

# Agenda

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## Audit and Governance Committee

This meeting will be held on:

Date: **Wednesday 26 July 2023**

Time: **6.00 pm**

Place: **Long Room - Oxford Town Hall**

**For further information** please contact:

Lucy Brown, Committee and Members Services Officer,

☎ 01865 252784

✉ [lbrown@oxford.gov.uk](mailto:lbrown@oxford.gov.uk)

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## **Committee Membership**

Councillors: Membership 7: Quorum 3: substitutes are permitted.

Councillor Tiago Corais

Councillor James Fry

Councillor Duncan Hall

Councillor Chris Jarvis

Councillor Dr Amar Latif

Councillor Roz Smith

Councillor Imogen Thomas

Apologies and notification of substitutes received before the publication are shown under *Apologies for absence* in the agenda. Those sent after publication will be reported at the meeting. Substitutes for the Chair and Vice-chair do not take on these roles.

# Agenda

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<b>1 Apologies for absence and substitutions</b>	
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<b>Report of:</b> The Head of Financial Services	
<b>Purpose of report:</b> To appraise Members of the activity and performance of the Counter Fraud Team for the fiscal year 1 April 2022 to 31 March 2023.	
<b>Recommendation:</b> That the report be <b>noted</b> .	
<b>6 Avoiding Bribery, Fraud and Corruption Policy</b>	19 - 38
<b>Report of:</b> Head of Financial Services	
<b>Purpose of report:</b> To present the reviewed Anti-Bribery, Fraud and Corruption Policy for approval and adoption.	
<b>Recommendation:</b> That the Committee <b>approve</b> the reviewed policy.	
<b>7 Risk Management Report as at 30 June 2023</b>	
<b>Report from:</b> Head of Financial Services	
<b>Purpose of report:</b> To update the Committee on both corporate and service risks as at 30 June 2023.	
<b>Recommendation:</b> That the Committee reviews the risk management report and <b>notes</b> its contents.	
<i>Report to follow</i>	
<b>8 Update on 2021/22 Annual Accounts</b>	
The external auditors, Ernst & Young, will provide a verbal update to the Committee.	

<b>9</b>	<b>Annual Report and Statement of Assurance 2022-23</b>	39 - 62
	<b>Report of:</b> The Internal Auditor, BDO.	
	<b>Purpose of report:</b> To inform the Committee on the details of the work undertaken by internal audit for Oxford City Council and provide an overview of the effectiveness of the controls in place for the full year.	
	<b>Recommendation:</b> To discuss and <b>note</b> the report.	
<b>10</b>	<b>Internal Audit Progress Report - July 2023</b>	
	<b>Report of:</b> The Internal Auditor, BDO	
	<b>Purpose of report:</b> To inform the Committee on progress made against the Internal Audit work plan and on the outcome of their reviews.	
	<b>Recommendation:</b> To discuss and <b>note</b> the report.	
	<i>Report to follow.</i>	
<b>11</b>	<b>Internal Audit Follow Up Report - July 2023</b>	
	<b>Report of:</b> The Internal Auditor, BDO	
	<b>Purpose of report:</b> To inform the Committee on the implementation of the recommendations from their previous internal audit reviews.	
	<b>Recommendation:</b> To discuss and <b>note</b> the report.	
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<b>12</b>	<b>Recruitment and Retention Audit Update</b>	63 - 68
	<b>Report of:</b> Head of Business Improvement	
	<b>Purpose of Report:</b> To update the committee on recruitment and retention challenges and action.	
	<b>Recommendations:</b> That the Committee resolves to:	
	1. To <b>note</b> the report.	
	2. To <b>confirm</b> the committee is satisfied with the approach.	
<b>13</b>	<b>Regulation of Investigatory Powers Act 2000</b>	69 - 84
	<b>Report of:</b> Head of Law and Governance	
	<b>Purpose of report:</b> To present the revised Regulation of Investigatory	

Powers Surveillance Policy and Procedure for approval and adoption.

**Recommendation:** That the Committee **approves** the revised Surveillance Policy and Procedure at Appendix 1 to the report.

## **14 Minutes of the previous meeting**

85 - 90

To **approve** as a true and accurate record the minutes of the meeting held on 26 April 2023.

## **15 Dates and times of meetings**

The Committee is scheduled to meet at 6.00pm in the Town Hall on the following dates:

- 27 September 2023
- 31 October 2023
- 17 January 2024
- 08 April 2024

## **16 Matters Exempt from Publication**

If the Committee wishes to exclude the press and the public from the meeting during consideration of any of the items on the exempt from publication part of the agenda, it will be necessary for Cabinet to pass a resolution in accordance with the provisions of Paragraph 4(2)(b) of the Local Decisions come into effect after the latest of the expiry of the post-meeting councillor call in period; reconsideration of a called-in decision; or Council's agreement of recommendations. Oxford City Council, Town Hall, St Aldate's, Oxford OX1 1BX Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 on the grounds that their presence could involve the likely disclosure of exempt information as described in specific paragraphs of Schedule 12A of the Local Government Act 1972.

The Committee may maintain the exemption if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **16a Investigation Team Annual Report 2022/23 - Confidential Appendix**

91 - 92

This item includes exempt information pursuant to Paragraphs 2, 3 & 7 of Part 1 of Schedule 12A of the Local Government Act 1972. If

the Committee wishes to discuss matters relating to the information set out in Appendix 1 to the report, it will be necessary for the Committee to pass a resolution to exclude the press and public from the meeting (as set out at agenda item 16).

**16b Internal Audit Annual Report and Annual Statement of Assurance - confidential appendix**

93 - 96

This item includes exempt information pursuant to Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972. If the Committee wishes to discuss matters relating to the information set out in Appendix 1 to the report, it will be necessary for the Committee to pass a resolution to exclude the press and public from the meeting (as set out at agenda item 16).

**17 Confidential minutes of the previous meeting**

97 - 98

*This item includes exempt information pursuant to Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972. If the Committee wishes to discuss matters relating to the information set out in the document, it will be necessary for the Committee to pass a resolution to exclude the press and public from the meeting (as set out in agenda item 16).*

To **approve** as a true and accurate record the minutes of the meeting held on 26 April 2023.

## **Information for those attending**

### **Recording and reporting on meetings held in public**

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- To follow the protocol which can be found on the Council's [website](#)
- Not to disturb or disrupt the meeting
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- To avoid recording members of the public present, even inadvertently, unless they are addressing the meeting.

Please be aware that you may be recorded during your speech and any follow-up. If you are attending please be aware that recording may take place and that you may be inadvertently included in these.

The Chair of the meeting has absolute discretion to suspend or terminate any activities that in his or her opinion are disruptive.

### **Councillors declaring interests**

#### **General duty**

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you.

#### **What is a disclosable pecuniary interest?**

Disclosable pecuniary interests relate to your\* employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

#### **Declaring an interest**

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest. If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

#### **Members' Code of Conduct and public perception**

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that "you must not place yourself in situations where your honesty and integrity may be questioned". The matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

\*Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

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**To:** Audit & Governance Committee  
**Date:** 26 July 2023  
**Report of:** Head of Financial Services  
**Title of Report:** Investigation Team Annual Report 2022-2023

## Summary and Recommendations

**Purpose of report:** To appraise Members of the activity and performance of the Counter Fraud Team for the fiscal year 1 April 2022 to 31 March 2023

**Key decision** No

**Executive lead member:** Councillor Ed Turner

**Policy Framework:** Corporate Plan Priority - All

**Recommendation(s):** That the report be noted

## **Appendix 1 – Internal Investigations – Exempt from publication**

### **Background**

1. The remit of the Counter Fraud Team (the Team) is to tackle fraud and financial irregularity across the Council, aligned to the services' fraud risks and the priorities as identified in the Council's own Organisational Fraud Risk Assessment in 2019, as well as by the previous Audit Commission and also CIPFA's Fighting Fraud and Corruption Locally Strategy (FFCL) 2020.
2. The aims and objectives of the Team are to provide high quality professional corporate fraud investigation services to the Council to prevent and detect fraud and error within the Council and also to partner organisations on a commercial basis, and to assist cross border agencies where possible. Through this activity, financial losses are prevented, additional revenue is identified for recovery, income is secured through the

supply of services and redress is sought in cases of civil or criminal offending.

### Performance 2022/23

- For 2022/23, there were five Service Performance Indicators used to track performance on a monthly basis. The Team was responsible for achieving fraud prevention, detection and identification values in excess of £5.1 million in the period. Performance against these targets is shown in the table below.

<b>Table 1 - Investigations Team Performance from 01 April 2022 to 31 March 2023</b>			
<b>Measure</b>	<b>Annual Target</b>	<b>Total Achieved</b>	<b>Comment</b>
Number of social housing properties recovered and applications for housing stopped	22	14	9 applications for housing cancelled and 5 properties recovered. Insufficient cases identified in this are to achieve target
Achieve cost neutrality from identification of revenue through investigation activity	£550,000	£801,725	See Table 2 for breakdown
Prevent financial losses to the Council through investigation activity	£2,000,000	£4,098,557	See Table 2 for breakdown
Right to Buy Applications prevented (false or irregular)	18% of applications received	64%	42 applications prevented of 81 accepted in the period
Trading Income from commercial activity	£200,000	£211,871	Resource emphasis was the administration of Business Grants during the pandemic.

4. Table 2 below provides a breakdown of the income recovered or generated, and losses prevented by the Team.

<b>Table 2 – Income generated and losses prevented from 01 April 2022 to 31 March 2023</b>			
	<b>Income</b>	<b>Loss</b>	
	<b>Generated</b>	<b>Avoidance</b>	<b>Comment</b>
	<b>£</b>	<b>£</b>	
Council Tax Reduction Scheme	7,660	25,707	The loss avoided is based on the revised Oxford model calculation of 104 weeks future entitlement.
Housing Benefit	6,748	6,650	Although no longer tasked with investigating Housing Benefit, these values are the by-product of tenancy fraud and Council Tax Reduction Scheme investigations. 104 week future entitlement model used for loss avoidance
Right to Buy		3,662,400	15 Right To Buy applications prevented (52% of all applications accepted) following intervention / investigation. 42 x £87,200 (max discount)
Council Tax Discount / Exemption adjustments	271,630		Achieved through reactive investigation casework and rolling review of Single Person Discount accounts to identify presence of undeclared resident adults
Properties Recovered		120,000	The cost of keeping a family in temporary accommodation for one year calculated using the Oxford model (£24k x 5 properties)
Housing Applications		216,000	9 General Register Housing Applications stopped through investigation activity preventing temporary accommodation costs or property allocation - £24,000 per instance
New Homes	367,642		Proactive risk-based, data-

Bonus			led visiting exercise targeting long-term empty properties
Covid Business Grants	148,045		Identification of Covid Business Grant awards paid to personal bank accounts rather than business bank accounts
Energy Grants		49,200	328 Energy Grant payments refused due to enhanced due diligence checks of Counter-Fraud Team
Energy Grants		18,600	Of 3,101 Energy Grant payments started & not completed, 4% deemed to be fraudulent
<b>Totals</b>	<b>801,725</b>	<b>4,098,557</b>	<b>4,900,282</b>
Trading income from commercial activity	211,871	-	
<b>Total income and fraud loss avoidance</b>	<b>1,013,596</b>	<b>4,098,557</b>	<b>5,112,153</b>

5. The Team hosted its seventh annual fraud conference on 17<sup>th</sup> November 2022. With more than 170 in attendance, the aim of the event was to help raise awareness of fraud trends and emerging risks to attending organisations, and also raise awareness of the services that the Team can offer. The Team is known to other organisations in a commercial capacity as the Oxford Investigation Service.
6. The event has remained a free-to-attend conference for delegates with the costs not only being entirely covered through exhibitor charging and sponsorship, but deriving a surplus which will be used by the Council to fund future counter fraud initiatives.
7. The conference was delivered in conjunction with the Counter-Fraud Team of Reigate and Banstead Borough Council, the shared service partners of the Oxford Investigation Service. Staff from both teams were involved in planning and delivery.

8. A new team brochure was arranged for the event with hard copies added to delegate packs. The brochure provided detail on staffing and specialisms within the whole of the shared service partnership.
9. Based on the ongoing success of the conference, the overwhelming positive feedback received and the reputation of the event as essential-to-attend for those in the profession, as well as the forming of new business relationships with partner organisations, the Team remains committed to hosting the event annually with the next date set as 21st November 2023.
10. In May 2022, the Team worked with 2 private sector suppliers, Intec For Business and ITS Training, to deliver the Inaugural National Investigations Conference. The event took place in Birmingham Central Library over 2 days and was attended by over 100 delegates from investigation disciplines in various sectors. The event was free to attend for public sector delegates and featured a trade stand exhibition. The cost of the event was covered through charges made to organisations who wished to exhibit. Regarded as highly successful, a second National Investigations Conference took place in May of 2023 at the same venue.
11. The Birmingham event was seen as a way to bring the popular Oxford Annual Fraud conference to a different audience in a different part of the country. The Oxford Investigation Service also exhibited at the event with the trade stand to assist with marketing, professional networking and ultimately, business development.

### **Internal Investigations**

12. **Appendix 1** details staff / internal investigations involving the Counter-Fraud team in the period.

### **Commercial Activity**

13. Commercial working arrangements remain in place with services being contractually provided to multiple partner organisations in the public and private sector. Business development activity is embedded as part of the team culture and efforts to bring new partners on board continued through the year.
14. The Team is known externally as The Oxford Investigation Service and it has a brochure, dedicated website and promotional materials to assist the objective of business development. The website can be found at [www.oxfordinvestigationsservice.co.uk](http://www.oxfordinvestigationsservice.co.uk)

15. Promotional activity carried out, in addition to the Oxford Open Day event, includes speaking slots at relevant conferences, mailshots, meetings with prospective clients and attending conferences as exhibitors with a dedicated trade stand. These activities are aligned to a departmental Marketing Strategy.
16. The increasing number of successful projects and activities delivered for Oxford City Council has assisted in developing a range of services that can be offered to partner organisations and prospective clients. For each marketable service, pricing options are developed with the assistance of Financial Services Accountants to ensure compliance with financial regulations, ethical trading, and financial feasibility.

### **Partnership Working**

17. The Team provided Counter-Fraud and Investigation services to multiple client organisations during the financial year, the result of which delivered an end-of-year trading income of £211,871 against a budgeted income of £200,000. In the period, the Team has provided either products and / or services to the following 22 organisations:

- Ascendant Solutions
- CIFAS
- DAC Beachcroft
- Digistaff
- Dukes Bailiffs
- Empira
- FISCAL Technologies
- Hyperlaw
- The Identity Organisation
- Intec for Business
- Intelligencia
- ITS Training
- NEC Software Solutions
- Peter Darby Associates
- Reigate and Banstead Borough Council
- Riverside Housing Association
- Smartgov Ltd
- South Gloucestershire Council
- Synetics Solutions Ltd
- Tenet Law
- Trust ID
- Warwick District Council

18. Partnership working with Reigate and Banstead Borough Council was prevalent throughout the financial year with a number of proactive projects, involving officers from both organisations, working together on behalf of local authorities in various parts of the country including West Bromwich, St Albans, Letchworth, Rochdale, Gedling, Broxbourne, Watford & Stevenage.
19. The team had been supplying services to Riverside Housing for a number of years by way of an on-demand contract with intermittent work taking place. Such is the success of the arrangement, Riverside moved to a new one-year contract for the supply of 1 full-time equivalent staff member, commencing 1<sup>st</sup> April 2022. Toward the end of the financial year, Riverside extended again for the 2023 - 2024 financial year.
20. In October 2022, Reigate and Banstead Council were winners of the IRRV's Excellence in Counter Fraud Performance Award. The application included significant detail regarding the successful shared services partnership in place between the counter-fraud teams of Oxford City Council and Reigate & Banstead Borough Council including the collaboration, results and achievements.

### **Grant Schemes**

21. The Team continued to apply enhanced due diligence measures to applications received for government grant schemes during the period. As a direct result of this work, Energy Grant payments to the value of £67,800 were not awarded. This amount is made up of applications which were either fraudulent, irregular, duplicitous, erroneous or where requests for supporting information was not supplied.
22. Post-payment assurance work for Covid Business Grant schemes identified instances where grants to the value of £148,045 were paid into personal bank accounts rather than business bank accounts. This was in contrast to the conditions of entitlement and so invoices were raised to recover the fraudulently claimed amounts.

### **Legal Implications**

23. There are no legal implications arising directly from this report.
24. The continuing work of the Team, coupled with the Council's Avoiding Bribery, Fraud and Corruption, Whistle-Blowing and Anti-Money Laundering policies and procedures give assurance that the Council is compliant with the Bribery Act 2010, the Money Laundering Regulations 2007 and the Proceeds of Crime Act 2002. Failure to adhere to the policies would impact on the legal and reputational risk to the Council.

25. All data sharing, both internally and externally, is covered by Data Sharing Protocols and Agreements, and is conducted in the interests of prevention and detection of fraud, crime and other financial irregularity, in accordance with the provisions and exemptions of the European General Data Protection Regulation and the Data Protection Act 2018.

The Council has relied upon its powers under the Section 1 of the Local Authorities (Goods and Services) Act 1970 (the “1970 Act”) to provide services to other local authorities and public bodies. The 1970 Act enables local authorities to supply goods and services (subject to certain restrictions) to other local authorities and to public bodies. “Public body” means a person or description of persons appearing to the Secretary of State to be exercising functions of a public nature.

### **Financial Implications**

26. The Team continues to prevent and detect fraud and financial irregularity, first and foremost, for Oxford City Council. Engaging in a number of innovative, proactive initiatives has ensured the continued delivery of a robust counter fraud service, even with operational challenges brought about by remote working and officer time monopolised by government grants schemes. The value of prevented fraud losses, additional revenue identified as well as income from external trading was £5,112,153 in the financial year 2022-2023.
27. Contractual agreements devised for joint working with other organisations have been reviewed and approved by Financial Services for compliance with financial regulations and economic feasibility.
28. The gross cost of running the team for 2022-2023 was £577,279 equating to a return in investment for the year of approximately 885%

### **Environmental Implications**

29. All staff are conscious of the environmental implications of service delivery and will always seek the lowest impact route where possible. This will include journey sharing where feasible, remote working by default to reduce number of journeys taken, reducing use of paper and sourcing products and materials from sustainable origins.



## **Equality and Diversity Implications**

30. Equality and Diversity issues are under continued consideration and due regard by team staff and management alike, as and where required under the Equalities Act Legislation including the Public Sector Equality Duty contained within section 149 of the Equality Act 2010.

## **Risk Implications**

31. Team specific risks are managed through periodic assessments and are mitigated accordingly with appropriate response and control measures.

### **Name and contact details of author:-**

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Counter Fraud Manager

Financial Services / Counter Fraud Team

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**To:** Audit & Governance Committee  
**Date:** 26 July 2023  
**Report of:** Head of Financial Services  
**Title of Report:** Anti-Bribery, Fraud and Corruption Policy Review

## Summary and Recommendations

**Purpose of report:**

To present the reviewed Anti-Bribery, Fraud and Corruption Policy for approval and adoption.

**Key decision** No

**Executive lead member:** Councillor Ed Turner

**Policy Framework:** Corporate Plan Priority – Enable an Inclusive Economy

**Recommendation(s):** That the Committee approve the reviewed policy.

## Appendix 1 – Anti-Bribery, Fraud and Corruption Policy

### Background

1. In today's complex and ever-evolving business landscape, it is imperative for organisations to have robust measures in place to combat bribery, fraud, and corruption. As a responsible and transparent entity, Oxford City Council recognises the importance of fostering a culture of integrity and compliance. Therefore, in order to strengthen the Council's anti-bribery, fraud and corruption framework, regular policy reviews are conducted to ensure any legislative updates are applied to the policy.
2. The policy details scope, roles, responsibilities, definitions, risk areas, reporting mechanisms, training and monitoring requirements.

### **Updates for 2023**

3. In February 2023, the Bribery Act 2010 amended the length of imprisonment on summary conviction from up to 6 months, to up to 12 months. The maximum prison term for conviction on indictment remains as up to 10 years. This change has no effect on the Council's Anti-Bribery, Fraud and Corruption Policy.
4. The Policy has been amended to remove references to the "Investigation Team" and replaced with "Counter-Fraud Team".
5. The Policy has been amended to remove references to "Human Resources" and replaced with "The People Team"

### **Legal Implications**

6. There are no legal implications arising directly from this report. Staff who are trained on the policy will mitigate the risk of an adverse event occurring which if unchecked, could give rise to significant risk.

### **Financial Implications**

7. There are no financial implications for this report. Staff who are trained on the policy will mitigate the risk of an adverse event occurring which if unchecked, could give rise to significant risk.

### **Next Steps**

8. On approval, the updated policy will be added to the Council website, the staff Intranet and will feature as part of all Fraud Awareness Training delivered by the Counter-Fraud Team.

<b>Name and contact details of author:-</b>
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Scott Warner
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Counter Fraud Manager
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Financial Services / Counter Fraud Team
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# OXFORD CITY COUNCIL

## Oxford City Council Anti-Bribery, Fraud and Corruption Policy

<b>Document</b>	Anti-Bribery, Fraud and Corruption Policy
<b>Owner</b>	Scott Warner
<b>Date Reviewed</b>	30 June 2023
<b>Review due</b>	30 June 2026
<b>Version</b>	7

<b>Version No.</b>	<b>Date</b>	<b>Notes</b>
1	Sept 2018	First Draft of Policy to Investigation Manager for review and comments
2	Oct 2018	Second Draft of Policy to Head of Finance for review and comments
3.	Feb 2019	Third Draft of Policy to Policy Team and Legal for review and comment
4	March 2019	Final Draft of Policy with additions and alterations from reviews by Legal and Policy.
5.	June 2021	No discernable changes to the Bribery Act 2010 requiring policy alterations or update.
6.	June 2022	No discernable changes to the Bribery Act 2010 requiring policy alterations or update. Hyperlinks to policies updated.
7.	June 2023	No discernable changes to the Bribery Act 2010 requiring policy alterations or update. Update to team names only.
8.		
9.		
10.		
11.		

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## 1. Introduction

- 1.1 This Policy aims to provide guidance on how to raise concerns about bribery, fraud or corruption within the Council.
- 1.2 In carrying out its functions and responsibilities, the Council wishes to promote a culture of openness and fairness and expects all those who work for and with the Council to adopt the highest standards of propriety and accountability.
- 1.3 The Council expects the highest standards of conduct, performance and integrity from its employees and Elected Members. Staff working for Oxford City Council must comply with the standards of conduct, performance and integrity as set out in the Employee Code of Conduct, which is published to all staff via the Intranet. The Code applies to both permanent and temporary staff and also to anyone engaged through a third party or otherwise working on behalf of Oxford City Council or on Oxford City Council premises.
- 1.4 Following the publication of the Nolan Report in 1997, the Local Government Act 2000, and several well publicised cases concerning fraud and corruption within local government, the Council recognises the need for a policy to prevent wrongdoing.

## 2 Council Priority

- 2.1 Enable an Inclusive Economy

## 3 Policy Statement

- 3.1 Oxford City Council is committed to preventing and detecting bribery, fraud and corruption. It is fully committed to the highest ethical standards, in order to ensure the proper use and protection of public funds and assets.

The Council acknowledges that in approving this Policy:

- it sets the standard at a sufficiently high level that makes it clear that bribery, fraud or corruption will not be tolerated;
  - that the Council is committed to preventing and detecting bribery, fraud or corruption; and
  - that those perpetrating bribery, fraud or corruption may be prosecuted.
- 3.2 The Council acknowledges that the vast majority of its employees and those that work with them act with honesty and integrity at all times to safeguard the public resources they are responsible for. However, there are people who will not act in this way.

- 3.3 The Council will undertake investigative activity regardless of the suspect's length of service, position/title, or relationship to the Council.
- 3.4 In order to implement this policy the Council will:
- Provide a clear framework, guidelines and procedures for the identification and investigation of bribery, fraud and corruption
  - Investigate all cases of bribery, fraud and corruption and take appropriate action
  - Ensure employees and members have the appropriate level of information and training to implement this policy
  - Ensure information is provided to enable the general public to report suspected cases of bribery, fraud and corruption

#### **4 Policy Scope**

- 4.1 This Policy, which applies to all employees (including temporary and agency staff), aims to help to understand when, how and who to contact when they have concerns about bribery, fraud or corruption. Employees must ensure they adhere to legal and contractual requirements and ensure that all procedures and practices remain above reproach.

#### **5 Roles and Responsibilities**

- 5.1 Bribery, fraud and corruption are ever present threats to Oxford City Council resources. Resources may include material, property, plant, equipment, cash, staff time, software, confidential information, intellectual property and contracts.
- 5.2 Senior Managers are responsible for the prevention, detection and investigation of bribery, fraud or corruption and for managing the risk of bribery, fraud or corruption.
- 5.3 Elected Members and the Council's statutory officers are responsible for the implementation of this Policy.
- 5.4 Oxford City Council's Counter-Fraud Team will investigate all relevant instances of bribery, fraud and corruption reported to it.
- 5.5 All employees, contractors, sub-contractors, consultants and agents of Oxford City Council are responsible for the safeguarding of resources for which they are responsible.



## 6 Interaction with other Council Policies and External documents

- 6.1 This policy should be read in conjunction with;
- the [Anti-Money Laundering Policy](#) for Oxford City Council;
  - the [Whistle-blowing Policy](#);
  - the [Disciplinary Policy](#); and
  - the [Employee Code of Conduct](#).
- 6.2 Supplier compliance with this policy will be incorporated as a requirement within the Council's standard contract terms.

## 7 Duties

- 7.1 The Council's statutory officers have a legal obligation to ensure the appropriate use and safeguarding of Public funds.
- 7.2 Oxford City Council has a legal responsibility under the Accounts and Audit (England) Regulations 2011 for ensuring that the financial Management of the Council is adequate and effective and that the Council has a sound system of financial control which facilitates the effective exercise of its functions, which includes arrangements for the management of risk.
- 7.3 There is also a legal responsibility under the Local Government Act 1972 for every Local Authority to make arrangements for the proper administration of their financial affairs and to secure that one of their Officers has responsibility for the administration of those affairs.

## 8 Definitions – Fraud

- 8.1 According to the Fraud Act 2006, fraud can be committed in the following three ways:

**Fraud by false representation:** “representation” means any representation as to fact or law and may be express or implied. A person commits an offence when they dishonestly make a false representation, and intends, by making the representation to:

- make a gain for themselves or another; or
- cause loss to another person; or
- to expose another to a risk of loss.

A representation is false if:

- it is untrue or misleading; and
- the person making it knows that it is, or might be, untrue or misleading.

**Fraud by failing to disclose information:** an offence is committed where a person dishonestly fails to disclose to another person information, which he is under a legal duty to disclose, and intends, by failing to disclose the information to:

- make a gain for himself or another; or
- cause loss to another or to expose another to a risk of loss.

**Fraud by abuse of position:** an offence is committed where a person occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position, and intends, by means of the abuse of that position to:

- make a gain for themselves or another; or
- cause loss to another or to expose another to a risk of loss.

- 8.2 The term *fraud* is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusions.
- 8.3 This Policy therefore covers all financial impropriety including ***theft*** or ***corruption***, which are described in more detail below:
- 8.4 According to the 1968 Theft Act 'a person shall be guilty of theft if they dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it'.
- 8.5 Corruption is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the actions taken by the audited body, its members or employees.

## 9 Actions Constituting Fraud or Corruption

- 9.1 Actions constituting fraud or corruption may include, but are not limited to:
- any dishonest or fraudulent act against the Council;
  - forgery or alteration of any document or account belonging to the Council;
  - forgery or alteration of a cheque, bank draft or any other financial document;
  - misappropriation of funds, securities, supplies, or other assets;
  - impropriety in the handling or reporting of money or financial transactions;
  - profiteering as a result of insider knowledge of Council activities;
  - disclosing confidential and proprietary information to outside parties;
  - destruction, removal or inappropriate use of records, furniture, fixtures and equipment; or
  - failure to declare an interest.
- 9.2 Areas particularly susceptible to bribery, fraud or corruption are set out below with examples of fraudulent activity (the list is not exhaustive):

- contracts - collusion with others during the tendering process;
- council tax - people claiming single person discount when they are not entitled to;
- recruitment fraud - fictitious work history, qualifications and/or references;
- abuse of position - falsification of records to cover up fraudulent activity such as stolen cash;
- travel claims - false journeys claimed; inflated mileage; two employees claiming for a journey taken together;
- expense claims - claims submitted to the Council and/or a third party;
- cash receipts/petty cash - accepting cash without receipting it; reimbursement sought for receipted but inappropriate expenditure;
- payroll - hours worked over-stated to take advantage of overtime for financial gain;
- ordering and payments - goods ordered for personal use; goods ordered from a specific supplier in return for some form of benefit;
- stocks and assets - unauthorised use of stationery; using Council assets for personal use such as running a private business; or
- timesheets - falsifying hours worked; claiming to be sick but carrying out paid work elsewhere.

## **10 Definitions – BRIBERY**

- 10.1 The Bribery Act 2010 was introduced to update and enhance UK law on bribery including foreign bribery. Notably, it introduces a new strict liability offence for companies and partnerships of failing to prevent bribery. The introduction of this new corporate criminal offence places a burden of proof on local authorities to show that they have adequate procedures in place to prevent bribery. The Council could be guilty of an offence if an ‘associated person’ carries out an act of bribery in connection with its business. A person will be ‘associated’ with the Council where that person performs services for or on behalf of the Council. The Bribery Act also provides for strict penalties for active and passive bribery by individuals as well as companies.

The Bribery Act creates four prime offences:

- two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting an advantage;
  - a discrete offence of bribery of a foreign public official; and
  - a new offence of failure by a commercial organisation to prevent a bribe being paid to obtain or retain business or a business advantage (should an offence be committed, it will be a defence that the organisation has adequate procedures in place to prevent bribery).
- 10.2 Bribery can be described as the receiving of an inducement for an action which is illegal, unethical or in breach of trust. Inducements can take the form of gifts, fees, rewards or other advantages.

## **11 Identification of Risk**

- 11.1 In having a risk management strategy, which includes risk mitigation measures, the Council aims to detect bribery, fraud or corruption and deter potential perpetrators of such activity.
- 11.2 In having a continuous programme of bribery, fraud and corruption awareness and regular updates and training for new and existing staff the Council aims to mitigate the risk of bribery, fraud or corruption taking place.
- 11.3 In referring to this Policy in its quotation/tender documents with suppliers and its procurement guide, the Council aims to mitigate the risk of bribery, fraud or corruption taking place.

## **12 Reporting Suspicious Activity**

- 12.1 The Council has in place a number of ways of reporting suspicions of bribery, fraud or corruption.
- 12.2 Non-employees of the Council can use the Council's complaints process, or the complaints process relating to the Member's Code of Conduct.
- 12.3 In relation to employees, the Council will deal with matters in confidence and in accordance with the terms of the Whistleblowing Policy and the Public Interest Disclosure Act 1998.

## **13 Reporting Bribery, Fraud or Corruption**

- 13.1 In accordance with the Council's Finance Rules in the Council's Constitution, "If Officers suspect that these Rules have not been complied with, or they suspect fraud, corruption or poor value for money, they must tell their line manager (unless their line manager is involved). The Council's [Whistle Blowing Policy](#) has guidance on what to do if a line manager is involved. If these Finance Rules or the Avoiding Bribery Fraud and Corruption Policy have been breached, the Head of Financial Services (Section 151 Officer) must be advised in writing by the line manager as soon as possible."

## **14 Receiving Reports and Preventing Bribery, Fraud or Corruption**

- 14.1 The following paragraphs set out more specifically the roles and responsibilities of those receiving reports of bribery, fraud or corruption and their roles and responsibilities in preventing wrongdoings arising in the first place.
- 14.2 The anti-bribery, fraud and corruption response plan on the Council's intranet provides further information on who should take what action on discovering a potential bribery, fraud or corruption. Upon receipt of an

allegation under this policy, the person receiving the allegation must immediately notify the Monitoring Officer, the Head of Financial Services and the Head of Business Improvement (unless the allegation relates to one or more of them).

14.3 **The Monitoring Officer** has responsibility for:

- initiating action if bribery, fraud or corruption may have been identified;
- the lawfulness and fairness of decision making;
- ensuring that Members are aware of the protocols, policies and procedures, as set out at the end of this Policy that apply when carrying out their duties.

14.4 **The Section 151 Officer** has responsibility for:

- ensuring that this Policy is current;
- the proper administration of the Councils' financial affairs under s.151 of the Local Government Act 1972 and s.114 of the Local Government Finance Act 1988. This includes the employee nominated by him/her to act in his/her absence and any employee of his/her staff acting on his/her behalf;
- reporting to Members and the National Audit Office if the Council, or one of its representatives makes, or is about to make a decision which is unlawful, or involves illegal expenditure or potential financial loss (Local Government Finance Act 1988 s.114);

14.5 **The People Team** is responsible for ensuring that new employees, during induction, are aware of their contractual obligations in relation to anti-bribery, fraud or corruption as well as this Policy, and its links with the Whistleblowing Policy. In addition the Council's Fraud Team delivers Fraud Awareness Training to Council officers which includes the Policy and its operation.

14.6 **Managers** are responsible for:

- maintaining internal control systems and communicating them to their staff;
- ensuring that the Council's resources and activities are properly applied in the manner intended;
- identifying the risks to which systems and procedures are exposed;
- developing and maintaining effective controls to prevent and detect bribery, fraud and/or corruption;
- ensuring that controls are being complied with;
- implementing audit recommendations promptly; and
- responding to reports of possible financial impropriety in accordance with the Whistleblowing Policy.

14.7 **Individual employees** should take seriously and treat with confidence any concerns raised about a potential bribery, fraud or corruption. The Council encourages reporting of suspicions and will protect those who do so (even

if the suspicions are unfounded but made with good intent), as set out in the Council's Whistleblowing Policy.

14.8 The Council expects employees to follow any code of conduct relating to their personal professional qualifications and abide by the Council's Code of Conduct.

14.9 Employees must operate within Section 117 of the Local Government Act 1972, to give notice in writing of pecuniary (financial) interests in contracts relating to their Council or the offer of any fees or rewards other than their proper remuneration. The People Team will monitor this.

14.10 All employees must declare any offers of gifts or hospitality, which are in any way related to the performance of their Council duties. The Council's [guidance on gifts and hospitality](#) provides more information.

Employees should not undertake work or activities outside their direct employment with the Council if their Council duties overlap in some way with their proposed work or activity, e.g. by causing a conflict of interest or by making use of material to which they have access by virtue of their Council employment.

14.11 Any employee wishing to undertake other employment should check with their manager whether they need permission from their Head of Service to do this and whether they should register the employment on an annual basis. If the employee needs permission the Head of Service should send copies of correspondence, including permission, to human resources who will record it.

14.12 The Council encourages all staff to make voluntary declarations for all secondary employment based on the need for open government.

14.13 As well as employment contract obligations, each employee is responsible for:

- remaining aware of the policies and procedures set out at the end of this Policy;
- their own conduct and contribution towards the safeguarding of Council standards in accordance with the policies and procedures set out at the end of this Policy;
- acting with propriety when using Council resources, when handling Council funds, whether they are involved with cash or payments systems, receipts or dealing with contractors or suppliers; and
- reporting details immediately to their line manager or the most appropriate employee if they suspect that bribery, fraud or corruption has been committed or they have seen any suspicious acts or events.

**14.14 The Counter-Fraud Team**

has responsibility for:

- the independent appraisal of control systems;
- undertaking or assisting in the investigation of irregularities.

The team carries out activities to prevent and detect any fraud that could affect the Council.

**14.15 All Members of the Council and Co-opted Members** of the Council's Committees should take seriously and treat with confidence any concerns raised about a potential bribery, fraud or corruption. The Council encourages reporting of suspicions and aims to protect those who do so (even if the suspicions are unfounded but made in good faith).

Members and co-optees must ensure that they avoid any situation where there is potential for a conflict of interest.

Each Member or co-optee of the Council is responsible for:

- observing standards, set out in the [Member's Code of Conduct](#); and
- familiarising themselves with the codes, protocols, policies and procedures as set out at the end of this document.

**14.16 The external auditor** has responsibility for:

- reviewing the stewardship of public money by the Council; and
- considering whether the Council has adequate arrangements in place to prevent bribery, fraud or corruption.

**14.17 The Cabinet Office** has responsibility nationally for:

- National Fraud Initiative (NFI) data matching exercises
- under Section 6 of the Audit Commission Act 1998, the Cabinet Office (previously the Audit Commission) requires all councils to provide employees' (including Members') payroll data to enable data matching to take place with the aim of preventing and detecting fraudulent and erroneous payments from the public purse. The Council participates in this.

**14.18 The Audit and Governance Committee** has responsibility for:

- policies for making sure the Council follows regulatory guidance the way the Council's strategies, policies, processes and procedures are working in respect of anti-fraud and corruption and money-laundering

**14.19 The Police** may:

- investigate links to offences;
- give prevention advice;

- advise on any pre-investigation work; and
- maintain a dialogue with management and/or internal audit during an investigation.

## **15 Prevention of Bribery, Fraud and Corruption – Regulatory Framework**

- 15.1 The Council has a wide range of mechanisms in place aimed at preventing and detecting bribery, fraud or corruption. These include the rules and regulations set out in this document in addition to the Council’s financial procedure rules and regulations.
- 15.2 Managers must ensure that adequate levels of internal checks are included in working procedures, particularly financial procedures. It is important that duties are organised in such a way that no one person can carry out a complete transaction without some form of checking or intervention process being built into the system.

## **16 Prevention of Bribery, Fraud and Corruption – Staff Selection/Screening**

- 16.1 The Council’s recruitment procedures ensure that the Council appoints employees on merit and prevents the appointment of unsuitable people.
- 16.2 Applicants complete an application form and must declare any criminal convictions that are not spent. Where appropriate, and where the type of post requires it, applicants may also be subject to criminal record and vetting checks.
- 16.3 The Council appoints employees subject to satisfactory written references.
- 16.4 The Council conducts documentary checks on all new employees to ascertain their eligibility to employment in accordance with the Asylum & Immigration Act 1996 s.8 (as amended).

## **17 Prevention of Bribery, Fraud and Corruption – Contractors and those Delivering Services for the Council**

- 17.1 The Council will ensure that all contracts conform to the highest standards possible. The Council will act to ensure that those organisations that work with the Council to deliver services are made aware of the Council’s strong anti-bribery, fraud and corruption principles, including their Whistleblowing Policy.
- 17.2 Where appropriate the Council may exclude suppliers, contractors and service providers from public contracts following conviction for certain offences including participation in criminal organisations, fraud, corruption, bribery or money laundering.
- 17.3 The Council will seek an assurance that those tendering to provide supplies, goods, services and works to the Council have adequate anti-



bribery, fraud or corruption recruitment procedures and controls in place; have not colluded with others during the tendering process; or canvassed or solicited any Member or employee of the Council in connection with the award or future award of contracts.

- 17.4 In awarding any contract, the Council will act in accordance with its Contract Rules.
- 17.5 Within its contract terms, the Council may exercise a right to terminate a contract and recover losses if there is evidence of bribery, fraud or corruption in connection with a Council contract by the contractor, its employees or anyone acting on the contractor's behalf.
- 17.6 The Council may seek the strongest available sanctions against the contractor, their employees or anyone acting on behalf of the contractor who commits bribery, fraud or corruption against the Council and will request that the organisation concerned takes appropriate action against any individual concerned.
- 17.7 Where contractors are involved with the administration of Council finances, or those for which the Council has responsibility, the Council will conduct internal audit reviews and pro-active anti-bribery, fraud or corruption exercises as part of the contract management process.

## **18 Prevention of Bribery, Fraud and Corruption –Collaboration with Outside Agencies and Other Bodies**

- 18.1 Given the nature of the Council's work, the nature and scope of bribery, fraud or corruption can vary and involve different bodies. Therefore, the Council may need to liaise with and undertake joint working with certain agencies, including (but not limited to):
- any Council owned companies;
  - other local authorities;
  - benefits agencies;
  - the Serious Fraud Office;
  - the Police;
  - the Home Office; and
  - the UK Border Agency.
- 18.2 The Council commits to working and co-operating with other organisations to prevent organised bribery, fraud or corruption. Wherever possible and where lawful to do so, the Council will assist and exchange information with other appropriate bodies to investigate and combat bribery, fraud and corruption.

## 19 Detection and Investigation

- 19.1 The range of preventative systems within the Council, particularly internal control systems, can provide indicators of bribery, fraud or corruption (and error) and can help to detect any inappropriate activity.
- 19.2 Senior managers have responsibility for preventing and detecting bribery, fraud or corruption. Often, the alertness of others enables the detection of wrongdoings and appropriate action to take place when evidence suggests that bribery, fraud or corruption may be taking place.
- 19.3 Despite the best efforts of managers and auditors, many irregularities are discovered by chance. The Council has arrangements in place to deal with such discoveries. Some frauds may be discovered as a result of whistleblowing.
- 19.4 The Council's Whistleblowing Policy encourages people to raise serious concerns. Employees reporting concerns are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998.
- 19.5 The Council will support employees who report concerns and will make every effort to protect them from reprisals. The Council will do everything possible to protect their confidentiality.
- 19.6 A duty exists to report any suspected cases of bribery, fraud or corruption. Reporting cases in accordance with this Policy and the Whistleblowing Policy is essential and:
- ensures the consistent treatment of information regarding bribery, fraud or corruption;
  - facilitates the proper investigation of suspected cases; and
  - protects the interests of individuals and the Council.
- 19.7 This process will apply to allegations of bribery, fraud or corruption relating to the following areas:
- by Members or co-optees;
  - internal fraud and other bribery, fraud or corruption by Council employees acting in a personal capacity;
  - by contractors or their employees; and
  - external bribery, fraud or corruption (the public).
- 19.8 The external auditor also has powers to independently investigate bribery, fraud or corruption.
- 19.9 The Council will treat all information received confidentially. The Council will not disclose or discuss investigation results with anyone other than those who have a legitimate need to know. This is important in order to avoid

damaging the reputations of people suspected but subsequently found innocent of wrongful conduct and to protect the Council from potential civil liability. Any processing of personal data will comply with the Data Protection Act, the General Data Protection Regulation and the data protection principles.

- 19.10 The Council's Communications team may use the press to report the outcome of any action taken, including prosecutions.
- 19.11 The Council will publish this Policy and any review of it to make employees, Members, co-optees, contractors, partners and the public aware of the Council's commitment to taking action on bribery, fraud or corruption when it occurs.

## 20 Courses of Action

- 20.1 Mechanisms exist within the Council to act in cases of bribery, fraud or corruption. These include the following:
- **Disciplinary action:** gross misconduct and other fraudulent or corrupt conduct will normally lead to dismissal. The Council's disciplinary procedure provides further information.
  - **Prosecution:**
    - the Council will seek full redress through the legal processes available to counter any internal or external fraudulent activities perpetrated against it. This redress will be achieved through criminal and/or civil courts as considered appropriate;
    - the Chief Executive, in consultation with the Section 151 Officer, the Monitoring Officer, the People Team, the Counter-Fraud Team and other external agencies as appropriate, will decide whether to refer the case to the police for prosecution. Other external agencies involved may include the Department for Works and Pensions and the Crown Prosecution Service;
    - the Council will take all reasonable action to recover any money or goods.
- 20.2 Failure to comply with the Bribery Act 2010 could result in imprisonment of up to 10 years and/or unlimited fines without taking into account the severe reputational repercussions for the Council.
- 20.3 A statutory defence to the strict liability offence of 'failing to prevent bribery' is the introduction of internal adequate procedures. For the Council this includes:
- the appointment of the Council's Monitoring Officer who will take action where bribery, fraud or corruption may have been identified.
  - management commitment to a zero tolerance culture to bribery and corruption. The Council will not accept any level of corruption, and all cases identified will be thoroughly investigation and dealt with appropriately;

- accessible and enforceable policies and procedures;
- a regulatory framework aimed at preventing and detecting corruption; and
- relevant staff are trained on how to spot and prevent potential bribery.

## **21 Awareness and Training**

- 21.1 Introducing and implementing a successful Anti-Bribery, fraud and Corruption Policy is dependent largely on the awareness and responsiveness of those working in and with the Council.
- 21.2 The Counter-Fraud Team will make Members, co-optees and employees aware of this Policy initially via the induction process and will remind them of this Policy via Council publications.
- 21.3 The Council supports the concept of bribery, fraud and corruption awareness training for Members, co-optees and employees to ensure that their responsibilities and duties in respect of anti-bribery, fraud and corruption are current and their understanding reinforced.
- 21.4 The Counter-Fraud Team also commits to training and developing staff who are involved in investigating bribery, fraud or corruption and will provide suitable training where necessary.
- 21.5 The Procurement Team will act to ensure that those organisations that work with the Council to deliver services are made aware of the Council's strong anti-bribery, fraud and corruption principles, including their Whistleblowing Policy.

## **22 Review of this Policy**

- 22.1 This policy will be reviewed one year from its adoption and thereafter every three years unless substantial changes are required before the end of the period.

## **23 Monitoring of this Policy**

- 23.1 The Counter-Fraud Manager will decide when this Policy needs review in light of any change of legislation or Council Policy if this is before the scheduled review date.
- 23.2 The Audit and Governance Committee has responsibility for the overview of this Policy. The Monitoring Officer, in consultation with the Chief Executive, the Section 151 Officer, and the Chair of the Audit and Governance Committee will ensure that any corrective actions identified from investigations are brought to the attention of the relevant committee.

## **24 Conclusion**

- 24.1 The Council commits to the development of an anti-bribery, fraud and corruption culture and will not tolerate bribery, fraud or corruption.
- 24.2 Bribery, fraud or corruption, where it is detected, will be dealt with promptly, investigated fairly, and where appropriate, prosecuted to the fullest extent that the law allows. In certain matters, depending on the nature of the circumstances, alternative sanctions may, on agreement, be deemed appropriate.
- 24.3 This document seeks to state the positions of the Council and its intent regarding all bribery, fraud or corruption matters that may affect the Council.

## **25 Ownership**

- 25.1 The Counter-Fraud Manager has overall responsibility for the maintenance and operation of this Policy and will liaise as necessary with the Chief Executive, the Monitoring Officer, The Head of Finance, the Section 151 Officer and the Internal Auditor.

**THIS POLICY WAS APPROVED BY OXFORD CITY COUNCIL'S AUDIT AND GOVERNANCE COMMITTEE ON:**

**POLICY UPDATED: June 2021**

**POLICY REVIEW DATE: June 2023**

**NEXT POLICY REVIEW DATE: June 2026**

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# INTERNAL AUDIT ANNUAL REPORT AND ANNUAL STATEMENT OF ASSURANCE

Oxford City Council

2022-23



IDEAS | PEOPLE | TRUST

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# SUMMARY OF 2022-23 WORK

## Internal Audit 2022-23

This report details the work undertaken by internal audit for Oxford City Council (the Council) and provides an overview of the effectiveness of the controls in place for the full year. The following reports have been issued for this financial year:

- Car Parking
- Income Generation
- Change Programme
- Enforcement Restructure
- IT Audit
- NNDR & Business Rate Pooling
- Sickness & Absence Management
- Treasury Management
- Contract Management and Procurement

We have detailed the opinions of each report and key findings on pages five to 10. Our internal audit work for the 12-month period from 1 April 2022 to 31 March 2023 was carried out in accordance with the internal audit plan approved by management and the Audit Committee. The plan was based upon discussions held with management and was constructed in such a way as to gain a level of assurance on the main financial and management systems reviewed. There were no restrictions placed upon the scope of our audit and our work complied with Public Sector Internal Audit Standards.

## Head of Internal Audit Opinion

The role of internal audit is to provide an opinion to the Full Council, through the Audit Committee (AC), on the adequacy and effectiveness of the internal control system to ensure the achievement of the Council's objectives in the areas reviewed. The annual report from internal audit provides an overall opinion on the adequacy and effectiveness of the Council's risk management, control and governance processes, within the scope of work undertaken by our firm as outsourced providers of the internal audit service. It also summarises the activities of internal audit for the period. The basis for forming my opinion is as follows:

- Overall, we are able to provide **Moderate Assurance** that there is sound system of internal control, designed to meet the Council's objectives and that controls are being applied consistently. In forming our view we have taken into account that:
- In 2022-23 the Gross expenditure of the Council equated to £163.26m this was made up of Central Services, Planning Services, Cultural Services and Housing Services (to name a few), a total income of £138.9m realising a total net spending of £24.36m.
- In 2023/24 the Central Government are planning on restarting the Revenue Support Grant scheme the grant will equate to £197,000 this was nil in 2022-23. In addition, the Council's

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Business rates income in 2022/23 was £7.1 million however this is estimated to increase in 2023/24 to £8.5 million.

- The Council have not implemented all recommendations due for 2021-22, a total of 11 recommendations remain outstanding for the Environment Audit. However, recommendations raised in 2022-23 have been completed apart from three high recommendations for Income Generation which are due to a new Asset Management system being implemented the revised due dates for these recommendations have been agreed with management.
- Our reports this year which contained an opinion, include two with substantial assurance over design and effectiveness (Car Parking and Treasury Management) three with moderate assurance on both design and effectiveness (Change Programme, Sickness & Absence Management and Contract Management and Procurement) and two with limited assurance on both design and effectiveness (Income Generation and IT Audit). In comparison to last year there was only one report with a limited opinion on control design (Private Rented Sector). The Council need to achieve substantial assurance on both design and effectiveness on a majority of their audit reviews in 2023-24 to achieve a substantial opinion overall.

# REVIEW OF 2022-23 WORK

43

Report Issued	Recommendations and significance			Overall Report Conclusions (see Appendix 1)		Summary of Key Findings / Recommendations
	H	M	L	Design	Operational Effectiveness	
Car Parking	-	-	2	Substantial	Substantial	<p><u>Conclusion</u></p> <p>The Council’s controls and processes within car parking are being adhered to and the council are maximising efficiencies in terms of the cost of operation of its facilities and income collection including within the recent cashless pilot.</p> <p>Findings/Recommendations:</p> <ul style="list-style-type: none"> <li>The Parking team should be reminded via email from the Assistant Parking Manager to check dates input into the Imperial System for resetting the discount period following an appeal by a customer. The Council should also maintain consistent communication with Civica to resolve the interfacing issue between Civica Pay and Imperial until it is resolved. Consideration of whether to obtain legal advice surrounding the interfacing issue should be made</li> <li>All part-payments accepted as full payments should require the approval of the Assistant Parking manager or the Enforcement Team Leader via email before being approved in Imperial and retained on the Imperial case record or in the Parking team’s shared drive.</li> </ul>
Income Generation	3	2	2	Limited	Limited	<p><u>Conclusion</u></p> <p>The Council’s approach and processes surrounding income generation activities, including from its trading companies are effective, including how the Council facilitates and considers ‘invest to save’ business cases. However, there are some exceptions including where commercial properties were billed incorrectly, commercial rent was not reconciled between Uniform and Agresso, rent arrears were not recovered in a timely manner and the change note process being susceptible to human error</p> <p>Findings/Recommendations:</p> <ul style="list-style-type: none"> <li>Due to a delay in collecting £1.1m and £558k outstanding as a result of</li> </ul>

					<p>incorrect billing a detailed spreadsheet/database should be set up between the Property and Asset Management team and the Income team. At monthly meetings between these teams the database should be reviewed to prompt any action on change notes that have not been actioned. Both teams should complete an immediate reconciliation of the entire commercial property portfolio to confirm rent is billed correctly. It should be investigated whether the new asset management system could interface directly with Agresso to reconcile the rent billed to tenants with the property management database</p> <ul style="list-style-type: none"> <li>• The Property and Asset Management team and the Income team should undertake quarterly checks between subscriptions on Agresso and the asset management database prior to billing to identify any variances between the two systems which should be amended once identified</li> <li>• Clear processes should be established where a debt hits a certain threshold for the relevant surveyor to be contacted to support the development of a payment plan when arrears reach £25k. The Property and Asset Management team should maintain a log of queries received from the Income team and be allocated to the relevant team leader who logs response and clearing of the query</li> <li>• The Property and Asset Management team should set a rent review reminder into Uniform for stepped increases in rent so that when the rent review report is run this will identify all tenancies where the rent should be increased and remind the income team to implement the stepped rent increase in billing</li> <li>• The Income Team should create a change note guidance document and hold recorded training sessions for the Property and Asset Management team to highlight requirements for completion of change notes.</li> <li>• The Commercial Manager should revise KPIs in the Sales and Marketing Plan to ensure they are SMART and they should be monitored through monthly Head of Service reports on CorVu</li> <li>• The Town Hall team should liaise with the IT team and Business Improvement team to explore the potential data outputs that can be obtained from the website and if the data can be extracted the Commercial Manager should review it monthly to support the Council's marketing strategy</li> </ul>	
Change Programme	-	3	1	Moderate	Moderate	<p><u>Conclusion</u></p> <p>Overall, the Council have moderate controls in place for the management of its</p>

			<p>Change Programme. The Council demonstrated good governance for the Fit for the Purpose Programme, with oversight routes for projects, workstreams and the overall programme. However, records of Change Board meetings, performance reporting and the overview of financial savings from projects could be formalised.</p> <p>Additionally, while Change Agents have been recruited throughout the Council, Change Agents did not understand fully their roles and responsibilities and platforms were not in place to share best practice for promoting change in the Council. However, the Council has undertaken pulse surveys to assess the morale within the organisation.</p> <p><u>Findings and Recommendations</u></p> <ul style="list-style-type: none"> <li>• To develop SMART critical success measures for all workstreams and report to the Change Board and CMT</li> <li>• The Action Log for the Change Board should be amended to include revised implementation dates when actions have not been completed by their due date, explanations where actions are overdue and the actual completion dates of ongoing actions</li> <li>• To identify further training opportunities and/or guidance on change agents roles and responsibilities, including expectations</li> <li>• Following the change in role of the Change Agents, they should be invited onto the relevant project boards or similar to raise any issues and feedback from across the organisation.</li> </ul>
<p>Enforcement Restructure</p> <p>0      1      1</p>	<p>Substantial</p>	<p>Moderate</p>	<p><u>Conclusion</u></p> <p>There is a good understanding of statutory duties and responsibilities in the Regulatory Services &amp; Community Safety team. The Corporate Enforcement Policy recognises that its regulatory services play an important role in ensuring a level playing field for business, fairness for all and in particular, protection of the vulnerable. There is a dedicated Head of Regulatory Services &amp; Community Safety who engages regularly with senior team members.</p> <p>Whilst the restructure is working well, the reporting structures are inconsistent between Regulatory Services and Community Safety. In addition, there are</p>

					several KPIs being monitored and we identified minor weaknesses around the process, accuracy and value of the information produced to enable informed operational decisions.	
					Findings/Recommendations <ul style="list-style-type: none"> <li>There is a corporate level KPI, regarding affordable housing documented in the Council's Regulatory Services &amp; Community Safety Service Plan 2022-23. This is a complex KPI, where only one person has the understanding and instructions to complete the calculation, potentially creating a single source of failure risk. Mitigating actions against this risk should be taken; by sharing the local procedures and training another person to calculate the KPI</li> <li>Team service level KPIs are monitored and reported via Smartsheet. The information includes a year-end target, actual and target for the reporting period in a RAG status. The information was recommended to be enhanced for decision making by including the year-to date figures.</li> </ul>	
IT Audit	2	3	2	Limited	Limited	The summary of this review has been removed at the request of the Council.
NNDR & Business Rate Pooling	0	2	1	Substantial	Moderate	<p><u>Conclusion</u></p> <p>There are adequate policies, procedures and controls in place to manage NNDR and Business Rates Pooling with some exceptions. Evidence was not obtained in order to support applications of discounts in some cases, procedure notes have not been updated following the introduction of a new system and reconciliations were not subject to separate review.</p> <p>Findings/Recommendations:</p> <ul style="list-style-type: none"> <li>In our sample £11,000 of charity relief was applied despite ineligibility. The Revenues team should be reminded by the Senior Revenues Officer in a minuted discussion or via email to ensure the Charity number is recorded on the occupier's diary note on Civica and next quarter a sample of occupiers receiving charity relief should be reviewed to assess whether compliance has improved</li> <li>The Revenue team's procedure notes should be updated with screenshots and instructions on how to complete the process on Civica and saved to a central folder to ensure accessibility for staff</li> </ul>

						<ul style="list-style-type: none"> <li>Daily reconciliations between PARIS and Agresso should be retrospectively reviewed after it has been submitted. The initials and date of review should be recorded in the reconciliation spreadsheet</li> </ul>
Sickness and Absence Management	0	3	1	Moderate	Moderate	<p><u>Conclusion</u></p> <p>The Council have an effective sickness absence management process and adequate controls and triggers in place to monitor and manage sickness absence effectively. The return to work process has also been monitored effectively including in cases employees were working remotely. However, there were some exceptions where return to work records were not held, required medical evidence was not on record, sickness end dates were not submitted in a timely manner causing incorrect pay and concerns about the iTrent system were raised.</p> <p><u>Findings/Recommendations:</u></p> <ul style="list-style-type: none"> <li>66% of our sample did not have adequate return-to work information. The Management Guidance- Attendance Management document should be updated to contain a precise timeframe for return-to-work interview completion. The People Team should email all line managers to remind them of the expectation that return-to-work interviews should be held and recorded following employee absence.</li> <li>All line managers should be sent a reminder email by the People Team that medical notes should be provided for absences of seven days or more, covering the entire period and attached to I-Trent. The People Team should review a sample of these absences to ensure the procedure is followed and in cases on non-compliance it should be raised to line managers</li> <li>The Management Guidance- Attendance Management document should be sent to all line manager by the Head of People highlighting responsibilities, particularly surrounding entering absence information on iTrent</li> <li>As part of the procurement exercise the People team should establish working groups or consultation sessions with line managers to obtain their perspectives on essential desired functionality within the new HR system to support more effective sickness absence management</li> </ul>
Treasury Management	0	0	2	Substantial	Substantial	<u>Conclusion</u>

			<p>The controls and policies in place to support Treasury Management are adequate despite some exceptions. The risk register was not up to date with key risks omitted and a £7.46m investment was recorded for the incorrect counterparty on the loans list.</p> <p>Findings/Recommendations:</p> <ul style="list-style-type: none"> <li>• The updated version of the Risk Register should be reported to the Finance and Performance Panel at its next meeting, noting that the version reviewed at the December meeting was a previous version, to ensure the Panel has sufficient oversight of the key treasury risks</li> <li>• The wording of the section confirming that there has not been a breach of counterparty limits on the Stage 2 checklist should be amended to include a check that the MMF transaction or investment has been added to the correct fund on the Loans List</li> </ul>
<p>Contract Management &amp; Procurement</p>	<p>0    2    1</p>	<p>Moderate</p>	<p>Moderate</p> <p><u>Conclusion</u></p> <p>Overall, whilst the Council have adequate controls in place for managing relationships with clients, contracts do not have established KPIs which is a requirement for all contracts within the Council</p> <p>The Council’s Constitution was updated and approved by Cabinet in March 2023 which outlines the procurement process. However, it does not provide clarity on the duration procurement documents should be retained for live contracts obtained through In-Tend</p> <p>Findings/Recommendations:</p> <ul style="list-style-type: none"> <li>• To review the top four high value Contracts the Council hold and identify the key procurement documents which should be retained and work with Suppliers to obtain these</li> <li>• To review and update the Constitution to specify the duration procurement documentation should be retained for live contracts obtained on the In-Tend System</li> <li>• To identify key live contracts without KPIs and for the relevant Contract Managers to work with suppliers to establish KPIs and ensure upon renewal these are added to the contract</li> <li>• To develop a list of standard KPIs that Contract Managers can use as a template to</li> </ul>



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re-enforce the important of KPIs.

# SUMMARY OF FINDINGS

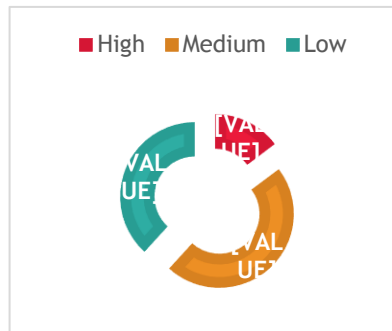
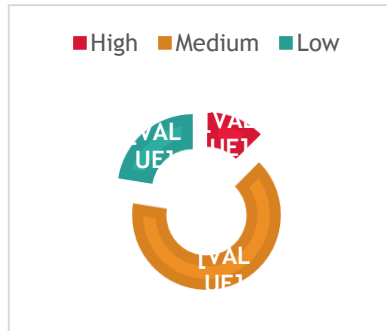
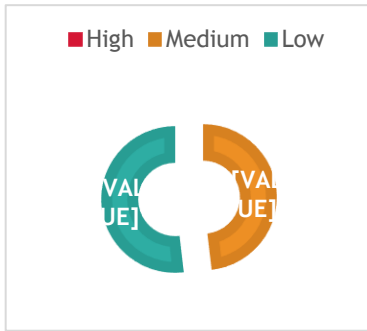
## RECOMMENDATIONS AND ASSURANCE DASHBOARD

### Recommendations

2020-21

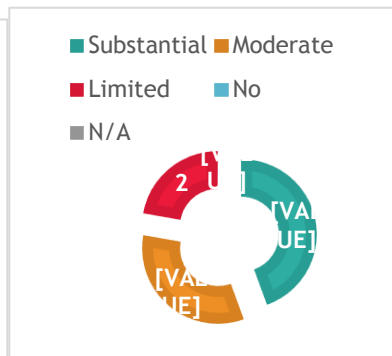
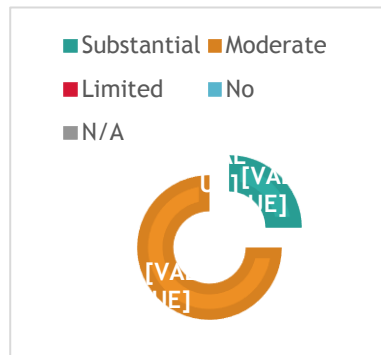
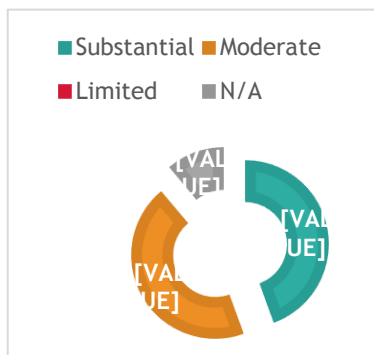
2021-22

2022-23



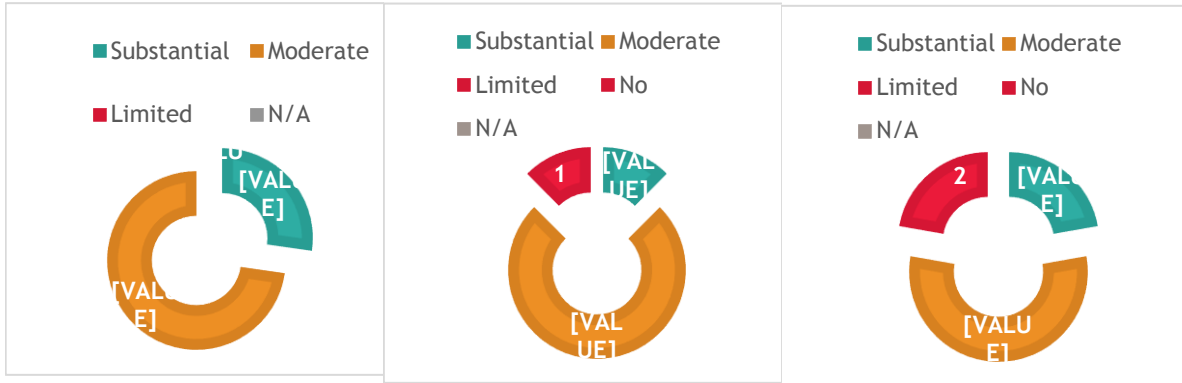
In 2022-23 there were a total of 34 recommendations issued; five high, 16 medium and 13 low recommendations. In comparison in 2021-22 there were 40 recommendations issued; five high, 26 medium and nine low. Whilst the number of medium recommendations have reduced the number of high recommendations issued have not changed in comparison to last year. Indicating the council's control systems remain unchanged.

### Control Design



In 2022-23 there were four substantial, three moderate and two limited control design opinions (Income Generation and IT Audit). In comparison to 2021-22 there were two substantial and six moderate control design opinions issued. The Council continue to point us to high-risk areas eg Income Generation, Change Programme and IT Audit.

## Operational Effectiveness



In 2022-23 there was two substantial, five moderate and two limited opinions on effectiveness (Income Generation and IT Audit) issued. In comparison to 2021-22 there was one substantial, six moderate and one limited on effectiveness opinions issued.

While the Council continues to apply policy this has slightly declined from last year.

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# ADDED VALUE



## USE OF SPECIALISTS

We deployed IT specialists to utilise their expertise to undertake the IT Audit Review.



## SUPPORT AND NETWORKING

We participated in the Corporate Peer Challenge run by LGA providing an independent assessment on the Council's performance. We were interviewed by the external CPC team to comment on the following five themes: Local Priorities and Outcomes, Organisation and Place Leadership, Governance and Culture, Financial Planning and Management and Capacity Improvement.

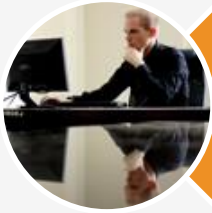


## BENCHMARKING AND BEST PRACTICE

We undertook an Income Generation audit review and benchmarked the controls and practices to other Councils with similar arrangements and fed these back to the Council.

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## KEY THEMES



### PEOPLE

The Council welcomed our internal audits and provided us with strong levels of time and support during our reviews. We found in some audits that KPI reporting was low, particularly for Enforcement Restructure and Change Programme.



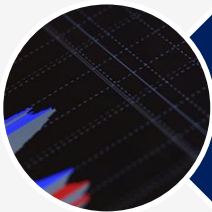
### GOVERNANCE & STRUCTURES

Monitoring and governance processes were robust and strong team structures were identified within several of our reviews, including Sickness Absence & Management, Change Programme and Car Parking.



### POLICIES & PROCEDURES

Policies and procedures were in place and were subject to approval throughout service areas within the Council.



### FOLLOW UP

We followed up on all recommendations due in the year and reported these to the Audit Committee. We worked with ODG to arrange a process of senior management inclusion in the follow up process to improve the engagement from managers. The implementation of recommendations has significantly improved since 2017 -18.

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# BACKGROUND TO ANNUAL OPINION

## Introduction

Our role as internal auditors to Oxford City Council (the Council) is to provide an opinion to the Full Council, through the Audit Committee, on the adequacy and effectiveness of the internal control system to ensure the achievement of the organisation's objectives in the areas reviewed. Our approach, as set out in the firm's Internal Audit Manual, is to help the organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Our internal audit work for the 12 month period from 1 April 2022 to 31 March 2023 was carried out in accordance with the internal audit plan approved by management and the Audit Committee, adjusted during the year for any emerging risk issues. The plan was based upon discussions held with management and was constructed in such a way as to gain a level of assurance on the main financial and management systems reviewed. There were no restrictions placed upon the scope of our audit and our work complied with Public Sector Internal Audit Standards.

The annual report from internal audit provides an overall opinion on the adequacy and effectiveness of the organisation's risk management, control and governance processes, within the scope of work undertaken by our firm as outsourced providers of the internal audit service. It also summarises the activities of internal audit for the period.

## Scope and Approach

### Audit Approach

We have reviewed the control policies and procedures employed by the Council to manage risks in business areas identified by management set out in the 2022/23 Internal Audit Annual Plan approved by the Audit Committee. This report is made solely in relation to those business areas and risks reviewed in the year and does not relate to any of the other operations of the organisation. Our approach complies with best professional practice, in particular, Public Sector Internal Audit Standards, the Chartered Institute of Internal Auditors' Position Statement on Risk Based Internal Auditing.

We discharge our role, as detailed within the audit planning documents agreed with the Council's management for each review, by:

- Considering the risks that have been identified by management as being associated with the processes under review
- Reviewing the written policies and procedures and holding discussions with management to identify process controls
- Evaluating the risk management activities and controls established by management to address the risks it is seeking to manage
- Performing walkthrough tests to determine whether the expected risk management activities and controls are in place
- Performing compliance tests (where appropriate) to determine that the risk management activities and controls have operated as expected during the period.

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The opinion provided on page 3 of this report is based on historical information and the projection of any information or conclusions contained in our opinion to any future periods is subject to the risk that changes may alter its validity.

### **Reporting Mechanisms and Practices**

Our initial draft reports are sent to the key officer responsible for the area under review in order to gather management responses. In every instance there is an opportunity to discuss the draft report in detail. Therefore, any issues or concerns can be discussed with management before finalisation of the reports.

Our method of operating with the Audit Committee is to agree reports with management and then present and discuss the matters arising at the Audit Committee meetings.

### **Management actions on our recommendations**

Management were engaged with the internal audit process and provided considerable time to us during the fieldwork phases of our reviews, providing audit evidence promptly and allowing the reviews to proceed in a timely manner, including opportunities to discuss findings and recommendations prior to the issue of draft internal audit reports. There were some delays to provide deliverables to support audit reviews which resulted in delays in issuing draft reports this included IT Audit and Contract Management & Procurement.

### **Recommendations follow-up**

Implementation of recommendations is a key determinant of our annual opinion. If recommendations are not implemented in a timely manner then weaknesses in control and governance frameworks will remain in place. Furthermore, an unwillingness or inability to implement recommendations reflects poorly on management's commitment to the maintenance of a robust control environment.

There has been some progress made on recommendations and those followed up during the year have broadly been engaged with well. However, little progression has been made in fully implementing the recommendations for the Environment audit review which was a review undertaken in 2021-22. All 2022/23 recommendations are due to be reviewed as part of the follow up process. Completion of recommendations is broadly good with limited concerns at this stage.

### **Relationship with external audit**

All our final reports are available to the external auditors through the Audit Committee papers and are available on request. Our files are also available to external audit should they wish to review working papers to place reliance on the work of internal audit.



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## Report by BDO LLP to Oxford City Council

As the internal auditors of Oxford City Council we are required to provide the Audit Committee, and the Director with an opinion on the adequacy and effectiveness of risk management, governance and internal control processes, as well as arrangements to promote value for money.

In giving our opinion it should be noted that assurance can never be absolute. The internal audit service provides the Council with **Moderate assurance** that there are no major weaknesses in the internal control system for the areas reviewed in 2022/23. Therefore, the statement of assurance is not a guarantee that all aspects of the internal control system are adequate and effective. The statement of assurance should confirm that, based on the evidence of the audits conducted, there are no signs of material weaknesses in the framework of control.








In assessing the level of assurance to be given, we have taken into account:



- All internal audits undertaken by BDO LLP during 2022/23
- Any follow-up action taken in respect of audits from previous periods for these audit areas
- Whether any significant recommendations have not been accepted by management and the consequent risks
- The effects of any significant changes in the organisation's objectives or systems
- Matters arising from previous internal audit reports to the Council
- Any limitations which may have been placed on the scope of internal audit - no restrictions were placed on our work









# KEY PERFORMANCE INDICATORS

INTERNAL AUDIT QUALITY ASSURANCE	NOTES	RAG RATING
ANNUAL AUDIT PLAN DELIVERED IN LINE WITH TIMETABLE AND ACTUAL DAYS ARE IN ACCORDANCE WITH ANNUAL AUDIT PLAN	THE INTERNAL AUDIT WORK COMPLETED TO DATE HAS BEEN IN LINE WITH THE AGREED TIMETABLE AND DAYS.	
Customer satisfaction reports - overall score at average at least 3.5/5 for surveys issued at the end of each audit and annual survey to Audit Committee to achieve a score of at least 70%	Customer Satisfaction Reports - Our overall score at average was 4 for surveys issued at the end of each audit.	
External audit can rely on the work undertaken by internal audit (where planned)	External Audit are aware of the control environment for the Council as part of the Audit Committee meetings	
At least 60% input from qualified staff	The internal audit work completed to date has been completed by qualified staff.	
Issuance of draft report within 3 weeks of fieldwork 'closing' meeting and finalise internal audit report 1 week after management responses to the report are received.	We have issued draft reports within 3 weeks of fieldwork 'closing' meeting and finalised internal audit reports within 1 week after receiving management responses.	
90% recommendations to be accepted by management and information is presented in the format requested by the customer.	All our recommendations made were accepted by management and we worked with the Auditees to present information in the format requested.	
Positive result from any external review.	This indicator will be updated when an external review has been completed.	



MANAGEMENT KPIS	NOTES	RAG RATING
Audit sponsor to respond to terms of reference within one week of receipt and to draft reports within two weeks of receipt	Generally, the Council have been responsive and responded to draft terms of references within one week of receipt. Where assurance levels have been limited draft reports have taken longer to finalise in some instances.	
Audit sponsor to implement all audit recommendations within the agreed timeframe.	The overall responsiveness in implementing audit recommendations has fallen slightly in comparison with last year. In 2023-24 we will be working with the Operational Delivery Group to improve the overall implementation of recommendations.	

# APPENDIX I

## OPINION SIGNIFICANCE DEFINITION

LEVEL OF ASSURANCE	DESIGN OPINION	FINDINGS FROM REVIEW	EFFECTIVENESS OPINION	FINDINGS FROM REVIEW
<b>Substantial</b> 	Appropriate procedures and controls in place to mitigate the key risks.	There is a sound system of internal control designed to achieve system objectives.	No, or only minor, exceptions found in testing of the procedures and controls.	The controls that are in place are being consistently applied.
<b>Moderate</b> 	In the main, there are appropriate procedures and controls in place to mitigate the key risks reviewed albeit with some that are not fully effective.	Generally a sound system of internal control designed to achieve system objectives with some exceptions.	A small number of exceptions found in testing of the procedures and controls.	Evidence of non compliance with some controls, that may put some of the system objectives at risk.
<b>Limited</b> 	A number of significant gaps identified in the procedures and controls in key areas. Where practical, efforts should be made to address in-year.	System of internal controls is weakened with system objectives at risk of not being achieved.	A number of reoccurring exceptions found in testing of the procedures and controls. Where practical, efforts should be made to address in-year.	Non-compliance with key procedures and controls places the system objectives at risk.
<b>No</b> 	For all risk areas there are significant gaps in the procedures and controls. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Poor system of internal control.	Due to absence of effective controls and procedures, no reliance can be placed on their operation. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Non compliance and/or compliance with inadequate controls.

## RECOMMENDATION SIGNIFICANCE DEFINITION

RECOMMENDATION SIGNIFICANCE	
<b>High</b> 	A weakness where there is substantial risk of loss, fraud, impropriety, poor value for money, or failure to achieve organisational objectives. Such risk could lead to an adverse impact on the business. Remedial action must be taken urgently.
<b>Medium</b> 	A weakness in control which, although not fundamental, relates to shortcomings which expose individual business systems to a less immediate level of threatening risk or poor value for money. Such a risk could impact on operational objectives and should be of concern to senior management and requires prompt specific action.



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Low



Areas that individually have no significant impact, but where management would benefit from improved controls and/or have the opportunity to achieve greater effectiveness and/or efficiency.





FOR MORE INFORMATION:

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**To:** Audit and Governance Committee  
**Date:** 26 July 2023  
**Report of:** Head of Business Improvement  
**Title of Report:** Recruitment and Retention Update

<b>Summary and recommendations</b>	
<b>Purpose of report:</b>	To update the committee on recruitment and retention challenges and action
<b>Key decision:</b>	No
<b>Cabinet Member:</b>	Councillor Nigel Chapman
<b>Corporate Priority:</b>	High
<b>Policy Framework:</b>	None

<b>Recommendation(s): That the Committee resolves to:</b>
<ol style="list-style-type: none"><li>1. To note the report</li><li>2. To confirm the committee is satisfied with the approach</li></ol>

## **Introduction and Background**

1. The Council's People Plan objectives around recruitment include:
  - Develop the approach to improve the quality and volume of suitable applicants and candidates to improve fill rates and reduce time to recruit to enable the Council to maintain effective, high-quality service delivery.
  - Develop inclusive recruitment processes and practices to improve the diversity of candidates and recruits, making sure that managers understand their role and have the capability needed.
  - Develop training for managers on recruitment to improve manager capability and section decisions.

2. The work on recruitment is closely linked to work on diversity and inclusion and the outcomes of the pay and grading review will also impact our ability to attract and retain talented people.
3. The structure of the People Team includes a Recruitment Consultant and Diversity and Inclusion Specialist to support delivery of the People Plan.
4. The People Plan is part of the fit for the future programme and progress is monitored monthly by the Change Board and CMT.

### **National Context**

5. All local authorities are struggling with recruitment and retention. By comparison, the Council has a relatively low employee turnover rate but, like other authorities, struggles to fill vacancies, especially in areas where there is a recognised shortage of people such as in environmental health, information technology, law, planning and surveying disciplines.

### **Current Recruitment Activity**

6. Vacancy levels remain consistent at 25 per month. There are 13 live vacancies advertised on the careers site with 4 difficult to fill vacancies, 3 in Legal and 1 in Property Services. Advertised roles include 3 lawyers, a Major Project Surveyor and 5 support roles in the Home Improvement Agency Team in the Regulatory Services and Community Safety Team.
7. In addition to recruitment to fill vacancies, there is a corporate-wide apprenticeship campaign open with 11 opportunities. The Council is working with local schools to encourage a diverse and local pool of candidates.
8. The Council's in-house Recruitment Consultant is working to proactively approach candidates for the lawyer and property roles. Approaches so far are not providing applicants and difficulties are largely due to the skill shortage (as approaches have been made without sharing pay information) although it is known that the Council's pay is less competitive.

### **Current Recruitment Challenges**

9. The market has changed slightly over the past 6 months. It remains firmly as candidate driven and challenging but we have noticed the IT market has become slightly less competitive. This has had little impact on the Council.
10. Grade 4/5 roles, such as in customer services and administration, are now proving to be more difficult with fewer applications. The lasting impact of Brexit has been to reduce the number of people in the market for these entry-level roles.



11. Interest in the Apprenticeship campaign has been varied but there is a good level of interest in the higher-level roles for project management and surveyor apprenticeships.
12. The Council has struggled to attract applicants for Legal roles, partly due to its pay being less competitive but also because of a shortage of lawyers. The Council successfully used market supplements to pay to support recruitment of six roles in Law and Governance earlier this year.

### **Changes Implemented and Results**

13. The front end of the recruitment process is now automated, resulting in posts being advertised more efficiently, and work has been done with managers to make sure that essential criteria are, in fact, essential skills and experience to perform a particular role. Desirable criteria has been heavily reduced to open up opportunities to a wider pool of applicants.
14. Applications are up 31% compared with same period last year (Jan – May 2022) as a result of better advertising and better information for applicants. Also, applicants can now apply using CV and a covering statement and where this has been in place we have seen an increase in applications. The use of gender-neutral language may have also impacted application numbers.
15. As a result of more proactive approaches, a permanent Major Construction Project Manager is in place after a 12 Month search. Here, LinkedIn was used to headhunt. Identification of passive candidates is in place so that the Recruitment Consultant is ready to approach individuals as soon as the vacancy is posted for hard to fill vacancies.
16. Linked with diversity and inclusion objectives, the Council is engaging with local communities and schools and colleges to publicise opportunities and is providing interview and CV advice to raise the profile of the Council with a younger and more diverse demographic. This work includes working with the Council's Communications Team to get all vacancies posted on to a community newsletter from the Council.

### **Service Improvement Plans: Overview of Activity**

17. Steady progress is being made to build the Council brand and sell the benefits of working for the Council. There are plans to develop video or imagery of staff working for the Council to improve content on webpages and social media. Work is underway to modernise the back end of the recruitment process so that managers will be able to shortlist and invite candidates for interview, without the involvement of the HR Admin Team. This will improve time to hire and provide a better candidate experience. Another priority is to

produce a simplified application form to make the application process easier for applicants.

18. Work is underway to review pay against the external market and the Council is considering how best to design pay structures to meet current challenges, particularly for occupations that prove difficult to fill with no prospect of the market improving for employers in the near future. Pay benchmarking data is being collected for the local government sector, the housing sector and the general market.
19. The People Team intends to engage with managers on how to improve the service that it provides and is going to design and deliver manager training in September/ October 2023 to improve manager capability.
20. Finally, work is ongoing on a Preferred Supplier List for permanent agency suppliers to help manage and reduce the cost to hire. The Council has negotiated with Reed, its agency for temporary staff, to provide a payroll-only service for candidates who have been sourced for temporary roles to provide a time and cost saving. Reed is not always able to find candidates and so the Council supplements this with its own searches for candidates but then hands over to Reed to deal with all of the administration.

### **Legal Implications**

21. There are no legal implications arising from this report.

### **Financial Implications**

22. There are no financial implications arising from this report.

### **Risk Implications**

23. Current plans have been developed to manage the risk of not being able to resource services adequately across the Council. Work needs to continue to maintain staffing levels and fill vacant roles to maintain service delivery. Where the Council finds it difficult to fill vacant roles, this puts additional pressure on existing members of staff and may involve extra costs if contractors are used to cover work. Law and Governance, Regulation and Community Safety and Property Services have been struggling for some time to attract suitable candidates and fill vacancies. ICT has recently seen an increase in numbers of staff leaving and is now struggling to recruit replacements. It is these service areas that have the biggest challenges at present.

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**List of background papers: None.**

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**To:** Audit & Governance Committee

**Date:** 26 July 2023

**Report of:** Head of Law & Governance

**Title of Report:** Regulation of Investigatory Powers Act 2000 –  
Surveillance Policy and Procedure Review

## Summary and Recommendations

**Purpose of report:**

To present the revised Regulation of Investigatory Powers Surveillance Policy and Procedure for approval and adoption.

**Key decision** No

**Executive lead member:** Councillor Susan Brown - Cabinet Member for Inclusive Economy and Partnerships

**Policy Framework: Corporate Plan Priority – Enable an Inclusive Economy, Support Thriving Communities**

**Recommendation(s):** That the Committee approves the revised Surveillance Policy and Procedure at Appendix 1 to the report.

## **Appendix 1 – Draft Surveillance Policy and Procedure**

### **Background**

1. The Regulation of Investigatory Powers Act 2000 (RIPA) and the Protection of Freedoms Act 2021 legislate for the use by local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to and authority's core functions.
2. On 1 September 2017, The Office of Surveillance Commissioners, The Intelligence Commissioner's Office and The Interception of Communications Commissioner's Office were abolished by the

Investigatory Powers Act 2016. The Investigatory Powers Commissioner's Office (IPCO) is now responsible for the judicial oversight of covert surveillance by public authorities in the United Kingdom.

### **Use of the Regulation of Investigatory Powers Act 2000 (RIPA)**

3. This report relates to the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) for the period April 2017 to March 2018. The three investigatory powers available to the Council are, directed covert surveillance, the interception of communications data and the use of Covert Human Intelligence Sources. The Council has only ever authorised directed covert surveillance and has not used any of the powers available to it for several years. The Council submitted a nil return to the IPCO in its statistical return for the year 2022.

### **Policy Review**

4. The Council's policy on the use of RIPA powers is overdue for a review, having last been considered in May 2018, and a revised Surveillance Policy and Procedure document is attached at Appendix 1.
5. The changes to the document include:
  - Updated statutory references, names of regulatory bodies and hyperlinks to websites
  - Updates to key roles and post titles
  - Reference to and a hyperlink to the Council's document retention Schedule
  - Included an explanation of how records will be kept
  - Addition of details of who would deal with complaints
  - Addition of detailed guidance about social media monitoring/investigations

### **Legal Implications**

6. There are no legal implications arising directly from this report.

### **Financial Implications**

7. There are no financial implications arising directly from this report.

<b>Name and contact details of author:-</b>
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# Oxford City Council

## Surveillance Policy & Procedure

### 1. INTRODUCTION

- 1.1 Any covert surveillance conducted by the Council can constitute an interference with the right protected by Article 8 of the European Convention on Human Rights, which provides that every individual has a “right to respect for his private and family life, his home and his correspondence”. Section 6 of the Human Rights Act 1998 provides that it is unlawful for the Council to interfere with those rights unless it is in accordance with the law, proportionate and necessary in a democratic society.
- 1.2 As the Council has a number of functions to undertake which involve the enforcement of laws and regulations, officers will need to conduct investigations and where appropriate take legal proceedings. Such enforcement may have an impact on individuals, as the Council gathers evidence and decides what action to take in relation to suspected offences. There may be some effect on the private lives of individuals who may be subject to surveillance which is unknown to them.
- 1.3 It is important that any such surveillance of individuals and gathering of evidence is carried out in accordance with established legal rules. The Council will not normally make use of covert surveillance and similar activities unless it is necessary for an investigation, it is seen as a last resort and the effect on the individuals concerned is taken into account before it goes ahead. The covert surveillance method requested must also be the least intrusive available. Failing this, there is a risk that evidence obtained by the Council may be inadmissible in legal proceedings and/or the Council may face civil or criminal action for breach of statutory or common law relating to the privacy of individuals.
- 1.4 The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the way in which the Council conducts surveillance for the purposes of law enforcement. The fundamental requirement of RIPA is that when the Council considers undertaking directed surveillance or using a covert human intelligence source it must only do so if:
- a) the activity has been authorised by an officer with appropriate powers; and
  - b) the relevant criteria are satisfied and that the alleged offences carry a minimum sentence of six months imprisonment (or is a statutory exception) and that confirmation of approval has been given by a Magistrate.
- 1.5 Some activities of Council enforcement officers (e.g. environmental health officers, counter-fraud investigators, planning enforcement officers, licensing officers) are covered by the provisions of this Act. Also covered by the Act

and less obviously, are activities, which involve surveillance for purposes, which, might be said to be internally focussed.

- 1.6 Compliance with RIPA will ensure any interference is in accordance with domestic law. Compliance with RIPA assists to defend complaints against the Council and officers of interference with the right to respect for private and family life protected by Article 8 of the Convention. The Council can thus claim any interference is “in accordance with the law”. Provided the activities undertaken are also necessary and proportionate there will be no contravention of human rights legislation.
- 1.7 All investigations or enforcement actions involving covert surveillance or the use of a covert human intelligence source must comply with the provisions of RIPA.
- 1.8 This policy applies to all staff and agents working for the Council. The purpose of this guidance is to advise Council enforcement officers and their managers of the procedure that should be followed where surveillance activities are contemplated, to ensure compliance with RIPA.
- 1.9 The Council will from time to time issue further guidance and procedures to staff.
- 1.10 The Council will ensure adequate training takes place for authorising and investigating officers.
- 1.11 The Council has appointed the Head of Law & Governance as the Senior Responsible Officer (SRO) for matters relating to RIPA. In accordance with the Home Office Code of Practice, the SRO must be a member of the corporate leadership team and is responsible for ensuring that all Authorising Officers are of an appropriate standard in light of any recommendation reports prepared by the Investigatory Powers Commissioner’s Office. The Team Leader Lawyer Litigation & Regulatory is the RIPA Co-ordinator and will maintain a central register of all authorisations which will be retained by the Council for a period of three years from the ending of any authorisation.
- 1.12 The Council’s Audit & Governance Committee will review the Council’s use of RIPA, set the Council’s policy and review it so that it remains fit for purpose.
- 1.13 This policy should be read in conjunction with the Regulation of investigatory Powers Act 2000 (RIPA) and the Home Office Codes of Practice <https://www.gov.uk/government/collections/ripa-codes>, and for further guidance see the Investigatory Powers Commissioner’s Office website <https://www.ipco.org.uk/>.



## 2. RIPA REGULATED ACTIVITIES

- 2.1 If an officer in the course of an investigation identifies a contemplated surveillance activity as regulated by RIPA, a written authorisation should be obtained, before the activity commences. If enforcement officers or their managers are in any doubt, they should contact the Head of Law & Governance.
- 2.2 Terms used in this policy have the meanings given by RIPA or any relevant code of practice made under section 71 of RIPA. Surveillance includes:
- (a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications,
  - (b) recording anything monitored, observed or listened to in the course of surveillance, and
  - (c) surveillance by or with the assistance of a surveillance device.
- 2.3 To be covert surveillance, the surveillance must be carried out in a manner that is calculated to ensure that the persons who are subject to the surveillance are unaware that it is or may be taking place. For example, use of CCTV systems may be overt in many cases, and the public may be made aware of their use. This would be distinct from a case in which CCTV is used covertly for a particular operation and may require authorisation.
- 2.4 Private information includes any information relating to an individual's private or family life.

### **Activities covered by RIPA:**

- 2.5 The Interception of Communications: Where interception of the communication has not been authorised, or agreed by the sender and addressee of the communication. These guidance notes do not cover this activity, as the Council is extremely unlikely to undertake this activity. Please contact the Head of Law & Governance.
- 2.6 The Use of Covert Human Intelligence Sources: This is defined as the use of an individual to create a relationship with a subject, for the purposes of obtaining information, where the purpose of the relationship is not disclosed to the subject. Interaction with the subject of surveillance is therefore required in order for an individual to be regarded as a covert human intelligence source (CHIS). Activities of an undercover officer could fall within this definition. Additional careful monitoring and recording is required (see Home Office Code of Practice CHIS).
- 2.6.1 Examples might include an undercover police officer who, attempts to infiltrate a drug smuggling ring. Another example might be the use of a professional witness or private investigator to obtain information and evidence where that individual interacts with the subject of surveillance.

- 2.6.2 Members of the public who volunteer information as part of their civic duty i.e. they voluntarily disclose to the Council observations which they have made during the course of their lives, will not normally be regarded as a CHIS. It will be otherwise if they have obtained the information in the course of a friendship or other relationship with the suspect. In case of any doubt, legal advice should be sought from the Head of Law and Governance.
- 2.6.3 The Council does not envisage any circumstances where it would be necessary to use a CHIS. An Authorising Officer must consult with the Head of Law & Governance before considering authorising the use of CHIS.
- 2.7 Directed Surveillance: As this activity is the most likely to be carried out, this policy addresses this activity in more detail. Where there is to be directed surveillance written authorisation must be obtained in accordance with the provisions of RIPA before the surveillance commences. Directed surveillance is defined as surveillance which is:-
- covert, but not intrusive; and
  - is undertaken for the purposes of a specific investigation; and
  - is likely to result in obtaining private information about a person (whether or not one is specifically identified for the purposes of the investigation or operation); and
  - is carried out otherwise than as an immediate response to events where it would be impracticable to obtain prior authorisation (e.g. due to the time involved in obtaining an authorisation).
- 2.7.1 The planned covert surveillance of a specific person, where not intrusive, would constitute Directed Surveillance if such surveillance is likely to result in the obtaining of private information about that, or any other, person. For example, if a Council Officer wanted to drive past a café for the purposes of obtaining a photograph of the exterior, no private information about any person is likely to be obtained or recorded and therefore this is unlikely to amount to Directed Surveillance nor require authorisation. However, if the Council wished to conduct 'drive bys', to establish a pattern of occupancy of the premises by any person, the accumulation of information is likely to result in the obtaining of private information about that person and a Directed Surveillance authorisation should be considered.
- 2.7.2 Therefore investigating officers need to consider a number of key questions to determine whether a proposed activity falls within this definition of directed surveillance:
- i) Is the proposed activity surveillance?
- Surveillance is defined in wide terms as: any activity involving the monitoring, observing or listening to persons, their movements, their conversations or other activities or communications; the recording of anything monitored, observed or listened to in the course of surveillance; and the surveillance by or with the assistance of a surveillance device.

ii) Is the surveillance covert?

Surveillance is covert where it is carried out in a manner calculated to ensure that the subjects of the surveillance are unaware that it is, or may be taking place. It is therefore the intention of the officer carrying out the surveillance, which is relevant to this issue of covertness.

iii) Is the surveillance for the purposes of a specific investigation?

General observation, not forming part of any investigation into suspected breaches of the law and not directed against any specific person or persons is not directed surveillance e.g. CCTV cameras in Council car parks are readily visible and if they are used to monitor the general activities of what is happening within the car park, it falls outside the definition. If, however, the cameras are targeting a particular known individual, the usage will become a specific operation, which will require authorisation.

iv) Is the surveillance undertaken in such a manner that is likely to result in the obtaining of private information about a person?

“Private Information” is any information concerning a person’s private or family life. Whether information is personal in nature is relevant when deciding whether information is private. The fact that observation of individuals occurs from the public highway will not prevent the discovery of private information. When officers consider this question they should give due weight to the probability of discovering such information, as authorisation is not required if there is only a slight possibility of discovering private information.

v) Is the surveillance an immediate response to events or in circumstances where it is not reasonably practicable to obtain prior authorisation?

If the surveillance were an immediate response to something happening during the course of an officer’s work, it would not be reasonable to obtain prior authority. If this occurs, the officer must report the incident back to an Authorising Officer so a note can be made on the relevant department file and the central register.

vi) Is the surveillance intrusive?

The Council is not authorised to carry out intrusive surveillance however it is extremely unlikely the Council would contemplate undertaking this activity. Directed surveillance turns into intrusive surveillance if it is carried out in relation to anything taking place on residential premises or in a private vehicle, and involves the presence of an individual on the premises or in the vehicle. If a surveillance device is used and if the device is not on the premises or in the vehicle, it is only intrusive if it consistently produces information of the same quality as if it were. To be approved the Authorising Officer must be satisfied that necessity, proportionality and collateral intrusion have all been properly addressed (see Home Office Code on Covert Surveillance).

- 2.7.3 General observations undertaken and not linked to any specific investigation would fall outside the definition of Directed Surveillance. Such observations may involve the use of equipment to merely reinforce normal sensory perception, such as the use of binoculars or cameras when this does not involve the systematic surveillance of individuals. For example, routine patrols and observation at trouble 'hotspots' would not constitute Directed Surveillance and would not require authorisation
- 2.7.4 Where one party to a telephone communication consents to its interception by a third party, it is treated as Directed Surveillance and may be authorised as such.
- 2.7.5 A source may be present on residential premises or in a private vehicle. If they are using a surveillance device, no authorisation for intrusive surveillance would be required to record any activity taking place on those premises or in the vehicle if it is in their presence. In other circumstances an authorisation for intrusive surveillance would be required and this is outside the powers of the Council.
- 2.7.6 The fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the social networking sites/Social Media being used works. Authorising Officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same. Social Media accumulates a sizable amount of information about a person's life and can provide incredibly detailed information about a person and their activities. Social Media can therefore be a very useful tool when investigating alleged offences. Social Media can take many forms but will always be a web-based service that allows individuals and/or businesses to construct a public or semi-public profile. It will often have some, or all, of the following characteristics:
- a) the ability to show a list of other users with whom they share a connection, often termed 'friends' or 'followers';
  - b) the ability to view and browse their list of connections and those made by others within the system;
  - c) hosting capabilities allowing users to post audio, photographs and/or wide content that is viewable by others.
  - d) the number and type of social media available to the public is fluid but currently includes Meta Services (Facebook, WhatsApp, Instagram and Threads), Twitter, LinkedIn, Pinterest, Reddit and Flickr.
- 2.7.7 Whilst the use of Social Media to investigate is not automatically considered covert surveillance, its misuse when conducting investigations can mean that it crosses over into the realms of covert surveillance even when that misuse is inadvertent. It is therefore crucial that the provisions of RIPA, as it relates to covert and directed surveillance, are followed at all times when using Social Media information in investigations. It is not unlawful for a member of

a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without an authorisation for directed surveillance when private information is likely to be obtained. The SRO should be satisfied that there is a process in place to ensure compliance with the legislation. Using photographs of other persons without their permission to support the false identity infringes other laws.

- 2.7.8 A member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done.
- 2.7.9 It is possible for the Councils' use of Social Media in investigating potential offences to cross over into becoming unauthorised surveillance, and in so doing, breach a person's right to privacy under Article 8 of the Human Rights Act. Even if surveillance without due authorisation in a particular instance is not illegal, if authorisation is not obtained, the surveillance carried out will not have the protection that RIPA affords and may mean it is rendered inadmissible. Council Officers embarking on any form of investigatory action should always do so with RIPA in mind. Whilst RIPA will not always be relevant to every investigation, it is vital that Officers involved in investigative practices against individuals, regularly review their conduct with respect to investigatory actions. Any investigation is capable of evolving from being one that does not require RIPA authorisation, to one that does, at any point.
- 2.7.10 The majority of Social Media services will allow its users to decide who can view their activity, and to what degree, through the use of privacy settings. Many users will purposely use Social Media with no privacy settings applied whatsoever and this information publicly available is known as an individual's public profile. Whilst the content or information shared by individuals on Social Media remains the property of that individual, it is nonetheless considered to be in the public domain.
- 2.7.11 By setting a profile to private, a user does not allow everyone to access and use their content, and respect should be shown to that person's right to privacy under Article 8 of the Human Rights Act. If access controls are applied, the individual has a reasonable expectation of privacy. This does not, however, extend to instances where a third party takes it upon themselves to share information which originated on a private profile on their own social media profile.
- 2.7.12 However, if it is necessary and proportionate for the Councils to covertly breach access controls, the minimum requirement is an authorisation for Directed Surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a Council Officer or by a person acting on the Councils' behalf, for example where there is interaction and two way communication rather than merely reading of the social media site's content. Should a Council Officer set up a false identity for a covert purpose with a view to conducting Directed Surveillance to

obtain private information, an authorisation would certainly be required. Should a Council Officer adopt the identity of a person known, or likely to be known, to the individual, authorisation would be required, along with the explicit written consent of the person whose identity is being used, and careful thought would need to be given as to how to protect that person.

- 2.7.13 Where a person publishes content on a public profile they allow everyone, including those not on that particular Social Media platform, to access and use that information whilst allowing it to be associated with them. In practice, this means that things such as photographs, video content or any other relevant information posted by individuals and businesses to a public profile on any given Social Media platform can be viewed, recorded and ultimately used as evidence against them should the matter end in legal proceedings, subject to the usual rules of evidence. Where privacy settings are available but not applied the data may be considered open source and RIPA authorisation is not usually required. However a distinction is made between one-off and repeated visits to an individual's Social Media profile. Whilst one-off visits, or otherwise infrequent visits spread over time, cannot be considered to be Directed Surveillance, repeated or frequent visits may cross over into becoming Directed Surveillance requiring RIPA authorisation. A person's Social Media profile should not, therefore, be routinely monitored on a daily or weekly basis in search of updates, as that would, in all likelihood constitute Directed Surveillance and require authorisation.
- 2.7.14 Due to the nature of Social Media, there is a significant risk of collateral intrusion in the form of other, innocent parties' information being inadvertently captured alongside that of the suspected offender's. When capturing evidence from a social media profile, steps should be taken to minimise this collateral intrusion either before capturing the evidence, or subsequently through redaction. This might be particularly prevalent on social media profiles promoting certain events, where users are encouraged to interact with each other by posting messages or on photographs where other users may be making comments.

### **3. AUTHORISATION**

- 3.1 Authorisations may be applied for by any officer of the Council who is carrying out, or is planning to carry out, an investigation in relation to suspected crime or disorder. An application for the carrying out of Directed Surveillance or the use of a CHIS must be given independent consideration by an Authorising Officer who will give written reasons for approval. Authorisations are applied for on the form found on the Council's intranet.
- 3.2 Authorising Officers should usually avoid authorising their own activities. If this is unavoidable, then the authorisation record should be transparent by highlighting this.
- 3.3 Authorising Officers must, in relation to each authorisation, determine how often the authorisation is to be reviewed, taking into account the nature and purpose of the surveillance authorised.

- 3.4 The complete authorisation must then be taken to the Magistrates' Court where after an ex-parte hearing; confirmation of the appropriateness of the action must be obtained from a Justice of the Peace. The government introduced this requirement to impose a statutory check on local authorities and to ensure that powers are only used to prevent serious crime.
- 3.5 The contact numbers for the Oxford Magistrates' Court are 01865 448021 or 448032.
- 3.6 A copy of the application for judicial approval can be obtained at [RIPA forms - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- 3.7 In addition to obtaining prior judicial approval an authorisation for Directed Surveillance or the use of a CHIS can only be granted if the offence under investigation carries a maximum term of imprisonment of at least 6 months whether at the Magistrates' Court or the Crown Court, or would constitute an offence of:
- a) selling alcohol to children contrary to section 146 of the Licensing Act 2003; or
  - b) allowing the sale of alcohol to children contrary to section 147 of the Licensing Act 2003; or
  - c) persistently selling alcohol to children contrary to section 147A of the Licensing Act 2003; or,
  - d) the sale of tobacco etc. to person under 18 contrary to section 7 of the Children and Young Persons Act 1933.
- 3.8 This means that Directed Surveillance is not an option for the Council when investigating minor offences such as dog fouling and littering, nor for tackling anti-social behaviour (unless the behaviour constitutes a criminal offence carrying a maximum sentence of 6 months or more), but may still be authorised for investigations into underage sales of alcohol.
- 3.9 All officers have responsibility to ensure that Directed Surveillance is only conducted where there is an authorisation from the authorising officer and a Justice of Peace has approved the authorisation.
- 3.8 The authorisation, whether for Directed Surveillance or for the use of a CHIS, cannot take effect until an Order has been obtained from a Justice of the Peace approving the renewal or grant of an authorisation. If the Justice of the Peace is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate, they will issue an order approving the grant or renewal for the use of the technique as described in the application.

## **4. AUTHORISING OFFICERS**

- 4.1 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 prescribes the offices, ranks and position of those individuals who can act as an Authorising Officer.
- 4.2 The Council's Authorising Officers are The Chief Executive, the Executive Directors, the Head of Law & Governance and the Head of Financial Services. It should be noted that the Head of Law & Governance is also the Senior Responsible Officer (SRO) for the purposes of RIPA. It is generally undesirable for an SRO to act as an Authorising Officer. Authorisation from the Head of Law & Governance should only be sought in the event that the other Authorising Officers are unavailable.
- 4.3 Authorising officers should not be responsible for authorising investigations or operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable in cases where it is necessary to act urgently. Where an Authorising Officer authorises such an investigation or operation a note of the authorisation should be placed on the central record of authorisations.
- 4.4 Authorising officers must be aware of the requirements of RIPA and how to properly consider requests for authority. Authorising Officers must demonstrate that these requests have been properly considered when they complete the authorisation form. They must consider whether its effect would be proportionate to what is sought to be achieved by the surveillance. This involves balancing the intrusive effect on the person under investigation and others who might be affected (referred to as collateral intrusion) against the need for the surveillance.
- 4.5 The surveillance will not be authorised if it is excessive in the circumstances of the case or if the information could be obtained by less intrusive means.
- 4.6 In considering the grant of the authorisation and in carrying out any subsequent surveillance the risk of intrusion upon the privacy of persons not being investigated must be taken into account. Measures must be taken wherever possible to avoid or minimise such intrusion. It is the responsibility of the Council Officer applying for the authorisation to justify the use of it and set this out fully.
- 4.7 During the course of an investigation the type and seriousness of offences may change. If during the investigation it becomes clear that the activity being investigated does not amount to a criminal offence or that it would be a less serious offence that does not meet the threshold, the use of Directed Surveillance should stop and if a Directed Surveillance authorisation is already in force, it should be cancelled.
- 4.8 Where the surveillance is likely to lead to the obtaining of confidential information, a RIPA authorisation can only be given by the Chief Executive or the person acting as such in their absence. In these circumstances the



power to issue RIPA authorisations cannot be delegated. For these purposes confidential information is:

(a) legally privileged information e.g. communications between a professional legal adviser and a client

(b) confidential personal information, which is information kept in confidence and relating to a person's physical or mental health or relating to spiritual counselling given to a person e.g. consultations between a health professional and a patient, information from a patient's medical records or conversations between an individual and a Minister of Religion

(c) confidential journalistic information, which is any information, held for the purposes of journalism on the basis that it or its source would not be revealed.

- 4.9 If any such information is obtained during surveillance legal advice should be sought immediately.
- 4.10 The Codes of Practice provide further guidance relating to confidential material.

## **5. FORMS OF AUTHORITY**

- 5.1 The legislation does not contain prescribed forms of authority. The Home Office model forms should be used. This will ensure a consistent approach is adopted across the Council and ensure all relevant issues are addressed during the decision-making process. Forms relating to directed surveillance and the use of covert human intelligence sources are available from the Home Office at <http://www.gov.uk/government/collections/ripa-forms--2>

## **6. DURATION OF AUTHORISATIONS**

- 6.1 A written authorisation for Directed Surveillance lapses, if not renewed, three calendar months from the day on which it took effect or last renewal. Officers should ensure authorisations only last for as long as is considered necessary and proportionate. Regular reviews of authorisations should be undertaken to assess the need for continued surveillance and a record of such reviews kept on the central record kept by the Head of Law & Governance.
- 6.2 Any time before the authorisation would cease to have effect, the authorising officer may renew, in writing, if he/she still considers it necessary and proportionate, subject to judicial approval.
- 6.3 Authorisations may be renewed more than once provided they continue to meet the criteria for authorisation. The renewal does not have to be authorised by the same authorising officer who granted the original authorisation. Following the granting of a renewal authorisation the

authorisation must be submitted to a Justice of the Peace for consideration and may be confirmed or quashed.

- 6.4 The authorising officer who granted the authorisation or last renewed the authorisation must cancel it if he is satisfied the Directed Surveillance no longer meets the criteria upon which it was authorised.
- 6.5 A written authorisation for a Covert Human Intelligence Source will cease to have effect (unless renewed) at the end of a period of twelve calendar months beginning with the day on which it took effect. An authorisation is to be cancelled at any time. Subject to judicial approval, an authorisation can be renewed for twelve months.
- 6.6 An authorisation in respect of a juvenile is limited to one month's duration.
- 6.7 Authorisations may be renewed more than once, if necessary, and the renewal should be kept/recorded as part of the central record of authorisation.

## **8. RETENTION AND SECURITY OF FORMS AND RECORDS**

- 8.1 Requests for authorisations, renewals, cancellations are confidential material. The records and any information contained therein must not be disclosed to any person who has no legitimate need to have access to the record, or to the information that it contains. Authorising Officers must ensure that there are proper arrangements within their departments or services for the retention and security of such records, whether held electronically or physically.
- 8.2 Such records may need to be securely kept for a period (considered appropriate by the relevant Head of Service) following the completion of any surveillance, as they may have to be produced in Court, or to the other party in Court proceedings as part of legal disclosure requirements. Superfluous copies should not be made or kept.
- 8.3 The Head of Law & Governance maintains a central electronic register of all authorisations, reviews, cancellations and renewals. Authorising Officers should ensure that copies of these documents are sent to the Head of Law & Governance as soon as is practicable.
- 8.4 The central register will be "weeded" of information that is more than six years old, unless there are relevant outstanding Court proceedings. All records that are no longer needed will be destroyed.
- 8.5 All material or records of information obtained as a result of Directed Surveillance, or the use of a source, must be stored for no longer than is necessary and with reference to the Council's [Document Retention Schedule](#). The product of surveillance must be retained until a decision is made whether or not to take proceedings. If proceedings are instituted, material must be retained until the matter is disposed of.

## **9. COMPLAINTS**

- 9.1 The Investigatory Powers Tribunal (“IPT”) is an independent body made up of senior members of the judiciary and the legal profession. It is independent of the Government.
- 9.2 An individual who is affected by surveillance undertaken by the Council may complain to the Tribunal and the contact information can be found [here](#).
- 9.3 Any complaint received by the Council in relation to surveillance should be referred to the Head of Law & Governance.

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## **Minutes of a meeting of the Audit and Governance Committee on Wednesday 26 April 2023**

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### **Committee members present:**

Councillor Corais

Councillor Fry

Councillor Jarvis

Councillor Latif

Councillor Roz Smith

### **Officers present for all or part of the meeting:**

Nigel Kennedy, Head of Financial Services

Bill Lewis, Financial Accounting Manager (remote attendance)

Emma Griffiths, Legal Adviser (remote attendance)

Lucy Brown, Committee and Member Services Officer

### **Also present:**

Yasmin Ahmed, Internal Auditor (BDO) (remote attendance)

Greg Rubins, Internal Auditor (BDO)

Adrian Balmer, External Auditor (Ernst & Young) (remote attendance)

Helen Bishop, Head of Business Improvement (remote attendance) Items 41 and 42

Emma Gubbins, Corporate Assets Lead (remote attendance) Items 41 and 42

James Pickering, Welfare Reform Manager (remote attendance) Item 42

James Marriott, Operations Manager Financial Services (remote attendance) Item 42

Mish Tullar, Head of Corporate Strategy (remote attendance) Item 42

### **Apologies:**

Councillor Thomas sent apologies.

No substitutions were provided.

*On agreement by the Committee, agenda item 7 was moved to the end of the meeting.*

### **38. Declarations of Interest**

There were no declarations of interest received.

### **39. Risk Management Report as at 31 March 2023**

The Head of Financial Services had submitted a report which updated the Committee on both corporate and service risks as at 31 March 2023.

Bill Lewis, Financial Accounting Manager introduced the report and highlighted the number of Red risks had been reduced to four on the Corporate Risk Register, the

Terrorism risk had been reduced to Amber and the national risk level for England had been downgraded from Severe to Substantial, meaning an attack is unlikely.

In discussion, it was questioned whether staff retention and recruitment should be increased to a Red risk rating and on agreement of the Committee, a paper prepared for the next Committee meeting for further consideration of this item. In response, Helen Bishop, Head of Business Improvement agreed that an updated position on mitigating actions being taken, would be brought to the next meeting of the Committee. The Committee requested particular reference be provided on the consequence of Brexit on the recruitment of staff as a national issue.

**The Committee noted the report.**

#### **40. External Audit: Statement of Accounts 2021-2022 - verbal update**

Adrian Balmer, External Auditor, Ernst & Young, provided a verbal update to the Committee on the 2021/22 accounts and Audit Plan for the 2022/23 accounts. He highlighted that as previously reported to the Committee, they work continued to conclude the 2021/22 accounts and residual areas were being worked through collaboratively with the Finance Team. They hoped to return in June to conclude the audit of the 2021/22 accounts, however this would be dependent on the work undertaken by the external auditors of the ODS Group.

He provided assurance to the Committee that they were in contact with the Finance Team to ensure planning of the 2022/23 accounts, notwithstanding the delays with the 2021/22 accounts highlighted above.

The Financial Accounting Manager provided an update to the Committee on the position of the 2021/22 accounts regarding the final position on the ODS Group accounts. He advised that the accounts had not yet been sent to the company auditors and work continued.

The Head of Financial Services provided an update on the current position and issues experienced by the implementation of the QL system and how these are connected to the delays being experienced in finalising these accounts.

The Committee noted the current status of the 2021/22 and 2022/23 audits and thanked Officers for the update.

#### **41. Internal Audit: Progress Report - April 2023**

Yasmin Ahmed, Internal Auditor (BDO) presented the internal audit progress report for March 2023, which informed the Committee on progress made against the internal audit plan for 2022/23. It was noted that good progress had been made in the delivery of the April 2023 audit plan and presented the following reports to the Committee:

- Change Programme
- Enforcement Restructure
- Cyber Security (to be presented in a private session)
- Housing Rents

It was confirmed that fieldwork was underway for Planned Maintenance and Refurbishment and Contract Management and Procurement, which would be presented to the next Committee meeting, and Community Strategy would not be undertaken as

the Council had undergone developments within this area and the scope of the audit work would have duplicated the work currently being undertaken.

In response to a question from the Committee, the Internal Auditors confirmed that the targets outlined in the Enforcement Restructure would be achieved.

*Greg Rubins arrived at the meeting.*

In discussion, the Head of Financial Services confirmed that the amount of arrears identified within the Housing Rents audit was comparative with other Local Authorities and arrears experienced in previous years, including those during the pandemic.

**The Committee noted the report.**

## **42. Internal Audit: Follow Up Report - April 2023**

Greg Rubins, Internal Auditor (BDO) presented the internal audit follow up report which informed the Committee on the implementation of the recommendations from their previous internal audit reviews and noted that whilst there remained outstanding audits from 2021/22, the majority of these had been completed. Seven recommendations were overdue in Private Rented Sector and Project Management, however considerable work had been undertaken to complete these and of the 29 outstanding recommendations for the Environment audit, 10 had been implemented and the remaining given a revised due date.

The 2022/23 audit plans had progressed well with all recommendations for Sickness and Absence Management and NNDR & Business Rates Pooling having been completed.

The Head of Corporate Strategy provided an update on the status of Environment audits which were in progress and highlighted the good progress that had been achieved by the Asset Review Group and Development Review Board. He advised that the target dates are realistic and was satisfied that a number of actions had already been completed. He highlighted the approach that had been provided to Cabinet for developing the Biodiversity Strategy and the resource that would be required to support this.

The Senior Estates Surveyor updated the Committee on the progress of the Income Generation audits which were in progress, and highlighted that the procurement of the asset management system was likely to be progressed within the next 6-12 months which had unfortunately moved the target date for completion to 31/03/2024.

The Committee commented that it would be useful for a number system to be incorporated on the report to identify the paragraphs they refer to.

The PMO lead updated the Committee on the overdue audits for Project Management and advised that the outstanding training had been booked for June. This incorporated a wider roll out of training to Project Managers, to address new project documentation requirements for CDM and environmental considerations.

The Welfare Reform Manager provided an update on the two residual actions that were outstanding from the audit, one of which was complete and one ongoing. The outstanding action related to an automated function within the QL system that was sat within the test environment prior to becoming live.

**The Committee noted the report.**

### **43. Internal Audit: Audit Plan 2023/24 and Strategic Plan 2023-26**

The Internal Auditors presented the report which set out the proposed Internal Plan for 2023/24 and the Strategic Plan for 2023-26 of which uses the Council's own risk management process and risk register as a starting point for audit planning to represent the client's own assessment of the risks to achieving its strategic objectives. There remained a focus on housing with planned audits for the Private Rented Sector, Empty Properties and Dwellings, Planning Services and Health and Safety and Fire Safety.

The Committee commented that Recruitment and Retention from the Corporate Plan had been scheduled for 2024/25, and the Internal Auditors advised that they would work with the Council to agree any rescheduling of the audit. The Committee agreed that this would be reviewed following the next meeting for the paper to be submitted by the Head of Business Improvement.

In discussion, the Internal Auditor clarified that the Health and Safety and Fire Safety would be one audit mapped across three priorities of the corporate plan.

**The Committee resolved to approve** the Internal Audit Plan for 2023/24 and the Strategic Plan for 2023-26.

### **44. Minutes of the previous meeting**

In discussion, the Head of Financial Services clarified that the under item 32., the procurement of the asset management system had been pushed back following a review by the Change Board, which considered the new Cloud based system of Agresso take priority. This was scheduled to complete at the end of October, and the asset based management system would be scheduled for completion in March 2024.

**The Committee agreed to approve** the minutes of the meeting held on 18 January 2023 as a true and accurate record.

### **45. Matters exempt from publication and exclusion of the public**

The Committee heard an oral representation by a member of the press requesting the Committee allow the following item be heard in either full or part session.

The Chief Technology and Information Officer advised that the report was a technical detailed report which contained specifics which could be used in the public domain to test the Council infrastructure and security. However, whilst the technical details contained within such reports could be removed to provide information to the press and public in the future, the entirety of the report should remain in exempt session.

The Legal Advisor to the Committee confirmed that the report had potential to disclose information relating to the financial affairs of the Council and had been excluded under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act, and also the Committee could consider that Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972 applied since the report contained information about the cyber security measures taken by the Council which ought to be exempt as it was about the prevention of crime.

The report as written in this particular case could not be divided up to enable its presentation in public session, the Committee agreed that a summary of the conclusions could be provided to the public minutes.



## **46. Cyber Security Report**

*Cllr Latif arrived at the meeting.*

The Chief Technology and Information Officer presented the report prepared by the Council's auditors which provided an audit of the information and cyber security arrangements in place. He informed the Committee a yearly assessment to achieve certification of the Public Services Network Code of Compliance was carried out by the Council. It was also noted that the Council were in agreement with the considerations stated within the auditor's report, and were in fact concluding a series of recommended enhancements through a forward plan supported by the Department of Levelling Up, Housing and Communities grant to carry out a cyber security treatment plan. He advised that external resource had been approved to further strengthen cyber security across the Council.

The Committee discussed the details of the report in private session and received responses to questions and comments from the Chief Technology and Information Officer and the Internal Auditors.

**The Committee noted the report.**

## **47. Confidential minutes of the previous meeting**

The Committee agreed to **approve** the confidential minutes of the meeting held on 18 January 2023 as a true and accurate record.

## **48. Dates and times of meetings**

The Committee noted the dates and times of future meetings.

**The meeting started at 6.00 pm and ended at 7.50 pm**

**Chair .....**  
**2023**

**Date: Wednesday 26 July**

*When decisions take effect:*

*Cabinet: after the call-in and review period has expired*

*Planning Committees: after the call-in and review period has expired and the formal decision notice is issued*

*All other committees: immediately.*

*Details are in the Council's Constitution.*

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of the Local Government Act 1972.

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By virtue of paragraph(s) 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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