

Date: 6 March 2012  
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To: Members of the Audit and Corporate Governance Committee  
(Councillors: David Atkins, Roger Boote, Peter Bowden,  
Steve Gazzard, Steve Hall, Anthony Howard, Geoff Pook, Ken Potter)

Councillor David Cox – Portfolio Holder, Finance  
Councillor Ray Bloxham - Portfolio Holder, Corporate Business  
Councillor Ian Thomas – Portfolio Holder, Corporate Services  
Chief Executive  
Deputy Chief Executives  
Head of Service – Finance  
Corporate Manager- ICT  
Internal Audit, SWAP  
External Audit, Grant Thornton

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**Audit and Governance Committee**  
**Thursday 15 March 2012 at**  
**2.30pm**  
**Committee Room, Knowle, Sidmouth**

**Members of the public are welcome to attend this meeting.**

- A period of 15 minutes has been provided at the beginning of the meeting to allow members of the public to raise questions.
- In addition, the public may speak on items listed on the agenda. After a report has been introduced, the Chairman of the Committee will ask if any member of the public would like to speak in respect of the matter and/or ask questions.
- All individual contributions will be limited to a period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.
- The public is advised that the Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time.

**AGENDA**

**Page/s**

**PART A**

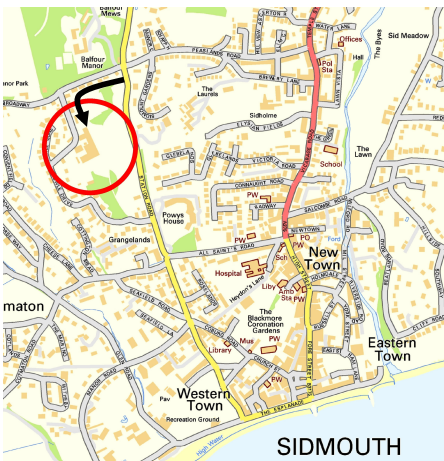
- 1 **Public question time** – standard agenda item (15 minutes)  
Members of the public are invited to put questions to the Committee through the Chairman. Councillors also have the opportunity to ask questions of the Leader and/or Portfolio Holders during this time slot whilst giving priority at this part of the agenda to members of the public.
- 2 To confirm the minutes of the meeting of the Audit & Governance Committee held on 19 January 2012. 5 - 7
- 3 To receive any apologies for absence.

- 4 To receive any declarations of interests relating to items on the agenda.
- 5 To consider any items which in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances.  
(Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).
- 6 To agree any items to be dealt with after the public (including the press) have been excluded. There is one item which Officers recommend should be dealt with in this way.
- |    |  |   |          |
|----|--|---|----------|
| 7  | External Audit Plan 2011/12                      | External Audit, Grant Thornton                          | 8 - 26   |
| 8  | Future of External Audit update                  | External Audit, Grant Thornton                          | 27 - 63  |
| 9  | Anti-Fraud, Theft and Corruption Policy          | Denise Lyon,<br>Deputy Chief Executive                  | 64 - 80  |
| 10 | Anti Bribery Policy                              | Denise Lyon,<br>Deputy Chief Executive                  | 81 - 88  |
| 11 | Update on Regulation of Investigatory Powers Act | Corporate Legal and Licensing<br>Manager, Rachel Pocock | 89 - 90  |
| 12 | Retention and Disposal of Documents Policy       | Chris Powell, Head of ICT                               | 91 - 101 |
- [Appendix – Details of documents types and retention periods](#)  
(A paper copy is available in the Members' Area)
- |    |                        |                                 |           |
|----|------------------------|---------------------------------|-----------|
| 13 | Internal Audit Plan    | Internal Audit, SWAP            | 102 - 105 |
| 14 | Internal Audit Charter | Internal Audit, SWAP            | 106 - 110 |
| 15 | Forward Plan           | Simon Davey, Head of<br>Finance | 111       |
- 16 **The Vice Chairman to move the following:-**  
“that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discussing this item in private session (Part B).”
- PART B – Matters for Decision**
- |    |   |  |                                    |   |
|----|---|--|------------------------------------|---|
| 17 | For information as requested – Consultant Fees 2010/11 under £10k | Para 3 Schedule 12A Information relating to the financial or business affairs of any particular person (including the authority holding that information). | Simon Davey,<br>Head of<br>Finance | To be circulated at Committee for confidentiality reasons |
|----|---|--|------------------------------------|---|

## Members remember!

- ❑ You must declare the nature of any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- ❑ Where you have a personal interest because the business relates to or is likely to affect a body of which you are a member or manager as an EDDC nominee or appointee, then you need only disclose that interest when (and if ) you speak on the item. The same rule applies if you have a personal interest in relation to a body exercising functions of a public nature.
- ❑ Make sure you say the reason for your interest as this has to be included in the minutes.
- ❑ If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- ❑ You also need to declare when you are subject to the party whip before the matter is discussed.

## Getting to the Meeting – for the benefit of visitors



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The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following **bus service** stops outside the Council Offices on Station Road: **From Exmouth, Budleigh, Otterton and Newton Poppleford – 157**

The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).

**From Exeter – 52A, 52B; From Honiton – 52B;  
From Seaton – 52A; From Ottery St Mary – 379, 387**

Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

**For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546**

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of a Meeting of the Audit and Governance Committee held at Knowle, Sidmouth, on Thursday 19 January 2012**

- Present:** Councillors:  
Ken Potter (Chairman)  
David Atkins  
Roger Boote  
Steve Gazzard  
Steve Hall  
Tony Howard  
Geoff Pook
- Also Present:** Councillors:  
David Cox  
Paul Diviani  
Peter Halse  
Andrew Moulding
- Officers:** Jo Avery, Management Information Officer  
Richard Cohen, Deputy Chief Executive  
Simon Davey, Head of Finance  
Christopher Holland, Democratic Services Officer  
Hannah Whitfield, Assistant Democratic Services Officer  
Denise Lyon, Deputy Chief Executive and Monitoring Officer  
Chris Powell, Corporate Manager, ICT
- Internal Auditors:** Chris Gunn, South West Audit Partnership  
Andrew Ellins, South West Audit Partnership
- External Auditors:** Jenny Dywer, Grant Thornton  
Barrie Morris, Grant Thornton

The meeting started at 2.30 pm and ended at 4.20 pm.

\*24 **Public Questions**

No questions were raised by members of the public.

\*25 **Minutes**

The minutes of the meeting of the Audit and Governance Committee held on 10 November 2011 were confirmed and signed as a true record.

\*26 **Declarations of interest**

There were no declarations of interest from Members.

\*27 **Whistleblowing Policy**

Members considered the report of Denise Lyon, Deputy Chief Executive and Monitoring Officer concerning the update of the Whistleblowing Policy. The Policy had been revised in consultation with the Internal Audit Team, the Corporate Manager of Organisational Development and the Corporate Manager of Legal and Democratic Services.

Members debated the revised policy at length raising issues such as potential Member involvement and using discretion in dealing with any potential complaints raised by employees. The Monitoring Officer stated that any issues raised by employees were dealt with in a discrete and appropriate way.

\*27 **Whistleblowing Policy (cont'd)**

**RESOLVED:** that the updated Whistleblowing Policy be adopted.

\*28 **Code of Corporate Governance**

Members considered the report of Denise Lyon, Deputy Chief Executive and Monitoring Officer concerning the routine update of the Code of Corporate Governance. The Code stated that it helped to demonstrate to the public that the Council does the right things, in the right way for the right people in a timely, inclusive, open, honest and accountable manner.

**RESOLVED:** that the updated Code of Corporate Governance be agreed.

29 **Retention and Disposal of Documents Policy**

Members considered the report of the Corporate Manager of ICT concerning the Policy for the retention and disposal of documents. It was noted that the policy needed to be as simple and non time consuming as possible to implement for Officers. It also aimed to reduce the required storage space for Council paperwork which was a continuing issue, especially with a potential move from the Knowle Council Offices being investigated.

Some Members felt that actively destroying documentation may lead to the loss of important information or deeds. It was explained that if the policy was followed as stated and documents categorised correctly, all deeds and important and relevant information would be kept and more importantly be accessible and indexed/saved electronically. There was little point in keeping paper files just to 'be sure' if it was not know what was in those files or how to use the information contained in them.

Members requested that the blank 'X's indicated in the policy and contained in Appendix 2 to the Policy, should be included in detail in the main document and that Officers posts should be included where possibly regarding levels of responsibility.

**RECOMMENDED:** that the Retention and Disposal of Documents Policy be adopted subject to the inclusion of details as outlined in Appendix 2 of the Policy and the identities of responsible Officers for each level of documentation.

\*30 **Annual Audit Letter 2010-11**

Members considered the report of Grant Thornton, External Auditors regarding the Annual Audit Letter.

Members noted that the letter summarised the key issues arising from the work carried out by the External Auditors for the Council during 2010/11. The letter was aimed to communicate the auditors key messages resulting from the audits to the Council and public.

It was noted that an opinion had been given to the Council concerning both the Accounts for 2010/11 and Value for Money conclusion and that further actions had been suggested in the key area of financial controls for 2012/13.

**RESOLVED:** that the contents of the Annual Audit Letter be noted.

\*31 **Certification Report 2010-11**

Members considered the report of Grant Thornton, External Auditors regarding the Certification Report 2010-11 which outlined the Council's performance in applying for government grants, claiming and the preparation of information used in claims.

It was noted that the Council had submitted six claims and returns for certification. Further information including a report on those claims would be provided at the next meeting of the Committee.

Members commented that they would like to see more detail explaining each claim identified in the action plan and any reasons for those comments added which would help the public understand the report better.

**RESOLVED:** that the contents of the Certification Report 2010-11 be noted.

32 **Partnership Policy**

Members considered the report of Richard Cohen, Deputy Chief Executive concerning how the Council should manage partnership work with other bodies.

Members noted that the policy and procedure for partnership arrangements by the Council had been audited by the internal audit Team as part of their ongoing programme of audits. In response to a number of recommendations from the audit team, the policy, guidance and partnership list had been updated and required approval by the Committee.

The Partnership List as at November 2011 had been supplied to allow the Audit and Governance Committee to monitor the status of Partnerships entered into by the Council.

Members expressed that they were pleased partnership work was being formalised as it was becoming more common and important in the work of the authority.

- RESOLVED:** 1) that the current Partnership List be noted.
- 2) that an annual report on the activity and performance of the Council's Partnerships as defined within the new policy be submitted to the Committee.

- RECOMMENDED** 1) that the new the Partnership Policy and Procedures be adopted.
- 2) that Councillor Roger Boote be appointed as the Committee Member representative to liaise with the Management Information Officer regarding the status of the Partnership Register.

33 **Risk Management Policy**

Members considered the report of Simon Davey, Head of Finance. It was noted that the Risk Management Policy replaced and combined the previous Risk Management Policy Statement and Strategy produced in 2002 and the Council Risk Management Guide/Toolkit produced in 2009. In addition to reviewing and updating the previous documents, recommendations had been made by South West Audit Partnership in a recent audit of risk management and were incorporated into the Policy and Council working practices.

Members commented that they were pleased to see Risk Management becoming embedded into the everyday work of the Council.

**RECOMMENDED:** that the updated Risk Management Policy and Procedures be adopted.

\*34 **Report of Internal Audit Activity Quarter 3, 2011/12**

Members considered the report of the Internal Audit Team which outlined the work of the audit team and the work undertaken in the third quarter of the 2011/2012 cycle as part of the Internal Audit Work Programme.

**RESOLVED:** that the Audit Activity Report and progress on significant items be noted.

\*35 **Forward Plan**

Members noted the contents of the forward plan and future meeting dates. It was requested that an item of report only, intended to formally note the minor Council contracts be added to the meeting for 15 March 2012.

Chairman ..... Date .....

# East Devon District Council

## Audit plan 2011-12

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**February 2012**





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# An overview of your 2011-12 Audit Plan

This is our audit plan for the financial year 2011-12 for East Devon District Council (the Council). It sets out the work that we will carry out in discharging our responsibilities to give an opinion on the Council's financial statements and a conclusion on the Council's arrangements for achieving Value for Money (VfM).

We set an indicative fee in February 2011. In setting this fee, we assumed that the general level of risk in relation to the audit would not be significantly different from that identified for 2010-11. Following the completion of the 2010-11 audit we have updated our accounts audit risk assessment.

See  
Accounts audit

The new approach to local Value for Money audit work was introduced by the Audit Commission in 2010-11. In 2011-12 we will continue to give our value for money conclusion based on two reporting criteria specified by the Audit Commission.

See  
Value for  
money audit

We will use specialists from across Grant Thornton to support our work and ensure that you are getting the required levels of expertise from us.

See  
Engagement team

We have used the published 2011-12 Audit Commission scale of fee for the Council as our proposed fee. The planned fee of £111,435 remains as per the Indicative Fee letter (issued in February 2011).

See  
Audit fee

You will receive a number of reports and plans from us throughout the year which will provide you with the detailed conclusions of our work culminating in the issue of our Annual Audit Letter to the Council.

See  
Outputs and timeline

We have considered our independence and objectivity in respect of the audit and do not believe there are any matters which should be brought to your attention. We comply with the Audit Commission's requirements in respect of independence and objectivity.

See  
Appendix A

# Accounts audit – introduction

## Introduction

This section of the plan sets out the work we propose to undertake in relation to the audit of the 2011-12 accounts at the Council. The plan is based on our risk-based approach to audit planning and uses our assessment of the potential business and audit risks that need to be addressed by our audit and the controls the Council has in place to mitigate these risks.

## The Council's responsibilities

The Council's accounts are an essential means by which it accounts for the stewardship of resources and its financial performance in the use of those resources. It is the responsibility of the Council to:

- ensure the regularity of transactions by putting in place systems of internal control to ensure that financial transactions are in accordance with the appropriate authority;
- maintain proper accounting records; and
- prepare accounts, which give a true and fair view of the financial position of the Council and its expenditure and income in accordance with International Financial Reporting Standards.

## Our responsibilities

We are required to audit the financial statements and to give an opinion as to:

- whether they give a true and fair view of the financial position of the Council and its expenditure and income for the period in question;
- whether they have been prepared properly in accordance with relevant legislation, applicable accounting standards and other reporting requirements; and
- whether the Annual Governance Statement (AGS) has been presented in accordance with relevant requirements and to report if it does not meet these requirements, or if the statement is misleading or inconsistent with our knowledge.



# Accounts audit – risk assessment

## Accounting risks and planned audit response

Table 1 below summarises the results of our initial risk assessment of significant financial risks facing the Council and our planned response.

**Table 1: Accounting risks and planned audit response**

Key audit risk	Audit areas affected	Audit approach
Financial performance pressures affecting the Council's ability to deliver its budget and provide services	All areas of the financial statements	<ul style="list-style-type: none"> <li>We will review the Council's financial performance for the year against its agreed budget.</li> <li>We will review the Council's progress in achieving the required level of savings against its agreed plan.</li> <li>We will have due regard to the risks of incorrectly reporting the financial position and will set our audit strategy to address these risks.</li> </ul>
Incorrect accounting for HRA self-financing	All areas of the financial statements	<ul style="list-style-type: none"> <li>From 2012-13, changes are being made to the current Housing Revenue Account (HRA) subsidy system with the implementation of a self-financing system. This will be carried out through a one-off settlement, with the Council taking on £84 million debt. We will review the accounting implications for 2011-12 through reference to LAAP guidance and discussions with the Council.</li> <li>We will review the accounting transactions processed by the Council to ensure appropriately accounted for and we will ensure that any changes in valuation are appropriate.</li> </ul>

Key audit risk	Audit areas affected	Audit approach
<b>Incorrect accounting for HRA assets</b>	<b>HRA property, plant and equipment</b>	<ul style="list-style-type: none"> <li>• We will review the Council's progress in updating asset records in order to minimise the risk of assets being incorrectly accounted for.</li> <li>• We will review the accounting entries for movements in HRA to ensure fully and accurately reflected in the 2011-12 accounts.</li> </ul>
<b>Incorrect accounting for heritage assets</b>	<b>Property, plant and equipment</b>	<ul style="list-style-type: none"> <li>• The Council will be required to identify heritage assets and account for these as a separate category of assets for the first time in 2011-12.</li> <li>• We will review the Council's arrangements for the identification of heritage assets to ensure compliance with the principles of FRS30 which are adopted by the Code for the first time in 2011-12.</li> <li>• As part of the final accounts audit we will review the judgements applied in determining the appropriate classification and valuation of assets.</li> </ul>
<b>Insufficient action to address issues arising from the 2010-11 accounts audit</b>	<b>All areas of the financial statements</b>	<ul style="list-style-type: none"> <li>• Our audit of the 2010-11 accounts identified a large number of issues, leading to additional audit fees and a number of material adjustments to the financial statements.</li> <li>• As part of our interim audit we will review progress against the recommendations made in our 2010-11 ISA260 report and consider whether adequate closedown arrangements are in place for the 2011-12 accounts. This will include an assessment of the resources available for the preparation of comprehensive working papers, plans for management review of the accounts and year end journals.</li> <li>• As part of the final accounts audit we will test the accounting entries made in respect of debtors and creditors to ensure that they accurately amounts outstanding at 31 March 2012 and we will review the Council Tax accounting entries processed to ensure that proper accounting practices have been followed.</li> </ul>

# Our Approach

We will utilise Voyager, our audit software package, to document, evaluate and test, where appropriate, internal controls over the financial reporting process in order to reduce our detailed testing. Voyager also helps us to comment constructively on your system of internal controls.

Our approach will be to report all findings to management so that the Council can choose to secure improvement opportunities. We report only those findings that represent a control weakness to the Audit and Corporate Governance Committee and make formal recommendations.

In all cases, we invest time with management in understanding the basis of the weakness identified and what the options are, for example mitigating controls and system modifications, for improving the system.

## Planning

- Updating our understanding of the Council through discussions with management and a review of the monthly finance reports and Committee papers

## Controls evaluation

- Reviewing the design and implementation internal financial controls including IT, where they impact the financial statements
- Assessing audit risk and developing and implementing an appropriate audit strategy
- Assessing the Council's arrangements for complying with tax legislation and Bribery Act requirements
- Testing the operating effectiveness of selected controls
- Assessing internal audit against the CIPFA Code of Practice

## Substantive process

- Reviewing material disclosure issues in the financial statements
- Performing analytical review
- Verifying all material income and expenditure and balance sheet accounts, taking into consideration whether audit evidence is sufficient and appropriate

## Completion

- Performing overall evaluation of our work on the financial statements to determine whether they give a true and fair view
- Determining an audit opinion
- Reporting to the Audit and Corporate Governance Committee through our ISA 260 report

# Accounts audit – other issues

## **Additional assurance work**

To support the audit opinion for 2011-12, we will undertake the following reviews:

- VAT - work is planned to review the current arrangements the Council has in place are appropriate to ensure VAT is accounted for correctly and in accordance with current legislation.
- PAYE - we will undertake a review of the arrangements the Council has in place regarding taxation associated with payroll, including National Insurance and PAYE. This will look to provide assurance that the figures recorded within the financial statements are true and fair and calculated appropriately and in accordance with current legislation.
- Fraud - we will review the overall adequacy of the Council's arrangements to ensure that fraud and corruption are addressed effectively.

## **Whole of Government Accounts**

We will also review the Whole of Government Accounts (WGA) consolidation pack prepared by the Council for consistency with the Council's accounts.

## **Certification of claims and returns**

In addition to our audit of the Council's financial statements and the Value for Money audit, we are required to certify grant claims and returns above predetermined thresholds.

In carrying out work in relation to grant claims and returns, Grant Thornton UK LLP acts as an agent of the Audit Commission, on behalf of the grant paying bodies. The work that the auditor is required to undertake is specified in a Certification Instruction, issued by the Audit Commission for each scheme, following discussion with the grant paying body. As agents of the Audit Commission we are required to recover, in respect of each grant claim and return, a fee that covers the full cost of the relevant work undertaken. These rates are based on the hourly rates for certifying claims and returns set out in the Audit Commissions 'Work programme and scales of fees 2011-12.'

We will issue a report in full to the Council on conclusion of our certification work.

## **National Fraud Initiative (NFI)**

The Council participates in the National Fraud Initiative, the Audit Commission's data-matching exercise designed to prevent and detect fraud in public bodies. We will review the Council's progress and actions in following up the matches identified.

# Accounts audit – public reporting

## **Annual Governance Statement and External Reporting**

As part of our work on the accounts audit, we will review the Annual Governance Statement (AGS) to determine if it is consistent with our knowledge of the Council.

We will assess the Council's external reporting, through the 2010-11 Annual Governance Statement and explanatory foreword to the accounts, against best practice and will use our benchmarking tool, containing data from over 200 UK local authorities, to measure the Council against existing sector practice. This will enable us to identify areas where the Council is performing well and areas where there is scope to improve to improve external reporting to move towards 'best in class' in 2011-12 and beyond.

## **Elector challenge**

The Audit Commission Act 1998 gives electors certain rights:

- the right to inspect the accounts;
- the right to ask the auditor questions about the accounts; and
- the right to object to the accounts.

As a result of these rights, in particular the right to object to the accounts, we may need to undertake additional work to form a decision on the elector's objection. The additional work may be significant and could result in the requirement to seek legal representations on the issues raised. The costs incurred in responding to any questions or objections raised by electors are not part of the audit fee. In the event of costs being incurred as a result of elector's objections we will discuss these with the Council and, where appropriate, charge for this work in accordance with the Audit Commission's fee scales.



# Value for Money Audit

## Introduction

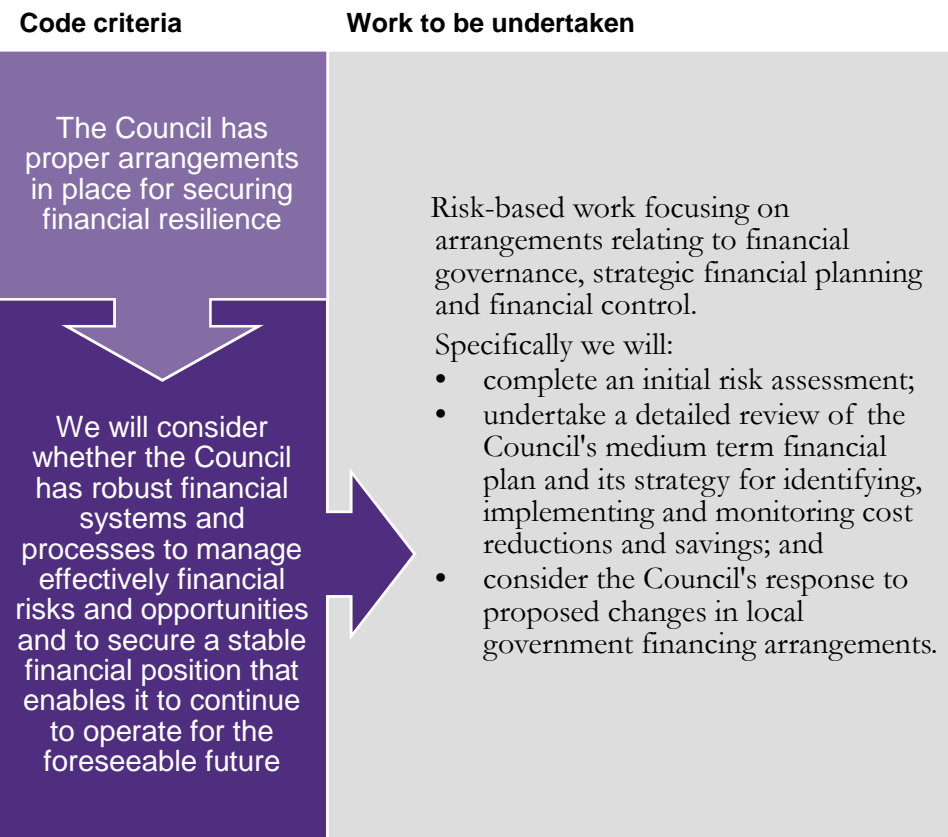
The Code requires us to issue a conclusion on whether the Council has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VfM) conclusion.

## 2011-12 Value for Money conclusion

The Value for Money approach for 2011-12 remains the same as the prior year. Our VfM conclusion will be based on two reporting criteria specified by the Audit Commission:

- the Council has proper arrangements in place for securing financial resilience; and
- the Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness.

The work we plan to do to conclude on these criteria is summarised in the following charts:



# Value for money Audit

## Code criteria

## Work to be undertaken

The Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness

Risk-based work focusing on arrangements for prioritising resources and improving productivity and efficiency.

Specifically we will:

- complete an initial risk assessment;
- consider the Council's financial performance against Local Government financial ratios;
- consider the costs of support services in comparison to other authorities and how the Council ensures delivery of VfM through identification of any associated savings and efficiencies.

We will consider whether the Council is prioritising its resources within tighter budgets

We will tailor our VfM work to ensure that as well as addressing our high risk areas, it is, wherever possible, focused on the Council's priority areas and can be used as a source of assurance for officers and Members. Where we plan to undertake specific reviews to support our VfM conclusion, we will issue a brief specification for each review outlining the scope, methodology and timing.

The results of all our local VfM audit work and key messages will be reported in our Report to Those Charged with Governance (ISA 260 report) and in the Annual Audit Letter. We will agree any additional reporting to the Council on a review-by-review basis.



## Engagement team – key contacts

Your main audit team is based in Bristol and are all public sector specialists.

However, we operate as a national practice, coordinating the work of all our offices to ensure that new ideas, good practice experiences and services are developed and disseminated to all, irrespective of location.



**Barrie Morris (CPFA)**  
**Engagement Lead**

**T** 0117 305 7708  
**E** barrie.morris@uk.gt.com

Barrie is the Council's Engagement Lead, bringing his extensive local authority expertise to the Council. Barrie will be a key contact for the Chief Executive, the Head of Finance, other senior Council Officers and the Audit and Corporate Governance Committee.

Barrie is responsible for the overall delivery of the audit including the quality of output and, signing the audit reports and conclusion.



**Jenny Dwyer (CPFA)**  
**Manager**

**T** 0117 305 7647  
**E** jenny.dwyer@uk.gt.com

Jenny is responsible for the audit strategy, planning and liaison with key Council contacts to ensure the smooth running of the audit and the delivery of the overall audit plan.

Jenny reviews the quality of audit outputs and ensures accuracy of reporting prior to presenting plans and reports to the Council's officers and Members.



**James Pitts (CIPFA)**  
**Audit Executive**

**T** 0117 305 7691  
**E** james.pitts@uk.gt.com

Reporting to Jenny, James is responsible for the performance of the audit fieldwork and day-to-day liaison with the Council's finance department.

James will be supported by a team of audit assistants.

## Engagement team – specialist support



**Negat Sultan**

**IT Audit Manager**

**T** 0161 247 5900

**E** negat.sultan@uk.gt.com

Negat is responsible for review of the Council's IT systems to complement the financial accounts process.

Negat also takes the lead on any additional work required in areas such as data quality and security.



**Bob Anderson**

**Technical Specialist**

**T** 020 7728 2245

**E** bob.anderson@uk.gt.com

Bob is responsible for the provision of specialist technical support to the audit team.

Bob will be used to provide support and advice to the Council throughout the year as it prepares its accounts for 2011-12.

# Audit fee

## What is the scale audit fee?

This is defined as the fee required by auditors to meet statutory responsibilities under the Audit Commission Act in accordance with the Code of Audit Practice 2008.

It represents the Commission's best estimate of the fee required to complete an audit where the audited body has no significant audit risks and it has in place a sound control environment.

## How your scale audit fee is calculated

The Audit Commission has published a scale fee for all authorities. This scale fee is based on the 2010-11 fee, which reflected our assessment of risk and complexity, reduced by 5%.

## Variations to the scale audit fee

Based on a thorough review by the audit team which includes discussions with Council Officers and Members, we tailor our work to reflect local circumstances. This may result in a variation upwards or downwards on the scale audit fee. Any variation to the scale fee must be approved by the Audit Commission, following agreement of the proposed fee with the Council.

## 2011-12 audit fee

Your external audit fee for 2011-12 is £111,435 (£124,010 in 2010-11). This is the same as the indicative fee communicated to you in February 2011, and represents a 5% reduction on the scale fee from last year.

The fee will be subject to continuous review and may be revised if significant new audit risks during the audit or if we are unable to progress as planned due to the timing or quality of information provided by the Council. In the event that we consider it necessary to revise the Council's audit fee upwards, we will discuss this with the Head of Finance. A summary of the audit fee is shown in the table below:

**Table 2: 2011-12 audit fee**

Audit Area	Planned Fee 2011-12	Actual fee 2010-11
Financial statements and value for money	£ 111,435	£ 124,010*
Certification of claims and returns**	£30,000	£32,519

\* the actual fee for the accounts reflects the scale fee of £117,300 plus the additional charge of £6,710 made in respect of additional work required to complete the audit of the accounts

\*\* the quoted fee for grant certification work is an estimate only and will be charged at published hourly rates

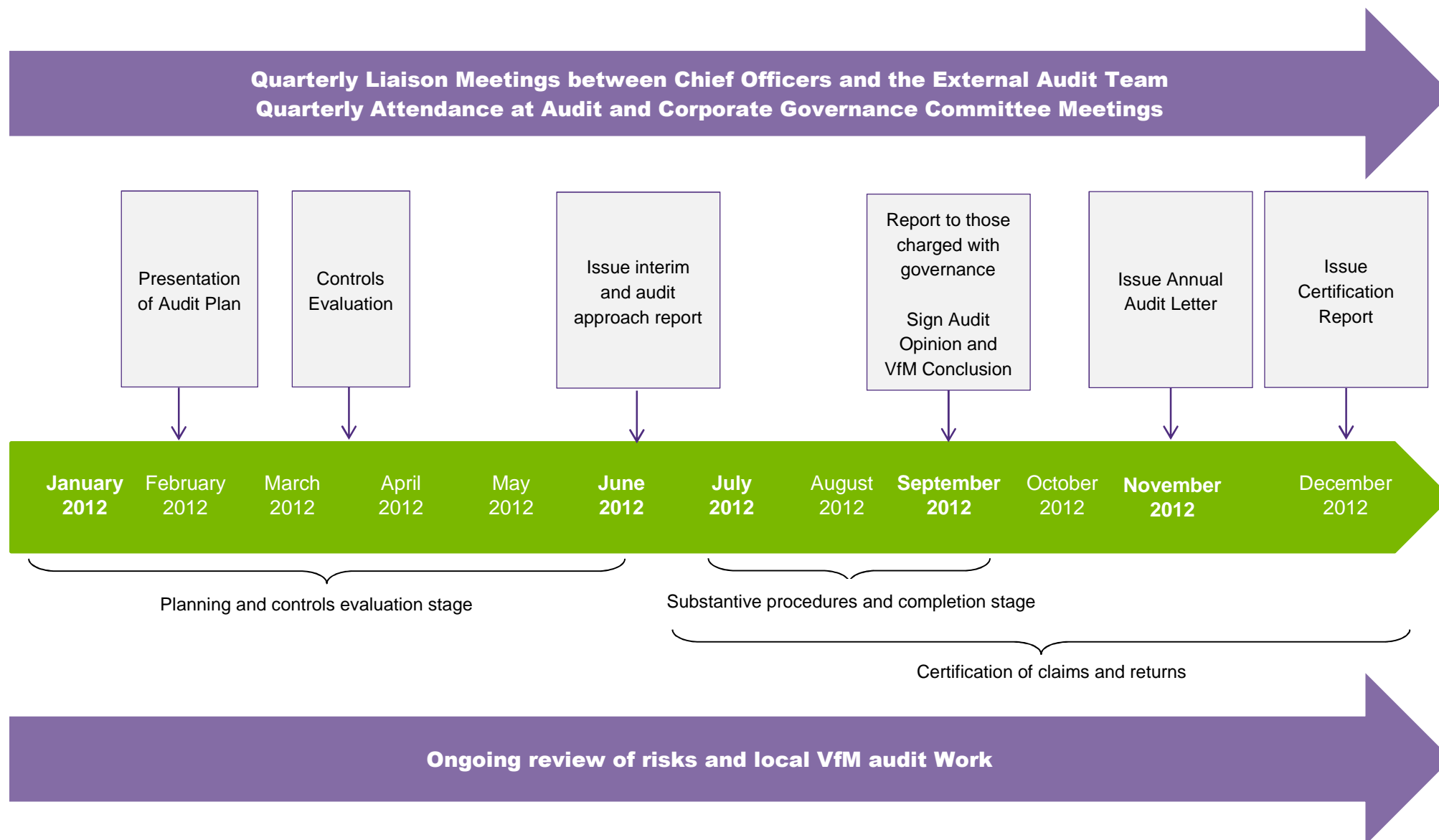
# Outputs

Reports will be discussed and agreed with the appropriate officers before being issued to the Audit and Corporate Governance Committee.

Reports are addressed to the Audit and Corporate Governance Committee and management and are prepared for the sole use of the Council. No responsibility is taken by the auditors to any member or officer in their individual capacity, or to any third party.

Output	Purpose	Issue date
Audit Plan	<ul style="list-style-type: none"> <li>Outline audit approach for the accounts and VfM audits</li> <li>Identify initial high risk areas and our planned response</li> <li>Confirm Plan with Audit and Corporate Governance Committee</li> </ul>	February 2012
Interim Report	<ul style="list-style-type: none"> <li>Report the results of the control evaluation of our audit and its impact on our planned audit approach</li> <li>Confirm focus areas for the audit of the accounts based on updated risk assessment</li> <li>Provide certain disclosures to those charged with governance under auditing standards</li> <li>Confirm with Senior Officers and Audit and Corporate Governance Committee</li> </ul>	June 2012
Report to those charged with Governance (ISA 260)	<ul style="list-style-type: none"> <li>Highlight key issues arising from the audit and the resolution of these</li> <li>Communication of adjusted and unadjusted audit differences</li> <li>Improvement recommendations resulting from audit procedures</li> </ul>	September 2012
Auditor's Reports	<ul style="list-style-type: none"> <li>Report on 2010-11 financial statements</li> <li>Report on 2010-11 value for money conclusion</li> </ul>	September 2012
Annual Audit Letter	<ul style="list-style-type: none"> <li>Short summary of the key issues arising from our 2011-12 audit</li> </ul>	November 2012
Certification Report	<ul style="list-style-type: none"> <li>Highlights key issues arising from our certification work</li> <li>Recommendations identified for improvement</li> </ul>	December 2012

# Timeline



# Appendices



# Appendix A - Independence and objectivity

We are not aware of any relationships that may affect the independence and objectivity of the audit team, which we are required by auditing and ethical standards to communicate to you.

We comply with the ethical standards issued by the APB and with the Commission's requirements in respect of independence and objectivity as summarised below.

Auditors appointed by the Audit Commission are required to comply with the Commission's Code of Audit Practice and Standing Guidance for Auditors, which defines the terms of my appointment. When auditing the financial statements auditors are also required to comply with auditing standards and ethical standards issued by the Auditing Practices Board (APB).

The main requirements of the Code of Audit Practice, Standing Guidance for Auditors and the standards are summarised below.

International Standard on Auditing (UK and Ireland) 260 (Communication of audit matters with those charged with governance) requires that the appointed auditor:

- discloses in writing all relationships that may bear on the auditor's objectivity and independence, the related safeguards put in place to protect against these threats and the total amount of fee that the auditor has charged the client
- confirms in writing that the APB's ethical standards are complied with and that, in the auditor's professional judgement, they are independent and their objectivity is not compromised.

The standard defines 'those charged with governance' as 'those persons entrusted with the supervision, control and direction of an entity'. In your case, the appropriate addressee of communications from the auditor to those charged with governance is the Audit and Corporate Governance Committee. The auditor reserves the right, however, to communicate directly with the authority on matters which are considered to be of sufficient importance.

The Commission's Code of Audit Practice has an overriding general requirement that appointed auditors carry out their work independently and objectively, and ensure that they do not act in any way that might give rise to, or could reasonably be perceived to give rise to, a conflict of interest. In particular, appointed auditors and their staff should avoid entering into any official, professional or personal relationships which may, or could reasonably be perceived to, cause them inappropriately or unjustifiably to limit the scope, extent or rigour of their work or impair the objectivity of their judgement.

The Standing Guidance for Auditors includes a number of specific rules. The key rules relevant to this audit appointment are as follows:

- Appointed auditors should not perform additional work for an audited body (i.e. work over and above the minimum required to meet their statutory responsibilities) if it would compromise their independence or might give rise to a reasonable perception that their independence could be compromised. Where the audited body invites the auditor to carry out risk-based work in a particular area that cannot otherwise be justified as necessary to support the auditor's opinion and conclusions, it should be clearly differentiated within the audit plan as being 'additional work' and charged for separately from the normal audit fee.
- Auditors should not accept engagements that involve commenting on the performance of other auditors appointed by the Commission on Commission work without first consulting the Commission.
- The Engagement Lead responsible for the audit should, in all but the most exceptional circumstances, be changed at least once every five years
- The Engagement Lead and senior members of the audit team are prevented from taking part in political activity on behalf of a political party, or special interest group, whose activities relate directly to the functions of local government or NHS bodies in general, or to a particular local government or NHS body.
- The Engagement Lead and members of the audit team must abide by the Commission's policy on gifts, hospitality and entertainment.

# Appendix B - Keeping you up to date

The collage features several Grant Thornton publications:

- Sustainable cities:** A vision of our future landscape, featuring an illustration of a modern city with green buildings and a treehouse.
- Spending Review 2010 Headlines:** A report on the government's spending review, including a photo of a man in a suit.
- The Bribery Act 2010:** A report on the new bribery legislation, featuring a photo of a man in a suit.
- Surviving the storm: how resilient are local authorities?:** A report on the challenges facing local authorities, including a 28% reduction in funding and a 28% reduction in staff costs.
- Asset management:** A report on the challenges of asset management, including a diagram of a building and a list of key challenges.
- Is your audit committee effective?:** A report on the effectiveness of audit committees, including a diagram of an audit committee and a list of key challenges.
- Annual Governance Statement: adding real value?:** A report on the value of annual governance statements, including a diagram of a governance statement and a list of key challenges.



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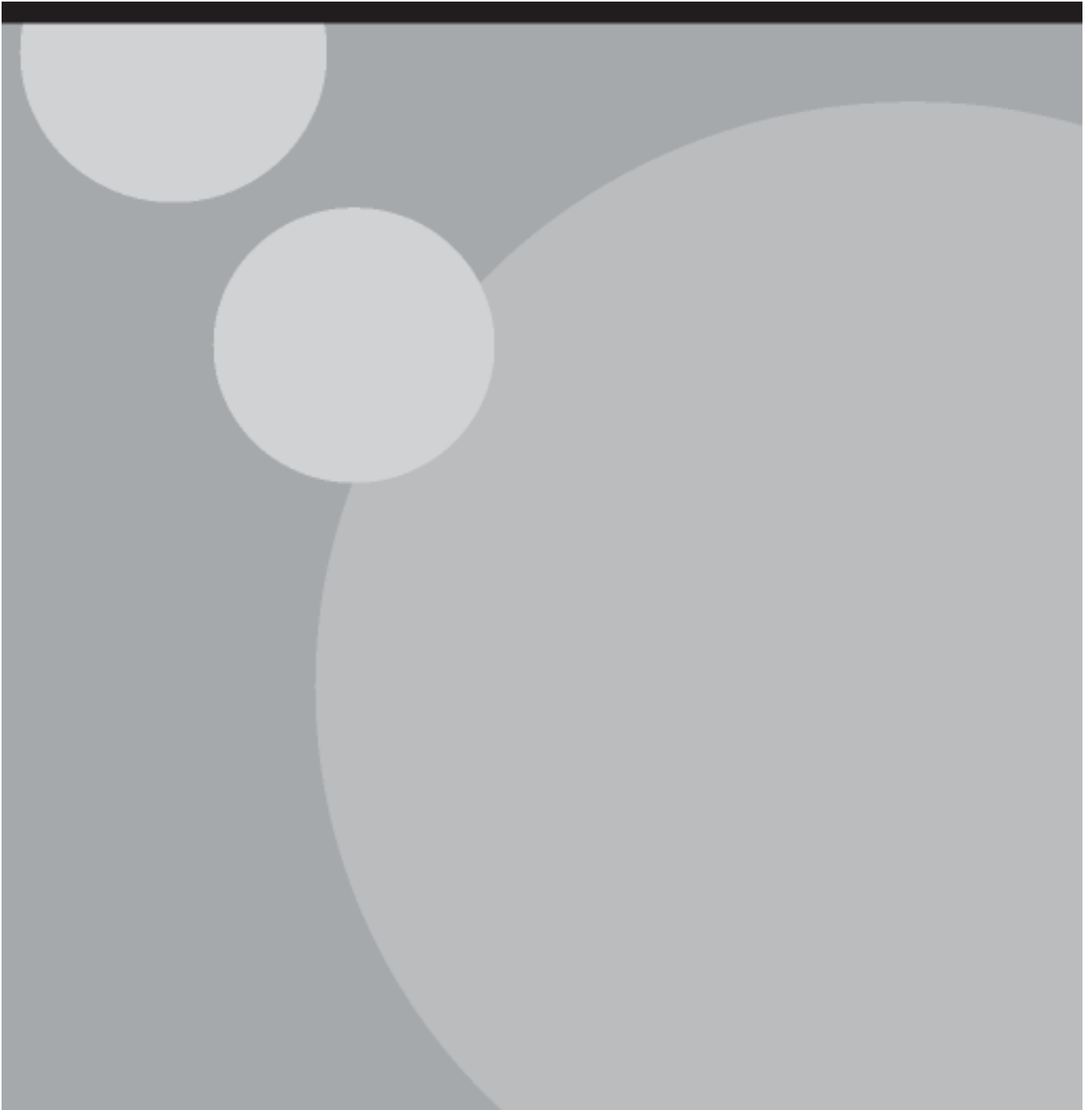
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The client names quoted within this proposal are disclosed on a confidential basis. All information in this proposal is released strictly for the purpose of this process and must not be disclosed to any other parties without express consent from Grant Thornton UK LLP



## Government response to the future of local audit consultation



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# Executive Summary

1. Following the announcement of its decision to abolish the Audit Commission in August 2010, the Government consulted on its proposals for a new local public audit framework from 31 March to 30 June 2011. Those proposals were designed to deliver the Government's objective for a new local public audit framework that places responsibility firmly in the hands of local bodies, giving them the freedom to appoint their own auditors, with appropriate safeguards for auditor independence, from an open and competitive market for local public audit services. They were also designed with the fundamental principle of accountability in mind – providing a system of local public audit that allows local bodies to be held to account for the public money at their disposal, locally to residents and service users, and also as part of a framework of accountability that provides assurance to Parliament about the public money it votes to Government departments and which is in turn devolved to the local level.
2. This document (the Government response) sets out the key themes and views which were raised during the consultation and what the Government now proposes for the new arrangements for audit of principal public bodies. The response provides little detail on the audit arrangements for local health bodies. The Department of Health is working through the implications of Monitor's changing role and the proposed establishment of the Clinical Commissioning Groups, and will specify the detailed arrangements for audit of local health bodies, under the new framework, in due course.

## Key elements of the new local public audit framework

3. The design principles of the new framework for local public audit are that it should be localist and transparent, achieve a reduction in the overall cost of audit, and uphold high standards of auditing, ensuring that there is effective and transparent regulation of public audit, and conformity to the principles of public audit. The key elements are:

### Regulation

- There should be a consistent regulatory regime for audit, covering the private sector and the local public bodies (paragraph 24).
- The **National Audit Office** is best placed to produce the Code of Practice and supporting guidance for audit of local public bodies, subject to Parliamentary approval. The National Audit Office will be required to consult key partners in developing the Code (paragraph 26).
- The **Financial Reporting Council** will be the overall regulator, mirroring its role under the Companies Act 2006. The Financial Reporting Council

will be responsible for recognition and supervision of **Recognised Supervisory Bodies** (professional accountancy bodies responsible for supervising the work of auditors, and for putting rules and arrangements in place which their members must fulfil before they can be registered auditors) and for **Recognised Qualifying Bodies** (professional accountancy bodies responsible for awarding audit qualifications) (paragraphs 31-32).

#### **AUDITOR REGISTRATION**

- Mirroring the Companies Act 2006, Recognised Supervisory Bodies will:
  - have the roles of registration, monitoring and discipline for local public audit
  - put in place rules and practices covering eligibility of firms to undertake local public audit; and
  - keep a register of firms eligible to undertake local public audit (paragraphs 33-34).

#### **MONITORING AND ENFORCEMENT**

- As under the Companies Act 2006, Recognised Supervisory Bodies will monitor the quality of audits undertaken by their member firms, and investigate complaints, disciplinary cases and issues identified during the monitoring of firms on the register of local public auditors (paragraph 43).
- The Accountancy and Actuarial Disciplinary Board (part of the Financial Reporting Council) investigates significant public interest disciplinary cases and can impose sanctions on those auditors found guilty of misconduct in both the companies and public sectors. We consider that the Accountancy and Actuarial Disciplinary Board should continue to have these powers for local public audit (paragraph 45).
- There will be additional oversight and monitoring of the audits of significant local public bodies (referred to as “Bodies of Significant Public Interest”) - the Financial Reporting Council (through its Audit Inspection Unit, or as appropriate through delegation to a Recognised Supervisory Body) will monitor the quality of the audits of these bodies, mirroring the arrangements for Public Interest Entities under the Companies Act (paragraph 47).

### **Commissioning local public audit services**

#### **AUDITOR APPOINTMENT**

- Local public bodies will have a duty to appoint an auditor from the register of local public auditors, on the advice of an Independent Auditor Appointment Panel (paragraph 60).
- The Independent Audit Appointment Panel will have an independent chair and a majority of independent members (paragraph 60).



- We intend to frame requirements in a way that will allow local public bodies to share appointment panels (and therefore independent members) to ease admin burdens and reduce costs (paragraph 61).
- The Police and Crime Commissioner will make appointments for police bodies; (paragraph 73).
- The appointment process will be transparent. Local public bodies will be required to publish details of the auditor appointment on their website within 28 days of making the appointment, together with the Independent Audit Appointment Panel's advice and, if they did not follow that advice, a statement explaining why (paragraph 63).
- Where the local public body is not an elected body, the auditor appointment will usually be made directly by the Independent Audit Appointment Panel or its equivalent (paragraph 75).

#### **ROLE OF INDEPENDENT AUDITOR APPOINTMENT PANELS**

- Government intends to prescribe specific functions to the Independent Audit Appointment Panel limited to the external audit, including advising on auditor appointment, independence, removal and resignation, and in relation to public interest reports (paragraph 67).
- The arrangements will allow local public bodies to share Independent Audit Appointment Panels, and to expand on the remit of their Panel if they wish, choosing a model which best suits their circumstances (paragraph 67).

#### **FAILURE TO APPOINT AN AUDITOR**

- Local public bodies will be required to appoint an auditor by 31 December in the year preceding the financial year to be audited, and notify the Secretary of State if they have not done so. The Secretary of State will be able to direct the local public body to appoint an auditor or make the auditor appointment directly. In addition to meeting the cost of the appointment the local public body could be subject to a sanction for failing to make the appointment (paragraphs 79-80).

#### **ROTATION OF AUDIT FIRMS AND AUDIT STAFF**

- Local public bodies will be required to run a procurement competition for its audit services at least every five years (paragraph 86).
- Auditors will have to comply with the standards and rules set by the regulator. Applying the current standards means the audit engagement partner will be able to undertake audit for a local public body for an initial five years and be reappointed for a further two years. The audit manager will be able to be appointed for a maximum of ten years. After these periods, these key audit staff will not be able to work with the local public body for a further five years (paragraph 85).

## RESIGNATION OR REMOVAL OF AN AUDITOR

- There will be rigorous, transparent processes for auditor resignation or removal, designed to protect auditor independence, quality of audit, and accountability to the electorate. These broadly mirror those in the Companies Act, but are adapted to reflect the principles of public audit (paragraphs 90-91).

## AUDITOR LIABILITY

- Auditor liability should be an issue to be dealt with in the contractual negotiations between the auditor and audited body (paragraph 96).

## SCOPE OF LOCAL PUBLIC AUDIT AND AUDITORS' WORK

- The scope of local public audit will remain broadly similar. As now, auditors of local public bodies will be required to satisfy themselves that the accounts have been prepared in accordance with the necessary directions; proper practices have been observed in the compilation of the accounts; and the body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources (paragraph 99).
- The detail of how auditors should fulfil these requirements will, as now, be set out in a code of audit practice. The value for money component should be more risk based and proportionate, with auditors basing their assessment of risk on evidence of the local public body's arrangements for securing value for money provided by the local public body (paragraph 100).
- *Public Interest Reporting:* The duty for auditors of local public bodies to undertake Public Interest Reporting will be retained, as will their ability to charge audited bodies for reasonable work. The duty on audited bodies to consider Public Interest Reports at a meeting within one month of the report and to publish the details of the meeting will be retained. A new duty will be placed on audited bodies to publish the Public Interest Report (paragraphs 105-107).
- *Non-audit services:* Auditors will be permitted to provide non-audit services to the audited body, subject to adhering to the Auditing Practices Board's ethical standards and the Independent Auditor Appointment Panel's approval (paragraph 110).
- *Public interest disclosure:* The local public auditor and the Independent Auditor Appointment Panel will be defined as designated persons under the Public Interest Disclosure Act, to enable individuals to make disclosures under the Act (paragraph 112).
- *Transparency:* The new framework will retain the rights of local electors to make formal objections to the accounts, but give auditors greater discretion regarding whether to pursue an objection (paragraph 115).

- *Freedom of Information:* The auditor's public office holder functions will not be brought within the remit of the Freedom of Information Act (paragraph 118).

#### **NON AUDIT FUNCTIONS OF AUDIT COMMISSION**

- *Proposed arrangements for Grant Certification:* following the Audit Commission's closure, Government considers that for new grants, the grant paying bodies should agree certification arrangements with grant recipients and auditors (paragraph 122).
- *National Fraud Initiative:* Government proposes to continue the National Fraud Initiative, and is discussing with partners and the local public sector about how best to achieve this (paragraph 126).
- *VFM studies regarding the local public sector:* The Government considers that there is scope for rationalisation in the number of these value for money studies compared to the number previously undertaken and would like to see a coherent and complementary programme of offerings across all providers.

## Implementation and next steps

4. Chapter 4 sets out the next steps. In summary these are to:
  - do some further work with smaller bodies and their representatives on regarding audit arrangements for smaller bodies, to explore options for these bodies before firming up proposals, and setting out our preferred approach in Spring 2012;
  - hold further discussions with local authorities, other local public bodies and the audit sector to flesh out the underlying detail of the framework, and how it might be implemented;
  - publish a draft Bill for pre-legislative scrutiny in Spring 2012, which allows for examination and amendments to be made before formal introduction to Parliament; and in advance of introduction of an Audit Bill as soon as Parliamentary time allows.
5. The Audit Commission is currently in the process of outsourcing all the audit work of its in-house practice. The outsource contracts that the Commission will put in place will start from 2012-13 and are expected to run for three or five years giving local councils and other public bodies the time to plan for appointing own auditors. Once the audits have been outsourced the Commission will be radically reduced in size to become a small residuary body responsible for overseeing the contracts and making any necessary changes to the individual audit appointments during the life of the contracts.

## CHAPTER 1

# Background

6. On 13 August 2010, the Secretary of State for Communities and Local Government announced plans to disband the Audit Commission, transfer the work of the Audit Commission's in-house practice into the private sector and put in place a new local audit framework. Local authorities would be free to appoint their own independent external auditors and there would be a new audit framework for local health bodies. A new decentralised audit regime would be established and local public bodies would still be subject to robust auditing.
7. In March 2011, the Government published the Future of Local Public Audit consultation paper seeking views on proposals for how the new local audit framework could work following the disbandment of the Audit Commission. These proposals were developed by the Department for Communities and Local Government following discussion with a wide range of partners and bodies that would be affected by the changes. These included the Audit Commission, the National Audit Office, the Financial Reporting Council, accountancy professional bodies, local government, other local public bodies and Government departments with an interest.
8. The consultation paper set these proposals within the context that the current arrangements for local public audit, whereby a single organisation is the regulator, commissioner and provider of local audit services is unnecessarily centralised, and that there is a lack of transparency and clarity as well as potential conflicts between the role.
9. The proposals in the consultation paper built on the statutory arrangements and professional ethical and technical standards that currently apply in the companies sector with adaptations to ensure that the principles of public sector audit are maintained.

## About the consultation

10. In total, 453 responses were received to the consultation. The majority of these responses were from local government: parish and town councils, district councils, county and unitary local authorities and their representative bodies. Responses were also received from professional accountancy and regulatory bodies, auditing firms and other audited public bodies and members of the public. The majority of the members of the public who responded identified that they had auditing/accounting experience or were involved directly with the financial reporting for a council. A breakdown of the total responses can be seen below:

Type of respondent	Number of responses
Upper tier local authorities	91
Lower tier local authorities	117
Parish and town councils	134
Individual members of the public	30 (including 4 councillors)
Audit and accountancy firms	14
Professional auditing and accountancy bodies	5 (including Audit Commission)
Other audited public bodies	
Fire authorities	21
Police authorities	12
National Park Authorities	4
Probation Authorities	4
Pension authorities	2
Others	5
Non-categorised responses	14
<b>Total</b>	<b>453</b>

11. A summary of the responses to the consultation is available at: [www.communities.gov.uk/publications/localgovernment/localauditsummaryresponses](http://www.communities.gov.uk/publications/localgovernment/localauditsummaryresponses)

## Format of the Government response

12. Chapter 2 contains the Government response to the consultation. It is organised into sections following the order in the original consultation document. We have set out the proposals which the Government made, summarised the key themes and views submitted in consultation responses, and presented the Government's response to these.
13. Chapter 3 covers other functions of the Audit Commission that were not dealt with in the consultation. Chapter 4 covers next steps and implementation.

## CHAPTER 2

# Consultation questions and government response

## Design principles

14. The consultation proposed that the new local public audit framework should be based on the principles of localism and decentralisation, transparency, continuing to ensure high standards of auditing, while opening up the market and securing lower audit fees. Our aim is also to ensure the quality of audit by having regard to the principles of local public audit:
  - the independence of public sector auditors
  - the wide scope of public audit
  - good reporting arrangements to democratically elected representatives.
15. The vast majority of respondents agreed that the consultation document had identified the correct design principles of:
  - localism and decentralisation
  - transparency
  - lower audit fees; and
  - high standards of auditing.

Some respondents (including some professional auditing and accountancy bodies), commented that they did not believe that the decentralised approach outlined in the consultation document would achieve lower audit fees. Local authorities exhibited less concern.

## The Government's response

16. The responses received to the consultation support the Government's proposed design principles. The proposals that are set out in this response and on which we intend to legislate are all vital elements of a new local public audit framework which is localist and transparent, and upholds high standards of auditing, where audit remains independent, robust and efficient.
17. The Government is also committed to developing a new local public audit framework where audit fees remain competitive, stripped of the need to cover the central costs and overheads of the Audit Commission. Having a single body that is regulator, commissioner and provider of local audit services provides a unique monopoly position and weak incentives to drive down costs. The key drivers of audit fees in the new local public audit framework (aside from commercial and market considerations) will be the scope of audit (i.e. what auditors are actually required to do) and regulation of the work of auditors. We are working with our partners to ensure that these elements of the new

framework do not add unnecessary cost into the new system. The streamlining the Commission has done since the Government's decision to abolish the Commission is already resulting in lower audit fees for local bodies, with the smaller overheads of the Commission enabling it to propose a 10% reduction in fee scales for 2012-13<sup>1</sup> for the first year of audits done under outsourcing.

## **PROBATION TRUSTS**

18. As the financial results of probation trusts are consolidated into the National Offender Management Service accounts, which are audited by the Comptroller & Auditor General, the consultation proposed that in future probation trusts should be audited by the Comptroller & Auditor General. The audit of probation trusts would therefore not fall under the new local public audit framework.
19. The majority of those who answered this question (local authorities) agreed that the audit of probation trusts should fall within the Comptroller & Auditor General's regime. The four probation trusts that responded were evenly split as to whether they should be included in the Comptroller & Auditor General's regime or not.

## **The Government's Response**

20. The Government considers that it would be appropriate for the audit of probation trusts to fall within the Comptroller & Auditor General's regime. We intend to lay an order before Parliament under the Government Resources and Accounts Act 2000 which – if approved by Parliament – would add an amendment to Schedule 1 to the Offender Management Act 2007 and transfer responsibility for the audit of probation trusts to the Comptroller and Auditor General from April 2012.

## **HEALTH BODIES**

21. It is currently envisaged that the new local public audit framework outlined in this Government Response will apply to Clinical Commissioning Groups. These are new health bodies proposed in the Health and Social Care Bill. The precise audit requirements for Clinical Commissioning Groups have not yet been finalised and will depend on the passage of the Health and Social Care Bill. The application of the new local public audit framework for Clinical Commissioning Groups will be specified in due course.
22. The audit arrangements for Foundation Trusts were not included in the consultation because they do not currently fall under the Audit Commission regime. Under the current arrangements, a Foundation Trust's board of governors appoints their own auditor, on advice from an audit committee. Monitor currently regulates the audits, including providing the Code of Audit Practice and guidance. The audits include an opinion on the financial statements and a conclusion on value for money. We intend that the audit arrangements for Foundation Trusts will remain broadly the same, but some changes will be necessary to reflect Monitor's changing role.

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<sup>1</sup> See <http://www.audit-commission.gov.uk/audit-regime/audit-fees/201213/Pages/default.aspx>



## Regulation of local public audit

23. The Government considers that having a new and separate regulator for local public audit would be inefficient and risks duplication. This would also have an impact on fees. We therefore consider that, to the extent possible, there should be a consistent regulatory regime for audit, covering the private sector and the local government and health sectors. The same arrangements for regulation would apply for all local health bodies.
24. The consultation proposed that the National Audit Office would be responsible for developing and maintaining the audit codes of practice which set out the approach to audit that auditors must follow when auditing local public bodies. Before preparing or altering a code applicable to any accounts, the National Audit Office will be required to consult appropriate local public bodies and professional accountancy bodies. The National Audit Office would also be responsible for producing any supporting guidance. 93% of respondents agreed that the National Audit Office is best placed to produce the Code of Audit Practice and the supporting guidance.

### **The Government's response**

25. The Government considers that, subject to Parliament's agreement, the National Audit Office is best placed to produce the Code of Practice which auditors will be required to follow when auditing local public bodies. We have also discussed with the National Audit Office how it might support auditors in fulfilling their responsibilities under the Code. The National Audit Office recognises the need for annual and in-year guidance to promote consistency in audit approach and is in principle committed to providing support to auditors which is:
  - principles-based not prescriptive;
  - addresses key themes/issues (not every query);
  - informed by technical forum of local auditors (led by the National Audit Office); and
  - leaves discretion for an auditor to agree local audit approach based on their risk assessment.

## REGISTRATION OF AUDITORS

26. Under the Companies Act 2006 the Professional Oversight Board, part of the Financial Reporting Council, has statutory powers delegated to it for the recognition and supervision of those professional accountancy bodies responsible for supervising the work of auditors, Recognised Supervisory Bodies, or offering an audit qualification, Recognised Qualifying Bodies. Recognised Supervisory Bodies are responsible for putting rules and arrangements in place which their members must fulfil before they can be registered auditors. People with responsibility for company audit work must also hold a recognised qualification, awarded by a Recognised Qualifying Bodies.
27. The consultation proposed that the Financial Reporting Council would oversee the regulatory regime for local public audit, as it does for the statutory audit of companies under the Companies Act 2006. The Financial Reporting Council would share responsibility for registering statutory local public auditors and monitoring the quality of their audits with Recognised Supervisory Bodies.
28. 88% of responses were in agreement that the Companies Act 2006 should be replicated for local public audit. Some of the professional bodies responded that there would need to be some adaptation for the system to work for public bodies.
29. Overall, respondents indicated preferences for one of the existing regulatory bodies to take on the role for maintaining and reviewing the register of statutory local public auditors.

### **The Government's response**

30. It is our intention that, as under the Companies Act 2006, the Financial Reporting Council will be the overall regulator<sup>2</sup>. We are therefore proposing that the Secretary of State will have powers which will allow him to authorise professional accountancy bodies to act as Recognised Supervisory Bodies for local public audit. In practice, the Secretary of State will delegate these powers to the Financial Reporting Council/Professional Oversight Board. This mirrors the arrangements under the Companies Act 2006.
31. The effect of this is that the Financial Reporting Council will be able to:
  - authorise existing Recognised Supervisory Bodies to have statutory responsibilities in respect of local public audit, in addition to their responsibilities for statutory audits of companies;

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<sup>2</sup>. It should be noted that the Department for Business Innovation and Skills (BIS) and the Financial Reporting Council (FRC) are currently consulting jointly on reforms to the FRC's governance and structure. The consultation can be accessed at [www.frc.org.uk/about/frcreform.cfm](http://www.frc.org.uk/about/frcreform.cfm) and is due to close on 10 January 2012. Both BIS and the FRC are working with DCLG to ensure the FRC has a proportionate role in the regulation and oversight of local public audits, as envisaged under the local public audit framework, in any revised structure for the FRC which results from the consultation.

- authorise additional professional bodies to be Recognised Supervisory Bodies with statutory responsibilities in respect of local public audit.
32. As under the Companies Act 2006, the Recognised Supervisory Bodies will have the roles of registration, monitoring and discipline for local public audit, and will be given delegated authority to put in place rules and practices covering:
- The eligibility of firms to be appointed as local public auditors (subject to the Financial Reporting Council's oversight, which might include guidance produced by the Council); and
  - The qualifications, experience and other criteria individuals must reach before being permitted to carry out a local public audit and sign off an audit report.
33. In line with the register of those eligible for appointment as auditor under Part 42 of the Companies Act 2006, all eligible local public auditors will be placed on a register, which will be kept by the Recognised Supervisory Bodies. This register will list:
- the audit firms that are able to undertake the audit of local public bodies;
  - those individuals linked to each firm that are eligible to sign an audit report on behalf of that firm and able to take responsibility for local public audit work (though the names of individuals will not appear on the published register).

## **ELIGIBILITY FOR REGISTRATION**

34. The consultation document asked how the right balance could be struck between requiring audit firms eligible for statutory local public audit to have the right level of experience, while allowing new firms to enter the market. The majority of responses suggested that firms should be required to demonstrate their track record in public sector audit and/or their ability to source the appropriate expertise. Other responses included the need to set proper high-level criteria, including the correct skills and qualifications for firms and individuals, but in a way that would not preclude new firms entering the market.

## **The Government's response**

35. The Government considers that while it is important not to preclude new entrants to the local public audit market, it is also vital that any firm able to be appointed as a local public auditor has a number of suitable individuals with the necessary qualifications and experience to undertake local public audit work. Once enacted, legislation will provide that Recognised Supervisory Bodies (subject to the Financial Reporting Council's oversight, and in line with any guidance which the Council produce) will be responsible for determining the level of expertise and experience necessary for any firm to be eligible to be appointed as a local public auditor. We are confident that building on the rules and arrangements these bodies already have in place under the Companies Act 2006, but tailored appropriately to meet the specific requirements of local public auditors, will provide the right balance to ensure that an appropriate level of

experience and expertise is maintained in the system, while not precluding new firms from entering the market.

36. In order to ensure that individuals within firms are suitably qualified and have the necessary levels of skills and experience, the Government considers that each individual eligible to sign an audit report on behalf of the firm will need to:-
- hold an audit qualification (“appropriate qualification” in accordance with the Companies Act 2006 [Section 1219]); or
  - hold a corresponding qualification to audit accounts under the law of another European Economic Area state; or
  - hold a qualification from a body of accountants recognised by the Financial Reporting Council as an appropriate qualification for local public audit;
- and**
- be approved under the rules of the Recognised Supervisory Body to take on that role. In practice, we envisage that the Recognised Supervisory Body will only approve someone where it judges that the individual has the necessary level of skills and experience to take on the role.
37. The Financial Reporting Council will need arrangements to monitor the continued appropriateness of qualifications that it recognises as appropriate for local public audit.

## **MONITORING AND ENFORCEMENT**

38. The consultation proposed that the appropriate professional accountancy bodies should act as Recognised Supervisory Bodies and have responsibility for monitoring the quality of audits undertaken by their members, as they do in the private sector; and investigate complaints or disciplinary cases, as well as issues identified during their monitoring process. They would also be able to stop a firm being eligible for appointment as a statutory local public auditor, by removing them from the register of eligible local public auditors.
39. The consultation said that the Government was considering whether the overall regulator should have a direct role in assuring the quality and undertaking independent investigation of the audits of some specified local public bodies, i.e. those that might be considered analogous to Public Interest Entities under the Companies Act 2006.

40. The consultation also asked for views on the proposal that the overall regulator would have powers to investigate and discipline in these cases. About a third of respondents to the relevant question considered that all principal local authorities should be considered as equivalent to public interest entities, with a smaller number suggesting that all of the bodies currently audited by the Audit Commission should be viewed as equivalent to public interest entities. Nearly half of respondents suggested that regulation and monitoring arrangements should be the same for audits of all local public bodies, with no specially defined group to be subject to additional arrangements. The majority of respondents considered that the role of the regulator in relation to disciplinary cases should be the same for local public audit framework as it is under the Companies Act 2006.

### **The Government's response**

41. We propose that, as under the Companies Act 2006, Recognised Supervisory Bodies will have responsibility for monitoring the quality of audits undertaken by their member firms. This work will fall under the monitoring units of these bodies, and will include:
- reviews of individual audit engagements
  - reviews of the policies, procedures and internal controls of those firms licensed to carry out the public sector audits
  - reporting on the quality of audit to the registration body
  - investigating complaints or disciplinary cases, as well as issues identified during their monitoring process
  - removing a firm from the register of eligible local public auditors.
42. The Recognised Supervisory Bodies will investigate complaints or disciplinary cases, as well as issues identified during the monitoring of firms on the register. Similarly, the Recognised Supervisory Bodies will be able to refer cases for investigation to the relevant arm of the Financial Reporting Council (the Accountancy and Actuarial Disciplinary Board).
43. The Accountancy and Actuarial Disciplinary Board investigates significant public interest disciplinary cases and can impose sanctions on those auditors found guilty of misconduct in both the companies and public sectors. The Government considers that the Accountancy and Actuarial Disciplinary Board should continue to have these powers for local public audit.
44. Under the Companies Act 2006 the overall regulator, through its Audit Inspection Unit, is responsible for monitoring the quality of the statutory audit of "major audits" which includes the audits of public interest entities. The Professional Oversight Board is responsible for determining which audited entities fall within the "major public interest" category (over and above those prescribed in statute), and therefore within the scope of the Audit Inspection Unit, and for approving the Audit Inspection Unit's work programme. The criteria the Professional Oversight Board applies and a list of inspections are published annually by the Board, following consultation with the professional accountancy

bodies. This additional level of monitoring reflects both the size of the company and the importance of that company to the public.

45. As under Companies Act 2006 audits, there will be an additional level of oversight and monitoring for audits of significant local public bodies given the very large level of taxpayers' money at their disposal. We therefore intend to give the Financial Reporting Council responsibility for monitoring (through the Audit Inspection Unit or as appropriate through delegation to a Recognised Supervisory Body) the quality of audits of these bodies (which we are referring to as "Bodies of Significant Public Interest").
46. We propose to include in legislation criteria to define which bodies will be considered Bodies of Significant Public Interest and hence within the scope of the Audit Inspection Unit. We propose that the Financial Reporting Council/Professional Oversight Board will then, each year, decide after consultation with relevant Government Departments whether any local public bodies which are not Bodies of Significant Public Interest should also fall within the scope of the Audit Inspection Unit, over and above those prescribed in legislation. The Financial Reporting Council /Professional Oversight Board will then decide which audits the Audit Inspection Unit will monitor. This is in line with the process under the Companies Act 2006 for determining which audited entities fall within the "major public interest" category, and therefore within the scope of the Audit Inspection Unit.
47. As set out in paragraph 46 above, audits of bodies which do not fall within the Audit Inspection Unit's scope will be monitored by the relevant Recognised Supervisory Body.

## Commissioning local public audit services

### **DUTY TO APPOINT AN AUDITOR**

48. The consultation proposed that all larger local public bodies (those with income/expenditure over £6.5m) would be under a duty to appoint an auditor. The auditor would need to be on the register of local public statutory auditors, which should help to ensure that the quality of auditors is maintained. Independence would be maintained in part through a new requirement for local public bodies to put in place independent audit committees. The consultation set out proposals for how such committees could be structured and proposals as to how independence would be defined.
49. The consultation sought to set out proposals which would enable local public bodies to co-operate to procure an external auditor.
50. Nearly three quarters of the responses agreed that the arrangements for audit committees were flexible enough to allow joint appointments. Generally, audited bodies, local authorities in particular, were against the idea of a majority independent audit committee. Those from other sectors, such as audit and accountancy firms and the professional bodies, were generally in favour of the proposals.
51. About a third of respondents agreed that our proposals for audit committees provide the necessary safeguards for the independence of the auditor

appointment. With regard to the make up of the audit committee, of those who indicated a preference, a minimum number of independent members was favoured by a small majority. Other notable comments that arose were that the makeup of the independent audit committee should be a local decision for each audited body and that these arrangements were not suitable for the way police authorities were structured.

52. The majority of respondents agreed that the correct criteria had been identified in the consultation document to ensure the quality of independent members. However, a sizeable minority disagreed. The main cause for disagreement was that the criteria listed appeared more focussed on ensuring the independence of members rather than their quality and capability. Local authorities thought that having the overall necessary skills to perform the audit committee function was important. Auditing and accountancy firms were more clearly in agreement with the criteria identified in the consultation.
53. About half of the respondents considered that financial awareness or experience was desirable, but not essential, for the independent members of an audit committee. Many felt that if the overall skills of the audit committee as a whole were appropriate for the tasks they had to perform, the financial expertise did not have to rest with the independent members.
54. About half of those who responded indicated that they thought it would be difficult to source independent members of a suitable calibre. Most respondents agreed that remuneration would be necessary for the independent members but responses were split with regard to what level, the most popular responses being that the level should be locally determined and that only 'reasonable' expenses should be paid (similar to other committees).

### **The Government's response**

55. Local public bodies are already responsible for procuring large volumes of goods and services in order to discharge their wider functions, e.g. local government's procurement totals around £50bn per annum according to the Local Government Association. The Government considers there to be no barriers in terms of expertise that would prevent local public bodies appointing their external auditors, subject to appropriate safeguards to ensure independence in the appointment process.
56. The Government has confirmed on several occasions its commitment to maintaining auditor independence in the new local public audit framework. The regulatory regime set out in the preceding chapter ensures the quality of audit work is monitored effectively. We consider that requiring the appointment of an auditor to be undertaken by the full council (or equivalent for non-local government bodies) on the advice of an independent audit committee is the most practical and effective way of ensuring independence of appointment. Transparency in the appointment process will also be an important part of ensuring auditor independence.
57. In reaching this conclusion we have listened to the comments made by some local public bodies about the constitution of their existing audit committees, and that it might be difficult to find enough suitable independent members to ensure a majority of independent members. In order to distinguish between the existing

traditional audit committees and the role we propose for such a committee in the appointment process, we intend that the advice on the procurement and appointment of the auditor will be made by an independent audit appointment panel.

58. The Government therefore intends to legislate for a system of local appointment under which all local public bodies with income/expenditure over a threshold (currently £6.5m) will be under a duty to appoint an auditor who must be on the register of local public auditors. Responsibility for the final selection of the auditor and engagement of the auditor on a contractual basis will rest with the local public body. However, that appointment must be made by the full council (or its equivalent) on the advice of an Independent Audit Appointment Panel, independently chaired, with a majority of independent members. Where the body already has an independent audit committee, they may wish to use that committee to meet this requirement.
59. Local public bodies have signalled to us that they are interested in undertaking joint procurement exercises and sharing Independent Audit Appointment Panels or independent members. We want to ensure the arrangements that we put in place facilitate that. We intend to frame requirements in a way that will allow local public bodies to share appointment panels (and therefore independent members) to ease administration burdens and reduce costs. Local public bodies will be able to choose the model which suits their circumstances, and will have the flexibility to work with other bodies to jointly procure an auditor and reduce the costs of meeting this requirement.
60. We intend to work closely with the sector, as we finalise the detail of these proposals, so they are as administratively straightforward and practical as possible.
61. To aid transparency in the appointment process the local public body will be required to publish details of the auditor appointment on their website within 28 days of making that appointment, alongside the advice of the Independent Audit Appointment Panel, subject to considerations of commercial confidentiality. If the local public body did not follow the advice of the Independent Audit Appointment Panel in making its appointment, it will be required to publish on its website a statement setting out the reasons why it had chosen not to follow that advice.

## **ROLE OF THE INDEPENDENT AUDIT APPOINTMENT PANEL**

62. The consultation proposed that the Independent Audit Appointment Panel would have a key role in the selection of the auditor engaged by the audited body, and monitoring the independence, quality and performance of the external audit. It proposed options for specifying in legislation some responsibilities that the Panel should have in relation to the engagement of an auditor, and monitoring the independence and quality of the external audit:-
  - Only specify one mandatory duty for the local public body's Independent Audit Appointment Panel, i.e. to provide advice to the local public body on the engagement of the auditor and the resignation or removal of an auditor.



- Specify a more detailed role for the Independent Audit Appointment Panel. This would provide more assurance about the independence of the relationship between the audited body and its auditor, and would also ensure that the Panel had a wider role in reviewing the financial arrangements of the local public body.
63. The majority of respondents indicated a preference for the appointment of the auditor as the only mandatory duty for the Independent Audit Appointment Panel, and any other roles or responsibilities would be a local decision. However, a significant number of responses felt that a more detailed mandatory role for the Panel was preferable.
64. The majority of respondents felt that the process for the appointment of an auditor should not be set out in legislation. Guidance was preferable to a statutory code of practice with the National Audit Office indicated as the preferred provider.

### **The Government's response**

65. The approach that the Government intends to take is to provide for a limited set of functions on the Independent Audit Appointment Panel in legislation, around advising on auditor appointment, independence, removal and resignation, and in relation to public interest reports. We believe that such an approach will provide flexibility for local public bodies to mould this requirement to suit their own circumstances, and facilitate joint working and joint commissioning between local public bodies.
66. We also recognise that in circumstances where a local public body will have both an audit committee (exercising the traditional functions of such a committee) and an Independent Audit Appointment Panel (whether shared or not) there may well be issues about the demarcation of responsibilities between both groups. We intend to work with the sector to produce guidance which would set out how the responsibilities of the Independent Audit Appointment Panel could be exercised (and how those responsibilities might interface with those of a more traditional audit committee). We would welcome a discussion and views on the detailed issues raised by this approach to help shape and inform the requirements and any future guidance issued.

### **INVOLVEMENT OF THE PUBLIC IN THE APPOINTMENT OF AN AUDITOR**

67. The consultation said the Government was considering how local people could make representations about the specification designed by the audit committee for the procurement of an auditor. The options we considered were:
- Pre-appointment - The public could make representations to the audited body's audit committee about any expressions of interest from audit firms for the audit contract; or
  - Post appointment – The public would be able to make representations at any time to the local public body's audit committee about issues relating to the auditor.

68. About equal numbers of respondents agreed as disagreed that this was a proportionate approach to public involvement. Some respondents suggested that public involvement be restricted to any undisclosed conflicts of interest on the part of the auditor.

### **The Government's response**

69. The Government considers that its proposals to require – in the case of local authorities – the appointment to be made by a full council meeting on the advice of an independent auditor appointment panel; the requirement for that advice to be published (and any departure from it publicly justified); and the other measures we are proposing around transparency of the auditor appointment, secure the necessary level of transparency for the public in the appointment process.

### **APPLICABILITY TO OTHER SECTORS**

70. The consultation recognised that the commissioning approach proposed for local authorities might need to be tailored for other local public bodies. Nearly all respondents indicated that the approach should be tailored as appropriate for different local public bodies.

### **The Government's response**

71. The Government intends that in the case of police bodies that appointment would be made by the Police and Crime Commissioner.
72. The table at Annex A details the different types of local public bodies to which the new local public audit framework will apply and sets out the Government's proposals for how the auditor appointment will be made.
73. Where the local public body is not an elected body, then in most circumstances that appointment should be made directly by the Independent Auditor Appointment Panel (or its equivalent). There may be circumstances where it is appropriate for a local public body's board to make that appointment on the advice of the Panel. However, where this is the case transparency (i.e. publication of that advice) will be an important part of the appointment process.

### **FAILURE TO APPOINT AN AUDITOR**

74. The consultation proposed that the audited body would be under a duty to appoint an auditor. However, it also recognised that there could be some instances under the new system where a body does not fulfil this duty. In these circumstances we proposed that the Secretary of State would be able to direct the local public body to appoint an auditor. Alternatively, where a local public body does not fulfil its duty to appoint an auditor the Secretary of State could be provided with the power to make the auditor appointment. In addition to meeting the cost of the appointment the local public body could be subject to a sanction for failing to make the appointment.
75. The majority of the responses favoured the Secretary of State having a power to make the auditor appointment. Most groups of respondents also suggested a staged approach, i.e. where the Secretary of State would direct the public body

to appoint an auditor and, should that fail, the Secretary of State would appoint the auditor.

76. A small majority preferred that a local public body should only be required to inform the Secretary of State in the case where it had failed to appoint an auditor, rather than when they had made the appointment. Other responses suggested that neither scenario warranted informing the Secretary of State as this would go against the principle of localism.

### **The Government's response**

77. The Government considers it important, given the range of functions and legal responsibilities of a local public auditor, that local public bodies are required to appoint an auditor by a specified date in the financial cycle. We consider that requiring an auditor to be appointed by 31 December in the year preceding the financial year for which that auditor is to be appointed would fit with the annual financial and accounting cycle.
78. We also consider that any local public body should be under a requirement to notify the Secretary of State if they have not been able to make an appointment by that date. We are proposing that the Secretary of State would then have powers to either direct the local public body to make an appointment or make that appointment directly himself. In addition to meeting the cost of the appointment the local public body could be subject to a sanction for failing to make the appointment.

### **ROTATION OF AUDIT FIRMS AND AUDIT STAFF**

79. The consultation proposed that the rotation of staff within the audit firm would need to be in line with the current ethical standards, but the audited body would also be required to undertake a competitive appointment process within five years. The audited body would be able to re-appoint the same firm for a (maximum) second five year period, following competition.
80. The majority of respondents were in favour of the proposal to limit a firm's term of appointment to ten years. However, some felt that there should be no limit on the length of a firm's appointment, e.g. it would be a barrier to new entrants.
81. The vast majority of responses agreed that the current ethical standards were sufficient safeguard for rotation of audit staff.

### **The Government's response**

82. The Government considers that there is a balance to be struck between providing enough incentive for audit firms to invest in medium term relationships with local public bodies which would enable them to gain a thorough understanding of that body's operations, and ensuring that those undertaking the audit maintain an appropriate degree of independence and objectivity from the body being audited.
83. Paragraph 64 set out the government's intention to require Independent Audit Appointment Panels, to provide advice on the appointment of the auditor and to have a key role in ensuring auditor independence. Taking this into account, the Government considers that the ethical standards of the Auditing Practices Board

around the rotation of key audit staff provide enough safeguards without the need for mandatory rotation of firms. The ethical standards provide that the audit engagement partner would be able to perform audit work in respect of a local public body for an initial period of five years and then can only be reappointed for a further two years. The audit manager can only be appointed for a maximum of ten years. After these respective periods have elapsed, these key audit staff would not be able to work with the local public body concerned until a further period of five years had elapsed.

84. However, the Government is also convinced of the need to ensure local public bodies are achieving value for money in procuring audit services. It therefore intends to require that a local public body must run a procurement competition every five years for its audit services. The Independent Audit Appointment Panel would be required to provide advice before any appointment. There would, however, be no bar on the incumbent supplier being reappointed as a result of this competition.

## **RESIGNATION OR REMOVAL OF AN AUDITOR**

85. The consultation envisaged that a body might wish to remove its auditor, or an auditor might wish to resign, only in exceptional circumstances, for example, an auditor being in breach of the ethical standards, or a complete breakdown in the relationship between the auditor and audited body. It recognised the importance of having stringent safeguards in place for the resignation and removal of an auditor to protect the independence of the auditor and the quality of the audit. It proposed safeguards that would broadly mirror those in the Companies Act 2006, but would be adapted to reflect the principles of public audit. The process would be designed to ensure that auditors are not removed, or do not resign, without serious consideration and through a process transparent to the public.
86. The majority of responses received to this question agreed that these proposals provide sufficient safeguard against the removal or resignation of the auditor.

## **The Government's response**

87. The Government considers that it is important that there is a fully transparent process in place to deal with issues of auditor resignation or removal. We consider that in the first instance it is vital that auditors and audited bodies try as far as possible to resolve any difficulties or concerns (including through using the mediation and conciliation services of the professional accountancy bodies if appropriate).
88. However, if such differences become irreconcilable, in the case of auditor resignation, we intend to:-
- Require the auditor to give 28 days written notice of his intention to resign to the audited body and its Independent Audit Appointment Panel;
  - Require the audited body to make a written response to the auditor's written notice, which it will be required to send with the auditor's written notice, to its members and the Independent Audit Appointment Panel;
  - Require the auditor to then deposit a statement at the main office of the audited body, and with the Independent Audit Appointment Panel, setting out

the circumstances connected with the resignation of the office that are relevant to the business of the audited body;

- Require the audited body to publish the auditor's statement on its website;
- Require the Independent Audit Appointment Panel to investigate the circumstances that led to the resignation and consider whether any action is required; and
- Require the auditor to notify the appropriate regulatory monitoring body of his decision.

89. In the circumstance where a local public body wished to remove its auditor, the process would be similar. We intend to:-

- Require the audited body to give 28 days written notification of its wish to terminate the contract, to the auditor and its Independent Audit Appointment Panel;
- Provide that the auditor will have the right to make a written response to the notice, which the audited body will be required to send to its members and the Independent Audit Appointment Panel;
- Require the Panel to provide advice to the local public body within that 28 days notice period, having regard to any written response made by the auditor;
- Require the local public body to have regard to the advice of the Independent Audit Appointment Panel before making a decision whether to remove its auditor;
- Following the 28 days notice period, require the audited body to put to a full council meeting (or its equivalent) a resolution to remove the auditor (at which both the auditor and a representative of the Independent Audit Appointment Panel could speak if they wished);
- Require that, if the audited body still wished to remove its auditor, it should publish a statement of its decision on its website within 28 days of the decision of the full council. If the local public body did not follow the advice of the Independent Audit Appointment Panel, it will be required to explain in its statement what that advice had been, and the reasons why it had chosen not to follow that advice, subject to considerations of commercial confidentiality; and
- Require the audited body to notify the appropriate regulatory monitoring body of its decision.

## **AUDITOR LIABILITY**

90. In the private sector auditors are concerned about the consequences of the risks of litigation. Auditors have sought to caveat their opinions by explicitly limiting their duty of care and limit their liability. The Companies Act provides that general provisions that protect auditors from liability are void, but:

- does not prevent a company from indemnifying an auditor against any costs incurred by him in defending proceedings in which judgment is given in his

favour or in the granting of relief by the court in the case of honest and reasonable conduct; and

- allows for a “liability limitation agreement” to be put in place if it is authorised by the members of the company, provided it complies with the content permitted in the Companies Act.
91. The consultation recognised that in the absence of a central body providing indemnity to audit firms, it could be possible for audited bodies and auditors to deal with auditor liability as part of their contractual negotiations. A legislative framework, similar to that in the companies sector, could set out the process for setting and agreeing liability limitation agreements. The majority of respondents agreed with the proposals in the consultation document.

### **The Government’s response**

92. The Audit Commission currently indemnifies auditors for the costs they incur where they are engaged in litigation. In practice, calls on the indemnity are infrequent. The Audit Commission informed the Communities and Local Government Select Committee inquiry on the Audit and Inspection of Local Authorities that, in the five years to 2010, it had been called upon only once.
93. Auditors from the Commission's in-house audit practice have also faced litigation over the same five-year period. There have been three cases, all of which the in-house auditor won. The costs of in-house auditors not recovered from the other side are met by the Commission, and are also passed on to audited bodies in audit fees, so in effect the indemnity is extended to the Commission’s own auditors.
94. Without a liability agreement, audit firms may increase their fees to match the increased risk they face in undertaking the work. Therefore, the Government considers that auditor liability should be an issue to be dealt with in the contractual negotiations between the auditor and audited body. The Government will also consider the feasibility and necessity of a supporting statutory framework which could set out the process for agreeing liability limitation agreements.

## **Scope of audit and the work of auditors**

### **SCOPE OF LOCAL PUBLIC AUDIT**

95. The consultation asked for views on four options regarding the scope of future audits for local public bodies. The narrowest option would comprise an opinion on whether the financial statements give a true and fair view of the audited body’s financial position and income and expenditure and a review of other information included with financial statements. Wider options suggested included an auditor’s conclusion on regularity and propriety, financial resilience and value for money; and a further option of the auditor providing reasonable assurance on an annual report prepared by the local body setting out its arrangements for securing value for money, whether they had achieved

economy, efficiency and effectiveness, regularity and propriety and financial resilience.

96. The responses to the consultation were split between the options but indicated a slight preference for leaving the overall scope of audit unchanged.

### **The Government's response**

97. The Government has considered the wide range of views expressed in the consultation and intends to retain the current broad scope as set out in the Audit Commission Act 1998 so that auditors of local public bodies will continue to be required to satisfy themselves that:-
- the accounts have been prepared in accordance with the necessary directions or regulations and comply with relevant statutory requirements;
  - proper practices have been observed in the compilation of the accounts; and
  - the body has made proper arrangements for securing economy efficiency and effectiveness (value for money) in its use of resources.
98. The latter element is commonly referred to as the Value for Money component of the audit, which is a key difference between the scope of local public audit and statutory audit for private sector companies. The Government considers that the value for money component of the audit could be delivered in a more risk based and proportionate way. This has the potential for a consequent decrease or increase on the level of audit work some local public bodies might see as a result, but we would not expect this in itself to result in an overall increase in the total costs of audit.
99. The auditors will need to base their assessment of risk on evidence around the local public bodies' arrangements for securing value for money. We want to put the responsibility for providing the evidence firmly in the hands of the local public body, without introducing additional burdens by requiring the production of additional reports or documents. The majority of respondents to the consultation were not in favour of local public bodies being required to set out performance and plans in an annual report. One option would be to ask local public bodies to build on the information they already make available on their arrangements for securing value for money - for example, through the Annual Governance Statement. This would be consistent with the design principles of the new framework, by enhancing transparency and delivering a localist approach which shifts responsibility firmly onto local public bodies.
100. We will need input from a range of stakeholders to develop the value for money element of audit fully before implementation. These would include: the National Audit Office (given their envisaged role, subject to Parliament's agreement, in producing the Code of Audit Practice and associated guidance); the Chartered Institute of Public Finance and Accountancy, Local Authority (Scotland) Accounts Advisory Committee and the Society of Local Authorities Chief Executives as the respective authors of the Code of Practice on Local Authority Accounting and the Local Authority Governance Framework, and local public bodies themselves.

## **PUBLIC INTEREST REPORTING**

101. The consultation proposed to retain existing duties for auditors around Public Interest Reporting and asked whether the new processes for resignation and removal of auditors would mitigate the risk that the introduction of local auditor appointment would impact on the auditor's ability or willingness to publish Public Interest Reports.
102. The vast majority of responses agreed that the safeguards outlined in the consultation document would allow the auditor to issue a public interest report, but some had concerns that the safeguards may not work in practice.

### **The Government's response**

103. Government intends to retain the duty for auditors of all local public bodies to undertake Public Interest Reporting under the new framework. As is the case currently audited bodies will be charged for reasonable work involved in undertaking a Public Interest Report. The new framework will also retain the duty on audited bodies to consider Public Interest Reports at a meeting within one month of the report and to publish the details of the meeting.
104. In addition, in order to improve transparency we intend to introduce a new requirement for audited bodies to publish the Public Interest Report, as well as the existing requirement to publish a notice of and agenda for the meeting at which it will be discussed, but local bodies will in future be able to choose the mode for publishing these.
105. However, we recognise the concerns expressed around the need for further safeguards for Public Interest Reporting. We will work with partners to finalise the details of these, in particular the role of the Independent Auditor Appointment Panel, and arrangements for protecting auditors in undertaking and receiving payment for Public Interest Reports, and how the publication of Public Interest Reports may help to increase transparency and engage local people.

## **PROVISION OF NON-AUDIT SERVICES**

106. The consultation proposed that auditors would be able to provide non-audit services to the audited body, with safeguards in the system to prevent any actual or perceived threats to the auditor's independence. It also proposed that auditors should continue to adhere to the ethical standards produced by the overall statutory regulator and permission should be sought from the audit committee who would provide advice to the body on whether non-audit work should be undertaken as well as continuing to monitor the relationship between the auditor and the audited body.
107. The majority of respondents favoured the auditor being able to provide non-audit services to the local public body in line with the regulator's current ethical guidelines and agreed that we had identified the correct balance between safeguarding auditor independence and increasing competition.



## **The Government's response**

108. Auditors of local public bodies will be required to continue to comply with ethical standards and other applicable independence rules set by the regulator.<sup>3</sup> The Government considers that the current ethical standards provide sufficient safeguards for auditor independence. We therefore propose to enable auditors to provide non-audit services to the audited body, subject to adhering to the ethical standards produced by the Auditing Practices Board and gaining approval to undertake the work from the Independent Auditor Appointment Panel.

## **PUBLIC INTEREST DISCLOSURE**

109. The consultation proposed that the Audit Commission's role in receiving, acknowledging receipt of and forwarding the facts of disclosure should be broadly transferred to the audit committee of the local public body. It also envisaged that the statutory auditor and the audit committee of the local public body would continue to be prescribed persons under the Public Interest Disclosure Act and would continue with their role with no change from the current system. The majority of responses agreed that was appropriate.

## **The Government's response**

110. The Government considers it important that suitable mechanisms are in place to enable individuals to make disclosures under the Public Interest Disclosure Act. Having considered the responses received, we consider that it makes sense for the auditor and the Independent Auditor Appointment Panel to be designated persons under that Act and we intend to legislate accordingly.

## **TRANSPARENCY**

111. The consultation proposed that the new framework for local audit would modernise the way in which local electors' objections would be considered. It proposed that electors would retain the right to make representations and raise issues and questions with the auditor (this does not apply to health bodies). It also proposed to introduce discretion for the auditor to decide which representations to follow up.
112. The overwhelming majority of respondents agreed that we should modernise the way objections to the accounts are handled. However, whilst respondents accepted that the auditor should have discretion as to whether to pursue particular objections, it was also suggested that standard criteria should be developed to help an auditor determine if he should investigate an individual representation.

## **The Government's response**

113. The Government considers that the right of an elector to make an objection to accounts is a long-established and beneficial principle. However, we note that there are many more mechanisms now by which the electorate can hold local public bodies to account than when the right to object to the accounts was

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<sup>3</sup> Those most applicable to provision of non audit services are <http://www.frc.org.uk/images/uploaded/documents/ES5vprint.pdf>

introduced more than 150 years ago. Also the costs of auditors investigating objections can be disproportionate to the sums involved in the complaint or to the normal audit costs of the local public body. Auditors currently have little discretion to refuse to investigate objections and the costs of investigating objections are recovered from the local public body. We therefore intend to legislate to provide a power to give the auditor discretion to reject vexatious, repeated or frivolous objections. We would welcome a discussion on whether guidance should be produced to help the auditor exercise that discretion.

## **FREEDOM OF INFORMATION**

114. The consultation proposed that auditors of local public bodies should be brought within the remit of the Freedom of Information Act to the extent that they are carrying out their functions as public office holders, although recognised the potential impact on audit fees and relationship between the auditor and audited body.
115. Some respondents thought that this would be unnecessary as the information would already be available under the Freedom of Information Act from the audited body. All respondents thought that audit fees would increase, and there were mixed views about the impact on working relationships.

## **The Government's response**

116. The Government does not see a compelling case to bring the auditor's public office holder functions within the remit of the Freedom of Information Act. The information held by appointed auditors currently is not subject to the Freedom of Information Act because appointed auditors are not currently 'public authorities' for the purposes of the Freedom of Information Act. We consider that the audited bodies being covered by the Freedom of Information Act and the requirements around publication of the accounts, the auditor's report and Public Interest Report, provide sufficient and transparent access to key material for the public. The inclusion of local public auditors within the remit of the Freedom of Information Act would therefore add little, and has the potential to increase audit fees.

## CHAPTER 3

# Other functions of the Commission

117. There are a number of functions that are currently exercised by the Audit Commission under the Audit Commission Act 1998, the future operation of which were not covered in the consultation on the Future of Local Audit. Government's current thinking in relation to these functions is set out below.

## Grant certification

118. The Audit Commission Act gives power to the Commission to make arrangements for the certification of audited bodies' claims for grants and subsidies from government departments, and charge authorities the full cost of certification. Certification helps grant-paying bodies satisfy themselves that a scheme is operating as intended. It is not an audit but is designed to provide reasonable assurance to grant-paying bodies about an authority's entitlement to grant or subsidy, or about the information provided in a return. Specific instructions or 'Certification Instructions' are developed for each scheme and different levels of assurance arrangements are applied to different thresholds of grant.
119. In 2010-11, certification arrangements were made for 20 schemes, and this has reduced to 16 schemes in 2011-12. Government is reducing the number of ringfenced grant programmes which will lead to a further reduction in the number of grant schemes for the Commission to certify. However, it is expected that a number of grant schemes will be live when the Audit Commission closes – so new certification arrangements are required for these and any new grant programmes.
120. The future arrangements for grant certification were not included in the consultation. Following the Audit Commission's closure, grant paying bodies for new grants will need to develop separate arrangements, either in the form of free-standing tripartite agreements (between the grant paying body, the payee and its auditor) or self-certification. Free-standing tripartite agreements would require the grant paying body to define the assurance requirements and certification instructions, and the local body to procure the necessary certification from its auditor. Some grant programmes may use self-certification to provide assurance: this relies on the internal governance and controls of the grant recipient and requires the Chief Executive or Section 151 Officer to certify the claim, usually through a standardised declaration. These arrangements will be supported by Treasury guidance, to ensure consistency of approach across Government grant programmes. For existing grant programmes currently certified by the Audit Commission, we are working with grant paying bodies to develop transitional arrangements that provide the assurance required.

1.

## The National Fraud Initiative

121. The National Fraud Initiative is a secure, fully accredited, data matching service operated by the Audit Commission under statutory data matching powers now provided for in the Audit Commission Act 1998 with the purpose of protecting the public purse from fraud. It is run by a small team of 8 data matching specialists within the Commission.
122. The Commission's data matching powers mandate those bodies that are audited by the Commission to submit data for matching purposes. These include local authorities, health bodies - including Primary Care Trusts, Health Authorities, Foundation Trusts and Strategic Health Authorities - Housing Associations, Police, Fire, and Civil defence and ambulance services, Passenger Transport Executives and others.
123. The Commission currently runs a data-matching exercise every two years (although it is working on proposals to develop the National Fraud Initiative into a real-time data matching service). In 2008-09, it processed some 8,000 datasets from 1,300 organisations (including 100 voluntarily provided from the private sector) and identified fraud, errors and overpayments with a value of £215m. This brought the total value of detected fraud etc. since its inception in 1996 to £664m.
124. The Government is committed to the continuation of the National Fraud Initiative and the Department for Communities and Local Government has been considering the best way of securing that outcome. This has included talking to other parts of Government – the Department for Work and Pensions and the National Fraud Authority (an executive agency of the Home Office) – that are interested in taking on operational ownership of the National Fraud Initiative once the Commission is disbanded. We will be discussing these options further with the local public bodies who submit data and use the National Fraud Initiative.

## Value for money studies

125. Section 33 of the Audit Commission Act 1998 gives the Audit Commission a duty to promote or undertake comparative or other studies in local authorities (including police authorities and fire and rescue authorities) so that they can make recommendations to improve the economy, efficiency and effectiveness of local public services, and the financial management of local public bodies. Only the financial management element applies in relation to the health sector. The Commission also has a duty to report on the effect of central government regulation, legislation, and directions on the ability of local authorities to achieve the 3Es (section 34). There is no equivalent power in relation to health. Before undertaking or promoting any value for money study, the Commission has a statutory requirement to consult with a range of parties as appropriate. It has typically consulted both on its forward programme and on a study-by-study basis.

126. The Commission has a long history of publishing recommendations from its national studies. Early reports looked at specific local government services, for example seeking to drive improvement in subjects as diverse as vehicle maintenance and social services for the elderly. The research was also used to provide audit guides that were applied through the appointed auditors in relevant local authorities. More recently, with local public bodies working together across sectors and with a wide range of partners in the public, private and voluntary sectors, the Audit Commission have examined how well that collaboration has delivered efficient and effective outcomes.
127. The Government announced in August 2010 that the Commission's research activities would stop and final reports remain to be published. We consider that there is scope for rationalisation in the number of value for money studies published relating to the local public sector compared to the number previously undertaken. We would like to see a coherent and complementary programme of offerings across providers including the National Audit Office, central Government and the Local Government Association. This was a view supported by the Communities and Local Government Select Committee inquiry into the audit and inspection of local authorities.

## CHAPTER 4

# Implementation and next steps

128. The preceding paras of this document set out the future proposals for principal local public bodies, currently defined as those with gross revenue expenditure over £6.5m. Under the Audit Commission regime there are different arrangements for the audit of smaller bodies, with a more proportionate form of scrutiny than a full audit (limited assurance audit), with the level of examination based on the income or expenditure of the body. The consultation document proposed different arrangements for smaller bodies would also apply in future. It also recognised the burden on smaller bodies of the local auditor appointment models and outlined different options for auditor appointment. We propose to do some further work with the sector to explore and build consensus around options for these bodies before firming up proposals and setting out our preferred approach in Spring 2012.
129. Having set out the key elements of the arrangements for principal bodies, we plan to hold further discussions with local authorities and other local public bodies, as well as audit firms, to flesh out the underlying detail of the framework, and how it might be implemented. We will also be working with key partners and the Audit Commission to develop appropriate transitional arrangements.
130. The Government will bring forward legislation to close down the Audit Commission and to put in place a new framework in line with the proposals set out in this response as soon as Parliamentary time allows. We intend to publish a draft Bill for pre-legislative scrutiny in Spring 2012, which allows for examination and amendments to be made before formal introduction to Parliament.
131. The Audit Commission is currently in the process of outsourcing all the audit work of its in-house practice. The outsource contracts that the Commission will put in place will start from 2012-13 and are expected to run for three or five years giving local councils and other public bodies the time to plan for appointing own auditors. Once the audits have been outsourced the Commission will be radically reduced in size to become a small residuary body responsible for overseeing the contracts and making any necessary changes to the individual audit appointments during the life of the contracts.

## ANNEX A

# How different types of local public bodies will appoint their auditors

Body	Directly elected/ non-elected	Who Appoints
A local authority (meaning a county council, district council, London borough council).	Elected	Full Council
A Joint authority (meaning an authority established by Part 4 of the Local Government Act 1985).	Non-elected	IAAP
The Greater London Authority	Elected	Mayor and London Assembly
Mayor's Office for Policing and Crime	Elected	Mayor and London Assembly
Mayoral Development Corporation	Non-elected	IAAP
A functional body (meaning Transport for London, the London Development Agency, and the London Fire and Emergency Planning Authority)	Non-elected	IAAP
The London Pensions Fund Authority	Non-elected	IAAP
The London Waste and Recycling Board	Non-elected	IAAP
A committee of a local authority, including a joint committee of two or more such authorities	Non-elected	Full Council
The Council of the Isles of Scilly	Elected	Full Council

The Broads Authority	Non-elected	IAAP
A national park authority	Non-elected	IAAP
Police and Crime Commissioner and Chief Constable	Elected	Police and Crime Commissioner
A single purpose fire and rescue authority	Non-elected	IAAP
An authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities)	Non-elected	IAAP
An economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009	Non-elected	IAAP
A combined authority established under section 103 of that Act	Non-elected	IAAP
The accounts of the collection fund of the Common Council and the accounts of the City fund	Elected	Full Council
The accounts relating to the superannuation fund maintained and administered by the Common Council under the Local Government Pension Scheme Regulations 1995	Elected	Full Council
Passenger Transport Executive	Non-elected	IAAP



## Anti-Fraud, Theft and Corruption Policy

<b>Issue details</b>																																					
<b>Title:</b>	<b>Anti-Fraud, Theft and Corruption Policy</b>																																				
<b>Issue and version number:</b>	<b>Issue 2</b>																																				
<b>Contents:</b>	<table> <tr><td>Policy Statement</td><td>Page 2</td></tr> <tr><td>The Council's Commitments</td><td>Page 2</td></tr> <tr><td>Specific Policy Areas</td><td>Page 2</td></tr> <tr><td>Culture</td><td>Page 3</td></tr> <tr><td>Prevention</td><td>Page 4</td></tr> <tr><td>Detection and investigation</td><td>Page 5</td></tr> <tr><td>Deterrence</td><td>Page 6</td></tr> <tr><td>Fraud response plan</td><td>Page 7</td></tr> <tr><td>Procedure for reporting and investigating suspected fraud and corruption</td><td>Page 8</td></tr> <tr><td>Awareness and accessibility</td><td>Page 15</td></tr> <tr><td>Whistleblowing</td><td>Page 15</td></tr> <tr><td>Bribery</td><td>Page 15</td></tr> <tr><td>Review</td><td>Page 15</td></tr> <tr><td>Policy consultation</td><td>Page 15</td></tr> <tr><td>Assessment and appraisal</td><td>Page 16</td></tr> <tr><td>Policy Review</td><td>Page 16</td></tr> <tr><td>Related policies and strategies</td><td>Page 16</td></tr> <tr><td>The seven principles of public life</td><td>Page 17</td></tr> </table>	Policy Statement	Page 2	The Council's Commitments	Page 2	Specific Policy Areas	Page 2	Culture	Page 3	Prevention	Page 4	Detection and investigation	Page 5	Deterrence	Page 6	Fraud response plan	Page 7	Procedure for reporting and investigating suspected fraud and corruption	Page 8	Awareness and accessibility	Page 15	Whistleblowing	Page 15	Bribery	Page 15	Review	Page 15	Policy consultation	Page 15	Assessment and appraisal	Page 16	Policy Review	Page 16	Related policies and strategies	Page 16	The seven principles of public life	Page 17
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<b>Officer responsible:</b>	<b>Monitoring Officer</b>																																				
<b>Authorisation by:</b>	<b>SMT then Cabinet</b>																																				
<b>Authorisation date:</b>																																					
<b>Review date:</b>																																					

## **1. Previous Policy**

September 2009

## **2. Policy Approval**

Audit and Governance Committee

## **3. Policy Statement**

3.1. The Council has always set itself high standards of honesty and probity. Although the instances of fraud and theft are rare, and the Council is not aware of any corruption, this policy is the Council's stance on these matters. The Committee in Public Life have produced a report, which sets out seven principles of public life (see Appendix 1). The Council endorses these principles, which apply to everybody who is involved with the work of this Council, including:

- Councillors
- Employees
- Contractors
- Consultants
- Suppliers and partners
- Customers and residents who deal with the Council.

3.2. In addition, the Council expects the citizens of East Devon to be honest in their dealings with the Council.

## **4. The Council's Commitments**

4.1. The Council is against fraud, theft and corruption whether it is attempted on or from within the Council, and is committed to this Anti-Fraud, Theft and Corruption Policy which is designed to:

- Encourage prevention
- Promote detection, and
- Identify a clear approach for investigation

4.2. The strategy, however, will not compromise the authority's Equality and Diversity Policy or any obligations as an employer under the code of conduct for local government employees.

## **5. Specific Policy Areas**

5.1. The Council's Anti-Fraud, Theft and Corruption Policy is based on a series of comprehensive and inter-related procedures designed to frustrate any attempted fraudulent or corrupt act. These cover:

- Culture
- Prevention
- Detection and Investigation
- Deterrence
- Response
- Training
- Whistleblowing
- Bribery

- 5.2. There is also a high degree of external scrutiny of Council business by a variety of bodies, including:
- Local Government Ombudsman
  - Audit Commission
  - Central Government Departments and Parliamentary Committees
  - Her Majesty's Revenues and Customs (HMRC)
  - Inland Revenue
  - Department of Work and Pensions (DWP)
  - The Surveillance Commissioner
  - The Information Commissioner
- 5.3. These bodies are important in highlighting any areas where improvements can be made. In addition, the External Auditor's statutory duties include ensuring that the Council has in place adequate arrangements for the prevention and detection of fraud and corruption. The Council is fully committed to implementing changes to working practices that any of these bodies identify as necessary to improve our controls.
- 5.4. For the purposes of the policy, Fraud and Corruption are defined as:
- 5.5. Fraud - The intentional distortion of financial statements or other records by anyone internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain.
- 5.6. Corruption - The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.
- 5.7. This policy also covers the failure to disclose an interest in order to gain financial or other pecuniary gain.

## **6. Culture**

- 6.1. The Council is committed to ensuring that its culture will continue to be one of honesty and opposition to fraud, theft and corruption. There is an expectation and requirement that all individuals and organisations associated in whatever way with the Council will act with integrity and that Council staff and Members, at all levels, will lead by example in these matters.
- 6.2. The Council has a range of interrelated policies and procedures to provide a framework to counter fraudulent or corrupt activities. These include:
- The Constitution
  - Standards Committee and Audit and Governance Committee
  - Code of Conduct for Members
  - Standing Orders
  - Code of Conduct for Staff
  - Effective Benefit Investigation Team
  - National Fraud Initiative and the Local Code of Data Matching
  - Financial Regulations
  - Procurement Strategy
  - Corporate Risk Register

- IT Security Policy framework, particularly the Security Incident Policy
- Effective audit procedures with South West Audit Partnership (SWAP)
- Recruitment and Selection Procedures
- Disciplinary Procedures
- Whistleblowing Policy
- Training

## **7. Prevention**

### **Employees**

- 7.1. The Council recognises that a key preventative measure in the fight against fraud, theft and corruption is to take effective steps at the recruitment stage to establish as far as possible, the previous record of potential staff, in terms of their propriety and integrity. Temporary and contract staff should be treated in the same manner as permanent staff.
- 7.2. Staff recruitment must be in accordance with approved employee selection policies and, in particular, the Council will obtain written references on the honesty and integrity of candidates before employment offers are made. Criminal Record Checks are made where appropriate.
- 7.3. Each employee is governed in his or her work by:
  - The Council's Standing Orders
  - Financial Regulations
  - The Employee Code of Conduct
  - Employment Contract and Handbook, together with the suite of policies our employees read and sign at the start of their employment
  - Gifts and Hospitality Register
- 7.4. Employees are expected always to be aware of the possibility that fraud, corruption or theft may exist in the workplace and be able to share their concerns with management.

### **Members**

- 7.5. Members are required to operate within:
  - The Constitution — this sets out responsibility for functions and contains:
    - Council's Standing Orders
    - Members' Code of Conduct
    - Section 106 of the Local Government Finance Act 1992
    - Local Government legislation
- 7.6. These matters are specifically brought to the attention of Members in the Members' Manual and include the declaration and registration of interests with the Monitoring Officer, potential areas of conflict between Members' Council duties and responsibilities, and any other areas of their personal or professional lives.
- 7.7. The Members Code of Conduct was approved by the Council and the Standards Committee. This Committee have responsibility for maintaining high standards of conduct by Members of this council.

## **Systems**

- 7.8. The Council has Financial Regulations in place that require staff, when dealing with the Council's affairs, to act in accordance with best practice.
- 7.9. The Section 151 Officer has statutory responsibility under the Local Government Act 1972 to ensure the proper arrangements of the Council's financial affairs and has developed Financial Codes of Practice and Accounting Instructions, which outline the system.
- 7.10. The Monitoring Officer has a statutory responsibility under Section 5 of the Local Government Housing Act 1989 for monitoring the conduct of the Council's business.
- 7.11. The Council has developed, and is committed to continuing with, systems and procedures which incorporate efficient and effective internal controls and which include adequate separation of duties. Strategic Management Team has to ensure that these controls are properly maintained and documented. Their existence and appropriateness is independently monitored by SWAP.

## **Working with other agencies**

- 7.12. There are arrangements in place to encourage the exchange of information between the Council and other agencies on national and local fraud, theft and corruption activity in relation to Local Authorities.

These include:

- Police
- Audit Commission
- DWP
- HM Revenues and Customs
- Other Local Authorities

## **8. Detection and investigation**

- 8.1. The array of preventative systems, particularly internal control systems within the Council, has been designed to provide indicators of any fraudulent activity, although generally they should be sufficient in themselves to deter fraud. It is often the alertness of staff, Members and the public to indicators of fraud, theft or corruption that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may be in progress.
- 8.2. Despite best efforts of managers and auditors, many frauds and thefts are discovered by chance or by a tip-off and the Council has in place arrangements to enable such information to be properly dealt with.
- 8.3. Employees of the Council are required by its Financial Regulations to report (verbally or in writing) all suspected irregularities to their manager.
- 8.4. Reporting is essential and:
  - ensures consistent treatment of information on fraud, theft and corruption
  - facilitates proper investigation

- ensures the proper implementation of a fraud response investigation plan.
- 8.5. The Fraud Forum (Section 151 Officer, Monitoring Officer, Deputy Monitoring Officer, Corporate Managers – Organisational Development and ICT, any other officer deemed appropriate, for example the Head of Service originally notified) will meet to discuss any relevant issue raised by a Head of Service. Their decision will depend on the nature and anticipated extent of the allegations, and where necessary, SWAP will work closely with either the S151 Officer or Monitoring Officer to ensure that a proper investigation is undertaken and a report with supporting evidence is produced.
  - 8.6. The Council's Disciplinary Procedures will be used where the outcome of any Audit Investigation indicates improper behaviour.
  - 8.7. The Council will normally contact the police where financial impropriety is discovered.

### **Detection and investigation of Benefit Fraud**

- 8.8. East Devon District Council's aim is to:
  - take all reasonable steps to deter, prevent, and detect fraudulent claims for benefit
  - conduct investigations fairly, tactfully and consistently
  - take appropriate and justifiable action in cases where fraud is found
  - defend the finances of the council by maximisation of subsidy through sanction action and appropriate recovery of overpayments.

### **Benefit Fraud — Prosecutions and sanctions**

- 8.9. Where fraud is proven the Council will prosecute offenders where appropriate taking into account the:
  - severity of the offence
  - public interest
  - social factors such as the age/state of health of the offender and possibly his/her family
  - amount stolen
  - co-operation and explanation of the offender
  - strength of evidence.
- 8.10. No single factor will determine whether or not a prosecution will be pursued, but officers will strive to apply consistency when reaching a decision. A separate prosecution policy sets in more detail the Council's approach.

## **9. Deterrence**

- 9.1. There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts and these will be reported on each quarter to Strategic Management Team.
- 9.2. The Council will:
  - publicise the fact that the Council is firmly set against fraud and corruption

- act decisively and robustly when fraud or corruption is suspected or proven
- take action to maximise recovery of losses to the Council
- publicise successful prosecutions and share learning across the council
- have in place sound systems of internal control that are based on risk assessment and minimise the opportunity for fraud or corruption.

### **Fraud Drives**

- 9.3. Fraud Drives will be undertaken to verify and proactively identify possible frauds. East Devon District Council will work with organisations such as Department of Work and Pensions and the Her Majesty's Revenues and Customs to undertake joint fraud drives which ensure that a robust approach and larger claim base is verified.

### **National Fraud Initiative**

- 9.4. The NFI is a data matching exercise carried out by the Audit Commission every two years, as part of the statutory audit function and in accordance with the Audit Commission Act 1998. All Councils are required to provide data from their systems, which are then matched against the records held by other Councils to identify fraud. East Devon District Council fully comply with the requirements of this initiative.

### **Tools available to combat fraud and error in the Benefit System**

- 9.5. A number of different acts have come into power which gives the authority powers to investigate fraud and error in a number of ways. Some of the tools are powerful weapons in the fight against fraud and are used where the authority believe that a fraud is being perpetrated.
- 9.6. These include:
- Use of a dedicated counter fraud specialist
  - Access to Royal Mail redirection information
  - Access to information from other Government departments, for example, HMRC
  - Direct access to benefit data held by the DWP
  - Enforcing disclosures from landlords/agents
  - Use of administrative penalties
  - Additional overpayment recovery powers
  - Powers that enable authorised officers of the authority to request details from banks, building societies, utilities and other organisations and pay records, that pertain to an individual which will identify income, capital or other details that have not been declared.

## **10. Fraud response plan**

- 10.1. The key documents that contain the procedures to be followed in the event of fraud are the:

- Fraud investigation process in Section 11
- Code of Conduct for staff — paragraph 11.1
- Disciplinary Policy

- 10.2. The Welcome Process for new employees will explain this, and related policies and procedures. Council staff are positively encouraged to raise

any concerns about fraud, theft and corruption that they may have on these issues where they are associated with the Council's activities. Concerns must be raised when Members or employees reasonably believe that one or more of the following has occurred, is in the process of occurring, or is likely to occur:

- A criminal offence
- A failure to comply with a statutory or legal obligation
- Improper unauthorised use of public or other funds
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering of an individual's health and safety
- Damage to the environment
- A deliberate concealment of any of the above.

10.3. They can do this in the knowledge that such concerns will be treated in confidence and properly investigated.

## **11. Procedure for reporting and investigating suspected fraud and corruption**

11.1. The Council relies on its staff to help prevent and detect fraud. It is often members of staff who are in a position to identify potential cases of fraud and corruption at an early stage.

11.2. Staff are encouraged to report any suspected fraud or corruption and the means for reporting confidentially is detailed in the Employee Code of Conduct.

11.3. Any suspected fraud should be reported initially to the Head of Service. If this is not appropriate, for example, if they may be involved, then you should contact either the Section 151 Officer or Monitoring Officer instead.

11.4. The actions that are taken at the early stages when fraud is suspected can affect the success of any investigation. There is a need for coordinated action which should be clear, prompt and appropriate to the circumstances.

11.5. Our response will be coordinated by the Fraud Forum. The Forum will agree next steps, for example:

- allocate responsibility for the investigation to a lead officer and decide on the extent of their powers and remit
- decide whether it is appropriate to involve other agencies such as the police
- decide on the frequency of reports, meetings and communication/publicity

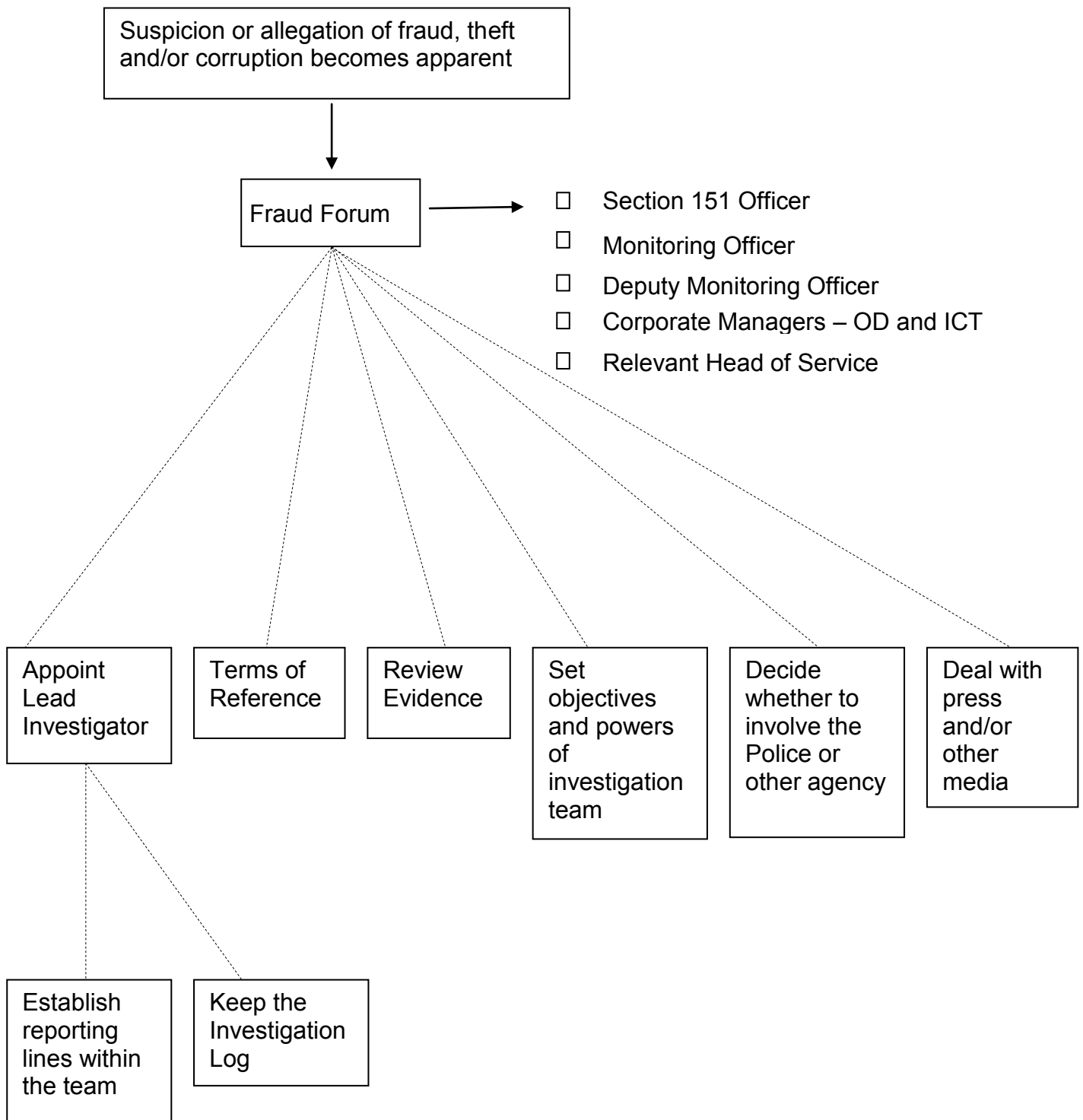
11.6. If the Police are called, for example, if a burglary is discovered out of normal working hours, the member of staff must alert the Section 151 Officer or Monitoring Officer as soon as is practicable.



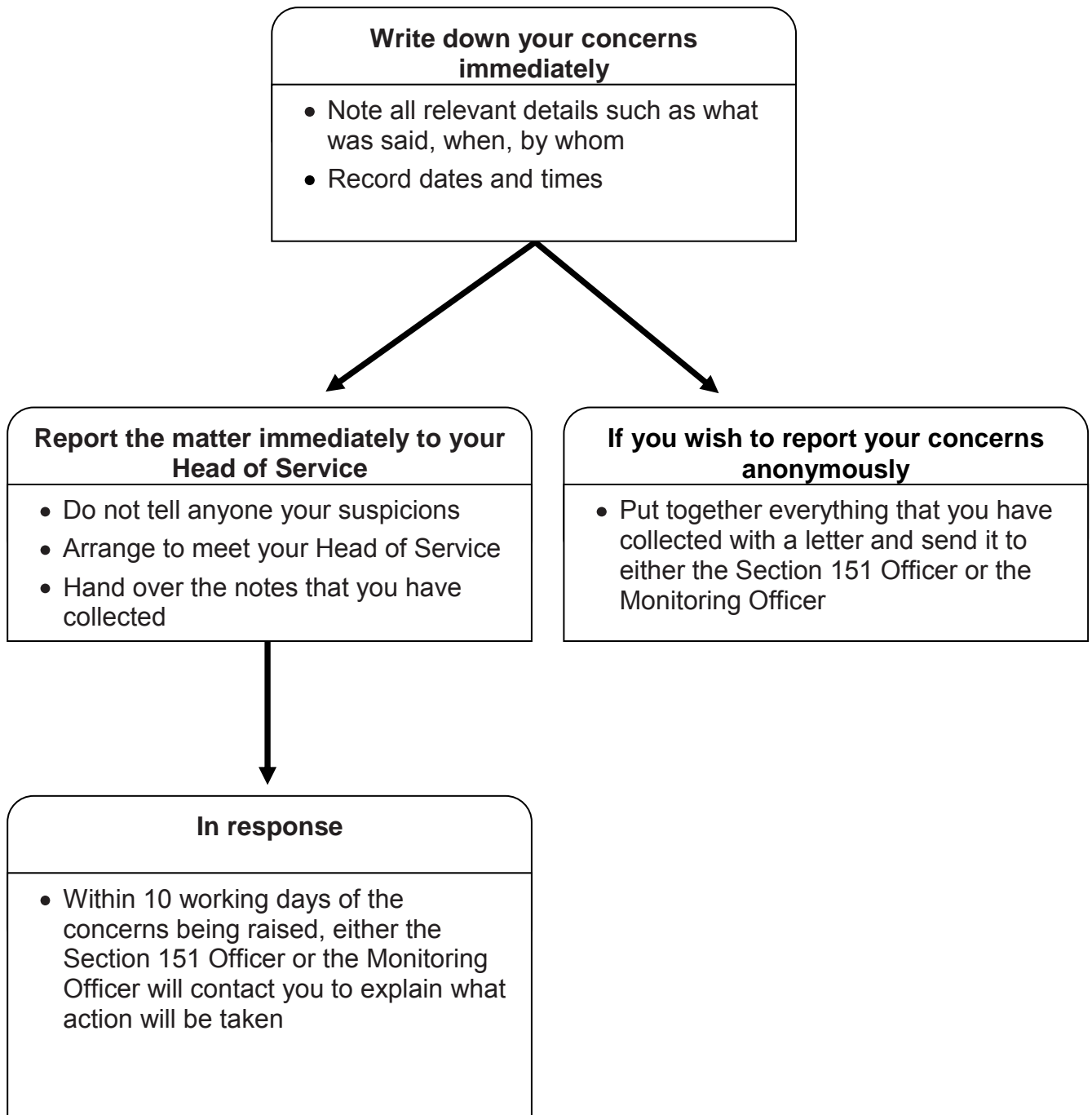
- 11.7. The Forum or Investigator will need to consider whether suspending an individual is appropriate and get appropriate HR advice. Any officer or employee of a company working for the Council who is suspended must be asked to hand back their security pass, office keys, council laptop and any other council assets in their possession.
- 11.8. The Investigator will ensure that only fully qualified staff who are fully aware of the implications of the Police and Criminal Evidence Act are involved in the investigation.
- 11.9. Specialist recording equipment may be used in interviews and should the situation warrant it, the Investigator may make arrangements with the local Police to have the member of staff arrested and interviewed in a custody suite at the local police station.
- 11.10. All interviews must be conducted with more than one Investigator present. The Investigators must advise the member of staff of their right to legal advice and permit them to have a representative present.
- 11.11. The Investigator will liaise with HR staff so that disciplinary matters can be discussed.
- 11.12. The investigation should only be closed once the Fraud Forum and the council are satisfied that the matter can successfully be concluded and that the legal advisers have all the information they need to undertake a prosecution – should that be the recommendation

Our diagram on the next page shows the Fraud Forum process and then on pages 11, 12, 13 and 14, the various stages of dealing with suspected fraud, from initial concerns on the part of a member of staff through to what happens after an investigation.

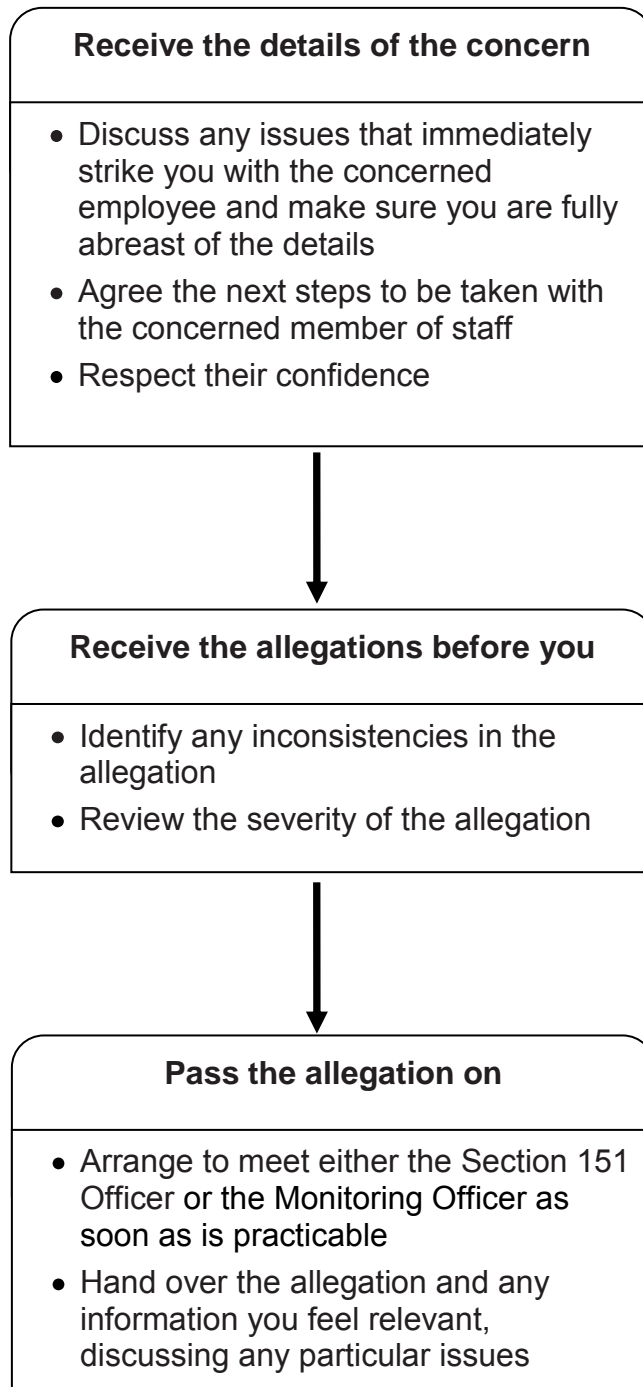
# Fraud Forum



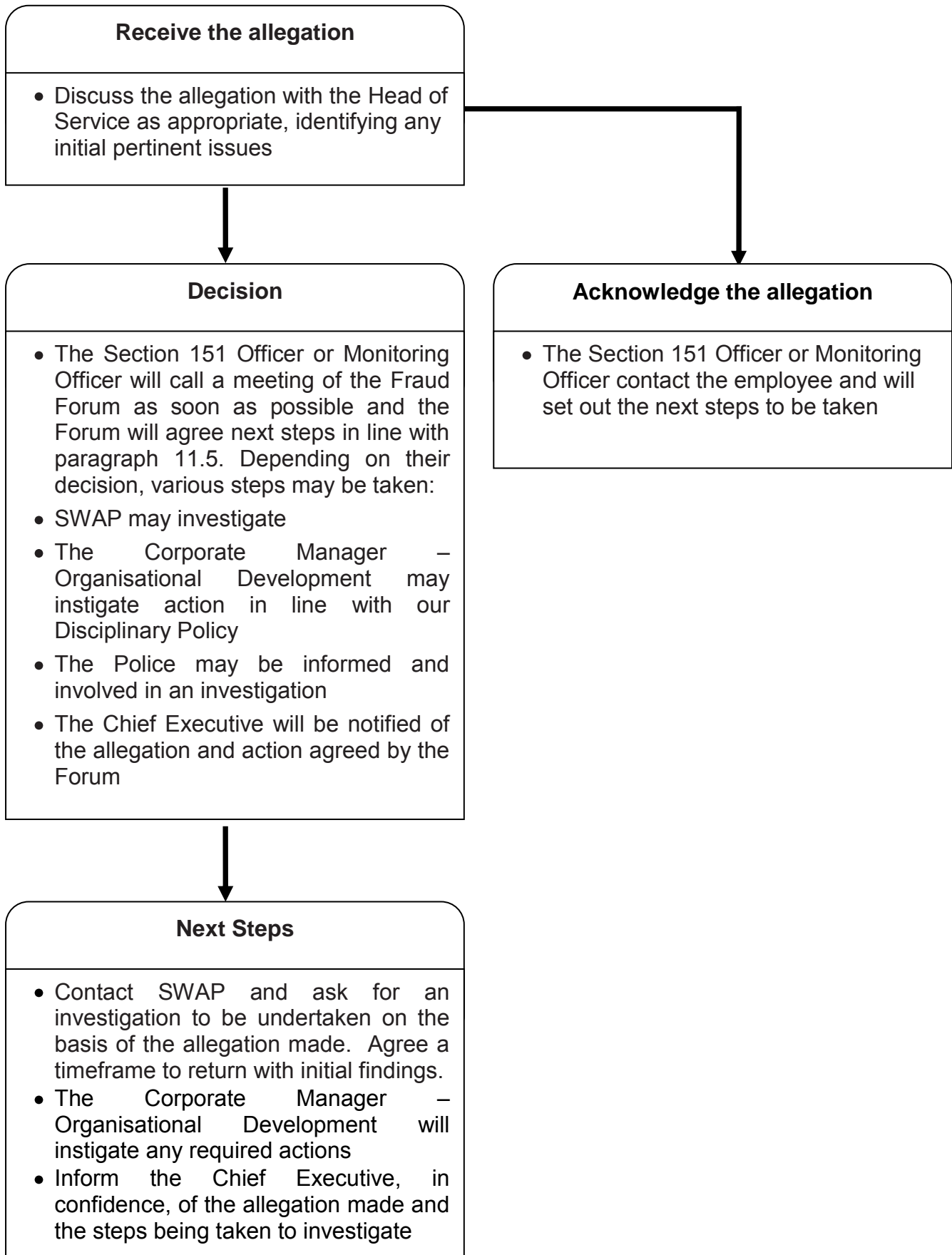
## Action by employees



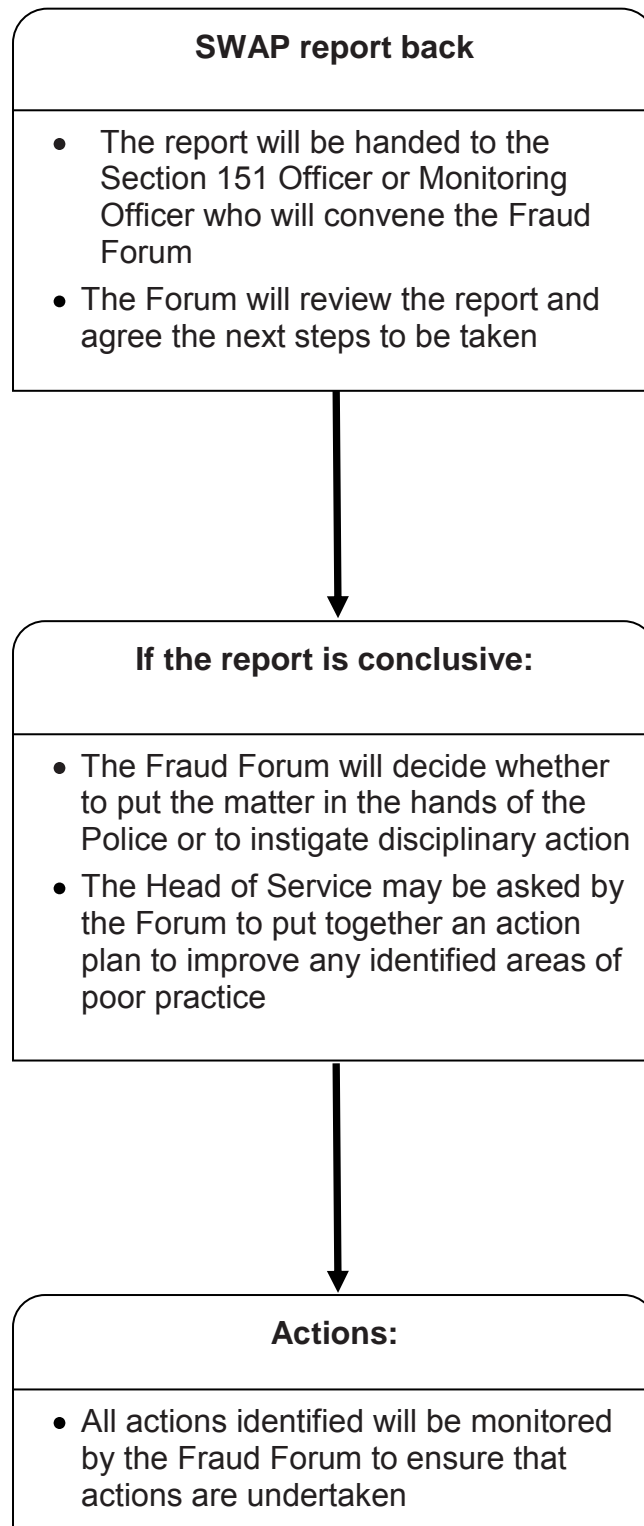
## Action by Head of Service



### 13. Action by Section 151 Officer and/or Monitoring Officer



## 14. After a SWAP investigation



## **15. Awareness and accessibility**

15.1. The Council recognises that the effectiveness of its Anti-Fraud, Theft and Corruption Policy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of staff throughout the organisation. To facilitate this, the Council supports training for Members and particularly for staff involved in internal control systems to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced.

15.2. In addition, the Deputy Monitoring Officer will maintain a record of reports of suspected fraud and corruption and report to Strategic Management Team on a regular basis so that they are aware of issues.

## **16. Whistleblowing**

16.1. The Council is aware of the difficulties and conflicts that may arise for staff and Members who suspect a colleague of fraud, theft or corruption. It is nevertheless essential that all instances be reported without delay. It is incumbent on all staff and Members to report any suspicions related to the workplace. Our Whistleblowing Policy outlines the details and procedures for employees and members of the public.

16.2. Wherever possible, all instances reported will be treated in the strictest confidence and in extreme cases, facilities exist to report anonymously. It is, however, impossible to guarantee anonymity, especially where disciplinary action or prosecution arises.

## **17. Bribery**

17.1. The Bribery Act 2010 came into force in July 2011 and made bribery a criminal offence. Our Bribery Policy outlines our approach to meeting the legal requirements and provides a consistent framework for officers and councillors.

## **18. Review**

18.1. If needed, the Section 151 Officer will arrange to meet with the Monitoring Officer, Deputy Monitoring Officer and Corporate Manager – Organisational Development on a six monthly basis to review any reported fraud and the subsequent action that has been taken to:

- ensure that the response plan has been followed
- review whether or not the response plan has been robust enough to react correctly to the allegation made
- review the results of the investigation and what actions, if any, need to be taken to ensure that nothing similar happens in the future
- follow up with the relevant officer the changes that need to be made to ensure that they are put in place.

## **19. Policy Consultation**

19.1. Strategic Management Team, Staff Joint Forum and South West Audit Partnership

## **20. Assessment and appraisal**

20.1. This Policy has had an equality analysis.

## **21. Policy Review**

21.1. The Monitoring Officer will review this policy in the light of any legislation and in May 2015 to consider any changes required.

## **22. Related Policies and Strategies**

- Prosecution Policy
- Anti-Money Laundering Policy
- Fraud Strategy
- Code of Corporate Governance
- Codes of Conduct (Employees and councillors)
- Bribery Policy
- Grievance Policy and Procedure
- Whistleblowing Policy
- Procurement Strategy
- Financial Regulations
- Financial Operating Procedures
- Contract Standing Orders



## **Appendix 1**

### **23. The Seven Principles of Public Life**

#### **Selflessness**

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

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

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

#### **Openness**

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

#### **Honesty**

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

#### **Leadership**

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

## Anti- Bribery Policy

<b>Issue details</b>																																	
<b>Title:</b>	<b>Anti-Bribery Policy</b>																																
<b>Issue and version number:</b>	<b>Issue 1</b>																																
<b>Contents:</b>	<table> <tr><td>Policy Statement</td><td>Page 2</td></tr> <tr><td>The Council's Commitments</td><td>Page 2</td></tr> <tr><td>Specific Policy Areas</td><td>Page 3</td></tr> <tr><td>The Bribery Act</td><td>Page 3</td></tr> <tr><td>Anti-bribery procedures</td><td>Page 3</td></tr> <tr><td>Gifts, hospitality and facilitation payments</td><td>Page 4</td></tr> <tr><td>Penalties</td><td>Page 4</td></tr> <tr><td>Prevention and reporting</td><td>Page 4</td></tr> <tr><td>Raising a concern</td><td>Page 5</td></tr> <tr><td>Awareness and accessibility</td><td>Page 6</td></tr> <tr><td>Review</td><td>Page 6</td></tr> <tr><td>Policy consultation</td><td>Page 6</td></tr> <tr><td>Assessment and appraisal</td><td>Page 7</td></tr> <tr><td>Policy Review</td><td>Page 7</td></tr> <tr><td>Related policies and strategies</td><td>Page 7</td></tr> <tr><td>The seven principles of public life</td><td>Page 8</td></tr> </table>	Policy Statement	Page 2	The Council's Commitments	Page 2	Specific Policy Areas	Page 3	The Bribery Act	Page 3	Anti-bribery procedures	Page 3	Gifts, hospitality and facilitation payments	Page 4	Penalties	Page 4	Prevention and reporting	Page 4	Raising a concern	Page 5	Awareness and accessibility	Page 6	Review	Page 6	Policy consultation	Page 6	Assessment and appraisal	Page 7	Policy Review	Page 7	Related policies and strategies	Page 7	The seven principles of public life	Page 8
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<b>Authorisation date:</b>																																	
<b>Review date:</b>	<b>May 2015</b>																																

## **1. Previous Policy**

This is a new Policy in response to the Bribery Act 2010

## **2. Policy Approval**

Audit and Governance Committee

## **3. Policy Statement**

### **3.1 Bribery is a criminal offence. The definition given in the Act is:**

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

In relation to bribery, our Council's stance is:

- a. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose.
- b. We do not, and will not, accept bribes or improper inducements from anyone for any purpose.
- c. We do not, and will not, use a third party as a conduit to channel bribes or encourage bribery in any way.

### **4.1 We have a zero tolerance approach to bribery and are committed to its prevention, deterrence and detection. We aim to maintain anti-bribery compliance "business as usual", rather than as a one-off exercise, and our approach applies to everybody who is involved with the work of this Council, including:**

- Councillors
- Employees
- Contractors
- Consultants
- Suppliers and partners
- Customers and residents who deal with the Council.

## **3. The Council's Commitments**

### **4.2 The Council is committed to helping everyone involved in the work of the Council to act honestly and with integrity at all times. Our Anti-Fraud, Theft and Corruption Policy is closely linked with this Anti-Bribery Policy and both are designed to:**

- Encourage prevention of unlawful activity
- Promote detection, and
- Identify a clear approach for investigation

### **3.2. Our specific commitments in relation to anti-bribery are to:**

- a. Set out a clear anti-bribery policy and keep it up to date
- b. Train all employees so that they can recognise and avoid the use of bribery by themselves and others
- c. Encourage our employees to be vigilant and to report any suspicions of bribery by making sure it is easy to report and by sensitive handling of information

- d. Investigate any evidence that points to alleged bribery and support the police and other appropriate authorities in any resulting prosecution
- e. Take appropriate action against any individual(s) involved in bribery, including potentially using the disciplinary policy and involving the police.
- f. Include appropriate clauses in contracts to prevent bribery.

4.3 The Council is also committed to the seven principles of public life which are shown at the end of the Policy in appendix 1. The Council's own values are also relevant and worth repeating here:

Open  
Caring  
Listening  
Accountable  
Looking Forwards

## 4. Specific Policy Areas

### 5.1. Bribery act 2010

There are four key offences under the Bribery Act 2010:

([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100023\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1))

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

4.2. In relation to section 7 of the Act, an organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of people associated with the organisation.

### 4.3. Anti-Bribery Procedures

The Council's procedures are based on six principles:

#### **Proportionality**

The Council has procedures in place to prevent bribery by people associated with it. These are proportionate to the bribery risks faced by the Council and to the nature, scale and complexity of the Council's activities. They are also clear, practical, accessible, effectively implemented and enforced.

#### **Top level commitment**

The Chief Executive and his Management Team are committed to preventing bribery by people associated with it. They foster a culture within the organisation in which bribery is never acceptable.

#### **Risk Assessment**

The nature and extent of the Council's exposure to potential external and internal risks of bribery on its behalf by people associated with it is periodically assessed. This includes financial risks but also other risks such as reputational damage.

#### **Due diligence**

The Council takes a proportionate and risk based approach, in respect of people who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

#### **Communication (including training)**

The Council seeks to make sure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

#### **Monitoring and review**

Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary.

### **5.5 Gifts, hospitality and facilitation payments**

Our Employee and Councillor Codes of Conduct

<http://intranet/SearchCenter/policy/Pages/Policyregister.aspx>

[http://www.eastdevon.gov.uk/code\\_of\\_conduct\\_2007.pdf](http://www.eastdevon.gov.uk/code_of_conduct_2007.pdf)

outline the Council's agreed approach to hospitality and gifts and as from April 2012, our hospitality register will be on our website to make it more open and accessible to the public, in line with our council values. The Register is an existing tool which will help us meet the demands of the Act as it will be critical for businesses to maintain proper books and records and ensure total transparency of payments made and corporate hospitality given.

In addition to bribes being illegal, facilitation or "grease" payments (the payment of small sums of money to ensure someone performs their duty, either more promptly or at all) are also illegal.

Employees of the Council are required by its Financial Regulations to report (verbally or in writing) all suspected irregularities to their manager.

### **5.6 What are the penalties?**

If an organisation is found guilty of failing to prevent bribery, there is a risk of a prison sentence of up to 10 years. The Council risks unlimited fines, blacklisting from European Union contracts and the forfeiture of the value of illegal deals under related Proceeds of Crime and money laundering laws. Though the Serious Fraud Office is keen to encourage businesses to self report and potentially avoid the most draconian consequences, this decision should only be made after weighing up the position very carefully and taking specific legal advice.

5.7 In terms of penalties for our individual members of staff, this Policy and the Anti Fraud, Theft and Corruption Policy outline the importance for all people associated with the work of the Council to understand that they play a role in preventing, detecting and reporting bribery and other forms of corruption. As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in summary dismissal for gross misconduct.

### **5.8 Prevention and reporting**

Our Anti Fraud, Theft and Corruption Policy sections on culture, members, systems and reporting are all relevant to this Anti Bribery Policy and are

available on our intranet to read in conjunction with this Policy.

<http://intranet/SearchCenter/policy/Pages/Policyregister.aspx>

In essence, our work to make sure the six principles (described in paragraph 5.3) and procedures outlined in the Anti Fraud Policy are embedded mean we have adequate procedures in place to demonstrate a culture/organisation where bribery and corruption are unlikely to succeed.

5.9 The array of preventative systems, particularly internal control systems within the Council, has been designed to provide indicators of any fraudulent activity, although generally they should be sufficient in themselves to deter fraud. It is often the alertness of staff, Members and the public to indicators of fraud, theft bribery or corruption that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may be in progress.

5.10 Reporting is essential and:

- ensures consistent treatment of information on fraud, theft, bribery and corruption
- facilitates proper investigation
- enables the council to properly implement an investigation plan.

#### 5.11 Raising a concern

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

5.12 We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern about a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved. There are multiple channels to help you raise concerns, all outlined in the Anti Fraud, Theft and Corruption Policy <http://intranet/SearchCenter/policy/Pages/Policyregister.aspx>

5.13 Staff and councillors who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken. We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith. If you wish to discuss any worries relating to evidence which points to potential bribery or corruption, you can contact:

Denise Lyon, Monitoring Officer

Email: [dlyon@eastdevon.gov.uk](mailto:dlyon@eastdevon.gov.uk)

Tel: 01395 517480

Write to: Knowle, Sidmouth, EX10 8HL

Rachel Pocock, Deputy Monitoring Officer

Email: [rpocock@eastdevon.gov.uk](mailto:rpocock@eastdevon.gov.uk)

Tel: 01395 517401

Write to: Knowle, Sidmouth, EX10 8HL

Simon Davey, S151 Finance Officer

Email: [sdavey@eastdevon.gov.uk](mailto:sdavey@eastdevon.gov.uk)  
Tel: 01395 517490  
Write to: Knowle, Sidmouth, EX10 8HL

Chris Gunn, Group Auditor for the South West Audit Partnership (SWAP):

E-mail: [Chris.Gunn@southwestaudit.gov.uk](mailto:Chris.Gunn@southwestaudit.gov.uk)  
Tel: 07917 628779

Write to: The Deane House, Belvedere Road, Taunton, TA1 1HE.

Alternatively, you may contact the East Devon District Council Fraud Line number which is 01395 517494.

5.14 In addition, the Fraud Forum (Section 151 Officer, Monitoring Officer, Deputy Monitoring Officer, Corporate Managers – Organisational Development and ICT, any other officer deemed appropriate, for example the Head of Service originally notified) may meet to discuss any relevant issue raised. Their decision will depend on the nature and anticipated extent of the allegations, and where necessary, SWAP will work closely with either the S151 Officer or Monitoring Officer to ensure that a proper investigation is undertaken and a report with supporting evidence is produced.

#### **5.15 Awareness and accessibility**

The Council recognises that the effectiveness of its Anti-Bribery Policy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of staff throughout the organisation. To facilitate this, the Council supports training for Members and particularly for staff involved in internal control systems to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced.

In addition, the Deputy Monitoring Officer will maintain a record of reports of suspected fraud, bribery and corruption and report to Strategic Management Team on a regular basis so that they are aware of issues.

## **5. Review**

6.1 If needed, the Section 151 Officer will arrange to meet with the Monitoring Officer, Deputy Monitoring Officer and Corporate Manager – Organisational Development on a six monthly basis to review any reported fraud or bribery attempts and the subsequent action that has been taken to:

- Make sure that the response plan has been followed
- review whether or not the response plan has been robust enough to react correctly to the allegation made
- review the results of the investigation and what actions, if any, need to be taken to ensure that nothing similar happens in the future
- follow up with the relevant officer the changes that need to be made to ensure that they are put in place.

## **6. Policy Consultation**

6.2. Strategic Management Team, Staff Joint Forum and South West Audit Partnership

## **7. Assessment and appraisal**

7.2. This Policy has had an equality analysis.

## **8. Policy Review**

8.2. The Monitoring Officer will review this policy in the light of any legislation and in May 2015 to consider any changes required.

## **9. Related Policies and Strategies**

- Anti Fraud, Theft and Corruption Strategy
- Prosecution Policy
- Anti-Money Laundering Policy
- Code of Corporate Governance
- Codes of Conduct (employees and councillors)
- Grievance Policy and Procedure
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## **Appendix 1**

### **10. The Seven Principles of Public Life**

#### **Selflessness**

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#### **Integrity**

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

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

#### **Leadership**

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

# Agenda Item 11

**Audit and Governance**

**15 March 2012**

**RP**



## Update on Regulation of Investigatory Powers Act

### Summary

The Council has recently been inspected by the Office of the Surveillance Commissioners and received a positive report.

### Recommendations

It be noted that the Council's Regulation of Investigatory Powers Act [RIPA] policy has been amended in line with the Office of Surveillance Commissioner's inspector's report and that the other recommended actions in his report have been carried out.

#### a) Reasons for Recommendation

The committee has an overall monitoring role in relation to the use of the powers

#### b) Alternative Options

Although the inspection report is advisory implementing the recommendations shows the Council is seeking to maintain best practice.

#### c) Risk Considerations

Proper use of the Act assists in gathering admissible evidence for subsequent court proceedings, for example in benefit fraud cases

#### d) Policy and Budgetary Considerations

The recommendations are within budget

#### Positive Impact Overall

Thriving Economy.

Safe Environment.

Clean Environment.

Green Environment.

Excellent Customer Service.

Inspirational Council.

Meeting our crime and disorder duties.

Meeting our Diversity and Equality duties.

#### e) Date for Review of Decision

A further inspection by the Office of the Surveillance Commissioners is likely around autumn 2014. In addition the Committee receives an annual report on RIPA.

---

## **1 Inspection by the Office of the Surveillance Commissioner [OSC]**

- 1.1 Members approved a revised RIPA policy at their September 2011 meeting. On 15 November 2011, the Council was subject to an inspection by the OSC. This happened only a year after the previous inspection. The latest inspection was timed by the OSC to co-ordinate with our partner S.S.D.C [although our RIPA arrangements are quite separate from theirs]. Normally the inspection would have taken place around November 2013.
- 1.2 Nevertheless a considerable amount of work had been done on the Council's RIPA processes since the previous RIPA inspection in November 2010. The latest inspection report notes 'The Council has taken to heart all previous comments and has produced a good policy document, acted upon all previous recommendations, installed officers to manage the system who are enthusiastic and active, established a training programme and taken steps to heighten officer awareness of RIPA and its regulatory framework.'
- 1.3 A number of recommendations were made following the inspection on 15 November:
- That raising Regulation of Investigatory Powers Act [RIPA] awareness and organising corporate training be the responsibility of the RIPA Co-Ordinating Officer rather than the Heads of Service
  - That all officers who may authorise surveillance should be appropriately trained
  - That the council's policy on Directed Surveillance and Use of Covert Human Intelligence Sources be subject to minor amendment
- 1.4 The recommendations have been implemented. Committee gave me delegated authority to agree minor amendments to the policy at the September 2011 Audit and Corporate Governance meeting. The full OSC report has been circulated separately to members of the committee.

---

### **Legal Implications**

Legal issues have been covered in the report.

### **Financial Implications**

No direct financial implications are included in the report.

### **Background Papers**

- Inspection report of the Office of Surveillance Commissioners dated 17 November 2011

Rachel Pocock  
Corporate Legal and Democratic Services Manager, Ext 2601

Audit and Corporate Governance Committee  
15 March 2012



## Retention and Disposal of Documents Policy

<b>Issue details</b>	
<b>Title:</b>	<b>Retention and Disposal of Documents Policy</b>
<b>Version number</b>	<b>Version 1.2</b>
<b>Officer responsible:</b>	<b>Chris Powell</b>
<b>Authorisation by:</b>	<b>Audit and Governance Committee</b>
<b>Authorisation date:</b>	<b>19 Jan 2011</b>
<b>Review date:</b>	<b>Jan 2012</b>

## Retention and Disposal of Documents

### 1. Previous Policies/Strategies

This policy replaces “Retention of Document Guidelines - May 2007”

### 2. Purpose and scope of the Policy/Strategy

The concept of Open Government requires public authorities to be transparent, so that the public has the opportunity of seeing the information on which decisions are based. East Devon District Council (the Council) should not keep all documents which it creates but the Council needs to avoid accusations that documents have been deliberately destroyed to avoid meeting its obligations under the Freedom of Information Act 2000 (FOI).

The destruction of documents can be a very emotive issue and the process needs to be managed as part of a coherent document keeping system to avoid accusations that something is being hidden.

More practically, documents disposal needs to be managed so that the Council can cope with storage problems and is not overwhelmed with a mass of information. However, there is often a reluctance to throw documents away. This may be because there is a perceived need to keep documents “just in case”, because there is enough space to store paper documents, or enough space to keep saving electronic files on the network. However, keeping documents indefinitely can have consequences such as:

- Under the Data Protection Act 1998 “personal data” processed for any purpose or purposes must not be kept for longer than is necessary for that purpose or those purposes.
- The sheer volume of documents retained means that physical access is difficult. An excess of information inhibits clear decision making and system clog up with files in both paper and electronic environments.
- Staff resources committed to searching for information is increased.
- The office accommodation becomes cluttered and physical storage space increases.
- Electronic file storage costs thousands of pounds and requires maintenance.

Under FOI information is very broadly treated. It is defined as information documented in any form including paper documents and information documented electronically, or by any other technological means. The documents may be structured or unstructured, and the information may be documented in any number of different forms, styles, media and location. The Bill does not in general apply to undocumented information, including information which at the time of the request

has not yet been documented or information which was documented only in documents which have been destroyed.

### 3. Terms Explained

**CY** – Current Year

**P/M** - Prime /Management documentation

A prime document is one which, if lost or destroyed, would cause considerable embarrassment to the Authority. Prime documents must always be backed up and retained for statutory Internal Audit/External Audit reasons.

Examples include:

- Original documents with signatures
- Legal authorisations

Duplicates are not prime documents.

Management documents should, in general, be kept for the current year plus two financial years.

**Closure** - A document/file is closed when it ceases to be active. After closure, no new papers/information should be added to the document. Triggers for closure of a file include

- reaching an unmanageable size
- covering a period of a specified number of years
- no documents added for a specified period of time
- no action taken after a specified period of time

**Closure period** - A specified period of time during which the document is subject to restrictions on provision of access to staff and/or the public. This may be dictated by statutory requirements or by the authority's policy. Any closure period should comply with current legislation on access to local government information - including the Data Protection and Freedom of Information Acts.

**Common Practice** - Standard practice followed by Local Authorities.

**Last action** - Date of most recent amendment / addition / deletion of information.

**Permanent** –Documents which must be kept indefinitely, or for approximately 100 years, for legal and/or administrative purposes, and/or are of enduring value for historical research purposes must be transferred to a suitable archive or place of deposit.

## 4. Specific Policy Areas

### **Identification**

We will identify all documents that fall within this policy and classify them in order to specify retention periods and destruction methods.

There are some documents that do not need to be kept at all and staff may routinely destroy such information in the normal course of their duties. However, staff must refer to the Document Retention Schedule to ensure that they are not destroying any documents prior to their normal destruction date.

*Unimportant documents or information include:*

- 'with compliments' slips
- catalogues and trade journals
- telephone message slips
- trivial email or notes that are not related to the business activities of the Council
- requests for stock information such as maps, plans or advertising material
- out-of-date distribution lists
- working papers which lead to a final report
- duplicated or superseded material

Conversely there are some documents, such as deeds, that need to be kept indefinitely.

### **Retention**

We will hold documents for as long as is necessary but, subject to any statutory retention periods, we will ensure that documents are disposed of in a secure and proper manner when no longer needed.

### **Purpose**

The purpose of this Policy is to provide a corporate Policy framework to govern decisions on whether a particular document should be retained and for what period. The Policy does not cover the disposal or retention of unused materials such as stocks of paper, unused forms and materials that do not form part of a document of a Council business activity or transaction.

### **Identification and Classification**

Documents should be classified on creation wherever possible. This should be based on the categories in Appendix 2. This will enable a disposal date to be set at creation. Documents held within any council wide Electronic Document Management System (EDMS) will be disposed of automatically based on these criteria.

## **Decision to Dispose**

Any decision whether to retain or dispose of a document should only be taken in accordance with the following criteria:

- The key disposal/retention considerations checklist set out in Appendix 1.
- [“Retention Guidelines for Local Authorities”](#) produced by the Local Government Group of The Documents Management Society (RMS) of Great Britain. The Retention Schedules within the guide set out recommended and mandatory minimum retention periods for specific classes of documents where special rules and considerations apply. These guidelines have been updated and form Appendix 2.

Where a retention period has expired in relation to a particular document a review should always be carried out before a final decision is made to dispose of that document. Such reviews need not be detailed or time consuming.

The identified “document owner” is usually the Head of Service (or equivalent) that owns the process that created the file. This person makes the final disposal decision.

## **Disposal Process**

Unimportant documents, as defined earlier, are simply binned or recycled.

Disposal of formal or sensitive documents can take place in a number of ways:

- Treatment as Confidential Waste
- Physical destruction on site (paper documents)
- Deletion in respect of computer files, tapes, hard discs.
- Transfer of the document to an external body

The Document Centre Manager owns and manages the disposal process for paper documents.

The ICT Design and Compliance Manager owns and manages the disposal process for electronic hardware.

Where documents are destroyed a separate document needs to be kept, containing the references, a description, the date, method of destruction and the officer who authorised the disposal.

The document should be able to demonstrate that the disposal was in accordance with this Policy or a written document should be made justifying the reasons for departure from the Policy.

Only exceptional circumstances should justify departure from the Policy. Once documents are selected for disposal the method of disposal should be appropriate to the confidentiality of the document and the destruction should take place in a secure manner.



If the document contains personal data, confidential or business sensitive material it must be destroyed by shredding or by approved secure waste disposal contractors.

Documents that do not contain personal data, confidential or business sensitive material may be disposed of using recycle facilities.

Particular care must be taken if outside contractors are dealing with the destruction or documents off the Council's premises. The Council has a duty of care to protect documents while they are awaiting collection. They should not be left unattended on a loading bay, for example. Contracts should be carefully drawn up to ensure that the documents are kept secure in transit, and during the disposal process itself. Such contracts should allow for spot checks to be made of the contractor's premises to ensure compliance. These checks and findings should be documented and kept with the contract. The contractor should supply a dated, signed consignment note showing a consignment number and the council should be able to link this number with specific documents so that the Council can say with certainty that certain documents were destroyed under a particular consignment number.

Whenever possible methods of disposal should further the Council's commitment to recycling and sustainable development. Any disposal company has to be licensed with the Data protection Agency and the Environment Agency as a waste carrier

### **Archives**

Where documents are transferred to an archive service these must be carefully documented and documented. Only those documents that are no longer of active use may be selected for transfer to an archive.

### **Documents Due for Destruction**

Where a document which is due for destruction becomes the subject of a request for information then destruction should be delayed until the request has been satisfied or in the case of a refusal, until any complaint and appeal mechanisms have been exhausted. However before a formal request for information has been received, routine amendments, or even disposal can take place.

### **Electronic Documents**

In relation to the management of the Council's electronic documents the principles of this Policy are of equal application.

Our Electronic Document Management System (EDMS) is compliant with BSI BIP 0008. This is a code of practice that provides guidance to ensure, as far as possible, that electronic documents and scanned images will be accepted as evidence by the courts.

The Law Society, Financial Services Authority (FSA) and Her Majesty's Revenue & Customs (HMRC) all offer similar guidance, in that as long as a set procedures for the capturing and destruction of the paper copy are followed, then electronic copies should be treated the same way as the originals.

In our electronic documents management systems, the retention schedule instructions can be built into the system so that documents are automatically deleted at the appropriate time. Where this control has not been set, for whatever reason, then it is up to individuals to delete documents at the appropriate time.

When a master paper document is destroyed consideration needs to be given as to whether there are any electronic duplicates that also need to be destroyed to comply with FOI and DPA requirements.

## 5. Outcomes

- Perception of care and security in dealing with documents by the Council
- Improved document management
- Prevention of illegal disclosure
- Speeding up legitimate requests for documents under Freedom of Information requests.

## 6. Who is responsible for delivery?

- Everyone – the commitment of all Council members and staff is essential to make this policy work.
- Responsibility for determining whether to retain or dispose of specific documents rests with the Head of Service (or equivalent) in respect of those documents that fall within the remit or control of their Service, but they may wish to appoint someone else to carry out this task. However, they should ensure that any such officer is fully conversant with this Policy and is also familiar with the operational requirements of the Service so that they are able to assess the significance of the documents. The Data Protection Officer will be responsible for dealing with subject access requests and maintaining the Notification to the Commissioner, as well as offering advice on dealings with personal data.
- The Legal Team will assist in assessing disclosure in complex cases.

## 7. Performance Monitoring

The internal audit process will check adherence of this policy.

## 8. Policy/Strategy Consultation

News and Views; SMT; Audit and Governance Committee.

## 9. Equality Impact Considerations

None.

## 10. Policy/Strategy Review

This policy will be reviewed by the Corporate ICT Manager in Jan 2012.

## 11. Related Policies/Strategies, Procedures and Legislation.

- Data Protection Policy
- Customer Access Strategy
- Data Protection Act 1998
- Freedom of Information Act 2000
- Human Rights Act 1998
- Environmental Information Regulations 2004
- Local Government (Access to Information) Act 1985
- Equality Act 2010
- The Documents Management Society of Great Britain for local authorities draft retention guidance

### KEY DISPOSAL/RETENTION CONSIDERATIONS

#### 1. HAS THE DOCUMENT BEEN APPRAISED?

Once a document has been initially highlighted for disposal it should be appraised to ensure it is suitable for disposal. In most cases this should only take a few minutes or even less, but it is a skilled task depending on the documents involved. It should therefore only be undertaken by officers who have sufficient operational knowledge to be able to identify the document and its requirements for continued need within the service.

#### 2. IS RETENTION REQUIRED FOR EVIDENCE?

Any document which may be required for legal proceedings should be kept until the threat of proceedings has passed. The Limitation Act 1980 specifies time limits for commencing litigation and therefore the starting point should be whether that period has now expired. The main time limits that are directly relevant to local government are as follows:

- Claims founded on simple contract or tort (other than personal injury claims) cannot be brought after the expiration of **6 years** from the date on which the cause of action occurred. This areas includes such matters as debt recovery actions, and compensation claims in respect of sub-standard work, negligent advice, and damage to property.
- Compensation claims for personal injury are barred on expiry of **3 years** from the date on which the cause of action occurred (this will usually be the date when the incident causing the injury occurred; **or**
- the date when the injured person first had knowledge of the injury
- Claims that are based on provisions contained in documents that are 'under seal' are barred after the expiration of **12 years** from the date on which the cause of the action occurred

#### 3. IS RETENTION REQUIRED TO MEET THE OPERATIONAL NEEDS OF THE SERVICE?

In some cases retention may be desirable (whether permanent or otherwise) even though no minimum retention period applies, or has expired.

Documents or documents might be useful for future reference purposes (e.g. training), as precedents, or for performance management (performance indicators, benchmarking and comparison exercises). A professional judgment needs to be

made as to the usefulness of a particular document. This decision should be made by the Group Manager or his/her designated officer.

#### 4. IS THE DOCUMENT OR DOCUMENT OF HISTORIC INTEREST OR INTRINSIC VALUE?

In most cases this consideration will not be applicable. However, some documents currently in Council storage may be of historic interest and/or even have some monetary value. Even if the document is of historical or monetary value disposal, rather than retention by the Council, may well be the appropriate option but in the form of transfer to, say, the County Archivist; or even sale to an external body.

## Appendix 2 Document Retention Schedule

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The working list of documents is on the intranet at:

<http://intranet/Lists/Document%20Retention%20Policy%20Appendix/AllItems.aspx>

The index of documents is shown here:

Service or process	Number of document types
Financial records	124
Call Centre	1
Democratic process	17
Environmental Health and operations	10
General public service	5
Health and safety and operations	41
Housing	23
Information Management	3
Internal audit	6
Legal and contracts	17
Management	22
Personnel	23
Planning and Land Use	11
Property and Building Records	9

## Agenda Item 13

**Audit and Governance Committee**

**15 March 2012**

**SWAP**



### Internal Audit Plan 2012-13

#### Summary

As a key element of its Governance arrangements the Council have a partnership arrangement with South West Audit Partnership to deliver an annual internal audit plan. The Audit Manager for SWAP, together with the Council's S151 Officer and in consultation with the Senior Management Team have produced an Audit Plan for 2012-13 that requires the approval of the Audit and Governance Committee.

#### Recommendation

**That the Audit and Governance Committee approve the Internal Audit Plan of 422 days for April 2012 to March 2013.**

#### a) Reasons for Recommendation

It is a requirement that the Audit and Governance Committee approve the annual audit plan.

#### b) Alternative Options

The Plan is broken down into a range of audit assignments that will seek to provide assurance that key risks are being managed effectively. If an emerging risk or a fraud investigation is deemed higher risk than the audits in this Original Plan then changes may be required during the year. The Committee are approving the initial plan of 422 days. Any changes will be reported to Committee.

#### c) Risk Considerations

Failure to gain independent assurance over the internal control arrangements by undertaking periodic internal audits of all of the Council's activities using a risk based methodology could impact negatively (i.e. financial, reputational, operational) on the Council.

#### d) Policy and Budgetary Considerations

#### e) Date for Review of Decision

Annual Approval of the Audit Plan and quarterly updates on progress against the plan and any proposed changes to the Plan.

# 1 Main Body of the Report

## Background

The total number of audit days planned for 2012-13 is 422 days, which is the same as in 2011-12.

Historically audit plans have been derived from 4 year Strategic Plans. However, this plan has been pulled together with a view to providing assurance to both officers and members of the current and imminent risks faced by the Authority in an ever changing risk environment. The plan is only indicative to facilitate the planning of audit resources. We anticipate that, as the real impact of recently announced budget cuts bite, the plan will have to remain flexible to address new and emerging risks faced by the Council.

To ensure that to the best of our ability we have covered the necessary risks, the Audit Manager and the Section 151 Officer have liaised with the Senior Management Team and together, whilst also considering audits already undertaken in recent years, have produced the plan detailed in Appendix A.

**Key Control Audits** - The Key Control process focuses primarily on key risks relating to the Council's major financial systems. It is essential that all key controls identified by the External Auditors are operating effectively to provide management with the necessary assurance. To this end we liaise with the External Audit representatives and include any requirements they have in providing them necessary assurance, in line with the International Auditing Standards, that they are required to audit against. There are nine annual audits planned;

- Capital Accounting
- Council Tax and NNDR
- Creditors
- Debtors
- Housing and Council Tax Benefits
- Housing Rents
- Main Accounting
- Payroll
- Treasury Management

**Governance Audits** – The Governance Audit process focuses primarily on key risks relating to cross cutting areas that are controlled and/or impact at a Corporate rather than just service specific level. It also provides an annual assurance review of areas of the Council that are inherently higher risk. This work will, in some cases, enable SWAP to provide management with added assurance that they are operating best practice as we will be conducting these reviews at all our Client Sites. We fully consulted with each of our Client Section 151 Officers and with them, or their representatives at the SWAP Management Board, we carried out a Control and Risk Self Assessment workshop to identify the major risks facing their organisations for the coming year. These were considered by the Senior Management Team at East Devon District Council and those reviews which were felt to be of value have been included in the 2012-13 Plan. There are five such Governance reviews;

- Treasury Management Strategy
- Data Security Breaches
- EU Procurement Rules
- Asset Management Planning
- Committee Reporting



**I.T. Audits** – I.T. Reviews are completed to provide the Authority with assurance with regards to their compliance with industry best practice. SWAP has a specialist Computer Audit Manager who will meet with the ICT Manager to identify specific I.T. related risks. In-line with other SW District Councils, for planning purposes a budget of 30 days has been set.

- To be Agreed (30 days)

**Operational Audits** - Operational audits are a detailed evaluation of a service or functions control environment. A risk evaluation matrix is devised and controls are tested. Where weaknesses or areas for improvement are identified, actions are agreed with management and target dated. There are eight audits planned for 2012-13;

- Debt Management and Income Collection
- Lone Working Policy
- Housing Revenue Account (HRA)
- Private Sector Housing Grants
- Leisure East Devon – Data Quality Assurance
- Thelma Hulbert Gallery
- E-Procurement Programme
- Council Office Relocation

**Follow Up Audits** – Internal Audit follow up on all Audits being given a ‘Partial or No Assurance’ level to ensure that agreed actions to mitigate risks have been implemented. We have provisionally planned 25 days to do follow-up reviews.

**Advice and Meetings** - Internal Audit are risk experts and as well as undertaking planned audits are always glad to assist officers where they seek advice on managing their risks. Similarly, to enable effective governance Internal Audit work closely with External Audit and with the Section 151 Officer and the Audit and Governance Committee through regular liaison meetings and progress reporting.

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### **Legal Implications**

No specific legal comments are required.

### **Financial Implications**

The 2012/13 budget for SWAP fees is £118,160

### **Consultation on Reports to the Committee**

The Section 151 Officer and SMT have contributed towards the Audit Plan. SWAP have recommended ‘Themed’ audits following Risk Management Facilitation Meetings with representatives of South West Councils where common emerging risks were identified in order to seek to compare and contrast best practice.

### **Background Papers**

- Appendix A – 2012/13 Internal Audit Plan

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Andrew Ellins  
Audit Manager  
SWAP

Audit and Governance Committee  
15 March 2012

EDDC Internal Audit Plan 2012-13	
<b>Follow-Up Audits</b>	25.00
<b>Total</b>	<b>25.00</b>
<b>Key Control Audits</b>	
Capital Accounting	10.00
Council Tax and NNDR	15.00
Creditors	10.00
Debtors	10.00
Housing and Council Tax Benefits	15.00
Main Accounting	15.00
Payroll	10.00
Treasury Management	10.00
Housing Rents	15.00
<b>Total</b>	<b>110.00</b>
<b>Governance Audits</b>	
Committee Reporting - Member Decisions	10.00
Treasury Management Strategy	10.00
Data Security Breaches	10.00
EU Procurement Rules	10.00
Asset Management Planning	15.00
<b>Total</b>	<b>55.00</b>
<b>Fraud and Corruption</b>	
Creditor Fraud	10.00
Contract Fraud	10.00
Expense Claims Fraud	10.00
<b>Total</b>	<b>30.00</b>
<b>IT Audits</b>	
TBA	10.00
TBA	10.00
TBA	10.00
<b>Total</b>	<b>30.00</b>
<b>Operational Audits</b>	
Income Collection and Debt Management	25.00
Loan Working	15.00
HRA	15.00
Private Sector Housing Grants	15.00
Leisure East Devon - Management Information Data Quality Assurance	20.00
Thelma Hulbert Gallery	20.00
E-Procurement	15.00
Council Office Relocation	20.00
<b>Total</b>	<b>145.00</b>
<b>Follow-Up Audits</b>	<b>25.00</b>
<b>Key Control Audits</b>	<b>110.00</b>
<b>Governance Audits</b>	<b>55.00</b>
<b>Fraud and Corruption</b>	<b>30.00</b>
<b>IT Audits</b>	<b>30.00</b>
<b>Operational</b>	<b>145.00</b>
<b>TOTAL AUDIT TIME</b>	<b>395.00</b>
Corporate Advice	8.00
Corporate Meetings	6.00
External Audit (Grant Thornton)	3.00
General Advice	10.00
<b>Total Plan Days</b>	<b>422.00</b>

## Agenda Item 14

**Audit and Governance Committee**

**15 March 2012**

**SWAP**



### Internal Audit Charter

#### Summary

As a key element of its Governance arrangements the Council have a partnership arrangement with South West Audit Partnership.

#### Recommendation

That the Audit and Governance Committee approve the Internal Audit Charter revisions.

#### a) Reasons for Recommendation

It is a requirement that the Audit and Governance Committee approve the Internal Audit Charter.

#### b) Alternative Options

#### c) Risk Considerations

The Charter sets out the nature, role, responsibility, status and authority of internal auditing within East Devon District Council, and outlines the scope of internal audit work. Without an agreed Charter there is a risk that conflicts may occur due to unclear requirements and authorities.

#### d) Policy and Budgetary Considerations

#### e) Date for Review of Decision

Annual Approval of the Charter prior to the commencement of each Annual Audit Plan (aligned with each financial year)

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### 1 Main Body of the Report

The Charter which is attached as Appendix A, remains primarily the same as the Charter approved by Committee last year. Due to growth and subsequent structure Changes within SWAP there have been some changes to SWAP Management job titles and their roles and responsibilities since March 2011. These changes have been reflected in the Charter and have been highlighted for ease of reference.

## **Legal Implications**

SWAP have given assurance concerning their approach to ensuring the security of data and adherence to data protection principles. There are no further legal comments.

## **Financial Implications**

The 2012/13 budget for SWAP fees is £118,160.

## **Consultation on Reports to the Committee**

The Charter has been approved by the Audit and Governance Committee annually since SWAP provided EDDC's internal audit services. This is to approve any changes.

## **Background Papers**

- Appendix A – Audit Charter

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Andrew Ellins  
Audit Manager  
SWAP

Audit and Governance Committee  
15 March 2012

## **Internal Audit Charter**

### **Purpose**

The purpose of this Charter is to set out the nature, role, responsibility, status and authority of internal auditing within East Devon District Council, and to outline the scope of internal audit work.

### **Approval**

The Internal Audit Charter is reviewed each year by the Audit and Governance Committee to confirm it remains accurate and up to date. It was last reviewed by the Audit and Governance Committee at its meeting on the 15<sup>th</sup> March 2012.

### **Provision of Internal Audit Services**

The internal audit service is provided by the South West Audit Partnership (SWAP) on a 5 year contract expiring on 31 March, 2015. This charter should be read in conjunction with the Trading Agreement, which forms part of the legal agreement between the SWAP partners.

The budget for the provision of the internal audit service is determined by the Council, in conjunction with the SWAP Partnership Board. The general financial provisions are laid down in the legal agreement, including the level of financial contribution by the Council, and may only be amended by unanimous agreement of the Partnership Board. The budget is based on an audit needs assessment that was carried out when determining the Council's level of contribution to SWAP. This is reviewed each year by the S151 Officer in consultation with the Head of Internal Audit Partnership.

### **Role of Internal Audit**

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

### **Responsibilities of Management and of Internal Audit**

#### ***Management***

Management is responsible for determining the scope, except where specified by statute, of internal audit work and for deciding the action to be taken on the outcome of, or findings from, their work. Management is responsible for ensuring SWAP has:

- the support of management and the Council; and
- direct access and freedom to report to senior management, including the Chief Executive and the Audit & Governance Committee.

Management is responsible for maintaining internal controls, including proper accounting records and other management information suitable for running the Authority. Management is also responsible for the appropriate and effective management of risk.

#### ***Internal Audit***

Internal audit is responsible for operating under the policies established by management in line with best practice.

Internal audit is responsible for conducting its work in accordance with the Code of Ethics and Standards for the Professional Practice of Internal Auditing as set by the Institute of Internal Auditors. Internal Audit also complies with the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom.

Internal audit is not responsible for any of the activities which it audits. Members of SWAP will not assume responsibility for the design, installation, operation or control of any procedures. Members of SWAP who have transferred in to the department from other areas of East Devon District Council will not be asked to review any aspects of their previous department's work until one year has passed since they left that area.

### **Relationship with the External Auditors/Other Regulatory Bodies**

Internal Audit will co-ordinate its work with others wherever this is beneficial to the organisation.

### **Status of Internal Audit in the Organisation**

The Head of the Internal Audit Partnership is responsible to the SWAP Management Board and the Partnership Board. The Head of Internal Audit Partnership and the **Group Audit Manager** also report to the Head of Finance as Section 151 Officer, and reports to the Audit and Governance Committee as set out below.

Appointment or removal of the Head of Internal Audit Partnership is the sole responsibility of the Partnership Board.

### **Scope and authority of Internal Audit work**

There are no restrictions placed upon the scope of internal audit's work. Members of SWAP engaged on internal audit work are entitled to receive and have access to whatever information or explanations they consider necessary to fulfil their responsibilities to senior management. In this regard, internal audit may have access to any records, personnel or physical property of East Devon District Council.

Internal audit work will normally include, but is not restricted to:

- reviewing the reliability and integrity of financial and operating information and the means used to identify, measure, classify and report such information;
- evaluating and appraising the risks associated with areas under review and make proposals for improving the management of risks;
- appraising the effectiveness and reliability of the enterprise risk management framework and recommend improvements where necessary;
- assisting management and Members to identify risks and controls with regard to the objectives of the Council and its services;
- reviewing the systems established by management to ensure compliance with those policies, plans, procedures, laws and regulations which could have a significant impact on operations and reports, and determining whether East Devon District Council is in compliance;
- reviewing the means of safeguarding assets and, as appropriate, verifying the existence of assets;
- appraising the economy, efficiency and effectiveness with which resources are employed;
- reviewing operations or programmes to ascertain whether results are consistent with established objectives and goals and whether the operations or programmes are being carried out as planned.
- reviewing the operations of the Council in support of the Council's anti-fraud and corruption policy.
- at the specific request of management, internal audit may provide consultancy services provided:

- the internal auditors independence is not compromised
- the internal audit service has the necessary skills to carry out the assignment, or can obtain such skills without undue cost or delay
- the scope of the consultancy assignment is clearly defined and management have made proper provision for resources within the annual audit plan
- management understand that the work being undertaken is not internal audit work.

### **Planning and Reporting**

SWAP will submit to the Audit and Governance Committee, for approval, an annual internal audit plan, setting out the recommended scope of their work in the period.

The annual plan will be developed with reference to the risks the organisation will be facing in the forthcoming year, whilst providing a balance of current and on-going risks, reviewed on a cyclical basis. The plan will be reviewed on a quarterly basis to ensure it remains current and addresses new and emerging risks.

SWAP will carry out the work as agreed, report the outcome and findings, and will make recommendations on the action to be taken as a result to the appropriate manager and Corporate Director. SWAP will report at least four times a year to the Audit and Governance Committee. SWAP will also report a summary of their findings, including any persistent and outstanding issues, to the Audit and Governance Committee on a regular basis.

Internal audit reports will normally be by means of a brief presentation to the relevant manager accompanied by a detailed report in writing. The detailed report will be copied to the relevant line management, who will already have been made fully aware of the detail and whose co-operation in preparing the summary report will have been sought. The detailed report will also be copied to the S151 Officer (Head of Finance) as well as to other relevant line management.

The Head of Internal Audit Partnership will submit an annual report to the Audit and Governance Committee providing an overall opinion of the status of risk and internal control within the Council, based on the internal audit work conducted during the previous year.

In addition to the reporting lines outlined above, the Head of Internal Audit Partnership and the **Group Audit Manager** have the unreserved right to report directly to the Leader of the Council, the Chairman of the Audit and Governance Committee, the Chief Executive Officer or the External Audit Manager.

Revised February 2012

## Agenda Item 15

**Audit and Corporate Governance Committee**

**15 March 2012**



### **Audit and Corporate Governance Committee Forward Plan 2012/13**

<b>Date of Committee</b>	<b>Report</b>	<b>Lead Officer</b>
28 June 2012	<ul style="list-style-type: none"><li>• Internal Audit Activity – Quarter 1 2012/13</li><li>• Risk Management Review</li><li>• Revenue and Capital Outturn Report 2011/12</li><li>• Annual Audit Report and Opinion</li></ul>	SWAP Head of Finance Head of Finance SWAP
27 September 2012	<ul style="list-style-type: none"><li>• Internal Audit Activity – Quarter 2 2012/13</li><li>• Statement of Accounts</li><li>• Report to those charged with Governance</li></ul>	SWAP Head of Finance Grant Thornton
8 November 2012	<ul style="list-style-type: none"><li>• Internal Audit Activity – Quarter 3 2012/13</li></ul>	SWAP
17 January 2013	<ul style="list-style-type: none"><li>• Annual Audit Letter</li><li>• Certification Report</li></ul>	Grant Thornton Grant Thornton
14 March 2013	<ul style="list-style-type: none"><li>• Annual Audit Plan 2012/13</li></ul>	SWAP