

Meeting of the

AUDIT COMMITTEE

Tuesday, 20 March 2012 at 7.00 p.m.

A G E N D A

VENUE

MEETING ROOM M71, 7TH FLOOR TOWN HALL, MULBERRY PLACE,
5 CLOVE CRESCENT, LONDON, E14 2BG

Members:	Deputies (if any):
Chair: Councillor Carlo Gibbs Vice Chair: Councillor David Edgar	
Councillor Khales Uddin Ahmed Councillor Craig Aston Councillor Alibor Choudhury, (Cabinet Member for Resources) Councillor Stephanie Eaton Councillor Denise Jones	Councillor Marc Francis, (Designated Deputy representing Councillors Carlo Gibbs, Khales Uddin Ahmed, David Edgar and Denise Jones) Councillor Anwar Khan, (Designated Deputy representing Councillors Carlo Gibbs, Khales Uddin Ahmed, David Edgar and Denise Jones) Councillor Rachael Saunders, (Designated Deputy representing Councillors Carlo Gibbs, Khales Uddin Ahmed, David Edgar and Denise Jones) Councillor David Snowdon, (Designated Deputy representing Councillor Craig Aston)
[Note: The quorum for this body is 3 Members].	

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Zoe Folley, Democratic Services
Tel: 020 7364 4877, E-mail: Zoe.Folley@towerhamlets.gov.uk

LONDON BOROUGH OF TOWER HAMLETS

AUDIT COMMITTEE

Tuesday, 20 March 2012

7.00 p.m.

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. DECLARATIONS OF INTEREST (Pages 1 - 2)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Chief Executive.

	PAGE NUMBER	WARD(S) AFFECTED
3. UNRESTRICTED MINUTES	3 - 8	
To confirm as a correct record of the proceedings the unrestricted minutes of the ordinary meeting of the Audit Committee held on 12 th December 2011.		
4. UNRESTRICTED AUDIT COMMISSION REPORTS FOR CONSIDERATION		
4 .1 Audit Plan 2011/12 - Council Accounts	9 - 30	
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Agenda Item 2

DECLARATIONS OF INTERESTS - NOTE FROM THE CHIEF EXECUTIVE

This note is guidance only. Members should consult the Council's Code of Conduct for further details. Note: Only Members can decide if they have an interest therefore they must make their own decision. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending at a meeting.

Declaration of interests for Members

Where Members have a personal interest in any business of the authority as described in paragraph 4 of the Council's Code of Conduct (contained in part 5 of the Council's Constitution) then s/he must disclose this personal interest as in accordance with paragraph 5 of the Code. Members must disclose the existence and nature of the interest at the start of the meeting and certainly no later than the commencement of the item or where the interest becomes apparent.

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- (a) An interest that you must **register**
- (b) An interest that is not on the register, but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of inhabitants of the ward affected by the decision.

Where a personal interest is declared a Member may stay and take part in the debate and decision on that item.

What constitutes a prejudicial interest? - Please refer to paragraph 6 of the adopted Code of Conduct.

Your personal interest will also be a prejudicial interest in a matter if (a), (b) and either (c) or (d) below apply:-

- (a) A member of the public, who knows the relevant facts, would reasonably think that your personal interests are so significant that it is likely to prejudice your judgment of the public interests; AND
- (b) The matter does not fall within one of the exempt categories of decision listed in paragraph 6.2 of the Code; AND EITHER
- (c) The matter affects your financial position or the financial interest of a body with which you are associated; or
- (d) The matter relates to the determination of a licensing or regulatory application

The key points to remember if you have a prejudicial interest in a matter being discussed at a meeting:-

- i. You must declare that you have a prejudicial interest, and the nature of that interest, as soon as that interest becomes apparent to you; and
- ii. You must leave the room for the duration of consideration and decision on the item and not seek to influence the debate or decision unless (iv) below applies; and

- iii. You must not seek to improperly influence a decision in which you have a prejudicial interest.
- iv. If Members of the public are allowed to speak or make representations at the meeting, give evidence or answer questions about the matter, by statutory right or otherwise (e.g. planning or licensing committees), you can declare your prejudicial interest but make representations. However, you must immediately leave the room once you have finished your representations and answered questions (if any). You cannot remain in the meeting or in the public gallery during the debate or decision on the matter.

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE AUDIT COMMITTEE

HELD AT 7.00 P.M. ON MONDAY, 12 DECEMBER 2011

**ROOM M71 7TH FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Carlo Gibbs (Chair)
Councillor Khaled Uddin Ahmed
Councillor Alibor Choudhury (Cabinet Member for Resources)
Councillor Stephanie Eaton
Councillor Denise Jones

Other Councillors Present:

Nil

Officers Present:

Jill Bell – Head of Legal Services (Environment), Legal Services
Jenny Boyd – (Service Manager, Looked After Children)
Paul Dudley – (Strategic Risk Adviser)
Sally – Anne Eldridge – (Senior Audit Manager, Audit Commission)
Jon Hayes – (District Auditor, Audit Commission)
Minesh Jani – (Service Head, Risk Management)
Chris Naylor – (Corporate Director Resources)
Tony Qayum – (Corporate Fraud Manager, Internal Audit, Resources)
Steve Vinall – (Service Manager, Deloitte & Touche)
Ian Williamson – (Head of Social Care Practice, Adult Mental Health)

Alan Ingram – (Democratic Services)

1. APOLOGIES FOR ABSENCE

Apologies were submitted on behalf of Councillor David Edgar, who had attended but became unwell and had to leave before the meeting commenced.

2. DECLARATIONS OF INTEREST

No declarations of interest were made.

3. UNRESTRICTED MINUTES

The Chair referred to the document that had been circulated as the response to the Audit Commission Fraud Briefing – Protecting the Public Purse – as requested under item 4 of the minutes, and indicated that this would be considered after agenda item 4.1 – “Annual Audit Letter”.

RESOLVED

That the minutes of the meeting of the Audit Committee held on 20th September 2011 be agreed as a correct record of the meeting, subject to the amendment of the title of Mr Alan Bryce to “Head of Counter Fraud Advisory Services” and the Chair be authorised to sign them accordingly.

4. UNRESTRICTED AUDIT COMMISSION REPORTS FOR CONSIDERATION

4.1 Annual Audit Letter - 2010/11

Mr Jon Hayes, District Auditor, presented the Annual Letter from the Audit Commission, indicating that this comprised a summary of the findings from the 2010/11 audit. He added that the document set out details of current and future challenges to the Council. Due to enquiries received from the public, the Council would need to keep an overview regarding the publication of East End Life, in the light of the new Code of Practice on Publicity. Mr Hayes also commented on the continuing process of externalisation of the Audit Commission and indicated that more details as to its future operation would be available next March. The conclusion of the Audit Letter was that the Council had taken a positive and constructive approach to the 2010/11 audit.

Following consideration by the Committee, Members raised questions relating to the matter of slippage in meeting the Whole of Government Accounts target date and the delivery of the IT systems upgrade. Officers responded accordingly.

RESOLVED

That the report be noted.

4.1a Response to the Audit Commission Fraud Briefing – Protecting the Public Purse

At the request of the Chair, Mr Tony Qayum, Corporate Fraud Manager, introduced a supplementary report setting out a formal response to the recommendations of the Audit Commission on the matter of tackling fraud and, where appropriate, action points where improvements were considered appropriate.

Mr Qayum pointed out that 64 housing units had been recovered following investigation into sublet properties and it was planned to review Social care Personal Budgets to ensure risks of abuse were minimised.

In response to questions from Members, Officers indicated that recruitment procedures made provision for verification of claimed qualifications and references, however more detailed investigations were under consideration; 15 low level cases of procurement fraud had been identified but overall the Council compared very well with other Boroughs and there would be a report on best practices to a future meeting; despite successful prosecutions on Blue Badge misuse, it was considered that preventative work and support to the community was useful – a report would be submitted to a future meeting giving further details.

RESOLVED

That the report be noted.

5. UNRESTRICTED TOWER HAMLETS REPORTS FOR CONSIDERATION

5.1 Quarterly Internal Audit Assurance Report

At the request of the Chair, Mr Minesh Jani, Head of Risk Management and Audit, introduced the report summarising the work of Internal Audit for the period September to November 2011. In presenting the report, he added that a systems audit of the Mental Health Out of Hours Service (9 p.m. to 5 a.m.) had revealed that improvements were required to monitor performance and link the Team to the Corporate Plan.

Mr Ian Williamson, Head of Social Care Practice, Adult Mental Health, indicated that procedures were now in place and, following a review of the service, he was confident that required duties would be met. In response to questions from Members, he stated that:

- The audit had been requested by Helen Taylor, former Head of Service.
- Duplication of staffing arrangements was being addressed and efficiency measures were in train.
- The Adult Mental Health service had been running for four years after separating from the Children's service and the initial remit had been for cost effectiveness through merging of posts. There had been a steep learning curve for staff over the first two years but no complaints had been made against the service and staff had won awards for their performance.

Mr Jani then addressed Limited Assurance findings of service reviews, as contained in the report.

He described the process for management of payments made under S.17 of the Children's Act 1989 and referred to findings made following the review of the relevant service.

Ms Jenny Boyd, Service Manager, Looked After Children, stated that some of the recommendations made had already been accepted. She explained some of the previous arrangements for issue of payments had resulted in overspend of some £110,000 but other procedures were now in place that improved monitoring and control of expenditure. This also meant that basic accommodation was provided as required for families. She responded to further queries from Members on the use of appropriate agencies and comparison with similar services in other Boroughs.

Mr Jani commented on a further such review regarding the administrative and financial service of Stebon Primary School, where there had been key issues around governance and the Governing Body. The Headteacher's reply had confirmed all recommendations had been adopted and a further audit would be undertaken in February 2012.

RESOLVED

That the report and assurance opinion assigned to the systems reviewed be noted.

5.2 Revised Internal Audit Plan for 2011/12

Mr Minesh Jani, Head of Risk Management and Audit, introduced the report providing an update of audit activity planned for the current financial year and reflecting changes to the original internal audit plan as a result of changing priorities of the authority and resources available.

He then responded to questions from Members relating to review of staff hospitality and gifts; use of agency staff and consultants; the contract arrangements for the Mela; sales of Council assets.

Mr Jani undertook to inform Members further on proposals for vacant property disposals; criteria for lettings of community buildings; and any likely risk arising from interim appointments to top management posts.

RESOLVED

That the revised 2011/12 internal audit plan be endorsed as attached in Appendix 2 of the report.

5.3 Progress on National Fraud Initiative 2010-11 and Anti Fraud Update

Mr Tony Qayum, Corporate Fraud Manager, introduced the report giving an update of the National Fraud Initiative, together with an overview of anti fraud work undertaken during the past six months. He added that the efforts of the Audit Service had reduced the number of matches received from the Audit Commission for investigation from 15,046 to 3,130.

A Corporate Fraud Team had been created bringing together disparate functions and it was intended to develop this service to minimise risks of fraud and impropriety to ensure the Council received optimum value. It was intended to match the Team against the Audit Commission best value practices.

Officers responded to questions from Members relating to recruitment checks (as previously discussed in the meeting); and procedures for detecting/preventing RTB fraud.

Mr Minesh Jani confirmed that the Tenancy Fraud Team had won an award for "Going the Extra Mile" in their work on setting up relevant processes.

RESOLVED

That the report be noted with thanks.

5.4 Annual Governance Statement for the 2010/11 Accounts Update

The Committee considered the report of the Head of Risk Management and Audit detailing progress made in dealing with significant issues identified within the annual governance statement.

RESOLVED

That the report be noted.

5.5 Update on Risk Management

Mr Minesh Jani, Head of Risk management and Audit, presented the report and introduced Mr Paul Dudley, who had been appointed as Strategic Risk Adviser.

Following discussion, it was –

RESOLVED

That the report be noted.

5.6 Mid Year Review Report on 2011/12 Treasury Management and Investment Strategy

In considering the report, Members referred to the fact that the Treasury Management and Investment Strategy had not been formally approved at Council on 8th December 2011 due to time constraints. Mr Chris Naylor, Corporate Director, Resources, commented that as long as the Strategy could be approved before next financial year, savings would be achieved.

Mr Naylor agreed to provide Members of the Committee with a reply to a Member's query regarding the difference between the CLC original and revised estimates for 2011/12.

RESOLVED

That the report be noted.

5.7 Treasury Management Activity for Period Ending 31 October 2011

After consideration of the information on treasury management, it was –

RESOLVED

That the report be noted.

The meeting ended at 9.00 p.m.

Chair, Councillor Carlo Gibbs
Audit Committee

Audit plan

London Borough of Tower Hamlets

Audit 2011/12



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Introduction

This plan sets out the work for the 2011/12 audit. The plan is based on the Audit Commission's risk-based approach to audit planning.

Responsibilities

The Audit Commission's Statement of Responsibilities of Auditors and of Audited Bodies sets out the respective responsibilities of the auditor and the audited body. The Audit Commission has issued a copy of the Statement to you.

The Statement summarises where the different responsibilities of auditors and of the audited body begin and end and I undertake my audit work to meet these responsibilities.

I comply with the statutory requirements governing my audit work, in particular:

- the Audit Commission Act 1998; and
- the Code of Audit Practice for local government bodies.

My audit does not relieve management or the Audit Committee, as those charged with governance, of their responsibilities.

Accounting statements

Auditing standards require me to share my plan for the audit, including those areas viewed as highest risk. I have therefore set out the significant risks and the approach I will take for the audit of the 2011/12 financial statements in this plan.

Value for money

I will also assess the Authority's financial resilience and arrangements for securing economy, efficiency and effectiveness in the form of a value for money conclusion. I set out the areas where my work will be focused for the 2011/12 value for money conclusion.

Fees

The fee for the audit is £462,150 which is a reduction of 10 per cent from the previous year. The fee has not changed since it was originally communicated to the Council in March 2011.

Other matters

The plan also sets out:

- the planned timetable and outputs for 2011/12 audit work; and
- the audit team and the arrangements to ensure its independence and the quality of the service provided.

Accounting statements and Whole of Government Accounts

I will carry out the audit of the accounting statements in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board (APB). I am required to issue an audit report giving my opinion on whether the accounts give a true and fair view.

Materiality

I will apply the concept of materiality in planning and performing my audit, in evaluating the effect of any identified misstatements, and in forming my opinion.

Identifying audit risks

I need to understand the Authority to identify any risk of material misstatement (whether due to fraud or error) in the accounting statements. I do this by:

- identifying the business risks facing the Authority, including assessing your own risk management arrangements;
- considering the financial performance of the Authority;
- assessing internal control, including reviewing the control environment, the IT control environment and internal audit; and
- assessing the risk of material misstatement arising from the activities and controls within the Authority's information systems.

Identification of risks

I have considered the additional risks that are relevant to the audit of the accounting statements and have set these out below.

Table 1: Audit risks

Risk	Audit response
<p>Heritage assets</p> <p>The 2011/12 IFRS Code adopts the requirements of FRS 30 Heritage Assets for the first time. These are assets held by the Council with the intention of preserving them for future generations because of their cultural, environmental or historical associations. Typical examples in local government include mayoral regalia and paintings. The standard requires that where information on cost or value is available, heritage assets must be reported on the Council's balance sheet and accounted for in accordance with the Code and its disclosure requirements. There is a risk that due to the difficulty in identifying and valuing heritage assets, this change in accounting policy may not be implemented correctly.</p>	<p>I will complete additional work to assess whether the Council has put in place adequate arrangements to identify all potential heritage assets and has applied appropriate judgements with regard to their classification, valuation and disclosure.</p>
<p>ALMO pension liability</p> <p>The 2009/10 audit identified that the provision for the post-transfer service element of the ALMO pension liability was not accounted for in accordance with accounting standards. Whilst the error that has resulted in prior years from the Council's treatment of this item was not material, the value may increase as a result of changes in actuarial projections.</p>	<p>I will review the valuation and accounting treatment of the post-transfer service element of the ALMO pension liability.</p>
<p>Housing Revenue Accounts (HRA) reform</p> <p>The government plans to reform local authority housing finance by adopting a self-financing model from 1 April 2012. For the Council this will be through a one-off settlement payment from central government on or before 28 March 2012. This will adjust the HRA debt of the Authority. Payments from government will in most cases be used to redeem an equal amount of all PWLB debt held by the Authority. Due to the complexity, magnitude and timing of the HRA reform, there is risk that</p>	<p>I will carry out procedures to ensure HRA reform is accounted for correctly. Specifically, I will:</p> <ul style="list-style-type: none"> ■ agree settlement receipt to the amount specified in the Settlement Payments Determination 2012; ■ check that the settlement transaction has been accounted for in line with the requirements of CIPFA guidance;

Risk

the financial statements may be materially misstated.

Audit response

- agree details of loan redemptions to supporting documentation; and
- check cash flow working papers to confirm that non-cash transactions associated with the loan redemptions are accounted for correctly.

Accruals

International Standards on Auditing (ISA 240 UK&I) presume an inherent risk in relation to revenue recognition for all audits. Given the pressures placed on council finances by the local government finance settlement, the risk of misstatement exceeds that of prior years particularly with regard to management accruals of expenditure.

I will identify and test management accruals. Specifically, I will:

- assess whether the method for making accruals is appropriate and has been consistently applied;
- review the assumptions used;
- test the effectiveness of management controls over the accruals; and
- verify the accuracy of the accrual by reference to subsequent settlement.

Allocation of transactions to financial reporting periods

My grant certification work identified weaknesses in the Council's controls to ensure that transactions are allocated to the correct financial reporting period.

Officers are undertaking work to understand further the issue and the likely causes. I will review this work and I will undertake detailed testing over how the year end cut-off has been applied to transactions.

Group accounts

I am responsible for the direction, supervision and performance of the group audit. I will contact the auditors of Tower Hamlets Homes as part of my audit procedures. Please discuss with me any concerns about me contacting component auditors.

Testing strategy

My audit involves:

- review and re-performance of the work of your internal auditors, especially to inform our understanding of the overall control environment;
- testing of the operation of controls, for example the controls over journals;
- reliance on the work of other auditors, including the work of KPMG as the auditors of Tower Hamlets Homes;
- reliance on the work of experts, including the Council's valuer and actuary; and
- substantive tests of detail of transactions and balances.

I have sought to:

- maximise reliance, subject to review and re-performance, on the work of your internal auditors; and
- maximise the work that can be undertaken before you prepare your accounting statements.

I will agree with you a schedule of working papers required to support the entries in the accounting statements.

Whole of Government Accounts

Alongside my work on the accounting statements, I will also review and report to the National Audit Office on your Whole of Government Accounts return. The extent of my review and the nature of my report are specified by the National Audit Office.

Value for money

I am required to reach a conclusion on the Authority's arrangements to secure economy, efficiency and effectiveness.

My conclusion on the Authority's arrangements is based on two criteria, specified by the Commission. These relate to the Authority's arrangements for:

- securing financial resilience – focusing on whether the Authority is managing its financial risks to secure a stable financial position for the foreseeable future; and
- challenging how the Council secures economy, efficiency and effectiveness – focusing on whether the Authority is prioritising its resources within tighter budgets and improving productivity and efficiency.

Identification of risks

I have considered the risks that are relevant to my value for money conclusion. I have identified the following risks that I will address through my work.

Table 2: Value for Money Conclusion risks

Risk	Audit response
Financial resilience The Council has made significant changes to its medium term financial plan in response to the recession, Comprehensive Spending Review (CSR) and the resulting increased financial pressures.	I will carry out the following tasks: <ul style="list-style-type: none">■ monitor progress in delivering identified savings in 2011/12; and■ review arrangements for challenging the value for money of services and progress in identifying savings for 2012/13. I will also consider the adequacy and robustness of the

Risk	Audit response
<p>Governance</p> <p>The Council's move to a mayoral system has resulted in changes to the Council's governance arrangements.</p>	<p>Council's medium term financial strategy.</p> <p>I will review the adequacy and the embeddedness of the Council's revised governance arrangements.</p>

Key milestones and deadlines

The Authority is required to prepare the accounting statements by 30 June 2012. I aim to complete my work and issue my opinion and value for money conclusion by 30 September 2012.

Table 3: **Proposed timetable and planned outputs**

Activity	Date	Output
Protecting the Public Purse fraud briefing	February – March 2012	Report and briefing to the Audit Committee
Opinion: controls and early substantive testing	December 2011 – April 2012	Annual governance report
Opinion: receipt of draft financial statements and supporting working papers	June 2012	N/a
Opinion: substantive testing	July – September 2012	Annual governance report
Value for money conclusion: review of arrangements	January - March 2012	Annual governance report
Issue opinion and value for money conclusion	By 30 September 2012	Auditor's report
Summarise overall messages from the audit	October 2012	Annual Audit Letter

The audit team

The key members of the audit team for the 2011/12 audit are as follows.

Table 4: **Audit team**

Name	Contact details	Responsibilities
Jon Hayes District Auditor	i-haves@audit-commission.gov.uk 0844 798 2877	Responsible for the overall delivery of the audit including quality of reports, signing the auditor's report and liaison with the Chief Executive.
Sally-Anne Eldridge Senior Audit Manager	s-eldridge@audit-commission.gov.uk 07815 954026	Manages and coordinates the different elements of the audit work. Key point of contact for the Corporate Director of Resources and the Interim Director of Finance.
Shona Milton Audit Manager	s-milton@audit-commission.gov.uk 07812 157709	Manages and coordinates the day to day delivery of the audit. Key point of contact for the Service Head, Corporate Finance and the finance team.

Independence and quality

Independence

I comply with the ethical standards issued by the APB and with the Commission's additional requirements for independence and objectivity as summarised in appendix 1.

I am not aware of any relationships that may affect the independence and objectivity of the Audit Commission, the audit team or me, that I am required by auditing and ethical standards to report to you.

Quality of service

I aim to provide you with a fully satisfactory audit service. If, however, you are unable to deal with any difficulty through me and my team please contact Chris Westwood, Director – Standards & Technical, Audit Practice, Audit Commission, 1st Floor, Millbank Tower, Millbank, London SW1P 4HQ (c-westwood@audit-commission.gov.uk) who will look into any complaint promptly and to do what he can to resolve the position.

If you are still not satisfied you may of course take up the matter with the Audit Commission's Complaints Investigation Officer (The Audit Commission, Westward House, Lime Kiln Close, Stoke Gifford, Bristol BS34 8SR).

Fees

The fee for the audit is £462,150 as set out in my letter of 17 March 2011.

The audit fee

The Audit Commission has set a scale audit fee of £462,150 which represents a 10 per cent reduction on the audit fee for 2010/11.

The scale fee covers:

- my audit of your accounting statements and reporting on the Whole of Government Accounts return; and
- my work on reviewing your arrangements for securing economy, efficiency and effectiveness in your use of resources.

The scale fee reflects:

- the Audit Commission's decision not to increase fees in line with inflation;
- a reduction resulting from the new approach to local VFM audit work; and
- a reduction following the one-off work associated with the first-time adoption of International Financing Reporting Standards (IFRS).

Variations from the scale fee only occur where my assessments of audit risk and complexity are significantly different from those reflected in the 2010/11 fee. I have not identified significant differences and have therefore set the fee equal to the scale fee.

Assumptions

In setting the fee, I have made the assumptions set out in appendix 2. Where these assumptions are not met, I may be required to undertake more work and therefore increase the audit fee. Where this is the case, I will discuss this first with Corporate Director of Resources and I will issue a supplement to the plan to record any revisions to the risk and the impact on the fee.

Specific actions you could take to reduce your audit fee

The Audit Commission requires me to inform you of specific actions you could take to reduce your audit fee. I have identified the following actions that you could take:

- further strengthen the quality review of the financial statements, Whole of Government Accounts submission and supporting working papers; and
- more consistently evidence the operation of controls.

Total fees payable

In addition to the fee for the audit, the Audit Commission will charge fees for:

- certification of claims and returns; and
- the agreed provision of non-audit services under the Audit Commission's advice and assistance powers.

Based on current plans the fees payable are as follows.

Table 5: Fees

	2011/12 proposed	2010/11 actual	Variance
Audit	462,150	513,500	(51,350)
Certification of claims and returns	96,000	105,000	(9,000)
Non-audit work: Protecting the Public Purse fraud briefing	4,500	7,000	(2,500)
Total	562,650	625,500	(62,850)

Appendix 1 – Independence and objectivity

Auditors appointed by the Audit Commission must comply with the Commission’s Code of Audit Practice and Standing Guidance for Auditors. When auditing the accounting statements, auditors must also comply with professional standards issued by the Auditing Practices Board (APB). These impose stringent rules to ensure the independence and objectivity of auditors. The Audit Practice puts in place robust arrangements to ensure compliance with these requirements, overseen by the Audit Practice’s Director – Standards and Technical, who serves as the Audit Practice’s Ethics Partner.

Table 6: Independence and objectivity

Area	Requirement	How we comply
Business, employment and personal relationships	<p>Appointed auditors and their staff should avoid any official, professional or personal relationships which may, or could reasonably be perceived to, cause them inappropriately or unjustifiably to limit the scope, extent or rigour of their work or impair the objectivity of their judgement.</p> <p>The appointed auditor and senior members of the audit team must not take part in political activity for a political party, or special interest group, whose activities relate directly to the functions of local government or NHS bodies in general, or to a particular local government or NHS body.</p>	<p>All audit staff are required to declare all potential threats to independence. Details of declarations are made available to appointed auditors. Where appropriate, staff are excluded from engagements or safeguards put in place to reduce the threat to independence to an acceptably low level.</p>

Area	Requirement	How we comply
Long association with audit clients	The appointed auditor responsible for the audit should, in all but the most exceptional circumstances, be changed at least once every seven years, with additional consideration of threats to independence after five years.	The Audit Practice maintains and monitors a central database of assignment of auditors and senior audit staff to ensure this requirement is met.
Gifts and hospitality	The appointed auditor and members of the audit team must abide by the Commission’s policy on gifts, hospitality and entertainment.	All audit staff are required to declare any gifts or hospitality irrespective of whether or not they are accepted. Gifts and Hospitality may only be accepted with line manager approval.
Non-audit work	<p>Appointed auditors should not perform additional work for an audited body (that is work above the minimum required to meet their statutory responsibilities) if it would compromise their independence or might result in a reasonable perception that their independence could be compromised.</p> <p>Auditors should not accept engagements that involve commenting on the performance of other auditors appointed by the Commission on Commission work without first consulting the Commission.</p> <p>Work over a specified value must only be undertaken with the prior approval of the Audit Commission’s Director of Audit Policy and Regulation.</p>	All proposed additional work is subject to review and approval by the appointed auditor and the Director – Standards and Technical, to ensure that independence is not compromised.
<i>Code of Audit Practice, Audit Commission Standing Guidance and APB Ethical Standards</i>		

Appendix 2 – Basis for fee

In setting the fee, I have assumed the following.

- The risk in relation to the audit of the accounting statements is not significantly different to that identified for 2010/11. For example:
 - internal controls are operating effectively;
 - I secure the co-operation of other auditors;
- The risk in relation to my value for money responsibilities is not significantly different to that identified for 2010/11.
- Internal Audit meets professional standards.
- Internal Audit undertakes sufficient appropriate work on all systems that provide material figures in the accounting statements on which I can rely.
- The Authority provides:
 - good quality working papers and records to support the accounting statements and the text of the other information to be published with the statements by 30 June 2012;
 - other information requested within agreed timescales; and
 - prompt responses to draft reports.
- There are no questions asked or objections made by local government electors.

Where these assumptions are not met, I will have to undertake more work which is likely to result in an increased audit fee.

Appendix 3 – Glossary

Accounting statements

The annual statement of accounts that the Authority is required to prepare, which report the financial performance and financial position of the Authority in accordance with the Accounts and Audit (England) Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom.

Annual Audit Letter

Report issued by the auditor to the Authority after the completion of the audit that summarises the audit work carried out in the period and significant issues arising from auditors' work.

Annual Governance Report

The auditor's report on matters arising from the audit of the accounting statements presented to those charged with governance before the auditor issues their opinion [and conclusion].

Annual Governance Statement

The annual report on the Authority's systems of internal control that supports the achievement of the Authority's policies, aims and objectives.

Audit of the accounts

The audit of the accounts of an audited body comprises all work carried out by an auditor under the Code to meet their statutory responsibilities under the Audit Commission Act 1998.

Audited body

A body to which the Audit Commission is responsible for appointing the external auditor.

Auditing Practices Board (APB)

The body responsible in the UK for issuing auditing standards, ethical standards and associated guidance to auditors. Its objectives are to establish high standards of auditing that meet the developing needs of users of financial information and to ensure public confidence in the auditing process.

Auditing standards

Pronouncements of the APB that contain basic principles and essential procedures with which auditors must comply, except where otherwise stated in the auditing standard concerned.

Auditor(s)

Auditors appointed by the Audit Commission.

Code (the)

The Code of Audit Practice for local government bodies issued by the Audit Commission and approved by Parliament.

Commission (the)

The Audit Commission for Local Authorities and the National Health Service in England.

Ethical Standards

Pronouncements of the APB that contain basic principles relating to independence, integrity and objectivity that apply to the conduct of audits and with which auditors must comply, except where otherwise stated in the standard concerned.

Group accounts

Consolidated accounting statements of an Authority and its subsidiaries, associates and jointly controlled entities.

Internal control

The whole system of controls, financial and otherwise, that the Authority establishes to provide reasonable assurance of effective and efficient operations, internal financial control and compliance with laws and regulations.

Materiality

The APB defines this concept as 'an expression of the relative significance or importance of a particular matter in the context of the accounting statements as a whole. A matter is material if its omission would reasonably influence the decisions of an addressee of the auditor's report; likewise a misstatement is material if it would have a similar influence. Materiality may also be considered in the context of any individual primary statement within the accounting statements or of individual items included in them. Materiality is not capable of general mathematical definition, as it has both qualitative and quantitative aspects'.

The term 'materiality' applies only to the accounting statements. Auditors appointed by the Commission have responsibilities and duties under statute, as well as their responsibility to give an opinion on the accounting statements, which do not necessarily affect their opinion on the accounting statements.

Significance

The concept of 'significance' applies to these wider responsibilities and auditors adopt a level of significance that may differ from the materiality level applied to their audit of the accounting statements. Significance has both qualitative and quantitative aspects.

Those charged with governance

Those entrusted with the supervision, control and direction of the Authority. This term includes the members of the Authority and its Audit Committee.

Whole of Government Accounts

A project leading to a set of consolidated accounts for the entire UK public sector on commercial accounting principles. The Authority must submit a consolidation pack to the department for Communities and Local Government which is based on, but separate from, its accounting statements.

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The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors, members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.



Audit plan

London Borough of Tower Hamlets Pension Fund

Audit 2011/12



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Introduction

This plan sets out the work for the 2011/12 audit. The plan is based on the Audit Commission's risk-based approach to audit planning.

Responsibilities

The Audit Commission's Statement of Responsibilities of Auditors and of Audited Bodies sets out the respective responsibilities of the auditor and the audited body. The Audit Commission has issued a copy of the Statement to you.

The Statement summarises where the different responsibilities of auditors and of the audited body begin and end and I undertake my audit work to meet these responsibilities.

I comply with the statutory requirements governing my audit work, in particular:

- the Audit Commission Act 1998; and
- the Code of Audit Practice.

My audit of the accounting statements does not relieve management or the Audit Committee, as those charged with governance, of their responsibilities.

Financial statements and pension fund annual report

Auditing standards require me to share my plan for the audit, including those areas viewed as highest risk, with the Council. I have therefore set out in this plan the audit risks and the approach I will take for my audit of the 2011/12 pension fund financial statements and my review of the annual report.

Fees

The fee for the audit is £35,000, in line with the fee charged for 2010/11. The fee has not changed since it was originally communicated to the Council in March 2011.

Other matters

The plan also sets out:

- the planned timetable and outputs for 2011/12 audit work; and
- the audit team and the arrangements to ensure its independence and the quality of the service provided.

Accounting statements and Pension Fund Annual Report

I will carry out the audit of the accounting statements included within the Authority's Statement of Accounts in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board (APB). I also report on the accounting statements included in the Pension Fund Annual Report. I am required to issue audit reports giving my opinion on whether the accounting statements give a true and fair.

Page 35 Materiality

I will apply the concept of materiality in planning and performing my audit, in evaluating the effect of any identified misstatements, and in forming my opinion.

Identifying audit risks

I need to understand the Pension Fund to identify any risk of material misstatement (whether due to fraud or error) in the accounting statements. I do this by:

- identifying the business risks facing the fund, including assessing its risk management arrangements;
- considering the financial performance of the fund;
- assessing internal control, including reviewing the control environment, the IT control environment and internal audit; and
- assessing the risk of material misstatement arising from the activities and controls within the fund's information systems.

Identification of risks

I have considered the risks that are relevant to the audit of the pension fund financial statements.

Table 1: **Audit risks**

Risk	Audit response
The quality assurance review of the Pension Fund financial statements prior to submission for audit does not identify all the matters it should.	I will undertake analytical and substantive testing procedures to gain assurance over the entries in the accounts.
Valuation of derivatives and misclassification of investments.	I will undertake substantive procedures on derivatives and investments to gain assurance over the entries in the accounts.
The Council opened a separate bank account for the pension fund in line with LGPS Regulations 2009. However, during the early part of 2011/12, some payments and receipts were still being processed through the Council's main bank account.	I will assess the Council's arrangements for identifying and posting payments and receipts processed through the main bank account. I will also assess the arrangements for establishing and reconciling the new pension fund bank account, and maintaining its operation in accordance with the regulations.

Testing strategy

On the basis of the risks identified above, I will produce a testing strategy that will consist of testing of key controls and substantive tests of transaction streams and material account balances at the year end. I will also seek to rely on the work of other auditors and experts, as appropriate, to meet my responsibilities. For 2011/12, I plan to rely on:

- the work of other auditors with respect to fund managers and custodians; and
- the work of experts with respect to the actuarial valuation of pension fund assets and liabilities.

I have sought to:

- maximise reliance, subject to review and re-performance, on the work of your internal auditors; and
- maximise the work that can be undertaken before you prepare your accounting statements.

I will agree with you a schedule of working papers required to support the entries in the accounting statements.

Pension Fund Annual Report

I will also review and report on the accounting statements included in the Pension Fund's Annual Report prepared under Regulation 34 of the Local Government Pension Scheme (Administration) Regulations 2008.

Key milestones and deadlines

The pension fund is required to prepare the accounting statements by 30 June 2012. I aim to complete my work and issue my opinions on the accounting statements included in the Statement of Accounts and the Pension Fund Annual Report by 30 September 2012.

Table 2: **Proposed timetable and planned outputs**

Activity	Date	Output
Opinion: controls and early substantive testing	January to April 2012	Annual governance report
Opinion: receipt of draft pension fund financial statements and supporting working papers	June 2012	N/a
Opinion: substantive testing	June to September 2012	Annual governance report
Issue annual governance report	September 2012	Annual governance report
Issue opinion on the financial statements included in the statement of accounts and pension fund annual report	September 2012	Auditor's report

The audit team

The key members of the audit team for the 2011/12 audit are as follows.

Table 3: **Audit team**

Name	Contact details	Responsibilities
Jon Hayes District Auditor	i-haves@audit-commission.gov.uk 0844 798 2877	Responsible for the overall delivery of the audit including the quality of outputs, signing the opinion, and liaison with the Chief Executive.
Sally-Anne Eldridge, Senior Audit Manager	s-eldridge@audit-commission.gov.uk 07815 954026	Manages and coordinates the different elements of the audit work. Key point of contact for the Corporate Director of Resources and the Interim Director of Finance.
Shona Milton Audit Manager	s-milton@audit-commission.gov.uk 07812 157709	Manages and coordinates the day to day delivery of the audit. Key point of contact for the Service Head, Corporate Finance and the finance team.

Independence and quality

Independence

I comply with the ethical standards issued by the APB and with the Commission's additional requirements for independence and objectivity as summarised in appendix 1.

I am not aware of any relationships that may affect the independence and objectivity of the Audit Commission, the audit team or me, that I am required by auditing and ethical standards to report to you.

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Quality of service

I aim to provide you with a fully satisfactory audit service. If, however, the Council is unable to deal with any difficulty through me and my team please contact Chris Westwood, Director – Standards & Technical, Audit Practice, Audit Commission, 1st Floor, Millbank Tower, Millbank, London SW1P 4HQ (c-westwood@audit-commission.gov.uk) who will look into any complaint promptly and do what he can to resolve the position.

If you are still not satisfied you may of course take up the matter with the Audit Commission's Complaints Investigation Officer (The Audit Commission, Westward House, Lime Kiln Close, Stoke Gifford, Bristol BS34 8SR).

Fees

The fee for the audit is £35,000, as set out in my letter of 17 March 2011.

The audit fee

The Audit Commission has set a scale audit fee of £35,000. The scale fee reflects the Audit Commission's decision not to increase fees in line with inflation.

Variations from the scale fee only occur where my assessments of audit risk and complexity are significantly different from those reflected in the 2010/11 fee. I have not identified significant differences and have therefore set the fee equal to the scale fee.

Assumptions

In setting the fee, I have made the assumptions set out in appendix 2. Where these assumptions are not met, I may be required to undertake more work and therefore increase the audit fee. Where this is the case, I will discuss this first with the Corporate Director of Resources and I will issue a supplement to the plan to record any revisions to the risk and the impact on the fee.

Specific actions you could take to reduce your audit fee

The Audit Commission requires me to inform you of specific actions you could take to reduce your audit fee. As in previous years, I will work with staff to identify any specific actions that the Council could take and to provide ongoing audit support.

Appendix 1 – Independence and objectivity

Auditors appointed by the Audit Commission must comply with the Commission’s Code of Audit Practice and Standing Guidance for Auditors. When auditing the accounting statements, auditors must also comply with professional standards issued by the Auditing Practices Board (APB). These impose stringent rules to ensure the independence and objectivity of auditors. The Audit Practice puts in place robust arrangements to ensure compliance with these requirements, overseen by the Audit Practice’s Director – Standards and Technical, who serves as the Audit Practice’s Ethics Partner.

Table 4: Independence and objectivity

Area	Requirement	How we comply
Business, employment and personal relationships	Appointed auditors and their staff should avoid any official, professional or personal relationships which may, or could reasonably be perceived to, cause them inappropriately or unjustifiably to limit the scope, extent or rigour of their work or impair the objectivity of their judgement. The appointed auditor and senior members of the audit team must not take part in political activity for a political party, or special interest group, whose activities relate directly to the functions of local government or NHS bodies in general, or to a particular local government or NHS body.	All audit staff are required to declare all potential threats to independence. Details of declarations are made available to appointed auditors. Where appropriate, staff are excluded from engagements or safeguards put in place to reduce the threat to independence to an acceptably low level.

Area	Requirement	How we comply
Long association with audit clients	The appointed auditor responsible for the audit should, in all but the most exceptional circumstances, be changed at least once every seven years, with additional consideration of threats to independence after five years.	The Audit Practice maintains and monitors a central database of assignment of auditors and senior audit staff to ensure this requirement is met.
Gifts and hospitality	The appointed auditor and members of the audit team must abide by the Commission's policy on gifts, hospitality and entertainment.	All audit staff are required to declare any gifts or hospitality irrespective of whether or not they are accepted. Gifts and Hospitality may only be accepted with line manager approval.
Non-audit work	<p>Appointed auditors should not perform additional work for an audited body (that is work above the minimum required to meet their statutory responsibilities) if it would compromise their independence or might result in a reasonable perception that their independence could be compromised.</p> <p>Auditors should not accept engagements that involve commenting on the performance of other auditors appointed by the Commission on Commission work without first consulting the Commission.</p> <p>Work over a specified value must only be undertaken with the prior approval of the Audit Commission's Director of Audit Policy and Regulation.</p>	All proposed additional work is subject to review and approval by the appointed auditor and the Director – Standards and Technical, to ensure that independence is not compromised.
<i>Code of Audit Practice, Audit Commission Standing Guidance and APB Ethical Standards</i>		

Appendix 2 – Basis for fee

Assumptions

In setting the fee, I have assumed the following:

- The risk in relation to the audit of the accounting statements is not significantly different to that identified for 2010/11.
- Internal Audit meets professional standards.
- Internal Audit undertakes sufficient appropriate work on all systems that provide material figures in the pension fund financial statements on which I can rely.
- The Authority provides:
 - good quality working papers and records to support the pension fund accounting statements and the text of the other information to be published with the statements by 30 June 2012;
 - the full text of the Pension Fund Annual Report by 30 June 2012;
 - other information requested within agreed timescales; and
 - prompt responses to draft reports.

Where these assumptions are not met, I will have to undertake more work which is likely to result in an increased audit fee.

Appendix 3 – Glossary

Accounting statements

The Pension Fund accounts included within the annual statement of accounts that the Authority is required to prepare, which report the financial performance and financial position of the Fund in accordance with the Accounts and Audit (England) Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom.

Annual Governance Report

The auditor's report on matters arising from the audit of the accounting statements presented to the Audit Committee before the auditor issues their opinion.

Audit of the accounts

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Internal control

The whole system of controls, financial and otherwise, that the Pension Fund establishes to provide reasonable assurance of effective and efficient operations, internal financial control and compliance with laws and regulations.

Materiality

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The term 'materiality' applies only to the accounting statements. Auditors appointed by the Commission have responsibilities and duties under statute, as well as their responsibility to give an opinion on the accounting statements, which do not necessarily affect their opinion on the accounting statements.

Pension Fund Annual Report

The annual report, including accounting statements, that the Pension Fund must publish under Regulation 34 of the Local Government Pension Scheme (Administration) Regulations 2008.

Those charged with governance

Those entrusted with the supervision, control and direction of the Pension Fund. This term includes the members of the Council and the Audit Committee.

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- any director/member or officer in their individual capacity; or
- any third party.



Certification of claims and returns - annual report

London Borough of Tower Hamlets

Audit 2010/11

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Introduction

Local authorities claim large sums of public money in grants and subsidies from central government and other grant-paying bodies and are required to complete returns providing financial information to government departments. My certification work provides assurance to grant-paying bodies that claims for grants and subsidies are made properly or that information in financial returns is reliable. This report summarises the outcomes of my certification work on your 2010/11 claims and returns.

Under section 28 of the Audit Commission Act 1998, the Audit Commission may, at the request of authorities, make arrangements for certifying claims and returns because scheme terms and conditions include a certification requirement.

Where such arrangements are made, certification instructions issued by the Audit Commission to its auditors set out the work auditors must do before they give their certificate.

The work required varies according to the value of the claim or return and the requirements of the government department or grant-paying body. In broad terms the key features of the current arrangements for all claims other than the Housing and Council Tax Benefits return are as follows:

- For claims and returns below £125,000 the Commission does not make certification arrangements.
- For claims and returns between £125,000 and £500,000, auditors undertake limited tests to agree the entries in the claim form to underlying records, but do not undertake any testing of eligibility of expenditure.
- For claims and returns over £500,000, auditors assess the control environment for the preparation of the claim or return to decide whether or not they can place reliance on it. Where reliance is placed on the control environment, auditors undertake limited tests to agree the entries in the claim form to underlying records but do not undertake any testing of the eligibility of expenditure or data. Where reliance cannot be placed on the control environment, auditors undertake all of the tests in the certification instruction and use their assessment of the control environment to inform decisions on the level of testing required. This means that the audit fees for certification work are reduced if the control environment is strong.
- For claims spanning several years, the financial limits above relate to the amount claimed over the entire life of the claim and testing is applied accordingly.

The approach impacts on the amount of claims work I carry out, placing more emphasis on the high value claims.

The Housing and Council Tax Benefit Subsidy return is subject to a specified set of tests and detailed case testing is mandated. This approach reflects the high value of the return.

Claims and returns may be amended where I agree with your officers that this is necessary. My certificate may also refer to a qualification letter where there is disagreement or uncertainty, or you have not complied with scheme terms and conditions.

Summary of my 2010/11 certification work

The Council has prepared its larger claims and returns well. Improvements could be made in relation to some of the smaller claims and returns.

For 2010/11, my team certified ten claims for the Council with a total value of £609 million. The overall quality of claims presented to audit is adequate. The Council's systems and processes in relation to the Housing and Council Tax Benefit return and the National Non-Domestic Rates return continue to be good. Improvement was made in relation to the Housing returns but further improvement is still required in relation to some of the smaller claims and returns.

Table 1: **Summary of 2010/11 certification work**

	2010/11	2009/10
Number of claims and returns certified		
Total number of claims and returns certified	10	11
Total value of claims and returns certified	£609m	£608m
Number of claims and returns amended due to errors	3	4
Number of claims and returns where I issued a qualification letter because there was disagreement or uncertainty over the content of the claim or return or scheme terms and conditions had not been complied with	2	3
Total cost of certification work	£105,455	£114,966

Results of 2010/11 certification work

This section summarises the results of my 2010/11 certification work and highlights the significant issues arising from that work.

A summary of my work on your 2010/11 claims is shown in Table 2 below.

Table 2: Detail of claims and returns certified

Claim or return	Value of claim or return certified (£'000)	Was reliance placed on the control environment?	Value of any amendments made (£000)	Was a qualification letter issued?
Housing and council tax benefit scheme	268,881	N/a – the certification instruction for this claim does not allow discretion in the tests applied.	19	Yes
Pooling of housing capital receipts	10,641	No	12	No
HRA subsidy	14,895	No	N/a	Yes
Housing finance base data return	N/a	No	N/a	No
National non-domestic rates return	265,653	No	N/a	No

Claim or return	Value of claim or return certified (£'000)	Was reliance placed on the control environment?	Value of any amendments made (£000)	Was a qualification letter issued?
Teachers' pensions return	21,517	No	N/a	No
Sure start, early years and childcare grant and aiming high for disabled children grant	20,821	No	0.05	No
Disabled facilities	730	No	N/a	No
New deal for communities	5,000	No	N/a	No
Single programme	743	No	N/a	No

Two claims were certified subject to a qualification. The qualifications issues were:

- The housing and council tax benefits claim is governed by more complicated regulations than the other claims and returns. The majority of these claims nationally are certified subject to qualification. The qualifications relating to the Council are similar to those arising at other London boroughs. Officers engaged well in the certification process and have continued to improve the quality of the data used to compile the claim. This was reflected in a reduction in the fee for this claim.
- The Housing Subsidy Base Data return was qualified because the Council was unable to provide a copy of a contract with the Homes and Community Agency to evidence its agreed capital contribution to new build schemes.

My work on the Sure Start claim identified weaknesses in the Council's controls over the recognition of expenditure. My testing found that £655k of 2010/11 expenditure in the claim had been recognised in the 2011/12 ledger. The expenditure was correctly included in the claim so this issue did not result in a qualification, but the Council should undertake work to understand and correct the control weaknesses in this area.

My evaluation of the individual control environment for each claim concluded that detailed testing was required for each claim. In order for me to place reliance on the control environment and reduce auditor testing, the Council will need to:

- demonstrate a track record of no amendments or qualification on individual claims;
- increase quality checking of claims prior to passing to audit, including independent checks on the eligibility of expenditure.

Recommendations

R1 Further strengthen the control environment for grants. Specifically:

- implement a more detailed review process prior to submission for audit and demonstrate this clearly in working paper files; and
- include a full and detailed analytical review consideration of all significant variances as part of working paper files.

R2 Establish the reasons for the miscoding of expenditure in the Sure Start claim and take action to correct this control weakness.

Summary of progress on previous recommendations

This section considers the progress made in implementing recommendations I have previously made arising from certification work.

The Council has made progress implementing the recommendations in my previous report and this has contributed to a reduction in the fee I charged for my work. The greatest improvement was seen in high value claims where any delays in certification could have an impact on the funding received by the Council.

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Table 3: Summary of progress made on recommendations arising from certification work undertaken in earlier years

Agreed action	Priority	Date for implementation	Responsible officer	Current status	Comments
<p>Implement the recommendations made in my previous grant certification report.</p> <p>Specifically:</p> <ul style="list-style-type: none"> respond to all audit queries within three working days where possible; strengthen the grant claims and returns control environment by implementing a more detailed review process prior to audit submission and demonstrating this 	High	June 2011	Kevin Miles	Partially implemented	There have been improvements in this area. Fewer errors were identified in claims in 2010/11 and queries were answered more promptly. Further improvement could, however, be made in this area which would help me to place reliance on the claims control environment.

Agreed action	Priority	Date for implementation	Responsible officer	Current status	Comments
<p>clearly in working paper files;</p> <ul style="list-style-type: none"> include a full and detailed analytical review consideration of all significant variances as part of working paper files. 					
Continue to quality review benefits processing and provide training to staff to improve the accuracy of awards and to support the Housing Benefit claim.	Medium	June 2011	Steve Hill	Implemented	The quality of data used to compile this claim has improved.
Strengthen arrangements to provide evidence to support claims and returns such as the housing capital receipts return.	High	June 2011	David Worthington	Implemented	My certification work did not identify any issues in this area.
Review the property classifications in the housing subsidy base data return to ensure that it is fully consistent with the supporting database.	High	August 2011	David Worthington	Implemented	My certification work did not identify any issues in this area.
Gain an understanding of the reasons for properties being void and the corresponding loss of rental income.	High	September 2011	David Worthington	Implemented	My certification work did not identify any issues in this area.
Make arrangements to amend and re-certify base data returns on the electronic data collection system within the window set by the awarding body.	High	September 2011	David Worthington	Implemented	My certification work did not identify any issues in this area.

Agreed action	Priority	Date for implementation	Responsible officer	Current status	Comments
Strengthen quality checks to ensure that claim forms are completed prior to submission to audit.	High	June 2011	Kevin Miles	Partially implemented	There have been improvements in this area. Fewer errors were identified in claims in 2010/11 and queries were answered more promptly. Further improvement could, however, be made in this area which would help me to place reliance on the claims control environment.

Summary of certification fees

This section summarises the fees arising from my 2010/11 certification work and highlights the reasons for any significant changes in the level of fees from 2009/10.

Table 4: Summary of certification fees

Claim or return	2010/11 fee (£)	2009/10 fee (£)	Reasons for changes in fee greater than +/- 10 per cent
Housing and council tax benefit scheme	54,808	60,956	Continued improvements to data quality and a good working relationship with the staff who compile the claim has resulted in a reduction in the fee for this work.
Pooling of housing capital receipts	5,439	5,341	N/a
HRA subsidy	2,092	1,954	N/a
Housing finance base data return	7,792	7,247	N/a
National non-domestic rates return	10,038	10,875	N/a
Teachers' pensions return	1,329	1,238	N/a
Sure start, early years and childcare grant and aiming high for disabled children grant	7,901	5,421	My work on the 2010/11 claim identified control weaknesses with the coding of expenditure. Additional work was required to establish the impact of this issue.

Claim or return	2010/11 fee (£)	2009/10 fee (£)	Reasons for changes in fee greater than +/- 10 per cent
Disabled facilities	1,980	1,560	Change in profile of resources used to undertake the work.
New deal for communities	6,284*	8,979	The Council had improved the quality and timeliness of responses to auditor queries.
Single programme	3,317	5,674	There was one single programme claim in 2010/11 and two in 2009/10.
Grants planning and reporting	5,075*	5,721	In 2009/10 there were more notable delays in the certification of claims. Overall arrangements have improved which resulted in less time being spent managing the certification process.
Total	106,055	114,966	

* estimated

Appendix 1 Action Plan

Recommendations

Recommendation 1

Further strengthen the control environment for grants. Specifically:

- implement a more detailed review process prior to audit submission and demonstrate this clearly in working paper files; and
- include a full and detailed analytical review consideration of all significant variances as part of working paper files.

Responsibility	Kevin Miles / Finance Manager for Directorate responsible for completing claim
Priority	High
Date	April 2012

Comments Working paper reviews are conducted by relevant Directorate Finance Manager. Finance Managers will be reminded of importance of review and that working papers are to include a variance analysis to last year's claim where previous claim submitted.

Recommendation 2

Establish the reasons for the miscoding of expenditure in the Sure Start claim and take action to correct this control weakness.

Responsibility	Kevin Miles / Finance Manager for Directorate responsible for completing claim
Priority	High
Date	April 2012
Comments	Work is being done in this area to better understand the issue and take corrective action as needed.

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The Statement of responsibilities of grant-paying bodies, authorities, the Audit Commission and appointed auditors in relation to claims and returns issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body.



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Agenda Item 5.1

REPORT TO:	DATE	CLASSIFICATION	REPORT NO.	AGENDA NO.
Audit Committee	20 March 2012		5.1	
REPORT OF: Corporate Director, Resources ORIGINATING OFFICER(S): <i>Minesh Jani, Head of Risk Management and Audit</i>	Quarterly Internal Audit Assurance Report Ward(s) Affected: N/A			

1. SUMMARY

- 1.1. This report summarises the work of Internal Audit for the period December 2011 to February 2012.
- 1.2. The report sets out the assurance rating of each audit finalised in the period and gives an overall assurance rating. The quarterly assurance report feeds into the annual internal audit opinion which will be produced at the end of the financial year.

2. RECOMMENDATION

- 2.1. The Audit Committee is asked to note the contents of this report and to take account of the assurance opinion assigned to the systems reviewed during the period.

3. Background

- 3.1. From April 2005, we have assigned each review one of four ratings, depending upon the level of our findings. The ratings we use are: -

Assurance	Definition
Full	There is a sound system of control designed to achieve the system objectives, and the controls are being consistently applied;
Substantial	While there is a basically sound system there are weaknesses which put some of the control objectives at risk or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk;
Limited	Weakness in the system of controls are such as to put the system objectives at risk or the level of non-compliance puts the system objectives at risk;
Nil	Control is generally weak leaving the system open to significant error or abuse, or significant non-compliance with basic controls leaves the system open to error or abuse.

- 3.2. In addition, each review is also considered in terms of its significance to the authority in line with the previously agreed methodology. The significance of each auditable area is assigned, based on the following factors: -

Significance	Definition
Extensive	High Risk, High Impact area including Fundamental Financial Systems, Major Service activity, Scale of Service in excess of £5m.
Moderate	Medium impact, key systems and / or Scale of Service £1m- £5m.
Low	Low impact service area, Scale of Service below £1m.

4. Overall Audit Opinion

- 4.1. Overall, based on work performed in the year to date, I am able to give a substantial level of assurance over the systems and controls in place within the authority.

5. Overview of finalised audits

- 5.1. Since the last Assurance Report that was presented to the Audit Committee in December 2011, 18 final reports have been issued. The findings of these audits are presented as follows:

The chart below summarises the assurance rating assigned by the level of significance of each report.

Appendix 1 provides a list of the audits organised by assurance rating and significance.

Appendix 2 provides a brief summary of each audit.

- 5.2. **Members are invited to consider the following:**

The overall level of assurance provided (para 5.3-5.5).

The findings of individual reports. The Audit Committee may wish to focus on those with a higher level of significance and those assigned Nil or Limited assurance. These are clearly set out in Appendix 1.

- 5.3. The chart ranks the overall adequacy and effectiveness of the controls in place. This assurance rating will feed into Internal Audit's overall assessment of the adequacy of governance arrangements that is required as part of the Accounts and Audit Regulations 2003 and the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom 2006.

(Please refer to the table on the next page).

Chart 1 Analysis of Assurance Levels

SUMMARY		Assurance				
		Full	Substantial	Limited	Nil	Total
Significance	Extensive	-	5	-	-	5
	Moderate	-	10	3	-	13
	Low	-	-	-	-	-
Total Numbers		-	15	3	-	18
Total %		-	83%	17%	-	100%

- 5.4. From the table above it can be seen that all five finalised audits that focused on high risk or high value areas were assigned Substantial Assurance. A further thirteen audits were of moderate significance and of these; ten were assigned Substantial Assurance and three, Limited Assurance.
- 5.5. Overall, 83% of audits resulted in an adequate assurance (substantial or full). The remaining 17% of audits have an inadequate assurance rating (limited or nil).

6. Performance Indicators

- 6.1. At the start of the year, three performance indicators were formulated to monitor the delivery of the Internal Audit service as part of the Chief Executive's Monitoring process. The table below shows the actual and targets for each indicator for the period:-.

Performance measure	Target	Actual
Percentage of Audit Plan completed up to January 2012	80%	76%
Percentage of Priority 1 Audit Recommendations implemented by Auditees at six monthly follow up audit stage	100%	100% (4 out of 4)
Percentage of Priority 2 Audit Recommendations implemented by Auditees at six monthly follow up audit stage	95%	88% (15 out of 17)

The table above shows that the proportion of internal audit work completed to January 2012 is 76% against the target of 80%. The proportion of audit plan delivered to January is 4% behind schedule. The audit plan was refreshed at the end of November 2011 and a number of audits originally scheduled to start in November and December 2011 have been cancelled. Alternative audits are being booked and it is anticipated that the plan will be completed by March 2012.

- 6.2. The percentage of priority 1 recommendations implemented at the follow up stage was 100%, whereas the percentage of priority 2 recommendations was 88%. Relevant Corporate Directors were sent copies of the final Follow Up audit reports. Details of all priority 2 recommendations not implemented are set out in Appendix 3. The percentage of recommendations not implemented is significantly lower than previous quarters. Further to the usual actions, meetings are being convened with key officers to seek assurances that agreed recommendations will be implemented promptly.

7. Comments of the Chief Financial Officer

- 7.1. These are contained within the body of this report.

8. Concurrent Report of the Assistant Chief Executive (Legal Services)

8.1. There are no immediate legal implications arising from this report.

9. One Tower Hamlets

9.1. There are no specific one Tower Hamlets considerations.

9.2. There are no specific Anti-Poverty issues arising from this report.

10. Risk Management Implications

10.1. This report highlights risks arising from weaknesses in controls that may expose the Council to unnecessary risk. This risks highlighted in this report require management responsible for the systems of control to take steps so that effective governance can be put in place to manage the authority's exposure to risk.

11. Sustainable Action for a Greener Environment (SAGE)

11.1. There are no specific SAGE implications.

Local Government Act, 1972 SECTION 100D (AS AMENDED)
List of "Background Papers" used in the preparation of this report

Brief description of "background papers"

Contact :

N/A

Minesh Jani, 0207 364 0738

Summary of Audits Undertaken

APPENDIX 1

APPENDIX 1

Assurance level	Significance	Directorate	Audit title
LIMITED			
	Moderate	Children, Schools and Families	St Mary and St Michael Catholic Primary School
	Moderate	Children, Schools and Families	St Luke's Primary School
	Moderate	Children, Schools and Families	John Scurr Primary School
SUBSTANTIAL			
	Extensive	Corporate	Asset Management and Disposals
	Extensive	Corporate	Control and Monitoring of Staff Hospitality and Gifts
	Extensive	Resources	CHAPS Payments – Follow Up audit
	Extensive	Resources	Cashiers
	Extensive	Resources/THH	Housing Rents
	Moderate	Resources	Civica Council Tax Application Audit
	Moderate	Communities, Localities and Culture	Lifelong Learning

Summary of Audits Undertaken

APPENDIX 1

Assurance level	Significance	Directorate	Audit title
SUBSTANTIAL	Moderate	Adults, Health and Wellbeing Follow Up	Quality Assurance Systems – Follow Up audit
	Moderate	Adults, Health and Wellbeing Follow Up	Day Centres – Probity Audit
	Moderate	Children, Schools and Families	St Saviours Church of England Primary School
	Moderate	Children, Schools and Families	St Peter's Primary School
	Moderate	Children, Schools and Families	Holy Family Catholic Primary School
	Moderate	Children, Schools and Families	William Davis School
	Moderate	Children, Schools and Families	Beatrice Tate Special School
	Moderate	Children, Schools and Families	Hague Primary School

**Summary of Audits Undertaken
Limited Assurance**

APPENDIX 2

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
St Mary and St Michael Catholic Primary School	Jan. 2012	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Our review showed that controls were adequate in updating the School Development Plan; control and monitoring of school bank accounts; accounting for income and expenditure; collecting and recording of income; personnel and payroll management; school meals; procurement; disaster recovery; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • The Scheme of Delegation has not been updated and does not include cheque signatories and their financial limits. • We established that terms of reference for the Standards Committee and the Equality and Cohesion Working Party have not been compiled. • The School Improvement Plan has not been discussed during the Governing Body meetings on a regular basis. • Budget statements were not routinely provided to budget holders. Records to show how the school journeys had been costed were not retained and presented to the Finance & Premises Committee prior to the journey. • We established that there was no record of transfers of money between staff. • Review of five supply staff records identified that one of the invoices had not been signed by an authorised signatory. • The school inventory list was not up to date and the result of the full stock check was not presented to the Governing Body for approval. • The school fund objective statement has not been presented and approved by the Governing Body. Whilst the school fund had been audited on 20 April 2011, there was a lack of documentary evidence to show that the results of the review had been presented to the Governing Body <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Limited

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
St Luke's Primary School	Jan. 2012	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Controls were adequate in financial planning and budget monitoring; control and monitoring of the school's bank accounts; accounting for income and expenditure; payroll management; school meals; IT infrastructure; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • The Financial Management & Delegation of Financial Authority document was not reviewed, updated, and approved by the Governing Body annually. In addition, the Charging Policy had not been reviewed by the Resource Committee or the Governing Body within the last 12 month; the Letting Policy within the last 18 months; and the Pay Policy since 1996. • We determined that terms of reference for the Resource Committee and Curriculum Committee had not been produced by the Governing Body. In addition, neither the Resource nor Curriculum Committee meetings held were minuted. There were no business declarations for four of the governors. • Official order forms are not always completed. Where they are raised, they are not always authorised by a signatory. • Records to show how the school journeys had been costed were not retained and presented to the Resource Committee prior to the journey. • The inventory records were not up to date and an annual inventory check had not been undertaken within the last 12 months. • The school lets its property to a single group during the week, although there is no current signed letting agreement. The Letting Policy has not been reviewed, updated, and approved by the Resources Committee or the Governing Body in the last 18 months. <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Limited

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
John Scurr Primary School	Jan. 2012	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Controls were adequate in financial planning and budget monitoring; accounting for income and expenditure; procurement of goods; payroll management; school meals; IT infrastructure; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • The financial delegations within the school's code of financial practice, scheme of delegation, and terms of references for the approval of expenditure, virements, disposal of assets, and write off of debts were inconsistent. There were no business declarations for eight governors and one member of staff. • There was no evidence that Governing Body approved the School Development Plan relating to the 2010/11 and 2011/12 academic years. Minutes for some committees are not always recorded or signed-off by the chair. • The bank mandate for the school fund bank account was not up to date. • Official order forms are not always completed and authorised by the Head Teacher and invoices authorised by a delegated signatory. Receipt of goods / services had been checked was not always evidenced. • The school was unable to provide evidence to show how the previous school journey had been costed or that a summary account of costings of the previous journey having been presented to governors. • There was no evidence of the school having performed an inventory check in the last 12 months. A number of items identified were not security marked and one item had been moved to a new location and the inventory not updated. <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Limited

Management Comments for Schools

The Children, Schools and Families (CSF) Directorate have put the following systems and processes in place:-

- Internal audit reports on schools are now a regular item on the DMT agenda for discussion.
- Internal audit reports are used by CSF schools Finance team to feed into systems to determine schools requiring priority support.
- Internal Audit assurance rating is used to target specific support to schools.

In addition, necessary intervention is put in place by CSF Finance to assist and support schools in improving governance, financial management and control in specific areas of business activities. .

Comments:

The schools have acted immediately and agreed to complete all actions within a defined timeframe.

The schools and the governing bodies are fully committed to the recommendations made in the Audit report by:

- tracking all actions within the timeframe provided in the report, including evidence of actions taken where appropriate
- confirming additional steps that the schools are planning to take in light of the audit findings and take immediate action in mitigating exposure to risks arising from weaknesses in the control environment

Substantial Assurance

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Asset Management and Disposals	Feb. 2012	<p>This audit examined the systems for managing the assets of the Council to ensure that its strategic objectives and priorities are being achieved including arrangements for controlling and accounting for disposal of assets.</p> <p>Our audit showed that the Council has an Asset Management Plan (AMP) which was approved by the Cabinet in February 2011. This is supported by documented procedures. The disposals procedure was developed in 2009 and officers are guided by the protocol which governs the sale of properties declared surplus following an assessment. We noted that the Council's property and land assets are subject to regular review. Options appraisal and external valuation is obtained for each asset disposal. Members receive regular reports on progress of disposals and Cabinet approves all asset disposals.</p> <p>However, we have recommended that controls over the receipt, opening, recording and evaluating of all offers received should be strengthened and that compliance with the approved protocol should be monitored by the Service Head.</p> <p>All findings and recommendations were agreed with the Service Head, Corporate Property and Final report was issued to the Acting Corporate Director, D&R.</p>	Extensive	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Control and Monitoring of Staff Hospitality	Jan. 2012	<p>The objective of this audit was to provide assurance that the Council's procedures for accepting hospitalities and gifts were sound and being complied with.</p> <p>Our review showed that Hospitality Procedure was revised in March 2011 and included definition of hospitalities, gifts, benefits and bribes. The procedure sets out the required standards, administration and management review arrangements. The procedure is supported by other corporate documents such as the Employees Code of Conduct and Financial Instructions. All these documents are available to staff on the intranet.</p> <p>Our findings indicate considerable improvement in the arrangements for dealing with hospitality, from our testing of 63 Staff Hospitality Register forms. Testing showed that hospitality records were either maintained by Corporate Directors' Personal Assistants or a Business Manager. With the enactment of the Bribery Act, we recommended that regular reminders be sent to staff advising them of their obligations with regards to staff hospitality, gifts and benefits and the principle of not accepting any gifts should be clearly communicated.</p> <p>All findings and recommendations were agreed with the Service Head HR&WD as regards setting of policy and procedure, and with all Corporate Directors in terms of compliance with the Council's governance in this area. The final report was issued to all Directorate nominated officers, Corporate Directors and the Monitoring Officer.</p>	Extensive	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
CHAPS Payments – Follow UP Audit	Dec. 2011	<p>This follow up audit showed good progress had been made in implementing recommendations raised in February 2011. The follow up audit showed that both priority 1 recommendations raised had been implemented. Out of six priority 2 recommendations, five had been progressed. The one recommendation outstanding related to carrying out a risk assessment on key risks around processing of electronic payments at operational level.</p> <p>Our testing showed that since the previous audit, significant improvements in the systems and procedures that support the delivery and use of the CHAPS had been made. Clear criteria were in place for making CHAPS payments and the volume of payments had reduced significantly. All payment requests had been certified properly and had been supported by adequate evidence. A system was in place to reconcile CHAPS payments recorded in the Daily Diary with the Council's General Ledger system. Monthly reconciliations between payments made on the FD system and the GL system were being carried out and had been signed off by the Chief Financial Strategy Officer. Our testing also showed that since June 2011, journals were carried out within 1 day of payment on average.</p> <p>The one recommendation outstanding related to carrying out a risk assessment on key risks around processing of electronic payments at operational level. Once the risks are assessed, the associated controls should be identified and regularly tested and monitored.</p> <p>The findings and recommendations were agreed with the Chief Financial Officer and the final report was issued to the Corporate Director, Resources.</p>	Extensive	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Cashiers	Dec. 2011	<p>The purpose of this audit was to provide assurance to management as to whether the systems of control over the Cashiers functions are sound, secure and adequate.</p> <p>We noted that the Cashier procedures are subject to annual review and are updated on an ongoing basis. Income received is accurately recorded and passed on for cash collection and banking. Effective controls to support the prompt recording of transactions on the cash receipting system are maintained. Reconciliations between the records held on the cash receipting system including the imprest account and the general ledger are undertaken on a monthly basis, and the reconciliations are subject to formal sign off and independent review. Daily cash collection arrangements are undertaken to help ensure that the Cashier Office complies with the insurance limit for which they are covered. Appropriate security arrangements are in place surrounding the Cashier Office.</p> <p>We raised recommendations in relation to the following findings: -</p> <ul style="list-style-type: none"> • The Cashier Office does not maintain an up to date authorised signatory list. There were two cashiers on the float signatories list that had since left the Cashier Office; • Testing of a sample of 20 cash-up, reports are not always signed off as checked by another Cashier officer; and • Information was not processed onto the Cash & Deposit spreadsheet in a timely manner which the Chief Cashier informed advised was due to time constraints. <p>The findings and recommendations were agreed with the Chief Cashier and Payments Manager and the final report was issued to the Corporate Director, Resources.</p>	High	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Housing Rents	Dec. 2011	<p>The purpose of this audit was to provide assurance to management as to whether the systems of control over the Housing Rents functions are sound, secure and adequate.</p> <p>The annual rent increase for 2011/12 was applied and checked for accuracy. There are effective processes in place to monitor credits posted to the rents module and for allocating them to relevant rent accounts. In addition, items in the suspense account are cleared on a regular basis. Reconciliations are performed between the rents module, housing benefit module and the general ledger with all reconciliations since April 2011 have been completed in a timely manner, independently reviewed and discrepancies resolved following investigation.</p> <p>Effective processes are in place to ensure that all housing benefit receipts that are due to Tower Hamlets Homes are received in a timely and accurate manner. Housing benefit is applied and recorded accurately on housing rent accounts. Monitoring processes are in place over rent arrears and write-offs were applied in line with procedures with appropriate approval being obtained.</p> <p>Robust monitoring procedures in place for management to evaluate the effectiveness of performance over the housing rents function.</p> <p>We raised two recommendations: -</p> <ul style="list-style-type: none"> • Testing identified that rent accounts are not always created in a timely manner, and notes detailing the reason for the delay were not posted in all instances; and • Access levels to the SX3 rents module found that access was not always consistent with officers' job roles. <p>The findings and recommendations were agreed with the Head of Rents and the final report was issued to the Director of Finance and Customer Services.</p>	High	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Civica Council Tax Application Audit	Feb 2012	<p>This audit was designed to provide assurance over the Civica Council Tax application used to manage and process Council Tax Billing, Valuation and Recovery and support the collection of Council Tax. In terms of data input, processing, output and interface controls, automated schedules, scripted tasks and reports have been set up on the system to perform checks, control totals and detailing income received to help ensure the accuracy and completeness of data entered onto the system. There is a support arrangement in place for the Civica system and a signed contractual agreement supported by a Service Level Agreement (SLA), license and support maintenance.</p> <p>We raised two recommendations:-</p> <ul style="list-style-type: none"> • Users established on the Civica system should be reviewed to ensure that access is still required; and • Management should review the audit trail files, both 'Not audited' and 'Audited' files with suppliers and ensure that file names are clear, identifiable and whether files require removal or additional files are required for audit logging <p>The findings and recommendations were agreed with Interim Head of Revenue Services and a copy of the final report was issued to the Service Head- Customer Access and ICT and Corporate Director – Resources.</p>	Moderate	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Lifelong Learning - Fees and Charges including delivery of the Skills Funding Agency (SFA) contract.	Dec. 2011	<p>This audit sought to provide assurance over the systems for reviewing, collecting, processing and administering fees and charges for Life Long services.</p> <p>The audit showed that systems and controls for collecting and banking income were adequate. Testing of a sample of 50 cases showed that the actual charges levied were in line with the agreed scale of charges for the course applied for by the Learner. Where courses were free of charge such as ESOL, we confirmed that no charge was levied in accordance with the Council's policy. The Idea Store Learning has comprehensive management information system which identifies, monitors and reports on delivery of the programme and areas of underperformance.</p> <p>In accordance with the Council's Financial Regulations, Fees and Charges for Idea Store Learning courses were reviewed and Cabinet approved that fees and charges should not be increased. The Cabinet report of 6th April 2011 identified that the levels of fees and charges were very low at £2.20 per hour compared to many other providers in London. The report also explained that due to the fixed level of contract with the SFA which did not protect the funding for the future levels of inflation, there was a risk that the rising cost of the programme in view of fees and charges not being increased for more than two years.</p> <p>All findings and recommendations were agreed with the Service Head, Culture and final report was issued to the Corporate Director, CLC.</p>	Moderate	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
<p>Quality Assurance Systems</p> <p>Follow Up Audit</p>	<p>Feb. 2012</p>	<p>This review followed up on the recommendations raised in our audit of the Quality Assurance systems.</p> <p>Our testing showed that out of 11 recommendations followed up, two priority 1 recommendations were being progressed. Of the remaining nine priority 2 recommendations, one was fully implemented and eight were at various stages of implementation.</p> <p>Since the original audit, both the Quality Board and the Performance Board have been integrated into one Quality & Performance Board as recommended by Audit. We also noted that the Case Record Audit tool was being reviewed currently as part of a project which was initiated in August 2011. From our review we have found that the Directorate has clear governance framework for Quality Assurance at strategic and operational levels. We have raised one recommendation to ensure that once signed-off by the DMT, the proposed work on the review of strategies, policies, plans, procedures and protocols should be action planned and monitored and progress reported to the DMT on a regular basis.</p> <p>All findings and recommendations were agreed with the Service Head - Adults Social Care and final report was issued to the Corporate Director, Adults Health Wellbeing.</p>	<p>Moderate</p>	<p>Substantial</p>

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Poplar, Russia Lane and Somali Day Centres – Probity Audit	Feb. 2012	<p>The objective of audit visits to the three Day Centres was to carry out a probity audit over the management of cash income, petty cash accounts, ordering and paying for goods and services, staffing, inventory control, H&S matters and catering.</p> <p>Our testing showed that in general, adequate procedures were in place. However, further improvements needed to be made for income control, petty cash control and inventory control. H&S inspections had been undertaken in all centres, but an action plan needed to be prepared to ensure that all recommendations from health and safety inspections and surveys like asbestos and water installation inspections are prioritised for action to manage H&S risks effectively.</p> <p>All findings and recommendations were agreed with the Service Manager – Reablement and Resources and Final reports were issued to Service Head – Adults Social Care and Corporate Director, Adults Heath Wellbeing.</p>	Moderate	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
St Saviours Church of England Primary School	Feb. 2012	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Our review showed that the school has a full Governing Body and retains minutes of the meetings. Controls were adequate in updating the School Development Plan; control and monitoring of school bank accounts; accounting for income and expenditure; collecting and recording of income; personnel and payroll management; school meals; procurement; disaster recovery; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • The school does not currently have a Finance Committee (or one specifically responsible for finance issues) with approved terms of reference. Declarations of interest were not held for two Governors. Minutes are not taken at the Personnel Committee meeting; • Budget statements are not routinely provided to budget holders and no evidence is retained that material variances are queried or action taken. Purchas orders are not always raised; • Petty cash vouchers are not always fully completed and/or signed by the cash recipient. In addition, there is no independent check undertaken of petty cash vouchers or the float. Copies of receipts in respect of cash received by the school are not retained; • A new starter reference was not received, although a condition of employment as the individual was known to the school; • The school fund is audited by the Bursar of Lansbury Lawrence Primary School (under a reciprocal arrangement) which does not provide a full degree of segregation. Furthermore the audit results are not presented to Governors at committee meetings; and • The results of the annual inventory check had not been presented to the Governing Body. <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
St Peter's Primary School	Feb. 2012	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Our review showed that controls were adequate in updating the Code of Practice and Scheme of Delegation; School Development Plan; control and monitoring of school bank accounts; accounting for income and expenditure; collecting and recording of income; personnel and payroll management; school meals; procurement; disaster recovery; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • Examination of the School Development Plan revealed that there was a lack of cohesion between the resource requirements to meet the objectives detailed in the School Development Plan and the approved budget plan; • Leaver forms or resignation letters are not always retained on file; • Results of the inventory check had not been presented to the Governing Body; and • Where equipment is loaned out, it was not recorded on the inventory. <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Holy Family Catholic Primary School	Jan. 2012	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Our review showed that controls were adequate in updating the Code of Practice and Scheme of Delegation; School Improvement Plan; control and monitoring of school bank accounts; accounting for income and expenditure; collecting and recording of income; school meals; procurement; personnel and payroll management; disaster recovery; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • Declarations of interest had not been obtained from two Governors; • Records to show how the school journeys had been costed were not retained and presented to the Holy Family Committee prior to the journey; • Inventory records were not up to date. In addition, there was no evidence of the school having performed a full inventory check within the last 12 months; and • Staff were not asked to sign an acceptable use policy where equipment was loaned to them and therefore their responsibilities and liability were not clearly explained. <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
William Davis School	Oct. 2011	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Our review showed that controls were adequate in updating the Code of Practice and Scheme of Delegation; School Development Plan; control and monitoring of school bank accounts; accounting for income and expenditure; collecting and recording of income; procurement; school meals; personnel and payroll management; disaster recovery; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • The School Fund account has not been audited for three years; due to the school having difficulty finding someone suitable to do this who is sufficiently independent to the school. Approximately £2k per annum is passed through the account; • Inventory records are not completely up to date as a result of issues whilst updating the records. Assets were identified that are not on the records; • Passwords to the school's IT systems are not changed on a regular basis; and • Whilst budget virements were discussed at the Finance Committee, not all virements made by the school were clearly minuted as being reported to the full Governing Body. <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Beatrice Tate Special School	Dec. 2011	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Our review showed that controls were adequate in relation to the Scheme of Delegation; School Development Plan; control and monitoring of school bank accounts; accounting for income and expenditure; collecting and recording of income; personnel and payroll management; disaster recovery; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • The Code of Financial Practice document is currently not up to date. Authorised signatories as per the bank mandate are not included and we also established that authorisation of virement limits for the Head Teacher needs to be revised; • Examination of virements covering the last 12 months a number of instances with a value over £5,000 where there was no evidence that they had been approved by the Chair of Governors in addition to the Head Teacher; • Official orders are on occasions being raised retrospectively following receipt of the goods/services; • The School Pay Policy did not include a version control and it was unclear through our examination of minutes whether the Policy had been approved by the full Governing Body; and • The results of the annual stock check had not been presented to the Governing Body. <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Substantial

Title	Date of Report	Comments / Findings	Scale of Service	Assurance Level
Hague Primary School	Dec. 2011	<p>The audit was designed to ensure that there were adequate and effective controls over the administration and financial management of the school. Our review showed that controls were adequate in updating the Code of Practice and Scheme of Delegation; School Development Plan; control and monitoring of school bank accounts; accounting for income and expenditure; recording of income; personnel and payroll management; school meals administration; disaster recovery; risk management and insurance. The main weaknesses were as follows:-</p> <ul style="list-style-type: none"> • There was no evidence that the Financial Management Code of Practice, which incorporates the Scheme of Delegation, had been formally approved by the Governing Body within the last 12 months. The Scheme of Delegation for the school's Finance, Personnel, and Premises Committee did not include upper financial limits in relation to the purchasing of goods and services; • There was no evidence that the School's Development and Improvement Plan had been approved by the full Governing Body; • There was no evidence to show that the school had obtained alternative quotations prior to entering into a photocopier contract in May 2010 totalling £10,220; and • Transfer of school trip money from the class teachers to the Office Manager is not being signed for by both parties. <p>All findings and recommendations were agreed with the Head Teacher and reported to the Chair of Governors and the Corporate Director - Children, Schools and Families.</p>	Moderate	Substantial

APPENDIX 3

Follow Up Audits – List of Priority 2 Recommendation still to be Implemented

Audit Subject	Recommendation	Service Head	Officer Name
CHAPS Payments	An exercise should be undertaken to identify and assess key risks around processing of electronic payments at operational level. Once the risks are assessed, the associated controls should be identified and regularly tested and monitored.	Peter Hayday	Oladapo Shonola
Quality Assurance Systems	Once signed-off by the DMT, the proposed work on the review of strategies, policies, plans, procedures and protocols should be action planned and monitored and progress reported to the DMT on a regular basis.	Katharine Marks	Karen Sugars

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Agenda Item 5.2

REPORT TO: Audit Committee	DATE 20 March 2012	CLASSIFICATION	REPORT NO.	AGENDA NO. 5.2
REPORT OF: Corporate Director, Resources	Annual Internal Audit Plan for 2012/13 Financial Year			
ORIGINATING OFFICER(S): <i>Minesh Jani, Head of Risk Management and Audit</i>	<i>Ward(s) Affected: N/A</i>			

1. Introduction

- 1.1 This report presents the proposed Annual Internal Audit Plan for 2012/13. The plan was compiled using the Internal Audit Strategy approved by the Audit Committee in December 2010 and endorsed each year thereafter as part of the annual planning process.
- 1.2 The internal audit strategy details the methodology for developing the annual audit plan and sets out the role of internal audit and the process by which to direct the work of audit. The first step in this methodology is to obtain information about the population from which audit activity is to be selected. This was achieved by consulting with key officers, reviewing the authority's corporate plan and risk registers and meeting with external audit. By gathering information and assessing the risks affecting each auditable system, resources have been directed at those areas with the highest risk significance. Details of the strategy are attached at Appendix 2 for information.

2. Recommendation

- 2.1 That the Audit Committee endorse the Annual Internal Audit Plan for 2012/13 (Appendix 1) and the accompanying internal audit strategy.

3. Background / Methodology

- 3.1 The methodology for developing the Internal Audit Plan focuses upon the quantification of the risks associated with achieving corporate and departmental objectives.
- 3.2 This process uses four assessment categories to produce a risk index for each auditable area. The auditable area is scored in each category using assessment criteria to gauge the degree of risk or materiality associated with the particular area. The table below summarises the four assessment categories and what each is intended to measure.

Assessment Category		Measure
A	Corporate Importance – Objectives/Priorities	Corporate materiality
B	Corporate Sensitivity – Impact	Reputational materiality
C	Inherent Risk	Inherent vulnerability
D	Control Risk	Control effectiveness

- 3.3 Following this assessment, those systems with the highest score were added to the audit plan based on the resources available. In addition to the above assessment, auditable areas that have a medium or low score, but in order to support the work of external audit or to provide assurance to key officers, also feature in this audit plan. These include areas such as the reviews of key financial systems, governance arrangements, grant audits, cash income and regularity/probity audits.

Resources

- 3.4 The table below shows how provisionally the plan will be resourced between the in-house staff and our strategic internal audit partner, Deloitte through the L.B of Croydon Framework Agreement.

Audit Resources 2011/11		Days	Days
Deloitte	Core Audit	315	
	Computer Audit	80	
			395
In-house	4 auditors @ 195 days pp	780	
	Management	150	930
TOTAL			1,325
PLAN TOTAL			1,325

Annual Audit Plan

- 3.5 Appendix 1 shows the annual audit plan and provides a brief summary of the scope of each review. The plan also shows the significance of the systems (High, Medium or Low), and where relevant, the source of the auditable area and its link to the authority's corporate priorities. For some audits, the precise scope and sample to be selected for testing will be decided nearer the time of the audit.
- 3.6 In summary, for 2012/13, the Internal Audit Plan comprises of 1,325 days across all directorates. In line with the established protocols, all changes to the agreed 2012/13 plan will be reported to the CMT and Audit Committee in December 2012.

	Original plan 2011/12	Revised Plan 2011/12	Audit Plan 2012/13
Corporate systems	122	163	128
Chief Executive's	15	10	15
Children, Schools and Families	164	170	197
Communities, Localities and Culture	83	107	99
Tower Hamlets Homes	133	131	135
Development & Renewal	76	71	116
Adult Health and Wellbeing	78	75	76
Resources	191	200	224
Contract audits	50	50	-
Computer audit	91	91	80
VFM audits	15	95	-
Follow-up, management and reactive fraud provision	470	325	255
Total	1,488	1,488	1,325

4. Comments of the Chief Financial Officer

- 4.1 These are contained within the body of this report.

5. Concurrent Report of the Assistant Chief Executive (Legal Services)

- 5.1 There are no immediate legal implications arising from this report.

6. One Tower Hamlets

- 6.1 There are no specific one Tower Hamlets considerations.
- 6.2 There are no specific Anti-Poverty issues arising from this report.

7. **Risk Management Implications**

7.1 This report seeks to profile the work of internal audit to focus on areas where the authority seeks assurance.

8. **Sustainable Action for a Greener Environment (SAGE)**

8.1 There are no specific SAGE implications.

Local Government Act, 1972 SECTION 100D (AS AMENDED)

List of "Background Papers" used in the preparation of this report

Brief description of "background papers"

Contact :

N/A

Minesh Jani, 0207 364 0738



London Borough of Tower Hamlets

Risk, Internal Audit and Control Plan: 2012-13

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Foreword

Internal audit at Tower Hamlets plays an essential role in supporting the Council to achieve its goals and outcomes. The annual audit plan for 2012-13 is thus devised using a risk based methodology, and focuses on areas where Tower Hamlets needs to be assured its risks are being properly managed. The plan also recognises the wider role audit has in supporting management, who strive to deliver excellent public services to residents living in, and people working in the borough, by including for example, corporate reviews, contract and ICT audits. A large part of the annual plan rightly focuses on providing independent assurance over the systems of control for managing risks across the authority. There is also some flexibility within the plan for risks that will arise over the next financial year.

In preparing the plan, it is important to recognise the contributions made by officers at the Departmental and Corporate Management Teams, the Head of Corporate Finance, the Monitoring Officer, the S151 Officer, and the Chair of the Audit Committee for which I am grateful.

Minesh Jani
Head of Risk Management and Audit

Context

Risk taking is vital to the success of any business; it is inherent in everything we do. All too often, however, risks are regarded only as hazards despite the fact they can present significant opportunities for organisations to innovate and gain short and long-term competitive advantages. Risk and opportunity are, in essence, a duality – like two sides of the same coin.

The Good Governance Standard for Public Services identifies that ‘Good governance means “taking informed, transparent decisions and managing risk”. This implies creating a framework of enterprise-wide risk management that is embedded in the ‘business as usual’ operations and viewed as an integral component of how the organisation is governed.

Risk management is not about avoiding or eliminating risk. It is about understanding what risks are and the potential impact upon the organisation should the risks materialise and also about controlling risks when they arise.

Embedding good, enterprise-wide risk management systems will facilitate the achievement of our strategic objectives.

Internal Audit and their evaluation of controls provide an important part of the tool kit that the Corporate Management Team and the Audit Committee have in evaluating the risks being faced by the organisation, and the controls that are in place to mitigate these risks.

Key Risks

The Audit Plan is based on three principal sources of information – Risk Registers (Strategic Risks and Directorate based service risks), our own risk analysis and management request. In formulating the Audit Plan, the key strategic risks and Directorate based risks have been considered. There are 19 strategic risks currently facing LBTH which are being monitored by the GMT and the Audit Committee and are summarised below. These risks have been referenced within the Audit Plan, where applicable.

No.	Risk
BSF10005	Failure to secure planning consent for Bow school
CL0028	There is a reputational risk resulting from misdirected blame for Olympic Games disruption to the community. (Previous risk No. CS0024/8 & CSFO0001)
DRA0009	Failure to deliver Decent Homes by 2016
AH0025	Accommodation – There is significant risk to the Directorate arising as a result of the accommodation changes required over the next 12-24 months, these relate to the decant requirements of both operational and 'back office' services and a shortfall in the level of supported housing available which would impact on the efficiencies agreed by Members in March 2011.
AH0033	Breach of Health and Safety Legislation due to portable appliance testing for the community Equipment Store not being up-to-date.

No.	Risk
DRC0007	The level of resources available to support housing revenue and capital expenditure impact upon the viability of the council's Housing Revenue Account (HRA) 30 Year Business Plan.
DRDH0001	The Government's 'welfare reform' agenda leads to a reduction in both the supply of affordable private sector landlords to rent to benefit dependant households.
RS0039	There is a risk that additional savings required to respond to the local government financial settlement and budget growth pressures need to be fully formulated, which may impact on the financial resilience of the Council and its medium term financial strategy from 2012/13.
CSE0010	Insufficient capacity (assets, land and funding) to meet local need for school places.
DRA0012	The Council is unable to deliver the target level of affordable housing.
TP-SW0015	Failure to vacate and surrender Anchorage House lease on time.
CEAC0004	Publication or broadcast of content that presents reputational risk to the council.

No.	Risk
HR0003	Industrial action by trade unions - either in response to local decisions relating to budgetary reductions, or Central Government policy decisions on pay and pensions.
HR0005	There is a risk that the Council will fail to develop and implement a work force plan that effectively meets its strategic and operational needs over the next 5 to 10 years – across all services.
ICT0007	Data compromised through loss or leakage.
ICT0011	Major ICT service/infrastructure failure of framework I, care alarm, JD Edwards, Iworld, etc, leading to a potential business continuity plan.
RS0038	The approved savings programme for 2011/12 – 2013/14 of £55m may not be delivered either in full or to the original timescales.
SP- FS0016	Future sourcing – Programme/ Business case justification. Failure to find a suitable strategic partner.
S&EQ0001	Challenge to community cohesion

The Role of Internal Audit

The role of Internal Audit is to provide an independent 'assurance' to the organisation that its systems of internal control are sound and adequate, and are being complied with by staff and management.

Internal Audit is a review function, which independently reviews and reports upon the organisation's internal control, governance and risk management arrangements. It critically evaluates the entire internal control framework and where necessary, makes recommendations for improvement and the introduction of best practice.

CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom 2006 defines internal audit as:

"an assurance function that provides an independent and objective opinion to the organisation on the control environment, by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources."

The findings emerging from internal audit reviews provide a basis for an Annual Audit Opinion in the Statement of Internal Control within the Annual Governance Statement.

London Borough of Tower Hamlets 2012/13 Internal Audit Plan

	Audit Days	Pages
Corporate systems and Council-wide reviews	128	9-11
Chief Executives'	15	12
Children, Schools and Families	197	13-14
Communities, Localities & Culture	99	15-16
Tower Hamlets Homes	135	17-19
Development & Renewal	116	20-21
Adult, Health and Wellbeing	76	22-23
Resources & core financial systems	224	24-26
Information technology audits	80	27
Follow up, management and reactive fraud provision	255	27
Total Provision	1325	-

INTERNAL AUDIT PLAN – 2012/13

Auditable System	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Corporate Systems & Council Wide Reviews</u>					
Contract Management	This audit will provide assurance that the Council's contract management and monitoring arrangements are sound and secure. A sample of contracts will be selected to test compliance with corporate procedures on contract management.	H	15	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council
Management of Complaints	This audit will examine systems for managing and monitoring various complaints received by the Council to ensure that sound arrangements are in place.	H	10	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council
Scheme of Delegation	The Council requires a scheme of delegation to manage those operations and functions which are delegated to management. This audit will examine the Council's scheme of management delegation and its compliance.	H	10	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council
Management of Efficiency Projects	This review will provide assurance that adequate controls are in place to manage and monitor the delivery of efficiency projects across the Council.	H	15	Strategic Risk Register RS0038 and RS0039.	One Tower Hamlets Working efficiently and effectively as One Council

INTERNAL AUDIT PLAN – 2012/13

Auditable System	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Corporate Systems & Council Wide Reviews</u>					
Data Quality	This audit will provide assurance that there are sound controls in place to manage and monitor the quality of data produced at various levels within the organisation.	H	10	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council
Translation Services	To provide assurance that the Council's arrangements for procuring, commissioning, paying and monitoring translation services are sound, secure and provide value for money.	H	15	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council
Waivers of Financial Regulations	The audit will focus on the Council's arrangements for managing and monitoring waivers of Financial Regulations by officers.	H	5	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council
Use of Oyster Cards	This audit will review systems for managing and monitoring the use of Oyster Cards across the Council.	H	15	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council
Equality Impact Assessment	The objective of this audit is to provide assurance over the Council's systems and procedures for carrying out Equality Impact Assessment.	H	15	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council

INTERNAL AUDIT PLAN – 2012/13

Auditable System	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Corporate Systems & Council Wide Reviews</u>					
Mayors Bursary Grants	This will be review of the administration and control of the Bursary Grants to eligible pupils attending secondary and further education schools and colleges.	H	8	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council
Corporate Governance	This generic review will incorporate the preparation and validation of the Annual Governance Statement and provide assurance on the progress made in improving controls around those specific governance issues reported within the AGS	H	10	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Chief Executive's</u> Members Enquiries	The objective of this audit is to provide assurance that systems and procedures for dealing with and managing and monitoring enquiries raised by elected members of the Council are sound and secure at both Directorate and corporate level.	H	15	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council



INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Children, Schools and Families</u>					
Special Education Needs - assessment and commissioning	This review will examine the systems for assessing and commissioning services for children with special education needs.	H	15	Audit needs analysis	A Prosperous Community Support lifelong learning opportunities for all.
Children's Centres	This audit will be probity audits to a sample of children's centres to provide assurance that systems for governance and financial management are sound and secure.	H	10	Audit needs analysis	A Prosperous Community Support lifelong learning opportunities for all.
Children Looked After	This audit will provide assurance that systems for services provided to Looked After Children are sound and secure.	H	15	Audit needs analysis	A Safe and Supportive Community Focus on Early Intervention
Contract Audits	A sample of building contracts will be selected to test the arrangements for administering and managing these contracts to provide assurance on cost and programme control.	H	10	Audit needs analysis	A Prosperous Community Support lifelong learning opportunities for all.
Commissioning of Social Care services	This audit will examine systems and procedures for procuring and commissioning services for children.	H	15	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Children, Schools and Families</u>					
Careers Services	The review will examine the key controls over the management of careers service to ensure that key service objectives are achieved.	H	12	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One A Prosperous Community Support lifelong learning opportunities for all. Council
Core Assessments	This audit will provide assurance that management oversight and control in carrying out initial and core assessments is sound and secure.	H	15	Management request	A Safe and Supportive Community Focus on Early Intervention
School Meals Income Collection and Banking	To provide assurance that systems and controls for collecting and banking schools meals income are sound and secure. A sample of secondary schools will be selected for testing.	M	15	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Schools' Probity Audits	School visits are undertaken using a risk based approach to review mainly the arrangements for school governance, budget planning and control, accounting and financial control, purchasing, personnel/payroll administration and control, IT Security and asset management.	H	90	From Audit Needs Assessment	A Prosperous Community Support lifelong learning opportunities for all. One Tower Hamlets Working efficiently and effectively as One Council



INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Communities.</u> <u>Localities and</u> <u>Culture</u>					
Idea Stores- Probity Audit	This is a probity audit which will examine systems for collecting and banking of income, petty cash, ordering and paying for goods and services, inventory management, staffing and other financial matters.	H	12	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council A Prosperous Community Support lifelong learning opportunities for all
Commercial Waste	This audit will examine management and control of commercial waste to ensure that sound systems and procedures are in place.	H	10	Audit needs analysis	A Great Place to Live Improve the environment and tackle climate change
Management and control of Markets	This audit will review the Council's arrangements for management, control and enforcement of street trading activities.	M	15	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Horticultural contracts management	To review systems and controls in place for managing and monitoring horticultural contracts.	M	10	Audit needs analysis	A Great Place to Live Improve the environment and tackle climate change

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
Victoria Park – Post Contract Audit	To review systems and controls in place for post completion assessment, final accounts and claims for loss and expenses.	H	10	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Boishakhi Mela	This audit will examine the systems and controls put in place by the organisation receiving monies from the Council and provide assurance over its financial management arrangements.	M	10	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Management of Anti -Social Behaviour	This audit will provide assurance that systems for managing and controlling Anti-social behaviour is sound and secure.	M	12	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Olympics Planning and Risk Management	The review will examine the planning and risk management arrangements for the Olympics games.	H	10	Strategic Risk Register CL0028	One Tower Hamlets Working efficiently and effectively as One Council
Trading Standards Stores	To review the systems and controls for managing the Trading Standards stores.	M	10	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Tower Hamlets Homes</u>					
Right to Buy	This audit will examine systems of control for managing Right to Buy applications and compliance with appropriate legislation, regulations and authorisations from LBTH.	H	10	Internal Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Financial Systems	This audit will review the robustness of key financial systems such as income and expenditure systems, cash flow forecasting, Treasury Management, VAT and reconciliation processes, as part of the annual assurance on the soundness of financial control across THH.	H	10	Risk Register THH-FN0003, THH-FN0005, Internal Audit needs analysis and External Audit requirement	One Tower Hamlets Working efficiently and effectively as One Council
Use of Document and Management Workflow system	To provide assurance that THH has a clear procedures for the use of a document management system and that the system procedures are complied with.	H	10	Internal Audit Needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Major Works - Consultation.	This audit will examine the arrangements for consulting with leaseholders to provide assurance the cost of the works are recoverable.	H	10	Risk Register THH LS0001 and LS0002 and Internal Audit needs analysis.	A Great Place to Live Provide affordable housing and develop strong neighbourhoods

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
Decent Homes Programme	To provide assurance that the management of Decent Homes works for year 2, is sound, secure and achieve the key objectives of securing the necessary funding..	H	15	Risk Register – DRA0009, THH0049 and THH-IP0001	A Great Place to Live Provide affordable housing and develop strong neighbourhoods
Water Systems and Installations	To provide assurance that water installations are inspected, tested and rectified where necessary to ensure that the necessary statutory and H&S requirements are complied with.	H	10	Internal Audit Needs analysis	A Safe and Supportive Community Empower Older and Vulnerable People
Enforcement of Estate Parking	This audit will seek to examine systems and controls for enforcement of parking on Council estates to ensure that the enforcement contract deliver key objectives.	H	12	Internal Audit Needs analysis and Risk Register THH-CF0001 and CF0002.	A Great Place to Live Provide affordable housing and develop strong neighbourhoods
Governance of THH	This audit will examine the adequacy and soundness of the governance arrangements for THH.	H	10	Internal Audit Needs analysis	A Great Place to Live Provide affordable housing and develop strong neighbourhoods
Contractors Final Accounts Audits	This audit will provide assurance that the systems and procedures in place for checking and auditing contractors final accounts for completed projects are sound and secure.	M	10	Internal Audit Needs analysis	One Tower Hamlets Working efficiently and effectively as One Council

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
Aids and Adaptations	This audit will examine systems for managing and controlling aids and adaptations works requisitioned by the LBTH Occupational Therapy service and consider how the decent homes programme is joined up.	M	10	Internal Audit Needs analysis	A Safe and Supportive Community Empower Older and Vulnerable People
Management Requests	To service special requests from THH management to carry out any other high priority audit work.		10		
Follow Up Audits	We will carry out follow up audits to ensure that recommendations made are progressed and implemented.		18		

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Development and Renewal</u>					
Management and control of Land Charges	This review will focus on the systems for managing and controlling land charges and the associated trading account.	H	10	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Management of Mainstream Grants	The objective is to provide assurance over the management and control of mainstream grants awarded to third sector organisations.	H	15	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Procurement and Payments for Accommodation for Homeless	This audit will provide assurance over the soundness and adequacy of the Council's arrangements for placing homeless families in temporary accommodation and for making payments for the accommodation.	H	12	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Recovery of Deposits under FRDS	The review will examine the systems in place for recovering deposits under the family rental deposit scheme	H	12	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Management and control of S106 Planning Obligations	To review systems and controls for management and control of s.106 Planning Obligations monies received by the Council.	M	12	Audit needs analysis	A Great Place to Live Provide affordable housing and develop strong neighbourhoods

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
Lettings	This audit will examine systems and controls for managing Lettings to Council dwellings.	H	15	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Collection and Banking of Planning Fees	This review will examine systems and procedures for charging, collecting and banking income from planning fees.	M	10	Directorate Risk Register DRP0005	One Tower Hamlets Working efficiently and effectively as One Council
Archiving and Retrieval Contract	This audit will provide assurance over the Council's management and monitoring of the archiving contract.	H	12	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Nomination Rights	This audit will review management and control of the Council's nomination rights to social housing.	M	10	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
BSF – Current Contracts	Building contract audits will be carried out on the building works at the non-sample schools in the BSF programme to provide assurance that cost and programme controls are adequate during the currency of the contract.	H	8	Directorate Risk Register BSF-DAP0003 and DAP0005 and Audit needs analysis	A Prosperous Community Support lifelong learning opportunities for all.

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Adults, Health and Wellbeing</u>					
Assessment and Commissioning	This audit will examine systems and controls for assessment and commissioning of various services for vulnerable adults.	H	15	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Electronic Home Care	This audit will review the effectiveness and efficiency of the electronic home care system, to ensure that controls are sound and secure and achieve the objectives of the designed system.	H	12	Management Request	A Safe and Supportive Community Empower Older and Vulnerable People
Supporting People	This audit will review the management, control and monitoring of the Supporting People Programme to ensure that the programme achieves its key objectives.	H	12	Audit needs analysis	A Safe and Supportive Community Empower Older and Vulnerable People
Safeguarding Vulnerable Adults	This audit will review the Council's systems and controls for safeguarding vulnerable adults.	H	12	Directorate Risk Register AH0015 and Audit needs analysis	A Safe and Supportive Community Empower Older and Vulnerable People

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
Domiciliary Care Contracts	This audit will examine systems and procedures for the management and monitoring of Domiciliary care contracts to ensure that these contracts provide value for money.	H	15	Audit needs analysis	A Safe and Supportive Community Empower Older and Vulnerable People
Statutory Review Process	This audit will provide assurance over the arrangements for carrying out annual statutory review of service users needs and priorities.	M	10	Directorate Risk Register AH001 and Audit needs analysis	A Safe and Supportive Community Empower Older and Vulnerable People

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Resources</u>					One Tower Hamlets
Treasury Management	Reviews of key financial systems to provide assurance to management in preparing in the annual statement of accounts and to support the authority's "managed" audit approach.	H	10	Support the work of the Audit Commission	Working efficiently and effectively as One Council
HR/Payroll		H	10		
General Ledger		M	10		
Creditors/R2P		H	15		
Debtors		M	8		
N.N.D.R.		M	8		
Council Tax		M	10		
Capital Programming & Accounting (testing)		M	8		
Cashiers		H	8		
Pensions		M	8		
Pension Fund Account Administration and Control		M	8		
Housing & Council Tax Benefit		M	10		
Housing Rents		M	8		



INTERNAL AUDIT PLAN – 2012/13

<u>Audit Name</u>	<u>Broad Scope</u>	<u>Priority</u>	<u>Audit Days</u>	<u>Source of Audit</u>	<u>Link with Corporate Priorities</u>
<u>Resources</u>					
Cheque Control and Cancelled Cheques	This audit will review systems for cheque control and cancellation and booking back of returned cheques.	H	8	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Grant Claims	This will be a systems audit on how various grant claims are managed, controlled, evidenced and quality checked before submission to the Audit Commission for certification.	H	10	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Management of VAT	This will be a review of the Council's systems and controls for management of VAT.	H	10	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council.
Financial Information System - Implementation	This will involve internal audit in providing assurance over the implementation of the new FIS.	H	20	Directorate Risk Register RSB0014	One Tower Hamlets Working efficiently and effectively as One Council
ICT Contract Monitoring and Clienting	This review will focus on the arrangements in place for managing and monitoring the future sourcing contract once it has been let.	H	12	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Resources</u>					
Management and Control of Purchase Cards	This audit will review the arrangements for managing and controlling the issue and use of purchase cards.	H	15	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Selection of contractors and E tendering	The Council's systems for selection of contractors for competitive tendering and for submitting tenders using the e-tendering system will be examined.	H	8	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
NNDR and Council Tax refunds	This will be a probity review of how refunds for NNDR and Council Tax are managed and controlled and links with possible money laundering.	M	10	Audit needs analysis	One Tower Hamlets Working efficiently and effectively as One Council
Grant Claim - Teachers Pensions Return	This is an annual audit which will examine the deduction, processing and payment of teachers' pensions contribution to provide assurance to the Audit Commission certifying the Grant Claim.	M	10	Audit Commission requirement	One Tower Hamlets Working efficiently and effectively as One Council

INTERNAL AUDIT PLAN – 2012/13

Audit Name	Broad Scope	Priority	Audit Days	Source of Audit	Link with Corporate Priorities
<u>Information Technology Audits</u>					
To be determined from operational risk analysis / management consultation	A separate Computer Audit Plan will be devised following the review of the computer audit strategic plan. The plan will include application reviews encompassing the key financial systems.	H	80	Audit Needs Analysis	One Tower Hamlets Working efficiently and effectively as One Council.
Page 11 <u>Other</u> Management Requests	A provision for servicing various management requests for advice and other systems development work.	-	50	-	One Tower Hamlets Working efficiently and effectively as One.
Follow Up Audits	Follow-up of reviews carried out in 10/11 to ensure implementation of audit recommendations	-	100	-	One Tower Hamlets Working efficiently and effectively as One
Reactive Fraud	A provision for work carried out on investigating and reporting upon reported irregularities and fraud	-	55	-	One Tower Hamlets Working efficiently and effectively as One
Management time	This is a provision for management time required to direct, control and monitor the work of the audit team.	-	50	-	One Tower Hamlets Working efficiently and effectively as One

Governance-based Audit Assessment Methodology

Assessment Categories

The Risk Assessment model takes account four assessment categories to produce a risk index for each auditable area. The auditable area is scored in each category using assessment criteria to gauge the degree of risk or materiality associated with the particular area. The table below summarises the proposed four assessment categories and what each is intended to measure.

Assessment Category	Measure
A Corporate Importance – Objectives/Priorities	Corporate materiality
B Corporate Sensitivity – Impact	Reputational materiality
C Inherent Risk	Inherent vulnerability
D Control Risk	Control effectiveness

The full definition for each category and the scoring criteria are described below.

Assessment Process

Assessment was based on professional judgement after careful consideration of the key risks to the authority with the Executive Directors and other key officers, a review of current and previous audit plans and strategic issues facing the authority. The following steps were followed in performing the risk assessment:

Step	Action
1	Select the System and Corporate Controls to be risk assessed, to ensure a clear and unambiguous understanding of the area under review. This is normally called the Auditable Area
2	Select the most appropriate assessment criterion and therefore the score in each assessment category
3	Record the scores.
4	Compute the risk index by reference to the following section

Calculation of the Audit Risk Index

Internal Audit risk is the product of risk and materiality. In valuing materiality it is appropriate to add the constituent assessments of Corporate Importance and Corporate Sensitivity to generate a Materiality Factor on a scale of 100.

Total Risk is the product of inherent and control risk. For the purposes of simplicity in this model Inherent Risk is assessed on a scale of 5-10 and Control Risk on a scale of 2-10. The minimum Risk Factor is produced by multiplying these components is therefore 10% (2 x 5).

The Audit Risk Index for each auditable area is, therefore, the Materiality Factor multiplied by the Risk Factor.

Results of the Audit Risk Assessment

The structured list of auditable areas with illustrative assessment scores is recorded and the summarised scores used to give the Risk Factor and Materiality Factor and the resultant Audit Risk Index.

The list of auditable areas is then ranked by reference to the Audit Risk Index and grouped as high, medium or low priority. The top third are considered to be high priority, the next medium priority, and the bottom third low priority.

Internal Audit Risk Assessment Matrices

A CORPORATE IMPORTANCE This aspect considers the effect on an organisation of any inability to achieve management defined service objectives should the system or process fail. This aspect also takes into account the financial exposure or materiality of the area. The consequential impact, either directly or indirectly, on other systems and processes is also relevant to the assessment. Overall it is a measure of the extent to which the organisation depends on the correct running of the system to achieve its strategic objectives.					
Score	Risk to Department, Corporate and/or Service Objectives	Operational Risk Exposure	Financial Risk Exposure		
10	Negligible impact on achievement of service objectives. This would still be achieved with minimum extra cost or inconvenience.	Minor inconvenience	Under 2% of total operating income or net assets.	or	
20	Service objectives only partially achievable without compensating action being taken or reallocation of resources.	Difficult to recover	Between 2% and 10% of operating income or net assets.	or	
30	Unable to achieve service objectives without substantial additional costs or time delays or adverse effect on achievement of national targets / performance indicators.	Permanent loss of data	Between 10% and 30% of operating income or net assets.	or	
40	Unable to achieve service objectives resulting in significant visible impact on service provision such as closure of facilities.	Unable to restore system	Between 30% and 50% of operating income or net assets.	or	
50	Unable to achieve service objectives, resulting in inability to fulfil corporate obligations.	Organisation unable to function	Over 50% of total operating income or net assets	or	

Internal Audit Risk Assessment Matrices

B Corporate Sensitivity This aspect takes into account the sensitivity / confidentiality of the information processed, or service delivered by the system, or decisions influenced by the output. It also assesses any legal and regulatory compliance requirements. The measure should also reflect any management concerns and sensitivities.						
Score	Risk to Public Image	Risk of Adverse Publicity	Risk to Accountability	Risk of non-legal Compliance		
10	Negligible consequences			No regulatory requirements		
20	Some public embarrassment but no damage to reputation or standing in the community	Information would be of interest to local press		Minimal regulatory requirements and limited sensitivity to non-compliance		
30	Some public embarrassment leading to limited damage	Information would be of interest to local MPs		Modest legal and regulatory requirements		
40	Loss of credibility and public confidence in the service concerned	Incident of interest to National Press	Incident potentially leading to the dismissal or resignation of the responsible functional manager	Extensive legal and regulatory requirements with sanctions for non-compliance		
50	Highly damaging with immediate impact on public confidence	Incident of interest to the Audit Commission, government agencies	Incident potentially leading to the resignation or dismissal of a Chief Officer	Possible court enforcement order for non-compliance		

Internal Audit Risk Assessment Matrices

<p>C Inherent Risk This aspect considers the inherent risk of the system, service, process or related assets to error, loss, irregularity, inefficiency, illegality or failure. The particular service sector, nature of operations and the pace of change will also affect the level of inherent risk. Similarly the relative complexity of the system will influence the inherent risk or error. The inherent vulnerability of a system, service or process cannot be altered, only mitigated by the quality of controls considered in section D.</p>						
Score	Inherent Risk – Vulnerability	Risk of Error due to System Complexity	Risk resulting from Pace of Change	Risk to Asset Security		
5	Low vulnerability	Simple system with low risk of error	No changes planned	Undesirable low value assets not at risk of fraud or loss		
6	Medium or low inherent risk	or	Limited changes planned with reasonable timescale			
7	Medium vulnerability	Moderately complex system with medium risk of error	Moderate level of change over medium term			
8	Medium to high inherent risk	or	Significant level of change with restricted timescale			
10	Highly vulnerable	Complex system with high risk of error	Extensive changes planned with short timescale	Highly desirable assets exposed to high risk of fraud or loss		

Internal Audit Risk Assessment Matrices

D Control Risk This aspect assesses the level of control risk based upon the results of past audits of the control environment under review. This aspect also takes into account of the operating history and condition of systems and processes and knowledge of management controls to minimise exposure to risk. CRSA and extensive Control Risk Workshops under the leadership of the Council's Risk Manager could support evaluation.

Score	History of Risk Management Success	Management Risk and Control Environment	Condition of Risk Management Controls
2	No history of control weakness	There is effective risk management in place and adequate controls operated by risk-aware management	Effective controls and robust attitude to the management of all material risks. Embedded risk management culture
4	No history of significant weakness	Good management risk and control environment	Stable system with history of reliability and controls. Risk management issued considered regularly.
6	No high risk issues outstanding from the previous audit/investigation/best value/external review	No knowledge of management risk and control environment	Risk management and system controls not validated.
8	Some significant problems were identified and are known to be outstanding from the previous audit/review	Some significant concerns have been expressed by management (through Controls Risk Workshops)	Technical health of system of risk management and controls in doubt.
10	Major weaknesses in risk management and controls were identified and are known to be outstanding	Major concerns have been expressed by management (through Controls Risk workshops)	Obsolete system with history of problems and ineffective control. Little or no work undertaken on risk management.

Internal Audit Strategy

Introduction

What is Internal Audit?

Internal Audit is a review function within an organisation. Essentially it exists to perform the following roles:

- review systems of risk management, internal control and governance to ensure that these are sound and effective.
- to provide an assurance opinion on the soundness of the organisation's risk management and internal control frameworks.
- to add value to the organisation's operational activities by recommending enhancements to systems and identifying potential efficiencies.

Perhaps the most succinct definition of Internal Audit is provided by the Institute of Internal Auditors – UK and Ireland (IIA-UK), as follows:

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

The Authority's Internal Audit Charter defines the function of Internal Audit, with specific reference to its role within the Authority, in the following way:

Internal Audit is an independent review function established as a service to Members, the Audit Committee and all levels of management. The Internal Audit Service is responsible for the independent assessment of the adequacy and effectiveness of the procedures and controls within systems operating within all of the Council's activities. It also has a responsibility to provide assurance to management that the Authority's risk management and corporate governance arrangements are satisfactory.

Why do we need an Internal Audit Strategy?

An Internal Audit Strategy outlines the means by which Internal Audit seeks to achieve its stated aims and objectives. The strategy is the plan for the effectively delivery of the Internal Audit service.

This document sets out Internal Audit's strategic approach, which should facilitate:

- on an annual basis, the provision to the S151 officer of an overall opinion on the Authority's risk management, control and governance, to support the preparation of the Statement of Internal Control;
- audit of the Authority' risk management, control and governance processes through periodic audit plans in a way which affords suitable priority to the Authority's objectives and risks;
- improvement of the Authority's risk management, control and governance by providing line management with recommendations arising from audit work;
- the identification of audit resources required to deliver an audit service which meets the CIPFA Code of Practice 2006 for Internal Audit in Local Government;
- effective co-operation with external auditors and other review bodies functioning in the Authority; and
- provision of assurance and consultancy services by Internal Audit.

The Role and Purpose of Internal Audit

The role of Internal Audit is to understand the Authority's key risks, and to review and evaluate the adequacy and effectiveness of the systems of internal control, risk management and corporate governance that are in operation at the Council, to ensure that they are sufficient for the purposes of mitigating risk.

It is a statutory requirement for Local Authorities to have an internal audit function, under S151 of the Local Government Act 1972. The Act also stipulates that Internal Audit should have unrestricted access to all information and records retained by the Authority. This enables Internal Audit to comprehensively review, appraise and report on the authority's functions as outlined in the Audit Charter.

Strategic Aims

Internal Audit exists to support the Council in the achievement of its corporate objectives. In particular:

- Internal Audit will support the Authority's aim to provide quality public services, by evaluating and reporting on the standard of systems of internal control in Council service areas;

Appendix 2

- Internal Audit will support the Authority in working to the values set out in its corporate plan by providing the Head of Risk Management, the Director of Resources and the Audit Committee with reports on the extent of compliance with the Authority's Code of Corporate Governance;
- Internal Audit will contribute to the delivery of the Authority's community aims through professional audit reviews and effective recommendations for improving systems that support the Council's organisational aims;
- Internal Audit will assist the Director of Resources in the discharge of his statutory responsibilities for ensuring the proper administration of the Authority's financial affairs and will contribute to the Authority's aim of maximising and making best use of its financial resources through:
 - Risk based reviews of financial systems;
 - Advice on the adequacy and effectiveness of controls in new and developing systems;
 - Promotion of best practice across the Authority;
 - Advice on the prevention and detection of fraud affecting the Authority and investigation of waste or abuse within the Council systems.

Internal Audit & Risk Management

Risks are potential events or occurrences that may have an adverse effect on the organisation's ability to achieve its objectives. Risk Management is the process of identifying, evaluating and responding to risks in order to mitigate them. Risk Management is not the responsibility of Internal Audit. However, Internal Audit will use the authority's risk management framework to focus its work by concentrating on those areas that are most critical to the authority. Consequently, Internal Audit will review the authority's risk registers on a six monthly basis and where necessary amend the internal audit plan to ensure audit resources are continually focused on areas identified by management where the objectives may not be achieved.

Dimension 4 from the CIPFA/SOLACE report on good governance highlights Risk Management as being an integral part of good governance. Internal Audit will therefore also examine the authority's risk management arrangements annually and in so doing, also fulfil the requirements of the CIPFA Code of Practice 2006 for Internal Audit in Local Government to report formally on the authority's arrangement for Risk Management.

Identifying Audit Coverage

In order to identify the auditable systems and establish the areas of risk or specific importance within the authority, Internal Audit will adopt an approach involving discussion and review of the current position. Information will be gathered by meeting key officers within the authority including Corporate Directors and Finance Managers, the Chief Executive and other key officers within the authority. Internal Audit will also discuss the requirements of the External Auditors and the requirements of the “managed audit” approach to ensure those areas upon which our external auditors would seek to place reliance on the internal audit work are included within the internal audit programme. Details of the “Governance” Based Strategic Planning are attached to this paper for information.

In compiling its work programme, Internal Audit will make use of information available within the authority to identify auditable systems, such as

- the authority’s risk registers, to ensure risks are being managed properly;
- background information obtained from previous audits and our discussions to date with the authority;
- experience of issues raised at other public sector organisations after carefully considering key risks to the authority; and
- current and previous audit plans and strategic issues facing the authority.

For each auditable system, Internal Audit will classify the systems into one of three risk bands according to the system’s significance to the authority: High (H), Medium (M) or Low (L). It is recognised and appreciated that Internal Audit cannot review all auditable systems within the authority each year as both financial and human resources are limited. Internal Audit will therefore seek to use the resources available to review those auditable systems that are most significant to the authority. Hence, all systems highlighted as being highly significant will always be included within the annual audit plan. A proportion of medium significance audits will also be included in the plan. In deciding which medium-significance auditable system to review, we will use our assessment of the system and discuss with management those areas that will add value. It is highly unlikely the resources will permit the inclusion of auditable units that are of low significance to the authority and therefore these auditable units will feature on the Internal Audit plan unless specifically requested by management.

Delivering the Strategy

The strategic internal audit plan will be compiled annually for each financial year and only comprise those systems due for review in that year. The strategic plan will therefore relate to one financial year and be subject to a formal six monthly review.

Internal audit will primarily perform risk based audits, all exceptions to this will require prior agreement from the Head of Risk Management. The risk based approach entails examining the objective of the auditable system, the risks relating to the delivery of those objectives and an assessment of the adequacy and effectiveness of the control framework to achieve the desired objectives.

Audit Reporting

The reporting arrangements for Internal Audit are detailed in the Internal Audit Charter under “Reporting”.

Quality

All internal audit work will be subject to rigorous review and quality assurance procedures. This will entail:-

- planning the scope of the audit to ensure focus on areas of risks and concerns;
- supervision of audit work by the Audit Managers;
- a formal review and sign off of the audit report and audit file by the Audit Managers;
- further formal reviews of all reports and sign off for issue to auditee by the Partnership Manager;
- obtaining feedback and comments from the auditees and Directors;
- seeking feedback from the external auditors; and
- bench marking Internal Audit quality control procedures with other similar organisations.

The Internal Audit Process

The Pre-Audit Stage

Based on the audit timetable, which has previously been agreed, Internal Audit Team will give two weeks notice to the appropriate Corporate Director and Service Head (the Audit Owner) of an impending audit review and issue an Audit Brief. The Audit Brief will also detail how the audit relates to the agreed audit plan. The Audit Owner has an opportunity to comment on the Audit Brief and raise any areas of concern.

The Audit Owner will ensure that Internal Audit is provided with a written agreement or otherwise to the Audit Brief within two weeks following the receipt of the draft by the Audit Owner.

During the Audit

At this stage Internal Audit will keep the Auditee informed of key findings found during the course of the audit. Where an officer has not been able to provide information requested, Internal Audit will refer matters to the Audit Owner.

The Auditee will ensure that the auditor is provided with all the resources and facilities, including information requested, to facilitate the smooth progress of the audit, including responding to any auditor enquiries promptly.

Post Audit Stage

Upon conclusion of the audit field work Internal Audit will present a Draft Audit Report to be discussed at the audit exit meeting with the Audit Owner. At the audit exit meeting, the findings will be discussed, along with any recommendations for improvement.

Following the audit exit meeting, LB Tower Hamlets Internal Audit will issue a formal Draft of the Audit Report which includes a Management Action Plan of Recommendations to the Audit Owner within three weeks following the completion of the audit exit meeting.

The Audit Owner has three weeks to respond to the Draft Audit Report by completing the Management Action Plan of Recommendations, including listing responsible officers and proposed completion dates. Upon receipt of the agreed Action Plan, a Final Report will be issued to all parties concerned.

The Audit Owner will then enter the agreed management actions and target dates into the Audit Tracker System, and monitor the progress in implementing the recommendations.

The LB Tower Hamlets Internal Audit will present a Summary of Findings from recently issued Final Audit Reports to the Audit Committee. The Audit Owner will have the opportunity to add a response to the Summary of Findings before this report is presented to the Audit Committee.

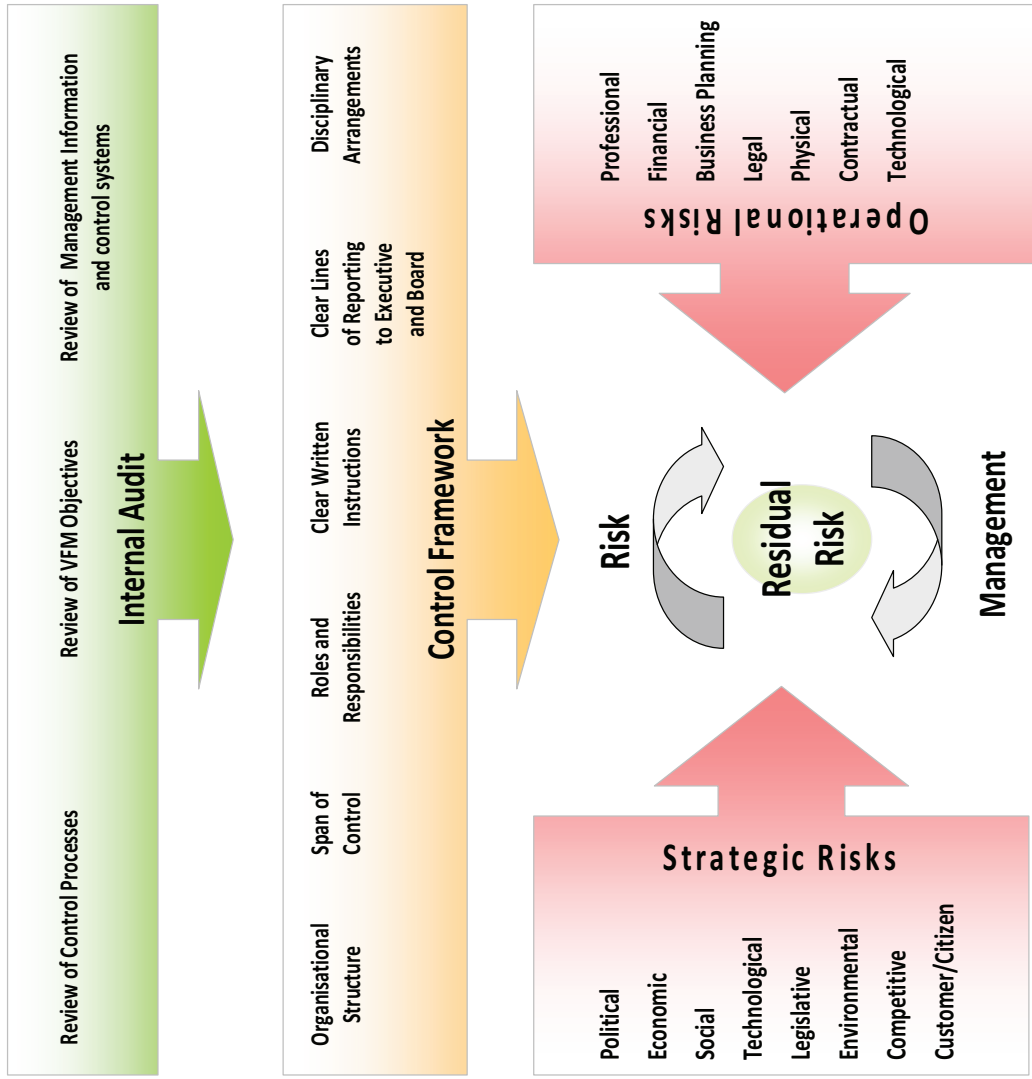
The Monitoring Process

Follow-up audits will be conducted six months after the issue of the Final Report, and a follow up audit report will be issued showing the progress on implementing the agreed recommendations.

Internal Audit recommendations are classified as follows:

- Category 1 – High Priority - 100% of recommendations to be implemented within six months
- Category 2 – Medium Priority – 95% of recommendations to be implemented within six months

Summary



Internal Audit: Will provide assurance that risk management processes and internal controls are operating effectively, ensure major business risks are being managed effectively, and that governance arrangements are operating effectively.

Control Framework: A matrix of control mechanisms will be developed to ensure that every member of staff is aware of their responsibility in managing risk, and a reporting framework will ensure that the Senior Management Team and the Board have a clear view of the effectiveness of the controls in place.

Risk Management: The Risk Register will be reviewed on a periodic basis to reassess the residual level of risk for the strategic risks identified in the first year of operation; new risks added as they become evident.

Appendix 3: Risk Management Framework

Definitions

Risk “Any issue which could impact on an organisation’s ability to meet its objectives”

Risk Management Risk management is a planned and systematic approach to the identification, analysis and control of risks that challenge and threaten the achievement of the objectives of the organisation. Risk management makes it possible to determine whether the risks pose a large enough threat and the innovations a big enough opportunity, to implement mitigation techniques.

Objective Is to implement an effective risk management framework that ensures that risks are identified and managed to an acceptable level and that opportunities are fully exploited, whilst minimising, financial loss, service disruption, bad publicity, reputation loss, claims for compensation and threats to the public and staff.

Our Policy: We believe that by managing risks effectively, we at LB of Tower Hamlets will be in a stronger position to deliver our strategic and operational objectives. By taking advantage of opportunities and managing them well, we will be in a better position to improve services and give our stakeholders better value for money.

Objectives of Risk Management:

- Ensure that systems are in place to identify, track and report upon existing and emerging risks that could damage the interest of our business and our stakeholders.
- Ensure that risk management is embedded throughout the organisation, creating an environment where all staff assumes responsibility for managing risk.

These Objectives will be Achieved by:

- Establishing clear roles, responsibilities and reporting lines within the organisation for risk management;
- Providing opportunities for shared learning on risk management across the organisation;
- Developing and maintaining systems for identifying and evaluating all significant risks;
- Developing and maintaining a framework for allocating resources to identified priority risk areas;
- Reinforcing the importance of effective risk management as part of the everyday work of employees by offering training;
- Incorporating risk management considerations into Best Value and service reviews and business planning;
- Put in place review and monitoring arrangements to assess the effectiveness of our mechanisms and arrangements.

To Emphasise the Organisation’s Working Commitment to Risk Management, the Risk Management Mission Statement is as Follows:

“London Borough of Tower Hamlets recognises that it has a responsibility to manage opportunities and risks in a structured manner in order that LB Tower Hamlets will better achieve its corporate objectives and enhance the value of services it provides to the Community”.

The Audit Committee, Corporate Management Team (CMT) and the Directorate Management Team (DMT) will have overall responsibility for risk management and will be consulted and kept informed as to the progress of the implementation of the strategy on at least an annual basis.

Roles and Responsibilities

<p>Audit Committee</p>	<p>The Committee's primary role is to review and conclude upon the adequacy and effectiveness of the Council's overall internal control system. In performing this role the Committee's work predominantly focuses upon the framework of risks, controls and related assurances that underpin the delivery of the Council's objectives.</p>
<p>Corporate Management Team</p>	<p>One of the roles of the CMT is to work on a cross-directorate basis to ensure that the Council has an effective risk management arrangement in place to achieve its objectives and to consider quarterly reports on the key strategic risks faced by the Council and how these risks are being managed and mitigated.</p>
<p>Corporate Director of Resources</p>	<p>As S.151 officer, the Corporate Director of Resources is responsible for the proper administration of the financial affairs of the Council. The requirement to have an Internal Audit function derives from S.151 of the Local Government Act 1972. As such the Corporate Director of Resources supports the Council and its departments in ensuring that the arrangements made for financial management, risk management and internal control systems are sound and secure.</p>
<p>Corporate Directors</p>	<p>The Corporate Directors have the operational responsibility for ensuring that there are sound procedures in place at Directorate level for effective financial management, risk management and internal control systems.</p>

Risk Management Action Plans

One of the key risk management objectives is the effective management of the organisation's risks, both strategic and operational. This has been achieved by the sessions to identify and profile the organisation's significant strategic risks.

Once this task has been compiled, SMT and the Audit Committee will be asked to comment on these risks and the risk assessment process. In relation to the operational risks, each Director has facilitated and co-ordinated a similar risk assessment exercise in order that the significant operational risks have been accurately identified profiled and managed. The aim of such a process is that it will eventually form part of each Division's annual business planning process.

Coming out of this process, will be risk management action plans relating to the most serious significant risks, i.e. those where the existing levels of internal control are seen as inadequate. The above assessments (both strategic and operational) will be a yearly process with tracking and monitoring of risks on an annual basis.

The Director of Resources will receive copies of each Division's operational risk management action plans in order that any cross-departmental risks can be picked up and managed accordingly. The Director of Resources will also monitor the risk improvement strategy to ensure that progress is made against the key significant risks.

Similarly, the same risk assessment programme can be adopted when services are going through the Best Value programme. A risk management pack can be included in the Best Value documentation. It is generally accepted that each Directorate must be seen to be managing its risks in order to demonstrate Best Value.

Classification of Risk

Strategic Risks		Operational Risks	
<p>Political</p> <p>Wrong strategic priorities Not meeting Government agendas Too slow to innovate/modernise Decisions based on incomplete information Unfulfilled promises to Council Failure to recruit a suitable CEO</p>	<p>Economic</p> <p>General economic problems Regional economic problems Treasury risk Missed business or service opportunities</p>	<p>Professional</p> <p>Failure to recruit/retain staff Lack of training Over-reliance on key officers Inefficient management processes Inability to implement change Lack of employee motivation Bad management of partners</p>	<p>Financial and business planning</p> <p>Failure of major project(s) Failure to prioritise, allocate appropriate budgets and monitor Failure to implement effective partnering contracts for property and estate services</p>
<p>Social</p> <p>Failing to meet the needs of disadvantaged Impact of demographic changes Employment challenges Lack of development of staff Failures in partnership working</p>	<p>Technological</p> <p>Obsolescence of technology Security policies Breach of confidentiality Failure in communications</p>	<p>Legal</p> <p>Not meeting statutory duties Breach of confidentiality/DPA Failure to comply with European Directives on procurement of works, supplies, and services Failure to implement new legislation</p>	<p>Physical</p> <p>Attacks on personnel Loss of tangible assets Non compliance with health & safety law Loss of physical assets Local and national emergencies</p>
<p>Legislative</p> <p>Judicial review Human Rights Act breaches Intervention by regulatory bodies Inadequate response to new legislation Poor response to Audit Commission</p>	<p>Environmental</p> <p>Impact of sustainability policies Noise, contamination and pollution</p>	<p>Contractual</p> <p>Over-reliance on key suppliers/contractors Failure of outsource provider Quality issues Non-compliance with procurement policies</p>	<p>Technological</p> <p>Failure of big technology project IT system crashes affect services Breaches of security of network and data Bad management of intranets and websites</p>
<p>Competitive</p> <p>Failure to show best value Failure of bids for government funds</p>	<p>Customer/Citizen</p> <p>Lack of appropriate consultation Bad public and media relations</p>		

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Agenda Item 5.3

REPORT TO: Audit Committee	DATE 20 March 2012	CLASSIFICATION	REPORT NO.	AGENDA NO. 5.3
REPORT OF: <u>Corporate Director, Resources</u>		Anti Fraud and Corruption Strategy and Proactive Anti Fraud Plan 2012-13		
ORIGINATING OFFICER(S): <u>Tony Qayum, Corporate Fraud Manager</u>		Ward(s) Affected: N/A		

1. INTRODUCTION

- 1.1 This report provides the Audit Committee with an updated Anti Fraud and Corruption Strategy and outlines a summary of the proposed Proactive Anti Fraud Plan for 2012-13.
- 1.2 Local Authorities in the United Kingdom are required to maintain high standards of probity and have sound arrangements for protecting the public purse. Sound systems of public accountability are also vital for effective management and in maintaining public confidence. This minimisation of losses from fraud and corruption is essential for ensuring that resources are used for their intended purpose.
- 1.3 The need for effective anti fraud work within local authorities has also been reflected by the Audit Commission, through the Protecting the Public Purse publications as well as the CIPFA Better Governance Forum. The requirements highlight the expectations around the framework local authorities have in place in respect of the prevention and detection of fraud. As such, it is imperative that the Council has adequate processes, skills and resources to support anti fraud and corruption activities.
- 1.4 The work in terms of Anti Fraud will increase in 2012/13 following the creation of a Corporate Anti Fraud Team, which has brought together under one management structure the Housing Benefit Fraud Team, Social Housing Fraud unit, Parking Fraud team and the Corporate Fraud resource.

2. RECOMMENDATIONS

- 2.1 The Audit Committee is asked to note the contents of the report and endorse the Corporate Anti Fraud Strategy.

3. ANTI FRAUD AND CORRUPTION STRATEGY

3.1 As part of our ongoing efforts to ensure the strategy and systems in place within the Council remain relevant and meet best practice the Anti Fraud and Corruption Strategy has been reviewed and attached at Appendix 1 is the revised strategy that picks up key changes resultant from new legislation and best practice as identified by CIPFA. Attached also is the Council's Anti Money Laundering Policy and our response to the Bribery Act 2010. These are shown as Appendix 2 and 3 respectively and form key parts of our strategy for maintaining an Anti Fraud and Corruption response proportionate to our potential risk.

3.2 The strategy is based upon the following key areas of coverage as outlined by the following key tests that were set by the CIPFA Publication- Protecting the Public Purse Red Book 2 which was issued in 2009 and new legislation including the Bribery Act 2010 which came into force in July 2011.

3.3 The following key tests from the Red Book 2 have been used to build and maintain the strategy:-

3.3.1 Adopting the right strategy

Does the organisation have a counter fraud and corruption strategy that can be clearly linked to the effective policies and procedures in relation to identifying, reporting and investigating suspected fraudulent/corrupt activity are in place.

3.3.2 Measuring Fraud and Corruption Losses

Are fraud and corruption risks considered as part of the organisation's strategic risk management arrangements

3.3.3 Creating and Maintaining a strong structure

Do those tasked with countering fraud and corruption have the appropriate authority needed to pursue their remit effectively, linked to the organisation's counter fraud and corruption strategy.

3.3.4 Taking action to tackle the problem

Is the organisation undertaking the full range of necessary action.

3.3.5 Defining Success

Relevant officers and Committees are made aware of investigations which may affect their Services.

3.4 It is considered that by updating the Anti Fraud and Corruption Strategy in this way it will remain in compliance with best practice.

4. ANNUAL CORPORATE ANTI FRAUD PLAN 2012/13

4.1 This is the fifth year where we have provided a separate and specific plan for anti fraud work as previously it had been included within the Internal Audit Plan. This is to reflect the increasing priority of the service within the Resources Directorate and corporately.

4.2 The overall aims and objectives of this plan reflect the Council's Anti Fraud and Corruption Strategy. The key aims are to:

- Highlight and promote the Council's commitment to stop fraud and corruption;
- Document the roles and responsibilities of Members and officers in respect of fraud and corruption;
- Detail the current Council activity in respect of the five key elements of the Strategy, namely, prevention, detection, investigation, sanctions, and deterrence; and
- Demonstrate the Council has sound arrangements in place to receive and investigate allegations of breaches of proper standards of financial conduct and of fraud and corruption.

4.3 The key drivers used to compile the corporate anti fraud plan for 2012/13 has built on experience and takes account of the: -

- Fraud Risk Register (maintained by the Corporate Fraud Team and responsive to both the organisations changing circumstances, the results of Internal Audit work and the Risk Environment);
- Creation of a single Corporate Anti Fraud resource under one managerial structure;
- Management requests and priorities;
- Local Knowledge;
- Joint working arrangements - external (DWP, PCT, Police and other Local Authorities);
- Resourcing the Government's initiative to examine instances of un lawful sub letting of Social Landlord properties;
- Joint Working arrangements – internal (payroll, pensions, parking services, benefits services, housing services; and

- Issues identified from planned audit work;
- Good Practice checklists from the Audit Commissions-Protecting the Public Purse;
- New government initiatives including the DWP Single Fraud Investigation Service and national Blue Badge scheme for disabled people; and
- Emerging risk areas as identified from national research from the Audit Commission and National Fraud Authority.

4.4 Our plan is attached as Appendix 4. The focus of the plan is to cover :-

- Planned activities for Tower Hamlets Homes that will include pro active and reactive work and along with ongoing reviews of access to accommodation, including nominations, transfers, successions and management determinations; as part of the on-going work of the Social Housing Fraud resource
- Continue management of the National Fraud Initiative process for the Authority, ensuring we meet our requirements under the Audit Commissions Code of Data Matching Practice and that the NFI exercise is appropriately resourced and finalised within prescribed deadlines;
- Ensure that the work of those engaged in Anti Fraud work supports the Council's Strategic Plan;
- Work jointly internally and externally by maintaining existing arrangements and developing better co-ordination;
- Continue to lead on the Anti Fraud Forum which brings together all services within the Council and with the Police, UKBA and PCT responsible for enforcement and financial governance thus maximising opportunities to share intelligence and joint working.
- Continue to provide anti fraud training and awareness to members and officers;
- Continue to hold monthly meetings with the Assistant Chief Executive (Legal Services) on Governance issues;
- Ensure that appropriate training and development on ethical governance matters is rolled out to staff and members as appropriate;
- Publicise all our successes;

- Ensure that all agreed timescales prescribed for the completion of investigation work are met and that all cases are adequately reported to senior management as part of our ongoing reporting procedures; and
- Develop mechanisms for categorising and quantify fraud for more accurate reporting to enable better informed risk assessments.

4.5 Social Housing Fraud Team – Key activities

- to recover unlawfully let properties;
- Jointly investigate Housing Benefit Fraud where the accommodation is un lawfully let;
- Investigate and support THH on suspicious Assignments, successions and Mutual exchanges;
- Investigate and support THH on suspicious Right to Buy's where there may be unlawful letting issues;
- Work with RP's on un lawful lettings and assist in recovery of property for release to the Common Housing Register;
- To attend Gas Servicing visits where access has not been made in order to ensure compliance with statutory duties and tenant conditions remain met; and
- Participate in Pro active exercises with support from other enforcement agencies including the Police, UKBA etc.

4.6 The Parking Fraud Team was transferred to Risk Management in February 2011 to undertake the day to day management and co-ordinate their work , the key activities, being

- Investigation, recovery and prosecution of blue badge abuse;
- Investigation, recovering and sanctions as appropriate on Parking permits (residents and business) and parking scratch cards abuse;
- Investigate and support parking services on persistent offenders;

- Investigate and consider action as appropriate on abuse of parking meter income; and
- Participate and support joint working exercises with the Police, Safer Neighbourhood teams and Anti Social Behaviour initiatives as required.

4.7 The Housing Benefit Fraud team transferred to Risk Management in July 2011 following a reorganisation of the arrangements for the management and investigation of allegations of Fraud, Corruption and Impropriety with the expectation that a Corporate Team would accrue a broader and collectively better response than maintaining individual teams all under different management arrangements and without a single focus.

4.8 The plan makes provision for the existing resource plus a buy in of circa 55 additional days from the Internal Audit plan to be utilised as emerging issues arise.

4.9 The following table shows the Corporate Anti Fraud Team Resources for 2012/13 and the resource required to complete the anti fraud work in 2012/13.

Reactive resources	Days
Corporate Fraud Manager	70
Senior Fraud Officer	150
Allocation from Internal Audit Plan	55
	275
Housing Benefit Fraud Investigation	1170
3 x Social Housing Fraud Officers	585
2 x Parking Fraud Officers (one term time)	315

5. Comments of the Chief Financial Officer

5.1 These are contained within the body of this report.

6. Concurrent Report of the Assistant Chief Executive (Legal Services)

6.1 There are no immediate legal implications arising from this report.

7. One Tower Hamlets

- 7.1 There are no specific one Tower Hamlets considerations.
- 7.2 There are no specific Anti-Poverty issues arising from this report.

8. Risk Management Implications

- 8.1 The Council's governance framework requires a strong anti fraud culture. This report seeks to promote this by putting in place appropriate strategy and fraud plan to prevent and detect fraud.

9. Sustainable Action for a Greener Environment (SAGE)

- 9.1 There are no specific SAGE implications.

**Local Government Act, 1972 SECTION 100D (AS AMENDED)
List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"

Contact :

N/A

Minesh Jani, 0207 364 0738

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ANTI FRAUD AND CORRUPTION STRATEGY

This document should be read in conjunction with the Council's Anti-money laundering and Anti-Bribery policy

1 INTRODUCTION

- 1.1 The London Borough of Tower Hamlets has a revenue and capital budget of almost £1 billion and employs around 10,000 staff, inclusive of those employed within our schools. It works with an extensive number of partners including the third sector and private sector. The scale, complexity and profile of the Council puts it at potential risk to fraud and corruption, both from within & without.
- 1.2 We are committed to making sure that the opportunity for fraud and corruption is reduced to the lowest possible risk. Where there is the possibility of fraud, corruption and other problems, we will deal with it in a firm and controlled manner.
- 1.3 It is essential that the Council is able to prevent and detect fraud, thus ensuring that services are provided honestly and efficiently and Public funds are administered properly. The Anti Fraud and Corruption Strategy outlines the principles that the Council is committed to in preventing and reporting fraud and corruption. It should be noted that the scope of this document is concerned only with matters associated with potential cases of fraud and corruption and does not consider other matters of malpractice which are properly covered by other policies within the councils procedures.

DEFINITIONS OF FRAUD AND CORRUPTION

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

Corruption "The offering, giving, soliciting or acceptance of an inducement or reward which may influence the actions of any person."

2 BACKGROUND

2.1 The Committee on Standards in Public Life, Chaired by Lord Nolan strengthened the need to have clear procedures for staff to raise concerns if they feel that malpractice has occurred.

2.2 The Council expects all of its staff, partners and Members to comply with the seven principals of public life in all of its activities. These are

Selflessness

Holders of public office take decisions in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their performance of the official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contract, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

- 2.3 The council is committed to delivering an anti-fraud culture within the authority and among people and organisations that deal with it. It will attempt to raise the awareness of fraud, both within the authority, and in the community. It will encourage the reporting of suspected fraud and will take appropriate action when fraud, corruption or irregularity comes to light.
- 2.4 The strategy set out in this document covers the following areas:
- Legislative framework
 - The anti fraud environment
 - Preventing fraud and corruption
 - Detecting, investigating and recovery
 - Training and awareness
- 2.5 This document should be read in conjunction with the Council's Anti-Money Laundering Policy and response to the Bribery Act 2010.

3 THE LEGISLATIVE FRAMEWORK

3.1 Under the Local Government Act 1972 the Chief Financial Officer has a duty to ensure that there is an adequate process of Internal Audit to ensure the independent appraisal of the Councils systems of internal control, practices and systems. This requirement was further reinforced by the Accounts and Audit Regulations 2003.

3.2 There is now a requirement for the annual accounts to include an annual governance statement 1 to be certified by the Chief Executive and Leader of the Council.

3.3 From time to time there will be a need to examine allegations and incidents that may have regard to fraud, corruption or financial malpractice.

3.4 In these circumstances the Council will ensure that any inquiry is legal, meets professional standards and that whistleblowers raising a genuine concern are afforded protection in accordance with the law.

3.5 Relevant Legislation

3.5.1 The following is an outline of some of the primary legislation that covers investigation of fraud and corruption:-

- The Fraud Act 2006
- The Theft Acts 1968 and 1978 (as amended)
- Social Security Administration (Fraud) Act 1997
- The Public Interest Disclosure Act 1998
- The Bribery Act 2010
- The Audit Commission Act 1998
- Data Protection Act 1998
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Proceeds of Crime Act 2002
- Money Laundering Regulations 2007
- The Identity Cards Act 2006

3.5.2 Further information on a number of these can be found at Appendix 1.

4 THE ANTI- FRAUD ENVIRONMENT

4.1 We expect all people and organisations that are in any way associated with the Council to be honest and fair in their dealings with us, our clients and customers. We expect our members and employees to lead by example in these matters.

4.2 To support this we have a number of procedures and rules to make sure that our financial, working and organisational procedures are properly controlled. These are an important part of our internal control process, and it is important that all members and staff know about them.

The most important of these are as follows:

- Standing Orders
- Financial Regulations
- Code of Conduct for Employees
- Code of Conduct for Members
- Scheme of Delegation
- Risk Management Strategy and Local Code of Corporate Governance
- Anti money laundering policy

4.3 Where regulations are breached the Council reserves the right to take formal action which may include ending their employment with the Council and civil and /or criminal proceedings being commenced.

4.4 In the case of elected members the Council's Monitoring Officer will be responsible for reporting matters to the appropriate authority.

4.5 We believe our members and employees have an important part to play in dealing with fraud and corruption and we will encourage our staff and members to report suspected fraud or corruption.

4.6 Where money laundering is suspected, staff and members must follow the Suspicious Activity Reporting procedures set out in the Councils anti-money laundering policy.

4.7 We will deal with all information fairly and confidentially. We will endeavour not to reveal the names of the people who gave us the information. Our Fraud Response Plan (Appendix 2) gives more advice on this issue.

- 4.8 We expect our Directors and Heads of Service to deal firmly and quickly with anyone who is responsible for fraud or corruption. The Chief Executive/Director of Resources in consultation with the Corporate Fraud Manager may refer matters to the police if there is suspicion of any criminal activity having taken place.
- 4.9 The conduct of an investigation is a serious, expensive and disruptive business. Therefore where it is found that allegations are unfounded and vexatious or malicious, this will be taken very seriously and dealt with under the Council's disciplinary code.

5 PREVENTING FRAUD AND CORRUPTION

5.1 The diversity and scope of the Councils business functions and services exposes the authority to the risk of fraud. We are committed to fighting fraud and corruption, whether attempted from inside or outside the authority. We will take appropriate action against the perpetrators. The council's strategy for fighting fraud and corruption is based on four cornerstone principles as follows:

5.2 Anti fraud culture

5.2.1 The council believes that the ongoing development of a culture of honesty and openness is a key element in tackling fraud. The council expects all elected members and employees to carry out their duties in accordance with appropriate legal requirements, internal codes of conduct including Human Resource Strategy guidance, procedures and regulations and to act at all times with honesty and probity in the discharge of their duties. The council expects that all outside individuals and organisations, including partners, suppliers, contractors and claimants will act towards the authority with honesty and integrity.

5.2.2 Where IT systems are being utilised all parties are required to comply with the requirements of the Data Protection Act 1998, Acceptable Use Policy and the Computer Misuse Act 1990.

5.3 Internal Controls

5.3.1 The council has in place a framework of controls and procedures to deter fraud from taking place and detect it when it does. It is the responsibility of all members and employees to work within this framework. These controls include codes of practice, schemes of delegation, standing orders and financial regulations and a risk management strategy.

5.4 Effective Action

5.4.1 Corporate Directors and Service Heads will report all suspicions of fraud or corruption to the Corporate Fraud Manager via the Director of Resources/ Chief Executive in their respective roles of Head of Paid Services and Section 151 officer. If elected members are suspected then the Chief Executive/Monitoring Officer will co-ordinate the investigation. Following investigation, the appropriate action will be taken which may include

disciplinary action, civil recovery and referral to the police.

5.4.2 As set out in paragraph 4.6 above, where money laundering is suspected, the procedures set out in the Council's Anti-Money Laundering Policy will apply. This may entail making a report in appropriate cases to the Council's Anti-money Laundering Reporting Officer (Tony Qayum).

5.5 **Publicity**

5.5.1 Where evidence of irregularity has been found and prosecuted all cases will be publicised through press articles etc. to maximise awareness and to act as a deterrent to others.

6 **DETECTING, INVESTIGATING AND RECOVERY**

6.1 This section should be read with our Fraud Response Plan (see Appendix 2) and also our Prosecution Policy (Appendix 4).

6.2 The Council has robust processes designed to reduce the risk of fraud and corruption these include regular management review of systems and procedures to ensure compliance with financial control, a risk based Internal Audit review cycle, Risk Management review process and governance guides including Hospitality procedures and declarations of interests.

6.3 Where appropriate and in accordance with the fraud response plan the Internal Audit Service will undertake formal investigations into fraud and corruption. The process utilised in undertaking an investigation is covered by established professional practice as prescribe by CIPFA and in compliance with the Councils Fraud Response Plan and legislative guidance.

6.4 All cases referred either by the Whistle blowing telephone line or via an internal referral are formally risk assessed by the Corporate Fraud Manager and approval sought from the Head of Risk Management. Each case is then recorded for tracking on a database maintained by Internal Audit. It is important that transparency is maintained in all decision making and consequently there is a process verification and review of the basis elements of the enquiry throughout the audit/investigation process.

(Whistleblowing process – see appendix 3)

6.5 It is important to note that the auditor receiving the complaint will not be the sole investigator of the enquiry, therefore ensuring the utmost independence is maintained during the currency of an investigation.

6.6 **Data Matching**

6.6.1 As a proactive commitment to the prevention and detection of fraud the Authority has actively participated in the National Fraud Initiative, which is a data matching exercise carried out by the Audit Commission under their powers within the Audit Commission Act 1998. This data match looks at wide variety of data sources and compares them to each other to identify potential fraud and irregularity. The potential fraud and irregularity areas include:-

- Benefits
- Payroll and Pensions
- Creditors
- Street Traders
- Insurance
- Private and Voluntary Adult Homes
- Child Minders
- Blue badge misuse

6.6.2 In addition data matching is also carried out with the Benefit Agency (Department of Works and Pensions) and the Inland Revenue under their own statutory powers.

6.6.3 Data matching is conducted within the requirements of the current Data Protection legislation, and the new Audit Commission protocols effective from 2006 and staff side consultation.

6.7 **Housing or Council Tax Benefit Fraud**

6.7.1 This Service is managed by the Corporate Fraud Team within the Resources Directorate.

6.7.2 The framework for benefits related investigations and sanctions is contained within Appendix 4

6.7.3 Concerns regarding possible Housing or Council Tax Benefit Fraud, these can be reported using the Benefit Fraud Hotline on (0207 364 7443 – 24 hour answer phone service) or you can speak to a Benefit Investigator direct on 0207 364 7425 or 7426 or 7442

6.7.4 Other possible fraudulent activity include the following (see Appendix 5 for more details):-

- Tenancy Fraud
- Grants
- Insurance Claims
- Parking Permits including Blue Badge Scheme
- Identity theft fraud
- Protect yourself
- Advance fee fraud

7 TRAINING AND AWARENESS

7.1 All staff in the authority will be trained in fraud awareness and anti-fraud and corruption procedures, and this training will be reinforced regularly. It is the responsibility of chief officers to ensure that staff are properly trained. The Director of Resources will provide advice and assistance in the provision of training in fraud awareness to staff.

7.2 Future training will include :-

- Organised workshops will continue to be delivered during for 2012/13
- Induction training to new Investigating Officers under the Council's Disciplinary Code.
- Departmental management team training
- Regular on-line alerts and training
- Multi media anti-fraud/anti-money laundering training

8 CONCLUSION

8.1 Tower Hamlets Council is committed to tackling fraud, corruption and money laundering whenever it happens. Our ongoing response relies heavily on the principles included in this document and our Anti-money laundering policy.

8.2 We will continue to review our processes and procedures to ensure these strategy documents remains effective and up to date following endorsement of the current approach by the Audit Panel and Standards Committee.

APPENDIX 1

The Fraud Act 2006

The Fraud Act 2006 came into effect on 15th January 2007. It applies to England, Wales and Northern Ireland and is based on the recommendations of the Law Commission report “Fraud” published in 2002.

The act replaces all the deception offences in the Theft Acts of 1968 and 1978 and replaces them with a single offence of Fraud as outlined in Section 1 of the act.

The offence can be committed in three different ways thus-

- False representation (Section 2)
- Failure to disclose information when there is a legal duty to do so (Section 3)
- Abuse of position (Section 4)

The Act also creates new offences of possession (Section 6) and making or supplying articles for use in frauds (Section 7)

The offence of fraudulent trading (Section 993 of the Companies Act 2006) will apply to sole traders (Section 9).

Obtaining services by deception is replaced by a new offence of obtaining services dishonestly (Section 11).

Further information on this legislation can be found at <http://www.opsi.gov.uk/acts.htm>

The Identity Card Act 2006

The Identity Card Act 2006 defines what constitutes an identity document and includes

- an ID card
- a designated document
- an immigration document
- a UK passport
- a passport issued by or on behalf of the authorities of a country or

territory outside the UK or by or on behalf of an international organisation

- a document that can be used instead of a passport- for example a visa
- a UK diving licence or a driving licence issued by or on behalf of the authorities of a country or territory outside the United Kingdom

Under this legislation it is an offence to hold a false Identity document.

A person found guilty of this offence shall be liable, on conviction on indictment to imprisonment for a term not exceeding ten years or to a fine, or both.

This legislation is evolving and guidance will be updated as it becomes clearer.

The Proceeds of Crime Act 2002

The Proceeds of Crime Act 2002 and Money Laundering Regulations 2007 place some important obligations upon professional advisers from a wide range of sectors, including Tax advisers, Accountants, Auditors, Insolvency Practitioners and Legal advisers. Such professionals who carry on relevant business are required to fulfil a range of obligations to prevent money laundering. In particular they are required to report their knowledge or suspicion of money laundering to the Serious Organised Crime Agency (SOCA). This covers the proceeds of all crime including all acts of tax evasion and fraud.

At Tower Hamlets we have followed the guidance of CIPFA and the Corporate Fraud Manager, Tony Qayum fulfils the role of Money Laundering reporting officer. There is a process and procedure for reporting concerns to SOCA and the Metropolitan Police via prescribed documentation. The areas most likely to be exposed to Money Laundering are physical cash, asset transactions and planning gain receipts.

If you have a concern regarding this you have a duty to report your concern to the Corporate Fraud Manager who will investigate the matter.

Regulation of Investigatory Powers Act 2000

To demonstrate the Councils commitment to open/ transparent government it has adopted the Home Office guidelines and documentation for Directed Surveillance and Covert Human Intelligence Sources-

Informants/ whistleblowers. This act was introduced in response to the Human Rights Act 1998 and the London Borough of Tower Hamlets is committed to maintaining its principles.

The Office of Surveillance Commissioners ('OSC') are tasked with carrying out regular inspections of Law Enforcement Agencies to ensure compliance with the Regulation of Investigatory Powers Act 2000 ('RIPA') in so far as directed surveillance and the use or conduct of a covert human intelligence source ('CHIS') is concerned. As part of that implementation, the OSC advise that Law Enforcement Agencies develop a Corporate Policy. As the Council is classed as a Law Enforcement Agency and in order to follow the OSC's requirement as to a Corporate Policy, this Policy has been formulated and which came into effect from July 27th 2004.

Section 6(1) of the Human Rights Act 1998 provides that it is unlawful for a public authority to act in a way that is incompatible with a Convention right.

Article 8 of the European Convention of Human Rights provides:

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

RIPA was introduced to ensure that surveillance and certain other intelligence gathering complies with the European Convention of Human Rights. Specifically, Part II of RIPA provides a statutory framework that is compliant with the European Convention of Human Rights when using intrusive surveillance techniques and by introducing national standards that apply to the Police and other Law Enforcement Agencies.

The Public Interest Disclosure Act 1998

The Public Interest Disclosure Act 1998, which came into force in 1999, provides whistleblowers with statutory protection against dismissal and victimisation. The Act applies to people at work raising genuine concerns about crime, civil offences, miscarriage of justice, and danger to health and safety or the environment. It applies whether or not the information is confidential and extends to malpractice overseas.

The Act distinguishes between **internal disclosures** (a disclosure in good faith to a manager or the employer is protected if the whistleblower has reasonable suspicion that the malpractice has occurred or is likely to occur), **regulatory disclosures** and **wider disclosures**. Regulatory disclosures can be made in good faith to prescribed bodies such as the Health and Safety Executive, the Inland Revenue and the Financial Services Authority.

Wider disclosures (e.g. to the police, the media, and MPs) are protected if, in addition to the tests for internal disclosures, they are reasonable in all the circumstances and they meet one of three conditions. Provided they are not made for personal gain these conditions are, that the whistleblower:

- reasonably believed he would be victimised if he raised the matter internally or with a prescribed regulator;
- reasonably believed a cover-up was likely and there was no prescribed regulator; or
- had already raised the matter internally or with a prescribed regulator.

For protection from victimisation to be afforded under the Public Interest Disclosure Act it is necessary in the first instance to consider the nature of the information revealed, and decide whether the disclosure is a 'qualifying disclosure' within Section 43(B) of the Employment Rights Act 1996.

The question is whether the worker concerned honestly believes that the information revealed tends to show that there has been, or is, or is likely to be a relevant failure - past, present or future.

The relevant failure may be:-

- (a) a criminal offence;
- (b) a failure to comply with any legal obligation;
- (c) a miscarriage of justice;
- (d) a danger to the health and safety of any person;

Extract from Internet Report prepared by 'Public Concern at Work'

APPENDIX 2

Fraud Response Plan

As part of the Borough's Anti Fraud and Corruption Strategy, it is best practice to have a Fraud Response Plan in place. The plan offers staff direction and help in dealing with matters of suspected Fraud and Corruption indicating responsibilities, and sources for guidance.

Risk Management

The Risk Management Service is usually the most appropriate unit to investigate suspected fraud. It is essential, therefore, that every case of suspected fraud is reported to the Corporate Fraud Manager.

The Director of Resources will advise and decide on how an inquiry will be progressed and, in conjunction with the Chief Executive, whether external agents such as the Police need to be informed.

Experienced Investigation staff will be assigned to manage fraud and/or corruption investigations. Such investigations by Risk Management will give due regard to Audit Commission Guidelines, Codes of Practice and relevant legislation.

At the conclusion of the investigation, management of the service concerned will be informed as to the outcome together with recommendations as to proposed action. The Planned Audit Team will ensure that all recommendations agreed are fully implemented following an actual follow-up audit within six months of the conclusion of the investigation. This will therefore inform the risk based audit approach and the local/corporate risk registers.

Reporting suspected Fraud and Corruption

Staff are at the forefront in helping the authority to detect fraud. It is often members of staff who are the first to notice suspected cases of fraud and corruption.

The authority encourages staff to report issues concerning fraud or corruption. Financial Regulations and the Officers Code of Conduct require staff to raise their concerns where irregularity is suspected.

When the employee first uncovers a case of suspected fraud or corruption the action they initially take can often be vital to the success of any investigation that ensues. It is essential that their actions be in line with the guidance given in this document.

Guidance on 'What to do' when you suspect fraud and/or corruption are given in the Sections headed 'Action by Employees' and that on 'Action by Managers'

NB. Your suspected fraud and/or corruption matter should be reported to one of the following :-

- Your Line Manager - (where appropriate)
- Your Head of Service- (where appropriate)
- Your Corporate Director- (where appropriate)
- The Corporate Fraud Manager - Tony Qayum Ext. 4773
- Corporate Fraud Team – Senior Fraud Officer – Sue Oakley Ext. 7423
- Head Risk Management and Audit - Minesh Jani Ext 0738
- Monitoring Officer - Isabella Freeman Ext 4800
- Director of Resources – Chris Naylor Ext 4700
- Via the Confidential Staff Whistleblowing Hotline on Freephone 0800 528 0294 (See Whistleblowing process – Appendix 3)
- Public Concern at Work- 020 7404 6576

Action by employees

Where fraud or corruption is suspected:

- Write down your concerns immediately
- Make a note of all relevant details e.g. telephone conversations, dates times, names, actions
- Any notes or evidence in their possession, which supports what is being reported, must be kept intact and placed in a secure location
- Report the matter immediately to either your line manager or your Service Head. If this is not possible/or appropriate due to your concerns potentially about your own service or line manager, it can be reported to the Risk Management Service (Tony Qayum on Ext. 4773 email tony.qayum@towerhamlets.gov.uk or Sue Oakley Ext. on 7423 and email sue.oakley@towerhamlets.gov.uk). Alternatively, the Councils confidential Staff Whistleblowing telephone line can be used for this (0800 528 0294). Give that officer any notes you have made or any evidence that you have gathered.

- Do not tell anybody else about your suspicions
- Be prepared to assist Internal Audit or any authorised body in any investigation
- Do not attempt to carry out an investigation yourself as this may jeopardise any future enquiry and compromise your evidence
- Where money laundering is suspected, follow the guidance set out in the Council's Anti-money laundering policy

Please note that under no circumstances should a staff member speak to or write to representatives of the press, TV, radio or to another third party about a suspected fraud without the express authority of the Chief Executive.

Suspicious of money laundering must not be discussed with any person save for the Council's Money Laundering Reporting Officer as set out in the Council's Anti-money laundering policy.

It is paramount that officers do not act in a manner that may give rise to an action for slander or libel, or which may amount to an offence of "tipping-off" under the Proceeds of Crime Act 2002.

Action by Managers

Where fraud or corruption is suspected:

- Listen to the concerns raised by staff and treat every reported case seriously, sensitively and confidentially. Never give members of staff the impression that their well-meaning concerns are being treated with anything other than the utmost seriousness
- All staff concerns should be given a fair hearing, along with reassurance that their report of such issues will not affect them adversely
- Attempt to gain as much information as possible from the member of staff reporting the concern. This should include any notes or evidence in their possession, which supports what is being reported. Such evidence must be kept intact and placed in a secure location

- Assess whether the suspicions may have some foundation before taking the matter further
- All suspected concerns involving suspected fraud and corruption must be reported in compliance with Financial Regulations to the Director of Resources or to the Corporate Fraud Manager and give that officer any notes or evidence that has been gathered
- Be prepared to assist Internal Audit or any authorised body in any investigation
- Do not attempt to carry out any investigation.
- Where money laundering is suspected, follow the guidance in the Council's anti-money laundering policy.

APPENDIX 3

Whistleblowing Process

The Public Interest Disclosure Act 1998 (see appendix A for further information) has enhanced the need for an Anti Fraud culture to be present in all Public Service environments. This entails meaningful and accessible means for Staff, Members and Partners to raise concerns in confidence.

The cornerstone of an Anti-Fraud and Corruption Strategy is a Whistleblowing facility which would *enable staff, contractors, third sector and voluntary providers and Members* to raise concerns of a serious nature in confidence and with assurance that if the matters reported are well-founded they will be investigated without fear of comeback to the whistleblower

The Council launched a confidential Whistleblowing telephone line in September 2000 and has regularly publicised this via articles in Pulling Together, the Councils Intranet and within the Authority's Corporate Governance arrangements, including the Authority's Financial Regulations

"Do you have a genuine concern about Unlawful or improper conduct by Council officers or councillors"?

- If you do, we need to know about it
- You are not a snitch, if you raise a genuine concern you will be helping the council
- You will not be asked to prove your concern is true, only that it is honestly raised
- You must have a concern about unlawful conduct for example possible abuse of authority or dishonest activity
- Your concern should not be a grievance or complaint about services. These have different routes for redress
- You should not raise malicious or false concerns
- If you raise a genuine, but, unfounded concern, you will not be involved in any follow up action

- You can remain anonymous and be treated with strict confidence if you request

A SUPPLEMENT NOT A SUBSTITUTE – THE USUAL CHANNELS FOR COMPLAINT

It is important to note that the Whistleblowing strategy is not intended to replace any of the complaint/concern mechanisms already in place at Tower Hamlets.

Anyone, including elected members, staff, service users, partners and members of the Public are encouraged to raise genuine complaints or matters of concern with the Council through existing procedures.

Where an appropriate avenue exists people should use it. The Whistleblowing procedure is designed to supplement, rather than replace the existing procedures wherever practicable. These channels are:

- The Councils Complaints Procedure
- The Grievance Procedure
- Line Management
- The Housing Benefit Fraud Hotline (0207 364 7443)
- The Council General Inquiry Hotline (020 7364 2143)
- The Audit Commission
- Public Concern at Work 020 7404 6576

Safeguards

The Council recognises that a decision to “blow the Whistle” can be a difficult one to make. This may be influenced by the fear of reprisal from those who may have perpetrated the alleged malpractice or from the organisation as a whole.

The Council will not tolerate any victimisation and will take appropriate action to protect any person who raises a concern in good faith, including any necessary disciplinary action.

Wherever possible, the Council will protect the anonymity of any member of staff who raises a concern and who does not want his/her name to be disclosed.

However, this may not always be possible, as any investigation process may in itself reveal the source of information and a statement by the Whistleblower may be a necessary part of evidence, particularly

if it is thought the matter may lead to a criminal prosecution.

The Council will protect individuals and the organisation from false, malicious and vexatious expressions of concern. If staff make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented.

The Council will do its best to protect an individual's identity when s/he raises a concern and does not want their name to be disclosed. It must be appreciated, however, that the investigation process may reveal the source of the information and a statement by the individual may be required as part of the evidence. The Council will try to ensure that the negative impact of either a false or unfounded allegation on any "accused" person is minimised. This entails acting with the strictest independence and professional confidentiality.

In determining if action to investigate will take place, the Council will consider the following:-

- whether it is the Council's business
- the credibility of the concern
- the seriousness of the issues raised
- the likelihood of obtaining the necessary information
- the experience of previous related reports

Anonymous concerns will be investigated at the discretion of the Council

The following chart shows how to get your concerns investigated, and takes you through the agreed procedures on how each concern is dealt with to ensure transparency and that it is being treated seriously.

<ul style="list-style-type: none">• I think a fraud or unlawful act may have been committed• What should I do?• Who should I contact?	<ul style="list-style-type: none">• Is it serious and well founded?• If Yes• You can raise your concerns in confidence on the Whistleblowing Hot Line (or write to Tony Qayum – Corporate Fraud Manager - 4th Floor Mulberry Place)
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<ul style="list-style-type: none"> • What will happen if I ring the Hotline 	<ul style="list-style-type: none"> • You will be asked for details of your concern
<ul style="list-style-type: none"> • Will I have to give my name? 	<ul style="list-style-type: none"> • NO
<ul style="list-style-type: none"> • So what will happen next? 	<ul style="list-style-type: none"> • Your concern will be given a reference number. You can call in 10 days to check progress
<ul style="list-style-type: none"> • Who does anything about it? 	<ul style="list-style-type: none"> • A Registration Officer will take details of your call, and a professional investigator will review and classify it. • A register of <u>all calls</u> will be kept, and the Registration Officer will report this to the Chief Executive <p>A final decision will be made and if appropriate an independent confidential investigation will be carried out</p>
<ul style="list-style-type: none"> • Won't it just be covered up? 	<ul style="list-style-type: none"> • NO - there is independence between the Registration Officer and the Investigation Officer. The Investigation Officer is answerable to the Chief Executive, and the Chief Executive must ensure that justified action is reported back to the Registration Officer • .
<p><i>PLEASE CALL 0800 528 0294 if you have any concerns or would like further details of the process. Strict Confidentiality and Anonymity will be preserved if requested.</i></p>	

APPENDIX 4

LONDON BOROUGH OF TOWER HAMLETS **BENEFIT FRAUD ENFORCEMENT POLICY**

1) Background

The Benefits service positively encourages the take up of Housing and Council Tax Benefit but acknowledges its responsibility to prevent and detect benefit fraud.

Benefit offences are taken seriously by the Authority and it is our aim to apply prosecutions and sanctions in cases where such action is deemed appropriate.

This policy is designed to provide a suitable framework to ensure a fair and consistent approach is applied for cases under consideration.

2) Legislative framework

The Authority has the power to prosecute offenders under Section 111A and 112 of the Social Security Administration Act 1992 which is generally the legislation most appropriate to benefit fraud offenders. However other legislation such as the Theft Act 1968 may be used where appropriate.

The Authority may apply sanctions in cases where prosecution is feasible, but is not the preferred option. The available sanctions are:

- Administrative Penalty – where a penalty fine of 30% of the fraudulently overpaid benefit can be applied. The offender has the right to refuse to accept the penalty but the Authority should then proceed with prosecution action on the case. Therefore the case must be of suitable quality for prosecution action from the outset.

The legislation pertaining to Administrative Penalties is contained within Section 115A of the Social Security Administration Act 1992 (as amended by Section 15 of the Social Security (Fraud) Act 1997).

- Formal Caution – an oral warning that is administered when a claimant has admitted to an

offence. These are generally used in less serious cases where lower amounts of money are involved.

The caution is offered in cases where the claimant has admitted the offence, and he/she has a choice in whether to accept or decline the caution. If the caution is declined the Authority should proceed with prosecution action. An accepted caution is recorded on the Department of Work and Pensions Central database and the record is kept for 5 years. Prior to offering Formal Cautions or Administrative Penalties the Central Database is checked. It would not be appropriate to issue more than one caution or penalty to an individual. If the check shows they have accepted a caution or penalty previously the Authority should proceed with prosecution action against that individual.

Both Administrative Penalties and Formal Cautions are offered in a special interview by an officer who has not dealt with the investigation of the case. The format of the interview is fully proceduralised by the Department of Work and Pensions (DWP) to ensure clarity, fairness and consistency.

3) **Prosecution**

Prosecutions on benefit fraud cases are generally facilitated by the Councils Legal Section, but they may also be taken by the DWP or the Police where necessary, according to circumstances.

4) **Suitability for Prosecution and Sanction Action**

Cases are scrutinised by the Investigations Manager for the suitability for prosecution or sanction action taking into account a number of factors.

Primarily evidence and the public interest test are applied before further additional details of the case are taken into account. Details of the considered criteria are given below:

A) ***Sufficiency of evidence***

- Is there enough evidence to provide a realistic prospect of conviction?
- Has the evidence been collected in an appropriate manner?
- Can the evidence be used in court?
- Is the evidence reliable?

-

B) *Public interest test*

Generally it must be seen to be in the public interest to prosecute. Poor publicity surrounding an attempted prosecution can lead to criticism of the Authority. Factors to be taken into account should include:

- Whether there has been unnecessary delays in carrying out the investigation (i.e. unexplained lapses of time).
- Whether the offender has any serious mental or physical health problems.
- The age of the offender.
- Whether the person has voluntarily disclosed the offence before the investigation discovered the fraud.
- Whether a vulnerable person would be put at risk by a prosecution (i.e. an informant).

C) *Additional factors of the case*

A key consideration in the decision whether to prosecute is the level of *dishonesty* involved in the fraud. An investigated case may result in a relatively large amount of overpaid benefit, but another with a lower amount of overpayment may present as more serious because of the level of knowledge and deception involved.

Other factors taken into consideration are:

- Whether there is evidence of a previous instance of benefit fraud.
- Where the offender was in a position of trust (e.g. employee or councillor).
- Where there is evidence of collusion (e.g. with landlord or employer)
- Where the person has declined an Administrative Penalty or Caution.
- Where Authorised Officer powers have been obstructed.
- Where there are errors or flaws in the benefit assessment process.

The facts of the case are provided by the investigating officer in summary form at the end of the investigation following a taped Interview under Caution and calculation (by the Benefit Office) of any resulting overpayment.

The Principal Investigation Officer heading the relevant team will evaluate the case and pass her/ his recommendations on to the Team Manager.

The Team Manager will consider all the available evidence and determine whether any further action will be appropriate on the case in terms of criminal prosecution action, Formal Caution or Administrative Penalty. The above mentioned points are taken into consideration as are any serious social or personal factors that may have come to light during the investigation. The amount of the benefit overpaid as a result of the perceived fraudulent activity is taken into consideration but is not a definitive measure of what action is to be taken on the case.

The Authority aims to facilitate prosecution action on all cases where there is suitable evidence and supporting criteria. The team has an officer dedicated to preparing the paperwork required and liaising with the Legal department to ensure optimum results are achieved when the case goes to court.

APPENDIX 5

Concerns on the following can be reported via the Whistleblowing hotline and will be referred to the appropriate Service Head for investigation and action as necessary.

Un lawful Subletting of Social Housing Property

The council and its Registered Partners has a limited number of homes available to let and lettings are prioritised according to housing needs. Tenancy fraud involves obtaining properties by deception (for example, individuals claiming to be homeless when they already own a property or are already living at an address), or continuing to claim to be living at a property when they have moved out and sublet it.

We have a duty to house certain vulnerable members of society (e.g. children), and are often forced to use bed and breakfast facilities due to a shortage of council housing. In addition, families or individuals on the housing waiting list are denied housing because people are using the council properties for profit or simply queue jumping. Fraudulently obtaining council housing or subletting for personal gain uses up precious resources that should be available to families in need. The Corporate Fraud Team has a dedicated resource to investigate allegations of Sub Letting and the team works with all Social Housing Landlords within the borough including Tower Hamlets Homes.

If you have any information that suggests a tenanted property is being sub let please ***CALL 0800 528 0294 if you have any concerns or would like further details of the process. Strict Confidentiality and Anonymity will be preserved if requested***

Grants

The council awards several different grants to individuals and organisations in the borough. These range from house renovation grants to voluntary organisations providing services to the community. Grant fraud usually involves either making false claims in order to obtain a grant or providing false accounts of how the money is spent.

Insurance claims

The Council receives bogus insurance claims, particularly related to trips and falls on the pavement. This is a serious problem, which drains resources away from repairing and improving the highways themselves.

Parking permits including Blue Badge Scheme

The council has designated many neighbourhoods as controlled parking zones, many requiring a parking permit which is only available to residents. Parking in certain areas of the borough is at a premium, which causes some motorists to use fake permits, other residents' permits, or may fraudulently use a resident's address to obtain a permit from us. This kind of fraud reduces the availability of parking for residents and reduces the revenue to the council.

Identity theft/fraud

Identity theft is the unlawful taking of another person's details without their permission. The information stolen can be used to obtain many financial services goods and other forms of identification i.e. passports and driving licenses. The information stolen can range from a copy of birth certificate to copies of discarded bank or credit card statements and utility bills.

Once the criminals have copies of someone's identity they can embark on criminal activity in your name with the knowledge that any follow up investigations will not lead to them. With your details they can obtain documents that are in essence real but contain false information thus making it difficult for organisations to know who they really are dealing with.

Protect yourself!

Be careful with your personal information. If you receive a telephone call from a credit card company, bank or other retail company asking to confirm certain details about yourself decline them and ask to call them back preferably through a central switchboard. Also, do not reveal your personal details when using your mobile phone in a public place. When destroying personal correspondence such as bank and credit card statements consider a shredder or even burning them on the garden refuse. If you cannot do either then tear the papers up into very small pieces and place in the refuse bin with other waste products.

If you move address remember to inform all of the companies that send personal information to you in the post. Always consider re-directing your post with Royal Mail. If you fail to do this people moving in might have free access to your personal details and misappropriate them.

How do you know if are victim to this type of fraud?

- Are you missing your regular monthly statements?
- Have you noticed charges to your accounts that are not yours? Remember to check all statements especially bank and credit card.
- Being contacted by a debt collection agency about outstanding payments for items or services that you have not ordered.

Protect yourself act quickly

- Firstly do not ignore the problem it might not be you that has ordered some goods or opened an account but the debt falls to your name and address.
- Once blacklisted for credit it may take many years to fully recover from the problem and you might have difficulties in obtaining a mortgage or other bank credit.
- Contact your local Police, report the crime and ask for a crime reference number to quote to the companies that allege that you have opened an account with them.

Check out the Home Office identity theft website at www.identity-theft.org.uk for more information

Advance fee fraud

Advance fee fraud is a popular crime, which involves a myriad of schemes and scams - mail, faxed, and telephone promises designed to facilitate victims parting with money. They usually claim to be from a general or politician in a foreign country who has a large sum of money (millions of pounds), which they wish to get out of a country, and need help in getting it out with the promise of a substantial share of the cash in return. If you receive correspondence of this sort report it to the police. Remember, if it seems too good to be true, it probably is! For further crime prevention advice, visit the [BBC Crime Prevention website](#) or the [Home Office fraud prevention website](#)

LONDON BOROUGH OF TOWER HAMLETS

**ANTI-MONEY LAUNDERING POLICY
AND GUIDANCE**

**LONDON BOROUGH OF TOWER HAMLETS
ANTI-MONEY LAUNDERING POLICY AND GUIDANCE**

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APPENDIX A - Customer Identification checklists

APPENDIX B - Identity Verification Forms

APPENDIX C - Disclosure forms

IT IS OUR POLICY TO ENSURE THAT THE COUNCIL AND ITS OFFICERS AND EMPLOYEES ARE COMMITTED TO COMPLYING WITH ALL LEGISLATION AND APPROPRIATE GUIDANCE DESIGNED TO COMBAT MONEY LAUNDERING AND TERRORISM ACTIVITIES.

1 THE SCOPE OF THIS POLICY

- 1.1 This Policy applies to all officers and employees of London Borough of Tower Hamlets (**the Council**). The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations and the consequences of not doing so. Within this policy the term 'persons' shall be used to refer to all officers and employees, both permanent and temporary, of the Council.
- 1.2 All persons must be familiar with their legal responsibilities. **Failure to comply is a criminal offence.**
- 1.3 The Council views compliance with the money laundering legislation as a high priority and aims to develop a robust and vigilant anti-money laundering culture within the Company. Money launderers are seeking to infiltrate reputable organisations. Organisations perceived as having weak controls will be targeted first. Significant damage will be caused to the Council's reputation if it were to be associated, however innocently, with laundering the proceeds of crime, particularly if a person within the Council was subsequently prosecuted.
- 1.4 Even if the Council is used as an innocent vehicle for money laundering, the cost of being involved in an investigation, both in terms of legal fees and business disruption would be considerable.
- 1.5 It is therefore essential that all persons follow the Council's money laundering procedures in this Manual to ensure compliance with the regulations.
- 1.6 Failure by any person to comply with the procedures set out in this Policy may also lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.
- 1.7 All persons will be provided with a copy of this policy and are required to sign to confirm that they have received, read and understand the policy.

- 1.8 The Money Laundering Reporting Officer (**MLRO**) is **Tony Qayum, Corporate Fraud Manager** . He has day to day responsibility for the implementation and monitoring of this policy. However, all senior officers recognise that they are ultimately responsible for ensuring that the Council's control processes and procedures are appropriately designed and implemented and effectively operated to reduce the risk of the Council being used in connection with money laundering or terrorist financing.
- 1.9 This Policy should be read in conjunction with the Council's Anti-fraud and Corruption strategy.

2 INTRODUCTION - WHAT IS MONEY LAUNDERING?

- 2.1 The phrase 'money laundering' means the process by which the identity and true ownership of 'dirty money', i.e. the proceeds of any crime, is changed so that these proceeds appear to originate from a legitimate source.
- 2.2 Most crime, for example the drugs trade, is almost wholly cash driven. For many years, the most common means of laundering money was to deposit large sums of cash at banks. However, as the high street banks have tightened their controls in this area, the launderers have turned to more obscure methods, frequently involving buying and selling assets, property and businesses, often via complex transactions, sometimes across geographical boundaries, to achieve their aims. This has made it much more difficult for the enforcement authorities to detect and prevent money laundering.
- 2.3 If you are involved, in any way, in dealing with or facilitating an arrangement with regard to 'criminal property', you are engaged in the offence of money laundering. 'Criminal property' is the proceeds of *any* crime under UK law. It is not limited to dealing in cash. If you handle the benefit of acquisitive crimes such as theft, fraud and tax evasion, or are involved in handling or processing stolen goods or assets purchased with the proceeds of crime, from cars to paintings and antiques, you are money laundering.
- 2.4 Remember too that terrorists need to launder money to fund their criminal enterprises. The atrocities of 9/11 and terrorist bombings in London in July 2005 have focused attention on the need to enforce anti-money laundering rules to combat terrorists, as well as drug dealers and organised crime.

3 THE LAUNDERING PROCESS

- 3.1 The money launderer will seek to launder 'dirty money' via a series of transactions to separate the direct (usually cash) proceeds of an offence from the final bank account. Passing the funds through different accounts/investments and transferring it into different guises helps to muddy the audit trail.
- 3.2 There are three distinct, recognised phases to the laundering process:-
- 3.2.1 **Placement** - the initial disposal of cash representing the proceeds of crime into the system by deposit at a bank or similar but increasingly likely to involve the purchase of property, or other assets such as a business.
- 3.2.2 **Layering** - to break any link back to the direct proceeds of the crime. This is done by a variety of routes, including buying and selling properties, companies or assets (such as shares, antiques and art) back to back and transferring funds around the world via various accounts in many institutions. Often launderers will use a front company, carrying on legitimate business, to hide their illegal activities.
- 3.2.3 **Integration** – having gone through the transaction merry-go-round, the funds can come back to the individual criminal or their organisation, to finance a luxurious lifestyle, purchasing property, expensive cars, income-generating securities etc. and perhaps to fund further criminal activity.

4 HOW THE COUNCIL COULD BECOME INVOLVED IN MONEY LAUNDERING

- 4.1 The Council carries out transactions for a variety of purposes during which it handles money from customers. These transactions include (but are not limited to), dealings with leaseholders, payments for Council Tax and Business Rates, income from disposal of Council assets, right to buy deposits and section 106 monies.
- 4.2 It is feasible for the Council to become unwittingly involved in the money laundering process via contacts who are carrying out apparently normal transactions, if the money, property or other assets they bring to the transactions are the proceeds of crime.
- 4.3 Examples;
- 4.3.1 Acquiring property which represents or has been purchased using the proceeds of a fraud, including false accounting. This could arise, for example, in the context of a procurement contract.
- 4.3.2 Handling (even if only as intermediary) funds which were not declared as required by law under an insolvency arrangement or were acquired by tax or benefit fraud.
- 4.3.3 Any similar dealing with funds obtained as a pay-off following threats to expose illegal or immoral behaviour.
- 4.3.4 Acquiring funds from a customer for buy to let properties which represent the proceeds of drug dealing
- 4.4 This is not an exhaustive list. As set out above, because the definition of money laundering is very wide, any contact with the proceeds of any offence, from petty theft to tax evasion, extortion and murder, is likely to constitute money laundering.
- 4.5 Where fraud or corruption is suspected, staff members will also need to follow the guidance set out in the Councils Anti-fraud and Corruption Strategy.
- 4.6 Any member of staff who deals with cash paid in by external parties must be alert to the possibility of council financial systems being used to launder "cash" (which is defined as "notes, coins or travellers' cheques in any currency").

4.7 Accountants, auditors and legal officers must be especially alert to the possibility of council financial systems being used to launder cash, particularly if significant sums are involved, such as the purchase price for council property.

5 CONSEQUENCES

- 5.1 Involvement in money laundering is a criminal offence, punishable by up to 14 years imprisonment. Not only the Council but also its officers and employees may face criminal prosecution if the Council is found to have been involved, even entirely innocently, in a deal involving the proceeds of a crime.
- 5.2 This is why it is so important that all persons understand this policy and apply it at all times.
- 5.3 The rest of this document sets out the law concerning money laundering and the rules you must follow to protect yourself and the Council from prosecution. The policy includes some technical information, but it has been drafted carefully to be as user-friendly as possible. At the back of the policy, there are copies of the documents you will need to become familiar with and complete for third parties with whom you engage in any transaction (or series of linked transactions) which involves cash or property worth €15,000 (approximately £13,000) or more, or any other transaction which comes within the 'regulated sector'. Further information about what this means is set out at 6.3.4. Further copies of these can be obtained from the CD training package that accompanies this document. If there is anything you do not understand, please ask your manager or direct queries to the **MLRO**, Tony Qayum.

6 THE RELEVANT LAW

6.1 The Proceeds of Crime Act 2002 (POCA)

6.1.1 This sets out the money laundering offences which apply generally to all UK citizens. These are;

- (a) concealing, disguising, converting or transferring criminal property or removing criminal property from the UK (section 327);
- (b) entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property (section 328);
- (c) acquiring, using or having possession of criminal property (section 329) (however, it is a defence to this charge if it can be shown that there were no grounds on which to suspect money laundering and the property was acquired for adequate consideration);
- (d) failing, in the case of the regulated sector, to disclose knowledge or suspicion of money laundering to the **MLRO** or the failure by the **MLRO** to disclose such knowledge or suspicion to the Serious Organised Crime Agency (**SOCA**) (sections 330 & 331);
- (e) tipping off or making a disclosure which is likely to prejudice an investigation (section 333).

6.1.2 'Criminal property' means anything which is, or which represents, a direct or indirect benefit from any UK offence, no matter how minor.

6.1.3 If you are found guilty of any of the offences in paragraphs 6.1.1(a), 6.1.1(b) or 6.1.1(c) the maximum penalty on conviction in the Magistrates Court is up to 6 months imprisonment or a maximum fine of £5000 or both a fine and imprisonment. The maximum penalty on conviction at the Crown Court is up to 14 years imprisonment or a fine or both a fine and imprisonment.

- 6.1.4 If you are found guilty of any of the offences in paragraphs 6.1.1(d) or 6.1.1(e) the maximum penalty on conviction in the Magistrates Court is up to 6 months imprisonment or a maximum fine of £5000 or both a fine and imprisonment. The maximum penalty on conviction at the Crown Court is up to 5 years imprisonment or a fine or both a fine and imprisonment.
- 6.1.5 As already seen, these offences are very broad in scope. If the Council or its officers or employees receive criminal property, even if in payment for an apparently legitimate commercial transaction, they may commit the offence of acquiring or having possession of it, and therefore be guilty of money laundering. However, you will have a defence if you make a formal written report in any case where you suspect money laundering (an authorised disclosure). All persons should make authorised disclosures internally, to the MLRO; it is then up to him to decide whether to make a formal report to the authorities. Further details on how to make a disclosure are at section 10.

6.2 **The Terrorism Act 2000**

- 6.2.1 This Act establishes offences in relation to involvement in facilitating, raising, possessing or using funds for terrorism purposes very similar to those under POCA. It also replicates the offences under POCA in relation to failing to report suspicious transactions (see 10.3) and tipping off (see 13).
- 6.2.2 HM Treasury maintains and updates a financial sanctions list which records individuals and organisations with whom it is prohibited to enter into any business relationship. The list can be viewed at http://www.hm-treasury.gov.uk/fin_sanctions_index.htm
- 6.2.3 As well as relying upon this list each person should consider whether there is a risk of terrorist financing in each transaction which takes place. This will involve considering the source and destination of funds.

6.3 **The Money Laundering Regulations 2007 (the Regulations)**

- 6.3.1 These impose tight procedural controls on businesses which operate in the regulated sector (and are therefore perceived as being subject to a higher risk on money laundering activity). These require the business to;
- (a) identify and verify the identity of individuals and companies it deals with;

- (b) train staff to recognise and report suspicions and understand their legal obligations;
- (c) make reports of suspicious activity, both internally (to the **MLRO**) and externally, to **SOCA**;
- (d) keep records; and
- (e) appoint an MLRO to oversee compliance issues, receive authorised disclosures, make external disclosures as necessary to SOCA and maintain central records.

6.3.2 Failure to comply is a criminal offence rendering the Council, as a corporate body, liable to prosecution. Where the offence is shown to have been committed with the consent or connivance of a senior officer or has been committed due to neglect on his/her part, that officer is also liable to prosecution as well. Greater detail as to what is required in practice to comply with each of these obligations is set out below.

6.3.3 The penalty on conviction at the Magistrates' Court is a maximum fine of £5000 and on conviction at the Crown Court a maximum prison sentence of 2 years or a fine or both a fine and imprisonment.

6.3.4 The Council is in the regulated sector to the extent that it engages in 'relevant business'. This includes but is not limited to;

- (a) the provision of accountancy services, audit services and legal services;
- (b) dealing in goods/property of any description by way of business whenever a transaction involves accepting a total cash payment of €15,000 (approximately £13,000) or more.

6.3.5 It is likely that the Council will be operating in the regulated sector for many transactions. For the avoidance of doubt it has been agreed that this policy is to apply to all business relationships entered into by the Council unless the MLRO expressly advises to the contrary.

7 RELEVANT GUIDANCE – ASSESSING RISK

- 7.1 The Council has adopted a risk-based approach to anti-money laundering in accordance with guidance set down by the Joint Money Laundering Steering Group (available at www.jmlsg.org.uk). This recognises that most customers and contacts are not money launderers or terrorist financiers and that the systems and controls in place to combat the risk of money laundering should focus on identifying higher risk customers/contacts and situations and responding to them proportionately.
- 7.2 Generally, the Council's business will pose a low-to-moderate risk of being used as a vehicle for money laundering. It is involved in relatively few transactions (compared to say, a law firm, a bank or building society) and the nature of these is such that the participants are likely to come under scrutiny as to their bona fides, as well as their financial status. So opportunities for would-be money launderers to pass money through the Council with relative anonymity are limited.
- 7.3 Having reviewed its risk profile, the senior management of the Council have approved a policy which embodies appropriate controls to manage and mitigate those risks. A minimum standard of identification is required for all. This is known as "simplified customer due diligence". Where a particular transaction or individual is considered to pose a higher risk, additional checks are required. This is known as "enhanced customer due diligence". See 8.2 for more details. If in doubt with regard to the level of risk in individual situations, you must seek advice from the **MLRO**.

8 CUSTOMER DUE DILIGENCE PROCEDURES

8.1 The legal requirement

- 8.1.1 The term 'Customer Due Diligence' is used to describe the process of knowing the customer's identity, the background to the customer's business, the source of funds and the destinations of funds. This process should be reviewed regularly and in each transaction an analysis should be undertaken to consider the risk of money laundering or terrorist financing. The procedures below which are adopted by the policy set the minimum standards expected by the Company. Each person should be aware of the potential risks. Customer due diligence is more than just a box ticking exercise; it is each person's responsibility to risk assess each transaction.
- 8.1.2 Wherever the Council forms a business relationship, or carries out a one-off transaction involving a payment of €15,000 (currently approximately £13,400) or more, with an external individual or company (a 'customer'), it must obtain satisfactory evidence of identity. A business relationship is formed between the Council and another party where there is a business, professional or commercial relationship between them in relation to the provision of accountancy, audit or legal services, and where the Council expect, at the time when contact is established, that the relationship will have an element of duration. A one-off transaction is any transaction other than a transaction carried out in the course of an established business relationship.
- 8.1.3 Council officers in other Service Areas who require accountancy, audit or legal services are internal customers and are not subject to the anti-money laundering provisions.
- 8.1.4 External customers to whom the Council may provide accountancy, audit or legal services include:
- (a) Any person or body for which the Council has power, in exercise of its power to trade, to carry out or provide any services or work or provide any facilities or supplies under statutory powers, including under the well-being power.
 - (b) The bodies or organisations designated as "public bodies" for the purposes of the Local Authorities (Goods and Services) Act 1970.
 - (c) Partnership undertakings including the third sector.

- 8.1.5 The identity evidence must;
- (a) Objectively viewed, be reasonably capable of establishing the identity of the individual or company, ("identification").
 - (b) In fact establish, to the satisfaction of the person who obtains it, that the person/company is who he/it claims to be ("verification").
- 8.1.6 **If such evidence of identity is not obtained the business relationship or the one-off transaction in question must not proceed any further.** The Regulations require the verification of identity as soon as reasonably practicable after the first contact. The Council's policy is that the requisite identification check(s) should take place within a minimum of **five working days** of the first business contact. If there is an unjustifiable delay in the evidence of identity being obtained from the customer or where the customer is deliberately failing to provide the information, a disclosure will have to be made.
- 8.1.7 Money laundering prevention is not simply a matter of box ticking, however. Remember that knowing enough about the people and businesses with whom we deal is just as important as confirming identity.

8.2 **The identification and verification process**

- 8.2.1 Identifying a customer is a two-part process. First, the individual or company is identified, by obtaining the following;
- (a) Individual
 - (i) full name
 - (ii) current residential address
 - (iii) previous address if the customer has changed address in the last three months
 - (iv) date of birth
 - (v) nationality
 - (vi) country of residence

- (vii) whether they constitute a Politically Exposed Person (further information as to what this means is set out in 8.4 below and Appendix A)
- (b) Companies (most of the following should be available on their letterhead)
- (i) full name of business
 - (ii) registered number
 - (iii) registered office
 - (iv) business address
 - (v) country of incorporation
 - (vi) (for private companies only) the names of all directors (or equivalent) and the names of all beneficial owners holding over 25% of the shares or voting rights.
- (c) Trusts
- (i) full name of the Trust
 - (ii) nature of trust (discretionary, bare, etc)
 - (iii) donor of the funds
 - (iv) nature of business or activity
 - (v) location of business or activity
 - (vi) country of establishment
 - (vii) names of all trustees
 - (viii) name of any protector or controller
 - (ix) names or classes of beneficiaries
- (d) Charities (most of the following should be available from the Central Register of Charities)
- (i) registered name

(ii) registration number

(iii) address of the Charity Commission's correspondent for the charity.

8.2.2 Second, the identification information should be **verified** through the use of reliable, independent source documents, data or information. This may be produced by the customer or be obtained via electronic systems of identification (for example a credit reference bureau check).

8.2.3 There are a number of acceptable documents, which may be used to verify identity. These have been detailed on the Verification Checklists (**Appendix A**), which include requirements for individuals and companies and other entities.

8.2.4 For face to face identification of individuals, production of a valid passport or photo card driving licence should be sufficient (simplified due diligence). However, if there are any unusual circumstances which would indicate a higher than normal risk (e.g. a foreign national, or a discrepancy in the details given and those recorded) then further checks will be required (enhanced due diligence).

8.2.5 For corporations, verification requires a search of the relevant company registry, a copy of the certificate of incorporation or confirmation of the company's listing on a regulated market. You must also take steps to be reasonably satisfied that the person you are dealing with is authorised to represent the company and is who he/she says they are. For private companies, it may be appropriate to verify the identity of one or more directors in accordance with the rules for identifying individuals. Verification may be limited to the individual giving instructions or someone who appears to be in active management or control of the company. Similarly, where the risk posed by a company is considered sufficient to warrant it, or the principal owner of a private company is another corporate entity or trust, it may be appropriate to verify the identity of beneficial owners.

- 8.2.6 Partnerships (including LLPs) and unincorporated businesses, if very well known, (e.g. law and accountancy firms) may be treated as publicly quoted companies (see 8.6.4(a)). Otherwise they may be verified by checking their regulated status by reference to membership of the relevant professional body (the Law Society or accountancy body). If neither of these is applicable, they should be treated as private companies.
- 8.2.7 Charities can take a number of legal forms. Some may be companies limited by guarantee, and should be treated as private companies. Other charities take the form of trusts. Details of registered charities are kept by the Charity Commission in a Central Register of Charities and information can be obtained from the website www.charity-commission.gov.uk or by ringing the enquiry line on 0845 3000218.
- 8.2.8 Churches are in general exempted by law from registering as charities and may not therefore have a registered number. Their identity can be verified by reference to the appropriate headquarters or regional organisation of the denomination.
- 8.2.9 The standard identification may be used for clubs and societies that serve a limited social or regional purpose. Following an assessment of the money laundering risk presented by the club or society, it may be appropriate to verify the identity of additional trustees (or equivalent).
- 8.2.10 In most cases simplified due diligence will be sufficient (see Appendix A). In circumstances which present a higher than normal risk of money laundering, however, either because of the nature of the customer or the transaction, or perhaps because the standard check gives rise to concern or uncertainty over identity, enhanced verification checks are likely to be appropriate, this is known as "enhanced customer due diligence" (see 8.3 for further information)
- 8.2.11 Banks and building societies are generally exempt from the verification requirements (see 8.5 below), and much less stringent requirements apply where the company is listed or is FSA regulated.
- 8.2.12 Unless otherwise specified, all documents examined should be originals and as recent as possible. Having inspected the original you must take a copy for the Council's files. Always consider whether the documents provided appear genuine or may be forged. Where you are dealing with an agent, the identity and address of the actual principal should also be verified.

- 8.2.13 As well as obtaining satisfactory evidence of the identity and address, all persons must complete an appropriate Identity Verification Form (examples for individuals and for companies are at **Appendix B**).
- 8.2.14 Once completed the Identity Verification Form must be sent to the MLRO to check compliance with the Regulations. Only once the MLRO has approved this and related documents, will identity be considered to have been verified. No money or property should be received or transferred before identity has been verified. Once verified the forms and supporting documents will be kept by the MLRO in a central file.
- 8.2.15 For future instructions/transactions, customers who have already been identified, where the Identity Verification Form is centrally filed, do not normally have to be identified again. However, where changes in their business set up have occurred, it may be necessary to do so (for example, if an individual has moved from one limited company to another).
- 8.2.16 In addition to the steps mentioned above, additional steps should be taken where appropriate to:
- (a) establish the customer's circumstances and business, including, where appropriate, the customer's source of funds, and the purpose of specific transactions and the expected nature and level of those transactions;
 - (b) update information held on the customer to ensure the information held is valid;
 - (c) review information held on the customer to ensure it is current and valid; and
 - (d) monitor the customer's business activity and business transactions to ensure that the Council is not being used as a vehicle for money laundering.

8.3 **Enhanced customer due diligence**

In the circumstances outlined below, the Council will be required to apply enhanced customer due diligence measures and enhanced ongoing monitoring on a risk-sensitive basis.

8.3.1 **Non face to face transactions**

8.3.1.1 There is a greater likelihood of impersonation fraud and money laundering activity in non face-to-face transactions. In most cases, this will warrant an additional verification check, which may involve seeing a separate document or, for example;

- (a) requiring transactions to be carried out through an account in the person's name with a UK or an EU regulated credit institution;
- (b) making telephone contact on a verified home or business land line; and
- (c) communicating at an address which has been verified.

8.4 **Politically Exposed Persons (PEPS)**

8.4.1 To determine whether the customer is a PEP, refer to Appendix A.

8.4.2 If the customer is a PEP it is necessary to:

- (a) obtain approval from the MLRO to proceed with establishing a business relationship with such a customer;
- (b) establish the source of wealth and source of funds which are involved in the business relationship or occasional transaction; and
- (c) conduct enhanced ongoing monitoring of the business relationship.

8.4.3 **High risk transactions/customers**

8.4.3.1 High risk transactions or customers – if the customer or transaction appears high risk then further verification should be taken to verify the identity of that customer in order to ascertain whether the transaction is suspicious and whether disclosure is to be made. Further documentation which may be required is listed in Appendix B. In addition the source of the funds to be transferred should be ascertained

8.5 **Ongoing monitoring**

8.5.1 It is the duty of the Council to monitor transactions or customers and to assess each transaction with respect to the risk it poses of money laundering activity or terrorist financing.

8.5.2 Each employee should assess each transaction as to its complexity, suspiciousness, and legal purpose as well as the magnitude, sums, frequency of transactions or any other special characteristics to ensure that they correspond with regular activities of that particular customer.

8.5.3 The documents, data or information obtained by the Council for the purpose of applying customer due diligence measures must be kept up to date.

8.6 Exemptions from the identification process

- 8.6.1 The identification and record keeping requirements do not apply in respect of any one-off transaction where payment is to be made by or to an individual or company of less than €15,000 or in respect of two or more linked one-off transactions, the total amount in respect of which is less than €15,000 and where there is no suspicion of money laundering. In the absence of evidence to the contrary, transactions which are separated by an interval of six months or more need not be treated as linked.
- 8.6.2 Financial institutions regulated by the FSA, or in the EU or comparable jurisdiction by an equivalent regulator, do not need to be verified. This will encompass banks and building societies. However, for smaller firms, if there is any doubt as to their regulated status, this should be checked before proceeding without verification (www.fsa.gov.uk).
- 8.6.3 Where a one-off transaction is carried out (but not where there is a business relationship) pursuant to an introduction effected by an FSA-regulated firm or individual, and that firm or individual has provided written assurance that satisfactory evidence of individual identity of the contact introduced by him has been obtained and recorded, evidence of identity is not required.
- 8.6.4 Where the customer is;
- (a) a publicly quoted company
 - (b) a majority-owned and consolidated subsidiary of a publicly quoted company
 - (c) subject to the licensing and prudential regulatory regime of a statutory regulator (e.g. OFGEM, OFWAT, OFCOM)
- nothing is required beyond the standard identification.
- 8.6.5 It is important to note that **the above exemptions only apply where there is no suspicion of money laundering**. So even if you are dealing with a bank, or have written assurance from another regulated service provider in the financial services sector that it has obtained satisfactory evidence of identity - if you still have a suspicion you have to undertake the checks and make a disclosure to the MLRO.

9 INFORMATION MANAGEMENT ISSUES

9.1 Data Protection

- 9.1.1 Under the Data Protection Act 1998 (**the 1998 Act**) an external customer may request in writing:
- (a) a copy of all the personal data of which that person is the data subject and any information available to the Council on the source of that data; and
 - (b) information on the processing of any personal data by the Council, a description of that data, the purpose for which the data are being processed and to whom the personal data has or may be disclosed.
- 9.1.2 The Council must respond to a request for information promptly and in any event not more than 40 days from the date on which the request is received.
- 9.1.3 The 1998 Act contains certain exemptions from the right of access to personal data. One such exemption is where the right of access would be likely to prejudice the prevention or detection of crime or apprehension or prosecution of offenders.
- 9.1.4 The exemption from the right of access to personal data will apply where the disclosure of personal data would result in the commission of the tipping-off offence under POCA.
- 9.1.5 The exemption is not automatic and each case should be considered on its merits to ensure that the exemption applies. Always take advice from the MLRO.
- 9.1.6 The Council's Data Protection Policy can be viewed on the Council's intranet, <http://www.towerhamlets.gov.uk/data/your-council/data/data-protection-act.cfm> and in the Council's Data Protection Manual. Guidance on the application of the policy and the 1998 Act can be obtained from the Council's Data Protection Officer, Tim Rodgers.

9.2 Freedom of Information

- 9.2.1 The Freedom of Information Act 2000 (the 2000 Act) gives members of the public a general right of access to all types of recorded information held by public authorities, which includes the Council. The general right of access is however subject to exemptions.
- 9.2.2 Information held by a public authority is exempt information:
- (a) if it was directly or indirectly supplied to a public authority by, or relates to various government bodies, which includes SOCA (section 23);
 - (b) if its disclosure would, or would be likely to, prejudice the prevention or detection of crime or apprehension or prosecution of offenders (section 31).
- 9.2.3 These exemptions should not be applied without taking advice from the MLRO.
- 9.2.4 Details on Freedom of Information can be viewed on the Council's Intranet at <http://www.towerhamlets.gov.uk/data/your-council/data/foi/index.cfm>
- 9.2.5 Details about the how the Council manages records can be found in the Council's Information Management and Governance Policy.
- 9.2.6 Advice about Freedom of Information can be obtained from the Information Governance Manager, Tim Rodgers.

10 MAKING A DISCLOSURE

10.1 How to make an authorised disclosure – internal reporting procedures

10.1.1 If you are involved in any transaction – for example the sale or purchase of shares or property - where you either know or suspect that the money or property concerned is the proceeds of any crime, you risk being found personally guilty of money laundering unless you make an **authorised disclosure**. This is a disclosure, in the prescribed form, to the designated Money Laundering Reporting Officer (MLRO), Tony Qayum. It must be made as soon as is reasonably practicable; i.e. within hours of the relevant information coming to your attention, or the very next day at the latest. What is likely to constitute suspicion is dealt with in section 14.

10.1.2 Where any person is aware of, or has reason to suspect, money laundering, they must complete a Money Laundering Disclosure Form (**Disclosure Form**) indicating the reason for their suspicions. Please see **Appendix C** for a pro-forma of this form and detailed guidance on how to complete it. A copy of the relevant Identity Verification Form should be attached to this form and both documents forwarded to the MLRO. In no circumstances should a copy of the Disclosure Form be put on the file or otherwise disclosed to anyone other than the MLRO.

10.2 The Council requires all disclosures be made to the MLRO, **Tony Qayum, Corporate Fraud Manager, whose contact details are:**

Internal extension: 020 7364 4773

External Telephone Number: 020 7364 5000

Email: Tony.Qayum@towerhamlets.gov.uk

10.2.1 If Tony Qayum is not available at the time you want to make a disclosure, the disclosure should be made to the MLRO's Deputy, Minesh Jani, Head of Risk Management, telephone 020 7364 0738

10.2.2 The MLRO will acknowledge receipt and decide whether it is appropriate to make a formal disclosure, known as a Suspicious Activity Report (**SAR**), to one of the external authorities mentioned.

10.2.3 Please note that it does not matter whether the suspected crimes, or the proceeds of it, are extremely minor. The law is very strict – everything must be reported.

10.3 **The offence of failing to disclose**

10.3.1 If you;

- (a) know or;
- (b) suspect or;
- (c) have **reasonable grounds** for knowing or suspecting

that another person is engaged in money laundering, you commit an offence if you do not disclose it to the MLRO as soon as practicable after you receive the information (POCA section 330).

10.3.2 It is important to note that this is an objective test. Even if you genuinely do not know or suspect that someone is engaged in money laundering, you may commit an offence if there are reasonable grounds for knowing or suspecting money laundering. So if you deliberately shut your mind to the obvious, you may be culpable. To protect yourself, you must think very carefully whether, in any given transaction, there is anything slightly odd or 'iffy'. If so, you must make a disclosure to the MLRO. Please read section 14 below, which will give you some pointers as to behaviour or circumstances which may appear unusual. Whilst this clearly cannot be exhaustive, as no two situations are identical, it should help you develop an enquiring approach.

10.3.3 If the disclosure is made after the prohibited act, the disclosure defence will not apply unless there is a reasonable excuse for not having disclosed in advance.

10.3.4 If the MLRO receives a disclosure report on the basis of which he knows or suspects, or has reasonable grounds for knowing or suspecting, that someone is engaged in money laundering, he commits an offence if he fails to disclose it as soon as possible to SOCA.

10.3.5 The failure to report offences are punishable by up to 5 years imprisonment.

10.4 **The role of the MLRO**

- 10.4.1 Upon receipt of a Disclosure Form, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.
- 10.4.2 The MLRO will then consider the report and any other relevant information to decide whether the information gives rise to a knowledge or suspicion of money laundering. Relevant information will include;
- (a) reviewing other transaction patterns and volumes;
 - (b) the length of any business relationship involved;
 - (c) the number of any one-off transactions and linked one-off transactions; and
 - (d) any identification evidence held.
- 10.4.3 The MLRO must undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to SOCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved).
- 10.4.4 The MLRO may also need to discuss the report with you. All persons are required to cooperate with the MLRO and the authorities during any subsequent investigation.
- 10.4.5 Once the MLRO has evaluated the Disclosure Form and any other relevant information, he must make a timely determination as to whether:
- (a) there is actual or suspected money laundering taking place; or
 - (b) there are reasonable grounds to know or suspect that is the case; and
 - (c) whether he needs to seek consent from SOCA for a particular transaction to proceed.

The decision must be recorded on part two of the Disclosure Form.

- 10.4.6 If the MLRO decides that the information does give rise to a suspicion of money laundering, he is required to make a SAR to the law enforcement authorities as soon as practicable, unless he has a reasonable excuse for non-disclosure. If he concludes that such a reasonable excuse exists (after taking legal advice if appropriate), the MLRO must mark the report accordingly before giving his consent for any ongoing or imminent transactions to proceed.
- 10.4.7 Any material which it is concluded should be disclosed may be subject to legal privilege. Please refer to section 11 below.
- 10.4.8 If there is no reasonable excuse for not reporting to SOCA, the MLRO must make his report on the standard report form and submit it in hard copy or electronically in accordance with the procedure set out on the SOCA website (www.soca.gov.uk). This website also includes helpful guidance for MLROs on how to complete an SAR.
- 10.4.9 To submit electronic reports, the Council must first be registered with the SAR online reporting facility [https://www.ukciu.gov.uk/\(thullbfm04gadsru25x3tn45\)/Information/info.aspx?InfoSection=Submission](https://www.ukciu.gov.uk/(thullbfm04gadsru25x3tn45)/Information/info.aspx?InfoSection=Submission)
- 10.4.10 In the absence of a reasonable excuse for not reporting to the authorities, the MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, (because of a disclosure made to him), that another person is engaged in money laundering and he does not disclose this as soon as practicable to SOCA.
- 10.4.11 Once a report has been made, no further action should be taken in connection with the matter until it is expressly or impliedly permitted by SOCA (see 12.2 below).

11 LEGAL PROFESSIONAL PRIVILEGE

11.1 Solicitors and all other legal staff and legal services' support staff will be handling material subject to legal professional privilege. There are two categories of legal professional privilege; legal advice privilege and litigation privilege.

11.2 The broad outline of the type of communication which attract privilege are set out below. The existence of legal privilege may affect the basis of a money laundering disclosure. Always take evidence from the MLRO if you believe privilege attaches to relevant information.

11.3 Legal Advice Privilege

11.3.1 Legal advice privilege applies to;

- (a) confidential communications;
- (b) which pass between members of the Council or other council staff and solicitors and other legal services' staff; and
- (c) which have come into existence for the purpose of obtaining legal advice in relation to the business of the Council.

11.3.2 Confidential communications are limited to those that directly seek or provide legal advice. Communications which merely pass information between legal services' staff to members of the Council or other council staff **should not contain legal advice** as this could lead to loss of privilege to the whole document.

11.3.3 Legal advice privilege does not attach to communications prepared for the purpose of or which form part of a criminal act, or to communications seeking legal advice for the purpose of furthering a criminal act, even if the legal adviser is not aware of the true purpose of preparing the documents or seeking legal advice. Consequently documents and communications known to have been made for the purpose of furthering money laundering do not benefit from legal advice privilege.

11.3.4 Where there is only a suspicion of money laundering and the documents involved are subject to privilege, section 338 of POCA 2002 provides that an "authorised disclosure" may be made without breaching legal privilege.

11.4 **Litigation Privilege**

11.4.1 Litigation privilege applies to;

- (a) confidential communications when litigation is pending or contemplated;
- (b) which pass between members of the Council or other council staff and solicitors and other legal services' staff; and
- (c) which pass between the council's solicitors or legal services' staff and the solicitors or legal advisers of the other party or parties to the proceedings.

11.4.2 A solicitor or legal adviser may be in contempt of court if he discloses information to SOCA that is protected by litigation privilege.

12 AFTER A DISCLOSURE HAS BEEN MADE

12.1 Caution

- 12.1.1 Once you have made a disclosure to the MLRO, you must not discuss the matter with anyone else and you must not do anything further in connection with the deal or transaction until you receive direct instructions from the MLRO. You must not make further enquiries into the matter yourself; any necessary investigations will be undertaken by the MLRO, or SOCA, in the event that the MLRO decides to make an SAR.
- 12.1.2 If the MLRO determines that it is appropriate to make an SAR to SOCA, you cannot proceed without SOCA's consent. More details on the procedure for obtaining consent and what you must do in the meantime are outlined at section 12.2.

12.2 Consent

- 12.2.1 If the MLRO decides that your report does not require onward reporting to SOCA, he will give you consent to proceed.
- 12.2.2 Once a disclosure had been made to SOCA, the Council must do nothing further in connection with the particular transaction giving rise to the suspicion. If nothing is heard from SOCA after 7 working days, then consent is deemed to have been given for the transaction to proceed. If, however, SOCA responds within 7 working days with a request for more time, then the 31 day moratorium period will take effect. During this period, the transaction must not proceed unless and until either consent is received or the 31 day period expires. If SOCA does not respond within that time, the Council can conclude that implied consent has been granted for the transaction to proceed.
- 12.2.3 The authorities can apply for a restraining order before the end of the moratorium period if they wish to stop the transaction going ahead at all.
- 12.2.4 These time limits must be strictly adhered to. It may be that at some later date the Council may by court order be ordered to produce documentation.

13 TIPPING OFF

- 13.1 At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if SOCA has given consent to a particular transaction proceeding. This amounts to 'tipping off' and is an offence under POCA, section 333. A person commits this offence if, knowing or suspecting that an authorised or protected disclosure has been made, he makes a disclosure (whether to the suspect or any third party) which is likely to, and which he knows or suspects is likely to, prejudice any investigation. The maximum penalty is five years in prison.
- 13.2 It is vital that you do not discuss details about a disclosure with anyone where it might prejudice any investigation. Clearly, the individual or company who is the subject of the report cannot be informed. Nor can anyone else who may inform them. The safest position is to limit discussions about suspicion and disclosure with the MLRO.

14 WHAT IS SUSPICIOUS?

14.1 Suspicion is less than knowledge, but more than mere speculation or gossip. It must be built on some foundation. A transaction which appears unusual will not necessarily be suspicious. 'Unusual' is, in the first instance, a basis for further enquiry, which may in turn require judgement as to whether it is suspicious. It is impossible to give an exhaustive list of circumstances and activities which will trigger suspicion. Sometimes it may be a combination of factors which individually would not give cause for concern. However, in the context of the Council's business, the following are common examples which may, depending on the particular circumstances, be likely to trigger suspicion:

14.1.1 Secretive individuals or companies. Be particularly cautious if you don't meet people in person, or if there is any attempt to conceal identity, for example, via the use of post office boxes.

14.1.2 Unusual arrangements, for example complex company structures or trusts with no apparent commercial purpose or companies with nominee directors.

14.1.3 Receipt of, or a request for payment in, substantial sums of cash (over €15,000).

14.1.4 Any request to hold sealed boxes/parcels.

14.1.5 Unusual Settlements by cash or bearer cheques of any large transactions involving the purchase of property or other investments.

14.1.6 A deal which is uncommercial for one or more participants; launderers are prepared to lose a high percentage of the initial funds, just to 'wash' large sums of cash.

14.1.7 Overpayments by any party.

14.1.8 A transaction is proposed but the person you are dealing with is not the person behind the deal/company and you do not meet this person.

14.1.9 Illogical third party transactions, for example unnecessary routing or receipt of funds from third parties or via third party accounts.

- 14.1.10 Payment by way of third party cheque or money transfer, where there is a variation between the account holder, the signatory and a prospective investor.
- 14.1.11 Funds for deposits or completion on a property transaction which come from an unexpected source; alternatively where instructions are given for settlement funds to be paid to an unusual destination.
- 14.1.12 Any other involvement of an unconnected third party without logical reason or explanation.
- 14.1.13 An abortive transaction which has fallen through for no good reason.
- 14.1.14 Radical changes/developments to an original proposition for no discernible reason.
- 14.1.15 Poor business records and internal accounting controls.
- 14.1.16 Proof of identity documents which don't look or feel quite right.
- 14.1.17 A transaction which is unusually large, or small.
- 14.1.18 An unusual deal/contact either in terms of size or location.
- 14.1.19 Any matter having a link with countries where production of drugs or drug trafficking may be prevalent. The Financial Action Task Force (FATF) publishes a list of non co-operative countries and territories annually (go to www.fatf-gafi.org).
- 14.1.20 Fellow employees whose lifestyle indicates an income in excess of position/salary or whose level of performance falls. Money launderers have been known to 'buy off' or blackmail staff whom they have enticed into drug use to turn a blind eye to laundering transactions.
- 14.1.21 Funds being received from, or going to, an offshore location may be a possible indicator that money coming into or being paid out on a transaction is not being declared properly for tax.
- 14.1.22 Transactions significantly above or below market price or which appear uneconomic inefficient or irrational.
- 14.1.23 Anything which seems too good to be true.

14.2 It is important to think laterally. Be alert to transactions which could constitute money laundering, even though they may not fall within the common perception of money laundering, i.e. receiving the proceeds of drugs trafficking or a bank robbery.

15 RECORD KEEPING PROCEDURES

- 15.1 All disclosure reports referred to the MLRO and reports made by him to SOCA must be retained by the MLRO in a confidential file kept for that purpose for a minimum of five years. The Regulations require that the Identity Verification Form and the record of transactions (the transaction file and other relevant records) be retained for at least five years from:
- 15.1.1 in the case of the Identity Verification Form and related evidence, the date the business relationship ends or the date of completion of all activities taking place in the course of the one-off transaction or the last one-off transaction where linked; and
 - 15.1.2 in the case of the record of transactions, the dates on which all activities taking place in the course of the transaction were completed.
- 15.2 However, for cases where a report to SOCA is made, the relevant records must not be destroyed without reference first to SOCA. It is the responsibility of the MLRO to ensure that such records are retained after their normal five year retention period.

16 TRAINING

- 16.1 The Regulations require that staff involved in relevant business and any clerical, secretarial, administrative or accounts staff assisting them, be provided with adequate training to ensure they are aware of, and understand, their legal and regulatory responsibilities and their role in implementing the Council's internal procedures.
- 16.2 In addition to issuing this policy to all officers and employees, the MLRO will ensure that all staff undergo an electronic training course on money laundering which covers the legislation, an explanation of what money laundering is, what is likely to amount to suspicious activity and the processes and procedures to be followed to comply with this policy. All persons will be required to undertake updated training as necessary (to be determined by the MLRO).
- 16.3 The MLRO will maintain records of appropriate training given to each officer and employee.
- 16.4 In the event that any person is contacted by SOCA, the police, HM Revenue and Customs or any other law enforcement body with regard to a money laundering matter, they should refer the enquiring party to the MLRO in the first instance, who will obtain details of their requirements and decide how to proceed.

17 SUMMARY OF RESPONSIBILITIES

17.1 All persons must:

- 17.1.1 Read and follow this policy.
- 17.1.2 Know and understand the legislation.
- 17.1.3 Take reasonable steps in accordance with procedures to identify and verify the identity of any person or company with whom it is proposed to deal.
- 17.1.4 Remain vigilant at all times and alert to suspicions.
- 17.1.5 Report any suspicions to the Money Laundering Reporting Officer (MLRO) in accordance with internal procedures.
- 17.1.6 Complete the multimedia training programme and pass the test to reinforce understanding of the law, internal rules and procedures.
- 17.1.7 Keep appropriate records for at least five years, and indefinitely in cases where an SAR has been made.

17.2 The MLRO must;

- 17.2.1 Monitor compliance.
- 17.2.2 Ensure that policy and procedures are developed and maintained in accordance with evolving statutory and regulatory obligations and guidance.
- 17.2.3 Review the policy and the Councils' general assessment of risk, at least annually, to determine whether changes are appropriate.
- 17.2.4 Ensure that training is offered and that the standards and scope of training are appropriate and necessary records are kept.
- 17.2.5 Report to senior management as appropriate on money laundering compliance matters.
- 17.2.6 Consider all internal disclosures and make Suspicious Activity Reports (SAR) to the Serious and Organised Crime Agency (SOCA) as appropriate.
- 17.2.7 Ensure that records are kept for the requisite five years, or indefinitely in cases where an SAR has been made.

18 CONFIRMATION SLIP

I[name and title]

confirm that I have been provided with a copy of the Money Laundering Policy of the Council and that I have read the same.

I understand that it is my personal responsibility to ensure that I comply with the policy and that failure to do so can render me liable to disciplinary action and may constitute a criminal offence.

Signed.....

Dated.....

PLEASE COMPLETE AND TEAR OUT THIS SLIP BEFORE RETURNING TO THE MLRO.

APPENDIX A

CUSTOMER IDENTIFICATION – VERIFICATION CHECKLIST OF ACCEPTABLE SOURCES OF INFORMATION

CUSTOMER IDENTIFICATION NOTES PLEASE READ IN CONJUNCTION WITH VERIFICATION CHECKLISTS

1 DOCUMENT REQUIREMENTS AND CERTIFICATION

All documents must be original and as recent as possible. A copy should be retained and noted as to who saw the original and when. Only the personal detail pages of a passport need to be copied – in black and white – and retained.

If you are satisfied that there is a good reason why you cannot meet the customer and see original documentation, copies certificated as set out below may be relied on.

(a) UK residents

- Passports;
 - UK notaries, solicitors whose name and address should be noted and checked against the Law Society database of practising solicitors, government departments and British consulates
 - Financial institutions and other persons and firms subject to the Money Laundering Regulations 2003.
- Other documentary evidence;
 - For example by a UK solicitor, doctor or high street bank manager, whose name and address should be noted and checked by reference to a professional directory or, for solicitors, as above.

(b) Non–UK Residents

Copy documentary evidence can be certified by;

- An embassy, consulate or high commission of the country of issue;
- A qualified lawyer or notary, verifying his/her name and practice address in a reputable professional directory, or that the professional is currently on record with the appropriate professional body as practising at the address shown on the certificate or practice notepaper, keeping a note of this name and address with

the evidence of identity.

1. Politically Exposed Persons

2.1 These are individuals who are or have been entrusted with prominent public functions including:

- Heads of state, heads of government, ministers, and deputy or assistant ministers;
- Members of parliament;
- Members of supreme courts, constitutional courts or other high-level judicial persons
- Members of courts of auditors or of the boards of central banks
- Ambassadors and high-ranking officers in the armed forces;
- Members of the administrative, management or supervisory bodies of State-owned enterprises.

and

- Are resident outside the United Kingdom
- Are or have, at any time in the preceding year been entrusted with a prominent public function by a state other than the United Kingdom or by the Community or by an international body.

2.2 Individuals who are immediate family members, of a person listed in 2.1 above, which includes

- a spouse;
- a partner;
- children and their spouses or partners; and
- parents.

2.3 Individuals who are known close associates, of a person listed in 2.1 above, which includes:

- any individual who is known to have a joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations with a person in 2.1 above.
- any individual who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of the person in 2.1 above.

3. Overseas Corporations

Where the Customer is a non-UK company comparable documents to those for a UK company should be obtained and similarly one director or shareholder should be identified as set out for a UK company. Care should be taken to verify the legal existence of the company and to ensure that any person purporting to act on behalf of the company is so authorised. It is important to look behind the corporate identity to establish who has ultimate control.

4. Principal and agent relationships

Where the customer is not acting as the principal but as agent then the identity and address of the actual principal should also be verified.

PART I

PRIVATE INDIVIDUALS OR DIRECTORS/PARTNERS OF CORPORATE BODIES

Standard Verification of Identity

STEP ONE

Ask the individual to confirm their full name, current residential address (and previous address if it has changed in the last three months), date of birth, nationality and country of residence.

STEP TWO

Verify the information based on documents produced by the individual or electronically (e.g. via a credit reference bureau)

1. Face-to-face dealings

Choose either:

- **One item from LIST A or**
- **One item from LIST B and one item from LIST C**

and record the details as prescribed.

2. Non face-to face dealings

As 1. above, but consider whether an additional verification check is required; either an additional piece of information, an electronic verification or another measure, for example:

- a) Requiring any financial transaction to be effected via an account in the individual's name with a UK or EU regulated institution
- b) Making telephone contact via a verified home or business land line
- c) Communicating with the individual at an address which has been verified
- d) Requiring any copy documents to be certified by an appropriate person.

Non-standard verification of identity

Where an individual or a transaction is considered higher risk, the standard verification

procedure may be inadequate. This may arise, for example, where completion of the standard verification check has given rise to concerns. In such cases, the number of matches required to be reasonably satisfied as to as to the individual's identity will increase. If in doubt, seek advice from the MLRO as to what is required in non-standard cases.

LIST A

Government issued photographic ID with full name and address or DOB

	IDENTIFICATION DOCUMENTS	DETAILS TO BE RECORDED
1	Valid full UK/EC signed Passport	Name Passport Number Country of Issue Date of Issue Date of Birth
2	Current UK or EEA photo-card driving licence (full or provisional)	Name Licence Number Address Date of Birth Valid From and Valid to dates
3	National identity card containing a photograph (non-UK nationals only)	Names Number Country of Issue Date of Issue Date of Birth
4	Firearms certificate or Shotgun licence	Name Number Date Valid Until
5	Identity card issued by the electoral office for Northern Ireland	Name Number Date of issue Date of birth

LIST B

Government-issued documents (without a photograph) which show the individual's full name

	IDENTIFICATION DOCUMENTS	DETAILS TO BE RECORDED
1	Valid (old style) full UK driving licence	Name Number Date of issue Valid until
2	Housing benefit, council tax benefit or state pension statement	Name Number Date
3	Inland Revenue Self-Assessment Statement or Tax Demand (current tax year only)	Tax Reference Number Date of Issue Name of Issuing Tax Office
4	Tax demand or statement	Name NI number Reference number Date
5	Armed Forces Identity Cards	Name

		Services Number Rank Held
--	--	--

LIST C

EITHER - a document issued by government, a judicial authority, public sector body or an FSA (or comparable) regulated firm which must incorporate the individual's full name and his residential address or his date of birth

OR - confirmation of a visit to the home address

<p align="center">1</p>	<p>Recent Utilities Bill or Statement not more than 3 months old (inc telephone, gas, water rates and electricity) - or similarly recent Certificate from a Utilities Supplier confirming an arrangement to pay for services on pre-payment terms</p> <p>Do not accept mobile phone bills or utility bills printed off the internet</p>	<p>Customer Account Number</p> <p>Name of Utility</p> <p>Date of Bill</p>
<p align="center">2</p>	<p>Council Tax Bill or statement Not more than 12 months old</p>	<p>Property Reference Number</p> <p>Name of Issuing Local Authority</p> <p>Date of Bill</p>
<p align="center">3</p>	<p>Bank, Building Society, Credit Union Statement or original Mortgage Statement from a regulated financial sector firm in the UK, EU or comparable jurisdiction (not more than 12 months old or printed off the internet) or passbook containing current address</p>	<p>Account Number</p> <p>Account Name</p> <p>Name of Bank or Lender</p> <p>Date of Statement</p> <p>Date of last entry in passbook</p>

5	Medical Card	National Health Service Number Date of Birth Name of Issuing Authority
6	Current house or motor Insurance Certificate	Insurance Company Policy Number Date
7	Visit to customer's home address	Details

Part II –CORPORATE BODIES AND OTHER NON-PERSONAL ENTITIES

(N.B for the purposes of ID verification, partnerships (including LLPs) and unincorporated businesses, if very well known, (e.g. law and accountancy firms) may be treated as publicly listed companies. Otherwise they may be verified by checking their regulated status by reference to membership of the relevant professional body (law society or accountancy body). If neither of these is applicable, they should be treated as private companies.)

Standard Verification of Identity

STEP ONE

Obtain full name, registered number, registered office and business address (should be on letterhead/notepaper)

For private companies only, also obtain names of all directors (or equivalent) and names of beneficial owners holding over 25%

STEP TWO

Verify the information

- If you are satisfied the company is listed, or a subsidiary of a listed company, or is regulated by the FSA or equivalent (i.e. a bank or building society) or OFGEM, OFWAT or OFCOM, you need take no further action. This status may be self-evident, but for smaller or less well know companies, double check via the appropriate website.
- Otherwise, you should undertake a search of the relevant company registry or obtain a copy of the certificate of incorporation and record;

- Company Number
- Registered Office Address
- Directors Names and addresses
- Shareholders names and addresses

Non-standard verification of identity

The standard evidence is likely to be sufficient for most corporate entities. If, however, a higher risk is presented, additional evidence may be required. Higher risk indicators may include entities which are;

- smaller
- opaque
- lacking industry profile
- based in less transparent jurisdictions
- associated with a high risk territory or a politically exposed person (PEP) or
- where the standard verification process has thrown up something unusual.

Additional evidence may include verification of the identity of one or more directors or beneficial owners with a holding of over 25% (in accordance with the individual verification checklists). Special care must be taken in respect of any company with bearer shares, which make it difficult to identify the beneficial owners. In such cases, a written undertaking must be obtained from the beneficial owner that they will provide immediate notification in the event of a transfer of shares to another party.

APPENDIX B

IDENTITY VERIFICATION
FORMS

IDENTITY VERIFICATION FORM

PART I - PRIVATE INDIVIDUAL

Please refer to verification checklists A, B and C and related notes in completing this form

1	Name (including aliases)	
2	Address (including post code)	
3	Telephone No (including area code)	
4	Fax No (including area code)	
5	E-mail address	
6	Date of first contact (DD/M/YY)	
7	Summary of transaction and party's involvement in it	

8	<p>Acting as principal? (If no, identify principal on a separate form)</p>	YES/NO
9	<p>Standard verification of customer's identity</p> <p>- Government issued photo ID (verification list A)</p> <p>OR</p> <p>- government issued non-photo ID showing full name (list B)</p> <p>AND</p> <p>- document issued by government, judicial authority, public sector body or FSA regulated firm, showing address or DOB/home visit (list C)</p> <p>Document(s) Checked?</p> <p>Relevant details recorded? (LIST name,</p>	

	<p>address, DOB, document issuer, reference/account numbers, issue date, valid from and valid to dates as appropriate)</p> <p>Any other Relevant Details</p>	
10	<p>Evidence of identity attached?</p> <p>If no, give reason; if yes specify</p>	YES/NO
11	<p>Face-to-face contact?</p> <p>If no, what additional steps have been taken to verify identify?</p> <ul style="list-style-type: none"> - telephone/ postal contact to verified land line number/residential or business address? - Certified documents? - Electronic verification? 	YES/NO
12	<p>Is the customer a Politically Exposed Person? (Refer to paragraph 2 of Appendix A above)</p> <p>Is the customer an individual who has held a prominent public position or an immediate family member or a known close associate of such an individual?</p>	YES/NO

	<p>Resident outside the United Kingdom?</p> <p>At any time in the preceding year carried out a prominent public function for a state other than the UK, or for the Community, or for an international body?</p> <p>If yes to any of the above this must be referred to the MLRO for approval</p>	<p>YES/NO</p> <p>YES/NO</p>
13	<p>Non-standard verification required? (for higher risk customer/transaction)</p> <p>If yes give details of additional verification undertaken</p>	<p>YES/NO</p>
14	<p>Evidence of identity satisfactory?</p>	
15	<p>Signature and Reference</p> <p>Date</p>	<p>.....</p> <p>Ref</p>

16	Signature and reference of MLRO	<p>.....</p> <p>Ref</p>
17	Date business relationship/one-off transaction completed:	
18	Record destruction date (5 years from the date in 16)	

Note: This record must not be destroyed at the date of destruction if a report has been made to the Serious and Organised Crime Agency (SOCA) without reference first to SOCA.

Notes:

- 1 Copies of the evidence of identity and address must be attached.
- 2 This form and supporting documents must be sent to the MLRO for filing.

IDENTITY VERIFICATION FORM

PART II - CORPORATE AND OTHER ENTITIES

1	Name (including trading names)	
2	Type of legal entity (corporate, trust, etc)	
3	Registered number (corporates)	
4	Registered and business/location address (including post code):	
5	Telephone Number (including area code):	
6	Fax Number (including area code)	
7	E-mail address	
8	Country of incorporation	

9	Type of business	
10	Regulatory body	
11	Contact Director/Shareholder (Minimum of one name)	
12	Names of principal beneficial owners (over 25%)	
13	Date of first contact (DD/MM/YY)	
14	Summary of transaction and role of party	
15	Acting as principal? (If no, identify principal on a separate form)	YES/NO
16	Exemption from verification procedure a) Is the Company (or its parent) a UK/EU bank or a building society, or otherwise FSA regulated? (if in doubt check the on-line FSA register)	YES/NO

	<p>www.fsa.gov.uk) showing that authorisation by the FSA to carry on relevant business)</p> <p>b) Is the company listed or its shares or securities traded on any other recognised, designated or approved exchange or subsidiaries (check if necessary via www.fsa.gov.uk)</p> <p>c) Is the company a subsidiary of a company under b)? (If necessary, obtain evidence of listing of parent and of relationship to parent such as a copy of the latest annual return or extract from a reputable on-line provider).</p> <p>d) Is the company OFGEM, OFWAT or OFCOM regulated?</p> <p>e) Is it a well known accountancy or law firm? (if not sure, check details with the Law Society or relevant accountancy body)</p> <p>(if YES to any of above, give details and proceed to question 20)</p>	<p>YES/NO</p> <p>YES/NO</p> <p>YES/NO</p> <p>YES/NO</p> <p>YES/NO</p>
17	<p>Verification of identity - private companies</p> <p>Search of Companies House Register and or certificate of incorporation and record;</p> <p>- company name</p>	

	<ul style="list-style-type: none"> - company number - registered address - directors names and addresses - shareholders names and addresses - names of beneficial owners holding over 25% 	
18	<p>Verification of identity – other bodies;</p> <p>a) NHS Trusts – evidence from Department of Health website, a certificate copy of the relevant resolution and evidence that the instructing representative is duly authorised.</p> <p>b) Local authorities – evidence from Directory of Local Authorities, a certificated copy of the relevant resolution and evidence that the instructing representative is duly authorised.</p> <p>c) Educational institutions – extract from relevant charter or Act and SI, showing creation and powers and evidence that the instructing representative is duly authorised.</p> <p>d) Partnerships and limited partnerships – evidence of identity of partner instructing and one other partner, with satisfactory evidence of trading address (possibly from a directory or similar).</p>	Record relevant details
19	<p>Non-standard verification required? (where higher risk indicators exist, e.g. smaller, opaque businesses, based overseas, involving politically exposed</p>	YES/NO

	<p>persons)</p> <p>If yes give details of additional verification undertaken (for example, separate individual identity verification for individual director(s) or shareholder(s)</p>	
20	<p>Evidence of identity attached? (If no, give reason)</p>	<p>YES/ NO</p>
21	<p>Evidence of identity satisfactory? (If no, please explain)</p>	<p>YES/NO</p>
22	<p>Signature and reference</p>	<p>.....</p> <p>Ref</p>
23	<p>Signature and reference of MLRO</p>	<p>.....</p>

	Date	Ref
	/...../.....
24	Date business relationship/one-off transaction completed	
	/...../.....
25	Record destruction date (5 years from the date in 18)	
	/...../.....

Note This record must not be destroyed at the date of destruction if a report has been made to the Serious and Organised Crime Agency (SOCA) without reference first to SOCA.

Notes:

- 1 'Corporate' bodies include listed and unlisted companies and partnerships.
- 2 Copies of the evidence of identity and address must be attached.
- 3 This form and supporting documents must be sent to the MLRO for filing.

APPENDIX C

DISCLOSURE
FORMS

DISCLOSURE FORM – PART 1

Report to Money Laundering Reporting Officer

Details of Employee:

From _____ Email/telephone Number _____

1	Are you dealing with a transaction which might be a prohibited act under sections 327-329 of the Proceeds of Crime Act 2002 and which requires appropriate consent from the SOCA?	YES/NO
2	Details of Customer Identities of the person(s) subject to the enquiry Name (If a company/public body please indicate nature of business) Address Telephone Number (including area code)	

	Fax Number (including area code)	
3	Copy of Identity Verification Form and evidence of identity attached? (If no, give reasons)	YES/NO
4	Summary of transaction and customer's role	
5	Value of transaction	
6	Amount and source of funds (e.g. cash, bank or other securities including account numbers)	

7	Destination of funds (including account numbers)	
8	Reason for suspicion	
9	Nature of suspicions	
10	To your knowledge, has any investigation been undertaken?	YES/NO

	(If yes, please include details)	
11	<p>Have you discussed your suspicions with anyone else?</p> <p>(If yes please specify below with whom, explaining reasons for such discussion and the outcome of the discussion.)</p>	YES/NO
12	<p>Have you consulted any supervisory body for guidance?</p> <p>(e.g. SOCA or professional body such as ICAEW). If yes please provide details</p>	YES/NO
13	<p>Do you feel you have a reasonable excuse for not disclosing the matter to SOCA?</p> <p>If yes please give full details</p>	YES/NO

Signed _____ Dated _____

Once completed please forward this form to the MLRO. 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.

MONEY LAUNDERING DISCLOSURE FORM – PART 2

The following part of this form is for completion by the MLRO

DETAILS OF THE MLRO

Name _____
(insert name of MLRO/deputy MLRO)

Email /Telephone Number _____

Date report received _____

Date report acknowledged _____

1	Report to SOCA? If no please state reasons If yes please confirm date of report to SOCA.	YES/NO
---	--	--------

	transactions to proceed	
6	Date business relationship /transaction completed	
7	Record destruction date (5 years from date at 6)	

Signed _____ Dated _____

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS UNLESS A REPORT HAS

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TOWER HAMLETS ANTI BRIBERY POLICY

Policy Statement - Anti Bribery

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

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

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

Objective of this policy

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

We require that all people associated with the Council, including those permanently employed, temporary agency staff, Members and contractors:

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

Scope of this policy

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

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

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

This Council's commitment to action

The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times.
- Training all employees so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm and vigorous action against any individual(s) involved in bribery
- Providing information to all employees to report breaches and suspected breaches of this policy
- Dealing appropriately with bribery prevention as part of its procurement and contract monitoring processes.

Bribery

Bribery consists of offering or giving a financial or other advantage with the intention of inducing a person to improperly perform a relevant function or activity or to reward a person for the improper performance of such a function or activity. A relevant function or activity includes any function of a public nature and any activity connected with a business

The Bribery Act

There are four key offences under the Act:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failing to prevent bribery (section 7)

The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or

an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

Penalties

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

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

Organisations guilty of an offence under section 7 are liable to an unlimited fine.

Are we a “commercial organisation”?

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

Whether or not the Council is a “commercial organisation”, it is committed to meeting the standards set by the Bribery Act 2010.

What are “adequate procedures”?

The guidance issued under the Bribery Act 2010 sets out six principles relevant to whether an organisation has adequate bribery prevention procedures in place. The Council is committed to proportional implementation of these principles and makes the specific commitments set out below.

Principle 1: Proportionate procedures

The Council has adopted this Anti Bribery Policy to set out its over-riding commitment to bribery prevention. The Council has related codes of conduct and procedures that are listed later in the policy.

Principle 2: Top level commitment

This policy has been agreed by the Corporate Management Team and the Mayor, along with the related action around risk assessment, due diligence, communication, training, monitoring and review.

Principle 3: Risk Assessment

The Council has identified key areas of risk in respect of property disposal, contract award and monitoring, sponsorship, grants and regulatory activity and enforcement. These risks will be subject review and monitoring within service areas. Regular risk reports will be considered by the Corporate Management Team and Members.

Principle 4: Due diligence

The Council applies due diligence procedures, taking a proportionate and risk-based approach, in respect of persons or organisations with whom it seeks or will seek services, or provides or will provide services for, in order to mitigate identified bribery risks.

Principle 5: Communication (including training)

This policy will be appropriately publicised within the Council and externally. A programme of training will be conducted for employees and Members.

Principle 6: Monitoring and review

This policy and performance under the policy will be the subject of annual level by the Corporate Management Team and Members.

Bribery is not tolerated

It is unacceptable to:

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

Facilitation payments

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

Gifts and hospitality

This policy is not meant to change the requirements of our gifts and hospitality policy set out in the Employees' Code of Conduct. This makes it clear that:

- A register of gifts and hospitality is maintained for each directorate.
- Hospitality may be offered to organisations on the Council's premises but only with the express permission of the service head or chief officer and on a scale appropriate to the occasion.
- Employees should return or refuse gifts, hospitality or favours that could put them in a compromising position or render them liable to accusations by other parties.
- Employees should not ask for any reward, tip, gift, Christmas box or other inducement and should not put themselves in debt to someone where this could influence their work.
- There may be occasions where some personal hospitality or small gift is permissible, but this should be discussed with the chief officer and permission obtained.
- Before accepting a gift or hospitality, consideration should always be given to: the timing of decisions for letting contracts; the type of gift or hospitality; whether the firm may benefit from the Council's goodwill; whether the firm is seeking or has a contract; whether the visit is instructive or social; the scale and location of the hospitality and whether it falls in working hours; the frequency of the hospitality; and whether it is directed to a single person or a group.

Members remain subject to the Code of Conduct for Members, under which they make the following commitments:

- A commitment to honesty and integrity and a duty to uphold the law.
- To conduct themselves so as not to bring the Council into disrepute.
- Not to use or attempt to use their positions improperly to confer on or to secure (for themselves or another person) an advantage or disadvantage.
- To declare personal and prejudicial interests in the business of the authority.
- To have specified personal interests recorded in a register.

Public contracts and failure to prevent bribery

The Council's commitment to prevent bribery is reflected in its procurement procedures.

Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery

are not automatically barred from participating in tenders for public contracts. This organisation has the discretion to exclude organisations convicted of this offence.

Staff responsibilities

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the organisation or under its control. All staff must avoid activity that breaches this policy. Staff must comply with their terms and conditions of employment and the Employees' Code of Conduct.

Staff must:

- Read, understand and comply with this policy
- Raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

Raising a concern

This organisation is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns. Staff can view the whistleblowing process at:

http://towernet/Intranet/staff_services/business_planning/internal_audit/anti_fraud_strategy/whistleblowing_process.aspx

Staffs that refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

Any external person who wishes to report a concern about bribery may do so by contacting any of the following –

Tony Qayum, *Head of Audit Services*, 020 7364 4773

Minesh Jani, *Service Head – Risk Management*, 020 7364 0738

Isabella Freeman, Assistant Chief Executive (Legal), 020 7364 4800

If you have any questions about these procedures, please contact Tony Qayum.

Other relevant policies

Fraud and Corruption policy

Anti money laundering policy

Whistleblowing policy

Employees' Code of Conduct

Code of Conduct for Members

Procurement procedures

Useful links

CIPFA Better Governance Forum [CIPFA Better Governance Forum - CIPFA Networks](#)

The Bribery Act [Bribery Act 2010](#)

Bribery Act final guidance

<http://www.cipfanetworks.net/fileupload/upload/briberyact2010guidance142011261754.pdf>

Bribery Act quick start guide

http://www.cipfanetworks.net/governance/documentation/download_open.asp?sref=TV4PXC437&filename=http://www.cipfanetworks.net/fileupload/upload/briberyact2010quickstartguide142011271739.pdf

Joint Prosecution Guidance

http://www.cipfanetworks.net/governance/documentation/download_open.asp?sref=7VT489337&filename=http://www.cipfanetworks.net/fileupload/upload/BRIBERY%20ACT%202010%20JOINT%20PROSECUTION%20GUIDANCE142011281730.pdf

National Fraud Authority [National Fraud Authority](#)

Transparency International [Transparency International UK](#)

Public Concern at Work [Public Concern at Work - Making Whistleblowing Work - 0207 404 6609](#)

The British Standards Institution (Code of Practice on whistleblowing arrangements 2008, Anti Bribery Management System Standard late 2011)

[BSI: Standards, Training, Testing, Assessment & Certification](#)

Department for Business Innovation and Skills (Blowing the whistle to a prescribed person)

http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@employ/documents/digitalasset/dg_177605.pdf

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Appendix 4

Activity	No of Days	Broad Scope	Risk Assessment	Scale of Service	Business Risk as %	Source of Risk	Link to Corporate Priorities
<u>Tower Hamlets Homes</u>							
Management Support and Advice	5		-	N/A	N/A	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
Work carried forward, Whistle blows, management referrals and proactive contingency	10	Management of Whistle blows, management referrals and reactive and proactive contingency	H	£140M	0.5% - 3%	Various	One Tower Hamlets Working efficiently and effectively as one Council.
Anti Fraud Arrangements/Joint Working	5	This work includes the Fraud Forums, training with the service on Anti Fraud and Corruption Strategy, Money Laundering etc. There is also provision for in year unplanned investigations and support to management.	H	£140M	0.5% - 3%	Legislative Requirement	One Tower Hamlets Working efficiently and effectively as one Council.
Social Housing Fraud Joint Working and Systems improvement	10	Feeding back and learning from systems issues identified by the Social housing fraud team from their working with THH as added value	H	£140M	0.5% - 3%	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
THH total	<u>30</u>						

Activity	No of Days	Broad Scope	Risk Assessment	Scale of Service	Business Risk as %	Source of Risk	Link to Corporate Priorities
<u>Proactive Training and Development</u>							
Anti fraud liaison groups development	5	This will involve close working with a number of our external partners including the Police, DWP and PCT.	H	N/A	-	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
Anti fraud training and development for members and services	10	Provide continuous update and training to Members and Officers including lunchtime workshops for Directorate Staff	H	N/A	-	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
	<u>15</u>						
<u>Overall Governance</u>							
Audit Committee	10	Preparation and presentation of reports to the Audit Committee	H	N/A	-	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
Standards Committee	5	Preparation and presentation of reports to the Standards Committee	H	N/A	-	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.

Activity	No of Days	Broad Scope	Risk Assessment	Scale of Service	Business Risk as %	Source of Risk	Link to Corporate Priorities
FOI	5	Reactive responses to Freedom of Information requests for information.	H	N/A	-	Governance arrangements and Ethics	One Tower Hamlets Working effectively as one Council.
Money laundering Officer responsibilities	5	Identify and deliver training and act as the money laundering officer, providing advise, single point of contact on any issues and co-ordination with other agencies	H	N/A	-	Governance arrangements and Ethics	One Tower Hamlets Working effectively as one Council.
Categorising and quantifying fraud	5	Continue the development of categorising and quantifying fraud to influence system controls and improvement	H	Over £1B	0.1% 3%	Governance arrangements and Ethics	One Tower Hamlets Working effectively as one Council.
	<u>30</u>						

Activity	No of Days	Broad Scope	Risk Assessment	Scale of Service	Business Risk as %	Source of Risk	Link to Corporate Priorities
<u>NFI 2010/11</u>							
NFI 2010/11 management Key Contact Function	25	This work will involve managing the Audit Commission Web base site, provision of training and support and monitor progress. Managing NFI pilots as they arise	H	over £500M	0.5% - 3%	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
NFI 2010/11 Co-ordinator and Corporate Investigations	70	Manage the NFI output with corporate risk support/train other investigators as appropriate, respond the enquiries from other LA's or agencies	H	over £500M	0.5% - 3%	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
	<u>95</u>						
<u>Joint working with other agencies</u>							
Joint working and referrals DWP	5	Provide support to DWP referrals on staff related matters	H	Circa £140M	0.5% - 3%	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
Joint working and referrals from the Police	5	Respond to Met Police referrals from both the local and specialist police functions	H	Unknown dependant on values of referrals	-	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
	<u>10</u>						

Activity	No of Days	Broad Scope	Risk Assessment	Scale of Service	Business Risk as %	Source of Risk	Link to Corporate Priorities
Anti Fraud Forums							
Anti Fraud forums	5	Internal and external (other LA's, Police, DWP, PCT) anti fraud groups working on information sharing and joint working and fraud co-ordination	H	Unknown dependant on values of referrals	-	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
	<u>5</u>						
Proactive							
Procurement – Review of key controls	10		H	Circa £300M	.03%-5%	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.

Activity	No of Days	Broad Scope	Risk Assessment	Scale of Service	Business Risk as %	Source of Risk	Link to Corporate Priorities
Data matching - corporate assurance	15		H	Unknown dependant on matching results	3%	Governance arrangements and Ethics	One Tower Hamlets Working effectively as one Council.
Development of FMMs fraud modules case managements systems	10	Building developing the FMMS cases management systems for Social Housing Fraud, Parking Fraud and Corporate reactive modules	H	N/A	N/A	Governance arrangements and Ethics	One Tower Hamlets Working effectively as one Council.
	<u>35</u>						

Activity	No of Days	Broad Scope	Risk Assessment	Scale of Service	Business Risk as %	Source of Risk	Link to Corporate Priorities
<u>Contingencies</u>							
Anti Fraud Reactive contingency	<u>40</u>		H	N/A	-	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
Management of Whistle blows	<u>15</u>		H	N/A	-	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
<u>Reactive (audit and anti fraud) total</u>	<u>275</u>						

Activity	No of Days	Broad Scope	Risk Assessment	Scale of Service	Business Risk as %	Source of Risk	Link to Corporate Priorities
<u>Social Housing Fraud Team (3 full time resources)</u>	585	Working with THH and other RSL's on recovering of Unlawfully let properties, in appropriate successions, assignments, mutual exchanges RTBs. Joint working with LBTH to identify and learn from weaknesses. Co-ordinate associate fraud work with benefits, Council Tax, Parking Fraud, Electoral Role etc...	H	£140M plus	1% - 5%	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
<u>Parking Fraud Team (one full time one P/T)</u>	315	Investigating blue badges, parking and permits associated abuses in line with SLA with CLC	H	Not financial	0.5% to 10%	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.
<u>Housing Benefit Fraud Team</u>	1170	Investigation of allegations of HB abuse, Joint working with DWP, Data matching and NFI Output investigation.	H	£200M	1% - 5%	Governance arrangements and Ethics	One Tower Hamlets Working efficiently and effectively as one Council.

Agenda Item 5.4

REPORT TO:	DATE	CLASSIFICATION	REPORT NO.	AGENDA NO.
Audit Committee	20 March 2012			5.4
REPORT OF: Corporate Director, Resources ORIGINATING OFFICER(S): <i>Minesh Jani, Head of Audit and Risk Management</i>	Department for Communities and Local Government Consultation – “Social Housing Fraud” Ward(s) Affected: N/A			

1. Summary

- 1.1. This report updates the Audit Committee on the Government’s plans for dealing with Social Housing Fraud.

2. Recommendation

- 2.1. The Audit Committee is asked to note the report and to consider the draft response to the consultation at Appendix A.

3. Background

- 3.1. Social Housing Fraud involves such matters as unlawful sub-letting or passing on of social housing tenancies and fraudulent applications to succeed to tenancies. It could also be held to include fraudulent applications for access to social housing through the common housing register. The Department for Communities and Local Government (DCLG) raised concerns about Social Housing Fraud in its publication “Tackling Unlawful Subletting and Occupancy: Good Practice Guidance for Social Landlords” (November 2009).
- 3.2. Since its publication both the Secretary of State for Communities and Local Government and the Minister for Housing and Local Government, the National Fraud Authority and the Audit Commission have stressed the cost such fraud represents to the public purse and the need for local authorities and social landlords to put in measures to detect and deter such fraud.

- 3.3. The Audit Commission in its recent publication, "Protecting the Public Purse 2011" has estimated that there may be 50,000 properties in England that may be unlawfully occupied, and that for London, the percentage of properties may be up to 5% of the capital's housing stock. The National Fraud Authority estimates the cost of tenancy fraud as £900M per annum.
- 3.3. In response to this type of fraud, the Audit Committee has previously received reports indicating that the Council has established a Corporate Fraud Team which includes 3 officers (currently supplemented by one agency employee funded by Tower Hamlets Homes but working under the Corporate Fraud Manager) whose primary function is to investigate sub-letting and other housing fraud and recover properties.
- 3.4 The DCLG launched a formal consultation on the topic of Social Housing Fraud on 11 January 2012 with an end date of 4 April 2012. This consultations seeks the views of interested bodies on whether stronger measures need to be considered to enable social housing fraud to be tackled more robustly and whether criminal rather than purely civil penalties should apply to those committing such fraud.
- 3.5 The Council's proposed response is attached at Appendix A and the Consultation Document in its entirety can be found at Appendix B.

4. Scope of the Consultation

- 4.1 The main areas where landlord views are being sought are:
- whether a new criminal offence should be created in relation to Social Housing Fraud;
 - what should be the definition of tenancy fraud;
 - consideration of whether local authorities' powers should be extended to cover tenancy fraud and related issues;
 - whether defined powers to request disclosure of data to assist in the investigation of Social Housing Fraud should be introduced; and
 - how people living away from their homes should be considered.
- 4.2 To illicit landlords' views on its proposals, the consultation document sets out, under the main points highlighted above, thirteen questions. The authority's response to these is set out in Appendix A below.

5. Comments of the Chief Financial Officer

5.1 These are contained within the body of this report.

6. Concurrent Report of the Assistant Chief Executive (Legal Services)

6.1 There are no immediate legal implications arising from this report.

7. One Tower Hamlets

7.1 There are no specific one Tower Hamlets considerations.

7.2 There are no specific Anti-Poverty issues arising from this report.

8. Risk Management Implications

8.1 This report highlights changes in the governance of the Council. The proposals set out in this document will result in how the organisation deals with tenancy fraud. There are no specific risk implications at this stage.

Draft Response to DCLG Consultation on Social Housing Fraud

Date: 4th March 2012

Background

The Department for Communities and Local Government (CLG) is consulting on proposals intended to reduce the level of tenancy fraud within the social housing stock. The consultation period concludes on the 4th April 2012.

Under proposals set out in the consultation document, Social housing fraud, illegal sub-letting will become a criminal act and tenants who abuse the social housing system by unlawfully subletting their property could face a fine of up £50,000 or two years in prison. The measures are intended to be a strong deterrent to tenants and increase landlords' ability to detect and prosecute those responsible for social housing fraud. The consultation document also includes proposals to allow social landlords to obtain any profits made from fraudulent sub-letting.

Tower Hamlets is a borough with a high level of housing need, we have a housing waiting list of over 23,500 households, of which some 9,000 live in over-crowded conditions. Social housing tenancy fraud deny many of those households access to a decent home; therefore the council is fully supportive of any measures which will prevent the inappropriate use of social housing through illegal sub-letting.

Attached is an outline draft of a response to the questions set in the consultation document, compiled mainly by the Council's Corporate Fraud Team. Ultimately we seek to put together a single response which represents the collective view of the council and its social housing landlord partners. We welcome all view on this consultation. Please send all responses, by 28th March 2012 to:

Anthony.jones@towerhamlets.gov.uk.

RESPONSE TO SOCIAL HOUSING FRAUD CONSULTATION QUESTIONS

Question 1 - *Do you agree that a new criminal offence should be created?*

The authority agrees that a new criminal offence related to Social Housing Fraud should be created. We hold that the misuse of social housing represents not only a huge cost to the public purse as stated in Chapter 1 of the consultation document but also impacts on the ability of social landlords to meet genuine housing need. There is, therefore, a harmful effect on communities.

Question 2 - *What would you consider to be a suitable maximum penalty for a Crown Court conviction for tenancy fraud?*

The authority considers that the penalties proposed in Paragraph 59 in respect of proceedings in Magistrates Court and Crown Court are appropriate. We hold that there needs to be a suitable deterrent.

Question 3 - *Do you agree with our core proposal to give a broad definition to ‘tenancy fraud’? Which forms should be included?*

The authority is in agreement with the proposal that a broad definition should be given to “tenancy fraud”.

The main forms mentioned in consultation should be included in this definition. In addition we would recommend:

- including fraudulent succession claims under S87 of the Housing Act 1985; this should apply not only where the fraud is discovered after the succession has taken place but should also be made an offence where the fraudulent claim has been made and rejected whether the applicant then abandons the claim or if the landlord needs to take civil action for possession;
- Section 171 of the Housing Act 1996 makes it an offence attracting a fine up to Level 5 on the standard scale to make a false statement or to withhold information reasonably required in respect of an application to be placed on the Housing Register. This is an offence whether or not the application has resulted in the applicant gaining a tenancy. Ground 5 of Schedule 2 to the Housing Act 1985 allows that the Court may grant possession where the landlord was induced to grant a tenancy by a false statement made recklessly or knowingly by the tenant or a person acting on the tenant’s instigation. We are of the view that where a tenancy has been granted as a result of a fraudulent housing application this should now be included in the offence proposed in Paragraph 59.

Question 4 - *Do you agree that restitutionary payments should be introduced and, if so, should they be available in both the civil and the criminal court?*

We agree that restitutionary payments should be introduced and should be available in both the civil and criminal courts. Awards made by the Courts in such circumstances could be used to fund the process of investigating housing fraud and reduce the cost burden on landlords.

Question 5 - *Should local authorities have the power to prosecute for tenancy fraud?*

Given the role of local authorities as local housing authorities it appears reasonable that their powers should be extended to allow for bringing criminal prosecutions for Social Housing Fraud and this could allow the local authority to bring prosecutions on behalf of housing associations. Although such powers could be granted to housing associations (their position as “public bodies” seeming to have been settled since R (Weaver) v London & Quadrant 2009) Local Authorities have experience in prosecutions and are in partnership with most housing associations operating in their boroughs.

Question 6 - *Do you agree that a mandatory gateway should be introduced?*

We agree that a mandatory gateway should be introduced. A major obstacle to successful investigation is the difficulty experienced in gaining evidence. Many agencies are unwilling to disclose data even where this is permitted under the terms of the Data Protection Act 1998.

Question 7 - *Do you agree that a mandatory gateway should cover banks, building societies and utility companies? Should other data holders be included?*

We agree that a mandatory gateway should cover banks, building societies and utility companies. In addition we believe that this should also cover:

- estate agents and letting agencies;
- educational establishments: schools, colleges, universities;
- employers;
- HRMC;
- DWP;
- UKBA;
- DVLC;
- Child Benefit Agency;
- other local authorities; and
- residential social landlords.

Question 8 - *How should the 'intention to return' be amended? What would be an appropriate period of time for which a tenant could be absent? What would constitute a necessary absence and what would constitute a voluntary absence?*

There needs to be statutory clarity relating to the "intention to return". Certainly absence from the tenanted home where this is for a stay in hospital, visiting relatives whether in the UK or overseas, for the purposes of work either in the UK or overseas for instance should be permitted providing that the landlord is notified at the earliest opportunity of the absence and the landlord has acknowledged the notification. For visits or for work this should be prior to departure. We feel that it would, however, be appropriate to place a time limit on such an absence. We suggest such notified absence should be allowable for an initial period of 1 year with extensions to this period when supported by evidence and a firm statement of intent to return. However, this cannot be indefinite and a maximum limit on absence from the home could be, say, 3 years.

Where, however, no notice has been given to the landlord and it has been discovered that the tenant is living elsewhere then we hold that no defence of "intention to return" should be allowed where the absence can be shown to exceed, say, six months.

Mere absence from or abandonment of the tenancy would not constitute fraud.

Question 9 - *Should assured tenancies be brought into line with secure tenancies meaning that status cannot be regained once the whole of the property has been sublet?*

That the Housing Act 1998 in relation to Assured Tenancies contains no provision analogous to S93 of the Housing Act 1985 is an anomaly which makes the process of dealing with Social Housing Fraud by housing associations more difficult to tackle. We agree that in this respect assured tenancies should be brought in line with secure tenancies.

There are a number of differences between assured and secure tenancies, most notably grounds for possession. There may grounds for consultation as to whether these should be rationalised.

Question 10 - *As a social landlord, which factors would you consider when deciding whether to pursue a case using the criminal rather than civil route, e.g. strength of evidence, length of time the home had been unlawfully occupied, amount of money involved, history of the tenant, etc.? How often do you think you would pursue cases using the criminal rather than civil route?*

There are a number of factors which we would consider such as the age or other vulnerability of the tenant. Generally we would consider prosecution where:

- there is sufficient evidence to meet the burden of proof in the criminal courts;
- it is in the public interest to so do;
- there has been deception (e.g. the social tenant letting the property has posed as a home owner or the let has been made through an estate agent or other accommodation agency).

Question 11 - *As a social landlord, how would the creation of a new criminal offence influence the likelihood of you taking cases of tenancy fraud to court rather than simply accepting a tenant's voluntary termination of their tenancy?*

The authority believes that a majority of tenancy fraud cases will still be concluded with a voluntary termination of the tenancy. The main issue which will restrict the number of cases taken to court is the volume of data needed to obtain a criminal conviction. It is likely that criminal action will be taken in cases where there is evidence of persistent illegal subletting over a period of time, or organised activity or marked profiteering.

Question 12 - *As a local authority, how many requests for data for matters related to tenancy fraud would you envisage submitting per year, and to what type of organisation would you expect the majority of your requests to be submitted?*

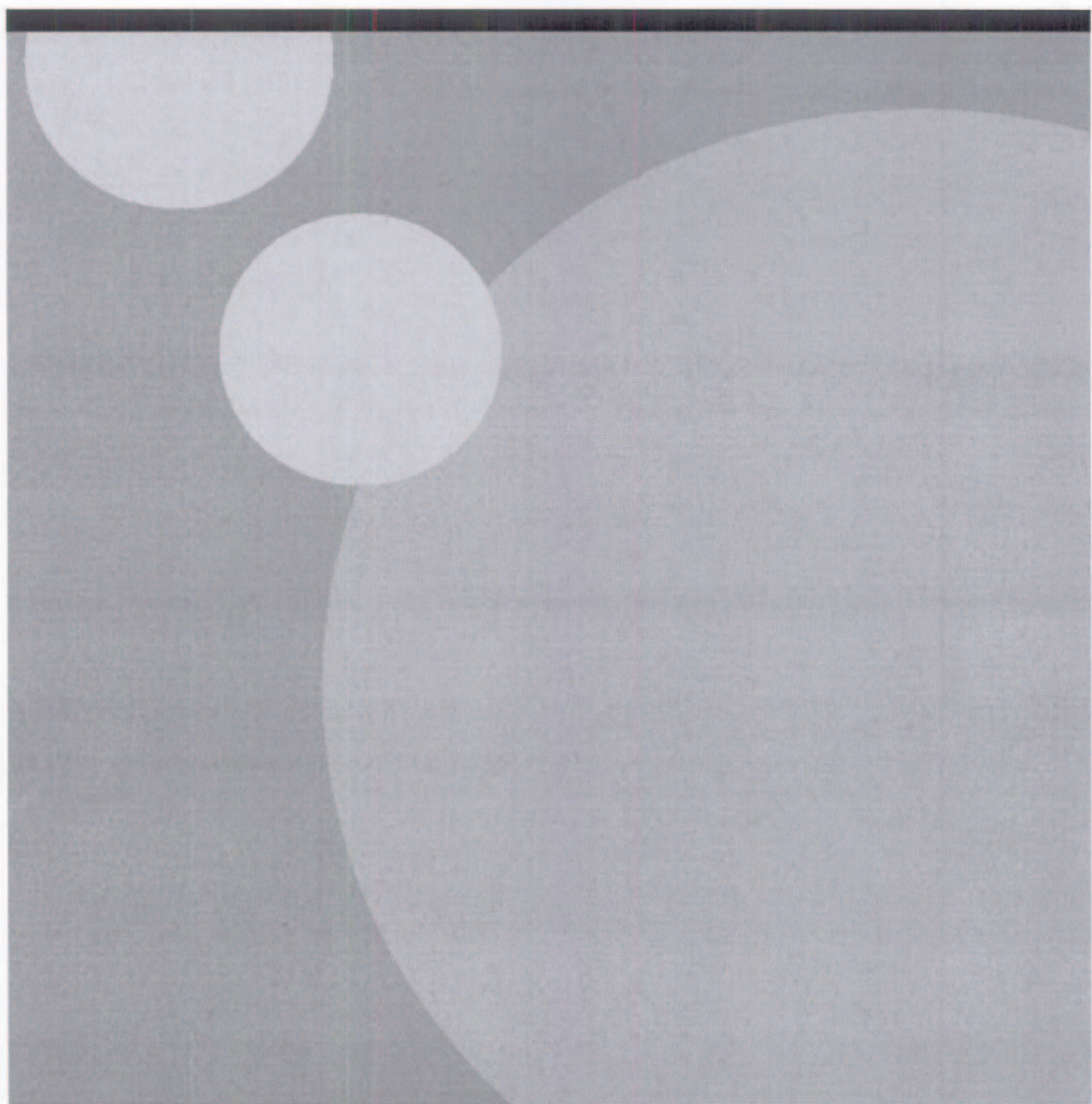
This is difficult to quantify. Experience shows that each case involves different avenues of enquiry. It has been clear to us, however, that our ability to resolve investigations speedily would be enhanced by the ability to require disclosure of data from more data controllers. Our Social Housing Fraud team is currently investigating nearly 200 cases. On this basis we might make a potential 800+ data requests per year.

Question 13 - *As a data-holder, what do you believe would be the unit cost of processing a data request?*

The only figure we can quote here is taken from the Freedom of Information, Appropriate Limit and Fees Regulations 2004 and equates to £25 per hour. In reality a response to the nature of enquiry we would be likely to receive would take no more than ten minutes to respond to. We would not see any data requests we receive from other Local Authorities as cost issue as there is reciprocation.



Social Housing Fraud Consultation



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Social Housing Fraud Consultation

January 2012
Department for Communities and Local Government

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Ministerial Foreword

Social housing is an extremely valuable asset. It provides millions of people with a stable, low cost home to help them get on with their lives. For those same reasons it is also in much demand. With 1.8m households on the waiting list, it is vital not only that each social home goes to a household who needs it, but also that it continues to be occupied by the household to whom it was given.

Unfortunately, a small minority of tenants try to cheat the system. Whether it be through subletting a home they have been allocated, often making a large profit in the process, or lying about their circumstances to get an allocation in the first place, their abuse of social housing not only deprives of a settled home those in genuine need who play by the rules, it also comes at a considerable cost to the taxpayer. The National Fraud Authority estimates that tenancy fraud costs around £900m per year. Replacing the social homes that are being unlawfully occupied – to house those who have effectively been displaced by tenancy fraudsters – would cost several billion pounds.

In recent years, many social landlords have stepped up their efforts to tackle fraud in their stock. Our investment of £20m has led to an increase in the number of homes being recovered, but there is still a long way to go. More landlords need to wake up to the problem, and central Government needs to play its part too by ensuring landlords have the powers they need to detect and prosecute fraudsters. At the moment, the incentive to a tenant to cheat is much greater than both the risk of detection and the penalty incurred. This cannot continue.

These proposals are about fairness. I want to make clear to anyone choosing to cheat that they will be found out and can be punished as a criminal. I also want to clear the obstacles that discourage landlords from taking action, giving them the powers they need and closing the legal loopholes that allow those who abuse their tenancies to keep them.

I am determined that social landlords should be able to make best use of their stock in a way which best meets the needs of their local area. Cutting down on fraud is a key part of ensuring this happens.



Rt Hon Grant Shapps MP
Minister for Housing and Local Government

The consultation process and how to respond

Scope of the Consultation

Topic of this consultation:	Social housing fraud.
Scope of this consultation:	This paper seeks views on Government proposals to reduce the prevalence of fraud within the stock of social housing.
Geographical scope:	The scope of this consultation is limited to England. Regulation of social housing is a devolved matter in Wales and the Department for Communities and Local Government will continue to consult the Welsh Government as it develops the proposals.
Impact Assessment:	An impact assessment will be published shortly.

Basic Information

To:	The consultation is aimed at anyone who might be affected by these proposals. We are especially keen to hear the views of local authorities (regardless of whether they own stock), housing associations, social tenants and organisations holding data that may be relevant to tenancy fraud situations.
Body responsible for the consultation:	The consultation is being run by the Affordable Housing, Management & Standards Division within the Department for Communities and Local Government.
Duration:	This consultation will run for 12 weeks from Wednesday 11th January 2012 to 5pm on 4th April 2012.
Enquiries:	For enquiries, please contact: Graham.knapper@communities.gsi.gov.uk Tel. 0303 444 3667
How to respond:	By email to: socialhousingfraud@communities.gsi.gov.uk Or by post to: Social Housing Fraud Consultation Department for Communities and Local Government Zone 1/J9, Eland House Bressenden Place London. SW1E 5DU.

After the consultation:	A summary of the responses to consultation will be published on the Department's website within three months of the end of the consultation period.
Compliance with the Code of Practice on Consultation:	The consultation period has been set at the standard twelve weeks.

Introduction

1. At a time when there are 1.8m households on the waiting list for social housing and another 250,000 social households are statutorily overcrowded, it is conservatively estimated that there are at least 50,000 social homes in England being unlawfully occupied¹. Recent work has suggested that the number could be significantly higher than this².
2. While the term 'unlawful occupation' is most commonly taken to mean the subletting of the whole of a home by the tenant³, it also covers other activities such as key-selling (where the tenant leaves the property and passes on the keys in return for a one-off lump sum payment) and unauthorised succession (where someone misrepresents their circumstances in order to qualify to succeed to the tenancy following the previous tenant's death). Each case involves someone living in the home who should not be there.
3. Many social landlords have recently stepped up their efforts to crack down on tenancy fraud; this has resulted in an increase in the number of social homes being recovered for their proper use. Feedback from landlords has shown clearly that the problem is not just confined to London and other big cities, and it is an issue for both local authorities and housing associations.
4. In spite of the encouraging progress that has been made, it is apparent that further, stronger measures need to be considered.
5. Most forms of unlawful occupation, including subletting, are civil matters rather than criminal offences. This means that while the profit that can be reaped by abusing a social tenancy can be extremely lucrative, the legal consequences for those breaking the rules tend to be relatively minor – in most proven cases the legal tenant is simply required to give back the keys to a property in which they do not live. In addition to this lack of an effective deterrent, tenancy fraud investigators argue that they do not have sufficient investigatory powers, meaning that they can only detect a fraction of the homes being unlawfully occupied.

¹ "Protecting the Public Purse 2010 – Fighting fraud against local government and local taxpayers" Audit Commission, October 2010

² <http://www.experian.co.uk/assets/identity-and-fraud/social-housing-tenancy-press-release.pdf>

³ It should be noted that the taking in of lodgers and subletting part of a social home is allowed in certain circumstances. Page 29 of the following guidance provides further details on this: <http://www.communities.gov.uk/documents/housing/pdf/1396431.pdf>

6. The purpose of this consultation is therefore to invite views on whether existing legislation needs to be strengthened, and, if so, how that might be done, to reduce the prevalence of tenancy fraud in social housing. Importantly, we do not intend to remove social landlords' ability to pursue each case as a civil matter; rather, we wish to explore if they require a wider range of enforcement tools.
7. The extent of the problem is discussed in chapter one, the existing law in chapter two and the proposals for dealing with the problem in chapter three.
8. The consultation is aimed at anyone who might be affected by these proposals. We are especially keen to hear the views of local authorities (regardless of whether they own stock), housing associations, social tenants and organisations holding data that may be relevant to tenancy fraud situations.
9. This paper is concerned only with the law as it affects England.
10. This consultation is conducted in line with the Code of Practice on Consultation and falls within the scope of the Code.

Chapter 1

Extent and nature of the problem

11. The Audit Commission has estimated that there are at least 50,000 unlawfully occupied social homes in England - 2.5% of stock in London and 1% of stock elsewhere. Since increasing their efforts to reduce tenancy fraud, many London landlords have said that they believe the rate there to be at least 5%. The National Fraud Authority has estimated that tenancy fraud costs around £900m per year. Replacing those unlawfully occupied social homes – to provide homes for those households who have effectively been displaced by tenancy fraudsters - would cost several billion pounds.
12. The reason for the difference in frequency of unlawful occupation between London and the rest of the country is most often attributed to the higher difference in the capital between social rent and market rent. With the former being, on average, less than 50% of the latter, a tenant in London can make a substantial profit by charging market rent to the subtenant while they continue to pay the much lower level of social rent to the landlord. Cases of tenants making in excess of £10,000 per year per property have been uncovered by some London landlords.
13. In areas of the country where there is little difference between the two types of rent, it appears that subletting is less often for profit than in London and more often as a favour to friends or family to help them 'jump the queue'. Some landlords believe that succession fraud is more prevalent than subletting in their stock.

Current rates of recovery

14. Results from social landlords have shown quite clearly that tenancy fraud is not confined to London. While London landlords have, generally, been tackling the problem for a little longer than those elsewhere (some recovering in excess of 100 properties a year), recent grant funding from central Government has encouraged landlords nationwide to address the problem. Despite often being less experienced and having fewer staff dedicated solely to tenancy fraud, some landlords outside London have recovered more than 50 properties each per year and expect that figure to grow as they build their levels of expertise.
15. While no data are collected centrally on the success rates of housing associations, the number of unlawfully occupied local authority-owned homes recovered is recorded. Around 1000 local authority-owned properties were recovered in 2008/09. The figure for 2010/11 was

approximately 1800. A number of landlords have also indicated that the number of voluntary tenancy terminations increased when they began to publicise their crackdowns. These are not included in the above figures.

16. Central Government has also promoted joint working between local authorities and the housing associations in their areas. Often having more resource, experience and expertise, it is not uncommon for a local authority to undertake work in a housing association's stock in return for nomination rights to any properties they recover. In some cases, local authorities have used grant funding given by central Government solely to investigate the stock of the housing associations in their area. In light of the fact that many housing associations have recently increased their commitment to tackling tenancy fraud, it is a reasonable assumption that the number of housing association homes being recovered has increased over the past couple of years.
17. It is important to note that, despite this encouraging upward trend in the rate of recovery, many social landlords believe that they are still merely scratching the surface.

Profiles

18. Feedback from landlords strongly suggests that there is no such thing as a typical tenancy fraudster. An exercise carried out by a landlord in the Midlands, for example, showed that their investigatory work, albeit based around a relatively small number of tenancies, did not have a significantly disproportionate impact on any particular social group. There is also no typical 'recovered' home - while some landlords target high-rise properties, others focus their efforts on family-sized homes or those in central locations.
19. Many landlords have reported that when they uncover tenancy fraud they also uncover other types of fraud. Housing Benefit and Council Tax Single Person Discount fraud appear to be the most common related types, with visa overstays and serious organised crime also having been detected.

Subtenants

20. Although it is often believed that the person who is occupying the home in place of the legal tenant is fully aware of and complicit in the deception, it has been found that in many instances this is not the case. Where a member of the public has answered an advert in the newspaper or gone through a letting agent, there is often a presumption on their part that everything is legitimate, especially when they are charged market rent for the property and have paid a deposit in advance. The first time many of these subtenants are aware that their 'landlord' is in fact the named tenant of a social home is when the

housing provider contacts them during a tenancy audit or following a tip-off from a neighbour.

21. Many of these subtenants are able to provide detailed information about their stay in the property and so are often valuable sources of evidence for the housing provider when seeking to evict the named tenant.
22. Landlords have reported that virtually no subtenants subsequently present themselves to the council as homeless when they leave the property, while feedback has shown that only around 5% of named tenants asked to be rehoused once they have been evicted for tenancy fraud. In many cases, councils refuse to add them to the waiting list as they no longer consider they owe the now ex-tenant the main homelessness duty, deeming that person to have made themselves intentionally homeless.

Chapter 2

Tackling tenancy fraud within the existing law

23. Tenancy fraud takes a number of forms. Below is a list and brief explanation of the main types of tenancy fraud:

Civil matters

Subletting

24. While current law allows, in certain circumstances, social tenants to take in lodgers or sublet part of their properties, subletting the whole of the property is prohibited. This form of tenancy fraud is a civil matter only. In this sense it is no different from any other breach of civil statutory rules or of a contract. As with any other breach of contract, a landlord can apply to the court for a remedy, i.e. possession.

25. A tenant who has unlawfully sublet the whole of the property remains a tenant until such time as they leave or are evicted as a result of possession proceedings. However, if they are no longer in occupation then they may lose their status (becoming a common law tenant, i.e. one without statutory protection) which makes possession easier to obtain.

26. A landlord could also recover damages and costs in cases of unlawful subletting. However, the amount of financial compensation would be limited by the fact that rent was still being paid to the landlord at the expected rate, and the prospects for recovery of any damages awarded would not be particularly strong.

Key-selling

27. The practice of key-selling differs from that of subletting in that, in practice if not in law, the legal tenant usually severs all ties with the property in return for a lump-sum payment. While this practice is believed to be less common than subletting, it similarly constitutes a breach of contract and the landlord can recover possession in the same way.

Unauthorised assignment (including by mutual exchange)

28. Assignment is the formal legal transfer of the letting agreement from one tenant to another. The effect of a valid assignment is that, broadly,

the new tenant takes on the rights and responsibilities of the previous tenant.

29. Assignment of a tenancy is only possible in certain circumstances. If there is an unauthorised assignment, e.g. the tenant goes ahead without first obtaining the landlord's consent, the exchange will be treated as an invalid assignment. If the tenant obtains the landlord's consent by deception, e.g. providing false information, landlords can take action for possession on the basis that there has been a breach of the tenancy agreement and that the assignment is legally ineffective.

Wrongly claimed succession

30. When a social tenant dies, there are certain circumstances in which a spouse or family member can succeed to the tenancy. While the category of person who can succeed is wider for secure than assured tenancies, for both types there is a requirement that the successor was living with the tenant at the time of the tenant's death (and for certain categories of people for at least a year prior to the tenant's death).
31. Some people seek succession to a social home by virtue of claiming to fulfil the criteria when they were in fact either not residing with the previous tenant for the necessary period of time or do not fall into the category of person entitled to succeed. A landlord can then seek possession as they would against a trespasser after serving a notice to quit. The occupant can defend possession proceedings by claiming that they have succeeded legitimately.

Criminal offences

Right to acquire/Right to buy fraud

32. This type of fraud involves the tenant providing misleading information when seeking to purchase the property they are renting from their social landlord regarding such details as how long they have lived in the property.
33. As a general rule, this type of fraud is illegal and can be dealt with in the criminal courts.
34. It should be remembered that wherever tenancy fraud is undetected, the registered tenant may ultimately attempt to purchase the property under the right to buy or right to acquire and so obtain a significant discount on the price.

Obtaining a tenancy through false statement

35. This is where a tenant knowingly or recklessly made a false statement in order to gain a tenancy. Section 171 of the Housing Act 1996 makes

it an offence to provide false information, or knowingly withhold relevant information, in relation to an application for housing accommodation.

Current penalties

36. For civil matters, the consequences of tenancy fraud are limited to the loss of the tenancy, damages and costs, subject to the practical limits on the latter two mentioned above. Criminal liability (and penalties such as fines or imprisonment) is not available in the existing law.
37. Confusion often arises when the media report that a person has been jailed for subletting. In fact, subletting is often linked to types of fraud that are in themselves criminal (e.g. housing benefit fraud), and in such cases criminal penalties can be handed down specifically for that criminal act rather than for the subletting itself.
38. Recently, some social landlords have attempted to pursue instances of subletting as criminal offences using the Fraud Act 2006, but we are not aware that any defended case dealing solely with subletting has been successful. The Fraud Act offences require the accused person to have actively made a false representation, failed to disclose information where there is a legal duty to do so, or dishonestly abused a position which requires him or her to safeguard someone else's financial interests.
39. Although it is conceivable that some cases of tenancy fraud might fall within these provisions, there are very many (likely most) that would not. This is because tenancy fraud can be carried out without positive misrepresentations being made to the landlord, i.e. the tenant is silent on the matter rather than actively telling the landlord they are not doing it; there are no generally-applicable legal duties of disclosure (except in relation to housing benefit), i.e. the tenant is under no obligation to inform the landlord that the tenancy agreement has been breached or, where something is prohibited in statute, that the law has been broken; and the landlord and tenant relationship is not usually seen as one where the tenant has special responsibilities to look after the landlord's financial interests (unlike, for example, a trustee).
40. Therefore, it is the Department's view that there would be significant practical barriers to reliance on these offences to create any specific or general deterrence against tenancy fraud.

Intention to return

41. While it is a condition of both a secure and an assured tenancy that the property must be used as the tenant's only or principal home, case law has established that a tenant can live elsewhere but still retain the tenancy to the property if they can prove they intend to return to it. This

intent can be demonstrated by such means as keeping furniture or other possessions in the home.

42. The courts currently apply a case-by-case approach – a sufficiently long absence will create a presumption that the tenancy has been abandoned, but the tenant can refute this by showing a ‘substantial, formal, outward and visible sign’ of an intention to return within a reasonable time. However, landlords have said that, in practice, the intention to return defence has allowed tenants to be away for years at a time and still retain their tenancy. This in turn can deter landlords from pursuing cases against non-occupying tenants.

Landlords’ methods of detection

43. At present, landlords use a variety of tactics to detect and tackle tenancy fraud. The main ones are:

Dedicated staff

44. An increasing number of landlords take the view that employing specialist officers is the most effective way of recovering properties, although their use is still far from universal. Generally, a dedicated officer should be aiming at recovering between 25 to 30 properties a year, although some officers recover as many as 50. It is often the case that a larger number of homes are recovered in the first year of work, reducing thereafter as there are fewer ‘easy wins’.

Tenancy audits

45. Many landlords conduct tenancy audits, i.e. knocking on tenants’ doors to verify occupation. Doing this can be very time and resource intensive, so most landlords audit only a proportion of their stock each year or adopt a risk-based approach by targeting properties in specific locations.
46. In order to speed up the audit process, some landlords take a photo of the tenant when the tenancy is issued and keep it on file. When the tenant’s home is subsequently audited, a simple reference to the file can reduce substantially the amount of time needed to verify that person’s identity.

Data matching

47. An increasing number of landlords are using data matching to identify fraud. Many start by doing an internal match of the various different sets of records they keep before going on to use a credit reference agency. In addition to highlighting cases of a tenant being registered at more than one address, such checks can flag up instances of bank

accounts being registered at multiple addresses and even tenants who have died.

Tip-offs

48. Around half of all identified cases of unlawful occupation are believed to be detected thanks to information supplied by members of the public. Local residents are often best placed to notice if new neighbours arrive or the old ones move away. Raising awareness via posters, leaflets or adverts in local newspapers can therefore be invaluable.
49. While tip-offs are an invaluable source of information, they represent only the start of a process that will rely on one of the tools mentioned above to verify tenancy fraud and then build a credible case.

Data sharing powers

50. The Data Protection Act 1998 requires organisations to process personal data in a fair and proportionate way. Eight principles govern the handling of personal data and strict criteria need to be met if data is to be shared. Under this Act, data sharing must be fair and lawful.
51. Currently, tenancy fraud investigators use section 35⁴ of the Act to obtain data from other organisations. However, this section does not allow them to *compel* organisations to supply personal data when asked, and there is also no general statutory power to share data on which the requesting body can rely.
52. As a result, many tenancy fraud investigators find it difficult to obtain data from other organisations. Some have commented that getting data can depend on the interpretation of legislation by the individual person handling the request, and as a result there is a lack of consistency of response. Others have commented that some organisations refuse even to consider requests for non-criminal matters.
53. While section 29(3) of the Act can be used for criminal offences, like section 35 it does not require those asked for data to comply with the request.

⁴ Section 35 (2) of the Data Protection Act 1998: Personal data are exempt from the non-disclosure provisions where the disclosure is necessary: a) for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings), or b) for the purpose of obtaining legal advice

Chapter 3

Strengthening landlords' powers to tackle tenancy fraud

54. Landlords investigating tenancy fraud make two main points:

- a) the potential legal consequences for a tenant who commits tenancy fraud are inadequate and do not act as a meaningful deterrent; and
- b) the lack of access they have to data means that their powers of detection and prosecution are severely limited.

55. Parallels are often drawn with housing benefit fraud, where financial penalties and custodial sentences are available to courts and investigators have wide access to data - their powers include being able to compel (rather than just request) third parties such as the suspect's employer, landlord, banks and utility companies to provide reasonable information on receipt of a request from an authorised officer.

56. The Government is concerned that the current legal consequences for tenancy fraudsters and investigatory powers available to social landlords contribute to the fact that tens of thousands of social homes are being misused.

57. Nothing contained in the proposals below would remove a social landlord's ability to prosecute tenancy fraud as a civil matter, rather they would be able to consider what the best enforcement approach is in the context of each particular case.

- **Criminal enforcement**

58. We are considering whether a new criminal offence of social housing tenancy fraud is necessary and proportionate. Criminal penalties could take the form of a fine, or a custodial sentence, or both. In addition, measures could be introduced to allow for any profits to be confiscated and for a restitutionary payment to be made to the landlord.

59. If a new criminal offence were to be created we propose that it should be able to be tried either in the Magistrates Court or in the Crown Court. The maximum sentence the Magistrates Court could impose would be 6 months imprisonment and a fine of £5,000. A Crown court can impose substantially greater penalties. As a starting point we are proposing that a suitable maximum penalty for tenancy fraud might be two years imprisonment and a fine of up to £50,000.

Do you agree that a new criminal offence should be created?

What would you consider to be a suitable maximum penalty for a Crown court conviction for tenancy fraud?

- **Give a broad definition to ‘tenancy fraud’**

60. We are considering whether a broad definition of ‘tenancy fraud’ would be appropriate. We would want to include at least the main forms, e.g. subletting the whole, key-selling and unauthorised assignment. We would welcome views on whether other forms of tenancy fraud should be covered by a new criminal offence and, if so, which ones.

Do you agree with our core proposal to give a broad definition to ‘tenancy fraud’? Which forms which should be included?

- **Allow restitutionary payments to be made to social landlords**

61. Currently, the Proceeds of Crime Act can be used to confiscate money made from certain kinds of criminal activity; however, this money goes back to the state rather than to the person or organisation against whom the offence was committed.

62. We propose allowing restitutionary payments to be made to the social landlord in whose stock tenancy fraud was committed. Payments of this nature would allow a landlord to recoup, in both civil and criminal cases, any money the tenant made using the landlord’s property (independent of any loss to the landlord). Such an order could be made at the discretion of the court trying the offence, and any sum ordered to be paid could be recovered from the defendant as a debt owed to the landlord.

Do you agree that restitutionary payments should be introduced and, if so, should be available in both the civil and the criminal court?

- **Extend local authorities’ powers of prosecution to cover tenancy fraud related issues**

63. Local authorities already have the power to bring criminal prosecutions for housing benefit fraud, certain road traffic offences and other offences set out in statute and committed in their area. This proposal would add tenancy fraud to the list of matters for which they have the power to prosecute.

64. We do not think it would be practicable to give the same power to housing associations without raising questions around their possible reclassification from private sector to public sector bodies, although common law gives them the right to bring private prosecutions in respect of criminal offences.

65. In the event that local authorities could prosecute for tenancy fraud matters, it would be possible for them to do so on behalf of housing associations.

Do you agree that powers of prosecution should be extended in this way?

- **Introduce powers for investigators to compel certain named categories of organisation to comply with local authorities' requests for data**

66. As already indicated, social landlords currently have comparatively few powers to obtain data necessary to detect and tackle tenancy fraud effectively. While criminalisation alone would remove any doubt about the legality of sharing data, it would not *oblige* dataholders to do so.

67. Some existing legislation includes explicit 'gateways' by which information can be disclosed or received for particular purposes. Such gateways may be permissive (creating a discretionary power to disclose or receive data) or mandatory (compelling data to be transferred in certain circumstances). We are considering whether to create a mandatory gateway that would ensure local authorities could access data relevant to their investigations from certain types of named organisation. Organisations obliged to provide data on request would face a criminal penalty for non-compliance. We propose a penalty similar to that currently in place for non-compliance with data requests for housing benefit fraud investigation purposes.

68. As with powers of prosecution, and for the same reclassification reasons, we would not look to give this power to housing associations. However, a local authority would be able to use any new data access powers to investigate potential fraud in a housing association's stock.

69. There are already many examples of joint working throughout the country between the two types of providers. One common arrangement involves a local authority using its resources to investigate a housing association's stock in return for nomination rights to any properties recovered. We envisage joint working arrangements being extended to enable housing associations to benefit from any new powers given to local authorities.

70. While we would welcome views on which categories of organisation should be covered by a mandatory gateway, we propose that it should include, as a minimum, banks, building societies and utility companies. Feedback from landlords has suggested that they hold data that would be important in detecting fraud.⁵

⁵ Data sharing can be mutually beneficial. Defra will shortly be consulting on measures to tackle bad debt in the water industry. Proposed measures include encouraging holders of data on occupancy to share data with water companies to enable them to effectively pursue

71. It is important to note that local authorities already have the power to oblige data-holders to supply data for other matters. Therefore, pursuing this option would not so much be granting a new power as extending the application of an existing one.

Do you agree that a mandatory gateway should be introduced?

Do you agree that a mandatory gateway should cover banks, building societies and utility companies? Should other data holders be included?

- **Review the 'intention to return'**

72. In order to prevent cases whereby a tenant can live away from the property for a substantial period of time and still maintain their tenancy, we would look to clarify when an 'intention to return' can prevent a landlord from gaining possession of a home not being occupied by the tenant.

73. There will clearly be times when a tenant has a very good reason for not living in the property, e.g. a stay in hospital, and any new rules would seek to differentiate between voluntary and unavoidable or necessary absences.

What would constitute a reasonable period of time for a tenant to be absent before a landlord could legitimately seek possession and what would constitute valid reasons for a tenant's non-occupancy?

- **Level the playing field for secure and assured tenancies**

74. When a secure or introductory tenant sublets the whole of their property, they necessarily lose their secure or introductory status and cannot regain it even if the sub-tenancy is subsequently ended. However, an assured tenancy is lost only for as long as the assured tenant is no longer occupying the property as their only or principal home.

75. We propose that assured tenancies be brought into line with secure tenancies, meaning that status cannot be regained once the whole of the property has been sublet.

Do you agree that assured tenancy status should not be able to be regained once the whole of the property has been sublet?

Possible use of new powers

debtors. The consultation can be found in due course at:
<http://www.defra.gov.uk/consult/open>.

76. We are keen to hear how landlords would use any new powers they were given, especially regarding the frequency with which they would demand data using a mandatory gateway and the number of times they would choose to use a criminal rather than a civil prosecution. We would also like to hear from holders of data about the costs of processing requests for data.

As a social landlord, which factors would you consider when deciding whether to pursue a case using the criminal rather than civil route, e.g. strength of evidence, length of time the home had been unlawfully occupied, amount of money involved, history of the tenant, etc.? How often do you think you would pursue cases using the criminal rather than civil route?

As a social landlord, how would the creation of a new criminal offence influence the likelihood of you taking cases of tenancy fraud to court rather than simply accepting a tenant's voluntary termination of their tenancy?

As a local authority, how many requests for data for matters related to tenancy fraud would you envisage submitting per year, and to what type of organisation would you expect the majority of your requests to be submitted?

As a data-holder, what do you believe would be the unit cost of processing a data request?

Questions

- Q1. Do you agree that a new criminal offence should be created?
- Q2. What would you consider to be a suitable maximum penalty for a Crown court conviction for tenancy fraud?
- Q3. Do you agree with our core proposal to give a broad definition to 'tenancy fraud'? Which forms should be included?
- Q4. Do you agree that restitutionary payments should be introduced and, if so, should they be available in both the civil and the criminal court?
- Q5. Should local authorities have the power to prosecute for tenancy fraud?
- Q6. Do you agree that a mandatory gateway should be introduced?
- Q7. Do you agree that a mandatory gateway should cover banks, building societies and utility companies? Should other data holders be included?
- Q8. How should the 'intention to return' be amended? What would be an appropriate period of time for which a tenant could be absent? What would constitute a necessary absence and what would constitute a voluntary absence?
- Q9. Should assured tenancies be brought into line with secure tenancies, meaning that status cannot be regained once the whole of the property has been sublet?
- Q10. As a social landlord, which factors would you consider when deciding whether to pursue a case using the criminal rather than civil route, e.g. strength of evidence, length of time the home had been unlawfully occupied, amount of money involved, history of the tenant, etc.? How often do you think you would pursue cases using the criminal rather than civil route?
- Q11. As a social landlord, how would the creation of a new criminal offence influence the likelihood of you taking cases of tenancy fraud to court rather than simply accepting a tenant's voluntary termination of their tenancy?
- Q12. As a local authority, how many requests for data for matters related to tenancy fraud would you envisage submitting per year, and to what type of organisation would you expect the majority of your requests to be submitted?
- Q13. As a data-holder, what do you believe would be the unit cost of processing a data request?

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Agenda Item 5.5

COMMITTEE: Audit Committee	DATE: 20 March 2012	CLASSIFICATION: Unrestricted	REPORT NO.	AGENDA NO. 5.5
REPORT OF: Corporate Director, Resources ORIGINATING OFFICER(S): Peter Hayday, Interim Service Head, Finance, Risk & Accountability Oladapo Shonola, Chief Financial Strategy Officer		TITLE: Treasury Management Investment Activity to 31 January 2012 Ward(s) affected: N/A		

1. Summary

- 1.1 This report is one of a number through the financial year that advises the Committee on the treasury management activity relating to the investment of cash balances: this report covers the ten months to 31 January 2012.
- 1.2 The report details the credit criteria that govern the investments and which form part of the Council's Annual Treasury Management Strategy together with an analysis of the investment portfolio and the projected investment returns.

2. Recommendations

- 2.1 The Committee is asked to note the report.

3. Reasons for Decisions

- 3.1 The Local Government Act 2003 and the Local Authorities (Capital Finance and Accounting) Regulations 2003 require that regular reports be submitted to Council/Committee detailing the council's treasury management activities.
- 3.2 The regular reporting of treasury management activities should assist in ensuring that Members are able to scrutinise officer decisions and monitor progress on implementation of investment strategy as approved by Full Council.

4. Alternative Options

- 4.1 The Council is bound by legislation to have regard to the Treasury Management (TM) Code. The Code requires that the Council or a sub-committee of the Council (Audit Committee) should receive regular monitoring reports on treasury management activities.

- 4.2 If the Council were to deviate from those requirements, there would need to be some good reason for doing so. It is not considered that there is any such reason, having regard to the need to ensure that Members are kept informed about treasury management activities and to ensure that these activities are in line with the investment strategy approved by the Council.

5 Background

- 5.1 The Council's Treasury Management Strategy was approved on 8 March 2011 and subsequently updated at 25 January 2012 Full Council. The strategy sets out the criteria which govern the treasury management activity for prudential borrowing to fund the capital programme and the investment of cash balances over the financial year 2011-12 and covers the following:

- Treasury limits in force which will limit the treasury risk and activities of the Council;
- Prudential and Treasury Indicator;
- The current treasury position;
- Prospects for interest rates;
- The borrowing strategy (including policy on borrowing in advance of need);
- Debt Rescheduling;
- The Investment Strategy;
- Credit Worthiness Policy'
- Policy on use of external service providers; and
- The Minimum Revenue Provision (MRP) Strategy

- 5.2 This report focuses on the investment of cash balances which are governed by the criteria set out as part of the investment strategy. The principles that underpin both the strategy and criteria are:

- the security of capital;
- the liquidity of investments to ensure that the Council has cash available to discharge its liabilities as necessary and that;
- within these priorities, the Council will also aim to achieve the optimum return on its investments commensurate with appropriate levels of security and liquidity; and
- all investments will be in Sterling.

- 5.3 The criteria classify investment products as either "specified" or "non-specified" as defined within the Department of Communities and Local Government's Guidance on Local Government Investments.

Specified Investments:

- 5.4 All specified investments will be sterling denominated, with maturities up to maximum of 1 year, meeting the minimum 'high credit' quality criteria where applicable. The council will continue its policy of lending surplus cash to counterparties that have high credit ratings, defining 'high credit rating' as being F1+ Fitch short-term and AA- long-term credit rating.

Table 1

Institution	Minimum High Credit Criteria	Use	Limit
Debt Management Office (DMO) Deposit Facility	Not applicable	In-house	£100m*
Term deposits – Other Local Authorities	Not applicable	In-house	£10m**
Term deposits – banks and building societies	Short-term F1+, Long-term AA-	In-house	£30m
Institutions with Government guarantee on ALL deposits by high credit rated (sovereign rating) countries.	Sovereign rating	In-house	£30m
UK Government Gilts	Long Term AAA	In-house	£20m
Institutions with UK Government support.	Sovereign rating	In-house	£30m
Institutions that are owned/part owned by the UK Government	Sovereign rating	In-house	£45m
Collective Investment Schemes structured as Open Ended Investment Companies (OEICs)			
Money Market Funds	AAA rated	In-house	£10m

* Although limit has been set at £100m for the DMO, in reality there is no restriction on placement with the UK government.

** The group limit for local authorities has been set at £100m.

Non-Specified Investments:

- 5.5 All investments that do not qualify as specified investment are termed non-specified investments. The credit criteria for non-specified investments are detailed in table 2 over the page.

Table 2

Institution	Minimum High Credit Criteria	Use	Limit
Term deposits – Banks and Building Societies	Sovereign rating AAA Short-term F1+, Long-term AA-	In-house	£25m
Structured Deposits: Fixed term deposits with variable rate and variable maturities	Sovereign rating AAA Short-term rating F1+ Long-term rating AA-	In-house	£25m
UK Government Gilts	Long Term AAA	In-house	£25m

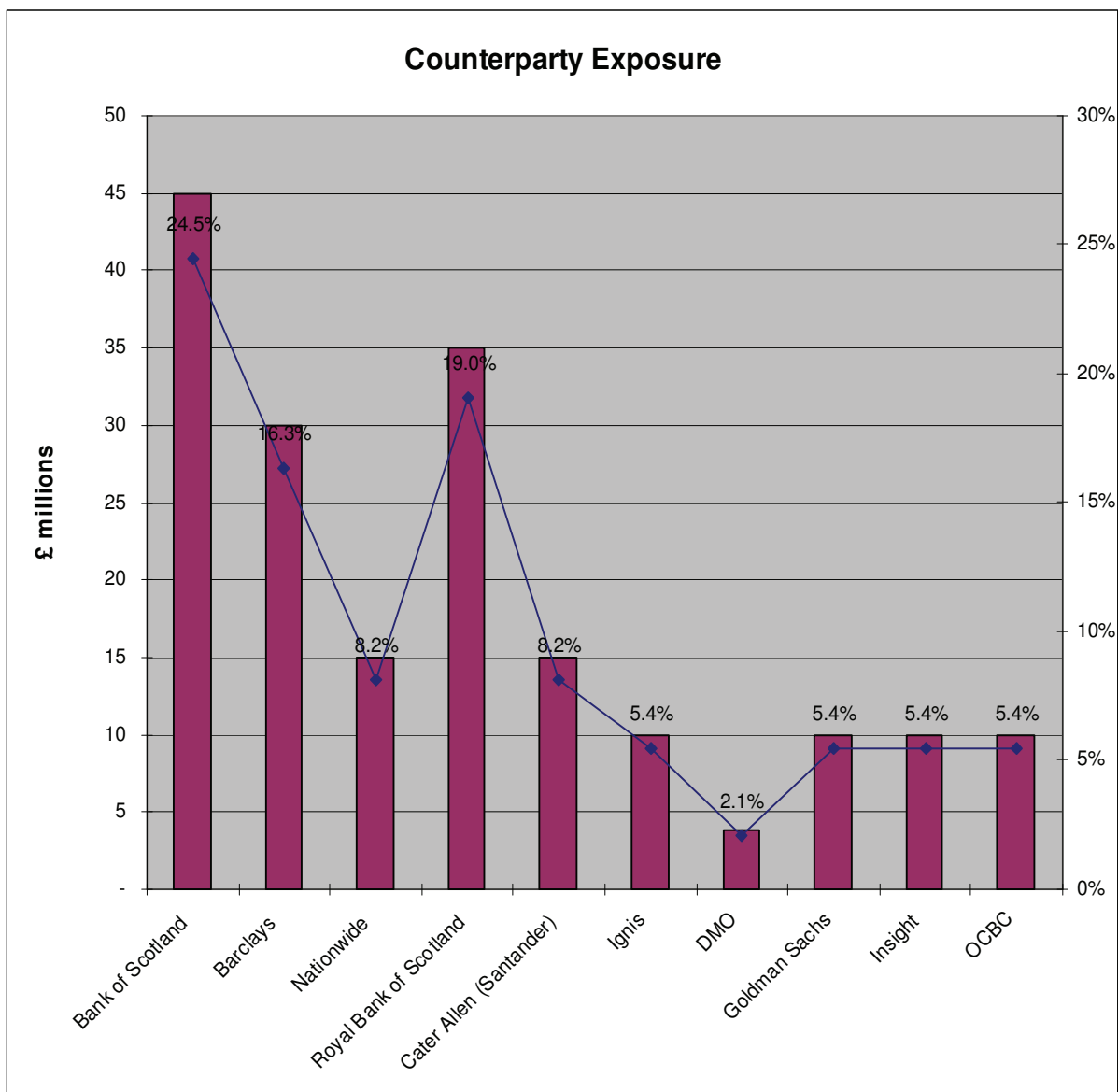
6. Current Investment Performance and Portfolio

- 6.1 The cash management services undertaken by the treasury team and supported by an external advisor, Sector, which has a lead role in ensuring that the counter party list of those financial institutions that meet the Council's investment criteria is updated daily and that total allocation to each counterparty does not exceed the proscribed limits.
- 6.2 In addition to providing cash management services, Sector also supports the on-going development of the wider treasury management policy, including interest rate projections which obviously represent a key factor in determining day-to-day investment decisions. Sector's current interest rate projections are that base rate will remain static at 0.50% for the medium term with no movement in rates likely until the third quarter of 2013.
- 6.3 The Council's bankers, the Co-operative Bank plc, are used as depositors of last resort for investment of any surplus cash received after the treasury transactions have been completed and the money markets have closed each day.
- 6.4 The investment strategy (as set out in Section 5 above) within the constraints of the Council's credit criteria and liquidity requirements is reflected in the current portfolio detailed in the table below.

Investment Portfolio as at 31 January 2012

Projection			Actual Deal			
Term	Amount £M	Rate %	Counterparty	Maturity	Amount £M	Rate %
Overnight	40.000	0.80%	Bank of Scotland	Call	5.000	0.75%
		0.50%	Goldman Sachs	MMF	10.000	0.64%
		0.50%	Ignis	MMF	10.000	0.82%
		0.50%	Insight	MMF	10.000	0.77%
			DMO	Call	3.800	0.25%
			SUB TOTAL		38.800	
3 Months	25.000	0.75%	Barclays	02-Mar-12	5.000	0.90%
			Barclays	05-Mar-12	10.000	1.29%
			OCBC	04-Apr-12	10.000	0.75%
			Bank of Scotland	05-Apr-12	10.000	2.10%
			Royal Bank of Scotland	11-Apr-12	10.000	1.23%
			Cater Allen (Santander)	12-Apr-12	5.000	2.50%
			Bank of Scotland	27-Apr-12	5.000	2.10%
6 Months	20.000	1.20%	Barclays	04-May-12	5.000	1.55%
			Barclays	10-May-12	5.000	1.23%
			Cater Allen (Santander)	14-May-12	5.000	2.50%
			Royal Bank of Scotland	12-Jun-12	10.000	1.31%
			Cater Allen (Santander)	19-Jul-12	5.000	2.50%
			Bank of Scotland	27-Jul-12	5.000	2.65%
			Bank of Scotland	27-Jul-12	5.000	2.65%
9 Months	20.000	1.40%	Barclays	10-Aug-12	5.000	1.50%
			Nationwide	10-Aug-12	10.000	1.44%
			Nationwide	07-Sep-12	5.000	1.55%
			Bank of Scotland	27-Oct-12	5.000	2.00%
12 Months and over	20.000	1.75%	Bank of Scotland	13-Feb-13	5.000	3.10%
			Bank of Scotland	13-Feb-13	5.000	3.10%
			Royal Bank of Scotland	03-Jan-14	10.000	4.00%
			Royal Bank of Scotland	27-Jan-15	5.000	3.35%
			SUB TOTAL		145.000	
	150.000		TOTAL		183.800	

6.5 The Council's exposure to any one counterparty/group is represented by the below chart including exposure as a percentage of total assets invested as at 31 January 2012.



6.6 The Council uses Fitch ratings (or equivalent from other agencies if Fitch does not provide a rating) to derive its counterparty criteria, but will take into consideration ratings from all three main credit ratings providers when compiling its counterparty list. The Council will take an overall view on its counterparties so that an organisation could be removed from the list if the predominant view of the organisation is pessimistic. Where the overall view of the three main ratings agency is pessimistic, the Council is likely to adopt the most pessimistic of the available ratings.

6.7 However, on-going uncertainty in the financial markets allied to further downgrades in the Fitch ratings for erstwhile established financial institutions (following changes in the ratings methodology used by Fitch) have further squeezed an already limited counterparty list and underlined the need for the Council to keep its investment strategy under constant review.

6.8 The credit rating downgrades and associated sovereign and counterparty restrictions has led to more short term deposits within the portfolio than would otherwise have been anticipated. This position has been further exacerbated by some major financial institutions, which meet all of our investment criteria, either not being active in the

treasury market or requiring a level of deposit and duration which is beyond the liquidity position of the Council.

- 6.9 If this position continues for a protracted period then this will have a detrimental affect on the level of investment returns.

7 Investment Returns

7.1 Investment returns since inception of the cash management arrangement with Sector has been consistently above the portfolio benchmark and the London Interbank Bid Rate (LIBID). Performance has been improved during the financial year and currently stands at 1.55%.

7.2 The projected investment return in 2011/12 is £2.9m with average cash balances of some £190m which is broadly in line with the cash flow forecast for the year. The Council has outperformed benchmark of 1.25% for most of the year and returns have been significantly above the 7 day London Interbank Bid Rate (LIBID), which currently stands at 0.50%. Although, the level of balances held in call accounts and overnight is still high at 21% in January 2012.

7.3 The table details performance of investments compared to the 7 day LIBD rate.

Period	LBTH Performance	7Day LIBID	(Under)/Over Performance
Full Year 2010/11	0.99%	0.43%	0.56%
Quarter 1 2011/12	1.15%	0.46%	0.69%
Quarter 2 2011/12	1.28%	0.48%	0.80%
Quarter 3 2011/12	1.38%	0.50%	0.88%
January 2012	1.43%	0.50%	0.93%
Average for 2011/12	1.25%	0.47%	0.77%

8. Comments of the Chief Financial Officer

8.1. The comments of the Corporate Director Resources have been incorporated into the report.

9. Concurrent Report of the Assistant Chief Executive (Legal)

9.1. Treasury management activities cover the management of the Council's investments and cash flows, its banking, money market and capital market transactions, the effective control of risks associated with those activities and the pursuit of optimum performance consistent with those risks. The Local Government Act 2003 provides a framework for the capital finance of local authorities. It provides a power to borrow and imposes a duty on local authorities to determine an affordable borrowing limit. It provides a power to invest. Fundamental to the operation of the scheme is an understanding that authorities will have regard to proper accounting practices recommended by the Chartered Institute of Public Finance and Accountancy (CIPFA) in carrying out capital finance functions.

- 9.2. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 require the Council to have regard to the CIPFA publication "Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes" ("the Treasury Management Code") in carrying out capital finance functions under the Local Government Act 2003. If after having regard to the Treasury Management Code the Council wished not to follow it, there would need to be some good reason for such deviation.
- 9.3. The Treasury Management Code requires as a minimum that there be a practice of regular reporting on treasury management activities and risks to the responsible committee and that these should be scrutinised by that committee. Under the Council's Constitution, the audit committee has the functions of monitoring the Council's risk management arrangements and making arrangements for the proper administration of the Council's affairs.

10. One Tower Hamlets Considerations

- 10.1 Interest on the Council's cash flow has historically contributed significantly towards the budget resources.

11. Sustainable Action for Greener Environment

- 11.1 There are no Sustainable Actions for A Greener Environment implications.

12. Risk Management Implications

- 12.1 Any form of investment inevitably involves a degree of risk. To minimise risk the investment strategy has restricted exposure of council cash balances to UK backed banks or institutions with the highest short term rating or strong long term rating.

13 Crime and Disorder Reduction Implications

- 13.1 There are no crime and disorder reduction implications arising from this report.

14 Efficiency Statement

- 14.1 Monitoring and reporting of treasury management activities ensures the Council optimises the use of its monetary resources within the constraints placed on the Council by statute, appropriate management of risk and operational requirements.

LOCAL GOVERNMENT ACT 1972 (AS AMENDED) SECTION 100D

LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background papers"

January 2012 Investment Portfolio Analysis Report

***Name and telephone number of holder
And address where open to inspection***

*Oladapo Shonola Ext. 4733
Mulberry Place, 4th Floor.*

Appendix 1: Definition of Credit Ratings

Support Ratings

Rating	
1	A bank for which there is an extremely high probability of external support. The potential provider of support is very highly rated in its own right and has a very high propensity to support the bank in question. This probability of support indicates a minimum Long-term rating floor of 'A-'.
2	A bank for which there is a high probability of external support. The potential provider of support is highly rated in its own right and has a high propensity to provide support to the bank in question. This probability of support indicates a minimum Long-term rating floor of 'BBB-'.
3	A bank for which there is a moderate probability of support because of uncertainties about the ability or propensity of the potential provider of support to do so. This probability of support indicates a minimum Long-term rating floor of 'BB-'.
4	A bank for which there is a limited probability of support because of significant uncertainties about the ability or propensity of any possible provider of support to do so. This probability of support indicates a minimum Long-term rating floor of 'B'.
5	A bank for which external support, although possible, cannot be relied upon. This may be due to a lack of propensity to provide support or to very weak financial ability to do so. This probability of support indicates a Long-term rating floor no higher than 'B-' and in many cases no floor at all.

Short-term Ratings

Rating	
F1	Highest short-term credit quality. Indicates the strongest capacity for timely payment of financial commitments; may have an added "+" to denote any exceptionally strong credit feature.
F2	Good short-term credit quality. A satisfactory capacity for timely payment of financial commitments, but the margin of safety is not as great as in the case of the higher ratings.
F3	Fair short-term credit quality. The capacity for timely payment of financial commitments is adequate; however, near-term adverse changes could result in a reduction to non-investment grade.

Long-term Rating Scales

Rating	Current Definition (August 2003)
AAA	Highest credit quality. 'AAA' ratings denote the lowest expectation of credit risk. They are assigned only in case of exceptionally strong capacity for timely payment of financial commitments. This capacity is highly unlikely to be adversely affected by foreseeable events.
AA	Very high credit quality. 'AA' ratings denote a very low expectation of credit risk. They indicate very strong capacity for timely payment of financial commitments. This capacity is not significantly vulnerable to foreseeable events.
A	High credit quality. 'A' ratings denote a low expectation of credit risk. The capacity for timely payment of financial commitments is considered strong. This capacity may, nevertheless, be more vulnerable to changes in circumstances or in economic conditions than is the case for higher ratings.
BBB	Good credit quality. 'BBB' ratings indicate that there is currently a low expectation of credit risk. The capacity for timely payment of financial commitments is considered adequate, but adverse changes in circumstances and in economic conditions are more likely to impair this capacity. This is the lowest investment-grade category

Individual Ratings

Rating	
A	A very strong bank. Characteristics may include outstanding profitability and balance sheet integrity, franchise, management, operating environment or prospects.
B	A strong bank. There are no major concerns regarding the bank. Characteristics may include strong profitability and balance sheet integrity, franchise, management, operating environment or prospects
C	An adequate bank, which, however, possesses one or more troublesome aspects. There may be some concerns regarding its profitability and balance sheet integrity, franchise, management, operating environment or prospects.
D	A bank, which has weaknesses of internal and/or external origin. There are concerns regarding its profitability, substance and resilience, balance sheet integrity, franchise, management, operating environment or prospects. Banks in emerging markets are necessarily faced with a greater number of potential deficiencies of external origin.
E	A bank with very serious problems, which either requires or is likely to require external support.