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MEETING: AUDIT AND GOVERNANCE COMMITTEE
DATE: Wednesday 15th September, 2021
TIME: 3.00 pm
VENUE: Birkdale Room - Southport Town Hall, Lord Street, Southport, PR8 1DA

Member

Councillor Robinson (Chair)
Councillor Roche (Vice-Chair)
Councillor D'Albuquerque
Councillor Dowd
Councillor McGinnity
Councillor John Joseph Kelly
Councillor Pugh
Councillor John Sayers
Councillor Shaw
Councillor Sir Ron Watson

Substitute

Councillor Bradshaw
Councillor Page
Councillor Riley
Councillor Murphy
Councillor Yvonne Sayers
Councillor Spencer
Councillor Lewis
Councillor Sonya Kelly
Councillor Evans
Councillor Prendergast

COMMITTEE OFFICER: Ruth Appleby
Democratic Services Officer
Telephone: 0151 934 2181
E-mail: ruth.appleby@sefton.gov.uk

See overleaf for COVID Guidance and the requirements in relation to Public Attendance.

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

We endeavour to provide a reasonable number of full agendas, including reports at the meeting. If you wish to ensure that you have a copy to refer to at the meeting, please can you print off your own copy of the agenda pack prior to the meeting.

COVID GUIDANCE IN RELATION TO PUBLIC ATTENDANCE

In light of ongoing Covid-19 social distancing restrictions, there is limited capacity for members of the press and public to be present in the meeting room indicated on the front page of the agenda at any one time. We would ask parties remain in the meeting room solely for the duration of consideration of the Committee report(s) to which their interests relate.

We therefore request that if you wish to attend the Committee to please register in advance of the meeting via email to ruth.appleby@sefton.gov.uk by no later than **12:00 (noon) on the day of the meeting.**

Please include in your email –

- Your name;
- Your Contact telephone number; and
- The details of the report in which you are interested.

In light of current social distancing requirements, access to the meeting room is limited.

We have been advised by Public Health that Members, officers and the public should carry out a lateral flow test before attending the meeting, and only attend if that test is negative. Provided you are not classed as exempt, it is requested that you wear a mask that covers both your nose and mouth.

AGENDA

1. Apologies for absence

2. Declarations of Interest

Members are requested at a meeting where a disclosable pecuniary interest or personal interest arises, which is not already included in their Register of Members' Interests, to declare any interests that relate to an item on the agenda.

Where a Member discloses a Disclosable Pecuniary Interest, he/she must withdraw from the meeting room, including from the public gallery, during the whole consideration of any item of business in which he/she has an interest, except where he/she is permitted to remain as a result of a grant of a dispensation.

Where a Member discloses a personal interest he/she must seek advice from the Monitoring Officer or staff member representing the Monitoring Officer to determine whether the Member should withdraw from the meeting room, including from the public gallery, during the whole consideration of any item of business in which he/she has an interest or whether the Member can remain in the meeting or remain in the meeting and vote on the relevant decision.

3. Minutes of the Meeting held on 23 June 2021 (Pages 5 - 10)

4. Statement of Accounts 2020/2021 (To Follow)

Report of the Executive Director of Corporate Resources and Customer Services

5. Information Management and Compliance (Pages 11 - 22)

Report of the Executive Director of Corporate Resources and Customer Services

6. Procurement – National Procurement Policy, Contract Procedure Rules and Internal Processes (Pages 23 - 90)

Report of the Executive Director of Corporate Resources and Customer Services

7. Corporate Risk Management (Pages 91 - 122)

Report of the Executive Director of Corporate Resources and Customer Services

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| 8. | Audit and Governance Annual Report 2020-2021 - Work Programme 2021/22 and Terms of Reference | (Pages 123 - 150) |
| | Report of the Executive Director of Corporate Resources and Customer Services | |
| 9. | Review of Whistleblowing Complaints | (Pages 151 - 158) |
| | Report of the Executive Director of Corporate Resources and Customer Services | |
| 10. | Review of Members Code of Conduct Complaints 2020-2021 | (Pages 159 - 164) |
| | Report of the Executive Director of Corporate Resources and Customer Services | |
| 11. | Annual Report and Opinion of the Chief Internal Auditor | (Pages 165 - 192) |
| | Report of the Executive Director of Corporate Resources and Customer Services | |
| 12. | Risk and Audit Service Performance | (Pages 193 - 236) |
| | Report of the Executive Director of Corporate Resources and Customer Services | |
| 13. | Treasury Management Outturn 2020/21 and Position to 31 July 2021 | (Pages 237 - 254) |
| | Report of the Executive Director of Corporate Resources and Customer Services | |
| 14. | Presentation on Bootle Strand and Surrounding Area | |
| | Presentation by the Executive Director – Place in response to Cllr Sir Ron Watson’s report to Audit and Governance Committee on 23 June 2021. | |
| | Presentation slides will be circulated to Members following the meeting. | |

THIS SET OF MINUTES IS NOT SUBJECT TO "CALL-IN"

AUDIT AND GOVERNANCE COMMITTEE

**MEETING HELD AT THE BALLROOM - BOOTLE TOWN HALL,
TRINITY ROAD, BOOTLE, L20 7AE
ON 23 JUNE 2021**

PRESENT: Councillor Robinson (in the Chair)
Councillor Roche (Vice-Chair)

Councillors d'Albuquerque, Dowd, McGinnity,
John Joseph Kelly, Pugh, John Sayers, Shaw and
Sir Ron Watson.

ALSO PRESENT: Mr Richard Tyler, External Auditor - Ernst and Young

1. APOLOGIES FOR ABSENCE

No apologies for absence were received.

2. DECLARATIONS OF INTEREST

No declarations of any disclosable pecuniary interests or personal interests were received.

3. MINUTES OF THE MEETING HELD ON 17 MARCH 2021

RESOLVED:

That the minutes of the meeting held on 17 March 2021 be confirmed as a correct record.

4. EY CERTIFICATION OF CLAIMS AND RETURNS ANNUAL REPORT 2019-2020

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services in respect of a report submitted by Ernst and Young, External Auditors on Certification of Claims and Returns Annual Report 2019/2020.

Mr Richard Tyler, presented the report on behalf of Ernst and Young and answered questions thereon.

RESOLVED:

That the report be noted.

Agenda Item 3

AUDIT AND GOVERNANCE COMMITTEE- WEDNESDAY 23RD JUNE, 2021

5. EY ANNUAL AUDIT LETTER FOR THE YEAR ENDED 31 MARCH 2020

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services in respect of a report submitted by Ernst and Young, External Auditors on the EY Annual Audit Letter for the year ended 31 March 2020.

Mr Richard Tyler, presented the report on behalf of Ernst and Young and answered questions thereon.

RESOLVED:

That the report be noted.

6. EY - 2020/2021 AUDITOR WORK ON VALUE FOR MONEY (VFM) ARRANGEMENTS

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services in respect of a report submitted by Ernst and Young, External Auditors on the 2020-2021 Auditor Work on Value for Money (VFM) arrangements.

Mr Richard Tyler, presented the report on behalf of Ernst and Young and answered questions thereon.

RESOLVED:

That the report be noted.

7. EY - SUSTAINABILITY OF LOCAL AUTHORITY FINANCIAL REPORTING AND EXTERNAL AUDIT IN ENGLAND - THE SIR TONY REDMOND INDEPENDENT REVIEW

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services in respect of a report submitted by Ernst and Young, External Auditors on the Sustainability of Local Authority Financial Reporting and External Audit in England – The Sir Tony Redmond Independent Review.

Mr Richard Tyler, presented the report on behalf of Ernst and Young and answered questions thereon.

RESOLVED:

That the report be noted.

8. AMENDMENTS TO MOTIONS AT FULL COUNCIL

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services seeking permission to amend the Constitution in relation to the manner in which amendments to motions at Full Council are dealt with so that they can be dealt with in the same manner as when meetings were held remotely.

The report indicated that when Full Council meetings had been held remotely due to the Covid-19 pandemic, a temporary process had been introduced whereby notice of an amendment to a motion was emailed to the Chief Legal and Democratic Officer no later than 4 pm on the day before the Full Council meeting using a template for submission and stating the names of the mover and seconder of the amendment. If approved as a valid amendment, the notice of the amendment was circulated to all Members by email no later than 4 pm on the day of the Full Council meeting. The report proposed that this process continue and be written into the Constitution.

Mr Richard Clegg, Principal Lawyer, presented the report and answered questions thereon.

Members indicated that they were disinclined to support the proposal which would remove the ability for amendments to motions to be moved during the debate on a motion and expressed the view that it would be wrong to stifle the cut and thrust of debate at Full Council meetings on efficiency grounds.

RESOLVED: That

- (1) the recommendation to amend the Constitution, requiring notice to amend a motion at Full Council, as set out in paragraph 2 of the report be not approved; for the reason that it would be wrong to stifle debate at Full Council meetings on efficiency grounds; and
- (2) the Chief Legal and Democratic Officer be requested to confirm arrangements for future Council meetings with the political group leaders, in respect of motions, amendments to motions and supplementary questions and a template be utilised to make amendments to motions more legible.

Agenda Item 3

AUDIT AND GOVERNANCE COMMITTEE- WEDNESDAY 23RD JUNE, 2021

9. CORPORATE RISK MANAGEMENT

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services on the updated Corporate Risk Register, indicating that since the last meeting the Corporate Risk Register had been reviewed and updated.

Mr David Eden, Chief Internal Auditor presented the report indicating that two new risks had been added or escalated from the Service Risk Registers to the Corporate Risk Register, namely:

- Gaps in understanding of community needs; and
- School debts transferring back to the Council

No risks had been de-escalated from the Corporate Risk Register to the Service Risk Register; and one risk had not been updated with revised contact and confirmed that it remained up to date – namely:

- Failure to manage pandemic.

Mr Eden reminded the Committee that at the Audit and Governance Committee held on 18 December 2019, it had been agreed that for future meetings, a short presentation would be made by a risk owner on one of the risks listed in the Corporate Risk Register. In this respect, Mr Stephen Watson, Executive Director – Place had been invited to provide a presentation to the Committee on one of the risks listed in the Corporate Risk Register relating to the impact on the Sefton economy of Covid-19, EU Exit, winter and austerity. Accordingly, Mr Watson gave a presentation to the Committee and answered questions thereon.

RESOLVED: That

- (1) the contents of the Corporate Risk Register, particularly the nature of the major risks facing the Council and the controls and planned action in place to mitigate these risks be noted;
- (2) Mr Watson be thanked for his informative presentation on the risks associated with the Sefton economy and measures being put into place to reduce / remove the risks; and
- (3) the Head of Children's Social Care be invited to a future meeting to provide a presentation on one of the risks in the Corporate Risk Register relating to Children's Social Care.

10. RISK AND AUDIT SERVICE PERFORMANCE

The Committee considered the report of the Executive Director of Corporate Resources and Customer Services which provided details of the progress in the delivery of the Internal Audit Plans for 2020/21 and 2021/22 and the performance and key activities of the Risk and Audit Service for the period 7 March 2021 to 13 June 2021.

Mr David Eden, Chief Internal Auditor presented the report and answered questions thereon.

RESOLVED: That

- (1) the progress in the delivery of the 2020/21 and 2020/22 Internal Audit Plans and the activity undertaken for the period 7 March 2021 to 13 June 2021 be noted; and
- (2) the contributions made by the Health and Safety, Insurance, Assurance and Risk and Resilience Teams in managing the Council's key risks be noted.

11. BOOTLE NEW STRAND AND SURROUNDING AREA - COUNCILLOR SIR RON WATSON

The Committee considered a report submitted in accordance with Rules 115 and 116 of Chapter 4 of the Constitution by Councillor Sir Ron Watson in relation to Bootle New Strand and surrounding area.

Councillor Watson presented his report and suggested that it would be helpful for a meeting to be held with the Chair and Vice Chair of the Audit and Governance Committee and representatives from the other political groups with the Cabinet, to provide an update on the position in respect of the Strand and surrounding area and to enable questions to be raised.

Mr Stephen Watson – Executive Director Place indicated that the Strand had been purchased to help in the regeneration of the Bootle area and a report on Bootle Strand Shopping Centre – Business Plan 2021/22 to 2023/24 was to be considered by Cabinet tomorrow - 24 June 2021.

Mr Stephen Watson also clarified that the rejected planning application referred to in Councillor Watson's report had been made by a third party and not by Sefton Council.

Arising from discussion it was recommended that the report be referred to officers for response.

Councillor Watson stated that he did not feel it appropriate that Officers should be asked to provide a response to his report on the Bootle Strand

Agenda Item 3

AUDIT AND GOVERNANCE COMMITTEE- WEDNESDAY 23RD JUNE, 2021

and surrounding area as officers were not the decision makers; and in accordance with Rule 96 of Chapter 4 of the Council's Constitution he requested that his dissent to recommendation 2 below, be recorded.

RESOLVED: That

- (1) Councillor Watson's report on the Strand and surrounding area be noted; and
- (2) the report be submitted to Officers for response and report back to the meeting of the Audit and Governance Committee on 15 September 2021.

Agenda Item 5

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Information Management and Compliance		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:			
Is this a Key Decision:	N	Included in Forward Plan:	N
Exempt / Confidential Report:	N		

Summary:

To update Members on the Council's approach to information management and compliance.

Recommendation(s):

(1) To note the contents of the report.

(2) To request the Executive Director of Corporate Resources and Customer Services to submit future reports on an annual basis covering the Council's information management and governance arrangements.

Reasons for the Recommendation(s):

To inform members of the Council's approach to information governance and management and the consequences of not having appropriate arrangements in place together with details of information compliance in 2020/21.

Alternative Options Considered and Rejected: (including any Risk Implications)

None.

What will it cost and how will it be financed?

(A) Revenue Costs

N/A

Agenda Item 5

(B) Capital Costs

N/A

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):								
Legal Implications: <ul style="list-style-type: none">• The Freedom of Information Act 2000• The Environmental Information Regulations 2004• The UK General Data Protection Regulation• The Data Protection Act 2018								
Equality Implications: <p>There are no equality implications</p>								
Climate Emergency Implications: <p>The recommendations within this report will</p> <table border="1"><tr><td>Have a positive impact</td><td>N</td></tr><tr><td>Have a neutral impact</td><td>Y</td></tr><tr><td>Have a negative impact</td><td>N</td></tr><tr><td>The Author has undertaken the Climate Emergency training for report authors</td><td>Y</td></tr></table> <p>Neutral impact. The content of this report is an update to Committee members on information governance and compliance. It does not change the requirement for staff to travel, nor impact upon energy consumption, the amount of water used nor changes green spaces, so has the same impact as we currently do now. It has no impact upon the environment for the communities and stakeholders of Sefton.</p>	Have a positive impact	N	Have a neutral impact	Y	Have a negative impact	N	The Author has undertaken the Climate Emergency training for report authors	Y
Have a positive impact	N							
Have a neutral impact	Y							
Have a negative impact	N							
The Author has undertaken the Climate Emergency training for report authors	Y							

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: To ensure the provision of lawful data processing when providing services
Place – leadership and influencer: Not applicable

Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener: Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6511/21) and the Chief Legal and Democratic Officer (LD.4712/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

None.

Contact Officer:	Catherine Larkin
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Appendices:

There are no appendices to this report.

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

Sefton Council recognises information as an important asset in the provision and effective management of services and resources. It is of paramount importance that information is processed within a framework designed to support and enable appropriate information management.

There are a number of pieces of legislation which impose obligations on the Council when managing and handling information, its protection, security, storage, retention and the public's rights with regard to the information the Council holds. The key ones are as follows:

- The Freedom of Information Act 2000
- The Environmental Information Regulations 2004

Agenda Item 5

- The UK General Data Protection Regulation
- The Data Protection Act 2018

Information Management is a set of multi-disciplinary structures, policies, procedures, processes and controls implemented to manage information at an organisational level, and designed to support regulatory, legal, risk, environmental and operational requirements.

Effective information management should:

- Treat information as a valuable asset;
- Maintain compliance with the UK General Data Protection Regulation and the Data Protection Act 2018;
- Have in place policies, procedures and guidelines designed to support appropriate information handling and management.
- Demonstrate organisational commitment by setting out roles and responsibilities of staff;
- Have in place appropriately trained Information Governance staff available to provide advice and support to the Council.

2. What Structures Do We have in Place in Sefton

The Corporate Information Management and Governance Executive Group (CIMGEG) is a group of senior Council officers chaired alternately by the Senior Information Risk Owner (SIRO) and the Head of Strategic Support that reports to the Senior Leadership Board (SLB) and the Audit & Governance Committee (A&G). Its role is to oversee the Information Management & Governance framework for the Council.

The following are key membership roles:

Head of Strategic Support (Joint Chair)

Senior Manager ICT and Digital (Council's SIRO) (Joint Chair)

Chief Legal and Democratic Officer

Information Management and Governance Lead (Council's Data Protection Officer)

Workforce Learning and Development Manager

Performance and Intelligence Service Manager

Service Delivery Lead (ICT)

IAO's are managers who are directly accountable to the SIRO, providing assurance that their information assets are managed effectively in relation to their risks.

Specifically, duties are:

- Ensure there is a maintained Information Asset Register for their service area.

- Ensure identification, review and prioritisation of data risks and their mitigation.
- Take instruction from the Council's SIRO and be actively involved with the Information Management Group.
- Follow the Council's risk reporting / incident management requirements as published on the intranet.
- Foster an effective Information Governance culture for their staff. This will mean ensuring staff take the Council provided training opportunities and overseeing opportunities for briefing and training within the service area.
- Risk assessment overview. Gain sufficient risk-based understanding of their database purposes, what and who enters the data and how it may leave.
- Oversee information risks when a new information asset is being created or imposed.

Other sub groups may be formed as 'task and finish' working groups to meet business requirements.

3. Training

The Council first introduced half-day briefing sessions covering information compliance in July 2014 and then moved to a model of online e-Learning in 2016 which all staff must undertake on a refresher basis each year. The module takes approximately 35 to 40 minutes to complete. Following the course is a test of 20 questions with a pass rate of 85%. Staff and Members are required to sit this course every year. Any individual who fails the test will be asked to attend additional information compliance training and then re-sit the test. It is also one of the mandatory Induction training packages when an employee commences work for the Council.

The eLearning Refresher course enables staff to gain a working knowledge of the legislation governing Information Compliance and advice on how to stay within the law when conducting their day-to-day activities including:

- Collecting Information.
- Maintaining Accurate Information.
- Do's & Don'ts when working with information.
- Sharing information.
- Storage & Security of information.
- Information incidents and what to do if it happens to you.
- Rights of Access to Information.
- Direct Marketing and Newsletters.
- Disposal of information

The course content is reviewed to ensure alignment to best practice and changes in the security risk profile; the next update will include increased information around cyber

Agenda Item 5

security, for example. It is anticipated that changes to the content will be made later this year in consultation with the IMG Executive.

4. Freedom of Information compliance

The Freedom of Information Act (FOIA) provides public access to information held by public authorities. The Act covers any recorded information that is held by a public authority in England, Wales and Northern Ireland, and by UK-wide public authorities based in Scotland. Information held by Scottish public authorities is covered by Scotland's own Freedom of Information (Scotland) Act 2002.

Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

There are 2 separate duties the Council has when responding to requests. These are:

- to tell the person who has made the request (the applicant) whether we hold any information falling within the scope of their request;
- and to provide that information.

A response must be provided within 20 working days unless the Council considers that an exemption applies (for example, the information requested is the personal data of another individual).

Performance analysis (April 2020 – March 2021)

Financial Year – 2020/21		
Total Received	1067	
Overall Response Rate	1002	94%
Within 20 days response rate	748	70%
Outside 20 days response rate	254	24%
Awaiting response after 20 days	44	4%
Requests Withdrawn	21	2%

The number of responses made within statutory timescales fell in 2020/21 compared to the previous year. This is considered largely to be due to the impact of dealing with the coronavirus pandemic. The Council faced staffing and operational capacity challenges as staff were re-deployed to assist with meeting demands arising from the pandemic, as well as absence caused by staff contracting the virus or having to self-isolate due to a family member testing positive.

In the ICO's briefing paper of July 2020, '*The ICO's regulatory approach during the coronavirus public health emergency*' it was recognised that the reduction in resources could impact the ability of organisations to comply with aspects of freedom of information law, such as how quickly FOI requests are handled. In a revised paper issued in June 2021, the ICO made clear the expectation that whilst they continue to have a pragmatic

approach in regulating access to information and the potential impact on public authorities' timeliness in supplying information in current circumstances; they expect organisations to focus on bringing back compliance with the Freedom of Information Act within a reasonable timeframe.

5. Subject access and disclosure requests

The Council has continued to see a rise in the number of subject access requests and disclosures requests received, for the third consecutive year.

In 2020/21, the Council saw a total 1,747 requests made by individuals looking to access their own records or outside organisations making requests for disclosure of personal data e.g. the Police, solicitors, NHS, Central Government departments and other Local Authorities. The same figure for 2019/20 was 875.

The complexity of such requests differs across the Council, the largest and most complex being those made to Children's Social Care. Individuals have the right to access personal data held about them by an organisation (data controller). In cases where an individual has been in the care of the Local Authority, particularly for the majority of their childhood, the files can amount to many hundreds of documents, in some cases, thousands. There are currently just 2 employees who handle such 'access to files' requests and disclosures for Adult Social Care (ASC) and Children's Social Care (CSC). In 2020/21, 73% of the subject access requests received by the Council were to Children's Social Care, 12% to Adult Social Care and the remaining 15% across the rest of the Council.

With regard to disclosure requests, the majority of these requests are received by the Corporate Resource and Customer Services department. In 2020/21 there 1053 requests, which equates to 63% of the total received. For the most part, these are straight forward requests for a limited amount of information, requiring little or no redaction of information prior to disclosure. On the other hand, those made to ASC and CSC by virtue of the nature of the information held within them, are more complex and can require extensive redaction prior to disclosure, for example, removal of third-party information. Requests made to ASC and CSC equated to 31.6% of requests received last year.

6. Data Incidents

Sefton Council is legally obliged to take appropriate measures to prevent unauthorised or unlawful processing, accidental loss, and destruction of or damage to personal data.

A data security breach can come in a number of forms such as:

- Loss or theft of data or equipment on which data is stored (laptop, pen drive etc.)

Agenda Item 5

- Loss of paper or other hardcopy records, especially where they are lost outside of the office or working environment
- Paper or other hardcopy records are disposed of with inadequate security (placed in with general waste and not sent for shredding)
- Staff member accesses information to which they are not entitled
- Information is stolen (emailed or copied without Sefton Council's authorisation)
- Incorrect information is accidentally released (sending personal data out to the wrong person or address)

The UK GDPR introduced a duty on all organisations to report certain personal data breaches to the Information Commissioner's Office (ICO). Where the incident is considered to be one which must be reported, it must be done within 72 hours of becoming aware of the breach, where feasible. Guidance from the ICO provides the following by way of a definition:

'A personal data breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. This includes breaches that are the result of both accidental and deliberate causes. It also means that a breach is more than just about losing personal data.'

If the breach is likely to result in a high risk of adversely affecting individuals' rights and freedoms, then those individuals must be informed without undue delay'.

A breach or potential breach is not purely a matter 'internal' to the specific department. It is a corporate concern requiring support, to ensure actions or inactions are legal, attend to data subjects' rights, and factor in the Council's reputation and possibility of ICO financial penalties. The Information Commissioner can instruct the Council to take specific steps or actions or stop us from taking certain actions. They have powers of entry and inspection and have the right to issue civil monetary penalty notices in cases of serious infringements of the legislation. The maximum amount is £ 17,500,000 or 4% of the total annual worldwide turnover of the preceding financial year, whichever is higher.

A failure to notify a breach when required to do so may result in a fine of up to £8.7 million or 2 per cent of an organisation's total worldwide annual turnover (Article 83 of the UK General Data Protection Regulation). The fine can be combined with the Information Commissioner's other corrective powers under Article 58.

Sefton position

Staff have good awareness of information governance as evidenced by the number of reports made to the Council's Data Protection Officer. In 2020/21, 63 data incidents were reported to the DPO. Of these incidents, 5 were deemed to be reportable incidents to the ICO. The Council also received 2 complaints from individuals about the handling of their personal data, made via the ICO. With regard to the 5 incidents reported to the ICO, no further action resulted. In both cases of complaints made to the ICO, the ICO was

satisfied that the Council had responded appropriately and no further action was required.

Summary of incidents April 2020 – March 2021

Financial Year 2020/21	Number of incidents
Data posted/faxed to incorrect recipient	4
Data sent by email to incorrect recipient	22
Failure to redact data	4
Failure to use 'bcc' when sending email	1
Non-event	7
Alleged breach of confidence/handling of personal data	2
Other non cyber incidents	23
Total	63

'Non-event' incidents are those reported to the DPO, where, upon further investigation there was no incident, or it was found to be the case that no disclosure of personal data has occurred nor had any been accessed. Such an example would be where an email has been sent to an incorrect recipient, but the email has been retrieved from the unintended recipient prior to opening, or it has been deleted prior to opening. The Council still logs such events to enable lessons to be learned and ensure appropriate recording and training.

Examples of incidents included in the category of 'other non cyber incidents' include those where an employee has provided information to an individual but it contains personal data of a third party; or a general complaint about handling of personal data; or a thread of email correspondence is sent to colleagues but contained within the previous emails is the personal data of an individual, which the recipient(s) had no need to see.

Analysis of the data security trend information published by the Information Commissioner's Office shows that the most commonly occurring breaches across all sectors of organisations (including Local Government) in 2020/21 were:

- Other non cyber incidents
- Data emailed to incorrect recipient
- Data posted or faxed to incorrect recipient
- Failure to redact
- Loss/theft of paperwork or data left in insecure location
- Verbal disclosure of personal data

The vast majority of incidents arise as a result of human error. Any employee who is responsible for a data incident or a 'near miss' must attend additional information compliance training, which is followed up by a one-to-one discussion with a Learning and

Agenda Item 5

Development Officer. This covers points of learning and actions the employee will personally take to attempt to prevent a recurrence of the incident for which they were responsible.

The current internal process when a data security incident or breach has occurred, requires the Data Protection Officer (DPO) to be notified immediately, along with the Information Asset Owner (IAO) of the service involved and any relevant senior managers. The Data Breach Reporting form which is available to all staff on the Intranet must be completed. Data Breach reporting is covered in the Council's mandatory Information Compliance training.

The DPO then convenes a Council Breach Evaluation Group (CBEG) meeting if the breach is deemed serious enough. Various other members of staff may need to be involved, including:

- Relevant Department(s) senior manager
- A Legal Representative
- Human Resources representative
- Specialist Advisors (e.g. IT)
- Communications representative

The CBEG decide:

Subsequent containment / recovery actions

Whether to disclose the breach to relevant data subjects, the ICO, other agencies such as the Police

Internal division of labour, which may include involvement in the investigation or negotiate involvement in any disciplinary investigation

Any immediate lessons to be applied in Department or Council.

Date to meet again regarding meeting all four breach stages (recovery, risk assessment, notification, evaluation).

7. Data Security and Protection Toolkit (DSPT)

Each year, the Council completes an online self-assessment tool – the Data Security and Protection Toolkit. All organisations that have access to NHS patient data and systems must use this Toolkit to provide assurance that they are practising good data security and that personal information is handled correctly. The Toolkit forms part of a framework for assuring that organisations are implementing the ten data security standards published by the Department of Health and Social Care, NHS England and NHS Improvement; and that we are meeting our statutory obligations on data protection and data security. Failure to comply with the DSPT requirements could impact on the Council's access to NHS patient data. The Council is currently compliant with DSPT.

CONCLUSION

In conclusion, over the last 12 months Sefton Council has continued to work hard to meet all of its obligations with information governance and compliance. Clearly, it has been a challenging period which is reflected in the statistics provided in this report. However, those challenges were recognised by the ICO and in line with recommendations the Council continues to make every effort to improve performance across all areas.

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Agenda Item 6

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Procurement – National Procurement Policy, Contract Procedure Rules and Internal Processes		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	N	Included in Forward Plan:	No
Exempt / Confidential Report:	N		

Summary:

This report presents

1. a refresh of the Contract Procedure Rules for consideration and approval
2. presents the published Modern Slavery Statement
3. provides an update of progress in respect of Social Value Activity and
4. updates on national policy direction

Recommendation(s):

Committee is asked to

- (1) Consider and approve draft Contract Procure Rules at Annex A
- (2) Note that a full rewrite of the Contract Procure Rules will take place once the updated national guidance is published and a further report will be presented for consideration.
- (3) Note that the Council's Modern Slavery Statement is published on the Council website (<https://www.sefton.gov.uk/media/1265/modern-slavery-statement.pdf>) and is refreshed annually.

Reasons for the Recommendation(s):

In light of the UK re-joining the WTO Government Procurement Agreement and the proposed national changes a refresh of the Contract Procure Rules is presented (Annex A) to Audit and Governance for consideration and approval.

Once national changes are published there will be a full rewrite of the Contract Procedure Rules.

Alternative Options Considered and Rejected: (including any Risk Implications)

NA

Agenda Item 6

What will it cost and how will it be financed?

(A) Revenue Costs

There are no revenue implications

(B) Capital Costs

There are no capital implications

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):	
n/a	
Legal Implications:	
All issues are reflected within the report	
Equality Implications:	
There are no equality implications.	
Climate Emergency Implications:	
The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
Neutral impact. The content of this report is an propose a refresh to existing Contract Procedure Rules for consideration update. Individual procurement exercises will consider Climate Emergency implications.	

Contribution to the Council’s Core Purpose:

Protect the most vulnerable: The Council can use procurement activity as a tool to ensure quality services are available to support the most vulnerable.
Facilitate confident and resilient communities: The Council can use procurement activity as a tool to be more socially-inclusive.
Commission, broker and provide core services: the procurement process supports the Council in securing the best value for money and delivering wider economic, social and energy benefits.
Place – leadership and influencer: The Council can use procurement activity to boost jobs, growth and investment, and to create an economy that is more innovative, resource and energy efficient, and socially-inclusive.

Drivers of change and reform: The quality services and outcomes for local people can be improved through modern, well-managed and efficient procurement.
Facilitate sustainable economic prosperity: The Council can use procurement activity as a tool to boost jobs, growth and investment, and to create an economy that is more innovative, resource and energy efficient, and socially-inclusive.
Greater income for social investment:
Cleaner Greener; The Council can use procurement activity as a tool to be more energy efficient and address the Climate Change Emergency.

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6510/21) and the Chief Legal and Democratic Officer (LD.4711/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Implementation Date for the Decision

Immediately following the Committee meeting.

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Appendices:

Annex A

Background Papers:

There are no background papers available for inspection.

Agenda Item 6

1. Background

1.1 In December 2020 Cabinet Office issued the 'Transforming Public Procurement' report for consultation. The stated aims of the report are to:

- Speed up and simplify procurement processes
- Placing value for money at the heart of procurement activity
- Unleash opportunities to small businesses, charities and social enterprises
- Delivery best commercial outcomes
- Minimise the burden on businesses and the public sector

1.2 In June 2021 new guidance was published that says job creation, investment in skills and opportunities for local growth should be taken into account by councils and other public bodies when awarding public contracts. The new guidance, issued to officials in local councils, central government, NHS trusts, police forces and other public organisations, says that the wider benefits of spending public money should be factored into the procurement process.

1.3 The guidance also says that, while securing the best value for money is crucial, procurement activity must not simply award contracts to the lowest bidder, especially when wider economic benefits can be proved.

Announcement:

<https://www.gov.uk/government/news/procurement-teams-must-consider-wider-benefits-of-public-spending>

Guidance: <https://www.gov.uk/government/publications/procurement-policy-note-0521-national-procurement-policy-statement>

1.4 The Strategic Leadership Board has been kept up to date with proposed changes and staff within Corporate Resources and Customer Services are working together to review the new guidance alongside ongoing work including

- reviewing the Contract Procedure Rules
- developing internal process guidance and
- implementation of the Social Value portal

1.5 In light of the above a refresh of the current Contract Procure Rules is presented (Annex A) to Audit and Governance for consideration and approval.

1.6 Members of the Committee are asked to note that a full rewrite of these once the national guidance is published will be presented for approval by this committee in due course.

1.7 Members of the Committee will recall that in April 2019, a Council motion was passed for the Council to commit to helping eradicate slavery and labour exploitation and a number of principles were agreed.

"This Council commits to helping eradicate slavery and labour exploitation. As an organisation who believes and promotes ethical working standards, we will endeavour to ensure that all Council policies, procedures and practices are fully compliant with relevant slavery and labour standards legislation. We will actively seek to only use suppliers who uphold these principles. We will promote our charter by raising awareness, educating and supporting both within our organisation and those we come into contact with."

In September 2020, the Home Office introduced new measures to tackle modern slavery in supply chains which will hold businesses and public bodies accountable for tackling modern slavery. This updated guidance, explains how businesses should comply with the Modern Slavery Act 2015 and requires all large businesses to produce an annual statement for each financial year setting out the steps they have taken to prevent modern slavery in their business and supply chains.

Members of the Committee are asked to note that the Council's Modern Slavery Statement is published on the Council website (<https://www.sefton.gov.uk/media/1265/modern-slavery-statement.pdf>) and is refreshed annually.

1.8 Members of the Committee should also be aware of the progress made in respect of Social Value;

- All Procurement staff have received Chartered Institute of Purchasing and Supply Ethical Accreditation, this training ensures that Procurement staff have built their understanding of how to behave ethically and establishes a commitment to ethical behaviour. The training is renewed annually to ensure they have knowledge of up to date good practice.
- Standard Social Value questions are now embedded in strategic tenders, together with supporting information to advise Bidders what social value is and key local organisations and initiatives they can engage with to deliver social value. On occasions these social value questions have been customised with project specific outcomes attached.
- In order to support Social Value evaluation a specialist application called Social Value Portal has been procured. This tool allows bidders to put forward proposals tied into specific Themes, Outcomes and Measures which are quantifiable against nationally recognised standards. Officers are currently trialling the implementation of Social Value Portal on pilot projects. Once these are completed, Officers will review lessons learnt and roll out training to Procurement staff and Commissioners. Once Social Value Portal is live the Council will create a web portal and communication plan to support Suppliers to respond to our social value expectations. On delivery of Social Value Outcomes, Suppliers will have the facility to report their delivery to Social Value Portal who will produce a dashboard of benefits delivered.

2. Stop Gap Provisions

2.1 The Public Procurement (Amendment etc Regulations) (EU Exit) 2020 have been introduced to amend Public Contract Regulations 2015. In these regulations details are given of the '[Find a tender](#)' portal which replaces '[Tenders Electronic Daily](#)' as the advertising portal to stimulate interest in tender opportunities.

2.2 The UK has re-joined the WTO Government Procurement Agreement which ensures that for most public contracts reciprocal access must be given to EU

Agenda Item 6

Counties and 20 developed nations (including USA, Canada, Japan, Australia, Israel and Switzerland).

- 2.3 The regulatory framework will be based on the principles of Non-discrimination, transparency, impartiality, supporting the public good, value for money, integrity and fair treatment of suppliers

3. Potential Impact of National Policy Change

3.1 Streamlining of regulations

- 3.1.1 At present there are a series of Regulations for different public sector organisations (e.g. Public Contract Regulations 2015, Utilities Contract Regulations 2016, Concessions Contract Regulations 2016, Defence and Security Public Contract Regulations 2011) these are proposed to be incorporated into a single set of rules for all contract awards, simplifying the processes for buyers and suppliers. This proposed approach may reduce over 350 aspects of the current Regulations.

It is anticipated that the awarding procedures will be reduced from the current 8 (Open, Restricted, Competitive Dialogue, Innovation Partnership, Competitive Procedure with Negotiation, Design Contest, Light Touch Regime, Negotiated with no prior Award) to 3 (Open procedure, Competitive Flexible Procedure, Limited Tendering Procedure).

3.2 Open procedure

- 3.2.1 Open procedure remains the most popular route to market, allowing buyers a single stage process, and this will remain largely unchanged, with no provision for two stage procurement (procurement/sourcing), or for negotiation.

3.3 Competitive Flexible Procedure

- 3.3.1 The proposed Competitive Flexible Procedure has the potential to offer significant benefits to Commissioners and Bidders. It offers greater flexibility to design procurement processes to fit with the specific requirements of the Commissioner, embeds the facility to build in stages of negotiation, allowing both parties the freedom to explore opportunities to maximise the benefits of bids, and facilitates the introduction of innovative ideas from suppliers.
- 3.3.2 The procedure is also proposed to be used in situations where an initial selection stage is needed to limit the number of Bidders, for example where a specific technical requirement is needed to bid.

In a similar manner to the Innovation Partnership, the Competitive Flexible Procedure is proposed to be adapted to procure innovative products or services using a phased approach to develop solutions (e.g. pilot phase, go live phase).

3.4 Limited Tendering Procedure

- 3.4.1 The Limited Tendering Procedure is proposed to replace the Negotiation with no prior Award procedure. Whilst it is intended to manage spend areas of an

emergency nature where the requirement could not have been anticipated (e.g. no suitable tenders received, artistic or technical reasons, exclusive rights, extreme/unpredicted urgency etc) it is not an excuse for direct award due to poor planning. The current guidance to produce a Voluntary Ex Ante Transparency notice (VEAT) to confirm the reason for award with no prior competition is proposed to be replaced by a Contracts notice (except in urgency/crisis) and a ten day standstill period before Contract award.

3.5 Frameworks

- 3.5.1 Frameworks may change, with a proposal to increase the typical Framework period from 4 years (typically) to a maximum of 8 years, with requirements to reopen the Framework at least once (after 3 years) allowing Commissioners to benefit of ensuring the approach captures opportunities for new suppliers to join the framework.

3.6 Dynamic Purchasing Systems +

- 3.6.1 Dynamic Purchasing Systems (DPS+) are proposed to be extended beyond commonly used goods and services, offering the benefit over Frameworks of suppliers being able to join the DPS at any time.

3.7 Pre-qualification

- 3.7.1 Pre-qualification processes could be transformed with the proposal to investigate the feasibility of a centralised single digital platform for supplier registration (similar to parts of the traditional Pre-Qualification Questionnaire), allowing Procurement staff access to this basic information on demand, and streamlining tendering processes.

There is also a proposal for the Government to create a monitoring system to evaluate performance against Contract KPIs and options to permit exclusion from procurements in the event of significant and persistent poor performance in the previous 3 years.

3.8 Evaluation criteria

- 3.8.1 The previous award criteria Most Economically Advantageous Tender (MEAT) is proposed to be replaced by Most Advantageous Tender (MAT) encouraging Commissioners to consider broader factors when assessing value for money, such as social value (economic, social and environmental outcomes).
- 3.8.2 Sefton is well positioned to support this approach when the Council has fully integrated the benefits of the [Social Value Portal](#), allowing us to capture, evaluate and report social value outcomes effectively.

3.9 Legal challenges

- 3.9.1 The route to hearing legal challenges may reduce with the proposed introduction of a tailored fast track system, and specialist procurement tribunal with a procurement only judge. Challenges potentially could reduce as damages

Agenda Item 6

potentially can be capped at x 1.5 of bid costs, which should impact the number of speculative Bidder claims.

3.10 Training

- 3.10.1 There will be some initial costs in familiarisation of new processes for Commissioners and Buyers, this will include a refresh of all sourcing documents to maximise the potential benefits offered, and some additional governance will be required to manage Competitive Flexible Procedure, but examples of good practice have already been established from the previous Competitive Procedure with Negotiation and Innovation Partnership. Negotiation training for evaluators maybe required in order to exploit the freedoms of the new procedure.
- 3.10.2 A new Cabinet Office support unit is intended to be created to improve capability and practices for Contracting Authorities, so we would anticipate some resources would be available to assist with the transition to the new processes. This unit would also have the power to monitor and intervene where it saw inappropriate Procurement practice in a manner similar to the current Public Procurement Review Service.

4. Potential Risks

4.1 Light Touch Regime

- 4.1.1 With the proposed elimination of the Light Touch Regime many contracts maybe drawn into the scope of the three new procedures, whilst this would not be an issue from a sourcing approach (as Competitive Flexible Procedure can be modelled similar to Light Touch Regime), the report does not detail if these areas of spend remain on the current Light Touch Regime threshold £663,540 or reduced to the Open Procedure threshold £189,330.

4.2 Competitive Flexible Procedure

- 4.2.1 The Competitive Flexible Procedure does introduce a higher level of risk of legal challenge if procurements have not been run in alignment with the new regulations. In particular with the introduction of negotiation phases there is an increased risk of unfair treatment, and effective governance will be critical.

4.3 Greater transparency

- 4.3.1 The requirement for greater transparency of award decisions will eliminate the requirement for a standstill letter. Throughout the procurement there will be requirements to share key decision documents and the Contract Award (Article 84) Report, plus feedback on the results of the evaluation panel will need to be published for all bids (with exemptions for commercially sensitive information). This reporting will put additional burdens on Procurement teams, and potentially could increase the risk of legal challenge if evaluation reports are not drafted accurately. This risk will be mitigated by effective assessment of bids by

evaluation panels. The Procurement team will be able to create evaluation workshops to assist evaluation panels.

- 4.3.2 The Government also proposes to put a stronger emphasis on Contracting Authorities publishing contracting data throughout the contracting lifecycle, this will include details of pipeline notices for future procurements (at least 18 months ahead but ideally 3 to 5 years ahead), pre market engagement notices, details of contracts awarded and amended, awards from Frameworks and DPS+. A timescale is proposed to be established so that e-procurement related portals (such as [Proactis / The Chest](#)) can meet any obligations.

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Contract Procedure Rules

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Table of Contents

1.0 CONTRACTS PROCEDURE RULES WHICH APPLY TO ALL CONTRACTS.....	4
1.1 BASIC PRINCIPLES	4
1.1.1 Introduction	4
1.1.2 Legal Compliance	6
1.1.3 Public Contracts Regulations	6
1.1.4 EU Principles - Transparency and Non-Discrimination etc.....	6
1.1.5 Procurement Documentation.....	7
1.1.6 Contracts where the Council acts as Agent	7
1.1.7 Calculating the Financial Value of a contract.....	7
1.1.8 Public Services (Social Value) Act 2012	8
1.1.9 Forfeiture in Case of Bribery of Corruption.....	9
1.1.10 Contract sealing	10
1.1.11 Contract roadmap	10
1.2 OFFICER RESPONSIBILITIES	10
1.2.1 Roles and Responsibilities.....	10
1.2.2 Adequate Budget Provision	11
1.2.3 Disciplines	11
1.2.4 Information Management.....	11
1.2.5 Corporate Contracts	13
1.2.6 Bonds and Security.....	13
1.2.7 Contracts – Delay and liquidated damages	14
1.2.8 Breach of Contracts Procedure Rules	14
1.2.9 Conditions of Contract.....	14
1.2.10 Assignment of Contracts without Consent	16
1.2.11 Contract Extensions	16
1.2.12 Monitoring of Contracts.....	17
1.2.13 Conflict of Interest.....	17
1.3 COLLABORATIVE ARRANGEMENTS.....	18
1.3.1 Framework Agreements / Dynamic Purchasing System (DPS).....	18
1.3.2 Joint or Partnering Arrangements, Procurement of Consultants	18
1.4 E-PROCUREMENT	20
1.4.1 Electronic Procurement.....	20
1.5 RECORDS	20
1.5.1 Contracts Register	20
1.6 INTENTION & AWARD OF CONTRACT AND DEBRIEFING OF CONTRACTORS.....	21
1.6.1 Award Criteria.....	21
1.6.2 Acceptance of Tenders / Quotations	22
1.6.3 Debrief – Intention & Award.....	23
1.7 CONTRACT PAYMENTS	24
1.7.1 Contract payments/settlements	24
1.7.2 Prompt Payment within 30 days	24
1.7.3 Instalment Payments.....	25
1.7.4 Authorisation of Payments.....	25
1.7.5 Authorisation of Variations.....	25
1.7.6 Works Contracts – Final Certificate control.....	25

1.7.7 Payments before Completion of Formal Contract	25
1.7.8 Signed Contracts.....	25
1.8 WAIVER OF CONTRACTS PROCEDURE RULES.....	26
1.8.1 - Waiver document.....	26
1.9 PROCUREMENT RISK ASSESSMENT	27
1.10 EXPENDITURE APPROVAL PROCESS – PRE PROCUREMENT REPORTING.....	28
1.10.1 Pre-Procurement Reporting	28
1.10.2 Pre-Procurement Approval specifically in respect of Adult’s or Children’s Social Care support packages and placements, and Substance Misuse Residential Rehabilitation placements	29
PART 2: CONTRACTS EXCEEDING THE APPLICABLE SPEND THRESHOLDS	31
2.1 Forms of Procurement	31
2.2 Open Procedure Tendering	32
2.3 Restricted Procedure Tendering	33
2.4 Direct call off from a Framework	34
2.5 Mini competition within a Framework / Dynamic Purchasing System (DPS).....	34
2.6 Invitations to Tender and Interim Custody of Tenders	34
2.7 Closing Date for Receipt of Tenders.....	35
2.8 Method of Opening Tenders.....	35
2.9 Evaluation of Tenders	35
2.9.1 Evaluation and Award.....	35
2.9.2 Evaluation Panel	36
2.9.3 Evaluation Matrix.....	36
2.9.4 Moderation	37
2.9.5 Post Tender Clarification.....	37
2.9.6 Best and Final Offer (BAFO)	38
2.10 Method of Acceptance of Tender.....	38
2.11 Errors in Tenders.....	39
2.12 Indemnity and Health & Safety.....	39
2.13 Funding Availability	40
2.14 Transfer of Undertakings (Protection of Employment) TUPE Regulations 2006.....	40
PART 3: CONTRACTS UP TO BUT NOT EXCEEDING THE SPEND THRESHOLDS	43
3.1 Competition Requirements	43
3.2 Evaluation of Quotations	44
3.2.2 Evaluation Panel	45
3.2.3 Evaluation Matrix.....	45
3.2.4 Moderation	46
3.2.5 Post Quotation Clarification	46
3.2.6 Best and Final Offer (BAFO)	47
PART 4 – APPROVAL TO AWARD CONTRACTS	48
4.1 Low value Procurements - £1 to £20,000	48
4.2 Procurements £20,001 to £150,000	48

Agenda Item 6

4.3 Procurements £150,000 to x 3 Public Contract Regulations (goods and services), 1 x Public Contract Regulations (works)	48
4.4. Procurements above x3 Public Contract Regulations (goods and services), 1 x Public Contract Regulations (works)	48
4.5 Framework direct award	49
Appendix 1 - What level of Procurement Activity is required in respect of Contract Value?	50
Appendix 2 - GLOSSARY OF TERMS.....	51

DRAFT

1.0 CONTRACTS PROCEDURE RULES WHICH APPLY TO ALL CONTRACTS

1.1 BASIC PRINCIPLES

1.1.1 Introduction

1.1.1.1 Minimum requirements

Officers responsible for, or involved in, procurement, commissioning, contract administration or contract management must comply with these contract procedure rules. They lay down **minimum requirements** and a more detailed procedure may be appropriate for a particular contract.

1.1.1.2 Local Government Act 1972

These Contracts Procedure Rules are Standing Orders made under section 135 of the Local Government Act 1972. These rules apply to all Officers of the Council.

1.1.1.3 Scope of contracts

A Contract for the purposes of these Contracts Procedure Rules shall be any agreement between the Council and one or more parties in respect of:

- The carrying out of works for the Council
- The purchase, leasing, or hiring of supplies or materials by the Council
- The supply of consultancy, agency workers and other services to the Council

For the avoidance of doubt these Contracts Procedure Rules shall not apply to :-

- The sale, leasing or purchase of land, or of any interest in land (Officers are requested to note that land transactions are generally subject to best value considerations under Local Government legislation and some property transactions e.g. long building leases etc. may need to take account of Procurement legislation.
- Advice in respect of land and property transactions must be sought from the Executive Director of Corporate Resources and Customer Services (on a case by case basis): or
- Any Contract of Employment

Agenda Item 6

1.1.1.4 Service user choice

There are certain circumstances where the public can access a service of their choice and the Local authority is obliged by regulation to pay the associated costs. This is mainly in regard to Adult Social Care Nursing and Residential Care homes, and Open Access Sexual Health services. In these circumstances client officers must work with Commissioning to ensure that relevant guidance, risk, invoicing and cost is clearly understood, managed and adhered to.

1.1.1.5 Good procurement practice

These contract procedure rules are intended to promote good procurement and commissioning practice, transparency, public accountability, and deter corruption. The best defence against allegations that expenditure has been committed incorrectly or fraudulently is by following the Contracts Procedure Rules.

1.1.1.6 Value Added Tax

All values specified in these rules shall be exclusive of Value Added Tax.

1.1.1.7 Constitution

These Contracts Procedure Rules must be read in conjunction with the relevant parts of the Council's Constitution (including the [Financial Procedure Rules](#)).

[Link to the Constitution](#)

1.1.1.8 External Funding

External funders may impose additional requirements in respect of advertising, tendering, scoring and record keeping. In such cases it may be necessary to modify the approach to procurement in specific circumstances.

1.1.1.9 Procurement guidance

If a Client Officer is in any doubt as to if and how the Contracts Procedure Rules are applicable to a prospective procurement then the Corporate Procurement Unit must be contacted for advice and guidance.

1.1.1.10 Schools

These rules will apply to all Sefton Council maintained schools, in accordance with "Fair Funding Guidance: Scheme for Financing Schools.

1.1.1.11 Lord Young reforms

The Public Contracts Regulations, bolstered by the Lord Young Reforms, seek to afford greater opportunity of supply to Small and Medium Enterprises (SME's). Regulation 46 of the 2015 regulations in particular encourages procuring authorities to considering dividing requirements into Lots for which providers can bid, or formally documenting reasons why dividing of Lots has not taken place.

1.1.1.12 Contract Procedure Rules review

These Contracts Procedure Rules shall be reviewed periodically by the Head of Strategic Support, in consultation with the Executive Director of Corporate Resources and Customer Services and the Chief Legal and Democratic Officer. The frequency of review shall, as a maximum, be annually in order to incorporate any change in legislative spend thresholds.

1.1.2 Legal Compliance

All procurement procedures and contracts shall comply with all legal requirements and no officer or Committee or Board of the Council may seek to avoid them. If in doubt advice must be sought from Head of Strategic Support.

1.1.3 Public Contracts Regulations

All relevant contracts must comply fully with the requirements of Public Procurement (Amendment Etc) (EU Exit) (No. 2) Regulations 2020, Public Contracts Regulations 2015 (collectively known as the 'Public Contract Regulations' within this document), including Regulation 57, which outlines grounds for mandatory exclusion of bidders from a procurement process.

[Public Contract Regulations 2015](#)

[Public Procurement \(Amendment Etc\) \(EU Exit\) \(No. 2\) Regulations 2020](#)

In particular Regulation 57 (e) (i) addresses the Council's ability to exclude a bidder for non-payment of taxes by way of a bidder being convicted of : *"the common law offence of cheating the Revenue"*

1.1.4 EU Principles - Transparency and Non-Discrimination etc.

The award process and structure of all contracts shall comply with the Principles of Openness, Fairness, Transparency, Non-Distortion of Competition, Non-Discrimination, Equal Treatment, Proportionality and Mutual Recognition.

Agenda Item 6

1.1.5 Procurement Documentation

All contracts and contractual processes shall be consistent with these Contract Procedure Rules and any all relevant Council Procurement Guidance, Commissioning and or Procurement Strategy.

1.1.6 Contracts where the Council acts as Agent

Where the Council acts as the Agent for any other Local Authority or Public Body or company these Contracts Procedure Rules shall apply unless the Head of Strategic Support instructs otherwise in writing.

1.1.7 Calculating the Financial Value of a contract

1.1.7.1 Contract values assessment

In deciding the value of contracts for the purposes of applying the requirements of these Contracts Procedure Rules the Client Officer must take into account:

- The **total cost for the lifetime** of the contract (including any proposed optional periods)
- That the value of contracts of like nature shall be aggregated and that aggregate value shall be applied.
- In the case of joint procurement arrangements, the value shall be the value of all parties' purchases under the contract.
- In the case of long term adults and children's social care contracts which have no defined end date, the total cost will be valued at 4 years for the purpose of applying the Public Contracts Regulations.
- No officer or Committee or Board of the Council may seek to divide potential contracts in order to avoid the requirements of these Contracts Procedure Rules or Public Contracts Regulations.

1.1.7.2 Disaggregation

Officers must not actively seek to disaggregate or fragment prospective spend amounts for the purpose of avoiding specific procurement activity.

1.1.7.3 Procurement Spend Thresholds

The Public Contracts Regulations require particular procurement processes to be utilised where the estimated contract value exceeds predetermined spend thresholds. The current Public Procurement Spend Thresholds (for the whole of the contract including any optional years) are:

Supplies / Services £189,330

Works £4,733,252 (as detailed within Schedule 2 of the Public Contracts Regulations)

Social and Other specific Services £663,540 (as detailed within Schedule 3 of the Public Contracts Regulations)

Note: Spend threshold figures correct as at January 2020, but subject to ongoing change, ordinarily on a two year cycle. Updates to the threshold figures shall be updated from time to time on the [Procurement intranet](#).

Both Schedules 2 and 3 of the Regulations can be viewed here :-
[Public Contracts Regulations 2015](#)

1.1.8 Public Services (Social Value) Act 2012

1.1.8.1 Social Value statutory duties

Contracting Authorities are under a statutory duty to consider economic, social and environmental well-being issues at the pre-procurement stage of a public service contract:-

- How the economic, social and environmental wellbeing of the Local Authority
- Area might be improved by the proposed contract;
- How in conducting the procurement process, the Council might act with a view to securing that improvement (NB. Only matters that are relevant to what is to be procured can be taken into account and those matters must be proportionate);
- Whether any consultation must be undertaken in relation to social value matters.

The Council goes beyond the provisions of the Public Services (Social Value) Act 2012 in its assessment of social value in alignment with the principles laid out in the Ethical Business Practices.

The Council supported the principles on [Procurement Policy note 5/21](#) that Public procurement should be leveraged to support priority national and local outcomes for the public benefit.

The Council intends to ensure that their approach to social value supports:

- Creating new businesses, new jobs and new skills in the UK;
- Improving supplier diversity, innovation and resilience;
- Tackling climate change and reducing waste.

[Ethical business practices](#) (see report to Council 23rd January 2020 page 281)

1.1.8.2 Social Value £20,000 to £100,000 (whole life cost)

Social Value must be considered with appropriate social value questions embedded within the tender questionnaire. Generally, the weighting of social value should 10% of evaluation model, however this weighting can be flexible based on the opportunity within the market to deliver meaningful social value.

Agenda Item 6

Works contracts below £100,000 may be excluded from social value assessment, unless the Officer believes there is a significant opportunity to embed social value into the requirements.

Client Officers are responsible for contract managing the delivery of social value outcomes.

1.1.8.3 Social Value over £100,000 (whole life cost)

Social Value must be considered with use of the Social Value Portal required within the tender questionnaire. The Social Value Portal provides an opportunity for Bidders to detail the proposed social value, quantify the value of the social value against validated standards, and to provide a methodology for the delivery of the social value.

Works contracts above £100,000 are included for use of Social Value Portal

Social Value Portal

1.1.8.4 Social Value weighting

Generally, the weighting of social value should in 10% of evaluation model, however this weighting can be flexible based on the opportunity within the market to deliver meaningful social value.

1.1.8.5 Social Value Contract Management

Client Officers are responsible for contract managing the delivery of social value outcomes. Social Value Portal will proactively work with successful suppliers awarded Contracts to report Social Value outcomes delivered within the tool.

In the event of a Services tender being issued using Public Contract Regulations processes and not including social value a file note should be captured by the Procurement Officer to ensure a justification for not considering social value is captured.

1.1.9 Forfeiture in Case of Bribery of Corruption

There shall be inserted in every contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or having forborne to do any action in relation to the obtaining or execution of the contract or any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by the contractor or acting on the contractor's behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council, the contractor, or any person employed by the contractor or acting on the contractor's behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward, the receipt of which is an offence under Section 117 of the Local Government Act 1972.

1.1.10 Contract sealing

Every contract which exceeds £100,000 in value with any individual contractor (for the whole of the contract as opposed to the annual value) shall be sealed with the Council's Seal and shall be executed by the Contractor as a Deed. In order that a contract can be sealed the following package of documents must be forwarded in hard copy or electronic PDF format by Central Procurement to Corporate Legal Services:

- The Invitation to Tender (ITT), or Request for Quotation (RFQ) document, Crown Commercial Services G Cloud Order Form (as applicable)
- The successful bidder's ITT or RFQ
- The Internal Authorisation to award a contract as per delegated authority (Cabinet / Cabinet member etc.)
- Copies of the award & acceptance correspondence
- The bidder's in-date insurance cover.
- A summary of questions asked by bidders during the procurement process and responses provided by the Council

Corporate Legal Services shall advise if the Contract will require physical signature or where an electronic signature from the successful supplier will suffice.

Where the Contract being sealed is via a Waiver the following package must be forwarded in hard copy or electronic PDF format to by Central Procurement to Corporate Legal Services.

- The Contract documentation
- The Internal Authorisation to waive Contract Procedure Rules
- The bidder's in-date insurance cover.

1.1.11 Contract roadmap

The Council will ensure that its Contract roadmap is published on its website and that details of procurement pipelines for re-procurement of existing contracts and new requirements are published from April 2022 unless otherwise defined by Law.

1.2 OFFICER RESPONSIBILITIES

1.2.1 Roles and Responsibilities

Ahead of any procurement exercise commencing the roles of all Officers to be involved in the exercise must be determined and responsibilities for undertaking all aspects of the procurement process shall be set out and clearly assigned, in order that the process is properly controlled and undertaken and there is a clear understanding of the requirements of each member of the team throughout the process.

Agenda Item 6

The assignment of roles and responsibilities shall be kept under review throughout the course of the procurement and, in terms of contract management and contract performance management, throughout the term of the contract.

The assignment of roles and responsibilities, including any changes in the assignment of those roles and responsibilities during the course of the procurement, shall be documented within a suitable Procurement Roles and responsibilities Plan.

Roles and Responsibilities documentation will be produced by the Procurement Officer and regularly reviewed to meet this need.

Roles and responsibilities document

<http://intranet.smbc.loc/our-council/procurement.aspx>

1.2.2 Adequate Budget Provision

No Officer should seek to enter into a contract, or purport to enter into a contract, for the provision of supplies, works or services unless there is adequate provision in the agreed Capital Programme and/or agreed Revenue Budgets. If in doubt the Executive Director of Corporate Resources and Customer Services must be consulted.

1.2.3 Disciplines

Ahead of commencing any procurement exercise Officers must give thought to the question of which disciplines need to be considered for either operational involvement in the process or within an advisory support role. For instance, whilst the need for the involvement of Operational and Procurement Officers is apparent, in addition consideration must be given to the value of other disciplines, which as examples may include but not be limited to :

- Legal
- Audit
- Contribution from Client Support Officers
- Finance
- Human Resources
- Investment and Employment Service
- External Advice/Consultancy – Private or another Local Authority
- External Social Value advice from Social Value Portal

1.2.4 Information Management

Officers must be mindful that throughout any Procurement exercise the governance, management and security of information is vital to both the integrity of the work to be conducted, and potentially the reputation of the Council. Officers must therefore ensure:

- Storage and handling of Procurement or any supporting information or documentation, whether digital, paper or another format is carried out securely.
- Where the information and documentation are in a digital format this may involve using an encrypted fixed or digital device or other suitable and secure mechanism to ensure that access is restricted only to those Officers involved in the procurement project and in accordance with their assigned roles and responsibilities. It may involve Officers using their allocated personal drive within the Council's ICT system, to which access is limited, or creation of a shared folder secured through controlled access rights, password or some other means to prevent unauthorised access.
- All documents forming part of a tender / request for quotation process, (including specifications, tender / ARFQ documents, evaluation documents etc.) must be subject to effective document management, including version control, review and sign-off and shall be held in a readily identifiable folder titled: '**Procurement of [INSERT PROJECT TITLE HERE]**'.
- As a guiding principle, Officers must be mindful that other people, including fellow Officers, not involved in a procurement exercise must not have access to information that relates to it.
- Diligence is employed when conducting discussions that relate to a Procurement exercise. Officers must be mindful of both topics discussed, and the environment within which they are discussed. Consideration must be given to holding discussions in a controlled area, such as an individual's personal office, or a meeting room, in order to ensure that only an invited group of officers are privy to information discussed.
- Officers must also be mindful of the content of telephone conversations held in an uncontrolled environment, if in any doubt that the content of a proposed conversation is sensitive then arrangements must be made to hold that discussion in a controlled area.
- Control is employed when communicating with bidders or potential bidders within a procurement exercise. Officers must ensure that no direct verbal or email communication is entered into with a bidder, bidders or potential bidders, or their representatives. Officers must ensure that all communication with any bidder or their representative, within any procurement exercise must be carried out in written form, through the Council's electronic opportunities portal, via the Procurement Officer holding responsibility for that.

Procurement Officers must ensure that the Council's Electronic Opportunities portal is utilised where appropriate to store documents created throughout the procurement process in order to build a comprehensive audit trail. Such documents will include, but not be limited to:

- Evaluation Panel members' individual scores and scoring notes
- Moderated scores
- Moderation notes
- Finalised Master Evaluation Matrix
- Versions of Invitation to Tender (ITT) documents
- Versions of Advanced Request for Quotation (ARFQ) documents
- Versions of Selection Questionnaires
- Responses to questions raised by bidders
- Copies of correspondence (for example Mandatory Standstill)

Agenda Item 6

Where procurement processes must be conducted outside of the e sourcing portal, for example Crown Commercial Services G Cloud, email communication is permitted but must be held in appropriate secure storage for audit trail purposes.

1.2.5 Corporate Contracts

A corporate contract exists where the Council has entered into a contract for the provision of supplies, services, or works, and agreed rates for such.

Before procuring supplies, services or works, an Officer shall ascertain whether any corporate contract has been entered into in relation to those supplies, Services or works.

This requirement is mandated on all Council Officers. Any requirement to purchase such supplies, services or works from alternative non-contracted suppliers must first be agreed in accordance with the Waiver Procedure set out in these Contract Procedure Rules.

1.2.6 Bonds and Security

- 1) A performance bond or adequate security (surety) should be considered in all cases.
- 2) A performance bond or other security (including but not limited to 3 below) will be required where;
 - a) the value of the contract is such that the risk of failure is sufficiently high;
 - b) the nature and length of the contract is such that the risk of failure is sufficiently high;
 - c) the estimated cost of re-establishing a service if the contract fails is sufficiently high;
 - d) there are known technical difficulties associated with the contract; or
 - e) the circumstances otherwise suggest that a performance bond or other surety is required.
- 3) As an alternative to a bond, where the contractor is a limited company which is part of a larger group, the ultimate holding company may be required to provide a parent company indemnity in addition to or instead of a performance bond or other security.
- 4) The decision as to whether a performance bond or other security is required shall be made by the Head of Service in consultation with the S151 Officer (or delegated officer). This will be a decision that is determined by commercial, financial, procurement and legal considerations and as such advice may be sought from officers in Finance, Procurement and Legal Services as required.
- 5) If it is decided that there shall be a performance bond or other security the decision as to the precise form of the bond or other security shall be made by the Head of Service in

consultation with the S151 Officer (or delegated officer). This will be a decision that is determined by commercial, financial, procurement and legal considerations and as such advice may be sought from officers in Finance, Procurement and Legal Services as required.

1.2.7 Contracts – Delay and liquidated damages

In the case of Works contracts over the total value of £100,000 and, in any other case where a risk assessment, undertaken at pre procurement stage, considers it necessary, a clause shall be inserted in the contract providing for the payment of liquidated damages (calculated as a genuine pre-estimated of loss) in circumstances where the contract is not completed within the time specified.

Where completion of the contract is delayed it shall be the duty of the relevant Client Officer under the contract to take appropriate action in respect of any claim for liquidated damages as may be provided for within the terms and conditions of the contract.

1.2.8 Breach of Contracts Procedure Rules

Any breach or non-compliance with these Contracts Procedure Rules must, on discovery, be reported immediately to the Head of Strategic Support, Executive Director of Corporate Resources and Customer Services, and the Chief Internal Auditor.

The Head of Strategic Support, and the Chief Internal Auditor shall consider whether each reported breach or non-compliance presents a significant risk of harm to the Council's interests and if satisfied that such risk exists shall undertake any necessary investigation and report the findings to the relevant Head of Service, Executive Director of Corporate Resources and Customer Services and Chief Executive, as appropriate.

Officers must be aware that any non-compliance with Contract Procedure Rules could result in disciplinary action.

1.2.9 Conditions of Contract

In every written contract for the execution of works or the supply of supplies or services, the following clauses shall be inserted (unless Industry Standard Conditions are being used e.g. NEC, JCLI, JCT, Public Health Standard Form etc. in which case they must be checked to see if similar clauses are already included in the standard to avoid any confusion and/or duplication):-

Clause A - The Contractor must comply with the provisions of the Employment and the Trade Union and Labour Relations (Consolidation) Act, 1992, and in particular shall ensure that all persons employed by him or her in relation to the execution of the contract are afforded the rights and facilities specified in those Acts regarding trade union Membership.

Agenda Item 6

Clause B - The Contractor must comply with national equality legislation to deliver services fairly and without unlawful discrimination.

Clause C - The attention of the Contractor must be drawn to the importance of complying in all respects with :

- (i) The provisions of the Equality Act 2010. The Contractor shall have regard to the nine protected characteristics within the Act and must not discriminate either directly or indirectly on the grounds of:- Age, Disability, Gender Re-assignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion, Sex, Sexual Orientation
- (ii) The requirements of the Public Interest Disclosure Act, 1998:
- (iii) The requirements of the Freedom of Information Act 2000 and Regulations made thereunder. The Council's obligations in respect of the said Act are also drawn to the attention of the Contractor.
- (iv) The requirements of the Bribery Act 2010
- (v) The Contractor shall be responsible for the observance of clauses a–c (i)–(iv) above by Sub Contractors employed in the execution of the contract and shall notify the Council of the names and addresses of all such Sub-Contractors.
- (vi) The requirements of the Social Value Act 2012

Health and Safety Conditions of Contract

The Contractor must comply with the 1974 Health and Safety at Work etc. Act (HASWA), Health and Safety Regulations, and Codes of Practice that are approved by the Health and Safety Executive.

The Contractor must comply with the Councils Health and Safety Guidance

Data Protection

The Supplier shall (and shall procure that any of its employees and agents involved in the provision of the Contract shall) comply with any notification requirements under the Data Protection Act 1998 ("DPA") and shall duly observe all its obligations under the DPA which arise in connection with the Contract.

Where the Supplier is processing Personal Data as a Data Processor for the Council, the Supplier shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the DPA: and

- provide the Council with such information as the Council may reasonably
- required to satisfy itself that the Supplier is complying with its obligations under the DPA;
- promptly notify the Council of any breach of the security measures required to be put in place pursuant to this clause; and

- ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the DPA.

The provisions of this clause shall apply during the continuance of the contract and indefinitely after its expiry or termination.

The Service Provider shall and shall ensure that its Sub-contractors shall notify the Council within five Working Days if it receives:

- a request from a Data Subject to have access to that person's Personal Data; or
- a complaint or request relating to the Council's obligations under the DPA or any other data protection legislation.

1.2.10 Assignment of Contracts without Consent

There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have transferred or assigned, whether directly or indirectly, the benefit of the contract without the written consent of the Council, or if the contractor shall have sub-let the contract (except so far as the sub-letting relates to the supply of patent or proprietary articles, raw materials or natural products) without the written consent of the Council.

1.2.11 Contract Extensions

Officers must consider a contractor's performance throughout the period of contract when considering a contract extension. Officers must question not only the financial aspects of any potential extension, negotiating with the contractor where possible to achieve a competitive financial offering, but must also give thought to whether the quality of supplies or service being provided to the Council would continue to offer best value to the Council should an extension be offered. Officers must be aware that markets, the providers within those markets, and the level of competition for Council business will change over periods of time.

Officers must consider alongside the award of any optional extension period, what other alternatives may be available to the Council and must offer reasoning as to why such alternatives are not proposed. Officers must ensure that prior to seeking approval of any proposed contract extension; consultation is undertaken with Head of Strategic Support in order to secure a Procurement perspective.

An extension requires the approval of a Head of Service, Cabinet Member or Cabinet according to the applicable financial thresholds detailed herein.

The value of any contract extension must be calculated in line with Rule 1.1.7.

In terms of compliant process Contracts may be extended beyond the stated core contract period, where provision for such extension was included in the original Invitation to Tender (ITT), or Request for Quotation documents (RFQ), and in respect of EU Procurements, in the OJEU Contract Notice.

Agenda Item 6

In cases where an extension period was not provided for within original ITT, or RFQ documents and in respect of EU Procurements, in the above Public Contract Regulations Contract extension of contracts with a value below the applicable Public Contract Regulations Spend Threshold will require the written approval of the appropriate Head of Service, Cabinet Member, or Cabinet, following consideration of a written report setting out a justifying business case.

Where the value of expenditure is such that a Public Contract Regulations Spend Threshold would be exceeded then it is not possible to award a long term contract Extension.

Extension on a short term basis will only be authorised in exceptional circumstances. In circumstances where a short term extension is granted, a Public Contract Regulations compliant procurement process must be carried out as a matter of urgency in order to secure a replacement contract. Such action must be considered in consultation with the relevant Procurement Officer and the Head of Service and must be articulated in a Waiver.

Wherever possible officers must endeavour to plan the necessary pre-procurement reporting, and subsequent procurement activity, in ample time to allow a replacement contract to be secured negating the need for an extension. Consideration must be given to the mobilisation period and obtaining TUPE related information where relevant.

1.2.12 Monitoring of Contracts

All contracts must be monitored throughout the period of the contract, and the performance of contractors and social value outcomes must be reviewed regularly. Appropriate records of contract monitoring and contractor performance shall be maintained by the relevant service area

1.2.13 Conflict of Interest

All Officers acting as evaluators on a procurement process shall ensure they have an understanding of the Employees Code of Conduct and declare any potential Conflicts of Interest before commencing on the evaluation of a tender responses.

[Employees Code of Conduct](#)

1.3 COLLABORATIVE ARRANGEMENTS

1.3.1 Framework Agreements / Dynamic Purchasing System (DPS)

Contract Procedure Rules 2.1 to 2.3, and 3.1 will not apply where the supplies, works or services in question are to be procured by using a framework agreement or Dynamic Purchasing System (DPS) which itself has been procured through compliance with these Contract Procedure Rules or from a Central Purchasing Body for the purposes of the Public Contracts Regulations.

Where a Central Purchasing Body's framework agreement is used for the first time a Procurement Officer shall obtain copies of that Body's Contract and Award notices and shall confirm the Body's compliance with the Public Contracts Regulations.

1.3.2 Joint or Partnering Arrangements, Procurement of Consultants

1.3.2.1. Partnering Arrangements

A memorandum of understanding must be developed with partners to ensure that resources, support and delivery will be available throughout the development and lifetime of the proposed contract.

A single contract may be delivered by several providers. Partnering involves an integrated team working together to deliver better services to citizens through agreeing mutual objectives, devising a way for resolving any disputes and committing themselves to continuous improvement, measuring progress and sharing the gains.

All parties have a shared goal of delivering services in a cost-effective and timely way that is mutually beneficial.

Partnering arrangements are likely to be contractually based and will need to comply with these Contracts Procedure Rules.

Partnering Arrangements will be entered into ONLY after an appropriate competitive procurement process has identified potential partners and they have been evaluated from a competitive and best value perspective.

Partnering Arrangements will need to identify the following:

- responsibility for each function to be performed,
- the element of risk undertaken by each party,
- the mutual benefits derived from the partnership,
- the individual targets and objectives of the partnership,
- the procedure for reviewing the performance of the partnership,
- the procedure for remedying disputes and the settlement of grievances
- (including arbitration if required),

Agenda Item 6

- the period for maintaining the partnership,
- the exit procedure at termination of the partnership, which must
- include, the responsibility for staff, premises, service provision, and
- any other relevant matters.
- implications for Social Value, in terms of local supply, employment

1.3.2.2. Joint Procurement

Any joint procurement activity with other local authorities or public bodies, including Membership or use of Purchasing Consortia, shall be agreed via Pre-Procurement Reporting requirements as outlined within 1.10.1.

The Council may also enter into existing public sector framework arrangements, where it is evident that such frameworks represent the optimum solution to the Council in terms of service and cost.

Where any expenditure is committed using standard arrangements such as an accessible framework contract with another local authority, government department, statutory undertaker, public service purchasing consortium or government approved catalogue of procurement sourcing, Officers must be reasonably satisfied that the appropriate procurement procedures have been followed by the body concerned and consider appropriate use of the facility i.e. straight forward call-off, or mini competition.

- Where the Council is working in a joint or partnering arrangement with another body or bodies and, under that arrangement, is the commissioning body, Sefton Council's Contracts Procedure Rules shall apply to contracts entered into under that arrangement.
- Where the Council is working in a joint or partnering arrangement with another body or bodies and, under that arrangement, another body is the commissioning body, the Contracts Procedure Rules, or equivalent, of that other body shall apply to contracts entered into under the arrangement subject to the approval of a waiver by the Cabinet Member (Regulatory, Compliance & Corporate Services). Where the body has no such Contracts Procedure Rules, the procedures applied by the other body shall comply with the principles and safeguards contained in Sefton Council's Contracts Procedure Rules, and this must be documented in the Terms and Conditions of the Contract.
- Where the Council is working in a joint or partnering arrangement with another body or bodies, the Terms and Conditions for the arrangement shall include powers for the Council to have access to the records, assets, site, employees and sub-contractors of that other body for the purposes of investigating or auditing compliance with the terms of the arrangement and with the relevant procurement rules.

1.3.2.3 Procurement of Consultancy Services

Establishment Control Panel approval must be sought prior to commencement of any procurement activity to secure individual consultancy posts.

For the avoidance of doubt, if a Client Officer wishes to procure a consultancy services contract which will require a series of subject matter experts to deliver the contract, and that there is flexibility

for the potential Supplier to substitute staff, and there is no right of control (as the Supplier is free to deliver the requirements in the methodology they deem most appropriate) and there is no expectation of the Suppliers employees working exclusively for the Council, then there is no requirement to gain approval of the 'Establishment Control Panel' prior to commencing the procurement of the services contract.

Client Officers are reminded that the procurement of any consultancy posts is ultimately subject to scrutiny by the 'Establishment Control Panel'. Any Officers procuring Consultancy Services must comply with all aspects of these Contract Procedure Rules in first sourcing any consultant through a competitive process to ensure best value.

Advice must be sought from Central Procurement as to an appropriate competitive process in respect of these Contract Procedure Rules.

1.4 E-PROCUREMENT

1.4.1 Electronic Procurement

Officers must employ an electronic procurement method and shall use only the Council's electronic opportunities portal approved by the Head of Strategic Support in consultation with the Executive Director of Corporate Resources and Customer Services.

The only exception to this rule shall be where an officer is using an external framework, the use of which has been approved in accordance with CPR 1.3.1. In such circumstances the procurement work shall be carried out in compliance with the rules of the framework as determined by the framework owner.

1.5 RECORDS

1.5.1 Contracts Register

As part of the Government's Transparency Agenda the Council is required to compile a Contracts Register to capture details of all contracts let by the Council.

All procurement opportunities published on the Council's approved electronic opportunities portal will have the contract award details automatically promoted to the online contracts register, where the contract is valued at £5,000 or above, in line with the Government's transparency agenda.

Where a procurement has not be run through the e-sourcing platform 'The Chest' it is the Client Officers responsibility to complete the Contract Register Form. Advice on completion can be gained from the Procurement Department.

Agenda Item 6

Where the procurement has been run through the e-sourcing platform 'The Chest' the Procurement Officer will manage the creation of the Contract Register entry through 'The Chest'.

[Contract Register Form](#)

[Contract register link](#)

1.6 INTENTION & AWARD OF CONTRACT AND DEBRIEFING OF CONTRACTORS

1.6.1 Award Criteria

Contracts will generally be awarded on the basis of either:

- **MEAT** (*Most Economically Advantageous Tender*) taking into consideration a percentage balance between Cost and Quality, or
- **Lowest Cost** (**NOTE: Whilst 100% Lowest Cost evaluation is permitted in below Public Contract Regulations threshold procurement exercises, Lowest Cost evaluation is only permissible in Public Contract Regulations procurement exercises, where the bidders are first required to meet a*
- *minimum specification of Supplies, Services or Works*)
- **Highest Quality** (*NOTE: within Public Contract Regulations Procurements 100% Quality Evaluation is only permissible where the Council publishes a fixed cost that it will pay to any successful bidder, and so the competition is carried out on Quality only*)

The Head of Service, or their representative, must define Award Criteria appropriate to the procurement or commission. Commissioners are reminded that achieving value for money in public procurement remains focused on securing from contractors the best mix of quality and effectiveness to deliver the requirements of the contract, for the least outlay over the period of use of the goods or services bought. Commissioners do not have to select the lowest price bid, and that in setting the procurement strategy, drafting the contract terms and evaluating tenders they can and should take a broad view of value or money that includes the improvement of social value.

Award criteria must be designed to secure an outcome giving best value for money for the Council. If further defined within sub criteria then these must refer only to relevant considerations, and importantly all award and award sub criteria must be openly published within Invitations to Tender (ITT) or Requests for Quotation (RFQ), documentation, as applicable.

If award or award sub-criteria, and applicable weightings are not openly published within the Procurement documentation then they **cannot** be employed within the evaluation process.

The Client, Commissioning, and Procuring Officer are advised to consider the desired outcome of a Commissioning / Procurement exercise, in order to determine a suitable method of evaluation.

Options entail:

Cost / Quality – In this method 100% is divided across cost and quality.

The Commissioner/Procurer must determine an appropriate split commensurate with available budget and desired quality levels (quality meaning, product quality, or service quality, or a combination of the two).

Examples could include:

- 40% Cost, 50% Quality, 10% Social Value
- 30% Cost, 60% Quality, 10% Social Value
- 50% Cost, 30% Quality, 20% Social Value
- Or any other derivative the Commissioner/ Procurer deems appropriate.

Cost only – In this method, evaluation is carried out on the basis of 100% Cost, where the bidder meets a pre-determined minimum standard of quality.

Only the bidder's Cost will be evaluated, i.e. an increased quality offering above the pre-determined minimum is not acknowledged as providing any additional value because the minimum specification is sufficient for the Council's needs.

Quality only - In this method, evaluation is carried out on the basis of 100% quality, where the Commissioner/ Procurer identifies and publishes a fixed cost that will be committed in full, irrespective of which bidder is awarded the contract. Only the bid quality will be evaluated with an award being made to the bidder demonstrating the highest quality submission for the budget that the Council intends to commit. Bids with Costs exceeding the published budget would be regarded as non-compliant, and so not evaluated.

Evaluation criteria and respective weightings shall be predetermined and clearly indicated in the Pre-Procurement Report and Invitation to Tender (ITT) or Request for Quotation (RFQ) documentation. In addition, the criteria shall be strictly observed at all times throughout the procurement exercise by any officer involved in the evaluation process, so as not to expose the Council to risk of challenge through deviation from the published criteria and weightings.

If in an exceptional case, prior to the receipt of bidder's proposals, this is changed, this must be duly approved (i.e. as per the original pre-procurement approval path). In no circumstance must the award / evaluation criteria be changed post receipt of bidder's proposals.

1.6.2 Acceptance of Tenders / Quotations

It shall be clearly stated in all tender / quotation documents that the Council reserves the right:

- to accept a tender / quotation other than the lowest
- to decline to accept any tender / quotation
- not to award a contract

Agenda Item 6

- for the Council will not be liable for any costs or expenses incurred by Tenderers during the procurement process

Where a bidder's tender / quotation is not accepted then a formal written record must be made detailing the reason/s why.

1.6.3 Debrief – Intention & Award

Mandatory Standstill Period (*historically known as the 'Alcatel' process*)

It is a requirement under the Public Contracts Regulations that any procurement exercise carried out must be concluded with a Mandatory Standstill Period. The purpose of the standstill period is to inform all bidders of the outcome of the procurement exercise, and, if they think that the contract award decision is wrong, to provide bidders with an opportunity to challenge the decision before contract has been awarded, signed and sealed.

The applicable legislation allows bidders to question the procurement exercise and evaluation process within the standstill period of 10 calendar days (where electronic communication has been employed) following dispatch of the award decision letter and commence a formal legal challenge to prevent the contract from being awarded should they have grounds to do so.

Once the contract award decision has been approved by the officer with appropriate delegated authority, as authorised in any pre-procurement report, a letter must be sent to all bidders, providing written feedback to all unsuccessful bidders as to why their bid was unsuccessful and the relevant advantages and characteristics of the successful bid compared to the unsuccessful bidder.

If in any doubt as to the application of the Mandatory Standstill Period then the Corporate Procurement Unit must be contacted for guidance.

IMPORTANTLY:

Officers must be mindful of a challenge to an award decision and the implications that can result must that not be handled appropriately, specifically in relation to areas such as increased cost and workload to the Council and its Officers, alongside potential for reputational damage must the Council mishandle such a situation .

Where a challenge to an award decision arises Officers must at the very least ensure that:

- Verbal communication with challenging bidder/s or their representative/s is not entered into. This includes avoidance of face to face debrief meetings that can become emotionally driven, and result in 'on the spot' responses being given to questions asked without such a response being correctly
- researched, quality checked and considered.
- Communication with the challenging bidder/s or their representative/s is only carried out in writing via the Council's electronic opportunities portal

- Written responses are quality checked for accuracy and content
- Opinion is sought from the Council's Legal team

The issue is escalated to an appropriate Senior Officer for opinion in respect of contracts established where expenditure falls below Public Contract Regulations spend Thresholds, mindful of the Procurement principles of Openness, Fairness and Transparency, Officers must use discretion as to what degree of debrief is provided, but must endeavour to provide meaningful feedback that enables bidders to understand where a submission could have been stronger, in order that future proposals may be improved.

1.7 CONTRACT PAYMENTS

1.7.1 Contract payments/settlements

Contract payments/settlements shall be made in accordance with procedures referred to in the Financial Procedure Rules.

[Financial Procedure Rules \(within the Council's Constitution\)](#)

The terms upon which the Council will make payments to a contractor must be detailed within the applicable contract.

1.7.2 Prompt Payment within 30 days

The Public Contracts Regulations require a Contracting Authority to include a clause in all public contracts providing that invoices submitted by the contractor shall be verified in a timely manner and payment of undisputed invoices shall be made within 30 days.

Where the contractor enters into a sub-contract the prompt payment provisions must be replicated down the supply chain.

Where a contract contains terms requiring payment more quickly than 30 days (for example because of statutory requirements, or because the parties choose a shorter payment period) then these shorter payment periods will apply to that contract.

[Sefton Payment Acceleration Scheme.](#)

The Sefton Payment Acceleration Scheme is a programme to allow suppliers to provide a discount for payment earlier than 30 days. The Scheme should be included in all tenders, unless there is justification for not including it within the procurement process (for example restrictions in Grant conditions). Any requirement to bypass the Sefton Payment Acceleration Scheme must be justified in the Pre Procurement Report and agreed in consultation with the Section 151 Officer .

Agenda Item 6

1.7.3 Instalment Payments

Where contracts provide for payment to be made by instalments the appropriate Head of Service shall maintain suitable records to show the state of account on each contract.

1.7.4 Authorisation of Payments

Payment to contractors shall be authorised by an authorised certifying officer in accordance with the Department's Scheme of Delegation.

1.7.5 Authorisation of Variations

Officers must consult the Legal Team in respect of any proposed variation, as consideration will need to be given as to whether a proposed variation would constitute a 'material change' to the original contract, necessitating a new procurement. If changes are 'material' then this can put the entire agreement at risk of cancellation, if challenged.

Viable variations to a contract shall be made in writing and shall require prior written authorisation by the appropriate Head of Service or on their behalf by an authorised certifying officer.

Where the Contract in question has been formally sealed by the Legal team, then in respect of such variation the sealed contract copy will need to be updated to account for the variation.

1.7.6 Works Contracts – Final Certificate control

No payment shall be made by the Council to the contractor without formal purchase order/formal agreement in place. This must be facilitated by processing a purchase order onto primarily the Councils financial system, Agresso, or the relevant operational system, against which invoices and payments can be processed and monitored.

In the case of Works contracts a final certificate shall not be issued until the Head of Service has, to the extent that it is felt necessary, examined all matters relating to the final account.

1.7.7 Payments before Completion of Formal Contract

No payment shall be made by the Council to the contractor without a formal purchase order / formal agreement in place and will only happen following the provision of supplies, services, or works.

Advance payments are not permitted, except small emergency payments in exceptional circumstances with prior authorisation through the Waiver Process set out in these Contract Procedure Rules.

1.7.8 Signed Contracts

Contracts shall be signed on behalf of the Council by a duly authorised officer in accordance with the Scheme of Delegation for Officers

1.8 WAIVER OF CONTRACTS PROCEDURE RULES

1.8.1 - Waiver document

Link to electronic waiver form: <https://forms.sefton.gov.uk/contractswaiver/>

- (a) Where any operational officer is seeking a waiver of any of the Council's Contract Procedure Rules, approval for that waiver must be secured from the Head of Service within whose remit the procurement or contract sits
- (b) Where a Head of Service is seeking a waiver then this application should be submitted to an Executive Director.
- (c) Where an Executive Director is seeking a waiver then this application should be submitted to the Chief Executive Officer
- (d) When seeking a waiver of any of the Council's Contract Procedure Rules, the relevant officer shall complete a formal Waiver Request Report in accordance with the procedure set out below and shall submit that report to the Head of Service within whose remit the procurement or contract sits. This Waiver Request Report shall clearly state:
 - the particular Contracts Procedure Rule/s to be waived
 - the period of time during which the waiver shall be effective and related value of expenditure for this period
 - Budget Approval – include Budget, Funding and Cost Centre Code
 - Business Case in support of the waiver which must include details of how the following would be achieved despite the waiver:
 - i. Value for Money
 - ii Transparency, propriety and accountability
 - iii. Position of the contract under the Public Contracts Regulations 2015
 - iv. How the contractor was selected
 - v. Identification of potential project risks and controls
 - vi. How the project links with departmental and corporate objectives
 - vii. Whole life costs of the project including the revenue costs associated with the project
 - viii Social Value Benefit

Agenda Item 6

- (e) When considering any request for a waiver of any of the Contract Procedure Rules the relevant Head of Service shall seek any necessary advice and guidance from the Procurement service, Legal service, Finance service or any other specialist team before determining the waiver request.
- (f) The Head of Service **MUST** e-mail a copy of the signed waiver form to central.procurement@sefton.gov.uk to be archived.
- (g) Where any Contracts Procedure Rules are waived the relevant Officer shall comply with the remaining Contracts Procedure Rules

[Contracts register form](#)

1.9 PROCUREMENT RISK ASSESSMENT

Early engagement of the Procurement Team within any procurement process is essential as that enables a member of the team to be allocated to a project a foundation stage.

Procurement Officer/s allocated is able to support the development of the Pre Procurement Report that a Client Officer needs to compile and submit in order to secure approval to commence a procurement exercise.

The Procurement Risk Assessment enables the Client Officer to set out the building blocks of the requirement which will enable the Procurement Officer to contribute appropriate documentation. This can be found on the Intranet, and is an online submission:

PROCUREMENT RISK ASSESSMENT

Procurement Officers are required to upload a copy of the Procurement Risk Assessment to the Council's opportunities Portal as a supporting document for that specific procurement exercise

1.10 EXPENDITURE APPROVAL PROCESS – PRE PROCUREMENT REPORTING

1.10.1 Pre-Procurement Reporting

All officers requiring committing expenditure in order to acquire Supplies, Services or Works on behalf of the Council, or a Collaborative group of Councils if in the lead role, must first consider Approval to Commit Expenditure and so to commence the procurement process. In doing this, officers must consider Financial Procedure Rules and any relevant budget approval process and must refer to the Executive Director of Corporate Resources and Customer Services where necessary.

It is a requirement of the Chief Executive Officer and the Elected Members that approval to commit expenditure be considered, prior to commencement of any Procurement activity as follows:

(a) Expenditure of £20,000 up to £150,000 - a Pre Procurement report is to be taken to the Officer's Head of Service

(b) Expenditure of £150,001 up to:

i) 3 x the OJEU Spend Threshold for Supplies & Services

(i.e. £567,990 as at January 2020), or ii) The Spend Threshold for Works (i.e. £4,733,252 as at January 2020)

– a Pre Procurement report is to be taken to the Officer's Cabinet Member to seek approval to commence Procurement activity and so commit expenditure.

(c) Expenditure of:

i) Over 3 x the Spend Threshold for Supplies & Services (i.e. £567,990 as at January 2020), or

ii) Over the Spend Threshold for Works (i.e. £4,733.252 as at January 2020)

– A Pre Procurement Cabinet report is to be taken to Cabinet to seek approval to commence Procurement activity and so commit expenditure. Note that delegated authority to award any subsequent Contract which meets the objectives laid out in the Cabinet Report can be given to a Chief Officer, providing the Cabinet Report specifically details the parameters of that delegated authority.

NOTE : The **ONLY** exception to this rule shall be where a prospective procurement satisfies the requirements of a 'Key Decision'. The following information is reproduced from the Council's Constitution to aid officers in determining whether prospective procurement qualifies as a Key Decision:-

"A KEY DECISION is:

a) any executive decision that is not in the Annual Revenue Budget and Capital Programme approved by the Council and which requires a gross budget expenditure, saving or virement of more than £100,000 or more than 2% of a departmental budget, whichever is the greater; or

Agenda Item 6

b) any executive decision where the outcome will have a significant impact on a significant number of people living or working in two or more Wards.

Where a prospective procurement is determined to be a Key Decision then this will need to be entered onto the Forward Plan via liaison with the Democratic Services Team. Officers must be mindful in such circumstances to plan additional time into the procurement process.

A Key Decision relating to a prospective procurement will be considered by Cabinet within a Pre Procurement report.

A Pre-Procurement Report is usually created using the Chief Officer Report Template, except where the report requires Cabinet Approval, where a Cabinet Report is produced.

Pre Procurement reports must set out:-

- i) The brief details of the Procurement exercise and the Procurement method to be employed
- ii) The basis of evaluation,
- iii) A request that authority be delegated to a nominated officer, such as a Head of Service, or one of their officers, to approve the resulting post procurement contract award.

The following illustration summarises the Pre Procurement expenditure approval process that these Contracts Procedure Rules detail.

1.10.2 Pre-Procurement Approval specifically in respect of Adult's or Children's Social Care support packages and placements, and Substance Misuse Residential Rehabilitation placements

It is recognised that some individual adult and child care or support packages and placements, and some substance misuse residential rehabilitation placements cannot be fulfilled using existing Framework Agreements or Dynamic Purchasing systems and, on these occasions, will need to be procured from the open market, via the Council's e-procurement portal.

It is also recognised that in many cases, due to ongoing care requirements, the end date of such contracts cannot be identified at the point of procurement. In such circumstances, and in accordance with the Public Contract Regulations, a period of 4 years should be used to calculate the contract value.

On occasion the anticipated value of these contracts may exceed the normal delegated authority of Head of Service, and in certain circumstances Cabinet Member too, however due to the restricted amount of time available to procure these often urgent individual care or support service packages, it would not be possible or desirable to always obtain Cabinet Member or Cabinet Pre-Procurement approval.

Consequently, specific provision is made herein and within the Council's Constitution to delegate authority in such circumstances to the relevant senior officers, currently :

- Head of Health and Wellbeing
- Head of Adult Social Care,
- Head of Children's Social Care,
- Head of Educational Excellence

to:

- a) approve the commencement of a procurement process for Adult or Children's social care contracts or Substance Misuse Residential Rehabilitation placements which are outside the scope of an existing Framework, Dynamic Purchasing System or other budgetary agreement; and
- b) to award contracts following a procurement exercise, and so commit expenditure. To ensure that such procurement is effectively monitored, a report of Adult and /or Children's delegated procurement approvals will be submitted to the relevant Cabinet Member on a regular basis.

What level of pre-approval is required in respect of Contract Value?

(Officers must ensure that you read and understand The Contract Procedure Rules and do not simply refer to this illustration alone)

FOR EXPENDITURE OVER £50,000 - DECISION PUBLISHED ONLINE

(by Democratic Services via Intranet and Internet)

£20,000 up to £150,000

Head of Service Responsibility & Accountability

Pre Procurement Chief Officer Report

£150,001 up to:

i) 3 x the Spend Threshold for Supplies & Services (i.e. £567,330 as at January 2020),
or

ii) The Spend Threshold for Works (i.e. £4,733,252 as at January 2020)

Cabinet Member Responsibility

Pre Procurement Cabinet Report

Expenditure Over:

i) 3 x the Spend Threshold for Supplies & Services (i.e. £567,330 as at January 2020),
or

ii) The Spend Threshold for Works (i.e. £4,733,252 as at January 2018)

Cabinet Responsibility

Pre Procurement Cabinet Report

KEY DECISION

Cabinet Responsibility - Pre Procurement Report (as determined by Key Decision definition)

PART 2: CONTRACTS EXCEEDING THE APPLICABLE SPEND THRESHOLDS

2.0 Application

Part 2 of these Contracts Procedure Rules shall apply to all contracts exceeding applicable spend thresholds in value, and officers must adhere to the Public Contracts Regulations European Union spend thresholds (for the whole value of the contract including any optional periods) are as follows:-

- a) Supplies / Services - **£189,330**
- b) Works – **£4,733,252**

Note: Spend threshold figures correct as at January 2020, but subject to ongoing change, ordinarily on a two year cycle. Updated details of changes in threshold figures will be published on the [Procurement website](#).

'Works' means any of the activities specified in schedule 2 of the Public Contracts Regulations. The contents of schedule 2 can be viewed here:- [2015 Public Contracts Regulations](#)

2.1 Forms of Procurement

2.1.1 There are four main forms of procurement available for contracts exceeding European Union Spend Thresholds:-

- (a) Open Procedure Tendering
- (b) Restricted Procedure Tendering
- (c) Direct Call Off from a Framework
- (d) Mini competition within a Framework or a Dynamic purchasing System

Other procurement procedures include Competitive Procedure with Negotiation, Competitive Dialogue and Innovation Partnership. These other procedures are for use in complex contracts or limited circumstances where a solution is not readily available in the market.

2.1.2 Procurement of services which are classified as falling within Schedule 3 – 'Social and Other Specific Services' of the Public Contracts Regulations, must be considered against a higher European Union spend threshold (for the whole value of the contract including any optional periods) of:

£663,540

Note: Spend threshold figure correct as at January 2020, but subject to ongoing change, ordinarily on a two year cycle. . Updated details of changes in threshold figures will be published on the [Procurement website](#).

Where this spend threshold is exceeded officers shall follow the applicable, and Schedule 3 specific, 'Light Touch Regime' with the assistance of Officers of the Corporate Procurement Unit

2.1.3 This process shall not remove or modify the responsibility of the relevant Head of Service to take such steps as may be reasonably necessary to safeguard the Council's interest.

2.1.4 In order to determine a suitable procurement approach to a specific market, officers may first engage with the Procurement team to carry out non-committal soft market testing in order appreciate the level of interest, and numbers of providers that exist in a particular market. This must be conducted in a way that competition isn't distorted. If a Procurement process is then required, a level playing field between bidders MUST be maintained.

2.1.5 For all above threshold tenders The Council shall give public Contract Notice of its intention to enter into such arrangements. Such Contract Notice shall be published electronically, within Find a Tender and Contracts Finder, via its electronic opportunities portal.

[Find a tender](#) [Contracts Finder](#)

2.1.6 For all above threshold tenders The Head of Service's evaluation panel, shall evaluate all submissions using the award criteria and weightings in the published tender documents and the Procurement Officer shall maintain a copy of the marked evaluation and moderation matrix

2.2 Open Procedure Tendering

2.2.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced, and where the applicable spend thresholds detailed in Contracts Procedure rule 2.0 are exceeded.

Commissioners and/or Procurement Officers shall follow an Open Procedure specifically where the market for the requirement is identified as limited in terms of supplier numbers, and so the number of submitted bids is likely to be low.

Within an Open procedure, the opportunity must be made available to the marketplace for a minimum of 30 calendar days.

2.2.3 The Contract Notice shall state the nature and purpose of the proposed contract, it shall provide interested providers with an electronic Invitation to Tender (ITT) document setting out

Agenda Item 6

particulars of the contract into which the Council wish to enter, together with specification, standard and special terms and conditions, the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders, and invite providers to submit a completed ITT proposal within the specified period stated in the public notice.

2.3 Restricted Procedure Tendering

2.3.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced, and where the applicable spend thresholds detailed in Contracts Procedure Rule 2.0 are exceeded Commissioners and/or Procurement Officers shall follow a Restricted Procedure specifically where there is likely to be a substantial number of providers in the marketplace and so a high number of responses would be expected, or the supplies, works or services are of a specialist nature.

2.3.2 The procedure is a two stage process. The first stage is a Selection stage and allows the Commissioner / Procurer to restrict the marketplace. Within a Restricted procedure the opportunity must be made available to the marketplace for a minimum of 30 calendar days.

2.3.3 A shortlist of providers is created at selection stage by using a standard Selection Questionnaire (SQ) to evaluate and score minimum requirements that contractors must meet. Importantly such requirements must be relevant and proportional to the contract in question. The minimum period of time that must be afforded to shortlisted bidders, within a restricted procedure, at Invitation to Tender (ITT) stage is 25 calendar days.

2.3.4 The Contract Notice shall state the nature and purpose of the proposed contract, it shall provide interested providers with an electronic Selection Questionnaire (SQ) document setting out particulars of the contract into which the Council wish to enter, together with the selection criteria and weightings, the closing date for submission of SQ's and the Council's requirements as to the procedures for submission of PQQ's, and invite providers to submit a completed SQ proposal within the specified period stated in the public notice.

2.3.5 At the second stage of the procedure, the Award stage, Invitations to Tender (ITT) for the contract shall, where possible, be sent to not less than five of the highest scoring providers who expressed an interest in tendering and submitted a SQ within the specified time-scale, and that have met the minimum requirements.

2.3.6 The ITT documents must state the particulars of the contract into which the Council wish to enter, together with specification, standard and special terms and conditions, the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders and invite providers to submit a completed ITT proposal within a specified period.

2.4 Direct call off from a Framework

2.4.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced. Where an officer identifies a pre-tendered compliant framework, whether that be owned by Sefton Council, or owned by an external organisation but available to the Council, then where such a framework allows, and in line with the requirements laid down above, a direct call off may be made and a purchase order placed with an organisation that represents best value against the requirement, negating the need for a procurement exercise.

2.5 Mini competition within a Framework / Dynamic Purchasing System (DPS)

2.5.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced. Where an officer identifies a pre-tendered compliant framework or DPS, whether that be owned by Sefton Council, or owned by an external organisation but available to the Council, and such a framework or DPS has a requirement to further compete for an award of business, a mini competition must be carried out. This will require the creation of an Invitation to Tender (ITT) document which is issued to all Framework or DPS providers. setting out particulars of the contract into which the Council wishes to enter, together with the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders and invite providers to submit a completed ITT proposal within an appropriate period as defined by the Client Officer.

2.6 Invitations to Tender and Interim Custody of Tenders

2.6.1 All Invitations to Tender shall include the following:

- (The Council will only be issuing and receiving Invitations To Tender electronically. Tenders submitted by any other means shall not be considered.
- A requirement for tenderers to complete fully and sign or otherwise authorise the Form of Tender,
- All electronic responses will be held within a secure online sealed tender box that is only accessible by the appointed Verifier after the specified fixed time and date.
- All Invitations to Tender must specify the supplies, works or services that are required in sufficient detail to enable the submission of competitive offers, together with the terms and conditions of the contract that will apply.
- A description of the Award Procedure and a definition of the Award Criteria in objective terms and in descending order of importance with weightings.
- Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's risk and expense

Agenda Item 6

- Notification that amendments must not be made to the contract documents by the tenderer

2.6.2 A record of tenders received in pursuance of these Contracts Procedure Rules shall be recorded within the Council's electronic opportunities portal or where appropriate a secure storage folder, maintained by the Head of Strategic Support or an Officer designated for that purpose.

2.6.3 An electronic contract register will be maintained by the Procurement Team and circulated to the Strategic Leadership Board by the Head of Strategic Support,

2.7 Closing Date for Receipt of Tenders

2.7.1. Tenders received within the Council's electronic opportunities portal, after the predetermined close date and time, will not be considered.

2.8 Method of Opening Tenders

2.8.1 In respect of tender submissions received electronically, ONLY a Verifying officer as designated within the Council's electronic opportunities portal will have permission to open online sealed tender submissions.

2.9 Evaluation of Tenders

2.9.1 Evaluation and Award *(for above threshold procurements)*

2.9.1.1 Commissioners are reminded that achieving value for money in public procurement remains focused on securing from contractors the best mix of quality and effectiveness to deliver the requirements of the contract, for the least outlay over the period of use of the goods or services bought. Commissioners do not have to select the lowest price bid, and that in setting the procurement strategy, drafting the contract terms and evaluating tenders they can and should take a broad view of value or money that includes the improvement of social value.

2.9.1.2 Tenders shall be evaluated and awarded on the basis of the value for money they offer to the Council in line with either :-

- MEAT (*Most Economically Advantageous Tender*) Principles. Criteria must be relevant to the contract and apportioned between Cost and Quality in a ratio reflecting the risk and value of the contract

or

- Lowest Cost. The Council must publish a minimum specification of Supplies, Services or Works which bidders are required to meet

or

- Highest Quality . The Council must publish a fixed cost that it will pay to any successful bidder, and so bidders are evaluated on the highest quality that can be provided for that fixed cost as determined and documented in advance of Tenders being invited.

2.9.1.3 Tenders shall be evaluated and awarded in accordance with criteria and weightings set out in the Procurement Documentation and must not be changed at any time during the process. Should the Cost element of a tender evaluation involve a Cost Model, Basket of Goods, or Basket of Works, then consideration must be given, ahead of commencing the procurement exercise, to publishing that detail within the procurement document. Where it is felt inappropriate to publish the detail then officers must consider lodging that detail with the Legal team for the duration of the bidding period and only access the detail once the bidding period has closed. Where a Cost Model, Basket of Goods or Basket of Works is employed in the Cost Element of an Evaluation, the content **MUST NOT** be changed once bids are received.

2.9.2 Evaluation Panel

2.9.2.1 Evaluation Panels must be established prior to the issue of the Invitation to Tender documents, to ensure that they are engaged with the process and understand the evaluation criteria and weightings.

2.9.2.2 Evaluation Panels must include representation from the client department/key Stakeholders, and must consist of a minimum of two operational officers or external evaluators in addition to any procurement officer.

2.9.2.3 Where an Interview / Presentation session has been planned into an evaluation, the evaluation panel members must be consistent with the panel members that have undertaken other elements of the evaluation. Ahead of any Interview / Presentation session, evaluation panel members must ensure that they are familiar with the content of the tender submissions of the bidders invited to that session. All interview / presentation sessions must be attended by a Procurement Officer to ensure compliance to the evaluation approach.

2.9.3 Evaluation Matrix

2.9.3.1 The Evaluation Matrix will consist of defined evaluation criteria and weightings. Marks and scores must be brought through from the ITT document to reflect what is material to the award of a particular contract.

2.9.3.2 criteria shall have a number of marks allocated to signify to tenderers the relative importance of each criterion.

2.9.3.3 Scores – All bids must be scored consistently against a scoring scheme which must be included in the Invitation to Tender. **IMPORTANTLY** evaluation panel members cannot employ any scoring scheme which differs from the scoring scheme published in the ITT document. For example, panel members must not introduce half marks where these do not exist within the published scoring scheme, and for which there is no published narrative.

Agenda Item 6

2.9.3.4 All scores and notes made by the evaluation panel must be recorded in writing and used for reference if further moderation is required.

2.9.3.4 Section 2.9.4 of these rules advises on the need for moderation, and this is essentially to manage out subjectivity in an evaluation process. Where an evaluation contains an Interview / Presentation stage then quality scores attributed up to that point must be moderated in order to ensure that any decision taken to invite a shortlist of bidders to Interview / Presentation is based on correct and accurate scoring.

2.9.3.5 Where an Interview / Presentation stage is employed within an evaluation then officers must seek to manage this stage incorporating the following advice:

- Should a Presentation be required from a shortlist of invited bidders, then all shortlisted bidders must equally be informed, ahead of the Presentation, via the Council's electronic opportunities portal, of:
 - the theme that the bidder must base their presentation on (and this must be relevant to the subject of the procurement).
 - the time limit applied to the Presentation
 - where Interview questions are to be asked then all shortlisted bidders must equally be informed, ahead of the Interview session, via the Council's electronic opportunities portal:
 - the number of questions that will be asked
 - the marks that will be allocated to each question

2.9.3.6 Comprehensive notes of all Interview / Presentation Sessions must be recorded and fed into the evaluation matrix as these will be required to support the scoring allocated, and enable feedback to be given to unsuccessful bidders.

2.9.4 Moderation

2.9.4.1 The Evaluation Panel will discuss their individual scores and must reach agreement on a moderated panel score and justifying comments.

2.9.4.2 Any moderated scores and applicable justifying comments must be recorded in the Evaluation Matrix accompanying the procurement.

2.9.4.3 All notes may be the subject of information requests or legal challenge against award of a contract. It is crucial that accurate notes justifying awarded scores are maintained throughout and relate solely to the relevant award criteria.

2.9.5 Post Tender Clarification

2.9.5.1 Post Tender Clarification is to be requested and returned via the Council's electronic opportunities portal. Importantly, post tender clarification may only be sought in relation to an element of the bidder's submission that has been provided, and which needs further understanding.

Post Tender Clarification however cannot be used to seek from the bidder some element of the submission which has been omitted, and as such seeking provision of such omission would provide the bidder with an unfair advantage.

2.9.5.2 Evaluation scores can only be amended where specific clarification has been requested relating to the award criteria.

2.9.5.3 All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation Matrix.

2.9.6 Best and Final Offer (BAFO)

Officers are informed that in respect of procurements exceeding the applicable Spend Threshold, there is NO provision within the Public Contracts Regulations for a BAFO stage to be employed in any procurement procedure other than the much specialised Competitive Dialogue, Competitive Procedure with Negotiation and Innovation Partnership Procedure.

2.10 Method of Acceptance of Tender

2.10.1 Tenders may be accepted by the relevant Officer to who delegated authority to approve a contract award was sought in a related pre-procurement report provided that all of the following apply:-

2.10.1.1 In the case of an Open procedure, bids have been sought from the marketplace as a whole. Or, in the case of a restricted procedure, where possible, five or more tenders have been invited following a selection stage, in accordance with contracts procedure rules

2.10.1.2 the tender proposed to be accepted is either:

- the highest score if Cost and Quality in line with MEAT principles have been stated as the basis for award, or
- the Lowest Cost if Cost has been stated as the basis for award where a published minimum specification is met, or
- The Highest Quality if Quality has been stated as the basis for award where the bid meets the fixed cost that the Council has set.

2.10.2 There may be instances where due to the dynamics of a marketplace, or the specifics of the Council's requirements, only 1 tender bid is received. The Council is able to consider a single bid however Officers will naturally be concerned as to maintaining a competitive position for the Council where there is an apparent lack of competition within a marketplace. In support of this there is provision within the Public Contracts Regulations that allow an Procurement to be switched to a Negotiated Procedure in certain circumstances. Regulation 32 (the link to which is detailed below) sets out the circumstances under which this process variation can be employed, but importantly the regulation includes the ability to switch to a Negotiation where '*Competition is absent for technical reasons*'

Agenda Item 6

The Public Contracts Regulations 2015 - Regulation 32

Where an Officer proposes to utilise the provisions under Regulation 32, and vary the procurement process, then a report will need to be taken to the level to which Pre Procurement Approval was originally secured, in order to gain further approval to the process variation.

Any subsequent Negotiation which takes place must be carried out in writing via the Council's electronic opportunities portal.

2.10.3 Where an Officer proposes to reject a tender despite meeting the stated criteria officers must seek Head of Service Approval following advice from Central Procurement.

2.11 Errors in Tenders

2.11.1 If before the date of entry into a contract it is discovered that an error has been made in the tender it shall be dealt with as follows:-

2.11.1.1 Building Contracts – in accordance with the National Building Specification (NBS) Guide, Alternative 1 or Alternative 2.

2.11.1.2 Other Contracts – the Tenderer must be given the opportunity of confirming the offer or of amending it to correct genuine and obvious arithmetical errors.

2.11.3 Clarification surrounding such errors shall be sought in writing via the Messaging facility within the Council's Electronic Opportunities Portal, or where a tender is taking place outside of the Electronic Opportunities Portal (for example Crown Commercial Services G Cloud) to align with the relevant Framework approach, communication should be shared by email and held in a secure storage location.

2.11.4 Should a bidder, in amending an arithmetical error, reflect a change in the bid that directly relates to the determined award criteria, then the bid must be re-scored as necessary. If a bidder opts to formally withdraw a bid altogether then it shall receive no further consideration.

2.12 Indemnity and Health & Safety

2.12.1 Every contract shall contain clauses

2.12.1.1 requiring the contractor to observe and perform in relation to the work to be carried out under the contract the requirements of the Health & Safety at Work etc. Act 1974 or of any Regulations or Codes of Practice made under the authority of that Act and to comply with any lawful requirements of the Health and Safety Executive in relation to such work; and there shall be reserved to any duly authorised Officer of the Council the right of access to the site for the purpose of ensuring compliance with the requirements of this Clause (ii) that have regard to Sustainability and to the requirements of the Equality Act 2010.

2.12.2 In every contract the contractor shall be required to indemnify the Council

against:

2.12.2.2 any claim which may be made in respect of Employers' Liability against the Council or the contractor by any workmen employed by the contractor or any sub-contractor in the execution of the works or the provision of supplies and services;

2.12.2.3 any claim for Public Liability, i.e. for bodily injury, or damage to, property of third parties; (iii) any claim which may be made under the Health and Safety at Work etc. Act, 1974 (HASWA) against the Council or the contractor/sub-contractor unless such claim is substantially due to the neglect of the Council or any of its Officers; and the contractor shall when required by the Head of Service and Executive Director of Corporate Resources and Customer Services produce satisfactory evidence that it is insured against any such claims.

2.12.2.4 Levels of indemnity cover, must be considered for topics such as Employers Liability, Public Liability, and Professional Indemnity as appropriate to the topic in question

2.12.2.5 The responsibility rests with the Client Officer, to assess the risk surrounding the prospective procurement and settle upon levels of indemnity appropriate and proportional to the requirement. Where required, guidance in respect of Indemnity and assessing risk must be sought from relevant officers of the Council (i.e. Insurance, Health & Safety, Legal).

2.12.2.6 Where the appropriate levels of indemnity are determined through risk assessment supported by appropriate guidance from specialist Officers, bidders through a procurement process must confirm that such indemnity will be in place must a contract be awarded.

2.13 Funding Availability

Officers are advised that Contract conditions must state:

“The price agreed for the contract is subject to the ongoing availability of sufficient funding. In the event that during the contract period the Council does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation with the Commissioner / Procurer such that the contract price remains within the funding available.

In the event that agreement cannot be reached the dispute resolution procedure set out within the contract will be followed.”

2.14 Transfer of Undertakings (Protection of Employment) TUPE Regulations 2006

2.14.1 The Regulations apply to a business transfer but more regularly within the Authority it applies to service provision changes. This means that Officers commissioning / procuring Services must be aware of the impact of the TUPE Regulations. The Regulations impose a number of obligations on relevant parties and a failure to address the demands of TUPE could result in significant penalties, decisions and awards being made against the Authority which we clearly want to avoid. An

Agenda Item 6

outsourcing will likely carry TUPE implications and even if TUPE is deemed not to apply the potential implications must be considered as early as possible.

Another purpose of the Regulations is to ensure that in a situation where contractual delivery of a service is moving from one provider to another, i.e. by way of a procurement exercise, then affected workers' employment rights and entitlements are protected. This can include pension rights. In such circumstances the Authority may be deemed to be the client however the Council must be aware of the potential implications and requirements of the legislation and acknowledge these appropriately within Tender/outsourcing documentation and contracts.

The Council's Procurement and Legal teams and HR must be consulted in order to fully understand any potential impact on a procurement in order to protect the Council's position and address TUPE in writing, where appropriate.

Additionally, clauses within any contract where TUPE is likely to apply must be included relating to ensuring that the Council can request staffing information at any point throughout the duration of the contract.

2.14.2 Pensions issues when transferring out staff

This is a high-level summary of the pensions issues that Sefton MBC must consider when looking to outsource a function where that outsource may potentially involve a TUPE transfer of staff and where those staff are / or may be members of the Local Government Pension Scheme ("LGPS").

There is an obligation placed upon employers to ensure that current LGPS members retain the right to continue to pay into the LGPS, and eligible members retain the right to join.

This is very likely to be an issue where a service of function is outsourced for the first time from Sefton MBC to a new service provider (a first generation transfer).

However, it can and does regularly arise where there is a subsequent transfer from one service provider to another (a second, third or subsequent generation transfer).

For the avoidance of doubt this issue will only arise where both of the following elements are present:

- employees are in line to transfer from Sefton MBC or from an existing service provider to a new service provider; and
- some or all of those employees are either current LGPS members or are eligible to join LGPS.

If the above elements are present, advice should be taken from Sefton HR and / or Sefton Legal Services in relation to these issues before the procurement process commences.

This is because these issues will need to be dealt with in either the Advance Request For Quotation or the Invitation To Tender.

There are various obligations and implications that must be considered and these can be addressed in part in the contractual documentation.

New contractors will need to consider, amongst other things, the following:

- They are likely to be required to enter into an admission agreement whereby the new contractor becomes an admitted body (a type of Scheme Employer). The other parties to this agreement must be the Administering Authority (Merseyside Pension Fund) and the Scheme Employer (Sefton MBC).
- They will need to know what obligations and responsibilities are placed upon them when they become an admitted body. They must know this before they submit a proposal as this can have significant costs and implications for them.

For example:

- they will need to know the level of employer pension contributions they will be required to pay, and this will depend on the demographic of the transferring members and the number, but certainly anything in the region of 23% plus of payroll can be expected;
- there may be the requirement for a bond to be put in place to cover certain associated risks to the LGPS; and
- there is likely to be a requirement to obtain an actuarial valuation in relation to the affected employees and they will need to budget for this and build this into their timeframes.

It is unwise to assume that the potential new contractors understand the risks and it is worthwhile verifying that this is the case. It is not likely to be in Sefton's MBC's best interests or those of either the new contractor or the affected employees to rely on the ignorance of a potential contractor. It is important that both parties have understood the risks involved so that no unexpected issues arise during, or at the end of, the contract term.

PART 3: CONTRACTS UP TO BUT NOT EXCEEDING THE SPEND THRESHOLDS

3.1 Competition Requirements

3.1.1 Public Contract Regulations spend thresholds (for the whole value of the contract including any optional periods) are as follows:-

- a) Supplies / Services - **£189,330**
- b) Works - **£4,733,252**
- c) Social and Other Specific Services - **£63,540**

Note: Spend threshold figures correct as at January 2020, but subject to ongoing change, ordinarily on a two year cycle. Future changes to the thresholds will be published on the [Procurement website](#)

*'Works' means any of the activities specified in schedule 2 of the Public Contracts Regulations 2015
'Social and Other Specific Services' are as defined in Schedule 3 of the Public Contracts Regulations 2015*

The contents of schedules 2 and 3 of the Regulations can be viewed here:-

[2015 Public Contracts Regulations](#)

3.1.2 In order to determine a suitable procurement approach to a specific market, Officers may first choose to carry out non-committal soft market testing in order appreciate the level of interest, and numbers of providers that exist in a particular market. This must be conducted in a way that competition isn't distorted.

3.1.3 If a Procurement process is then required, a level playing field between bidders MUST be maintained.

3.1.4 Where the estimated cost of any supplies, works or services to be ordered on behalf of the Council is less than the applicable Spend Threshold shown above then proposals shall be invited as outlined below:

3.1.4.1 Less than £20,000: proof of two written quotations is necessary in order to satisfy that best value is achieved. This responsibility rests with the Client Officer, NOT Officers of the Procurement Unit

3.1.4.2 Between £20,000 and the applicable Spend Threshold: a procurement risk assessment must be submitted to the Procurement team, which will determine the route to market, subject to a minimum of three electronic invitations via the Council's electronic opportunities portal, or

3.1.4.3 In the case of procurement relating to "commercial activities", as defined within the Council's Financial Procedure Rules, for all contract values up to but not exceeding the spend thresholds, appropriate procurement processes shall be undertaken, with guidance and oversight from the Council's Investment Board.

3.1.4.4 To comply with national transparency requirements, all contracts above £5,000 will need to be recorded on the Council's Contract Register. Where the Client Officer /Procurement Officer opts to publish a Request For Quotation opportunity openly, and where that opportunity is valued at £25,000 or more, then in addition to being managed on the Council's Electronic Opportunities Portal, this must also be advertised on the Government's 'Contracts Finder' Facility. Officers of the Procurement Unit will assist with this task.

3.1.4.5 Officers are reminded that the use of a Selection Questionnaire in order to narrow a marketplace in a below spend threshold exercise is **forbidden** under the Public Contracts Regulations

3.2 Evaluation of Quotations

3.2.1 Evaluation and Award (for below EU spend threshold procurements)

3.2.1.1 Quotations shall be evaluated and awarded on the basis of the value for money they offer to the Council in line with one of the following options:

- Cost and Quality - in a ratio reflecting the risk and value of the contract
- Lowest Cost. - where a detailed requirement specification is met as determined and documented in advance of Quotations being invited.
- Highest Quality – where the budget that the Council is willing to commit is published to bidders and bidders are assessed on the quality that they can offer for that budget

3.2.1.2 Quotations shall be evaluated and awarded in accordance with the criteria and weightings set out in the Procurement Documentation and must not be changed at any time during the process.

3.2.1.3 Should the Cost element of a quotation evaluation involve a Cost Model, Basket of Goods, or Basket of Works, then consideration must be given, ahead of commencing the procurement exercise, to publishing that detail within the procurement document.

3.2.1.4 Where a Cost Model, Basket of Goods or Basket of Works is employed in the Cost Element of an Evaluation, the content **MUST NOT** be changed once bids are received.

Agenda Item 6

3.2.2 Evaluation Panel

3.2.2.1 Evaluation Panels must be established prior to the issue of the Quotation documents, to ensure that they are engaged with the process and understand the evaluation criteria and weightings.

3.2.2.2 Evaluation Panels for procurements based on a mix of Cost and Quality must include representation from the client department/key Stakeholders, and must consist of a minimum of two operational Officers. Where the basis of evaluation is Cost only then the Procurement Officer can be one of the evaluators.

3.2.2.3 Where an Interview / Presentation session has been planned into an evaluation, the evaluation panel members must be consistent with the panel members that have undertaken other elements of the evaluation. Ahead of any Interview / Presentation session, evaluation panel members must ensure that they are familiar with the content of the Quotations of the bidders invited to that session.

3.2.3 Evaluation Matrix

3.2.3.1 The Evaluation Matrix will consist of defined evaluation criteria and weightings. Marks and scores must be brought through from the Quotation document to reflect what is material to the award of a particular contract.

3.2.3.2 criteria shall have a number of marks allocated to signify to bidders the relative importance of each criterion.

3.2.3.3 Scores – All bids must be scored consistently against a scoring model which must be included in the Quotation document.

3.2.3.4 All scores and notes made by the evaluation panel must be recorded in writing and used for reference if further moderation is required. Individual Panel Member's scores and associated notes along with moderated evaluation panel scores and final justifying notes must be uploaded to the Council's electronic opportunities portal or where a tender is taking place outside of the Electronic Opportunities Portal (for example Crown Commercial Services G Cloud) to align with the relevant Framework approach, must be held in a secure storage location.

3.2.3.5 Section 3.2.4 of these rules advises on the need for moderation, and this is essentially to manage out subjectivity in an evaluation process. Where an evaluation contains an Interview / Presentation stage then quality scores attributed up to that point must be moderated in order to ensure that any decision taken to invite a shortlist of bidders to Interview / Presentation is based on correct and accurate scoring.

3.2.3.6 Where an Interview / Presentation stage is employed within an evaluation then Officers must seek to manage this stage incorporating the following advice:

- Should a Presentation be required from a shortlist of invited bidders, then all shortlisted bidders must equally be informed, ahead of the Presentation, via the Council's electronic opportunities portal, of:
- the theme that the bidder must base their presentation on (and this must be relevant to the subject of the procurement).
- the time limit applied to the Presentation

3.2.3.7 Where an Interview / Presentation session has been planned into an evaluation, the evaluation panel members must be consistent with the officers that have undertaken other elements of the evaluation. Ahead of any Interview / Presentation session, evaluation panel members must ensure that they are familiar with the content of the tender submissions of the bidders invited to that session. All interview / presentation sessions must be attended by a Procurement Officer to ensure compliance to the evaluation approach.

3.2.3.8 Comprehensive notes of all Interview / Presentation Sessions must be recorded and fed into the evaluation matrix as these will be required to support the scoring allocated, and enable feedback to be given to unsuccessful bidders.

3.2.4 Moderation

3.2.4.3 The Evaluation Panel will discuss their individual scores and must reach agreement on a moderated panel score and justifying comments.

3.2.4.2 Any moderated scores and applicable justifying comments must be recorded in the Evaluation Matrix accompanying the procurement.

(c) All notes may be the subject of information requests including from the Public Procurement Review Service . It is crucial that accurate notes justifying awarded scores are maintained throughout and relate solely to the relevant award criteria.

3.2.5 Post Quotation Clarification

3.2.5.1 Post Quotation Clarification is to be requested and returned via the Council's electronic opportunities portal, or where a tender is taking place outside of the Electronic Opportunities Portal (for example Crown Commercial Services G Cloud) to align with the relevant Framework approach, communication should be shared by email and held in a secure storage location.

3.2.5.2 Post quotation clarification may only be sought in relation to an element of the bidder's submission that has been provided, and which needs further understanding.

3.2.5.3 Post Quotation Clarification however cannot be used to seek from the bidder some element of the submission which has been omitted, and as such seeking provision of such omission would provide the bidder with an unfair advantage.

3.2.5.4 Evaluation scores can only be amended where specific clarification has been requested relating to the award criteria.

Agenda Item 6

3.2.5.6 All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation and Moderation Matrix.

3.2.6 Best and Final Offer (BAFO)

3.2.6.1 For below Spend Threshold procurements which are not conducted as a Framework Further Competition only, these Contracts Procedure Rules facilitate Officers employing a BAFO stage within a procurement exercise.

3.2.6.2 The purpose of the BAFO stage, is to enable the Client / Procuring Officer to afford an opportunity to all bidders in a procurement exercise, that have not failed any pass/fail element of the evaluation, a final opportunity to improve their overall offer to the Council. This should enable the Council to seek best value.

3.2.6.3 The BAFO stage must be conducted through the Council's electronic opportunities portal, it must be provided to all 'compliant' bidders equally (i.e. those bidders that have passed all pass/fail elements of the evaluation), and must set a deadline for submission of BAFO's, to be returned via the Council's electronic opportunities portal.

3.2.6.4 Upon receipt of any number of BAFO's the Client / Procuring Officer will examine the contents of each BAFO.

3.2.6.5 A BAFO can be an improvement of any element of the bidder's 'offer' i.e. it may contain, for example;

- A lower Cost
- An improvement in the quality offering
- A value added element (such as an extended warranty on supplies)

Or any combination of these.

3.2.6.6 Where a BAFO is submitted Client / Procuring Officers must ensure that any improvements in a bidder's offer are reflected in the applicable evaluation matrix, rescoring bidder's submissions only where appropriate.

PART 4 – APPROVAL TO AWARD CONTRACTS

4.1 Low value Procurements - £1 to £20,000

The approval to award any Contract shall be confirmed by the Client Officer who will ensure that the Head of Service is aware of the award

4.2 Procurements £20,001 to £150,000

The approval to award any Contract shall be articulated in a Chief Officer Report and approved by the Head of Service.

4.3 Procurements £150,000 to x 3 Public Contract Regulations (goods and services), 1 x Public Contract Regulations (works)

The approval to award shall be approved by the relevant Cabinet Member in consultation with the relevant Head of Service .

4.4. Procurements above x3 Public Contract Regulations (goods and services), 1 x Public Contract Regulations (works)

The approval to award shall be articulated in a Cabinet Report and approved by the Cabinet. Where defined in the Pre Procurement Report or in a Cabinet delegation a Chief Officer Report can be used to articulate the award, with approval by the Head of Service in consultation with the relevant Cabinet Member and where appropriate with the Executive Director of Corporate Resources and Customer Services.

Agenda Item 6

4.5 Framework direct award

Where a Framework direct award is being undertaken, approval shall be subject to the same provisions as rules 4.1 to 4.4.

The following illustration summarises Procurement Process that these Contracts Procedure Rules detail

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Appendix 1 - What level of Procurement Activity is required in respect of Contract Value?

Value	£1 - £20,000	£20,001 to Public Contract Regulations spend threshold	Above Public Contract Regulations Spend
Sourcing requirements	2 written quotes	Minimum 3 quotes or tender advertised	Open to the marketplace via Find a tender and Contracts Finder portals
Responsibility to lead sourcing activities	Client Officer	Procurement	Procurement
Sourcing document	Not required	Request for Quotation	Invitation to Tender

Appendix 2 - GLOSSARY OF TERMS

Advanced Request for Quotation (ARFQ)

Initiating step of a procurement process in which providers are invited to submit quotations for the supply of specific and clearly defined supplies, services, or works during a specified timeframe, the value of which falls below the applicable European Union Spend Threshold.

Assignment

The transfer of the benefits and obligations of a contract from one Contractor to another.

BAFO (Best and Final Offer)

The step of inviting providers that have submitted compliant proposals within a procurement process to refine their offering, either by an improvement of the Cost, the Quality, Value Added benefits, or a combination of these factors.

Whilst the use of a BAFO step is permitted and encouraged in procurement exercises with a value below the applicable EU spend threshold, it is forbidden in the majority of over EU spend threshold exercises.

Central Purchasing Body

A Central Purchasing Body is a contracting authority that:

- acquires supplies or services intended for one or more contracting authorities, or
- awards public contracts for works, supplies or services intended for one or more Contracting Authorities; or

concludes framework agreements for works, supplies or services intended for one or more contracting authorities for one or more Contract Authorities

Commercial Activities

Relates solely to activities meeting the definition of “commercial activities” within the Council’s Financial Procedure Rules

Client Officer

The Officer who is responsible for defining the requirements and approvals required for any tender exercise.

Commissioning

Commissioning is process by which we decide how to use and prioritise the total resources available in order to improve outcomes for citizens in the most efficient, effective and sustainable way. The

process covers the entire cycle of assessing the needs of people, designing and securing a cost-effective approach in order to deliver better outcomes, and monitoring performance to determine whether the approach commissioned is fit for purpose, or needs to be replaced with a more effective redesigned approach. This may include the procurement of goods, works or services.

Contracting Authority

The State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law and includes central government authorities.

Contract Payment Profile Retention

Amounts are deducted from payments due to the contractor (retention) over the course of the contract, the value of such deductions may be dependent on the achievement of performance milestones; at the end of the contract, any such retentions are released to the contractor on satisfactory completion (including any relevant defects period).

Deposited Cash Bond

A payment made by a contractor 'up-front' (or deducted from a first payment due) that is held by the Council as security until the contract is satisfactorily complete

Dynamic Purchasing System (DPS)

A completely electronic system for commonly used purchases the characteristics of which, as generally available on the market, meet the requirements of the Contracting Authority and is open throughout its duration to any Contractor which satisfies the selection criteria.

E-Procurement

A method of carrying out a procurement exercise using an electronic internet based tool such as the Council electronic opportunities portal.

Economic Operator

Any person or public entity or group of such persons and entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market.

Evaluation Matrix

A Microsoft Excel based document which sets out the evaluation criteria and weightings detailed within a procurement document and against which bidders' submissions and scores are recorded.

Agenda Item 6

Framework Agreement

An agreement which establishes the terms under which a Contractor will enter into Contracts with the Contracting Authority throughout the duration of the Framework. A Contractor may be awarded a Contract which extends beyond the termination of the framework, provided the Contract is entered into before the framework expires and it is proportionate. Contracts awarded at the end of framework that have a disproportionate duration may amount to an abuse of the Public Contracts Regulations.

Invitation to Tender (ITT)

Initiating step of a competitive tendering process in which providers are invited to submit sealed bids for the supply of specific and clearly defined supplies, services, or works during a specified timeframe

Light Touch Regime (LTR)

A specific set of rules for certain service contracts including certain social, health and education services as set out in Schedule 3 of the Public Contracts Regulations.

Liquidated Damages

A pre-determined level of damages (calculated as a genuine pre-estimate of loss), which the Council shall be entitled to deduct from the Contractor in the event of his failure to complete the contract within a specified time.

Moderation Matrix

A document which sets out the evaluation criteria and weightings detailed within a procurement document and against which bidders' submissions and scores are discussed by the evaluation panel and moderated recorded

Open Procedure

A procurement procedure which makes the opportunity available to the marketplace as a whole.

Parent Company Guarantee

A parent company guarantee is a declaration provided by the parent company of the main contractor which commits the parent to stepping in and honouring the terms of the contract if the Contractor must fail to do so and /or paying compensation (up to a stated maximum) in respect of loss incurred by the Council as a result of non- performance.

Performance Bond

A performance bond is a guarantee provided by a surety (usually a bank or insurance co. to pay compensation (up to a stated maximum sum) in respect of loss suffered by the Council should a contractor fail to fulfil its contractual obligations.

Public Contracts Regulations (PCR)

The Public Contract Regulations 2015 (as amended) and the Public Procurement (Amendment Etc) (EU Exit) Regulations 2020, set out the procedures that must be followed when certain public sector contracts are to be offered to the marketplace.

Procurement

Procurement, in the terms of the Public Contracts Regulations, is defined as the acquisition by means of a public contract of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose.

Restricted Procurement

A procurement process that first narrows the marketplace in order that Quotations or tenders are sought from a limited group of providers

Request for Quotation (RFQ)

Initiating step of a procurement process in which providers are invited to submit quotations for the supply of specific and clearly defined supplies, services, or works during a specified timeframe, the value of which falls below the applicable European Union Spend Threshold. RFQ's are generally evaluated on 100% Cost.

Selection Questionnaire (SQ) (formerly Pre-Qualification Questionnaire PQQ)

The first stage in a two stage restricted tendering procedure where interested providers complete a questionnaire compiled by the Council for the purpose of selecting a short list of interested providers to whom Invitations to Tender are to be issued.

NOTE: Use of a Selection Questionnaire is ONLY permissible in EU Procurement Procedures. The 2015 Public Contract Regulations prohibit the use of Pre-Qualification Questionnaires in 'below EU' Procurement procedures

SME

Small and medium-sized enterprises (SMEs) are non-subsidary, independent firms which employ less than a given number of employees. The most frequent upper limit designating an SME is 250 employees, as in the European Union.

Social Value

Seeks to maximise the additional benefits that can be created by providing benefits above and beyond the core services. Award criteria can include social, economic, and environmental matters, although these must be linked to the subject matter of the contract.

Surety

A person or organisation who takes responsibility for another's performance of an undertaking.

Agenda Item 6

Voluntary Ex-Ante Transparency (VEAT) Notice

A VEAT notice is a means of advertising the intention to let a contract without opening it up to formal competition. A contracting authority may decide that a contract does not require prior publication through a contract notice on Find a Tender.

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Agenda Item 7

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Corporate Risk Management		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

The Corporate Risk Register is presented to each meeting of the Audit and Governance Committee. Since the last Committee meeting in June 2021, the Corporate Risk Register has been reviewed and updated. There have been two new risks which have been added or escalated from the Service Risk Registers to the Corporate Risk Register.

- Climate Change – Strategic Risk
- Inability to deliver the requirements and commitments for the Growth Programme

No risks have been de-escalated from the Corporate Risk Register to the Service Risk Registers or deleted from the Corporate Risk Register.

The risks have been re-scored in accordance with the revised assessment guidance included in the Corporate Risk Management handbook which was approved by the Committee in December 2020.

As highlighted in June although there has been substantial work undertaken over the past six years to embed risk management across the Council there is a gap in delivering key aspects of the Corporate Risk Management Handbook such as the regular updating of Service Risk Registers and updating the Corporate Risk Register. Key actions have been set out to address these findings and progress is being monitored.

A presentation on one of the risks within the Corporate Risk Register will be provided to Members at September meeting.

Recommendation(s):

(1) Consider the updated Corporate Risk Register, noting the nature of the major risks facing the Council, and the controls and planned actions in place to mitigate these.

Agenda Item 7

Reasons for the Recommendation(s):

A robust system of risk management will assist the Council in meeting its identified objectives.

Alternative Options Considered and Rejected: (including any Risk Implications)

None

What will it cost and how will it be financed?

(A) Revenue Costs - There are no direct financial implications arising from this report. However, the Council benefits from the work of the section in reducing the impact and likelihood (and so the cost) of risk.

(B) Capital Costs – There are no direct capital costs arising from the report.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): There are no direct resource implications.

Legal Implications: There are no direct legal implications.

Equality Implications: There are no equality implications.

Climate Emergency Implications:

The recommendations within this report will

Have a positive impact	Y
Have a neutral impact	N
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y

The report provides a summary of the risks identified and managed that will impact on the delivery of the Council's purpose.

During the review of the Corporate Risk Register a risk that has been identified on the Climate Change Emergency which has been included in the Corporate Risk Register alongside the current and proposed actions to address the risk.

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Positive impact

Facilitate confident and resilient communities: Positive impact

Commission, broker and provide core services: Positive impact
Place – leadership and influencer: Positive impact
Drivers of change and reform: Positive impact
Facilitate sustainable economic prosperity: Positive impact
Greater income for social investment: Positive impact
Cleaner Greener: Positive impact

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6500/21) and the Chief Legal and Democratic Officer (LD.4701/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

None

Implementation Date for the Decision

Immediately following the Committee / Council meeting.

Contact Officer:	David Eden
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Appendices:

The following appendices are attached to this report:

- Corporate Risk Register September 2021

Background Papers:

There are no background papers available for inspection.

1. Background

- 1.1 Risk Management is defined as 'systematic application of principles, approach and processes to the task of identifying and assessing the risk and the planning and implementing of risk responses.'

Agenda Item 7

- 1.2 The Risk Management Strategy included in the Corporate Risk Management Handbook, which is presented to the Audit and Governance Committee on an annual basis for approval, states that
 - 1.2.1 “Risk Management is to be an integral part of the planning and decision-making processes of the Council and that the Strategy is intended to ensure that Risk Management is embedded in the overall planning process.
 - 1.2.2 Risk management is a central part of Sefton’s strategic management and its corporate governance. Effective risk management makes sound business sense and is good management. The focus of good risk management is the identification and treatment of risk.
 - 1.2.3 Risk management should be a continuous and developing process which runs throughout the Council’s activities. A systematic approach to identifying and analysing risks is an integral part of all management processes and day-to-day working, rather than a separate initiative.”
- 1.3 Whilst the process of risk management is routinely undertaken within the Council in a number of areas, both at a strategic level and operationally, it is recognised that there is still scope, to develop a more integrated risk management approach. This report seeks to continue the process of formalising a system of robust Corporate Risk Management and embedding this into the organisation. The Corporate Risk Management Handbook outlines that there should be three tiers of risk registers in place across the organisation which are identified through the scoring of the risks:
 - Corporate Risk Register – risks scored at 16 plus and these are the key risks affecting the Council
 - Service Risk Registers – risks scored between eight and 15 which are owned and managed by the Head of Service.
 - Operational Risk Registers – risks scored at seven and below which are owned and managed by Service Managers
- 1.4 An updated Corporate Risk Register is presented at each meeting of this Committee. The Corporate Risk Register has been shared with and reviewed by senior officers to ensure that the risk register reflects the most significant risks facing the Council. The completion of a risk register also demonstrates that the Council has set out an approach to mitigate the risks that have been identified. The updated Corporate Risk Register is set out at Appendix A, using the revised scoring approved by Members in December 2020, for noting by the Committee.
- 1.5 The Service Risk Registers are owned and should be reviewed by the Heads of Service on a quarterly basis and provided to the Risk and Audit team for information. The completed Service Risk Registers are used by Audit as an agenda item in the formal quarterly meeting with the Heads of Service and are also used for the monthly budget meetings that are held by Finance with the Service Management teams.
- 1.6 The Operational Risk Registers are owned and revised by Service Managers. Members may remember that the Risk and Resilience Team assisted by the Internal Audit Team completed an exercise in 2018/19 to fully implement this tier

of risk registers across the organisation facilitating the completion of over 70 risk registers. This exercise was completed in March 2019. The Risk and Audit Team assisted by the Internal Audit Team work with the individual teams to facilitate regular reviews of the risk registers which will help to embed risk management at the centre of the Council's activities.

2. Key Developments

2.1 Corporate Risk Register

2.1.1 Since the June 2021 update to the Audit and Governance Committee, the Corporate Risk Register has been reviewed and updated.

2.1.2 There have been two new risks which have been added or escalated from the Service Risk Registers to the Corporate Risk Register. These risks are:

- Climate Change – Strategic Risk
- Inability to deliver the requirements and commitments for the Growth Programme

2.1.3 No risks have been de-escalated from the Corporate Risk Register to the Service Risk Registers or deleted from the Corporate Risk Register.

2.1.4 The scoring of the risks has been reviewed by the risk owners in line with the revised scoring matrix approved by the Committee in December 2020.

2.1.5 Although a new strategic risk has been identified and included in the Corporate Risk Register, progress on the holistic updating of the CRR remains sub-optimal. Further progress is required to ensure that all strategic external risks have been highlighted and that there are timely updates included in the risk register if appropriate in addition to the continual review of all other risks that are contained within the risk register.

2.2 Service Risk Registers

2.2.1 The March update highlighted that the position on the completion of the quarterly updates on the Service Risk Registers (SRR), in line with the requirements detailed in the Corporate Risk Handbook, would be provided to the Committee indicating how many had been updated and shared with the Risk and Resilience Team. A copy of the SRR is requested at the same time updates for the Corporate Risk Register are requested.

2.2.2 A total of eight (72%) SRRs have been provided for 1 st quarter 2021 with three SRRs replacing existing SRRs that were nine months old or longer.

2.2.3 A total of six SRRs have been provided for 2nd quarter 2021 with one being provided late.

2.2.4 The above findings indicate that the completion of the SRRs, in line with the Corporate Risk Handbook, has deteriorated over the past two quarters. Whilst recognising that certain services have been disproportionately affected by the pandemic, there is a need to improve this area of risk management moving forward over the rest of 2021/22.

Agenda Item 7

2.3 Operational Risk Registers

2.3.1 During the quarter, a request was made to all service/department managers to return the latest version of their Operational Risk Register (ORRs). The response to this was mainly positive. ORRs are in place in most service areas and the content of registers provided appears to be up to date in the majority of cases. The Risk and Resilience team are working with Communities and Education Excellence to further develop ORRs that reflect the structure within these service areas.

2.3.2 ORRs provided identified many risks scoring sufficiently to appear on SRR. This indicates that the escalation process of risks may not be fully embedded as either the risk should be included in the SRR or that with reflection the Head of Service may decide the risk should be scored lower. The previous request for SLB to ensure risk is included as an agenda item at each DMT, details below, should alleviate this issue.

2.3 Proposed actions from June 2021

2.3.1 In order to address the issues identified in June 2021, all Heads of Service have been engaged and the following actions agreed in order to improve risk management and its reporting. An update on the action is included below in italics:

2.3.2 The Risk and Audit Team using resources from across the function will be request details of Operational Risk registers during the next quarter and will involve the Heads of Service in any escalation process. The outcome of this will be provided to officers as well as to the next meeting of Audit and Governance Committee. *Completed and included in the report with narrative.*

2.3.3 Heads of Service will consider whether the corporate risk register should be developed further to take account of wider strategic risks facing the organisation. *One further strategic risk has been identified Climate Change Emergency” and included in the CRR.*

2.3.4 It is important that risk is an agenda item on the Departmental Management Team in each of the Service Areas on at least a quarterly basis. *Guidance provided and testing of agenda and minutes will be undertaken in September/ October 2021*

2.3.5 The Sharing of the Service Risk Register with the relevant Cabinet Member will take place on a quarterly basis. *Guidance provided and testing of agenda and papers will be undertaken in September/ October 2021*

2.3.6 The Audit and Governance Committee approved Corporate Risk Register to be posted on the intranet Risk and Resilience page with notification to be sent on the intranet news for all staff. *(completed)*

2.3.7 An e-learning package on risk management is to be launched across the Council during the next 12 months. *We have engaged a risk management provider to the Council, through the external Insurance Programme, to develop e-learning training content on risk management which is due to be completed by end of November 2021 and launched across the Council during the next six months.*

2.3.8 The consideration of including the risks associated with the agenda item on Committee papers linked to the appropriate Corporate Objective. *The Executive Director for Corporate Resource and Customer Services has confirmed that the intention is to implement this later in the financial year after the assessment of the Climate Emergency addition on the header page has been assessed.*

2.3.9 Considering including an agenda item on each of the SLB/ELT meeting at the end of the meeting to consider whether any of the content of the agenda/discussions has an impact on the current risk register for example:

- Is there a new risk which should be addressed?
- Does the scoring of any existing risk need to be addressed including risks to be escalated or de-escalated?
- Are there actions to be incorporated onto the risk register etc.

This will be introduced during 2021/22 and following introduction support will be provided to assess the impact.

2.4 Summary of the current position

2.4.1 Substantial work has been undertaken to attempt to embed risk management across the Council over the past six years through designing a risk framework, providing training and facilitating the Service and Operational Risk Registers using resources across the Risk and Audit Team outside of the Risk and Resilience Team.

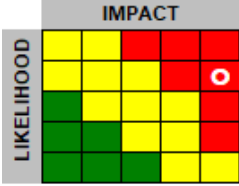
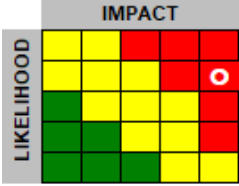
2.4.2 There is a clear evidence of engagement by the leadership team in terms of regularly reviewing the CRR. To demonstrate that the risk management is embedded at this level engagement should be universal and consistent over time. There remain other gaps in the risk management framework including timely updates of the SRR, as highlighted in June, as well as the scoring of risks within the ORRs.

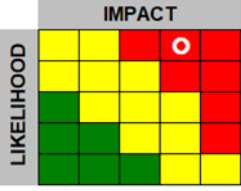
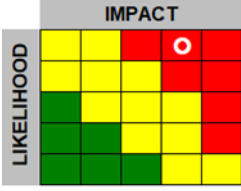
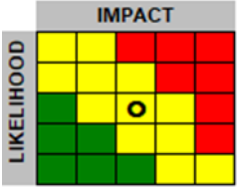
2.5 Presentation to the September Audit and Governance Committee Meeting

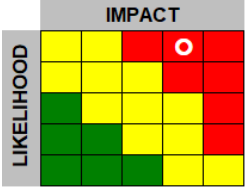
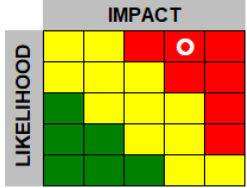
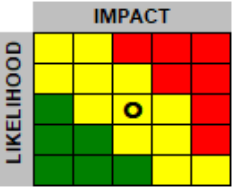
2.5.1 At the Audit and Governance Committee in December 2019 it was agreed that for each meeting a short presentation would be made by a risk owner on one of the risks from the Corporate Risk Register. The briefing, in line with good practice on risk management, should be on the background to the key risk, the current controls and the actions to mitigate the risk further.

2.5.2 A presentation will be provided to Members at the September 2021 meeting.

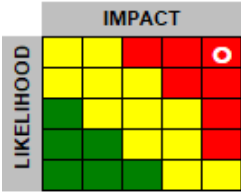
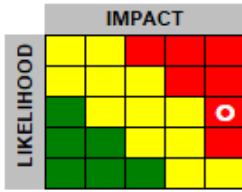
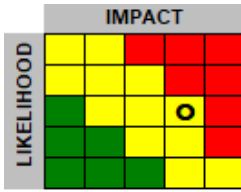
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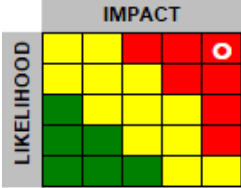
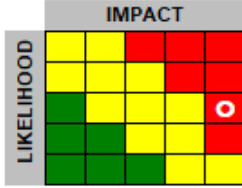
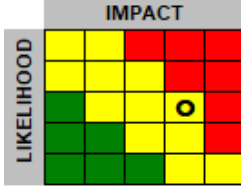
Risk Description	Previous risk score	Current risk score	Target risk score
Significant impact on Service Delivery for Planning and Sefton LA			
Causes	Government are completing an overhaul of Planning System		
Result	Impact - Requirement to review and amend local plan, impact on financials as creates a removal of revenue. Loss of control with potential impact on Town Centre Recovery and Community cohesion		
Current treatments and controls	Added on 05.08.20 impact and associated actions not yet known, requires escalation onto CRR As controls and Govt detail become clearer the impact will be re-assessed and this may be removed from CRR.		
Risk owner	DM		
Proposed actions	The Actions associated are still to be defined and finalised as Government guidance on requirements still needs further clarity, maintain on the CRR		


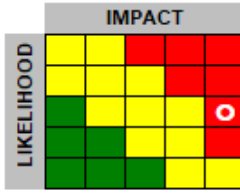
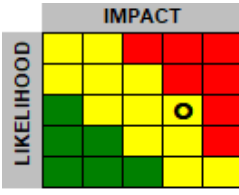
Risk Description		Previous risk score	Current risk score	Target risk score
Gaps in understanding of community needs				
Causes	Lack of community response to request to complete census Low response rates to census in certain wards			
Result	<ul style="list-style-type: none"> The Council uses the information gathered in the census to plan and inform service decisions. Gaps in the information gathered in the census decreases the quality of information available to the Council Financial sustainability could be compromised 			
Current treatments and controls	<ul style="list-style-type: none"> Completion of the Census Day 2021 promoted via Council's Social Media and News Channels Promotion of the Census included Council building being lit up National Census team encouraging participation by direct contact with individuals in areas of low take up Targeted social media to areas of low up take to encourage completion of Census after Census Day 			
Risk owner	ED CR&CS			
Proposed actions	<ul style="list-style-type: none"> Consider new census information when published - The initial findings from the 2021 Census of Population and Housing in England and Wales that took place on 21 March 2021. Statistics from the 2021 Census will be released in stages over the next year to April 2022 			

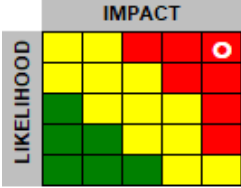
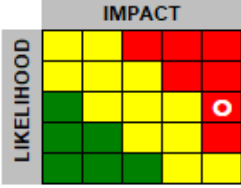
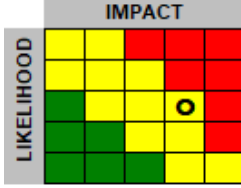
Risk Description	Previous risk score	Current risk score	Target risk score
<p>Failure to effectively manage and support the response to a pandemic incident</p>			
<p>Causes</p>	<p>Major pandemic incident occurs where there are multiple community outbreaks of COVID-19 impacting on the local area and staff. Recovery plans not in place.</p>		
<p>Result</p>	<ul style="list-style-type: none"> • Increased morbidity and mortality • Reduced capacity across the Local Authority and partner organisations. • 20-35% staff absences anticipated in services across the Local Authority and partner organisations. • Services delivery reduced as a result of the implementation of business continuity. • Increased demand of services in response to outbreaks. • Increased social anxiety. • Services, businesses and schools being temporarily closed. • Surge of demand in supply chains. • Negative socio-economic impact. • High level of media and public interest in the Council's actions • Loss of reputation 		
<p>Current treatments and controls</p>	<ul style="list-style-type: none"> • Sefton Council Strategic Coordination Group (SCG) for COVID-19 established and meeting. Sefton Governance structure and operational response cells in place to manage impacts of COVID- 19 and support Sefton residents, businesses and delivery of council services. Sefton operational cells align to multi-agency workstreams on the Merseyside Resilience Forum (MRF), Liverpool City Region and other regional / North West forums. • Engagement with the Merseyside Resilience Forum (MRF) and participation in multi-agency Strategic and Tactical Co-ordination Groups to manage response to COVID-19 impacts for Merseyside. Sefton Officers chair, lead and are active members of multiple MRF multi-agency response cells working across the Merseyside footprint and linked into national government via MHCLG. • Enhanced partnership working with Sefton based agencies to deliver effective response outcomes e.g. Sefton CVS, CCGs, Health agencies, Care Homes, schools and private sector organisations. • Enhanced working practices to facilitate remote, agile and home working for majority of staff. Robust IT systems to allow virtual meetings and extended customer contact centre opening hours. Co-ordinated approach to recruit and mobilise volunteers/council staff to deliver support to Sefton residents/communities who become vulnerable to the impacts of the pandemic. Re-prioritisation of council activities and re-direction of staff roles to provide support where it most needed or to enhance capacity for service areas that become severely under staffed as a result of increase in demand or loss of personnel able to work. 		

	<ul style="list-style-type: none"> • Pro-active Communications strategy for public facing, internal and multi-agency working, co-ordination of information and guidance updates and out of hours on call Comms rota. • Links to national guidance and Gov.uk latest information repository pushed out via staff intranet, social media and other partner communications /news platforms. • Sefton Major Incident Guidance Document/Sefton Business Continuity Policy/Sefton Business Continuity Strategy/Service Area COVID-19 BC plans/E- learning module on Business Continuity • Sefton dedicated and knowledgeable teams including Public Health Team and Risk and Resilience Function • Continuous reinforcement of hand hygiene and infection control messages from Public Health both internally and externally. • Regular Communications from HoS and Senior Managers to staff with regard to observation of social distancing and on-going 'stay safe' COVID-19 advice including continue to work at home wherever possible. • Outbreak Board chaired by Leader meeting weekly. Wider partnership outbreak board meeting bi-weekly. • Additional public health staff recruited to strengthen health protection response • Locally supported contact tracing service in place. • Community and targeted asymptomatic Lateral Flow testing in place. • Surge testing completed in three wards in Southport in response to identification of Variant of Concern
Risk owner	DPH/CEO
Proposed actions	<ul style="list-style-type: none"> • Review Council Pandemic Plans, including the Outbreak plan in response to publication of COVID-19 Response Spring 2021 • Asymptomatic testing plan to be reviewed in light of expanding national testing streams • Contact tracing service will flex in response to changing rates of infection and provide additional cover (testing, vaccine promotion etc) as wider Council workforce return to routine duties. • Funding secured to develop Community Connectors programme • MRF multi-agency Strategic Recovery Co-ordinating Group planning in development. • Place based planning in progress

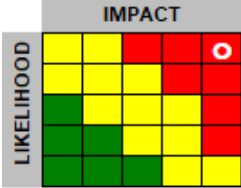
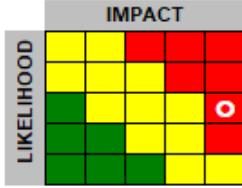
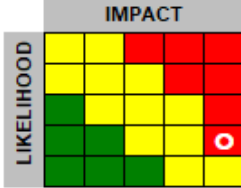
Risk Description	Previous risk score	Current risk score	Target risk score
<p>The Council is the victim of a cyber-attack.</p>			
Causes	Malware, ransomware or another virus infects the Council's systems.		
Result	<ul style="list-style-type: none"> Services will not have access to systems and data as standard and will have to fall back on non-ICT delivery methods, albeit without access to key data. Data breach occurs. Financial impact of ransom. Reputational damage 		
Current treatments and controls	<ul style="list-style-type: none"> Cyberattack prevention measures are in place, including <ul style="list-style-type: none"> Upgraded Council firewalls and active SIEM monitoring service. Anti malware tools New Acceptable use policy ready for deployment LGA Stocktake completed PSN Accreditation achieved New security standards for email encryption implemented Back-up disaster recovery facility is in place at a separate site, allowing Agilisys to restore the top 20 critical systems. Agilisys has a Business Continuity-Disaster Recovery plan in place which covers an action plan for this priority restoration, and the subsequent restoration of all other systems - this is aligned to the Business Continuity work programme Ongoing monitoring in in place via ICT governance arrangements Windows Defender anti-virus software is constantly updated alongside ESET also deployed Communication to employees regarding the rise in malware attacks is in place, with plans to roll out better user education on this topic. 		
Risk owner	ED CR&CS		
Proposed actions	<ul style="list-style-type: none"> The ongoing ICT Transformation programme will see the majority of systems and data migrated to Microsoft Azure cloud hosting, which will reduce the overall risk; however, a review of all security controls is underway by the Security Committee Deployment of industry standard ESET solution in progress Formal rollout of Cyber Security Awareness training. Develop new Business Continuity-Disaster Recovery plan in line with wider Corporate review of Business Continuity 		

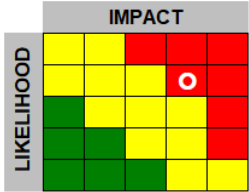
Risk Description	Previous risk score	Current risk score	Target risk score
Financial sustainability beyond 2021/22			
Causes	<ul style="list-style-type: none"> The national review of local government funding and the next comprehensive spending review and subsequent 3 year financial settlement places further strain on the Council's overall medium term budget. Due to the scale of budget reductions since 2010 there is a risk that further suitable cost-saving/income generating measures will be difficult to identify. The current pandemic will also significantly affect both the in year and future years budget pending advice and further support from central government. The impact of the Global pandemic will also have an impact on the councils finances with increased demand for services, a reduction in income and reductions in collection Fund income 		
Result	<ul style="list-style-type: none"> Degradation of service could have an adverse impact on residents and communities The reputation of the Council may be compromised Financial sustainability could be compromised 		
Current treatments and controls	<ul style="list-style-type: none"> The financial sustainability of the council at this time will be driven by the support offered by central government to mitigate the impact of COVID 19. The spending review announcement on 25 November 2020 and subsequent local government finance settlement in December 2020 informed the budget package for 2021/22 that was approved by Council on 4 March 2021. This budget will be monitored in 21/22 in the same way as in 20/21 ie focussing on the approved budget, impact of the pandemic and impact on the collection fund. The budget report clearly sets out the risks that will exist in 2021/22 and that remedial actions maybe required. As stated the level and nature of government support aligned with national and local restrictions will be key influencing factors. Within the budget report is a defined approach to setting the 22/23 to 24/25 budget and the propose move to setting multi year budgets if possible. This has served the council well since 2010 		
Risk owner	ED CR&CS		
Proposed actions	<ul style="list-style-type: none"> Deliver the Councils Budget Plan for 2021/22 that was approved on 4 March 2021 Commence the development of the MTFP for the 3 years from 2022/23 to 2024/25 in advance of the 3 year comprehensive spending review due in October 2021, taking particular account of the risks posed in the collection fund and Children's Social Care Start the development of budget proposals for 2022/23 to 2024/25 as part of the Framework for Change 2020 taking full account of COVID19 Inform the governments fair funding review and comprehensive spending review and lobby for additional support to mitigate the impact of COVID 19 		

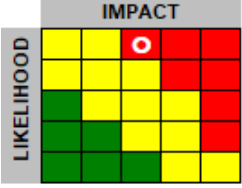
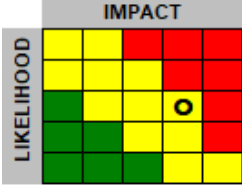
Risk Description	Previous risk score	Current risk score	Target risk score
Data breach resulting in the wrongful release of personal and/or sensitive information			
Causes	Policies and processes coordinated by Information Management and Governance Executive Group are not adhered to, resulting in a higher incidence of breaches caused by human error System error occurs		
Result	Failure to comply with legal requirements; loss of privacy, distress or harm to the data subject; damage to Council's reputation; loss of public confidence; and significant financial penalties.		
Current treatments and controls	<ul style="list-style-type: none"> Information management and governance, including data breaches and actions to prevent data breaches, is overseen by the Information Management and Governance Executive Group (IMGEG), which consists of Heads of Service with lead responsibilities for key aspects of IMG (i.e. designated Data Protection Officer/IG Lead, Senior Information Risk Owner and Lead officer for ICT infrastructure) supported by other officers with key roles relating to IMG Each service has designated Information Asset Owners and Information Asset Administrators. Policies, procedures, processes and issues are communicated to these officers through the Information Management and Governance Tactical Group. Support, co-ordination, advice and guidance is provided corporately and appropriate training/refresher training is in place. The Council has implemented policies, procedures and processes to prevent, manage and respond to potential and actual data breaches. 		
Risk owner	All Heads of Service		
Proposed actions	<ul style="list-style-type: none"> Appropriate resourcing, prioritisation and focus on information management and governance across the Council include the following: Regular monitoring and review by IMGEG of policies, procedures and processes to prevent, manage and respond to potential and actual data breaches. Ongoing review of information systems to ensure no inappropriate or unforeseen data linkages exist within systems or reports. Review of systems ahead of updates to identify any unintended changes. Ongoing education of staff and monitoring of activity by IAOs and IAAs to identify and prevent areas of human error. Regular review of information contained to ensure information is accurate and any information that should be removed is removed. Regular reporting by IMGEG to SLB and Audit and Governance Committee as necessary Maximise the opportunities from the Council's ICT Transformation to increase and embed effective information management and governance 		

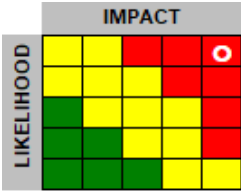
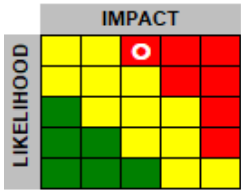
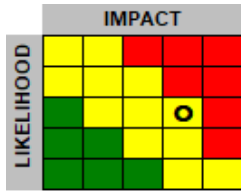
Risk Description	Previous risk score	Current risk score	Target risk score
<p>Failure to manage historic records effectively</p>			
Causes	<p>The risk is amplified by the implementation of GDPR (in particular the right to erasure and tighter deadlines for response to Subject Access Requests). In addition, the Council's Asset Maximisation programme which may lead the Council to leaving, redeveloping or selling buildings where records are held and moving to Paper Light working arrangements.</p>		
Result	<ul style="list-style-type: none"> • Failure to comply with legal requirements relating to retention, consideration, release or correct disposal of historical information; damage to Council's reputation; loss of public confidence; and significant financial penalties. • Historical information is not stored or managed correctly, such that it is lost, damaged or incorrectly disposed of • Not known to the organisation when making relevant decisions; retained when it should have been correctly disposed of. 		
Current treatments and controls	<ul style="list-style-type: none"> • Information management and governance is overseen by the Information Management and Governance Executive Group (IMGEG), which consists of Heads of Service with lead responsibilities for key aspects of IMG (i.e. designated Chief Information Officer; Senior Information Risk Owner; and Lead officer for ICT infrastructure), supported by other officers with key roles relating to IMG. • Each service has designated Information Asset Owners and Information Asset Administrators. Policies, procedures, processes and issues are communicated to these officers through the Information Management & Governance Tactical Group. • Support, co-ordination, advice and guidance is provided corporately and appropriate training/refresher training is in place. • The Council has implemented policies, procedures and processes for the management of information and has in place corporate contracts for appropriate digitisation, disposal and archive storage services. • The Council has implemented a Historic Records Pilot Project to identify the scale, condition and correct management of all historic records held. This project reports regularly to IMGEG. • Regular monitoring and review by IMGEG of policies, procedures and processes to prevent, manage and respond to potential and actual data breaches. • Regular communications to workforce reminding them of training and responsibilities. 		
Risk owner	<p>All Heads of Service</p>		

<p>Proposed actions</p>	<ul style="list-style-type: none"> • Appropriate resourcing, prioritisation and focus on information management and governance across the Council, including support for Information Asset Owners and Information Asset Administrators including action on the following. • Regular monitoring and review by IMGEG of policies, procedures and processes for the management of information, including historic information. • Regular monitoring and review by IMGEG of the progress and implications of the Historic Records Pilot Project, including reporting to SLB and Audit and Governance Committee as necessary. • Maximise the opportunities from the Council's ICT Transformation to increase and embed effective information management and governance. • Commission training to improve understanding of data handling requirements and checks and controls • Ongoing education of staff and monitoring of activity by IAOs and IAAs to identify and prevent areas of human error.
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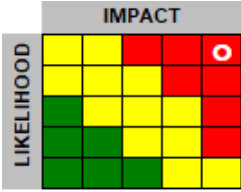
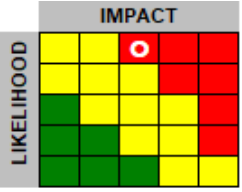
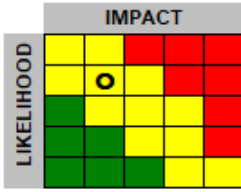
Risk Description	Previous risk score	Current risk score	Target risk score
<p>Inadequate capability to prepare for and respond effectively to a major incident affecting the Council or occurring in Sefton as per the Council's responsibilities under the Civil Contingencies Act 2004.</p>			
Causes	<p>A major incident occurs affecting the Council or the Borough. This risk is accentuated as the government has determined the terror threat level as "severe" and was raised to "critical" on two occasions in 2017.</p>		
Result	<ul style="list-style-type: none"> • Loss of human life, illness or serious injury • Major damage or destruction to infrastructure, property and/or the environment • Disruption or loss of critical services such as transport, communications, utility services • Reputational or financial harm to the authority 		
Current treatments and controls	<ul style="list-style-type: none"> • Emergency Response Manual and Major Incident Guidance in place. • Revised Command and Control structure in place which defines Strategic and Tactical level officers. • Emergency Duty Co-ordinators invited to attend quarterly briefing sessions, and all are able to access Resilience Direct containing incident response plans. • Relevant training provided to Emergency Duty Co-ordinators and volunteers on an ongoing basis. • Attendance and participation in Merseyside Resilience Forum and joint planning across Merseyside. • Humanitarian volunteers in place and team strengthened following successful recruitment drive. • Plans for response and recovery are the subject of ongoing review and update, particularly in light of the government's assessment of the terror threat level as "severe". • Ongoing development and review of supporting plans. • Business Impact Analysis training for the Risk and Resilience team has been completed. This has resulted in the production of BIAs for all service areas. • Business Continuity Policy and strategy have been devised and approved. 		
Risk owner	<p>All Heads of Service</p>		
Proposed actions	<ul style="list-style-type: none"> • Business Continuity Planning Implementation Plan has been devised and is currently being implemented. This includes the following: • Service Level Business Continuity Plans now completed and will be tested during 2021. • Sefton Corporate Level Business Continuity Plan to be produced by end August 2021. • Business Continuity Testing and exercising to be undertaken during 2021- external provider currently being investigated due to lack of experience and expertise within the council. 		

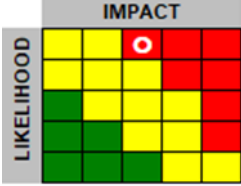
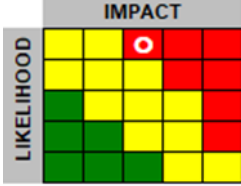
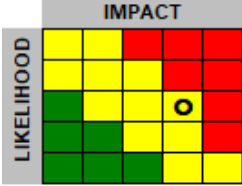
Risk Description	Previous risk score	Current risk score	Target risk score
Inability to deliver the requirements and commitments for the Growth Programme and its associated Projects	New risk – no previous score recorded		TBC
Causes	Required Capital and Revenue funding not available to deliver the projects for Economic Recovery and Growth. This can be due to unavailability or timing of funds available.		
Result	<ul style="list-style-type: none"> • Increased business failure • Reputational Damage especially on projects declared already in the public domain. • Increased unemployment • Financial and reputational risks to the Council • Impact on communities. • Loss of reputation • Impact of wider economic change on residents, particularly the most vulnerable 		
Current treatments and controls	<ul style="list-style-type: none"> • Growth Programme and associated Governance and project controls. • Bid process and expertise applied to all existing and new funding opportunities. • Members approval and prioritisation of existing and new projects. • Constant and consistent evaluation and use of Growth Budget. • Opportunities in respect to Capital receipts from asset disposal. 		
Risk owner	HOS - EG&H		
Proposed actions	<ul style="list-style-type: none"> • Actively pursue all additional funding available in timely and at the earliest opportunity. • Create and make available Bid Team focused on and challenged with successful bids. 		

Risk Description	Previous risk score	Current risk score	Target risk score
Climate Emergency- Strategic Risk	New risk – no previous score recorded		
Causes	The Council has declared a climate emergency with a view to becoming a net zero contributor by 2030- the aim of this declaration is to improve the lives of residents, make the Borough a more attractive place to live and work, contribute to addressing the global impact of climate change contribute to stopping the deterioration of the Sefton environment.		
Result	<ul style="list-style-type: none"> • Further deterioration in air quality • Extensive Coastal Erosion • Further deterioration in overall Sefton Environment • Sefton fails to support the drive to reduce carbon emissions that are having a significant impact on climate change • Reduced life expectancy • Reputational damage having declared an emergency and agreed a strategy and implementation plan 		
Current treatments and controls	<ul style="list-style-type: none"> • Council has declared a climate emergency • Council has agreed the Strategy to meet this Declaration • Initial activities all completed • 3 year implementation place agreed by council • Annual Reports track progress and are reported to Cabinet and Council • First year of activity on target • Initial projects in 3 year period include- move to agile working for staff, street lighting energy scheme, decarbonation work at Bootle and Southport Town Halls and exploring options around using 100% renewable electricity 		
Risk owner	ED CR&CS and ED People		
Proposed actions	<ul style="list-style-type: none"> • Assess options for 100% renewable electricity • Ensure completion of initial 3 year implementation place • Identify and bid for external funding to support change initiatives as without such financial support this will compromise the councils ability to meet its target • Work with Combined Authority on communication strategy and leverage the CA to identify external funding and align with their programme of works • Work with the voluntary sector who have also declared a climate emergency - this will support delivery of schemes, external funding generation and community engagement for both organisations 		

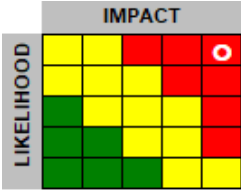
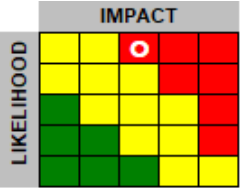
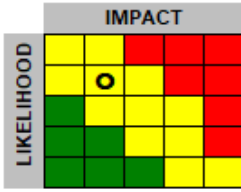
Risk Description	Previous risk score	Current risk score	Target risk score
<p>Dedicated Schools Grant High Needs Funding for Special Educational Needs is inadequate to meet requirements.</p>			
<p>Causes</p>	<ul style="list-style-type: none"> • High Needs budgets are under considerable pressure from increasing numbers of children being diagnosed with complex and life-long SEND related issues. • National funding allocations are not increasing annually to reflect increases in local population demand and so any additional commissioned places need to be financed from within existing budget envelope. • The number and value of requests from mainstream schools for "top-up" funding (for children with SEND) continues to increase year on year as schools face financial pressures to meet the first £6k of any SEN Support. • Maintained special school provision is full and so more and more children are being placed in independent provision which is more expensive. Whilst this issue is being addressed in 2021/22 through extra In-House provision, there remain risks that external placements may continue at high additional cost. • Central Government have advocated parental preference for SEND provision - which has added to the number of children being placed in independent provision - with no additional funding 		
<p>Result</p>	<ul style="list-style-type: none"> • Sefton's High Needs budget overspend was £2.8m for the financial year (2020/21) and this increased the balance sheet deficit on High Needs to around £8.3m. • In 2021/22, despite a considerable increase to Sefton's High Needs Funding allocation of over £3.1m, there is still a forecast overspend for 2021/22 of £1.5m, which would take balances on High Needs to a deficit of £9.8m by the end of 2021/22, unless this can be addressed. • The estimated deficit on the high needs block will be held on the Council's Balance Sheet. The DfE do not expect the Local Authority's General Fund to cover accumulated deficits, however the size of the deficit is continuing to increase. • Ofsted inspection affected. 		
<p>Current treatments and controls</p>	<ul style="list-style-type: none"> • Report to Cabinet on work programme , timescales and objectives • Engagement with Head of Education Excellence and the SEN team Managers on how costs can be contained. • Sufficiency statement produced that will drive future strategy and financial sustainability • Lobbying and engagement of both DfE and MCCLG on financial impact and the need for increased support • Engagement with special schools actively working with individual schools to review impact of any proposed changes to their funding, reviewing three-year financial plans, identifying any strategic savings to mitigate high calls on DSG High Needs • funding. • Review of place and top up levels of funding. 		

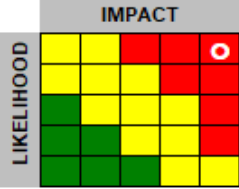
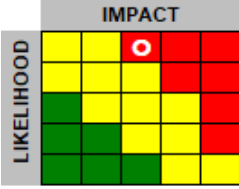
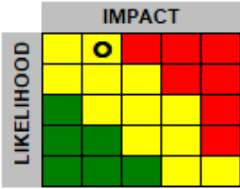
	<ul style="list-style-type: none"> • In addition, further work is being undertaken on alleviating the barriers to inclusivity within mainstream settings and assessment of effectiveness of capital spend to maximise mainstream settings for children and young people. • Sefton Schools Forum has agreed to the continuation for an additional year of intra-block funding decisions made in 2020/21 to increase funding available in 2021/22. • The transfer of 0.25% (£0.430m) from the Schools Block to the High Needs Block, will target funding towards supporting the most inclusive schools. • The National High Needs Block formula funding allocation to Local Authorities has increased by £780m in 2020/21; and by a further £730m in 2021/22 as part of a three year funding agreement compared to the 2019/20 baseline. • Sefton’s share of the additional funding in 2021/22 after deductions for directly funded schools by the ESFA and excluding increases for Teachers Pay and Pensions which was rolled into the HN Funding settlement, is £2.555m.
Risk owner	Head of Education Excellence
Proposed actions	<ul style="list-style-type: none"> • Lobbying of Government continues with a view to securing increased funding. Some LA s have been working in partnership with the DfE with agreement to have their High Needs deficits reduced over a 3 year period and Sefton will engage with the DfE to seek a similar agreement based on its work on a High Needs review and towards reaching a balanced budget position 2021/22 - 2022/23 • The SEND Schools Forum is the Project Group tasked with implementing an action plan to address the annual overspend, cumulative deficit and bringing the budget back into an in-year balanced position for 2021/22 - 2022/23. • To date, two specific workstreams have been developed with LA and School representatives working on a number of key areas: • Developing a new funding model to support children with EHCPs; • Clarifying high needs funding outside of the EHCP process; • Reviewing provision and placement sufficiency. • Considering new ways of working with SEN children in schools, making them more cost effective and with good outcomes. • Review of the graduated response and supporting SEN leadership in schools.

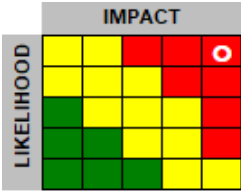
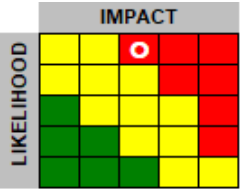

Risk Description	Previous risk score	Current risk score	Target risk score
<p>Failure to manage increasing demand for services within Children’s Social Care</p>			
Causes	<p>Increase in the number of children needing a CSC intervention including increase in LAC and CP Changes to National Transfer Scheme- rota system for unaccompanied asylum seekers - New demand from Sept 21 Budgets reduced to meet Council Targets has had an impact on the delivery of early help services</p>		
Result	<ul style="list-style-type: none"> • Inability to cope with demand, increased safeguarding risks • Loss of reputation and poor inspection outcomes • Increase in budget pressures • Increase in Social Work Caseloads 		
Current treatments and controls	<ul style="list-style-type: none"> • Regular audit of cases, scrutiny of data and understanding of demand to predict future demand (needs analysis), commissioning improvement programme, financial and quality project to ensure reduction in placement costs. • Demand Management Programme as part of the next PSR projects in place with a number of workstreams to reduce demand for services • National Transfer Scheme- rota system for unaccompanied asylum seekers - Approaches made to providers to assess capacity to support this provision - exploration of securing additional capacity 		
Risk owner	<p>HoCSC</p>		
Proposed actions	<ul style="list-style-type: none"> • Demand management workstream with project management • Recruitment of Support workers to undertake non - social work tasks • Managed Service in place to support reduced SW caseloads • Increased resource to discharge Care Orders at home 		

Risk Description	Previous risk score	Current risk score	Target risk score
<p>School debts transferring back to the Council in the event of them being forced into academy status or closing.</p>			
Causes	<p>Schools with Licensed Deficit Budget Agreements with the Council fail an OFSTED Inspection and the Secretary of State for Education issues and Academisation Order to transfer control of the school over to Multi Academy Trust. Governing Bodies of Schools with Licensed Deficit Budget Agreements are not provided assurance that the school can become viable and Elected Members agree to the closure of the school.</p>		
Result	<ul style="list-style-type: none"> • There are 7 Schools who are operating under a Notice of Concern as they have an agreed licensed deficit agreement with the Council or are projected to be in a deficit balance situation in 2021/22. • There are two other schools that have deficits in 2021/22 and the LA will be providing them with a Final Notice and working with the Governors to produce a financial action plan to address the deficit and agree a licensed deficit. The overall deficit of the above establishments in 2021/22 is approx.£1.96m 		
Current treatments and controls	<ul style="list-style-type: none"> • All Schools must provide 3-year financial plan to the Council by 30th April each year and get agreement to operate under a Licensed Deficit Agreement. • Along with any Licensed Deficit Budget Agreement Schools are also given a Financial Notice letter which sets out the financial framework under which the Governors and Senior Members of the school must operate while they are in deficit. • Quarterly report to Cabinet Member Children, Schools and Safeguarding on overall financial risk to the Council and performance of each school against the agreed Licensed Deficit Plans. • Termly meetings with Head of Education Excellence and Finance staff with the Chair of Governors and Headteacher of each school operating under a Licensed Deficit Budget Agreement to discuss financial performance against agreed plan. • Discussion of financial performance of schools at termly Schools Causing Concern meetings where educational performance is also discussed and identifies schools that could fail any upcoming OFSTED Inspection. • The option for the Council to remove delegation from the school if an academy order is placed on the school and the Council has concerns regarding the overall deficit position of the school. 		
Risk owner	HoEE		
Proposed actions	<ul style="list-style-type: none"> • Continued operation of Licensed Deficit Agreements and scrutiny of school financial plans and ongoing support to Governing Bodies • Meetings between the Council and the Liverpool Archdiocese to develop strategy to support a number of VA Schools who present a significant financial concern to the Council. 		

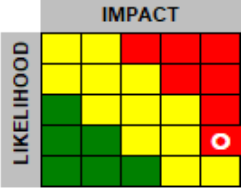
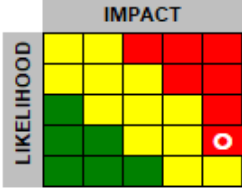
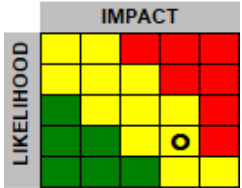
- Agreement from the DfE to provide the Council with additional financial support through its School Resource Management Advisory Team to review the finances of specific schools and give some external / independent advice on a school's finances.

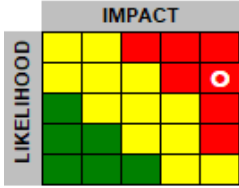
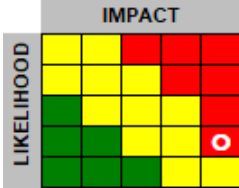
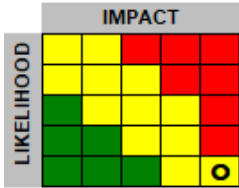
Risk Description	Previous risk score	Current risk score	Target risk score
<p>Failure to plan within annual budget for increased placement costs for Children's Social Care</p>			
Causes	<p>Numbers of children in care increase, demand for placements cannot be met as cost increases. Impact of Covid 19 on demand National Transfer Scheme- rota system for unaccompanied asylum seekers - Changes of responsibility across Local Gov means Sefton will need to consider arrangements for unaccompanied asylum seekers and impact on local market Increased cost of placements.</p>		
Result	<p>Costs increase and quality and sufficiency of placements decreases</p>		
Current treatments and controls	<ul style="list-style-type: none"> • Fortnightly meeting to monitor placement costs and reduce high cost placements • Programme of market reform in residential market • Focus on recruitment of in house foster carers • Work with LCR on a wider programme of market reform. 		
Risk owner	<p>HoCSC</p>		
Proposed actions	<ul style="list-style-type: none"> • Development of market to meet need • Opportunities to collaborate across LCR to develop market • Regular review of budgets to identify and mitigate pressures • Project Management through Demand Management Workstream 		

Risk Description	Previous risk score	Current risk score	Target risk score
Impact of regulatory framework and outcome of Joint Target Area Inspection			
Causes	Joint Target Area Inspection with a deep dive into Mental Health identified Priority Actions for the Partnership ILAC inspection likely to take place in the next 6 months		
Result	<ul style="list-style-type: none"> • Services are found to be not adequately safeguarding children and meeting their needs • Reputational damage to the Council and statutory partners with significant impact on staff morale and potential difficulties recruiting social workers • Significant impact on LA reputation if priority actions are not addressed 		
Current treatments and controls	<ul style="list-style-type: none"> • Independent Improvement Board is already established. • A DfE Adviser has been appointed and a new improvement team is in place with a plan to address priority actions. • Governance arrangements reviewed and strengthened with Children's Improvement Partnership Board reporting to Health and Wellbeing Board • QA framework in place. • Ongoing preparation in place for ILAC inspection 		
Risk owner	HoCSC		
Proposed actions	<ul style="list-style-type: none"> • CSC Improvement Plan is reported to the Independent Improvement Board and to the DfE • Performance meetings to continue. Accurate and detailed diagnostics completed across the department, workstreams established and actions being undertaken. • Support via Partners in Practice to scrutinise effectiveness of partnership arrangements and permanence arrangements for children • Programme of audit and independent audit planned. 		

Risk Description	Previous risk score	Current risk score	Target risk score
<p>Failure to mitigate impacts of COVID-19, EU Exit, winter, austerity, on the Sefton economy</p>			
<p>Causes</p>	<ul style="list-style-type: none"> • Lack of support for business • Lack of progress on projects that can support recovery • Lack of capital and revenue funding from government • Impact of wider issues on local businesses (e.g. national retailers) • Loss of key employers to the borough and towns, particularly Bootle and HMRC, Santander • Impact on key sectors (especially hospitality) in Southport 		
<p>Result</p>	<ul style="list-style-type: none"> • Increased business failure • Increased unemployment • Financial and reputational risks to the Council • Impact on communities of port disruption, increased traffic, etc • Loss of reputation • Impact of wider economic change on residents, particularly the most vulnerable 		
<p>Current treatments and controls</p>	<p>Sefton Strategic Recovery - Economy Plan:</p> <ul style="list-style-type: none"> • Plan currently being adapted to include in more detail the Covid-19 and EU Exit requirements. • The Sefton Economic Strategy (SES) Action Plan is being used as the "Foundation Document" for the Economic Recovery Plans • The SES A/Plan has been thoroughly reviewed and is fit for purpose for foundation of recovery planning. <p>The SES A/Plan and associated recovery actions will report through the Economy Cell structure. The Economy Cell will report through the Growth board and Exec for Place.</p> <ul style="list-style-type: none"> • Covid related Grants will be managed effectively as all previous e.g. discretionary Grants and will report through the Economy Cell. • Growth programme - Will ensure through regular review and Stewardships that projects if applicable focus on recovery for the Economy • Ongoing business and Employment support via InvestSefton and Sefton@Work in context of and when required focused on pandemic and of EU Exit • Full engagement in regional growth-related forums • Establishment of multi-stakeholder working groups focused on recovery in key town centres. • Recovery planning activity in Southport underpinned by Town Deal opportunities 		

Risk owner	HoEG&H
Proposed actions	<ul style="list-style-type: none"> • Actively pursue opportunities for additional external funding via LCR/CA and HMG to develop projects • Investor proposition development and proactive business development activity to ensure attraction and retention of businesses and employers in the borough • Finalise Sefton-specific recovery plans and investor pack materials • Investor Material prepared (Mickledore) in sign off. Additional funding from all sources followed up, Recovery Plan (outward version) ready and prepared with Comms Team. Strategic Recovery Plan - Economy being re-visited in lieu of current changing circumstances

Risk Description	Previous risk score	Current risk score	Target risk score
Market failure of Adult Social Care provision			
Causes	<ul style="list-style-type: none"> • Lack of market engagement and market development due to lack of capacity and resource. • Capability and capacity of the available workforce to provide domiciliary care. • Lack of diversity of supply in the market to provide choice and control • People working in Care Quality Commission (CQC)-registered care homes will need to be fully COVID-19 vaccinated with two doses of a COVID-19 vaccine unless they have a medical exemption from October 		
Result	<ul style="list-style-type: none"> • Inability to provide packages of care for service users • Inability to maximise the opportunity of reablement • Lack of alternative providers able to support social care • Poor quality service provision • Significant increase in unmet needs of service users due to a fragile market that is not developing • Recruitment pressures in care homes 		
Current treatments and controls	<ul style="list-style-type: none"> • Market Position Statement 2020 • Winter Planning/checklist • Health and Wellbeing Strategy 2020-2025 • Integrated Commissioning Group • Centralised Commissioning Support function • Commissioning priorities and full work plan 		
Risk owner	HoASC/HoSS		
Proposed actions	<ul style="list-style-type: none"> • Recovery and transition review to explore Workforce, process, commissioning and partnerships post pandemic • Winter Planning/checklist evaluation • Review and align strategic plans to current contracts to ensure Value for Money and objectives are met. • Continual cycle of review in ways of working • Development of new opportunities through working with LCR, CCG and wider commissioning partnerships. • Commissioning priorities and full work plan. • Workforce development of the independent workforce. • Ensure involvement of key stakeholders • As per commissioning workshop, review structure and workplan to deliver the above. 		

Risk Description	Previous risk score	Current risk score	Target risk score
Failure to adequately invest in the Highway network and associated assets.			
Causes	Budget reductions; inadequate funding levels to meet need.		
Result	<ul style="list-style-type: none"> • Deterioration of highway assets • Potential increase in claims • Financial and reputational risks • Potential increase in accidents resulting in injury and/or death 		
Current treatments and controls	<ul style="list-style-type: none"> • Essential work is prioritised within available budget. Regular inspections of most assets to monitor and guide prioritisation of works in order to mitigate risk. • Regular updates provided to Cabinet Member • Preventive surface treatments used to prolong the life of the network and to treat more of it than if more long-term maintenance solutions were used (i.e. resurfacing) 		
Risk owner	Ho H&PP		
Proposed actions	Actively pursue opportunities for additional external funding via LCR/CA and others to maintain and improve network.		

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Agenda Item 8

Report to:	Audit and Governance Committee Council	Date of Meeting:	15 September 2021 16 September 2021
Subject:	Audit and Governance Annual Report 2020-21 - Work Programme 2021/22 and Terms of Reference		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

To present formally the Annual Report of the Audit and Governance Committee including the Work Programme for 2021/22 and the Terms of Reference of the Committee.

Recommendations:

Recommendations to the Audit and Governance Committee: That the Audit and Governance Committee be requested to:

- (1) agree and refer the Annual Report of the Audit and Governance Committee to the Council for approval, as detailed in Appendix 1 to the report;
- (2) approve the Work Programme for 2021/22, as detailed in Appendix 2 to the report; and
- (3) review and approve the Terms of Reference of the Audit and Governance Committee, as detailed in Appendix 3 to the report.

Recommendation to the Council:

That Council be requested to approve the Annual Report of the Audit and Governance Committee.

Reasons for the Recommendations:

To comply with the Terms of Reference of the Committee as set out in Chapter 7 of the Councils Constitution.

Agenda Item 8

Alternative Options Considered and Rejected: (including any Risk Implications)

No alternative options have been considered – To comply with the formal reporting mechanism.

What will it cost and how will it be financed?

There are no direct financial implications arising from this report.

(A) Revenue Costs – see above

(B) Capital Costs – see above

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):	
None	
Legal Implications:	
None	
Equality Implications:	
There are no equality implications.	
Climate Emergency Implications:	
The recommendations within this report will	
Have a positive impact	Neutral
Have a neutral impact	Neutral
Have a negative impact	Neutral
The Author has undertaken the Climate Emergency training for report authors	Yes
There are no direct climate emergency implications arising from this report. Any climate emergency implications arising from matters referred to in the Annual Report would have been contained in reports when they were presented to Members during the previous year; or will be contained in future reports during the forthcoming year.	

Contribution to the Council’s Core Purpose:

Protect the most vulnerable: None directly applicable to this report
Facilitate confident and resilient communities: None directly applicable to this report

Commission, broker and provide core services: Good governance is about how the Council ensures that it is doing the right things, in the right way, for the communities we serve. Good governance will enable the Council to pursue its vision and secure its agreed objectives in the most effective and efficient manner.
Place – leadership and influencer: None directly applicable to this report
Drivers of change and reform: None directly applicable to this report
Facilitate sustainable economic prosperity: None directly applicable to this report
Greater income for social investment: None directly applicable to this report
Cleaner Greener: None directly applicable to this report

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6522/21) and the Chief Legal and Democratic Officer (LD.4723/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Not applicable

Implementation Date for the Decision

Immediately following the Council meeting.

Contact Officer:	Ruth Harrison
Telephone Number:	Tel: 0151 934 2042
Email Address:	ruth.harrison@sefton.gov.uk

Appendices:

The following appendices are attached to this report:

Appendix 1: The Annual Report of the Audit and Governance Committee

Agenda Item 8

Appendix 2: The Audit and Governance Work Programme for 2021/22

Appendix 3: The Terms of Reference of the Audit and Governance Committee

Background Papers:

There are no background papers available for inspection.

Introduction/Background

1. Audit and Governance Annual Report 2020/21

1.1 Chartered Institute of Public Finance and Accountancy (CIPFA) Position statement on Audit Committees states that Audit Committees are a key component of an authority's governance framework. Their function is to provide an independent and high level resource to support good governance and strong public financial management.

1.2 The Position also states that" The audit committee should be held to account on a regular basis by the group to which it is accountable. For a local authority audit committee, this will be the council. The aspects that should be specifically considered include:

whether the committee has fulfilled its agreed terms of reference

whether the committee has adopted recommended practice

whether the development needs of committee members have been assessed and whether committee members are accessing briefing and training opportunities

whether the committee has assessed its own effectiveness or been the subject of a review and the conclusions and actions from that review

what impact the committee has on the improvement of governance, risk and control within the authority.

1.2 Within the Chartered Institute of Public Finance and Accountancy (CIPFA) model Terms of Reference (2018), which the Council adopted in May 2021, there is a requirement to publish an annual report on the work of the committee as well as to report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

1.3 The proposed requirement stems from good practice to outline an Annual Report of the Audit and Governance Committee to the Council setting out all the activities/decisions taken by the Committee during that year. The report should as a result enhance accountability of the Committee and its decision making and good governance

1.4 The Annual Report of the Audit and Governance Committee outlines the Committee's work and achievements over the year ending 31 March 2021 and demonstrates to residents and Council stakeholders the important role that is carried out by the Committee and its contribution to the Council's overall governance arrangements.

- 1.5 Following adoption of the model Terms of Reference of the Committee, by the Council in May 2021 this is the first Audit and Governance Annual Report that has been produced and approved by the Chair of the Committee. The Annual Report along with the Work Programme of the Committee will be developed further over the following 12 months to ensure that the Committee is effective in addressing all elements of the newly adopted model Terms of Reference. The Audit and Governance Committee can expect to receive reports in relation to the Complaints process and Complaints that have been considered by the Audit and Governance Sub Committee, Whistleblowing, Money Laundering and any other ad hoc reports as set out in the Terms of Reference. Appendix 2 to the report sets out the Work Programme of the Committee which consists of a schedule of Meetings for the Committee and the reports that will be considered at each of those Meetings. The Work Programme for each Municipal Year is an important element of Planning the Year ahead as it ensures that the Committee remains on target in reviewing the effectiveness of the Committee and is effectively monitoring/ reviewing the Terms of Reference of the Committee (Appendix 3 to the report). Appendices 2 and 3 should work hand in hand in that all elements of the Terms of Reference should be monitored through the submission of reports/briefings of the Committee. It is also important to note that an element of flexibility in relation to the Work Programme should be applied in order that any ad hoc/urgent pieces work may be undertaken/reviewed by the Committee as and when required.

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Sefton Council



**Audit and Governance
Committee
Annual Report 2020-2021**

**Councillor Dave Robinson
Chair**

Agenda Item 8

Introduction by the Chair of the Audit and Governance Committee



Councillor Dave Robinson
Chair of the Audit and Governance
Committee
September 2021

It gives me great pleasure to introduce the 2020/21 Annual Report of the Audit and Governance Committee.

The report informs the Council of the broad range of work undertaken by the Committee in fulfilling its Terms of Reference and in doing so provides assurances on the effectiveness of the Committee in meeting its obligations.

The Committee's Terms of Reference were developed in accordance with the CIPFA guidance and the detailed Committee Work Programme provides further assurances that the Terms of Reference are reviewed.

The impact of the Covid pandemic has meant that the Council has had to adapt to new ways of working and in doing so the Council worked at pace to provide Members with a remote Meeting solution and as such Members met remotely during the year 2020/21. I wish to place on record my appreciation to the Executive Director of Corporate Resources and Customer Services and his team for all their hard and work and continued support to members in ensuring the success of meeting remotely.

I look forward to working with Committee members and officers who support the Committee during 2021/22.

1.0 INTRODUCTION

1.1 The purpose of the Audit and Governance Committee is to:

- provide independent assurance to the Council in respect of the effectiveness of the Council's governance arrangements, risk management framework and the associated control environment; and
- independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment.

1.2 The key benefits of an effective audit Committee are:

- increasing awareness regarding the effectiveness and continued development of the Council's governance arrangements;
- providing additional assurances on the robustness of the Council's governance arrangements through a process of independent and objective review;
- reducing the risks of illegal or improper acts;
- increasing public confidence in the objectivity and fairness of financial and other reporting;
- contributing to performance improvements in assurance levels and awareness of the need for strong internal control including the implementation of audit recommendations;
- reinforcing the importance and independence on internal and external audit and similar review processes; and
- promotes high standards of ethical behaviour by developing, maintaining and monitoring performance and Codes of Conduct for Members of the Council (including co-opted members and other persons acting in a similar capacity).

2.0 YEAR 2020/21

2.1 The Audit and Governance Committee has delegated responsibilities from Council. This report provides details of how the Committee has discharged those responsibilities and delivered against its terms of reference which can be found in the Council's Constitution.

2.2 Meetings of the Audit and Governance Committee were held on the following dates during 2020/21:

- 16 September 2020
- 16 December 2020
- 17 March 2021

Agenda Item 8

The meetings scheduled to take place on 24 June 2020 and the special meeting for consideration of the 2019-2020 Statement of Accounts on 22 July 2020, had to be cancelled due to the Covid Pandemic.

More information on the Audit & Governance Committee Meetings, including agendas and minutes is available at the following link: [Sefton Council](#)

Internal Audit

To support the Committee in monitoring progress of Internal Audit work within the year the following reports were presented

Meeting	Reports
16 September 2020	Annual Report and Opinion of the Chief Internal Auditor
16 September 2020	Internal Audit Charter and Annual Internal Audit Plan 2020/21
16 December 2021	Risk and Audit Performance Report – IA performance and revision to the Annual Internal Audit Plan 2020/21
17 March 2021	Risk and Audit Performance Report – IA performance
17 March 2021	Internal Audit Charter and Annual Internal Audit Plan 2021/22

Risk Management

To support the Committee in the management of risk within the council during the year the following reports were presented

Meeting	Reports
16 September 2020	Risk and Audit Service Performance
16 September 2020	Corporate Risk Management – Risk performance
16 December 2020	Corporate Risk Management
16 December 2020	Risk and Audit Service Performance – Risk performance
17 March 2021	Corporate Risk Management
17 March 2021	Risk and Audit Service Performance – Risk performance

Accounts, Financial Statements & Treasury Management

Financial management as a result of the COVID pandemic took on additional importance and complexity during the year, especially in respect of treasury management activities- to support the committee, the following reports were presented

Meeting	Reports
----------------	----------------

16 September 2020	Draft Statement of Accounts 2019/20
16 September 2020	Treasury Management Position July 2020
16 September 2020	Treasury Management Outturn 2019/20
16 December 2020	Statement of Accounts 2019/20
16 December 2020	Treasury Management Mid-Year Report 2020/21
17 March 2021	Statement of Accounts 2019/20
17 March 2021	Financial Management Code
17 March 2021	Treasury Management Position to January 2021
17 March 2021	Write off of Irrecoverable Debts > £10,000

Information Governance/Constitution Updates

Within the financial year significant work was undertaken on the Council's governance arrangements and issues in relation to the constitution. These issues were presented to the Audit and Governance committee in advance of progression to council for approval and are reflected below

Meeting	Reports
16 September 2020	Financial Procedure Rules
16 December 2020	Amended Data Protection and Confidentiality Policy
16 December 2020	ICT Security Policy
16 December 2020	Sefton Council Anti-Money Laundering Policy
17 March 2021	Audit and Governance Terms of Reference
17 March 2021	Members Code of Conduct
17 March 2021	Revisions to the Employee Code of Conduct
17 March 2021	Amendments to the Constitution – Highways and Counter Terrorism and Security Act
17 March 2021	Proposed changes to the Constitution in relation to Planning Committee

3.0. ASSURANCE ACTIVITY 2020/21

- 3.1 In order for the Committee to draw conclusions about the effectiveness of the Council's internal control framework, governance and risk management it gained assurances from a number of sources.
- 3.2 The Accounts and Audit (England) Regulations 2015 require the Council to maintain an adequate and effective internal audit which is discharged by the Section 151 Officer. The Chief Internal Auditor works with Internal Audit to provide assurances for both Members and management on the effectiveness of the control framework.
- 3.3 The Committee received and considered reports in relation to the Annual Report and Opinion of the Chief Internal Auditor that provided a summary of the work of internal audit during 2019/20 and the Chief Internal Auditor's opinion on

Agenda Item 8

the overall control environment operating within the Council during the year. This report is a key requirement of the Public Sector Internal Audit Standards. As part of the Chief Internal Auditors reporting the impact of the Covid pandemic for 2019/20; the transition to homeworking by officers – which had gone smoothly; the substantial change in the risk environment of the Council and a revised audit plan that had been drafted to identify the new risks were reported and considered.

- 3.4 The Committee also received regular updates in relation to the performance and key activities of the Risk and Audit Service to each Meeting and agreed revisions to the Internal Audit Plan for 2020/21.

4.0 Risk Management

- 4.1 Risk Management continues to be key component to service planning and regular monitoring of the corporate risk register is a vital role of the Committee. The Committee routinely received reports in that respect. Throughout 2020/21 risks had been re-scored in accordance with the revised assessment guidance included in the Corporate Risk Management handbook approved by the Committee in December 2019 and a revised Corporate Risk Management handbook was provided to all Members of the Committee. Members welcomed the newly adopted regime of receiving a short presentation from a risk owner on one of the risks listed in the Corporate Risk Register, this provides Committee Members with further insight of risks associated with particular service areas and allows for a further layer of scrutiny and challenge. During 2020/21 the Committee received presentations from the Service Manager, Special Educational Needs and Disability – SEND and the Service Manager ICT and Digital in relation Cyber Security.

- 4.2 The Committee also considered and regularly reviewed the performance and key activities of the Risk and Audit Service from December 2019 – March 2021 and where provided with Internal Audit Plans and contributions made by Health and Safety, Insurance, Assurance and Risk and Resilience teams.

5.0 Treasury Management

- 5.1 The Audit and Governance Committee has a responsibility to provide a level of scrutiny in relation to treasury management policies and practises and as such the Committee considered the treasury management outturn position for the period 2019/20 which provided a review including the implications of changes resulting from regulatory, economic and market factors affecting the Council's treasury management position along with the treasury management activities undertaken to 31 March 2020. The Committee also considered quarterly progress reports on the treasury management and performance against prudential indicators. As a result of the pandemic , the councils Treasury Management activities took on even greater importance especially around cash

flow management and the investment of significant grant sums that the council was distributing on behalf of central government- these were reported continually to Audit and Governance committee through the year and council in accordance with the agreed Strategy.

6.0 Statement of Accounts and External Auditors

- 6.1 At its meeting held on 16 September 2020 the Committee considered the draft un-audited Statement of Accounts 2019/20 in advance of the final audited Draft Statement of Accounts to be presented for approval in December 2020.
- 6.2 The Committee also considered the report by Ernst and Young LLP, the Council's external auditors, setting out an overview of the 2019/20 audit strategy, including an assessment of key risks and a planned audit strategy in response to those risks, changes to the plan as a result of the Covid19 pandemic were highlighted. Members scrutinised the draft statement of accounts robustly by asking questions of both the Section 151 Officer and the Council's external auditor.
- 6.3 The Committee were provided with regular updates relating to the progress of the Statement of Accounts for 2019/20. The final audited Statement of Accounts 2019/20 was considered on 17 March 2020 and included the Annual Governance Statement for consideration and approval. In addition, the proposed 'Letter of Representation' letter from Sefton Metropolitan Borough Council to the External Auditors - Ernst & Young LLP (EY), was also considered.
- 6.4 The Statement of Accounts 2019/20 provided information about the Authority's finances in respect of the cost of the Authority's services and what the Authority's assets and liabilities were at the end of the year.
- 6.5 The Committee also were provided with details of the Comprehensive Income and Expenditure Statement; the Movement in Reserves Statement, the Balance Sheet; Cash Flow Statement; Notes to the Financial Statements – Expenditure and Funding Analysis; Other Notes to the Financial Statements; the Collection Fund; Group Accounts; the Annual Governance Statement and the Report of the Independent External Auditors (Ernst and Young (EY) LLP).
- 6.6 The EY audit had focused on the following areas with no significant issues having been found:
- Risk of fraud in revenue and expenditure recognition;
 - Misstatements due to fraud or error (management override of controls);
 - Risk of error in valuation of pension fund assets and liabilities in the Local Government Pension Scheme; and,
 - Valuation of land and buildings.

Agenda Item 8

7.0 Committee Working Arrangements

7.1 The Committee's Work Programme is a rolling and flexible schedule of work that should be undertaken by the Committee. The programme is designed to ensure that the Committee remains on track with its ambitious schedule of work. Due to the pandemic the Committee met three times during 2020/21 and the Annual Report illustrates the depth of scrutiny undertaken by the Committee.

7.2 The Committee considered items which are presented annually, such as:

- review of the Committees Terms of Reference of the Committee;
- the Annual Governance Statement;
- the Chief Auditors Opinion;
- the Statement of Accounts;
- review of the Corporate Risk Management Handbook;
- review of the Members Code of Conduct;
- review of the Financial Procedure Rules;
- Audit Plans; and

any such other items that fall within the Committees Terms of Reference.

7.3 At its Meeting held on 16 December 2020 the Committee, in accordance with the accountability principle under Article 5 of the General Data Protection Regulation and Data Protection Act 2018, the Council is required to put in place appropriate technical and organisational measures to meet the requirements of accountability; and adopting and implementing a data protection policy was one of those measures and as such the Committee reviewed and amended the Data Protection and Confidentiality Policy which was first created in January 2014. The Policy had subsequently been reviewed a number of times and would continue to be reviewed on an annual basis. The revisions agreed at its meeting held on 16 December 2021 included details of the enforcement action the Information Commissioner's Officer (ICO) might take against a data controller, including the fines which might be imposed, details of the criminal offences under the Data Protection Act 2018, payment of the Data Protection fee and additional information on the Council's Information Governance framework. It was noted that a small number of revisions would be made in January to reflect technical amendments resulting from the UK GDPR.

7.4 The Committee also agreed the ICT Acceptable Use Policy and recommended it to the Council for approval with a request to remove the ICT Starters, Movers and Leavers Policy given the managerial operational nature of the policy and it not being appropriate for the Constitution.

7.5 At its Meeting held on 17 March 2021 the Committee reviewed its Terms of Reference and in order to comply with best practice as recommended by the Chartered Institute of Public Finance and Accountancy (CIPFA) approved the proposal to adopt the model CIPFA Terms of Reference. The Committee also agreed to include additional responsibilities that the Council's Audit and

Governance Committee had, which were not included in the model Terms of Reference, including:

- To consider the Council's arrangements for health and safety and receive regular assurances and assessments on the effectiveness of these arrangements.
- To consider write-offs of debt above £10,000.
- To have responsibility for all standards issues relating to the Council's Members' Code of Conduct
- To recommend changes to the Council's Constitution

7.6 The Committee also approved the monitoring of the Counter Fraud/ bribery strategy, actions and resources and as such a revised and enhance Work Programme to incorporate the amended Terms of Reference would be considered.

7.7 The Committee considered, agreed and referred the model Members Code of Conduct to Council for approval and inclusion in the Constitution. The LGA described the model code as 'designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government' and guidance followed in April 2021. Training would be provided to all Members of the Council/Independent Persons and Co-opted Members.

7.8 The Committee also reviewed the Employee Code of Conduct and as such referred the report onto Council, the Council approved the revisions to the Employee Code of Conduct and that the Constitution be amended accordingly.

7.9 The Committee considered amendments to the Constitution in relation to the Highways and Counter Terrorism and Security Act and more specifically delegated powers to the Head of Highways and Public Protection granting authority to enter into s38 and s278 Highways Act 1980 agreements and to make and amend Traffic Regulation Orders with regards to Disabled Parking Places outside people's homes. To comply with the 2020 statutory guidance issued pursuant to the Counter Terrorism and Security Act 2015 the Committee agreed to include the responsibilities under the Counter Terrorism and Security Act 2015 within the portfolio the Cabinet Member for Communities and Housing.

7.10 The Committee considered the Financial Management Code which provided an assessment of the Council's current compliance with the Chartered Institute of Public Finance and accountancy (CIPFA) Financial Management Code and aimed at ensuring a high standard of management in local authorities.

The Committee also approved changes to the Constitution in relation the Planning Committee and the Council's planning powers and more specifically matters delegated to the Planning Committee to ensure that the more significant types of applications would be reported to Committee and those which were more routine would not be reported to Committee, thereby resulting in the more efficient management of Planning Services' workload and minor changes in

Agenda Item 8

relation to the submission of petitions and the public speaking process were approved.

8.0 Outcomes / Achievements

8.1 The work undertaken by the Committee has provided additional assurance of the robustness of the Council's arrangements regarding corporate governance, risk management and internal management of controls. The Committee has added value through the importance placed upon governance issues, risk management, anti-fraud and assurances that key risks are being mitigated.

9.0 Conclusion

9.1 The Committee has the benefit of being well supported by Council officers including the Section 151 Officer, the Monitoring officer and the Chief Internal Auditor as well as the Council's external auditors.

9.2 During 2020/21 the Audit and Governance Committee has consolidated the progress that has been made in previous years in providing robust scrutiny and challenge of the Committees Terms of Reference and in doing so the Committee has continued to have a real and positive contribution to the governance arrangements of the Council. In order to build on the key achievements of 2020/21 and in looking forward to the Committee's work programme for 2021/22 the Committee will:

- Continue to review all elements of the governance arrangements associated with Audit and Governance Committee ensuring that best practise is adopted in a timely fashion;
- Continue to support the Council in managing the risk of fraud and corruption;
- Continue to support the work of audit;
- Continue to consider the effectiveness of the Council's risk management arrangements; and
- Continue to provide effective challenge and scrutiny of all areas of the Audit and Governance Terms of Reference giving the appropriate assurances to the Council;

Audit and Governance Committee Annual Work Programme 2021/22

Agenda item	Inclusion rationale	June	July if required	Sep.	Dec.	March
Produce annual report of the Audit and Governance Committee (to full Council)	Terms of Reference			√		
Review of effectiveness of the Audit and Corporate Governance Committee – complete self- assessment	Good practice	√				
Review Audit and Corporate Governance Committee training requirements	Good practice			√		
Review and approve Annual Work Plan for the Audit and Governance Committee	Good practice					√
Review of the Audit and Corporate Governance Committee's Terms of Reference	Good Practice				√	
Internal Audit						
Performance update on Risk and Audit Team including: <ul style="list-style-type: none"> • Audit Team • Health and Safety • Counter Fraud • Insurance and other risk areas such as Business Continuity 	Terms of Reference	√		√	√	√
Annual Opinion of the Chief Internal Auditor including: <ul style="list-style-type: none"> • review of impairment on independence and objectivity • QAIP • Assessment against PSIAS and LGAN 	Terms of Reference	√				
Approval of the Annual Internal Audit Plan and review of Internal Audit Charter	Terms of Reference					√
Provide a report on the completion of audit recommendations including those not implemented within a reasonable timescale	Terms of Reference				√	
Annual report on the follow up of Internal Audit recommendations	Terms of Reference				√	
Risk Management						

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Audit and Governance Committee Annual Work Programme 2021/22

Agenda item	Inclusion rationale	June	July If required	Sep.	Dec.	March
Review of the Quarterly Corporate Risk Register	Terms of Reference	✓		✓	✓	✓
Approval of the review of the Corporate Risk Management Handbook	Terms of Reference				✓	
Provide a regular report on health and safety	Terms of Reference	✓		✓	✓	✓
Monitor role						
Reporting of the anti- fraud, bribery and corruption strategy	Terms of Reference	✓		✓	✓	✓
Provide an annual report on the Council's anti fraud strategy	Terms of Reference			✓		
Review of Whistleblowing Policy	Terms of Reference				✓	
Review of Financial Procedure Rules (if required)	Terms of Reference				✓	
Review of CIPFA Financial Management Code	Good Practice	✓				
Review of the Members Code of Conduct	Terms of Reference			✓		
Review the annual governance statement	Terms of Reference			✓		
Provide an annual report on the Council's Anti-Money Laundering Policy	Terms of Reference				✓	
Accounts, Financial Statements & Treasury Management						
Approval of the audited Statement of Accounts (including the Annual Governance Statement, the external auditor's audit results report and the Letter of Representation)	Terms of Reference			✓		
External Auditor Annual Audit Letter	Terms of Reference		✓			

Audit and Governance Committee Annual Work Programme 2021/22

Agenda item	Inclusion rationale	June	July If required	Sep.	Dec.	March
External Auditor Annual Report re. grant work	Terms of Reference	√				
Treasury Management Outturn	Terms of Reference			√		
Treasury Management In-Year Position	Terms of Reference			√	√	√
Write-offs of debt above £10,000 (if required)	Terms of Reference	√		√	√	√

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TERMS OF REFERENCE AUDIT AND GOVERNANCE COMMITTEE

Committee	Membership	Functions
9 Audit and Governance committee	10 Members of the Authority to form a politically balanced Committee	To consider and approve the Council's accounts, internal control systems and corporate governance issues.

Statement of purpose

- 1 The Audit and Governance Committee is a key component of Sefton's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- 2 The purpose of the Audit and Governance Committee is to provide independent assurance to the members of the adequacy of the risk management framework and the internal control environment. It provides independent review of Sefton's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

Governance, risk and control

- 3 To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
- 4 To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.

Agenda Item 8

- 5 To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- 6 To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- 7 To monitor the effective development and operation of risk management and Corporate Governance in the Council.
- 8 To monitor progress in addressing risk-related issues reported to the committee including the Corporate Risk Register.
- 9 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- 10 To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- 11 To monitor the following activities:
 - Counter-fraud/ bribery strategy, actions and resources.
 - Whistleblowing
 - Money Laundering
 - Council Complaints Process including make payments or provide other benefits in cases of maladministration etc. under Section 92 of the Local Government Act, 2000 in excess of £1,000.
 - Breaches of Financial Procedure Rules and Contract Procedure Rules
- 12 To review the governance and assurance arrangements for significant partnerships or collaborations and where appropriate obtain annual third party assurance statements.
- 13 To make recommendations to Council for amendments to the Constitution including financial procedure rules.
- 14 To make recommendations to the Council on the adoption, implementation and maintenance and review of a local Code of Conduct for Members – co-opted Members and officers of the Council.

Agenda Item 8

- 15 To determine effective training of Councillors and Co-opted Members in matters of conduct and advice to individuals on issues relating to the treatment of interests and on the propriety of conduct generally.
- 16 To deal with the arrangements for Councillors to receive dispensations to speak on, or participate in, matters in which they have an interest.
- 17 To determine the appropriate action on matters referred to the Committee by the Monitoring Officer including disciplinary matters relating to the conduct of individual and/or groups of Councillors including alleged misuse of a Members Self-Maintained Website.
- 18 To ensure compliance throughout the Council with all appropriate Codes of Conduct, including the Protocol for relationships between members and officers of Sefton Council, and procedures from time to time determined by the Committee
- 19 To deal with appropriate matters referred to it from other Committees.
- 20 To determine any applications for the grant and supervision of exemptions from political restrictions in accordance with Section 3A of the Local Government and Housing Act 1989.
- 21 To determine whether a valid petition for a Community Governance review has been received and to determine the terms of reference for such a review, how the review will be conducted including the required consultation and consider replies to a consultation and then make a recommendation to Full Council on the preferred outcome. The Committee has the authority to establish a working group to undertake the committee's responsibilities in this regard.

Internal audit

- 22 To approve the internal audit charter.
- 23 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.

Agenda Item 8

- 24 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 25 To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- 26 To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- 27 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
- 28 To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include
 - a) updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work
 - b) regular reports on the results of the Quality Assurance Improvement Plan (QAIP)
 - c) reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Assurance Note (LGAN), considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement (AGS).
 - d) to consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- 29 To consider the head of internal audit's annual report:

a) The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit.

b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the AGS.

- 30 To consider summaries of specific internal audit reports as requested.
- 31 To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- 32 To contribute to the QAIP and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- 33 To consider a report on the effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations (see Appendix A).
- 34 To provide free and unfettered access to the Audit and Governance Committee Chair for the head of internal audit, including the opportunity for a private meeting with the committee.

External audit

- 35 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
- 36 To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- 37 To consider specific reports as agreed with the external auditor.

Agenda Item 8

- 38 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 39 To commission work from internal and external audit.
- 40 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

Other Assurance areas

- 41 To consider the Council's arrangements for health and safety and receive regular assurances and assessments on the effectiveness of these arrangements.
- 42 To consider write-offs of debt/ assets above £10,000.
- 43 To regularly review the Council's Treasury Management activities

Financial reporting

- 44 To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- 45 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Accountability arrangements

- 46 To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- 47 To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

Agenda Item 8

48 To publish an annual report on the work of the committee.

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Agenda Item 9

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Review of Whistleblowing Complaints		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

The report summarises all complaints received by the Council via its whistleblowing policy in the municipal year 2020 to 2021.

Recommendation(s):

(1) That the report be noted.

Reasons for the Recommendation(s):

To appraise the Committee of all complaints received by the Council via its whistleblowing policy in the municipal year 2020 to 2021 in accordance with the terms of reference of the committee and the terms of the policy,

Alternative Options Considered and Rejected:

None

What will it cost and how will it be financed?

(A) Revenue Costs - None

Agenda Item 9

(B) Capital Costs - None

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):	
Legal Implications: Employment Relations Act 1996 Public Interest Disclosure Act 1998	
Equality Implications: There are no equality implications	
Climate Emergency Implications: The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y

Contribution to the Council's Core Purpose:

Protect the most vulnerable: N/A
Facilitate confident and resilient communities: N/A
Commission, broker and provide core services: N/A
Place – leadership and influencer: Whistleblowing is important to safeguard the effective delivery of public services, and to ensure value for money. It serves to protect and reassure the workforce, and to maintain a healthy working culture and an efficient organisation.
Drivers of change and reform: N/A
Facilitate sustainable economic prosperity: N/A
Greater income for social investment: N/A
Cleaner Greener: N/A

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6491/21) and the Chief Legal and Democratic Officer (LD.4692/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

None

Implementation Date for the Decision

Immediately following the Committee meeting.

Contact Officer:	David McCullough
Telephone Number:	Tel: 0151 934 2008
Email Address:	david.mccullough@sefton.gov.uk

Appendices:

There are no appendices to this report

Background Papers:

There are no background papers available for inspection.

1. Introduction

- 1.1 Whistleblowing has been defined as the act of an employee or worker making a qualifying disclosure, in the public interest, to an employer, regulator, legal adviser, minister, MP or other responsible or prescribed person about a criminal offence, breach of a legal obligation, miscarriage of justice, danger to health and safety, damage to the environment or deliberate concealment of any of those.
- 1.2 In these circumstances and subject to fulfilling certain criteria, it will be a 'protected disclosure' and the whistleblower will be protected from being dismissed or subjected to a detriment on grounds of that disclosure.
- 1.3 The principal objectives of a whistleblowing policy and procedure should be to:
 - Convey the seriousness and importance that the employer attaches to identifying and remedying wrongdoing.

Agenda Item 9

- Encourage workers to raise concerns internally as soon as possible and to give them the confidence to do so.
- Remind workers (often by cross-referring to other policies and codes of conduct) of the standards of behaviour expected of them.
- Ensure workers know whom to approach with a concern, and to enable them to bypass the person, management level or part of the organisation to which the concern relates.
- Outline the procedures for investigating disclosures and what steps might be taken if wrongdoing is uncovered.
- Make it clear what will happen to those who victimise genuine whistleblowers or abuse the system by making malicious allegations.
- Provide access to further sources of advice and guidance on whistleblowing.

1.4 The Council is committed to running the organisation in the best way and to facilitate this the Whistleblowing Policy was introduced to reassure staff that it is safe and acceptable to speak up and raise any concern about malpractice at an early stage and in the right way. The Government expects all public bodies to have written policies.

1.5 The Council's current Whistleblowing Policy was approved by Audit and Governance Committee at its meeting on 19th June 2019.

1.6 The Policy can be found on the Council's intranet and internet pages:
[Whistleblowing policy \(sefton.gov.uk\)](http://sefton.gov.uk)

1.7 All employee policies and procedures should be easy to understand and operate. In general, whistleblowing policies should not be legalistic in their approach. A key measure of success will be whether the policy gives workers the confidence to come forward with their concerns. They are unlikely to do this if the policy is complex or unclear, or littered with legal jargon.

1.8 The concept of a qualifying disclosure in section 43B of Employment Relations Act 1996 requires the worker to have a reasonable belief that one of six specified situations has occurred, is occurring or is likely to occur.

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- that a miscarriage of justice has occurred, is occurring or is likely to occur;
- that the health or safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged; or
- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be, deliberately concealed.”

- 1.9 One question for employers drafting a whistleblowing policy is whether to try to limit the coverage of the policy to the types of disclosure covered by the statutory regime. There is a strong argument that whistleblowing policies should cover more than just the matters potentially covered by a protected disclosure under ERA 1996. The statutory framework should ideally be seen as a backstop, not a replacement for a culture where all forms of inappropriate behaviour may be challenged.
- 1.10 Employers will likely also want to know about issues which do not strictly fall within the legal concept of a qualifying disclosure, particularly conduct which is "merely" unethical or a breach of professional conduct rules or internal procedures that do not have legal force. The policy may also encourage staff to raise issues or ask questions where they are unsure if their concern technically qualifies as whistleblowing, since this will help instil confidence in the procedure and its operation.

2 Referrals

- 2.1 Six referrals were received in a municipal year 2020 to 2021 and a summary of those referrals is outlined below.

3.0 Referral 1

- 3.1 An anonymous referral was received using the Council's on-line form claiming that two named children were living in conditions which gave rise to safeguarding issues.
- 3.2 The referral was referred to Children's Services to be dealt with under their normal procedures. Given the referral was anonymous it was not possible to inform the referee of the outcome.

4.0 Referral 2

- 4.1 A letter was received from an employee at a school addressed to the Council's Chief Legal and Democratic Officer, Head of Corporate Resources and the Chief Personnel Officer and copied to the Chair of Governor at the school. The issues covered within the letter broadly concerned a grievance the employee was pursuing as an employee at the school.
- 4.2 Following consultation with the Chair of Governors, the Chief Legal and Democratic Officer informed the referrer that as the school had its own whistleblowing and grievance procedures it would be appropriate for those procedures to be utilised and that the Chair of Governors would investigate the matters raised. The referrer confirmed that they were content with this course of action.

5.0 Referral 3

- 5.1 An email was received by the Chief Legal and Democratic Officer from a member of the public relaying information about possible malpractice by a company

Agenda Item 9

commissioned jointly by Sefton Council and number of other Merseyside local authorities. The allegations related to potential overpayment to the company and malpractice in the way the company operates.

5.2 The information supplied was very detailed and complex given that it involved other local authorities. The referrer has also made several Freedom of Information Act requests for information relating to the contract.

5.3 It was decided that the Council's Environmental Health and Trading Standards Manager would investigate the matters raised and that investigation is on-going. The referrer is aware of the situation.

6.0 Referral 4

6.1 A telephone call as received from a teacher at a Sefton school who wished to remain anonymous. She had information about a person with the same name as a member of staff at Sefton Council and if it was the same person it would have a bearing on their professional ability.

6.2 Checks soon showed that it was a case of mistaken identity. It was not possible to report back to the referrer.

7.0 Referral 5

7.1 The Mayor of Sefton received an anonymous letter from a member of the public connected to a company commissioned by the Council. The letter raised concerns about the quality of the service provided by the company and the general conduct of the company.

7.2 The letter was passed to the Service Manager responsible for commissioning the company and they felt confident that the letter contained many misconceptions and inaccuracies and the points made by the referrer could be refuted. The Service Manager provided the Chief Legal and Democratic Officer with a detailed report covering all the issues raised.

7.3 It was not possible to feedback the outcome of our investigations as it was an anonymous referral.

8.0 Referral 6

8.1 The Council received a number of contacts from a member of the public who complained about the manner in which staff in the Contact Centre dealt with her. During the preliminary investigations into her complaints the complainant asked for the matter to be considered a whistleblowing complaint.

8.2 It was considered appropriate for the matter to be dealt with as corporate complaint and to follow the Corporate Complaints process and it was referred to a senior manager to deal with. Attempts to deal with the complaints were frustrated by the actions of the complainant. The complainant was then advised to contact the Local Government Ombudsman. To date we have had no further contact from the complainant.

9.0 **Conclusion**

- 9.1 During the municipal year 202 to 2021 the Council received six referrals under its Whistleblowing Policy. Three of the referrals were made anonymously and for the other three feedback was provided on the outcome of the referral.

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Agenda Item 10

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Review of Members Code of Conduct Complaints 2020-21		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:			
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

The reports provides a summary of complaints received in the municipal year 2020 to 2021 that Members of Sefton Council had breached its Members Code of Conduct.

Recommendation(s):

(1) That the report be noted.

Reasons for the Recommendation(s):

The keep the committee informed of complaints received that Members had breached its Code of Conduct for Members in accordance with the terms of reference for the committee.

Alternative Options Considered and Rejected: (including any Risk Implications)

None

What will it cost and how will it be financed?

(A) Revenue Costs - None

Agenda Item 10

(B) Capital Costs - None

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):	
Legal Implications: Localism Act 2011	
Equality Implications: There are no equality implications.	
Climate Emergency Implications: The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y

Contribution to the Council's Core Purpose:

Protect the most vulnerable: N/A
Facilitate confident and resilient communities: N/A
Commission, broker and provide core services: N/A
Place – leadership and influencer: Having a robust Members Code of Conduct adhered to by all members will demonstrate that members are accountable to the citizens of the borough. The Code is designed to protect the democratic role of members, encourage good conduct and safeguard the public's trust in local government.
Drivers of change and reform: N/A
Facilitate sustainable economic prosperity: N/A
Greater income for social investment: N/A

Cleaner Greener: N/A

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6485/21) and the Chief Legal and Democratic Officer (LD4686/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations - None

Implementation Date for the Decision

Immediately following the Committee meeting.

Contact Officer:	David McCullough
Telephone Number:	Tel: 0151 934 2008
Email Address:	david.mccullough@sefton.gov.uk

Appendices:

None

Background Papers:

There are no background papers available for inspection.

1. Introduction

1.1 Under the Localism Act 2011 all councils must adopt a code of conduct dealing with the conduct that is expected of members and co-opted members when they are acting in that capacity.

1.2 Under section 27 of the Localism Act 2011, a relevant authority must:

- Promote and maintain high standards of conduct by its members and co-opted members.
- When discharging its duty, adopt a voluntary code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in their capacity as members (that is in an official capacity).

Agenda Item 10

- 1.3 Section 28(6) requires a relevant authority (other than a parish council) to have arrangements in place to deal with complaints that its code of conduct has been breached.
- 1.4 At the Full Council meeting on 19 April 2018 the Council adopted the Code of Conduct that was in operation in the municipal year 2020 to 2021.
- 1.5 Members will be aware that at the Full Council meeting on 18th May 2021 the Council adopted a new Code of Conduct and members will have received bespoke training by a specialist external training provider on the new Code on 13th September 2021.
- 2.0 **Summary of Complaints received in 2020-21**
- 2.1 Six complaints were received during the municipal year 2020-21 and a summary of each is provided below.
- 3.1 **Complaints A and B**
- 3.2 Two complaints were received from members of the public that a member had posted a comment on social media that they considered racist and brought the Council into disrepute. The complainants wished for the behaviour to be highlighted and the member in question publicly reprimanded.
- 3.3 Upon receipt of the complaints the Monitoring Officer contacted the member in question to make them aware of the complaints and to see if the matter could be resolved without the need for the matter to be considered by an Initial Assessment Sub-Committee. The member drafted an email they wished the Monitoring Officer to send to the complainants that explained why they posted what they did and apologising for any inconvenience that it may have caused.
- 3.4 The Monitoring Officer sent the email to both complainants but they both wished for their complaints to be considered by an Initial Assessment Sub-Committee. A Sub-Committee was convened and the Sub-Committee decided that the matter should not be referred for a full investigation but that it should be referred to the Monitoring Officer for other action. That action being to ask the member in question to undertake suitable training on equality and diversity awareness. The member subsequently undertook the training.
- 4.1 **Compliant C**
- 4.2 A complaint was received from a member of the public that members of the Council who sit on an external body had breached the Nolan Principles and had therefore, breached the members Code of Conduct by their refusal to investigate a matter he had brought to their attention.
- 4.3 Following receipt of the complaint the Monitoring Officer exchanged email correspondence with the complainant to gain a better understanding of the basis of the complaint. It transpired that the complainant was concerned about matters which had occurred many years ago in another country about which he had previously complained to a number of agencies both in that country and in this country.

4.4 Under the procedures for dealing with such complaints the Monitoring Officer can make an initial review of a complaint and has discretion to decide to take no further action in relation to a complaint if deemed appropriate. The Monitoring Officer undertook such a review and considered that the complaint was an attempt to resurrect his previous complaints to other agencies about which he was unhappy with the outcome.

4.5 After consulting with the Chair of the Audit and Governance Committee the Monitoring Officer informed the complainant that no further action would be taken in relation to his complaint and gave reasons for his decision.

4.6 The Complainant subsequently complained to the Local Government Ombudsman about the Monitoring Officer's decision, but the Local Government Ombudsman decided not to investigate the complaint stating, "The Council has explained its decision and followed correct process in making the decision".

5.0 **Complaint D**

5.1 A complaint was received from a member of the public that a member had wrongly involved themselves and the police in a private matter between himself and his wife that the member had acted "totally unprofessionally" which had caused him distress.

5.2 The complainant sought an apology and confirmation that the member would not involve themselves with the complainant's private affairs again.

5.3 A meeting of the Initial Assessment Sub-Committee was held. In addition to the information provided by the complainant the sub-committee had the benefit of the members initial views on the complaint which provided the reasons for their actions. The sub-committee decided that no further action should be taken on the complaint as the matters complained of would not amount to a breach of the Members' Code of Conduct. Furthermore, the sub-committee asked the Monitoring officer to inform the member that they considered their actions to be commendable.

5.4 The complainant was duly informed of the outcome and he exercised his right under the Council's procedures for the matter to be considered by an Initial assessment Review Sub-Committee. A meeting was arranged, and the Initial Assessment Review Sub-Committee decided that no further action should be taken on the complaint and they also asked the Monitoring Officer to inform the member that they agreed with the Initial Assessment Sub-Committee that the members actions were commendable.

6.0 **Complaint E**

6.1 A complaint was received from a member of the public that a member had posted what he considered to be derogatory comments about him on social media. The complainant wished for the member to remove the post, apologise and be given training on how to conduct themselves as an elected official.

6.2 The Monitoring Officer informed the member in question of the complaint and the member provided his initial views on the complaint.

Agenda Item 10

6.3 The matter was going to be considered by an Initial Assessment Sub-Committee, however, the member in question was not re-elected to the Council in the May 2021 elections and in the circumstances the complainant confirmed that he did not wish to proceed with his complaint.

7.0 **Complaint F**

7.1 A compliant was received from a member of the public that a member had constantly attacked his integrity publicly on-line in social media posts. The complainant wished for the member to 'stop bullying people online'.

7.2 The Monitoring Officer informed the member in question of the complaint and the member provided his initial views on the complaint.

7.3 The matter was going to be considered by an Initial assessment Sub-Committee, however, the member in question was not re-elected to the Council in the May 2021 elections and in the circumstances the complainant confirmed that he did not wish to proceed with his complaint.

8.0 **Conclusion**

8.1 In the municipal year 2020 to 2021 six complaints were received that Sefton members had breached its Code of Conduct for Members. All the complaints were made by members of the public and for the reasons set out above none of the complaints led to a full investigation and were concluded without any adverse findings being made. Four of the six complaints concerned social media posts.

Agenda Item 11

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Annual Report and Opinion of the Chief Internal Auditor		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

This report summarises the work of internal audit during 2020/21 and provides the Chief Internal Auditor's opinion on the overall control environment operating within the Council during the year. This report is a key requirement of the Public Sector Internal Audit Standards.

The report outlines that the opinion for the 2020/21 financial year is adequate with adequate prospects for improvement.

Recommendation(s):

Members are requested to:

(1) Review and note the work of internal audit during 2020/21 and the overall opinion on the control environment of the Council during that period.

Reasons for the Recommendation(s):

To provide the Committee with an overall view of the internal control environment in operation, so as to inform the Annual Governance Statement 2020/21.

Alternative Options Considered and Rejected: (including any Risk Implications)

None

What will it cost and how will it be financed?

(A) Revenue Costs – There are no direct revenue costs associated with the report.

Agenda Item 11

(B) Capital Costs – There are no direct capital costs associated with the report.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): There are no direct resource implications associated with the report.	
Legal Implications: There are no legal implications associated with the report	
Equality Implications: There are no equality implications.	
Climate Emergency Implications:	
The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y
There are no direct Climate Emergency implication arising from the report. Any climate emergency implications arising from matters referred to in this report would have been contained in reports when they were presented to Members during the previous year; or will be contained in future reports during the forthcoming year as the focus of the report is providing a summary of actions that have been undertaken during 2020/21 on governance, risk and control.	

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Positive
Facilitate confident and resilient communities: Positive
Commission, broker and provide core services: Positive
Place – leadership and influencer: Positive
Drivers of change and reform: Positive
Facilitate sustainable economic prosperity: Positive
Greater income for social investment: Positive
Cleaner Greener: Positive

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6515/21.) and the Chief Legal and Democratic Officer (LD.4716/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

None.

Implementation Date for the Decision

Immediately following the Committee / Council meeting.

Contact Officer:	David Eden
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Appendices:

The following appendices are attached to this report:

- Annual Report and Opinion of the Chief Internal Auditor

Background Papers:

The following background papers, which are not available elsewhere on the Internet can be accessed on the Council website:

- Internal Audit Plan 2020/2021 (as approved by this Committee on 16 September 2020)

1. Introduction/Background

1.1 During 2020/21, the Internal Audit Service delivered the Internal Audit Plan as approved by this Committee on 16 September 2020 which was subsequently amended and approved by Members in December 2020. During the early part of the financial year due to the March 2020 meeting not being quorate as the first effects of Covid-19 impacted on the Council the Internal Audit Team focused on the audits within the draft audit plan, which was due to be presented to the March meeting as well as emerging risks.

1.2 One of the key responsibilities of the Chief Internal Auditor is to provide an annual report that summarises the work undertaken during the preceding financial year, and to report an overall opinion on the robustness of the Council's control environment which has been derived from this work. This is necessary not only to meet the Public Sector Internal Audit Standards, but also to feed into the Annual

Agenda Item 11

Governance Statement, and to provide members and officers of the Council with a clear view of the value added by this work and how this can shape the control environment of the Council in the future.

- 1.3 The report notes the significant impact of Covid-19 for the 2020/21 financial year on the opinion, through the delivery of the audit plan and discusses the potential effects the pandemic will have for the 2021/22 financial year on the delivery of the Annual Audit Plan.

2. Recommendation

- 2.1 Members are requested to:

Review and receive the work of internal audit during 2020/21 and the overall opinion on the control environment of the Council during that period

Annual Report and Opinion of the Chief Internal Auditor 2020/21

Page 169

Agenda Item 11

Audit and Governance Committee
15 September 2021

David Eden
Chief Internal Auditor
Risk and Audit Service
Corporate Resources
Magdalen House
30 Trinity Road
Bootle
L20 3NJ

Contents

1.	Executive Summary	Page 3
2.	Introduction	Page 5
3.	Summary of Work Completed	Pages 6 - 17
4.	Performance	Page 18- 19
5.	Public Sector Internal Audit Standards	Pages 20
6.	Overall Opinion	Pages 21 - 22
7.	Looking Ahead	Page 23

Page 170

1. Executive Summary

- 1.1 The Chief Internal Auditor is obliged, under the Public Sector Internal Audit Standards (PSIAS), to provide an annual report summarising the work undertaken by internal audit during the financial year just closed, and to provide an overall opinion of the overall adequacy and effectiveness of the organisation's framework of governance, derived from this work.
- 1.2 The COVID-19 pandemic has had a significant impact on all service areas of the Council including Audit and Risk. As a result there have been changes to the content of the 2020/21 Internal Audit Plan during the year to accommodate the need to work differently, to address new and emerging risks as well as for planned internal audits to be deferred due to services needing to prioritise their resources towards the Pandemic response. Work has as a result been focused on the pandemic response primarily.
- 1.3 Revised guidance from CIPFA has been provided to Heads of Internal Audit in November 2020 which recognised that public service bodies were struggling with considerable challenges and having to make difficult decisions on how best to use their staff and financial resources to meet critical needs; whilst also meeting the professional and regulatory expectations including the need for internal audit arrangements conform with PSIAS. The guidance for Heads of Internal Audit and those charged with governance on the factors they would need to consider in issuing an annual audit opinion.
- 1.4 Reflecting the guidance additional action has been taken to provide an opinion which include:
- Assurance mapping exercise
 - Awareness of corporate developments and actions being taken to manage risk and maintain good governance through internal (line two) assurance sources such as finance, HR&OD, estates, health and safety and ICT.
 - Awareness and direct involvement in Covid19 response and recovery activities.
 - Review of the key assurances from Executive, Scrutiny Committee, Strategic Management Team and Directorate Leadership Team reports including business plans, risk register updates, performance reports and financial reports.
- 1.5 In respect of 2020/21, 48 audits were completed in total. The overall audit opinions given in these reports can be summarised as:

Organisational Risk Opinion	Number of audits
MAJOR	4
MODERATE	12
MINOR	4
NEGLIGIBLE	0
ASSURANCE PROVIDED	28

1.6 Based upon the work undertaken by Internal Audit in respect of 2020/21, the opinion of the Chief Internal Auditor on the overall adequacy and effectiveness of the organisation’s framework of governance, risk management and control is:

Overall Opinion 2020/21	ADEQUATE
Potential for Improvement	ADEQUATE

2. Introduction

- 2.1 In accordance with the Accounts and Audit Regulations 2015, the Council must ensure that it provides adequate and effective internal audit arrangements in respect of its accounting records and systems of internal control, and that it conducts an annual review of the effectiveness of these. In addition, these arrangements must be delivered in accordance with the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN), which came into effect on 1 April 2013 (and were revised 1 April 2016 and 1 April 2017).
- 2.2 The PSIAS represent mandatory best practice for all public sector internal audit service providers in the UK and cover:
- Definition of Internal Auditing
 - Code of Ethics
 - International Standards for the Professional Practice of Internal Auditing.
- 2.3 It is a requirement of the PSIAS that the Head of Internal Audit provides an annual report to those charged with governance, which should include an opinion on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control. This report informs the Council's Annual Governance Statement.
- 2.4 Further to the 2016 revision to the PSIAS, Internal Audit has adopted the following mission statement:
"To enhance and protect organisational value by providing risk-based and objective assurance, advice and insight."
- 2.5 The COVID-19 pandemic has had a significant impact on all service areas of the Council including Audit and Risk. As a result there have been changes to the content of the 2020/21 Internal Audit Plan during the year to accommodate the need to work differently, to address new and emerging risks as well as for planned internal audits to be deferred due to services needing to prioritise their resources towards the Pandemic response. Work has as a result been focused on the pandemic response primarily.
- 2.6 For internal auditors it has raised the question of whether they we would be able to undertake sufficient internal audit work to produce a reliable independent assurance assessment due to the impact of Covid-19. This is a key consideration to fulfil the requirement of the Public Sector Internal Audit Standards (PSIAS) for the Chief Audit Executive (Head of Internal Audit) to issue an annual opinion on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control. This opinion is also one of the many sources of assurance that informs the Annual Governance Statement.
- 2.7 The Chartered Institute of Public Finance and Accountancy (CIPFA) recognised in November 2020 that public service bodies were struggling with considerable challenges and having to make difficult decisions on how best to use their staff and financial resources to meet critical needs; whilst also meeting the professional and regulatory expectations including the need for internal audit

arrangements conform with PSIAS. In response to this challenge CIPFA issued guidance for Chief Audit Executives and those charged with governance on the factors they would need to consider in issuing an annual audit opinion. Possible options that were suggested included:

- not providing an opinion for 2020/21;
- providing an opinion but confirming that the scope was limited to the outcome of audit work completed or particular aspects of governance risk management or internal control;
- providing an opinion explaining in more detail the other sources of assurance taken into account in reaching the opinion; or
- providing a standard annual opinion.

2.8 This guidance has been discussed in professional network groups for example the CIPFA North West Heads of Audit Group and the Merseyside Head of Internal Audit Group. The feedback from the meetings has been that it was still possible to provide an opinion explaining in more detail the other sources of assurance taken into account in reaching the opinion. It was also acknowledged that this was not a robust basis for future audit practice and that a resumption of planned audit work was essential to raise and maintain organisation standards of good governance, risk management and internal control.

2.9 In arriving at this opinion, this report sets out:

- A summary of the Internal Audit work undertaken during 2020/21
- A summary of the performance of Internal Audit during the year
- A review of Internal Audit's compliance with the Public Sector Internal Audit Standards (PSIAS)
- A summary of the Quality Assurance and Improvement Programme (QAIP) established during the year
- The overall Chief Internal Auditor's opinion on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control in 2020/21
- A look ahead to the Internal Audit Plan 2021/22.

2.10 To reflect the reduction in the breadth of audit activity during the year the following additional sources of assurance have been considered to develop the Annual Audit Opinion.

- Sefton Assurance Map has been developed to identify key external sources of assurance on the Council's activities. This will be further developed in future years to determine a weighting as well as shape the audit plan.
- Awareness of corporate developments and actions being taken to manage risk and maintain good governance through internal (line two) assurance sources such as finance, HR&OD, estates, health and safety and ICT.
- Awareness and direct involvement in Covid19 response and recovery activities.
- Review of the key assurances from Executive, Scrutiny Committee, Strategic Management Team and Directorate Leadership Team reports including business plans, risk register updates, performance reports and financial reports.

2.11 It is confirmed that there was no impairment to internal audit objectivity during 2020/21.

3. Summary of Work Completed

Background

- 3.1 The Internal Audit Plan 2020/21 was approved by the Audit and Governance Committee on 16 September 2020, later than usual due to the impact of Covid-19. A report providing an update on the delivery of the plan, performance indicators and detailing key recommendations, was presented to each meeting of the Committee during the year.
- 3.2 Where Internal Audit undertakes work which primarily contributes to the assurance opinion on the Council's framework of governance, risk management and internal control, the audit report includes an "organisational risk opinion" which highlights the level of risk to the organisation presented by the risks identified in the audit:

Audit Opinion	Explanation
MAJOR	There is a major risk presented to the Council by the risks identified in the review.
MODERATE	There is a moderate risk presented to the Council by the risks identified in the review.
MINOR	There is a minor risk presented to the Council by the risks identified in the review.
NEGLIGIBLE	There were no risks identified during the review.

- 3.3 Recommendations made within audit reports are graded as "high", "medium" or "low". All recommendations of high priority are detailed in full in the quarterly report to the Audit and Governance Committee.
- 3.4 In addition, Internal Audit provides consultancy / advisory support in response to specific requests from management, which contributes to improving the Council's governance, risk management and internal control arrangements. Such work can include advice and guidance around the implementation of new systems and procedures and auditing grant claims and returns. Such pieces of work are not usually given an audit opinion but do inform the overall annual opinion. These are listed below in the "assurance provided" category.

Delivery

- 3.5 During 2020/21, 48 pieces of internal audit work were completed.
- 3.6 The audit opinions given during the year were (those shown in italics are at draft stage – completed Action Plans are awaited from clients):

Table 1 List of Audits undertaken and the Audit Opinions

Organisational Risk Opinion	Audit Title
MAJOR	<ul style="list-style-type: none"> • Ethics and Code of Conduct
MODERATE	<ul style="list-style-type: none"> • Annual Governance Review (2019/20) • COVID-19 Business Support Grants • <i>Framework for Change 2023 – Estates and Asset Disposals</i> (draft)
MINOR	<ul style="list-style-type: none"> • Council Tax
NEGLIGIBLE	<ul style="list-style-type: none"> • N/A
ASSURANCE PROVIDED	<ul style="list-style-type: none"> • Payroll Memorandum • Whistleblowing – follow-up • Melling Primary School – follow-up • Corporate Governance Review 2019/20 – Follow-up. • Locality Services Procurement and Employee Conduct reviews x 2 • Locality Services Procurement and Employee Conduct appeal support • Assurance Mapping • Audit and Governance Terms of Reference Review • Independent Examiners Report on the Accounts of the Mayor's Charity Fund Teaching Schools 2019-20 – Annual Independent Accountant's Report for; <ul style="list-style-type: none"> • Great Crosby Catholic Primary School • St. Nicholas CoE Primary School Assurance of Combined Authority Grants to facilitate certification <ul style="list-style-type: none"> • Acquisitions and disposals – Bootle Town Centre x 4 quarters • M58 Junction 1 Improvements • Key Route Network, Urban Traffic Control x 4 quarters • Sustainable Transport Enhancements Package x 4 quarters • A59 Dover Road Junction Improvements x 4 quarters • Sefton Town Centres (Bootle and Southport) Grant Certification

Organisational Risk Opinion	Audit Title
	<ul style="list-style-type: none"> • Crosby Lakeside Grant Certification <p>Assurance of Government Grants to facilitate certification Government Grants</p> <ul style="list-style-type: none"> • Local Transport Revenue Block Funding (Blue Badge) 2019-20 • Troubled Families Grants x 5 periods • Integrated Transport and Highway Maintenance Capital Grants 2019/20 (assurance to CA) • Highways Maintenance Incentive Fund • Covid-19 Business Grants Assurance Reports Co-ordination of returns x 6

3.7 The delivery of the audit plan has been affected by resourcing issues which have arisen partly as a result of Covid-19.

- There were plans for the recruitment for the post of Trainee ICT Auditor and CIPFA Finance Trainee on secondment which were included in the audit plan. Although we have been able to recruit for the Trainee ICT Auditor (April 2020) we have not been able to carry out some of the training and joint working we would like to do both as it would normally involve face to face discussions but also the work areas themselves have been working differently during the year. The recruitment exercise for the CIPFA Finance Trainee was suspended during Covid-19 and did not take place.
- Two full-time internal audit staff spent significant time completing Locality Services Procurement and Employee Conduct Reviews during the financial year which detracted from completion of other planned assurance work.
- A member of the Audit Team has been absent on unplanned leave for the second half of the year which has further impacted on the team's capacity to complete planned audit work. Recruitment exercises were undertaken to alleviate the impact of the staff absence during the latter part of the year, but no appointments were made due to Covid-19 impacting on the quantity of suitable candidates.
- The Trainee ICT Auditor started maternity leave in February 2021.

3.8 As indicated above, sickness absence has had a significant impact during the year with 107.5 days lost due to sickness which compares unfavourably to six days lost in 2019/20 and 26 days lost in 2018/19. Any lost time has an impact on the ability to deliver the Internal Audit Plan, and sickness absence continues to be monitored and managed robustly in accordance with the Council's Absence Management Procedures.

3.9 Covid-19 has also impacted on the delivery of audit work in reducing Officers' capacity to respond quickly during the pandemic due to the scale of the issue. Internal Audit have flexibly provided additional support where required for example in assisting the Heads' of Service and Executive Directors prepare written Governance Assurance Statements for the 2019/20 Annual Governance Statement. Covid-19 has placed significant pressures on many Council services restricting the range of services able to

accommodate an audit due to the pressing needs of the Service responding to the pandemic e.g. social care, revenues and benefits, schools etc.

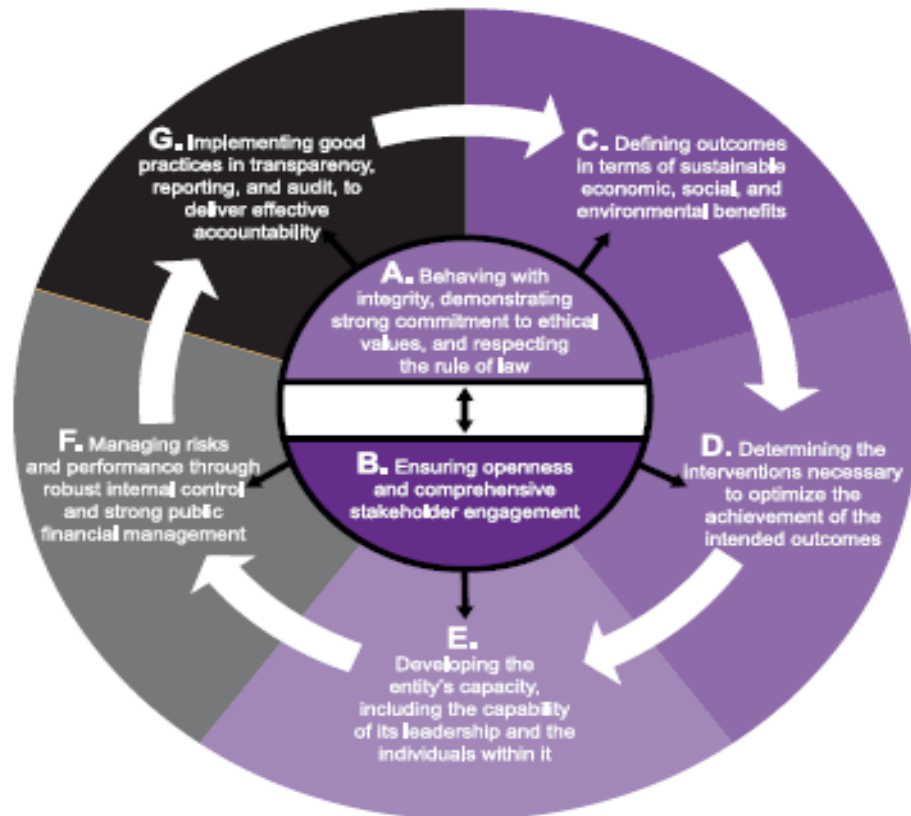
- 3.10 During the year, we were mindful of challenges and risks faced by services within the Council and took a pragmatic approach to audit assignments in the approved Audit Plan. For example, support was given to the teams responsible for the delivery of the numerous Covid-19 grants to individuals and businesses across the Borough. This included assistance in the design of controls as well as ensuring that government guidance was followed in areas such as completion of fraud risk assessments and post assurance plans.
- 3.11 The impact of Covid-19 during 2020/21 has been significant as work in the proposed plan has been postponed due to operational pressures on teams as well as audits added to reflect Government initiatives.
- 3.12 Although whilst writing the report the National Government Covid-19 restrictions have been lifted there remains some uncertainty as how Covid-19 will impact over the next six months to the Council. The Internal Audit Team will continue with the pragmatic approach of focusing its work on a dynamic basis where new and emerging risks arise as well as its core assurance programme. As a result, it is likely that the internal audit plan will be reviewed on a regular basis and brought back for Member's approval where required.

Page 178

Corporate Governance

- 3.13 During the year, internal audit conducted a full review of the Council's corporate governance arrangements. This has followed the mandatory CIPFA/SOLACE guidance "Delivering Good Governance in Local Government" (2016), to inform the Council's Annual Governance Statement (AGS) 2020/21 and ensure that the content of the AGS is fully evidenced.
- 3.14 The work covers the prescribed areas of governance as defined in the guidance and has sought to engage with all senior officers in gaining assurance that there is a comprehensive and effective system of governance in place. This has comprised:
 - Review of all governance areas detailed under the relevant Core Principles in the guidance:

Achieving the Intended Outcomes While Acting in the Public Interest at all Times



- Review of progress in respect of the Significant Governance Issues identified in the 2019/20 AGS, and identification of emerging Significant Governance Issues
- Review of all Governance Assurance Statements (GAS) completed by the Strategic Leadership Board (SLB) comprising the Chief Executive, Executive Directors, Heads of Service and the Council's Monitoring Officer. The GASs are based on the seven principles of Corporate Governance laid out in the CIPFA/SOLACE framework.
- Engagement with Heads of Service.

3.15 The overall audit opinion for the work was that it presents an organisational risk of "Moderate". There are a number of key findings emanating from the work, and five of these will feature in the Annual Governance Statement as "Significant Governance Issues". These issues have been highlighted by the Council during the financial year and there has been a corresponding focus by management to ensure that the areas are considered and consistently managed. These relate to:

Significant Governance Issue 1

COVID-19 has resulted in changing priorities and demands on the Council's services and rapid responses that have included support and financial assistance for residents and local businesses and the need to respond to emerging and changing local, regional and national guidance from National Government. There have been changes to business continuity, business planning, business models and increased risk assessments as a result of the pandemic with changes in decision making arrangements, and virtual meetings. Home working has also increased.

Significant Governance Issue 2

To support financial sustainability, the Chartered Institute of Public Finance and Accountancy (CIPFA) issued a Financial Management (FM) Code which aims to ensure a high standard of financial management in local authorities. The FM Code was launched in November 2019 and authorities were advised that they should introduce this in the 'shadow year' in 2020/21 prior to full implementation in 2021/22.

A key goal of the FM Code is to improve the financial resilience of organisations by embedding enhanced standards of financial management. Inevitably, the impact of COVID-19 has tested that financial resilience in 2020/21 and will continue to do so in coming years. There are clear links between the FM Code and the Governance Framework, particularly with its focus on achieving sustainable outcomes.

For these reasons, the AGS for 2020/21 should include the overall conclusion of an assessment of the organisation's compliance with the principles of the FM Code. The Code is based on establishing Principles of Good Financial Management with these being translated into financial management standards. Each local authority has to then detail how it meets these standards through self-assessment. This was provided to Audit and Governance Committee earlier in the financial year, and what improvements are required in order to ensure compliance. The report to Audit and Governance Committee indicated that the work remained on track.

Significant Governance Issue 3

Sefton Council declared a 'Climate Emergency' on 18 July 2019 and work has progressed within the Council on the agreed actions that were contained and approved by Members. The Climate Emergency Strategy and associated Action Plan was approved by Cabinet on 28 May 2020 and by Council on 17 September 2020.

The Strategy and delivery are via an Action Plan for the period to 2030 and will establish and refine a baseline position on the Council's carbon emissions (carbon footprint) with the development of three-year implementation plans to make the Council's activities net-zero carbon by 2030.

Significant Governance Issue 4

On 11 February 2021, the Government published a White Paper 'Integration and Innovation: Working Together to Improve Health and Social Care' - Department of Health and Social Care (DHSC), 2021, setting out a raft of proposed reforms to health and care. This was accompanied by an NHS England (NHSE), 2021 publication - 'Legislating for Integrated Care Systems'.

The DHSC recognise that there is a critical role for local Councils to work with health partners in this integration. Integrated Care Partnerships (ICPs) build on existing services and enable greater provision of proactive, personalised, coordinated and more integrated health and social care for people close to home. This should achieve a change from reactively providing care to proactively caring for people and communities.

Significant Governance Issue 5

There were three SGIs in the Council’s 2019/20 Annual Governance Statement relating to inspections as follows:

- A Joint Targeted Area Inspection (JTAI) for Children’s Mental Health in Sefton took place in September 2019;
- An Ofsted and Care Quality Commission (CQC) revisit in April 2019 relating to weaknesses in the Written Statement of Action (WSOA), and
- Sefton was overdue an Ofsted Inspection of Local Authority Children’s Services. Following a pause in the inspection framework due to COVID-19, Ofsted undertook a ‘restart’ focused visit of Children’s Social Care in March 2021. This was not a full inspection and therefore was not graded. A letter to the Council was published on the Ofsted website on 10 May 2021 with the visit’s findings and identification of priority action.

Areas for priority action in the letter included:

- Timely application of the pre-proceedings stage of the Public Law Outline where risks for children are not reducing through child protection planning, and
- The effectiveness of case supervision and the monitoring of children who are subject to child protection planning, including those children in the pre-proceedings process, to prevent drift and delay.

What needs to improve in this area of social work practice:

- The quality assurance arrangements and senior management oversight of social work practice;
- The strategic and operational focus on achieving change and reducing risk for vulnerable children, including disabled children and care leavers, and
- The capacity in social work teams and the number of children on social workers’ caseloads.

3.16 The review of corporate governance arrangements also generated a number of other findings, not significant enough in nature to warrant inclusion in the AGS at this stage, but which will require action by senior managers to ensure that the relevant risks are addressed. Agreement of senior managers has been obtained that they will implement the recommendations highlighted within the next year.

Risk Management

3.17 So that the Council is best placed to deliver its 2030 Vision and Framework for Change, it is vital that it has robust and effective arrangements for managing risk. This is particularly pertinent as the Council undergoes an ambitious programme of change, and the Council’s appetite for risk is likely to increase, that a coherent framework is in place so as to ensure that such risks are taken in a conscious and managed way.

- 3.18 During the year there has been a sustained activity to attempt to improve the embedding of risk management within the Council. The Internal Audit and Risk Team have facilitated the completion of outstanding Service and Operational Risk Registers across the Council working closely with management teams. The improvements have included:
- The revision of the Corporate Risk Management Handbook which was approved by the Audit and Governance Committee in December 2020
 - All Service areas have a Service Risk register in place
 - All operational areas within the Service departments now have a Operational Risk Register in place
 - A presentation since December 2020 at the Audit and Governance Committee on one of the risks from the Corporate Risk Register
- 3.19 There was noted in March 2021 Corporate Risk Management paper an improvement in embedding risk management however following the start of the 2021/22 financial year there has been a noticeable deterioration in engagement on completing the Corporate Risk Register as well as providing updated Service Risk Registers. Key action has been agreed with Strategic Leadership Board to address this and there is on-going quarterly monitoring for both the SLB and the Audit and Governance Committee. Current performance on embedding risk management in August 2021 remains sub-optimal and may impact on the scoring of the opinion for the 2021/22 financial year.
- 3.20 The ongoing development of this framework was a key area of focus for the Council during 2020/21. It is important that during 2021/22, corporate risk management continues to develop and embed. The continued engagement of Senior Management as highlighted above will be vital so as to ensure success. One key area of improvement is the setting out and defining a risk appetite statement for the Council which is due to be completed in Autumn 2021.
- 3.21 The Risk and Audit Service has provided significant support to the Council in establishing consistent and coherent systems of risk management, by directly providing, or facilitating (through the Council’s insurers) accredited training in risk management, and by facilitating risk sessions with Departmental Management Teams. Operational safeguards have been put in place to ensure that there is no impairment to the independence of the Chief Internal Auditor, who also has management responsibility for the Risk Management framework.

Internal Control

- 3.22 Of the 50 pieces of audit work completed during the year, 5 generated an audit opinion. Of these, no audits, were given opinions of “Negligible” organisational risk. There are a number of key points to highlight:

There was one audit during the year with a “Major” Organisational Risk Opinion

Ethics and Code of Conduct

- 3.23 Recommendations were made to improve the controls in regard to Ethics and Code of Conduct across the Council, including updating the Code of Conduct and guidance notes, ensuring consistency between the versions available, improving Member and Officer awareness of the Codes, standardising the recording and retention of Officers’ Declaration Forms, updating the Audit and Governance Committee’s Terms of Reference and publishing an Annual Modern Slavery Statement online.
- 3.24 Follow up audits completed show, on the whole, a positive picture in terms of the implementation of recommendations.

Counter-Fraud

- 3.25 The Council’s “Anti-Fraud, Bribery and Corruption Policy” outlines the Council’s commitment to creating an anti-fraud culture and maintaining high ethical standards in its administration of public funds.
- 3.26 Internal Audit has a number of responsibilities in the prevention and detection of fraud, bribery and corruption:
 - Co-ordination of the Council’s work on the National Fraud Initiative (NFI)
 - Compilation of the Council’s return to the CIPFA Counter Fraud Tracker, which compares fraud detection levels with peers
 - Investigation of referrals of suspected fraud and irregularity
- 3.27 The Policy states that the Chief Internal Auditor must be notified of any suspected fraud or irregularity. Four frauds or irregularities were notified during the financial year of which three were minor and one is currently being investigated.

Assurance Mapping

- 3.28 As the COVID-19 pandemic has unfolded and there have been significant impacts on all service areas of the Council including Audit and Risk we have altered the plan on a dynamic basis to reflect address new and emerging risks as well as for planned internal audits to be deferred due to services needing to prioritise their resources towards the Pandemic response. Work has as a result been focused on the pandemic response primarily.
- 3.29 For internal auditors it has raised the question of whether they we would be able to undertake sufficient internal audit work to produce a reliable independent assurance assessment due to the impact of Covid-19. This is a key consideration to fulfil the requirement of the Public Sector Internal Audit Standards (PSIAS) for the Chief Audit Executive (Head of Internal Audit) to issue an annual opinion on the overall adequacy and effectiveness of the organisation’s framework of governance, risk management and control. This opinion is also one of the many sources of assurance that informs the Annual Governance Statement.

- 3.30 The External Validation of the Internal Audit Service undertaken by CIPFA in 2018 suggested that the Internal Audit Team “consider undertaking an assurance mapping exercise to identify the sources of assurance that the Council can place reliance on.”
- 3.31 The approach undertaken has been to identify further sources of assurance, through assurance mapping, that can inform the Chief Internal Auditor’s Annual Opinion and in future to inform the Annual Internal Audit Plan. The exercise was undertaken in Q3/Q4 2020/21 and involved identifying for each service area sources of external assurance.
- 3.32 Areas will be assessed over a three-year window, with a starting point of 1st April 2018 as this reflects the reality that external assurance can often occur over a range of different timescales and the outcomes are still valid to the next review. The table below outlines some of the key external assurance that has been identified and used in the Opinion.

Table 1 List of External Assurance by Service Area identified during Assurance Mapping Exercise

Corporate Resources		Strategic Support	
Public Sector Network	August 2020	Annual Letter from Local Government and Social Care Ombudsmen on Complaints	August 2021 (previous financial year)
Internal Infrastructure, Build Review and MDM Security Assessment	August 2020	Outcome of Freedom of Information/ subject access requests complaints referred to ICO	April 2020
External Penetration Test & Firewall Reviews	August 2020	Investigatory Powers Commissioner’s Office	March 2020
Cyber Essentials	March 2021	Education Excellence	
Annual Review of Financial Accounts	September 2021	Ofsted School reports	From 1 st April 2020 to 31 st March 2021
Customer Service Excellence (Transactional HR)	December 2019	Children’s Services	
Article 125 OTSV conducted by Ministry of Housing Communities Local Government	December 2020	An Ofsted and Care Quality Commission (CQC) revisit in April 2019 relating to weaknesses in the Written Statement of Action (WSOA),	April 2019
		follow up visit was undertaken by DfE and CQC	December 2020

Economic Growth and Housing		Joint Targeted Area inspection Children's Emotional Health and Wellbeing	September 2019
Employment & Learning (Community Learning)	November 2020	Ofsted Focused visit of child centred practices during Covid-19 pandemic.	March 2021
Building Control	September 2020	External Scrutiny of cases	September 2020
Highways and Public Health		Operational In-House Services	
Environmental Health and Licensing	September 2019	Electrical Testing NICEIC	December 2019
Communities		MOT Garage DVSA Standards for testing station	April 2020
YOT and Children with Disabilities	January 2021	Environment Agency License, permits and checks at Formby Depot.	April 2020
HMIP (Her Majesty's Inspectorate of Probation)	May 2019	Security Services NSI - Surveillance Audits	November 2020
Ofsted – Aiming High and Springbrook	May 2020	Security Services National Security Inspectorate (NSI)	November 2020
Ofsted – Early Help	September 2019	Higher Level Stewardship – Natural England	April 2020
Troubled Families	June 2019	BPS Audit Rural Payments Agency	April 2020
		Burials and Cremations Southport crematorium Chimney – Emissions	March 2019

- 3.33 The assurance mapping exercise is the first step in an approach to refine the information for use in the 2021/22 annual audit plan as well as in future years to provide more information in the Annual Opinion on the external assessments as well as assign a weighting to the relative importance of each of the external assurance.

4. Performance

- 4.1 During the year, the service measured and reported on a comprehensive suite of performance indicators, which give a view not only of the effectiveness of the internal audit function itself, and the quality of service, but also the impact the service is having in terms of recommendations agreed. The results for each of the performance indicators have been reported to each of the Audit and Governance Committees. The year-end position in respect of these performance indicators (and the comparative position with 2016/17 and 2017/ 18 actuals) is:

Description and Purpose	Target	Actual 2018/19	Actual 2019/20	Actual 2020/21	Variance and Explanation
<p>Percentage of the Internal Audit Plan completed This measures the extent to which the Internal Audit Plan agreed by this Committee is being delivered. The delivery of the Plan is vital in ensuring that an appropriate level of assurance is being provided across the Council's systems.</p>	100%	62%	84%	63%	<ul style="list-style-type: none"> • Significant time spent on Locality Services Procurement and Employee Conduct Reviews. • Sickness absence. • COVID impact on recruitment of one trainee and ability to train a trainee. • Focus on supporting Service Areas e.g. COVID-19 grants; additional support in 2019/20 AGS. • Capacity of Service Areas to be audited.
<p>Percentage of Client Survey responses indicating a "very good" or "good" opinion This measures the feedback received on the service provided and seeks to provide assurance that Internal Auditors conduct their duties in a professional manner.</p>	100%	100%	100%	100%	<ul style="list-style-type: none"> • Not applicable
<p>Percentage of recommendations made in the period which have been agreed to by management This measures the extent to which managers feel that the recommendations made are appropriate and valuable in strengthening the control environment.</p>	100%	100%	100%	100%	<ul style="list-style-type: none"> • Not applicable

- 4.2 The performance outlined above is mixed with the quality aspects of the performance remaining very good with clients valuing our work and opinion which is comparable to the long-term trend. The delivery of the audit plan is lower than planned due to reasons summarised in the table above and detailed in paragraphs 3.7 to 3.11 of this report.

5. Public Sector Internal Audit Standards (PSIAS)

External Peer Assessment

- 5.1 During the 2017/18 financial year, the service was the subject of an external peer assessment, conducted by CIPFA, of the extent to which the service complies with the mandatory framework for Internal Audit in the UK Public Sector: Public Sector Internal Audit Standards (PSIAS). The PSIAS determine that this must take place every five years.
- 5.2 Whilst the report was overwhelmingly positive and reflects the work undertaken to ensure compliance, it does recognise that the service needs to develop its skill set so as to provide a modern and effective audit service that fits with the strategic and commercial direction of the Council. This will require staff to become more flexible, strategic and innovative in their approach, so as to demonstrate the value they are adding.
- 5.3 An action plan has been developed from the review which the Internal Audit Team are currently implementing.

Quality Assurance and Improvement Programme (QAIP)

- 5.4 During 2020/21, the following actions were taken to develop and improve the service:
- Staff attendance at relevant professional seminars
 - Development of an Internal Audit Training Plan
 - Participation in webinars on topical issues such as CIPFAs New skills for the modern auditor and Making sense of governance
 - Assessment of skills within the team and identification of relevant development opportunities
 - Further reviews of the Internal Audit Manual which reflected comments within the external review of the PSIAS
 - On-going completion of relevant Continuing Professional Development requirements for professionally qualified staff
- 5.5 So as to ensure that the Service not only continues to comply with the PSIAS, but to ensure that the service continues to improve, the Service has created a Development Action Plan. This encapsulates a number of key actions such as:
- Development of the skills of the internal audit team so it is fit to meet the challenges of a modern Council
 - Continuous review of the internal audit report
 - Continuous review and update of working practices and reflection of associated changes in the Internal Audit Manual
 - Management of sickness so as to minimise days lost and their impact on the delivery of the Internal Audit Plan.
 - Improved mechanisms for the management review of internal audit work.
 - Development of a more robust Counter-Fraud approach.

6. Overall Opinion

6.1 Based upon the work undertaken by Internal Audit in respect of 2020/21, the opinion of the Chief Internal Auditor on the overall adequacy and effectiveness of the organisation’s framework of governance, risk management and control in 2020/21 is:

Overall Opinion 2020/21	ADEQUATE
Potential for Improvement	ADEQUATE

6.2 This opinion is based on the following:

- An assessment of the range of individual opinions arising from audits delivered by Internal Audit during 2020/21. This assessment takes into account the relative materiality of these areas and management’s progress in addressing control weaknesses that have been identified
- The design and operation of the Council’s governance and risk management frameworks
- The extent to which Internal Audit complies with the PSIAS, and the quality and performance of the service, determined through compliance with its Quality Assurance and Improvement Programme (QAIP)
- Subject to the External Auditor’s unqualified audit opinion and assessment of no material control weakness in the internal control environment in respect of the 2020/21 financial year (EY Audit Results Report, to be presented to Audit and Governance Committee in September 2021)
- Reports produced / issues arising as a result of consultancy or investigative work undertaken by the Internal Audit team
- Management’s positive response to findings and recommendations
- The Assurance Mapping that was undertaken during the financial year.
- The continued independent status of Internal Audit, as evidenced by auditors’ annual declarations in respect of the Code of Ethics.

6.3 It is vital that the Council builds on the progress made during 2020/21 in embedding a consistent and effective risk and performance management system, so as to support the Council during its delivery of its Framework for Change and achievement of the Sefton Vision 2030.

6.4 It should be noted the opinion does not imply that Internal Audit has reviewed all risks and assurances relating to the Council and is not an absolute assurance of the effectiveness of internal control arrangements and the management of risk. The purpose of

this opinion is to contribute to the assurances available to the Council which underpin the assessment of the effectiveness of its governance framework, including the system of internal control, which are encapsulated in the Annual Governance Statement.

7. Looking Ahead

- 7.1 The Internal Audit Plan 2021/22 will deliver a comprehensive assurance on the following key areas: governance, risk management and internal control. The completion of this work will continue to assist the Council not only to develop in respect of identified areas for improvement, but also to gain assurance that the transformation programme being embarked on by the Council has adequate regard for internal control. The ongoing implementation and embedding of systems of risk and performance management will develop the Council's capacity to manage this journey, and Internal Audit will be key in reviewing these systems to support their development.
- 7.2 There are likely to be further impacts from Covid-19, as the next stage of the pandemic develops, potentially affecting the delivery of the Annual Audit Plan. There remains some uncertainty at this point on the nature or the extent of the impact. The team will remain focused to deliver a broad range of assurance during the year whilst being pragmatic and flexible in our actions to support operational colleagues across the organisation responding to the pandemic.
- 7.3 In addition, during the year, all recommendations will continue to be subject to follow up audit work, which will provide assurance of the level to which these have been implemented. This will provide a steer for the organisation in terms of areas for further attention so as to mitigate identified risks.
- 7.4 The Audit and Governance Committee will continue to play a key role not only in scrutinising the performance of the internal audit function, but also in challenging the organisation in respect of its response to Internal Audit work. This role is key in the Council's overall system of internal control.
- 7.5 The Internal Audit team will continue to develop and modernise so as to meet the needs of a changing organisation and maximise its contribution to the Council's system of internal control.

Agenda Item 12

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Risk and Audit Service Performance		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

This report details the performance and key activities of the Risk and Audit Service for the period 14 June 2021 to 7 September 2021.

Recommendation(s):

- (1) Note the progress in the delivery of the 2021/22 Internal Audit Plans and the activity undertaken for the period 14 June 2021 to 7 September 2021.
- (2) Note the contributions made by the Health and Safety, Insurance, Assurance and Risk and Resilience teams in managing the Council's key risks.

Reasons for the Recommendation(s):

Approval of the recommendations will facilitate the continued provision of a comprehensive and effective Risk and Audit Service.

Alternative Options Considered and Rejected: (including any Risk Implications)

Failure to provide an update on the progress, in particular, of the Internal Audit Service would be a breach of the Public Sector Internal Audit Standards.

What will it cost and how will it be financed?

(A) Revenue Costs

Agenda Item 12

There are no direct financial implications arising from this report. However, the Council benefits from the work of the section in reducing the impact and likelihood (and so the cost) of risk.

(B) Capital Costs

There are no Capital costs associated with the report.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):

There are no resource implications arising from the report however the report does discuss the current activities to recruit temporary Internal Audit Team members within the existing budgets.

Legal Implications:

There are no legal implications arising from the report.

Equality Implications:

There are no equality implications.

Climate Emergency Implications:

The recommendations within this report will

Have a positive impact	Y/N
Have a neutral impact	Y/N
Have a negative impact	Y/N
The Author has undertaken the Climate Emergency training for report authors	Y/N

The Risk and Audit Team in line with Council and Government guidance during the lockdown has been working from home with the exception of the Health and Safety Team who undertake periodic inspections of Council buildings to provide guidance and support.

The working from home has reduced the teams commuting and as a consequence Carbon footprint. The revised working practices will continue with the proposed Council agile working although the footprint will slightly increase at this point as staff move to the one day per week in the office. There is currently no visibility when agile working will be introduced by the Council.

We are currently exploring with the Council's insurers and broker their actions to reduce Climate Change which we will respond on in future reports following renewal.

Contribution to the Council's Core Purpose:

<p>Protect the most vulnerable: Providing an effective assurance service and assisting with the embedding of risk management within the service areas delivering the Council's core purpose will help to ensure that the appropriate risks and controls are identified and in the case of controls are operating as designed. This approach will help to ensure that the Core Purpose is delivered</p>
<p>Facilitate confident and resilient communities: Providing an effective assurance service and assisting with the embedding of risk management within the service areas delivering the Council's core purpose will help to ensure that the appropriate risks and controls are identified and in the case of controls are operating as designed. This approach will help to ensure that the Core Purpose is delivered</p>
<p>Commission, broker and provide core services: Providing an effective assurance service and assisting with the embedding of risk management within the service areas delivering the Council's core purpose will help to ensure that the appropriate risks and controls are identified and in the case of controls are operating as designed. This approach will help to ensure that the Core Purpose is delivered</p>
<p>Place – leadership and influencer: Providing an effective assurance service and assisting with the embedding of risk management within the service areas delivering the Council's core purpose will help to ensure that the appropriate risks and controls are identified and in the case of controls are operating as designed. This approach will help to ensure that the Core Purpose is delivered</p>
<p>Drivers of change and reform: Providing an effective assurance service and assisting with the embedding of risk management within the service areas delivering the Council's core purpose will help to ensure that the appropriate risks and controls are identified and in the case of controls are operating as designed. This approach will help to ensure that the Core Purpose is delivered</p>
<p>Facilitate sustainable economic prosperity: Providing an effective assurance service and assisting with the embedding of risk management within the service areas delivering the Council's core purpose will help to ensure that the appropriate risks and controls are identified and in the case of controls are operating as designed. This approach will help to ensure that the Core Purpose is delivered</p>
<p>Greater income for social investment: Providing an effective assurance service and assisting with the embedding of risk management within the service areas delivering the Council's core purpose will help to ensure that the appropriate risks and controls are identified and in the case of controls are operating as designed. This approach will help to ensure that the Core Purpose is delivered</p>
<p>Cleaner Greener: Providing an effective assurance service and assisting with the embedding of risk management within the service areas delivering the Council's core purpose will help to ensure that the appropriate risks and controls are identified and in the case of controls are operating as designed. This approach will help to ensure that the Core Purpose is delivered</p>

Agenda Item 12

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6501/21) and the Chief Legal and Democratic Officer (LD.4702/21) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

None

Implementation Date for the Decision

Immediately following the Committee / Council meeting.

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Appendices:

The following appendices are attached to this report:

- Risk and Audit Service Performance Report

Background Papers:

The following background papers, which are not available elsewhere on the Internet can be accessed on the Council website:

- Internal Audit Plan 201/22 (as approved by this Committee on 17 March 2021)

1. Introduction/Background

- 1.1 The Risk and Audit Service is managed by the Chief Internal Auditor, who reports to the Executive Director of Corporate Resources and Customer Services through the Finance Service Manager.
- 1.2 The mission of the service is “to deliver a first-class risk and audit service that is highly respected and valued by Sefton and is the envy of our peers”.
- 1.3 The Service has the following objectives:
 - To lead the Council in embedding a system of internal control and risk management that facilitates the achievement of the organisation’s objectives.

- To be a valued corporate influence in promoting the due consideration of risk in Council decisions, strategies and plans.
- To align the service with the Council's changing needs.

1.4 In delivering this mission and objectives, the Service encapsulates the following teams:

- Internal Audit
- Health and Safety
- Insurance
- Risk and Resilience
- Assurance

1.5 This report summarises the main aspects of the performance of the Service during the period 14 June 2021 – 7 September 2021, and gives members a detailed overview of the following areas:

- Internal Audit:
 - o work undertaken in the period, including a summary of work and an outline of the high priority recommendations made
 - o performance against Key Performance Indicators
 - o developments relating to this part of the Service.
- Health and Safety, Insurance, Assurance and Risk and Resilience:
 - o work undertaken in the period, with key data provided o developments relating to these parts of the Service.

1.6 The report concludes by looking ahead to the forthcoming activities being undertaken by the service.

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Risk and Audit Service: Performance

Page 199

Agenda Item 12

Audit and Governance Committee
15 September 2021

David Eden
Chief Internal Auditor
Risk and Audit Service
Corporate Resources
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Contents

Page 200

1.	Executive Summary	Page 3
2.	Introduction	Pages 4 - 5
3.	Internal Audit Performance Update	Pages 6 - 12
4.	Health and Safety Performance Update	Pages 13 - 21
5.	Insurance Performance Update	Pages 22 - 28
6.	Risk and Resilience Performance Update	Pages 29 - 31
7.	Assurance and Counter Fraud	Pages 32 - 35
8.	Looking Ahead	Page 36
9.	Conclusions	Page 37

1. Executive Summary

- 1.1 This report summarises the performance and activity of the Risk and Audit Service for the period 14 June 2021 to 7 September 2021.
- 1.2 The report covers each of the areas of the service:
- Internal Audit
 - Health and Safety
 - Insurance
 - Risk and Resilience.
 - Counter Fraud
- 1.3 The report highlights the following key points:
- This has continued to be a busy period for the Service, with the completion of a number of key pieces of work. The performance indicators and key data in this report reflect this positive progress.
 - The service continues to seek to support the effective management of risk, which is especially pertinent as the Council transforms.
 - The development of the service continues, with a number of improvements having been completed in the period.

2. Introduction

- 2.1 The Risk and Audit Service is managed by the Chief Internal Auditor.
- 2.2 The mission of the Service is *“to deliver a first-class risk and audit service that is highly respected and valued by Sefton and is the envy of our peers”* and the Service has the following objectives:
- To lead the Council in embedding a system of internal control and risk management that facilitates the achievement of the organisation’s objectives
 - To be a valued corporate influence in promoting the due consideration of risk in Council decisions, strategies and plans
 - To align the service with the Council’s changing needs.
- 2.3 In delivering this mission and objectives, the Service encapsulates the following teams:
- **Internal Audit** – this statutory service provides the internal audit function for all areas of the Council, including maintained schools. Internal Audit can be defined as: “an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. Internal Audit helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.” (Public Sector Internal Audit Standards)
 - **Health and Safety** – supports Council officers and members in providing an effective health and safety management system that meets the Council’s statutory health and safety duties; thereby controlling the risks of injury and ill health to staff and others affected by the Council’s activities.
 - **Insurance** – fulfils the duty to provide an appropriate insurance service for the Council, including claims management, advice on insurance issues and the management of insurable risk.
 - **Risk and Resilience** – develops risk management and mitigation strategies for the Council on emergency planning (ensuring that the Council meets its statutory responsibilities as a Category 1 responder under the Civil Contingencies Act 2004), public safety and business continuity issues.
 - **Assurance Team** – will develop a Counter Fraud strategy and co-ordinate the development of counter fraud services across the Council.

- 2.4 This report summarises the main aspects of the performance of the Service for the period 14 June 2021 to 7 September 2021, covering the following areas:
- Internal Audit:
 - work undertaken in the period, including a summary of work completed and an outline of the high priority recommendations made.
 - performance against Key Performance Indicators
 - anti-fraud update
 - developments relating to this part of the Service.
 - Health and Safety, Insurance, Risk and Resilience and Assurance and Counter Fraud:
 - work undertaken in the period, with key data provided where applicable
 - developments relating to these parts of the Service.
- 2.5 The report concludes by looking ahead to the challenges which will be addressed in the forthcoming period.

3. Internal Audit: Performance Update

3.1 Work Completed 1 June to 31 August 2021

During the period 19 audit assignments were completed and a further one substantially completed at 31 August 2021. The table below outline the audits that have been completed, the audit opinion and the recommendations identified:

Audit Title	Audit Opinion	Recommendations		
		High	Medium	Low
Corporate Governance Review 2020/21 (Draft)	Moderate (5 Significant)	8	0	0
Holy Spirit School Audit (Draft)	Major	3	4	2
Presfield School Audit	Moderate	0	2	5
COVID-19 Business Discretionary Grants – draft report reworded and re-issued.	Moderate	2	4	0
In House Fleet (draft Memorandum)	Work to support Financial Management and the Travel Support Team in cost analysis.			
A Key Issues Note to management following employment conduct reviews	Work to support management in identifying control weaknesses prevalent within the service area.			
Bootle Town Centre Grant Certification 2020/21 Q2	Assurance provided to facilitate certification of £52,817.35			
Bootle Town Centre Grant Certification 2020/21 Q4	Assurance provided to facilitate certification of £308,554.82			
Cambridge Road Skills Hub – Skills Strand 1 Grant Certification 2020/21 Q4	Assurance provided to facilitate certification of £416,292.63			
Crosby Lakeside Grant Certification 2020/21 Q4	Assurance provided to facilitate certification of £203,306.36			
Southport Pleasureland – Pre development Grant Certification 2020/21 Q3	Assurance provided to facilitate certification of £92,615.14			
Southport Pleasureland – Pre development Grant Certification 2020/21 Q4	Assurance provided to facilitate certification of £5,384.86			

Audit Title	Audit Opinion	Recommendations		
		High	Medium	Low
Bootle Town Centre Grant Certification 2021/22 Q1	Assurance provided to facilitate certification of	£64,324.63		
Southport Pleasureland – Pre development Grant Certification 2021/22 Q1	Assurance provided to facilitate nil certification			
Sefton Town Centres (Bootle and Southport) Grant Certification 2021/22 Q1	Assurance provided to facilitate certification of	£403,482.49		
Crosby Lakeside Grant Certification 2021/22 Q1	Assurance provided to facilitate certification of	£384,476.86		
Buckley Hill Grant Certification 2021/22 Q1	Assurance provided to facilitate nil certification			
Integrated Transport, Highways Maintenance Block and Key Route Network	Assurance provided to facilitate certification of	£3,770,122.75		
Troubled Families 2021/22 Period 1 Claim	Assurance provided to facilitate certification of	£92,000.00		
Work substantially complete as at 31 August 2021				
ICT-Security Review	Report drafted and findings shared with ICT Client Unit. Discussions ongoing to agree wording of recommendations.			

Draft Audit Reports previously reported to Audit and Governance Committee.

Audit Title	Audit Opinion	Recommendations		
		High	Medium	Low
Great Crosby School Audit – draft report issued 2021/22 Q1	Minimal	0	1	3
Farnborough Road Infants School Audit – draft report issued 2021/22 Q1	Moderate	0	4	1
Norwood School Audit – draft report issued 2021/22 Q1	Moderate	0	3	4

The high priority recommendations outlined in the audit reports issued in the period 1 June 2021 to 31 August 2021 are summarised as:

Holy Spirit School (draft)

- The school must develop and approve a School's Finance Manual.
- An inventory of assets should be created and reviewed annually.
- The school fund record keeping and administration should be improved and the fund should be independently audited at the earliest opportunity.

Corporate Governance Review 2020/21 (draft)

- Heads of Service should maintain Service Area Registers containing all employee declarations and submit the Registers to the Monitoring Officer annually.
- To comply with the conclusions of the Council's Ethical Working Group, a self-assessment should be undertaken against the LGA National Framework.
- Locate partnering arrangements for the LCR Adult Health Integration, LCR Children's Social Care and Adult Social Care Tripartite. They should be reviewed against the requirements of the Financial Procedure Rules.
- Heads of Service should inform the Monitoring Officer of arrangements in place with partnerships to provide the Council with Third Party Assurances or alternatively ensure that Internal Audit have access to premises and records as required.
- A Workforce Plan should be developed and finalised.
- Heads of Service should review their arrangements for the ensuring data quality and accuracy standards.
- Ascertain the governance, risk management and performance assurances required from the Council's wholly owned subsidiary companies.
- Further develop and embed risk management processes including training and the defining the Council's Risk Appetite.

COVID-19 Business Discretionary Grants (draft)

- The Revenues Manager and Business Development Manager should review the recovery status of a potentially overpaid grant. For future grants, management should ensure that payments are made to the appropriate bank accounts rather than individual of directors' bank accounts.
- The Business Development Manager should review and follow up National Fraud Initiative matches if required.

3.2 Key Performance Indicators 2021/22

The following table outlines the Audit Team’s performance against the Key Performance Indicators outlined in the Audit Plan agreed by the Committee in March 2021. Figure 1 shows progress made against the Audit Plan.

Description and Purpose	Target	Actual	Variance and Explanation
<p>Percentage of the Internal Audit Plan completed at 31 August 2021</p> <p>This measures the extent to which the Internal Audit Plan agreed by this Committee is being delivered. The delivery of the Plan is vital in ensuring that an appropriate level of assurance is being provided across the Council’s systems.</p>	<p>42% See graph below</p>	<p>22% See graph below and narrative</p>	<p>20%</p> <ul style="list-style-type: none"> • See section 3.3
<p>Percentage of Client Survey responses indicating a “very good” or “good” opinion</p> <p>This measures the feedback received on the service provided and seeks to provide assurance that Internal Auditors conduct their duties in a professional manner.</p>	<p>100%</p>	<p>100%</p>	<p>No variance</p>
<p>Percentage of recommendations made in the period which have been agreed to by management</p> <p>This measures the extent to which managers feel that the recommendations made are appropriate and valuable in strengthening the control environment.</p>	<p>100%</p>	<p>100%</p>	<p>No variance</p>

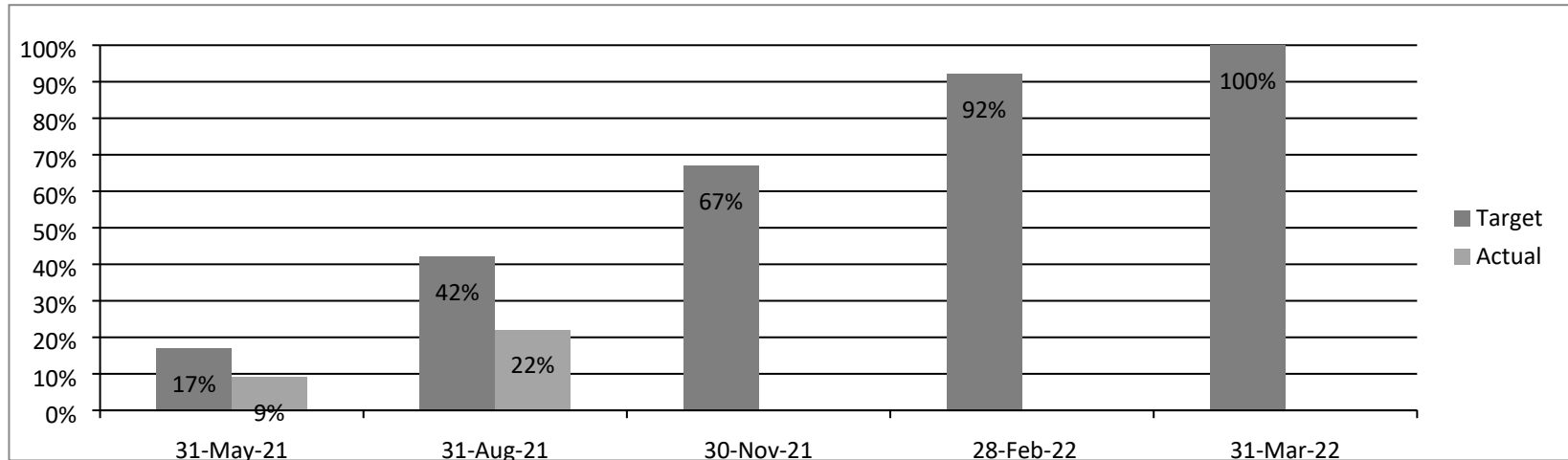


Figure 1: Percentage of the Internal Audit Plan 2021/22 Completed (profiled to coincide with the Audit and Governance Committee reporting dates)

3.3 2021/22 Resources and Performance

The small team continues to work well remotely as it has done for the last 18-months. Audits, by necessity are conducted differently to how they were previously by utilising technology. Communication with clients is mainly by MS-Teams and by email and in most cases this is effective. Systems documentation and information required for sample tests are obtained and reviewed electronically. Auditors use a variety of flexible approaches to ensure that their work can be completed to the appropriate professional standards whilst working remotely.

The trainee ICT auditor is currently on maternity leave and will be for several more months. One Principal Auditor returned to work earlier in the year on a phased return after a period away with unplanned leave. A second Principal Auditor has reduced his hours from full time to part time (0.6 FTE) from June 2021.

The Audit Plan was approved in March 2021, and the intention was for two Principal Auditors to be appointed on fixed term contracts to deliver elements of the Audit Plan. Several recruitment exercises have been completed, advertising for traditional fixed term vacancies, using the Council’s preferred recruitment conduit Matrix and with specialist recruitment agencies. A number of interviews have been conducted with potential candidates but during first five months of the year, but without success. It is anticipated that in September 2021, an appointment will be completed and Audit management will endeavour to explore options to further strengthen the audit team.

After discussions with a number of recruitment agencies we have been informed that there are far greater numbers of job opportunities than candidates available which is leading to a shortfall of suitable candidates to undertake the role. We have been advertising nationally and have interviewed candidates from across England as we are able to work remotely. The tight recruitment market is not forecast to change in the short term.

The difficulty in recruiting two Principal Auditors has seriously diminished the ability to deliver the target number of audits within the first five months of the year. The team has delivered approximately half of projected audits in the plan (22% delivered against a target of 42%). The shortfall is unlikely to be recovered in the rest of the year although we are able to recruit and the absent staff return earlier we should be able to hit performance for the rest of the year. As a result, we will revise the annual audit plan and bring the amended plan to the December meeting for Members to consider and approve,

3.4 **Public Sector Internal Audit Standards**

In March 2018 the Internal Audit Service was externally assessed as “generally complies” with the Public Sector Internal Audit Standards. This was reported to the Committee at the time. Each year the Internal Audit develops and implements an Improvement Plan to enhance systems and processes to improve the service.

3.5 **Developments**

Since the last Audit and Governance Report Internal Audit has:

- continued to monitor staff wellbeing during the prolonged period of home working maintaining frequent regular contact with all team members;
- embedded “Huddle” team meetings three-times per week where staff update and share progress on audit assignments and share any issues or blockages that they are facing;
- engaged with three specialist recruitment agencies to identify suitable candidates to fill the shortfall in capacity;
- developed a database of outstanding audit recommendations that require following up; and
- worked with the wider Risk and Audit Service to establish a process for ensuring all staff are undertaking mandatory training.
- Audit are currently assisting the investigation of a whistleblowing incident providing guidance and support to the Service area.
- Audit are undertaking a review of a Council’s Children Home at the request of Children’s Senior Management Team.

In the next quarter, the planned developments for the service includes:

- the recruit two Principal Auditors for fixed term periods to provide cover for staff absences and assist in the delivery of the approved Audit Plan;
- the continued implementation of processes to reduce the backlog of audit recommendations that require following up and identify an effective way to report recommendations implemented and outstanding to this Committee;

- the further enhancement and simplify internal audit reports to improve clarity and reduce time spent producing the reports;
- undertaking the new Performance Development Reviews with the team;
- Work on the implementation of data analysis software;
- working with the Risk Management Team in the development of risk registers; and
- reintroduce team webinar and discussion training.

4. Health and Safety: Performance Update

4.1 Progress

The Council continues to focus on improving the health and safety management system and support by reviewing existing arrangements and improving governance.

The Health and Safety Team consists of two permanent and one fixed term (August 2021 – March 2022) health and safety professionals supporting nearly 8000 staff (including maintained school staff), plus agency staff, contractors and volunteers. A temporary administration support joined the team in January 2021 and will move to his permanent role in finance at the end of August 2021. Resources continue to be stretched in meeting the demands of the Council and Schools and to satisfy the requirements of the Management of Health and Safety at Work Regulations, particularly on the back of the impact of the pandemic. Long term recruitment opportunities are currently being explored to minimise the Council's health and safety risks. The team continue to deliver a range of services across all Council departments and schools. These services can be divided into three main areas: Policy and communication, operational reactive response, and active monitoring.

Health and safety objectives and key performance indicators have been aligned to the Councils 'Vision 2030' and 'One Council' initiatives and core values. These are continually reviewed and drive the programme of work, not only for the team but for services areas through the health and safety sub-committees. It is acknowledged that outputs have been and are affected by the COVID-19 pandemic and the team have adjusted service delivery to assist the Council in meeting its obligations and to provide managers and staff with the relevant support.

Consultation arrangements are working well, with the Corporate Health and Safety Committee playing a key role in conjunction with the Departmental Health and Safety Committees. The committee meetings continue to be held virtually, using the MS TEAMS system, which has proved to be very successful.

Activities arising from the risk of the transmission of coronavirus 2 (SARS-CoV-2) has been significant, as operations, work and home environments have continually been adjusted throughout the various periods of restriction. The re-opening and recovery of service delivery has proved challenging for the Health and Safety Team, working with managers to balance COVID-safe arrangements, compliance and operational demand.

Significant support has been provided for reconvening of face-to-face Council meetings, support services to vulnerable children and adults, reintroduction of school trips and events. Council building and operational risk assessments have been reviewed regularly providing assurance d volunteers. A measured level of onsite support visits, inspections and audits have recommenced.

Assistance, guidance and monitoring continues to be provided across all areas, in collaboration with Public Health colleagues as the focus moves from Central Government to Sefton Council, as the employer.

The health and safety audit process has been redesigned, with educational settings and service areas submitting evidence to the team and discussion via MS Teams. Evidence against practice is being verified during site inspections and observations.

The Council's Health and Safety Policy should be reviewed every two years and is currently being updated before being presented to Corporate Health and Safety Committee, SLB and Cabinet for approval over the next few months. This exercise is due for completion during the Autumn of 2021.

Corporate minimum standards have been developed and published on the intranet. Documents and forms are issued to the Workplace Learning and Development Team for inclusion in training packages. Recent revisions and additions include Fire Prevention and Protection, Personal Emergency Evacuation Plan (PEEP), Stress, Well-being and COVID-19. The team are developing Permit to Work systems, Statutory Maintenance, Construction Design and Management (CDM), Fire Risk Assessment, Health surveillance and Investigation. Methods of reaching staff who may not be digitally connected are being explored with the Communications Team.

The team continue to monitor the impacts of working from home, agile working, return to the office, workstation arrangements (Display Screen Equipment Regulations 1992) and the Stress Management Standards. The team have been supporting managers and staff with Display Screen Equipment and stress risk assessments. They have worked collaboratively with other service areas to ensure the Council's obligations are being met, whilst ensuring the physical, psychological and emotional health, safety and wellbeing of staff is maintained.

An audit of service areas to test the implementation of DSE arrangements and their effectiveness received a limited response. A further audit is underway. It is hoped managers will support the monitoring exercises, to ascertain if controls are effective in preventing or limiting harm to staff.

The Health and Safety Team have been instrumental in establishing a One Council working group to consider the wider occupational health, safety and wellbeing of staff. It consists of representatives from The Health Unit, Public Health, Workforce Learning and Development, Active Workforce, and Health and Safety, in addition to Union's representation. A well-being page is available on the health and safety intranet site and will be used to signpost managers and staff to various services.

The on-line incident reporting system continues to be well utilised with managers reporting accidents and incidents, as required. The facility to record COVID-19 related incidents was added to the system. Managers are encouraged to report cases of workplace and non-workplace transmission. An exercise is in progress to extend reporting for incidents and near misses, support managers with proportionate investigation to prevent reoccurrence and limit insurance or enforcement intervention.

CLEAPSS was established as a Consortium of Local Educational Authorities for the Provision of Science Services. It now acts as an advisory service providing support in science, design, technology, and art for educational settings, and assists Local Authorities and schools in discharging their duties as an employer. The Health and Safety team and schools receive considerable support from CLEAPSS on health and safety, including radiation matters. A sizeable proportion of Sefton schools pay for the CLEAPSS RPA (Radiation Protection Adviser) Service. The Health and Safety Team continue to operate as a link between schools and the Radiation Protection Adviser, supporting school Heads of Science in the storage and use of radioactive sources.

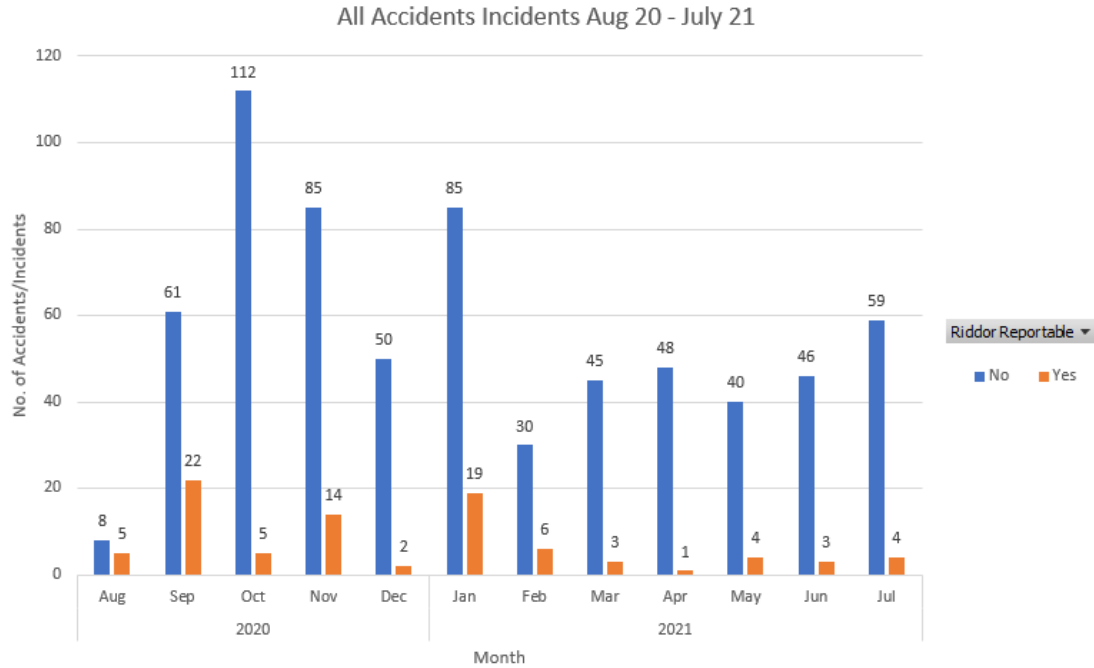
EVOLVE provide online services for schools, including a tool for planning and managing educational visits, after school clubs and sports fixtures. Local day trips commenced from 12th April 2021, with offsite residential visits being available from 17th May 2021. It is anticipated that overseas residential visits may be permitted from September 2021. The Health and Safety Team continue to provide support and guidance to schools and their Educational Visit Co-ordinators (EVC). The EVOLVE system allows schools to upload risk assessments and other critical event information and take school staff through an authorisation process, which involves a schools internal Educational Visits Co-ordinator (EVC), Head Teacher, the Local Authority Corporate Health and Safety Team. EVOLVE have continued to provide online training in conjunction with the Health and Safety Team. EVC training was provided 15th and 17th June 2021. The format of online training proved very successful and further online training is being planned for the Autumn term due to demand.

The North-West networking groups, Liverpool City Region H&S Advisers Group and Outdoor Education Adviser's Panel continues to meet virtually. The groups have proved invaluable for sharing information and good practice during the pandemic as guidance has changed so quickly.

4.2 **Key Incident Data**

The Health and Safety Team continue to manage the Council's incident reporting system which records work-related accidents and incidents involving employees, contractors and members of the public.

Graph 1 below compares accident and incident data over the past year. Most of the incidents reported over the past 12 months are Covid-19 related. The proportion of incidents involving workplace transmission of COVID-19 since February 2021 have steadily decreased.



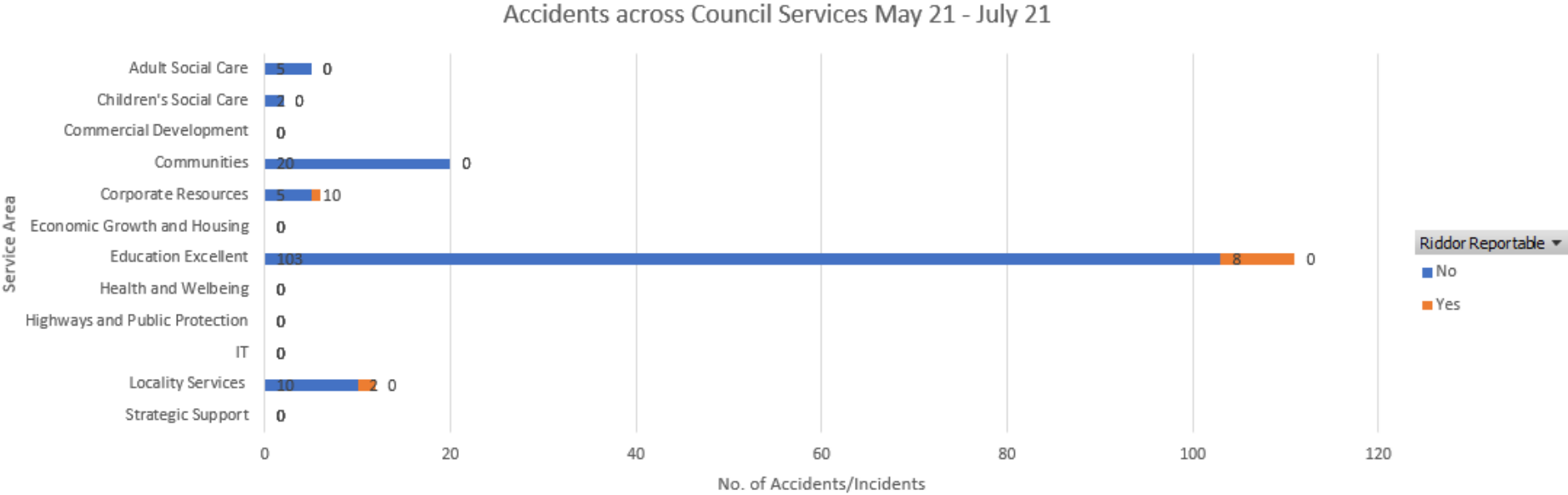
Graph 1: Accident and incident data from 1st August 2020 to 31st July 2021.

The significant increase in reporting during October 2020 and November 2020 is consistent with the re-opening of schools and service areas. The increase of reports raised in January 2021 highlights the continuing vulnerabilities of staff from exposure to COVID-19 during the Christmas period, pre-vaccination, and suggests the need for a cautious approach during the forthcoming Autumn term. It is acknowledged that an increase in accidents and incident reporting during September to December was consistent with increased footfall within schools and leisure services, following the first 'lockdown' of 2020.

Managers and staff continue to be encouraged to report all COVID-19 positive staff cases onto the Council health and safety accident and incident reporting system. This supports the effective review of risk assessments and monitoring of control measures. It is anticipated that non-workplace transmission reports will cease in the coming months and return to work related transmission or near miss reporting only. It can be confirmed that reporting of non-work-related cases for this new

workplace hazard has informed the risk assessments and provided data to guide the implementation of control measures and monitoring. The Health and Safety Team continue to work closely with Public Health colleagues on COVID—related issues and have greatly appreciated their ongoing support.

Accidents and incidents reported across the Council Services between May 2021 and July 2021 are in the graph below.



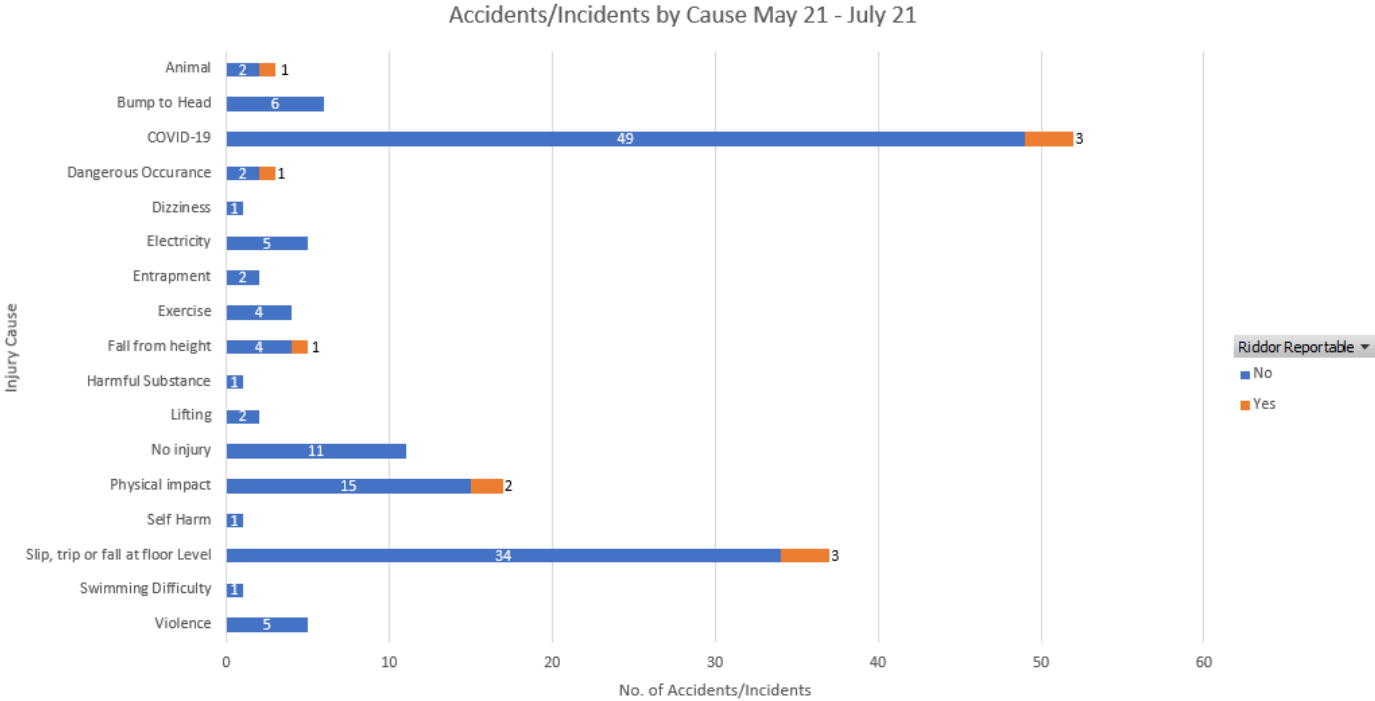
Graph 2: Accident and incident data across Council Service Areas during the 3 months – 1st May 2021 to 31st July 2021.

The highest level of reporting is within Education Excellent, Locality Services and Communities. This is consistent with previous years and is influenced by a positive reporting culture. Other factors include continued essential service delivery during the various pandemic restrictions. From late Summer, accidents in areas of high public footfall rose as they included school pupils and those attending sports and exercise facilities. Other than COVID-19 related reports, most of these accidents were slips and trips and contact sports / play injuries.

Services areas not listed have not raised any reports during this period. These include Public Health and Wellbeing and Commercial Services. This is due in part to staff working substantially from home. Data and trends continued to be monitored as restrictions are initiated and then lifted.

The Health and Safety Team continue to promote a good reporting culture to manage the risk of injury, ill health and other potential and actual losses to the Council, including property damage from collisions or fire, presence of legionella in water systems and near misses. The reports impact on the assessment of risk, and suitability and sufficiency of controls and monitoring required. A positive reporting culture provides greater accuracy in accidents, incidents and near misses' data and enables the Council to identify trends and opportunities to prevent reoccurrence.

Graph 3 identifies the cause of accidents across Sefton Council from May 2021 to July 2021. As previously highlighted, the most common cause has been the transmission of Coronavirus (SARS-CoV-2). Not all cases have been as a result of 'workplace' transmission. Other common causes were due to slips and trips and contact sports / play injuries. The cases reported under RIDDOR (Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2013) are discussed below.

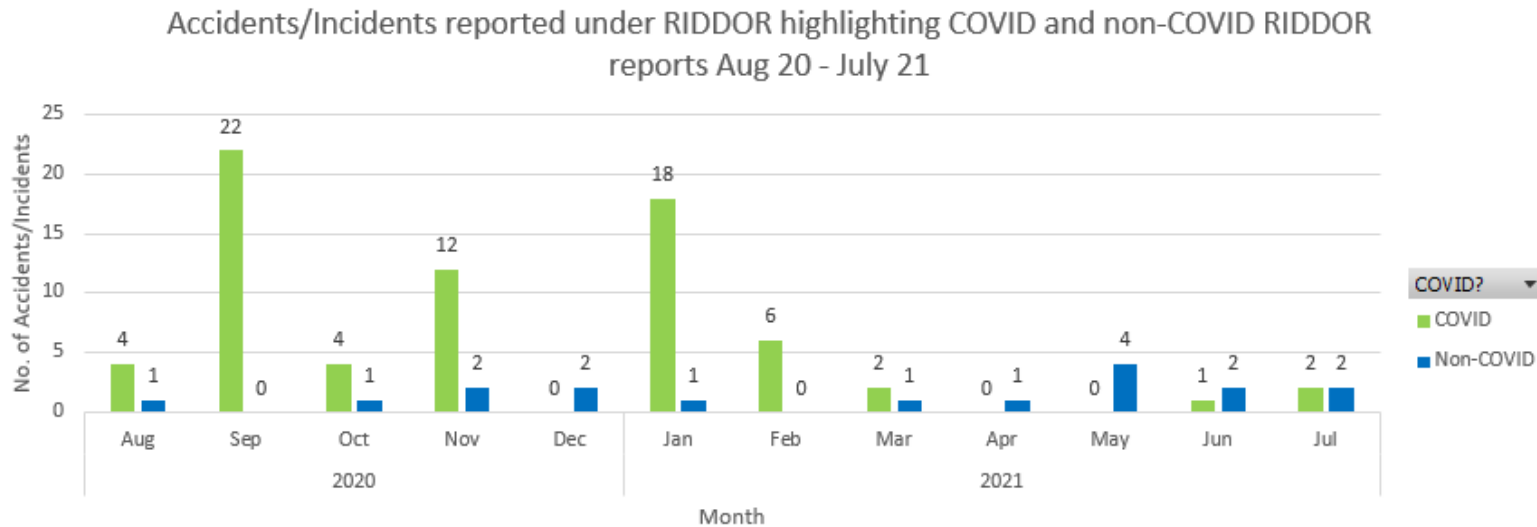


Graph 3: Accident and incident data by Cause during the 3 months – 1st May 2021 to 31st July 2021.

Through discussions with staff and at Health and Safety Committees, it is regrettable that incidents of threatening and abusive behaviour have remained, despite restrictions, although not always reported through the incident reporting system. Staff who have faced challenging behaviours are being encouraged by the Health and Safety Team and managers to report such cases. Managers and staff have been carrying out thorough investigations. Further work is required to understand the number of actual events and reasons for underreporting. The Health and Safety Team are working with managers to ensure value and benefits are understood.

Through staff discussion and during Departmental Health and Safety Committees, concerns have been raised regarding a potential increase in muscular skeletal disorders from working at home and poor psychological well-being. Following the introduction of updated Display Screen Equipment / Workstation assessment forms and guidance and a Stress Risk Assessment form and guidance in November, staff and managers have received support in adapting to alternative working practices and environments, whether at home or at a Sefton location.

Graph 4 shows the number of reports raised to enforcement authorities and insurers under the Reporting RIDDOR (Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2013), during the past year.



Graph 4: Accident and incidents reported under RIDDOR, highlighting COVID and non-COVID RIDDOR reports.

The graph highlights reports raised due to the requirement to report positive COVID-19 cases where there is evidence of workplace transmission. The greatest affected areas are Education Excellent, Children’s Services and Communities, where

front line workers have continued to provide essential services. It has been encouraging to see a significant decrease in workplace transmission. Testing, vaccination programmes and a greater understanding of suitable control measures and monitoring may have influenced this reduction, in addition to the further national restrictions imposed from January 2021. Managers must continue to report cases of non-workplace transmission so impacts can be continually monitored and understood.

There have been many non-COVID RIDDOR reports raised between 1st May and 31st July 2021.

Four accident reports raised under RIDDOR were for fractures sustained from slips, trips and falls (on ground level). One other may have been from a slip, trip or fall (on ground level) on the ground or contact with a moving vehicle and is under investigation. One person suffered a fracture when they fell from height, away from council property. A member of the public was taken to hospital by ambulance and received treatment for a dislocation of the knee when falling on the level.

A RIDDOR report was raised when a metal door came away from its hinges narrowly missing people.

The Health and Safety Team have seen a significant rise in slips, trips and falls. This is typical when re-opening services or schools and would be anticipated during this period. The team have been aware that not all instances may be reportable under RIDDOR, however must still be reported to the team via the accident and incident reporting system. The team are planning a campaign to assist managers in reporting and investigating accidents and incidents during the autumn, to coincide with reopening and recovery of services and schools.

4.3 **Developments**

There will be a continued focus during the next quarter of delivering the new Health and Safety Improvement Plan and the ongoing recovery programmes from COVID-19 with planned priorities.

The team will be working with the health and safety sub-committees to review their improvement plans, lessons learnt and areas of good practice. The Health and Safety Team will:-

Continue to support Managers and Head Teachers with COVID-19 recovery programmes. As national restrictions are relaxed, and central government guidance ceases, there remains a requirement to manage the COVID-Secure arrangements under Health and Safety law.

Continue to review, update and monitor the Health and Safety Standards and Policies, with focus on Fire Risk Assessments and building safety, Permit to Work systems, hiring of third-party premises, Dangerous Substances and Explosive Atmosphere Regulations, first aid provision and local emergency response.

Continue to develop the Council-wide training needs assessment which will build into the health and safety training plan and provision, in collaboration with the Workforce Development Team.

Work with senior managers to identify staff who require risk assessment or refresher training. Continue to support the delivery of risk assessment training for managers.

Focus on improving the accuracy of incident reporting, investigation and implementation of controls and monitoring to prevent reoccurrence. Work with managers to ensure incidents of threatening and abusive behaviours towards staff are reported and investigated.

Continue to deliver a health and safety management audit and inspection regime across the Council, to schools where the Council retains responsibility for the health and safety as the employer and those schools with a Service Level Agreement with the Councils Corporate Health and Safety Team. This will provide assurance that health and safety management systems are suitable and effective.

Engage with insurance brokers on their offer of free online training for Executive Directors, Heads of Service and managers.

Monitor outdoor education activities, offering advice and reviewing risk assessments for off-site visits and adventurous activities involving young people in schools. This is managed by the EVOLVE system which schools can purchase as part of the Service Level Agreement offering.

Promote the Educational Visits Co-ordinator course being held virtually in the Autumn, 2021. The course is aimed at new and existing EVCs in schools and will enable them to plan and manage their school's educational visits and off-site activities in line with National Guidance, this in turn will help them fulfil their health and safety responsibilities.

The team continue to support schools in the safe storage and where necessary, destruction of their radioactive sources.

The team have started collaborating with Public Health, Workforce Development, Trade Unions and the Health Unit with a Workforce Wellbeing Initiative.

5. Insurance: Performance Update

5.1 Work Completed

During the period, the following key pieces of work/projects have been undertaken:

- The Team have spent a considerable time on preparation for the upcoming renewal of insurances for the Council and associated subsidiary companies (Sefton New Directions, Sandway Homes). After collaborating with all service areas and senior management, proposal forms have been completed and sent to Brokers in order that they can present insurers views on cover, rates and premiums prior to the renewal date of 29 September 2021. The current insurance market remains challenging with Insurers focused on technical prices to ensure profitability over market share with varying appetites or risks. This is apparent in terms already received and agreed for the specialist policies required for Directors & Officers cover, with indemnity limits and excesses decreasing and premiums increasing. The Team will ensure that any further proposed adverse increases in the main policy renewal premiums are challenged appropriately with, and via, the Council's Brokers and will report further in the next update.
- The good practice revaluation exercise on a sample of Council buildings has now completed and has proved both value for money as well as assurance for the Council's Insurers of compliance with their recommended action points following their undertaking of several Risk Improvement Surveys. The sample consisted of the Top 20 buildings by current value and although the revaluations proved a mixture of under and over valuations previously held by the Council, the overall outcome was that 40% of the sample were under insured. We have advised the relevant insurers and due to some additional work in identifying buildings where there is clear agreement and action to demolish shortly we are insuring these buildings for demolition costs only which will mitigate the potential increase in costs from this exercise. We are planning with support from our insurers who through regular Risk Improvement Reviews of the Council's properties have required an up to date valuation to seek to replicate the sampling exercise. This exercise, will be subject to Chief Officer approval and via agreed Contract Procedure Rules, with the aim of taking place before the end of the calendar year and results being available by the end of the calendar year..
- Whilst the majority of the workforce continue to work from home, liaison with colleagues in Public Health and Health & Safety continues to ensure that appropriate insurance cover is in place to protect the Council in duties being carried out relating to the Covid-19 pandemic, and in particular any front line employees required to attend usual places of work.
- The Council continues to defend cases robustly to protect the public purse and, where necessary, will enlist the assistance of Weightmans, the Council's Solicitors.

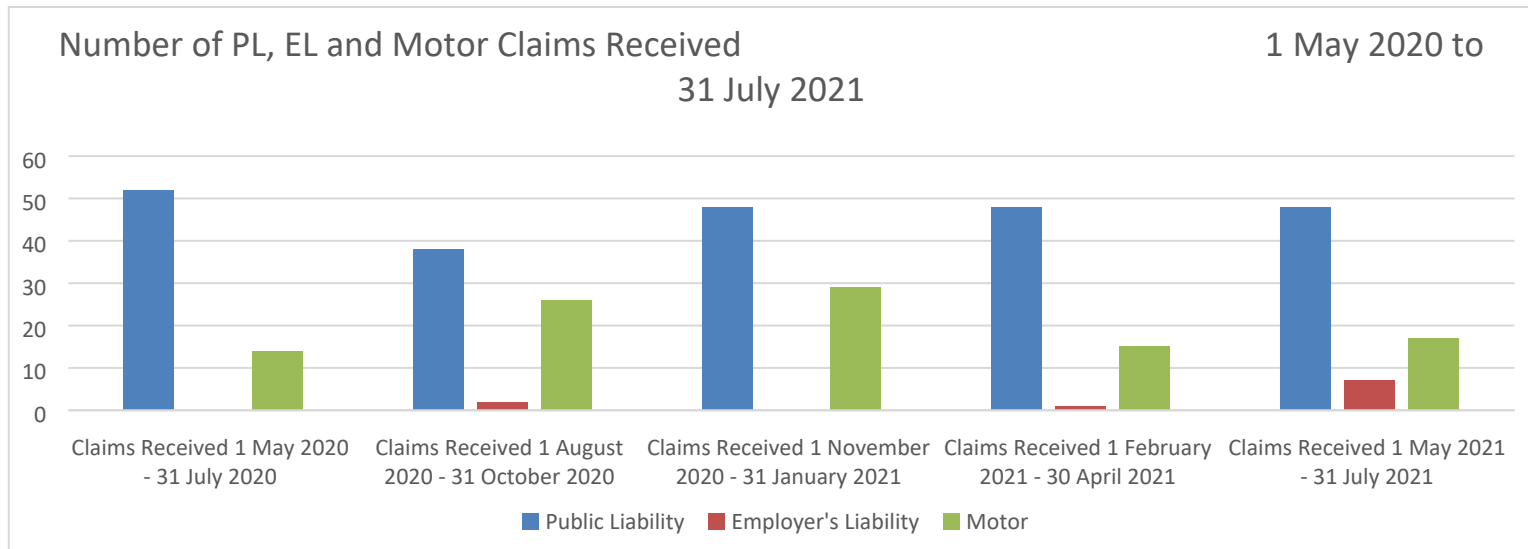
- In previous updates it was explained that Weightmans were acting on two claims where it was thought that there may be some fraudulent activity, as, although submitted separately by two different solicitors, claims have been received for alleged incidents at a Council owned location using identical supporting evidence. As is expected in claims of this nature, investigations are still ongoing. The eventual outcome will be provided in a future update.
- It is pleasing to note that, with the assistance of Weightmans, the Council was successful at Trial in July 2021. It referred to an Employer's Liability claim, and despite the Judge finding the claimant to be an honest witness, there were several inconsistencies within the supporting evidence and ultimately the Court was not satisfied as to the cause, nature or manner of the alleged incident. The claim will be closed and as a result there will be a saving of £19k from the outstanding reserve.
- The Team continues to work extensively with service areas to improve the management of insurable risk especially in areas where there are high numbers of claims or areas of concern. The Council generally has high defensibility rates and such risk management activity will assist in maintaining and potentially improving the position further. An example is working with a Service Teams to effect change where multiple claims at a Council owned location had been received due to a defect on site. By liaising with the Team and requesting remedial action to be taken, the Team ensured that further risk was removed from the area which could have resulted in more serious injuries being sustained and additional claims.
- As advised in the last update, Ministry of Justice Whiplash Reforms have now been communicated to service areas. The Reforms came into effect on 31 May 2021 in order to crack down on whiplash claims costs and lower motor insurance premiums. This type of claim forms the minority of claims within the Council's experience and, although the protocol is in its infancy, to date no claims of this nature have been received. If an influx of such is received it will be reported in a future update.
- As a result of the main Highways maintenance contractor recently going into administration, the Team have provided advice and assistance from an insurance aspect to Highways and Legal Services colleagues in an attempt to reduce the backlog of reports and repairs in a manner that will hopefully minimise the number of insurance claims received.

5.2 Key Claims Data

The following charts outline the insurance performance and include:

- Numbers of claims for Public Liability (PL), Employers Liability (EL) and Motor (MV) received by Sefton Council for the period 1 May 2020 to 31 July 2021.
- Value of the reserves for PL, EL and MV claims received by Sefton Council for the period 1 May 2020 to 31 July 2021.
- The average reserve value for PL, EL and MV claims received by Sefton Council for the period 1 May 2020 to 31 July 2021.

The chart below outlines the number of claims for PL, EL and MV claims received for the period 1 May 2020 to 31 July 2021.



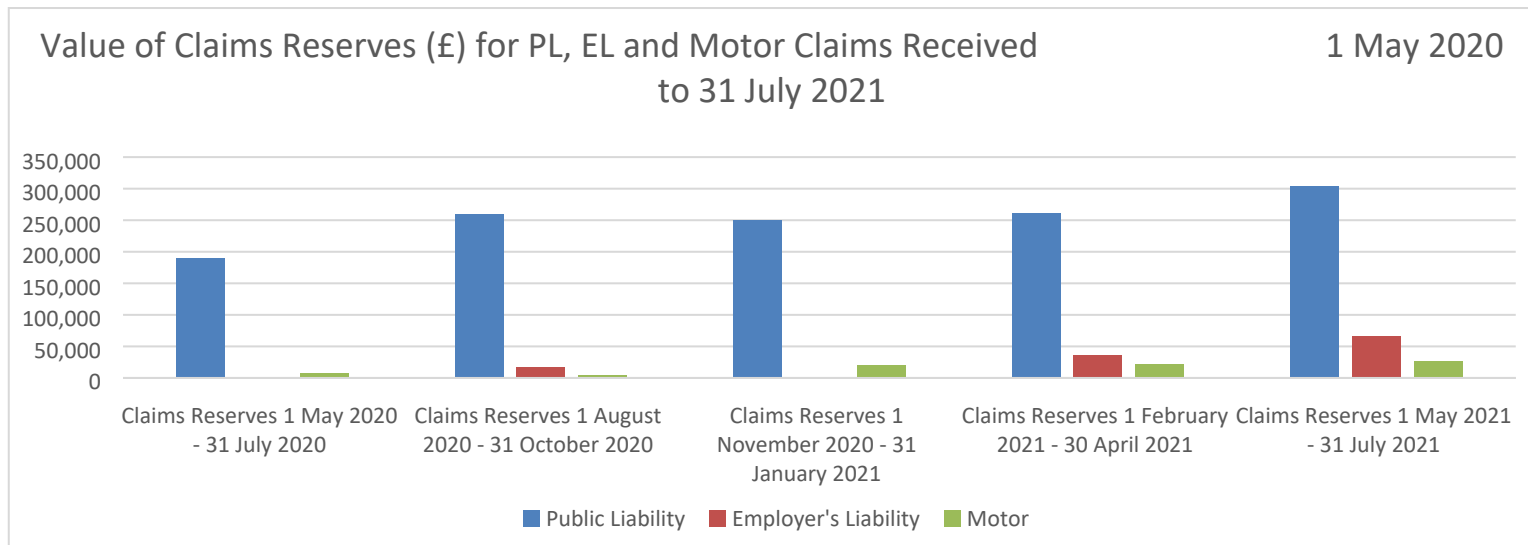
Public Liability claims numbers have remained constant over the last three quarters, however represent a 7% decrease on those received at the beginning of the reporting period. The Highways Service Area has the highest percentage (87%) of the claims received in the last period with 62% of these relating to personal injury.

Unusually, a high number of Employer's Liability claims have been received in the last quarter – more than double for the previous four quarters together. There appears to be no pattern behind the claims, however the Cleansing service area accounts for just under half of the claims received.

Numbers of Motor claims have slightly increased in the last quarter, however this is the third lowest quarter in the overall reporting period. Of the 17 claims received, 35% relate to damage to third party vehicles with the remaining 65% being own damage claims. The majority (41%) of claims relate to the Cleansing service area which reflects the size of the fleet and operational duties undertaken.

The current profile in all three areas presents no cause for concern. However, claims numbers, in particular Employer's Liability, will continue to be monitored for any changes in trend.

The chart below outlines the value of the reserves for PL, EL and MV claims received for the period 1 May 2020 to 31 July 2021.



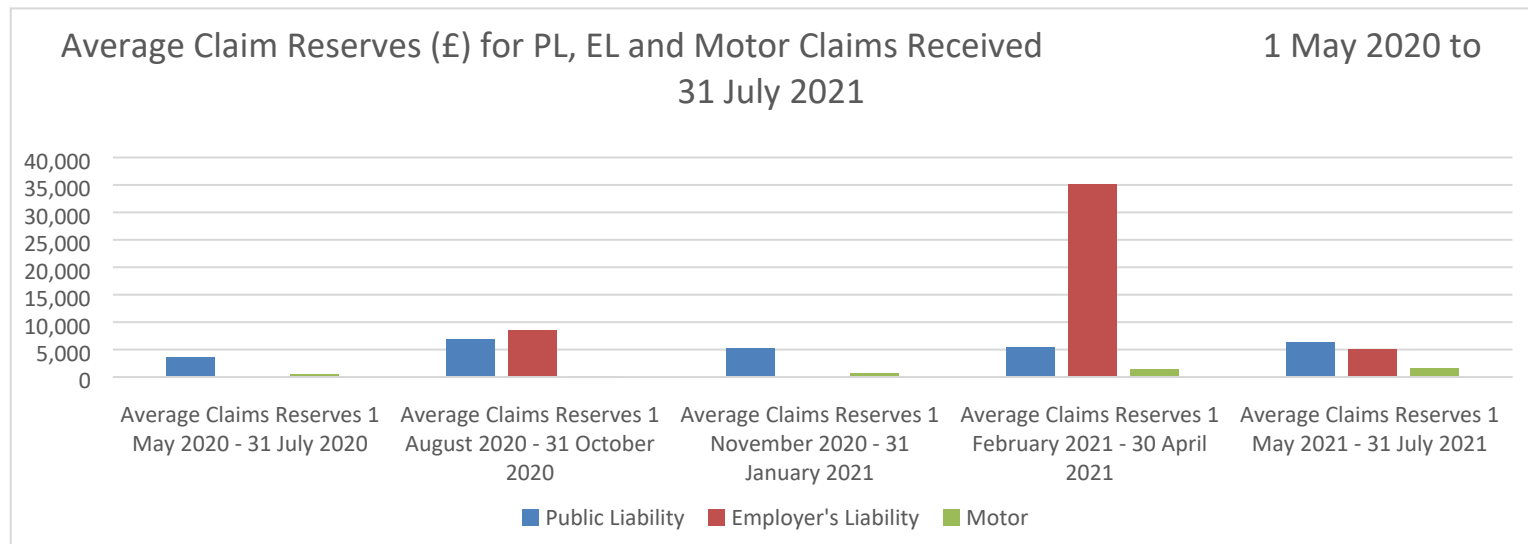
Claim reserves are allocated by the insurers and/or claims handlers independent of the Council and are determined by the type of injury sustained by the third parties and/or damage occasioned to their property.

Despite a dip in the third quarter, and numbers of Public Liability claims remaining constant, there has been a steady increase in reserves over the period overall. An increase of 60% is seen from the beginning to the end of the period. This is reflected in the type of injury and/or damage sustained by third parties. A significant reserve of £40k is attached to one claim received in the last quarter where the third party suffered a fracture on Council owned land. The matter is currently being investigated with the assistance of Highways colleagues.

As would be expected, due to the rise in Employer’s Liability claims, the total reserve figure has also increased and stands 289% higher than the second quarter and 87% higher than the fourth quarter when claims were last received. The highest individual reserve for the final quarter stands at £14k with the lowest being £5k.

Despite claim numbers decreasing from the third quarter, reserves for Motor claims have increased by 36% and by 20% from the fourth quarter. This reflects the damage occasioned and resulting repairs to third party vehicles and the Council’s own fleet. One claim of significance relates to a Council fleet vehicle where a reserve of £17k has been attached. An engineer’s inspection is currently awaited, however, due to estimated repairs, the vehicle may be deemed a write off. There was no third-party involvement in this incident.

The chart below outlines the average value of the reserves for PL, EL and MV claims received for the period 1 May 2020 to 31 July 2021.



Although Public liability claims numbers have remained constant for the majority of the period, average claim reserves have increased which is due to the nature of claims and severity of injury and/or damage suffered by third parties. The last quarter of the reporting period stands at the highest value over the overall period and represents an increase of 74% from the start of the period and 16% from the fourth quarter.

Employer's Liability average claim reserves have significantly decreased for the fourth quarter, however this is due to both the higher number of claims received and injuries alleged.

Due to the increase in reserves and despite claim numbers being lower, average reserves for Motor claims have increased considerably from the third to fifth quarter by 132%, and, as explained previously, this is reflected in damage occasioned and resulting repairs to both third party vehicles and the Council's own fleet.

Trends in claims performance will continue to be monitored.

5.3 Developments

- With the assistance of the Council's Data Protection Officer and ICT and Legal Services colleagues, the Team have been liaising with, and considering a response from, the Council's external claims handlers in relation to a cyber security incident they suffered in the latter part of 2020. From details currently known, it appears that there have been no Notifiable Cases concerning Sefton claimants' details being released or any misuse/abuse of such. However, communication continues and any relevant development will be provided in the next update.
- The Team have been utilising an insurance claims management system since 2015 and, although satisfied with its capabilities and performance, will, with the assistance of Procurement colleagues, take steps to consider testing the market later in the year. Systems that have additional modules such as risk management and or health and safety which may assist other teams with additional functionality within the Risk & Audit Service will also be considered.
- As members of the North West Insurance Officers Group, the Team have recently joined a sub group to consider bringing handling of claims in-house. This would be a major change for the Team and also a long-term project as the handling of claims is tied to the current long-term agreement with insurers which is due to end 28 September 2021 but there is an option dependent on the renewal to extend to 28 September 2023.
- The Team continue to work with service areas to improve the management of insurable risk in general (especially where there are high numbers of claims) which in turn should assist in maintaining defensibility of any claims received. Discussions still continue with the Highways Team regarding changes required within their safety inspection systems to adopt a risk-based approach and comply with the requirements of the Highways Code of Practice 2018. It is hoped that Highways will formally adopt the Code of Practice before the end of this calendar year.

- As the Council continues to change and commercialism develops, discussions will continue with the Insurance Broker to ensure that all new risks/liabilities to the Council are identified, and, where appropriate, relevant insurance cover is sourced and procured. The Team have recently met with the new Managing Directors of Sandway Homes and Sefton Hospitality Operations Ltd and will further engage with them and Brokers as and when necessary.
- In consultation with Health and Safety colleagues, the Team continue to make use of the remaining allocation of free of charge Risk Management Days made available as part of the current liability insurance contract. These are utilised to provide service areas with training or advice for their specific roles. Consideration is currently being given to offering health and safety training (IOSH Directors training) to the Council's new Heads of Services and a consultation with Highways colleagues on their current Winter Service Policy. A proportion of the days has been agreed to be used to provide an e-learning course content on risk management which will be launched to colleagues in the next six months.

6. Risk and Resilience: Performance Update

6.1 Work Completed

The team have considered developments across the key areas of Business Continuity, Emergency Planning and Risk Management and an improvement plan has been produced for 2021/22.

The Risk and Resilience Team supported the planned IT outage day for essential maintenance works, by contacting affected schools to ensure they had appropriate Business Continuity plans in place to cope with the loss of service. Information gathered from the schools was relayed back to the IT/facilities management teams to further recognise the complexities of the situation and this learning supported the understanding interdependencies within Council service areas.

The team have met with representatives from Aintree Racecourse to initiate planning for the 2022 Grand National event. A consultation has taken place ahead of the introduction of new legislation following the Manchester Arena enquiry. This will place additional responsibilities on event organisers and local authorities to protect the safety of the general public under Martyn's Law and Zone X requirements. The meetings with neighbouring authorities and multi-agency partners will continue up until the event in April 2022.

A six-monthly review of Business Continuity plans from each Service area is being undertaken by the team. As part of the regular review, each plan is being revised to incorporate details of key IT systems used within the service, further identifying the timescales within which these systems need to be restored and the minimum number of staff requiring access. This is in recognition of the significant reliance we have on IT and the considerable changes we have experienced since the plans were initially produced. A document has been produced to capture details of 'key suppliers' business continuity arrangements within each service and this will also be incorporated into BC plans.

The team planned and delivered a 'Loggist' training exercise to test the capability of the current loggist volunteers. The exercise was based on a flooding event and the loggists attended a virtual emergency team meeting to capture decisions made by the Emergency Duty Coordinator. Logs were produced and a debrief for lessons learned is also being held to encourage further progress in this area. The de-brief will consider how to improve the effectiveness of the deployment of loggists as well as practical considerations of capacity to support an event as well as succession planning

An engagement day was held to re-establish the focus of the Crisis Response Team and further training events are planned over the rest of the year. The first of these will be held in October at one of Sefton's designated reception centres.

Work is continuing to review the roles of the Crisis Response Team volunteers and loggists to ensure that there is on-going awareness and training opportunities are made available. As part of the review of the team are updating the volunteer policy and creating a risk assessment to support volunteer roles.

Large scale events are now permitted to take place following the lifting of Covid restrictions and this, along with it currently being peak event season, has led to numerous event plans being submitted for review by Sefton Event Safety Advisory Group (SAG). The team are members of this forum which meets with event organisers to seek assurance that all safety considerations have been met.

The Merseyside Resilience Forum (MRF) has resumed its business plan for the coming year and the team are once again engaged in various working groups to plan and deliver multi agency programmes of work.

During the quarter a request was made to service managers to provide their latest Operational Risk Registers. The response was largely positive, with a couple of areas identified for support in progressing these documents. The team will be working with these areas over the coming months to ensure consistency in recording operational risks.

The Corporate Risk Register has been reviewed and is due to be presented to the Audit and Governance Committee for approval. An alternative, enhanced method of updating the register has been introduced to ensure improved visibility and engagement in the process is achieved. Meetings with risk owners continue to be held virtually to ensure ongoing improvement to risk management arrangements across the Council.

6.2 Developments

- Major incident plans and processes will continue to be reviewed and associated risk assessment of operational activities documented to ensure safe working for members of the team and colleagues, partners and stakeholders.
- The team are considering a number of digital systems to manage and report for risk management requirements using existing software.

- The team continue to facilitate review of Business Continuity plans for each service area which will, in turn, support an update of Sefton's Corporate Business Continuity plan.
- Plans are being drawn up for undertaking a Business Continuity Exercise with members of SLB.

7. Assurance and Counter Fraud: Performance Update

7.1 Work Completed

Joint audit/fraud work has been undertaken on samples of COVID-19 related payments and expenditure including the accuracy and integrity of spend and considering inherent fraud risks nationally associated with COVID-19 related payments, support and reliefs. Tangible benefits delivered by this approach have resulted in identifying some issues and highlighted the benefits of data sharing across service teams in order to deter fraudulent grant applications.

For Business Grant Fraud the Government has provided debt recovery guidance to Local Authorities in September 2020. There are three types of ineligible payments: error, non-compliance and fraud.

If reclaiming funds is not possible the debts are to be referred to the BEIS to establish the next steps and ultimately determine whether the Local Authority will be held accountable for the debt. All identified fraud regardless of whether it is local, cross boundary or organised will be referred to Action Fraud via the website www.actionfraud.police.uk

Assurance on all the various national and local business grant schemes being administered by the Council, including Fraud Risk Assessments, Post Payment Assurance Plans, NFI Data Matching exercises, and the Grants Debt Recovery programme will continue to be provided by the Assurance Manager, linking into the formal audit work programme.

The Council's participation in the Cabinet Office National Fraud Initiative has seen data matching exercises being undertaken for the following data sets during the last quarter: -

- Mortality Screening – Council Tax Reduction Scheme, Blue Badges and Pensions.
- Housing Waiting List
- Covid Grant recipients

Assurance officers from the Risk and Audit Team have been providing support with the NFI Blue Badge mortality checks exercise, with the latest progress update being:

Number of matches received 905

Numbers investigated 201

Badges cancelled 172

Earliest date cancelled from 22 February 2019

There is potentially financial savings generated as well as enhancing the Council's reputation as a result of intervention to detect and stop the potential misuse of Blue Badges. The saving is the loss of parking revenue to the Council as a result of the abuse. Most importantly, the impact of any misuse has on genuinely disabled persons who cannot park and drive further distances to find suitable spaces.

From the NFI Pensions exercise, two dates of death were received from NFI and both records have now been cancelled from the Council's payroll system.

There were no issues found with the Council Tax Reduction Scheme mortality checks. This is likely down to the effectiveness of the collaborative approach to data sharing that is in place between Sefton Council and the Department of Work and Pensions and the Tell Us Once scheme.

The Council's Insurance team has seen some notable developments in the identification of fraud in 2020-21, with two claims rejected and significant legal costs being recovered. An investigation into a slip and trip claim is currently underway.

The Council's Transactional HR team is currently investigating a £50k pension overpayment due to a failure by the family to notify the death of a pensioner approximately twenty years ago. The overpayment is the smaller part of a larger external pension payment that has been erroneously paid to the pensioner. The investigation is being lead by the HR Team who have involved Legal Services in providing support and guidance. A recovery process is currently being attempted by the Council and some activity is being co-ordinated with the external pension provider. The Council does actively investigate pension matches through the Government's annual National Fraud Initiative which provides details of deaths that have been reported. There are, however, some known issues with the completeness of the information that is supplied through the initiative and as it is a backward-looking control a good practice counter fraud control to prevent payments in similar situations is carrying out "proof of life" checks on pensioners at regular intervals.

Whilst it may be reasonable for the Council to expect repayment of the overpayment from the deceased's estate we are at early stages in the recovery process. Further updates will be provided to the Committee.

7.2 Developments

In May 2021, the Financial Reporting Council (FRC) issued a revised version its UK auditing standard of the responsibilities of auditors relating to fraud - ISA (UK) 240 (Revised May 2021) - The Auditor's responsibilities Relating to Fraud in an Audit of Financial Statements of IAS 240. The revised UK standard is effective for audits of periods beginning on or after 15 December 2021 with early adoption permitted. It is clear that there will be a greater focus on fraud risks by local authorities' external auditors. There will be increased "scepticism" about the reliability of the information used as evidence to support

an audit, with a potentially lower materiality threshold for fraud risks and closer questioning of management and those charged with governance about their understanding of the fraud risks applying to their organisation.

This presents an opportunity to raise the profile of fraud risks and counter fraud work in Councils: in particular, as an example, on controls to mitigate fraud in the business grants we have been administering over the last year.

[https://www.frc.org.uk/getattachment/e48499f2-b69b-4f45-8bef-762583eab1cd/ISA-\(UK\)-240-Final.pdf](https://www.frc.org.uk/getattachment/e48499f2-b69b-4f45-8bef-762583eab1cd/ISA-(UK)-240-Final.pdf)

Business Support Grants and Business Rates datasets were mandated as part of The Cabinet Office's 2020/21 National Fraud Initiative (NFI) Work Programme data matching exercise in order to identify potential fraud. Sefton Council's Grant recipient datasets for the Small Business Grant Fund, the Retail, Hospitality and Leisure Grants Fund and Local Authority Discretionary Fund Grants Fund data were submitted in January 2021. The results of the data matching were released to the Council on Friday 14 May 2021 and the Council will be following up the data matches between now and 31 December 2021.

Data matching is undertaken based on established NFI methodologies to identify potential fraud in relation to:

- multiple grants paid to businesses within or between LA's.
- duplication between grant schemes where relevant; and
- payments made to business or individuals flagged in proven fraud 'watchlist' data, where available.

The Council's Counter Fraud Strategy (draft) is almost finalised and will be consulted on with the Strategic Leadership Board in early Autumn. As part of the Counter Fraud Strategy the Council has reviewed its arrangements against the latest Fighting Fraud and Corruption Locally (FFCL) Strategy (2020) which is the Local Government blueprint for tackling fraud in Local Government.

The previous FFCL strategy focused upon pillars of activity that summarised the areas local authorities should concentrate efforts on. These were 'acknowledge', 'prevent' and 'pursue'. These pillars are still applicable. However, another two areas of activity have emerged that underpin tenets of those pillars. These are 'govern' and 'protect'. The pillar of 'govern' sits before 'acknowledge'. It is about ensuring the tone from the top and should be included in local counter fraud strategies. The second new area that has appeared during the FFCL research recognises the increased risk of harm that fraud has on its victims and protecting the community, placing an additional responsibility on the Council to protect its residents from fraud.

The Councils Fraud Strategy will focus primarily on preventing and detecting fraud, with operational managers having the responsibility for putting in place effective control measures to stop fraud happening in the first place. Internal Audit and the Assurance Manager will work with the service areas in reviewing the fraud risk assessments and work with the services to identify where there are increased risks of fraud and advise on the mitigation of fraud risk and the most cost-effective way to improve controls. Importantly though, in order to achieve a robust anti-fraud response, the Council must commit sufficient support and resources to the tackling of fraud, prioritising fraud recovery and the use of civil sanctions. The effectiveness of the Strategy will involve developing more capability and capacity within the Council to punish fraudsters as part of the Council's 2021-2022 fraud plan.

The Council continues to participate in the Merseyside Regional Fraud Group to jointly develop and share best practice in Counter Fraud through a number of approaches, including information and knowledge sharing, policy and procedure development and joint working where appropriate.

As part of its membership of the Government's National Anti-Fraud Network Data and Intelligence Service (NAFN) the Council continues to receive regular intelligence alerts which are shared with the Council's operational managers. These have included the following issues during recent months: -

- Parking Ticket fraud
- Covid Self Isolation Payment Fraud
- Procurement Fraud – Chief Executive Impersonation
- Re-start Grant Fraud
- Rating Agent impersonation and Credit Refund Fraud
- Bank Mandate Fraud
- Rogue Trader Alert – Patio and Paving
- Cheque Fraud Alert

8. Looking Ahead

- 8.1 The Service continues to develop, with a number of key projects being undertaken to embed the role and influence of the team over the next quarter:
- The embedding of regular risk management review across the Council to ensure that Operational and Service Risk Registers are updated on a regular basis.
 - Define a draft risk management statement on appetite to be shared with Strategic Leadership Board.
 - Continued delivery of the Internal Audit Plans for 2021/22, focusing attention on reviewing the key risks to the organisation, which will evolve as the Council changes particularly in light of Covid-19.
 - Undertake limited testing of existing business continuity plans and refresh the existing BC plans.
 - Completion of the review of the Health and Safety Policy, work on developing wider occupational health, safety and wellbeing of staff and the finalising of the Annual Health and Safety Report.
 - Developing the Council's Counter Fraud approach firstly through rolling out the actions from the CIPFA Fraud Risk Assessment.
 - Delivering on the service improvement plans for the Risk and Audit Team.

9. Conclusions

- 9.1 Internal Audit has made limited progress in the completion of the Internal Audit Plan 2021/22 due to difficulties in recruiting suitable internal audit staff. Performance in respect of the agreement of recommendations and the feedback from clients has been particularly positive and reflects the value added by the Service.
- 9.2 The Council's accident record continues to be positive and there are plans to improve the risk management further by working with colleagues across the organisation with improved training offer.
- 9.3 The Health and Safety team has been continuing to respond to the significant impact of Covid-19 helping to ensure that management put appropriate risk assessments are in place and provide guidance and support to colleagues.
- 9.4 The Council's insurance claims performance remains good.
- 9.5 Further work is planned to improve risk management within the Council by ensuring that a risk appetite is developed and ensuring that there are risk registers are in place in line with the Corporate Risk Management Handbook.
- 9.6 Progress has been made in embedding business continuity with a focus this year of reviewing the existing BC plans clear road map for the completion of the outstanding business continuity plans shortly and a focus over the remainder of the financial year at testing and exercising the BC plans.
- 9.7 There are clear implementation plans in place across each of the service areas to deliver improvements which will result in improved services as well as an integrated risk and audit approach.

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Agenda Item 13

Report to:	Audit and Governance Committee	Date of Meeting:	Wednesday 15 September 2021
Subject:	Treasury Management Outturn 2020/21		
Report of:	Executive Director of Corporate Resources and Customer Services	Wards Affected:	All Wards
Portfolio:	Cabinet Member - Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

This outturn report provides Members with a review of the Treasury Management activities undertaken during 2020/21 financial year and also provides an update to 31st July 2021. Audit and Governance Committee receives this outturn report to allow monitoring against the Treasury Management Policy & Strategy and Prudential Indicators approved by Cabinet and Council.

Recommendation(s):

Members are requested to note the Treasury Management position to 31st March 2021 and the update to 31st July 2021, to review the effects of decisions taken in pursuit of the Treasury Management Strategy and to consider the implications of changes resulting from regulatory, economic and market factors affecting the Council's treasury management activities.

Reasons for the Recommendation(s):

To ensure that Members are fully apprised of the treasury activity undertaken to 31st March 2021 and to 31st July 2021 in order to meet the reporting requirements set out in Sefton's Treasury Management Practices and those recommended by the CIPFA code.

Alternative Options Considered and Rejected: (including any Risk Implications)

N/A

What will it cost and how will it be financed?

- (A) **Revenue Costs**
None

Agenda Item 13

(B) Capital Costs
None

Implications of the Proposals:

<p>Resource Implications (Financial, IT, Staffing and Assets): A shortfall in investment income has been experienced for 2020/21 financial year and is expected to continue into 2021/22 due to prevailing market conditions.</p>									
<p>Legal Implications: The Council has a statutory duty under the Local Government Act 2003 to review its Prudential Indicators and Treasury Management Activities.</p>									
<p>Equality Implications: There are no equality implications.</p>									
<p>Climate Emergency Implications:</p> <p>The recommendations within this report will</p> <table border="1"> <tr> <td>Have a positive impact</td> <td>N</td> </tr> <tr> <td>Have a neutral impact</td> <td>Y</td> </tr> <tr> <td>Have a negative impact</td> <td>N</td> </tr> <tr> <td>The Author has undertaken the Climate Emergency training for report authors</td> <td>N</td> </tr> </table> <p>The Council has during 2020/21, invested its reserves and balances overnight with either banks or money market funds in order to maintain high security and liquidity of such balances. It has not had the opportunity to invest in longer term financial instruments or investment funds for which there may be a chance to consider the impact on the Council's Climate Emergency motion.</p> <p>In the event that the Council has more surplus balances available in future that may lead to longer term investing, the Council will take account of the climate emergency when discussing the options available with the Treasury Management Advisors.</p>		Have a positive impact	N	Have a neutral impact	Y	Have a negative impact	N	The Author has undertaken the Climate Emergency training for report authors	N
Have a positive impact	N								
Have a neutral impact	Y								
Have a negative impact	N								
The Author has undertaken the Climate Emergency training for report authors	N								

Contribution to the Council's Core Purpose:

Protect the most vulnerable: n/a
Facilitate confident and resilient communities: n/a
Commission, broker and provide core services: n/a
Place – leadership and influencer: Good treasury management supports strategic planning and promotes innovative, affordable and sustainable capital investment projects through application of the CIPFA Prudential Code.
Drivers of change and reform: The Treasury Management function ensures that cash flow is adequately planned, and cash is available when needed by the Council for improvements to the borough through its service provision and the Capital Programme.

Facilitate sustainable economic prosperity: Pursuit of optimum performance on investments activities and minimising the cost of borrowing and the effective management of the associated risk continues to contribute to a balanced budget for the Council.
Greater income for social investment: n/a
Cleaner Greener: n/a

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD6507/21) is the author of the report.

The Chief Legal and Democratic Officer (LD4708/21) has been consulted and any comments have been incorporated into the report.

(B) External Consultations

The Council's external Treasury Management Advisors: Arlingclose have provided advice with regards to Treasury Management activities undertaken during the financial year.

Implementation Date for the Decision

Immediately following the meeting.

Contact Officer:	Graham Hussey
Telephone Number:	0151 934 4100
Email Address:	Graham.Hussey@sefton.gov.uk

Appendices:

None

Background Papers:

There are no background papers available for inspection.

Agenda Item 13

BACKGROUND:

1. Introduction

1.1. The CIPFA Prudential Code for Capital Finance in Local Authorities (The Prudential Code) was introduced following the Local Government Act 2003. The Prudential Code details a number of measures / limits / parameters (Prudential Indicators) that, to comply with legislation, must be set in respect of each financial year to ensure that the Council is acting prudently and that its capital expenditure proposals are affordable.

1.2. A requirement of the Prudential Code is the reporting to Cabinet and Full Council of the outturn position of indicators following the end of the financial year. In accordance with this requirement, this report outlines the 2020/21 outturn for the following Prudential Indicators:-

- i. Capital Expenditure (Section 2);
- ii. Capital Financing Requirement (Section 3.1);
- iii. Gross Debt and the CFR (Section 3.2);
- iv. Borrowing Limits (Section 3.3);
- v. Financing Costs as a proportion of Net Revenue Stream (Section 3.4);
- vi. Treasury Management Indicators (Section 6).

1.3. The Treasury Management Policy and Strategy Statements are agreed annually by the Council as part of the budget process. A requirement of the Policy Statement is the reporting to Cabinet and Full Council of the results of the Council's treasury management activities in the previous year. Treasury management in this context is defined as:

'The management of the authority's cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.'

1.4. In accordance with the above this report outlines the results of treasury management activities undertaken in 2020/21 covering the following issues:

- borrowing strategy and practice
- compliance with Treasury Limits
- compliance with Prudential Indicators
- investment strategy and practice.

1.5. The Council's Treasury Management activities have been under significant pressure throughout 2020/21 as a result of the Covid-19 pandemic. At the onset of the crisis the exact impact was unknown although it soon became clear that proactive management and in particular the management of cash balances was key to ensuring cash was available in response to exceptional need. The cash position was reported to the MHCLG to ensure the Council could continue to operate effectively and had significant balances available for grant awards and payments to support residents and local business.

1.6. The results of treasury management activities in 2020/21 are reflected in the net expenditure on Capital Financing Costs included within the Council's Revenue

Budget. The Capital Programme is also agreed annually as part of the budget process. It sets out the anticipated capital expenditure to be incurred within the year.

2. Capital Expenditure

- 2.1. The original estimate for 2020/21 expenditure together with the actual capital expenditure calculated on an accruals basis for the financial year is as follows:

	Estimate £m	Actual £m
Capital Expenditure	56.817	26.203

- 2.2. Capital expenditure in 2020/21 was £30.614m less than the original estimate reported in February 2020. The Council has therefore remained within the limits for expenditure set at the start of the year. The variation is due to the phasing of capital budgets and grant allocations to future years. These adjustments were approved by Cabinet and Council as part of the monthly budget monitoring for the capital programme during 2020/21.

3. The Council's Overall Borrowing Need

3.1. Capital Financing Requirement

- 3.1.1. The Capital Financing Requirement (CFR) reflects the Authority's underlying need to borrow for capital purposes and is based on historic capital financing decisions and the borrowing requirement arising from the financing of actual capital expenditure incurred in 2020/21.

- 3.1.2. The Council is currently internally borrowed meaning it temporarily uses its own cash balances to fund some capital schemes instead of external borrowing, a strategy which saves the cost of interest payments on loans. This reflects the current national low interest rates for investment of cash balances and the need to find savings for the revenue budget.

- 3.1.3. The actual level of Capital Financing Requirement as at 31 March 2021 compared to the initial estimate for 2020/21 is as follows:

	Estimate £m	Actual £m
Capital Financing Requirement	239.544	230.150

- 3.1.4. As mentioned in paragraph 2.2 (above), the level of capital expenditure for 2020/21 was less than anticipated and therefore the requirement for the financing of this expenditure is also lower.

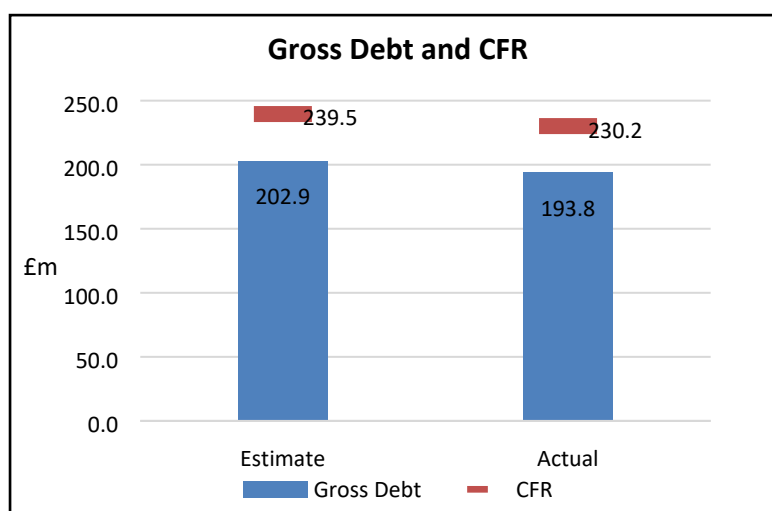
Agenda Item 13

3.2. Gross Debt and the CFR

3.2.1. CIPFA's Prudential Code for Capital Finance in Local Authorities includes the following statement as a key factor of prudence:

"In order to ensure that over the medium-term debt will only be for a capital purpose, the local authority should ensure that debt does not, except in the short term, exceed the total of capital financing requirement in the preceding year plus the estimates of any additional capital financing requirement for the current and next two financial years."

3.2.2. In the report to Cabinet in February 2020, it was stated that the Authority would comply with this requirement in 2020/21. During the financial year, gross external borrowing did not exceed the total of the Capital Financing Requirement. The chart below shows the out-turn position compared to the original estimate:



3.3. Borrowing Limits

	2020/21 £m
Authorised limit	249.000
Operational boundary	239.000
Maximum Gross Borrowing Position	212.492

3.3.1. The Operational Boundary sets a boundary on the total amount of long term borrowing that the Council should enter into. It reflects an estimate of the Authority's current commitments, existing capital expenditure plans, and is consistent with its approved Treasury Management Policy Statement and practices.

3.3.2. The Authorised Limit sets a limit on the amount of external borrowing (both short and long term) that the Council can enter into. It uses the Operational Boundary as its base but also includes additional headroom to allow for exceptional cash movements.

3.3.3. The Maximum Gross Borrowing Position shows the highest level of actual borrowing undertaken during 2020/21 financial year. This level remained within the Operational Boundary and did not exceed the Authorised limit.

3.4. Financing Costs as a Proportion of Net Revenue Stream

3.4.1. This indicator measures the financing costs of capital expenditure as a proportion of the net resource expenditure of the General Fund.

	Estimate 2020/21	Actual 2020/21
Financing Costs / Net Revenue	4.1%	4.2%

3.4.2. The overall ratio is slightly higher than the original estimate by 0.1% There has been a reduction in the Council's revenue streams over 2020 as a result of the COVID-19 crisis, the full impact of which is subject to a separate report presented to Cabinet and Council on a regular basis. The above variance is considered minor and financing costs for 2020/21 remain at affordable levels with the total borrowing requirement remaining below the operational boundary set at the beginning of the year.

4. Borrowing Strategy and Practice

4.1. The Council's debt portfolio at the 31st March 2021 and a comparison to the position at the end of last financial year is summarised as follows:

Actual Debt Outstanding	31st March 2020 £m	31st March 2021 £m
Public Works Loans Board	162.674	185.434
Other Long-Term Liabilities	9.274	8.355
TOTAL	171.948	193.789

4.2. The category of other long-term liabilities represents transferred debt from the Merseyside Residuary Body (£2.188m) and finance lease liabilities (£6.167m).

4.3. The Council's PWLB debt activity during 2020/21 is summarised in the following table:

Movement in Year	Actual £m
PWLB opening debt 1 st April 2020	162.674
Less principal repayments	(20.801)
Add new borrowing	43.561
Closing PWLB debt 31st March 2020	185.434

Agenda Item 13

- 4.4. The policy of internally borrowing, running down the Authority's cash balances rather than taking out new borrowing, continued with regards to the Capital Programme in 2020/21 as no new expenditure was financed from external borrowing. The Council did however, opt to make an up-front payment to Merseyside Pension Fund (£43.561m) funded from borrowing. This was approved by Budget Council on 27th February 2020.
- 4.5. The Merseyside Pension Fund offered the Council the opportunity to prepay (in April 2020) a proportion of the total expected contributions for the three-year valuation period at a discount. The Council has previously taken a similar opportunity at the start of the last two valuation periods. Officers discussed the proposal with both the Merseyside Pension Fund and the Council's external auditors.
- 4.6. The borrowing will be repaid across the three years of the valuation period, funded by the Council making significantly reduced payments the Merseyside Pension Fund each month during the period. After allowing for these borrowing costs, as stated, this will generate a significant net saving to the Council.
- 4.7. The average rate of interest on Council loans with the Public Works Loans Board (PWLB) in 2020/21 and a comparison to the previous year is shown below:

	2019/20	2020/21
Average PWLB Interest Rate in Year	3.94%	3.54%

- 4.8. The reduction in the average rate of interest from 2019/20 to 2020/21 is due to new borrowing being undertaken at significantly lower rates when compared to historic loans within the portfolio that were taken out when rates were much higher.

5. Debt Maturity Profile

- 5.1. This is a profile measuring the amount of borrowing that is fixed rate maturing in each period as a percentage of total borrowing that is fixed rate:

Fixed Rate Debt Maturity	Upper Limit	Lower Limit	Actual 31st March 2021
Under 12 months	35%	0%	13%
12 months and within 24 months	40%	0%	9%
24 months and within 5 years	40%	0%	22%
5 years and within 10 years	40%	0%	11%
10 years and within 15 years	40%	0%	12%
15 years and above	90%	30%	33%

5.2. The spread of debt across the various maturity periods shows how the authority has acted prudently and controlled its exposure to refinancing risk by not having overly large amounts of debt concentrated in one period, especially those in the shorter term.

6. Compliance with Treasury Limits

6.1. The following Treasury Limits were approved by Council during the 2020/21 Budget Setting process:

6.1.1 Borrowing Limits

	Limit £m	Maximum Borrowing 2020/21 £m
Authorised Borrowing Limit	249.000	212.492
Short Term Borrowing Limit	30.0	0.0
Proportion of external borrowing subject to variable interest rates	20%	0%

6.1.2 Investment Limits

	Upper Limit	Maximum Invested 2020/21
Principle sums invested for longer than 365 days	40%	8%

6.2. The amounts above show the maximum amounts borrowed or invested during the year compared to the limits set. The council therefore remained within the limits for borrowing and investments set for the year and no short term borrowing or borrowing subject to variable rates was undertaken.

7. Investment Strategy and Practice

7.1. The Council invests all available cash balances, which includes school balances and the insurance fund, following a policy of obtaining maximum returns whilst minimising risks.

i. **Externally Managed Investments**

No externally managed funds are held.

ii. **Internally Managed Investments**

The Council's available funds during the year averaged £88.01m and were managed internally with advice from our treasury consultants.

Agenda Item 13

- 7.2. The level of the Council's investments during 2020/21 and comparable figures from the previous year are summarised in the following table:

	2019/20	2020/21
Total Investment of Cash Balances at year end	£42.36m	£70.26m
Average Investment Balance during the year	£30.37m	£88.01m
Average Return on Investments	1.41%	0.36%

- 7.3. In 2020/21 a weighted average return of 0.36% was achieved. This is more than the benchmark 7-day LIBID figure of -0.08% and is considered to be an acceptable return. The majority of the funds are invested with major banks and Money Market Funds (MMF's), with the remaining balance of £5m invested with the CCLA Property Fund. The return of 0.36% can be disaggregated into a return of 0.10% on bank and MMF investments, whilst 3.85% was returned by the CCLA investment.
- 7.4. Following the cut in Bank rate from 0.75% to 0.10% in March 2020, the Council had expected to receive significantly lower income from its cash and short-dated money market investments, including money market funds in 2020/21, as rates on cash investments are close to zero percent. Whilst the arrival and approval of vaccines against COVID-19 and the removal of Brexit uncertainty that had weighed on UK equities were encouraging developments, dividend and income distribution was dependent on company earnings in a very challenging and uncertain trading environment as well as enforced cuts or deferral required by regulatory authorities.
- 7.5. These external economic factors have therefore impacted the actual performance of investments that have under-achieved against the total budget for 2020/21 as follows:

Budget Profile	Budget £m	Actual £m	Variance £m
Outturn 2020/21	0.415	0.313	0.102

8. Treasury Position for 2021/22 – Update to 31st July 2021

8.1. Investments Held

8.1.1. Investments held to 31st July 2021 comprise to the following:

Institution	Deposit £m	Rate %	Maturity	Rating
Money Market Funds:				
Aberdeen	10.85	0.01	01.08.21	AAA
Aviva	10.85	0.01	01.08.21	AAA
Blackrock	10.85	0.01	01.08.21	AAA
BNP Paribas	10.70	0.02	01.08.21	AAA
Goldman-Sachs	0.14	0.00	01.08.21	AAA
HSBC	7.17	0.01	01.08.21	AAA
Invesco	8.90	0.01	01.08.21	AAA
Morgan Stanley	10.85	0.03	01.08.21	AAA
Federated	10.71	0.01	01.08.21	AAA
Insight	6.36	0.00	01.08.21	AAA
Total	87.38			
Deposit Accounts:				
Bank of Scotland	2.35	0.01	01.08.21	A+
Natwest SIBA	2.42	0.01	01.08.21	A+
Santander	2.35	0.02	01.08.21	A+
Total	7.12			
Notice Accounts:				
Lloyds	3.00	0.03	32 days	A+
Natwest	3.00	0.10	35 days	A+
Santander	3.00	0.15	35 days	A+
Total	9.00			
Property Fund:				
CCLA	5.00	4.21	n/a	n/a
Total	5.00			
TOTAL INVESTMENTS	108.50			

8.1.2. The Authority holds significant invested funds, representing grant income received in advance of expenditure plus balances and reserves held. The cash is initially held in a number of highly liquid Money Market Funds to ensure security of the funds until they are required to be paid out. This approach is consistent with the Council's approved Treasury Management Policy and Strategy for 2021/22. The balance of investments is therefore expected to fall over the coming months as the income is fully expended.

8.1.3. All of the investments made since April 2021 have been with organisations on the current counterparty list. The maximum level of investment permitted in the

Agenda Item 13

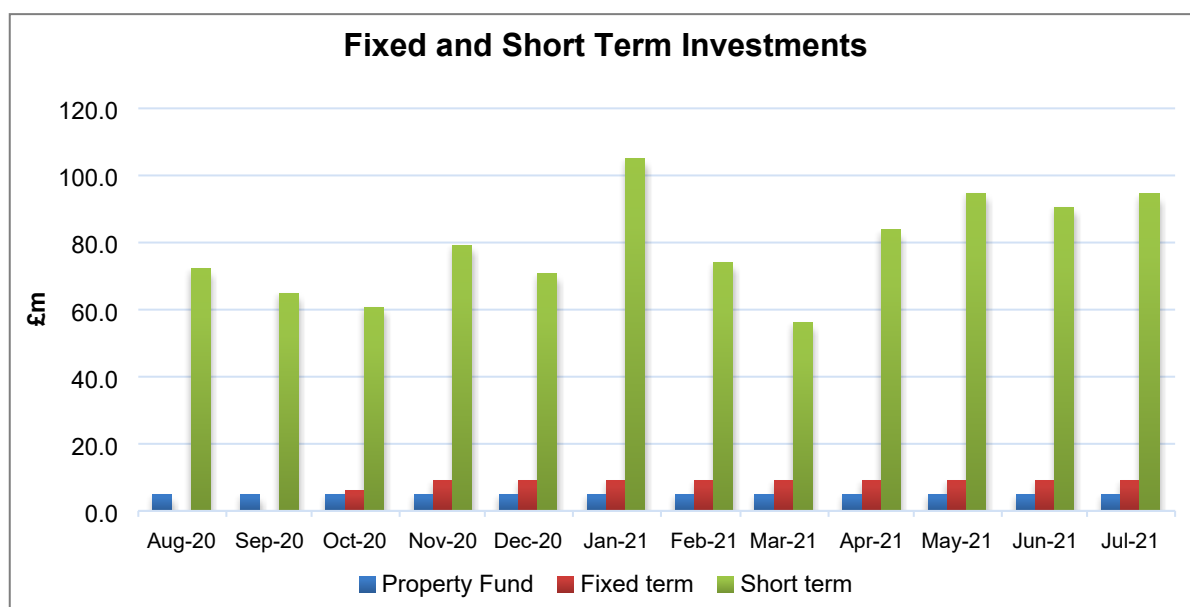
Treasury Management Strategy in any one institution, or banking group, is currently £15m. Whilst the maximum should be retained, in light of current economic conditions, a day to day operational maximum of 10% of the total portfolio is currently being imposed for investments. This will spread the risk for the Council but will have a small detrimental impact on the returns the Council will receive in the future. The Council has remained within that boundary during the year. At present, it is not expected that there will be any need to review this limit.

8.1.4. The Council will only invest in institutions that hold a minimum Fitch rating of A- for banking institutions, or AAA for money market funds. The ratings applied to investment grade institutions, and the much riskier speculative grade institutions, as defined by Fitch, have been placed into a risk matrix (paragraph 8.1.8.).

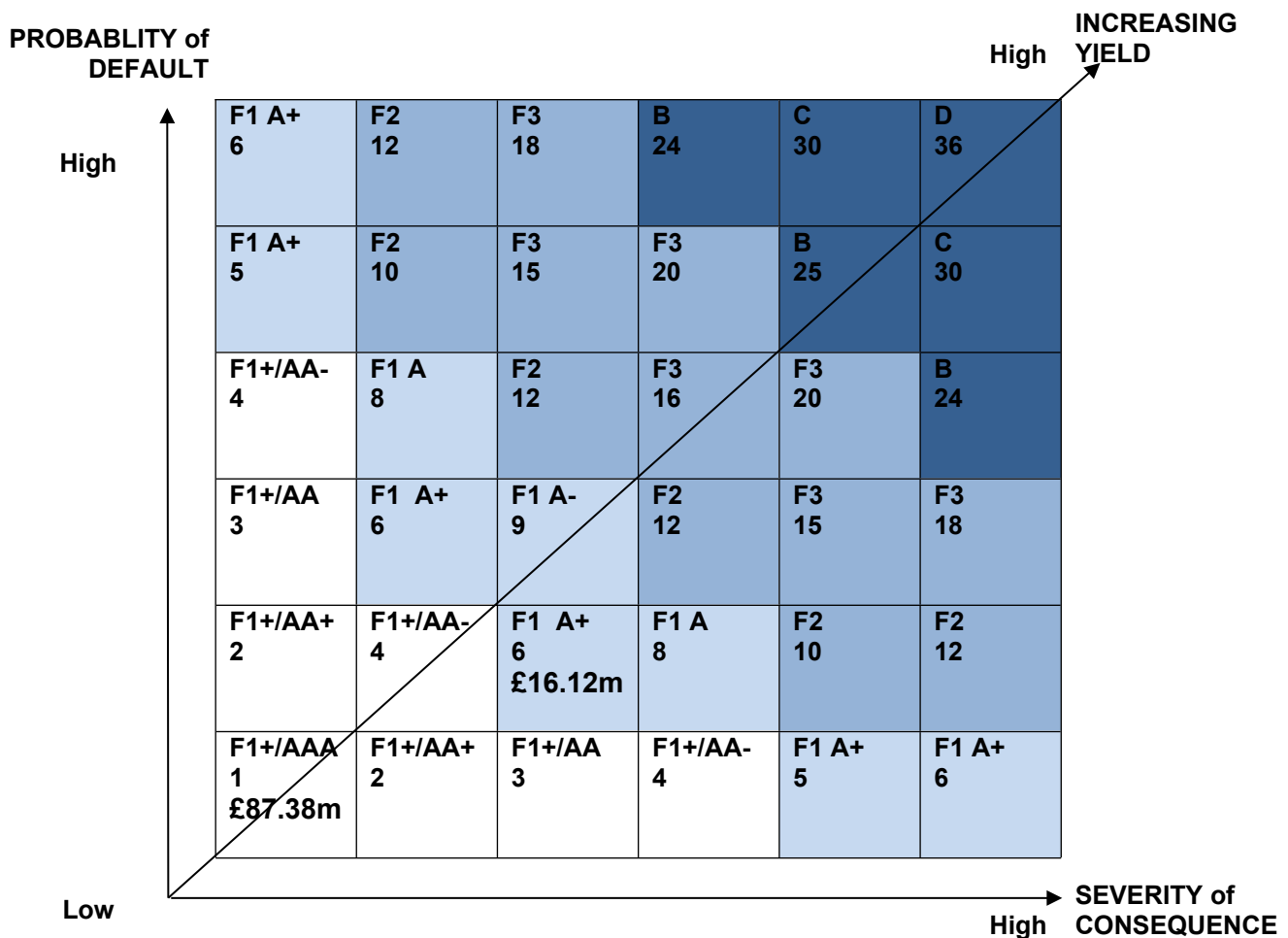
8.1.5. An investment has been made with the Church, Charities and Local Authority Investment Fund (CCLA) in June 2014. CCLA invest in commercial property which is rented out to enterprises such as retail units, warehousing, and offices. The majority of properties owned are in the south of the country where the market is often more buoyant than the north. The Council has in effect bought a share of the property portfolio and returns paid are in the region of 4%. This is seen as a long-term investment with the potential for the capital value of the investment to vary as property prices fluctuate.

8.1.6. The Net Asset Value (NAV) of the Property Fund has increased over a 12-month period to July 2021 from 282.60p per unit to 307.77p per unit, an increase of 8.9%. The income yield on the Property fund at the end of July 2021 was 4.12% which is consistent with returns received in the past.

8.1.7. The ratio of overnight deposits (short term) to fixed term investments and the property fund is shown below:



8.1.8. The matrix below shows how the Council has set its risk appetite by being risk averse and putting security and liquidity before yield when investing:



SEFTON RISK TOLERANCE:

Risk Level	Score	Grade	Amount Invested
LOW	1 - 4	Investment Grade	£87.38m
LOW - MEDIUM	5 - 9	Investment Grade	£16.12m
MEDIUM	10 - 20	Investment Grade	£0
HIGH	21 - 36	Speculative Grade	£0

8.1.9. The Council will continue to maximise any investment opportunities as they arise, but in light of current economic conditions and low investment yields it is not envisaged that any substantial increase in returns can be achieved for the remainder of the current financial year. Cash balances available for investment will be held in overnight deposits to allow the Council to respond to any exceptional demands for cash as they arise. The possibility for making long term deposits will be reviewed once economic conditions improve.

Agenda Item 13

8.2. Interest Earned

8.2.1. The actual performance of investments against the profiled budget to the end of July 2021 and the forecast performance of investments against total budget at year end is shown below:

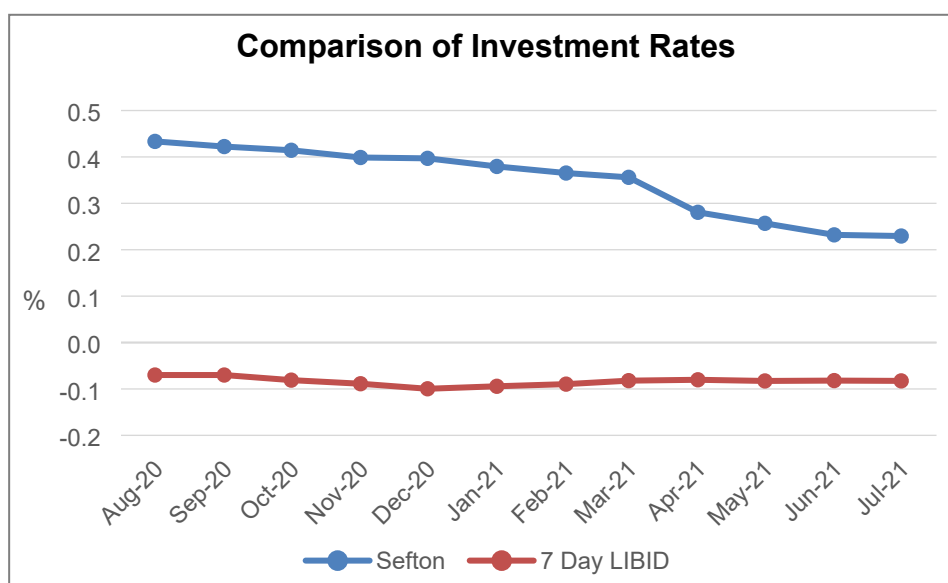
	Budget £m	Actual £m	Variance £m
Jul-21	0.118	0.059	0.059

	Budget £m	Forecast £m	Variance £m
Outturn 2021/22	0.415	0.257	0.158

8.2.2. The forecast outturn for investment income shows a significant shortfall against the budget for 2021/22. The impact of COVID-19 and current economic conditions in general mean that investment rates are low, and yields are expected to be well below the estimate originally forecast in the budget.

8.2.3. As mentioned in paragraph 8.1.9, it is not envisaged that improved rates will lead to a significant increase in the current forecast income from investments during 2021/22 as cash balances are diminishing and held in short term deposits.

8.2.4. The Council has achieved an average rate of return on its investments of 0.23% that has out-performed the 7-day LIBID to the end of July 2021.



9. Interest Rate Forecast

9.1. Arlingclose, the Council's treasury advisors, have provide the following interest rate view:

- *The medium-term global economic recovery has continued with the reopening of economies and most look set to grow at a decent pace. Recovery in world demand has been more highly concentrated in goods than in services. The UK has continued to benefit from its initial rapid vaccine rollout, which appears to have weakened the link between infections and hospitalisations.*
- *Arlingclose expects Bank Rate to remain at the current 0.10% level. We believe the risk of movement in the immediate term remains low, although the risks over the MPC's 3-year horizon have increased and are leaning to the upside.*
- *Gilt yields have fallen recently, but volatility is likely given the uncertainties over the economic outlook and central bank asset purchase programmes.*
- *Longer term yields may face upward pressure towards the end of our forecast period as the economy moves back to a sustained footing and policy expectations start to strengthen.*
- *Downside risks remain – the risk of further virus mutations including the Delta variant could destabilise the recovery. Downside risks also arise from potential future vaccine shortages as the demand for vaccines increases.*

	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24
Official Bank Rate													
Upside risk	0.15	0.15	0.15	0.15	0.30	0.30	0.30	0.40	0.40	0.40	0.40	0.40	0.40
Arlingclose Central Case	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
Downside risk	-0.10	-0.10	-0.10	-0.10	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15
3-month money market rate													
Upside risk	0.10	0.10	0.15	0.20	0.30	0.30	0.35	0.40	0.40	0.40	0.40	0.45	0.45
Arlingclose Central Case	0.10	0.15	0.20	0.20	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15
Downside risk	-0.10	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15	-0.15
5yr gilt yield													
Upside risk	0.45	0.45	0.50	0.50	0.55	0.60	0.60	0.60	0.65	0.65	0.70	0.70	0.70
Arlingclose Central Case	0.30	0.30	0.35	0.35	0.35	0.35	0.35	0.40	0.40	0.45	0.45	0.50	0.50
Downside risk	-0.25	-0.25	-0.35	-0.40	-0.40	-0.40	-0.40	-0.40	-0.40	-0.40	-0.40	-0.40	-0.40
10yr gilt yield													
Upside risk	0.40	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70	0.70	0.70
Arlingclose Central Case	0.65	0.70	0.75	0.75	0.70	0.70	0.70	0.70	0.70	0.70	0.75	0.85	0.95
Downside risk	-0.25	-0.35	-0.35	-0.40	-0.40	-0.40	-0.45	-0.45	-0.50	-0.50	-0.50	-0.50	-0.50
20yr gilt yield													
Upside risk	0.45	0.45	0.45	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70	0.70	0.70
Arlingclose Central Case	1.00	1.05	1.10	1.10	1.05	1.00	1.00	1.00	1.00	1.00	1.05	1.10	1.20
Downside risk	-0.35	-0.40	-0.45	-0.45	-0.45	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50
50yr gilt yield													
Upside risk	0.45	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70	0.70	0.70
Arlingclose Central Case	0.90	0.95	1.00	1.00	0.95	0.90	0.90	0.90	0.90	0.90	0.95	1.00	1.10
Downside risk	-0.35	-0.35	-0.35	-0.40	-0.40	-0.45	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50	-0.50

PWLB Standard Rate (Maturity Loans) = Gilt yield + 1.00%

PWLB Certainty Rate (Maturity Loans) = Gilt yield + 0.80%

Agenda Item 13

10. CIPFA Consultations

- 10.1. In February 2021 CIPFA launched two consultations on changes to its Prudential Code and Treasury Management Code of Practice. These follow the Public Accounts Committee's recommendation that the prudential framework should be further tightened following continued borrowing by some authorities for investment purposes. These are principles-based consultations and will be followed by more specific proposals later in the year.
- 10.2. In the Prudential Code the key area being addressed is the statement that "local authorities must not borrow more than or in advance of their needs purely in order to profit from the investment of the extra sums borrowed". Other proposed changes include the sustainability of capital expenditure in accordance with an authority's corporate objectives, i.e. recognising climate, diversity and innovation, commercial investment being proportionate to budgets, expanding the capital strategy section on commercial activities, replacing the "gross debt and the CFR" with the liability benchmark as a graphical prudential indicator.
- 10.3. Proposed changes to the Treasury Management Code include requiring job specifications and "knowledge and skills" schedules for treasury management roles to be included in the Treasury Management Practices (TMP) document and formally reviewed, a specific treasury management committee for MiFID II professional clients and a new TMP 13 on Environmental, Social and Governance Risk Management.
- 10.4. Officers will monitor the progress of the consultation process and any changes to the codes will be incorporated into the Council's future Treasury Management Policy and Strategy documents following advice from our Treasury Management Advisers.

11. IFRS 16 Leasing Accounting Standards

- 11.1. The implementation of the new IFRS 16 Leases accounting standard has been delayed for a further year until 2022/23 financial year. Any impact on the Council's leases from the changes to this accounting standard will be fully assessed and reported as part of future Treasury Management updates.

12. MHCLG Improvements to Capital Finance Framework

- 12.1. The Ministry of Housing Communities & Local Government (MHCLG) has published a brief policy paper announcing plans to improve the capital finance framework for local authorities in England. The document sets out the government's plans for strengthening the current system while protecting the principles of local decision making
- 12.2. Many of the actions announced in the paper are quite general, but there are some more specific plans which include:
 - Developing an analytical process to pre-emptively identify risks in the sector, including those local authorities that might be engaging in risky activity or non-compliance with the framework.

- Commissioning a review of the current governance and skills landscape for investment and borrowing within local authorities to identify the systemic issues that prevent good practice.
 - Working with partners to develop training and guidance targeted at the identified issues.
 - Reviewing the statutory powers for capping borrowing and considering how and when MHCLG will apply these to protect local financial sustainability.
 - Reviewing the investment guidance to ensure it is consistent with and reinforces CIPFA's new Prudential Code expected in December.
 - Reviewing local authority capital plans for compliance with the PWLB lending terms.
 - Further clarifying the regulations and guidance relating to Minimum Revenue Provision (MRP).
- 12.3. Any updates resulting from changes to legislation and MHCLG guidance will be incorporated into the Council's future Treasury Management Policy and Strategy documents following advice from our Treasury Management Advisers.

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