



Meeting of the

STANDARDS (ADVISORY) COMMITTEE

**Wednesday, 17 October 2012 at 7.30 p.m.
Or at the rise of the training session whichever is the later**

AGENDA

VENUE

**ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, LONDON
E14 2BG**

Members:	Deputies (if any):
Chair: Mr Matthew William Rowe Vice-Chair: Mr Eric Pemberton	
Ms. Salina Bagum Mr Denzil Johnson Mr Barry Lowe Ms Sue Rossiter	
Councillor Zara Davis Councillor David Edgar Councillor Carli Harper-Penman Councillor Sirajul Islam Councillor Rania Khan Councillor Rachael Saunders Councillor Fozol Miah 1 Vacancy	Councillor Anwar Khan, (Designated Deputy representing Councillor Carli Harper-Penman, Rachael Saunders, Sirajul Islam and David Edgar) Councillor Joshua Peck, (Designated Deputy representing Councillor Carli Harper-Penman, Rachael Saunders, Sirajul Islam and David Edgar) Councillor David Snowdon, (Designated Deputy representing Councillor Zara
Observer:	

**Mr Patrick (Barry) O'Connor
(interim Independent Person)**

Davis)
Councillor Gloria Thienel, (Designated
Deputy representing Councillor Zara
Davis)
Councillor Amy Whitelock, (Designated
Deputy representing Councillor Carli
Harper-Penman, Rachael Saunders,
Sirajul Islam and David Edgar)
Councillor Harun Miah, (Designated
Deputy representing Councillor Fozol
Miah)

[Note: The quorum for this body is 3 of the total membership and this must include at least one Councillor and one Co-opted member.]

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: Angus Taylor: Democratic Services, 020 7364 4333
angus.taylor@towerhamlets.gov.uk

LONDON BOROUGH OF TOWER HAMLETS

STANDARDS (ADVISORY) COMMITTEE

Wednesday, 17 October 2012

7.30 p.m.

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

	PAGE NUMBER	WARD(S) AFFECTED
2. DECLARATIONS OF INTEREST	1 - 4	

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 Monitoring Officer.

3. MINUTES

5 - 10

To confirm as a correct record of the proceedings the minutes of the ordinary meeting of the Standards Advisory Committee held on 17th July 2012.

4. REPORTS FOR CONSIDERATION

4 .1	Anti - Fraud Update 2012	11 - 92
4 .2	Enforcement	93 - 196
4 .3	Complaints and Information Annual Report	197 - 250
4 .4	Covert investigation under the Regulation of Investigatory Powers Act 2000	251 - 258
4 .5	Code of Conduct for Members - Complaints Monitoring Report	259 - 262

5. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

To consider any other business that the Chair considers to be urgent.

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Agenda Item 2

DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

Interests and Disclosable Pecuniary Interests (DPIs)

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

Effect of a Disclosable Pecuniary Interest on participation at meetings

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

Further advice

For further advice please contact:-

Isabella Freeman, Assistant Chief Executive (Legal Services), 020 7364 4801; or
John Williams, Service Head, Democratic Services, 020 7364 4204

APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

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LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE STANDARDS (ADVISORY) COMMITTEE

HELD AT 7.30 P.M. ON TUESDAY, 17 JULY 2012

**COMMITTEE ROOM 1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5
CLOVE CRESCENT, LONDON, E14 2BG**

Members Present:

Mr Patrick (Barry) O'Connor
(Independent Member)
Mr Matthew William Rowe (Independent
Member)
Ms. Salina Bagum (Independent
Member)
Mr Denzil Johnson (Independent
Member)
Mr Barry Lowe (Independent Member)
Mr Eric Pemberton (Independent
Member)
Ms Sue Rossiter (Independent Member)

Councillor Zara Davis
Councillor David Edgar
Councillor Carli Harper-Penman
Councillor Sirajul Islam
Councillor Rachael Saunders

Other Councillors Present:

Officers Present:

Isabella Freeman – (Assistant Chief Executive - Legal Services, Chief
Executive's)
John Williams – (Service Head, Democratic Services, Chief
Executive's)
Simone Scott-Sawyer – (Democratic Services)

1. ELECTION OF CHAIR

Mr John Williams, Service Head, Democratic Services invited nominations for
an Independent Member to serve as Chair.

Mr Eric Pemberton **MOVED** and Mr Denzil Johnson **SECONDED** that Mr Matthew William Rowe be elected as Chair of the Standards Advisory Committee for the municipal year 2012 – 13.

No further nominations were received and it was therefore

RESOLVED

That Mr Matthew Rowe be elected Chair of the Standards Advisory Committee for the municipal year 2012 - 13.

2. ELECTION OF VICE-CHAIR

MR MATTHEW WILLIAM ROWE IN THE CHAIR.

The Chair invited nominations for an Independent Member to serve as Vice-Chair of the Committee for the municipal year 2012 – 13.

Mr Denzil Johnson **MOVED** and Mr Barry Lowe **SECONDED** that Mr Eric Pemberton be elected as Vice-Chair of the Standards Advisory Committee for the municipal year 2012 – 13.

No further nominations were received and it was therefore

RESOLVED

That Mr Eric Pemberton be elected Vice-Chair of the Standards Advisory Committee for the municipal year 2012 - 13.

3. APOLOGIES FOR ABSENCE

There were no apologies for absence.

4. DECLARATIONS OF INTEREST

There were no declarations of interest.

5. MINUTES

That the minutes of the meeting held on 12th June 2012 be approved as a correct record of proceedings.

6. REPORTS FOR CONSIDERATION

6.1 Standards Advisory Committee - Membership, Terms of Reference and Programme of Meetings 2012 -13

Mr John Williams, Service Head, Democratic Services introduced the report and highlighted the following points:

- There were seven Members of Council and up to seven co-opted Members [six previous Independent Members from the Standards Committee] could be selected;
- Members were asked to note the new dates for the forthcoming municipal year and to be aware that they could be asked to sit on the sub-committees from time to time;
- The Standards Advisory Committee Members were asked to agree to the establishment of three Sub-committees – the Dispensations, Investigations & Disciplinary and Hearings Sub-Committees. The Investigations & Disciplinary and Hearings Sub-Committees will be ad hoc, to be convened as and when required. It will comprise selected members from the SAC;
- Members were also asked to consider nominations for the Dispensation Sub-Committee to deal with matters relating to disclosable pecuniary interests. Ms Isabella Freeman, Assistant Chief Executive, Legal Services advised that it would be helpful if three SAC members were nominated to sit on this Sub-Committee, at least two of whom shall be co-opted members in accordance with the arrangements agreed by the Council. Ms Freeman invited nominations for the positions and the following co-opted members were selected:

1. Denzil Johnson
2. Sue Rossiter.

One Member of Council would be selected as and when, subject to availability and political party requirements.

It was also noted that the report erroneously stated co-optees were non-voting. Mr John Williams clarified that this was not the case, as co-optees did in fact have voting rights.

RESOLVED:

That subject to the aforementioned points, the report be noted.

6.2 New Standards Regime

Mr John Williams, Service Head, Democratic Services introduced the report. He reminded Members that older versions of this report had been submitted to the previous Standards Committee and this report attempted to pull the different strands together, incorporating the amendments that had been suggested by Members.

Mr Williams highlighted one small change to the Terms of Reference, Appendix B – the insertion of the words “... and other faiths ...” where there was reference to church representatives of the Overview and Scrutiny Committee.

Members were advised that they would be required to attend training and briefing sessions for the new Standards Advisory Committee, which will be arranged over the coming weeks.

RESOLVED:

That the report be noted.

6.3 Standards Advisory Committee - Work Programme

Ms Isabella Freeman, Assistant Chief Executive, Legal Services referred Members to the late report which was included in the supplementary pack.

RESOLVED:

That the report be noted.

6.4 Recruitment of Independent Person

Mr John Williams, Service Head, Democratic Services referred Members to the late report which was included in the supplementary pack and highlighted the following points:

- The new role of Independent Person [IP] was established under the Localism Act which and was a key part of the new Standards arrangements. The IP must be consulted before the Authority can make a finding as to whether or not a Member had failed to comply with the Code of Conduct or decides to take action in respect of that Member;
- As per Government guidance allowing for special transitional arrangements, Barry O'Connor, an Independent Member was offered and accepted the role of interim IP. This position will continue until 1st July 2013 at the latest, or until the new permanent person takes over, if sooner. It was further noted that when this interim IP role expired, Barry O'Connor was at liberty to return to the SAC should he wish to do so, and the vacancy would be kept open on that basis ;
- Remuneration – there was no provision for this under the Members' Allowance scheme, and it was therefore proposed that the IP be paid at the same rate as co-opted members of the committee;
- Recruitment – an outline of the recruitment timetable was noted as follows:

September 2012 - recruitment process commences;
October [mid] – closing date. A long list would then be compiled by the Monitoring Officer, Chair of the SAC and current interim IP;
23rd January 2013 – appointment of an IP to be ratified by full Council.

- A reserve IP would also be appointed in case the IP's role was conflicted or he/she was indisposed.

After discussing the merits of whether or not to have a cap on the IP's remuneration, it was agreed that remuneration would be on a "per matter" basis. It was noted that the role would involve a fair amount of work, therefore Members thought it prudent to have a cap which could be reviewed making it possible to increase, decrease or remove it at a later stage.

Ms Isabella Freeman, Assistant Chief Executive, Legal Services also reminded Members that the probationary period and term of contract would need to be determined by Members and confirmed by full Council. A report dealing with these issues would be submitted to the SAC.

RESOLVED:

That subject to the aforementioned points, the report be noted.

6.5 Members' Attendance and Time-sheets

Mr John Williams, Service Head, Democratic Services introduced the report.

Members highlighted their concerns as follows:

- In light of the preparation time that went into convening quasi-judicial committees such as the Planning and Licensing Committees, it was regrettable that Member attendance was so low and some Members requested the reasons for this. Where attendance at, or the take-up for membership on certain committees was exceptionally low, and this placed undue pressure on other Members who attended an inordinate number of meetings to meet the shortfall as a result, this should be urgently reviewed. There was also a small invisible group of Members who failed to partake in training sessions which ought to be investigated;
- Attendance data could be made available to residents and also to the party leaders and chief whips to ensure transparency and compliance;
- Political party leaders had been approached in the past to make improvements to the system as regards Members being able to submit this information with ease, but regrettably to no avail;
- More weight should be attached to what Members did on a day-to-day basis, for e.g. attendance at surgeries and meetings, casework undertaken etc, as this should give a more accurate picture of their activities. Members of the public had the right to know that Members were accessible and accountable and it may be useful to have a fuller discussion about this possibly at the next meeting;
- The current system of recording Members' attendance and timesheets had been in use for about 10 years and was in need of a review. Some Members also suggested the following possible courses of action to increase visibility of information and thereby ensure greater transparency and accountability of Members:

1. An electronic system allowing Members 'sign' online when they attended meetings;
2. Information should be publicised more and details given about committees with a significant number of vacancies. Information about Members who failed to train or attend meetings regularly should also be placed in the public domain;
3. Copies of this report should be made available to Chairs, Chief Whips and the party leadership.

In response to queries by some Members, Mr Williams agreed to submit a report incorporating Members' concerns. Furthermore, the following points were noted:

- He endeavoured to find out when Members would be able to submit their timesheets online;
- The manner in which the information was presented in the report could be better laid out, so it was more apparent which Members consistently failed to attend meetings or training sessions.

RESOLVED:

That subject to the aforementioned points, the report be noted.

7. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

The meeting ended at 9.00 p.m.

Chair, Matthew William Rowe
Standards (Advisory) Committee

Agenda Item 4.1

Committee	DATE	CLASSIFICATION	REPORT NO.	AGENDA NO.
Standards Advisory	17TH October 2012	Unrestricted		
REPORT OF: Corporate Director, Resources ORIGINATING OFFICER(S): <i>Tony Qayum, Anti -Fraud Manager</i>	<i>Anti- Fraud Update 2012</i> <i>Ward(s) Affected: N/A</i>			

1. PURPOSE

- 1.1 The purpose of this report is to bring ethical matters raised by the work of the Corporate Anti- Fraud team to the attention of Standards Advisory Committee. The report also includes activities of the team that have been recently reported to the Audit Committee; its purpose being to allow members to contextualize the ethical matters raised in this report.
- 1.2 The attached reports provide a summary of key areas of activity involving the Corporate Anti- Fraud team and picks up ethical matters in the areas of People, Contract and Procurement and Training and Development in order to enhance ethical standards and awareness.

2. SUMMARY

- 2.1 The report is broken down into three Appendices covering the following areas –
 - Appendix 1 -Annual Fraud Report
 - Appendix 2 - Fraud Survey Benchmarking exercise undertaken by the Audit Commission
 - Appendix 3 - National Fraud Initiative
- 2.3 Appendix 1 provides an outline of the achievements of the team over the last financial year and provides some examples of successful outcomes where the Corporate Anti- Fraud team had worked in partnership with other bodies to achieve a successful outcome for the authority.
- 2.4 The report provides a number of actual and notional savings resulting from the activities of the team and these are shown at the end of the report as an appendix.

- 2.5 Appendix 2 summarises the work of the Audit Commission who compared Tower Hamlets performance in tackling a range of fraud with other similar authorities. The work of the Commission focused on six specific types of frauds, highlighted as the most common from an earlier survey of all local authorities in England, these being; housing and council tax benefit fraud; single person discount fraud; housing tenancy fraud; social service fraud (personalised budgets); procurement fraud; and Blue Badge fraud.
- 2.6 The report provides a context in both the national and local picture and comments on how well the Council has done against the key areas of risk identified in above. It also highlights areas where the identified number of fraudulent cases are low or where there is a potential case to prioritise more coverage to ensure the appropriate risk is managed.
- 2.7 It should be noted that the focus of this benchmarking is about cases of actual or potential fraud and by its nature the report does not consider the Councils operational systems of risk management and control.
- 2.8 The report asks whether the Council is doing enough to manage its risks and offers a checklist for those charged with governance to evaluate the Councils proportionate response.
- 2.9 The overall message from this report is that on the whole, Tower Hamlets is broadly on par with other inner London Boroughs and others in its peer group in tackling fraud. In 2010/11, the Tower Hamlets detected fraud estimated at approximately £8.7M. Within this, the traditional areas of known fraud such as housing and council tax benefit fraud are particularly well targeted. The more recent initiatives such as tenancy fraud makes up a substantial proportion of the fraud detected ((£7.8M). The report recommends a number of areas where the risk profiling will be required to better understand fraud risks and how they may be managed better particularly around social services fraud, procurement fraud and single person discount fraud. The other general message that is coming out from the Audit Commission, the National Fraud Authority and others such as the “big 4” is fraud is on the increase and organisations need to be alert to this rising trend.
- 2.10 With this latter point in mind, and to ensure the risk of fraud risk is better managed, in March 2011, all Service Heads responsible for managing the types of frauds identified in this Audit Commission report were contacted and provided with details of how fraudsters can exploit their systems and case studies of what other authorities have done to manage fraud risks in their area better. It is envisaged Service Heads will have used this information to safeguard the interests of the Council, particularly in this climate of financial restraint. The Corporate Fraud team will continue to alert Corporate Directors of significant frauds in line with normal protocols. This will alert Corporate Directors to fraud risks that have been exposed by fraudsters.

2.11 Appendix 3 outlines the requirements of the National Fraud Initiative which is a data matching service provided by the Audit Commission under their statutory powers created by the Audit Commission Act 1998. The paper provides the key requirements for consultation and deadlines for data submission in order for the matches to be processed and returned for investigation.

3. PEOPLE, CONTRACT AND PROCUREMENT AND TRAINING AND DEVELOPMENT

3.1 When investigating an allegation of sub-letting by a tenant who was also a member of staff (Principal Office Grade) enquiries turned up a number of discrepancies. The officer had made false statements relating to qualifications in his job application. He had given a family member as a referee without disclosing the relationship. He had made a false statement on a Voter Registration Form. Firm evidence of sub-letting for profit was obtained. The sub-let property has been recovered and the officer resigned with disciplinary proceedings pending. On advice from Legal Services a finding of Gross Misconduct was reached at a hearing following his departure.

3.2 Following a referral from the DWP the team undertook an investigation into the circumstances of a client who had been accepted for residential care and for whom his son had Power of Attorney. The initial financial assessment identified no material Capital on which to assess client contributions for the cost of the clients stay. Following a significant exercise between the Council and the DWP and the Council was able to establish that the son and the client had under declared substantial funds and consequently the authority was due a total of £116,000 in unpaid Client Contributions, Housing Benefit and DWP liabilities. The son was imprisoned for 13 Months and the Court ordered above sum to be restored back to the public purse.

3.3 In each of these cases it identifies opportunism on behalf of individuals but equally there is scope for the authority to review its existing procedures in order to evaluate whether there are areas to improve risk management further.

3.4 In another review undertaken by the team we have assessed the adequacy of existing arrangements for the management of Direct Payments to clients. This is seen as a growing area for potential fraud and Local Authorities need to be very mindful of the potential of clients funds being abused.

3.5 We have also undertaken a number of training and development exercises established to improve awareness of fraud risks and to improve the standards of evidence required before access to services can be provided. In this regard we have reviewed procedures with our partner organisation Tower Hamlets Homes and made recommendations for improved governance in regard to prime record

retention and documentary evidence on application forms for the Lettings Service.

4. RECOMMENDATION

The Standards Advisory Committee is : -

- asked to note the contents of this report and to take account of the matters raised by the Audit Commission in their report; and
- make suggestions and recommendations as it considers necessary to assist in the management of fraud risks.

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

These are contained within the body of this report.

6. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

There are no immediate legal implications arising from this report.

7. ONE TOWER HAMLETS

There are no specific one Tower Hamlets considerations.

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

8. RISK MANAGEMENT IMPLICATIONS

This report highlights the potential areas of fraud risks that any local authority is likely to be exposed to. A considered assessment of the nature and impact of the fraud risks will allow the authority to make better use of its resources.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT (SAGE)

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

Tony Qayum, 0207 364 4773

Appendix 1

1 Background

- 1.1 This report provides the Standards Advisory Committee with a summary of work on sensitive and reactive enquiries undertaken during 2011/12. It includes an overview of the results of the investigations carried out by Housing Benefits Investigations, the Parking Service, and the Social Housing Fraud Investigation service.
- 1.2 The following chart shows the resources expressed as full time equivalent (FTE) posts of the key services included within this report.

Service	FTE	Role
Risk Management	2	<ul style="list-style-type: none">• Corporate Fraud Manager• Senior Fraud Officer
	3	<ul style="list-style-type: none">• Tenancy Fraud Officers• Temp Tenancy Fraud Officer 2 Months
Housing Benefits Fraud Team	2	<ul style="list-style-type: none">• Team Leaders
	8	<ul style="list-style-type: none">• Investigation Officers
	1	<ul style="list-style-type: none">• Intelligence Officer
	1	<ul style="list-style-type: none">• Admin Support
Parking Services	1.5	<ul style="list-style-type: none">• Parking Fraud Investigation Officers

- 1.3 An analysis of the notional savings achieved covering the work of the anti fraud and reactive work carried out by the team is attached as Appendix A.

2. Key matters arising from the Service Outturn for 2011-12

- 2.1 There have been five substantial inquiries which have involved close working between the relevant Directorates, the Corporate Anti- Fraud Service, the Police and Legal Services.
- 2.2 The resultant investigations covered an extensive range of systems and processes and required substantial staff resources to finalise all of the issues relating to criminality.

- 2.3 The Corporate Anti – Fraud service has also provided support to Directorates upon request. This included an ongoing review of the National Fraud Initiative, a review of systems and procedures associated with the management of Direct Payments for Adults, an investigation into the probity of financial transactions at a large Secondary School and a sensitive review of the recruitment processes of posts at a partner organisation.
- 2.4 We have also undertaken a multi -agency review of arrangements for the provision of Residential Care for a client who later, it was established, had not disclosed all of his financial assets at the point of assessment for assistance or to the Housing Benefit service or DWP. The outcome of the matter was that the clients son who managed his father’s affairs had under stated the true financial circumstances of his father and following an investigation led by the Corporate Anti-Fraud Manager the Councils Legal Service successfully prosecuted the son and the Council was awarded £116,000 in unpaid Residential charges, HB and DWP liabilities. The son was imprisoned for 13 months.
- 2.5 We have reviewed the adequacy of cheque formats at a school where an attempted fraudulent encashment was suffered and provided guidance to ensure that new cheques meet APACS standards.
- 2.6 We have also undertaken a detailed review of Council Tax refunds to ensure we had not been subject to Money Laundering and supported the Annual Governance Statement by reviewing external assessments of the Council and undertaking detailed reviews of the Complaints system.
- 2.7 We have continued to work closely with the Council’s Legal Service on a number of matters including employment law issues and governance matters including Money Laundering, Data Protection and the Parking Service with regard to Blue Badge irregularity and worked corporately where instances of reputational concern and or fraud have been identified.
- 2.8 We have further developed the small team of Housing Tenancy Fraud Investigators to assist the Council in tackling Sub Letting of Tower Hamlets Homes and Registered Social Landlord properties.
- 2.9 We have organised and run several training sessions with staff on Anti Fraud and Corruption matters as part of our proactive initiatives and more are planned for this financial year, together with training exercises with outside organisations including the Chartered Institute of Housing.
- 2.10 We have also developed close working relationships with the Homeless service which has resulted in the recovery of one unit

which had been obtained falsely and further developed our working with the Right to Buy team resulting in one unit being stopped before sale.

- 2.11 Appendix A attached is a summary of the results and value of anti fraud work carried out in 2011/12 including the outturn of the findings for the NFI.

3 The National Fraud Initiative (NFI)

- 3.1 The National Fraud Initiative (NFI) data matching exercise has continued to be supported, and our efforts continue to maximise the benefits from its output. The Audit Commission manage this under their powers in the Audit Commission Act 1998.

- 3.2 The NFI is managed and co-ordinated by the Audit Service with joint working and protocols with all the key services including Central Benefits Investigations Team, Payroll, Pensions, Rents and Right-to-Buy services to examine, refine and investigate the data matches.

- 3.3 For this exercise there were also formal joint working arrangements in place between the Central Benefits Team and the local fraud team from the Department of Works and Pensions (DWP) to work on cases which affected both Housing and Council Tax benefits along with the DWP benefits.

- 3.4 The work on the NFI is largely finalised with all reports having been examined and refined. Investigations have also been generally completed although there are still some investigations in progress.

- 3.5 The Corporate Anti- Fraud service has undertaken detailed reviews of all subject areas to ensure the final out turn for the exercise is robust and evidenced based.

- 3.6 The following is a summary of the results of the LBTH outcome from the NFI work -

- § £639,259 has been identified as overpayment/loss and is in the process of recovery. This includes the following break down:-
- § HB/CTB £338,750.00
- § Income Support /JSA £94,537.00
- § Pensions £29,697.00
- § Payroll £17,206.00
- § Creditors £111,383.00
- § Council Tax £47,686.00

- 3.7 In addition to the above the Council, through its own governance arrangements, undertook eighteen summary dismissals of

employees, two contract terminations and twelve disciplinary dismissals.

4. Other Audit Activity

4.1 The following work areas have been undertaken, during 20011/12 by the Corporate Anti Fraud Team:-

- ◆ On-going liaison and support to corporate and departmental personnel;
- ◆ Proactive joint working with other Local Authorities, the Police, the DWP and other government Agencies; and
- ◆ Training and Development via the Public Sector Partnership with the Metropolitan Police.
- ◆ Monthly Governance reports have continued to be provided by the Corporate Anti Fraud Manager to the Corporate Director of Resources and Assistant Chief Executive (Legal) identifying on team activity and areas of inquiry requiring corporate input.
- ◆ The Corporate Anti Fraud Manager has continued to meet monthly with the Assistant Chief Executive (Legal) on governance matters.
- ◆ We have developed a Procurement best practice guide as part of the London Counter Fraud Partnership that has been adopted by both CIPFA and the National Fraud Authority and have played a pivotal role in the creation of a new CIPFA Benchmarking product to measure and compare the effectiveness of anti fraud functions across authorities and organisations. This went live in August 2012.

5. Housing Benefits Investigation Service

5.1 The Housing Benefits Investigation Service is responsible for the reactive and proactive management and investigation of Local Government benefit fraud, including:-

- § Benefits Whistle-blowing hotline;
- § Internal Referrals;
- § External Referrals (Agencies and public);
- § Joint working with Department of Work and Pensions (DWP);and
- § Data matching referrals (NFI and Housing Benefit Matching Service output from DWP);

5.2 During 2011/12 the Service has had the following successes and has been evidenced as one of the most successful of London Boroughs with:-

- § 177 sanctions achieved;
- § 50 convictions at court This is a significant achievement when set against the previous year's outcome of 26 convictions;

- § 54 cautions (i.e. proven cases of fraud, whereby the amount was small or where there were mitigating circumstances to avoid prosecution);
- § 28 Parking Offence Cautions
- § 45 Administrative Penalties; and
- § Total Housing and Council Tax overpayments that represent these cases equates to £861,875.50

6. Parking Services

- 6.1 The Parking Service investigations have resulted in twelve parking fraud cases being presented for prosecution.
- 6.2 180 Penalty Notices, 76 Removals, 123 Confiscations of disabled badges and 108 Confiscations of visitor scratch cards.

Fraud briefing

2012

London Borough of Tower Hamlets

The Audit Commission is a public corporation set up in 1983 to protect the public purse.

The Commission appoints auditors to councils, NHS bodies (excluding NHS foundation trusts), local police bodies and other local public services in England, and oversees their work. The auditors we currently appoint are either Audit Commission employees (our in-house Audit Practice) or one of the private audit firms.

We also help public bodies manage the financial challenges they face by providing authoritative, unbiased, evidence-based analysis and advice.

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Introduction

- 1 This briefing is intended to help you to understand how well your Council appears to be tackling fraud.
- 2 All councils in England were asked, in summer 2011, to complete the Audit Commission's survey of detected fraud for 2010/11. Almost 100 per cent of councils completed the survey and told us how well they consider they are doing in the fight against fraud.
- 3 In this briefing we use the results of the survey to compare your reported performance in preventing and detecting fraud with the reported performance of other councils for the 2010/11 financial year. This is the last year for which comparable information is currently available.
- 4 We recognise stand alone figures do not provide definitive answers about your performance. We therefore compare your fraud data with figures from other councils, including fraud risks where you have provided us with no information. Finally, we suggest issues where you may wish to take action.
- 5 In your case, our analysis compares your results with the national picture, other inner London councils and a cluster of neighbouring councils. Included in your cluster are: Greenwich, Hackney, Lewisham, Newham, and Southwark councils.
- 6 The 2011/12 detected fraud results for all councils in England will be published later this year. Although we are unable at this time to compare your 2011/12 performance with your cluster group, we are able to note your level of detected fraud in 2011/12.
- 7 At the end of this briefing we have included a checklist based on the one published in our national report '*Protecting the Public Purse 2011*' (*PPP 2011*). This is intended to help audit committees, and others responsible for governance, to assess the effectiveness of their counter-fraud arrangements.
- 8 In September last year, we presented the 2011 Fraud Briefing to the Audit Committee. Although action points were agreed at that time we recognise that the 2011/12 detected fraud data is unlikely to yet reflect the impact of actions agreed at that meeting. The impact of those actions should be reflected in the 2012/13 detected fraud figures.
- 9 We recommend you use this checklist annually to assess your counter-fraud performance and arrangements.

The national picture

10 Our 2010/11 fraud survey results show councils and related bodies detected around 121,000 cases of fraud valued at £185 million. It should be noted the survey results relate only to detected fraud which normally represents only a small proportion of the total amount of fraud committed against councils.

11 These cases included:

- 59,000 housing benefit and council tax benefit frauds amounting to a loss of £110 million to the public purse. These frauds represented almost three quarters of the total detected fraud by councils;
- 56,000 council tax single person and student discount frauds amounting to £22 million;
- 145 cases of council procurement fraud involving losses of £14.6 million, a 400 per cent increase on 2009/10; and
- 102 cases of proven social care budget fraud worth over £2.2 million.

12 In addition to the above figures, councils recovered almost 1,800 homes in 2010/11 from unlawful tenants with an estimated replacement value of over £266 million.

13 In 2010/11 councils kept better records than in 2009/10. However, some councils did not keep complete records of all types of fraud and did not always classify fraudulent activity as fraud. Most councils were able to provide us with information for more traditional fraud risks, such as housing benefits. But information about some types of fraud, such as tenancy, council tax and recruitment fraud remains less robust.

14 We recommend all councils treat fraud as fraud and keep complete records in the future.

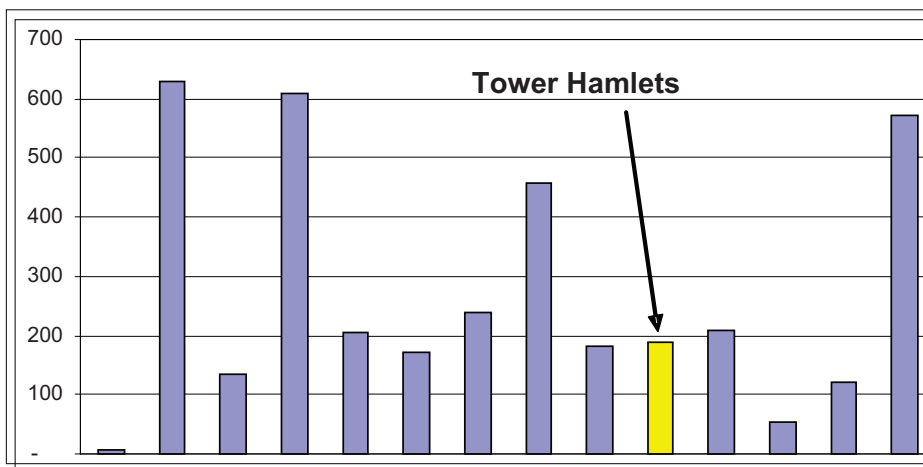
15 All London councils completed the fraud survey.

How does your Council compare?

Housing and council tax benefits (HB/CTB) fraud

16 The number of your reported HB/CTB fraud cases dropped from 832 in 2009/10 to 187 in 2010/11. But the value of your detected fraud increased from £607,392 to £646,250 in the same period.

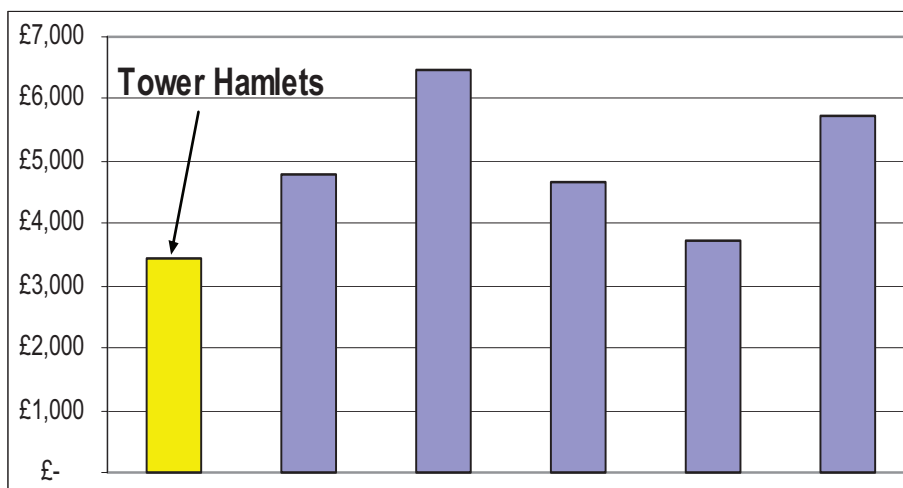
Figure 1: **The number of HB/CTB detected fraud cases compared to other inner London councils in 2010/11**



17 In 2011/12 you reported 177 cases with a value of £861,873. This may indicate you are focusing on higher value cases than previously.

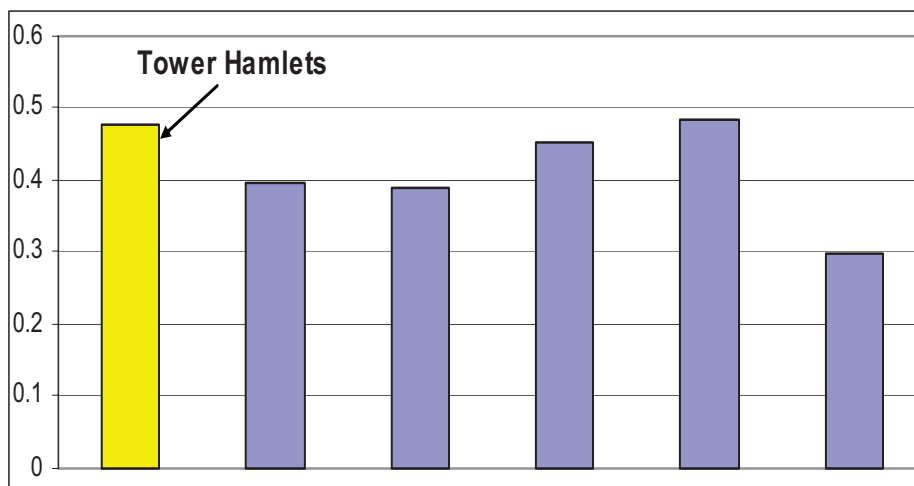
18 However, compared to your neighbours you have the lowest average value per detected HB/CTB case. Nevertheless, it is worth noting that the levels of rent in your borough are lower than other councils and this may be the cause of the lower average per detected case value.

Figure 2: **Average value of HB/CTB detected fraud cases compared to neighbouring councils in 2010/11**



19 This perception of rent levels affecting average detected case values is given greater strength because your HB/CTB detected fraud cases as a percentage of your claimant caseload is the second highest compared to your neighbours. Although this percentage is the same as last year it demonstrates a good level of efficiency in detecting HB/CTB fraud compared to your neighbours.

Figure 3: **Detected HB/CTB fraud cases as a percentage of HB/CTB claimant caseload compared to neighbouring councils in 2010/11**



How you can improve

20 You have maintained your performance in fighting HB/CTB fraud that we noted last year.

21 This is a time of great change within welfare benefits. We suggest you make every effort to ensure your performance is not allowed to slip.

Council tax discount fraud

22 In 2010/11 you reported no cases of council tax discount fraud. This compares with 1,500 detected cases of single person discount (SPD) fraud with a value of £400,000 for 2009/10. In 2009/10 this was the highest number of detected cases for inner London councils and second highest for London as a whole.

23 In 2011/12 you have again reported no cases of council tax fraud. However, in 2011/12 you undertook a comprehensive review of all single person discount awards in partnership with an external data analysis company. For the first time you included benefit claimants within the review. Resulting from the review, you removed 849 discounts (383 admissions / 466 non-responses). You estimate the total saving to the Council of this exercise at about £200k.

24 In your 2011 Fraud Briefing our recommendation was "You should review the cost and benefits achievable by further targeting of SPD fraudsters". You have reviewed your SPD claims and made significant savings. However, given you have reported for two years that you have no SPD fraud cases you are either not labelling fraud as fraud or there is a breakdown in internal reporting and fraud classification.

25 The first step to tackling any fraud is acknowledging the risk. Our calculations show that the national average level of council tax fraud is likely to be about 4 per cent.

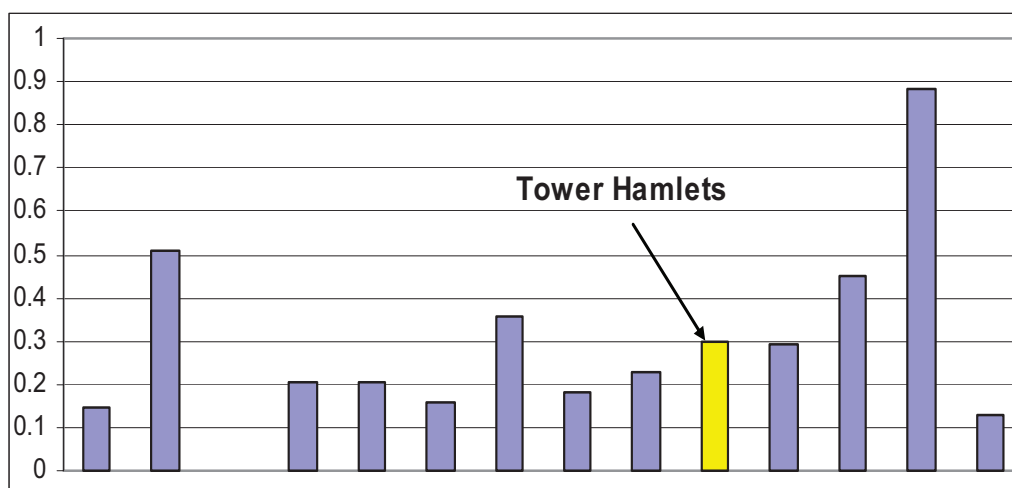
How you can improve

26 You should give serious consideration to reviewing your council tax fraud risk. Assess what counter fraud controls are currently in place and what measures need to be put in place to ensure much needed income is not lost to fraudsters.

Housing tenancy fraud

27 Tower Hamlets, along with 13 other inner London councils, manage their own housing stock. In 2009/10 you reported 12 detected cases of tenancy fraud, with a replacement value of about £1.8 million. In 2010/11 you reported 37 cases of tenancy fraud, with a replacement value of over £5.5 million – over three times as many cases. This is commendable, reflecting the greater national priority to tackle tenancy fraud.

Figure 4: **Detected housing tenancy fraud as a percentage of housing stock - inner London councils 2010/11**



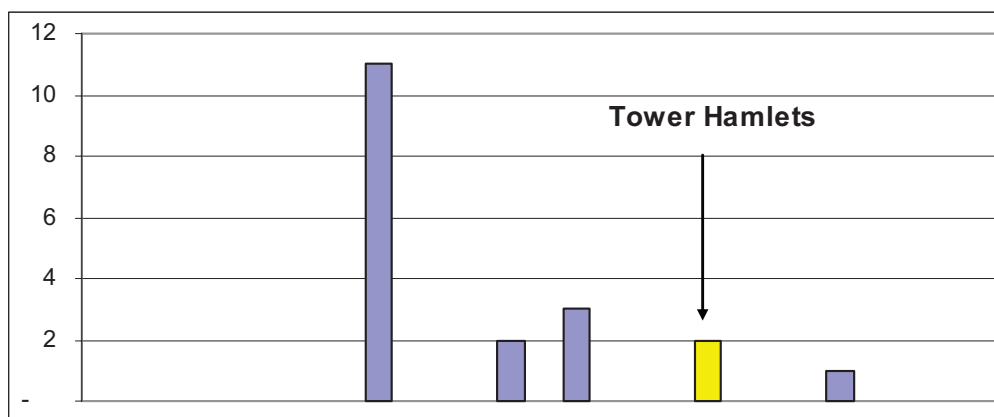
28 In the 2010/11 financial year you recruited three specialist investigators, they became fully operational in September 2010. In 2009/10 you had the fifth lowest level of detected housing tenancy fraud. In 2010/11 you had the fifth highest level of detected housing tenancy fraud amongst inner London councils.

29 For 2011/12 you have reported 40 detected cases. It would have cost £6 million to build an equivalent number of new homes.

30 In 2010/11, and again in 2011/12, you reported that you are joint working with 16 Registered Social Landlords (RSLs).

31 In 2010/11 you were one of only five inner London councils which reported 'Right to Buy' frauds. You reported two detected cases of fraud valued at £32,000. You also said you intended to give greater attention to 'Right to Buy' cases. One of your neighbours reported 11 detected cases valued at £176,000. For 2011/12 you have reported one case valued at £16,000. Changes in the 'Right to Buy' incentive scheme from April 2012 may make 'Right to Buy' discounts more attractive to potential fraudsters.

Figure 5: **Detected 'Right to Buy' fraud cases for inner London councils 2010/11. A neighbouring council to Tower Hamlets reported 11 detected cases with a value of £176,000**



How you can improve

32 The increasing number of properties recovered reflects positively on the greater attention you have given in recent years to tackling tenancy fraud. Continue to support your housing tenancy fraud response.

33 Continue to explore with local RSLs the scope to work together more to tackle tenancy fraud to your mutual benefit.

34 Review 'Right to Buy' fraud prevention and detection arrangements to ensure they are proportionate to the changing fraud risk environment.

Social services fraud

35 In 2010/11 you reported two cases of detected social services fraud valued at £165,000. This compares to your one reported case valued at £1,000 in 2009/10. In 2010/11 you were one of only three inner London councils to report social services fraud and one of only seven for London as a whole. The total value of your social services fraud and your average value for each case was the highest in London.

36 For 2011/12 you have reported two social services fraud cases valued at £101,202. Your average value per social services detected fraud case is £50,601; whereas, your average value per HB/CTB detected fraud case is £4,869. This demonstrated the significant fraud loss risk that can occur when fraudster target social services.

How you can improve

37 You should consider the risk of social service fraud in your area and your response.

Procurement fraud

38 In 2009/10 you reported 15 cases of detected procurement fraud valued at £12,000. In 2010/11 you reported no cases and no cases for 2011/12.

39 In 2009/10 inner London councils reported 31 cases of procurement fraud, but reported only 10 in 2010/11. Nationally reported cases of procurement fraud fell from 165 in 2009/10 to 145 in 2010/11. However, the value of reported procurement fraud rose from £2.7 million to £14.6 million in the same period – an increase of over 400 per cent

40 Of the seven London councils which reported procurement fraud only one provided a value for the cases. It is best practice that all fraud is given a financial value in order to establish the full loss taxpayers suffer.

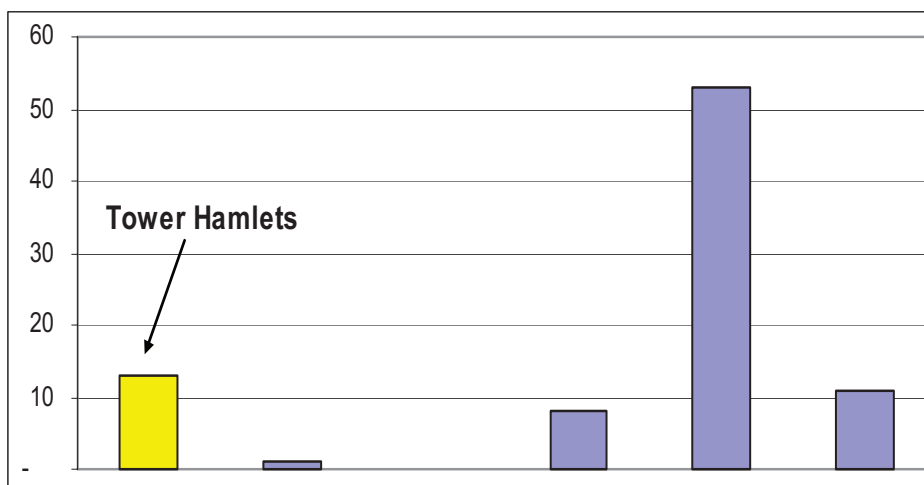
How you can improve

41 You should consider the risk of procurement fraud and, in the light of any counter-fraud work you have undertaken, reflect on whether you need to do more.

Blue badge fraud

42 In 2009/10 you reported 16 cases of detected blue badge fraud, in 2010/11 it was 13 cases, and in 2011/12 you have reported 12 cases. Although the number of your detected blue badge fraud cases is declining, your 2010/11 performance remains better than most of your neighbours.

Figure 6: **Blue badge fraud compared to your neighbours 2010/11**



How you can improve

43 Continue to tackle blue badge fraud in your area and your response.

Internal fraud

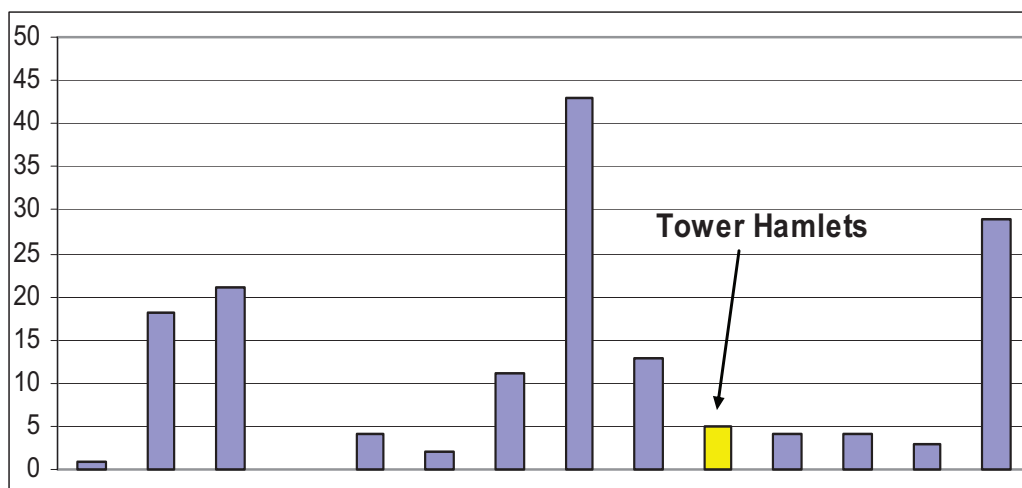
44 In 2010/11 you reported 5 cases of internal fraud, including 1 benefit fraud, 1 tenancy fraud, 2 social services fraud, and 1 payroll and contract fulfilment fraud. The inner London average for detected internal fraud cases was 11.

45 In 2009/10 you reported over 40 cases, including 27 cases of payroll and employee contract fulfilment fraud, eight cases of recruitment fraud, and five cases of abuse of position fraud. In 2011/12 you have reported 2 cases valued at £6,100, both were HB/CTB cases.

46 Although there has been a decline in the number of detected internal fraud cases your 2010/11 figures remain above the national average. In 2010/11 nationally 1.3 per cent of cases and 10.5 per cent of value of detected fraud is committed internally. In 2010/11 2.2 per cent of cases and 21.8 per cent of the value of detected fraud is committed internally at Tower Hamlets - this includes 2 internal social services fraud valued at £165,000.

47 In difficult economic times and employee uncertainty about the future internal fraud risks increase.

Figure 7: Internal fraud cases compared to inner London councils
2010/11



How you can improve

48 You should ensure that you have in place appropriate safeguards to prevent and detect internal fraudsters.

Summary

49 We suggest you take the following action to improve your fight against fraud.

Your fraud risks	Action we recommend	Tower Hamlets response
Housing benefit and council tax benefit - HB/CTB	You have maintained your performance in fighting HB/CTB fraud that we noted last year. This is a time of great change within welfare benefits. We suggest you make every effort to ensure your performance is not allowed to slip.	
Council tax	You should give serious consideration to reviewing your council tax fraud risk. Assess what counter fraud controls are currently in place and what measures need to be put in place to ensure much needed income is not lost to fraudsters.	
Housing tenancy	The increasing number of properties recovered reflects positively on the greater attention you have given in recent years to tackling tenancy fraud. Continue to support your housing tenancy fraud response. Continue to explore with local RSLs the scope to work together more to tackle tenancy fraud to your mutual benefit. Review 'Right to Buy' fraud prevention and detection arrangements to ensure they are proportionate to the changing fraud risk environment.	
Social services	You should consider the risk of social service fraud in your area and your response.	
Procurement	You should consider the risk of procurement fraud. In the light of any counter-fraud work you have undertaken reflect on whether you need to do more.	
Blue badge	You should consider the risk of blue badge fraud in your area and your response.	
Internal fraud	You should ensure that you have in place appropriate safeguards to prevent and detect internal fraudsters.	

Audit Commission Counter Fraud Checklist for you to complete

General	Y/N	Action to be taken
1. Do we have a zero tolerance approach against fraud?		
2. Do we have the right approach, and effective counter-fraud strategies, policies and plans? Have we aligned our strategy with Fighting Fraud Locally?		
3. Do we have dedicated counter-fraud staff?		
4. Do counter-fraud staff review all the work of our organisation?		
5. Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?		
6. Have we assessed our management of counter-fraud work against good practice?		
7. Do we raise awareness of fraud risks? a. With new staff (including agency staff)? b. With existing staff? c. With elected members? d. With our contractors?		
8. Do we work well with national, regional and local networks and partnerships to ensure we know about current fraud risks and issues?		
9. Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?		
10. Do we identify areas where our internal controls may not be performing as well as intended? How quickly do we then take action?		
11. Do we maximise the benefit of our participation in the Audit Commission National Fraud Initiative and receive reports on the matches investigated?		
12. Do we have arrangements in place that encourage our staff to raise their concerns about money laundering?		
13. Do we have effective whistleblowing arrangements?		
14. Do we have effective fidelity insurance arrangements?		

General	Y/N	Action to be taken
Fighting fraud with reduced resources		
15. Have we reassessed our fraud risks since the change in the financial climate?		
16. Have we amended our counter-fraud action plan as a result?		
17. Have we reallocated staff as a result?		
Housing tenancy		
18. Do we take proper action to ensure that we only allocate social housing to those who are eligible?		
19. Do we ensure that social housing is occupied by those to whom it is allocated?		
Procurement		
20. Are we satisfied our procurement controls are working as intended?		
21. Have we reviewed our contract-letting procedures since the investigations by the Office of Fair Trading into cartels and compared them with best practice?		
Recruitment		
22. Are we satisfied our recruitment procedures achieve the following?		
a. Do they prevent us employing people working under false identities?		
b. Do they confirm employment references effectively?		
c. Do they ensure applicants are eligible to work in the UK?		
d. Do they require agencies supplying us with staff to undertake the checks that we require?		
Personal budgets		
23 Where we are expanding the use of personal budgets for adult social care, in particular direct payments, have we introduced proper safeguarding proportionate to risk and in line with recommended good practice?		
24. Have we updated our whistleblowing arrangements, for both staff and citizens, so that they may raise concerns about the financial abuse of personal budgets?		
Council tax		
25. Are we effectively controlling the discounts and allowances we give to council taxpayers?		

General	Y/N	Action to be taken
Housing and council tax benefits		
<p>26. When we tackle housing and council tax benefit fraud do we make full use of the following?</p> <ul style="list-style-type: none"> a. National Fraud Initiative? b. Department for Work and Pensions Housing Benefit matching service? c. Internal data matching? d. Private sector data matching? 		
<i>Audit Commission, 2011</i>		

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September 2012

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APPENDIX 3

1. Background

- 1.1 The NFI compares different sets of data, for example payroll and benefit records, against other records held by the same, or another organisation, bringing to light potentially fraudulent claims and payments. Where a match is found, this means there may be an inconsistency that needs investigation.
- 1.2 The NFI is managed by the Audit Commission and the NFI aims to help prevent and detect fraud and is one of the key ways in which the Audit Commission fulfils its responsibility to promote economy, efficiency and effectiveness in the use of public money.
- 1.3 The Audit Commission processes the NFI data under its statutory powers, which are set out in Part 2A of the Audit Commission Act (1998). These powers put data matching on a statutory footing for local government and NHS bodies, as well as allowing the Audit Commission to extend the NFI to central government and private sector organisations that wish to take part
- 1.4 The London Borough of Tower Hamlets has been participating in the National Fraud Initiative (previously known as the London Fraud Initiative) since 1994.
- 1.5 The Serious Crime Act 2007 (SCA) gave the Audit Commission new powers to enable the benefits of NFI to be extended to central government and the private sector. The Serious Crime Act 2007 inserted a new Part 2A into the Audit Commission Act 1998 (ACA).
- 1.6 The SCA imposed a new regulatory regime alongside existing fair processing and other compliance requirements of the Data Protection Act 1998. Any person or body conducting or participating in the Commission's data matching exercises must by law, have regard to a statutory Code of Data Matching Practice.
- 1.7 The exercises have evolved over time and the Commission has extended its partners to all Local Authorities in England, Wales, Scotland, and Northern Ireland and pension details from the Health, Police, and Fire Services. To date the National Fraud Initiative has successfully detected fraud and overpayments totalling over £939 million since 1996. A copy of the 2010/11 NFI National report is attached as Appendix A.

2. Statutory Framework and Code of Data Matching Practice 2008

- 2.1 The Commission conducts data matching exercises under its statutory powers in the Audit Commission Act 1998, Part 2A.

The Legislation requires the Commission to prepare a code of practice to govern its data matching exercises, and to consult over it before approving and laying it before Parliament. The Code of data matching practice 2008 was finalised, published, and laid before Parliament on 21 July 2008. A copy of the 45 page Code can be found on the Audit Commission website on the following link www.audit-commission.gov.uk/nfi

2.2 The Commission may carry out data matching exercises for the purpose of assisting in the prevention and detection of fraud, as part of an audit or otherwise. The Commission requires certain bodies to provide data for data matching exercises. Currently these are all the bodies to which it appoints auditors or which it inspects other than registered social landlords. Other bodies may participate in its data matching exercises on a voluntary basis where the Commission considers it appropriate. Where they do so, the statute states that there is no breach of confidentiality and generally removes other restrictions in providing the data to the Commission. The requirements of the Data Protection Act 1998 continue to apply.

2.3 The processing of data by the Commission in a data matching exercise is carried out with statutory authority. It does not require the consent of the individuals concerned under the Data Protection Act 1998. However the Data Protection Act 1998 normally requires participants to inform individuals that their data will be processed. Unless an exemption applies, for data processing to be fair, the first data protection principle requires data controllers to inform individuals whose data is to be processed of:

- the identity of the data controller;
- the purpose or purposes for which the data may be processed; and
- any further information that is necessary to enable the processing to be fair.

2.4 The Audit Commission's code of practice requires that the Director of Finance or equivalent senior named officer will act as Senior Responsible Officer for NFI purposes. The Director of Finance, or equivalent senior named officer acting as 'senior responsible officer' for NFI, has key responsibilities to ensure the statutory requirements for bodies participating in NFI are met, as follows:

- nominate a key contact
- ensure the key contact has access to the matches (via the secure NFI software) as soon as they become available.
- ensure that the key contact fulfils all data protection requirements

2.5 Key Contact role - The key contact will be responsible for:

- nomination of appropriate users to upload data submissions
- nominating appropriate dataset contacts
- ensuring that the data formats guidance and data specifications are adhered to

- fulfilling data protection requirements. The key contact should be in direct communication with their organisation's data protection officer or person with equivalent responsibility
- nominating appropriate users that will investigate the matches and act as point of contact for other bodies
- coordinating and monitoring the overall exercise
- Ensuring outcomes from investigations are recorded on the web application promptly and accurately

Participants should submit a declaration confirming compliance with the fair processing notification requirements (Fair processing compliance return).

- 2.6 Data submission - The user responsible for submission of the data should ensure that data:
- meets the specifications
 - is in the correct format
 - is submitted by the specified method (in other words, the data file upload facility (DFU))
 - is received by the required deadline(s)
- 2.7 A secure Data File Upload (DFU) facility is available within the NFI software.. This enables the data to be uploaded quickly and easily.
- 2.8 The code also requires the external auditor to 'provide reasonable assurance' that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error.
- 2.9 Therefore, the code advises, where there is a significant number of over or underpayments identified using a data matching technique may give the auditor reason to believe that there has been a material misstatement of the accounts. This may lead to audit recommendations to improve the systems of internal control.
- 2.10 Data matching in the NFI involves comparing sets of data, such as the payroll or benefits records of a body, against other records held by the same or another body to see how far they match. This allows potentially fraudulent claims and payments to be identified. Where no match is found, the data matching process will have no material impact on those concerned. Where a match is found, it indicates that there is an inconsistency that requires further investigation. In the NFI, participating bodies receive a report of matches that they should follow-up, and investigate where appropriate, to detect instances of fraud, over- or under-payments and other errors, to take remedial action and update their records accordingly.
- 2.11 The purpose of this Code is to help ensure that the Commission and its staff, auditors and all persons and bodies involved in data matching exercises comply with the law, especially the provisions of the Data Protection Act 1998, and to promote good practice in data matching.
- 2.12 Layered notices –

The Information Commissioner recommends a layered approach to fair processing notices. Usually there are three layers: summary notice, condensed text and full text. Taken together, the three layers comprise the fair processing notice. Participants should decide the content and means of issue of fair processing notices for themselves.

3. National Fraud Initiative 2012/13

3.1 In accordance with the Code of Data matching Practice 2008 the Key Contact has been notified to the Audit Commission. The main functions of this role in addition to those specified in Item 4.5 are -

- To ensure that the data has been obtained fairly so that it can be released for the exercise and submit the certificate of fair processing compliance
- Ensure that the data complies with the required formats and submitted to the Commission on time
- Manage the output data on Audit Commissions web site and act as local administrator to the site to manage enrolment and training of investigators
- Co-ordinate the Authority's results and liaise with the Commission
- Provide advice, training and assistance to investigators

3.2 A time table for the forthcoming NFI 2012/13 has the following deadlines:

- 28th September 12 - Submission of Fair processing Compliance return
- 8th October 12- Data extraction date
- 8th October onwards - Data to supplied to the Commission
- 29th January 2013 – Output data expected from the Audit Commission

3.3 As previously advised the NFI is a national data matching exercise of data from Authority's key financial systems to identify potential fraud or error. For the NFI 2012/13 all Local Authorities are required to provide the mandatory data :-

- Payroll
- Pensions
- Trade creditors' payment history and Trade creditors' standing data
- Housing
- Housing benefits² **
- Council tax (not required until 2013)
- Electoral register (not required until 2013)
- Students eligible for a loan³**
- Private supported care home residents
- Transport passes and permits (including residents' parking, blue badges and concessionary travel)
- Insurance claimants
- § Licences - Market trader/operator, Taxi driver and (new) Personal licences to supply alcohol

(NB some data sets ** will be obtained from other sources i.e Benefits Department for Work and Pensions and Students data to be provided by Student Loan Company (SLC).

3.4 Whilst participation in the NFI's is mandatory all participants need to ensure that all information to be released for the NFI is fair processing compliant under the Data Protection Act 1998.

3.5 Tower Hamlets achieves fair processing compliance in two processes :-

- The fair processing statement is included in all key data collecting applications held by the Authority. All applications advise the applicants that the Authority has a duty to protect the public purse, and that as part of the declaration signed by applicants they understand that the Authority has this duty and that it will take steps to recover or redress abuse and share information with other Authorities or agencies for the prevention and detection of crime. This is consistent with the Authority's Anti Fraud and Corruption Strategy.
- In addition data subjects are notified of the Authority's participation in the current NFI's by a range of processes.

3.6 A layered processing of notifications has been used in the past accordance with the code of Data Matching practice 2008 and this is currently in progress at time of writing the report, with the following :-

- First Layer to advise the data subjects that LBTH is taking part in the next National Fraud Initiative and the name of the officer at LBTH who should be contacted should more details be required.
- So far we have achieved compliance with fair processing on Council Tax (annual Council Tax Statement in March 2012) and Pensioners via their annual newsletter in April 2012.
- Employees will be notified (including school governors) in early September after the summer recess.
- Articles are also to be released in the Members bulletins and Managers Briefing before the deadline.
- Tenants notifications will be made via local free publication "East End Life" press release this will also include translated articles for other local newsletters
- Second layer is a summary of what the NFI is about and who to contact at the Authority and provide link of the Audit Commission site for detailed information, this has been achieved by a summary outline of the exercise and who to contact for more information being publicised on the Council's web site on the following link www.towerhamlets.gov.uk/nfi
- Third layer is the detailed information held on the Audit Commission web site. <http://www.audit-commission.gov.uk/nfi/Pages/default.aspx>

- 3.7 This year a new Flexible Matching Service (FMS) has been introduced by the Commission, which is designed to compliment the two year mandatory batch data matching service.
- 3.8 This new service allows participants to submit new data and also allowing a re performance of the existing NFI matches at a time the authority chooses.
- 3.9 There is also the option for a group of authorities or participating organisations to arrange a match to their chosen risk area, in order to target their specific needs.
- 3.10 There are additional fees for this service, which will depend on the volume of data submitted. Where less than 1,000 records are submitted the results are expected to be available within the hour. The cost is £300.00 per dataset.

APPENDIX A

See attached page

Appendix B

Timetable for NFI 2012-13

Activity	Who	How	Timing
Issue the data specifications for each data set	NFI Team (AC)	The data specifications are now permanently available on the NFI web page. An email link will also be sent to all Key Contacts as a reminder.	By Friday, 30 March 2012
Confirm contact details for the 2012/13 exercise	Director of Finance / Key Contact	New participants: The Director of Finance (or Senior responsible Officer) for your organisation should nominate an appropriate Key Contact by email to nfiqueries@audit-commission.gov.uk . Existing participants: Director of Finance (or Senior responsible Officer) will be required to confirm Key Contacts. Key Contacts will be required to confirm users.	From 18 June 2012 onwards
Force a password reset for the 2012/13 web application	NFI Team (AC)	The first time users log on to 2012/13 web application they will be forced to change their password.	From 18 June 2012 onwards
Issue the instructions to bodies participating in NFI 2012/13	NFI Team (AC)	The instructions and final data specifications are now permanently available on the NFI web page. An email link will also be sent to Directors of Finance and 2012/13 Key Contacts as a reminder.	By Friday, 29 June 2012
Check the list of expected data sets	NFI Key Contact	Log in to the 2012/2013 web application and check the list of expected datasets is accurate for your particular organisation (select 'DFU' from the Home page). Submit any changes to the list by Friday 3 August 2012.	By 3 August 2012
Confirm who the web application users will be	NFI Key Contact	Key Contacts should ensure the person(s) responsible for uploading data has a user account on the web application. Users responsible for reviewing matches can also access the training modules in preparation for the 28 January 2013 release.	By 3 September 2012 and when changes occur
The fair processing compliance returns are submitted	Key contact	Submissions are made via the NFI website (external site) . Submission guidance can be found within the help menu labelled 'Form 3 - Fair processing compliance return'.	By 28 September 2012
The data is extracted from the participant systems in accordance with the data specifications	Key contact / User (data upload)	There is a separate data specification for each data set collected. These specifications can be accessed from the detailed data specifications .	Monday, 8 October 2012
The live data is uploaded to the NFI web application	Key contact / User (data upload)	The data is uploaded within the web application via the 'Data file upload' function.	From Monday 8 October 2012*
The 2012/13 exercise	NFI Team	An email link will also be sent to Directors of Finance and	From Tuesday,

matches are available	(AC)	2012/13 Key Contacts as a reminder informing them that the matches are available.	29 January 2013
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* A series of reminders will be issued from 15 October 2012.

The National Fraud Initiative

National report

May 2012



The Audit Commission is a public corporation set up in 1983 to protect the public purse.

The Commission appoints auditors to councils, NHS bodies (excluding NHS foundation trusts), local police bodies and other local public services in England, and oversees their work. The auditors we currently appoint are either Audit Commission employees (our in-house Audit Practice) or one of the private audit firms. Our Audit Practice also audits NHS foundation trusts under separate arrangements.

We also help public bodies manage the financial challenges they face by providing authoritative, unbiased, evidence-based analysis and advice.

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Summary and recommendations

Summary

This report focuses on the outcomes from the National Fraud Initiative (NFI), the Audit Commission's data matching exercise to help prevent and detect fraud, overpayments and errors.



The National Fraud Initiative continues to play a key role in the fight against fraud.

The success of the NFI is founded on well-established partnerships.

- The NFI involves the public audit agencies in other parts of the UK – Audit Scotland, the Auditor General for Wales and the Northern Ireland Audit Office.
- The NFI matches data provided by some 1,300 participating organisations from across the public and private sectors against data provided by other participants, and key data sets provided by government departments and other national agencies.
- The organisations that participate in the NFI are responsible for following up and investigating the matches, and identifying frauds and overpayments.

£229m
of fraud,
overpayments
and errors
identified by the
NFI in England
since May 2010

The NFI continues to play a key role in the fight against fraud.

- Since our last report in May 2010 the NFI in England has identified almost £229 million of fraud, overpayments and errors.ⁱ ⁱⁱ This is made up of £139 million for 2010/11 plus £90 million of outcomes not previously reported from earlier exercises.ⁱⁱⁱ
- The NFI also identified £47 million of fraud, overpayments and error in Scotland, Wales and Northern Ireland, bringing total outcomes since the last report to £275 million.
- Since its launch in 1996, the NFI has enabled the participants to detect fraud, overpayments and errors totalling £939 million. This includes £127 million detected in Scotland, Wales and Northern Ireland.

The main categories of fraud identified by the NFI in England continue to relate to pensions, council tax and housing benefit.

- £98 million of pension fraud and overpayments.
- £50 million of fraudulent or wrongly received, council tax single person discount (SPD) payments.
- £31 million of housing benefit fraud and overpayments.

The exercise also produced other significant results.

- 164 employees were dismissed or asked to resign because they had no right to work in the UK.
- 235 properties were recovered for social housing.
- 321 false applications were removed from housing waiting lists following a pilot with London borough councils.^{iv}
- 731 people were prosecuted.
- 31,937 blue badges and 51,548 concessionary travel passes were cancelled.

Most bodies have sound arrangements in place for managing the NFI and for investigating data matches, but there is still scope to do better.

- The NFI matches are not seen by some participants as a valuable source of intelligence and therefore they are not being given appropriate priority.
- Not all participants are making use of the tools within the web application to help them identify high-priority matches linked to local risks.

- ⁱ The figures used throughout this report for fraud detections, overpayments and recoveries include both already delivered and estimated outcomes. Estimates are included where it is reasonable to assume that fraud, overpayments and error would have continued undetected without NFI data matching. A more detailed explanation is included in Appendix 1.
- ⁱⁱ Where applicable, amounts included in this report have been rounded to an integer, 0.5 and above were rounded up and under 0.5 rounded down.
- ⁱⁱⁱ For national reporting purposes, outcomes are collated at two yearly intervals as at 31 March. Outcomes submitted by participants after this date are included in subsequent reports.
- ^{iv} We are looking into the potential to roll this out in future to all social landlords.

- The more effectively participants follow up their NFI matches, the more benefits they can realise.
- Some participants are using alternative matching services from commercial providers before they have followed up their NFI matches.

Despite the government’s strong focus on tackling fraud, central government is still not sharing in the benefits of the NFI.

- Although the Audit Commission’s audited bodies are required to participate in the NFI, central government bodies can choose whether or not to do so.
- The Department for Communities and Local Government (DCLG) and the Highways Agency were the only central government bodies that took part in the NFI 2010/11 on this basis.

Only a few housing associations are using the NFI to tackle the problem of tenancy fraud.

- Despite clear evidence that the NFI is a powerful tool for detecting tenancy fraud and the increased focus on housing tenancy fraud over the last two years, fewer than 6 per cent of registered housing associations currently elect to take part in the NFI.

The NFI could secure even better outcomes if it were extended to cover non-fraud purposes.

- There is scope to increase the effectiveness of the NFI by extending it to cover purposes other than the detection and prevention of fraud – for example, the recovery of debt and arrears owing to public bodies, as provided for in Section 32H of the Audit Commission Act 1998.

The Commission will continue to develop the NFI to address emerging fraud risks, with an increasing focus on fraud prevention.

- DCLG has confirmed the government intends to continue the NFI after the Audit Commission’s abolition. The Commission will continue to run the NFI until its data matching powers are transferred to a new organisation.
- The NFI launched a real-time service in September 2011, marking an important shift from fraud detection to fraud prevention.
- The Commission has consulted audited bodies on how the real-time service should be expanded to help them target fraud prevention – for example, to identify the anomalies that may signal fraud before an application is approved.

Recommendations

All audited bodies should ensure they maximise the benefits of their participation in the NFI.ⁱ

In particular, they should:

- use the tools within the web application to help them identify high priority matches linked to local risks;
- use the tips for working smarter in Table 4; and
- follow up the NFI matches before using alternative matching services from other providers.

Local authorities should take steps to retain the capability to follow up matches not related to housing benefit, after the proposed Single Fraud Investigation Service (SFIS) is introduced.

The government should:

- require all central government departments and their arm's length bodies to take part in the NFI; and
- bring forward Orders to extend the Commission's data matching powers to non-fraud purposes.

DCLG and the Homes and Communities Agency should encourage all housing associations to take part in the NFI.

What the Audit Commission will do

The Audit Commission will:

- continue to develop the NFI to include a flexible range of data matching services to tackle emerging fraud threats and meet the needs of participants;
- work with the National Fraud Authority (NFA) to deploy the NFI to support the implementation of the *Fighting Fraud Locally* strategy for local government;
- work with other organisations such as the Cabinet Office and the Department for Work and Pensions (DWP) to extend the benefits of the NFI more widely; and
- work with the new owner of the NFI to ensure a smooth transfer of this function.

ⁱ Councils, NHS bodies (excluding NHS foundation trusts), local police bodies and other local public bodies in England specified in Schedule 2 of the Audit Commission Act 1998.

Chapter 1: Introduction

This chapter explains what we mean by fraud and the role the Audit Commission plays helping local public bodies to counter it.

1 Fraud is a crime – and not a victimless crime. In the public sector every pound lost through fraud is a pound taken from taxpayers and potentially deprives the users of essential services.

2 The NFA estimates that fraud costs the UK £73 billion each year (Ref. 1). Losses from public sector expenditure fraud are estimated to cost £20.3 billion a year. This amounts to £390 for every adult living in the UK.



Organisations need effective counter-fraud policies that stress the unacceptability of fraud.

3 Organisations need strong anti-fraud cultures and effective counter-fraud policies and procedures that stress the unacceptability of fraud and its serious consequences. They need to check regularly the effectiveness of their arrangements for preventing and detecting fraud.

4 By working together to fight fraud, public bodies can ensure that the time and money saved is available to spend on providing services and benefits to those in society that most need it.

5 The Audit Commission plays an important role in protecting the public purse against fraud. Since 1996, we have run the NFI data matching exercise every two years to help detect and prevent fraud.

6 Each year, our auditors review the fraud prevention and detection arrangements put in place by audited bodies such as councils, NHS trusts, local police bodies, and fire and rescue authorities. Nationally, we publish the results of our annual survey of detected fraud in local government in *Protecting the Public Purse: Local Government Fighting Fraud* (PPP 2011), which also includes guidance on best practice in tackling current fraud threats (Ref. 2).

7 This report is intended for elected members, non-executives and senior officers at our audited bodies. Government departments, other national organisations and the private sector will also find it of interest. Alongside this report we are also publishing a checklist for local authority elected members, as well as case studies of successful outcomes. More information is on our website at www.audit-commission.gov.uk/nfi

Chapter 2: The NFI

This chapter describes the NFI and shows how it helps protect the public purse.

8 The key strength of the NFI is that it brings together a wide range of different organisations, working together in partnership to tackle fraud. Fraudsters often target different organisations at the same time, using the same fraudulent identities. The NFI combats this threat by comparing information held by different organisations to identify potentially fraudulent claims and overpayments.

9 We provide organisations that take part in the NFI with secure access to their matches, which they investigate. For example, when data matching identifies a person as being listed as dead but still in receipt of a pension, the relevant body will investigate and, if appropriate, stop pension payments.

10 Payroll matches can identify employees who have no right to work in the UK. They may also identify employees who may be committing benefit fraud against other participants. Table 1 shows more examples of the data matches that we undertake and why.

11 A match does not automatically mean fraud. Often, there is a straightforward explanation for a data match that prompts bodies to update their records and to improve their systems.

12 Data matching showing little or no fraud and error assures bodies about the effectiveness of their control arrangements. It also strengthens the evidence for the body's Annual Governance Statement.

The key strength of the NFI is bringing together a wide range of organisations, in partnership to tackle fraud

Table 1: **Examples of the data matches the NFI have undertaken**

Data match	Possible fraud or error
Pension payments to records of deceased people.	Obtaining the pension payments of a dead person.
Housing benefit payments to payroll records.	Claiming housing benefit by failing to declare an income.
Payroll records to records of failed asylum seekers and records of expired visas.	Obtaining employment while not entitled to work in the UK.
Blue badges records to records of deceased people.	A blue badge being used by someone who is not the badge holder.
Housing benefit payments to records of housing tenancy.	Claiming housing benefit despite having a housing tenancy elsewhere.
Council tax records to electoral register.	A council taxpayer gets SPD because the person is living with other countable adults, which means the council taxpayer does not qualify for a discount.
Payroll records to other payroll records.	An employee is working for one organisation while being on long-term sick leave at another.

Source: *Audit Commission*

13 The NFI works within a strong legal framework, including the Data Protection Act 1998, which protects individuals' personal data.

14 Data matching exercises are carried out under statutory powers in Part IIA of the Audit Commission Act 1998 (Ref. 3), which contains important safeguards on the use and disclosure of data, including the requirement for a statutory *Code of Data Matching Practice* (Ref. 4).ⁱ

15 The Code helps ensure that all those involved in the NFI exercises comply with the law, especially the provisions of the Data Protection Act 1998. It sets out the expected data security and privacy standards that the Commission has always considered essential to the effectiveness of the NFI. It also promotes good practice.

16 The NFI's data matching systems and processes comply with all relevant government information security standards.

The NFI works within a strong legal framework, which protects individuals' personal data

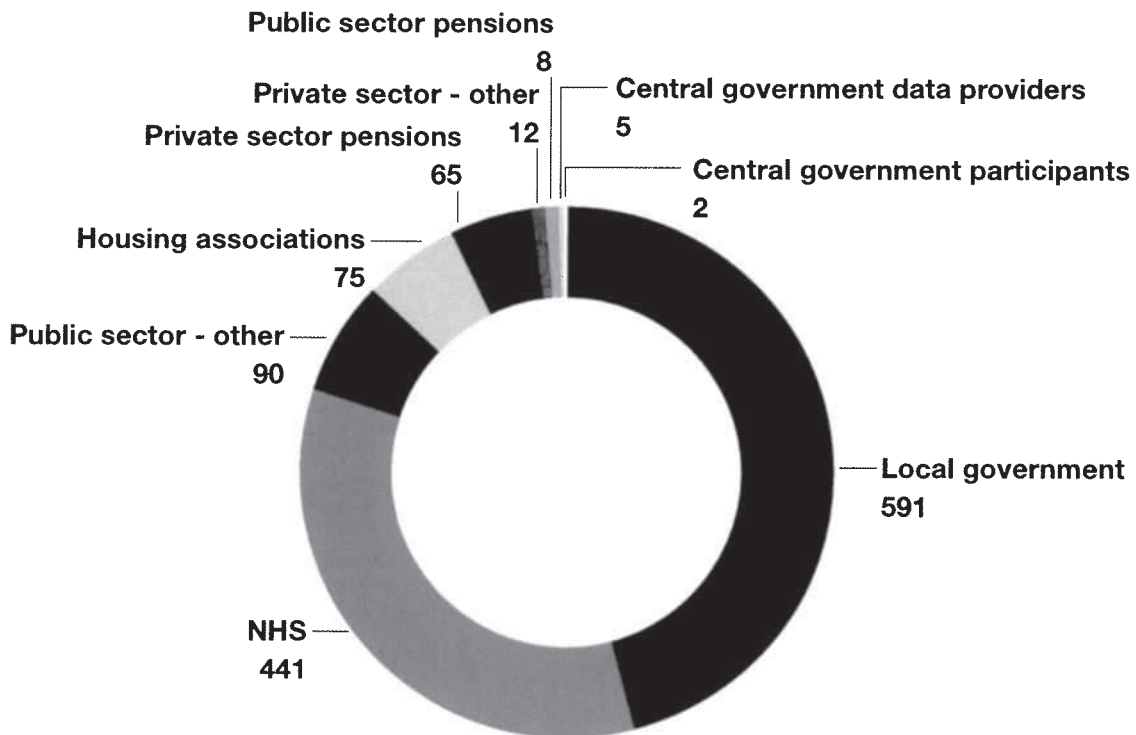
ⁱ The first such Code was laid before Parliament in July 2008, after extensive consultation, including with the Information Commissioner. The Code is available at www.audit-commission.gov.uk/datamatchingcode

17 The latest NFI exercise started in October 2010 and processed nearly 8,000 data sets from some 1,300 organisations, including 77 from the private sector (Figure 1). For the first time, all the firms providing audit services to the Commission included their employee data in the NFI exercise.

The latest NFI data matching exercise processed nearly 8,000 data sets from some 1,300 organisations

18 The participation of the private sector not only helps to detect illegal activity in the wider economy, but the data provided also helps to identify additional fraud against public bodies. For example, by matching private sector payroll records to housing benefit records, we may identify cases where benefit is being claimed fraudulently, because the claimant is working and not declaring their income. This wider information matching also helps detect fraudsters working across different sectors, sometimes using the same fraudulent identities.

Figure 1: **Types of organisation taking part in the NFI**



Source: Audit Commission

19 The NFI 2010/11 produced 4.6 million data matches – an average of 3,586 for each organisation. We rated 18 per cent of matches in need of urgent action, because they showed a high risk of fraud. Matches were investigated during 2011 and early 2012.

20 The success of the NFI depends on organisations investigating the matches. To help organisations with their investigations, we provide:

- a secure application that is easy to use and provides a full case management system for investigators;
- online training on the functionality available to assist investigators;
- prioritised reports highlighting the data matches that show a high chance of fraud;
- guidance, briefings and help desk support; and
- good practice examples of successful follow-up approaches – for example, a step-by-step guide to investigating council tax SPD matches, including proforma letters to send to those appearing in a match.

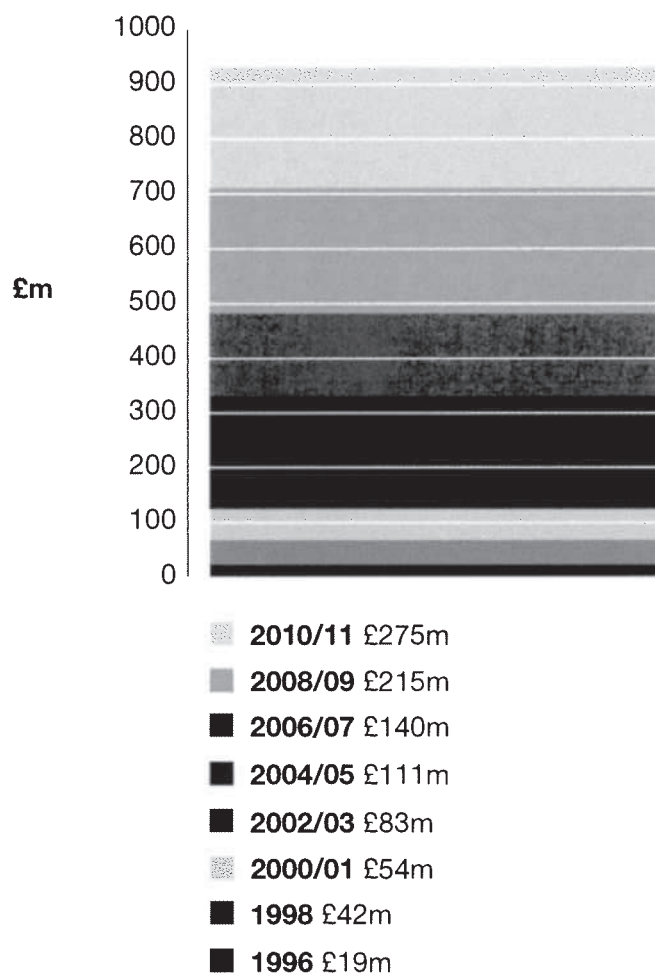
21 The NFI delivers good value for money for each participant, using economies of scale to secure maximum benefits at least cost. The total direct cost of running the 2010/11 exercise was £2.6 million, which we recover by charging fees to those who take part. For example, a London borough pays £4,150 and a mid-sized district council pays £2,200. The financial benefits resulting from the NFI are 106 times greater than the direct cost.

The financial benefits resulting from the NFI are 106 times greater than the direct cost

Chapter 3: The NFI across the UK

22 The Commission runs the NFI in partnership with the public audit agencies in other parts of the UK – Audit Scotland, the Auditor General for Wales and the Northern Ireland Audit Office. The NFI also involves other national bodies and government departments. The involvement of the public audit agencies and other national bodies is a key factor in the success of the NFI and serves the public interest in the fight against fraud.

Figure 2: **Outcomes identified by the NFI across the UK as reported to the Audit Commission by participants**



Source: Audit Commission

23 Each agency carries out data matching under its own powers, but uses the Audit Commission's existing systems, processes, and expertise. This delivers economies of scale, reduces the cost for organisations taking part and allows cross-border matching.

24 The total fraud, overpayments and errors detected across the UK since the NFI began amounts to £939 million (Figure 2).

25 In Scotland, investigation of data matches found fraud and overpayments of £20 million. In Wales, detected frauds and overpayments amounted to £6 million. In Northern Ireland frauds and overpayments totalled nearly £21 million. The figure for Northern Ireland includes £12 million outcomes not previously reported from work on the NFI 2008/09 unpaid domestic rates matches.ⁱ Aggregate outcomes for bodies in Scotland, Wales and Northern Ireland since they first started to run the NFI are £127 million (Figure 3).

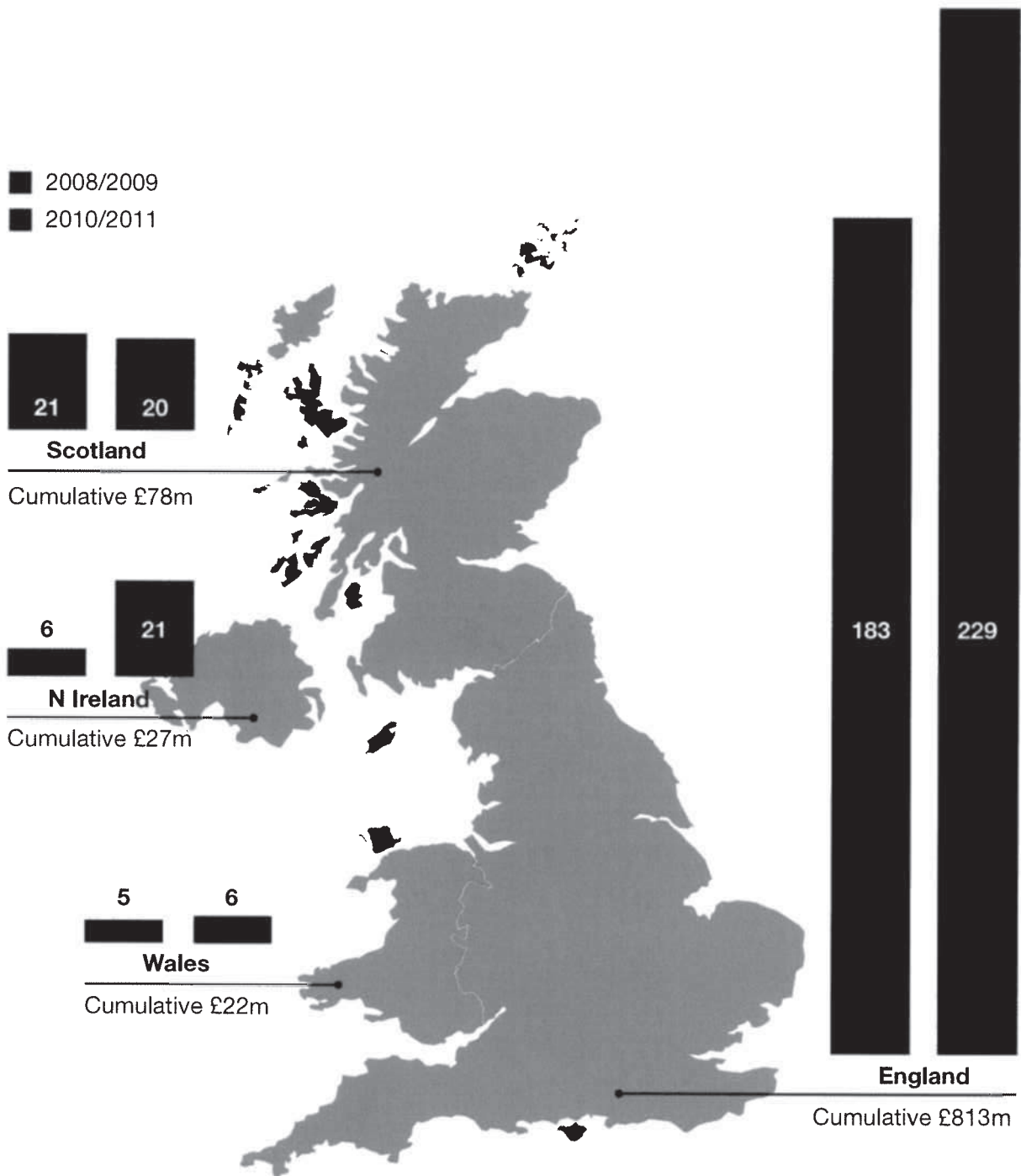
26 Each national audit agency reports on the NFI separately for their geographical areas.ⁱⁱ The rest of this report focuses on the outcomes for the NFI in England.

£939m
of fraud,
overpayments
and errors
detected in the
UK since the
start of the NFI

ⁱ Domestic rates are a property tax based on the valuation of a home. It is used to fund both local and regional services in Northern Ireland.

ⁱⁱ The NFI results in Scotland will be available at www.audit-scotland.gov.uk in Wales, at www.wao.gov.uk and in Northern Ireland, at www.niauditoffice.gov.uk

Figure 3: Cumulative total over period of NFI (1996-2012) £939 million



Source: Audit Commission

Chapter 4: Results of the NFI in England

This chapter sets out the results of the NFI in England since we reported in May 2010. It highlights the successes in tackling key risks (Table 2) and shows why organisations should take part in the NFI.

27 Since we last reported in May 2010, the NFI has identified fraud, overpayments and errors in England totalling almost £229 million. This represents a 25 per cent increase on the total for the previous reporting period (£183 million).ⁱ

28 The total comprises outcomes already delivered of £91 million and estimated outcomes of £138 million (Appendix 1). These estimated outcomes represent expenditure that would have been incurred in future years had the fraud or errors gone undetected.

25%
**more fraud,
overpayments
and errors
were identified
by the NFI
since the May
2010 report**

ⁱ For national reporting purposes outcomes are collated at two yearly intervals as at 31 March. Outcomes submitted by participants after this date are included in subsequent reports.

Table 2: **A comparison of cumulative outcomes by risk area**

Activity area	2008/09 £million	2010/11 £million	Percentage increase/ decrease
Pensioners – public sector	65	91	+40
Council tax SPD	56	50	-11
Housing benefit ⁱ	24	31	+29
Housing (including right to buy and recovered properties)	7	18	+157
Blue badges	8	16	+100
Payroll (including salary payments to illegal workers)	6	8	+33
Pensioners – private sector	13	7	-47
Trade creditors duplicate payments	3	5	+67
Private residential care homes	1	3	+200
Total	183	229	+25

Source: Audit Commission

29 Table 3 summarises the key results in England. As well as significant financial success, other results included:

- 235 properties were recovered for social housing;
- 246 members of staff were dismissed or resigned;
- 731 prosecutions; 564 administrative penalties; and 689 official cautions; and
- 31,937 blue badges and 51,548 concessionary travel passes were cancelled.

30 The rest of this chapter reports the results from some of the specific areas of the NFI data matching.

ⁱ The 2008/09 figures include an estimate for the value of sanctions applied. This estimate is not included in the 2010/11 figure.

Table 3: **Key results in England**

	England only	
Housing benefit fraud, error, overpayments	2008/09	2010/11
Local Government employees	938	1,513
Students	1,183	1,400
NHS employees	315	611
Immigration	49	36
Local Government pensioners	1,721	1,467
Housing benefit sanctions		
Successful prosecutions	269	636
Official cautions	441	689
Administrative penalties	308	564
Housing		
Properties recovered	97	235
Right to Buy wrongly awarded	16	7
Council Tax SPD incorrectly awarded	53,926	39,015
Mortality screening		
Pensioners	2,163	2,910
Residents in private care homes	52	389
Blue badges cancelled	16,535	31,937
Concessionary travel passes cancelled	21,534	51,548
Other		
Duplicate creditor payments	638	1,815
Total employees dismissed or resigned	256	246

Source: *Audit Commission*

Findings

Immigration fraud

31 The NFI matches data from the UK Border Agency (UKBA) about refused and expired visas; visas where there is no right to work; and failed asylum seeker applications, against data on housing benefit claims, payroll records and housing tenancy.

32 Employers have a statutory duty to satisfy themselves that a potential employee is entitled to work in the UK. Employers are liable for a penalty of up to £10,000 if they employ an illegal worker (Ref. 5).

33 We worked closely with UKBA to identify ways we could improve NFI 2010/11. In particular, we automated the way a body taking part in the NFI gets an immigration update, fully integrating it into the web application. This means organisations can access the most up to date information before action is taken.

34 Matching UKBA data led to:

- the dismissal or resignation of 164 employees from 74 organisations, including local authorities, NHS hospitals, primary care trusts and housing associations;
- councils identifying 36 housing benefit overpayments amounting to £0.37 million;
- the recovery of one property for use as social housing;
- one tenant awaiting deportation; and
- employers identifying £3 million of salary payments to illegal workers.

Matching UKBA data led to the dismissal or resignation of 164 employees from 74 organisations

35 Case study 1 provides an example of immigration fraud discovered because of NFI matches.

Case study 1

Moorfields Eye Hospital NHS Foundation Trust

A match between the trust's payroll records and UK visa data highlighted a hospital porter who had worked for the trust for six years, despite having had no right to work or stay in the UK since 2004.

The investigation revealed that the passport presented for pre-employment checks had included a forged stamp indicating he had indefinite leave to remain in the country. The porter was arrested at work in January 2011 and immediately suspended. He was dismissed the following month.

He pleaded guilty at court and was given a 15-month prison sentence. He will be deported after serving his sentence.

Source: Audit Commission

Housing benefits

36 The NFI matches housing benefit records against data sources that councils do not readily have access to, including NHS payroll, central government pensions, student loans and housing tenancy.



Matches may identify where a person is claiming a benefit that they are not entitled to.

37 Matches may identify where a person is claiming a benefit that they are not entitled to. For example, matches can identify employed people who are claiming they have no income. Case study 2 provides an example of a fraud case identified.

Case study 2

London Borough of Ealing

As a result of the investigation of a match between housing benefit and student loans records, a student was found to have committed housing benefit fraud for the second time. His failure to declare income from his student loan meant he was overpaid nearly £6,000 of housing benefit.

He was successfully prosecuted and given a six-month suspended prison sentence and ordered to carry out 200 hours of unpaid community work.

Source: Audit Commission

38 In July 2011, DWP reported that, in 2010/11, councils across England, Scotland and Wales paid out over £26.6 billion of housing and council tax benefit. The equivalent fraud losses are about £350 million each year (Ref. 6). Housing benefit and council tax benefit frauds were detected by councils more frequently than any other types of fraud.

39 Housing benefit continues to account for a significant proportion of the total fraud identified through the NFI.

40 Since our report in 2010, the NFI has helped to uncover additional benefit frauds and overpayments worth £31 million. Councils are taking action to recover about 69 per cent of the overpayments, including:

- £9 million where pensioners from the civil service, armed forces, teaching and the NHS claimed benefits without fully declaring their pension income; and
- almost 6,200 housing benefit cases, of which 25 per cent were proven fraud cases.ⁱ

41 Action taken against benefit fraudsters included 636 prosecutions, 564 administrative penalties and 689 cautions.

Housing benefit continues to account for a significant proportion of the total fraud identified through the NFI

ⁱ The other 75 per cent were classified as either suspected fraud, claimant or administrative error.

Pensions

42 The NFI matches pension information to data about deceased people, which is provided by DWP and the Disclosure of Death Registration Information from the General Registrar's Office. This is known as 'mortality screening'.

43 Frauds and overpayments of pension often occur when pensioners die, but relatives fail to tell the authorities of the death and continue to receive the payments.

44 Although we run mortality screening as part of every NFI, we continue to identify consistently high levels of fraud cases, indicating that new pension frauds are starting regularly.

45 Since our report in 2010, the NFI has identified an extra 2,910 cases where pensioners had died, but payments were continuing. Of these, 282 cases were identified by private sector pension schemes. Actual and estimated overpayments, totalling £98 million, were detected and prevented (Appendix 1).

46 The NFI also enables pension schemes to identify pensioners who have returned to work and may have wrongfully avoided pension decreases by not telling the pension scheme administrators. There were 116 such cases, involving overpayments of £0.73 million.

47 Pension data also enables councils to identify housing benefit fraud where a pension is not declared on a benefits claim. Case study 3 provides an example of a fraud case identified in this way.

£98m
of actual and
estimated
overpayments
of pensions
have been
identified
since 2010

Case study 3

Tamworth Borough Council

A match between housing benefit and pensions records led to a joint investigation by Tamworth Borough Council and DWP into a housing benefit claimant who had failed to declare his NHS pension, to either the council or DWP, since 2002. The resulting overpayments totalled £54,000.

He was successfully prosecuted and sentenced to six months' imprisonment, suspended for nine months, and ordered to repay the £54,000.

Source: Audit Commission

Injury pensions

48 Retired police officers and firefighters can receive incapacity benefit or industrial injury and disablement benefit when they are injured at work. They may also be entitled to an enhanced occupational pension because of work-related injuries. Reductions in payment may be required when incapacity benefit, industrial injury, disablement benefit and enhanced occupational pension are received for the same injury.

49 In our May 2010 report, we set out details of a new data match designed to target the emerging risk that such pensioners were not declaring relevant state benefits and, as a result, injury pensions were being overpaid. Because of the success of the pilot match, it was included as a core mandatory data set for the NFI 2010/11 exercise.

50 Since we reported in 2010, 312 cases have been identified with overpayments totalling £4.48 million.

51 These outcomes could have been higher but many police and fire authorities had difficulties securing information from DWP that is needed to investigate these matches. We will work with DWP to agree a protocol on exchange of information, to help all bodies taking part in the NFI to identify more overpayments in this area.

Blue badges

52 Councils are responsible for awarding blue badges, which provide a range of parking concessions for people with severe mobility problems who have difficulty using public transport. About 1.7 million blue badges are used in England (Ref. 7). In London, this concession extends to the congestion charge.

53 Fraudsters are exploiting the scheme by forging badges and stealing badges from cars. Abuse also occurs when badges remain in use, or are renewed by people after the death of badge holders. In *PPP 2011* (Ref. 2) we reported that there is a black market for badges, which can change hands for as much as £500.

54 The NFI matches blue badge information to data about deceased people. Data matches have enabled councils to cancel a further 31,937 badges since we last reported. Case study 4 provides an example of a fraud case identified.

55 On 1 January 2012, the new Blue Badge Improvement Scheme procured by the Department of Transport as part of the Blue Badge Reform Programme was made available to local authorities (Ref. 8). The scheme, which is being phased in over the next three years, is designed to help to prevent fraud and enable more effective monitoring of cancelled, lost or stolen badges.

56 We support these new arrangements and will continue to undertake the deceased data matching to assist in identifying potential abuse of the badge scheme.

Case study 4

City of London Corporation

The investigation of a match between blue badge and deceased people records identified an individual who had fraudulently obtained disabled parking permits from the Corporation. He had completed renewal application forms under his mother's name, even though she had died almost a year before.

He admitted two charges of fraud by false representation. He was given a two year conditional discharge, and ordered to contribute £300 towards prosecution costs.

Source: Audit Commission

Payments to private residential care homes

57 The NFI matches information about private residential care home payments to data about the deceased, to identify where payments may be continuing for people who have died.ⁱ

58 In general, councils have good systems in place and are already aware of the deaths when they receive the NFI matches. But a significant number are not, and this highlights the value of the match.

59 Councils identified 389 cases where payments had continued to private residential care homes after a resident's death. Overpayments amounted to £3 million and in 95 per cent of cases the overpayment has been, or is being, recovered.

Social housing

60 Pressure on social housing is increasing and tenancy fraud has become a major problem. In its *Laying the Foundations Strategy* DCLG stated that there were 4.5 million individuals, or 1.8 million households, waiting for social housing (Ref. 9). *PPP 2011* (Ref. 2) estimated that registered social housing providers may have lost control of the allocation of at least 50,000 social housing properties in England, because of housing tenancy fraud.

ⁱ Where councils agree that a resident needs to move into a residential care home, they may pay part or all of the care home's fees.

61 Tenancy fraud should therefore be a key priority for councils and housing associations. The NFI helps fight this fraud by undertaking data matching to identify false housing applications and properties that are sublet unlawfully.

62 Since our report in 2010, social landlords were able to recover 235 properties from those in unlawful occupation, and reallocate the properties to genuine tenants. This brings a significant financial benefit because it avoids placing prospective tenants in expensive temporary accommodation.

63 This outcome is in part the result of an extra data matching exercise run in December 2009, supported by DCLG, specifically to address the problem of unlawful subletting. DCLG provided funding for all housing associations with over 1,000 properties to take part in this exercise.

64 Although the outcomes were positive, it was disappointing that only 92 of the 400 housing associations invited chose to take part.

65 Case study 5 provides an example of housing tenancy frauds identified through NFI data matching.

Case study 5

Affinity Sutton Housing Association

As part of a new strategic approach to targeting tenancy fraud, national affordable housing provider Affinity Sutton introduced a new neighbourhood auditor team in 2010. As a result of work undertaken by this team on the NFI matches they recovered a total of 12 properties. These homes, which are spread across the country, have been reallocated to families in genuine housing need.

In one case, the investigation of a match between tenancy and housing benefit records led to the recovery of a two-bedroom house in only two weeks. When a visit to the property by the auditor team confirmed that someone other than the tenant was in occupation, the neighbourhood auditor team contacted the tenant at the housing benefit address and recovered the keys.

Source: Audit Commission

Right to Buy

66 The NFI matches tenancy records against applications from tenants to buy their council property, at a discount, as part of the Right to Buy scheme. Matches may identify cases of false information on the application.

67 Seven cases were identified where Right to Buy applications had been wrongly awarded. In addition, councils stopped ten applications that were in progress. Outcomes were, in part, affected by the poor quality of the data provided by some organisations that led to some false matches being generated. These false matches made it more difficult to identify the genuine data matches that did highlight potential fraud.

68 In response to the consultation on the *Laying the Foundations Strategy* (Ref. 10) the Right to Buy discount cap in England was increased to £75,000 with effect from 2 April 2012. These changes are likely to make the Right to Buy scheme more attractive to fraudsters. It will be even more important that all social landlords invest resources in following up the Right to Buy matches provided by the NFI to identify potential abuse of the scheme.

69 We will work with councils and other social landlords to ensure that they maximise the benefits of following up these matches. We will provide more training on the purpose of the matches and we will advise those organisations that provided lower quality data for the NFI 2010/11 how the data can be improved for future exercises.

Payroll

70 There is always a risk that staff will commit fraud. However, in *PPP 2011* (Ref. 2), we reported that the number of frauds perpetrated by councils' own staff is low. In 2010/11 across the UK, there were 1,581 cases (1.3 per cent of total cases). The total value of these frauds was £19.5 million, which represents 10 per cent of the total value of frauds detected by councils.

71 The NFI matches payroll data provided by participants to help identify employee fraud. Matches may show that someone is working for one employer while on long-term sick leave from another.

72 Investigations following data matches have enabled employers to dismiss or seek resignation from 82 employees. Employers have recovered, or are recovering, over £0.34 million of overpayments. Six of the cases were so serious that they led to criminal prosecutions.

73 Our payroll to creditor payments matching was strengthened in 2010/11 to include bank account and address matches. Outcomes now total £123,000. Case study 6 gives an example of a typical outcome.

Payroll to creditor payments (employee fraud)

Matching an organisation's payroll records to its creditor payments records can identify employees with interests in companies trading with their employer. The investigation of such a match at an organisation in the North East of England revealed that a former senior accountant had set up a fictitious company and authorised two payments totalling more than £45,000 to the company over a period of six months.

The former employee has admitted to committing a number of offences and a prosecution case is being prepared.

Source: Audit Commission

Creditor payments

74 The NFI checks creditors' data to identify duplicate payments and wrongly calculated VAT. Apart from the financial benefits, these data matches also help to identify system improvements and weak internal controls.

75 Following a suggestion from the London Borough of Bromley we introduced additional matching rules for the 2010/11 exercise. The new match rules helped to identify duplicate payments where the creditor reference number was different. As a result the number of matches increased by 10 per cent and identified overpayments increased by 56 per cent.

76 Better quality matches helped identify overpayments of £4.7 million compared with £2.8 million in 2008/09. Seventy-eight per cent of the overpayments have been, or are being, recovered.

Council tax SPD

77 A third of households receive SPD and nationally this costs about £2 billion a year (Ref. 11). The NFI matches council tax records to the electoral register to identify individuals receiving the 25 per cent discount on the basis that they live alone, despite the electoral register suggesting that they live with other countable adults.ⁱ

ⁱ In certain circumstances, the discount may apply where another adult who meets specified conditions lives in a property. For example, where another adult living at a property is either severely mentally impaired, a student, an apprentice, a student nurse or a youth training trainee, they can be disregarded when counting the number of adults in the household and the SPD may still apply. Discounts awarded on this basis are excluded from the NFI matching.

78 Since our report in 2010, local authorities have identified an additional £50 million SPD awarded incorrectly. Most of these outcomes have been generated from the matches released in March 2010. Recovery action is being taken in 69 per cent of cases. The cumulative total since we started doing this match is £114 million and councils have stopped discounts in over 99,000 cases.

79 Access to matches from the NFI 2012 SPD exercise was given to councils on 20 February 2012. Outcomes from these matches will be included in our next report.

Pilot matching

Housing waiting lists

80 A pilot exercise on housing waiting lists at London borough councils was undertaken as part of the NFI 2008/09 exercise. The NFI matched housing waiting list data to identify people who were not entitled to social housing. This could have been, for example, because they had another social housing tenancy or they were not eligible for council housing because of their immigration status.

81 Since we reported in 2010, an extra 321 applicants have been removed from housing waiting lists. Following this success we plan to undertake an extended pilot in NFI 2012/13. This pilot will include a greater number, and a wider geographic range, of participants.

Operation Amberhill

82 The Metropolitan Police created the Amberhill database to record data seized in operations against organised groups that were mass producing false identity data. The false identity can be made up or stolen from real people. So far tens of thousands of items of false identity data have been seized.

83 With fraudsters operating across government departments and the public and private sectors, sharing intelligence on known frauds and fraudsters is critical to the fight against fraud.

84 In September 2011, we used the Amberhill database in a pilot that generated matches for over 200 participants. We issued clear guidance to ensure that participants recognised that the NFI match may link to the genuine individual whose identity had been stolen.

85 Following up these matches has identified a wide range of frauds against organisations taking part in the NFI where false documentation had been presented. These include :

- an employee in a position of trust who had worked for over five years with a false identity;
- an individual who fraudulently claimed housing benefit and council tax benefit in excess of £30,000 over a two-year period;
- an individual who had used multiple identities to claim housing benefit at multiple councils;
- tenancies that had been awarded on the basis of fraudulent applications, with investigations also revealing corruption in a housing tenancy team;
- the arrest and prosecution of a licensed Hackney Carriage taxi driver who used a counterfeit driver's licence; and
- an individual who had used a false identity to secure a concessionary travel pass and claim housing benefit.

86 In addition the pilot identified a number of individuals who were unaware that they had been the victim of identity theft. These included an elderly care home resident, a doctor and a local councillor.

87 Because of this success we plan to integrate this match, after taking into account the learning from the pilot, into future NFI exercises on a mandatory basis.

Serious Organised Crime Agency virtual office address

88 A virtual office address is a business, correspondence or administrative address provided as a business service to clients. Virtual offices are generally used to reduce traditional office costs while maintaining business professionalism, but may also be used by an individual to hide their genuine address.

89 In October 2011, we cross-matched the Serious Organised Crime Agency virtual office address data to NFI data sets where the individual would be expected to use a residential address – for example, housing benefit claims. Investigations are still ongoing, but the pilot has already identified:

- a sheltered housing address being used by an absconder from justice to forward correspondence to an address in Thailand; and
- individuals holding concessionary travel passes issued by authorities other than those in whose area they live – to gain travel benefits they're not entitled to.



Modern virtual offices are used to reduce the traditional costs of running a business, but they can also be used for criminal activity.

90 Following completion of the pilot we will undertake a full evaluation to determine whether, and if applicable how, to integrate this match into future NFI exercises.

Blue badges

91 Under the Department for Transport's blue badge scheme, only one blue badge should be issued per person, for personal use. However, councils contacted us expressing their concerns that people had obtained a blue badge from more than one council.

92 We therefore undertook a pilot data match. This included nearly 146 authorities in England and identified people with multiple badges. It has resulted in the cancellation of 76 badges. We are investigating the potential to integrate this match into future NFI exercises on a mandatory basis.

Chapter 5: How can organisations make better use of the NFI?

This chapter looks at how organisations can make better use of the NFI. It considers how the NFI is used at an operational level.

93 The total of £229 million fraud, overpayments and error is a good outcome but there are still a few areas where results could be even better. The NFI's full potential is only realised if the organisations that take part supply all the required data on time and undertake appropriate follow-up investigations of the matches promptly and thoroughly. For each exercise we consider how effectively organisations use the NFI.

Investigating matches promptly and thoroughly is essential to the success of the NFI

94 In this chapter, we:

- comment on the challenges currently facing the organisations taking part in the NFI;
- report how well public bodies perform operationally in supplying data for matching and investigating data matches; and
- look at specific areas where improvements could be made.

Current environment

95 The Audit Commission and Local Government Association report *Work in Progress: Meeting Local Needs with Lower Workforce Costs* (Ref. 12) sets the scene for some of the issues our participants are facing in terms of reductions in workforce budgets and *Tough Times: Councils' Responses to a Challenging Financial Climate* (Ref. 13) looks at the impact cuts in central government funding and reductions in other income are having on service spending.

96 In these circumstances it is important to recognise that organisations can make significant savings by reducing fraud. This can help protect both frontline jobs and services.

97 However, in the course of its regular visits to participating bodies, our NFI team has already noticed that counter fraud and benefit fraud investigation budgets and staffing numbers are being reduced. A number of the NFI key contacts at audited bodies have raised concerns that these reductions will, and in some cases have already, started to impact on the effectiveness of the follow-up arrangements for the NFI matches.

Welfare Reform Act

98 The government is proposing major welfare reforms as part of the *Welfare Reform Bill*.ⁱ The Bill is passing through Parliament at the time of writing. These changes include the transition to *Universal Credit* and the introduction of a *Single Fraud Investigation Service (SFIS)*. The changes will have a significant impact on councils' benefit services.

99 Universal Credit is likely to replace many existing means-tested benefits and tax credits for people of working age including housing benefit. The NFI will continue to match housing benefit data until Universal Credit replaces it fully. We want to match Universal Credit to all NFI data sets in future and will work with DWP to secure this.

100 The SFIS is planned to start in 2013. Local authority investigators will still be employed by their local authority, but they will work to SFIS policies and procedures. This interim arrangement will be reviewed in 2015 once longer-term decisions have been made about how Universal Credit will be managed. The Commission is committed to working with DWP to ensure SFIS gives appropriate priority to investigating existing and future NFI housing benefit matches.

101 Some councils also use housing benefit investigators to investigate other frauds. There is a risk that the introduction of SFIS may impact on the ability of these staff to investigate non-housing benefit fraud. It is important that this risk is addressed and that councils take steps to retain sufficient capability to investigate the NFI matches not related to housing benefit.

Operational issues

102 We asked the external auditors of mandatory NFI participants to assess the arrangements in place for taking part in the NFI and for following up data matches.

103 Auditors were satisfied that most bodies have sound arrangements in place for managing the NFI and for investigating data matches. However, they identified significant weaknesses at a few bodies. These included failing to:

- open all or many of the NFI reports;
- investigate data matches flagged as high risk;
- supply the required data sets for matching;
- follow up issues promptly; and
- meet deadlines.

104 Our NFI team followed up the auditors' assessments and gave support to organisations where that was necessary. Many of these bodies have now taken action to address these weaknesses.

ⁱ Subject to successful passage of the Welfare Reform Bill 2011 through Parliament.

105 Against this background, it is disappointing that Mendip District Council failed to provide data sets relating to residents' parking permits and market traders'.

106 Over the course of the NFI 2010/11 our NFI team monitored participants' progress and carried out a programme of visits to individual bodies. There were three key messages from these visits.

- Participants are not making use of the tools within the web application to help them identify high priority matches linked to local risks. This is an important step particularly if the number of staff working on investigations is limited.
- The NFI matches are not seen by some participants as a valuable source of intelligence and they are not given appropriate priority.
- Some councils are not maximising the benefit of the NFI before procuring similar data matching services from private sector providers.

Specific opportunities to improve

107 Some local public bodies are complying with the basic requirements of the NFI but could, and should, do more.

108 Many organisations have found ways to maximise the benefits of the NFI matches and work more efficiently (Table 4). This enables them to focus their limited resources effectively.

Table 4: **Maximising the benefits of the NFI**

Ways to maximise the benefits and work more efficiently

Ensure all users of the NFI web application watch the online training modules and read the guidance notes so they are aware of the latest time-saving enhancements. The NFI software is continuously being developed and many participants are missing these changes.

Schedule staff resources so time-critical matches such as students can be dealt with as soon as they are received.

Coordinate investigations across departments – SPD matches involving housing benefit, for example – to avoid duplication of effort and ensure all overpayments are identified.

Use the tools within the web application, such as the filter and sort options, to identify the matches that are the highest risk. Do not review every match in every report.

Employ data analysis software such as IDEA® to prioritise matches and use mail merge techniques to aid investigations.

Enter a report comment and report high-level outcomes where available, rather than entering this information against every match. This will save time and free up staff for the investigations.

Respond promptly to enquires from other organisations that take part in the NFI so investigations can be progressed quickly.

Use NFI outcomes and successful prosecutions as a deterrent measure by publicising them locally.

Look at the quality of the data supplied for the NFI before the next exercise. Better data quality will improve the quality of resulting matches.

Source: Audit Commission

Chapter 6: Looking to the future

This chapter looks at our plans to develop and enhance the NFI over the next two years, and the challenges that lie ahead.

109 Following the announcement, in August 2010, of its intention to abolish the Audit Commission, the government has confirmed it intends to continue the NFI. This was reaffirmed in January 2012, in the *Government Response to the Future of Local Audit Consultation (Ref. 14)*.

The government has confirmed it intends to continue the NFI

110 The Commission will work closely with DCLG and other stakeholders to secure the most appropriate home for the NFI. While the Commission retains oversight of the NFI, we will continue to run and develop it, to meet the needs of participants. Once the new organisation responsible for delivering the NFI is identified, we will work with them to ensure a smooth transfer.

111 The NFI aims to serve the public interest by:

- safeguarding public money against losses from fraud or misappropriation; and
- contributing effectively to the fight against fraud.

112 NFI 2012/13, which we will launch in June 2012, will meet these aims by:

- continuing with successful batch data matches and developing the service to offer more flexibility and meet new risks;
- putting more emphasis on fraud prevention through the development of real-time data matching services; and
- extending data matching for fraud purposes to a broader range of organisations and sectors.

113 At the same time, we will continue to seek to extend the remit of the NFI to allow data matching for purposes other than the detection and prevention of fraud for example, to help participants trace individuals who have outstanding debts or arrears.

Developing batch data matching to offer more flexibility and meet new risks

114 We will continue to run data matches every two years but, in addition, we will offer more frequent flexible data matching.

115 In 2011, we ran our pension mortality screening matching again on a voluntary basis. Pension funds welcomed this extra service. We will build on this by offering a service that gives a pension scheme the flexibility to determine when, and how often, this is undertaken.

116 We are also expanding this flexible approach to other areas of the NFI. In response to feedback from participants, the NFI will now allow participants, either individually or as part of a group, to elect to submit batch data for matching at any time. The data submitted, and the frequency of the matching, will be determined by the participants.

117 These flexible services could be used by councils to deliver many of the recommendations made by the NFA in its *Fighting Fraud Locally: the Local Government Fraud Strategy* (Ref. 15). We will be working closely with the NFA and other key stakeholders to deploy the NFI to support the implementation of the strategy across local government.

118 Alongside these new services, we continue to develop the NFI to meet new fraud risks. We will listen to the concerns raised by organisations about emerging challenges facing them. For example, in their responses to the Audit Commission's annual survey of detected fraud in local government, councils have reported significant new fraud risks from the move to personal budgets in social services (Ref. 2). In response, we are looking to develop a pilot data match in this area as part of the NFI 2012/13.

Alongside these new services, we continue to develop the NFI to meet new fraud risks

Increased emphasis on fraud prevention

119 In September 2011, the Commission launched the first NFI real-time data matching service. The launch of this service marks an important shift from fraud detection to fraud prevention. By matching data at the point of application, the NFI can help participants both in the private and public sector to prevent fraudulent applications from being successful.

120 Following consultationⁱ, we are expanding the NFI real-time data matching to cover audited bodies, private sector and other public sector participants.

ⁱ The consultation and summary of responses can be accessed on the Commission's [NFI consultation webpage](#)

121 There will be a menu of data matching options, each of which is recognised by the Commission as assisting in preventing and detecting fraud, and each participant will decide which options it wishes to use to target the actual fraud risks it faces. Mandatory participants will be given delegated authority to determine which data is submitted for matching. They will simply be required to record the basis of their decisions on the NFI web application for the NFI team to review prior to matching the data. Private sector and other public sector participants will, as now, be able to participate on a voluntary basis.

122 The proposed approach could help participants identify potential fraud in a wide range of areas. These include:

- housing waiting list – by submitting details of an individual near or at the top of the list for matching against the NFI datasets to confirm the individual is not ineligible for social housing before offering a tenancy;
- housing benefit – by submitting benefit claimant details for matching against Amberhill information on known stolen/false identities before awarding benefit; and
- blue badges – by submitting applications for matching against deceased person records before issuing the badge.

Extending the coverage of the NFI

Central government

123 We welcome the support that some government departments give to the NFI by providing data about claimants, deceased people and immigration status. We also welcomed the decision by DCLG to become the first central government department to take part in the NFI by submitting its payroll data for matching.

DCLG was the first central government department to take part in the NFI

124 The Cabinet Office Fraud, Error and Debt Taskforce recognises the opportunity the NFI offers. Its interim report published in June 2011 recommended that the NFI should be deployed ‘more widely as a near real-time tool to enable data matching between departments and between central and local government’. (Ref. 16)

125 The Commission has made extensive efforts over the years to encourage departments to participate voluntarily in the NFI. However, we have been unable to get them to do so.

126 It makes good business sense for government departments to take advantage of the benefits of participation in the NFI, particularly in the current economic climate. Even if a body considers their arrangements for preventing and detecting fraud to be sound, taking part in the NFI is still important as it can:

- provide assurances to the accounting officer about the effectiveness of their department's control arrangements, and therefore strengthen the evidence for the Annual Governance Statement;
- identify fraud, and therefore fraud risks, that the department may otherwise be unaware of; and
- help identify fraud against other NFI participants in the wider public sector and the private sector.

127 We will again invite all government departments to take part in the NFI 2012/13 exercise and to access our new range of real-time and flexible batch data matching services. However, we think the government should now take a stronger lead by requiring all government departments and their arm's length bodies to take part in the NFI.

Housing associations

128 Housing associations are not mandatory participants in the NFI. Despite clear evidence that the NFI is a powerful tool for detecting tenancy fraud and the increased focus on housing tenancy fraud over the last two years, fewer than 6 per cent of the 1,632 housing associations registered on 31 December 2010 (Ref. 17) currently elect to take part.

129 Taking part in the NFI will help address tenancy fraud against all housing associations and councils. In *PPP 2011* (Ref. 2) we recognised that current funding arrangements mean there are few, if any, financial incentives for housing associations to tackle tenancy fraud. Although some housing associations are working successfully with councils to tackle tenancy fraud, this is not yet widespread. However, to reduce the current pressures on social housing it is important that everyone plays their part. We believe that all housing associations should show their commitment to tackling tenancy fraud by taking part in future NFI exercises.

130 We will continue to encourage housing associations to take part in the NFI voluntarily. We will also urge the Homes and Communities Agency and DCLG to identify a way to promote the benefits of the NFI to the sector and ensure more housing associations take part in the NFI 2012/13. As the necessary legislative changes are made to transfer the Commission's data matching powers to another body, we hope the opportunity is taken to make housing associations mandatory participants in the NFI.

Government should now take a stronger lead by requiring all government departments and their arm's length bodies to take part in the NFI

The private sector

131 Both the NFI batch and real-time data matching services offer real benefits for companies. They can, for example, provide mortality screening services or identify employees whose immigration status means they have no right to work in the UK. We will continue to work with our existing private sector participants and encourage others to take part.

Widening the NFI for other purposes

132 Section 32H of the Audit Commission Act 2007 gave powers to any Secretary of State to extend the Commission's data matching powers for purposes other than the detection and prevention of fraud. The Act defines these other purposes as being to assist in the:

- prevention and detection of crime other than fraud;
- apprehension and prosecution of offenders; and
- recovery of debt owing to public bodies.

133 In our discussions on the future of the NFI with DCLG and other stakeholders, we will argue the case for extending our data matching powers to cover the additional purposes outlined above. We hope the proposed legislation to transfer the Commission's data matching powers to a new owner will provide the opportunity to do this. We have also suggested a further extension to allow data matching for the prevention and detection of error and maladministration.

134 There is also potential for the NFI to help deliver wider government initiatives, subject to development of a strategy that fits within the general law on sharing of data. This could provide scope for the NFI to assist:

- the NFA and the Cabinet Office in their development of an Intelligence Sharing Roadmap (Ref. 18) – by sharing the details of fraudsters identified through NFI with the proposed counter-fraud checking service; and
- the Cabinet Office's Identify Assurance Programme (Ref. 19) – by using the NFI databases to validate the information provided by an individual.

Appendix 1: Report calculations

An explanation of how we calculate the figures for frauds, overpayments and outcomes used in the report is shown in the following table.

Table 5: **Report calculations**

Data Match	Already delivered (£million)	Estimated (£million)	Total (£million)	Basis of calculation of estimated outcomes
Housing benefit	18.34	13.00	31.34	Weekly benefit reduction multiplied by 13.
Local government pensions	9.67	52.12	61.79	Cabinet Office formula: annual pension multiplied by the number of years until the pensioner would have reached the age of 90.
Other public sector pensions	2.13	27.24	29.37	Same as local government pensions above.
Blue badges	0	16.01	16.01	Number of badges confirmed as deceased multiplied by £500 to reflect lost parking and congestion charge revenue.
Private residential care homes	0.83	1.95	2.78	£5000 per case based on average weekly cost of residential care multiplied by 13.
Tenancy fraud	0	17.63	17.63	£75,000 per property recovered based on average three year fraudulent tenancy. Includes: temporary accommodation for genuine applicants; legal costs to recover property; relet cost; and rent foregone during the void period between tenancies.
Right to buy	0.06	0.26	0.32	£26,000 per application withdrawn to reflect average value of discount.

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Data Match	Already delivered (£million)	Estimated (£million)	Total (£million)	Basis of calculation of estimated outcomes
Payroll	4.50	3.24	7.74	£5,000 per case (£10,000 for immigration cases).
Trade creditors	4.70	0.02	4.72	
Private sector pensions	0.37	6.25	6.62	Same as local government pensions above.
Council tax SPD	50.37	0	50.37	
Total ⁱ	90.97	137.72	228.69	

Source: Audit Commission

ⁱ The amounts included in this table relate to England results only and are subject to rounding.

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We welcome your feedback. If you have any comments on this report, are intending to implement any of the recommendations, or are planning to follow up any of the case studies, please email: nationalstudies@audit-commission.gov.uk

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Agenda Item 4.2

Committee: Standards (Advisory)	Date: 17 October 2012	Classification: Unrestricted	Report No:	Agenda Item:
Report of: Assistant Chief Executive (Legal Services) Originating officer(s) David Galpin, Head of Legal Services - Community		Title: Enforcement Wards Affected: All		

1. SUMMARY

- 1.1. On 8 September 2010, Cabinet agreed a council-wide enforcement policy.
- 1.2. On 3 October 2012, Cabinet considered a review of the policy by reference to enforcement action carried out in the 2011/2012 financial year. Cabinet considered that the policy was fit for purpose, but that it should be revised in relation to covert investigations, following changes made by the Protection of Freedoms Act 2012.
- 1.3. The report presented to Cabinet on 3 October 2012 is presented for consideration by the Standards Committee.

2. DECISIONS REQUIRED

Standards (Advisory) Committee is recommended to:-

- 2.1. Consider and comment upon the information provided in the attached Cabinet report.

3. BACKGROUND

- 3.1. Relevant background is set out in the attached report.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 4.1. The report describes the revision of the agreed council-wide enforcement policy following changes made by the Protection of Freedoms Act 2012. There are no financial implications arising from the recommendations in this report

5. **CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

5.1. Legal implications are addressed in the attached report.

6. **ONE TOWER HAMLETS CONSIDERATIONS**

6.1. This is addressed in the attached report.

7. **SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

7.1. This is addressed in the attached report.

8. **RISK MANAGEMENT IMPLICATIONS**

8.1. This is addressed in the attached report.

9. **EFFICIENCY STATEMENT**

9.1. This is addressed in the attached report.

10. **APPENDICES**

Appendix 1 – Cabinet report of 3 October 2012

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Brief description of “back ground papers”	Name and telephone number of holder and address where open to inspection.
None	N/A

Committee: Cabinet	Date: 3 October 2012	Classification: Unrestricted	Report No: (CAB 041/123)
Report of: Assistant Chief Executive (Legal Services) Originating officer(s) David Galpin, Head of Legal Services - Community		Title: Enforcement Policy Wards Affected: All	

1. SUMMARY

- 1.1. On 8 September 2010, Cabinet agreed a council-wide enforcement policy. The policy's implementation has been reviewed by reference to enforcement action carried out in the 2011/2012 financial year. It is considered that the policy is fit for purpose, but that it should be revised in relation to covert investigations, once the Protection of Freedoms Act 2012 takes effect.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommended to:-

- 2.1. Consider the information set out in the report.
- 2.2. Agree the revised enforcement policy in Appendix 3.

3. BACKGROUND

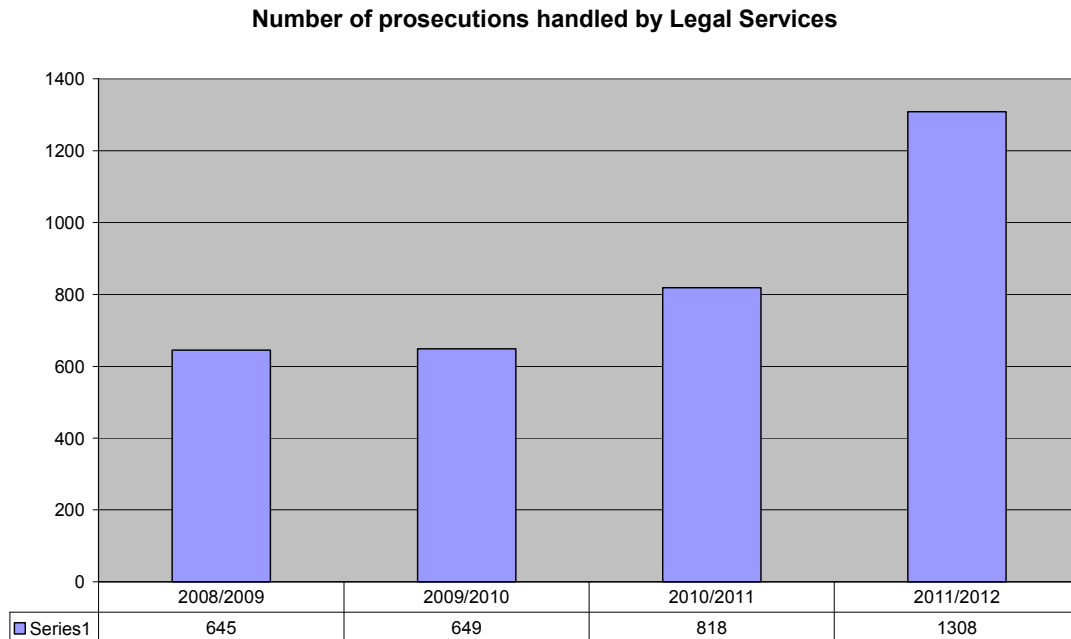
- 3.1. The enforcement policy adopted by the Council on 8 September 2010 introduced five key principles of enforcement, namely –
- **Raising awareness** of the law and its requirements.
 - **Proportionality** in applying the law and securing compliance.
 - **Consistency** of approach
 - **Transparency** about the actions of the Council and its officers.
 - **Targeting** of enforcement action.
- 3.2. This report provides a summary of enforcement activity for the 2011/2012 financial year and an analysis of whether or not such action is consistent with the five expressed principles. Consideration is also given to whether the policy requires revision.

4. **BODY OF REPORT**

4.1. **ENFORCEMENT ACTIVITY: PROSECUTIONS**

4.2. In 2011/2012, the Council completed 1308 prosecutions. This was a significant increase over previous years, as shown in the following chart.

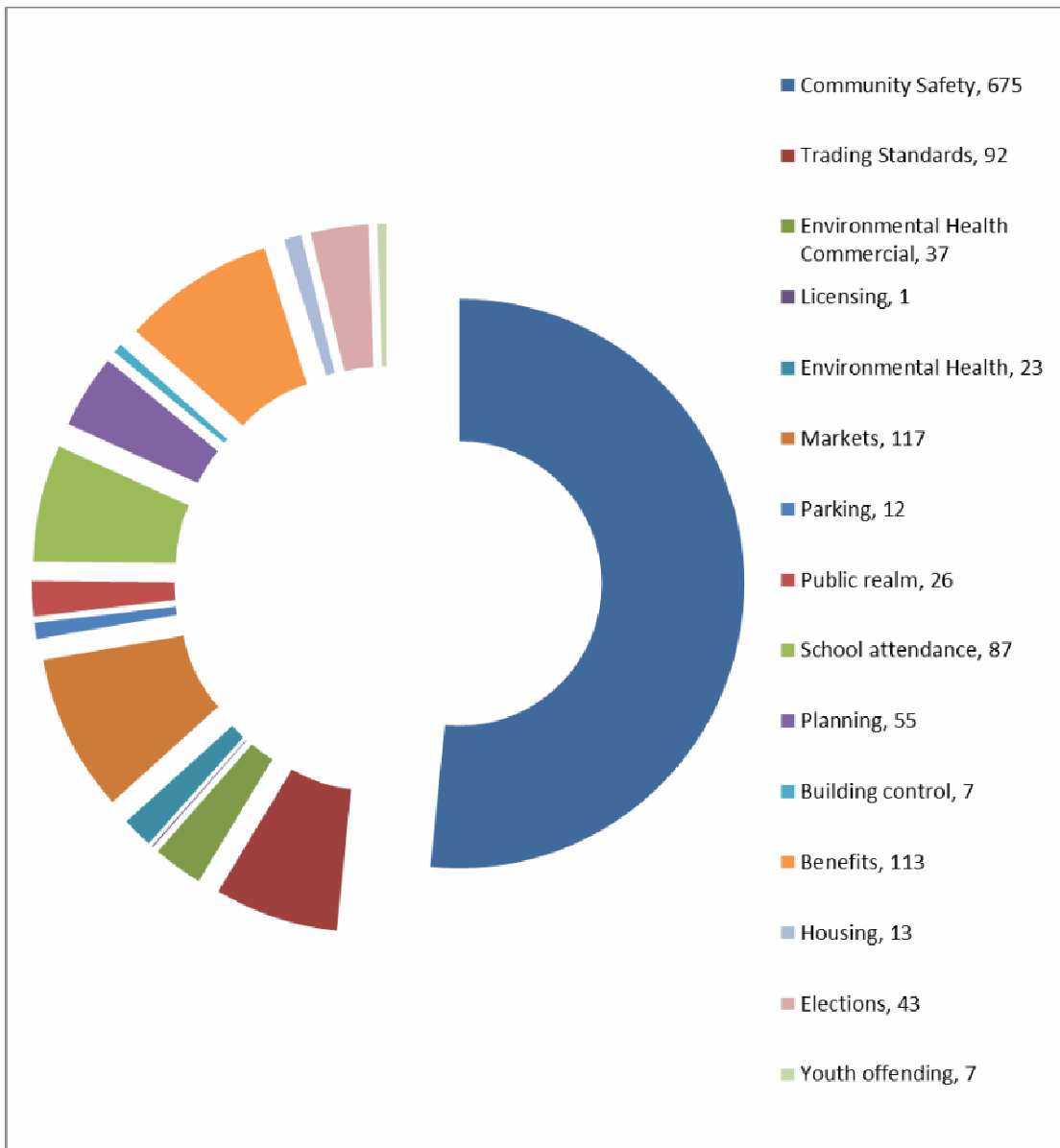
Figure 1



4.3. The prosecution types and outcomes are set out in Appendix 1. Figure 2 shows the breakdown of Council prosecutions in 2011/2012 by reference to broad areas of enforcement.

4.4. The Communities Localities and Culture directorate made the single largest contribution to the Council's prosecutions, with 971 cases (74%). The Tower Hamlets Enforcement Officers contributed 554 cases (42%) of the Council's total prosecutions.

Figure 2 - Council Prosecutions in 2011/2012



- 4.5. The elections cases referred to in Figure 2 involved enforcement by the Council of compliance with the canvass and this work is referred to in more detail in paragraphs 4.82 to 4.86 below. Any allegations of more serious offences related to elections are referred to the Metropolitan Police.
- 4.6. Overall, the Council brought 1,308 prosecutions and obtained 908 convictions. There were 238 cases with in which simple cautions were administered or the

Council obtained other successes. This makes a total of at least 1146 cases (87%) in which successful outcomes were obtained.

- 4.7. Prostitution cases provide an example of where the Council may look for “other successes”. The Council operates the Diversion Scheme pursuant to which prostitutes are given the opportunity to participate in the Safe Exit programme after being charged, rather than the Council pursuing a conviction and fine, potentially forcing re-offending. The programme involves a needs assessment and referral to an appropriate support agency, with the intention of helping individuals get away from prostitution. If the programme is completed, the Council generally discontinues the prosecution. The Council considers the discontinued cases to be successes.
- 4.8. There were 130 cases (10%) in which charges were not served, or were withdrawn or otherwise discontinued after service. There may be a variety of reasons why cases are not proceeded with, such as where new material is made available to the Council that affects the prospects of success in the case.
- 4.9. The Council lost or offered no evidence in just 20 cases, which amounts to 3% of the total cases.
- 4.10. Defendants were ordered to pay the following amounts –
- | | |
|-----------------------|----------|
| • Fines | £166,324 |
| • Costs | £200,457 |
| • Confiscation Orders | £780,944 |
| • Cash seizures | £2,743 |
| • Compensation awards | £138,317 |
- 4.11. In addition to fines, terms of imprisonment were imposed in 71 cases. In 43 of those cases, however, the term was suspended with a requirement that the defendant do unpaid work in the community. In a further 35 cases, Community Orders were imposed with requirements to also do unpaid work. A post-conviction Anti-social Behaviour Order was obtained against a prolific persistent offender who was a street drinker and, when drunk, abused people.
- 4.12. A notable success was the case of SM. This was a joint prosecution undertaken with the Department of Work and Pensions in which the Council was the prosecution agency. The Council’s corporate fraud manager led a multi-disciplinary investigation, which revealed that over a period of six years SM submitted a number of different claims for financial support to different agencies. Specifically, SM submitted: claims to the Council for financial assistance with residential or nursing home fees for his father; claims for income support to the DWP for himself; and claims to the Council for housing and council tax benefits for himself. In making these claims, SM failed to declare savings that he and his father had and which at their highest were in excess of £170,000. SM was

arrested and charged with offences under the Theft Act 1968; the Social Security Administration Act 1992; and the Fraud Act 2006. SM pleaded guilty to a total of seven charges in the Crown Court and was sentenced to 13 months imprisonment on each charge to be served concurrently. In addition, SM was ordered to pay compensation amounting to £116,781.08 being the amount of the overpayments.

4.13. Following investigations by the Housing Options Service the Council prosecuted offenders who made fraudulent homelessness applications under the Housing Act 1996 or fraudulent applications to go on the housing waiting list or both. In each case, the relevant fraud involved the applicant falsely asserting, on the relevant application form, that he or she did not own other property. Between 1st April 2011 and 31st March 2012, six people were convicted of offences relating to such fraudulent applications. One individual was sentenced to 16 months imprisonment, suspended for 2 years, and also ordered to do 100 hours unpaid work. Another individual was sentenced to a 12 month Community Order with a 50 hours unpaid work requirement.

4.14. **ENFORCEMENT ACTIVITY: OTHER THAN PROSECUTIONS**

4.15. **Safer Communities**

4.16. The Council's Safer Communities service, within the Communities, Localities and Culture directorate, deals with anti-social behaviour, public order, consumer protection and environmental health matters, broadly connected with the Community Plan objectives of A Great Place to Live and A Safe and Cohesive Community.

4.17. The Tower Hamlets Enforcement Officers ("**THEOs**") provide a highly visible, uniformed presence in the borough. The service also works closely with the police and other services across the Council. The work of the THEOs cuts across other enforcement areas referred to below. Particular matters dealt with include: public urination; criminal damage; prostitution; fly posting; licensing; touting, unlicensed street trading; anti-social behaviour; begging; dog fouling; dogs off leads; failures to surrender alcohol; graffiti; highway obstruction; and littering.

4.18. The prosecution work done on behalf of community safety is referred to in section 4 above. Other enforcement work carried out by the THEOs was as follows –

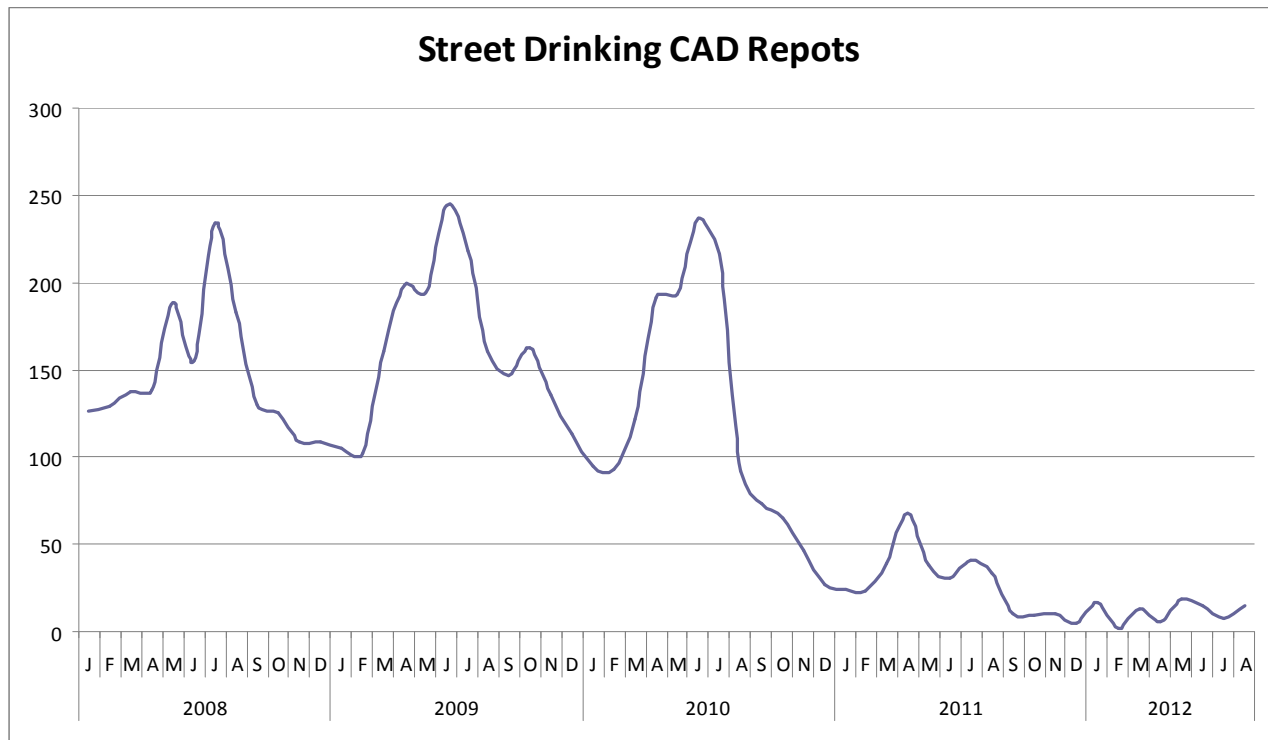
- 962 fixed penalty notices issued
- 1470 occasions of confiscating alcohol (excluding minors)
- 42 occasions of confiscating alcohol from persons under 18.
- 30 occasions of confiscating alcohol from minors under 16.
- 206 counterfeit DVDs seized.

- 10 noise abatement notices issued.

4.19. In relation to anti-social behaviour, the Council successfully completed two restorative justice meetings (where the victim and perpetrator engage in mediation to discuss issues and seek to find a resolution, signed 57 anti-social behaviour contracts and issued 83 warning letters in respect of anti-social behaviour contracts. The services issued 164 anti-social behaviour warning letters. One premises closure order was obtained in respect of 101-109 Fairfield Road, E3. This followed youth congregation, littering, shisha smoking and severe noise nuisance in and around the premises.

4.20. The key successes of the THEOS include a 91% reduction in street drinking reports since the introduction of the THEOs in 2009.

Number of street drinking reports	
Date	Reports
October 2009	163
August 2012	15



4.21. Since the introduction of the borough-wide drinking control zone (DCZ) in September 2011, the number of alcohol seizures made by the THEOs has increased by 98% and the number of street drinking reports has gone down by 75%

Number of Alcohol Seizures	
Date	Reports
Sept 2010 to August 2011	1136
Sept 2011 to August 2012	2146

- 4.22. The enforcement team in Safer Communities now respond to ASB reports as and when they come in, having piloted the process successfully during the Olympic and Paralympic period. All ASB reports to the Council are assessed when received and, where appropriate, the relevant actions are taken immediately. A skilled duty ASB officer is responsible for assessing each report and tasking the THEOs, where necessary, or referring the issue to the relevant RSL or SNT. 65% of ASB reports to the Council relate to noise and, from 4 October 2012, officers will be providing a dedicated ASB and noise service.
- 4.23. The enforcement team now has 14 non-accredited enforcement officers patrolling the borough's markets. These officers are responsible for enforcing a number of Council byelaws.
- 4.24. As part of the integrated offender management approach, the THEOs are increasingly working with other organisations to ensure that early intervention can occur, in appropriate cases, for individuals identified through the THEO's patrolling. This enables the enforcement approach to be complimented by a range of supportive and preventative interventions. An example of this is in relation to street drinkers, where there is scope for working with hostels and substance misuse services to tackle the underlying cause of a problem.
- 4.25. **Trading standards**
- 4.26. The Council has responsibility for enforcing a variety of consumer protection legislation, including the Trade Marks Act 1994, the Consumer Credit Act 1974, the Consumer Protection Act 1987 and related statutory instruments. The Council's trading standards team seeks to prevent a variety of unlawful trading activity, including: touts offering deals that are not honoured, sales of counterfeit goods; sales of unlabelled goods; schools offering education that they cannot deliver.
- 4.27. The Council's staff spent 12 days visiting off-licences in partnership with the Metropolitan Police Service and with Her Majesty's Revenue and Customs. The Council took the lead in prosecuting a major importer of fake consumer goods, working in partnership with the City of London Police. This led to a conviction in the Crown Court in May 2012 and the offender was sentenced to 33 months imprisonment.
- 4.28. The Council received 5750 consumer complaints in 2011/2012. It recorded 1660 visits to premises. The Council issued 108 simple cautions. The Trading Standards team triggered 11 premises licence reviews under the Licensing Act

2003, resulting in amendment of licence conditions and eight licence suspensions. As a result of the Council's investigations, three web sites were suspended. The Council served five premises closure notices.

4.29. Environmental health commercial

4.30. The Council is responsible for carrying out enforcement action in respect of health and safety matters under the Health and Safety at Work etc Act 1974, food safety under the Food Hygiene (England) Regulations 2006, special treatment premises under the London Local Authorities Act 1991 and smoke free premises under the Health Act 2006. This enforcement work is dealt with primarily in the Council's Communities, Localities and Culture directorate.

4.31. The Environmental Health Commercial team has worked with Police and with other Council teams to combat illegal shisha bars.

4.32. In order to identify issues and to work with premises to prevent breaches of the law, the Council carried out 2675 inspections and re-inspections of premises as follows during 2011/2012 –

- 826 health and safety inspections
- 111 health and safety re-inspections
- 1112 food safety inspections
- 626 food safety re-inspections

4.33. The Council issued 2635 written warnings, 2016 in respect of health and safety breaches and 619 in respect of food safety breaches. The Council gave four simple cautions, three in respect of health and safety at work and for breach of a special treatments licence. The Council issued statutory notices, as follows –

- 123 food hygiene improvement notices.
- 16 formal food closures.
- 4 remedial action notices.
- 80 health and safety improvement notices.
- 11 health and safety prohibition notices.

4.34. There were, in addition, five voluntary closures of food premises in circumstances where the Council had inspected and identified breaches. The Council issued 10 fixed penalty notices in respect of smoking at premises required to be smoke free.

4.35. The Council carried out one seizure in a health and safety case and eight seizures of illegally imported food. There were an additional eight cases in which food was voluntarily surrendered to the Council as a result of investigation.

4.36. Licensing

- 4.37. The Council is responsible for administering the Licensing Act 2003. This work is carried out within the Council's Communities, Localities and Culture directorate. In 2011/2012, the Council recorded 354 visits by the Licensing Team of premises in the borough. The Council issued 27 written warnings for licensing infringements and held 24 reviews of licences under the Licensing Act.
- 4.38. **Environmental health – environmental protection**
- 4.39. Environmental protection enforcement is dealt with in the Council's Communities, Localities and Culture directorate and covers noise, pollution and other public health matters. Significant pieces of legislation dealt with by the team are the Environmental Protection Act 1990, Control of Pollution Act 1974, Public Health Act 1936, Prevention of Damage by Pests Act 1936 and the Housing Act 2004.
- 4.40. The service has contributed to partnership working in a variety of ways, including the following –
- Established close working arrangements with Crossrail, the Olympic Delivery Authority, Joint Local Authority Regulatory Services (JLARS), London City Airport, Thames Tideway Tunnel and Building Schools for the Future projects with the objective of minimising noise disturbance from works.
 - Work with the Metropolitan Police Service, the Council's planning department, the Fire Service and the Royal borough of Greenwich over licensing applications and conditions.
 - Participation in the Licensing Enforcement Forum, and the Entertainment Licensing Safety Advisory Group.
 - Participation in the community safety group and close collaboration with the police and THEOs.
 - Assisting registered social landlord partners in resolving problems.
 - Work with social services in relation to service users with mental health problems.
 - Work with the Fire Service to resolve fire safety in housing.
 - Work with the housing benefits team that deals with landlords.
 - Collaboration with the Dogs Trust on the neutering voucher scheme.
- 4.41. By way of prevention, the service agreed noise management plans for licensed events, including major events in Victoria Park and the Baishaki Mela. The service worked closely with developers to set noise and pollution limits on major construction projects. The service was also responsible for licensing houses in multiple-occupation and issued 68 licences for this purpose under the Housing Act 2004.
- 4.42. During 2011/2012, the service routinely sent warning letters to landlords on receipt of complaints regarding housing safety. Three warnings were sent by

animal wardens. The service administered three simple cautions in respect of dangerous animals and one simple caution in respect of noise. The service issued 503 enforcement notices, as follows –

- 64 notices under section 61 of the Control of Pollution Act 1974 giving prior consent to noise levels on construction sites
 - 11 notices controlling noise on construction sites under section 60 of the Control of Pollution Act 1974
 - 135 abatement notices for statutory nuisances under section 80 of the Environmental Protection Act 1990
 - 7 notices for cleansing of properties under section 83 of the Public Health Act 1936
 - 13 notices under the Prevention of Damage by Pests Act 1936
 - 101 improvement notices under section 11 of the Housing Act 2004
 - 20 improvement notices under section 12 of the Housing Act 2004
 - 26 prohibition orders under section 20 of the Housing Act 2004
 - 10 revoke and vary prohibition orders under section 25 of the Housing Act 2004.
 - 2 emergency remedial action orders under section 40 of the Housing Act 2004
 - 10 overcrowding notices under section 139 of the Housing Act 2004.
 - 104 notices to produce documents under section 235 of the Housing Act 2004.
- 4.43. The Council carried out works in default of compliance with a statutory notice in 16 cases. These included works to disable misfiring alarms, removal of refuse under the Prevention of Damage by Pests Act 1936 and the cleansing of filthy and verminous premises. In 15 cases, the Council applied for warrants to enable entry to premises to carry out works.
- 4.44. The service triggered reviews of premises licences under the Licensing Act 2003 in five cases. The service's representations led to reduction of the hours operated by some premises and in one case the premises licence was revoked.
- 4.45. The service conducted five seizures of property under the Environmental Protection Act 1990 and one seizure of a stray dog under "collar and tag" legislation. 20 dog control enforcement actions are pending from incidents occurring in 2011/2012.
- 4.46. Animal wardens have contributed to raising awareness by two roadshows with the RSPCA at Asda, Roman Road, and one with the Dogs Trust at Victoria Park. The animal wardens contributed to two residents' community days with Island Homes.
- 4.47. Significant achievements in 2011/2012 are as follows –

- Early consultation and discussion with major project and major infrastructure developers has reduced the number of complaints from the public regarding environmental damage.
- The partnership work of the Licensing Enforcement Forum and other licensing forums has reduced the number of complaints from the public about noise.
- Working with the Police, THEOs and the Council's ASB team has been useful in highlighting problem areas of work and channelling resources to them.
- Seizure of drums from nuisance drummers in Brick Lane achieved in cooperation with THEOs.
- Seizure of a bull terrier from minors in the Watney Market area with police assistance, following extensive complaints including dog fighting from local residents.
- Increased joint working with all enforcement partners.
- Destruction of a dangerous dog after it came in as stray. There was a history of attack incidents, registered on the exempted dogs register under the Dangerous Dogs Act 1991.

4.48. **Markets**

- 4.49. The Council is responsible for regulating unlawful activities associated with the borough's markets, including offences of unlawful street trading contrary to the London Local Authorities Act 1990. This enforcement work is dealt with by the Markets team within the Council's Communities Localities and Culture directorate.
- 4.50. The Markets team worked with Police, City of London and Hackney Council in relation to its enforcement work. Within the Council the Markets team also worked closely with Trading Standards, the THEOs, Highways and Clean and Green. The Markets team worked with the London Mosque to raise awareness of the law in relation to unlawful street trading activities.
- 4.51. In 2011/2012, the Council issued 479 written warnings in respect of unlawful market activities. The Council confiscated 286 items such as bicycles, DVD's and bric-a-brac associated with unlawful activities.
- 4.52. The prosecution work in respect of markets is set out in section 4 above. A particularly successful case involved a bike theft witnessed by a market officer. Police arrested the offender, who was found to be in breach of bail conditions relating to earlier, similar offences. The offender was convicted and sentenced to four months' imprisonment.

4.53. **Parking**

- 4.54. Parking enforcement is dealt with in the Council's Resources directorate and covers cases of fraud and misuse of parking permits. This may involve persons making false statements to obtain a parking permit, such as a disabled badge, forging a permit or using another person's permit. Such cases may arise under the Road Traffic Regulation Act 1994, the Fraud Act 2006, the Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000, or the Chronically Sick and Disabled Persons Act 1970. It is not concerned with the issuing of penalty charge notices under the Traffic Management Act 2004 and the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.
- 4.55. The Council conducted daily beat checks and five joint working operations with police. By way of non-prosecution enforcement, the Council carried out the following –
- 9 warnings.
 - 29 simple cautions.
 - 76 removals of vehicles.
 - 180 fixed penalty notices.
 - 123 confiscations of disabled badges.
 - 108 confiscations of visitor scratch cards.
- 4.56. The Council assisted other authorities in 12 cases where a fake or fraudulent Tower Hamlets blue badge was used outside the borough.
- 4.57. **Public realm**
- 4.58. The Council's Public Realm service, within the Communities, Localities and Culture directorate, consists of three departments: Clean and Green; Transportation & Highways; and Parking Services.
- 4.59. Public Realm deal with street cleansing, waste and recycling collections, parks maintenance, road and pavement repairs, contract management, environmental crime (includes littering, fly-tipping, graffiti, fly-posting), highways enforcement, community transport services, the provision of cycle lanes and management of street parking, including disabled parking. Services provided by Public Realm are broadly connected with the Community Plan objectives of A Great Place to Live and A Safe and Cohesive Community.
- 4.60. The Streetcare and Commercial Waste THEO team within the Clean and Green department carry out the enforcement function in relation to environmental crime and highways enforcement. They provide a visible, uniformed presence in the borough. The Commercial Waste THEOs mainly concentrate on commercial waste enforcement and work in close partnership with the Council's waste contractor Veolia Environmental Services and other enforcement agencies. Local street care officers provide a front line interface between residents, businesses and other local bodies in order to keep any publicly owned space

clean, safe and environmentally friendly. These officers are responsible for the management of street related services. The Streetcare teams are based in local hubs, from which they carry out inspections of parks, play areas and highways. The teams enforce against environmental and highways offences. The teams are also responsible for licensing of temporary structures and road closures.

4.61. The prosecution work done on behalf of Clean and Green is referred to in section 4 above under Public Realm. Other enforcement work carried out by the Streetcare and Commercial Waste THEOs during 2011/2012 was as follows –

- 1099 fixed penalty notices (FPN).
- 1810 warning letters to residents and business.
- 109 commercial waste-related warning letters.
- 892 waste investigations.
- 292 Statutory Notices, as follows: 143 under section 34, Environmental Protection Act 1990; 107 under section 47, Environmental Protection Act 1990; 1 litter clearance notice under the Environmental Protection Act 1990; 41 notices under the Highways Act 1980.
- 20 informal graffiti removal requests.
- 32 graffiti removal notices under the London Local Authorities Act 1995.
- 39 warning letters to beneficiaries of fly-posting.
- 55 warning letters to estate agents for unauthorised signs.
- 265 fly-poster removal notices to beneficiaries of fly-posting.

4.62. Of the 1099 FPNs issued, there were: 820 for depositing litter; 6 for graffiti and fly-posting; 27 for failure to comply with a waste receptacle notice; 71 for failure to produce authority (waste transfer notes); 6 for Wilful obstruction of highway; 1 for depositing a builder's skip on a highway without permission; 6 for failure to secure lighting or other marking of builder's skip; 1 for failure to comply with conditions of skip permission; 1 for erecting scaffolding or other structure without licence; and 160 for displaying advertisement in contravention of regulations. As at 8 May 2012, of the FPNs issued in 2011/2012: 654 have been paid; 131 withdrawn, following successful representations; and 311 remain outstanding, some of which have been processed for prosecution.

4.63. Leading up to the Olympics the Commercial Waste THEOs have been working in partnership with Veolia Environmental Services to remove all trade waste bins from main roads and introduce time-banded collections. The team introduced a voluntary code of conduct for businesses to reduce the impact of enforcement activity. The code highlighted the need for businesses to comply with their duty of care and outlined what actions they could face if they failed to adhere to the code of conduct. The project is ongoing and being rolled out throughout the borough. It has already seen success by reducing clutter, obstruction and litter from the highways. The introduction of two night-time Streetcare officers, has ensured that a uniformed presence is maintained to deal with all sorts of environmental crime.

4.64. School attendance

4.65. The Council is responsible for enforcing non-school attendance under the Education Act 1996. This enforcement work is dealt with in the Council's Children's Schools and Families directorate. In addition to prosecuting parents (which cases are referred to in section 4 above), the Council issued a number of written warnings, the total number of which is estimated at 500.

4.66. Planning

4.67. The Council is responsible for planning enforcement under the Town and Country Planning Act 1990 and related legislation and statutory instruments. The work is dealt with in the Council's Development and Renewal directorate.

4.68. The planning enforcement team worked in partnership with other agencies and Council departments as follows –

- Work with the Environment Agency and Police and, internally, with Clean and Green, Environmental Health, Licensing and Asset Management to prevent use of land at Alisa Street for car-breaking, waste storage and related activities. The land was restored to acceptable condition.
- Work with Police and, internally, with Licensing and Trading Standards to enforce planning and licensing conditions for premises at Brick Lane.
- Work with Police and, internally, with Smokefree and Markets to close an illegal Shisha Club at Pennington Street.

4.69. The Council issued a number of verbal and written warnings in respect of planning enforcement during 2011/2012, the precise number of which have not been recorded. The Council issued a single simple caution in respect of a tree removal at Chapel House Street. The Council issued 138 statutory notices as follows –

- 58 enforcement notices.
- 41 planning contravention notices.
- 2 temporary stop notices.
- 1 notice to remove an advert.
- 1 notice to carry out repairs.
- 1 tree replacement notice.
- 27 breach of condition notices.

4.70. The Council carried out works in default of compliance with statutory notices to remove three roadside illuminated hoardings.

4.71. The planning enforcement service made representations in respect of premises licences under the Licensing Act 2003. This led to premises at 60-62

Commercial Street (Gramophone Bar) having hours reduced to mirror planning hours. The license was suspended for 3 months.

4.72. Significant achievements in planning enforcement in 2011/2012 were –

- 60 Sutton Street – two successful prosecutions with fines totalling £24,000 and demolition of illegal works (3-storey former public house).
- 12 Hanbury Street – successful prosecution with a fine and costs of £15,500. Illegal Extensions were removed and the twin ridge roof restored.
- Roman Road – removal of illegal high level signage (shop and estate agents) and installation of new shop fronts to buildings with commercial units boarded up.
- 24 Marshfield Street – removal of illegal extension and a pending prosecution.
- Advertisement Project – removal via direct action and voluntarily of some 20 large scale billboards throughout the borough, with work on-going.
- Alisa Street – cessation of illegal uses at St Leonards Wharf and on-going negotiations regarding restoration of the land.
- 101 – 109 Fairfield Road – cessation of illegal shisha club, with buildings now demolished and being redeveloped.

4.73. **Building control**

4.74. The Council is responsible for enforcing the Housing and Building Control Act 1984, the London Building Acts Amendment Act 1939 and related statutory instruments. The work is dealt with in the Council's Development and Renewal directorate. In 2011/2012, the service issued four warning letters and 10 enforcement letters.

4.75. **Benefits**

4.76. The Council is responsible for preventing fraud in respect of benefits that it administers. This work is dealt with in the Council's Resources directorate and involves action under the Social Security Administration Act 1992.

4.77. By way of non-prosecution enforcement, the Council administered the following –

- 54 simple cautions.
- 45 administrative penalties.

4.78. The Council carried out joint working with the Department of Work and Pensions. This led to the Council taking the lead on a successful prosecution, with the Council's legal service acting on behalf of the Council and the DWP. The case led to the defendant being ordered to repay an amount in excess of £100,000.

4.79. **Housing**

- 4.80. The Council is responsible for preventing fraud in respect of housing allocations and homelessness applications. This work is dealt with in the Council's Development and Renewal directorate and may involve action under the Fraud Act 2006.
- 4.81. During 2011/2012, the enforcement action focussed on prosecutions. Eight individuals who falsified their housing applications were successfully prosecuted for fraud during this period, as summarised above.
- 4.82. **Elections**
- 4.83. During the annual canvass period, it is the duty of the Electoral Registration Officer (ERO) to carry out an annual audit of the Borough of Tower Hamlets to ascertain if the information currently held on the Register of Electors is correct. The Council enforces compliance with the canvass and this work is carried out in the Chief Executive's directorate. More serious offences related to elections are referred to the Metropolitan Police.
- 4.84. In Tower Hamlets, canvass staff are employed for a period of three months to conduct personal visits to all properties in the borough to assist with completion of the Voter Registration Form. If residents do not respond to the personal visits, the initial form is posted through the letterbox. Staff will then follow up their visits with a reminder form during September and October. If a resident refuses to comply with this statutory duty, a letter is sent confirming that any person failing to provide information in pursuance of this requisition is liable on summary conviction to a fine not exceeding £1,000.
- 4.85. If no response is received from the property after the first two stages of the canvass, a final reminder form is posted out via Royal Mail. Following completion of the annual audit period at the end of November 2011, those properties identified as 'refused to register' who failed to complete the Voter Registration Form are checked against the borough's Council Tax records to confirm the name of the resident, before being passed on to the Legal Services to commence court proceedings.
- 4.86. Figure 2 in section 4 above shows that, in 2011/12, 43 prosecutions were taken by Legal Services for Elections and 42 of those were for failing to return voter registration forms. The Council continues to encourage such residents to enrol. Prior to serving a summons, the Council sends out a letter with a voter registration form asking for its return. If it is not returned then a summons is served with a further voter registration form for completion and advising that, if the form is returned, the proceedings will be withdrawn. Further, at any time up to and including the day of the hearing, the form can be returned and the proceedings withdrawn. 29 persons either returned forms or moved address so

that they were no longer required to be registered and the proceedings were withdrawn.

4.87. **Youth offending**

4.88. The Council is responsible for ensuring compliance in relation to statutory Court Orders made through the Youth Court. In 2011/2012 this work was carried out by the Offending Service (YOS) within Children Schools and Families.

4.89. There were at least 160 orders requiring compliance during 2011/2012, including referral orders, youth rehabilitation orders and custodial licence periods. To enforce these orders, the Council follows a specific YOS compliance procedure, in keeping with Ministry of Justice National Standards (NS). This requires the issue of a formal warning letter for each missed appointment deemed to have no reasonable excuse. Three such warnings trigger a compliance panel meeting, which decides whether the matter be returned to court for breach proceedings. During 2011/2012, at least 253 warning letters were sent. There were 61 breach proceedings prosecuted by the Council which reached an outcome. 7 of these cases were contested, all of which were proved.

5. **RAISING AWARENESS**

5.1. The Council took a variety of steps during 2011/2012 to raise awareness of the law, which included –

- Holding an event to promote the anti-touting strategy, writing to premises and posting stickers.
- Working with the London Mosque to raise awareness of the law on unlawful street trading.
- Writing to occupiers of premises regarding breaches and potential breaches of the law.
- Participating in public awareness sessions in relation to dog ownership.
- Promoting successes in the area of anti-social behaviour, where appropriate, using the “you said, we did” format. This was done via leaflets, posters and advertisements in East End Life, depending on what was considered proportionate in individual cases.

5.2. The Council actively publicised its enforcement activity throughout 2011/2012. This involved stories in East End Life and media releases about enforcement programmes and enforcement successes. The Council’s Communications Team recorded 47 separate instances where the Council promoted enforcement activity, which are summarised in Appendix 2 to this report.

5.3. This material demonstrates that the Council is taking steps to promote awareness of the law, consistent with the requirements of its enforcement policy.

To the extent that the enforcement policy encourages raising awareness, it is proposed that the policy should remain unchanged.

6. CONSISTENCY

6.1. The enforcement policy specifies that –

Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Council aims to achieve consistency when: responding to requests for service; offering advice; and deciding upon enforcement action.

Consistency does not mean uniformity. Officers will need to take account of many variables when making decisions, including: the seriousness of the breach; any history of previous breaches; the attitude of the offender; and the capacity of the offender.

6.2. Numerous examples may be provided in respect of the enforcement action covered in sections 4 and 5 above. It is proposed, however, to give a single example by reference to the enforcement work carried out by electoral services, set out in paragraphs 4.81 to 4.85 above. The work carried out to ensure compliance with the annual canvass involves a clear progression through the following stages: personal visit; delivery of the form; reminder; warning letter; final reminder; and prosecution. If the prosecution leads to return of the canvass form, then the prosecution is withdrawn. This process of enforcement has a clear purpose and is followed consistently based on the underlying purpose rather than the identity of the individual concerned. The methodology is in accordance with the Council's enforcement policy and is capable of explanation to any person who sought to understand the Council's approach.

6.3. It is considered that the Council is generally complying with its policy in relation to taking consistent enforcement action and that this element of the policy should remain unchanged.

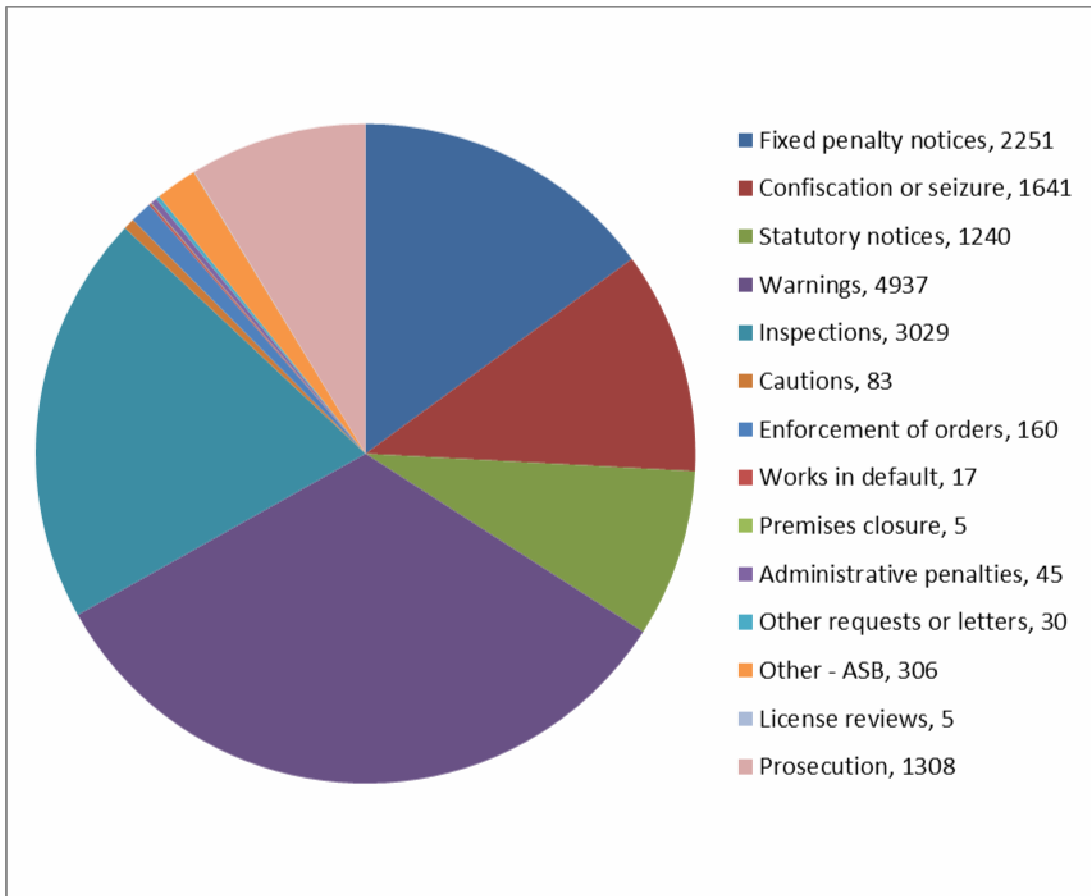
7. TRANSPARENCY

7.1. The Council's first step towards transparency is having an enforcement policy that specifies the kind of enforcement action it may take and how it will make decisions about what action to pursue. This helps individuals and businesses understand the Council's decision-making process. It is proposed that the information in this report be published in reports to members so that members of the public can further understand the Council's overall approach to enforcement. To the extent that the enforcement policy encourages raising awareness, it is proposed that the policy should remain unchanged.

8. PROPORTIONALITY

- 8.1. The review of the Council's enforcement action in sections 4 and 5 of the report shows that the Council is making full use of the variety of enforcement measures available to it. The Council does not just prosecute in every case, with inspections and warnings forming by far the largest part of the Council's overall enforcement effort (see figure 3).
- 8.2. The Council's approach is tailored to the type of offending conduct. Fraud cases show a much higher tendency to prosecution. In respect of commercial premises, the approach is far more collaborative, with inspections being focussed on assisting premises to prevent breaches. The Council offers prostitutes the opportunity to undergo a support programme, which aims to avoid re-offending rather than punishing individuals.
- 8.3. It is considered that the Council is generally complying with its policy in relation to taking proportionate enforcement action and that this element of the policy should remain unchanged.

Figure 3 - Types of Enforcement Action 2011/2012



9. **TARGETING**

9.1. The enforcement policy requires that the Council's enforcement action should be aligned with the Council's key policies and strategies. The Community Plan provides the primary direction in this regard. It contains the following key themes: –

- A Great Place to Live
- A Prosperous Community
- A Safe & Cohesive Community
- A Healthy and Supportive Community

9.2. The Community Plan has the following four cross-cutting themes:-

- One Tower Hamlets: tackling inequalities and promoting inclusion
- Community Engagement: supporting a powerful public
- Efficiency: delivering value for money services
- Localisation: delivering services closer to people.

- 9.3. The Council's enforcement in respect of parking, benefits and housing is concerned with the fair and efficient allocation of resources. This work contributes directly to the key cross-cutting themes in the Community Plan of One Tower Hamlets and Efficiency.
- 9.4. The Council's enforcement in respect of electoral services is concerned with maintaining an accurate and up to date register. This helps the conduct of elections and to ensure that people resident in the borough exercise their democratic rights. This work contributes directly to the cross-cutting themes of One Tower Hamlets and Community Engagement.
- 9.5. The Council's enforcement in the areas of trading standards, environmental health commercial, markets and licensing protects consumers and helps to maintain a level playing field for local businesses. The continuing work to stop unlawful DVD sellers provides an excellent example. Consumers are protected from poor quality products, some of which don't play at all. Families are protected from vendors who display 18+ and pornographic DVDs alongside products targeted at children. Local businesses that sell or hire DVDs are supported by the removal of unlawful operators who would otherwise undercut them with inferior products. This enforcement work contributes to the key themes of A Great Place to Live and A Prosperous Community.
- 9.6. Enforcement action in the areas of community safety, environmental health, public realm, planning and building control make direct contributions to the environment in Tower Hamlets. For example, by combating nuisance behaviour such as public urination and street prostitution, the Council is making a difference to the everyday experience people have in Tower Hamlets. This is targeted to helping make Tower Hamlets A Great Place to Live.
- 9.7. The Council's work in respect of non-school attendance is designed to promote the education of children in the borough and in this respect helps to achieve the key theme of A Prosperous Community.
- 9.8. This review of enforcement action shows how the Council's enforcement is connected with its Community Plan goals. There are numerous examples in section 5 of this report indicating how the Partnership works together on enforcement. It is considered that the Council is generally complying with its policy in relation to taking targeted enforcement action and that this element of the policy should remain unchanged.

10. PROTECTION OF FREEDOMS ACT 2012

- 10.1. The Protection of Freedoms Act 2012 received royal assent on 1 May 2012. Sections 37 and 38 of the Protection of Freedoms Act propose to amend Parts 1 and 2 of the Regulation of Investigatory Powers Act 2000 ("RIPA") so as to

require local authorities to obtain judicial approval for activities under RIPA. This means that before obtaining or disclosing communications data under Part 1 of RIPA, or conducting covert surveillance or using a covert human intelligence source under Part 2 of RIPA, the Council will require its own authorisation to be approved by a justice of the peace. This adds an extra layer of approval. The requirement for judicial approval to conduct covert surveillance, or use a covert human intelligence source, under Part 2 of RIPA is due to come into force on 1 November 2012.

10.2. The changes to be made by the Protection of Freedoms Act 2012 to Part 2 of RIPA permit the Secretary of State to impose additional conditions that a local authority's authorisation of covert surveillance must meet. The Secretary of State has made the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources (Amendment) Order 2012, which is due to come into force on 1 November 2012. When the Order takes effect, it will restrict the Council's use of covert investigation to the following offences –

- An offence punishable by a maximum term of at least 6 months of imprisonment.
- An offence under section 146 of the Licensing Act 2003 (sale of alcohol to children).
- An offence under section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children).
- An offence under section 147A of the Licensing Act 2003 (persistently selling alcohol to children).
- An offence under section 7 of the Children and Young Persons Act 1933 (sale of tobacco etc. to persons under eighteen).

10.3. The Council's RIPA policies are appended to the enforcement policy. The policies need to be amended to reflect the need to additionally obtain court approval and the limitation on the use of covert investigation to specified offences. A revised enforcement policy is set out in Appendix 3 to this report, showing the necessary changes.

11. COMMENTS OF THE CHIEF FINANCIAL OFFICER

11.1. This is a report of a review of the Council's council-wide enforcement policy and the enforcement action taken in 2011-12. There are no financial implications arising from the recommendations in this report however the enforcement policy is designed to meet the Council's requirements to minimise the risk of fraud, error and omission to Council's services, finances and assets.

12. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

12.1. This report originates in Legal Services and any necessary legal comments are set out in the body of the report.

13. ONE TOWER HAMLETS CONSIDERATIONS

- 13.1. Enforcement action that complies with the five principles expressed in the enforcement policy should help to achieve the objectives of equality and personal responsibility inherent in One Tower Hamlets.
- 13.2. As specified in section 10 of the report, the Council is targeting its enforcement action with its Community Plan goals, in accordance with the principles expressed in the enforcement policy. This includes action specifically designed to achieve One Tower Hamlets.
- 13.3. The enforcement policy sets out clear principles to guide officers in determining the appropriate level of enforcement action. It actively seeks to promote transparency in decision-making. To the extent that the policy provides officers with relevant considerations, it works against enforcement decisions being taken on irrelevant and unlawful considerations such as those based on protected characteristics.
- 13.4. The policy allows officers to take into account the particular vulnerability of the defendant in determining the appropriate level of enforcement. This applies equally to all defendants and so does not amount to direct discrimination. It may in effect work to the benefit of particular groups, such as older people or people with disabilities. To the extent that there may be such an effect, it would be in pursuit of what the Council considers in the public interest in the pursuit of its objectives, including the Community Plan goals. There is a good argument that such an effect is a proportionate means of achieving the Council's legitimate objectives. Enforcement might well lose its effectiveness or work counter the Council's goals of One Tower Hamlets if it were seen to fall harshly on the vulnerable.
- 13.5. An equality impact assessment was prepared in respect of the enforcement policy, prior to its adoption in 2010. The impact assessment showed that targeted enforcement may in some circumstances fall disproportionately heavily on groups with protected characteristics (eg targeting street prostitution may impact women). To the extent that this may occur it is considered to be justifiable as a proportionate means of achieving a legitimate aim. Any indirect adverse effect would be the consequence of the Council taking targeted enforcement action in pursuit of its lawful objectives, including the Community Plan goals. There is a need to target action to ensure that the Council not only achieves objectives, but does so having regard to its best value duty under the Local Government Act 1999. Any action should be in accordance with the principles expressed in the enforcement policy, which include the requirement that enforcement action should be proportionate.

- 13.6. The impact assessment included particular examination of the impact of prosecution of street prostitution and DVD offences. In 2011/2012, a further analysis has been carried out of enforcement action against touting. The results of that analysis are consistent with the findings of the impact assessment carried out prior to adoption of the enforcement policy.
- 13.7. The analysis considered the fact that all the individuals prosecuted for touting have been Asian and the companies are also Asian businesses. The targeting of enforcement action to deal with touting therefore affects this race group. This would not be the result of direct discrimination, that is, the unlawful targeting of such groups contrary to the Equality Act 2012. The Council would take this approach irrespective of the race of the tout or restaurant operator. It is instead, an indirect effect arising from the fact that it is a particular ethnic group which operates the restaurant business within that area.
- 13.8. To the extent that there is any indirect adverse effect on a particular race group by reason of touting prosecutions, it is considered to be the consequence of the Council taking targeted enforcement action in pursuit of its lawful objectives as set out in section 2 above (including the Community Plan goals). There is a need to target action to ensure that there is a positive overall benefit not only to the local community but also to the other restaurant businesses in the area who do not employ touts. The action is designed to reduce offending and the associated anti-social behaviour caused by the activities of the touts. Further, as touts offer inducements to customers that are not then honoured, action protects consumers and increases consumer confidence. Part of the work regarding touting is to increase awareness of the problems associated with touting and to persuade businesses to sign up to the anti-touting code.

14. **SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 14.1. Enforcement action in the areas of community safety, environmental health, public realm, planning and building control make direct contributions to the environment in Tower Hamlets. For example, by combating unlawful development, the Council is making a difference to the appearance of the borough. This is targeted to helping make Tower Hamlets A Great Place to Live.

15. **RISK MANAGEMENT IMPLICATIONS**

- 15.1. Conducting enforcement in accordance with the enforcement policy should help to ensure the Council's actions are appropriate and defensible. It is appropriate to review the enforcement carried out and the effectiveness of the policy.

16. **EFFICIENCY STATEMENT**

- 16.1. The Council's enforcement in respect of parking, benefits and housing is concerned with the fair and efficient allocation of resources. This work

contributes directly to the key cross-cutting themes in the Community Plan of One Tower Hamlets and Efficiency.

17. APPENDICES

Appendix 1 – Prosecution case summary

Appendix 2 – Publicity summary

Appendix 3 – Enforcement policy

Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

List of “Background Papers” used in the preparation of this report

Brief description of “back ground papers”	Name and telephone number of holder and address where open to inspection.
None	N/A

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Summary of Prosecutions and Outcomes in 2011/2012

Client/Case Type	Cases	Guilty	Simple Caution	Other success	Lost	No Evidence Offered Case dismissed	Not served	Count left to lie on file	Withdrawn	Discontinued
BC - BBR	7	7	0	0	0	0	0	0	0	0
CF - DWPPF	2	2	0	0	0	0	0	0	0	0
CF - HBF	108	97	0	0	0	8	0	3	0	0
CF - Parking Fraud	3	2	0	0	0	0	0	0	1	0
CF - R/NHF	3	3	0	0	0	0	0	0	0	0
CF - RPF	9	0	6	3	0	0	0	0	0	0
Elections	42	13	0	29	0	0	0	0	0	0
Elections CF	1	1	0	0	0	0	0	0	0	0
HO - Homeless	5	4	1	0	0	0	0	0	0	0
HO - Lettings	7	7	0	0	0	0	0	0	0	0
HO - UE	1	0	0	0	0	0	0	0	1	0
NSA	87	67	0	3	0	2	0	0	15	0
Planning - BEN	23	22	0	0	0	0	0	0	1	0
Planning - BOCN	16	16	0	0	0	0	0	0	0	0
Planning - FP	14	0	0	8	6	0	0	0	0	0
Planning - TP	2	1	1	0	0	0	0	0	0	0
PR - C&G - CW	26	5	4	5	5	0	3	0	4	0
SC - EH - DF	2	1	1	0	0	0	0	0	0	0
SC - EH - H&H	15	5	0	9	0	0	0	0	1	0
SC - EH - Waste	6	5	0	0	0	0	0	0	1	0

Summary of Prosecutions and Outcomes in 2011/2012

Client/Case Type	Cases	Guilty	Simple Caution	Other success	Lost	No Evidence Offered Case dismissed	Not served	Count left to lie on file	Withdrawn	Discontinued
SC - EHC - Food Safety	20	17	0	0	0	0	2	0	1	0
SC - EHC - H&S	12	4	3	0	0	0	0	0	5	0
SC - EHC - Smoke Free	5	4	0	0	0	1	0	0	0	0
SC - Licensing	1	1	0	0	0	0	0	0	0	0
SC - Markets - BLC	2	1	1	0	0	0	0	0	0	0
SC - Markets - UST	115	80	16	11	1	0	2	0	4	1
SC - PP - B6	8	5	2	0	0	0	1	0	0	0
SC - PP - CD	1	0	0	0	0	0	0	0	1	0
SC - PP - Dispersal	1	1	0	0	0	0	0	0	0	0
SC - PP - DS	49	12	0	32	0	0	0	0	5	0
SC - PP - FP	1	1	0	0	0	0	0	0	0	0
SC - PP - Gambling	3	0	0	2	0	0	0	0	1	0
SC - PP - Licensing	4	1	0	3	0	0	0	0	0	0
SC - PP - Smoke Free	4	2	0	0	0	0	0	0	2	0
SC - PP - Touting	5	5	0	0	0	0	0	0	0	0
SC - PP - UST	45	41	1	1	0	0	0	0	2	0
SC - THEO - ASBO	1	0	0	1	0	0	0	0	0	0
SC - THEO - Assault	3	3	0	0	0	0	0	0	0	0
SC - THEO - B6	228	175	30	0	0	1	13	0	9	0
SC - THEO - Begging	13	10	1	0	0	0	2	0	0	0

Summary of Prosecutions and Outcomes in 2011/2012

Client/Case Type	Cases	Guilty	Simple Caution	Other success	Lost	No Evidence Offered Case dismissed	Not served	Count left to lie on file	Withdrawn	Discontinued
SC - THEO - DF	5	2	0	1	0	0	0	0	2	0
SC - THEO - DOL	1	1	0	0	0	0	0	0	0	0
SC - THEO - FT	2	1	0	0	0	0	1	0	0	0
SC - THEO - FTSA	42	38	0	0	0	0	2	0	2	0
SC - THEO - Graffiti	1	0	0	0	0	0	1	0	0	0
SC - THEO - HO	9	2	7	0	0	0	0	0	0	0
SC - THEO - LIT	130	101	3	9	3	0	7	0	7	0
SC - THEO - PO	25	16	0	1	0	0	4	0	4	0
SC - THEO - Taxi	1	1	0	0	0	0	0	0	0	0
SC - THEO - Touting	4	2	1	0	0	0	0	0	1	0
SC - THEO - UST	89	69	4	4	1	0	6	0	5	0
SC - TS - CP	1	0	0	1	0	0	0	0	0	0
SC - TS - CPFUT	4	0	0	2	1	0	0	0	1	0
SC - TS - IML	11	9	0	0	2	0	0	0	0	0
SC - TS - Licensing	5	3	0	0	1	0	0	0	1	0
SC - TS - POCA	6	6	0	0	0	0	0	0	0	0
SC - TS - PPDVD	29	7	0	22	0	0	0	0	0	0
SC - TS - Tobacco	19	10	0	6	0	0	0	0	3	0
SC - TS - Trade Marks	17	12	0	3	0	0	0	0	2	0
YOT	7	7	0	0	0	0	0	0	0	0

Summary of Prosecutions and Outcomes in 2011/2012

Client/Case Type	Cases	Guilty	Simple Caution	Other success	Lost	No Evidence Offered Case dismissed	Not served	Count left to lie on file	Withdrawn	Discontinued
	1308	908	82	156	20	12	44	3	82	1

Abbreviation	Meaning
ASBO	Anti-social Behaviour Order
BC - BBR	Building Control - Breach of Building Regulations Prosecutions
BGPS	Bethnal Green Police Station
CCA	Criminal Court of Appeal
CCC	Central Criminal Court
CD	Conditional Discharge
CF - DWPPF	Corporate Fraud - DWP Partnership Fraud prosecutions
CF - HBF	Corporate Fraud - Housing Benefit Fraud Prosecutions
CF - MDP	Corporate Fraud - Misuse of Disabled Parking Permit prosecutions
CF - R/NHF	Corporate Fraud - Residential/ Nursing Home Fraud Prosecutions
CF - RPF	Corporate Fraud - Resident Parking Fraud prosecutions
Elections CF	Election Canvass Fraud prosecution
FPN	Fixed Penalty Notice
HO - Homeless	Housing Options Homeless Fraud prosecutions
HO - Lettings	Housing Options Lettings Fraud prosecutions
HO - UE	Housing Options Unlawful eviction prosecutions

Summary of Prosecutions and Outcomes in 2011/2012

ILCC	Inner London Crown Court
LBTH	London Borough of Tower Hamlets
NSA	Non-school Attendance Prosecutions
Planning - BEN	Planning Breach of Enforcement Notice Prosecutions
Planning - BOCN	Planning Breach of Condition Notice Prosecutions
Planning - FP	Planning Fly Posting Prosecutions
Planning - TP	Planning Tree Preservation Prosecutions
PO	Parenting Order
PR - C&G - CW	Public Realm - Clean & Green - Commercial Waste prosecution
RCC	Reading Crown Court
SC - EH - DF	Environmental Health - Dog Fouling
SC - EH - H&H	Environmental Health Health & Housing Prosecutions
SC - EH - Waste	Environmental Health Waste Prosecutions
SC - EHC - Food Safety	Environmental Health Commercial Food Safety prosecutions
SC - EHC - H&S	Environmental Health Commercial Health & Safety prosecutions
SC - Licensing	Licensing Team prosecutions
SC - Markets - BLC	Markets Breach of License Conditions Prosecutions
SC - Markets - UST	Markets Unlicensed Street Trading Prosecutions
SC - PP - B6	Safer Communities Police Partnership Prosecutions for breach of Byelaw 6 of Byelaws for Good Rule & Government (public urination)
SC - PP - CD	Safer Communities Police Partnership Criminal Damage Prosecutions
SC - PP - Dispersal	Safer Communities Police Partnership Dispersal Zone Prosecutions
SC - PP - DS	Safer Communities Police Partnership Diversion Scheme Prosecutions
SC - PP - FP	Safer Communities Police Partnership Prosecutions for Fly Posting
SC - PP - Gambling	Safer Communities Police Partnership Prosecutions for Street Gaming

Summary of Prosecutions and Outcomes in 2011/2012

SC - PP - Licensing	Safer Communities Police Partnership Prosecutions for Licensing
SC - PP - Smoke Free	Safer Communities Police Partnership Prosecutions for Smoke Free
SC - PP - Touting	Safer Communities Police Partnership Prosecutions for Touting
SC - PP - UST	Safer Communities Police Partnership Prosecutions for Unlicensed Street Trading
SC - THEO - ASBO	Safer Communities - THEO Anti-social Behaviour Order related matters
SC - THEO - Assault	Safer Communities - THEO Prosecutions for assault
SC - THEO - B6	Safer Communities - THEO Prosecutions for breach of Byelaw 6 of Byelaws for Good Rule & Government (public urination)
SC - THEO - Begging	Safer Communities - THEO Prosecutions for begging
SC - THEO - DF	Safer Communities - THEO Prosecutions for dog fouling
SC - THEO - DOL	Safer Communities - THEO Prosecutions for dog off lead on road
SC - THEO - FT	Safer Communities - THEO Prosecutions for fly tipping
SC - THEO - FTSA	Safer Communities - THEO Prosecutions for failure to surrender alcohol
SC - THEO - Graffiti	Safer Communities - THEO Prosecutions for Graffiti
SC - THEO - HO	Safer Communities - THEO Prosecutions for Highway Obstruction
SC - THEO - LIT	Safer Communities - THEO Prosecutions for littering
SC - THEO - PO	Safer Communities - THEO Prosecutions for Public Order (including where offender obstructs THEO)
SC - THEO - Taxi	Safer Communities - THEO Taxi Touting Prosecutions
SC - THEO - Touting	Safer Communities - THEO Restaurant Touting Prosecutions
SC - THEO - UST	Safer Communities - THEO Prosecutions for Unlicensed Street Trading
SC - TS - CP	Trading Standards Consumer Protection prosecution (other than Tobacco related)
SC - TS - CPFUT	Trading Standards Consumer Protection from Unfair Trading Regulations prosecution
SC - TS - ILM	Trading Standards Illegal Money Lending prosecutions

Summary of Prosecutions and Outcomes in 2011/2012

SC - TS - Licensing	Trading Standards Licensing prosecution (does not include Licensing cases where Licensing Team are in fact client)
SC - TS - POCA	Trading Standards Proceeds of Crime Act confiscations
SC - TS - PPDVD	Trading Standards Police Partnership DVD prosecutions
SC - TS - Tobacco	Trading Standards Illicit Tobacco prosecutions
SC - TS - Trade Marks	Trading Standards Trade Marks prosecutions
SCC	Snaresbrook Crown Court
SMC	Stratford Magistrates' Court
SoCC	Southwark Crown Court
TMC	Thames Magistrates' Court
WGCC	Wood Green Crown Court
YOT	Youth Offending Team Breach prosecutions

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PUBLICITY OF ENFORCEMENT ACTION

DATE(S)	EVENT, ISSUE, INITIATIVE	DMT PRIORITY	KEY MESSAGES	CONSULTATION	EEL, PUBLICATIONS	MARKETING	MEDIA	INTERNAL COMMS	CP THEME, MAYOR'S PRIORITY
04/04/2011	Responsible Drinking Borough consultation classes	Community safety	It's not a ban on drinking in public; It gives the council and Police the powers to react to drunken troublemaker.	Letters to target audiences/four consultation events/webpage consultation	EEL article	Brick Lane plasma screens, six sheet posters, THEO, Police information cards	EEL, ELA		A safe and supportive community
06/04/2011	Focus on Environmental Health Officer	Community safety	Encouraging residents and visitors to eat out in Tower Hamlets; Improving the standard of food outlets/showcasing value for money		EEL feature TBC		Media release to local and national media	THN article	A safe and supportive community
06/04/2011 Release issued: 6/4/2011	100th CCTV arrest	Community safety	We are tackling crime and ASB		EEL article		Media release to local media. Coverage in EEL and ELA and Wavestore (web)		Safe and Supportive, crime
06/04/2011 Release issued: 6/4/2011	Fairfield Road - premises closure and eviction	Community safety	We are tackling ASB		EEL release		Media release to local and regional media. Picked up by EEL and EEL Hamony, ELA, Bangla Times, East London News, Bangla Mirror,		Safe and Supportive, crime
12/04/2011 Release issued 13/4/2011	Council and police meet with faith leaders about Cavell squat	Community safety	We are listening to your concerns and dealing with them		EEL article		Media release to local media, EEL, p9		

PUBLICITY OF ENFORCEMENT ACTION

DATE(S)	EVENT, ISSUE, INITIATIVE	DMT PRIORITY	KEY MESSAGES	CONSULTATION	EEL, PUBLICATIONS	MARKETING	MEDIA	INTERNAL COMMS	CP THEME, MAYOR'S PRIORITY
18/04/2011	Food Hygiene Standards - launch of new programme	City Status/Olympics	Encouraging residents and visitors to eat out in Tower Hamlets; Improving the standard of food outlets	Letters to food outlets	EEL article; Rating to be included on all restaurant reviews	Linked with Brick Lane Curry Capital 2012 publicity material	EEL, EIA, Euro Bangla, Bangladesh community, A Great Place to Live	THIN	A safe and supportive community, A Great Place to Live
20/04/2011	Resident/prabes councils (THEOS) response to noise nuisance	Community safety	We are tackling ASB		EEL article		Media release to local media. Coverage in EEL		Safe and Supportive, crime
21/04/2011 Release issued 27/04/2011 (bank holiday week)	Bohemian licence revoked	Community safety	We will take action in response to residents' concerns		EEL article		Media release to local media. Coverage in EEL, EIA, Haringey Independent		Safe and Supportive, crime
04/05/2011	Mossford Street/ Hamlets Way - dealing with youth ASB	Community safety	You said, we did leaflet- we are responding to your concerns about ASB		N/A	Leaflet to local residents	N/A		Safe and Supportive, crime
04/05/2011 Release issued 5 May	Streetcar fined thanks to THEOS	Community safety	We are tackling ASB		EEL article		Media release to local media - Coverage in East End Life		Safe and Supportive, crime

PUBLICITY OF ENFORCEMENT ACTION

DATE (S)	EVENT, ISSUE, INITIATIVE	DMT PRIORITY	KEY MESSAGES	CONSULTATION	EEL, PUBLICATIONS	MARKETING	MEDIA	INTERNAL COMMS	CP THEME, MAYOR'S PRIORITY
09/05/2011	THEO s provide evidence for gang conviction and conviction of graffiti artists	Community safety	THEO s are working with the police to tackle crime		EEL article		Press release to local media (bitwith police). Covered in EastEnd Life		Safe and Supportive, crime
09/05/2011	Canary Wharf sign up to No place for hate' pledge	Community safety	Towerhamlets is no place for hate		EEL article		Media release to local media (bitwith Canary Wharf group). Covered in the Dockland, EastEnd Life and Harmony pages		Safe and Supportive, crime
20/05/2011	Midnight walk of Brick Lane	Community Safety	Working with partners to make Tower Hamlets a safer place to live		To include in EEL community safety edition 27 June				A Great Place to Live
23/05/2011	£25,000 confiscated by court	Cleanliness	Two comm en found in possession of fake designer belts and bags have had more than £25,000 confiscated by Shaftesbury Crown Court.		EEL article		EEL		A Great Place to Live

PUBLICITY OF ENFORCEMENT ACTION

DATE (\$)	EVENT, ISSUE, INITIATIVE	DMT PRIORITY	KEY MESSAGES	CONSULTATION	EEL, PUBLICATIONS	MARKETING	MEDIA	INTERNAL COMMS	CP THEME, MAYOR'S PRIORITY
23/05/2011	Fake Bollywood DVD seller	Cleanliness	Rogue trader sentenced to lengthy period of community service and ordered to pay legal costs for possessing fake Bollywood DVDs.		EEL article		Media release to local media and trade		A Great Place to Live
27/05/2011	Temporary closure of lap dancing club	Community safety	Protecting women from exploitation		EEL		The Sun, EIA		A safe and supportive community
05/09/2011	Sex establishments consultation - 6 weeks	Community Safety	Have your say on striptease premises in the borough	Borough-wide consultation including survey and focus groups. Running for 6 weeks, closing on 17 October. Focus groups scheduled for w/c 26 October.	Article in EEL	Consultation booklet produced and distributed to 1200 stakeholders	Press releases at key points in the 6 week consultation. Launch release issued		Safe and Supportive crime

PUBLICITY OF ENFORCEMENT ACTION

DATE (S)	EVENT, ISSUE, INITIATIVE	DMT PRIORITY	KEY MESSAGES	CONSULTATION	EEL, PUBLICATIONS	MARKETING	MEDIA	INTERNAL COMMS	CP THEME, MAYOR'S PRIORITY
14/09/2011	Anti-touting strategy	Community safety	<p>1 We are working with businesses on Brick Lane to stamp out touting</p> <p>2 Touting on Brick Lane means the area and will not be tolerated</p> <p>3 We listened to residents' concerns about touting and we are responding to them</p> <p>4 Don't encourage touts by engaging with them</p>				<p>Mayor's media launch on Brick Lane. Positive coverage in: BBC London Online, BBC London Radio Breakfast, EIA, EIEL (and Hamory pages), NTV, Channel 4 and ATN Bangla, Eat Out magazine online</p>	THN	Safe and Supportive, crime
18/10/2011	Street drinkers targeted in Operation Lifestyle'	Community safety	<p>Street drinking hotspots have been targeted in Tower Hamlets as part of a council crackdown on anti-social behaviour.</p> <p>We are working in partnership with the police to tackle community safety</p>		EEL article		<p>Media release .East End Life, East London Advertiser, various BME print media</p>		Safe and supportive, ASB
19/10/2011	A court has ordered three men and two women to pay a total of £1170 after they were caught by Tower Hamlets Enforcement	Community safety				Contribution to newsletter	<p>Press release to local media. East End Life, various BME print media</p>		Safe and supportive, ASB

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	Offers (THEOS), urinating in public during festivals in Victoria Park.								
19/10/2011	Cigarette Vending Machines illegal		Trading Standards test purchasing with 16 yr old to highlight new legislation.		EEL article		Coverage in EEL		A Great Place to Live
21/10/2011	Launch of new CCTV at Stouley Walk. CANCELLED AND REARRANGED, THEN CANCELLED AT REQUEST OF DEPUTY MAYOR	Community safety	Making residents feel safer		EEL article		Coverage in East London news and EastEnd Life		Safe and supportive, ASB
26/10/2011	Newham launches copycat THEOS	Community safety	THEOS backs the way in community safety		EEL article		Media release to local. Picked up by various BME media		Safe and cohesive, ASB

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07/11/2011	SNT Newsletter - partnership community safety news submission	Community safety	3 stories: 1. Launch of PTF 2. Launch of responsible drinking borough. 3. Operation Lifestyle			page of stories and photos for back page of SNT newsletter			Safe and cohesive, ASB
07/11/2011	John Murphy ASBO . CANCELLED DUE TO CHANGE OF APPROACH TO PUBLICITY BY COMMUNITY SAFETY LEGAL	Community safety	Raising awareness of work being done to tackle asb and how to report breaches		EEL article	Leaflets and posters	Media release to local media		Safe and supportive, ASB
07/11/2011	Interview with Inspector Gary Anderson, Partnership Taskforce	Community safety	The Partnership taskforce is working our community and making residents feel safer		EEL article		Press release using quotes from article		Safe and Supportive, crime
11/11/2011	Smokeless Tobacco Legislation	Cleanliness	Reminder that smokeless (chewing) tobacco is subject to same legislation as cigarettes		EEL article		EEL Harmony, Bangladesh, Bangla Post, Janmo ot, Bangla Times, London Bangla, Notun Di, Bangla Minor		A Great Place to Live
11/11/2011	Latest dealer a day stats	Community safety	We are tackling drug dealing		EEL article		Media release to local and regional		Safe and cohesive

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18/11/2011	Mayor denands cycle safety in provenents	Community safety	Need to make cycling safer; calling on Mayor of London for action		EEL article		Media release to local coverage in EEL, Bangla News, Potika, Jamnot		Safe and cohesive
21/11/2011	License suspension for cury tout restaurants	Community safety	Curry Capital 2012;		EEL article		Media release to local Bengali media. Picked up in EEL and Harmony pages, Bangla Mirror, East London News, Jamnot, Suma, Shomoy24.com		Safe and cohesive
21/11/2011	Deafara Day target is exceeded	Community safety	Community safety is a priority;		EEL article, East London News,		Media release to local Bengali media - coverage in EEL, East London Advertiser, Bangla Mirror, Potika, Bangla Post, East London News,		Safe and cohesive
23/11/2011	Exchanging place	Community safety	HGV awareness event for cycling safety		EEL article		Media release to local Bengali media		A Great Place to Live

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25/11/2011 - 10/12/2011	White Ribbon Week	Community Safety	Men against men being violent to women		Article in EEL about DV success before the week begins Articles in EEL for white ribbon week flagging up any events the public can attend Question time events in schools/colleges etc - maybe photo opportunity Post week report on weeks events		Media release to local band coverage in EEL	THN coverage of activities within CLC - senior managers stay silent for the day; stalls in MP and AH; screensavers; pre-week article	
28/11/2011	Domestic Violence One Stop Shop	Community safety	Launch of new public facing service provided by council and partners				Press release to local media - police to lead with council to add quote	Poster and story to go up in news/events	Safe and cohesive, ASB

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Nov 2011	Illegally felled trees in Island Gardens - successful prosecution	Community safety	We will tackle illegal tree felling		EEL article		Media release to local coverage in EEL	section of website	Safe and cohesive, ASB
Nov 2011	Raising awareness of the work of the DAAT and DIP, in preparation for Substance misuse strategy going to cabinet in mid-December	Community safety	TH DIP and DAAT are the best in the country and are bucking the trend and getting more people into court-enforced treatment programmes		Article on MPACT - to appear EEL w/c 12 dec				Safe and cohesive, ASB
Beginning Dec 2011	Kerr/Durnell ASBO	Community safety	We are tackling ASB in Bethnal Green			Anonymised action taken			Safe and cohesive
09/12/2011	Outcome of Old Bailey court case for Lei Pan counterfeiting jewellery and handbags		We are working to tackle counterfeiting in the borough		EEL article		Press release to local, regional and national media - court case delayed		Safe and cohesive
Dec 2011	Op Target - outcome of trial and court results	Community safety	We are working in partnership with the police to tackle drug dealing - and getting results		Spread in EEL		Press release to local media		Safe & cohesive

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Dec 2011	Substance misuse strategy goes to Cabinet	Community safety	New strategy for the borough		EEL article		Press release to local media		Safe and cohesive, ASB
Dec 2011	January SNT Newsletter - partnership community safety news submission	Community safety	Stories to include: the work of the DIP and DAAT			page of stories and photos for back page of SNT newsletter			Safe and cohesive, ASB
24/01/2012	More police officers in Tower Hamlets	Community safety	Priority to reduce crime and ASB in the borough				Media release to local media		Safe and cohesive, ASB
Jan 2012	Scheme to reduce prostitution and ASB in Bethnal Green	Community safety	Highlighting the success of the scheme				Media release to local media - coverage in EEL, East London Advertiser, Bangla News,		Safe and cohesive, ASB
13/01/2012	THEO's praised by residents for work in Rampan Street	Community safety	Highlighting the work of THEO's				Media release to local media - coverage in EEL, East London Advertiser, Notun Di, Esat London News		Safe and cohesive, ASB
07/12/2012	Responsible Drinking Borough reducing alcohol related ASB	Community safety	Partnership working between the council and police has led to a significant reduction in reports of alcohol-related antisocial behaviour (ASB) in				Media release to local media - coverage EEL		Safe and cohesive, ASB

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			Tower Hamlets, new figures show.						
14 Feb 2012	March SNT Newsletter - partnership community safety news submission	Community safety	Stories to include: TBC			page of stories and photos for back page of SNT newsletter			Safe and cohesive, ASB
23/02/2012	TRA thanks THEOS for work on Linthouse Estate	Community safety					Media release to local media - coverage EEL		Safe and cohesive, ASB
06/03/2012	TH gets new powers to close restaurants that tout.	Community safety	This is the latest step by the council to improve Brick Lane and the surrounding area ahead of London 2012				Coverage in EEL, East London Advertiser, East London Lines,		Safe and cohesive, ASB

**LONDON BOROUGH OF
TOWER HAMLETS**

ENFORCEMENT POLICY

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APPENDICES

1. LBTH Policy on the Use of Covert Surveillance: Regulation of Investigatory Powers Act 2000
2. LBTH Policy on the Use of Covert Human Intelligence Sources

1. Introduction

- 1.1. This Enforcement Policy is concerned with the Council's exercise of its criminal and quasi-criminal enforcement functions. Whilst some of the sanctions available to the Council are civil in nature, such as forfeiture of goods and money, this policy is not concerned with purely civil enforcement such as the enforcement of debts. Rather, it is concerned with offences and contraventions of legislation that fall within the Council's responsibility to enforce.
- 1.2. The Policy will assist Council officers to carry out their duties consistent with the principles of enforcement set out in section 5. It will assist the community and other members of the public to understand why the Council approaches enforcement in a particular way in individual cases.
- 1.3. The Policy is a high-level document that applies to all of the Council's relevant enforcement functions. It is recognised that individual service areas within the Council that carry out enforcement may have to take into account considerations specific to the regulatory framework in which they operate. To this end, there may be additional service-specific enforcement policies that operate under the broad umbrella of this policy.
- 1.4. All authorised officers of the Council will abide by this policy. Any departure must be fully considered and justified by the appropriate officer before a decision is made.

2. The Basis for Enforcement

2.1. The Council will target its enforcement action having regard to the following –

- The Tower Hamlets Community Plan, which contains the Council's sustainable community strategy for the purposes of section 4 of the Local Government Act 2000
- The Council's Local Development Framework
- Any external targets or requirements imposed under relevant legislation.

2.2. The Community Plan makes clear the role of enforcement in the goals of the Council and the Tower Hamlets Partnership. The Partnership is trying to achieve One Tower Hamlets, a borough where everyone has an equal stake and status; where people have the same opportunities as their neighbours; where people have a responsibility to contribute; and where families are the cornerstone of success. This is the broad vision of how to improve the well-being of Tower Hamlets.

2.3. One of the key themes in the Community Plan is that of achieving A Safe and Supportive Community. This means a place where crime is rare and tackled effectively and where communities live in peace together. As part of tackling and preventing crime, the Council will have regard to prevention and reducing re-offending. However, the Council will also actively enforce and will promote its successes to support its Community Plan goals. Other key Community Plan themes that enforcement may support are A Great Place to Live (eg reducing graffiti and litter, providing first class and well-managed

centres) and A Prosperous Community (eg supporting local business by eliminating unlawful trading).

- 2.4. All enforcement action is based upon an assessment of the nature of the offence and the risk, nuisance or disadvantage being caused.
- 2.5. This policy has been written with regard to the Regulators' Compliance Code and which came into force on 6 April 2008. The Compliance Code is a central part of the Government's better regulation agenda. Its aim is to embed a risk-based, proportionate and targeted approach to regulatory inspection and enforcement among the regulators it applies to.
- 2.6. The Council fully acknowledges and endorses the rights of individuals who may be subject to enforcement. It will ensure that enforcement action will be taken with due regard to:
 - Police and Criminal Evidence Act 1984
 - Criminal Procedures and Investigation Act 1996
 - Human Rights Act 1998
 - Regulation of Investigatory Powers Act 2000
 - Legislative and Regulatory Reform Act 2006
 - Home Office Circular 14 / 2006 - The Final Warning scheme
 - Home Office Circular 16 / 2008 - Simple cautioning of adult offenders
 - The Code for Crown Prosecutors
 - Other relevant legislation and advice.
- 2.7. Where specific advice or direction on enforcement action exists, this will be taken into account as appropriate. For example, in relation to licensing the Council will have regard to the guidance issued under section 182 of the Licensing Act 2003. Specific advice or

direction may come from sources such as internal operating directions or arrangements.

3. Principles of Enforcement

3.1. The Council's approach is founded on firm but fair regulation, around the principles of:

- **raising awareness** of the law and its requirements
- **proportionality** in applying the law and securing compliance
- **consistency** of approach
- **transparency** about the actions of the Council and its officers
- **targeting** of enforcement action.

3.2. Raising Awareness

3.3. The first step in enforcement is to prevent contraventions of the law by raising awareness and promoting good practice, by providing advice, information, guidance and support.

3.4. Proportionality

3.5. Proportionality is about balancing the crime or the wrong being investigated and the risk, nuisance or disadvantage being caused.

3.6. Consistency

3.7. Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Council aims to achieve consistency when: responding to requests for service; offering advice; and deciding upon enforcement action.

3.8. Consistency does not mean uniformity. Officers will need to take account of many variables when making decisions, including: the

seriousness of the breach; any history of previous breaches; the attitude of the offender; and the capacity of the offender.

3.9. Whilst the appropriate officer will be expected to exercise judgement in individual cases, the Council will continue to strive to promote consistency, including: advice, guidance and training for its officers; and arrangements for effective liaison with other enforcing bodies.

3.10. **Transparency**

3.11. Transparency means helping those who are regulated and other individuals to understand: what is expected of them; and what they should expect from the Council as an enforcing authority.

3.12. Transparency involves: distinguishing between statutory requirements and other advice and guidance; and explaining why an officer will or has taken enforcement action.

3.13. **Targeting**

3.14. Targeting means ensuring that enforcement is directed primarily where:

- activities give rise to the **most serious** risks, nuisances, disadvantages or other similar situations;
- where the law places an absolute duty upon the Council;
- activities are least well controlled/managed.

3.15. Action will be primarily focused on those who are responsible for a risk or activity and are best placed to control it.

4. Authorisations and Delegations

- 4.1. For enforcement action or action taken in connection with legal proceedings, decisions will be taken by officers duly authorised under legislation, or with delegation under schemes of delegation maintained by the Council, as relevant or appropriate to the subject area (“Authorised Officers”).
- 4.2. Pursuant to the Council’s Constitution, the responsibility for instituting or participating in legal proceedings lies with the Assistant Chief Executive (Legal Services) or officers nominated by the Assistant Chief Executive (Legal Services). Accordingly, the decision whether or not to prosecute offences will be taken within Legal Services. This decision will typically be taken on instructions from Authorised Officers.
- 4.3. Officers will be authorised to carry out enforcement actions in accordance with schemes of delegation made under the Council’s Constitution.
- 4.4. Where any action is taken which may lead to or bear upon a prosecution or simple caution, or give rise to other enforcement action, e.g. service of a notice, the Council’s Legal Services will require to be satisfied as to the adequacy and legality of documentation, procedures and evidence.

5. Investigations

- 5.1. The Council will determine the appropriate approach to investigation having regard to the content of this policy, including the principles of enforcement.
- 5.2. As set out in paragraph 4.6 above, the Council respects the rights of individuals and will have regard to the statutes and guidance there set out. The Council will follow the policies set out in Appendices 1 and 2 to this Policy when using, respectively, covert surveillance or covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.
- 5.3. In respect of the regulatory functions exercised by the Council which are specified in Part 3 of the Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, the Council will, in determining the appropriate form of any investigation, comply with the requirements of the Regulators' Compliance Code.

6. Enforcement Options

- 6.1. There are a wide range of enforcement options open to the Council to take and each will be dependant upon the circumstances of the offence. Not all options will apply to every enforcement service, e.g. revocation of street trading licences is an option available to Market Services.
- 6.2. Examples of the options that may be available, depending on the subject enforcement area are set out below. Guidance is given in section 8 of this policy as to the appropriate option to take in an individual case.
- 6.3. **No action**
- 6.4. The Council may choose to do nothing in respect of an apparent contravention of the law. This would be appropriate in relation to low level offending where the offender immediately puts right what was wrong (e.g. littering where the offender immediately picks up after being spoken to) and has no previous history of such offending. This would also be suitable in low level offending where the offence was down to a genuine mistake or misunderstanding.
- 6.5. **Prevention**
- 6.6. The Council may take action designed to prevent further offending. For example, the Council presently operates the Diversion Scheme in respect of prostitution and participates in the Change Course for those found engaged in kerb crawling. These schemes have proved effective in diverting offenders away from the particular classes of offending.

6.7. A preventative approach can also be used to explain legal requirements and, where appropriate, the means to achieve compliance. An educative approach may be considered necessary when new legislation has come into force that will require time for businesses to fully understand and comply with (e.g. if new Food Regulations were introduced). This may involve the Council in undertaking pro-active education programmes.

6.8. Warning

6.9. A warning is a written notification from the Council to an offender that identifies the offending conduct and offence and warns the offender that any further like breach of the law will lead to more serious enforcement action. A warning should only be considered where the following conditions are met:

- The offence is not serious;
- The offender admits the offence;
- The risk of re-offending is considered minimal; and
- Enforcement action has not previously been taken against the offender.

6.10. Simple Caution

6.11. The administration of a Simple Caution is a non-statutory disposal of offences committed by adult offenders. The simple caution provides a means of dealing quickly and simply with less serious offences where the offender has admitted the offence. It records an individual's criminal conduct for possible reference in future criminal proceedings or security checks. Administering a simple caution diverts offenders from appearing in criminal courts, whilst at the same time reducing the likelihood of re-offending.

6.12. The Council will exercise discretion when deciding whether to administer a simple caution on a case by case basis. In doing so, the Council will have regard to the aims of a simple caution set out in the preceding paragraph and any relevant guidance. The relevant guidance includes Home Office Circular 16/2008: *Simple cautioning of adult offenders* and the LACORS revised Guidance on Cautioning of Offenders.

6.13. In each case, the Council will consider whether a caution is appropriate to the offence and the offender and whether it is likely to be effective in the circumstances. In considering whether a Caution is appropriate, the Council will consider the following factors:-

- Is there sufficient evidence of the suspect's guilt?
- Has the suspect made a clear and reliable admission of the offence (either verbally or in writing)? A Caution will not be appropriate where a person has not made a clear and reliable admission of the offence (for example where intent is denied or there are doubts about the person's mental health or intellectual capacity or where it is likely that the person could avail themselves of the provisions of a statutory defence).
- Is it in the public interest to use a Caution as the appropriate means of disposal? Officers should take into account the public interest principles set out in the Code for Crown Prosecutors

6.14. If there is a victim, then the Council will also take into account the victim's views before administering a simple caution.

6.15. Enforcement notice

6.16. The Council has a variety of statutory powers to issue enforcement notices. For example, in food safety cases the Council may issue a Hygiene Improvement Notice under the Food Safety Act 1990. Another example is the Council's power to issue an abatement notice under the Environmental Protection Act 1990 in respect of statutory nuisances (eg noise nuisance). The Council will consider whether or not an enforcement notice is an appropriate response by reference to the provisions of any applicable statutory provision and the circumstances of the case.

6.17. Works in default

6.18. In some cases, the Council has power to carry out works to remedy non-compliance with an enforcement notice, or to deal with a dangerous situation. If there is immediate danger, the Council will be primarily concerned with remedying that. In other cases, the Council will have regard to a cost benefit analysis.

6.19. Injunction

6.20. An injunction is a [court order](#) that requires a person to do, or to refrain from doing, specified acts. The Council has some statutory powers that enable it to seek injunctions, such as section 222 of the Local Government Act 1972. The Council will generally only consider injunctions for enforcement purposes where it can be demonstrated that prosecution will afford an inadequate remedy, or there is a significant risk to the safety, health or economic welfare of the public at large or to individuals.

6.21. Review or revocation of licence

6.22. The Council is responsible for administering a variety of licences and permissions, such as under the Licensing Act 2003. Where there are contraventions of the law associated with those licences and permissions, the Council may have statutory powers enabling review or revocation. The Council will exercise those powers having regard to its responsibilities under the applicable legislation. The Council will consider whether other enforcement action should be taken or, if it has been taken, whether further enforcement action is appropriate.

6.23. Anti-social behaviour order (ASBO)

6.24. The Council has power under the Crime and Disorder Act 1998 to apply for an ASBO against a person who has caused harassment, alarm or distress to a person not of the same household. The Council may do so either on a stand-alone basis or post-conviction for an offence. The Council has adopted and published an ASB Strategy that sets out its policies and strategy for dealing with anti-social behaviour. The Council will consider whether or not to seek an ASBO, or whether to take any of the other action that is available for combating anti-social behaviour, by reference to its ASB Strategy.

6.25. Fixed penalty notice (FPN)

6.26. The Council has power to issue FPNs in respect of a variety of offences, under statutes such as the Clean Neighbourhoods and Environment Act 2005. An FPN provides the recipient the opportunity to pay a penalty in respect of offending conduct, rather than being prosecuted. Receiving a notice is not a criminal conviction, but failure to pay will lead to prosecution. The recipient of an FPN may choose to have the matter dealt with in court, then

the Council will give consideration to the same matters applicable on prosecution (with the exception of considering alternatives to prosecution).

6.27. The Council will generally only consider the use of FPNs where the following conditions are met –

- The offence is one for which an FPN may be issued under a relevant statutory power.
- The offender admits the offence, or at least has not indicated to the issuing officer that the offence is denied.
- The risk of re-offending is considered minimal.
- Enforcement action has not previously been taken against the offender (with the exception of no action, a warning or a FPN having been taken); and
- The offender has not been given an FPN in the preceding six months or two FPNs in the preceding 12 months.

6.28. Confiscation

6.29. A confiscation order is made after conviction to deprive the defendant of the benefit that he has obtained from crime. The Council may seek confiscation under the Proceeds of Crime Act 2002.

6.30. The Council is generally committed to taking action for confiscation when it is available, so that offenders do not benefit from their crimes. The Council will seek to obtain, so far as possible, confiscated monies in order to apply them to the support of its enforcement work.

6.31. In determining whether confiscation is appropriate, the Council will have regard to the relevant statutory power and the circumstances

of the case. The Council will take into account a cost benefit analysis of whether confiscation action should be taken, recognising that the costs of the action need to be weighed against the likely amount of the confiscation order.

6.32. Prosecution

6.33. The Council is empowered to prosecute a variety of common law and statutory offences. In some instances, the Council is tasked to be an enforcing authority by statute. The Council also has a general power to enforce arising from section 222 of the Local Government Act 1972.

6.34. Before recommending prosecution to Legal Services, the instructing officer must be satisfied that there is substantial, reliable and admissible evidence to prove that the offence was committed by the accused.

6.35. The later sections of this Policy set out the considerations that will be applied by the Council in determining whether or not to prosecute.

7. Levels of Enforcement Action

- 7.1. There will be circumstances in which the Council has available several enforcement options. In determining the appropriate level of enforcement action, the Council will always take into account the circumstances of the individual case. Even where the Council is targeting a particular type of behaviour, it will be appropriate to consider individual circumstances.
- 7.2. In choosing a particular enforcement option, the Council will have regard to the basis for enforcement (section 4 of this Policy), the principles of enforcement (section 5 of this Policy) and the general approach to each option (section 7 of this Policy). The Council will also have regard to the following matters when deciding between options –
- The seriousness and effect of the offence
 - The previous history of the party concerned
 - Whether the offence was intentional, accidental or otherwise
 - The offender's attitude to the offence and whether he or she has shown remorse
 - The willingness of the alleged offender to prevent a recurrence
 - The consequences of non-compliance
 - The deterrent effect of a prosecution on offenders and others
 - Whether there is sufficient evidence to prove the offence
 - The age, capacity or vulnerability of the offender.
- 7.3. In respect of the regulatory functions exercised by the Council which are specified in Part 3 of the Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, the Council

will, before taking enforcement action, comply with the requirements of the Regulators' Compliance Code. The responsible officer should consider whether it is appropriate to discuss the circumstances with those suspected of the regulatory breach and, if so, take that discussion into account when deciding on the best approach. Reasons should be given to the person against whom enforcement action is taken, at the time the enforcement action is being taken.

7.4. There are particular considerations that apply before the Council will prosecute. The Council will apply the Code for Crown Prosecutors to any proposed prosecution, as further explained in section 11 of this Policy. The Council will also have regard to the following:

- the seriousness of the alleged offence;
- the level of risk, nuisance or caused;
- the history of the individual concerned;
- availability of key witnesses and their willingness to co-operate;
- willingness of the prospective defendant to prevent a recurrence;
- whether a defence exists and the likelihood of the defendant being able to establish such a defence;
- probable public benefit of a prosecution and the importance of the case, e.g. whether it may create a legal precedent;
- whether other formal action would be more appropriate or effective;
- any explanation offered by the defendant;
- the age, capacity or vulnerability of the offender;
- the vulnerability of any victim;
- whether, owing to circumstances beyond the offender's control, the commission of the offence was unavoidable.

- 7.5. If prosecution is available, the Council will generally consider it to be appropriate where one or more of the following apply –
- There has been a serious breach of or blatant disregard for the law.
 - There is a refusal to achieve basic minimum legal requirements.
 - There has been a previous prosecution.
 - There has been a Simple Caution administered within the preceding 2 years.
 - There has been a refusal to accept a Simple Caution
 - There has been a refusal to heed an earlier warning.
 - An FPN has been given in the preceding 6 months or two FPNs in the preceding 12 months.
- 7.6. Before issuing a warning or caution, consideration will be given to whether the person has received any previous warnings or cautions for similar breaches and when those were given. If the person has been given a warning or caution for a similar offence within the previous two years, or if the person has a history or pattern of more than one warning or caution for similar offences, then it may be inappropriate to adopt this enforcement action again.
- 7.7. The factors referred to above are not exhaustive. In particular there may be service-specific factors to be taken into account. A decision as to the appropriate enforcement option will depend on the particular circumstances of each case. The Council will make an overall assessment having regard to the importance of all relevant factors and the circumstances of the case.
- 7.8. The responsible officer should in each case make a written record of the reasons for any enforcement action taken.

- 7.9. The Council will give consideration to how its enforcement action affects individuals and groups within Tower Hamlets. In appropriate cases, the Council may use information about offenders and particularly any trends observed to develop measures for addressing the causes of offending and re-offending. Such measures may affect the Council's determination of the appropriate level of enforcement action in an individual case.
- 7.10. The Diversion Scheme developed by the Council in conjunction with its partners for dealing with street prostitution is an example of a measure of the kind mentioned in paragraph 7.9. On arrest, prostitutes are given information about the Diversion Scheme and may choose to engage in meetings with the Diversion Scheme Worker at Safe Exit. This involves a needs assessment and referral to an appropriate support agency with the aim of helping individuals get away from prostitution, rather than fining them and potentially forcing re-offending. The Council is the prosecutor in respect of such offences, rather than the Crown Prosecution Service, and, if the scheme is completed, the Council generally discontinues the prosecution.

8. Young people

- 8.1. From time to time, Council Enforcement Officers will be required to deal with persons under the age of 18 as offenders. Council Officers will not interview a Youth about an offence unless an appropriate adult is present and in full compliance with the relevant parts of PACE Code C.
- 8.2. The Council will not normally prosecute any person who on the day of the relevant offence is under the age of 18 but will, in accordance with Home Office guidance look, where possible, at ways of diverting youths away from the criminal justice system.
- 8.3. The Council may, however, prosecute a person under the age of 18 where the offence is of a serious nature (e.g. assault, fraud etc.) or the person has been given a reprimand or warning under Home Office Circular 14/2006 or the person has previously been convicted of an offence.

9. Other Enforcement Agencies

- 9.1. The Council will co-operate as appropriate with other enforcement agencies (for example, the Metropolitan Police and the Federation Against Copyright Theft), to ensure the efficient and effective regulation of activities in Tower Hamlets. The Council will take into account, amongst other things, the terms of this Policy in determining the appropriateness of co-operation.
- 9.2. Section 4 of this Policy identifies the relationship between the Community Plan and the Council's enforcement action. The Council's co-operation with other agencies will be affected by the Community Plan and other partnership arrangements.
- 9.3. Where the Council has concurrent or overlapping powers of enforcement with other agencies, the Council will liaise as appropriate with those agencies to ensure effective co-ordination, avoid inconsistencies, ensure that any action taken is the most appropriate in the circumstances and agree the lead prosecuting agency.

10. The Role of Legal Services

10.1. Legal Services is a department within the Council, headed by the Assistant Chief Executive (Legal Services) and based at 6th Floor of Mulberry Place, 5 Clove Crescent, London E14 2BG. Pursuant to the Council's Constitution, the responsibility for instituting or participating in legal proceedings lies with the Assistant Chief Executive (Legal Services) or officers nominated by the Assistant Chief Executive (Legal Services). Accordingly, the decision whether or not to prosecute offences will be taken within Legal Services. This decision will typically be taken on instructions from Authorised Officers.

11. The Code for Crown Prosecutors

11.1. In determining whether or not the Council will prosecute an offence, the Council will consider the matters set out in section 8 above, including the Code for Crown Prosecutors.

11.2. The Code for Crown Prosecutors sets out the basic principles to be followed by Council Prosecutors when they make case decisions. The decision on whether or not to go ahead with a case is based on two tests outlined in the Code.

11.3. The evidential test

11.4. This is the first stage in the decision to prosecute. Prosecutors must be satisfied that there is enough evidence to provide a “realistic prospect of conviction” against each defendant on each charge. Prosecutors must consider the reliability of the evidence; the credibility of any witness; and the admissibility of the evidence. They must also consider what the defence case may be and how that is likely to affect the prosecution case. A “realistic prospect of conviction” is an objective test. It means that a jury or a bench of magistrates, properly directed in accordance with the law, will be more likely than not to convict the defendant of the charge alleged. (This is a separate test from the one that criminal courts themselves must apply. A jury or magistrates’ court should only convict if it is sure of a defendant’s guilt.) If the case does not pass the evidential test, it must not go ahead, no matter how important or serious it may be.

11.5. The public interest test

- 11.6. If the case does pass the evidential test, Prosecutors must then decide whether a prosecution is needed in the public interest. They must balance factors for and against prosecution carefully and fairly. Some factors may increase the need to prosecute but others may suggest that another course of action would be better. A prosecution will usually take place however, unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. Prosecutors will only start or continue a prosecution if a case has passed both tests.
- 11.7. Consistent with section 5 of this Policy, the decision whether or not to prosecute rests ultimately with the Assistant Chief Executive (Legal Services).

12. Equalities and Diversity

12.1. In conducting enforcement work, the Council will be mindful of its statutory responsibilities in respect of equalities and will take into account its *Single Equality Framework*. The Council will take steps to gather information as appropriate in relation to relevant equality strands, in order to assess the impact of enforcement action.

13. Changes to the Policy

13.1. The Council will keep this policy under review and may amend the policy from time to time as it considers appropriate.

14. Complaints

14.1. The Council operates a corporate complaints system. If there are any complaints regarding the Council's enforcement action or the application of this Policy, then they may be made and dealt with in accordance with the corporate complaints system. This is without prejudice to any other rights that a person may have at law.

ENFORCEMENT POLICY - APPENDIX 1

LONDON BOROUGH OF TOWER

HAMLETS

POLICY ON THE USE OF COVERT

SURVEILLANCE

REGULATION OF INVESTIGATORY

POWERS ACT 2000

1. Introduction

1.1. The Council has broad statutory functions and takes targeted enforcement action in relation to those functions having regard to the following –

- The Tower Hamlets Community Plan, which contains the Council's sustainable community strategy for the purposes of section 4 of the Local Government Act 2000
- The Council's Local Development Framework
- Any external targets or requirements imposed under relevant legislation
- The Council's enforcement policy

1.2. There may be circumstances in the discharge of its statutory functions in which it is necessary for the Council to conduct directed surveillance for one or more of the following purposes –

- Preventing or detecting crime
- Preventing disorder
- In the interests of public safety
- Protecting public health

1.3. The Council is mindful of its obligation under section 6(1) of the Human Rights Act 1998 not to act in a way which is incompatible with a Convention right (meaning the European Convention on Human Rights ("ECHR")).

1.4. The Council recognises the terms of 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.

- 1.5. The Council recognises that individuals have the right to a fair trial under Article 6 of the ECHR and that this may be affected if evidence is improperly obtained.
- 1.6. The Council understands that it is obliged to comply with the provisions of the Regulation of Investigatory Powers Act 2000 (“RIPA”) in order to conduct directed surveillance. The Council believes that by complying with the provisions of RIPA, the Council should also ensure that any directed surveillance comes within the qualification in Article 8(2) of the ECHR and, accordingly, the Council should not breach its obligation under section 6(1) of the Human Rights Act 1998.
- 1.7. The Office of Surveillance Commissioners (‘OSC’) has recommended as best practice that public authorities develop a corporate policy. The Council concurs with the OSC that a corporate policy is best practice and has had such a policy in effect since 27th July 2004. This document is the Council’s corporate policy in relation to directed surveillance. The Council also has a policy in place in respect of the use of covert human intelligence sources, which is contained in a separate document.
- 1.8. The Council has prepared guidance notes and a procedure manual on the use of directed surveillance, which should be read with this policy.

2. Responsibilities

2.1 The Assistant Chief Executive (Legal Services) (“ACE”) is responsible for the following –

- Ensuring the proper implementation of this policy and the guidance and procedures that go with it.
- Ensuring the Council complies with the requirements of Part II of RIPA.
- Ensuring that due regard is given to any code of practice issued pursuant to section 71 of RIPA.
- Engaging with commissioners and inspectors when they conduct inspections under RIPA.
- Overseeing the implementation of any recommendations made by a commissioner.

2.2 The Head of Legal Services (Community) (“HLS”) is the deputy to the ACE for the purposes of carrying out the functions in 2.1.

2.3 The Service Head – Community Safety is the Council’s authorising officer for the purposes of considering applications for authorisation to conduct directed surveillance, with the exception of cases where confidential information is either targeted or likely to be obtained. If the Service Head – Community Safety is unavailable and the ACE or HLS agree that it is appropriate in respect of a specified application for authorisation, then the Head of Audit may act as the Council’s authorising officer in respect of that application.

2.4 In cases where the directed surveillance targets confidential information or confidential information is likely to be obtained, then the Council’s authorising officers is the Chief Executive, or, in the Chief Executive’s absence, the person acting as Chief Executive.

2.5 The Council considers that applications for authorisation to conduct directed surveillance should be of a high and consistent standard. For this reason, all applications should be cleared by a gate-keeper before consideration by the authorising officer. The Council's gate-keeper is the Head of Enforcement and Support Intervention in Community Safety. In the absence of that officer, the HLS may act as the gate-keeper.

2.6 All officers have responsibility to ensure that directed surveillance is only conducted where there is an authorisation from the authorising officer, an approval from a justice of the peace and the surveillance is conducted in accordance with that authorisation and approval and any other directions given by the authorising officer.

3. **Directed Surveillance**

3.1 Terms used in this policy have the meanings given by RIPA or any relevant code of practice made under section 71 of RIPA.

3.2 Directed surveillance is surveillance that is covert (i.e. secret) but not intrusive and which is undertaken:

- for the purposes of a specific investigation or a specific operation;
- in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
- otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under Part II of RIPA to be sought for the carrying out of the surveillance.

3.3 Intrusive surveillance is covert surveillance that is carried out in relation to anything taking place on residential premises or in any private vehicle. It involves the presence of an individual inside the residence or vehicle or is carried out by means of a surveillance device. **The Council is not permitted to conduct intrusive surveillance under RIPA and will not use intrusive surveillance.**

4. Priorities

4.1. The Council will use directed surveillance only where approval has been obtained under RIPA and only in accordance with the terms of the approval.

4.2. An authorisation may only be granted where –

- It is necessary for one of the following purposes: (1) preventing or detecting crime; (2) preventing disorder; (3) in the interests of public safety; and (4) protecting public health.
- It complies with any additional conditions imposed by the Secretary of State under RIPA. From 1 November 2012 this means that the Council's use of RIPA is restricted to the following offences:
- An offence punishable by a maximum term of at least 6 months of imprisonment;
- An offence under section 146 of the Licensing Act 2003 (sale of alcohol to children);
- An offence under section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
- An offence under section 147A of the Licensing Act 2003 (persistently selling alcohol to children); or
- An offence under section 7 of the Children and Young Persons Act 1933 (sale of tobacco etc. to persons under eighteen).

4.3. Having regard to the permitted purposes and to the requirements in the Council's Enforcement Policy that enforcement action should be targeted (to the Council's stated objectives), the Council's current priorities for the use of RIPA are –

- Anti-social behaviour
- Fly-tipping
- Unlawful street vending of DVDs and tobacco
- Underage sales of knives, tobacco, alcohol and fireworks
- Fraud, including misuse of disabled parking badges and claims for housing benefit
- Illegal money-lending and related offending
- Licence breaches
- Touting.

5. Authorisations

5.1. Prior to directed surveillance taking place RIPA provides that the surveillance must be –

- First, authorised by the Council's authorising officer as defined in section 2 of this Policy.
- Secondly, approved by a justice of the peace.

5.2. Surveillance can only take place where it is for the purpose of preventing or detecting crime or of preventing disorder and relates to an offence of the kind specified in paragraph 4.2 above. The authorisation and approval ensure that the surveillance is both necessary and proportionate as well as limiting any potential collateral intrusion. Further the authorisation and approval will need to consider whether confidential information is likely to be obtained as a result of the covert surveillance.

- 5.3. There is a Code of Practice that has been issued by the Secretary of State relating to the use of Covert Surveillance and Property Interference and this came into force on 6th April 2010.
- 5.4. The Council is committed to only using directed surveillance in accordance with RIPA and any Code of Practice issued by the Secretary of State. The Council has adopted a guidance manual to assist officers to make only make applications and grant authorisations in accordance with RIPA and the Code.
- 5.5. The Council is not permitted to authorise intrusive surveillance under RIPA or property interference under the Police Act 1997. The Council will not use either measure in its investigations. Where an investigation will involve property interference such as the placing of a tracker on a vehicle then that will have to be authorised by the police.
- 5.6. All authorisations are required to have a Unique Reference Number ("URN") and the officer seeking the authorisation must obtain the URN from Legal Services at the time of preparing the application (ie prior to seeking authorisation) and the authorising officer is not to authorise that authorisation unless a URN has been provided.
- 5.7. The Council is committed to achieving a consistent high standard in applications for authorisation to conduct directed surveillance. All applications must first be submitted to the Council's gatekeeper as specified in section 2 of this Policy. Only when the gatekeeper has cleared the application may the authorised officer consider it.
- 5.8. After the Council's authorising officer has authorised the directed surveillance, the authorising officer must immediately notify the HLS or nominee who will update the central record and make the necessary court application to obtain approval from a justice of the peace. No

investigation may commence unless and until a justice's approval has been obtained.

6. Training

- 6.1 Authorising officers can only authorise once they have undertaken training on the operation of RIPA and the Code of Practice. The Council's gatekeepers may only clear applications for consideration by the authorising officer after undertaking the same training as the authorising officers.
- 6.2 All officers who may seek to use directed surveillance during an investigation must also have undertaken training on the operation of RIPA and the Code of Practice.
- 6.3 The Council will arrange appropriate training courses at regular intervals. It is expected that members of the Corporate Management Team will require authorising officers, gatekeepers and those who may apply to conduct directed surveillance to undertake the training.

7. Reviews/Cancellations

- 7.1. An authorisation for directed surveillance lasts for 3 months before having to be renewed but when authorising directed surveillance the authorising officer is required to set a date for review of that authorisation. This is known as the first review. The Code of Practice requires regular reviews be undertaken by the authorising officer to assess the continuing need for the surveillance.
- 7.2. The frequency of reviews must be considered at the outset by the authorising officer as frequently as is considered necessary and practicable on a case by case basis. In any event, the authorising officer must set a first review date when granting the authorisation.

- 7.3. If after the first review the authorising officer considers that the directed surveillance is to continue then s/he will be required to set a further date of review. Again, this assessment will be on a case by case basis and in a time that is considered necessary and practicable.
- 7.4. If on the review, however, the authorising officer is satisfied that the authorisation is no longer necessary on the ground under which it was granted or renewed or it is no longer proportionate to what is sought to be achieved by carrying it out then the authorising officer must request that the authorisation be cancelled and no further surveillance under that authorisation is to be carried out.
- 7.5. It should be stressed that authorisations for directed surveillance must be cancelled. They cannot and must not be allowed to just lapse.

8. Combined Authorisations

- 8.1 From time to time, it may well be that the directed surveillance will be undertaken by a Covert Human Intelligence Source ("CHIS"). If it does then both actions must be authorised. A single authorisation can combine the two, however, and this should be done on the application form used for the authorisation of the CHIS.

9. Security of Covert Technical Equipment

- 9.1. The Council also requires each Service that uses covert technical equipment when undertaking surveillance to ensure that such equipment is securely locked away when not used. Further, such equipment will only be issued to an officer who has authorisation to use it. There will be a logging in and out book and the officer will be required to sign for the equipment. In signing for the equipment, the

officer will be reminded that misuse of the equipment is a disciplinary offence.

10. Member Oversight

10.1 The Council's Standards Committee will review this Policy and the Council's conduct of directed surveillance. If issues arise, the Standards Committee will make recommendations to Cabinet for action.

11. Central Recording

11.1 The Council is required to keep records in relation to authorisations centrally. Those records will be maintained by Legal Services.

11.2 The relevant authorising officer must provide copies of all authorisations and all reviews, renewals and cancellations to the ACE, the HLS, or a person nominated by either of them. The authorisation officer must provide those documents forthwith after following signing by the authorising officer.

11.3 All officers are expected to use the most up to date versions of forms recommended by the Home Office.

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ENFORCEMENT POLICY - APPENDIX 2

LONDON BOROUGH OF TOWER

HAMLETS

POLICY ON THE USE OF COVERT

HUMAN INTELLIGENCE SOURCES

REGULATION OF INVESTIGATORY

POWERS ACT 2000

1. Introduction

1.1. The Council has broad statutory functions and takes targeted enforcement action in relation to those functions having regard to the following –

- The Tower Hamlets Community Plan, which contains the Council's sustainable community strategy for the purposes of section 4 of the Local Government Act 2000
- The Council's Local Development Framework
- Any external targets or requirements imposed under relevant legislation
- The Council's enforcement policy

1.2. There may be circumstances in the discharge of its statutory functions in which it is necessary for the Council to use covert human intelligence sources for one or more of the following purposes –

- Preventing or detecting crime
- Preventing disorder
- In the interests of public safety
- Protecting public health

1.3. The Council is mindful of its obligation under section 6(1) of the Human Rights Act 1998 not to act in a way which is incompatible with a Convention right (meaning the European Convention on Human Rights ("ECHR")).

1.4. The Council recognises the terms of 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.

- 1.5. The Council recognises that individuals have the right to a fair trial under Article 6 of the ECHR and that this may be affected if evidence is improperly obtained.
- 1.6. The Council understands that it is obliged to comply with the provisions of the Regulation of Investigatory Powers Act 2000 (“RIPA”) in order to use covert human intelligence sources. The Council believes that by complying with the provisions of RIPA, the Council should also ensure that any use of a covert human intelligence source comes within the qualification in Article 8(2) of the ECHR and, accordingly, the Council should not breach its obligation under section 6(1) of the Human Rights Act 1998.
- 1.7. The Office of Surveillance Commissioners (‘OSC’) has recommended as best practice that public authorities develop a corporate policy. The Council concurs with the OSC that a corporate policy is best practice and has had such a policy in effect since 27th July 2004. This document is the Council’s corporate policy in relation to covert human intelligence sources. The Council also has a policy in place in respect of the use of directed surveillance, which is contained in a separate document.

1.8. The Council has prepared guidance notes and a procedure manual on the use of covert human intelligence sources, which should be read with this policy.

2. Responsibilities

2.1 The Assistant Chief Executive (Legal Services) (“ACE”) is responsible for the following –

- Ensuring the proper implementation of this policy and the guidance and procedures that go with it.
- Ensuring the Council complies with the requirements of Part II of RIPA.
- Ensuring that due regard is given to any code of practice issued pursuant to section 71 of RIPA.
- Engaging with commissioners and inspectors when they conduct inspections under RIPA.
- Overseeing the implementation of any recommendations made by a commissioner.

2.2 The Head of Legal Services (Community) (“HLS”) is the deputy to the ACE for the purposes of carrying out the functions in 2.1.

2.3 The Service Head – Community Safety is the Council’s authorising officer for the purposes of considering applications for authorisation to use covert human intelligence sources, with the exception of cases where confidential information is either targeted or likely to be obtained. If the Service Head – Community Safety is unavailable and the ACE or HLS agree that it is appropriate in respect of a specified application for authorisation, then the Head of Audit may act as the Council’s authorising officer in respect of that application.

- 2.4 In cases where the covert human intelligence source is targeted to obtain confidential information or confidential information is likely to be obtained, then the Council's authorising officers is the Chief Executive, or, in the Chief Executive's absence, the person acting as Chief Executive.
- 2.5 The Council considers that applications for authorisation to use covert human intelligence sources should be of a high and consistent standard. For this reason, all applications should be cleared by a gatekeeper before consideration by the authorising officer. The Council's gate-keeper is the Head of Enforcement and Support Intervention in Community Safety. In the absence of that officer, the HLS may act as the gatekeeper.
- 2.6 All officers have responsibility to ensure that covert human intelligence sources are only used where there is an authorisation from the authorising officer, an approval from a justice of the peace and the surveillance is conducted in accordance with that authorisation and approval and any other directions given by the authorising officer.
- 2.7 Section 8 deals with the responsibilities of the controller, the handler and the record keeper for any covert human intelligence source. Section 5 specifies that the officers nominated to control, handle and record-keep in respect of a covert human intelligence source must be trained to the satisfaction of both the authorising officer and the ACE before any authorisation may be granted.

3. Covert Human Intelligence Sources

- 3.1 Terms used in this policy have the meanings given by RIPA or any relevant code of practice made under section 71 of RIPA.

3.2 Under RIPA, a person is a covert human intelligence source if the person establishes or maintains a personal or other relationship with another person for the purpose of facilitating either –

(a) Covertly obtaining information or providing another person with access to any information.

(b) Covertly disclosing information obtained by use of the relationship or as a consequence of the existence of the relationship.

4. Priorities

4.1. The Council will use covert human intelligence sources only where an approval has been obtained under RIPA and only in accordance with the terms of the approval.

4.2. An authorisation may only be granted where –

- It is necessary for one of the following purposes: (1) preventing or detecting crime; (2) preventing disorder; (3) in the interests of public safety; and (4) protecting public health.
- It complies with any additional conditions imposed by the Secretary of State under RIPA. From 1 November 2012 this means that the Council's use of RIPA is restricted to the following offences:
 - An offence punishable by a maximum term of at least 6 months of imprisonment;
 - An offence under section 146 of the Licensing Act 2003 (sale of alcohol to children);
 - An offence under section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children);

- An offence under section 147A of the Licensing Act 2003 (persistently selling alcohol to children); or
- An offence under section 7 of the Children and Young Persons Act 1933 (sale of tobacco etc. to persons under eighteen).

4.3. Having regard to the permitted purposes and to the requirements in the Council's Enforcement Policy that enforcement action should be targeted (to the Council's stated objectives), the Council's current priorities for the use of RIPA are –

- Anti-social behaviour
- Fly-tipping
- Unlawful street vending of DVDs and tobacco
- Underage sales of knives, tobacco, alcohol and fireworks
- Fraud, including misuse of disabled parking badges and claims for housing benefit
- Illegal money-lending and related offending.
- All licence breaches.
- Touting.

5. Authorisations

5.1. Prior to a CHIS being used RIPA provides that the use must be –

- First, authorised by the Council's authorising officer as defined in section 2 of this Policy.
- Secondly, approved by a justice of the peace.

5.2. A CHIS can only be used where it is for the purpose of preventing or detecting crime or of preventing disorder and where it relates to an offence of the kind specified in paragraph 4.2 above. The authorisation and approval ensure that the use of the CHIS is both necessary and

proportionate as well as limiting any potential collateral intrusion. Further the authorisation and approval will need to consider whether confidential information is likely to be obtained as a result of the use of a CHIS.

- 5.3. There is a Code of Practice that has been issued by the Secretary of State relating to the use of a CHIS and this came into force on 6th April 2010.
- 5.4. The Council is committed to only using covert human intelligence sources in accordance with RIPA and any Code of Practice issued by the Secretary of State. The Council has adopted a guidance manual to assist officers to only make applications and grant authorisations in accordance with RIPA and the Code.
- 5.5. Requests to undertake covert human intelligence sources must be authorised by the Council's authorising officer as defined in section 2 of this Policy. No authorisation is to be granted unless both the authorising officer and the Assistant Chief Executive (Legal Services) are satisfied that the officers proposed as controller, handler and record-keeper have had sufficient training. The Council may as an alternative work in partnership with police, so that the police rather than the Council control any covert human intelligence source who may be required for one of the Council's investigations.
- 5.6. All authorisations are required to have a Unique Reference Number ("URN") and the officer seeking the authorisation must obtain the URN from Legal Services prior to seeking authorisation and the authorising officer is not to authorise that authorisation unless a URN has been provided.

- 5.7. The Council is committed to achieving a consistent high standard in applications for authorisation to conduct directed surveillance. All applications must first be submitted to the Council's gatekeeper as specified in section 2 of this Policy. Only when the gatekeeper has cleared the application may the authorised officer consider it.
- 5.8. The Council will not permit the authorisation of a CHIS who is under the age of 18.
- 5.9. After the Council's authorising officer has authorised the directed surveillance, the authorising officer must immediately notify the HLS or nominee who will update the central record and make the necessary court application to obtain approval from a justice of the peace. No investigation may commence unless and until a justice's approval has been obtained.

6. Reviews/Cancellations

- 6.1 An authorisation for use of a CHIS lasts for a maximum of 12 months before having to be renewed. When authorising the use of a CHIS the authorising officer is required to set a date for review of that authorisation. This is known as the first review. The Code of Practice requires regular reviews be undertaken by the authorising officer to assess the continuing need for the use of the CHIS.
- 6.2 The frequency of reviews must be considered at the outset by the authorising officer as frequently as is considered necessary and practicable on a case by case basis. In any event, the authorising officer must set a first review date when granting the authorisation.
- 6.3 If after the first review the authorising officer considers that the use of the CHIS is to continue then s/he will be required to set a further date

of review. Again, this assessment will be on a case by case basis and in a time that is considered necessary and practicable.

- 6.4 If on the review, however, the authorising officer is satisfied that the authorisation is no longer necessary on the ground under which it was granted or renewed or it is no longer proportionate to what is sought to be achieved then the authorising officer must request that the authorisation be cancelled and the CHIS no longer used under that authorisation.
- 6.5 It should be stressed that authorisations for the use of a CHIS must be cancelled. They cannot and must not be allowed to just lapse.

7. Training

- 7.1 Authorising officers can only authorise once they have undertaken training on the operation of RIPA and the Code of Practice. The Council's gatekeepers may only clear applications for consideration by the authorising officer after undertaking the same training as the authorising officers.
- 7.2 Officers may only undertake the roles of controller, handler, or record-keeper if they have undertaken training in the discharge of those roles. If there are no officers who have been trained to the satisfaction of the authorising officer and the Assistant Chief Executive (Legal Services), then the Council will not use covert human intelligence sources.
- 7.3 All officers who may seek to use covert human intelligence sources during an investigation must also have undertaken training on the operation of RIPA and the Code of Practice.

7.4 The Council will arrange appropriate training courses at regular intervals. It is expected that members of the Corporate Management Team will require authorising officers, gatekeepers and those who may apply to conduct directed surveillance to undertake the training.

8. Controller/Handler/Record Keeper

8.1 Where the use of a CHIS is authorised then section 29(5)(a) of RIPA requires the Council to have at all times a person holding a position with the Council who will have day-to-day responsibility for dealing with the source (“the handler”). This will not be the officer seeking authorisation but will be the responsibility of the person who supervises the investigation.

8.2 Further, section 29(5)(b) of RIPA requires the Council to have at all times another person holding a position with the Council who will have general oversight of the use made of the source (“the controller”). The controller is the officer responsible for the general oversight of the use of the source. . . . The controller will be the Service Manager for the Service in which the officer seeking the authorisation is based so that the Service Manager will be the controller and will be the person managing the handler.

8.3 Although an authorising officer can also act as the controller of a source, the Council will not permit an authorising officer to be responsible for authorising their own activities, e.g. those in which they, themselves, are to act as the source or in tasking the source. Therefore if the authorising officer would be the Service Manager for the handler then a Service Manager of the same level from another Service will be the controller.

- 8.4 Additionally, section 29(5)(c) of RIPA requires the Council to have at all times a person holding a position with the Council who will have responsibility for maintaining a record of the use made of the CHIS. This will be the Service Head (i.e. the Service Manager's manager) responsible for the service area using the covert human intelligence source. If the service area falls within the authorising officer's responsibility, then the Corporate Director Communities, Localities and Culture must maintain the record.
- 8.5 Guidance suggests that a local authority may prefer to seek the assistance of the police to manage its CHIS. In such a case a written protocol between the parties should be produced in order to ensure that an identified CHIS is properly managed. Without such an agreement the local authority must be capable of fulfilling its statutory responsibilities. Where the CHIS is not a Council Officer then the intention is to seek assistance of the police. Where the CHIS is a Council Officer then prior to the authorisation being sought the investigating officer must give consideration to seeking the assistance of the Police and if it is decided not to then justification for that decision must be included within the risk assessment for the use of the CHIS.

9. Combined Authorisations

- 9.1. From time to time, it may well be that the use of a CHIS involves directed surveillance. If it does then the directed surveillance must also be authorised. A single authorisation can combine the two, however, and this should be done on the application form used for the authorisation of the CHIS.

10. Security of Covert Technical Equipment

10.1. The Council requires each Service that uses covert technical equipment when undertaking surveillance to ensure that such equipment is securely locked away when not used. Further, such equipment will only be issued to an officer who has authorisation to use it. There will be a logging in and out book and the officer will be required to sign for the equipment. In signing for the equipment, the officer will be reminded that misuse of the equipment is a disciplinary offence.

11. Member Oversight

11.1. The Council's Standards Committee will review this Policy and the Council's use of covert human intelligence sources. If issues arise, the Standards Committee will make recommendations to Cabinet for action.

12. Central Recording

12.1. The Council is required to keep records in relation to authorisations centrally. Those records will be maintained by Legal Services.

12.2. The relevant authorising officer must provide copies of all authorisations and all reviews, renewals and cancellations to the ACE, the HLS, or a person nominated by either of them. The authorisation officer must provide those documents forthwith after following signing by the authorising officer.

12.3. All officers are expected to use the most up to date versions of forms recommended by the Home Office.

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Agenda Item 4.3

Committee: Standards Advisory Committee	Date: 17 October 2012	Classification: Unrestricted	Report No:	Agenda Item:
Report of: Assistant Chief Executive (Legal Services) Originating officer(s) David Galpin, Head of Legal Services – Community Ruth Dowden, Complaints and Information Manager		Title: Complaints and Information – Annual Report Wards Affected: All		

1. **SUMMARY**

- 1.1. This report presents the annual complaints and information report for consideration by the Standards Advisory Committee.

2. **DECISIONS REQUIRED**

Standards Advisory Committee is recommended to:-

- 2.1. Consider and comment on the information set out in the report in Appendix 1.

3. **BACKGROUND**

- 3.1. The annual report addresses the volume of complaints and information requests received by the Council in the period 1 April 2011 to 31 March 2012, the outcomes of those cases and the standard of performance in dealing with them.

4. **COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 4.1. This report provides the annual complaints and information report for the period 1st April 2011 to 31st March 2012 to be considered by the Standards Advisory Committee There are no financial implications arising from this report. However In the event that the Council agrees further action in response to this report then officers will be obliged to seek the appropriate financial approval before further financial commitments are made.

5. **CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 5.1. It is consistent with good administration for the Council to maintain a corporate complaints system, as it will help the Council to identify, remedy and prevent

defects in the discharge of its functions. Such maladministration may involve: delay; incorrect action or failure to take any action; failure to follow procedures or the law; failure to provide information; inadequate record-keeping; failure to investigate; failure to reply; misleading or inaccurate statements; inadequate liaison; inadequate consultation; or broken promises.

- 5.2. The Local Government Act 1974 sets out the functions of a local government ombudsman. An ombudsman may: investigate complaints against councils and some other authorities; and provide advice and guidance on good administrative practice. In broad terms the ombudsman will investigate alleged or apparent maladministration in the discharge of an authority's functions and service failures. An ombudsman cannot force the Council to follow its recommendations, but it can and does write reports following the investigation of complaints, which are made public. The Council may expose itself to further criticism and legal proceedings if it declined to follow an ombudsman recommendation.
- 5.3. The Council is required to deal with requests for information in accordance with the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the Data Protection Act 1998. The Council is additionally required to comply with the data protection principles under the Data Protection Act 1998 in respect of all personal data for which it is the data controller.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The Council is required in the exercise of its functions to have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. The annual complaints and information report in Appendix 1 sets out information relevant to the complaints handling and information requests for consideration by the Committee.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.1. The corporate complaints system and the results of complaints made to the ombudsman help the Council to avoid maladministration and improve service delivery across the full range of Council functions. This means that to the extent the Council has targeted action to achieve a greener environment, the information set out in the report either evidences efforts made to help achieve those goals or may be used for that purpose.

8. RISK MANAGEMENT IMPLICATIONS

- 8.1. The report in Appendix 1 sets out risk implications in section 9.

9. EFFICIENCY STATEMENT

9.1. The Council is a best value authority and is obliged by section 3 of the Local Government Act 1999 to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”. The Council’s corporate complaints system and information governance framework help it to avoid maladministration and associated adverse consequences. Ensuring that these systems operate effectively through the scrutiny of relevant reporting information should help to promote the delivery of best value in the use of the Council’s resources.

10. APPENDICES

Appendix 1 – Complaints and information annual report

Appendix 2 – Local Government Ombudsman Annual Review Letter

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Brief description of “back ground papers”	Name and telephone number of holder and address where open to inspection.
None	N/A

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Complaints and Information Annual Report 2011-2012

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1. INTRODUCTION

- 1.1. This report addresses the volume of complaints and information requests received by the Council in the period 1 April 2011 to 31 March 2012, the outcomes of those cases and the standard of performance in dealing with them.
- 1.2. The Corporate Complaints Team and Information Governance Team were merged in October 2011. The merged team –
 - Processes Freedom of Information and Environmental Information Regulation Requests (see section 2) and Data Protection Subject Access Requests (section 3);
 - Oversees complaints handling at all stages of the Council's Corporate Complaints Procedure (see section 4) and the statutory Adults and Children's Social Care Complaints Procedures (see sections 5 and 6);
 - Deals with the Information Commissioner (see section 2) and the Local Government Ombudsman (see section 7) in relation to complaints escalated to them;
 - Monitors complaints, requests case and policy progression and provides management information on performance; and
 - Investigates some Adults Social Care complaints, stage 2 Children's Social Care complaints, and stage 3 corporate complaints on behalf of the Chief Executive.
- 1.3. Most successful organisations encourage service users to complain, and as such a high volume of complaints is often an indication of a healthy relationship with service users. However, complaints should be resolved at the lowest possible point and the escalation of complaints can indicate difficulties in addressing matters at the service level. With these objectives in mind, the Council has adopted corporate performance standards, designed to ensure complaints are dealt with in a timely fashion. Performance is regularly reviewed by both the corporate management team and elected members. The Complaints and Information team identifies themes and works with the service areas to bring out effective change. The Council performed strongly against its targets for corporate complaints in 2011/2012.
- 1.4. The Freedom of Information Act 2000 (FOIA) was introduced to help bring about a culture of openness within the public sector so that the information held by public authorities is available and accessible to all, both within and outside the communities they serve. It gives the public access to most structured information held by the council, unless it is appropriate for the Council to apply a legal exemption.
- 1.5. A separate but parallel process under the Environmental Information Regulations 2004 (EIR) provides for access to environmental information within the meaning of EU Directive 2003/4/EC. This covers information on –
 - The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

- Factors affecting or likely to affect the elements of the environment, such as noise or waste.
 - Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements of the environment and factors affecting them.
 - Cost-benefit and other economic analyses and assumptions used within the framework of these measures and activities.
 - Reports on the implementation of environmental legislation.
 - The state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment or, through those elements, by any of the factors, measures or activities referred to above.
- 1.6. The FOIA and EIR set a deadline of 20 working days for the council to respond to written requests from the public. It is regulated by the Information Commissioner (ICO) and information on the ICO's investigations and decisions is included in section 2. During 2011/2012, the Council exceeded its target for responses made within 20 days, at the same time maintaining a very low escalation rate.
- 1.7. The Data Protection Act 1998 (DPA) governs the collection, storage, and processing of personal data, in both manual and electronic forms. It is regulated by the Information Commissioners Office (www.ico.gov.uk). It requires those who hold personal data on individuals to be open about how the information is used, and requires the Council to process data in accordance with the principles of the Act. Individuals have the right to find out what personal data is held about them, and what use is being made of that information. These 'Subject Access Requests' should be processed by the Council within a period of 40 calendar days.
- 1.8 This report sets out the Council's outputs over the period 1 April 2011 to 31 March 2012.

2. INFORMATION REQUESTS

- 2.1 The general categories of information requests are summarised in section 1 of this report. Information disclosed by the Council to applicants is usually also published on the Council's disclosure log, linked to the Council website. In this way a resource has been built up over time which is available to the public for reference.
- 2.2 Details of FOI requests received by the Council in 2011/2012 are summarised in Figure 1. The Council saw a significant rise in FOI requests in 2011/12. Compared with the previous year the number of requests increased 76% from 768 to 1356. Nevertheless, the performance in responding to requests within the 20 working day statutory deadline improved, from 84% in 2010/11 to 95% in 2011/12. Further work is planned to promote early response and compliance with the deadline.

Figure 1

Freedom of Information Requests	2010/11	2011/12			
	Total	Total	In Time	Late	% In Time
Adults Health & Wellbeing	36	66	65	1	98
Children Schools & Families	185	224	218	6	97
CLC	271	335	329	6	98
Chief Executive's	56	147	126	21	86
D&R	144	204	196	8	96
Resources	220	328	310	18	95
THH	24	52	50	2	96
Total	768	1356	1294	62	95

- 2.3 Whilst the numbers are fewer, there is also an increase in EIR requests processed in the year. The response rates are slower and in an attempt to address this, all requests are being escalated to senior managers at 15 days.

Figure 2

Environmental Information Regulation Requests	2010/11	2011/12			
	Total	Total	In Time	Late	% In Time
Adults Health & Wellbeing	0	0	0	0	0
Children Schools & Families	0	1	1	0	100
CLC	6	14	12	2	86
Chief Executive's	0	0	0	0	0
D&R	11	22	19	3	86
Resources	0	0	0	0	0
THH	0	0	0	0	0
Total	17	37	32	5	86

- 2.4 On receipt of a response to an FOI or EIR request, an applicant may ask for an internal review if dissatisfied with the response provided. Out of the 1356 FOI requests and 37 EIR requests (total 1393 requests) received during 2011/2012, 31 (or 2.25%) were taken to Internal Review. This escalation rate is considered to be low. There were 7 cases (23% of those taken on review) in which the applicant's complaint was upheld in whole or in part following an internal review. Set out below is a summary of the upheld cases.

- **Penalty Charge Notice Wording (FOI 3612).** The applicant requested details about changes to wording on parking tickets. This was answered in full, without exemption. Internal review was requested on the basis that the Council said tickets were not incorrectly worded, and this was partially upheld. The complaint was escalated to the ICO but later closed due to non-response from the complainant.
- **Service Charges 2009/10: Housing Management (THH) (FOI 3927).** The applicant requested a breakdown of costs incurred for the housing management portion of service charge. THH provided some information, but the applicant questioned the thoroughness of the response. The complaint was upheld and more information was provided.
- **Service Charges 2009/10: Market Testing (THH) (FOI 3897).** The applicant requested details of market testing activity. This was initially refused on cost grounds, i.e. that it would take longer than 18 hours to collate. The complaint was partially upheld with some information provided. However, section 41 (information provided in confidence) and section 43 (prejudice to commercial interest) exemptions were applied at the internal review stage.
- **Service Charges 2008/09: Management Fee Excel Spreadsheets (THH) (FOI 4518).** The applicant requested raw data that supported management fee calculations following earlier response to another complaint. THH provided some information, but this was found insufficient at review and additional information was provided.
- **Arrangements for Commercial Waste (EIR 4434).** The applicant sought information regarding commercial waste. The majority of the request was answered in full, but a summary of conclusions to a consultation process was withheld on grounds of commercial sensitivity (under EIR, Regulation 12(5)(e)). The complaint was upheld on review and the report was provided in full.
- **Correspondence regarding planning application on Narrow Street (EIR 4416).** The applicant sought information regarding a planning application and was directed to the planning portal. The request for internal communications was refused under EIR, Regulation 12(4)(e). The request was answered on Day 22. The applicant complained about the application of the exemption, the time taken and the failure to advise of the delay. This was upheld on review, with information provided (redacted to remove personal data) and an apology given for delay.
- **Cost of engagement and recharge to residents (THH) (FOI 4420).** The applicant requested the cost of engagement activities and how they were charged to residents as part of the service charge. THH replied with a breakdown of the costs. An internal review was sought on the basis that gross staff costs were not included. The complaint was upheld and additional information provided.

2.5 The Information Commissioner issued three decision notices against the Council in 2011/2012. There were two notices relating to how the Council handled an FOI request, and one regarding the Council's handling of an EIR request. The summaries from the ICO website are reproduced below.

- **Case Ref: FS50368609, August 2011.** The complainant requested minutes of the meetings of a group set up by the public authority in relation to the regeneration of Roman Road East District Centre. The public authority withheld the information on the basis of the exemptions at sections 36(2)(b) (i) & (ii) and 36(2)(c) of the Act. The Commissioner found that the request should have been addressed under the Environmental Information Regulations 2004 (the EIR). He therefore ordered the public authority to either disclose the information or respond to the request in accordance with its responsibilities under the EIR.
- **Case Ref: FS50368614, September 2011.** The complainant requested information relating to a development lease granted by the public authority. The public authority withheld the relevant information on the basis of section 44(1)(a) (statutory prohibition on disclosure) of the Act and also alternatively relied on the exception at regulation 12(5)(e) of the EIR. The Commissioner found that part of the information was environmental information. He however found both sections 44(1)(a) and regulation 12(5)(e) did not apply and further found the public authority in procedural breach of the Act and the EIR.
- **Case Ref: FER0387971 October 2011.** The complainant requested information relating to complaints received by London Borough of Tower Hamlets (the council) in connection with construction activities or preparations for the 2012 Olympics. The council provided some limited information but refused to provide anything further citing the exemption in section 12 of the FOIA and the exception under regulation 12(4)(b) of the EIR. The Information Commissioner's decision is that the council's calculation of costs was unreasonable and not supported by evidence and therefore section 12 of the FOIA is not engaged. Similarly, he does not find the exception at regulation 12(4)(b) of the EIR engaged. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation: provide advice and assistance to enable the requester to refine his request; and reconsider the complainant's request and either release the requested information to him or issue a further refusal notice which complies with section 17 of the Act and regulation 14 of the EIR.

2.6 The Council does not seek equalities monitoring information at the point of request, as this may be seen as a barrier to information requests. When providing responses, the Council invites applicants to complete a combined customer satisfaction and equalities monitoring questionnaire. Regrettably the volumes of responses (37 in over 4 years) are not sufficiently high to enable significant conclusions to be drawn for the purposes of the Council's public sector equality duty.

3. SUBJECT ACCESS REQUESTS

3.1 The Council has up to 40 calendar days to respond to subject access requests under the Data Protection Act 1998. Details of the requests received are set out in Figure 3.

Figure 3

Subject Access Requests	2010/11	2011/12			
	Total	Total	In Time	Late	% In Time
Adults Health & Wellbeing	23	11	11	0	100
Children Schools & Families	32	47	40	7	85
CLC	10	13	12	1	92
Chief Executive's	8	4	2	2	50
D&R	15	1	1	0	100
Resources	43	115	113	2	98
THH	2	11	11	0	100
Total	133	202	190	12	94

3.2 It can be seen that requests for personal information held by the Council rose 52% from 133 in 2010/11 to 202 in 2011/12. The requests received in the Resources directorate include 42 regarding Benefits, and 66 for Revenues. The majority of Adults Health and Wellbeing and Children School and Families requests are for Social Care records.

3.3 The overall response rate was good, with 94% being answered within the statutory timeframe. There is work to be done to raise this performance even further during 2012/2013.

3.4 Requests for personal identifiable information are collated by the relevant service area, and assessed under the Date Protection Act criteria. The corporate team advise on preparation of files for release, and ensure that appropriate action is taken to safeguard data pertaining to other people and ensure that third party data redacted.

3.5 Some of the files held can be large with significant amounts of data provided by third parties (e.g. medical reports) and or relating to other people (e.g. family members / neighbours). In order for there to be a prompt response to all requests, consideration must be given to the resources required in each directorate or service area to meet the demand.

4. CORPORATE COMPLAINT STATISTICS AND ANALYSIS

4.1 The corporate complaints procedure

4.1.1 The complaints procedure is detailed on the Council's web site, where the Council states "we want to hear from you" and specifies –

- Its desire to give the best possible service;
- That it can only find out what needs to improve by listening to the views of service users and others;
- Its commitment to continuously improving services; and
- Its undertaking to act on what it is told.

4.1.2 The corporate complaints procedure is a three stage process, accepting issues from anyone who wants, or receives, a service from the Council. The exception is where the matter is covered by another channel of redress, such as a legal, or appeal, process (e.g. benefits assessments, parking penalty charges, leasehold matters), or where a statutory procedure exists.

4.1.3 At stages 1 and 2 of the complaints procedure, the matter is addressed by the relevant service managers. At the third and final stage, an independent investigation is conducted by the complaints and information team on behalf of the Chief Executive.

4.1.4 As stated earlier, most social care complaints come under statutory procedures and are detailed in sections 3 and 4. Schools complaints also fall under a separate procedure at Stages 1 and 2, with the final stage coming under the Corporate Complaints Procedure, at stage 3.

4.1.5 The Corporate Management Team and Directorate Management Teams review reports on complaints each quarter in order to focus on areas of concern, both in terms of performance and service quality.

4.2 Volume of complaints

4.2.1 Figure 4 provides summary information about the total number of complaints received by the Council in 2011/2012. Overall, the number of complaints was 8% lower than in the previous year, dropping from 2664 to 2453. The exception was in respect of stage 3 complaints, where there was a slight increase of 2% from 129 to 132. The reason the stage 3 figure was higher is that the internal reviews for FOI requests, are counted in this category.

Figure 4

Volume of Corporate Complaints				
Year	2010/11	2011/12	Variance	
Stage 1	2224	2019	-205	-9%
Stage 2	311	302	-9	-3%
Stage 3	129	132*	3	2%

Total Complaints	2664	2453	-211	-8%
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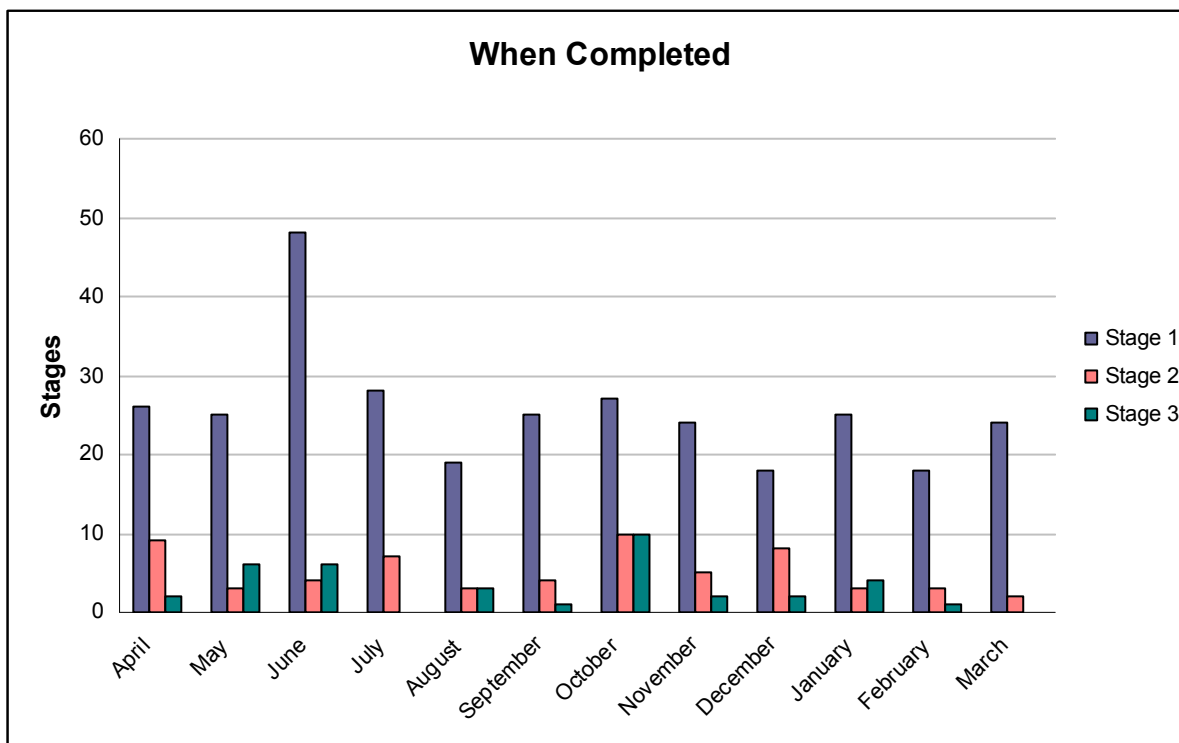
4.2.2 Figure 5 below shows the escalation rates through the stages of the complaints process. Overall, 15% of Stage 1 complaints were escalated to Stage 2 of the complaints process and 5% of Stage 1 complaints were escalated to Stage 3. This demonstrates that by far the greatest proportion of complaints is dealt with at the first stage, which is what the Council would hope to achieve with its complaints handling. The escalation rate of 2.5% for FOI requests compares favourably against the rate of 5% for overall corporate complaints.

Figure 5

Escalation Rates by Directorate 2011/12						
Directorate	Stage 1	Stage 2		Stage 3		Comments
		Stage 2	Escalated from Stage 1	Stage 3	Escalated from Stage 1	
Adults Health & Wellbeing	2	1	50%	1	50%	
Chief Executive's	26	2	8%	1	4%	For the purpose of identifying true escalation rate, FOI Reviews are not counted in the overall escalation rate for complaints
(Chief Executive's FOI reviews)				(31)	(2.25%)	
Children Schools and Families	25	10	40%	4	16%	
CLC	997	123	12%	31	3%	
Development & Renewal	194	40	21%	17	9%	
Resources	289	35	12%	15	5%	
Tower Hamlets Homes	486	91	19%	32	7%	
Total and escalation without FOI	2019	302	15%	101	5%	

4.2.3 Figure 6 (below) demonstrates the seasonal trends and peaks in the reporting of complaints. There is no obvious reason for the peaks, which occur at different times year-on-year. Nevertheless, any increases for individual services are discussed, when they occur, with the relevant managers and are monitored.

Figure 6



4.2.4 Figure 7 shows the rate at which complaints are upheld at stage 1 of the process and the percentage completed on time. During 2011/2012, response times for stage 1 complaints were good, with 91% completed on time. This was ahead of the corporate target of 87%. Performance management through a variety of measures, including distribution to the Corporate Management Team of weekly lists of complaints due and outstanding, and monthly directorate performance figures, have effectively maintained response times at a high level.

Figure 7

Stage 1 Resolutions by Directorate 2011/12											
	Total		Not Upheld		Partially Upheld		Upheld		Withdrawn or Referred On		Completed in time %
Adults Health & Wellbeing	2	0%	1	50%	0	0%	0	0%	1	50%	50%
Chief Executive's	26	1%	7	27%	4	15%	12	46%	3	12%	85%
Children Schools and Families	25	1%	7	28%	4	16%	10	40%	4	16%	76%
CLC	997	49%	410	41%	194	19%	374	38%	19	2%	91%
Development & Renewal	194	10%	133	69%	23	12%	25	13%	13	7%	76%
Resources	289	14%	127	44%	98	34%	61	21%	3	1%	96%
Tower Hamlets Homes	486	24%	271	56%	34	7%	161	33%	20	4%	96%
Total Stage 1 Complaints	2019		956	47%	357	18%	643	32%	63	3%	91%

4.2.5 Figure 8 shows the rate at which complaints are upheld at stage 2 of the process and the percentage completed on time. During 2011/2012, response times for stage 2 complaints were at 88%, slightly ahead of the corporate target of 87% completed in time. At stage 2, the nature of investigation, complexity and issues raised will vary across the services the Council provides.

Figure 8

Stage 2 Resolutions by Directorate 2011/12											
	Total		Not Upheld		Partially Upheld		Upheld		Withdrawn or Referred On		Completed in time %
Adults Health & Wellbeing	1	0%	1	100%	0	0%	0	0%	0	0%	100%
Chief Executive's	2	1%	0	0%	0	0%	2	100%	0	0%	100%
Children Schools and Families	10	3%	6	60%	2	20%	0	0%	2	20%	80%
CLC	123	41%	57	46%	26	21%	39	32%	1	1%	85%
Development & Renewal	40	13%	30	75%	6	15%	1	3%	3	8%	85%
Resources	35	12%	26	74%	5	14%	2	6%	2	6%	94%
Tower Hamlets Homes	91	30%	30	33%	11	12%	46	51%	4	4%	92%
Total Stage 2 Complaints	302		150	50%	50	17%	90	30%	12	4%	88%

4.2.6 Figure 9 shows the rate at which complaints are upheld at stage 3 of the process and the percentage completed on time. During 2011/2012, response times for stage 3 complaints were at 86%, slightly below the corporate target of 87% completed in time. However, overall stage 3 complaint turnaround improved by one percentage point compared with 2010/2011.

Figure 9

Stage 3 Resolutions by Directorate 2011/12											
	Total		Not Upheld		Partially Upheld		Upheld		Withdrawn or Referred On		Completed in time %
Adults Health & Wellbeing	1	1%	1	100%	0	100%	0	0%	0	0%	100%
Chief Executive's	1	1%	1	100%	0	81%	0	0%	0	0%	100%
Chief Executive's FOI Reviews	31	100%	11	35%	8	26%	11	35%	1	3%	81%
Children Schools and Families	4	4%	3	75%	0	0%	0	0%	1	25%	100%
CLC	31	31%	22	71%	5	16%	4	13%	0	0%	97%
Development & Renewal	17	17%	14	82%	2	12%	1	6%	0	0%	82%
Resources	15	15%	11	73%	2	13%	1	7%	1	7%	87%
Tower Hamlets Homes	32	32%	11	34%	9	28%	12	38%	0	0%	81%
Total Stage 3 Complaints	101		63	48%	18	14%	18	14%	2	2%	86%

- 4.2.7 FOI review performance improved dramatically during 2011/201, following the introduction of a new monitoring system. Whilst overall performance was at 81%, the performance for the last 6 months was actually 94% completed in time. Stage 3 response times were also at 81% for THH and THH are reviewing the six cases that were not completed in time, in order to identify issues to be addressed.
- 4.2.8 Volumes of stage 3 complaints peaked in 2009/10 (184 cases), against 120 in 2008/09 and 129 in 2010/11. If the FOI reviews are taken out of the total, then those complaints progressing through the complaints procedure amounted to 101 in 2011/12.

4.3 Corporate Complaints by Service Area

- 4.3.1 Set out in Appendix 1 are charts providing a breakdown of the stage 1 corporate complaints in each directorate by reference to service area. Some services are recorded by reference to the structure that applied at the start of 2011/2012. Changes in structure made in the course of 2011/2012 or subsequently will be updated for the current year.
- 4.3.2 Adults Health and Wellbeing
- 4.3.3 Corporate complaints against Adults Health and Wellbeing relate to non-statutory processes and are very few in number. Only two such complaints were received in 2011/12.
- 4.3.4 Chief Executive's
- 4.3.5 The volume of complaints in the Chief Executive's directorate is low in all sections. There was a reduction in complaints received by Electoral Services in 2011/2012, compared with the previous year. The number of complaints received by that team depends upon whether an election was held in the reporting period and two were held in 2010/11.
- 4.3.6 Children's Schools and Families
- 4.3.7 Corporate complaints against Children's Schools and Families relate to non-statutory processes and are Children's Services complaints were low in number, see figure 11 below.
- 4.3.8 Communities Localities and Culture (CLC)
- 4.3.9 CLC receives the greatest number of corporate complaints of all directorates, which is to be expected having regard to the range of services it provides to the community. The most recent Annual Residents Survey showed a general increase in public satisfaction with many services, and the importance attached to these issues.
- 4.3.10 There was an increase in recycling complaints in 2011/2012 compared with 2010/2011. The Council carries out 926,000 household recycling collections per year. In 2011/12, the number of households from which collections are made increased by 2,200. The number of complaints received represents less than 0.0002 complaints per

collection. The slight uplift that did occur was probably the result of a change in the recycling round collection days. During the bedding down period the service anticipated some impact on complaint levels and a spike in recycling complaints is evident in the middle of the year, following which numbers dropped back below earlier levels. Overall, however the impact was minimal given the volume of customer transactions.

- 4.3.11 Domestic refuse complaints rose in 2011/2012 compared with the previous year. Out of the 75 complaints, 72 were in relation to missed collections. The number of missed collections equates to 0.007% of the total number of collections that take place. There was an increase in domestic refuse complaints in the middle of the year, following which numbers of complaints dropped back below pre-September levels. As with recycling, the increase is likely to have resulted from the collection day changes.
- 4.3.12 Street cleansing complaints rose in 2011/2012. This followed a particularly low number of such complaints in 2010/2011, as street cleansing complaints that year had fallen 18% from 2009/2010 and 50% from the level in 2008/2009. There was an increase in complaints across the summer months of 2011, which accounts for most of the overall 2011/2012 increase. Levels of complaints had dropped again by the final quarter of the year. However, overall the numbers of complaints remain very low compared with the scale of the service.
- 4.3.13 254 stage 1 parking complaints were received during 2011/12, an increase of 92 complaints over the previous year. At the same time, the volume of parking tickets issued rose from 103,000 during 2010/11, to 112,000 tickets in 2011/12. The total number of complaints for the year 2011/12 represents just 0.23% (less than a quarter of a percent) of the total volume of PCN's issued and less than the 9% increase in the number of parking tickets issued for the year.
- 4.3.14 Complaints about events rose in 2011/12 compared with 2010/2011, although the numbers of these complaints were not large in overall terms. At the same time, Environmental Health figures show an overall decline in the number of noise complaints in 2011/12 compared with 2010/11. This indicates that measures to reduce nuisance and a reduction in the number of events are having a positive effect. The introduction of a free ticket offer (Victoria Park) has resulted in a new line of complaints, mostly with regard to not being eligible to receive an event ticket. Excluding the ticket offer related complaints (which represent 12% of stage 1's), the total number of complaints received represents less than 0.1% of the population that lives within a quarter of a mile of Victoria Park. Whilst the sensitivity of the issue is acknowledged, for the purposes of assessing any strategically significant trend in the figures for complaints this figure is so low that the volume of complaints is not considered to be such.
- 4.3.15 Whilst the increases in complaints about recycling, domestic refuse and parking all need to be addressed, the variations are not considered to have strategic significance, taking into account the volume of services provided without complaint. The increase in recycling, domestic refuse and street cleansing complaints should be considered against the background of population increases in the borough. Following the 2011 census, it is estimated that the population in Tower Hamlets was 254,100 on 27 March

2011, a 29.6% increase from the 2001 census results. The GLA population projections have not been updated following the census but the 2011 projections suggest 3.8% growth in 2010, 2.5% growth in 2011 and 2.5% growth in 2012. These increases provide relevant context and may be particularly significant in relation to public realm services. The Council nevertheless welcomes the feedback from residents received through the complaints process and will use this to help refine and improve services.

4.3.16 Development and Renewal

4.3.17 Complaints regarding Planning Applications have remained at a similar level and those against Homeless Services and Lettings have fallen from the previous year's level.

4.3.18 Resources

4.3.19 In the Resources directorate, services with a high rate of direct customer contact have the highest volume of complaints. During 2011/2012 there was a decrease in complaints for the Contact Centre and One Stop Shops compared with the previous year. This reflects an emphasis on successfully resolving customer queries which is also demonstrated by increased customer satisfaction across these services. Mystery shopping, customer satisfaction surveying and individual staff monitoring will continue to be used to further improve services and reduce complaints, particularly in the area of staff conduct.

4.3.20 Council Tax experienced a rise in contact in 2011/2012 from account holders who reported being unable to meet payments. Whilst every effort is made to reach an agreement on repayment schedules, officers also need to pursue payment to ensure that levels of collection are maintained and Council services are protected.

4.3.21 Tower Hamlets Homes

4.3.22 Housing-related complaints fell overall in 2011/2012. This is noticeable in a number of key areas, with a major reduction in repair issues. This is part due to a change in contractor and also a proactive response to initial service failure reports. The Customer Service Team are actively liaising with contractors over late arrivals and missed appointments to deliver satisfactory outcomes for residents thus negating the need for recourse to the complaints procedure. Within the current contract there is a first time fix clause which is being used to drive up performance. This is resulting in improved customer satisfaction rating since the contract commenced in April 2011. The ASB service and repairs are now integrated into the Neighbourhood Housing Offices and the management structure allows for better coordination of response to any issues arising.

4.4 Stage 3 complaints

4.4.1 There are a number of issues that are only considered at the final stage of the corporate complaints procedure and in this sense the procedure is used as a final appeal. Stage 3 Estate Parking complaints are, in essence, a final stage appeal against vehicle removal. Challenges to FOI and EIR requests are also considered at stage 3.

4.4.2 As indicated earlier in the report, the numbers of stage 3 complaints were relatively unchanged overall in 2011/2012 compared with the 2010/2011. There was a slight increase in the number completed on time (from 85% to 86%), with the average response time remaining at 17 days per complaint. The escalation rates from stage 1 to stage 3 of the complaints process have fallen from 8% in 2009/10 and 6% in 2010/11, to 5% in 2011/12.

Figure 10

Stage 3 Complaints Response Times						
Financial Year	Total Answered	Completed in Time		Answered outside timescale		Average response times (days)
2010/11	129	109	85%	20	15%	17
2011/12	132	114	86%	18	14%	17

4.4.3 The rate at which complaints were upheld or partially upheld at stage 3 was slightly higher in 2011/2012 at 42% compared with 36% in 2010/2011. However, there is actually little movement in this rate between the years and the change is not considered to be particularly significant.

4.4.4 Figures 11 and 12 provide information about the areas in which complaints were upheld and where the greatest increases and decreases are to be found. The fall in estate parking complaints accounts for the overall change in volume (and indeed was the reason for the increase in the previous year).

Figure 11

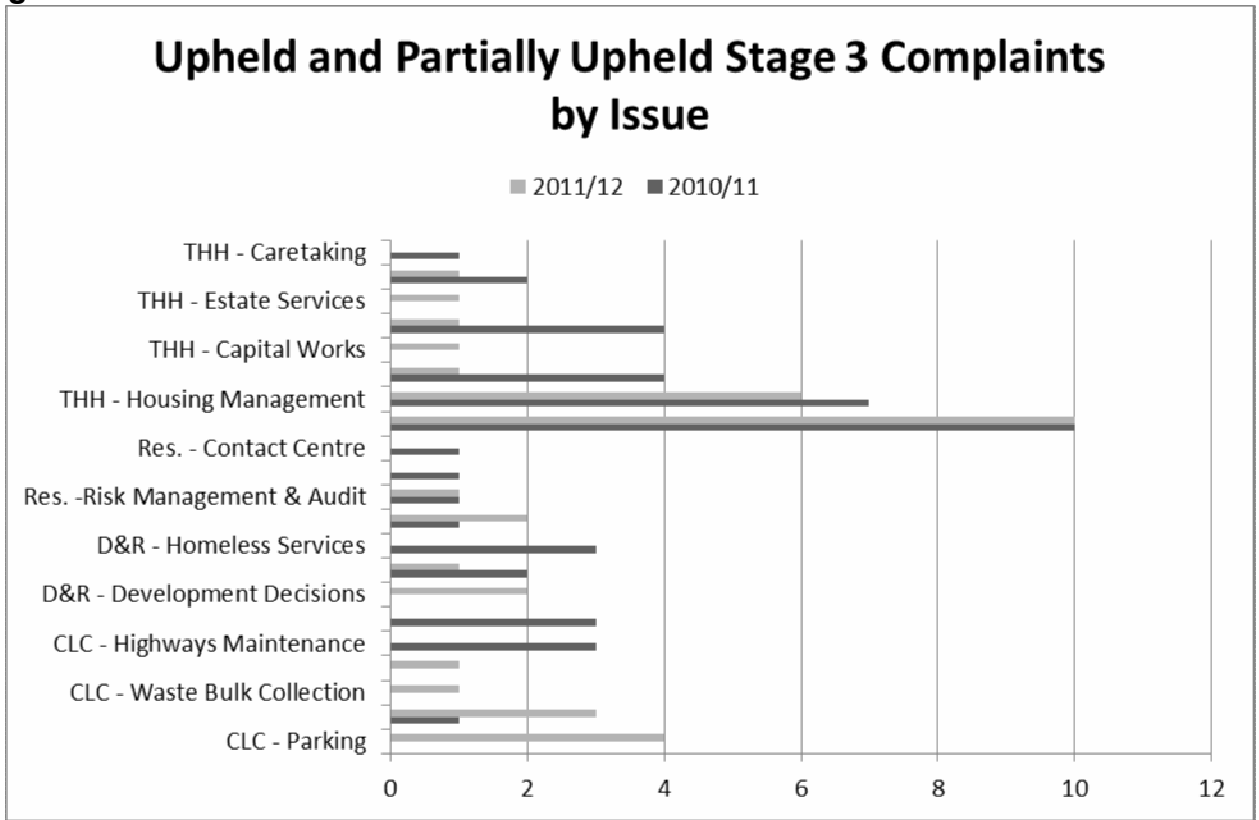
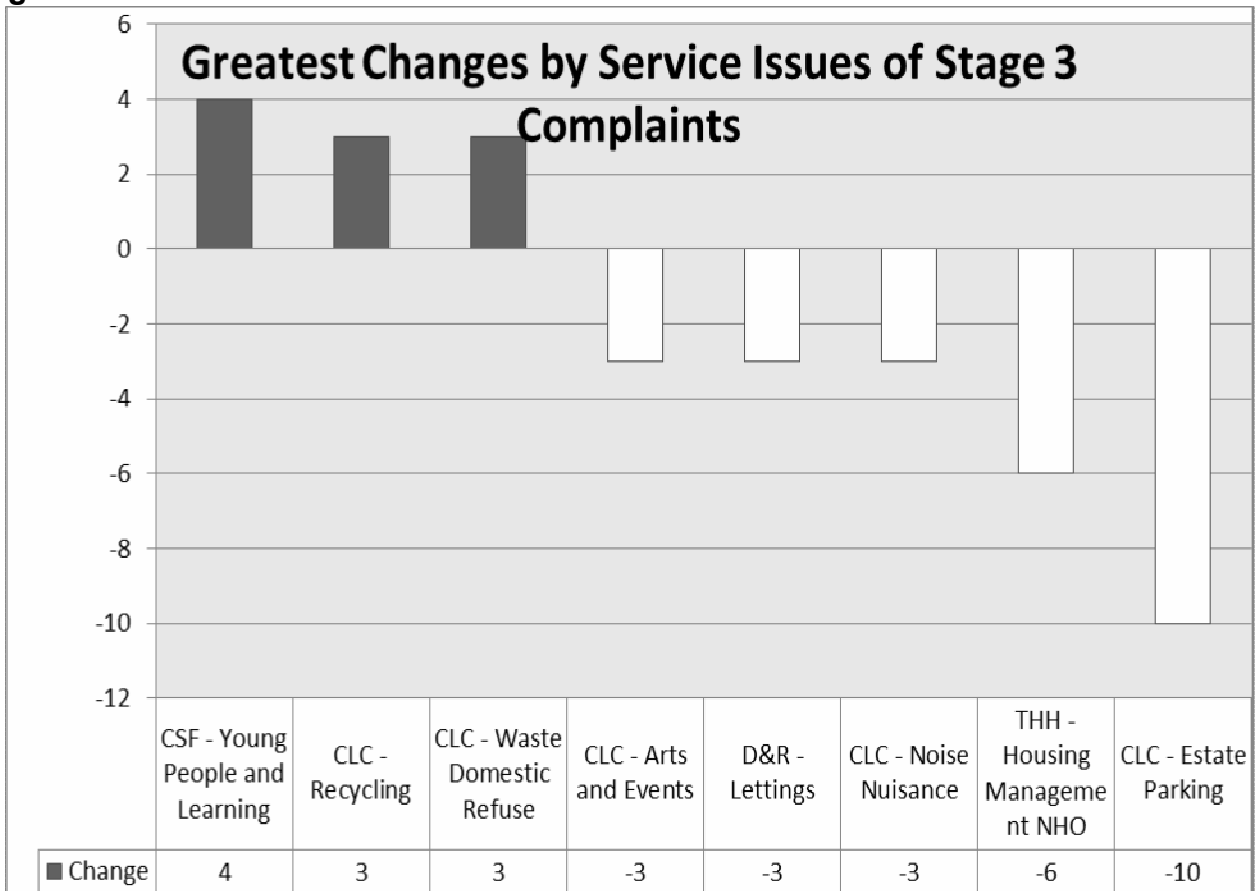


Figure 12



4.4.5 The Council sometimes makes a compensation payment to a complainant. This will be done in cases where a complaint is upheld and an apology or some other action is considered to be an insufficient remedy. Figure 13 shows a summary of compensation payments made by the Council at stage 3 during the past three years. This shows a continuing fall in compensation payments, both in the number of payments made and the total value of that compensation.

Figure 13

	Number of stage 3 cases warranting compensation	Total value of Compensation
2011/12	7	£3,350
2010/11	15	£4,455
2009/10	30	£5,345

4.4.6 Summary of Key Issues in upheld stage 3 complaints

- 4.4.7 Three complaints were investigated at stage 3 regarding missed collections for general waste and or recycling. It is unusual for such complaints not to be resolved at earlier stages and, as set out in section 4.3.10, contractual changes have been made that should reduce future complaints and escalation. A further complaint was upheld regarding inflexibility in the bulk collection service and an exemption was made for a resident who had moved within the same street, and still required a collection from his previous address.
- 4.4.8 The staff operating a CCTV vehicle were reminded of the need to park with consideration and lawfully when operating the vehicle.
- 4.4.9 A complaint was upheld regarding delay in planning enforcement. The Council relied in the early stages of enforcement action upon a commitment from the landlord to submit a retrospective planning application and failed to check that this was submitted until the complaint was received. A further complaint was upheld in which the total number of representations received for an application was recorded and the issues raised were reflected within the report, but there was an error in recording the numbers for and against. Other elements of this complaint were not upheld.
- 4.4.10 A previously repudiated insurance claim was processed in respect of a leak, where the likely cause was later accepted on the basis of new information.
- 4.4.11 Following the death of a resident, squatters gained access to the deceased's property. Poorly coordinated eviction processes and a lack of effective communication with the family resulted in the resident's property being destroyed or stolen. A payment of £2,000 was made to the family along with a sincere apology for the errors made.
- 4.4.12 Eight repairs-based complaints were upheld, including two concerning water penetration and two about heating and hot water, for which £400, and £250 were paid in compensation.

4.5 Complaints service user profiles

4.5.1 The service can be accessed by email, in person, phone, post, and web-form. A breakdown of access methods is provided in Figure 14 below.

Figure 14

Breakdown of Stage 1 how complaints are received				
How Received	2010/11		2011/12	
Phone	965	44%	651	32%
In Person	11	0%	8	0%
Post	269	12%	241	12%
Email	815	37%	924	46%
Web	164	7%	195	10%
Total Complaints	2224		2019	

4.5.2 Web and email usage increased by 12 percentage points, from 44% in 2010/11 to 56% in 2011/12. The corresponding fall occurred in the use of telephone, from 44% to 32%.

4.5.3 The Council tries to collect equalities data to follow trends and analyse the impact of services on sectors of the community. Collection rates vary and although they are increasing year on year for most strands, the percentage known is not yet high enough to allow meaningful analysis for some strands (e.g. Religion and Sexual Orientation). Improvements in collection rates have been small, if at all, despite follow up emails being sent to request data.

Figure 15 - % of data known for equalities strands

	2009/10	2010/11	2011/12
Age	41%	43%	46%
Disability	44%	47%	48%
Ethnicity	61%	65%	66%
Gender	100%	100%	100%
Religion	32%	32%	32%
Sexual Orientation	23%	28%	28%

4.5.4 The level of non-response presents challenges in terms of equality analysis. For example, Figure 16 sets out a breakdown of complaints by reference to ethnicity. It is thought that overall the volume of complaints does not vary significantly from the projected Borough population. However, the volume of complaints for which ethnicity is not known still has the potential to mask the true position.

Figure 16

Stage 1 Complaints by Ethnicity			
	2010/11	Borough Projection	2011/12

Asian	623	28.0%	36.6%	390	19.3%
Black	112	5.0%	6%	74	3.7%
Mixed /Dual Heritage	15	0.7%		10	0.5%
White	709	31.9%	51%	487	24.1%
Other	9	0.4%	36.6%	14	0.7%
Declined	130	5.8%		131	6.5%
Not Known	626	28.1%		913	45.2%
Total Stage 1 Complaints	2224			2019	

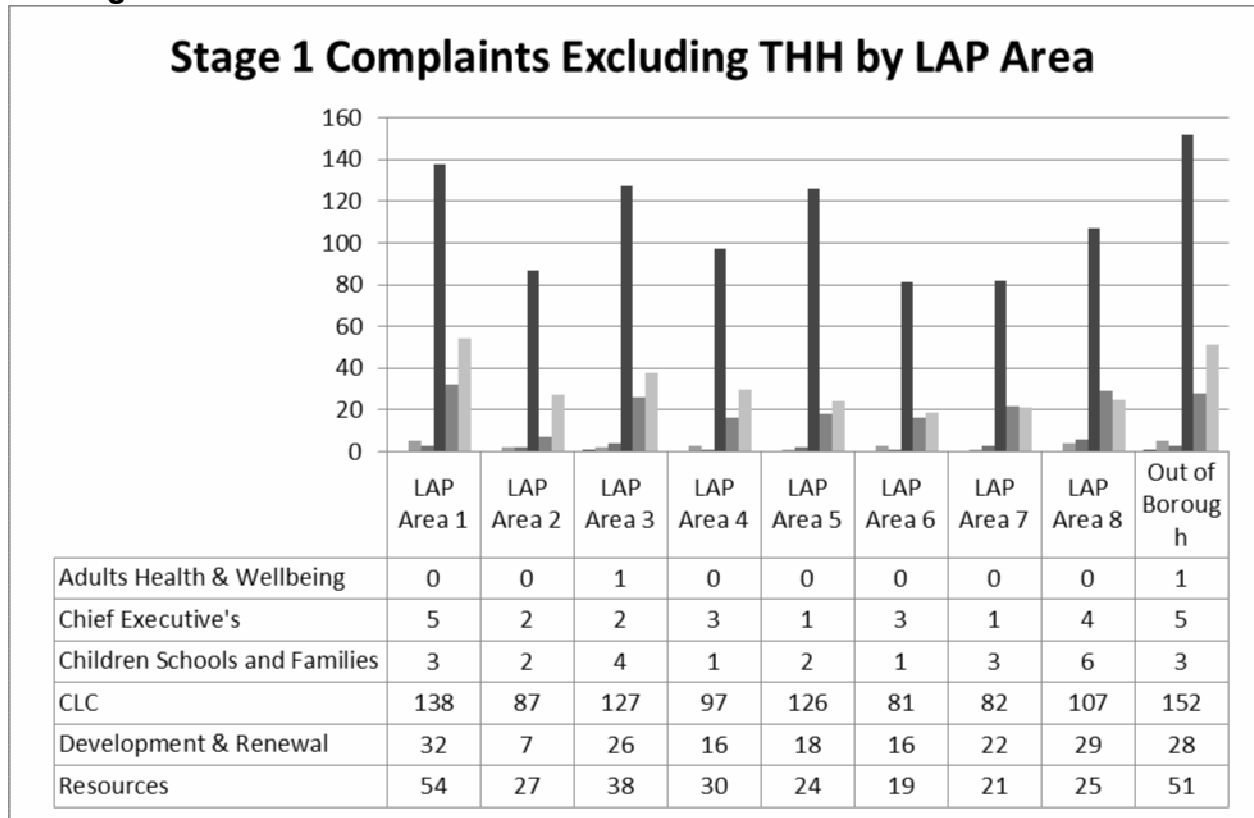
4.5.5 The one area in which there is complete data, is in relation to gender. The data are summarised in Figure 17 and show that men are somewhat over-represented compared to the expected population position. It is noticeable that the proportion of male complainants taking matters through to the final stages of the complaints procedure is greater than for women. This is the case year after year. It may be difficult to identify the underlying causes for the identified disparity, but consideration can be given to this in the current year.

Figure 17

Complaints by Gender 2011/12						
	Stage 1		Stage 2		Stage 3	
Female	880	43.6%	117	38.7%	43	32.6%
Male	1139	56.4%	185	61.3%	89	67.4%
Totals	2019		302		132	

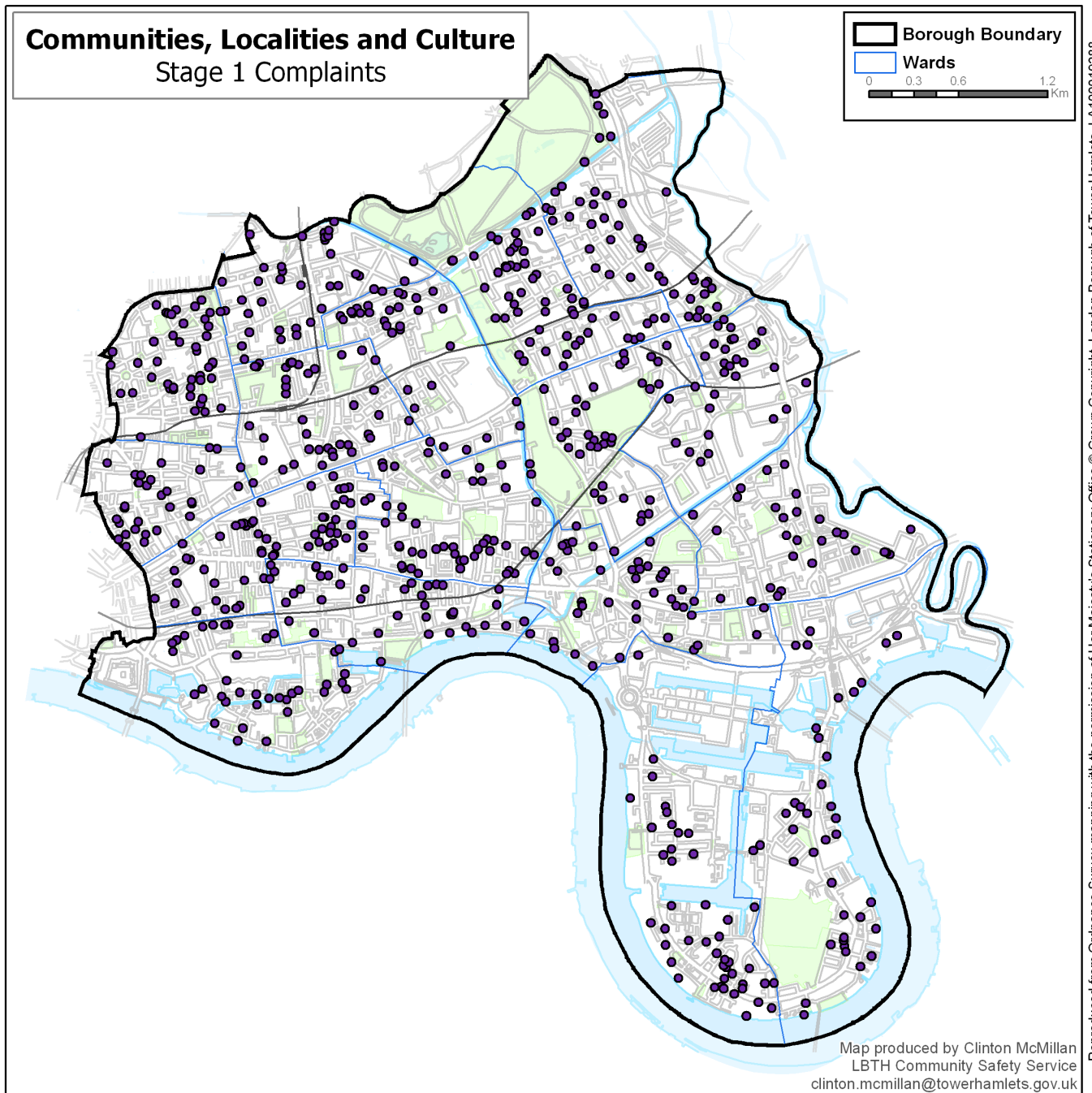
4.5.6 Figure 18 shows the volume of complaints by LAP for stage 1, under each directorate. THH is excluded from this data as the volumes are determined by the location of the housing stock managed by THH. The figures show there is not one particular LAP area that experiences significantly higher complaints than others.

Figure 18



4.5.7 It is possible to map the geographical spread of complaints along with other service data to pinpoint hotspots and service issues requiring attention. An example of this type of mapping is included in figure 19 below. Examination of similar maps for each directorate show a similar broad, even spread of complaints. There is no identifiable skew in the distribution of complaints, although service specific reports over shorter time periods may prove beneficial to the given service.

Figure 19



5. Adults Social Care Complaints

5.1 Procedure, volumes and timeliness

5.1.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, made under the Health and Social Care (Community Health and Standards) Act 2003, set out the process for considering adult social care and health complaints. The key principles require Local Authorities to:-

- consider adult social care complaints once only;
- involve the complainant in agreeing the method and likely timeframe for the investigation;
- establish desired outcomes; and
- provide a unified approach to joint investigations with partner bodies.

5.1.2 The revised statutory complaint procedures came into place for adult social care complaints on 1 April 2009 and the procedure can be found on the Council's website.

5.1.3 The Council places a strong emphasis on the informal resolution of complaints and in assisting social care teams in effectively managing and resolving complaints.

5.1.4 Some matters will always be raised direct with the service and resolved without recourse to a formal complaint procedure. In order to capture important data from these interactions, we have produced a pro forma for services to hold their records. Use of this method of recording has increased over the year and data is intended to be used in future reports.

5.1.5 The procedure allows one stage of investigation only, although the form this takes is agreed in the light of the issues raised. A variety of methods have been used, including round table meetings, formal interview and file reviews, and liaison between the service manager and the complainant. Key to resolving matters has been the emphasis on identifying a resolution plan with the complainant.

5.1.6 Figure 20 below compares the year on year volumes and shows a rise in complaints in 2011/2012. The Local Government Ombudsman reports a rise in volume of adult social care complaints country-wide, and partly attributes this to their own publicity campaign, targeted at older people. The most significant rise in complaints in 2011/2012 was for older people, as shown in Figure 21.

Figure 20

Volume of Adult Social Care Complaints				
Year	2010/11	2011/12	Variance	
	37	66	29	78%
Total Complaints	37	66	29	78%

Figure 21

Adults Social Care Complaints by user group													
	2010/11	Variance		2011/12		Not Upheld		Partially Upheld		Upheld		Withdrawn or Referred On	
Commissioning Services	2	-1	-50%	1	2%	1	100%	0	0%	0	0%	0	0%
Disability and Health	10	4	40%	14	21%	6	43%	6	43%	0	0%	2	14%
Elders	15	28	187%	43	65%	19	44%	8	19%	12	28%	4	9%
Learning Disabilities	2	1	50%	3	5%	1	33%	1	33%	1	33%	0	0%
OT Services	6	-3	-50%	3	5%	2	67%	1	33%	0	0%	0	0%
Resources	2	0	0%	2	3%	2	100%	0	0%	0	0%	0	0%
Totals	37	29	78%	66	100%	31	47%	16	24%	13	20%	6	9%

5.1.7 The complaints procedure does not specify timescales for completion, as these are agreed at the outset of each case. In order to provide monitoring information we are capturing data of complaints closed within 10 working day brackets. Figure 22 indicates that 52 of the 66 complaints were completed within 20 working days, and at 79%, this is the same proportion as in 2010/11 (29 out of 37 complaints). This performance needs to improve.

Figure 22

Adults Social Care Complaints - By Performance														
Complaints Answered	Totals	Within 10 working days		Within 20 working days		Within 30 Working Days		Within 40 Working Days		Within 50 Working Days		Over 70 Days		Average Days to Complete
2010/11 QTR:1	4	2	50%	1	25%	1	25%	0	0%	0	0%	0	0%	15
2010/11 QTR:2	15	7	47%	4	27%	1	7%	3	20%	0	0%	0	0%	16
2010/11 QTR:3	5	1	20%	3	60%	1	20%	0	0%	0	0%	0	0%	17
2010/11 QTR:4	13	5	38%	6	46%	2	15%	0	0%	0	0%	0	0%	13
2011/12 QTR:1	14	5	36%	3	21%	4	29%	1	7%	0	0%	1	7%	22
2011/12 QTR:2	22	15	68%	4	18%	1	5%	1	5%	1	5%	0	0%	12
2011/12 QTR:3	10	6	60%	3	30%	1	10%	0	0%	0	0%	0	0%	11
2011/12 QTR:4	20	10	50%	6	30%	4	20%	0	0%	0	0%	0	0%	12

5.1.8 Figure 22 gives an indication of the varying volume of adult social care complaints over the past two years, broken down by quarter.

5.1.9 Services were reorganised during the period reported into the following areas: First response; Re-ablement; and Long Term Response. Some issues of changes and transition are reflected in the increase in complaints received in the second quarter. Complaints are reported for the year under the user group structure in place at the

beginning of the reporting period. The categories set by service user group reflect the old structure and will be updated for 2012/13 to reflect the structure implemented in August 2012. The rate by which complaints are upheld is highest amongst Disability and Health and Elders, and this is the group whose services were most affected by the restructuring.

5.2 Reason For Complaints

5.2.1 Figure 23 provides a summary of the reasons for which people complained.

Figure 23

Adults Social Care Complaints by Reason														
	2010/11			Variance		2011/12		Not Upheld		Partially Upheld		Upheld		Withdrawn or Referred On
Access to Service	0	5	0%	5	8%	3	60%	0	0%	1	20%	1	20%	
Challenge Assessment Decision	13	17	131%	30	45%	18	60%	7	23%	3	10%	2	7%	
Conduct / Competence	10	-2	-20%	8	12%	3	38%	2	25%	1	13%	2	25%	
Policy / Procedure	0	1	0%	1	2%	0	0%	1	100%	0	0%	0	0%	
Records / Info Held	0	2	0%	2	3%	2	100%	0	0%	0	0%	0	0%	
Service Delay / Failure	13	5	38%	18	27%	4	22%	6	33%	7	39%	1	6%	
Service Quality	1	1	100%	2	3%	1	50%	0	0%	1	50%	0	0%	
Totals	37	29	78%	66	100%	31	47%	16	24%	13	20%	6	9%	

5.2.2 The number of complaints challenging assessment decisions rose in 2011/12 from the previous year. Complaints concerning delay or service failure rose and this requires close attention to ensure that assessed needs are being met. Case summaries of complaints upheld are contained in section 5.4. However, the Directorate has maintained the same eligibility criteria for adult social care for the last five years. Work is underway to raise people's understanding of this criterion – for example a new leaflet on this was published and distributed around the borough in September 2011. The Ombudsman has also seen a rise in social care complaints across the country and has led a publicity campaign to raise awareness of service users' rights to complain.

5.3 Access and Profiles

5.3.1 The number of people making adult social care complaints by email has increased in volume and as a proportion of the overall contact methods. The overall proportion of complaints received by post and telephone fell slightly. This is a new development, as social care complaints have historically been received predominantly by telephone or post. Figure 24 shows the breakdown.

Figure 24

Breakdown of how Adults Social Care Complaints are received				
How Received	2010/11		2011/12	
Email	4	11%	19	29%
In Person	1	3%	3	5%
Phone	18	49%	23	35%
Post	14	38%	21	32%
Total Complaints	37	100%	66	100%

5.3.2 Figure 25 below provides a breakdown of adult social care complaints by reference to ethnicity. It indicates that there was an increase in complaints from Asian service users in absolute and percentage terms. Overall, however, the number and proportion of complaints received was not at variance with the proportion of Asian service users. At the same time there were no issues of discrimination reported.

Figure 25

Adults Social Care Complaints - By Ethnicity				
	2010/11		2011/12	
Asian	6	16%	15	23%
Black	6	16%	8	12%
Not Known	4	11%	7	11%
White	21	57%	36	55%
Totals	37		66	

5.4 Summary of key issues in upheld cases

- 5.4.1 A complaint identified that the service user's son had not been invited to the annual review, and his involvement would have helped the process.
- 5.4.2 There was a delay in setting up a day care place one day per week and this was impacting upon the services user and his wife who was the main carer.
- 5.4.3 Delays in establishing the transition to personalisation and direct payments occurred in four cases and systems are now in place to ensure timely processing. A review of the process will also be undertaken to see if it can be streamlined to speed up the process.
- 5.4.4 The launch of the new "customer journey" in adult social care saw an increase in the number of people requesting an assessment, which in turn had an impact on staff capacity. Timescales are being closely monitored for people going through the new "customer journey" in the Directorate, and the responsibilities and configuration of each team is being reviewed to ensure that delays are minimised."

- 5.4.5 In three cases reassessment was offered where service users disputed the amount of support assessed as required. Regarding the number of challenges to assessment decisions, the Directorate has maintained the same eligibility criteria for adult social care for the last five years. Work is underway to raise people's understanding of this criterion – for example a new leaflet on this was published and distributed around the borough in September 2011.
- 5.4.6 Poor communication over the hospital discharge of one service user led to services not being in place, although this was quickly rectified.
- 5.4.7 A carer's assessment not correctly completed was seen to impact on both the carer and the level of service requires by the service user. This was rectified and the assessment amended to reflect the actual need.

6. CHILDREN'S SOCIAL CARE COMPLAINTS

6.1 Procedures

6.1.1 There is a legal requirement under the Children Act 1989 for local authorities to have a system for receiving representations and complaints by, or on behalf of, people who use social care services and their carers.

6.1.2 The Children's Complaints Procedure has three stages –

- **Stage 1 Complaints – Initial.** Team Managers are required to provide a written response to complaints within 10 working days. There is a possible extension to 20 working days to allow for a local resolution and where complaints are complex.
- **Stage 2 Complaints – Formal.** Investigations should be completed within 25 working days. However this can be extended to 65 working days in negotiation with the complainant due to the complexity of complaints. An Independent Person is appointed to oversee formal complaints at Stage 2 relating to children and young people. This is a legislative requirement under the Children Act 1989 and ensures that there is an impartial element. The report is passed to the Head of Service and an internal adjudication meeting is held before the report and outcomes are shared with the service user.
- **Stage 3 Complaints – Independent Review Panel.** An Independent Review Panel can review the case in the presence of the complainant and Service Head, and where appropriate make recommendations to the relevant Director.

6.2 Complaint volumes

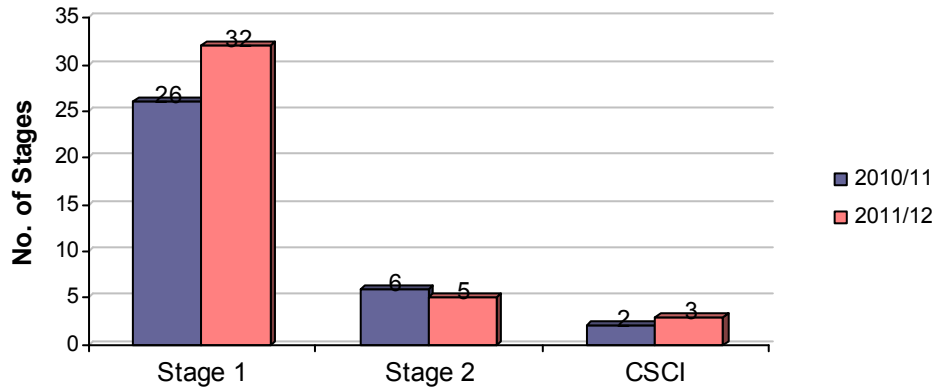
6.2.1 The number of children's social care complaints rose slightly in 2011/2012 as shown in Figure 26 compared to 2010/2011. However, children's social care complaint volumes had fallen in 2010/11 from 47 in 2009/2010. The increase in 2011/2012 did not get back to the 2009/2010 level. There was no discernible pattern underlying service failure giving rise to the increase of 6 complaints from 2010/2011 to 2011/2012.

Figure 26

Volume of Children's Social Care Complaints				
Year	2010/11	2011/12	Variance	
Stage 1	26	32	6	23%
Stage 2	6	5	-1	-17%
CSCI	2	3	1	50%
Total Complaints	34	40	6	18%

6.2.2 The number of complaints completed at each stage in 2011/2012 is shown in Figure 27.

Figure 27



6.3 Complaint Response Times

6.3.1 Figure 28 sets out the response times for stage 1 complaints. It shows that 66% of Stage 1 complaints in Children’s Social Care were answered within the 10 working day time scale, and 94% completed in the extended times scale. This shows a rise in performance compared with 2010/2011. Two complaints were answered outside of the timescales and the average response time was 6.5 working days.

Figure 28

Stage 1 Children's Social Care Complaints - By Performance								
	Total	Answered within 10 working days		Answered within 20 working days		Answered outside timescale		Average response times (days)
2010/11	26	16	62%	23	88%	3	12%	7
2011/12	32	21	66%	30	94%	2	6%	6.5

6.3.2 The Council aims to respond to 15% of stage 2 complaints within 25 working days and to 87% within 65 working days. Figure 29 shows that there is a significant improvement from 2010/11, with 80% of stage 2 complaints completed within the 65 working day deadline.

Figure 29

Stage 2 Children Schools and Families Social Care Complaints - By Performance								
	Total	Answered within 25 working days		Answered within 65 working days		Answered outside timescale		Average response times (days)
2010/11	6	0	0%	2	33%	4	67%	71
2011/12	5	1	20%	3	80%	2	20%	52

6.3.3 Complaints in Children's Social Care are often complex and the regulations require the Council to appoint an independent person to oversee the investigation. This can create challenges in managing response times. However, the Complaints and Information team continues to strive to improve this performance and works closely with the Children's Rights Officer to ensure effective liaison with the young person.

6.4 Reason for Complaint

6.4.1 The areas on which complaints have been recorded at each stage are set out in figures 30 to 32 below.

Figure 30

Stage 1 Children's Social Care Complaints by Section														
	2010/11		Variance		2011/12		Not Upheld		Partially Upheld		Upheld		Withdrawn or Referred On	
Child Looked After & Leaving Care	9	3	33%	12	38%	9	75%	0	0%	3	25%	0	0%	
Child Protection and Reviewing	0	2		2	6%	2	100%	0	0%	0	0%	0	0%	
Children's Resources	6	-4	-67%	2	6%	1	50%	0	0%	1	50%	0	0%	
Fieldwork Services	10	2	20%	12	38%	10	83%	0	0%	2	17%	0	0%	
Integrated Services Children Disability	1	3	300%	4	13%	2	50%	2	50%	0	0%	0	0%	

Figure 31

Stage 2 Children's Social Care Complaints by Section														
	2010/11		Variance		2011/12		Not Upheld		Partially Upheld		Upheld		Withdrawn or Referred On	
Child Looked After & Leaving Care	1	1	100%	2	40%	1	50%	1	50%	0	0%	0	0%	
Children's Resources	2	-2	-100%	0	0%	0	0%	0	0%	0	0%	0	0%	
Fieldwork Services	3	0	0%	3	60%	1	33%	1	33%	0	0%	1	33%	

Figure 32

Review Panel Children's Social Care Complaints by Section														
	2010/11		Variance		2011/12									
Child Looked After & Leaving Care	0	1		1	33%	1	100%							
Children's Resources	1	-1	-100%	0	0%	0	0%							
Fieldwork Services	1	1	100%	2	67%	2	100%							

6.4.2 Fieldwork services have received the highest number of complaints at Stage 1 and Stage 2, as is expected. This is due to the potentially contentious nature of the service and the large number of service users.

6.4.3 Section 6.5 contains a summary of the key issues upheld.

6.4.4 Figure 33 sets out general reasons underlying children’s social care complaints. It shows that the highest number of complaints in Children’s Social Care remains “challenging assessments decisions” which may result in re-assessment, if it is found that there were issues in the original assessment process.

Figure 33

Stage 1 Children's Social Care Complaints by Reason														
	2010/11		Variance		2011/12		Not Upheld		Partially Upheld		Upheld		Withdrawn or Referred On	
Alleged Discrimination	1	-1	-100%	0	0%	0	0%	0	0%	0	0%	0	0%	
Challenge Assessment Decision	9	4	44%	13	41%	9	69%	1	8%	3	23%	0	0%	
Conduct / Competence	8	1	13%	9	28%	7	78%	1	11%	1	11%	0	0%	
Records / Info Held	0	1	0%	1	3%	1	100%	0	0%	0	0%	0	0%	
Service Delay / Failure	4	5	125%	9	28%	7	78%	0	0%	2	22%	0	0%	
Service Quality	4	-4	-100%	0	0%	0	0%	0	0%	0	0%	0	0%	
Total Stage 1 Complaints	26	6	23%	32	100%	24	75%	2	6%	6	19%	0	0%	

6.5 Service User Profiles

6.5.1 Figure 33 shows the volumes of complaints for each ethnic group. The volumes are low and there have been no indications that the complaints have been made following an experience of discrimination.

Figure 33

Stage 1 Children's Social Care Complaints - By Ethnicity				
	2010/11		2011/12	
Asian	3	12%	6	19%
Black	4	15%	2	6%
Mixed /Dual Heritage	0	0%	1	3%
White	17	65%	13	41%
Other	1	4%	0	0%
Not Known	1	4%	9	28%
Declined	0	0%	1	3%
Total Stage 1 Complaints	26		32	

6.6 Summary of key issues in upheld complaints.

- 6.6.1 A referral was made to Haringey concerning a private fostering arrangement. Although the correct procedure was followed, a final notification should have been given to let the carer know that the referral was to be made the following day.
- 6.6.2 An apology was given when a mistake was made by a day centre facilitating contact which led to the children not having contact with their mother at the arranged time.
- 6.6.3 A young person with disabilities complained that effective action was not taken to support transition to adult services. This was complicated by her move out of borough and liaison took place to set up suitable resource in the new locality.
- 6.6.4 A further complaint resulted in a financial assessment being arranged for a family.
- 6.6.5 Three complaints went to independent review panel in the year.

6.7 Review Panel Complaints

- 6.7.1 Following the findings of an independent review panel, a father was provided with an ex-gratia payment in support of his set-up expenses in providing accommodation for his son. Some errors occurred in communicating with the father during a period of ill health when it was difficult for him to maintain contact with social services and his son.
- 6.7.2 Significant changes were made in relation to core assessment and recording of its distribution following a complaint about non-resident family member's details being included. Also the service devised better information on core assessment processes.
- 6.7.3 The complaint from a father expressing concern over his son moving (voluntarily) to live with his mother in another borough could have been progressed with more haste and information sharing with the other borough was also identified as deficient. Before reaching review panel the service made improvements to the processes and a further apology was issued.

7. LOCAL GOVERNMENT OMBUDSMAN (LGO) COMPLAINTS

7.1 The Local Government Ombudsman

7.1.1 The Local Government Ombudsman is an independent watchdog appointed to oversee the administration of local authorities. The LGO considers complaints (usually) after the complainant has exhausted the internal complaints procedure, or the adults' or children's complaints procedures, as appropriate. The LGO also deals with education matters.

7.1.2 Set out below are details of the complaints closed by the Ombudsman in 2011/2012, the findings and the Council's response times to new enquiries.

7.2 Complaints Closed by the Ombudsman.

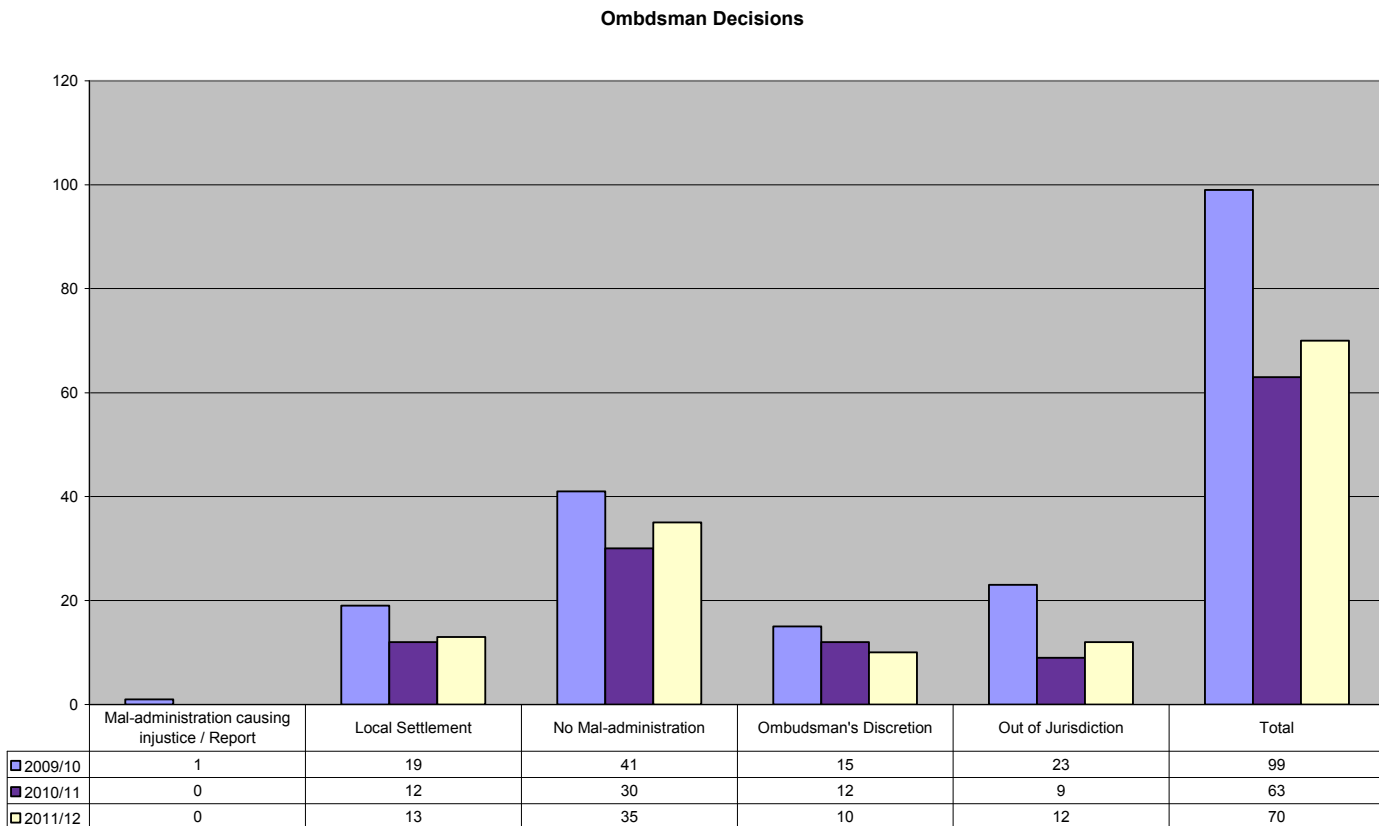
7.2.1 The Ombudsman introduced new categories for clarifying complaints during 2011/2012. The first three classifications indicate matters that were not investigated. For example, these cases may be determined by considering the information provided by the complainant, or by the Council providing the earlier complaints documentation. The second group records outcomes of complaints investigated by the Ombudsman, and the final category is matters concluding in a formal report. The penultimate classification, Injustice remedied during enquiries is the equivalent of the previous category, Local Settlement.

Figure 34

Complaints Determined By Ombudsman 2011 /12		
Investigation Type	Decision Category	Number of Decisions
Not Investigated	No power to investigate	4
	No reason to use exceptional powers to investigate	8
	Investigation not justified & Other	10
Investigated	Not enough evidence of fault	14
	No or minor injustice & Other	21
	Injustice remedied during enquiries	13
Report	Report	0
Total		70

7.2.2 Figure 35 records the decisions made by the LGO and shows there were no findings of maladministration made against the Council.

Figure 35



7.2.3 Due to the variance in recording categories, Figure 36 focuses on the overall volumes received in the past 3 years and the numbers settled. Whilst the Ombudsman has yet to release comparative figures across all authorities for 2011/12, the proportion settled by Tower Hamlets is some way lower than the national average in past years, which falls at around 23 to 25%.

Figure 36

	Number of Cases Closed	Number where settlement is achieved	Proportion settled
2009/10	99	19 (+ 1 report)	20%
2010/11	63	12	19%
2011/12	70	13	18.5%

7.2.4 Figures 37 and 38 overleaf show local settlements by directorate, and by directorate and division respectively. It is rare for a service to experience more than one settlement, indicating that errors are usually one-off rather than systemic faults. Tower Hamlets Homes have seen a strong improvement in the number of complaints settled.

Figure 37

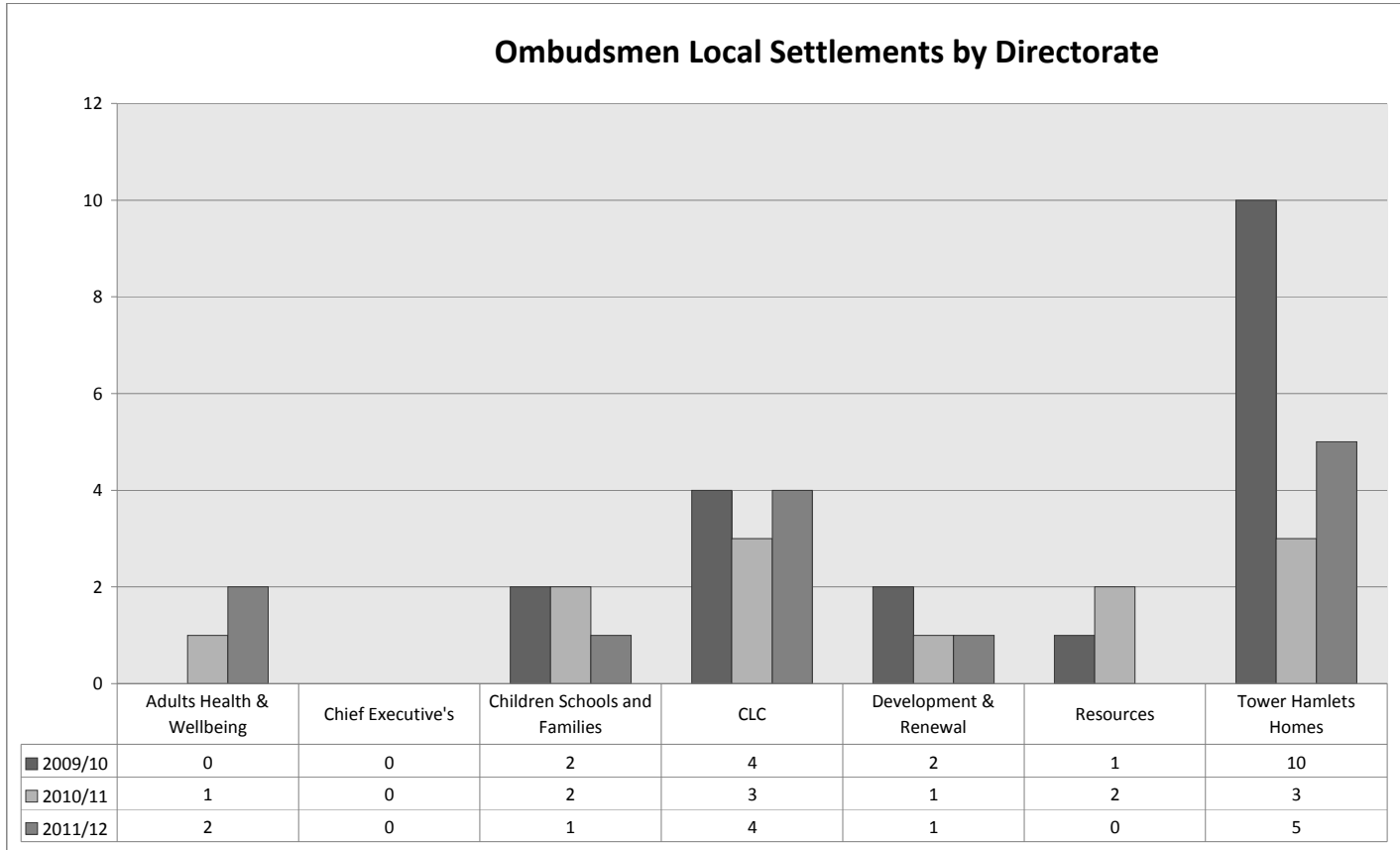
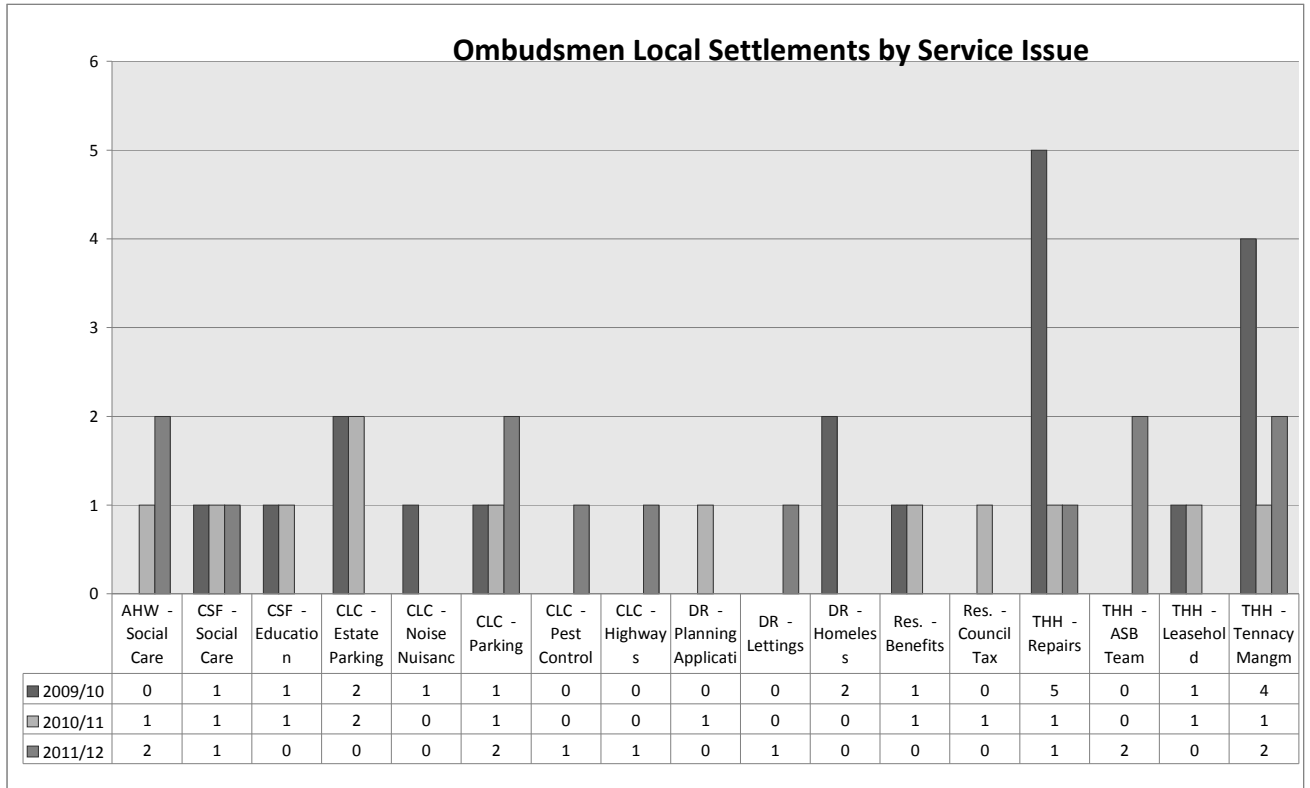


Figure 38



7.3 Summary of Local Settlements

- 7.3.1 A total of £2,690 was paid in compensation during 2011/12 across 8 of the 13 Local Settlements. In 2010/11, £2,550 was paid in compensation during across 12 Local Settlements, and in 2009/10, £5,650 was paid over 18 Local Settlements. Summaries of the Local Settlements are set out below.
- 7.3.2 A claim that paint was left on a vehicle by the Council's road marking contractor was initially sent to the wrong contractor, resulting in delay. There was also a delay in the insurance team dealing with claim direct, and £120 was paid in compensation.
- 7.3.3 As an informal representation for a PCN was not responded to, an agreement was made to cancel the charge.
- 7.3.4 The Council agreed that better clarity could be provided on the conditions of Half Day Exemption permits and committed to review the documents.
- 7.3.5 In one case involving a leaseholder, there was delay in providing information on service charges and carrying out repairs to a window sill. £500 was paid as a credit to the service charge account.
- 7.3.6 On a wide ranging Children's Social Care complaint, £150 compensation was paid regarding a wrongly addressed letter. Other matters were not upheld, as the risk assessment was properly carried out.
- 7.3.7 In Adults Social Care, following the delay of one month in processing Direct Payments, the equivalent amount was later paid to the carer.
- 7.3.8 Delays occurred in progressing action on ASB, and although there were special considerations needed in respect of family causing noise, £600 compensation was paid and an action plan drawn up to resolve. A second case of ASB had a similar outcome, with £300 paid in compensation and action agreed.
- 7.3.9 In an unusual lettings complaint, £500 was paid for the lost opportunity in bidding for a suitable property, when the complainant's application was incorrectly deemed to have been withdrawn. Also better communication regarding bidding and auto-bid options would have helped achieve a better service.
- 7.3.10 One case highlighted that a misunderstanding between Housing officers and Social Services could have avoided the need to force entry. £400 was paid in compensation.

7.4 Response times

- 7.4.1 The Ombudsman maintains statistics of the time taken for the first response from the initial enquiry, which are published nationally. Tower Hamlets is consistently one of the better performing London Boroughs, responding well under the Ombudsman's 28 day target. Figure 39 provides details of the Council's response times in the past four years.

Figure 39

Response Times		
	No of First Enquiries	Average no of days to respond
2008/09	50	19.3
2009/10	56	19.6
2010/11	38	19.1
2011/12	35	18.5

7.4.2 The prompt turn-around time is usually reflected in all directorates, although there have been a few more delayed cases this year and performance can improve in some directorates. Figure 40 provides a breakdown of response times by directorate.

Figure 39

	Number	Days to respond	% in time, Internal target	% in time, Ombudsman target
Adults Health and Wellbeing	5	20	80%	100%
Children Schools & Families	8	19.8	75%	88%
CLC	6	20	67%	83%
Development & Renewal	6	18.8	83%	83%
Resources	2	14.5	100%	100%
THH	10	22.3	70%	80%
TOTAL	37	18.5	76%	86%

7.4.3 The Local Government Ombudsman's Annual Review will follow with the next report.

8. RISK ASSESSMENT

- 8.1 There are on-going risks associated with complaints handling. A complaint may lead to an Ombudsman ruling, judicial review or other legal remedy over justified complaints. The Council is also at risk from spurious or malicious complaints if these are not identified and handled appropriately. These eventualities could result in financial and reputational costs to the Council. The probability of something significant occurring is considered to be low and the impact medium. These risks are owned by the relevant corporate director for each service area.
- 8.2 By way of mitigation, the Complaints process should encourage the earliest possible resolution of complaints. Tracking first Stage complaints through the Siebel database will encourage and support officers to do this. The back up and co-ordinated working of the Complaints and Information team, Insurance and Legal Services serve to support decision-making within Directorates on complaint issues. The Council has policies in place on Complaint Handling, Compensation and Redress, and Dealing with Persistent and Vexatious Complainants.
- 8.3 The most significant risk associated with information governance is that the Council might breach its obligations under the Data Protection Act 1998 so as to improperly disclose personal data. The Information Commissioner has fined local authorities amounts from £30,000 to £130,000 for those sorts of information security breaches. Failure to otherwise meet FOI, EIR or DPA obligations to provide data can result in the Information Commissioner issuing a notice against the Council or a fine being imposed. The likelihood of a breach occurring is considered to be medium and the potential impact would also be medium.
- 8.4 By way of mitigation, audits have been conducted and the Information Governance Framework sets out the Council's policies, procedures and toolkits for managing data effectively. The Complaints and Information team is actively involved in promoting effective data handling. Training is in place for all staff and security incidents are recorded and monitored. Directorates are being encouraged to carry out their own risk assessments in relation to their records management and information security.

9. IMPROVEMENT AND DEVELOPMENT INITIATIVES

9.1 Quality Standards Accreditation

9.1.1 The Complaints Service has held accreditation to the Customer Service Excellence standard since 2009. The service will seek to include the Information Governance functions in a fresh accreditation by March 2013.

9.2 Information Governance Framework

9.2.1 The Council's information governance policy framework was reviewed in December 2011, grouping all of the Council's policies regarding information management together in a single cohesive framework. The framework is available on the intranet and set out in a grid linking the core policies and processes. It is being cascaded via senior managers and should impact on the way information is held, and therefore located for the various information requests.

9.2.2 Information security incidents are documented and where appropriate, lessons learnt. An information security audit has led to several developments around the management of paper-based information to improved systems of creating, holding and disposing of records.

9.2.3 The team provides information governance advice on projects. Recently officers were involved in work with Skillsmatch and A4E and has advised on intelligence sharing with the policy. The team is scheduled to develop a revised procedure for potentially violent persons, as well as working with the THEOs to ensure appropriate governance around body-mounted cameras.

9.3 Protective Marking and EGRESS

9.3.1 The Council is piloting a new secure e-mail service called EGRESS which allows secure communications to be made to all organisations and individuals who are not covered by the authority's existing GCSx¹ provision. 200 users are currently testing the software, and the schema for marking all information / documentation so that it is handled appropriately and securely. Following evaluation, later this year, a proposal to roll out secure email and protective marking will be taken forward. If successful a full awareness programme will commence and web-based training is currently in development to support the workshop and briefing sessions.

9.3.2 Additionally the team provides the administration for all new GCSx users, and provides advice on secure information sharing, as well as the development of information sharing agreements with other organisations.

9.4 Training and Awareness

9.4.1 The team continues to promote all aspects of information governance through a training and awareness programme. Popular lunchtime seminars for Information

¹ Government Connect Secure Extranet, and allows Councils to send secure email to each other and central government.

Security and Records Management complimented the corporate training course. Web-based training is also in development.

- 9.4.2 Direct feedback is also given to assist managers to improve the quality of their complaint investigations and responses, as well as tailored courses on complaints handling and resolution.

9.5 External relationships

- 9.5.1 Members of the Complaints and Information team represent the Council on the board of Data Share London, a London Councils initiative. They also participate regularly at Information Security for London, the London Information Rights Forum and the Information and Records Management Society Local Government group meetings.

- 9.5.2 As members of the Public Sector Complaints Network (Corporate Complaints), and regional networks for Social Care complaints, the team work with other authorities on key policy and practice issues in terms of complaints handling.

9.6 Transparency

- 9.6.1 The Complaints and Information team lead for the Council in compliance with the Code of Recommended Practice for Local Authorities². Expenditure over £500 is published on a monthly basis, and information on senior staff salaries has also been proactively published. There is on-going work on organisational charts and the publication of the pay policy.

- 9.6.2 Direct feedback is also given to assist managers to improve the quality of their investigations and responses, as well as tailored course on complaints handling.

9.7 Monitoring Complaints

- 9.7.1 Weekly outstanding lists are circulated to Directors and the Chief Executive. Detailed monthly monitoring is also distributed. Quarterly reports on quality issues and service improvements arising from complaints are discussed at the Corporate Management Team and Directorate Management Teams. Twice each year, information is submitted to the Overview and Scrutiny Committee and the Standards Committee.

- 9.7.2 A similar 'due and outstanding' process is being implemented for information requests, and monitoring data included in the quarterly, half yearly and annual reports.

9.8 Publicity

- 9.8.1 The team ensures that complaints publicity is widely distributed to ensure effective access across the community. This includes linking with advocacy agencies and support groups to promote access. In addition the team measure knowledge within the local community of how to access the procedures to ensure the effectiveness of publicity.

² <http://www.communities.gov.uk/publications/localgovernment/transparencycode>

9.8.2 The complaints procedures for Adults' and Children's Social Care place an increased emphasis on publicity in order to ensure that service users have a voice. The Complaints Team have a role in informing people of their right to complain and in empowering them to use the complaints procedure effectively. To this end the team is engaging with community groups to promote access and have joint publicity with NHS partners for social care.

9.9 Effective Learning Outcomes from Complaints

9.9.1 Effective complaints procedures can help the whole authority improve the delivery of services by highlighting where change is needed.

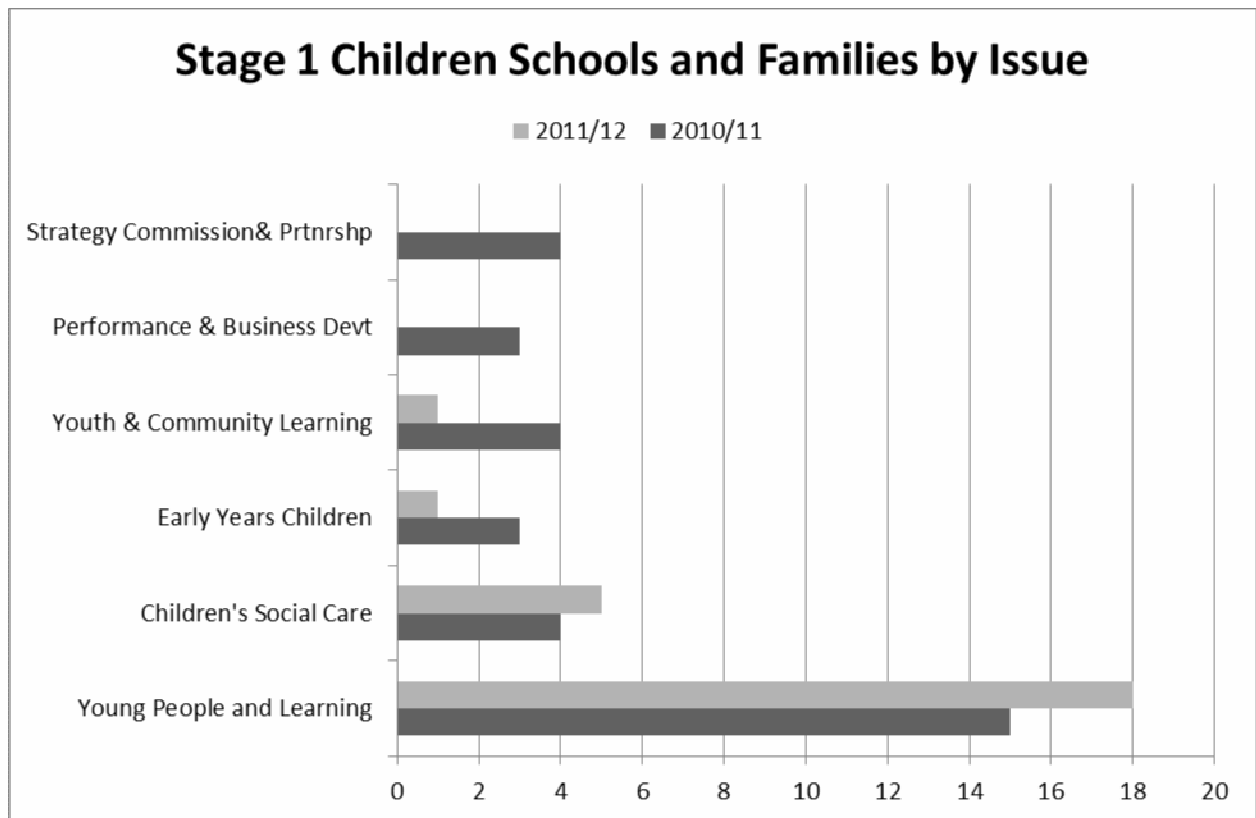
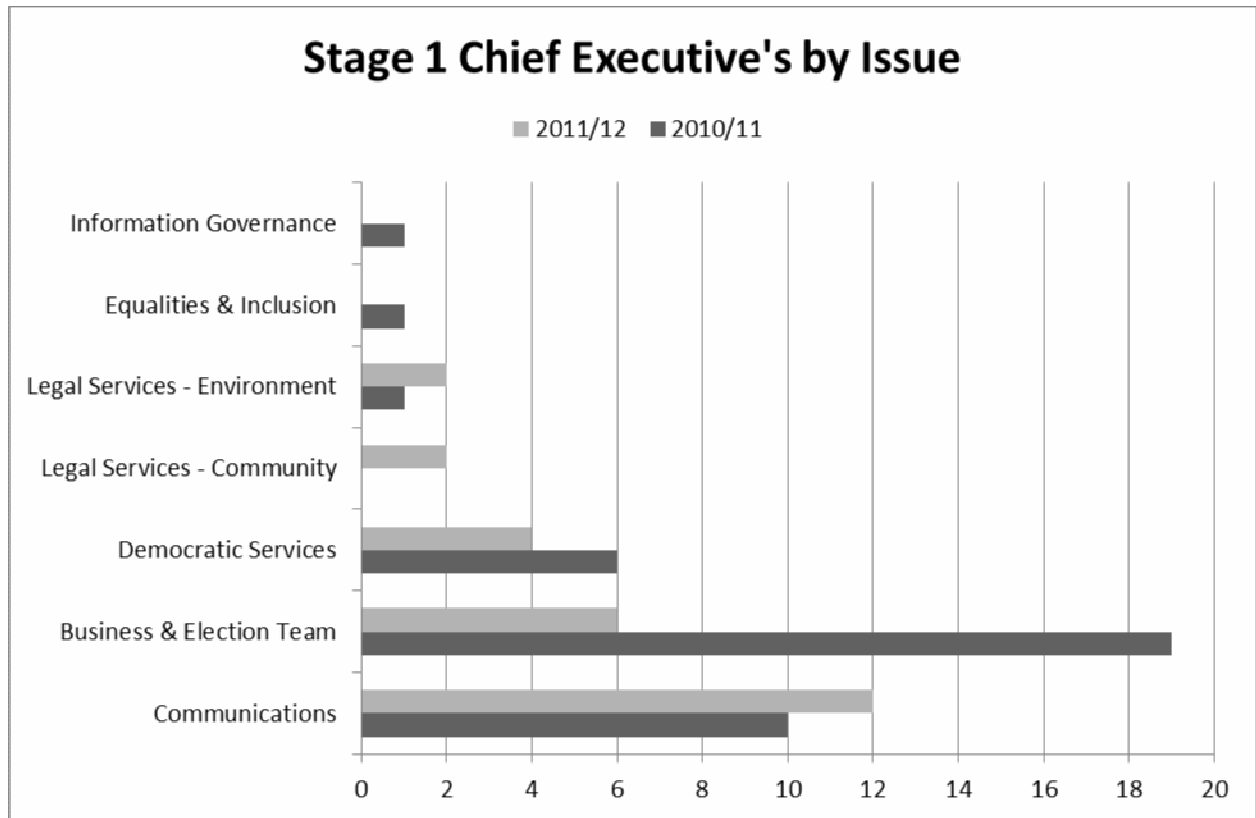
9.9.2 Lessons learnt from complaints are considered by the Corporate Management Team in quarterly monitoring reports.

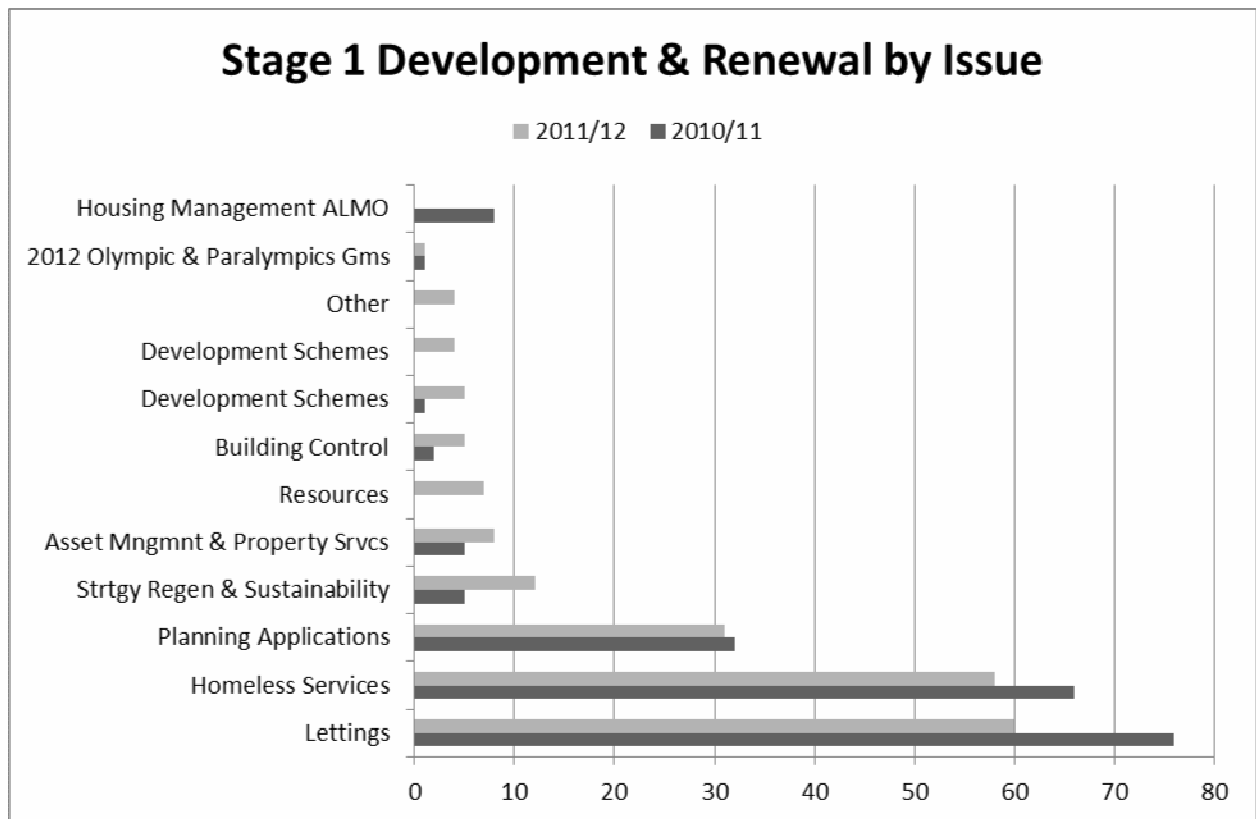
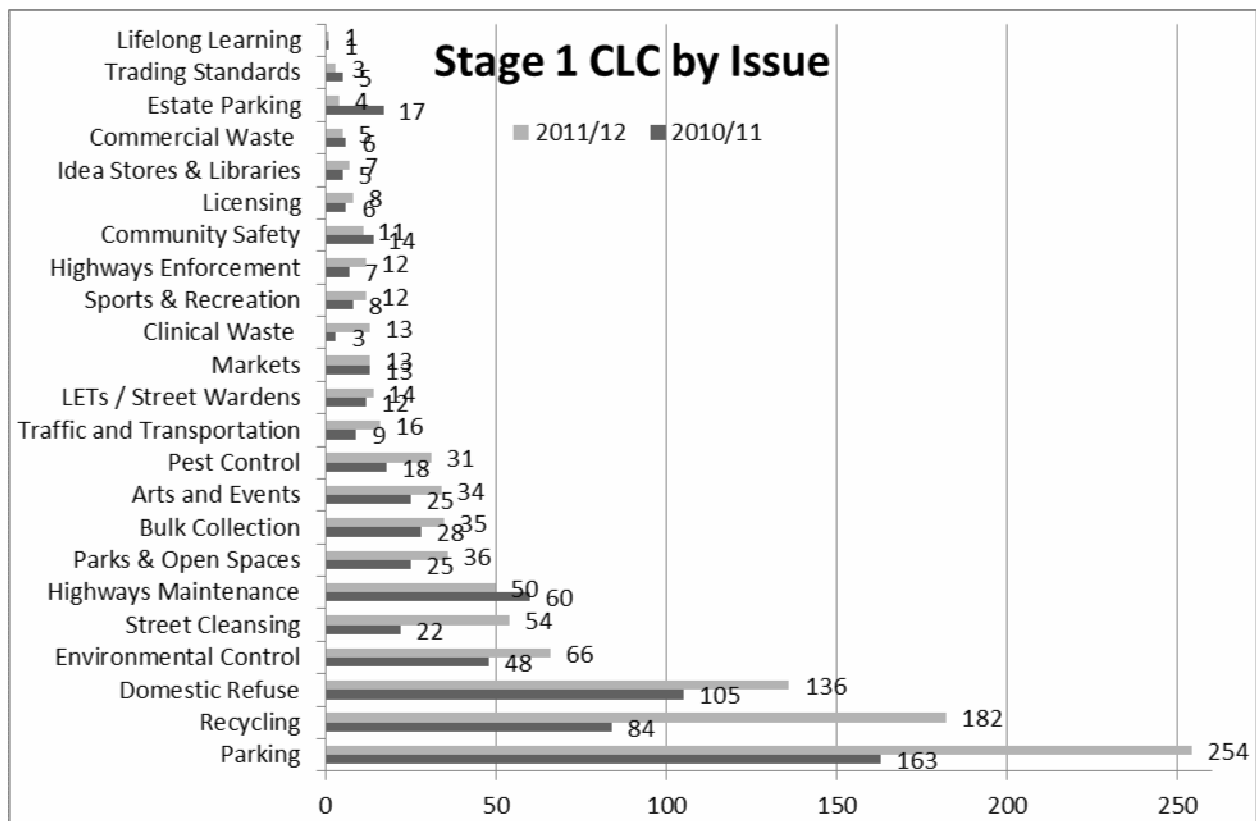
9.9.3 The Complaints Team ensures that lessons learned from complaints are highlighted and fed back to improve service delivery. For example complaints investigations have highlighted the need to review policy guidance. Lessons learned from complaints investigations are also fed back to staff in supervision to enable discussion about improvements, any additional training required and learning points.

9.10 Equalities Monitoring

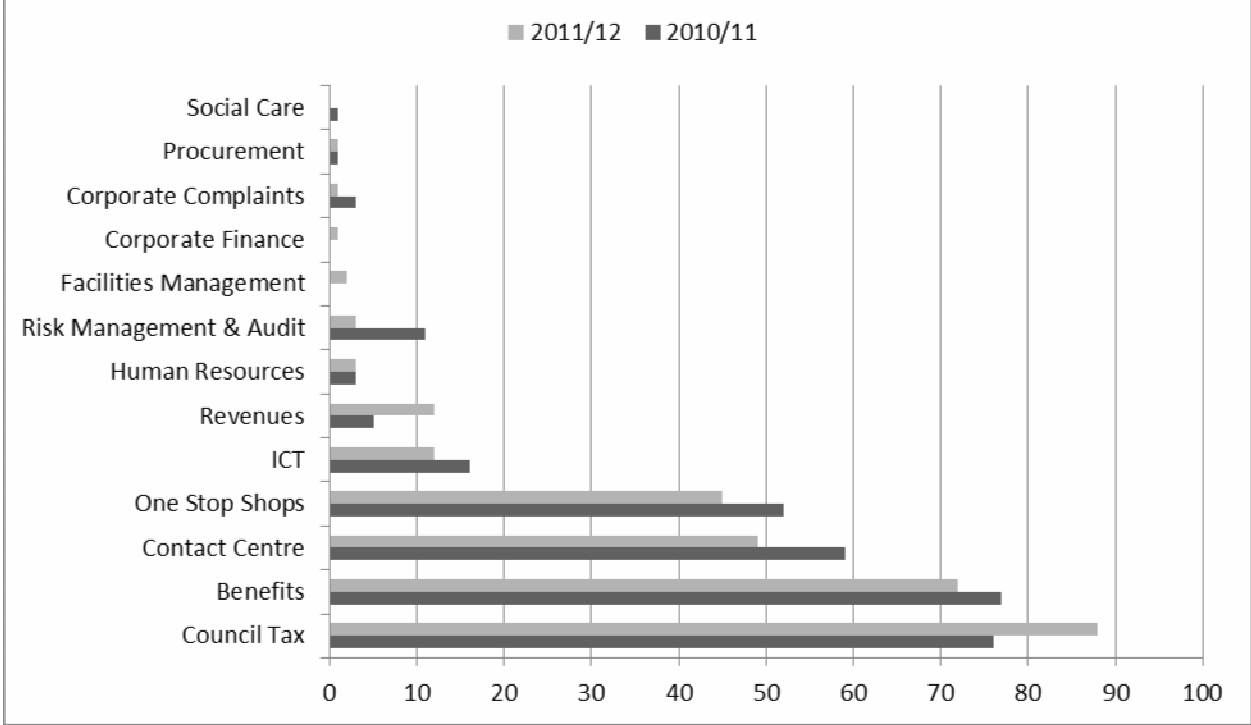
9.10 Issues and concerns on equalities issues are explored on an individual case basis, in revising policy and in 2010/11 the service conducted further Equalities Impact Assessments and has a detailed plan to improve access. Any equalities issues raised as part of a complaint are also tracked to identify service issues and improvements.

APPENDIX 1 – CORPORATE COMPLAINTS BY DIRECTORATE

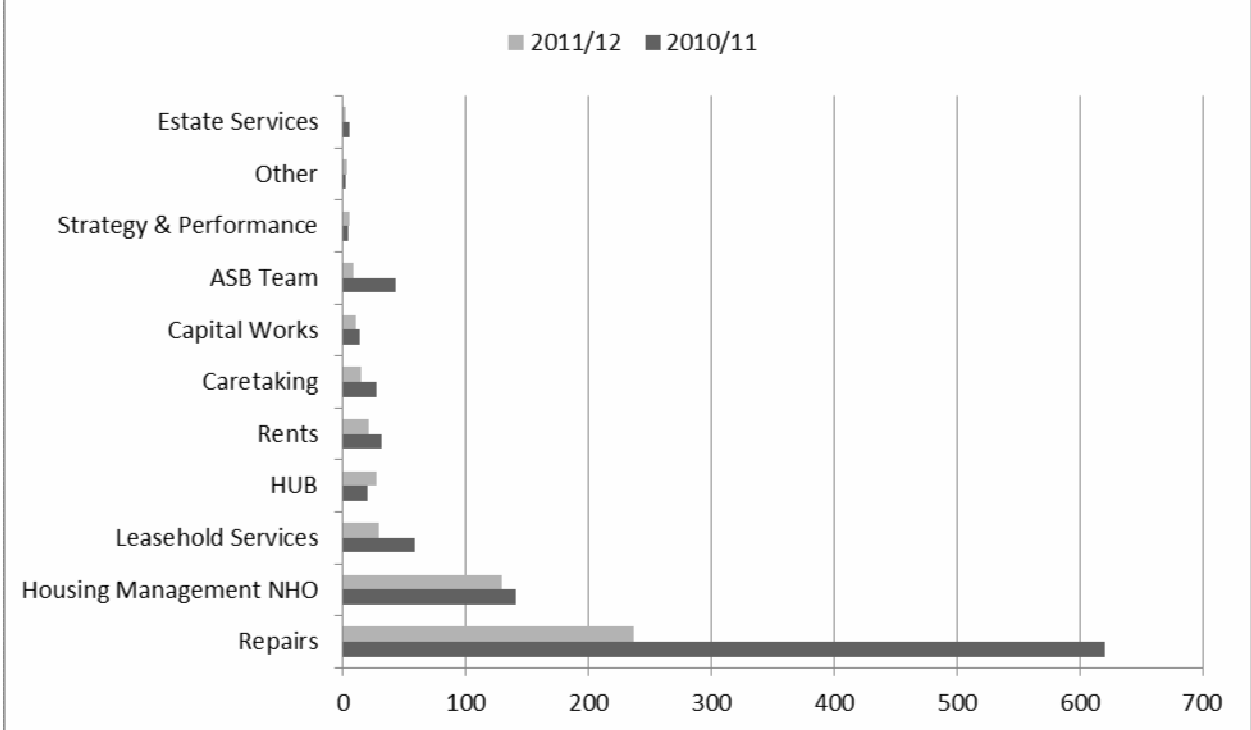




Stage 1 Resources by Issue



Stage 1 Tower Hamlets Homes by Issue



22 June 2012

By email

Mr Aman Dalvi
Interim Chief Executive
London Borough of Tower Hamlets
Town Hall, Mulberry Place
5 Clove Crescent
London E14 2BG

Dear Mr Dalvi

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ended 31 March 2012. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number forwarded by the Advice Team to my office, and decisions made on complaints about your authority. The decision descriptions have been changed to more closely follow the wording in our legislation and to give greater precision. Our guidance on statistics provides further explanation ([see our website](#)).

The statistics also show the time taken by your authority to respond to written enquiries.

I am pleased to say that I have no concerns about your authority's response times and there are no issues arising from the complaints that I want to bring to your attention.

Changes to our role

I am also pleased to have this opportunity to update you on changes to our role. Since April 2010 we have been exercising jurisdiction over the internal management of schools on a pilot basis in 14 local authority areas. This was repealed in the Education Act 2011 and the power restored to the Secretary of State for Education. During the short period of the pilot we believe we have had a positive impact on the way in which schools handle complaints. This was endorsed by independent research commissioned by the Department for Education which is available [on their website](#).

Our jurisdiction will end in July 2012 and all complaints about internal school matters will be completed by 31 January 2013.

From April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO). We are working with the IHO to ensure a smooth transition that will include information for local authority officers and members.

Supporting good local public administration

We launched a new series of Focus reports during 2011/12 to develop our role in supporting good local public administration and service improvement. They draw on the learning arising from our casework in specific service areas. Subjects have included school admissions, children out of school, homelessness and use of bankruptcy powers. The reports describe good practice and highlight what can go wrong and the injustice caused. They also make recommendations on priority areas for improvement.

We were pleased that a survey of local government revenue officers provided positive feedback on the bankruptcy focus report. Some 85% said they found it useful.

In July 2011, we also published a report with the Centre for Public Scrutiny about how complaints can feed into local authority scrutiny and business planning arrangements.

We support local complaint resolution as the most speedy route to remedy. Our training programme on effective complaint handling is an important part of our work in this area. In 2011/12 we delivered 76 courses to councils, reaching 1,230 individual learners.

We have developed our course evaluation to measure the impact of our training more effectively. It has shown that 87% of learners gained new skills and knowledge to help them improve complaint-handling practice, 83% made changes to complaint-handling practice after training, and 73% said the improvements they made resulted in greater efficiency.

Further details of publications and training opportunities are on [our website](#).

Publishing decisions


Following consultation with councils, we are planning to launch an open publication scheme during the next year where we will be publishing on our website the final decision statements on all complaints. Making more information publicly available will increase our openness and transparency, and enhance our accountability.

Our aim is to provide a comprehensive picture of complaint decisions and reasons for councils and the public. This will help inform citizens about local services and create a new source of information on maladministration, service failure and injustice.

We will publish a copy of this annual review with those of all other English local authorities on our website on 12 July 2012. This will be the same day as publication of our Annual Report 2011/12 where you will find further information about our work.

We always welcome feedback from councils and would be pleased to receive your views. If it would be helpful, I should be pleased to arrange a meeting for myself or a senior manager to discuss our work in more detail.

Yours sincerely

A handwritten signature in black ink that reads "J Martin" with a horizontal line underneath.

Dr Jane Martin
Local Government Ombudsman

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LGO advice team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Planning & Development	Total
Advice given	1	4	5	2	4	5	5	0	26
Premature complaints	6	6	1	1	11	3	15	2	45
Forwarded to Investigative team (resubmitted)	1	2	0	0	2	2	3	1	11
Forwarded to Investigative team (new)	6	2	2	10	9	8	17	2	56
Total	14	14	8	13	26	18	40	5	138

Investigative team - Decisions

No power to investigate	Not investigated		Investigated			Report	Total
	No reason to use exceptional power to investigate	Investigation not justified & Other	Not enough evidence of fault	No or minor injustice & Other	Injustice remedied during enquiries		
4	8	10	20	15	13	0	70

Response times to first enquiries	No of first enquiries	Avg no of days to respond
	35	17.7

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Agenda Item 4.4

Committee: Standards	Date: 17 October 2012	Classification: Unrestricted	Report No:	Agenda Item:
Report of: Assistant Chief Executive (Legal Services) Originating officer(s) David Galpin, Head of Legal Services - Community		Title: Covert investigation under the Regulation of Investigatory Powers Act 2000 Wards Affected: All		

1. SUMMARY

- 1.1. The codes of practice issued by the Home Office in relation to Part 2 of the Regulation of Investigatory Powers Act 2000 ("RIPA") recommend that elected members have oversight of the Council's use of these provisions. The Standards Committee's terms of reference enable the committee to receive reports on the Council's authorisation of covert investigations under RIPA.

2. DECISIONS REQUIRED

Standards Committee is recommended to:-

- 2.1. Consider and comment upon the information provided in the report.

3. BACKGROUND

3.1. Covert investigation and RIPA

- 3.2. The Council has broad statutory functions and takes targeted enforcement action in relation to those functions, having regard to the Tower Hamlets Community Plan, the Council's Local Development Framework, any external targets or requirements imposed under relevant legislation and the Council's enforcement policy. There may be circumstances in the discharge of its statutory functions in which it is necessary for the Council to conduct directed surveillance or use a covert human intelligence source for the purpose of preventing crime or disorder.

- 3.3. RIPA was enacted to provide a framework within which a public authority may use covert investigation for the purpose of preventing or detecting crime or of preventing disorder. It is designed to ensure that public authorities do not contravene the obligation in section 6(1) of the Human Rights Act 1998 not to act in a way which is incompatible with an individual's rights under the European Convention on Human Rights ("ECHR"). It is particularly concerned to prevent

contravention of the qualified right in Article 8 of the ECHR to respect for private and family life, home and correspondence.

3.4. The Council's use of RIPA

3.5. The Assistant Chief Executive (Legal Services) ("ACE") is the Senior Responsible Officer for ensuring the Council complies with RIPA. The Head of Legal Services (Community) ("HLS") is her deputy.

3.6. The Council has policies on the use of directed surveillance or covert human intelligence sources. The current versions of these policies were approved by Cabinet on 3 October 2012, as appendices to the Council's enforcement policy. The Council also has in place guidance manuals to assist officers in the authorisation process. The policies and guidance are designed to help the Council comply with RIPA and the Codes of Practice issued by the Home Office in relation to directed surveillance and the use of covert human intelligence sources.

3.7. The Council's priorities for using RIPA, as specified in its policies are -

- Anti-social behaviour
- Fly-tipping
- Unlawful street vending of DVDs and tobacco
- Underage sales of knives, tobacco, alcohol and fireworks
- Fraud, including misuse of disabled parking badges and claims for housing benefit
- Illegal money-lending and related offending
- Breach of licences
- Touting.

3.8. From 1 November 2012, the Council will only be permitted to use covert investigation for the purposes of serious offences. This means an offence of the following kind –

- An offence punishable by a maximum term of at least 6 months of imprisonment.
- An offence under section 146 of the Licensing Act 2003 (sale of alcohol to children).
- An offence under section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children).
- An offence under section 147A of the Licensing Act 2003 (persistently selling alcohol to children).
- An offence under section 7 of the Children and Young Persons Act 1933 (sale of tobacco etc. to persons under eighteen).

- 3.9. From 1 November 2012, in order to carry out covert investigation, the Council must first have an internal authorisation granted by its authorising officer and then must also obtain approval from a court.
- 3.10. In accordance with the Council's policies and manuals, a central record is maintained in Legal Services of all authorisations and approvals granted to carry out either directed surveillance or to use covert human intelligence sources (authorisations under Part 2 of RIPA). To date this year, all applications for authorisation have been received from the Council's Communities Localities and Culture directorate ("CLC"). The Council provides an annual return to the Office of Surveillance Commissioners ("OSC"), based on the central record.
- 3.11. In order to ensure that applications for RIPA authorisation are of an appropriate standard, the Council's policies and manuals provide that all applications for authorisation to conduct directed surveillance or to use covert human intelligence sources should be considered by a gatekeeper before being passed on to the authorising officer. The Council has a single gatekeeper (the Head of Enforcement & Support Intervention within the Community Safety Service). In the absence of the Head of Enforcement & Support Intervention, the HLS may act as gatekeeper. The gatekeeper must work with applicant officers to ensure an appropriate standard of applications, including that applications use the current template, correctly identify known targets and properly address issues of necessity, proportionality and collateral intrusion.
- 3.12. The Council has a single authorising officer (Service Head - Community Safety), who has responsibility for considering applications to use directed surveillance or covert human intelligence sources. The policies provide that the Head of Internal Audit may stand in for the Service Head - Community Safety where the ACE or HLS consider it necessary.
- 3.13. The Council's policies and manuals require officers who apply for RIPA authorisations to expeditiously forward copies of authorisations, reviews and cancellations to Legal Services for the central record. The HLS attends fortnightly at CLC's internal deployment meetings to ensure the central record is being kept up to date. Representatives of each service area in CLC attend these meetings. The Council's authorising officer and gatekeeper attend. The meetings provide an opportunity to check the status of applications and authorisations under RIPA and a forum at which officers may present any operations plans where covert investigation may be required and seek a steer from those at the meeting.

3.14. The Council's RIPA applications

3.15. Quarter 1 of 2012/2013

3.16. A single authorisation was granted in quarter 1 of 2012/2013. This was granted on 12 June 2012 in respect of application CS0001. The subject matter of the investigation was touting and details of the authorisation are set out in Appendix 1 to this report.

3.17. Quarter 2 of 2012/2013

3.18. No applications were made for authorisation in the second quarter of 2012/2013.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

4.1 This is a report of the Council's use of the Regulation of Investigatory Powers Act 2000 ("RIPA") to the Standards Committee. There are no financial implications arising from the recommendations in this report.

5. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

5.1. Legal implications are addressed in the body of the report.

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1. Enforcement action that complies with the five principles expressed in the Council's enforcement policy should help to achieve the objectives of equality and personal responsibility inherent in One Tower Hamlets.

6.2. The enforcement policy should enhance Council efforts to align its enforcement action with its overall objectives disclosed in the Community Plan and other key documents such as the local area agreement and the Local Development Framework. For example, one of the key Community Plan themes is A Great Place to Live. Within this theme there are objectives such as reducing graffiti and litter. The enforcement policy makes clear the need to target enforcement action towards such perceived problems. At the same time, the enforcement policy should discourage enforcement action that is inconsistent with the Council's objectives.

6.3. The exercise of the Council's various enforcement functions consistent with the enforcement policy and its principles should also help achieve the following key Community Plan themes –

- A Safe and Cohesive Community. This means a safer place where feel safer, get on better together and difference is not seen as a threat but a core strength of the borough.
- A Great Place to Live. This reflects the aspiration that Tower Hamlets will be a place where people live in quality affordable housing, located in clean and safe neighbourhoods served by well-connected and easy to access services and community facilities.

- A Prosperous Community. This encompasses the objective that Tower Hamlets will be a place where everyone, regardless of their background and circumstances, has the aspiration and opportunity to achieve their full potential.

6.4. An equality analysis was conducted prior to approval of the revised enforcement policy by Cabinet on 3 October 2012. Enforcement action may lead to indirect discrimination in limited circumstances, but this will be justified where the action is necessary and proportionate. Necessity and proportionality are key considerations in respect of every application for authorisation under RIPA.

7. **SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

7.1. The enforcement policy seeks to target the Council's enforcement action in accordance with the Community Plan. The Community Plan contains the Council's sustainable community strategy for promoting or improving the economic, social and environmental well-being of Tower Hamlets and contributing to the achievement of sustainable development in the United Kingdom. To the extent that the enforcement policy aligns enforcement action with the Community Plan it will tend to promote sustainable action for a greener environment.

8. **RISK MANAGEMENT IMPLICATIONS**

8.1. Enforcement action carries with it a variety of inherent risks, including the potential for allegations of over- or under-enforcement, discrimination, adverse costs orders and damage to the Council's reputation. It is considered that proper adherence to RIPA, the codes of practice, the Council's policies and guidance will ensure that risks are properly managed. Oversight by the Standards Committee should also provide a useful check that risks are being appropriately managed.

9. **EFFICIENCY STATEMENT**

9.1. The report does not propose any direct expenditure. Rather, it is concerned with regularising decision-making in areas in which the Council is already active. The enforcement policy seeks to ensure that enforcement action is targeted to the Council's policy objectives. This is more likely to lead to efficient enforcement action than a less-controlled enforcement effort. It is also proposed that members will have an oversight role through the Standards Committee. This will provide an opportunity to judge whether the Council's enforcement action is being conducted efficiently.

10. **APPENDICES**

Appendix 1 – Summary of Quarter 1 RIPA authorisations

Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report

Brief description of “back ground papers”	Name and telephone number of holder and address where open to inspection.
None	N/A

APPENDIX 1 - SUMMARY OF QUARTER 1 RIPA AUTHORISATIONS

CS0001	Summary information
Service area:	Community Safety
URN granted:	28 May 2012
Application on correct form?	Yes
Date of gatekeeper clearance:	12 June 2012
Date of authorisation:	12 June 2012
Expiry date and time:	12 September 2012
Scheduled review date(s):	16 July 2012
Dates of reviews:	16 July 2012, 13 August 2012
Cancellation:	12 September 2012
Total time open:	93 Days
Type of covert investigation:	Directed surveillance
Subject matter of investigation:	Touting in the Brick Lane area
Necessity:	Preventing or detecting crime, namely offences against: section 136(1) of the Licensing Act 2003; section 237 of the Local Government Act 1972; regulations 9 and 11 of the Consumer Protection From Unfair Trading Regulations 2008. Test purchases are considered necessary in order detect offences and combat the recognised touting problem in the Brick Lane area. Test purchasers will wear recording equipment, which requires authorisation.
Proportionality:	Every restaurant in Brick Lane was written to in February 2011, warning of the criminal consequences of touting. A further letter was sent in July 2011 inviting businesses to sign up to the Council's anti-touting policy. Overt walk-throughs do not gather sufficient evidence to identify the agency relationship between touts and restaurants. Using test purchasers without recording equipment leads to challenges against the reliability of evidence. Use of recording equipment produces an objective record.
Collateral intrusion:	Visual images would be recorded of passers-by and restaurant customers. A tape would be prepared of highlights and any remaining material kept under seal to be made available in criminal proceedings in accordance with the Criminal Procedure Rules.

Outcome:	A number of breaches have been identified by both touts and restaurants. To date this has resulted in 13 prosecution referrals: 7 against restaurants for breaches of premises licences; and 6 against touts for byelaw breaches.
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Agenda Item 4.5

Committee: STANDARDS (ADVISORY) COMMITTEE	Date: 17 October 2012	Classification: Unrestricted	Report No.	Agenda Item No.
Report Of: Assistant Chief Executive (Legal Services)		Title: Code of Conduct for Members – Complaints Monitoring Report		
Originating Officer: Isabella Freeman		Wards Affected: N/AI		

DRAFT

1. SUMMARY AND BACKGROUND

- 1.1 The Standards (Advisory) Committee replaced the statutory Standards Committee on 1 July 2012 following implementation of the Localism Act 2011. Also from 1 July 2012 new arrangements (agreed by the Council on 18 June 2012) were implemented for dealing with complaints about alleged failures to comply with the Code of Conduct for Members.
- 1.2 The new arrangements provide for the Monitoring Officer to report quarterly (or less frequently if there are no complaints to report) to this Committee on the number and nature of complaints received and action taken as a result. Accordingly this report contains information relating to complaints that have been dealt with about alleged failures to comply with the Code of Conduct for Members since 1 July 2012.

2. RECOMMENDATION

- 2.1 That Members consider and note the content of this report.

**LOCAL GOVERNMENT ACT 1972 (AS AMENDED) SECTION 100D
LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT**

Brief description of "background paper"

Tick if copy
supplied for register

If not supplied, name
and telephone number
of holder x

3. QUARTERLY COMPLAINTS REVIEW

- 3.1 On 1 July 2012 five complaints remained outstanding which had been initiated under the statutory arrangements which applied prior to that date. Of those five complaints, one had already been referred for hearing to the First-tier Tribunal (Local Government Standards in England). That complaint concerns the alleged disclosure of confidential information, misuse of position and conduct bringing the Council into disrepute. The other four outstanding complaints as at 1 July 2012 have now been closed following consideration by the Investigations & Disciplinary Sub-Committee on 27 September 2012. Further information relating to those complaints is contained in the paragraph below.
- 3.2 Three of the complaints were related matters alleging in each case a failure to treat with respect, bullying and intimidation. The complaints had been referred for investigation and an independent investigator completed three separate investigations after 1 July 2012. The Investigations & Disciplinary Sub Committee considered the outcome of each investigation (which concluded in respect of each complaint there was no evidence of a failure to comply with the Code of Conduct for Members) and confirmed the decision of the Monitoring Officer (following consultation with the Independent Person) that each of the complaints should be closed. The other outstanding complaint concerned an alleged failure to treat with respect, bullying and conduct bringing the Council into disrepute and the Sub-Committee confirmed the decision of the Monitoring Officer (taken in consultation with the Independent Person) not to refer the complaint for investigation.
- 3.3 Since 1 July 2012 there has been one complaint which has been considered by the Monitoring Officer in consultation with the Independent Person and referred for investigation. This complaint which concerns an alleged failure to treat with respect and behaving in a threatening/intimidating manner is currently subject to investigation.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 4.1 There are no immediate financial implications arising out of this report.

5. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICE)

- 5.1 This report has been prepared by the Assistant Chief Executive (Legal Services) who is also the Council's Monitoring Officer and incorporates legal comments.

6. RISK MANAGEMENT IMPLICATIONS

- 7.1 The provision of quarterly reports relating to the number and nature of complaints assists the Committee in exercising its oversight role in terms of promoting and maintaining high standards of conduct.

7. ONE TOWER HAMLETS IMPLICATIONS

- 7.1 There are no specific anti poverty or equal opportunity implications arising out of this report.

8. SAGE IMPLICATIONS

- 8.1 This report has no immediate implications for the Council's policy of strategic action for a greener environment.

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