

# West Devon Audit Committee



West Devon  
Borough  
Council

<b>Title:</b>	<b>Agenda</b>
<b>Date:</b>	<b>Tuesday, 5th July, 2016</b>
<b>Time:</b>	<b>2.00 pm</b>
<b>Venue:</b>	<b>Chamber - Kilworthy Park</b>
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Davies <b>Vice Chairman</b> Cllr Moody</p> <p><i>Members:</i> Cllr Jory Cllr Watts Cllr Stephens</p>
<b>Substitutes:</b>	Councillors:
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
<b>Committee administrator:</b>	Member.Services@swdevon.gov.uk

**1. Apologies for absence**

**2. Declarations of interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda then please contact the Monitoring Officer in advance of the meeting.

**3. Items Requiring Urgent Attention**

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

**4. Confirmation of Minutes**

**1 - 4**

Meeting held on 15 March 2016;

**5. Interim Audit Report 2015/16**

**5 - 16**

Report of KPMG;

**6. Annual Audit Fee 2015/16**

**17 - 24**

Report of KPMG;

**7. Local Authority Corporate Risk Register Analysis**

**25 - 32**

Report of KPMG;

**8. Annual Governance Statement 2015/16**

Report of Finance COP Lead; (to follow)

**9. Internal Audit Annual Report 2015/16 33 - 54**

Report of Internal Audit Manager;

**10. Appointment of External Auditors 55 - 64**

Report of Internal Audit Manager;

**11. Update on Anti-Fraud, Corruption and Bribery Policy and Strategy, Anti Money Laundering Policy and Confidential Reporting Policy 65 - 132**

Report of Legal COP Lead.

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# Agenda Item 4

At a Meeting of the **AUDIT COMMITTEE** held in the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the 15<sup>th</sup> day of **MARCH 2016** at **11.00am**

**Present:** Cllr M Davies (Chairman)

Cllr J Yelland

Cllr N Jory

Cllr L Watts

**Substitutes:** Cllr J Yelland for Cllr B Stephens

**Officers in attendance:** Finance Community of Practice Lead  
Deputy 151 Officer  
Finance Business Partner (AW)  
Case Manager, Strategy & Commissioning  
Business Development Group Manager  
Darren Gilbert, KPMG  
Rob Hutchings and Brenda Davies, Devon  
Internal Audit Partnership

**Also in attendance:** Cllr A F Leech

**\*AC 28 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllrs J B Moody, B Stephens and W G Cann OBE

**\*AC 29 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 19 January 2016 were confirmed and signed by the Chairman as a correct record.

**\*AC 30 EXTERNAL AUDIT PLAN 2015/16**

Mr Gilbert presented the External Audit Plan for 2015/16 for Members.

Following the presentation, Members had no issues to raise and without further discussion, it was then **RESOLVED** that the report be noted.

**\*AC 31 LOCAL GOVERNMENT BUDGET SURVEY FEBRUARY 2016**

Mr Gilbert presented the KPMG produced Local Government Budget Survey for February 2016.

Following the presentation, Members had no issues to raise and without further discussion, it was **RESOLVED** that the report be noted.

**AC 32 2016/17 TREASURY MANAGEMENT STRATEGY**

The S151 Officer took Members through the report that sought approval of the proposed Treasury Management and Investment Strategies, together with their associated prudential indicators.

In discussion, it was noted that Treasury Management training was needed for Members and should be included in the Learning and Development Plan.

It was then **RESOLVED** that Council be **RECOMMENDED** to approve the following:

1. The prudential indicators and limits for 2016/17 to 2018/19 contained within Appendix A of the presented agenda report.
2. The Minimum Revenue Position (MRP) statement contained within Appendix A of the presented agenda report which sets out the council's policy on MRP.
3. The Treasury Management Strategy 2016/17 and the treasury prudential indicators 2016/17 to 2018/19 that are contained within Appendix B of the presented agenda report.
4. The Investment Strategy 2016/17 (as contained within Appendix C of the presented agenda report) and the detailed criteria included in Appendix D of the presented agenda report.

### **AC 33 REVIEW OF THE COUNCIL'S CONSTITUTION**

The S151 Officer took Members through a report that presented the annual review of the Council Constitution.

It was then **RESOLVED** to **RECOMMEND** that Council approve the amendments to the West Devon Borough Council Constitution (as summarised in paragraph 2 of the presented agenda report and fully outlined on the website) and that the revised Constitution be formally adopted at the Annual Council Meeting in May 2016.

### **AC 34 STRATEGIC RISK ASSESSMENT – REGULAR UPDATE**

The Business Development Group Manager took Members through the report that provided a six monthly update on Risk Management.

It was noted that SPARSE will continue with their lobbying of the Government for more rural services deliver grant funding for rural Councils. In reply to a Member question in regard to the joint Procurement Strategy, the S151 Officer confirmed that service area Managers would receive training in procurement.

It was then **RESOLVED** that the Committee has reviewed the strategic risks and has been given the opportunity to make recommendations to Council on any further action that should be considered.

### **\*AC 35 UPDATE ON PROGRESS ON THE 2015/16 INTERNAL AUDIT PLAN**

The internal auditor (BD) took Members through a report that informed them of the principal activities and findings of the Council Internal Audit team for 2015/16 to 31 January 2016.

It was then **RESOLVED** that the report be noted.

**\* AC 36 2016/2017 INTERNAL AUDIT PLAN**

The internal auditor (RH) took Members through the report that sought to provide the Committee with the opportunity to review and comment upon the proposed internal audit plan for 2016/17

It was then **RESOLVED** that:

1. The report be noted; and
2. The proposed Internal Audit Plan for 2016/17 at Appendix A of the presented report be approved.

(The Meeting terminated at 11.40am)

Dated this

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Chairman

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# Interim Audit Report 2015/16



West Devon Borough Council  
June 2016

# Contents

The contacts at KPMG  
in connection with this  
report are:

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## Report sections

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This report is addressed to the Authority and has been prepared for the sole use of the Authority. We take no responsibility to any member of staff acting in their individual capacities, or to third parties. Public Sector Audit Appointments issued a document entitled Statement of Responsibilities of Auditors and Audited Bodies summarising where the responsibilities of auditors begin and end and what is expected from audited bodies. We draw your attention to this document which is available on Public Sector Audit Appointment's website ([www.psa.co.uk](http://www.psa.co.uk)).

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

We are committed to providing you with a high quality service. If you have any concerns or are dissatisfied with any part of KPMG's work, in the first instance you should contact Darren Gilbert, the engagement lead to the Authority, who will try to resolve your complaint. If you are dissatisfied with your response please contact the national lead partner for all of KPMG's work under our contract with Public Sector Audit Appointments Limited, Andrew Sayers (on 0207 694 8981, or by email to [andrew.sayers@kpmg.co.uk](mailto:andrew.sayers@kpmg.co.uk)). After this, if you are still dissatisfied with how your complaint has been handled you can access PSAA's complaints procedure by emailing [generalenquiries@psaa.co.uk](mailto:generalenquiries@psaa.co.uk), by telephoning 020 7072 7445 or by writing to Public Sector Audit Appointments Limited, 3rd Floor, Local Government House, Smith Square, London, SW1P 3H.



This document summarises the key findings arising from our work to date in relation to the audit of the Authority's 2015/16 financial statements.

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### Scope of this report

This report summarises the key findings arising from:

- Our interim audit work at West Devon Borough Council ('the Authority') in relation to the Authority's 2015/16 financial statements
- This report does not cover our 2015/16 value for money (VFM) conclusion. Our work in relation to this will be undertaken during July 2016.

### Financial statements

Our *External Audit Plan 2015/16*, presented to you in March 2016, set out the four stages of our financial statements audit process.

During January to May 2016 we completed our planning and control evaluation work. This covered:

- Review of the Authority's general control environment, including the Authority's IT systems;
- Testing of certain controls over the Authority's key financial systems;
- Review of relevant internal audit work which we are seeking to reply upon; and
- Review of the Authority's accounts production process, including work to address prior year audit recommendations and the specific risk areas we have identified for this year.

### VFM conclusion

Our *External Audit Plan 2015/16* explained our risk-based approach to VFM work, which is supported by the Code of Audit Practice, published by the NAO in April 2015.

We will complete our work in response to the specific risks identified during our final visit in July. The results of this work will be reported in our ISA 260 Report 2015/16.

### Structure of this report

This report is structured as follows:

- Section 2 summarises the headline messages.
- Section 3 sets out our key findings from our interim audit work in relation to the 2015/16 financial statements.

Our recommendations are included in Appendix 1.

### Acknowledgements

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



This table summarises the headline messages. The remainder of this report provides further details on each area.

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<p><b>Organisational and IT control environment</b></p>	<p>Your organisational control environment is effective overall.</p> <p>The council has appropriate procedures for monitoring budgets, strategic plans and risks, and compliance with its constitution. Sufficient procedures are also in place for identifying related parties and responding to fraud.</p> <p>The IT team and structure in place at the Council has been reduced in size, but provides the key functions that we would expect of such an authority. Our review of Internal Audit's work, however, did suggest that annual disaster recovery exercises have not been performed, combined with issues identified in relation to the communication and updating of documents in the area of emergency planning. These issues have been raised by Internal Audit and as a result no recommendations are raised in this report.</p>
<p><b>Controls over key financial systems</b></p>	<p>In relation to those controls upon which we will place reliance as part of our audit, the key financial systems are generally sound.</p> <p>Despite this, we did identify potential improvements which are detailed further in <a href="#">Appendix 1</a>.</p>
<p><b>Review of internal audit</b></p>	<p>Reports and working papers produced by Internal Audit appeared to be of an appropriate standard.</p> <p>In the main, these reports did not relate to the financial controls we sought to rely on for our audit purposes, however, so only limited reliance has been placed upon the work of Internal Audit.</p>
<p><b>Accounts production and specific risk areas for the Authority</b></p>	<p>The Authority's overall process for the preparation of the financial statements is strong.</p> <p>The Authority has a closedown schedule in place identifying areas and responsibilities for key areas. We will revisit these areas during our final accounts audit.</p>

# Organisational and IT control environment



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Your organisational control environment is effective overall.

**Work completed**

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

We obtain an understanding of the Authority’s overall control environment and determine if appropriate controls have been implemented. We do not complete detailed testing of these controls.

**Key findings**

We consider that your organisational controls are effective overall.

Despite this, Internal Audit identified areas where further improvements could be made in relation to:

- The expected annual IT disaster recovery exercise has not been undertaken during the year; and
- Policies, plans and guidance relating to disaster recovery had not been subject to formal review within a reasonable timeframe and access to such has been restricted to the extent that senior leadership may be unable to familiarise themselves with it.

As these matters have already been raised by Internal Audit, we have not included separate recommendations in this report.

Aspect	Assessment
Organisational controls:	
Management’s philosophy and operating style	3
Culture of honesty and ethical behaviour	3
Oversight by those charged with governance	3
Risk assessment process	3
Communications	3
Monitoring of controls	2
IT Environment	3

- Keys:
- Significant gaps in the control environment.
  - Deficiencies in respect of individual controls.
  - Generally sound control environment.



We placed limited reliance on Internal Audit's work on the key financial systems.

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### Background

United Kingdom Public Sector Internal Audit Standards (PSIAS) apply across the whole of the public sector, including local government. These standards are intended to promote further improvement in the professionalism, quality, consistency and effectiveness of internal audit across the public sector. Additional guidance for local authorities is included in the Local Government Application Note on the PSIAS.

### Work completed

The scope of the work of your internal auditors (the Devon Audit Partnership) and their findings informs our audit risk assessment.

We work with your internal auditors to assess the control framework for certain key financial systems and seek to rely on any relevant work they have completed to minimise unnecessary duplication of work. Our audit fee is set on the assumption that we can place appropriate reliance on their work.

Where we intend to rely on internal audit's work in respect of the Authority's key financial systems, auditing standards require us to complete an overall assessment of the internal audit function and to evaluate and test aspects of their work.

The Public Sector Internal Audit Standards define the way in which the internal audit service should undertake its functions. The Devon Audit Partnership updates the internal audit charter and strategy each year. This is subsequently reviewed by the Council's Audit Committee. We have reviewed the latest 2015-16 internal audit charter and strategy and the Audit Committee's subsequent review and approval of this.

We have also reviewed the internal audit function and the reports received at the time of our interim visit.

### Key findings

We noted that the size of the internal audit plan for the Authority was smaller than we would normally expect for a borough council. We recognise that this reflects the arrangements whereby the provision of internal audit services is shared with South Hams District Council. As a result of this, the number of days stated in the Authority's internal audit plan constitutes a contribution to a larger plan covering both councils and that this results in economies of scale and savings for the Authority.

Based on the Audit Committee's review of the internal audit charter and strategy, our assessment of their reports, attendance at Audit Committee and other meetings during the course of the year, we have not identified any significant issues which would indicate internal audit are not compliant with the PSIAS.

We were able to place reliance upon the work of Internal Audit in line with our planned usage for the year.

We are mindful that internal audit try to cover testing that covers the whole of the Authority's financial year and in some instances because of the timing of their work, the close down meetings or draft internal audit reports have not been finalised in time for our interim work.

As a result of this there is a potential that findings will be revised. Where this happens, additional work may be required to meet our own requirements. No such work has been required to date, and we will liaise with the Authority in the event that such a need arises.

# Controls over key financial systems



The controls over the majority of the key financial systems are sound. However, there are some improvements noted in Appendix 1.

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### Work completed

We review the outcome of internal audit’s work on the financial systems to influence our assessment of the overall control environment, which is a key factor when determining the external audit strategy.

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

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

We considered that the most efficient approach for this first year audit was to perform our own controls review and testing of the accounts processes on the right. Depending on the process, this involved reviewing reconciliations and other checks, identifying documentation behind individual transactions, and reviewing evidence of arrangements ahead of year-end processes.

### Key findings

Based on our work, in relation to those controls upon which we will place reliance as part of our audit, the key financial systems are generally sound. However, we have identified several improvements connected with individual processes as follows:

- There was a lack of evidence of review of reconciliations, following the council’s transition to being paperless. It is understood the possibility of using digital signatures is being explored, and we recommend this is pursued where practical;
- We also recommend formal monitoring of the level of ‘unmatched’ items in each month’s cumulative bank reconciliation to further improve cash processes;

- Our consideration of the Council’s monthly benefits review noted commentary was lacking in some months, although in each case, the benefits team did ‘catch up’ in the following month;
- The timeliness of reconciliations between the payroll system and general ledger could be enhanced; and
- There was a lack of evidence of consideration of the reconciling items arising following the preparation of the monthly creditor and purchasing reconciliations.

Our testing of the shared payroll controls in operation identified areas for improvement in relation to the processes over starters and leavers in the sample tested for South Hams District Council. Whilst no recommendation has been raised in this report, we have done so for South Hams District Council and it should be noted that this is a common control at both councils and will be responded to by the Authority’s shared management.

Financial system	Controls Assessment
Property, Plant and Equipment	3
Cash and Cash Equivalents	2
Pension Assets and Liabilities	3
Non pay expenditure	2
Payroll	2
Housing benefits expenditure	3
Business rates and council tax income	3

Keys: ● Significant gaps in the control environment.  
 ● Deficiencies in respect of individual controls.  
 ● Generally sound control environment

# Accounts production process



The Authority's overall process for the preparation of the financial statements is adequate.

## Accounts production process

We issued our Interim Accounts Audit Protocol to the Director of Finance on 23 February 2016. This document summarises the working papers and other evidence we require the Authority to provide to support our audit work.

We will continue to meet with the finance team on a regular basis to support them during the financial year end closedown and accounts preparation.

## Key findings

We consider that the plans for the preparation of your financial statements is adequate based on our review to date of the year end closedown process.





The Authority has a good understanding of the key audit risk area we identified and is making progress in addressing it.

However, this still presents a significant challenge that requires careful management and focus. We will revisit this areas during our final accounts audit.

### Work completed

In our *External Audit Plan 2015/16*, presented to you in March, we identified one key audit risk affecting the Authority's 2015/16 financial statements.

Our audit strategy and plan remain flexible as risks and issues change throughout the year. To date there have been no changes to the risks previously communicated to you.

We have been discussing this risk with finance officers as part of our meetings. In addition, we will seek to review relevant workings and evidence, and agree the accounting treatment, as part of our final work.

### The risk requiring specific audit attention and procedures to address the likelihood of a material financial statement error.

#### Significant Risk 1 - Allocation of Shared Costs

##### — Outline of risk:

*The Authority operates a shared service with its neighbour, South Hams District Council. As a result of this arrangement, costs are initially borne by each council individually, and then an exercise is undertaken to ensure that these are shared on an appropriate and consistent basis. This is essential to ensuring that the Authority recognises its full costs and to prevent cross subsidy between the two councils. In order to operate effectively, the allocation of costs must be undertaken on an appropriate basis which reflects the nature of the underlying activities and the way in which the resources are consumed.*

##### — Interim/Preliminary assessment and work undertaken:

*This risk was discussed at our interim visit. It was established that whilst a number of overheads are relatively straightforward to apportion (for example, using the number of calls in the year), other areas (such as allocating other staff costs) requires more judgement.*

*Our plan is to review the balances and the bases of apportionment during our year-end visit. We will consider obtaining confirmations from individuals alongside other audit procedures to gain reasonable assurance over the more judgemental apportionment.*

### Key findings

The Authority has a clear understanding of the risk and is making progress in addressing it. However, this still presents a significant challenge that requires careful management and focus. We will revisit this areas during our final accounts audit.

The table below provides a summary of the work the Authority has completed to date to address this risk.

# Key issues and recommendations

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

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

We will formally follow up these recommendations next year.

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

No.	Risk	Issue and recommendation	Management response/responsible officer/due date
1	<b>3</b>	<p><b>Review of Benefit Payments</b></p> <p>We reviewed the Benefits team’s monthly checking of benefits claims and related payments. For each month tested, the spreadsheet extracted from Northgate was appropriately produced. However, the manual checking to supplement these was not always evident.</p> <p>If benefit payments go unchecked, there is a risk that administrative errors in payment could approach more material levels.</p> <p>We did note that in the case of each month we selected where this was noted, checking was performed in the subsequent month.</p> <p><b>Recommendation</b></p> <p>Due to business needs, it may be difficult to fully evidence such checks each month, although we recommend that this is performed. It may be possible to assign specific areas of checking to different team members to the extent that no single individual completes a month’s checks. This might also enable better segregation of duties.</p> <p>Ensure that the checks are signed off or more formally reviewed in line with our recommendation regarding reconciliations more generally.</p>	<p>Agreed.</p> <p>The Finance Community of Practice team will work with the Benefits team and Case Management (Support Services) team to ensure that all benefit payments to/from the Council are appropriately reconciled and signed off as complete. Evidence of the checks will be maintained. The teams will look to ensure that plans are documented and circulated to responsible officers.</p> <p>The Deputy S151 Officer will also attend the monthly reconciliations meetings with the Case Management (Support Services) team to discuss any issues with implementing the above and to ensure that all of the external audit points are addressed and best practice followed.</p> <p><b>Responsible Officer</b></p> <p>Deputy S151 Officer in consultation with the Lead for Case Management (Support Services)</p> <p><b>Implementation Deadline</b></p> <p>September 2016</p>

# Key issues and recommendations (cont.)

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

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

We will formally follow up these recommendations next year.

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No.	Risk	Issue and recommendation	Management response/responsible officer/due date
2	3	<p><b>Review of Reconciliations</b></p> <p>There is a lack of formal evidence of review following the council's transition to being paperless. In some cases, it is possible to follow comments and to assess whether the reconciliations have been adequately prepared. However, staff with access to the saved locations could amend such comments.</p> <p>Furthermore, in the case of some of the prepared reconciliations, it is harder to judge management's awareness of the items contained therein. The monthly purchasing and creditors reconciliations are generated and produced, but with the absence of comments. As a result it is hard to assess whether management is content for reconciling items to be left until the next month or whether further investigation is required. Equally, while commentary is evident on bank reconciliations, part of the reconciliation to the bank balance is categorised by 'unmatched' items next to which no further commentary is provided.</p> <p><b>Recommendation</b></p> <p>Explore the possibility of implementing digital signatures. Assessing which reconciliations should be signed off is a matter of judgement and practicality. In particular, we recommend signing the monthly bank reconciliations, as this adds a layer of accountability and traceability against the risk of material fraud.</p> <p>Introduce further commentary and/or monitoring of the level of 'unmatched' items in each month's reconciliation to address the points above.</p>	<p>Agreed.</p> <p>The Finance Community of Practice team and the Case Management (Support Services) team will look to introduce electronic digital signatures and document procedures for commentary to be added to reconciliations. The monthly bank reconciliations will be signed and evidenced as such, with commentary on the 'unmatched' items.</p> <p>There have been issues with the reports for the monthly purchasing and creditors reconciliations which the Lead for Case Management (Support Services) has been in regular discussion with the software supplier about. This has now been resolved.</p> <p>The Deputy S151 Officer will also attend the monthly reconciliations meetings with the Case Management (Support Services) team to discuss any issues with implementing the above and to ensure that all of the external audit points are addressed and best practice followed.</p> <p><b>Responsible Officer</b></p> <p>Deputy S151 Officer in consultation with the Lead for Case Management (Support Services)</p> <p><b>Implementation Deadline</b></p> <p>September 2016</p>



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Our ref **WDBC/1617/Fee Letter**  
  
Contact **Adam Bunting**  
**+44 (0)117 905 4470**

5 April 2016

Dear Lisa

## **Annual audit fee 2016/17**

I am writing to confirm the audit work and fee that we propose for the 2016/17 financial year at West Devon Council. Our proposals are based on the risk-based approach to audit planning as set out in the Code of Audit Practice and Public Sector Audit Appointments Ltd's (PSAA's) published work programme and fee scales.

### ***Planned audit fee***

The planned audit and certification fees for 2016/17 are shown below, along with a comparison to the prior year's fee. All fees are exclusive of VAT.

<b>Audit area</b>	<b>Planned fee 2016/17</b>	<b>Planned fee 2015/16</b>
Code of Audit Practice audit fee	39,396	39,396
Certification of housing benefit grant claims	5,340	5,630

PSAA has set the 2016/17 scale fee for the audit of Council's financial statements at the same level as for 2015/16, thereby preserving the 25 per cent reductions that were applied that year which in turn was in addition to the savings of up to 40 per cent in scale audit fees and certification fees in 2012/13. The planned fee is in line with the scale fee.

As we have not yet completed our audit for 2015/16 the audit planning process for 2016/17, including the risk assessment, will continue as the year progresses and fees will be reviewed and updated as necessary. We will naturally keep you informed.

### ***Redistribution of Audit Commission surplus***

Following completion of the Audit Commission's 2014/15 accounts, PSAA received a payment in respect of the Audit Commission's retained earnings. PSAA will distribute this and any other surpluses from audit fees to audited bodies, on a timetable to be established by the PSAA Board.

This distribution will be made directly by PSAA and not via KPMG. Based on current information, PSAA anticipates that the amount of the redistribution is likely to be in the order of 15% of the scale fee.

### ***Factors affecting audit work for 2016/17***

We plan and deliver our work to fulfil our responsibilities under the Code of Audit Practice (the Code) issued by the National Audit Office (NAO). Under the Code, we tailor our work to reflect local circumstances and our assessment of audit risk. We do this by assessing the significant financial and operational risks facing an audited body, and the arrangements it has put in place to manage those risks, as well as considering any changes affecting our audit responsibilities or financial reporting standards.

CIPFA/LASAAC has confirmed that the 2016/17 *Code of Practice on Local Authority Accounting in the United Kingdom* will adopt the measurement requirements of the CIPFA *Code of Practice on Transport Infrastructure Assets* for highways network assets. CIPFA/LASAAC has indicated that it is unlikely that these changes will apply to district councils as it is unlikely that they hold assets which form part of the highways network, however this will need to be assessed by the Authority. If the Authority does hold material highways network assets then this change will require additional work in 2016/17, but PSAA has indicated that it is not appropriate to increase the scale fees to cover the costs of this work because the amount of work required at individual authorities will vary based on local circumstances. The fees for this additional work will therefore be discussed and agreed with you in due course and will be subject to PSAA's normal fee variation process. PSAA expects that the additional fees for a non-highways authority to be up to £5,000, where authorities are able to provide the information required and the auditor is able to rely on central assurance of the valuation models in use. This amount is indicative and therefore higher costs may be necessary.

Under the Code, we have a responsibility to consider an audited body's arrangements to secure economy, efficiency and effectiveness in its use of resources and to do this we will undertake appropriate value for money (VFM) audit work. The 2016/17 fees have been set on the basis that the NAO's Code and supporting guidance does not change the level of work required on the VFM audit. Should this not be the case, or if new or increased significant VFM audit risks arise that require further audit work, additional fees will be necessary over and above the scale fee. Any such additional fees will be subject to approval through PSAA's fee variation process.

### ***Certification work***

As well as our work under the Code, we will certify the 2016/17 claim for housing benefit subsidy to the Department for Work & Pensions. The PSAA indicative scale fee for this work has decreased slightly for 2016/17, reflecting the outcome of previous certification of the Council's housing benefit subsidy claim.

There are no longer any other claims or returns that we are required to certify under the PSAA audit contract. Assurance arrangements for other schemes are a matter for the relevant grant-paying body, and may be the subject of separate fees and tri-partite arrangements between the grant-paying body, the audited body, and the auditor. We would be happy to discuss any such certification needs with you.

### ***Assumptions***

The indicative fees are based on a number of assumptions, including that you will provide us with complete and materially accurate financial statements with good quality supporting working papers, within agreed timeframes. It is imperative that you achieve this. If this is not the case and we have to complete more work than was envisaged, we will need to charge additional fees for this work. Our assumptions are set out in more detail in Appendix 1 to this letter.

In setting the fee at this level, we have assumed that the general level of risk in relation to the audit of the financial statements and certification work is not significantly different from that identified for the current year's audit. A more detailed audit plan will be issued early next year. This will detail the risks identified, planned audit procedures and (if required) any changes in fee. If we need to make any significant amendments to the audit fee during the course of the audit, I will first discuss this with you and then prepare a report for the Audit Committee, outlining the reasons why the fee needs to change.

We expect to issue a number of reports relating to our work over the course of the audit. These are listed at Appendix 2. A statement of our independence is included at Appendix 3.

The proposed fee excludes any additional work we may agree to undertake at the request of West Devon Borough Council. Any such piece of work will be separately discussed and a detailed project specification agreed with you.

***Our team***

The key members of our audit team for the 2016/17 audit are:

<b>Name</b>	<b>Role</b>	<b>Contact details</b>
Darren Gilbert	Engagement Leader	darren.gilbert@kpmg.co.uk 0292 046 8205
Adam Bunting	Manager	adam.bunting@kpmg.co.uk 0117 905 4470

***Quality of service***

We are committed to providing you with a high quality service. If you have any concerns or are dissatisfied with any part of KPMG's work, in the first instance you should contact me and I will try to resolve your complaint. If you are dissatisfied with your response please contact the national contact partner for all of KPMG's work under our contract with PSAA, Andy Sayers ([andrew.sayers@kpmg.co.uk](mailto:andrew.sayers@kpmg.co.uk)). After this, if you are still dissatisfied with how your complaint has been handled you can access PSAA's complaints procedure by emailing [generalenquiries@psaa.co.uk](mailto:generalenquiries@psaa.co.uk), by telephoning 020 7072 7445 or by writing to:

Public Sector Audit Appointments Limited  
3rd Floor  
Local Government House  
Smith Square  
London  
SW1P 3HZ

Yours sincerely



Darren Gilbert  
Director, KPMG LLP



## **Appendix 1 – Audit fee assumptions**

In setting the fee, we have assumed that:

- the level of risk in relation to the audit of the financial statements is not significantly different from that identified for 2015/16;
- you will inform us of significant developments impacting on our audit work;
- internal audit meets the appropriate professional standards;
- internal audit undertakes appropriate work on all systems that provide material figures in the financial statements sufficient that we can place reliance for the purposes of our audit;
- you will identify and implement any changes required under the CIPFA IFRS-based Code of Practice on local Authority Accounting within your 2016/17 financial statements;
- your financial statements will be made available for audit in line with the timetable we agree with you;
- good quality working papers and records will be provided to support the financial statements in line with our *prepared by client* request and by the date we agree with you;
- requested information will be provided within agreed timescales;
- prompt responses will be provided to draft reports;
- complete and accurate claims and returns are provided for certification, with supporting working papers, within agreed timeframes; and
- additional work will not be required to address questions or objections raised by local government electors or for special investigations such as those arising from disclosures under the Public Interest Disclosure Act 1998.

Improvements to the above factors may allow reductions to the audit fee in future years. Where these assumptions are not met, we will be required to undertake additional work and charge an increased audit fee. The fee for the audit of the financial statements will be re-visited when we issue the detailed audit plan.

Any changes to our audit plan and fee will be agreed with you. Changes may be required if:

- new residual audit risks emerge;
- additional work is required by KPMG, PSAA, the NAO or other regulators; or
- additional work is required as a result of changes in legislation, professional standards or as a result of changes in financial reporting.

## **Appendix 2: Planned outputs**

Our reports will be discussed and agreed with the appropriate officers before being issued to the Audit Committee.

<b>Planned output</b>	<b>Indicative date</b>
External audit plan	February 2017
Interim audit report	April 2017
Report to those charged with governance (ISA260 report)	September 2017
Auditor's report giving the opinion on the financial statements, value for money conclusion and audit certificate	September 2017
Opinion on Whole of Government Accounts return	September 2017
Annual audit letter	October 2017
Certification of grant claims and returns	December 2017

### **Appendix 3 – Independence & objectivity requirements**

Professional standards require auditors to communicate to those charged with governance, at least annually, all relationships that may bear on the firm's independence and the objectivity of the audit engagement partner and audit staff. The standards also place requirements on auditors in relation to integrity, objectivity and independence.

The standards define 'those charged with governance' as 'those persons entrusted with the supervision, control and direction of an entity'. In your case this is the Audit Committee.

KPMG LLP is committed to being and being seen to be independent. APB Ethical Standard 1 *Integrity, Objectivity and Independence* requires us to communicate to you in writing all significant facts and matters, including those related to the provision of non-audit services and the safeguards put in place, in our professional judgement, may reasonably be thought to bear on KPMG LLP's independence and the objectivity of the Engagement Lead and the audit team.

Further to this auditors are required by the NAO's Code of Audit Practice to:

- Carry out their work with integrity, independence and objectivity;
- Be transparent and report publicly as required;
- Be professional and proportional in conducting work;
- Be mindful of the activities of inspectorates to prevent duplication;
- Take a constructive and positive approach to their work;
- Comply with data statutory and other relevant requirements relating to the security, transfer, holding, disclosure and disposal of information.

PSAA's Terms of Appointment includes several references to arrangements designed to support and reinforce the requirements relating to independence, which auditors must comply with.

These are as follows:

- Auditors and senior members of their staff who are directly involved in the management, supervision or delivery of PSAA audit work should not take part in political activity.
- No member or employee of the firm should accept or hold an appointment as a member of an audited body whose auditor is, or is proposed to be, from the same firm. In addition, no member or employee of the firm should accept or hold such appointments at related bodies, such as those linked to the audited body through a strategic partnership.
- Audit staff are expected not to accept appointments as Governors at certain types of schools within the local authority.

- Auditors and their staff should not be employed in any capacity (whether paid or unpaid) by an audited body or other organisation providing services to an audited body whilst being employed by the firm.
- Auditors appointed by the PSAA should not accept engagements which involve commenting on the performance of other PSAA auditors on PSAA work without first consulting PSAA.
- Auditors are expected to comply with the Terms of Appointment policy for the Engagement Lead to be changed on a periodic basis.
- Certain other staff changes or appointments require positive action to be taken by Firms as set out in the Terms of Appointment.

**Confirmation statement**

We confirm that as of April 2016 in our professional judgement, KPMG LLP is independent within the meaning of regulatory and professional requirements and the objectivity of the Engagement Lead and audit team is not impaired.



# Local Authority Corporate Risk Register Analysis

West Devon Borough Council

# Local authority corporate risk register analysis

## Background

Risk management is a critical management tool to manage, assess and prioritise risks, therefore enabling resources to be applied to minimise, monitor and control the probability and/or the impact of negative events.

An important component of the risk management process is the corporate risk register, which identifies those risks which are critical for management to minimise, monitor and control.

KPMG has used its extensive audit client base to undertake Corporate/Strategic risk register analysis. The exercise compared the corporate risk registers from a range of local authorities covering:

- Single Tier Councils;
- County Councils;
- District Councils;
- Fire and Rescue Services; and
- Police bodies.

The outcome highlights the most frequently featured risks across local authority risk registers and changes from 2014 when a similar exercise was carried out.

We also considered the arrangements in place to maintain and review risk registers at the local authorities and fire and police bodies.

Finally, we considered the degree to which risk registers are used as an integrated management and assurance tool, which is especially important given other parts of the Public Sector are increasingly using tools such as Board Assurance Frameworks and Assurance Mapping.

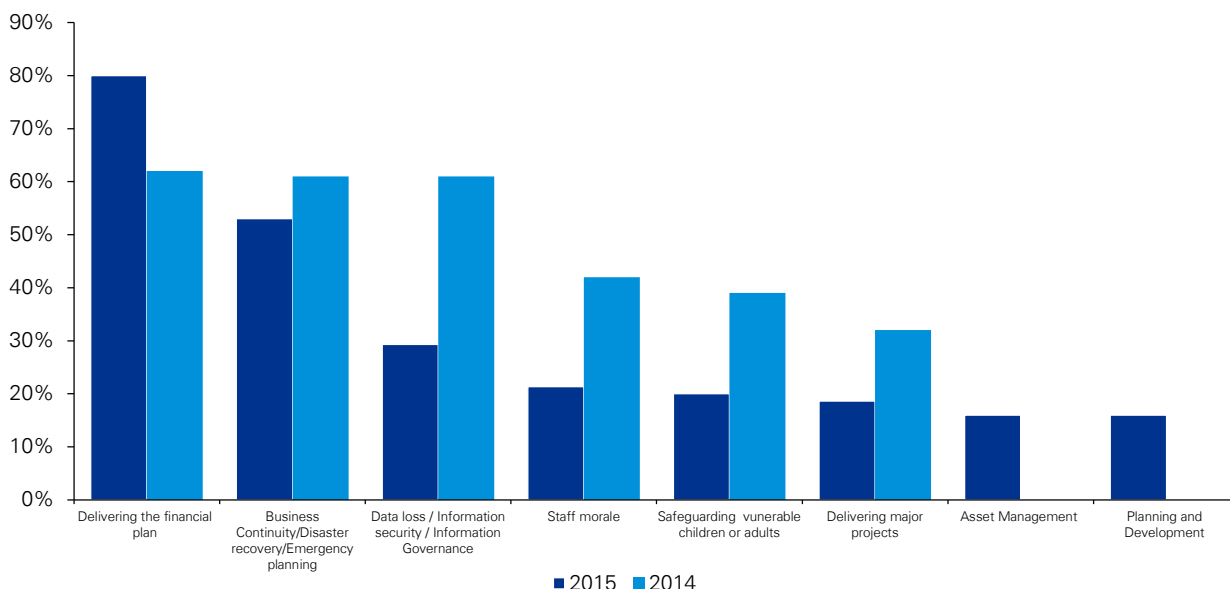
## Purpose

Organisations should use the comparative information to help consider:

- Whether there are potential risks that may have been omitted from their own risk register;
- Whether potential risks are given sufficient priority;
- The mechanics of the risk management process at their organisations; and
- How managing risks and providing assurance can be developed further.

# Local authority corporate risk register analysis (cont.)

## Most frequently featured risks across all authority types



The top three residual risks occurring most frequently are:

- Delivering the medium term financial plan/saving targets/delivering funding cuts;
- Business continuity/disaster recovery incidents/emergency planning; and
- Data loss/information security/information governance risks.

A much higher number of bodies (80% compared to 62% in 2014) identified **Delivering the medium term financial plan/saving targets/delivering funding cuts** as a risk, although this is still not as high as might be expected given the significant reduction in grants seen in recent years and on-going financial pressures.

Risks in relation to **Business continuity and disaster recovery** were identified in 53% of risk registers (compared to 61% in 2014) and **Data loss/information security and information governance** were identified in 29% of risk registers (compared to 61% in 2014). So whilst these risks remain high in terms of frequently occurring risks – It is noticeable that both risks occur less often than in prior years. This fall is a surprise but may be as a result of investments in arrangements reducing the residual risks across the sector.

The risk that no longer features in the above analysis is **Partnership arrangements/governance**, which is surprising given the emergence and growth of initiatives such as the Better Care Fund.

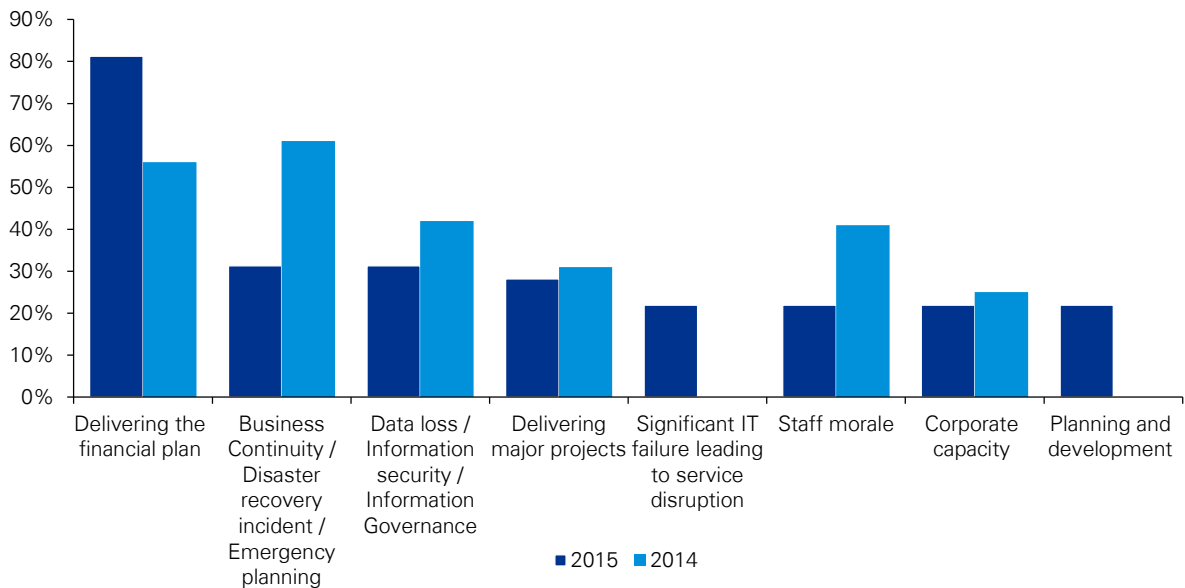
Compared to the same analysis last year the following risks have increased in frequency and emerged into the set of most frequently seen risks in 2015:

- Asset management; and
- Planning and development issues.

# Local authority corporate risk register analysis (cont.)

## Most frequently featured risks across district councils

The chart below shows the eight most frequently identified risks at district councils included in the exercise.



The three most common risks for district councils are the same as the all authority type analysis with **delivery of the Medium Term Financial Plan** again the highest risk.

We note we see more risks in relation to **Significant IT Failures**, (21% of districts) and **Planning and development** compared to 2014, however **Delivery of major projects, Staff morale and Corporate capacity** remain significant residual risks throughout local government. **Partnership governance** and **Welfare reform**, which were seen in 60% and 38% of registers respectively in the 2014 analysis, do not feature in the top eight risks, suggesting mitigating control arrangements are better developed.

Human resources issues in relation to staff morale and corporate capacity also feature in the most frequent risks in district councils. Linked to corporate capacity is also the ability to deliver major projects which again features in the assessment above.

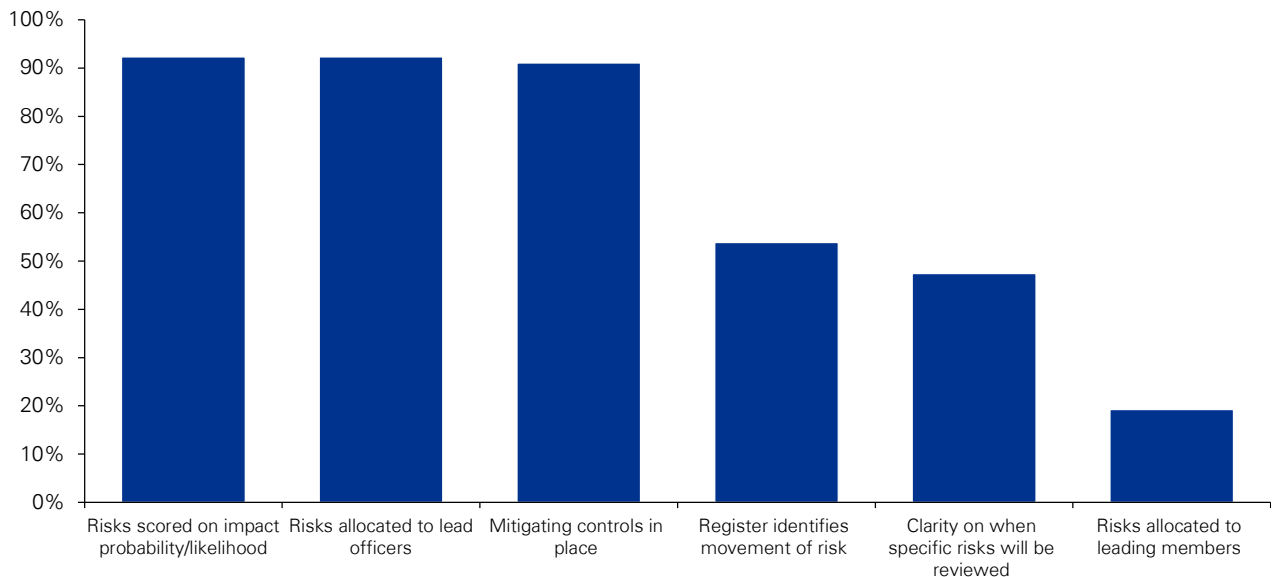
West Devon Borough Council (the Council) has adopted a consolidated Corporate Risk Register that is shared with South Hams District Council. This includes a specific risk in relation to the delivery of the Medium Term Financial Strategy which makes particular reference to the impact in reductions in central government funding. This is currently assessed with a risk rating of 12 (from a maximum of 25) with plans in place to reduce it to six. Like many authorities, the Council has recognised a risk in relation to IT systems as part of its wider Business Continuity risk. This is again scored as 12 at current but with plans to reduce it to a score of two.

The Council's Corporate Risk Register includes risks relating to the majority of the common risks set out above. Whilst there is no risk identified in relation to staff morale, a related concern over the adequacy of staffing resources is specifically recorded. There is, however, no risk identified in relation to planning and development.



# Local authority corporate risk register analysis (cont.)

## Survey Responses on Risk Register Reporting and Responsibilities



The chart above analyses the risk registers reviewed across all types of local authority. As expected, a high level of registers score risks on impact, probability and the controls in place and risks are allocated to lead officers.

However, fewer risk registers clarify when a risk is to be reviewed, which could result in the risk not being dealt with appropriately and provides less assurance. Further to this, risks do not appear to be regularly/widely allocated to lead members, which could reduce the scrutiny of these risks.

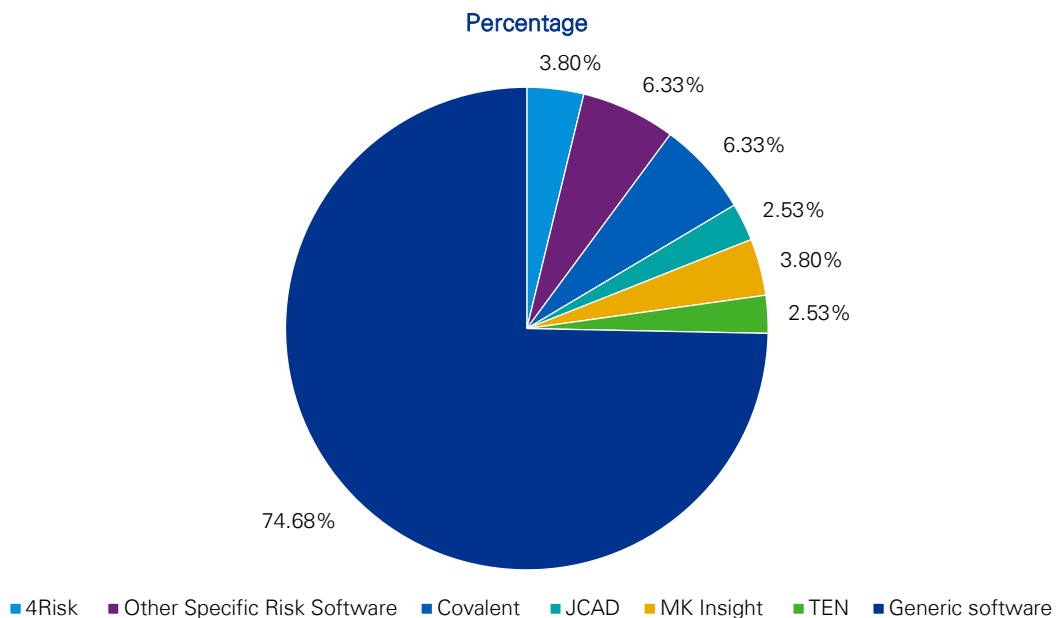
The Council's approach to risk management requires that all risks are scored in relation to both likelihood and impact. This is undertaken in relation to both the current position and the target position after planning mitigating actions have been considered. Based upon the current risk rating, a decision as to the response to be made is formally recorded. This includes both the overall response (to mitigated, tolerate, transfer or terminate the risk) and the detailed actions to be completed. All risks are allocated a risk owner and updates are taken to the Audit Committee on a six-monthly basis.

# Local authority corporate risk register analysis (cont.)

## Software used to support risk management

The chart below shows that 75% of authorities do not use specific risk management software, often preferring to use spreadsheet systems to record the risks. Spreadsheet systems are potentially less robust, offer reduced analysis and reporting functionality and usually involve more manual interaction compared to specific software, but are often seen as simpler and more flexible. Of the authorities that do use specific software, the most commonly used packages are Covalent, 4risk and MK Insight.

The Council has adopted the use of Covalent as its risk management system. This system is currently used by just over 6% of our client base.



## Moving forward

It is noted that in the wider Public Sector many bodies are now using Board Assurance Frameworks/Assurance Mapping. Assurance mapping is the process where risk reports set out the controls and assurances in place to confirm that risks are being addressed. Setting out the assurances can give lead Officers and Members confirmation that assurance is in place and that the quality of the assurance is sufficient against the risk.

Our work has identified limited use of such tools in the local authority sector.

Our comparison exercise identified that:

- Risks were linked to strategic objectives in 57% of reports;
- Assurances were reported in 53% of the reports; and
- Effectiveness of controls were reported in 49% of the reports.

These are important elements of assurance mapping processes and our work suggests there is significant scope for local authorities to develop in this area.



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# Agenda Item 9

Report to: **Audit Committee**

Date: **5 July 2016**

Title: **INTERNAL AUDIT ANNUAL REPORT 2015/16**

Portfolio Area: **Support Services**

Wards Affected: **All**

Relevant Scrutiny Committee: Overview and Scrutiny

Urgent Decision: **N** Approval and clearance obtained: **Y**

Author: **Brenda Davis** Role: **Audit Manager**  
**Robert Hutchins** **Head of Partnership**

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[Robert.hutchins@swdevon.gov.uk](mailto:Robert.hutchins@swdevon.gov.uk) **01392 383000**

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## **Recommendations:**

### **It is recommended that:**

- 1. The Audit Committee note that overall and based on work performed during 2015/16, and that of our experience from previous year's audit, the Head of Internal Audit's Opinion is of "Significant Assurance" on the adequacy and effectiveness of the Authority's internal control framework.**
- 2. Members note the satisfactory performance and achievements of the Internal Audit Team during 2015/16.**

## **1. Executive summary**

- 1) This report summarises the work undertaken by the Council's Internal Audit team during 2015/16, reviews the performance of the Internal Audit service and provides an audit opinion on the adequacy of internal control. The report is particularly relevant to the preparation of the Authority's Annual Governance Statement which is required under the Accounts and Audit (England) Regulations 2015.

This report is to inform members of the principal activities and findings of the Council's Internal Audit team for 2015/16 to the 31st March 2016, by:

- Providing a summary of the main issues raised by completed individual audits;
- Showing the progress made by Internal Audit against the 2015/16 annual internal audit plan, as approved by this Committee in March 2015, and
- Providing an opinion on the adequacy of the Council's control environment.

## **2. Background**

The Audit Committee, under its Terms of Reference contained in West Devon Borough Council's Constitution, is required to consider the Head of Internal Audit's annual report, and to monitor the progress and performance of Internal Audit.

The Accounts and Audit (Amendment) (England) Regulations 2015 require that all Authorities need to carry out an annual review of the effectiveness of their internal audit system, and need to incorporate the results of that review into their Annual Governance Statement (AGS), published with the annual Statement of Accounts.

The Internal Audit plan for 2015/16 was presented to and approved by the Audit Committee in March 2015. The following report and appendices set out the background to audit service provision; a review of work undertaken in 2015/16, and provides an opinion on the overall adequacy and effectiveness of the Authority's internal control environment.

## **3. Outcomes/outputs**

The Public Sector Internal Audit Standards require the Head of Internal Audit to present an annual report providing an opinion that can be used by the organisation to inform its governance statement.

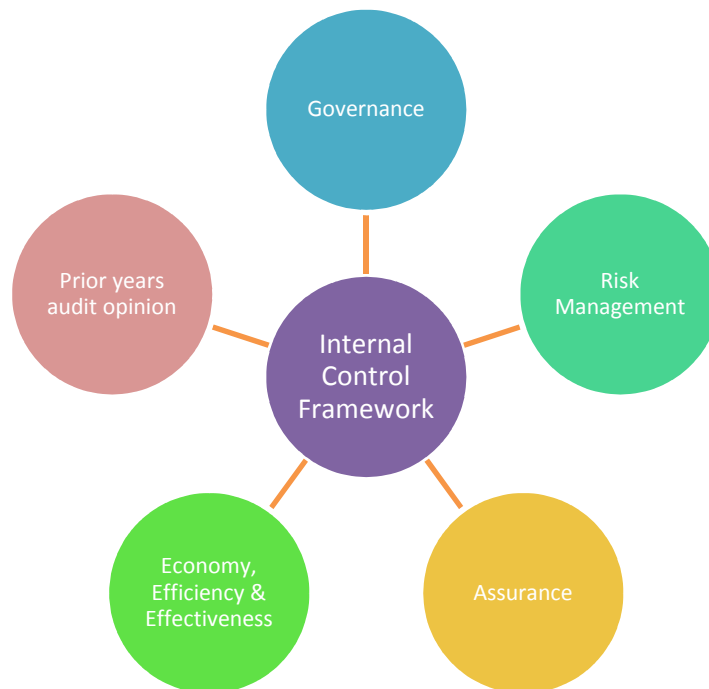
In carrying out our work, Internal Audit assess whether key, and other, controls are operating effectively within the area under review, and an opinion on the adequacy of controls is provided to management as part of the audit report. Final audit reports, will if applicable, include an agreed action plan with responsible officers and target dates to address any control issues or recommendations for efficiencies identified.

Details of Internal Audit's opinion on each audit review carried out in 2015/16 have been provided to relevant members of the Senior Leadership Team to assist them with compilation of their individual annual governance assurance statements.

**Overall and based on work performed during 2015/16, and that of our experience from previous year’s audit, the Head of Internal Audit’s Opinion is of “Significant Assurance” on the adequacy and effectiveness of the Authority’s internal control framework.**

*This assurance statement is in line with the definitions below and will provide Members with an indication of the direction of travel for their consideration for the Annual Governance Statement.*

The above statement of opinion is underpinned by our consideration of:



Full Assurance	Risk management arrangements are properly established, effective and fully embedded, aligned to the risk appetite of the organisation. The systems and control framework mitigate exposure to risks identified & are being consistently applied in the areas reviewed.
<b>Significant Assurance</b>	Risk management and the system of internal control are generally sound and designed to meet the organisation’s objectives. However, some weaknesses in design and / or inconsistent application of controls do not mitigate all risks identified, putting the achievement of particular objectives at risk.
Limited Assurance	Inadequate risk management arrangements and weaknesses in design, and / or inconsistent application of controls put the achievements of the organisation’s objectives at risk in a number of areas reviewed.
No Assurance	Risks are not mitigated and weaknesses in control, and /or consistent non-compliance with controls could result / has resulted in failure to achieve the organisation’s objectives in the areas reviewed, to the extent that the resources of the Council may be at risk, and the ability to deliver the services may be adversely affected.

## **Key Findings 2015/16**

As stated above we are, overall, able to provide significant assurance on the internal control framework. During the year a number of audit assignments have been completed for which an audit opinion of "improvements required" has been provided (please refer to appendix B for definition of "improvements required").

We set out below some of the key issues of concern identified. It should be noted that agreed management action plans are in place to address the weaknesses, and we consider that if such actions are completed promptly then the control issue will be addressed. Many of the findings have previously been reported at audit committee meetings during the 2015/16 year.

### **Cash Collection – inc. Banking Arrangements** (previously reported)

Whilst cash and cheque receipts are processed promptly and income is banked on a regular basis and properly reconciled, some areas for improvement were identified relating to the review and clearance of suspense accounts and the forwarding of cheques to departments without a record being maintained of details. Suspense accounts have subsequently been reviewed and cleared as part of the year end process.

### **Creditor Payments** – see App B

Our conclusion was that the creditors system is fulfilling the purpose for which it is intended with invoices presented to the Council being processed and paid. The recommendations made contribute to the strengthening of existing procedures around the timeliness of payments, potential for duplicate payments, processes to allow VAT to be reclaimed when using purchasing cards and greater use of periodical payments.

### **Council Tax** - see App B

Council Tax bills are accurate and the system is operating with generally satisfactory controls but there were some areas highlighted where there is scope for improvement, in particular more regular review of Single Persons Discount. Staff resources have reduced and some of the audit recommendations may help create additional capacity within the team to enable key tasks to be completed promptly and effectively.

### **Business Rates** – see App B

The billing and collection of Business Rates sits in the same service area as Council Tax and therefore face similar resource challenges. Areas that require improvement include the monitoring and review of account suppressions and broken arrangements. Assurance can be given that bills are raised and calculated correctly.



## **Benefits (draft)** – see App B

Although some of the agreed actions from our 2014/15 audit report have been implemented there remain a number of outstanding issues, which management have advised are either due to limited staff resource, or because there is still work to be completed as part of the T18 programme. In the short-term this may also mean further concerns and pressure for the service.

Quality checks and targeted reviews have lapsed in recent months, possibly due to T18 changes and related resource issues but do need to be reinstated using a risk based approach. However, we tested a sample benefit claims and can confirm that the claims were supported by the required data and were calculated correctly. The ability for claimants to be able to submit claims electronically would reduce the amount of manual intervention needed in processing some claims and create some additional capacity.

## **Procurement** (previously reported)

The Corporate Procurement Officer has taken a report to the Executive Director, making recommendations as to the future direction of the procurement function, at both a strategic and an operation level; we are satisfied that the report addresses a number of issues raised in our internal audit report.

## **Household Waste** – see App B

Members will shortly be determining if WDBC and SHDC will move towards the formation of a Local Authority Controlled Company (LACC). If approved, the WDBC household waste collection service may also be delivered through the LACC.

Prior to the existence of Crowndale Transfer Station, DCC required WDBC to deliver waste to a site at Liskeard. The time and cost required to do this negatively impacted on service delivery. Management give consideration as to whether or not it is in the interests of WDBC to review the fee charged, in conjunction with the other recommendations. The findings from this review provide an opportunity to help ensure fees and charges remain appropriate and at the right level and, that items sold to the public are well controlled.

## **Complaints** - see App B

The Complaints system provides a basic framework for managing complaints and those reviewed appeared in general to have been responded to satisfactorily. The areas for improvement identified are being used by management to inform the updating of policy and procedures.

## **Computer Audit – ICT Incident & Problem Management** - see App B

The Sostenuto Sunrise IT Service Management (ITSM) was purchased in 2015 to provide a centralised software solution to assist with the administration of ICT services for the future. The functionality and configuration of ITSM together with the use of inbuilt workflows, reinforces sound operational procedures. It is acknowledged that the system is still in the early stages of development and as yet, not all of the available functionality is embedded in business as usual.

## **Business Continuity & Emergency Planning** – see App B

There are a number of actions required, common to both emergency planning and business continuity aspects, which would improve the organisations overall emergency preparedness. However, from April 2016 DCC has been contracted to deliver an emergency planning and business continuity service to the Councils. We understand that the work plan agreed with DCC addresses many of the recommendations raised and that these are to be actioned by the end of 2016.

The 2015/16 Internal Audit Plan is attached at **Appendix A**. This has been extended to show the final position for each audit.

The reporting of individual high priority recommendations is set out at **Appendix B**. This is an ongoing part of the report to advise the Audit Committee in detail of significant findings since the last report and confirm that the agreed action has been implemented or what progress has been made.

**Appendix C** provides a summary of work where the planned work is complete but no audit report produced.

## **Non Compliance with Contract or Financial Procedure Rules**

There are no significant issues to bring to the attention of the Committee for 2015/16. Five applications for exemptions to Contract / Financial Procedure Rules have been received and all were accepted.

## **Fraud Prevention and Detection and the National Fraud Initiative**

Counter fraud arrangements are a high priority for the Council and assist in the protection of public funds and accountability. The Cabinet Office runs a national data matching exercise (National Fraud Initiative – NFI) every two years but some service areas have struggled to find the resource to complete the review of the data matches received. Management have been made aware of the situation. The NFI exercise identifies potentially erroneous or fraudulent payments in areas such as housing benefits, awards of council tax single person's discounts and creditor payments.

## **Irregularities**

There are no irregularities to report.

#### 4. Options available and consideration of risk

No alternative operation has been considered as the failure to maintain an adequate and effective system of internal audit would contravene the Accounts and Audit Regulations, 2003, 2006, 2011 and 2015.

#### 5. Proposed Way Forward

We continue to be flexible in our approach and with the timetabling of audits to ensure that resources are assigned to specific areas of the plan to enable our work to be delivered at the most effective time for the organisation.

#### PROVISION OF INTERNAL AUDIT AND PERFORMANCE – 2015/16

There are no national performance indicators in place for internal audit; however the team monitor against local performance indicators as follows:-

Local performance indicator	2015/16 Target	2015/16 Actual
Percentage of audit plan commenced	95%	97%
Percentage of audit plan completed	95%	97%
Actual audit days as a percentage of planned	95%	96%
Customer satisfaction (percentage of customers stating that service is "good" or "excellent")	90%	100% *
Draft reports issued within target days	90%	100%
Average level of sickness	2%	0.5% *
Outturn within budget	Yes	Yes

\* During the period we issue client survey forms with our final report and it is pleasing to note that auditees considered that the team continue to provide a good or excellent service.

\*\* Sickness relating to officers within the combined internal audit team equates to 2 days in the period 1st April 2015 to 31st March 2016.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Accounts and Audit Regulations 1996 issued by the Secretary of State for the Environment require every local authority to maintain an adequate and effective internal audit.</p> <p>The work of the internal audit service assists the Council in maintaining high standards of public accountability and probity in the use of public funds. The service has a role in promoting robust service planning, performance monitoring and review throughout the organisation, together with ensuring compliance with the Council's statutory obligations.</p>
Financial	Y	There are no additional or new financial implications arising from this report. The cost of the internal audit team is in line with budget expectations.
Risk	Y	The work of the internal audit service is an intrinsic element of the Council's overall corporate governance, risk management and internal control framework.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no specific equality and diversity issues arising from this report.
Safeguarding	N	There are no specific safeguarding issues arising from this report.
Community Safety, Crime and Disorder	N	There are no specific community safety, crime and disorder issues arising from this report.
Health, Safety and Wellbeing	N	There are no specific health, safety and wellbeing issues arising from this report.
Other implications	N	There are no other specific implications arising from this report.

## **Supporting Information**

### **Appendices:**

There are no separate appendices to this report.

### **Background Papers:**

Annual Internal Audit Plan 2015/16 as approved by the Audit Committee on 28 April 2015.

**APPENDIX A**

Projects agreed in the Audit Plan	Planned Number of Days	Fieldwork started	Issued in draft	Management comments received	Final	Opinion				Comments
						High Standard	Good Standard	Improvements Required	Fundamental Weaknesses	
MAS & Budgetary Control	4	■	■				■			Summary in App B below.
Creditor Payments	4	■	■	■	■			■		Summary in App B below.
Payroll	4	■	■	■	■			■		Summary in App B below.
Council Tax	4	■	■	■	■			■		Summary in App B below.
Business Rates (NNDR)	4	■	■	■	■			■		Summary in App B below.
Benefits Payments	6	■	■					■		Summary in App B below.
VAT	4	■	■	■	■			■		Summary to Audit Committee – January 2016
<b>Main Financial Systems</b>	<b>30</b>									
Cash Collection and Banking	3	■	■	■	■			■		Summary to Audit Committee – September 2015
Partnership Management	-									Deferred to 2016/17. The 3 days used for Procurement Review below.
Procurement and Contract Management	3	■	■	■	■			■		Summary to Audit Committee – January 2016
ICT Incident & Problem Management	4	■	■					■		Summary in App B below.
Internet Monitoring	1	■	■	■	■			■		Issued as a combined report, summary to Audit Committee – September 2015
Email Monitoring	1	■	■	■	■			■		
Performance Management - PIs	5	-	-	-			-	-	-	Deferred to 2016/17
Performance Management –Data Quality	5	-	-	-			-	-	-	
Risk Management	5	■	■					■		Summary in App B below.

**APPENDIX A**

Projects agreed in the Audit Plan	Planned Number of Days	Fieldwork started	Issued in draft	Management comments received	Final	Opinion (final reports only)				Comments
						High Standard	Good Standard	Improvements Required	Fundamental Weaknesses	
T18 Transformation Programme	4	■	■	■	■		■			Summary in App B below.
Leisure Centres	3	■	-	-	-	-	-	-	-	A "watching brief" has been maintained as the procurement exercise progresses, this will continue into 2016/17.
Waste Management	3	■	■	■	■			■		Summary in App B below.
Street Scene - Car Parking	4	■	■	■	■		■			Summary in App B below.
Building Regulations	3									Carried forward to 2016/17.
Development Control (Enforcement)	4	-	-	-	-	-	-	-	-	At the request of management, review deferred to 2016/17.
Corporate Governance Annual Governance Statement (AGS)	3	-	-	-	-	-	-	-	-	Review of the Code of Corporate Governance presented to June 2015 Audit Committee. Input into review of constitution.
Counter Fraud Work	5	■	■	■	■		■			Summary in App B below.
Advice to Information Compliance & Other Groups	8									Advice and guidance has been provided to managers and staff at all levels across the Council.
Follow Up of Previous Year's Audits	4	■	■	■	■	-	-	-	-	
Contingency (Unplanned) & Advice	8	-	-	-	-	-	-	-	-	
Audit Management, including • Audit Planning • Partnership audit Management • Monitoring against the plan • Reports to management and audit	7	■	-	-	-	-	-	-	-	Includes reporting to and attendance at Audit Committee.
<b>Other Systems &amp; Audit Work)</b>	<b>70</b>									
<b>Overall Total</b>	<b>100</b>									

## Planned Audit 2015/16 – Reports

The following tables provide a summary of the audit opinion and main issues raised in the reports issued to managers. In all cases (unless stated) an action plan has been agreed to address these issues.

### Definitions of Audit Assurance Opinion Levels

#### High Standard

The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures.

#### Good Standard

The systems and controls generally mitigate the risk identified but a few weaknesses have been identified and / or mitigating controls may not be fully applied. There are no significant matters arising from the audit and the recommendations made serve to strengthen what are mainly reliable procedures.

#### Improvements Required

In our opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk.

#### Fundamental Weaknesses Identified

The risks identified are not being controlled and there is an increased likelihood that risks could occur. The matters arising from the audit are sufficiently significant to place doubt on the reliability of the procedures reviewed, to an extent that the objectives and / or resources of the Council may be at risk, and the ability to deliver the service may be adversely affected. Implementation of the recommendations made is a priority.



## Planned Audit 2015/16 – Final Reports

Subject	Audit Findings	Management Response
<b>Main Accounting System (inc. budgetary control) (Draft)</b>	<p><b>Audit Opinion</b></p> <p><b>Good Standard</b> - The majority of the areas reviewed were found to be adequately controlled. Generally risks are well managed but a few areas for improvement have been identified.</p> <p><b>Conclusions</b> Improved controls and more timely reconciliations throughout the year has meant that the assurance opinion has moved from "Improvements Required" in 2014/15 to a "Good Standard". Potential opportunities to re-engineer some processes were identified during the review relating to:-</p> <ul style="list-style-type: none"> <li>• Use of Civica W2 software to control reconciliations;</li> <li>• Further aligning and improving the efficiencies of the many financial processes and procedures;</li> <li>• Self-service tools to reduce the level of finance officer support needed by budget holders.</li> </ul>	
<b>Creditor Payments</b>	<p><b>Audit Opinion</b></p> <p><b>Improvements Required</b> - There are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Fairly extensive recommendations have been made to ensure that organisational objectives are not put at risk.</p> <p><b>Conclusions</b> Based on our work we can confirm that the controls in place over the payment of creditors are generally appropriate and effective. However we have made recommendations that service to further improve existing processes and controls, relating to:</p>	<p>Extra resourcing has been allocated to improve timeliness of raising orders. It has been suggested that the creditor payments functions for the two Councils are returned to a centralised service to enable refinement and improvement of the process, this is currently under consideration by SLT.</p> <p>Duplicate payment reports are now run monthly, training has been provided to the team to ensure proper checks are carried out, extra resourcing would allow this to occur prior to all payment runs.</p>

	<ul style="list-style-type: none"> <li>• Timeliness of raising orders;</li> <li>• Develop procedure to identify potential duplicate payments;</li> <li>• Greater use of the periodical payment function;</li> <li>• Review of purchasing card procedures, including processes to allow VAT to be reclaimed; and</li> <li>• Review of aged credit notes and invoices marked as disputed.</li> </ul>	<p>There are no plans at present to increase the number of periodical payments due to the extra workload involved. Review of purchase card procedures to be undertaken by Dec 2016 (Resourcing dependant).</p> <p>Review of disputed items undertaken as part of Year End procedure, extra resourcing would be required to allow regular checking.</p> <p>Support Services Case Management Manager (SP)</p>
<p><b>Payroll</b></p>	<p><b>Audit Opinion</b></p> <p><b>Good Standard</b> - The majority of the areas reviewed were found to be adequately controlled. Generally risks are well managed but a few areas for improvement have been identified.</p> <p><b>Conclusions</b> Overall we have found the payroll system and process design to be adequate, providing suitable key controls. The computerised system is currently supported by a manual process of authorisation and certification. Changes of a permanent nature (starters, leavers, change of grade etc.) as well as temporary changes (e.g. overtime) require an authorised signature. It is intended that these processes will become more automated through online functionality in the future.</p>	<p>The process of automating the payroll functions is ongoing and a number of actions have already been implemented.</p>
<p><b>Council Tax</b></p>	<p><b>Audit Opinion</b></p> <p><b>Improvements Required</b> - There are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Fairly extensive recommendations have been made to ensure that organisational objectives are not put at risk.</p>	<p>We accept these recommendations and as part of our system improvements and transformation are seeking to improve processes throughout the year. All of the findings of the audit will be reviewed and implemented where appropriate.</p>

	<p><b>Conclusions</b> Assurance can be given that the Council Tax bills issued are calculated correctly. However controls do need strengthening in some areas; weaknesses identified include the lack of regular monitoring and / or review of:</p> <ul style="list-style-type: none"> <li>• User's system access rights;</li> <li>• Single Persons Discount;</li> <li>• The suspense account;</li> <li>• Broken arrangements to pay;</li> <li>• Accounts sent to the bailiff;</li> <li>• Long-term suppressions.</li> </ul> <p>Some recommendations have been made which will may enable the service to adopt a different approach in some aspects of the work which could help create additional capacity within the team.</p>	<p>COP Lead for Housing, Revenues and Benefits (IB)</p>
<p><b>Business Rates</b></p>	<p><b>Audit Opinion</b></p> <p><b>Improvements Required</b> - There are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Fairly extensive recommendations have been made to ensure that organisational objectives are not put at risk.</p> <p><b>Conclusions</b> The findings following the review of the business rates system is similar to that of Council Tax above. Both taxes are administered by the same officers and assurance can be given that the Business Rate bills are calculatedly correctly. This review also found that the suspense account was being reviewed and cleared.</p>	<p>We accept these recommendations and as part of our system improvements and transformation are seeking to improve processes throughout the year. All of the findings of the audit will be reviewed and implemented where appropriate.</p> <p>COP Lead for Housing, Revenues and Benefits (IB)</p>
<p><b>Benefits (Draft)</b></p>	<p><b>Audit Opinion</b></p> <p><b>Improvements Required</b> - There are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Fairly extensive recommendations have been made to ensure that organisational objectives are not put at risk.</p>	<p>Some of the recommendations will be addressed through our transformation and the increased capacity our staff will have with the introduction of an online form.</p>

	<p><b>Conclusions</b>                  We can confirm that some of the agreed actions to our recommendations in the 2014/15 audit reports have been implemented. However there remain a number of outstanding issues, which management have advised are either due to limited staff resource, or because there is still work to be completed as part of the T18 programme.</p> <p>Following previous Audit recommendations, procedures for the recovery of overpayments have been reviewed but there remains a need for additional resource to enable recovery of overpayments to be actioned effectively, the level of debt when compared to December 2014 has increased by £73k.</p>	<p>We have reorganised tasks and divided them differently so there is adequate separation of duties.</p> <p>We have already put resource in place to address overpayments, and changed our processes to reduce occurrences of overpayment.</p> <p>COP Lead for Housing, Revenues and Benefits (IB)</p>
<p><b>ICT Incident &amp; Problem Management (Draft)</b></p>	<p><b>Audit Opinion</b></p> <p><b>Improvements Required</b> - There are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Fairly extensive recommendations have been made to ensure that organisational objectives are not put at risk.</p> <p><b>Conclusions</b>                  Operational processes for the Support Services Contact Centre are generally of a "Good Standard" with Sunrise appropriately utilised to assist with the administering of incident calls. Moving forward it is important that they reduce the number of reactive and minor incidents that are deal with so that they can be more proactive and deliver the service that customers and the Council require.</p> <p>Service improvements could be realised by:</p> <ul style="list-style-type: none"> <li>• Ensuring that officers, members and third parties working for the Council are aware and comply with the authorities policies and procedures, including security, use of equipment and data;</li> <li>• Embedding the use of Sunrise self-service tools, the dashboard and the knowledge database to reduce the level of first line incidents and free-up ICT staff to enable them to add value to their service delivery;</li> </ul>	

	<ul style="list-style-type: none"> <li>• Use of performance and incident information recorded by Sunrise to target key areas for improvement, plan for future changes and identify potential issues before they occur.</li> </ul>	
<p><b>Risk Management (Draft)</b></p>	<p><b>Audit Opinion</b></p> <p><b>Good Standard</b> - The majority of the areas reviewed were found to be adequately controlled. Generally risks are well managed but a few areas for improvement have been identified.</p> <p><b>Conclusions</b> Risk management involves five main processes:</p> <ul style="list-style-type: none"> <li>• Risk Identification- Identify the key risks;</li> <li>• Risk Analysis - Assess the likelihood and potential impact of risks;</li> <li>• Management and Risk Control - Identify existing and proposed controls;</li> <li>• Risk Funding - Assess the cost benefit of the controls; and</li> <li>• Risk Monitoring and Review - Develop action plans to improve the risk profile.</li> </ul> <p>The Councils' Risk Management Strategy addresses each of these aspects to ensure that it meets the overall objectives of loss minimisation. The key objectives of the Strategy and how these will be achieved are set out in the Risk Management Policy. The Risk Management Strategy enables risks and losses to be managed and controlled, thus allowing funds and resources to be used in the most efficient manner.</p> <p>Ten of the higher scoring risks recorded within the Corporate Risk Tables were reviewed and assurance can be provided that for each, mitigating actions were identified and being implemented. Some recommendations were made to further strengthen existing controls, mainly relating to the review and publication of policies and procedures.</p> <p>Risk management update reports should be presented to the Audit Committee on a six monthly basis. This is now the responsibility of the Business Development Group Manager and following a lull in reporting during 2015 as a result of staff changes, reporting recommenced in March 2016.</p>	

<p><b>T18 Transformation Programme</b></p>	<p><b>Audit Opinion</b></p> <p><b>Good Standard</b> - The majority of the areas reviewed were found to be adequately controlled. Generally risks are well managed but a few areas for improvement have been identified.</p> <p><b>Conclusions</b> The Councils have received national recognition for the innovation and success of the T18 Programme:</p> <ul style="list-style-type: none"> <li>• The receipt of £700k Transformation Challenge Funding from DCLG;</li> <li>• The award of 'Council of the Year' at the annual iESE awards;</li> <li>• An iESE 'Gold Award' for 'transforming through people', in recognition of the recent changes made to the way the Councils work; and</li> <li>• Certificate of Excellence for 'Working Together' for work with the region wide Better Business for All Partnership.</li> </ul> <p>The Programme is currently under budget and is projected to achieve both the predicted savings and all the planned deliverables. The majority of the Programme has been delivered to timetable. It is acknowledged that there have been delays in achieving some milestones. These have largely been due to unforeseen delays in the implementation of some aspects of the technology workstream and limited staff resource at some critical points.</p>	<p>We continue to actively manage risk with regard to implementation of T18.</p> <p>Pressure continues to be applied to the contractor in respect of the technology workstream and mitigating actions have been put into place where solutions have not been available on time.</p> <p>A number of transitional resources have been appointed to support the ongoing transformation with further resources being brought in as required to reduce the impact on the Councils during this phase.</p> <p>Executive Director (SH)</p>
<p><b>Household Waste Collection</b></p>	<p><b>Audit Opinion</b></p> <p><b>Improvements Required</b> - There are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Fairly extensive recommendations have been made to ensure that organisational objectives are not put at risk.</p> <p><b>Conclusions</b> Whilst in the main, we found the controls in place over the day to day management of the household waste collection contract to be effective, there were a small number of areas we were unable to establish the controls in place as key officers were unavailable to answer some queries due to work on the Waste Review. The recommendations made will</p>	

	<p>contribute to the strengthening of the control framework:</p> <ul style="list-style-type: none"> <li>• Ensure that all tender documentation is retained centrally so that compliance with procurement procedures can be demonstrated even if the officers responsible for the procurement are no longer employed by the Council;</li> <li>• Review controls over items which are sold to the public;</li> <li>• Review postage charged to the public and the fees for the collection of bulky waste to ensure that they cover the Councils' costs;</li> <li>• Review 'tipping away' fees charged by the Councils to DCC and vice versa, to ensure that they remain appropriate and cover the relevant authority's costs.</li> </ul>	
<p><b>Street Scene – Car Parking</b></p>	<p><b>Audit Opinion</b></p> <p><b>Good Standard</b> - The majority of the areas reviewed were found to be adequately controlled. Generally risks are well managed but a few areas for improvement have been identified.</p> <p><b>Conclusions</b></p> <p>The popularity of cashless parking continues to rise and the authority's accounting of income from this source was confirmed as accurate. Parking permit transactions are processed accurately and payments promptly received.</p> <p>However, although the process of issuing permits has been engineered into the W2 workflow system there remain a number of administrative processes required to issue a permit and it has been recommended that the variety of different permits available are reviewed and rationalised. This will support the streamlining of procedures, realise efficiencies for the service and in turn, will deliver a more consistent customer experience.</p>	<p>Updating of the Street Scene software, Sidem, is being considered, to allow virtual rather than paper permits to be issued. It is anticipated that virtual permits could be issued much more efficiently. They would be checked by Civil Enforcement Officers in much the same way as for car parking fees paid by mobile phone. However, in order to allow virtual permits to be issued, the number of permit types offered by SHDC needs first to be reduced (this is less of an issue at WDBC). These are to be reviewed by a Task &amp; Finish Group in autumn 2016.</p> <p>Operations Manager Environmental Services (CA)</p>

<p><b>Counter Fraud</b></p>	<p><b>Audit Opinion</b></p> <p><b>Good Standard</b> - The majority of the areas reviewed were found to be adequately controlled. Generally risks are well managed but a few areas for improvement have been identified.</p> <p><b>Conclusions</b> Overall the controls for minimising fraud and corruption within the Councils are operating to good standards. The Council regularly submits reports to the Audit Committee and keep members informed of any issues and risks.</p> <p>The Council does has a good track record of minimising risk and the potential for fraud but we have highlighted that some service areas have struggled to find the resource needed to complete the review of the data matches received from the last NFI exercise.</p>	
<p><b>Complaints</b></p>	<p><b>Audit Opinion</b></p> <p><b>Improvements Required</b> - There are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Fairly extensive recommendations have been made to ensure that organisational objectives are not put at risk.</p> <p><b>Conclusions</b> The Complaints system provides a provides a basic framework for managing complaints and those we reviewed appeared in general to have been responded to satisfactorily. However there are some areas where improvements could be made including:</p> <ul style="list-style-type: none"> <li>• Review of Complaints policy to ensure it includes all relevant recommendations of the Local Government Ombudsman;</li> <li>• Use of a Complaints system for more effective management;</li> <li>• Ensuring all staff involved in administering complaints have received adequate training and provided with guidance;</li> <li>• Ensuring that the Complaints system allows reporting and meaningful analysis of complaints received;</li> </ul>	<ul style="list-style-type: none"> <li>• A revised joint Complaints Policy (and accompanying Vexatious Complaints policy) has been adopted by both Councils. This was developed using best practice, and input from previous complainants and was reviewed and endorsed by the Ombudsman;</li> <li>• The intranet and external websites have been updated accordingly with relevant guidance and templates;</li> <li>• 90 members of staff attended a Complaints Handling course run by the Ombudsman and these courses will continue to be run periodically for new staff;</li> <li>• W2 is live and now reflects the new Policy with a facility for monitoring and reporting on outcomes and consequent improvements. The internal guidance stresses the importance of recording the outcomes from each complaint;</li> </ul>



**APPENDIX B**

	<ul style="list-style-type: none"><li>• Ensuring that 'lessons learned' from complaints are recorded and action taken to address issues identified; and</li><li>• Consider the benefits of recording suggestions and analysing both these and compliments to identify trends.</li></ul>	<ul style="list-style-type: none"><li>• Responsibility for responding to complaints lies with senior officers (ELT);</li><li>• Training has been given to ELT and is being rolled out to other staff who are involved in complaints.</li></ul>
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## Planned Audit 2015/16 – Work Complete (No Audit Report)

Subject	Comments
<b>System of Internal Control (SIC), and Annual Governance Statement (AGS)</b>	<p>Included within the Internal Audit Annual Report presented to the June Audit Committee was the internal audit opinion providing assurance that the Council's systems contain a satisfactory level of internal control.</p> <p>In addition, there is a requirement for the Council to prepare an AGS statement. Internal Audit provided support and challenge, as appropriate, to the Senior Leadership Team as they drafted the statement in respect of the 2014/15 financial year. The S151 Officer presented the 2014/15 AGS to the Audit Committee on 30 July 2015 with the draft accounts.</p>
<b>Exemptions to Financial Procedure Rules</b>	<p>Five applications for Contract / Financial Procedure Rules have been received in 2015/16, of which five were accepted.</p>
<b>Leisure Contract</b>	<p>A "watching brief" has been maintained as the procurement exercise progresses, this will continue into 2016/17.</p>

Report to: **Audit Committee**  
Date: **5 July 2016**  
Title: **APPOINTMENT OF EXTERNAL AUDITORS**  
Portfolio Area: **Support Services**

Wards Affected: **All**

Relevant Scrutiny Committee: Overview and Scrutiny Panel

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:  
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Robert Hutchins** Role: **Head of Devon Audit Partnership**

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## Recommendations:

- 1. Audit Committee Members note the implications of the Local Audit & Accountability Act 2014 and the requirement for the Council to appoint a local auditor by 31 December 2017.**
- 2. A decision will be required as to whether West Devon either opts in to a sector-led body or decides to appoint its own local auditor (and if so, which further option is then selected).**

## 1 Executive summary

- 1.1 The purpose of this report is to advise the Audit Committee of the requirement for the Council to appoint its external auditor from 2018/19, the necessary steps which need to be taken to meet this deadline, and the various options available.
- 1.2 West Devon Borough Council needs to appoint an external auditor from 2018/19. The Local Audit and Accountability Act 2014 sets out the specific process which



needs to be followed and, in order to be compliant, the Audit Committee need to commence the decision making process.

- 1.3 A decision will be required as to whether West Devon either opts in to a sector-led body or decides to appoint it's own a local auditor (and if so, which further option is then selected).

## **2. Background**

- 2.1 The Local Audit & Accountability Act 2014 (the Act) abolished the Audit Commission, paving the way for local authorities to appoint their own external (local) auditors.
- 2.2 The Secretary of State for Communities and Local Government (CLG) has decided to implement a phased introduction of the new local audit framework, with all health bodies and smaller local government bodies moving to the new framework as planned on 1 April 2017 and larger local government bodies (e.g. West Devon Borough) a year later, on 1 April 2018.
- 2.3 The Council's current external auditor is KPMG, this appointment having been made under a contract let by the Audit Commission. Following closure of the Audit Commission the contract is currently managed by Public Sector Audit Appointments Limited (PSAA), the transitional body set up by the Local Government Association (LGA) with delegated authority from the Secretary of State CLG. Over recent years we have benefited from reduction in fees compared with historic levels. This has been the result of a combination of factors including new contracts negotiated nationally with the firms of accountants and savings from closure of the Audit Commission.
- 2.4. When the current transitional arrangements come to an end on 31 March 2018 the Council will be able to move to locally appointing an auditor. There are a number of routes by which this can be achieved, each with varying risks and opportunities.
- 2.5. The scope of the audit will still be specified nationally, the National Audit Office (NAO) is responsible for writing the Code of Audit Practice which all firms appointed to carry out the Council's audit must follow. Not all accounting firms will be eligible to compete for the work, they will need to demonstrate that they have the required skills and experience and be registered with a Registered Supervising Body approved by the Financial Reporting Council. The registration process has not yet commenced and so the number of firms is not known but it is reasonable to expect that the list of eligible firms may include the top 10 or 12 firms in the country, including our current auditor. It is unlikely that small local independent firms will meet the eligibility criteria.
- 2.6 West Devon must have appointed a local auditor by 31 December 2017. The phased implementation has been designed to enable audit firms to plan their workloads and retain suitably qualified staff, provide auditor stability for principal authorities for the 2017/18 audit period, and enable the sector to make timely arrangements for procurement under the new framework.
- 2.7 The Secretary of State has established regulations to determine "an appointing person" to conduct a sector-led exercise and the Local Government Association



(LGA) are working on developing a Sector Led Body (SLB). In a recent survey, 58% of respondents expressed an interest in this option, and it is expected that economies of scale will come from a number of councils acting collectively and opting-in to a SLB.

- 2.8 If the Council wishes to make its own appointment then the process requires an **Audit Panel** to be set up and advise the Council on the selection of the local auditor. The final deadline for appointment is 31<sup>st</sup> December 2017; to comply with procurement processes, and the need to appoint independent members to the Panel required beforehand, West Devon will probably have to start making arrangements for an audit panel in summer/autumn 2016.
- 2.9 The Council will need to decide whether to opt into a sector led procurement exercise or undertake its own procurement exercise through an auditor panel. Until details of the sector-led exercise are published then a full assessment of the merits of each approach will not be possible. However, in broad terms, the advantage to the Council of opting in will be a saving in the cost of conducting its own procurement exercise. The disadvantage will be loss of control over the process, including the final decision on appointment.

### **3. Outcomes / outputs**

- 3.1 The Audit Committee will need to decide whether to :-
- opt in to a sector led body that may be established as an appointing body for local auditors, and would not therefore need to establish its own auditor panel; or
  - to begin to consider the setting up of an auditor panel as soon as possible to allow the Council to have the necessary arrangements in place to undertake this process.
- 3.2 In relation to the auditor panel, there are four main options available to authorities:
- individually;
  - jointly with another authority or authorities;
  - using another authority's own auditor panel; or
  - using an existing committee or sub-committee to carry out the role.
- 3.3 These options, and the possible advantages / disadvantages are set out in Appendix A attached.

### **4. Options available and consideration of risk**

- 4.1 Appendix A sets out a summary note of the advantages and disadvantages of the various options.
- 4.2 Appendix B is the guidance issued by CIPFA's in relation to Auditor Panels.



## 5. Proposed Way Forward

- 5.1 Audit Members are requested to agree to consider the implications of the various options and schedule Committee time between April and September 2017 to discuss and recommend the most appropriate way forward for West Devon Borough Council.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		<p>Section 7 of the Local Audit and Accountability Act 2014 (the Act) requires a relevant authority to appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding year. Section 8 governs the procedure for appointment including that the authority must consult and take account of the advice of its auditor panel on the selection and appointment of a local auditor. Section 8 provides that where a relevant authority is a local authority operating executive arrangements, the function of appointing a local auditor to audit its accounts is not the responsibility of an executive of the authority under those arrangements;</p> <p>Section 12 makes provision for the failure to appoint a local auditor: the authority must immediately inform the Secretary of State, who may direct the authority to appoint the auditor named in the direction or appoint a local auditor on behalf of the authority.</p> <p>Section 17 gives the Secretary of State the power to make regulations in relation to an 'appointing person' specified by the Secretary of State. This power has been exercised in the Local Audit (Appointing Person) Regulations 2015 (SI 192) and this gives the Secretary of State the ability to enable a Sector Led Body to become the appointing person.</p>
Financial		<p>It is expected that costs associated with the changes referred to in this paper will be broadly in line with this annual cost, although there is a risk that fee levels could increase when the current contracts end in 2018</p>
Risk		<p>The external auditor provides members with assurance on the Financial Statements.</p> <p>Getting the right auditor to meet our needs is</p>



		essential in promoting good governance and control.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None
Safeguarding		None
Community Safety, Crime and Disorder		None
Health, Safety and Wellbeing		None
Other implications		None.

**Supporting Information**

**Appendices:**

Appendix A: 'Briefing Note – Auditor Panel Issues and Requirements.'

Appendix B: CIPFA – Auditor Panels Guidance

**Background Papers:**

None



### **Briefing Note - Auditor Panel Issues and Requirements.**

The local auditor (external auditor) will need to be appointed by December 2017, to undertake the audit of accounts for 2018/19 financial year.

An authority could decide to opt into a sector-led body that may be established as an appointing body for local auditors and, if so, would not need to establish an auditor panel. The possible benefits of this option is that the cost of procuring new auditors would be shared across those authorities who decide to opt in and with larger contract values, firms may offer lower fees.

However, if the organisation decides that it wishes to appoint a local auditor, then an Auditor Panel will need to be established.

If this decision is taken, the Council needs to determine whether:-

- a. to set up its own panel
- b. set up a panel with one or more authorities
- c. use an existing committee or sub-committee to act as auditor panel
- d. ask another authority's auditor panel to carry out this function

Dependent on the option, the Audit Committee will need to decide:-

1. The composition of the Panel.

The minimum number will be three members, of which at least two must be considered independent. Panels need not be large. The focus is on quality of member panel. The challenge will be to achieve the required depth of knowledge and experience. The Chair of the Auditor Panel must be independent of the Authority.

In the case of joint Panels, any number can join but it may be that constituent authorities will want to appoint their own independent Members and this will increase the size of the Panel.

Arrangements will be necessary to address incidental vacancies in panel membership. Meetings will need to be quorate and where the chair cannot attend meetings, another independent member will have to take on that role.

2. Appointment of Independent Chair and Members

The skills and knowledge for the Panel's post will require a job description and relevant recruitment process for appointment via normal advertising arrangements.

3. Terms of Office

The tenure of Chair and Members will have to be determined, balancing continuity and development of knowledge base against developing new ideas and fresh approaches.

Once the above are determined, there will be a need to ensure:-

1. Independence

Appointees to the Auditor Panel will have to ensure independence by having none of the following :-

- a. previous involvement within the last five years as a member or officer with the authority or another, connected authority or an officer or employee of a connected entity





- b. a relationship (familial or friendship) with a member or officer of the authority or a connected authority or with an officer or employee of a connected entity
- c. a contractual (commercial) relationship with the authority – either as an individual or via a body in which the panel member has a ‘beneficial interest’, and
- d. a possible conflict of interest through being a prospective or current auditor of the authority or, within the previous five years, is or has been: an employee of such a person
- e. partner in a firm, or
- f. director of a body corporate

which is a prospective or current auditor of the authority at the given time.

2. Panel Training

Will be required to maintain up-to-date knowledge. Panel members will need to commit to training and development on appointment.

3. Governance

The Panel will require officer support, in line with Committee arrangements. In addition, procedures for member resignation or removal will need to be in place, plus the capacity to pay expenses (and allowances?) to members.

The functions of the Auditor Panel will be to advise the Council on:-

- i. the selection and appointment of the auditor
- ii. whether the authority should adopt a policy on obtaining non-audit services from the auditor, including the contents of such a policy
- iii. any proposal by the authority to enter into a liability limitation agreement
- iv. maintaining an independent relationship with its auditor
- v. the outcome of any investigation of an auditor’s resignation from office, if this occurs, or on any proposal to remove a local auditor from office.

The Panel will be able to call any Council Member or Officer to a meeting. It will monitor the Auditor contract and have a close working relationship with the Audit Committee. There will be areas of overlap between the Audit Committee and Auditor Panel’s duties, including:-

- a. The quality and effectiveness monitoring role undertaken by the audit committee which will feed into the panel’s contract monitoring.
- b. The audit committee should be able to express an opinion on the selection and rotation of the auditor.
- c. The audit committee reviews the authority’s policy on non-audit work carried out by external audit whereas the auditor panel has to advise the authority on the contents of any non-audit work policy and whether the authority should adopt such a policy.

If the Council decides not to take the advice of the Auditor Panel, it will be required to publish the basis of its decision in a format available to the majority of residents.

The Panel will have extensive involvement in the procurement process for the appointment of the local auditor and might be involved in their removal, although clearly this would only be in exceptional cases.

The Panel has a statutory duty to give advice to the Council, if we propose to enter into a limited liability agreement with the local auditor. Such agreements seek to limit the liability owed to the Council, as a result of negligence, default, breach of duty or trust, during the course of the audit. Panels may need relevant training in this area. Additionally, Panels should be seen to receive any public interest reports produced by the local auditor and should take these into account when advising the Council on its relationship with the auditor.



### Advantages and Disadvantages of Audit Panel Options

Option	Possible Advantages	Possible Disadvantages
Set up own panel	<ul style="list-style-type: none"> <li>• Full ownership of the process</li> <li>• Fully bespoke contract with the auditor</li> <li>• Tendering process more based on local circumstances (within EU procurement rules)</li> </ul>	<ul style="list-style-type: none"> <li>• May experience difficulties in appointing majority independent panel members and independent panel chair as per the regulations</li> <li>• Will need to ensure that panel members are suitably qualified to understand and participate in the panel's functions</li> <li>• Will have to cover panel expenses completely</li> <li>• May not be able to procure at a lower cost, for example, depending on authority location, where there will be a risk of limited provider choice and a single authority contract may be less attractive to some providers</li> <li>• Will not achieve economies of scale</li> </ul>
Set up a panel with one or more authorities	<ul style="list-style-type: none"> <li>• Less administration than a sole auditor panel</li> <li>• Will be able to share the administration expenses</li> <li>• May be easier to attract suitable panel members</li> </ul> <p>If procuring a joint audit contract:</p> <ul style="list-style-type: none"> <li>• May still be a relatively locally tailored process</li> <li>• May be able to achieve some economies of scale</li> </ul> <p>If procuring separate audit contracts:</p> <ul style="list-style-type: none"> <li>• An opportunity for fully bespoke contracts with the auditor if the group of authorities can agree</li> </ul>	<p>If procuring a joint audit contract:</p> <ul style="list-style-type: none"> <li>• May need to compromise on the arrangements or auditor contract</li> <li>• May not end up with first choice of auditor, compared to an individual auditor panel. If a large group of authorities work together and decide to appoint one joint audit contract across all the authorities, a joint panel may be more likely to advise appointment of an auditor it considers suitable for all authorities taken together</li> <li>• Need to agree appointment of members across multiple authorities and set up an appropriate joint decision-making process</li> </ul>



<p>Use an existing committee or sub-committee</p>	<ul style="list-style-type: none"> <li>• Existing administrative structure in place</li> <li>• Existing (sub)committee should already have a better basic understanding of the authority's objectives and requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Possible need to appoint new (sub) committee members to comply with independence regulations</li> </ul>
<p>Use another authority's panel</p>	<ul style="list-style-type: none"> <li>• Will not have to set up an auditor panel</li> <li>• Arguably most independent option for the authority using the host authority's panel</li> </ul>	<ul style="list-style-type: none"> <li>• The panel may not understand the specific needs of the authority</li> <li>• May need to enter into a formal arrangement with the other authority</li> <li>• May be difficult to find an authority willing to enter into such an arrangement</li> <li>• May be more difficult to ensure adequate liaison with authority's own audit committee (if one exists)</li> </ul>



**CIPFA – Auditor Panels Guidance**



CIPFA Auditor Panel  
guidance.pdf



Report to: **Audit Committee**

Date: **5 July 2016**

Title: **UPDATE ON ANTI-FRAUD, CORRUPTION AND BRIBERY POLICY AND STRATEGY, ANTI-MONEY LAUNDERING POLICY AND CONFIDENTIAL REPORTING POLICY**

Portfolio Area: **Cllr Edmonds**

Wards Affected: **All**

Relevant Scrutiny Committee: **Internal**

Urgent Decision: **N** Approval and clearance obtained:

Date next steps can be taken:  
**Council 26 July 2016**

Author: **Catherine Bowen** Role: **Legal Community of Practice Lead and Monitoring Officer**

Contact: **Catherine.bowen@swdevon.gov.uk**

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**Recommendations:**

- 1. That the Audit Committee RECOMMENDS that the Council adopts the following reviewed polices and documents:**
  - a) Anti-fraud, Corruption and Bribery Policy & Strategy (Appendix A refers);**
  - b) Anti-fraud, Corruption and Bribery Response Plan (Appendix B refers);**
  - c) Anti-money Laundering Policy Procedures and Guidance for Staff (Appendix C refers);**
  - d) Anti-money Laundering Policy (Appendix D refers);**
  - e) Confidential Reporting Policy (Appendix E refers); and**
  - f) Confidential Reporting Policy Frequently Asked Questions (Appendix F refers).**

## 1. Executive summary

- 1.1 The Audit Committee is asked to consider the following policies and documents and recommend their adoption to Council:
- a) Anti-fraud, Corruption and Bribery Policy & Strategy (Appendix A)
  - b) Anti-fraud, Corruption and Bribery Response Plan (Appendix B)
  - c) Anti-money Laundering Policy Procedures and Guidance for Staff (Appendix C)
  - d) Anti-money Laundering Policy (Appendix D)
  - e) Confidential Reporting Policy (Appendix E)
  - f) Confidential Reporting Policy Frequently Asked questions (Appendix F)
- 1.2 It is important that the Council regularly reviews its governing documents concerning anti-fraud, anti-money laundering together with its confidential reporting policy (sometimes referred to as the Whistle Blowing Policy) to ensure that they are fit for purpose and reflect both current legislation and best practice, and reflect the way that the Council's practices in relation to these important issues.

## 2. Background

- 2.1 The Statutory Officers' Panel (comprising the Head of Paid Service, Section 151 Officer, Monitoring Officer and Executive Director (Service Delivery & Commercial Development)) meets at least quarterly to consider the extent that the Council complies and manages its governance and regulatory frameworks, risk, and its governance policies.
- 2.2 The **Anti-Fraud, Corruption and Bribery Policy & Strategy** (Appendix A to this report) sets out the Council's position on fraud, corruption and bribery and its objective is to minimise the risk to the Council by promoting a culture of integrity and accountability supported by procedures and guidance designed to prevent and detect fraud, corruption and bribery and identify a clear way for any necessary investigation.
- 2.3 The Anti-Fraud, Corruption and Bribery Policy & Strategy also contains a **Housing Benefit and Council Tax Prosecution and Sanction Policy** which relates specifically to prosecutions and sanctions relating to benefit and council tax fraud (attached as appendix to the Policy).
- 2.4 The Anti-Fraud strategy is supported by a **Response Plan** (attached as Appendix B to this report) which sets out how staff can notify the Council about suspicions relating to fraud, corruption or bribery and how these concerns will be investigated (this also links to the Confidential Reporting Policy discussed in paragraph 2.6 below).
- 2.5 The Council's **Anti-money Laundering Policy Procedures and Guidance for Staff** is attached at Appendix C and sets out how we will endeavour to protect the Council and its staff from being exposed to money laundering, and the Guidance is designed to help staff understand the legal and regulatory requirements relating to money laundering, and what steps to take if there are suspicions of money laundering. This document supports the **Anti-money Laundering Policy** attached at Appendix D which introduces safeguards to help identify and report on instances where money laundering is suspected. It

emphasises the Council's commitment to the prevention, detection, and reporting of actual, alleged or suspected money laundering.

- 2.6 The **Confidential Reporting Policy** is attached at Appendix E and is sometimes referred to as the Whistle Blowing Policy as its objective is to protect workers from consequences (real or feared) of raising concerns about serious misconduct or malpractice such as fraud, cheating, or unsafe practices at work. This has clear overlaps with the Anti-fraud and Anti-money laundering policies but it is broader in nature (and a statutory requirement) covering agency staff and contractors, and covers a wider range of concerns regarding misconduct and other suspected malpractice. The policy is designed to encourage confidential reporting within the Council without fear of recrimination, and is in addition to the Council's complaints procedures.
- 2.7 The Confidential Reporting Policy is summarised in the supporting document **Frequently Asked Questions** (Appendix F) which identifies the key provisions of the Policy.
- 2.8 At its meeting in March 2016, the Statutory Officers' Panel reviewed the documents set out in paragraph 1 above to ensure compliance with the law and Government guidance. Only minor amendments have been required to update the policies and documents to reflect current Council practice and they otherwise remain fit for purpose.
- 2.9 These governance policies and documents support and are integral to the Council's Financial Procedure Rules and Contract Procedure Rules.

**3. Outcomes/outputs**

- 3.1 The Council needs to ensure that its documents are up to date with legislative requirements and best practice, and also reflect the how the Council operates, and this is achieved by annual monitoring by the Statutory Officers' Panel and regular review by the Audit Committee through its responsibilities for governance and regulatory frameworks.
- 3.2 Through a review of the Council's governance policies the Council minimises the risk of misconduct, fraud, corruption and bribery which is reinforced by raising awareness of these issues with all staff and providing robust mechanism for prevention and reporting real or alleged incidents.
- 3.3 The reviewed policies will be available on the staff intranet and the internet.

**4. Options available and consideration of risk**

- 4.1 The Council has a duty to regularly monitor and review these policies and documents and the Council would be failing in this duty if it did not review the policy documents, leading to increased risk to the Council.

**5. Proposed Way Forward**

- 5.1 The Audit Committee is requested to consider the reviewed documents attached at Appendices A-F and recommend their approval to the Council.

**6. Implications**

Implications	Relevant to proposals Y/N	Details and proposed measures to address

Legal/Governance	Y	<p>The policies are required by various pieces of legislation including:</p> <ul style="list-style-type: none"> <li>• Public Interest Disclosure Act 1998</li> <li>• Proceeds of Crime Act 2002</li> <li>• Fraud Act 2006</li> <li>• Bribery Act 2010</li> <li>• Money Laundering Regulations 2007</li> <li>• Accounts and Audit Regulations 2003, 2006, 2011</li> </ul> <p>These requirements are also reflected in the Council's Constitution through the Financial Procedure Rules and the Contract Procedure Rules. The Audit Committee has a responsibility to consider and review its governance and regulatory policies and make any necessary recommendations to the Council. The policies and documents attached at Appendices A-F have been reviewed and only minor amendments have been made to reflect the Council's current structure and ways of working, and they otherwise remain fit for purpose.</p>
Financial	N	There are no financial implications to the review of the policies and documents
Risk	Y	<p>The report identifies that the Council has a duty to regularly review its policy documentation to minimise risk of fraud, corruption, bribery and money laundering and to ensure that there are robust mechanisms of which staff are aware to prevent, detect, and investigate these issues where appropriate.</p> <p>Failure to do so will increase the risk to the Council through challenge, malpractice and potential damage to the Council's reputation.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		These are contained within the documentation.
Safeguarding		Not applicable
Community Safety, Crime and Disorder		This was considered within the policies
Health, Safety and Wellbeing		This is considered within the policies
Other implications		N/a

**Supporting Information**



**Appendices:**

- a) Anti-fraud, Corruption and Bribery Policy and Strategy (Appendix A)
- b) Anti-fraud, Corruption and Bribery Response Plan (Appendix B)
- c) Anti-Money Laundering Policy Procedures and Guidance for Staff (Appendix C)
- d) Anti-Money Laundering Policy (Appendix D)
- e) Confidential Reporting Policy (Appendix E)
- f) Confidential Reporting Policy Frequently Asked questions (Appendix F)

**Background Papers:**

None

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*Working together*



**South Hams District Council  
And  
West Devon Borough Council**

**Anti Fraud, Corruption and Bribery  
Policy and Strategy**

# SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL

## ANTI FRAUD, CORRUPTION and BRIBERY POLICY and STRATEGY

### 1. INTRODUCTION

1.1 This document sets out the non-tolerance position held by South Hams District Council and West Devon Borough Council on fraud, corruption and bribery.

1.2 The objectives of an Anti Fraud, Corruption and Bribery Policy and Strategy are to:

- ◆ Provide a clear statement of the Councils' position on fraud, corruption and bribery;
- ◆ Minimise the risk to the Councils' good name and loss of its assets;
- ◆ Promote a culture of integrity and accountability, two of the fundamental principles of good governance, in members, staff and all those the Council does business with;
- ◆ Enhance existing procedures aimed at preventing, discouraging and detecting fraud, corruption and bribery; and
- ◆ Raise awareness of the risk of fraud, corruption and bribery being perpetrated against the Council.

1.3 In managing its responsibilities the Council is determined to protect itself against fraud and corruption both from within the authority and from outside. The Council is committed to an effective Policy and Strategy which is designed to:

- ◆ Encourage prevention;
- ◆ promote detection; and
- ◆ Identify a clear pathway for investigation.

1.4 To combat fraud, corruption and bribery the Councils' Policy and Strategy is based on a series of comprehensive procedures. These cover:

- ◆ Risk Management (paragraph 3);
- ◆ Policy Statements (paragraph 5);
- ◆ Deterrence and Prevention (paragraph 6);
- ◆ Detection, Investigation, Sanctions and Redress (paragraph 7); and
- ◆ Publicity and Training (paragraph 8).

1.5 There is an inter-relationship between the Strategy and other existing Councils' policy documents. These include;

- Financial Regulations (**Financial and Contract Procedure Rules**), and

dealing with action to be taken when irregularities or suspected irregularities arise, the;

## SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL

### ANTI FRAUD, CORRUPTION and BRIBERY POLICY and STRATEGY

- **Confidential Reporting (Whistle Blowing) Policy,**
  - **Gift and Hospitality Registers for Members and Officers,**
  - **Codes of Conduct for Members and Staff;** and
  - **Disciplinary Procedures.**
- 1.6 There is a separate **Anti Money Laundering Policy** and related guidance and procedures.
- 1.7 All references to 'Members' within this document refer to both elected members and co-opted members who sit on the Standards Committee, and any other co-optees from time to time appointed. Likewise references to 'staff' should be taken to include full and part-time staff and permanent, temporary and agency staff.

#### **Benefits Fraud**

- 1.8 Whilst the general principles outlined in this Strategy apply to all areas of the Councils' operations, it should be noted that a specific policy document is in place in respect of the prevention and detection of benefit fraud.
- 1.9 This deals with the requirements of the Councils' Benefits Service and dedicated Fraud Team, and that of the equivalent in the Department of Work and Pensions, attached in the Councils' **Benefit Fraud Prosecution and Sanction Policy** (Appendix A).

## 2. **DEFINITION OF FRAUD, CORRUPTION AND BRIBERY**

### **Fraud**

- 2.1 Fraud has been defined as: *the intentional and dishonest distortion of financial statements and other records by persons internal or external to the Council which is carried out to conceal the misappropriation of assets or otherwise for gain.* (Source: CIPFA)
- 2.2 The Fraud Act 2006 came into effect on 15 January 2007. The Act created a new general offence of fraud with three ways of committing it:
- ◆ Fraud by false representation (dishonest representation) to gain or cause loss or risk of loss;
  - ◆ Fraud by failing to disclose information (where there is a legal duty, e.g. under written or oral contracts); and
  - ◆ Fraud by abuse of position.

It also created new offences:

- ◆ Obtaining services dishonestly;

## SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL

### ANTI FRAUD, CORRUPTION and BRIBERY POLICY and STRATEGY

- ♦ Possessing, making and supplying articles for use in frauds; and
- ♦ Fraudulent trading applicable to non-corporate traders (extends Companies Acts to sole traders etc.).

#### Corruption

- 2.3 Corruption has been defined as: *the offering, giving, soliciting or acceptance of an inducement or reward, which may influence a person to act against the interests of the organisation* (Source: Audit Commission).

#### Bribery

- 2.4 Bribery is defined as: *The offering, giving or soliciting of an inducement or reward which may influence a person to perform a function or activity improperly.*

- 2.5 The 2010 Bribery Act says that a person is guilty of an offence if either of the following cases applies:

Person A **offers, promises or gives** a financial or other advantage to another person, and

- ♦ Intends the advantage to induce Person B to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity, or knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity

Person B is guilty of an offence if any of the following cases applies.

- ♦ Where Person B **requests, agrees to receive or accepts** a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by Person B or another person); or where the request, agreement or acceptance itself constitutes the improper performance by Person B of a relevant function or activity under the Bribery Act and organisation can be prosecuted if it has failed to prevent bribery.
- 2.6 Public sector organisations are explicitly covered by the offences in sections 1, 2 and 6 of the Act.
- 2.7 Members and staff must note that this Policy and Strategy reflects the Councils' zero tolerance of both the offering and receipt of bribes.

**3. RISK MANAGEMENT**

- 3.1 Areas most commonly at risk from fraud are both internal and external and include those involving the handling of any asset of an attractive and portable nature. Among typical high risk areas are cash, cheques, credit cards, contracts, income, payments, expense claims, housing benefits, loans, investments, payroll, grants and stores etc.
- 3.2 Areas where corrupt practices or bribery may be found may include, but are not limited to, the award of permissions, planning consents and licences, canvassing for appointments, hospitality, interests of members and officers, secondary employment of staff which may influence their work for an authority, pressure selling, tendering and award of contracts, settlement of contractors' final accounts and claims and the disposal of assets.
- 3.3 The risk of fraud, corruption and bribery is reflected in the Councils' Risk Register. The Risk Registers link to the Councils' objectives and priorities and the System of Internal Control.
- 3.4 These processes require managers to identify the key risks to achieving their service objectives and the controls to mitigate these risks, which may include fraud or corruption. Assurance that the controls to mitigate the risks are in place and operating satisfactorily is required, also annually, and give consideration to 3.1 and 3.2 above.

**4. EXTERNAL SCRUTINY**

- 4.1 The Councils are aware of the high level of external scrutiny of its affairs by a variety of bodies and individuals including:
- ◆ Local tax payers and community groups;
  - ◆ Pressure groups;
  - ◆ Service users;
  - ◆ Local press;
  - ◆ The Councils' external auditors;
  - ◆ Government Departments and Agencies; and
  - ◆ HM Revenue and Customs.
- 4.2 The adoption of a formal Anti Fraud, Corruption and Bribery Policy and Strategy will provide a degree of assurance to those external bodies and individuals interested in the Councils' activities.

**5. POLICY STATEMENTS**

**Culture**

- 5.1 The Councils are determined that the culture and tone of the organisation will be, and is seen to be, one of openness, honesty and opposition to fraud, corruption or bribery.
- 5.2 The Councils are committed to discouraging, preventing and detecting fraud, corruption and bribery where attempted on, or from within, the Councils' organisation.
- 5.3 The Councils expect members and staff at all levels to be aware of the standards of conduct expected of them and the procedures designed to reduce the risk of fraud, corruption and bribery occurring.
- 5.4 Members and staff are responsible for their own conduct and compliance with this strategy and are required to comply with their respective codes of conduct.
- 5.5 There is an expectation and requirement that individuals, suppliers and organisations associated in whatever way with the Councils will act with integrity, and that members and Council staff will lead by example in these matters.

**Members and Staff**

- 5.6 Members and staff are positively encouraged to raise any concerns on fraud, corruption and bribery matters normally, but not exclusively, through a Group Manager or other line manager. This they can do in the knowledge that such concerns will be treated in confidence and properly investigated. If necessary a route other than through a line manager may be used to raise such concerns, e.g. Internal Audit, Executive Directors, S.151 Officer or Monitoring Officer.
- 5.7 The Councils have drawn up a separate policy and procedure to deal with any area of concern that an employee may wish to bring to the attention of the management, the '**Confidential Reporting (Whistle Blowing) Policy**'.
- 5.8 The Councils' Monitoring Officer needs to be informed of any actual or suspected breaches of the law or codes of practice. Regular formal meetings between the S.151 Officer, Monitoring Officer and related officers, an officer group known as the Statutory Officers Panel, discuss potential issues and the Group holds urgent meetings when



## **SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL**

### **ANTI FRAUD, CORRUPTION and BRIBERY POLICY and STRATEGY**

suspected breaches of the law or codes of practice are identified. (See section 7 of this document relating to investigation).

- 5.9 The primary responsibility for maintaining sound arrangements to prevent and detect fraud, corruption and bribery rests with management. Any manager made aware of suspected fraud, corruption and bribery will adopt defined procedures by:
- Dealing promptly with the matter;
  - Recording all evidence received;
  - Ensuring that evidence is sound and adequately supported;
  - Ensuring security of evidence collected;
  - Notifying the s.151 Officer, and the Councils' Monitoring Officer; and
  - Implementing Council disciplinary procedures where appropriate.
- 5.10 Any abuse of this process by knowingly raising unfounded and/or malicious allegations may be dealt with as a disciplinary matter.
- 5.11 The Councils can be expected to deal swiftly and thoroughly with any member or member of staff who defrauds or attempts to defraud the Council or who is corrupt. The Councils will be robust in dealing with financial malpractice.

#### **Partner Organisations and Members of the Public**

- 5.12 In addition, partner organisations or members of the public are also encouraged to report concerns through any of the above avenues. The principles and processes described in this Strategy and its Appendices, and the Councils' **Confidential Reporting (Whistle Blowing) Policy**, will be applied to any concerns formally reported by partner organisations or members of the public.

#### **Monitoring**

- 5.13 The S.151 Officer will monitor the effectiveness of all aspects of the arrangements for the anti fraud, corruption and bribery culture including the approach to investigations, success of sanctions and processes for recovering loss. On a risk basis, the S.151 Officer will make informed judgements about the levels of budgetary investment in work to counter fraud, corruption and bribery.

## **SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL**

### **ANTI FRAUD, CORRUPTION and BRIBERY POLICY and STRATEGY**

- 5.14 The Audit Committee's terms of reference require them to monitor Council policies on **confidential reporting, anti-fraud, anti-corruption and anti-bribery**.
- 5.15 A regular report to the Committee by the Internal Auditor will inform Members of any suspected or proven fraud, corruption or bribery identified and the system changes required to ensure that the circumstances are not repeated.

#### **6. DETERRENCE AND PREVENTION**

- 6.1 The effectiveness of the Councils' financial arrangements will have a major bearing on its ability to minimise fraud, corruption and bribery. To actively prevent fraud the Councils must identify and remove the opportunity to commit crime from new policies and systems and to revise existing ones to remove apparent weaknesses.
- 6.2 The Councils will endeavour to act robustly and decisively when fraud, bribery or corruption is suspected and proven. This will be demonstrated through disciplinary action or prosecution. The Council will take action to help ensure the maximum recoveries for the Council.

#### **Prevention – Internal Controls**

- 6.3 As the appointed officer under 'Section 151' of the Local Government Act, 1972 and the Accounts and Audit Regulations (various years) responsible for making arrangements for the proper administration of the Councils' financial affairs, the Community of Practice (COP) Lead Finance (S. 151 Officer) is required to:
- ◆ Maintain an effective accounting system;
  - ◆ Comply with statutory financial reporting deadlines; and
  - ◆ Maintain an adequate and effective internal audit.
- 6.4 The Regulations required that a Deputy S.151 Officer be formally nominated.
- 6.5 The 2003, 2006 and 2011 Accounts and Audit Regulations require the Councils to ensure that they have adequate and effective financial management and a sound **System of Internal Control (SIC)**. It must review the system annually and publish a statement with the accounts (the annual Governance Statement).
- 6.6 The Councils' Financial Procedure Rules (part of the Constitution) also require the S.151 Officer to maintain a planned continuous **internal audit** to form part of the system of internal control, assist in the protection of the Councils' assets and the detection and prevention of

## **SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL**

### **ANTI FRAUD, CORRUPTION and BRIBERY POLICY and STRATEGY**

fraud and error. In consultation with the internal and external audit managers, special attention within audit plans is paid to those activities particularly exposed to the risk of fraud, corruption and bribery (paragraph 3.0).

- 6.7 The adequacy and appropriateness of the Councils' financial systems is independently reviewed by both internal and external audit. Senior management are required to be responsive to audit recommendations, and any issues.
- 6.8 The Councils' arrangements for preventing fraud will be considered by the Audit Committee on a regular basis. The arrangements will include Internal Audit and the Benefits Fraud Team carrying out pro-active and reactive work.
- 6.9 The Internal Auditor will take the appropriate steps to communicate to the appropriate managers, on a timely basis, the details of any fraud bulletins (warnings) received from the external auditor and any other source to ensure safeguards are in place.
- 6.10 The Councils will liaise and co-operate with other interested agencies and authorities, including the Audit Commission, Department for Work and Pensions, the Police, professional bodies, and other local authority networks, by, for example, exchanging information on current trends and remedies and membership of the National Anti Fraud Network (NAFN).

#### **Prevention – Staff**

- 6.11 The Councils recognise that a key preventative measure in the fight against fraud, corruption and bribery is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff in terms of their propriety and integrity. Staff recruitment is therefore required to be in accordance with procedures laid down by the Head of Corporate Services, and, to obtain a written reference regarding known honesty and integrity of potential staff before employment offers are made.
- 6.12 In the case of agency staff, references will have been taken by the agency to establish the honesty and integrity of the employee.
- 6.13 Council staff are expected to follow any **Code of Conduct** related to their employment or to their professional bodies or qualifications. This will be emphasised in staff induction procedures.
- 6.14 Employees who hold professional, trade or other appropriate qualifications are expected to comply with codes of conduct issued by the organisations of which they are members.

## **SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL**

### **ANTI FRAUD, CORRUPTION and BRIBERY POLICY and STRATEGY**

- 6.15 Council staff are required to notify the Councils' Monitoring Officer of offers of gifts or hospitality in any way related to their employment.
- 6.16 Any relevant pecuniary interests which, if publicly known, could be perceived as being likely to interfere with their independent judgement, must also be notified to, and recorded by, the Monitoring Officer.

#### **Prevention – Members**

- 6.17 The Councils' constitution contains a statement of the roles, functions, rights and duties of Members of the Council of Councillors. All members are required to comply with the Constitution, which includes a Code of Conduct.
- 6.18 All members of the Councils are required under the Councils' **Code of Conduct** to notify the Councils' Monitoring Officer of:
- ♦ Any areas of conflict between their Council duties and other areas of their personal or professional lives; and
  - ♦ Any offers of gifts or hospitality as specified in the code (to a value exceeding £25), which are in any way related to the performance of their duties to the Council.
- 6.19 The Authority has in place a Standards Committee that promotes and maintains high standards of member conduct and assists members to observe the code of conduct.

#### **7. DETECTION, INVESTIGATION, SANCTIONS AND REDRESS**

- 7.1 Prevention systems, particularly internal control systems, within the Council have been designed to provide indicators of any fraudulent activity.
- 7.2 It is often the alertness of staff and the public to such indicators that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may be in progress.
- 7.3 Despite the best efforts of financial managers and auditors, many frauds are discovered by chance or 'tip off', and the Councils have in place arrangements to enable such information to be properly dealt with - the **Confidential Reporting (Whistle Blowing) Policy and the Fraud, Corruption and Bribery Response Plan** both of which are available on the Councils' Intranet.

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- 7.4 Other methods of detection will be employed, on a risk basis, by those officers of the Councils charged to do so.
- 7.5 These will include analytical intelligence techniques and the sharing of information, within the data protection rules, with other agencies both locally and nationally. Examples of bodies involved in sharing such intelligence and data are External Audit, The Cabinet Office - National Fraud Initiative (NFI) and Department for Works and Pensions (DWP).

#### **Investigation**

- 7.6 An Investigating Officer will be appointed by the Executive Directors and/or S.151 Officer, following liaison with the Monitoring Officer, for fraud, corruption or bribery investigations (normally the Internal Auditor).
- 7.7 A detailed **Fraud, Corruption and Bribery Response Plan** has been written which contains Flow Diagrams showing the Reporting, Investigation and Action stages under the following headings:
- Notifying Suspected Fraud;
    - Line Management;
    - Confidential Reporting - S.151 Officer, Executive Directors, Monitoring Officer, Group Managers and/or Internal Audit;
  - Investigating Suspected Fraud;
    - Steps to be taken;
    - Responsibilities of the Investigating Officer;
  - Liaison with External Audit and the Police;
  - Interim Report/Final Report;
  - Outcomes;
    - Disciplinary;
    - Prosecution;
    - Exoneration;
  - Confidentiality; and
  - Postscript – Defamation.
- 7.8 The Response Plan is available to all staff on the Councils' Intranet.
- 7.9 Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management and other agencies such as the Police to ensure that all allegations and evidence are properly investigated and reported upon.
- 7.10 Any control weaknesses identified by an investigation must be reported to the relevant manager to allow improvements to be made that will ensure that there is no opportunity for further fraud or corruption.

**Sanctions and Redress**

- 7.11 The Councils' **Disciplinary Procedures** will be used where the outcome of the Investigation indicates improper behaviour of staff.
- 7.12 Sanctions by Standards Committee for members would follow a finding of the breach of the Members Code of Conduct.
- 7.13 For both staff and Members In cases where financial impropriety is discovered, the Councils will normally wish the Police and Crown Prosecution Service to assess evidence and make the decision to prosecute or not.
- 7.14 The Councils will always seek to recover any losses incurred as a result of fraud, corruption or bribery, wherever this is practical, including the use of the civil law if appropriate. Losses will be calculated using a professional statistical methodology for making accurate estimates, building in a proper level of independent valuation as required.

**Investigations Not Involving Fraud or Corruption**

- 7.15 The investigation process related to the Councils' **Disciplinary Procedures** will only be used to for those enquiries where no fraud, corruption or bribery is suspected.
- 7.16 The manager responsible for human resources will outline any investigations undertaken under the Disciplinary Procedures to the S.151 Officer, Monitoring Officer and relevant officers, who meet as an officer group known as the Statutory Officers Panel, on a regular basis.

**8. TRAINING AND PUBLICITY**

- 8.1 The Councils recognise that the continuing success of its Anti Fraud, Corruption and Bribery Policy and Strategy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of staff throughout the organisation through publication.

**Training**

- 8.2 It is, therefore, apparent that all staff involved in fraud work should be properly and regularly trained in all aspects of it. The training plans of all relevant staff, produced annually as part of the Councils' appraisal

## **SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL**

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system, will reflect this requirement and include both internal and externally training provision. Such training will be tailored to the needs of the individual staff member concerned, and is therefore dependent upon knowledge and experience.

- 8.3 The Councils support the concept of induction and subsequent training for all staff in this area, but particularly for staff involved in internal control systems to ensure that their responsibilities and duties are regularly highlighted and reinforced. This can be linked with training and awareness of other key documents such as the Confidential Reporting Policy and Anti-Money Laundering Procedures.
- 8.4 The possibility of disciplinary action against staff that ignore such training and guidance is clear.

#### **Publicity**

- 8.5 Methods of publication of the Strategy and Response Plan will be sought, with the clear goal of ensuring that all staff are aware of the zero tolerance culture and targeting those officers in areas of high risk of fraud loss.
- The Councils' Website;
  - Externally through the Councils' community publications;
  - The Councils' Intranet;
  - Member's Bulletin or equivalent;
  - Promotional sessions at section team meetings;
  - Flyer on Notice Boards or accompanying payslips; and
  - Occasional reminder e-mails to all staff and members.

## **9. POLICY REVIEW**

- 9.1 The Councils have in place a clear network of systems and procedures to assist in the fight against fraud, corruption and bribery. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.
- 9.2 To this end, the Councils maintain a continuous overview of such arrangements through, in particular, its S.151 Officer and its Internal and External Auditors and through the probity role of the Monitoring Officer and the Statutory Officers Panel.

**SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL**

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- 9.3 This policy will be reviewed annually by the S.151 Officer or at the specific request of the Councils' Monitoring Officer, and formally updated at least every 3 years.



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And  
West Devon Borough Council**

**Benefit Fraud  
Prosecution and Sanction Policy**

## SOUTH HAMS DISTRICT AND WEST DEVON BOROUGH COUNCIL

**BENEFIT FRAUD PROSECUTION AND SANCTION POLICY**

This Policy relates specifically to benefit fraud but links to the principles set out in the **Councils' Anti-Fraud, Corruption and Bribery Policy and Strategy**.

**Statement of Intent**

West Devon and South Hams Councils' Revenue and Benefits Section is committed to protecting the public purse. Local Authorities have been vigorously encouraged by District Audit and the Benefit Fraud Inspectorate to develop prosecution and sanction policies to deal with those who commit fraud against their Housing Benefit and Council Tax Benefit administration. This policy allows the Revenue and Benefits Service to ensure, an equitable and consistent approach to the prosecution and sanction of offenders and that when Fraud is identified it is dealt with effectively and in the public's best interest.

Where sufficient evidence has been gathered to show that a fraud has been committed, then a sanction or prosecution should be the normal outcome.

However, there are instances, where prosecution is not the correct option and the policy must identify those offences which should be cautioned or sanctioned. Conversely, it should also set out those types of cases where these remedies are not applicable. Prosecution and Sanction principles have been drawn up to enable consistent decisions to be made on each case that falls to be considered so that it can be shown that each instance has been treated fairly and reasonably. However comprehensive the policy might appear, it still will not cover every circumstance or series of events and should be regarded as providing the general principles and guidance to make a consistent and fair decision

Where it is decided that the case does not fall within the Councils' criteria to prosecute or sanction, the Councils are still committed to recovering all overpaid benefit.

When proceedings are considered, there are four basic standards to be borne in mind by the Councils.

- Is there sufficient evidence to justify the laying of information before the magistrate?
- Is a prosecution in the public interest?
- Does the prosecution meet the criteria laid down in the Councils' policy (equivalent to that in the Code for Crown Prosecutors)?
- Should an administrative penalty or formal caution be issued as an alternative?

**Prosecutions**

If any of the factors below are present in a case and the quality of the evidence is such that a successful prosecution could be brought, then prosecution should be seriously considered:

## SOUTH HAMS DISTRICT AND WEST DEVON BOROUGH COUNCIL

## BENEFIT FRAUD PROSECUTION AND SANCTION POLICY

- The amount of money obtained is substantial and in excess of £2,000;
- Whether there is evidence of the offence being pre-meditated;
- The fraud has continued over a long period;
- Any previous incidence of fraud;
- Whether multiple claims are involved;
- Whether the alleged offender is in a position of trust;
- Whether there is Landlord/tenant or employer/employee collusion;
- Whether the offence, although not serious itself, is widespread in the area it was committed;
- Whether there are grounds for believing that the offence is likely to be continued or repeated, for example by a history of recurring conduct;
- Whether there would be positive publicity which would act as a deterrent to others;
- An involvement by the perpetrator in other fraudulent benefit or allowance claims; and
- A refusal of the perpetrator to accept a caution or an administration penalty when offered.

Factors present in a case which might argue against prosecution:

- The alleged offender's physical and mental condition;
- Voluntary disclosure and full co-operation with the investigation by the alleged offender;
- Mitigating social/domestic factors e.g. if the perpetrator is elderly or infirm
- First offence;
- Where a more fitting sanction would be an administration penalty or Local Authority caution;
- Offer of restitution [either in full or by instalments];
- Adverse publicity;
- Failure in benefits administration, including delay; and
- Most crucially concerns or doubts about the quality of the evidence obtained.

Whereas the factors laid out above are general guiding principles, each case still needs to be treated on its own merits and a decision then reached as to whether a prosecution would be both in the Councils and the general public interest.

As an alternative to prosecution it may be appropriate to offer either an administrative penalty or a caution.

### Administrative Penalties

An administrative penalty is a financial penalty amounting to 30% of the gross adjudicated overpayment. It can be offered in any of the following cases:

- Where there is enough evidence to prosecute;
- The amount involved is more than £750 and less than £2000, and not so serious as to warrant prosecution at the outset;

## SOUTH HAMS DISTRICT AND WEST DEVON BOROUGH COUNCIL

**BENEFIT FRAUD PROSECUTION AND SANCTION POLICY**

- A first time offence where it is considered that the imposition of the financial penalty is sufficient punishment in itself;
- The fraud has not continued over a considerable period [should be less than 6 months];
- The fraud was not planned or premeditated;
- There has been no previous agreement by the perpetrator to pay an administration penalty;
- There has been no collusion, or
- The person has not been in a position of trust as an officer or member.

The administration penalty will be recovered over and above the fraudulent overpayment. Where the administrative penalty is refused by the perpetrator, or where it is not in the public interest to offer such a penalty, the Council will prosecute, unless there are very exceptional circumstances not to do so.

**Cautions**

There are cases where it may be appropriate to issue a formal Local Authority caution. This is a written warning issued by the Local Authority for a benefit offence and is intended to act as a deterrent or warning against future conduct. The written warning is to be signed by the perpetrator clearly stating that the offence is admitted and the caution accepted. A copy of the caution will be given to the person receiving it and will state that should that person be reported for another offence then the original caution may be taken into consideration. In adopting this procedure we are following the Department of Work and Pensions, who regularly invoke a similar procedure.

A caution is an alternative to prosecution and can only be considered in cases where enough evidence exists to prosecute. Refusal to accept a caution should generally result in a prosecution being instituted.

Cautions may be appropriate in the following instances:

- The fraud is a first time offence;
- The amount involved is more than £750 but less than £2,000;
- The perpetrator voluntarily disclosed the fraud or admits it;
- There are mitigating social or domestic or personal factors; and
- An offer of restitution has been made.

The formal Local Authority caution will be issued by the Investigations Manager and should be recorded in a register. These cautions will also be recorded by the CFIS team at Plymouth Department of Work and Pensions who record sanctions which have been imposed as a result of Department of Work and Pensions and Local Authority investigations.

It may not be appropriate to consider a caution where the perpetrator has already been involved in other offences involving Housing/Council Tax Benefit or has been previously cautioned or convicted of benefit fraud.

## SOUTH HAMS DISTRICT AND WEST DEVON BOROUGH COUNCIL

## BENEFIT FRAUD PROSECUTION AND SANCTION POLICY

**General Policy**

- The general policy is that prosecution is not likely to be considered in those cases where the fraud overpayment is less than £750.
- An administrative penalty or caution will not normally be offered if the fraud overpayment is less than £750 or more than £2,000.
- Prosecution will be strongly considered for all cases where the fraud overpayment is greater than £2,000 or where the suspect has a history of fraudulently claiming benefit.
- The decision as to whether to prosecute, issue a caution or offer an administrative penalty will be made by the Investigations Manager after consideration of all relevant details and the prosecution criteria detailed above.
- Legal Services will undertake a scrutiny role of a percentage of those cases processed for administration penalties and cautions to ensure that the correct standards are being applied.

**Implementing and Using This Policy**

To implement an active sanctions policy as envisaged by the Benefit Fraud Inspectorate and the External Auditor requires an investment of time and manpower.

There will be regular consultations between the Investigation staff and the Councils' Solicitor concerning prosecution cases in order to ensure that:

- Evidence is gathered in the appropriate manner and that the evidence will be of the quality necessary to secure judgement in favour of the Council.
- Interviews are conducted in accordance with approved practices. and
- There is agreement over the final course of action in respect of the file.

Investigations and prosecutions will be carried out in accordance with the recommendations laid down in the Attorney General's guidelines on criteria for prosecution, the Code for Crown Prosecutors, the Criminal Procedures and Investigation Act, Police and Criminal Evidence Act, the Regulation of Investigatory Powers Act, and the Social Security Fraud Act and any other relevant legislation.

In the event of the decision being made to prosecute a case, in the vast majority of cases the prosecution will be conducted through the Councils' Solicitor, though in certain circumstances it may be more appropriate to prosecute through the Police or the Department of Work and Pensions, especially in the light of the closer working arrangements with the Department of Work and Pensions.

Fraudsters involved in Housing Benefit and or Council Tax Benefit Fraud are likely at the same time to be perpetrating other benefit or allowance fraud. So it will be imperative to liaise with Department of Work and Pensions and other agencies

**SOUTH HAMS DISTRICT AND WEST DEVON BOROUGH COUNCIL**

**BENEFIT FRAUD PROSECUTION AND SANCTION POLICY**

regarding these policy proposals and to be receptive to valid concerns and requests in order to incorporate them into this policy.

There is a warning on the Councils' application forms that in the event of customer giving incorrect information on the form they may be prosecuted. This statement will always be a separate paragraph within the declaration, to emphasise that the Councils have a strong commitment to deter fraud and to prosecute those who ignore the warning.

The Councils will attempt to seek appropriate publicity whenever it is believed that the outcome of the prosecution sends a strong message of deterrence to fraudsters.

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**ANTI FRAUD, CORRUPTION AND  
BRIBERY  
- RESPONSE PLAN**

**ANTI FRAUD, CORRUPTION AND BRIBERY - RESPONSE PLAN**

**1. Introduction**

The Council is committed to the values of probity and accountability, but the determined perpetrator will always seek a way round systems and procedures. It is therefore necessary for all managers to be aware of the Councils' **Anti-Fraud, Corruption & Bribery Policy and Strategy**, and what is required in the event of being notified of a suspected fraud.

This document sets out the process for staff who wish to notify any suspicions and also how the Councils' officers should respond.

It also links to the Councils' **Confidential Reporting Policy and Disciplinary Procedures**.

*The term Fraud in this document means Fraud or Corruption or Bribery.*

**2. Notifying Suspected Fraud**

Suspected fraud can be discovered in a number of ways but in all cases it is important that staff feel able to report their concerns and are aware of the means by which they are able to do so.

The Council has several means available to its staff.

**Line Management**

If an employee discovers a suspected fraud then it should be reported to the line manager as a matter of urgency. Whilst line managers should establish as many details as possible by discussion with the notifying officer only, he/she should formally report the incident to the S.151 Officer without delay.

The Monitoring Officer also needs to be informed of any actual or suspected breach of the law or codes of practice.

In some cases the notifying individual may prefer to report the suspicion to an independent officer or even to remain anonymous, thus the Council has other means available (see **paragraph 5.6 of the Anti-Fraud, Corruption & Bribery Policy and Strategy**).

**S.151 Officer, Executive Directors, Monitoring Officer and/or Internal Audit**

Concerns may be raised directly with any of the officers above.

**Internal Audit**

The primary role of Internal Audit is to objectively assess and report upon the adequacy of systems and procedures, the control environment and governance framework, as part of the Councils' 'System of Internal Control'.



**ANTI FRAUD, CORRUPTION AND BRIBERY - RESPONSE PLAN**

However, they are also charged with the responsibility for being the usual means of investigating suspected fraud.

Internal Audit has many years' experience in fraud investigation and the Internal Audit Team will always be receptive to discussing concerns raised by staff or the general public. The team's Internal Audit Manual and the Councils' **Confidential Reporting Policy** sets out their conduct for such investigations.

Contact direct to Internal Audit by telephone may be the most appropriate vehicle for staff to raise concerns. Where it is the wish for the individual to report suspicions in an anonymous manner then this provides a suitable medium.

However, the Council will always encourage individuals to come forward and be identified as this is an indication that it is not merely someone with a 'grudge' making false accusations and also allows the suspicion to be acted upon with greater effectiveness and efficiency. The Councils' **Confidential Reporting Policy** highlights the protection that is available to those that do come forward.

**3. Investigating Suspected Fraud**

Housing and Council Tax Benefits

See the separate document **Benefit Fraud Prosecution and Sanction Policy**.

All Other Suspected Fraud

Initial Steps

If a fraud is suspected it is critical that any investigation is conducted promptly in a professional manner aimed at ensuring that the current and future interests of both the Council and the suspected individual(s) are protected. The latter is equally important, as a suspicion must be substantiated before guilt is proved.

It is also crucial that the notifying employee does not feel threatened. The Council undertakes to protect the identity of such employees in line with its policy on confidential reporting.

**For each notified suspicion the Line Manager concerned, the S.151 Officer and Group Manager, must in consultation with the COP Lead for Human Resources:**

- ◆ Involve **the Councils' Monitoring Officer** if a breach of the law, code of conduct or maladministration is suspected or has occurred;

**ANTI FRAUD, CORRUPTION AND BRIBERY - RESPONSE PLAN**

- ◆ Initially assess whether there is a need for any employee to be suspended in accordance with the Councils' Disciplinary Procedure;
- ◆ Identify a course of action (what, who, when, how, where);
- ◆ Identify the reporting process (who by, to whom, when and how) to ensure the strict confidentiality is continuously maintained; and
- ◆ Bring the matter to the attention of the Executive Directors and Leader of the Council when fraud is evident.





Responsibilities of the Investigating Officer

**An Investigating Officer will be appointed by the Executive Directors and/or S.151 Officer for fraud, corruption or bribery investigations, who must have regard to the Disciplinary Procedures at all stages of the investigation.**

**Investigating Officers for 'non-fraud related' only allegations of misconduct will be appointed in accordance with the Disciplinary Procedures though the COP Lead for HR.**

The Investigating Officer will:

- (a) Open a file to record chronologically;

-  Telephone conversations;
-  Face-to-face discussion;
-  Records/documents reviewed; and
-  Tests undertaken and results.

The file should be indexed and all details recorded no matter how insignificant they initially appear.

- (b) Ensure the correct form of evidence is obtained and appropriately retained, namely;

- ◆ Prime documents;
- ◆ Certified copies;
- ◆ Physical items;
- ◆ Secondary evidence (e.g. discussions, etc.);
- ◆ Circumstantial; and
- ◆ Hearsay.

- (c) Ensure that the requirements of the Data Protection Act, and Regulation of Investigating Powers Act (**RIPA**) 2000 are met, in respect of any surveillance work to be carried out, as directed by the Monitoring Officer in accordance with the related procedures.

## **SOUTH HAMS DISTRICT COUNCIL and WEST DEVON BOROUGH COUNCIL**

### **ANTI FRAUD, CORRUPTION AND BRIBERY - RESPONSE PLAN**

- (d) Ensure interviews are conducted in the right manner. The important requirements of the Police and Criminal Evidence Act 1984 have to be considered but it will actually be appropriate if fraud is suspected for the matter to be referred to the Police so as to ensure evidential requirements are strictly observed.

Where the Investigating Office is not within Internal Audit then the latter will always be available to offer advice and guidance and the advice of the Monitoring Officer should also be sought where appropriate.

#### **4. Liaison with External Audit and the Police**

##### External Audit

The Council has a duty to report all frauds to their external auditors to allow them to take a view on the Councils' control environment and the potential impact on their opinion to the statement of accounts. The S.151 Officer will do this at the earliest opportunity were the fraud is significant, and for all other fraud annually in line with the external auditor's requirements.

##### Police

The experts at investigating fraud are the Police. The Crown Prosecution Service will also make a decision as to whether or not a prosecution is to be initiated. Initial contact with the Police should only be undertaken following discussion between the S.151 Officer, the Investigating Officer, the Monitoring Officer and usually, the Executive Directors. It is the policy of the Police to welcome early notification of suspected fraud.

If the Police decide that formal investigation is necessary, all staff should co-operate fully with any subsequent requests or recommendations. All contact with the Police following their initial involvement will usually be via the Investigating Officer.

Where the Police decide to formally investigate this will not impede any internal disciplinary procedures; these should continue as normal. However, the internal investigation and the Police's should be co-ordinated both to make maximum use of resources and information and in order not to prejudice each other's investigation.

#### **5. Interim Report**

As soon as the initial 'detection' stage of the investigation has been completed an interim confidential report, which may be verbal but is more likely to be in a written format, should be made by the Investigating Officer. The report is to be made to the S.151 Officer and any other officer decided upon at the preliminary stage.

The Interim Report should set out:

**ANTI FRAUD, CORRUPTION AND BRIBERY - RESPONSE PLAN**

- ◆ The findings to date;
- ◆ The interim conclusions drawn from those findings; and
- ◆ To seek approval to continue the investigation if this is appropriate, including providing an initial estimate of the cost, in staff time or money, of the investigation.

If it is decided to continue the investigation then future reporting arrangements and any changes to the planned action should be confirmed.

This may also require a need to extend the Regulation of Investigating Powers Act (RIPA) approval if any covert surveillance is involved.

**6. Final Report**

This report will supersede all other reports and be the definitive document on which management (in a disciplinary situation) and possibly the Crown Prosecution Service (in a criminal situation) will base their initial decisions.

- The format of the Final Report will not always be the same as each case is unique, but will frequently set out:
  - ◆ How the investigation arose;
  - ◆ Who the suspects are;
  - ◆ Their position in the Council and their responsibilities;
  - ◆ How the investigation was undertaken;
  - ◆ The facts and evidence which were identified; and
  - ◆ A summary of findings and recommendations, both regarding the fraud itself and any additional work required on the system weaknesses, identified during the investigation.

The Investigating Officer must ensure that the Regulation of Investigating Powers Act (RIPA) approval is closed as required by the Act.

**7. Outcomes**

Likely outcomes will be dependent upon the evidence and conclusions of the final report following any audit investigation, Police Investigation or Council Investigation (via Investigating Officer) under this Policy and Procedure are:

- ✓ Implementation of disciplinary proceedings (under the **Disciplinary Procedure**);
- ✓ Criminal Prosecution;
- ✓ Civil Prosecution;
- ✓ Exonerate person(s) concerned; and/or
- ✓ Take no further action.

**ANTI FRAUD, CORRUPTION AND BRIBERY - RESPONSE PLAN**

Where appropriate, the Investigating Officer will also calculate the loss to the Council and advise the S.151 Officer accordingly to enable redress to be sought.

The Investigating Officer will also make recommendations to managers to improve systems and processes where weaknesses have been identified during the course of the investigation.

**8. Confidentiality**

All proceedings under the **Anti-Fraud, Corruption & Bribery Policy and Strategy** and this response plan shall remain confidential except as may be required to be disclosed by law or in the preparation and course of legal proceedings.

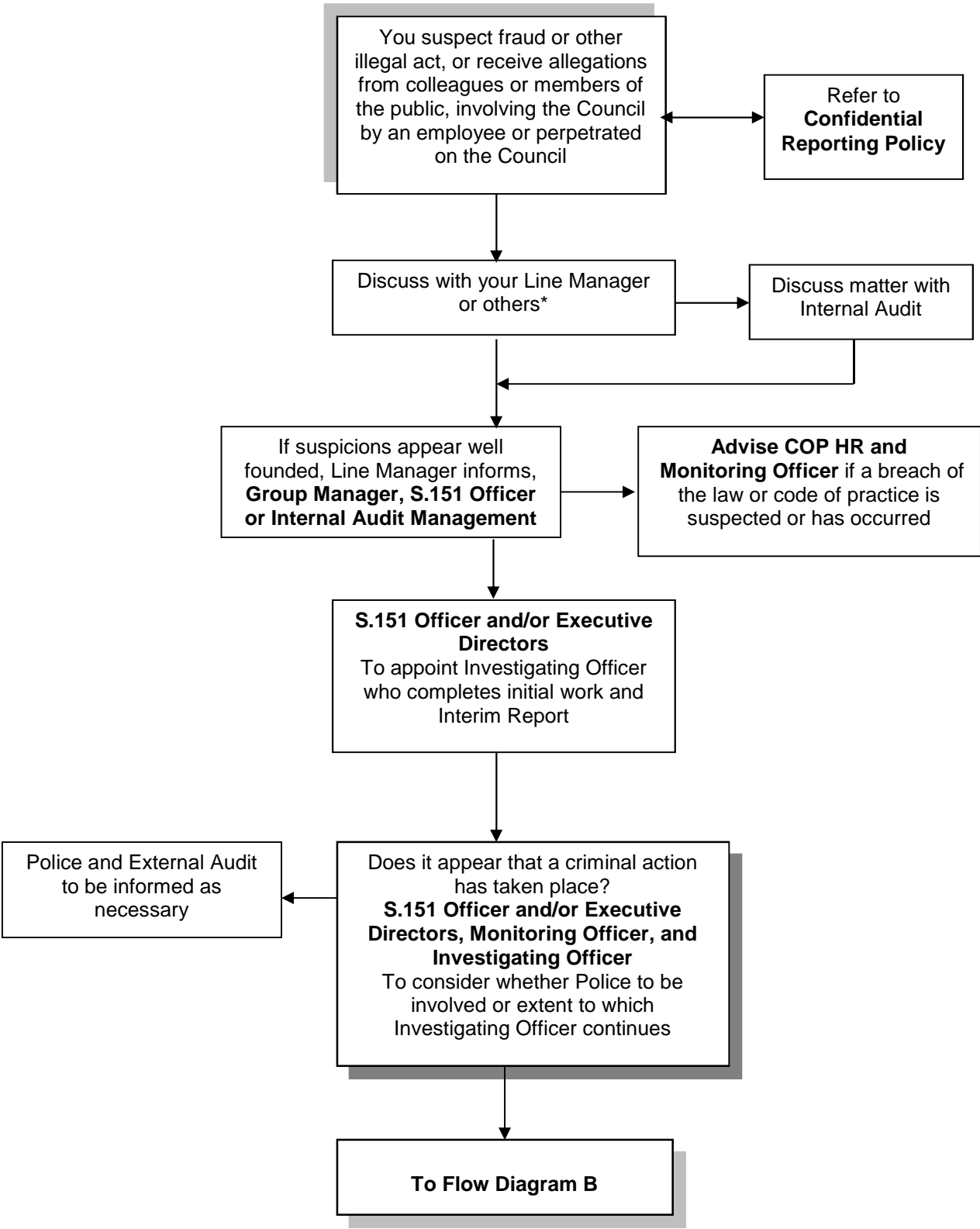
**9. Postscript – Defamation**

Any reports adverse to an individual must be substantiated by clear evidence if the risks of inadvertent defamation are to be minimised.

Defamation in law is defined as:

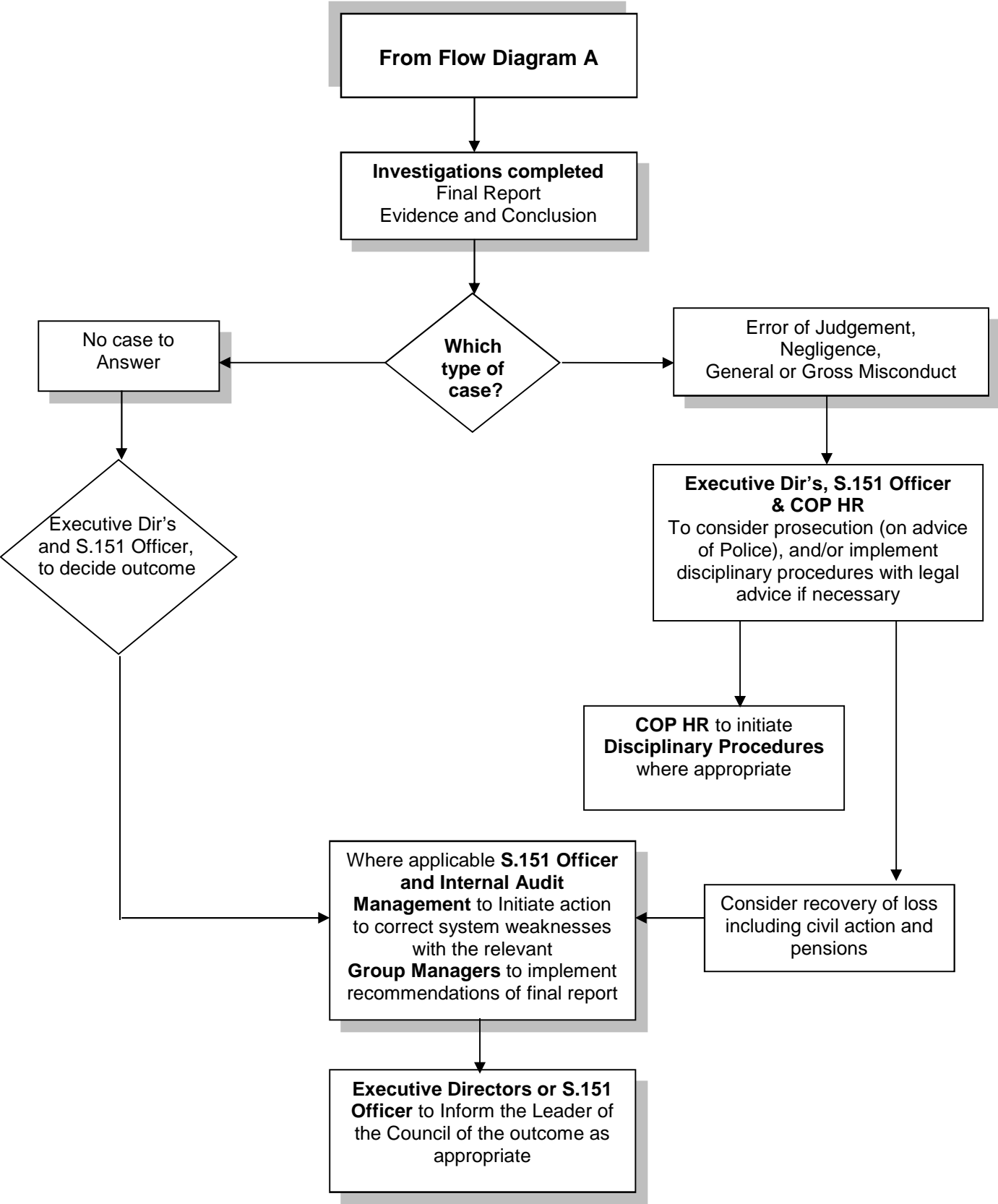
“The publication (i.e. communication) of a statement which tends to lower a person in the estimation of the right-thinking members of society generally or which tends to make them shun or avoid that person”.

**FRAUD – DETECTION AND INVESTIGATION STAGE**



\*Other options for reporting of fraud are detailed at Section 2 of this Response Plan. For example Internal Audit may be contacted direct by telephone.

**FRAUD – DECISIONS AND ACTIONS STAGE**



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**South Hams District Council  
And  
West Devon Borough Council**

**Anti-money Laundering Policy  
Procedures and Guidance for Staff**

July 2016

## 1. Introduction and the Councils' Policy

West Devon and South Hams Councils will do all that they can to practically do to prevent the Councils and their staff being exposed to money laundering, to identify the potential area where exposure may occur and to comply with all legal requirements especially with regard to the reporting of actual, alleged or suspected cases.

The Anti Money Laundering Policy has been approved by the Councils and is available on the Councils' Intranet or from the Community of Practice Lead Finance or Internal Audit.

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

**These notes are important. They are designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, as they affect both the Councils and you personally.**

**We cannot stress too strongly, however, that it is every member of staff's responsibility to be vigilant.**

Requirements in the Policy include:

- Officers being precluded from accepting cash for individual transactions above £10,000 and completing a report to the Money Laundering Reporting Officer (MLRO) if tendered (section 5 of the Policy and section 5 of these notes); and
- Client identification procedures for those involved in '*Relevant Business*' (section 6 of the Policy and section 9 of these notes).

## 2. What is money laundering?

Money laundering is the term used for removing from criminal property (including funds) any indication or trace of its being the proceeds of crime or terrorist funds, most often by passing it through various transactions (which may be bona fide) in order to disguise its ill-gotten origin.

The following acts constitute money laundering:

- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, or from Scotland, or from Northern Ireland;
- Becoming concerned in an arrangement in which someone knowingly or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; and
- Acquiring, using or possessing criminal property.

## ANTI-MONEY LAUNDERING POLICY – GUIDANCE AND PROCEDURE

Although the term ‘money laundering’ is generally used when describing the activities of organised crime – for which the legislation and regulations were first and foremost introduced – to most people who are likely to come across it or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

‘Criminal property’ is defined very widely in the law relating to money laundering. It includes not only the proceeds of crime committed by somebody else, but also possession of the proceeds of an individual’s own crime – for example, the retention of monies from non-payment of income tax. It does not matter how small the amount of money involved is. It also includes the proceeds of crimes that take place abroad.

### 3. What laws exist to control money laundering?

In recent years, new laws have been passed which shift the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees.

The main obligations are contained in the **Proceeds of Crime Act 2002 (POCA) and the Money Laundering Regulations 2007**, which broaden the definition of money laundering and increases the range of activities caught by the statutory control framework. In particular, the duty to report suspicions of money laundering is strengthened and criminal sanctions can be imposed for failure to do so.

### 4. What are the main money laundering offences?

There are three PRINCIPAL offences – **concealing, arranging and acquisition**.

**Concealing** is where someone knows or suspects a case of money laundering, but conceals or disguises its existence.

**Arranging** is where someone involves himself or herself in an arrangement to assist in money laundering.

**Acquisition** is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

There are also two THIRD PARTY offences – **failure to disclose** and **tipping off**:

**Failure to disclose** one of the three principal offences above or,

**Tipping off** is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of them being investigated, or prejudicing an investigation.

All the money laundering offences may be committed by the Councils or by the individuals working for them.

### 5. What are the implications for the Councils and their staff?

The Councils have accepted the responsibility to ensure that those of its staff who are most likely to be exposed to money laundering can make themselves fully aware of the law and, where necessary, are suitably trained.

The Councils have also implemented procedures for reporting suspicious transactions and, if necessary, making an appropriate report to the National Crime Agency (NCA).

These procedures include **officers being precluded from accepting cash for individual; transactions above £10,000, and should complete a report to the MLRO in the circumstances where such amounts are tendered.** For the purposes of this requirement cash is defined as including notes, coins or travellers cheques in any currency.

Whilst it is considered most unlikely that a member of staff would commit one of the three principal offences, **the failure to disclose a suspicion is a serious offence in itself**, and there are only very limited grounds in law for not reporting a suspicion.

Whilst stressing the importance in reporting your suspicions, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

### 6. What are the penalties?

Money laundering offences may be tried at a magistrate's court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison or both. In a Crown Court, fines are unlimited, and sentences from two to fourteen years may be handed out.

### 7. What should you do if you suspect a case of money laundering?

There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered likely to be exposed to suspicious situations, you will be made aware of these by your middle manager and, where appropriate, training will be provided.

If you suspect a case of money laundering, you should report the case immediately to the MLRO, or the Deputy MLRO in his/her absence either using a form that he/she will give to you (and is also available on the Intranet) or, if you prefer, in a discussion. He/she will decide whether the transaction is suspicious and whether to make a report to the National Crime Agency (NCA).

You should also enclose copies of any relevant supporting documentation. Once you have reported the matter to the MLRO you must follow any directions given to you. You must not make any further enquiries into the matter yourself. All members of staff will be required to co-operate with the MLRO and other authorities during any subsequent investigation.

**ANTI-MONEY LAUNDERING POLICY – GUIDANCE AND PROCEDURE**

You must still report your concerns, even if you believe someone else has already reported their suspicions of the same money laundering activity.

If you are in any doubt as to whether or not to file a report with the MLRO then you should err on the side of caution and do so. Remember, failure to report may render you liable to prosecution (for which the maximum penalty is an unlimited fine, five year's imprisonment, or both). The MLRO will not refer the matter to NCA if there is no need.

*Tipping Off Offences*

Where you suspect money laundering and report it to the MLRO, be very careful what you say to others afterwards: you may commit a further offence of "tipping off" if, knowing a disclosure has been made, you say or do anything which is likely to prejudice any investigation that might be conducted.

Even if you have not reported the matter to the MLRO, if you know or suspect that such a disclosure has been made and you mention it to someone else, this could amount to a tipping off offence.

You must not, therefore, make any reference on a file to a report having been made to the MLRO because, should the client exercise the right to see the file under Data Protection or Freedom of Information Acts, such a note will obviously "tip them off" and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

**8. What will the MLRO do?**

When the MLRO receives a disclosure from a member of staff and concludes that there is actual money laundering taking place or there are reasonable grounds to suspect so, then a report must be made as soon as practicable to NCA on their standard report form and in the prescribed manner, unless there are reasonable grounds for non-disclosure.

The MLRO commits a criminal offence under the legislation if she/he knows or has reasonable grounds to suspect, through a disclosure having been made, that another person is engaged in money laundering and this is not disclosed as soon as practicable to the NCA.

The MLRO will undertake such other reasonable enquiries deemed appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required. Such enquiries should be made in such a way as to avoid any appearance of tipping off those involved. The MLRO may also need to discuss the report with you.

Where the MLRO concludes that there are no grounds to suspect money laundering, or suspects money laundering but has a good reason for non-disclosure, then this must be noted in the report accordingly and consent given in writing for any ongoing

**ANTI-MONEY LAUNDERING POLICY – GUIDANCE AND PROCEDURE**

or imminent transactions to proceed. The MLRO should consult with the relevant Councils' Monitoring Officer before reaching a non-disclosure decision.

Where relevant, the MLRO will also need to request appropriate consent to proceed with the transaction from NCA for any acts/transactions which would amount to prohibited acts under section 327 to 329 of the 2002 Act.

Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

All disclosure reports referred to the MLRO and reports subsequently made to the NCA must be retained by the MLRO in a confidential file kept securely for that purpose, for a minimum of five years.

**9. Client Identification Procedure (Policy Section 6)**

Where the Councils are carrying out 'relevant business' and as part of this:

- Forms an ongoing business relationship with a client;
- Undertakes a one-off transaction involving payment by or to the client of £10,000 or more;
- Undertakes a series of linked one-off transactions involving total payment by or to the client(s) of £10,000 or more; or
- It is known or suspected that a one-off transaction (or series of them) involves money laundering;

then the **Client Identification Procedure** (as set out below) must be followed before any business is undertaken for that client.

'**Relevant Business**' is defined as the:

- Provision, by way of business, of advice about the tax affairs of another person by a body corporate;
- Provision, by way of business, of **accountancy services** by a body corporate;
- Provision, by way of business, of **audit services**;
- Provision, by way of business, of **legal services** by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction);
- Provision, by way of business, of services in relation to the **formation, operation or management of a company or a trust**;
- **Activity of dealing in goods of any description, by way of business, whenever a transaction involves accepting a total cash payment of 15,000 euros (approximately £12,000 April 2016) or more**; or
- **Activity of dealing in and managing investments 'by way of business'**.

**Unlike the reporting procedure above, the Client Identification Procedure is restricted to those operating relevant business i.e. Financial Services and**

**ANTI-MONEY LAUNDERING POLICY – GUIDANCE AND PROCEDURE**

**Legal Services. This requirement does not apply if a business relationship with the client existed before 1st March 2004.**

Where the 'relevant business' is being provided to another public sector body then officers responsible must ensure that you have signed, written instructions on the body's headed paper before any business is undertaken.

Where the 'relevant business' is not a public sector body, then the officer responsible should seek:

- Additional evidence of identity, for example:
  - Checking with the organisation's website to confirm their business address;
  - Conducting an on-line search via Companies House; or
  - Seeking evidence from the key contact of their personal identity and position within the organisation.

With instructions from new clients or further instructions from a client not well known to the Councils, the officer responsible may seek additional evidence of the identity of key individuals in the organisation and of the organisation itself.

If satisfactory evidence of identity is not obtained at the outset then the business relationship or one off transaction(s) cannot proceed any further.

*Record Keeping*

Where the Councils are carrying out 'relevant business' and as part of this the 'relevant business' is carried out then the client identification evidence and details of the relevant transaction(s) for that client must be retained for at least five years.

**10. Possible Indications of Money Laundering:**

It is impossible to give a definitive list of ways through which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:

- A new client;
- A secretive client: e.g. refuses to provide requested information without a reasonable explanation;
- Concerns over the honesty, integrity, identity or location of a client;
- Illogical third party transactions: unnecessary routing or receipts of funds from third parties or through third party accounts;
- Involvement of an unconnected third party without logical reason or explanation;
- Payment of a substantial sum in cash (over £10,000) – see Section 5 above;
- Overpayments by a client;
- Absence of an obvious legitimate source of the funds;
- Movement of funds overseas, particularly to a higher risk country or tax haven;

**ANTI-MONEY LAUNDERING POLICY – GUIDANCE AND PROCEDURE**

- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location, type of a client) is inconsistent with normal expectations;
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational;
- The cancellation or reversal of an earlier transaction;
- Requests for release of client account details other than in the normal course of business;
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the client's needs are inconsistent with the use of such structures;
- Poor business records or internal accounting controls; and
- A previous transaction for the same client, which has been, or should have been, reported to the MLRO.

**Property Matters:**

- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Instructions to receive or pay out money where there is no linked substantive property transaction involved (surrogate banking); and
- Funds received for property deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination.

Facts that tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise.

In short, the money laundering offences apply to your own actions and to matters in which you become involved. If you become aware that your involvement in the matter may amount to money laundering under the 2002 Act then you must discuss it or report it to the MLRO and not take any further action until you have received, through the MLRO, the consent of the NCA.

For example, if you receive cash that you suspect is from the proceeds of crime, you must not bank it but set it aside securely until you receive an instruction from the MLRO on how to proceed.

**Conclusion**

Robust money-laundering procedures are essential if the Councils and their staff are to comply with our responsibilities and legal obligations. It falls to you as a member of the Councils' staff, as well as to the Councils themselves, to follow these procedures rigorously.

Further information can be obtained from the MLRO or his/her Deputies, or Internal Audit.



*Working together*



# **South Hams District Council And West Devon Borough Council**

## **Anti Money Laundering Policy**

**ANTI-MONEY LAUNDERING POLICY**

**1. Introduction**

- 1.1 The Councils will do all that they are practically able to do to prevent the Councils and their staff being exposed to money laundering, identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.
- 1.2 This policy has therefore been adopted in order to introduce safeguards to help identify and report on instances where money laundering is suspected.
- 1.3 In summary:
- The Councils are committed to the prevention, detection and reporting of actual, alleged or suspected money laundering;
  - All employees must be vigilant for the signs of money laundering;
  - Any employee who suspects money laundering activity must report this promptly to the Money Laundering Reporting Officer (MLRO) – Section 151 Officer or
  - in his/her absence the relevant Deputy Section 151 Officer; and
  - Where the Councils are carrying out relevant business then the Client Identification Procedure must be followed.
- 1.4 This policy applies to all employees of both Councils and aims to maintain high standards of conduct, by preventing criminal activity through money laundering. The policy sets out the procedures which must be followed to enable the Councils to comply with its legal obligations.

**2 What is Money Laundering?**

- 2.1 Money laundering can be defined as the process of moving illegally acquired cash through financial systems so that it appears to be from a legitimate source.
- 2.2 Money laundering offences include:
- Concealing, disguising, converting, transferring or removing criminal property from England and Wales, from Scotland or from Northern Ireland (section 327);
  - Being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property (section 328); and
  - Acquiring, using or possessing criminal property (section 329).
- 2.3 Other offences:
- Failure to disclose money laundering offences (sections 330-332);
  - Tipping off a suspect either directly or indirectly (section 333); and

**ANTI-MONEY LAUNDERING POLICY**

- Doing something that might prejudice an investigation – for example, falsifying a document (section 342).

**3 To Whom Does it Apply and How Will they be Made Aware?**

- 3.1 Any member of staff could potentially be caught by the money laundering provisions, if they suspect money laundering and either become involved with it in some way and/or do nothing about it. This policy sets out how any concerns should be raised.
- 3.2 Whilst the risk to the Councils 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. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer.
- 3.3 The guidance, general and targeted training that will be provided is set out at section 6 of this policy.

**4 Staff Concerns and Reporting?**

Money Laundering Reporting Officer (MLRO)

- 4.1 The MLRO nominated to receive disclosures about money laundering activity within the Councils is the Section 151 Officer. In his/her absence such disclosures should be made to the relevant Deputy Section 151 Officer.

Reporting Procedures

- 4.2 Any employee who suspects money laundering activity must report their suspicion promptly to the MLRO, either by discussing the suspicion or using the appropriate money laundering form. A copy of the form is attached at Annex A and included with the guidance notes made available to employees.
- 4.3 The employee must follow any subsequent directions of the MLRO, and must not themselves make any further enquiries into the matter. They must not take any further steps in any related transaction without authorisation from the MLRO.
- 4.4 The employee must not disclose or otherwise indicate their suspicions to the person suspected of the money laundering. They must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.
- 4.5 The MLRO must promptly evaluate any disclosure report, to determine whether it should be reported to the National Crime Agency (NCA).

**ANTI-MONEY LAUNDERING POLICY**

- 4.6 The MLRO must, if they determine it is necessary, promptly report the matter to the NCA on their standard form and in the prescribed manner.
- 4.7 The MLRO will commit a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

**5 Acceptance of Cash**

- 5.1 Officers are precluded from accepting cash for individual transactions above £10,000 and should complete a report to the MLRO in the circumstances where such amounts are tendered.
- 5.2 For the purposes of this requirement cash is defined as including notes, coins or travellers cheques in any currency.

**6 Client Identification Procedures**

- 6.1 Where the Councils are carrying out '*relevant business*' and as part of this:
- Forms an ongoing business relationship with a client;
  - Undertakes a one-off transaction involving payment by or to the client of £10,000 or more;
  - Undertakes a series of linked one-off transactions involving total payment by or to the client(s) of £10,000 or more; or
  - It is known or suspected that a one-off transaction (or series of them) involves money laundering;

then the Client Identification Procedure (as set out below) must be followed before any business is undertaken for that client.

- 6.2 '*Relevant Business*' is defined as the:

- Provision, by way of business, of advice about the tax affairs of another person by a body corporate;
- Provision, by way of business, of accountancy services by a body corporate;
- Provision, by way of business, of audit services;
- Provision, by way of business, of legal services by a body corporate which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction);
- Provision, by way of business, of services in relation to the formation, operation or management of a company or a trust;

**ANTI-MONEY LAUNDERING POLICY**

- Activity of dealing in goods of any description, by way of business, whenever a transaction involves accepting a total cash payment of €15,000 (approximately £11,900 May 2012) or more; or
- Activity of dealing in and managing investments 'by way of business'.

6.3 Unlike the reporting procedure above, the Client Identification Procedure is restricted to those operating relevant business i.e. Financial Services and Legal Services. This requirement does not apply if a business relationship with the client existed before 1st March 2004.

6.4 Where the '*relevant business*' is being provided to another public sector body then officers responsible must ensure that you have signed, written instructions on the body's headed paper before any business is undertaken.

6.5 Where the '*relevant business*' is not a public sector body, then the officer responsible should seek additional evidence of identity, for example:

- Checking with the organisation's website to confirm their business address;
- Conducting an on-line search via Companies House; or
- Seeking evidence from the key contact of their personal identity and position within the organisation.

6.6 With instructions from new clients or further instructions from a client not well known to the Councils, the officer responsible may seek additional evidence of the identity of key individuals in the organisation and of the organisation itself.

6.7 If satisfactory evidence of identity is not obtained at the outset then the business relationship or one off transaction(s) cannot proceed any further.

*Record Keeping*

6.8 Where the Councils are carrying out '*relevant business*' and as part of this: the '*relevant business*' is carried out then the client identification evidence and details of the relevant transaction(s) for that client must be retained for at least five years.

**7 Guidance and Training**

7.1 In support of this policy, the Councils will:

- Draft and publicise, on the Intranet and other relevant places, detailed guidance to officers to support this policy;
- Make all staff aware of the requirements and obligations placed on the Councils and on themselves as individuals by the Anti Money Laundering legislation; and

**ANTI-MONEY LAUNDERING POLICY**

- Provide targeted training to those most likely to encounter money laundering e.g. cashiers or other officers accepting cash on behalf of the Councils.

As a minimum staff will be made aware of the:

- Money Laundering Regulations 2007;
- Proceeds of Crime Act 2002, part 7;
- Anti-Terrorism, Crime and Security Act 2001, section 117; and
- Terrorism Act 2000, sections 18 & 21a.

**8 Further Information**

8.1 Further information can be obtained from the MLRO and the following sources:

- [www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk) – website of the National Crime Agency (NCA);
- Proceeds of Crime (Anti-Money Laundering) Practical Guidance for Public Service Organisations – CIPFA: available from Internal Audit;
- The Consultative Committee of Accountancy Bodies CCAB ([www.ccab.org.uk](http://www.ccab.org.uk)) Anti-Money Laundering (Proceeds of Crime and Terrorism) – Guidance for Accountants; and
- [www.lawsociety.org.uk](http://www.lawsociety.org.uk) – Money Laundering Guidance from the Law Society.

**REPORT TO THE MONEY LAUNDERING REPORTING OFFICER**

**Confidential Report of Suspected Money Laundering Activity**

To: **Money Laundering Reporting Officer (MLRO) Deputy; or  
Money Laundering Reporting Officer**

From: \_\_\_\_\_ [Name of employee]

Service: \_\_\_\_\_ [Post Title and Service]

Ext/Tel No: \_\_\_\_\_

**URGENT: YES / NO**

**CONSENT - Required and By When: YES / NO      Date:**

**Details of suspected offence:**

**Name(s) and Address(es) of Person(s) Involved:**

*[if a company/public body please include details of nature of business]*

**Nature, Value and Timing of Activity Involved:**

*[Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary]*

**Nature of Suspicions Regarding Such Activity:**

*[Please continue on a separate sheet if necessary]*

**Has any investigation been undertaken (as far as you are aware)?** *[Delete as appropriate]*

**Yes / No**

**If yes, please include details below:**

**Have you discussed your suspicions with anyone?**

**Yes / No**

**If yes, please specify below, explaining why such discussion was necessary:**

**Please set out below any other information you feel is relevant:**

**Signed:** \_\_\_\_\_ **Dated:** \_\_\_\_\_



***Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years imprisonment and an unlimited fine.***

**Data Protection**

Your information will be used for the investigation of the offence and held securely by South Hams District Council and West Devon Borough Council.

The Council may share the information with the National Crime Agency (NCA) and others to ensure this service is delivered but only where this is essential to provide the service or if required by law.

If you wish to see the personal data that the Council holds, please contact the Data Protection Officer.

We must protect the public funds that we handle, so we may use the information you have provided on this form to prevent and detect fraud. We may also share this information with other organisations that handle public funds. Information you provide may also be used to check the accuracy of records held elsewhere in the council.

**THE FOLLOWING PART OF THIS FORM TO BE COMPLETED BY THE MLRO**

Date report received: \_\_\_\_\_

Date receipt of form acknowledged: \_\_\_\_\_

**CONSIDERATION OF DISCLOSURE:**

**Action plan:**

--

**OUTCOME OF CONSIDERATION OF DISCLOSURE:**

**Are there reasonable grounds for suspecting money laundering activity?**

--

**If there are reasonable grounds for suspicion, will a report be made to the NCA? *[Delete as appropriate]***

**Yes / No**

**If yes, please confirm date and type of report to NCA:  
And complete the box below:**

**Details of liaison with the NCA regarding the report:**

**Notice Period: from:**

**to:**

**Moratorium Period: from:**

**to:**

Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? <i>[Delete as appropriate]</i>	Yes / No
---	----------

If consent is required, please confirm full details in the box below:

Date consent received from NCA:

Date consent given by you to employee:

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out below the reason(s) for non-disclosure:

*[Please set out any reason for non-disclosure]*

Date consent given by you to employee for any prohibited act transactions to proceed:

Other relevant information:

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

***THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS***

**Data Protection**

Your information will be used for the investigation of the offence and held securely by South Hams District Council and West Devon Borough Council.

The Council may share the information with the National Crime Agency (NCA) and others to ensure this service is delivered but only where this is essential to provide the service or if required by law.

If you wish to see the personal data that the Council holds, please contact the Data Protection Officer.

We must protect the public funds that we handle, so we may use the information you have provided on this form to prevent and detect fraud. We may also share this information with other organisations that handle public funds. Information you provide may also be used to check the accuracy of records held elsewhere in the council.

*Working together*



# **South Hams District Council And West Devon Borough Council**

## **Confidential Reporting Policy**

# **“Whistle-blowing”**

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## **1. INTRODUCTION**

- 1.1 The Public Interest Disclosure Act 1998 protects workers from the consequences, actual or feared, of raising concerns about serious misconduct or malpractice such as fraud, cheating, or unsafe practices where they work.
- 1.2 The Act applies to “workers”, a much broader category than “employees”. It covers all employees and those contractors or agency staff working for the Councils on Council premises. It also covers suppliers and those providing services under a contract with the Councils from their own premises. No minimum period of service is required to receive the protection of the Act.
- 1.3 Workers are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.4 The Councils are committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect workers, and other people that we deal with, who have serious concerns about any aspect of the Councils’ work to come forward and voice those concerns.
- 1.5 This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns within the Councils rather than overlooking a problem or 'blowing the whistle' outside. It makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage.
- 1.6 This policy is in addition to the Councils’ complaints procedures, its procedures for staff to raise grievances and other statutory reporting procedures. Group Managers are responsible for making individual workers aware of its existence.
- 1.7 This policy has been discussed with the relevant trade unions and has their support.

**CONFIDENTIAL REPORTING POLICY**

**2. AIMS AND SCOPE OF THE CONFIDENTIAL REPORTING POLICY**

2.1 This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for you to raise those concerns and receive feedback on any action taken;
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and
- Reassure you that you will be protected from possible reprisals or victimisation if you reasonably believe that you are making any disclosure in good faith.

2.2 The Confidential Reporting Policy is intended to cover major concerns which affect or threaten other people and which fall outside the scope of other procedures. These concerns could be:

- Conduct which is an offence or a breach of the law;
- A miscarriage of justice;
- Health and safety risks, including risks to the public as well as other employees;
- Damage to the environment;
- The unauthorised use of public funds;
- Fraud or corruption; and
- Sexual, physical or mental abuse, or other unethical conduct.

2.3 Thus, any serious concerns that you have about any aspect of service provision, or the conduct of officers or members of the Councils, or others acting on behalf of the Councils that;

- Make you feel uncomfortable because it doesn't comply with known standards, or with your experience of the standards you believe the Councils subscribes to; or
- Is against the Councils' Standing Orders and policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct;

can be reported under this Confidential Reporting Policy.

2.4 There are other procedures in place to enable you to;

- Lodge a grievance relating to your own employment where your concerns are about your own position, rather than the protection of the public, use the employees' **Grievance Procedure**;

**CONFIDENTIAL REPORTING POLICY**

- Make a complaint about a decision of the Councils which has affected you or somebody else as a user of the service, use the **Complaints Procedure**; or
- Complain about the conduct of a councillor, use the procedure for **Making a Complaint about a Member**.

You should not use this policy for those concerns.

**3. SAFEGUARDS: HARASSMENT OR VICTIMISATION**

- 3.1 The Councils are committed to good practice and high standards and want to be supportive of its workers.
- 3.2 The Councils recognise that it can be difficult to make a decision to report a concern. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 3.3 The Councils will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.

**4. CONFIDENTIALITY AND ANONYMOUS ALLEGATIONS**

- 4.1 This policy encourages you to put your name to your allegation whenever possible. We will not reveal your name without your consent unless the law so requires, but we can't stop people trying to work out who you are.
- 4.2 You should bear in mind that concerns expressed anonymously are much less powerful because they are much harder to investigate. They will though be considered at the discretion of the Councils.

In exercising this discretion the factors to be taken into account would include:

- The seriousness of the issues raised;
  - The credibility of the concern;
  - The likelihood of confirming the allegation from attributable sources; and
  - The possibility of victimisation from peers / colleagues that would be difficult to control.
- 4.3 But at the appropriate time, you may need to come forward as a witness, either in internal proceedings within the Councils or in a court. In those cases we may not be able to maintain your anonymity. It is a basic principle of human rights that a person should know who is accusing him or her. However, in those rare cases where you may be afraid of violence we will try to make



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arrangements to secure your personal safety. In appropriate cases we will enlist the help of the Police or victim support groups.

**5. UNTRUE ALLEGATIONS**

- 5.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make a false allegation frivolously, maliciously or for personal gain or revenge, disciplinary action may be taken against you.
- 5.2 Any investigation into your allegation of potential malpractice will be investigated separately from, and will neither influence nor be influenced by, any disciplinary, grievance or redundancy procedures that already affect you.
- 5.3 If you blow the whistle under this policy where you participated in the malpractice you are complaining about, you cannot escape appropriate disciplinary action for misconduct or gross misconduct (see the Councils' Disciplinary procedure).

If you did participate in malpractice, and later own up to it, it may reduce the penalty that you face. This will depend on all the circumstances.

**6. HOW TO RAISE A CONCERN**

- 6.1 As a first step, you should normally raise concerns with your immediate manager who will normally refer the matter to the Councils' Monitoring Officer. Where the subject of your concern is your immediate manager then it is likely to be more appropriate to raise the concern with the Monitoring Officer direct.
- 6.2 In any event the Monitoring Officer should always be advised of potential malpractice within the authority as she has statutory duties and responsibilities in relation to matters of illegality or maladministration (potential or actual). The Monitoring Officer will be responsible for advising the Section 151 Officer (who has responsibilities relating to financial probity) and the Executive Directors (as the Head of Paid Service), depending on the Monitoring Officer's view as to the seriousness of the allegation.
- 6.3 Concerns may be raised orally (face to face) or in writing. If you make a written report you are invited to set out:
- The background and history of your concern, giving the dates of relevant events and explaining their consequences; and
  - The reason why you are particularly concerned about the situation.
- 6.4 The earlier you express concern the easier it is to take action.

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- 6.5 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 6.6 Advice/guidance on how to pursue matters of concern may be obtained from:
- The Monitoring Officer;
  - The S.151 Officer;
  - The Executive Directors; or
  - Internal Audit.
- 6.7 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 6.8 You may invite your trade union, professional association representative or a work colleague to be present during any meetings or interviews in connection with the concerns you have raised.

**7. HOW THE COUNCILS WILL RESPOND**

- 7.1 The Councils will acknowledge your concerns and will tell you know what will happen next. You may feel that you are not believed straight away. This is because senior officers need to be sure that they clearly understand what you are saying. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 7.2 Where appropriate, the matters raised may:
- Be investigated by management, internal audit, or through the disciplinary process;
  - Be referred to the Police;
  - Be referred to the external auditor; or
  - Form the subject of an independent inquiry.
- 7.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Councils will have in mind is the public interest.
- 7.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 7.5 Within ten working days of a concern being raised, the Monitoring Officer will write to you:

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- Acknowledging that the concern has been received;
- Indicating how we propose to deal with the matter;
- Giving an estimate of how long it will take to provide a final response;
- Telling you whether any initial enquiries have been made;
- Supplying you with information on staff support mechanisms; and
- Whether further investigations will take place and if not, why not.

7.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Councils will seek further information from you.

7.7 Where any meeting is arranged, which can be off-site if you so wish, you can be accompanied by a union or professional association representative or a work colleague.

7.8 The Councils will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Councils will arrange for you to receive advice about the procedure.

7.9 The Councils accept that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

**8. THE RESPONSIBLE OFFICER**

8.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. He/she maintains a record of concerns raised and the outcomes (but in a form which where appropriate does not endanger your confidentiality) and will report as necessary to the relevant Council.

**9. HOW THE MATTER CAN BE TAKEN FURTHER**

9.1 This policy is intended to provide you with an avenue within the Councils to raise concerns. The Councils hope you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Councils, the following are possible contact points:

- The external auditor;
- Your trade union;
- Your local Citizens' Advice Bureau;
- Relevant professional bodies or regulatory organisations; and
- The Police.

9.2 If you do take the matter outside the Councils you should ensure that you do not disclose confidential information. Check with the contact point about that.

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**10. CONCLUSION**

- 10.1 An important element in the maintenance of probity in local government is the ability for employees to be able to raise concerns where they perceive wrongdoing or malpractice. Individuals, both local government employees and other interested parties, need to know that their concerns will be taken seriously and investigated.
- 10.2 The Confidential Reporting Policy is only one aspect of measures to ensure the transparent delivery of services. As part of the government's ethical framework there is a code of conduct for elected members and a similar code for Council employees.
- 10.3 The Councils have reviewed this policy from time to time, since it was implemented in 1999, and annually monitors the effectiveness of the policy.

*Working together*



# **South Hams District Council And West Devon Borough Council**

## **Frequently Asked Questions Confidential Reporting Policy**

**FREQUENTLY ASKED QUESTIONS - CONFIDENTIAL REPORTING POLICY**

**1. What is the Confidential Reporting Policy?**

This is a policy which allows workers employed by the Councils to “blow the whistle” on fraud, corruption, abuse or other inappropriate action or behaviour by someone inside, or working for, the Councils. The policy is designed to protect the whistle blower from possible adverse consequences.

**2. Who is protected?**

Anyone working for the Councils – employees, agency workers, and contractors’ staff. The Policy covers “workers” and so includes people who work for the Council but are not directly employed by the Council.

**3. How do I know that I should blow the whistle?**

You will probably feel uncomfortable about something that you have seen, or discovered because it isn’t right, or doesn’t seem to comply with the Councils’ usual standards of behaviour. It may be against the Councils’ Standing Orders and policies; or somehow fall below established standards of practice; or amount to improper conduct. If in doubt, ask to speak to the Monitoring Officer. He/she will advise you and help you make up your mind.

**4. What should I do if I find something is amiss?**

You should normally raise concerns with your immediate manager. They should be able to advise you. They may choose to refer the matter to the Councils’ Monitoring Officer. He/she needs to know in any event because he/she is responsible for ensuring that the Councils stay within the law, and for operating this policy. You can go straight to him/her if you wish.

You need to explain as clearly as you can:

- The background and history of your concern, giving the dates of relevant events and explaining their consequences; and
- The reason why you are particularly concerned about the situation.

**5. If you prefer you can go to any of these officers instead:**

- The S. 151 Officer;
- The Executive Directors; or
- Internal Audit.

## **6. What happens next?**

Your manager, or the Monitoring Officer, will acknowledge your concerns and will tell you what will happen next. Depending on how serious your allegation is, it may:

- Be investigated by management, internal audit, or through the disciplinary process;
- Be referred to the Police;
- Be referred to the external auditor; or
- Form the subject of an independent inquiry.

We will try to keep you informed about what is happening but it may not always be possible (especially if it has to be taken out of the Councils' hands). You will be told the outcome.

## **7. What if my allegation is found to be untrue?**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make a false allegation frivolously, maliciously or for personal gain or revenge, disciplinary action may be taken against you.

## **8. What isn't covered by the policy?**

If you have a complaint about the way that you have been treated as an employee, you should use the **Grievance Procedure**.

If you have a complaint about the way you, or someone else, has been treated as a user of the Councils' services, you should use the ordinary **Complaints Procedure**.

If you think that a Member of the Council has not acted in accordance with their code of conduct, you can make a complaint under that code and it will be considered by the Standards Committee.

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