - TAX RELIEF SCHEMES

REF	DESCRIPTION	APPROVER
TR1	To implement Central Government fully funded council tax, business rate or other tax rebate relief schemes where implementation requires the Council to use its discretionary powers under either Section 47 of the Local Government Finance Act 1988 or Section 13A of the Local Government Finance Act 1992.	CFO

BCP COUNCIL - FUNCTIONS OF THE AUDIT & GOVERNANCE COMMITTEE

Functions of the Audit & Governance Committee are set out below. The Audit & Governance Committee cannot delegate for a decision any issues referred to it apart from any matter that is reserved to Council.

Statement of Purpose

Our Audit & Governance Committee is a key component of Bournemouth, Christchurch and Poole (BCP) Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

The purpose of our Audit & Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the internal control environment. It provides independent review of BCP Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

Governance, Risk & Control

To consider the arrangements for corporate governance including reviews of the Local Code of Corporate Governance and review and approval of the Annual Governance Statement (AGS).

To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.

To consider arrangements for risk management including the approval of the Risk Management Strategy and review of the Council's corporate risk register.

To consider arrangements for counter-fraud and corruption, including 'whistle-blowing' including approval of the Counter Theft, Fraud & Corruption Policy and the outcomes of any investigations in relation to this policy.

To review the governance and assurance arrangements for significant partnerships or collaborations.

Internal Audit

To approve the Internal Audit Charter.

To approve the risk-based Internal Audit Plan, including Internal Audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.

To approve significant interim changes to the risk-based Internal Audit Plan and resource requirements.

To consider reports from the Head of Internal Audit on Internal Audit's performance during the year, including the performance of external providers of internal audit services. These will include: a) updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work b) regular reports on the results of the Quality Assurance Improvement Programme (QAIP) c) reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN), considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement (AGS).

To consider the Head of Internal Audit's annual report: a) The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit. b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the AGS.

To consider summaries of specific internal audit reports as scheduled in the forward plan for the Committee or otherwise requested by Councillors.

To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

To contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every 5 years.

To commission work from the Internal Audit Service (with due regard to the resources available and the existing scope and breadth of their respective work programmes and the forward plan for the Committee).

External Audit

To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments Ltd (PSAA).

To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.

To consider all other relevant reports from the External Auditor as scheduled in the forward plan for the Committee as agreed with the External Auditor or otherwise requested by Councillors.

To comment on the scope and depth of external audit work and to ensure it gives value for money.

To commission work from External Audit (with due regard to the resources available and the existing scope and breadth of their respective work programmes and the forward plan for the Committee).

To liaise with the national body (currently Public Sector Audit Appointments (Ltd)) (PSAA) over the appointment of the Council's External Auditors.

To consider reports dealing with the management and performance of the External Audit function.

To consider and approve the Annual Plans of the External Auditor.

Financial Reporting

To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

To consider the external auditors report to those charged with governance on issues arising from the audit of the accounts.

Accountability Arrangements

To report to full council and publish an annual report on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.

To report to full council and publish an annual report on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

Other Functions

To consider arrangements for treasury management including approving the Treasury Management Strategy and monitoring the performance of this function.

To maintain an overview of the Council's Constitution in respect of financial regulations, working protocols and codes of conduct and behaviour (not otherwise reserved to the Standards Committee).

To consider breaches, waivers and exemptions of these Financial Regulations.

To consider any relevant issue referred to it by the Chief Executive, Chief Finance Officer (CFO), Chief Internal Auditor (CIA), Monitoring Officer (MO) or any other Council body or cabinet member.

To consider arrangements for information governance, health and safety, fire safety, emergency planning (including business continuity).

To consider any issue of Council non-compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.

To consider gifts and hospitality registers relating to officers.

MINOR AMENDMENTS AND EDITING LOG (during 2023-24)

The Chief Finance Officer (CFO) has primary responsibilities for maintaining the Financial Regulations as outlined in Part A page 5. Where changes affect the powers or responsibilities of councillors, approval of Council is required.

It is recognised there may be a need to clarify certain elements of the Financial Regulations from time to time, this may require minor amendments or editing. The CFO has delegated to the Chief Internal Auditor (CIA) and Strategic Procurement Manager (SPM) the ability to make minor amendments and editing changes. Any such changes are logged in the table below.

No.	Description of amendments or editing	Page	Date
1			
2			
3			
4			

FINANCIAL REGULATIONS

BACK COVER ONLY

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AUDIT AND GOVERNANCE COMMITTEE



Report subject	Review of the Council's Constitution - Recommendations of the Constitution Review Working Group
Meeting date	16 February 2023
Status	Public Report
Executive summary	<p>The report summarises the issues considered by the Constitution Review Working Group and sets out a series of recommendations arising from the Working Group for consideration by the Committee.</p> <p>Any recommendations arising from the Committee shall be referred to full Council for adoption.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <ul style="list-style-type: none"> (a) the amendments to the Constitution relating to the Regulatory Committees, as detailed in paragraphs 13(a) to (e) to this report, be approved; (b) the amendment to Part 4D, Procedure Rule 23.4 (Substitute Members), as detailed in paragraph 15 to this report, be approved; (c) the insertion of paragraph 1.1.2 to Article 1 (Powers and Duties of the Council) and the amendment to Part 4A, Procedure Rule 25.2 (Additional Rights of Access for Councillors), as set out in paragraphs 18 and 19 to this report, be approved; (d) no changes be made to the structure or frequency of meetings of the Overview and Scrutiny Committees at this time but this be considered by the Council following the elections in May 2023; (e) the dates for the respective Overview and Scrutiny Committees, as set out in paragraph 28 to this report, be agreed for 2023/24, subject to the subsequent review by the Council after the elections; (f) the amendments to Part 4D, Procedures Rules 13.4 to 13.27 (Public Questions, Statements and Petitions), as detailed in paragraph 39 to this report, be approved; (g) the amendments to Part 6, Schedule 1 (Arrangements for dealing with allegations of breach of the Code of Conduct for Councillors), as set out in paragraph 43 to this report, be approved; (h) the amendment to Part 4A, Procedure Rule 24.3, (Access

	<p>to document – Overview and Scrutiny Committees), as set out in paragraph 52 to this report, be approved;</p> <p>(i) the amendments to Part 3A, (Responsibility for Functions – Planning Committee) and Part 4A (Meeting Procedure Rules – Voting), as set out in paragraph 57 to this report, be approved;</p> <p>(j) any necessary and consequential technical and formatting related updates and revisions to the Constitution be made by the Monitoring Officer in accordance with the powers delegated</p>
Reason for recommendations	To make appropriate updates and revisions to the Constitution following consideration by the Working Group
Portfolio Holder(s):	Not applicable
Corporate Director	Graham Farrant (Chief Executive)
Report Authors	Richard Jones (Head of Democratic Services)
Wards	Not applicable
Classification	For Recommendation

Background

1. The Terms of Reference of the Audit and Governance Committee includes 'Maintaining an overview of the Council's Constitution and governance arrangements in all respects'.
2. In discharge of this responsibility the Committee established a Constitution Review Working Group of five of its Councillors.
3. The current members of the Working Group are Councillors Fear (Vice-Chair of Audit and Governance Committee and Chair of the Working Group), Beesley (Chair of Audit and Governance Committee), Brooke, D Butt and Cox. The Group receives advice from the Monitoring Officer and from the Head of Democratic Services. From time to time, as required, Officers and Councillors with specialist responsibility have been invited to have an involvement.
4. Since its establishment, the Working Group has continued to meet on a regular scheduled basis and completed various phases of its work. Most recently, a wide range of recommendations were submitted to full Council on 5 December 2022. Those recommendations that were agreed by Council have been implemented and incorporated into a revised and updated version of the Constitution. These are included within the current version of the Constitution dated as 5 December 2022 and available on the Council website.
5. The Working Group has considered suggestions received from a wide variety and range of sources including input from Councillors and from Officers. Prior to commencement of its work, the Chair of the Audit and Governance Committee wrote to all members of Council asking them to submit items for discussion and consideration. This invitation has been repeated from time to time as the Group has progressed through its programme of work.

Timetable

6. The Working Group has now been reconvened for a further phase of work with a view to concluding its work within the lifetime of the current Council. This will ensure that any changes are in place leading up to the Council elections in May 2023 and can be implemented within the new Council.
7. In order that any changes to the Constitution can be included and implemented before the election, it will be necessary to make any final recommendations to the meeting of the Council on 21 March 2023. This report to the Audit and Governance Committee has been informed by meetings of the Working Group held on 8 December 2022 and 24 January 2023.

Format

8. Throughout the work of the Group a 'Forward Plan' of issues has been maintained and added to as additional issues have arisen.
9. The proposed changes are shown with track changes (in red and in red outline boxes) to assist in identifying the proposed changes. Any text shown in blue shows consequential formatting changes only and do not require consideration by the Committee. Page number references are to pages within the current Constitution.
10. A number of matters which were considered by the Working Group were not supported or deferred for later consideration post-election. These are set out in Section A to this paper. Those matters supported and subject to a recommendation to change the Constitution are set out in Section B to this report.

Section A - Rejected or Deferred Matters

11. The following matters were considered by the Constitution Review Working Group and either rejected with no further action required or deferred for consideration by the new Council after the elections. These are summarised as follows:-
 - (a) District Auditors recommendations relating to Declarations of Interest – Rejected with referral back to District Auditor suggesting that the representations should be referred to the Local Government Association to consider when reviewing the model Code of Conduct.
 - (b) Budget Meeting Procedure Rules – Although the Working Group recognised the need for separate Budget and Policy Framework Procedure Rules in Part 4 of the Constitution, it understood that there is not enough time to complete the work and obtain the approvals required ahead of the Council budget meeting on 21 February 2023. Sufficient provisions to be compliant are currently included in various parts of the constitution, including the Financial Regulations and are considered sufficient pending the scheduling of the consideration of a draft stand-alone Budget and Policy Framework as soon as possible after February 2023.
 - (c) Special Severance Payments – It was noted that this was now part of a wider work package being led by HR and would be incorporated into a separate paper in due course.
 - (d) Reply to Supplementary Questions by Councillors – The existing procedure rules relating to supplementary questions by councillors allows for a response to not be provided if the question is 'inappropriate'. The Working Group noted that this was standard wording in Constitutions and no changes were required.

- (e) Urgent Business / Amendments to Business – The Working Group considered a request to permit officers to withdraw or defer items of business after the publication of the agenda. This was not supported and no changes were proposed to the Constitution.
- (f) Format of the Constitution – The Working Group considered a request to reformat the Constitution but acknowledged there was insufficient resources available to reformat the entire Constitution at this time.

Section B - Supported Matters

12. The following issues were supported by the Working Group for consideration by the Committee. A summary explanation of each issue is provided and the proposed changes are shown below each issue with track changes for ease of reference.

Issue 1 – Regulatory Committees – Public Participation Protocols, Voting, Site Visits and Meeting Attendance

13. The Working Group was advised of a recent High Court case, and the need to review a number of provisions in the Constitution impacted by the judgement.

(a) Public participation at meetings – Planning, Licensing and Appeals Committee protocols

The Constitution refers in Part 4D (Meeting Procedure Rules), Rule 13.3 [page 4-42] to protocols established by the respective regulatory committees. The proposed changes seek to provide clarity as to the scope of Public Speaking Protocols created by the identified committees and to better link those protocols to Part 4D of the Constitution.

13. Public participation at meetings

13.1. The following procedures enable members of the public to submit questions, make statements and present petitions at ordinary meetings of the Council, Cabinet, Committees and Sub-Committees.

13.2. The time for questions, statements and petitions from members of the public shall normally commence immediately after the item 'Declarations of Interest' on the agenda for the meeting and shall be restricted to a total of 15 minutes, although, at the discretion of the Chair of the Council or the Chair of the meeting, this time may be extended. Where a question to which an answer is to be given is not reached within the time limit, a written answer shall be provided to the questioner within two working days of the meeting and a copy e-mailed to all Councillors.

13.3. This procedure does not apply to Planning Committee, Licensing Committee or Appeals Committee. ~~Separate protocols establish the arrangements for public representations at Planning and Licensing Committees. Such protocols are reviewed and approved by the respective Committee, included within Part 6 of the Constitution and published on the website. In so far as the law allows, each of those Committees may adopt one or more protocols / codes for establishing the arrangements and proceedings regarding any public representation at the Committee or any of its Sub-Committees.~~

13.3.1. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

13.3.2. A protocol / code may make provision limiting the ability of a member of the public to speak on any item and may also limit the right of a Councillor who is not appointed to that Committee to speak.

~~13.2.4.~~13.3.3. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

(b) Voting

Procedure Rule 18 to Part 4D (Meeting Procedure Rules) [page 4-52] establishes the rules relating to voting. The proposed changes recognise that certain protocols/codes contained in Part 6 of the Constitution limit Councillor voting opportunities in certain situations, e.g., the Councillor Code of Conduct; the Planning Site Visit protocol, etc.

18. Voting

18.1. It is the responsibility of each Councillor to properly inform themselves and ensure that they are sufficiently appraised of any matter before voting.

18.2. Voting will be by a show of hands or where practical and the means are available to those present, by electronic means. Where there is a clear majority in favour of a proposal the person presiding will ask if any Councillor wishes to vote against or abstain from a proposal.

18.3. When a Councillor asks for a recorded vote to be taken, and one quarter of Councillors present support the request, the vote will be recorded to show whether each Councillor voted for or against the motion or abstained.

18.4. A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

18.5. A Councillor may require, after a vote is completed, that the minutes of the meeting record how they voted or abstained.

18.6. Where there are equal votes cast for a motion or amendment the Chair or the person presiding will have a second or casting vote.

18.7. Any right of a Councillor who is appointed to any body of the Council to vote on a particular item may be limited by proceedings contained or identified in this Constitution.

~~18.6.~~18.8. For the avoidance of doubt, any Code or Protocol which is, or is identified as to be, incorporated into Part 6 of this Constitution shall be construed as being proceedings and part of these procedure rules.

(c) Site visits and arrangements, etc.

This proposal is to consider the introduction of a new procedure rule (numbered as 29) to Part 4D (Meeting Procedure Rules) relating to site visits and associated arrangements. This provision does not require councillors to adopt any protocol but simply and transparently recognises within Part 4D of the Constitution the scope for them to do so in relation to these more 'quasi-judicial' type committees. This change establishes a stronger link between the Constitution and any protocols that may be adopted. There already exists some protocols to which this provision relates. As such the new rule will also help give clarity as to the status of those protocols that have already been adopted.

29. Site Visits and consideration of certain items at meetings - Planning Committee, Licensing Committee and Appeals Committee

29.1. In so far as the law allows, the Planning Committee, Licensing Committee and Appeals Committee may each adopt one or more protocols / codes for establishing the arrangements and proceedings for any of the following purposes of that Committee or their Sub-Committees (if any):

29.1.1. the undertaking of a site visit; and

29.1.2. consideration of any matter relating to an actual or possible application, appeal and/or review for which it has responsibility including proceedings governing the consideration and assessment of any supporting information provided by a party in relation to any such matter.

29.2. Any such protocol / code may be reviewed, modified, cancelled and replaced by the respective Committee. The current version of any such protocol will be included within Part 6 of the Constitution and published on the Council's website.

29.3. A protocol / code may limit the voting ability of a Councillor who is appointed to any of those bodies in circumstances where the Councillor:

29.3.1. fails to attend the whole or any part of a site visit; and/or

29.3.2. is not present during the whole or any part of the consideration (including any officer presentation and/or public speaking) of an application, appeal and/or review (or related matter), including where such an item falls to be considered over more than one meeting.

29.4. For the avoidance of doubt, nothing in this section shall prevent Full Council from also having power to adopt any protocol / code relating to any proceedings of the bodies to which this section relates.

(d) Local Code of Best Practice relating to Planning Matters

Part 6, Schedule 3 establishes a local Code of Best Practice relating to Planning Matters. Paragraph 4.16 [page 6-30] sets out requirements for the consideration of all relevant information. The proposed changes seek to clarify the existing provisions.

Considering all relevant information

4.16. It is important that every councillor's decision takes account of all relevant planning considerations including any relevant representations and consultation responses. Any councillor who is absent during any part of the Planning Committee's consideration of an application (including any related officer presentation and public speaking) should not take any further part in the discussions on the application or vote on that application.

(e) Case where officers think certain delegations would be better taken by committee (Licensing)

Part 3 (Responsibility for Functions) establishes the delegations to Committees and Officers. The proposed changes seek to establish new provisions to permit officers, responsible for licensing, to refer a matter to the committee, which would

otherwise be delegated to them for determination. The existing scheme of delegation does not permit this. The proposal is to establish new provisions as paragraph 3.2.5 [page 3-12] for licensing. A similar modification is requested for Planning Committee but this is included with Issue 8 to avoid duplication.

Full Council has delegated specific non-executive functions to the following bodies listed below.

3. Licensing Committee

3.2. The Licensing Committee has responsibility for the following:

3.2.5. determining any matter arising in relation to any Licensing Function where that matter has been expressly referred to the Licensing Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Scheme of Delegation to Officers.

- 14. It is RECOMMENDED that the proposed amendments as set out in paragraphs 13 (a) to (e) above, be approved.**

Issue 2 - Substitute Member Notification

15. Procedure Rule 23 (Substitute Members) to Part 4D of the Constitution [page 4-53] makes provision for substitute members. Rule 23.4 defines the reporting arrangements at meetings. This proposed change recognises that in practical terms it is not always the Monitoring Officer who informs the relevant body of the appointment of a substitute and seeks to align wording to provide consistency with other provisions in the Constitution.

23. Substitute Members

23.4. On receipt of a Notice under this Procedure Rule the Monitoring Officer or their appointed nominee shall, at the meeting (prior to the commencement of the main business) inform the Committee or Sub-Committee.

- 16. It is RECOMMENDED that the amendment to Part 4D, Procedure Rule 23.4, as set out in paragraph 15 above, be approved.**

Issue 3 - Drafting Issues - Inclusion and Interpretation of Legislation

17. At recent meetings of the Committee, questions have been asked relating to specific wording of the Constitution and suggesting that the Constitution does not reflect the requirements of legislation.
18. The purpose of the Constitution is not to reproduce all relevant legislation. Provisions and requirements of primary legislation supersede the Constitution and should a conflict exist, the legislation would take precedence. The Working Group noted this position but requested that an explanation to this effect be included in Article 1 (The Constitution), new paragraph 1.1.2 [page 2-4]. The proposed amendment is set out below.

Article 1 - The Constitution

1.1. Powers and Duties of the Council

1.1.1. The powers and duties of the Council are established by legislation and clarified through statutory guidance and case law. The Council will exercise those powers and duties in accordance with the law and this Constitution.

4.1.1.1.1.2. The Council's Constitution does not contain references to all legislative provisions. Should there be any provision in this Constitution which is at variance to any legislative or legal requirement, the relevant provision shall take precedence over this Constitution.

19. The relevant sections of the Constitution to which the representations referred have been reviewed and are consistent with the principles of the corresponding regulations with one exception. Procedure Rule 25 to Part 4A (Access to Information Procedure Rules) sets out additional rights of access for Councillors. Rule 25.2 makes specific reference to limiting this to key decisions but should equally apply to non-key decision. It is proposed that the word 'Key' is deleted accordingly.

25. Additional rights of access for Councillors

25.2. All Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Cabinet including its Committees and Sub-Committees which relates to any ~~Key~~ Decision unless Rule 24.4 of this Part 4A applies.

20. It is **RECOMMENDED** that the amendments to Article 1, paragraph 1.1.2 and Procedure Rule 25.2, as set out above, be approved.

Issue 4 - Place Overview and Scrutiny Committee – Frequency of Meetings

21. The Place Overview and Scrutiny Committee at its meeting on 16 November 2022 passed a resolution for the Constitution Review Working Group to consider whether the arrangements for Overview and Scrutiny and in particular the Place Committee were sufficient. In passing the resolution, the Committee wished to increase the frequency of meetings to enable it to better shadow the Cabinet meetings which meets monthly. The Chair of Place Overview and Scrutiny Committee attended the meeting of the Working Group.
22. The current arrangements, approved by Council, is for five meetings of each of the four Overview and Scrutiny Committees to be held annually, although there is provision in the Constitution for the Chair of each Committee to agree to convene special meetings.
23. The number of meetings held to date or remain scheduled to be held in 2022/23 are as follows:-

Children's Services O&S Committee	5 meetings
Corporate and Community O&S Committee	9 meetings (including 4 special meetings)
Health and Adult Social Care O&S Committee	5 meetings
Place O&S Committee	6 meetings (including 1 special meeting)

24. The number meetings has already exceeded that intended by the Council resolution. This has largely been due to the increased Financial Update reports to Cabinet which the Corporate and Community Overview and Scrutiny Committee wished to scrutinise through additional special meetings.
25. The Working Group acknowledged that Democratic Services did not wish to prevent democracy taking place and indeed promotes and encourages active and healthy governance arrangements. However, it is critical that the service is adequately resourced to support meetings and councillors in performing their duties. It was noted that the service was at a critical level and was only able to support the current level of demand, which has been further stretched by additional pressures to support the regulatory services, etc. It was further noted that the estimated cost of providing additional capacity to support 8 additional committee meetings would be in the region of £9,500.
26. The Working Group recognised that Overview and Scrutiny was not operating as effectively as it could and that opportunities to develop policy and track decisions was not presently a priority with Cabinet report scrutiny being the main focus.
27. There were a number of improvement areas identified, including improved engagement with councillors by committee Chairs, use of scrutiny review scoping pro-forma, and open and proactive discussions. However, it was considered appropriate to allow the new Council to determine those arrangements as well as the structure and frequency of meetings after the elections in May. It was also considered critical that all councillors should attend training for overview and scrutiny including models of best practice.
28. It is **RECOMMENDED** that:-
- (a) **no changes be made to the structure or frequency of meetings of the Overview and Scrutiny Committees at this time but this be considered by the new Council following the elections in May 2023, and**
- (b) **the following interim dates be agreed for 2023/24, subject to the subsequent review by the new Council:**

Corporate and Community Overview and Scrutiny Committee (6.00pm)

Monday 12 June 2023
Monday 9 October 2023
Monday 4 December 2023
Monday 29 January 2024
Monday 18 March 2024

Children's Services Overview and Scrutiny Committee (6.00pm)

Tuesday 6 June 2023
Tuesday 19 September 2023
Tuesday 21 November 2023
Tuesday 23 January 2024
Tuesday 19 March 2024

Place Overview and Scrutiny Committee (6.00pm)

Wednesday 31 May 2023
Wednesday 19 July 2023
Wednesday 11 October 2023
Wednesday 6 December 2023
Wednesday 28 Feb 2024

Health and Adult Social Care Overview and Scrutiny Committee (6.00pm)

Monday 5 June 2023
Monday 25 September 2023
Monday 27 November 2023
Monday 15 January 2024
Monday 4 March 2024

Issue 5 - Public Participation at Meetings – Referral by Council

29. Full Council, at its meeting on 5 December 2022, referred the Constitution changes relating to Public Participation back to the Constitution Review Working Group for

reconsideration due to concerns raised regarding the impact of some of the changes upon those with protected characteristics.

30. The majority of the changes previously proposed were to address issues of ambiguity, provide clarity on issues of interpretation, afford additional time to submit some items and to align the requirements for questions and statements.
31. In the main, the changes were supported however, there were two key issues which gave cause for concern at the Council meeting. These are summarised below.
32. **Word limit** – 100 words (applies to both questions and statements) – There was no change proposed to the numerical number of words, however, the changes provided clarity to the definition of what constituted a word for the purposes of counting. There are no equality related issues relating to the number of words however, the Working Group reconsidered the word limit and supported an increase from 100 words to 150 words.
33. **Nominating others to read submissions** – The existing Constitution contains different provisions relating to who someone may nominate to read out their submission if they are unable to attend. The proposed changes sought to align these provisions.
34. The existing provisions relating to Public Questions (paragraph 13.4.7) is interpreted as permitting someone to nominate another person (but not an officer) to read their question. (See extract below).

13.4.7.	the person asking the question may attend the meeting to read out their question or nominate another person to read out the question on their behalf, and to hear the answer. If someone is unable to attend and fails to nominate someone to attend on their behalf, the question will not be read out, but will be responded to by way of written answer;
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35. Whereas the existing provisions relating to Public Statements (paragraph 13.5.6) permits someone to ask for an officer to read out their statement if they prefer but not another member of the public.

13.5.6.	the person making the statement shall normally attend the meeting to read out their statement. However, persons may, if they prefer, ask for an officer of the Council to read out their statement;
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36. In seeking to align the requirements, both of which permit the person making the submission to nominate someone else, the previous recommendation was that both provisions should be consistent and the preference was to align to the questions provision.
37. An Equality Impact Assessment has been completed which was informed by discussions with officers and the Working Group. Following further consideration, the Working Group are recommending that the nomination procedure rules be now extended to permit both another member of the public or an officer to be nominated. This is now reflected in the revised amendments for consideration.
38. The Working Group was mindful that the provisions relating to Public Participation were introduced by local authorities to actively encourage public attendance and engagement at physical meetings to supplement any pre-existing opportunities to make other representations. Whilst it is accepted that there may be legitimate limitations to access meetings for some members of the public, it has become increasingly common for officers to be requested to read out statements. The

Working Group wished to encourage public participation and requested that the operation of the procedures be monitored.

39. The proposed changes to Procedure Rules relating to Public Questions, Statements and Petitions, are set out in Rules 13.4 to 13.27.

Public Questions

~~13.3.~~13.4. Members of the public may ask questions at meetings of the Full Council, Cabinet, Committees and Sub-Committees of the Council. The protocol for questions is as follows:

13.4.1. subject to the requirements of this Protocol, a member of the public who lives or works in the area of the Council may submit a written question to the Leader of the Council, a Portfolio Holder or the Chair of the Council or of a Committee of the Council;

~~13.3.1-13.4.2.~~ the person to whom the question is submitted shall respond to the question at the relevant meeting unless the matter is of such a specialist nature that it requires a response from the Head of Paid Service, Monitoring Officer or Section 151 Officer, or a specialist officer nominated by one of those officers

13.4.3. a person wishing to ask a question shall submit the question in writing which must be received by the Monitoring Officer or their nominated representative by mid-day threefour clear working days before the meeting at which it is to be asked. The person's name and address must be included. In calculating this period the date of the meeting and date of submission are to be excluded;

~~13.3.2-13.4.4.~~ where a report is not published five-clear days before the meeting, the deadline for the submission of questions, as defined in 13.4.3, shall be adjusted accordingly by the number of days that the publication of the report is delayed;

~~13.3.3-13.4.5.~~ a question at Council shall relate to Council business, shall not exceed ~~400-150~~ words in length and shall be so framed as to elicit information rather than make a statement;

13.4.6. a question at a Committee, Sub-Committee or at the Cabinet shall relate to an item of business as defined on the agenda of the meeting at which the question is asked and shall not exceed ~~400-150~~ words in length;

~~13.3.4-13.4.7.~~ for the avoidance of doubt, headings, abbreviations, acronymns and grammatical symbols substituting words shall count towards the 150 word limit, whilst a singular date shall be counted as one word;

13.4.8. at Full Council no member of the public may ask more than four questions in any one Municipal Year;

- ~~13.3.5-13.4.9.~~ no member of the public may ask more than one question on any individual item of business as defined on the agenda of the meeting;
- ~~13.3.6-13.4.10.~~ questions shall be provided to Councillors electronically prior to the commencement of the meeting and hard copies made available for members of the public attending the meeting. No discussion shall be allowed upon questions or answers;
- ~~13.3.2-13.4.4.~~ where a report is not published five-clear days before the meeting, the deadline for the submission of questions, as defined in 13.4.3, shall be adjusted accordingly by the number of days that the publication of the report is delayed;
- ~~13.3.3-13.4.5.~~ a question at Council shall relate to Council business, shall not exceed ~~400-150~~ words in length and shall be so framed as to elicit information rather than make a statement;
- 13.4.6. a question at a Committee, Sub-Committee or at the Cabinet shall relate to an item of business as defined on the agenda of the meeting at which the question is asked and shall not exceed ~~400-150~~ words in length;
- ~~13.3.4-13.4.7.~~ for the avoidance of doubt, headings, abbreviations, acronymns and grammatical symbols substituting words shall count towards the 150 word limit, whilst a singular date shall be counted as one word;
- 13.4.8. at Full Council no member of the public may ask more than four questions in any one Municipal Year;
- ~~13.3.5-13.4.9.~~ no member of the public may ask more than one question on any individual item of business as defined on the agenda of the meeting;
- ~~13.3.6-13.4.10.~~ questions shall be provided to Councillors electronically prior to the commencement of the meeting and hard copies made available for members of the public attending the meeting. No discussion shall be allowed upon questions or answers;
- ~~13.3.7-13.4.11.~~ the person asking the question may attend the meeting to read out their question, ~~or~~ nominate another member of the public ~~person or, if they prefer, ask for an officer of the Council~~ to read out the question on their behalf, and to hear the answer. If someone is unable to attend and fails to nominate someone to ~~attend-read out the question~~ on their behalf, the question will not be read out, but will be responded to by way of written answer;
- ~~13.3.8-13.4.12.~~ if questions are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Council would be likely to consider in the absence of the press and public, the Chair shall have the right to rule the question out of order;
- ~~13.3.9-13.4.13.~~ in exceptional cases members of the public who do not live or work in the administrative area of the Council but who are directly affected by a decision or potential decision of the Council can submit a question in accordance with the above protocol. In such cases, the Monitoring Officer will determine the validity or otherwise of the question in consultation with the appropriate Chair.

Public Statements

~~13.4.13.5.~~ Members of the public may make statements at meetings of the Full Council, Cabinet, Committees and Sub-Committees of the Council. The protocol for statements is as follows:

~~13.4.1-13.5.1.~~ subject to the requirements of this protocol, a member of the public who lives or works in the area of the Council may submit a written statement to the Council, Cabinet, Committee or a Sub-Committee of the Council;

~~13.4.2-13.5.2.~~ a person wishing to make a statement under this protocol shall submit the statement in writing which must be received by the Monitoring Officer or their nominated representative by midday the day before the meeting at which it is to be raised. The person's name and address must be included;

~~13.4.3-13.5.3.~~ a statement at Council shall relate to Council business and shall not exceed ~~400-150~~ words in length. At Full Council no member of the public may submit more than four statements in any one Municipal Year;

~~13.5.4.~~ a statement at Committee, Sub-Committee or Cabinet shall relate to an item of business as defined on the agenda of the meeting at which the statement is made and shall not exceed ~~400-150~~ words in length;

~~13.5.5.~~ for the avoidance of doubt, headings, abbreviations, acronyms and grammatical symbols substituting words shall count towards the 150 word limit, whilst a singular date shall be counted as one word;

~~13.5.6.~~ at Full Council no member of the public may make more than four statements in any one Municipal Year;

~~13.4.4-13.5.7.~~ no member of the public may make more than one statement on any individual item of business as defined on the agenda of the meeting;

~~13.4.5-13.5.8.~~ statements shall be printed in order of receipt and circulated electronically to Councillors prior to the commencement of the meeting and hard copies made available for members of the public attending the meeting. No discussion shall be allowed upon statements;

~~13.4.6-13.5.9.~~ the person making the statement ~~shall normally may~~ attend the meeting to read out their statement, nominate another member of the public or, -However, persons may, if they prefer, ask for an officer of the Council to read out ~~their-the~~ statement on their behalf. If someone is unable to attend and fails to nominate someone to read out the statement on their behalf, the statement will not be read out;

~~13.4.7-13.5.10.~~ if statements are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Council would be likely to consider in the absence of the press and public, the Chair shall have the right to rule the statement out of order;

~~13.4.8-13.5.11.~~ in exceptional cases, members of the public who do not live or work in the administrative area of the Council but who are directly affected by a decision or potential decision of the Council can submit a statement in accordance with the above protocol. In such cases, the Monitoring Officer will determine the validity or otherwise of the statement in consultation with the appropriate Chair.

Petitions

~~13.5.~~13.6. Anyone who lives, works or studies in the Council's area may sign or organise a petition and trigger a response. This includes anyone under the age of 18. This petition scheme explains the rules that the Council will apply to any petition it receives.

~~13.6.~~13.7. Petitions submitted to the Council under this scheme must:

~~13.6.1.~~13.7.1. include a clear and concise statement covering the subject of the petition;

~~13.6.2.~~13.7.2. state what lawful action the petitioners wish the Council to take;

~~13.6.3.~~13.7.3. be signed by at least 20 people supporting the petition;

~~13.6.4.~~13.7.4. include the name and address (in a legible format) and signature of any person supporting the petition together with their connection with the Council's area (i.e., lives, works or studies); and

~~13.6.5.~~13.7.5. contact details, including name, address, telephone number (and where possible, an e-mail address) of the petition organiser.

~~13.7.~~13.8. The petition organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the petition organiser will not be placed on the Council's website.

~~13.8.~~13.9. An electronic petition system is available on the Council's website.

~~13.9.~~13.10. If a petition does not include all of the information required by this scheme it may not be accepted by the Monitoring Officer. In that case, the Council will write to the petition organiser to explain the reasons why.

Petitions not included in this scheme

~~13.10.~~13.11. The Council will not take action on any petition which the Monitoring Officer considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in the acknowledgement of the petition.

~~13.11.~~13.12. This petition scheme does not apply to:

~~13.11.1.~~13.12.1. any petition which is not about a matter for which the Council has a responsibility, or which affects its area;

~~13.11.2.~~13.12.2. any petition relating to a planning or licensing application or decision (which will be referred by the Monitoring Officer to the relevant officer/committee so that it can be considered in accordance with arrangements that the relevant committee has agreed);

~~13.11.3.~~13.12.3. a statutory petition (for example requesting a referendum);

~~13.11.4.~~13.12.4. a petition that is related to confidential staffing matters; or

~~13.11.5.~~13.12.5. a petition relating to a matter where there is already an existing recourse to a review or right of appeal, such as council tax banding and non-domestic rates, where other procedures apply.

~~13.12.~~13.13. In addition, any petition on the same or similar topic as one that the Council has received and dealt with in the previous six months is excluded.

~~13.13.~~13.14. Details of petitions affecting particular wards that have been excluded will be sent to the Councillors representing those wards.

~~13.14.~~13.15. In exceptional cases, members of the public who do not live, work or study in the Council's area but who are, nevertheless, affected by a decision or potential decision of the Council can submit a petition in accordance with this scheme and the Monitoring Officer will determine the relevance of such a petition in consultation with the Chair of Council or with the Chair of the appropriate Committee.

Guidelines for submitting a petition

~~13.15.~~13.16. Petitions can be submitted in paper format or electronically through the Council's e-petition portal.

~~13.16.~~13.17. Paper petitions can be submitted to the Monitoring Officer at the main office of the Council.

~~13.17.~~13.18. The Council will accept e-petitions hosted by third parties which meet the requirements of this scheme, in particular those required by Rule 13.7 of this Part 4D.

~~13.18.~~13.19. If the appropriate threshold is met, petitions can also be presented to a meeting of the Council or its Committees or to the Cabinet. Where the threshold is met for debate at a meeting of Council the petition organiser should contact the Monitoring Officer at least 10 working days before the meeting.

How the Council will respond to a petition

~~13.19.~~13.20. The Council will acknowledge receipt of a petition within 10 working days setting out what the Council plans to do with the petition. The acknowledgment will let the petition organiser know what the Council plans to do with the petition and when they can expect to hear from the Council again. The petition will be published on the Council's website, except in cases where this would be inappropriate. Where the subject matter of the petition affects particular wards, the Councillors representing those wards will be notified of the receipt of the petition.

~~13.20.~~13.21. If paragraph 13.13 applies to the petition, then the Council's acknowledgement will include details of any previous petition on the same topic. If the Council is still considering a petition on the same or similar topic, the acknowledgement will tell the petition organiser that the new petition has been amalgamated with the first petition.

~~13.21.~~13.22. The Council's response to a petition will depend on what a petition asks for, but may include one or more of the following:

~~13.21.1.~~13.22.1. taking the action requested in the petition;

~~13.21.2.~~13.22.2. considering the petition at a meeting of the Council or Cabinet;

~~13.21.3.~~13.22.3. holding an inquiry into the matter;

~~13.21.4.~~13.22.4. holding a public meeting;

~~13.21.5.~~13.22.5. holding a meeting with petitioners or the petition organiser;

~~13.21.6.~~13.22.6. undertaking research into the matter;

~~13.21.7-13.22.7.~~ writing to the petition organiser setting out the Council's views about the request in the petition;

~~13.21.8-13.22.8.~~ referring the petition to an Overview and Scrutiny Committee or another Committee of the Council for consideration;

~~13.21.9-13.22.9.~~ referring the petition, in the first instance, to another formal body of the Council where the subject matter of the petition falls within the scope of the terms of reference of that body.

~~13.22-13.23.~~ The Council's response may also depend on the number of people who have signed the petition. The table below sets out the thresholds:

Number of signatories	Response
20 – 49	Response from relevant director / service head (treated as standard correspondence)
50 – 1,999	Response from relevant Cabinet member
2,000 +	Referred for debate at a meeting of Full Council

~~13.23-13.24.~~ If the Council is able to do what a petition asks, the acknowledgement to the petition organiser may confirm that the Council has taken the action requested and the petition will be closed.

~~13.24-13.25.~~ Where the petition is referred to the relevant Cabinet member for a response, the petition organiser will be invited to make a written statement in support of the petition (if one has not already been included in the petition).

~~13.25-13.26.~~ If the petition has enough signatures to be referred to trigger a debate at a meeting of the Full Council, then the acknowledgment will confirm this and inform the petition organiser when and where the relevant meeting will take place. The Council will try to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting.

~~13.26-13.27.~~ Where the petition is referred to the Full Council, the petition organiser (or any person authorised by them) will, if they so wish, be given a period not exceeding three minutes to present the petition at the meeting and unless the petition is referred to the Overview and Scrutiny Committee or another Committee or Sub-Committee for consideration without debate; the petition will be debated by members. Members may ask questions of the petition organiser. ~~The petition organiser (or any person authorised by them) will be granted a right of reply for a further period not exceeding three minutes at the end of the debate and before a final decision or vote is taken.~~

40. It is RECOMMENDED that the amendments to Part 4D, Procedure Rules 13.4 to 13.27, as set out above, be approved.

Issue 6 – Standards Committee – Arrangements for Dealing with Code of Conduct Complaints

41. The Standards Committee at its meeting on 17 January 2023 passed a resolution for the Constitution Review Working Group to consider an amendment to the arrangements for dealing with allegations of breach of the code of conduct for councillors, as set out in Part 6, Schedule 1 [pages 6-15 to 6-17].

42. The Standards Committee considered that the existing arrangements for councillors to provide a response to a complaint was insufficient and permitted subject councillors to repeatedly delay providing a response.
43. The Constitution Review Working Group considered the response and sought to strengthen the requirement for councillors to respond within a more reasonable time-period. Additional provisions are proposed to provide clarity as to the next steps where the subject Councillor is not compliant. The proposed amendment to the relevant provision is set out below.

ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS

- The Councillor must provide an initial response to the complaint, within five working-14 calendar days, or longer at the discretion of the Monitoring Officer, should then provide an initial response to the complaint. Failure to provide a response in this timeframe is likely to be considered a failure to cooperate with the investigation required under paragraph 8.2 of the Council's Code of Conduct. Unless exceptional circumstances exist which the Monitoring Officer considers justifying an extension of time, the complaint will be referred to the Chair for determination after the 14-day period regardless of whether nor not a response has been received.

44. It is **RECOMMENDED** that the amendments to Part 6, Schedule 1 (Arrangements for dealing with allegations of breach of the Code of Conduct for Councillors), as set out above, be approved.

Issue 7 – Access to documents- Overview and Scrutiny Committees – Referral by Council

45. Full Council at meeting on 5 December 2022 referred the Constitution change relating to Rule 24 to Part 4A of the Constitution back to the Constitution Review Working Group for reconsideration.
46. Previously, the Working Group was advised that the right of the Chair, or in the absence of the Chair, the Vice-Chair of an Overview and Scrutiny Committee to see papers in relation to private decisions of the Cabinet before the decision is made should be subject to Part 4A Rule 24.5 [page 4-17].
47. Rule 24.5 provides that, where the Leader so determines, a member of the Overview and Scrutiny Committees will not be entitled to any document that is in draft form or to the advice of a political advisor.
48. Procedure Rule 24 is informed by Section 17 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The wording of Section 17 of these regulations does not reference documents in draft form and it is understandable how viewing these provisions alone could give rise to an interpretation that the status of a document is irrelevant.
49. However, UK legislation will often contain an 'Interpretation' section which defines the meaning of certain words. The 2012 Regulations contains such a section and in doing so defines the meaning of document as shown below.

Interpretation

2. In these Regulations—

“document” means any report or background papers, other than that only in a draft form, taken into consideration in relation to an executive decision;

50. The Council’s Constitution should not be at variance with primary legislation where such an anomaly exists should seek to rectify the matter.
51. As previously advised this anomaly was introduced inadvertently during a previous redrafting of the Constitution. The introduction of a new sub-heading resulted in these provisions becoming disjointed now requiring the cross-reference to provide clarity.
52. The proposed amendment seeks to remove the ambiguity and seeks to reflect the legislative provision which, as discussed above, takes precedence over the Constitution.

24. Access to documents - Overview and Scrutiny Committees

Right to Copies of Documents

- 24.3. Subject to Rule 24.4 and 24.5 of this Part 4A the Chair, or in the absence of the Chair, the Vice-Chair of the Overview and Scrutiny Committee is entitled to see papers in relation to private decisions of the Cabinet before the decision is made.
- 24.4. Overview and Scrutiny Committee members will be entitled to any such document or part of a document that contains Exempt or Confidential Information unless the Monitoring Officer determines that the information is not relevant to an action or decision they are reviewing or scrutinising or any review contained in any programme of work of the Overview and Scrutiny Committees.

Limits on Right to Copies

- 24.5. Where the Leader so determines, a member of the Overview and Scrutiny Committees will not be entitled to:
 - 24.5.1. any document that is in draft form; or
 - 24.5.2. the advice of a political advisor.

53. It is **RECOMMENDED** that the amendment to Part 4A, Procedure Rule 24.3, as set out above, be approved.

Issue 8 – Planning Committee – Changes to and associated with delegations to the Planning Committee

54. The Working Group received a request to consider changes to the scheme of delegation to the Planning Committee as set out in Part 3A (Responsibility for Functions) [pages 3-7 to 3-9]. The Chair of Planning Committee was also in attendance at the meeting.
55. The suggested changes to the Constitution seek to address issues identified by officers and raised by Councillors in relation to delegations to the Planning Committee. The key focus of the changes is to provisions relating to the Councillor Call-In and the scope for matters being referred to Planning Committee resulting

from 20 representations. All proposed changes have been discussed with the Chairman of Planning Committee.

56. A brief summary of what might be regarded as the more significant changes is as follows:

- Proposed new paragraph 2.4 expressly recognises that any planning matter normally delegated to Officers can be taken to the Planning Committee for a decision where this is considered appropriate. A similar provision is proposed for Licensing Committee. This has the potential to be of significant value, enabling members of the Planning Committee to have the opportunity to engage with a wider range of case specific matters that are identified as potentially benefitting from Councillor input. This is similar to the request under 1(e) above which relates to the Licensing Committee delegations.
- The Councillor Call-In process is simplified by removing the specified need from the existing protocol for a Councillor to first discuss the intended referral with an officer (although this would not prevent them doing so if they wanted to). However, on the back of Councillor input, two key changes are suggested to the process. First, the Constitution will provide that a Councillor sitting on the Planning Committee cannot vote on an item that they call in but (subject to the Councillor Code of Conduct), can still speak to the matter in the same way as any other Councillor in accordance with the relevant speaking protocol (see proposed change to Meeting Procedure Rules). Second, the various actions that must be carried out by a Councillor in submitting a request for Call-In, including in the relevant request form, are more clearly set out. This now includes giving express confirmation in the submitted form that the Councillor has sought to notify all the ward Councillors in whose ward the application falls that they are making a call in request (see existing paragraphs 2.3.1 – 2.3.5 and new proposed paragraphs 2.5.1 and 2.5.2).
- In addition to the changes above, the proposed re-wording further consolidates other various existing provisions relating to the Councillor Call-In provisions (see existing paragraphs 2.2.9 and 2.3.6. and generally proposed new paragraph 2.6). This consolidation is not intended to materially change any of the existing provisions.
- The existing provision for the referral to committee for applications with 20 or more representations is removed (existing paragraph 2.2.8). It is anticipated that, coupled with the proposed changes to the Councillor Call-In process, that these changes may help encourage constituents to interact with their ward councillors and give greater prominence to the role that Councillors can have in helping develop their area.

57. The changes requested are as follows:

2. Planning Committee

- 2.1. All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer as set out in the Chief Executive's Scheme of Delegation to determine, other than those matters as set out below which shall be the responsibility of the Planning Committee.
- 2.2. The Planning Committee has responsibility to determine the following:
 - 2.2.1. applications submitted by or on behalf of a Councillor or direct family (spouse or civil partner) of a Councillor for any property or land in which they have a financial interest;

- 2.2.2. applications submitted by or on behalf of a current Officer:
- working within the planning section; or
 - at Tier 3 level and above; or
 - direct family (spouse or civil partner) of Officers identified under 2.2.2 a) and b); or
- for any property or land in which they have a financial interest;
- 2.2.3. applications referred to the Committee by the relevant senior planning officer for one or more of the following reasons:
- applications where there are material planning issues that have not previously been considered within the Council's area;
 - applications where a national or local planning policy is being tested for the first time within the Council's area;
 - applications which have a significant impact on a wide number of businesses and / or people;
 - applications which have a finely balanced Officer recommendation;
 - applications by or on behalf of a planning Officer who has recently left the organisation or one of the preceding councils; and/or
 - applications that the Head of Planning considers are potentially contentious and raise material planning issues, or would affect the wider public interest;
- 2.2.4. applications where the Council is the applicant or landowner for major development proposals as defined in the Development Management Procedures Order;
- 2.2.5. significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State;
- 2.2.6. applications which require an Environmental Impact Assessment except where the relevant senior planning officer considers that approval of the application would not lead to significant environmental impacts;
- 2.2.7. an application which a Councillor requests should be referred to the Planning Committee ("Councillor Call-In") provided that all of the following criteria are met:
- in the opinion of the Councillor making the request, the application is (i) potentially contentious; and (ii) raises material planning issues that affect their ward or would affect the wider public interest; and
 - the request Councillor has submitted the referral to planning committee request in accordance with the local planning authority's agreed call-in protocol (as set out at paragraphs 2.3-5 and 2.6 to this Part 3A); and
 - the Application is not one of the following:
 - Permission in Principle (PiPs)
 - Lawful Development Certificates (LDC) (existing or proposed)
 - Prior Approvals and Prior Notifications
 - non-material amendments
 - applications other than "major", "minor" and "householder".

and
- ~~2.2.8. applications where there have been 20 or more representations received within the initial or any subsequent notification period, based on material planning issues, from separate addresses that are contrary to the recommendation of the planning officer. The Head of Planning has the authority to make the decision as to whether the contrary representations are based on material planning issues.~~
- ~~2.2.9. With reference to Councillor call in powers at 2.2.7 above, a Councillor may make a request that an application be considered by Planning Committee conditional upon a recommendation to grant or refuse, or may make an unconditional request. A Councillor may also withdraw a request at any time up to seven calendar days before publication of the relevant Committee agenda. Any request should be made in writing on the form provided for the purpose.~~

2.3. The Planning Committee has power to receive and provide comment on presentations relating to pre-application planning proposals that the relevant senior planning officer considers appropriate having regard to the Council's Local Code of Best Practice relating to Planning Matters and any extant guidelines agreed by the Planning Committee.

2.4 In addition to the powers identified above, the Planning Committee has the power to consider and determine any matter arising in relation to any Town and Country Planning Legislation where that matter has been expressly referred to the Planning Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Officer Scheme of Delegations.

2.5 The requirements of the call-in protocol referred to at 2.2.7 above ~~is~~ are as follows:

~~2.5.1. a formal referral request must be submitted on the Council Planning Committee referral form;~~

~~2.3.2. the request is submitted on the latest Planning Committee Referral Form all produced for that purpose ("Planning Committee Referral Form") and all parts of the submitted planning Planning committee Committee referral Referral request form Form must have been completed. This includes setting out:~~

~~-for the request to be considered as valid and compliant with the provisions set out in paragraph 2.2.7 of Part 3A of the Constitution; a) why the application is considered to be potentially contentious;~~

~~b)2.3.3. the form must set out planning the material planning reasons that the Councillor considers are material to the application that justify the referral;~~

~~c) why it is considered that the application will affect the ward of the Councillor making the referral or why the Councillor considers that the application would affect the wider public interest for the referral; and that warrant the application being considered by Planning Committee;~~

~~d) confirmation that the Councillor, in advance of submitting the Planning Committee Referral Form, has used their reasonable endeavours to notify all Councillors in whose ward the application site (of the application) is situated in whole or part that they are making a call in request; and~~

~~2.3.4. the ward Councillor must have first discussed the planning application with the planning case officer before submitting a Planning Committee referral form. This discussion should take place within the initial planning application notification period. In these discussions, and prior to submitting the form, the ward Councillor must advise the officer whether they are considering submitting a Planning Committee referral request form so the officer can update the ward Councillor on progress before a recommendation is made.~~

~~2.5.2. to ensure resilience that the planning committee referral requests are formally received by the case officers, request forms should the completed Planning Committee Referral Form:~~

~~a) has been submitted by the Councillor making the request by email and received in the inbox of -be submitted by email to both the case officer and the relevant office inbox as follows:~~

~~ai) an application where the application site is wholly or partly in the former Bournemouth Council area -
planning.bournemouth@bcpcouncil.gov.uk;~~

~~bii) an application where the application site is wholly or partly in the former Christchurch Council area -
planning.christchurch@bcpcouncil.gov.uk;~~

~~ciii) an application where the application site is wholly or partly in the former Poole Council area planning.poole@bcpcouncil.gov.uk.~~

~~or any other inbox notified to Councillors for this specific purpose (N.B. if an application crosses more than one former Council area then the request must be sent to both relevant office email addresses); and~~

- b) is received no later than 4pm of the last day of any initial or subsequent notification period as identified on the posted planning site notice relating to that application or any other related notification period provided by the Council if no planning site notice is posted.

2.6 With regard to the Councillor Call-In:

- a) a Councillor may make the request that the application be called in conditional upon the case officer recommendation being to either grant or refuse or in the alternative may make the request unconditional;
- a) a request may be withdrawn by the Councillor by sending an email notification to both the case officer and the relevant office inbox (see paragraph 2.5.2 above), that is received in both inboxes no later than 7 calendar days prior to the agenda publication date of the relevant Planning Committee meeting; and
- b)
- c) in the event of any of the requirements relating to the Councillor Call-In not being met, the Councillor Call-In will not have been validly made and Councillors should be aware that a decision may (subject to the exercise of the option in paragraph 2.4 above) at any time thereafter be made by officers under delegated powers.
- ~~2.3.6. Once the notification period has expired and the officer has not had any contact from a ward Councillor in respect of a potential planning committee referral, Councillors are to be aware that officers are able to make decisions on planning applications under delegated powers in accordance with the Council scheme of delegation.~~

Changes to Part 4D – Meeting Procedure Rules

Add new paragraph at the end of Section 18 – Voting

- 18.9 Where an application falls to be determined by Planning Committee that is subject to the exercise of a Call-in power by a Councillor under section 2 of Part 3A of the Constitution, the Councillor shall not be permitted to vote on that item but subject to any requirements of the Member Code of Conduct, may speak in relation to it as a Councillor to the extent as provided for in any protocol adopted by Planning Committee.**

58. It is RECOMMENDED that the amendments to Part 3A, Responsibility for Functions – Planning Committee, and the new paragraph 18.9 to Part 4D, Meeting Procedure Rules - Voting, as set out above, be approved.

Summary of financial implications

59. There are no financial implications arising from this report and the recommendations of the Working Group, however, attention is drawn to Issue 4 and the capacity constraints to support additional meetings.

Summary of legal implications

60. The Constitution of the BCP Council complies with relevant legislation. As identified in paragraph 13 some of the proposed changes are to give clarity as to the status of various existing and proposed protocols having regard to recent relevant case law.

Summary of human resources implications

61. There are no human resource implications arising from this report.

Summary of sustainability impact

62. There are no sustainability implications arising from this report.

Summary of public health implications

63. There are no public health implications arising from this report.

Summary of equality implications

64. An Equality Impact Assessment was completed which was informed by conversations with relevant officers and the Working Group in relation to each of the proposed changes to the Constitution.
65. Although the previous recommendations regarding public participation included provision for anyone submitting a question or statement to nominate another person to attend and read out their submission if they were unable to attend, it was acknowledged that this could have a direct impact on individuals with certain disabilities.
66. The recommendations have, as a direct consequence of those representations, been extended to allow anyone to nominate either another member of the public or an officer to read out their question or statement.

Summary of risk assessment

67. The Constitution is a legally required document which prescribes the procedural and democratic arrangements for the proper governance of the Council.

Background papers

Published works

Appendices

There are no appendices to this report.

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