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MEETING: AUDIT AND GOVERNANCE COMMITTEE

DATE: Wednesday 7th December, 2016

TIME: 3.00 pm

VENUE: Town Hall, Bootle

Member

Councillor
Councillor Brennan (Chair)
Councillor Roche (Vice-Chair)
Councillor Ashton
Councillor Bennett
Councillor Bliss
Councillor Kevin Cluskey
Councillor McGinnity
Councillor Moncur
Councillor Sayers
Councillor Shaw

Substitute

Councillor
Councillor McKinley
Councillor Roscoe
Councillor Daniel Lewis
Councillor McCann
Councillor Dutton
Councillor Bradshaw
Councillor Robinson
Councillor Linda Cluskey
Councillor Dams
Councillor Hands

COMMITTEE OFFICER: Debbie Campbell
Senior Democratic Services Officer
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E-mail: debbie.campbell@sefton.gov.uk

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.

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A G E N D A

1. **Apologies for absence**
2. **Declarations of Interest**

Members are requested to give notice of any personal or prejudicial interest and the nature of that interest, relating to any item on the agenda, in accordance with the Members Code of Conduct.
3. **Minutes** (Pages 5 - 12)

Minutes of the meeting held on 21 September 2016.
4. a) **Statement of Accounts 2015/16** (Pages 13 - 16)

Report of the Head of Corporate Resources.
4. b) **Annual Audit Letter 2015/16** (Pages 17 - 44)

Report of the Council's External Auditors – Ernst and Young LLP.
5. **Review of Procurement Processes, Rules and Guidance** (Pages 45 - 112)

Report of the Head of Commissioning Support and Business Intelligence.
6. **Local Government Audit Committee Briefing** (Pages 113 - 122)

Report of the Council's External Auditors – Ernst and Young LLP.
7. **Vexatious or Unfocused Complaints and Data Requests** (Pages 123 - 140)

Report of the Head of Regulation and Compliance.
8. **CCTV Policy Statement** (Pages 141 - 158)

Report of the Head of Regulation and Compliance.
9. **Risk and Audit Service Performance Report** (Pages 159 - 194)

Report of the Head of Corporate Resources.
10. **Corporate Risk Management** (Pages 195 - 232)

Report of the Head of Corporate Resources.

11. **Treasury Management Update 2016/17 - Position to October 2016** (Pages 233 - 242)

Report of the Head of Corporate Resources.

12. **Exclusion of Press and Public**

The following report is **not** Exempt/Confidential, but includes appendices which contain exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A under Section 100A(4) of the Local Government Act 1972. Namely,

- Item 13 – Appendices 1, 2 and 3.

Members are therefore requested to indicate whether or not they wish to discuss any matters referred to in the exempt appendices and accordingly, consider passing the following resolution:

That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for any items of business which might involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act. The Public Interest Test has been applied and favours exclusion of the information from the Press and Public.

13. **Revenue Service - Write off of Irrecoverable Debts with Balances over £10,000** (Pages 243 - 262)

Report of the Head of Corporate Resources.

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

AUDIT AND GOVERNANCE COMMITTEE

MEETING HELD AT THE TOWN HALL, SOUTHPORT ON 21 SEPTEMBER 2016

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

Councillors Ashton, Bennett, Bliss, Kevin Cluskey,
McGinnity, Moncur, Sayers and Shaw

10. APOLOGIES FOR ABSENCE

No apologies for absence were received.

11. DECLARATIONS OF INTEREST

No declarations of any disclosable pecuniary interest were received.

12. MINUTES

RESOLVED:

That the Minutes of the meeting held on 29 June 2016 be confirmed as a correct record.

13. AUDIT FINDINGS

The Audit Results Report – International Standards on Auditing (ISA) (UK and Ireland) 260 for the year ended 31 March 2016, was included within the documents for the Agenda Item on Statement of Accounts, as detailed under Minute No. 21 below, and the Committee's consideration of Audit Findings is set out under Minute No. 21 below.

14. LOCAL GOVERNMENT SECTOR UPDATE

The Committee considered a briefing paper submitted by the Council's External Auditors, Ernst and Young LLP, providing a general briefing,

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primarily for information, for the Audit and Governance Committee on government and economic news; accounting, auditing and governance; regulation news; key questions for audit committees; and links to further information.

RESOLVED:

That the Local Government Sector Update be noted.

15. ANNUAL AUDIT AND CERTIFICATION FEES 2016/17

The Committee considered a letter submitted by the Council's External Auditors, Ernst and Young LLP, confirming the audit and certification work that the External Auditors proposed to undertake for the 2016/17 financial year at the Council. The letter set out details of the following:-

- Indicative audit fee;
- Certification fee;
- Summary of fees;
- Billing;
- Audit plan; and
- Key members of the audit team for 2016/17.

RESOLVED:

That the External Audit and certification work for 2016/7 be noted.

16. ADULT SOCIAL CARE AND PUBLIC HEALTH COMPLAINTS ANNUAL REPORT 2014/15

Further to Minute No. 11 of the Overview and Scrutiny Committee (Adult Social Care and Health) of 28 June 2016, the Committee considered the report of the Head of Commissioning Support and Business Intelligence on the performance of Adult Social Care Services in responding to complaints. Complaints received by Adult Social Care and Public Health covered the period 1 April 2014 to 31 March 2015, and the document attached to the report set out an Executive Summary of the complaints received, together with details of the following:-

- Current legislation;
- Overview of the complaints procedure;
- Adult Social Care complaints;
- Compliments;
- Learning from complaints; and
- Conclusions and recommendations.

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Appendix 1 to the document set out a summary of the complaints received, together with how they were dealt with. Appendix 2 to the document showed the client categories for complaints received between 1 April 2014 and 31 March 2015.

There was no officer in attendance to present the report and Members of the Committee questioned why the report had been submitted for the consideration of this Committee.

RESOLVED:

That clarification be sought as to why the report has been submitted for consideration by this Committee and Members be advised accordingly.

17. INFORMATION MANAGEMENT

The Committee considered the report of the Head of Regulation and Compliance providing an update on the Council's approach to information management. The intention was to produce a similar report of data breached on an annual basis. The report set out the background to the matter; structures in place within the Council, including key roles; training provided to council staff; forms of data breaches and examples of enforcement action taken against local authorities and other public sector bodies; the position at the Council at the conclusion of 2015/16, together with a summary of the 22 incidents identified.

RESOLVED: That

- (1) the report be noted; and
- (2) the Head of Regulation and Compliance be requested to submit future reports on an annual basis covering the Council's information management and governance arrangements, including details about data breaches within the Council.

18. LOCAL GOVERNMENT OMBUDSMAN COMPLAINTS 2015/16

The Committee considered the report of the Head of Regulation and Compliance presenting the Local Government Ombudsman's Annual Review Letter 2016. The report introduced the matter, setting out examples of maladministration and remedies available to local authorities and set out details of complaints and enquiries received in relation to the Council for 2015/16, indicating the area of the Council affected, summaries of complaints received, and outcomes. The report also indicated the number of complaints received by the Ombudsman for the Council during the preceding three years and comparative data for Merseyside authorities

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in 2015/16. A copy of the Annual Review Letter 2016 was circulated at the meeting for consideration by Members of the Committee.

RESOLVED:

That the report and the Annual Review Letter 2016 be noted.

19. STANDARDS REGIME IN SEFTON 2015/16

The Committee considered the report of the Head of Regulation and Compliance providing information regarding complaints that certain Members had breached the Council's Member Code of Conduct during 2015/16. The report indicated that the Localism Act 2011 had introduced fundamental changes to the regulation of standards of conduct for elected and co-opted members and required relevant authorities to promote and maintain high standards of conduct for both members and co-opted members. The report set out the role of the Monitoring Officer in dealing with complaints received, together with decisions available to the Monitoring Officer. The report also detailed complaints received during 2015/16 by the Council and set out information regarding work being undertaken by the Liverpool City Region in reviewing all Member Codes of Conduct within the constituent authorities, to assess how the Nolan principles of public life were embedded in the codes and how consistent codes were with each other. A report on this matter would be submitted to this Committee in due course.

RESOLVED:

That the report be noted.

20. VEXATIOUS OR UNFOCUSSED COMPLAINTS AND DATA REQUESTS

The Committee considered the report of the Head of Regulation and Compliance providing Members with a proposed policy and procedure about vexatious or unfocussed complaints and data requests. The report indicated that complaints that fell under this category represented a very small proportion of the vast correspondence exchanged between the Council and members of the public each year. The proposed policy and procedure aimed to establish a set of principles for both staff and complainants to either resolve difficulties or for staff to gather sufficient evidence to be able to cease responding to individual's correspondence. If approved, the relevant documentation would be added to the Council's transparency pages and appropriate links made on the Council's website to ensure the documentation was accessible to all. Both the Local Government Ombudsman's office and the Information Commissioner's Office recommended such a published statement as good practice.

Copies of the proposed policy and procedures were circulated at the meeting and Members were advised that informal procedures currently took place.

RESOLVED:

That consideration of the proposed policy and procedures for vexatious or unfocussed data requests be deferred to the next meeting of this Committee, to enable Members to have sufficient time to consider the proposals.

21. STATEMENT OF ACCOUNTS 2015/16

The Committee considered the report of the Head of Corporate Resources presenting the final audited 2015/16 Statement of Accounts for consideration and approval following the completion of the audit by the External Auditors, Ernst & Young. The report included the Statement of Accounts and the Executive Summary of the Accounts. The External Auditor's Report to those charged with Governance was included within the report and provided details of the significant audit and accounting matters to be considered, together with recommendations in relation to weaknesses identified in internal control systems. The proposed "Letter of Representation" letter from Sefton to the Council's External Auditors, was also included within the report.

Further to Minute No. 13 above, the Committee also considered the Audit Results Report – International Standards on Auditing (ISA) (UK and Ireland) 260 for the year ended 31 March 2016, that was submitted for consideration and approval following the completion of the audit by the External Auditors, Ernst & Young LLP. The report included an Executive Summary of the findings of the 2015/16 audit, responsibilities of the Council and purpose of the work of the External Auditors, the financial statements audit, and value for money conclusion. Detailed audit findings were contained within the Appendices to the report.

The Council, or nominated Committee charged with the responsibility for Governance, must approve the Statement of Accounts following the completion of the annual audit. The Audit and Governance Committee had been delegated with this responsibility and consequently must approve the audited accounts for 2015/16 by 30 September 2016.

Members of the Committee considered that they would have preferred longer to peruse such an important and lengthy document and requested the possibility of submitting further questions on the matter, following the meeting. They also requested the possibility of receiving a briefing on the matter prior to consideration of the 2016/17 accounts the following year.

RESOLVED: That

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- (1) the 2015/16 Statement of Accounts be approved;
- (2) the Annual Governance Statement be approved;
- (3) the comments of the External Auditors, Ernst & Young LLP, be noted;
- (4) the Letter of Representation be approved and the Chair of the Committee and the Head of Corporate Resources be authorised to sign it on the Council's behalf;
- (5) the fact that following completion of the Value for Money (VFM) assessment the final audit certificate will be provided to the Chair of the Committee and the Head of Corporate Resources, and the intention for a follow up report to be made available at the next meeting of the Committee, be noted;
- (6) Members of the Committee be invited to submit any further questions on the Statement of Accounts via the Council's Democratic Services Team; and
- (7) a briefing be arranged prior to consideration of the 2016/17 Statement of Accounts during 2017, for Members of the Committee.

22. TREASURY AND CAPITAL ACTIVITY - OUTTURN 2015/16

The Committee considered the report of the Head of Corporate Resources informing Members of performance against Prudential Indicators and Treasury Management activities undertaken for 2015/16. The report also included the Treasury Management position to August 2016.

The report set out details of the Prudential Indicators for the 2015/16 outturn in relation to the following:-

- Capital expenditure;
- Financing costs/net revenue stream;
- Capital financing requirement;
- Borrowing limits; and
- Treasury Management Indicators.

The report also outlined the results of treasury management activities undertaken in 2015/16 covering the following issues:-

- Borrowing strategy and practice;
- The Council's current Debt Portfolio;
- Compliance with Treasury Limits;
- Compliance with Prudential Indicators; and

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- Investment strategy and practice.

RESOLVED:

That the report be noted.

23. RISK AND AUDIT SERVICE PERFORMANCE REPORT

The Committee considered the report of the Head of Corporate Resources detailing the performance and activities of the Risk and Audit Service during the period from 30 June to 31 August 2016.

The Performance Report contained an Executive Summary; an Introduction; an Internal Audit Performance Update; a Health and Safety Performance Update; an Insurance Performance Update; a Risk and Resilience Performance Update; the process of development and transformation; together with conclusions and recommendations. The Internal Audit Plan for 2016/17 was set out at Appendix A to the report.

RESOLVED: That

- (1) the report and the positive contribution made by the Risk and Audit Service during the period 30 June to 31 August 2016 be noted;
- (2) the Revised Internal Audit Plan 2016/17 be approved; and
- (3) the plans for the future direction and development of the Service and the positive impact this is anticipated to have on the level of assurance provided be noted.

24. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12 A to the Act. The Public Interest Test has been applied and favoured exclusion of the information from the press and public.

25. REVENUE AND BENEFIT SERVICE - WRITE OFF OF IRRECOVERABLE DEBTS WITH BALANCES OVER £10,000

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The Committee considered the report of the Chief Finance Officer outlining outstanding debts over £10,000 and requesting authorisation from the Committee to write off the debts, in accordance with the Council's Constitution.

RESOLVED: That

- (1) the write off of all debts detailed within the appendices to the report, amounting to £378,982.05, be written off; and
- (2) the Chief Finance Officer be requested to consider the inclusion of appropriate meaningful management information for future reports of this nature, in order to assist Members of the Committee in their deliberations.

Report to: Audit and Governance Committee **Date of Meeting: 7 December 2016**

Subject: Statement of Accounts 2015/16

Report of: Head of Corporate Resources **Wards Affected:**

Is this a Key Decision? No **Is it included in the Forward Plan?** No

Exempt/Confidential No

Purpose/Summary

To provide Members of the Audit and Governance Committee with details of the outcome of the VFM assessment undertaken by the Council’s External Auditor, Ernst & Young LLP as part of the 2015/16 closure of accounts process.

Recommendation(s)

The Audit and Governance Committee is asked to:

- Note that the final audit certificate has been provided to the Chair of the Audit and Governance Committee and Head of Corporate Resources;
- Receive and Note the Annual Audit Letter as provided by Ernst & Young LLP and comment on its findings;
- Note the response of the Council to the issues raised within the Annual Audit letter in respect of Procurement Activity;
- Approve that progress in delivering the Procurement Action Plan should be reported by the Head of Commissioning Support and Business Intelligence to each subsequent meeting of the Audit and Governance Committee in addition to a summary of all OJEU complaint processes that are undertaken for a period of 12 months; and
- Note that a report through the Head of Commissioning Support and Business Intelligence will also be considered at the next Cabinet meeting on the outcome of the recent procurement processes and subsequent audit work.

How does the decision contribute to the Council’s Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	x		
2	Jobs and Prosperity	x		
3	Environmental Sustainability	x		
4	Health and Well-Being	x		
5	Children and Young People	x		
6	Creating Safe Communities	x		
7	Creating Inclusive Communities	x		
8	Improving the Quality of Council Services and Strengthening Local Democracy	X		

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Reasons for the Recommendation: The recommendations will support the Council in ensuring that its control framework is robust and supports effective governance and management of resources.

What will it cost and how will it be financed?

(A) Revenue Costs

(B) Capital Costs

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

What consultations have taken place on the proposals and when?

The Chief Finance Officer (FD 4421/16) and the Head of Regulation & Compliance (LD 3704/16) have been consulted and any comments have been incorporated into the report.

Are there any other options available for consideration?

Implementation Date for the Decision

Immediately following the Committee/ meeting.

Contact Officer: Stephan Van Arendsen

Tel: 0151 934 4081

Email: Stephan.vanarendsen@sefton.gov.uk

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1 At the Audit and Governance Committee meeting on 21st September 2016, Members received the Statement of Accounts for the financial year 2015/16 and in doing so:-
- Approved the 2015/16 Statement of Accounts;
 - Approved the Annual Governance Statement;
 - Noted the comments of Ernst & Young LLP that whilst an unqualified opinion was proposed following the audit of the Councils Statement of Accounts, they had been unable to conclude the work to support the value for money conclusion due to the ongoing procurement work;
 - Approved the Letter of Representation and Authorised the Chair and the Head of Corporate Resources to sign it on the Councils behalf; and
 - Noted that following the completion of the VFM assessment, the final audit certificate would be provided to the Chair of the Audit and Governance Committee and the Head of Corporate Resources and a follow up report would be made available at the next meeting of the Committee
- 1.2 This report therefore provides that update for Members of the Committee.

2. Review of the Arrangements to secure economy, efficiency and effectiveness of resources

- 2.1 As stated, at the time of the last meeting, the audit of the Council's Statement of Accounts for 2015/16 had been completed and following reporting to the Committee, Ernst & Young LLP issued an unqualified opinion on the Statement of Accounts.
- 2.2 In addition to the review of the Statement of Accounts, Ernst & Young have a responsibility to carry out sufficient work to conclude on whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in the Use of Resources. At the time of the meeting in September they reported that they were in the process of completing their review of the Councils procurement processes.
- 2.3 Following the completion of the audit work in this area, the Council has received the final Annual Audit Letter from Ernst & Young and this is enclosed as part of this agenda item. Representatives from the firm will present this letter and discuss the key findings from the audit work undertaken.
- 2.4 Within this letter, it is reported that a qualified 'except' for Value for Money conclusion has been issued, due to weaknesses in arrangements for procuring goods and services across the Council. The reasons for the conclusion and supporting detail are provided at page 15 of the Ernst and Young LLP letter.

3. Council response to the issues raised within the Annual Audit Letter

- 3.1 As stated within the Annual Audit Letter, the Council engaged an independent review in June 2016 to investigate a specific element of a procurement process. This highlighted a number of control weaknesses within the process and made a series of recommendations, which were subsequently agreed by Senior Officers. In addition a thorough investigation was also undertaken by the Councils Internal Audit Team.
- 3.2 As a result of this review a 'Procurement Improvement Action Plan' was immediately developed including a review of the Council's Contract Procedure Rules and progress in delivering this Action Plan is reported separately on this agenda. It is recommended that progress in the delivery of the action plan be reported by the Head of Service, Commissioning Support and Business Intelligence, to each subsequent meeting of the Audit and Governance Committee.

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- 3.3 In addition to this, due the risks identified from the recent audit work, it is proposed that details of all OJEU compliant processes that are undertaken within the Council are also reported to each meeting of this committee for a period of 12 months. This will provide Members with the appropriate visibility of all major procurement activity and reassurance that the appropriate controls are being adhered to.
- 3.4 Having established through additional work undertaken as part of the year-end audit that these control weaknesses were not isolated to one area, in addition to the execution of the Procurement Action Plan the Council will also;
- Engage with Ernst & Young's procurement specialists to independently assess the improvement actions being undertaken by the Council and the scope of a further review of current arrangements;
 - Reflect within future Internal Audit Planning the increased risk arising from recent findings; and
 - Provide a report through the Head of Commissioning Support and Business Intelligence to Cabinet on the outcome of the recent procurement processes and subsequent audit work.

4. Conclusion

The Council having identified control weaknesses within its procurement processes has responded in a pro-active and expedient manner. As a result, in addition to the completion of the Procurement Action Plan, the Council will engage with the external auditors procurement specialists in order to address all issues raised in order that the control environment is improved and future processes are conducted in accordance with appropriate legislation and the Councils own procurement regulations.

Sefton Metropolitan Borough Council

Annual Audit Letter for the year ended 31 March 2016

21 NOVEMBER 2016

Ernst & Young LLP

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In April 2015 Public Sector Audit Appointments Ltd (PSAA) issued ‘Statement of responsibilities of auditors and audited bodies 2015-16’. It is available from the Chief Executive of each audited body and via the PSAA website (www.psaa.co.uk)

The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The ‘Terms of Appointment from 1 April 2015’ issued by PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and statute, and covers matters of practice and procedure which are of a recurring nature.

This Annual Audit Letter is prepared in the context of the Statement of responsibilities. It is addressed to the Members of the audited body, and is prepared for their sole use. We, as appointed auditor, take no responsibility to any third party.

Our Complaints Procedure – If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may take the issue up with your usual partner or director contact. If you prefer an alternative route, please contact Steve Varley, our Managing Partner, 1 More London Place, London SE1 2AF. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. Should you remain dissatisfied with any aspect of our service, you may of course take matters up with our professional institute. We can provide further information on how you may contact our professional institute.

Executive Summary

Executive Summary

We are required to issue an annual audit letter to Sefton Metropolitan Borough Council (the Council) following completion of our audit procedures for the year ended 31 March 2016.

Below are the results and conclusions on the significant areas of the audit process.

Area of Work	Conclusion
Opinion on the Council's ▶ Financial statements	We issued an unqualified opinion – the financial statements give a true and fair view of the financial position of the Council as at 31 March 2016 and of its expenditure and income for the year then ended
▶ Consistency of other information published with the financial statements	Other information published with the financial statements was consistent with the Annual Accounts.
Concluding on the Council's arrangements for securing economy, efficiency and effectiveness	We issued a qualified 'except for' VFM conclusion, in regards to weaknesses in arrangements for procuring goods and services across the Council. We reported that with the exception of these matters that we were satisfied that, in all significant respects, the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2016.

Area of Work	Conclusion
Reports by exception:	
▶ Consistency of Governance Statement	The Governance Statement was consistent with our understanding of the Council.
▶ Public interest report	We had no matters to report in the public interest.
▶ Written recommendations to the Council, which should be copied to the Secretary of State	We had no matters to report.
▶ Other actions taken in relation to our responsibilities under the Local Audit and Accountability Act 2014	We had no matters to report.

Area of Work	Conclusion
Reporting to the National Audit Office (NAO) on our review of the Council's Whole of Government Accounts return (WGA).	We had no matters to report

As a result of the above we have also:

Area of Work	Conclusion
Issued a report to those charged with governance of the Council communicating significant findings resulting from our audit.	Our Audit Results Report was issued on 21 September 2016
Issued a certificate that we have completed the audit in accordance with the requirements of the Local Audit and Accountability Act 2014 and the National Audit Office's 2015 Code of Audit Practice.	Our certificate was issued on 08 November 2016

In January 2017 we will also issue a report to those charged with governance of the Council summarising the certification work we have undertaken.

We would like to take this opportunity to thank the Council's staff for their assistance during the course of our work.

Hassan Rohimun

Executive Director
For and on behalf of Ernst & Young LLP

Purpose



Purpose

The Purpose of this Letter

The purpose of this annual audit letter is to communicate to Members and external stakeholders, including members of the public, the key issues arising from our work, which we consider should be brought to the attention of the Council.

We have already reported the detailed findings from our audit work in our 2015/16 Audit Results Report to the 21 September 2016 Audit Committee, representing those charged with governance. We do not repeat those detailed findings in this letter. The matters reported here are the most significant for the Council.

Responsibilities

Responsibilities

Responsibilities of the Appointed Auditor

Our 2015/16 audit work has been undertaken in accordance with the Audit Plan that we issued on 23 March 2016 and is conducted in accordance with the National Audit Office's 2015 Code of Audit Practice, International Standards on Auditing (UK and Ireland), and other guidance issued by the National Audit Office.

As auditors we are responsible for:

- ▶ Expressing an opinion:
 - ▶ On the 2015/16 financial statements; and
 - ▶ On the consistency of other information published with the financial statements.
- ▶ Forming a conclusion on the arrangements the Council has to secure economy, efficiency and effectiveness in its use of resources.
- ▶ Reporting by exception:
 - ▶ If the annual governance statement is misleading or not consistent with our understanding of the Council;
 - ▶ Any significant matters that are in the public interest;
 - ▶ Any written recommendations to the Council, which should be copied to the Secretary of State; and
 - ▶ If we have discharged our duties and responsibilities as established by thy Local Audit and Accountability Act 2014 and Code of Audit Practice.

Alongside our work on the financial statements, we also review and report to the National Audit Office (NAO) on you Whole of Government Accounts return.

Responsibilities of the Council

The Council is responsible for preparing and publishing its statement of accounts accompanied by an Annual Governance Statement. In the AGS, the Council reports publicly each year on how far it complies with its own code of governance, including how it has monitored and evaluated the effectiveness of its governance arrangements in year, and any changes planned in the coming period.

The Council is also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Financial Statement Audit

Financial Statement Audit

Key Issues

The Council's Statement of Accounts is an important tool for the Council to show how it has used public money and how it can demonstrate its financial management and financial health.

We audited the Council's Statement of Accounts in line with the National Audit Office's 2015 Code of Audit Practice, International Standards on Auditing (UK and Ireland), and other guidance issued by the National Audit Office and issued an unqualified audit report on 30 September 2016.

Our detailed findings were reported to the 21 September 2016 Audit Committee.

The following financial statement risks were identified as part of our planning process, and responded to as follows:

Significant Risks	Work performed	Conclusion
<p>Risk of management override As identified in ISA (UK and Ireland) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively.</p> <p>As a presumed risk specified by international auditing standards we identify and respond to this fraud risk on every audit engagement.</p>	<ul style="list-style-type: none"> ▶ We made inquiries of management about risks of fraud and the controls put in place to address those risks. ▶ Tested the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements. ▶ Reviewed accounting estimates for evidence of management bias. ▶ Developed a testing approach to journal entries. ▶ Assessed accounting estimates, particularly provisions, for evidence of management bias. ▶ Remained sceptical for the existence of any significant unusual transactions. ▶ Reviewed capital expenditure on property, plant and equipment to ensure it meets the relevant accounting requirements to be capitalised. 	<p>Our audit work did not identify any evidence of management over-ride of controls.</p> <p>In particular, our testing of journal entries did not identify any significant issues.</p>

Significant Risks	Work performed	Conclusion
<p>Revenue and expenditure recognition</p> <p>Under ISA240 there is a presumed risk that revenue may be misstated due to improper recognition of revenue.</p> <p>In the public sector, this requirement is modified by Practice Note 10, issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.</p> <p>As a presumed risk specified by international auditing standards we identify and respond to this fraud risk on every audit engagement.</p>	<ul style="list-style-type: none"> ▶ Developed a testing strategy to test material revenue and expenditure streams; ▶ Testing the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements; ▶ Reviewing accounting estimates for evidence of management bias; ▶ Evaluating the business rationale for significant unusual transactions; and ▶ Reviewed and tested revenue cut-off at the period end date. 	<p>Our audit work did not identify any significant issues in respect of revenue and expenditure recognition.</p>

We also identified the following audit risks during the planning phase of our audit, and reported the outcome of our work to you in our Audit Findings Report.

Other Risks	Work performed	Conclusion
<p>Minimum Revenue Provision</p> <p>The scheme of Minimum Revenue Provision (MRP) was set out in former regulations 27, 28 and 29 of the 'Local Authorities (Capital Finance and Accounting) (England) Regulations 2003'. This system has now been revised by the amended Statutory Instrument 2008 no. 414 s4 which lays down that: "A local authority shall determine for the current financial year an amount of minimum revenue provision that it considers to be prudent."</p> <p>The operative date of the change was 31 March 2008, and applies to the financial year 2007/8 and subsequent years. Guidance was issued suggesting a number of ways Authorities could approach the calculation of this provision.</p> <p>Officers are in the process of reviewing their approach to the MRP calculation in particular in respect of supported borrowing pre 2008 to decide which alternative approach should be adopted.</p>	<p>We involved our technical experts to:</p> <ul style="list-style-type: none"> ▶ Review the revised MRP Policy ▶ Review the MRP calculation for the current year of audit incorporating any change in approach ▶ Evaluate the justification that approach meets the definition of "prudent" ▶ Test the detailed supporting documentation to MRP calculations. 	<p>Initial review of the revised calculation and discussion with management identified issues relating to:</p> <ul style="list-style-type: none"> ▶ Duplication of charges regarding transferred debt and payments to MRB; ▶ Lease and PFI calculations being based on asset values rather than the outstanding liability; ▶ Treatment of long term loans; ▶ Consideration that MRP constituted a provision under International Accounting Standard 37 ; and ▶ Differing capital financing requirement calculations in elements of the annuity calculation. <p>Management adjusted their calculations following the above findings.</p> <p>Our review of the revised MRP policy did not identify any areas of non-compliance, and we have concluded that the policy meets the definition of 'prudent'.</p>

A close-up, shallow depth-of-field photograph of a stack of coins. The coins are stacked vertically, with the edges of several coins visible. The lighting is warm, highlighting the metallic texture and the ridges on the edges. A bright yellow rectangular box is overlaid on the left side of the image, containing the text 'Value for Money'.

Value for Money

Value for Money

We are required to consider whether the Council has put in place ‘proper arrangements’ to secure economy, efficiency and effectiveness on its use of resources. This is known as our value for money conclusion.

Proper arrangements are defined by statutory guidance issued by the National Audit Office. They comprise your arrangements to:

- Take informed decisions;
- Deploy resources in a sustainable manner; and
- Work with partners and other third parties.



We issued a qualified 'except for' value for money conclusion on 08 November 2016. We identified that except for weaknesses in the Council's arrangements for procuring goods and services, we were satisfied that, in all significant respects, Sefton Metropolitan Borough Council had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2016.

Reason for qualified 'except for' VFM Conclusion:

Procurement

In June 2016, the Council engaged an independent review to investigate a specific element of a procurement process. The review identified "*an environment that lacks clearly defined responsibilities and accountability*". The report highlighted general weaknesses including:

- ▶ The roles of the Procurement team and the responsibilities of the Service are not clearly documented.
- ▶ There is no formal approval process for agreeing the final versions of the POQ or ITT or any subsequent changes to documentation.
- ▶ Issues identified with the procurement guidance include:
 - The procedure was last updated in April 2014 prior to the Public Sector Contract Regulations 2015;
 - The contract procedure rules do not refer specifically to the use of Chest or include procedural guidance about how to use the 'electronic tendering method';
 - The rules do not clearly allocate the responsibility for managing the procurement including the split between procurement and the service line ;
 - The rules do not clarify the conditions for communication with suppliers during a tender process;
 - The rules do not clarify the process for approving an ITT; and
 - The rules do not clarify the process for managing ITT variations.

The Council responded quickly to the findings of the review and established an action plan for improvement. However, given the nature of the issues identified for the purposes of our VFM conclusion further work was required in order to assess if the issues identified were isolated or highlighted wider weaknesses in the Council's arrangements for procuring services. Having reviewed further procurement exercises carried out in the year issues were identified which demonstrated that the issues identified in the initial procurement review were not isolated to one exercise or department, but represent weaknesses across the Council in regards to the effectiveness and compliance of controls. This represents significant weaknesses in arrangements for procuring goods and services across the Council.

At the planning stage of our audit we identified significant risks and other areas of focus, our key findings in these areas are summarised below:

Significant VFM risks - Key Findings

Medium term financial planning

The Council has a track record of delivering identified savings and this performance has continued in 2015/16 with savings of £34.8 million, enabling a balanced budget at year end.

Looking forward to 2016/17, the challenges remain just as acute with savings of £37 million in 2016/17 needed to achieve a balanced budget. As at the end of June 2016 the Council were reporting that £28.1million (75%) of the total required savings had been delivered or were on plan; with £1million at some risk of not being fully achieved; and a further £8.2 million of savings was identified as a “Red” risk of not being delivered. The Council are in the process of challenging services to review all areas of expenditure in order to contribute to a year end balanced position, to ensure the outturn position remains within the savings required. It is notable that the budget and forecast outturn includes £6 million of revenue expected from partners in regards to the Better Care Fund, which the Council has identified as being at risk of delivery. The Council are identifying mitigating savings in replacement of the ‘at risk’ revenue.

The forecast financial position for 2017/18 – 2019/20 indicates a budget gap of £64 million. When put into context with the significant savings achieved to date, continued savings of this size require a fundamental change to the services provided by the Council and how they are delivered. The Council is currently developing a transformational change programme in order to create a sustainable future and it has started to develop a three year programme and financial plan to address the medium term challenges.

Despite the scale of the challenges ahead, the Council continues to be ambitious for Sefton and are in the process of developing a ‘2030 vision’ for the Borough. They have engaged with local residents, inviting them to share their aspirations for the Borough and what they want and need now and into the future.

Delivering these plans will be a significant challenge for the Council. Given the scale of the transformational programme the Council needs to ensure that programmes are properly scrutinised, managed and delivered. In doing so Members will need to ensure there are robust plans and performance management processes in place to track the progress and delivery of actions, including the formulation of mitigating plans in the event of non-delivery.

Significant VFM risks - Key Findings

Pooled Budget Agreement

We identified in our audit plan that the section75 agreement in place for the Better Care Fund did not fully reflect the expected income, which was exposing the Council to potential shortfalls in expected income due to disagreements on financial obligations with its partners.

The Council contends that they were due an additional £3 million in 2015/16 followed by £6 million in 2016/17. These sums were included in the revenue budget for each respective year, but the liability was disputed by Sefton CCG. Following an arbitration panel meeting, it was determined that the Council would not receive the sums expected in mitigation the Council sought remedial measures and assumed the worst case scenario for financial planning purposes once they were aware of the CCG's position. However, this loss of income does have an impact on the Council's Medium Term Financial Plan (MTFP) and action is being taken to mitigate the loss.

Following the arbitration meeting a Better Care Fund plan for 2016/17 was agreed and submitted to NHS England. The Council recognises that delivery of its objectives will not be fully achieved without the co-ordinated input of all partners within the health and social care system.

Moving in to the second year of the Better Care Fund we are noting, nationally, that many partners have developed their plans for collaborative working, by:

- ▶ Reviewing care pathways to deliver improved patient outcomes and genuine system wide efficiencies;
- ▶ Revisiting governance arrangements after a year's experience;
- ▶ Working towards fully integrating commissioning;
- ▶ Further honing arrangements for reporting financial and non-financial information; and
- ▶ Delivering fair risk share arrangements between partners.

Across the country health and local government bodies will need to work together to a far greater extent than ever before to ensure that sustainability and financial plans are viable, and successfully delivered. Failure to do this could have wider adverse financial and service delivery consequences across the whole local area. In the context of Sefton Council it is important that following the disagreement on funding, partners now work together to deliver on the Better Care Fund objectives. We would also recommend there is formal agreement of all aspects before the start of the financial year.

Other areas of VFM focus were:

Other VFM risks - Key Findings

OFSTED: Children in need to help inspection

In June 2016 OFSTED, published a report on the Services for Children in Need of Help. The service was rated as 'Requiring improvement to be good' across all areas inspected.

The report highlights that:

- *Children's services in Sefton require improvement to be good. Services for children in need of help and protection have not made progress since they were last inspected in 2011 and services for children looked after have deteriorated. Some areas of improvement identified then, such as ensuring that effective management oversight is clearly recorded in case notes, have not been sufficiently addressed.*
- *No children have been found in situations of unassessed or unacceptable risk through this inspection.*

The report further highlights that heads of service, which are relatively new to the post, have made good progress in introducing measures to support effective practice. However, more improvements need to be done as elements of the service remain inconsistent.

The Council has responded positively by identifying specific area for improvement against each of the recommendations raised. Whilst the report identifies areas of improvement, we are satisfied that, as reported by Ofsted, the Council had started to take action to make these improvements.

Other Reporting Issues

Other Reporting Issues

Whole of Government Accounts

We performed the procedures required by the National Audit Office on the accuracy of the consolidation pack prepared by the Council for Whole of Government Accounts purposes. We had no issues to report.

Annual Governance Statement

We are required to consider the completeness of disclosures in the Council's annual governance statement, identify any inconsistencies with the other information of which we are aware from our work, and consider whether it is misleading.

We completed this work and identified a small number of areas where further disclosure was required to reflect the position at the Council. The Council amended the annual governance statement to include these areas.

Report in the Public Interest

We have duty to consider if there are any matters coming to our notice that should be brought to the public's attention through a public interest report

We had no matters to report in the public interest.

Written Recommendations

We have a duty under the Local Audit and Accountability Act 2014 to designate any audit recommendation as one that requires the Council to consider it at a public meeting and to decide what action to take in response.

We did not identify any issues which required us to issue a written recommendation.

Objections Received

We did not receive any objections to the 2015/16 financial statements from members of the public.

Other Powers and Duties

We identified no issues during our audit that required us to use our additional powers under the Local Audit and Accountability Act 2014.

Independence

We communicated our assessment of independence in our Audit Results Report to the Audit Committee on 21 September 2016. In our professional judgement the firm is independent and the objectivity of the audit engagement partner and audit staff has not been compromised within the meaning regulatory and professional requirements.

Control Themes and Observations

We adopted a fully substantive approach throughout our audit and therefore did not test the operation of controls. However, during the course of our work we identified a number of controls matters which we highlighted in our Audit Results Report. These are summarised below.

The matters reported are limited to those deficiencies that we identified during the audit and that we concluded are of sufficient importance to merit being reported.

Findings	Recommendation
<p>Procurement</p> <p>An investigation by the Council has identified significant weaknesses in the internal control processes associated with the central procurement function. This issue is being reviewed by the Council and an action plan being implemented.</p>	<p>The Audit Committee should ensure that planned actions for improvement are implemented and ensure a review of overall procurement processes is undertaken.</p>
<p>Closedown process</p> <p>The draft statements dated 13 June 2016 were superseded by a revised set of statements on 20 June 2016. However, the Council did not have comprehensive working papers in place to support the statements at the outset; this resulted in significant delays and inefficiencies in the audit process.</p>	<p>The Council needs to ensure that its controls and closedown procedures are robust enabling an effective and efficient closedown and production of the accounts within the agreed timescale, supported by a comprehensive set of working papers.</p>
<p>Pooled Budgets</p> <p>We identified in our audit plan that the section 75 agreement in place for the Better Care Fund did not fully reflect the expected income, which was exposing them to potential shortfalls in expected income due to disagreements on financial obligations with its financial partners. There was an expectation that savings of £3m in 2015/16 which would be achieved between the CCGs and Sefton to contribute to the pressures being experienced by Adult Social Care. This was not achieved leaving a shortfall.</p>	<p>Formal agreements should be implemented before the start of the financial year which reflect the agreed savings targets.</p>

Findings	Recommendation
<p>Asset verification</p> <p>Over and above the rolling programme of valuations the Council does not have in place formal arrangements to periodically verify the existence of significant moveable assets. Based on the verification testing we have undertaken and the application of our materiality level, we gained assurance regarding the existence of assets. The lack of periodic verification does represent a weakness in central controls and highlights safeguarding issues. The Council should design an appropriate procedure to confirm the existence of assets.</p>	<p>The Council should design an appropriate procedure to confirm the existence of assets.</p>

Appendix A

Audit Fees



Appendix A Audit Fees

Description	Planned Fee 2015/16 £	Additional Fee 2015/16 £	Final Fee 2015/16 £
Total Audit Fee – Code work	126,897	21,500*	148,397
Audit Fee – Certification of Housing Benefits grant claim.	10,390		10,390
Audit Fee – Certification of other grant claims.	7,500		7,500
TOTAL FEES			166,287

As detailed above, we have carried out additional work in regards to the certification of grant claims outside of PSAA requirements. We have considered our independence as part of the acceptance of the additional work, and conclude that there were no threats to independence.

*The additional fee is in regards to:

- £7,500 additional work for Minimum Revenue Provision
- Provisional £14,000 for additional audit resource required as a result of additional procedures to for the value for money conclusion, delays in provision of adequate working papers, and additional time spent following up from the issues and outstanding queries following the initial planned site work.

EY | Assurance | Tax | Transactions | Advisory

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How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity		✓	
3	Environmental Sustainability		✓	
4	Health and Well-Being		✓	
5	Children and Young People		✓	
6	Creating Safe Communities		✓	
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy	✓		

Reasons for the Recommendation:

To enable the Council to adopt new updated Contract Procedure Rules and to ensure that Audit and Governance Committee are aware of the wider work being undertaken to improve procurement processes and practice within Sefton.

Alternative Options Considered and Rejected:

The current Contract Procedure Rules (CPR) predate the Public Contract Regulations 2015 and require updating in order to be fully in line with that legislation. The current CPR do not accurately reflect the current strategic leadership structure of the Council. Therefore no alternative options have been considered.

What will it cost and how will it be financed?

(A) Revenue Costs

There are no additional costs arising directly from this report.

(B) Capital Costs

N/A

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial
Legal The revised contract procedure rules fully reflect the Public Contract Regulations 2015//102. Production of this report has also been considered in line with Sections 5 and

5A of the Local Government and Housing Act 1989 and Sections 114, 114A 115 and 115B of the Local Government Finance Act 1988.

Human Resources

Equality

- | | | |
|----|--|-------------------------------------|
| 1. | No Equality Implication | <input checked="" type="checkbox"/> |
| 2. | Equality Implications identified and mitigated | <input type="checkbox"/> |
| 3. | Equality Implication identified and risk remains | <input type="checkbox"/> |

Impact of the Proposals on Service Delivery:

The proposals will result in improved procurement processes

What consultations have taken place on the proposals and when?

The review of procurement processes, rule and guidance, and the attached revised Contract Procedure Rules (CPR) have been developed by a multi-disciplinary team that includes officers from Procurement, Commissioning Support, Legal, Finance and Strategic Support.

Consultation has been undertaken across the Council, through the Strategic Leadership Board and nominated representatives of Heads of Service, on the attached revised CPR. Where appropriate, comments made have been reflected within the document attached. In particular, details comments were received from colleagues in Internal Audit and these are reflected in the attached CPR.

The Head of Corporate Resources (FD4414/16) and the Head of Regulation and Compliance (LD 3697/16) have been consulted and any comments have been incorporated into the report.

Implementation Date for the Decision

Following the Committee meeting.

Contact Officer: Peter Moore

Tel: 0151 934 3730

Email: peter.moore@sefton.gov.uk

Background Papers:

There are no background papers available for inspection

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Introduction/Background

1. In September 2016 the Council established a project to review and revise existing procurement processes, rules (including the published Contract Procedure Rules) and guidance, to:

- Ensure full compliance with Public Sector Contract Regulations 2015;
- Address the issues identified by audit of recent procurement exercises;
- Address any other gaps separately identified; and
- Generally improve the effectiveness of procurement by Sefton Council.

The review is also being undertaken in full cognisance of the developing Liverpool City Region (LCR) Commissioning Hub, which is referred to further below.

2. This review is being undertaken by a multi-disciplinary team led by the Head of Commissioning Support & Business Intelligence and including representatives from Procurement; Commissioning Support; Finance; Legal, Strategic Support and Learning & Development. Other officers will be included within the Project Team as necessary and as the project progresses.

3. Since the current Contract Procedure Rules (CPR) were approved in April 2014, the legislation covering public procurement has been updated, with the implementation of the Public Contracts Regulations 2015. These regulations implement changes included within updated European Union Directives relating to public procurement. The CPR included at Annex 2 to this report incorporate necessary amendments to ensure the Council's processes are legally compliant.

4. The council identified some issues with a large contract procurement exercise undertaken in 2015/16. As a result the Council commissioned external independent consideration of that particular procurement process. This independent consideration identified a number of control weaknesses within the process. These weaknesses are reflected in the report by the Council's external auditors (Ernst and Young LLP) and were considered by the Audit and Governance Committee on 7 December 2016 and reported as follows:

- ▶ The roles of the Procurement team and the responsibilities of the Service are not clearly documented.
- ▶ There is no formal approval process for agreeing the final versions of the PQQ or ITT or any subsequent changes to documentation.
- ▶ Issues identified with the procurement guidance include:

Contract Regulations 2015;
'electronic tendering method';

the procurement including the split between procurement and the service line ;
do not clarify the process for managing ITT variations.

These recommendations are directly addressed within the changes to the attached CPR and wider work being undertaken to improve procurement processes and practice within Sefton. Additional consideration is being given by officers to both the accuracy of documents prepared by officers and to the delegations officers seek and rely upon during the procurement process. Attention is also being given to a

template report being prepared for Cabinet to authorise procurement exercises in the future.

The recommendations are directly addressed within the changes to the attached CPR and wider work being undertaken to improve procurement processes and practice within Sefton.

5. The Project Plan for the Review of Contract Processes, Rules and Guidance and the Internal Audit Report Action Plan referred above have been shared with the external auditor and the Council will continue to work closely with them to enable them to monitor and be assured about the improvements being delivered.
6. In reviewing procurement processes, rules and guidance officers have attempted to also identify and address other gaps, issues and opportunities for improvement at the same time. Some of these are captured specifically within the attached CPR and others will be addressed through other work to be completed by March 2017, including the development and delivery of: procurement project management planning documents; and a comprehensive compulsory training programme for staff involved in procurement.
7. The wider work plan consists of four main phases of activity:
 - (a) Immediate interim action in respect information management and governance and assignment of roles and responsibilities for current live procurement exercises (September 2016 – December 2016);
 - (b) review and revision of the existing processes, rules (including CPR) and guidance (September 2016 – December 2016);
 - (c) implementation of new processes, rules and guidance (including staff training) (December 2016 – March 2017); and
 - (d) Post-implementation Audit Programme (January 2017 – December 2017)

This wider work plan is and will continue to be managed by the multi-disciplinary team referred to in paragraph 2 above, reporting periodically to Strategic Leadership Board; Cabinet Member Regulatory, Compliance and Corporate Services; and Audit and Governance Committee.

8. The CPR will be subject to regular review with any subsequent amendments being brought back to Audit and Governance Committee for consideration in due course. In particular, in light of the issues referred to in paragraphs 4-7 above and the wider process improvement work still to be completed, the attached CPR will be reviewed within 6 months of adoption to ensure that they have delivered the required process and control improvements.
9. In April 2016 the Liverpool City Region Chief Executives considered a presentation on procurement as a shared service. It was agreed at that meeting that 5 Local Authorities (Halton, Knowsley, Sefton, St Helens and Wirral) and Merseytravel would proceed to develop a virtual commissioning hub. The intention of phase 1 of the approach is to scrutinise contract data across the 6 partners and form a plan of action where we can procure together. Since that date a considerable amount of work has

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been undertaken to analyse contract and spend data in order to develop the proposed procurement plan.

10. Whilst considerable collaborative procurement has occurred between Merseyside authorities over a number of years, particularly through the informal Merseyside Procurement Partnership network, Members should note that the development of the virtual commissioning hub is expected to lead to an increase in collaborative procurement and a more strategic approach to that collaboration. In support of this approach and to minimise barriers to collaboration, work will also be undertaken to better align procurement processes and CPR across those authorities. Initial benchmarking work has been undertaken in relation to staffing, procurement rules/thresholds and approaches to Social Value. Opportunities will be taken, wherever possible, to raise standards of practice to “best in class” and best practice levels. Where this involves changes to Sefton’s approved rules and approaches to procurement this will be appropriately reported to Elected Members.

Annex 1 – Summary of Key Changes to Contract Procedure Rules

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i) <u>Added to CPR's</u>		
Point	Comment	Reason / Benefit
a	Content added at 1.2 Officer Responsibilities regarding determining Roles and Responsibilities and link added to a document to be used for this purpose held in the procurement area of the Council's Intranet	Required under improvement action plan derived from the audit of 2015/16 audits of procurement processes.
b	Content added at 1.2 Officer Responsibilities advising Officers to consider which Disciplines should be brought into a procurement exercise	Required under improvement action plan derived from the audit of 2015/16 audits of procurement processes.
c	Content added at 1.2 Officer Responsibilities advising Officers to consider Information Management, including Communication Control, within a procurement exercise	Required under improvement action plan derived from the audit of 2015/16 audits of procurement processes.
d	Rule 2.9.2.(c) Evaluation Panel – Interview / Presentation – new rule added advising evaluation panel members on how to approach Interview / Presentation sessions where these are incorporated into a procurement exercise	Ensures that such sessions are managed and that panel members are familiar with content of submissions from bidders invited to this stage and so able to make fair assessment in relation to the subject matter
e	Rule 2.9.3 (e) Evaluation Matrix – new rule added reminding Officers of the need to Moderate scores allocated ahead of any Interview / presentation session in order to ensure that any decision to form a shortlist of bidders to invite to that stage is based on accurate scoring.	Accuracy of evaluation
f	Rule 2.9.3.(f) Evaluation Matrix – new rule added advising Officers on how to manage an Interview / Presentation stage in a procurement exercise	Ensuring robust practice

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g	Rule 3.2 Evaluation of Quotations added – new rule that sets out requirements surrounding below-EU ‘Quotation’ exercises across the topics of Evaluation Method, Evaluation Panel, Evaluation Matrix, Moderation, & Post Quotation Clarification	Added guidance that was not present on below-EU procurement exercises
h	Rule 1.9 Procurement Risk Assessment – new Rule added advising officers of the importance of engaging the Procurement Team at an early stage within a procurement process, and providing the intranet link for the Procurement Risk Assessment Template	Clarity on early engagement of the Procurement team
i	1.1.1 CPR review frequency added	Clarity surrounding review of CPR’s
j	1.1.1 Content added surrounding the application of the rules to procurement carried out for schools where they choose to buy the services of the procurement team.	Clarity on application of rules to schools
k	1.1.1 Reference to Lord Young reforms and the need to consider Lotting contracts added	Lotting contracts creates smaller bite sized pieces of work that SME’s can bid for
l	1.2.3. Narrative added surrounding which disciplines need to be considered for inclusion in a procurement exercise	Clarity surrounding Operational and Advisory involvement
m	1.6.1. narrative added to clarify that award criteria detailed in the pre procurement report must be adhered to and in no circumstances changed post receipt of tenders / quotations	Greater protection for the Council
n	1.9 Narrative added to inform Procurement Officers that the Procurement Risk Assessment should be uploaded to the electronic opportunities portal for the specific exercise	Greater Audit Trail
o	2.2 and 2.3 Narrative added to inform officers of explicit timescales relevant to EU Procurement Procedures	Clarity on Timescales

p	2.10.1 – narrative added to advise officers in instances where only 1 tender bid is received, and details of the provision to switch a procurement process to a Negotiation under Regulation 32 of the 2015 Public Contract Regulations have been added	Flexibility when in a situation where only 1 tender bid is received in a EU Procurement Process
q	1.2.4. – Content added to inform officers as to how the Council’s electronic opportunities portal should be used to store various documents	Creation of a robust Audit Trail

ii) Modified within CPR’s

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Point	Comment	Reason / Benefit
a	General terminology and spelling check / correction	Housekeeping
b	Within Glossary of Terms the narrative under Pre Qualification Questionnaire (PQQ) has been modified to inform officers that use of PQQ’s is no longer permitted in below EU Spend threshold procurements	Compliance with 2015 Public Contract Regulations
c	Role Titles updated	Synchronisation with current Sefton management structure
d	Reference to 2006 Public Contracts Regulations updated to reference to 2015 Public Contracts Regulations	Compliance with current legislation
e	All EU Spend Threshold figures updated	Reflection of current threshold figures published by the EU Commission in January 2016
f	Section 1.2.3. Surety – This rule originally required Officers involved in procuring construction contracts valued at above £1,000,000.00 to consider a	The tender documents can make specific and accurate reference to any performance bond

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	risk assessment and a recommendation made as part of the tender evaluation/acceptance procedure, i.e. after the tender period. This has been amended to require this activity to be carried out prior to tendering	requirements and bidders will be aware of this prior to bidding.
g	Rule 1.5.1. Contracts Register – This rule advised officers that procurement opportunities published on the Council’s opportunities portal will have the details promoted to the Council’s contract’s register	This has been modified to clarify that this will be the case where the contract value is £5000 or above, to synchronise with the Governments Transparency Agenda
h	Rule 1.6.3. Debrief Intention & Award - this rule advises officers of the requirements around Mandatory Standstill following an EU Procurement Process.	This has been expanded to encourage Officers to be mindful of the need to only communicate with bidders or their representatives in writing via the Council’s electronic opportunities portal, to have written responses quality checked for accuracy and content , too seek opinion from the Council’s legal team, and to escalate to a Senior Officer for opinion.
	Rule 1.7.4 Authorisation of Variations – this rule has been amended to advise Officers to consult the Legal team in respect of proposed contract variations	To allow the Legal team to advise on whether the Variation is permissible i.e. it does not constitute a ‘material change’, and if permissible enable the Legal to account for the Variation in any related sealed contract document package.
j	Rule 1.8 Waiver of Contract Procedure Rules – this rule had been amended to advise Officers to seek advice from the Legal team, the Finance Team, The Procurement team or any other specialist team, when necessary. Waivers are to be forwarded to the Officer’s Head of Service. Heads of Service are advised to email a copy of the completed Waiver request to the Procurement team for archiving	Caters for the Chief Executive’s desire that Waivers are not considered at Strategic Leadership Board, but instead dealt with at Head of Service level, and the resulting decision recorded by the Procurement team.
k	Rule 2.1.4 – this rule introduces the possibility of carrying out soft market testing. The content has been improved and informs officer that if employed 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	Compliance with the 2015 Public Contracts Regulations

	must be maintained.	
l	Rule 2.9.1 (b) Evaluation and Award – this rule has been modified to advise Officers that should the Price element of a tender evaluation involve a Price Model, Basket of Goods, or Basket of Works, then consideration should 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 should 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 Price Model, Basket of Goods or Basket of Works is employed in the Price Element of an Evaluation, the content MUST NOT be changed once bids are received.	Required under improvement action plan derived from the audit of 2015/16 audits of procurement processes.
m	Rule 2.9.3. (c) this rule addresses the scoring of bids. Content has been added to impress upon Officers the need to adhere to the scoring scheme published within the procurement document when scoring bids and not introduce the likes of half marks for which there is no scoring narrative.	Not exposing the Council to risk of challenge, through ensuring that we do what we say we'll do in the procurement document
n	1.1.1 Basic Principals – additional narrative added surrounding CPR's not applying to sale, leasing or purchase of land	Request from Legal
o	1.10.1 (a) the value band for which a Pre Procurement Report must be taken to Head of Service changed to £5000 - £150,000. Reference to Scheme of Delegation removed. Diagrammatic illustration updated also	Request from Legal
p	The following terms added to the Glossary : Open Procedure, Restricted Procedure, Best and Final Offer (BAFO), E-Procurement, SME, Advanced Request for Quotation, Social value.	Greater clarity surrounding terms used in the rules
q	1.1.10 Extra Narrative added to Contract sealing document package list	Clarity on where authorisation to award a contract comes from
r	1.6.2. Narrative surrounding non acceptance of bids amended to detail the need to document and record the reason/s why	Greater protection for the Council

s	1.6.3. Reference to the Mandatory Standstill guide on the Council's intranet removed	The guide itself was removed from the Intranet as Procurement Officers felt that as the process of administering the mandatory standstill was undertaken by procurement officers, there was no benefit in publishing this information to other council officers
t	2.6.2. Narrative modified to inform officers that records of bids submitted are maintained in the electronic opportunities portal	Greater Audit Trail
u	2.7.1 Narrative surrounding late tenders modified to a more user friendly, less 'legal' style	More user friendly
v	2.9.1.(b) Narrative modified to clarify that evaluation criteria employed must be as per the Pre Procurement Report, The OJEU Notice and the Evaluation Matrix and must not be changed	Greater protection for the Council
v	2.9.2. narrative modified to detail that an evaluation panel must consist of two operational officers	Avoids subjectivity in evaluation
x	2.10.1 Narrative modified to clarify to officers to whom delegated authority has been given, the requirements that need to have been met when considering acceptance of tenders	Clarity
y	2.12.2 modification of narrative to advise officers to seek guidance from the appropriate personnel	Clarity
z	3.1.1. Narrative modified to inform officers that the use of Selection Questionnaires in below-EU spend threshold procurements is forbidden	Protection for the Council, adherence to Public Procurement Regulations
aa	3.2.3.(d) – Narrative modified to inform officers that evaluation panel members' individual scores and scoring notes along with modified evaluation scores and final justifying scoring notes must be uploaded to the Council's electronic opportunities portal	Greater Audit Trail

ab	1.1.8. – Narrative modified to inform officers that Social Value should be considered when forming the Procurement Project Management Plan	Early Planning
ac	1.2.3. Narrative modified to include Investment and Employment Service as one of the discipline options that officers can consider involving in a procurement process	Clarity
ad	1.2.9. Narrative modified to include Social Value Act as one act that must be complied with	Compliance with the Law
ae	1.3.2.1. Narrative modified to include reference to social value	Compliance with the Law
af	1.8.1. Narrative modified in order to reference social value	Clarity for officers considering a waiver request
ag	1.7.6. – Narrative modified emphasising the need to first create a purchase order / agreement	Commitment Audit Trail
ah	1.1.1 – Narrative added to inform officers that where external funding bodies have specific procurement requirements then practice may need to be modified in order to secure the funding	Clarity to ensure that the Council receives maximum funding benefit
ai	1.10.1 – Narrative amended to clarify that Pre Procurement Reporting also applies to Collaborative procurement where Sefton is in the lead role	Greater Audit Trail
aj	1.7.1 – link added to Financial Procedure Rules	clarity
ak	2.3.5 – Narrative amended to facilitate tenders being sent to less than 5 bidders in a restricted procedure where there is little competition	clarity
al	1.2.7. – Narrative amended to clarify that any risk assessment relating to liquidated damages must be carried out a pre procurement stage	clarity

am	1.2.11 Narrative amended to encourage officers to consider mobilisation period and obtaining TUPE related information where relevant	clarity
an	1.3.1. – Narrative amended to reflect that Procurement Officers are responsible for verifying validity of external frameworks	clarity
ao	1.3.2.3. – Narrative amended to provide clarity on officer responsibility	clarity
ap	1.2.9. – added content regarding Data Protection	Protection or the Council

Annex 2 – Revised Contract Procedure Rules

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Sefton Council



CONTRACT PROCEDURE RULES

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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. ARFQ's are evaluated on a percentage split across Cost and Quality.

Aggregate

A whole procurement formed by combining several separate elements

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:

- i) acquires supplies or services intended for one or more contracting authorities; or
- ii) awards public contracts for works, supplies or services intended for one or more contracting authorities; or
- iii) concludes framework agreements for works, supplies or services intended for one or more contracting authorities.

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.

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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.

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 2015.

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.

OJEU (Official Journal of the European Union)

The Europe-wide publication where Contract Notices are published in relation to procurement processes, the value of which exceed the applicable spend threshold as determined within the applicable Public Contracts Regulations

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 must a contractor fail to fulfil its contractual obligations.

Public Contracts Regulations (PCR)

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

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Procurement

Procurement , in the terms of the Public Contracts Regulations 2015, 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.

Part 1: CONTRACTS PROCEDURE RULES WHICH APPLY TO ALL CONTRACTS

1.1 BASIC PRINCIPLES

1.1.1 Introduction

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.

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. 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 Head of Regulation and Compliance on a case by case basis): or
- Any Contract of Employment

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 Support to ensure that relevant guidance, risk, invoicing and cost is clearly understood, managed and adhered to.

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.

All values specified in these rules shall be exclusive of value added tax.

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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](#)

External Funding – external funders (for example, but not limited to, European Regional Development Fund) 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.

If an 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.

These rules will be complied with as a point of best practice where any school has opted to purchase the Council's Procurement service

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.

These Contracts Procedure Rules shall be reviewed periodically by the Head of Commissioning Support & Business Intelligence, in consultation with the Head of Corporate Resources and the Head of Regulation and Compliance. The frequency of review shall, as a maximum, be bi-annually in order to incorporate any change in EU spend thresholds as directed by the European Commission.

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 Regulation & Compliance.

1.1.3 Public Contracts Regulations

All contracts must comply fully with the requirements of Public Contracts Regulations 2015

1.1.4 EU Principles - Transparency and Non-Discrimination etc.

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

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 Principal in question instructs otherwise in writing

1.1.7 Calculating the Financial Value of a contract

In deciding the value of contracts for the purposes of applying the requirements of these Contracts Procedure Rules the commissioner / procurer 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 childrens 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 2015.

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

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

Supplies / Services	£164,176
Works	£4,104,394
<i>(as detailed within Schedule 2 of the Public Contracts Regulations 2015)</i>	
Social and Other specific Services	£589,148
<i>(as detailed within Schedule 3 of the Public Contracts Regulations 2015)</i>	

Note: Spend threshold figures correct as at January 2016, but subject to ongoing change, ordinarily on a two year cycle.

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Both Schedules 2 and 3 of the Regulations can be viewed here :-

[2015 Public Contracts Regulations](#)

1.1.8 Public Services (Social Value) Act 2012

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 well-being 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.

Officers must consider this when formulating the Procurement Project Management Plan detailed herein.

1.1.9 Forfeiture in Case of Bribery or 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 to Corporate Legal Services:

- i) One blank copy of the Invitation To Tender (ITT), or Request for Quotation (RFQ) document (as applicable)
- ii) Two copies of the successful bidder's ITT or RFQ
- iii) A copy of the Internal Authorisation to award a contract as per delegated authority (Cabinet / Cabinet member etc.)
- iv) Copies of the award & acceptance correspondence
- v) A copy of the bidder's in-date insurance cover.

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. 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 Project Management Plan. Corporate template documentation will be produced and regularly reviewed to meet this need.

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 Head of Corporate Resources must be consulted.

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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 :

- a) Legal
- b) Audit
- c) Contribution from Commissioning Support Officers
- d) Finance
- e) Human Resources
- f) Investment and Employment Service
- g) External Advice/Consultancy – Private or another Local Authority

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:

- i) Storage and handling of Procurement or any supporting information or documentation, whether digital, paper or another format is carried out securely.
- ii) Where the information and documentation is 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.
- iii) All documents forming part of a tender / request for quotation process, (including specifications, tender / RFQ 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.

- iv) 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

- v) 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.
- vi) Procurement Officers must ensure that the Council's Electronic Opportunities portal is utilised 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)

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.

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1.2.6 Surety

Construction Related Contracts

- £250,000 - £1,000,000

Provided that a risk assessment based on financial and technical criteria is satisfactory, construction-related contracts up to £1,000,000 do not require a Performance Bond. However, such contracts over £250,000 and up to £1,000,000 will require a contribution to the Contracts Indemnity Fund. The Contribution is calculated as 0.2% of the Contract Value, and this is administered by the Head of Corporate Resources

- Above £1,000,000

For all construction related contracts over £1,000,000, a Performance Bond will normally be required. A formal risk assessment shall be carried out by the Head of Service prior to commencing the exercise and a recommendation on the requirement for a Performance Bond and its value shall be included in the Pre-Procurement report. The minimum value of the bond should be 10% of the total contract price.

Non Construction Related Contracts

- Below £1,000,000

For contracts in respect of Social Care Packages, Information Technology Products/Services, the Head of Service shall have discretion following consultation with the Head of Regulation and Compliance and the Head of Finance, to apply one of the following options:-

- 1) Require a Performance Bond;
- 2) Require a Parent Company Guarantee;
- 3) Require a Deposited Cash Bond;
- 4) Require a Contract Payment Profile Retention;

Contracts for those supplies and services below the value of £1,000,000, not mentioned above, will not generally be subject to a Performance Bond.

- Above £1,000,000

Non Construction Related Contracts above the value of £1,000,000 will normally require a Performance Bond. A formal risk assessment shall be carried out by the Head of Service prior to commencing the exercise and a recommendation on the requirement for a Performance Bond and its value shall be included in the pre-procurement report. The value of the bond should be :

- a) a minimum of 10% of the total contract price, where an asset is being procured , or
- b) 10% of the whole annual value of a contract for goods or services over a

period of time

Parent Company Guarantee

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 guarantee in addition to a performance bond. The Head of Service shall determine following consultation with the Head of Regulation and Compliance whether a parent company guarantee is necessary as an additional form of surety.

Waiver of Surety Requirements

Whilst under normal circumstances the above values will apply, it is recognised that some high value contracts (construction or non-construction related) may be low risk and vice versa. Dependent on the outcome of a risk assessment, a recommendation may be made in the pre-procurement report to waive application of the limits referred to above and/or to approve a more appropriate form of surety.

Inclusion of Surety Requirements in Procurement Documents

The requirement or possible requirement of a bond or other form of surety must be specified in the Procurement documentation. A copy of the Council's Standard Form of Bond must be included in such documentation.

For guidance on calculating the value of a contract then refer to Rule 1.1.7.

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 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 Commissioning Support & Business Intelligence, Head of Corporate Resources, and the Chief Internal Auditor.

The Head of Commissioning Support & Business Intelligence, Head of Corporate Resources, 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

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investigation and report the findings to the relevant Head of Service, 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):-

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

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- (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

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

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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. a request from a Data Subject to have access to that person's Personal Data; or
- b. 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 Commissioning Support & Business Intelligence 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

In cases where an extension period was not provided for within original ITT, or RFQ documents and in respect of EU Procurements, in the OJEU Contract Notice

Extension of contracts with a value below the applicable EU 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. Variations shall only be granted in exceptional circumstances if it can be established that this will be in the best interests of the Council.

Where the value of expenditure is such that an EU 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, an EU 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 Head of Corporate Resources and the Head of Regulation and Compliance.

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 mobilization 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 must be reviewed regularly. Appropriate records of contract monitoring and contractor performance shall be maintained.

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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 DPS which has itself been procured through compliance with these Contract Procedure Rules or from a Central Purchasing Body for the purposes of the Public Contracts Regulations 2015. Where a Central Purchasing Body's framework agreement is used a Procurement Officer shall obtain copies of that Body's Contract and Award notices and shall seek verification from the Head of Commissioning Support & Business Intelligence of the Body's compliance with the Public Contracts Regulations 2015.

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:

- (a) responsibility for each function to be performed,
- (b) the element of risk undertaken by each party,
- (c) the mutual benefits derived from the partnership,
- (d) the individual targets and objectives of the partnership,
- (e) the procedure for reviewing the performance of the partnership,
- (f) the procedure for remedying disputes and the settlement of grievances (including arbitration if required),
- (g) the period for maintaining the partnership,
- (h) the exit procedure at termination of the partnership, which must include, the responsibility for staff, premises, service provision, and any other relevant matters.

(i) 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 by the Head of Commissioning Support & Business Intelligence prior to the commencement of any procurement on behalf of the Council.

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. Approval to enter into such a framework shall be sought from the officer to whom delegated authority has been granted within the related Pre Procurement Report.

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.

(a) 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.

(b) 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.

(c) 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 consultancy.

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Client Officers are reminded that the procurement of any consultancy services 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 CPU 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 Commissioning Support & Business Intelligence in consultation with the Head of Corporate Services.

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.

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:

- a) **MEAT** (*Most Economically Advantageous Tender*) taking into consideration a percentage balance between Cost and Quality, or
- b) **Lowest Cost**
(*NOTE: Whilst 100% Lowest Cost evaluation is permitted in below-EU procurement exercises, Lowest Cost evaluation is only permissible in EU procurement exercises, where the bidders are first required to meet a minimum specification of Supplies, Services or Works)
- c) **Highest Quality**
(NOTE: within EU 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)

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The Head of Service, or their representative, must define Award Criteria appropriate to the procurement or commission. 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:

- (a) 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:

- (i) 50% Cost, 50% Quality
- (ii) 40% Cost, 60% Quality
- (iii) 70% Cost, 30% Quality

Or any other derivative the Commissioner/ Procurer deems appropriate.

- (b) 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.
- (c) 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

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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:

- (a) to accept a tender / quotation other than the lowest
- (b) to decline to accept any tender / quotation
- (c) not to award a contract
- (d) the Council will not be liable for any costs or expenses incurred by Tenderers during the procurement process

Where a bidder's tender / quotation are 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 under an EU Procurement Procedure 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:

- i) 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.
- ii) Communication with the challenging bidder/s or their representative/s is only carried out in writing via the Council's electronic opportunities portal
- iii) Written responses are quality checked for accuracy and content
- iv) Opinion is sought from the Council's Legal team
- v) The issue is escalated to an appropriate Senior Officer for opinion

In respect of contracts established via Non-European Union Procurement Procedures, i.e. where expenditure falls below EU Spend Thresholds, mindful of the EU 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](#)

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

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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

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. Usually a deed of variation will need to be drafted by Corporate Legal Services and executed by the parties to the contract.

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

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1.8 WAIVER OF CONTRACTS PROCEDURE RULES

1.8.1 - Waiver – Supplementary

- (a) Where any officer is seeking a waiver of any of the Council's Contract Procedure Rules, approval for that waiver must first be secured from the Head of Service within whose remit the procurement or contract sits.
- (b) 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
- (c) 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.
- (d) The Head of Service **MUST** e-mail a copy of the signed waiver form to central.procurement@sefton.gov.uk to be archived.
- (e) Where any Contracts Procedure Rules are waived the relevant Officer shall comply with the remaining Contracts Procedure Rules

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 here, 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 to commit 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 Head of Corporate Resources 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 £5000 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. £492,528.00 as at January 2016), or
 - ii) The OJEU Spend Threshold for Works (i.e. £4,104,394.00 as at January 2016)

– 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.

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(c) Expenditure of:

- i) Over 3 x the OJEU Spend Threshold for Supplies & Services (i.e. £492,528.00 as at January 2016), or
- ii) Over the OJEU Spend Threshold for Works (i.e. £4,104,394.00 as at January 2016)

– A Pre Procurement report is to be taken to Cabinet to seek approval to commence Procurement activity and so commit expenditure.

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;

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.

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, i.e.
 - MEAT (Most Economically Advantageous Tender) taking into consideration a balance between Quality and Cost

or

100% Lowest Cost,

(*NOTE : Whilst 100% Lowest Cost evaluation is permitted in below-EU

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procurement exercises, Cost only evaluation is only permissible in EU procurement exercises, where the bidders are first required to meet a minimum specification of Supplies, Services or Works.

or

100% Quality

(NOTE: within EU 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)

- 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.

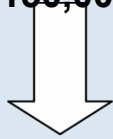
What level of pre-approval is required in respect of Contract Value?

(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)

£5000 up to
£150,000



Head of Service
Responsibility &
Accountability

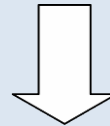
Pre Procurement Report

£150,001 up to:

i) 3 x the OJEU Spend Threshold
for Supplies & Services (i.e.
£492,528.00 as at January 2016),

or

ii) The OJEU Spend Threshold for
Works (i.e. £4,104,394.00 as at
January 2016)



Cabinet Member Responsibility

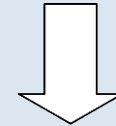
Pre Procurement Report

Expenditure Over:

i) 3 x the OJEU Spend Threshold
for Supplies & Services (i.e.
£492,528.00 as at January 2016),

or

ii) The OJEU Spend Threshold for
Works (i.e. £4,104,394.00 as at
January 2016)



Cabinet Responsibility

Pre Procurement Report

KEY DECISION

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

PART 2: STANDING ORDERS CONCERNING CONTRACTS EXCEEDING THE APPLICABLE EUROPEAN UNION SPEND THRESHOLD

2.0 Application

Part 2 of these Contracts Procedure Rules shall apply to all contracts exceeding applicable European Union spend thresholds in value, and officers must adhere to the Public Contracts Regulations 2015

European Union spend thresholds (for the whole value of the contract including any optional periods) are as follows:-

- | | |
|--------------------------|----------------------|
| a) Supplies / Services - | £164,176.00 |
| b) Works – | £4,104,394.00 |

Note: Spend threshold figures correct as at January 2016, but subject to ongoing change, ordinarily on a two year cycle.

'Works' means any of the activities specified in schedule 2 of the Public Contracts Regulations 2015

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 2015, must be considered against a higher European Union spend threshold (for the whole value of the contract including any optional periods) of:

£589,148.00

Note: Spend threshold figure correct as at January 2016, but subject to ongoing change, ordinarily on a two year cycle.

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

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 European Union 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

2.2.2 The Council shall give public Contract Notice of its intention to enter into such arrangements. Such Contract Notice shall be published electronically, within the Official Journal of the European Union (OJEU), via its electronic opportunities portal.

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 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.

2.2.4 The Head of Service's evaluation panel shall evaluate all submissions using the award criteria and weightings in the published tender documents and shall maintain a copy of the marked evaluation matrix

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 European Union 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.

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.

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.

2.3.2 The Council shall give public Contract Notice of its intention to enter into such arrangements. Such notice shall be published electronically, in the Official Journal of the European Union (OJEU), via its electronic opportunities portal.

2.3.3 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.

2.3.4 In consultation with the Head of Commissioning Support & Business Intelligence or their representative, the relevant Head of Service's evaluation panel, consisting of a minimum of two officers, shall evaluate all submissions using the selection criteria and weightings in the published SQ document and shall maintain a copy of the marked evaluation matrix.

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.

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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

NOTE : *All tender opportunities that exceed the applicable EU Spend Threshold shall, in addition to being managed on the Council's Electronic Opportunities Portal, also be advertised on the Government's 'Contracts Finder' Facility. Officers of the Procurement Unit will assist with this task.*

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:

- (i) The Council will only be issuing and receiving Invitations To Tender electronically. Tenders submitted by any other means shall not be considered.
- (ii) A requirement for tenderers to complete fully and sign or otherwise authorise the Form of Tender,
- (iii) 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.
- (iv) 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.
- (v) A description of the Award Procedure and a definition of the Award Criteria in objective terms and in descending order of importance with weightings.
- (vi) Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's risk and expense
- (vii) 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, maintained by the Head of Commissioning Support & Business Intelligence or an Officer designated for that purpose.

2.6.3 An electronic contract register will be maintained by the Head of Commissioning Support & Business Intelligence

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.

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2.9 Evaluation of Tenders

2.9.1 Evaluation and Award (for above EU spend threshold procurements)

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

i) 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

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

or

iii) 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.

(b)Tenders shall be evaluated and awarded in accordance with criteria and weightings determined, and documented in:

- i) The Pre Procurement Report,
- ii) The OJEU Contract Notice, and
- iii) An evaluation matrix,

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

- (a) 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.
- (b) Evaluation Panels must include representation from the client department/key Stakeholders, and must consist of a minimum of two operational officers in addition to any procurement officer.
- (c) 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.

2.9.3 Evaluation Matrix

- (a) 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.
- (b) criteria shall have a number of marks allocated to signify to tenderers the relative importance of each criterion.
- (c) 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.
- (d) All scores and notes made by the evaluation panel must be recorded in writing and used for reference if further moderation is required.
- (e) 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 upto 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.
- (f) Where an Interview / Presentation stage is employed within an evaluation then officers must seek to manage this stage incorporating the following advice:
 - i) Should a Presentation be required from a shortlist of invited bidders, then all shortlisted bidders must equally be informed, ahead of the

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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

ii) 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

However bidders invited to an Interview session must **NOT** be informed, ahead of the session, of the content of the questions to be asked as this will simply result in pre-refined question responses which will make it difficult to distinguish the bidders.

iii) 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

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

(b) 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 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

(a) 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.

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

(c) 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 EU 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 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:-

- (i) 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
- (ii) 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
 - 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 2015 Public Contracts Regulations that allow an EU 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*'

[The Public Contracts Regulations 2015 - Regulation 32](#)

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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 CPU

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:-

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

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

Clarification surrounding such errors shall be sought in writing via the Messaging facility within the Council's Electronic Opportunities Portal

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

The above action by the relevant Head of Service in consultation with the Head of Commissioning Support & Business Intelligence shall take place before the date of entry into a contract.

2.12 Indemnity and Health & Safety

2.12.1 Every contract shall contain clauses

(i) 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:

(i) 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;

(ii) 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 Head of Regulation and Compliance produce satisfactory evidence that it is insured against any such claims.

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

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).

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.”

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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 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.

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

3.1 Competition Requirements

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

a) Supplies / Services -	£164,176.00
b) Works -	£4,104,394.00
c) Social and Other Specific Services -	£589,148.00

Note: Spend threshold figures correct as at January 2016, but subject to ongoing change, ordinarily on a two year cycle.

'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](#)

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

(a) Between £5000 and the applicable EU Spend Threshold : a minimum of three electronic invitations via the Council's electronic opportunities portal, subject to a procurement risk assessment being submitted to the Procurement team , which will determine the route to market using a Request for Quotation (RFQ) (identified risk):

NOTE : *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.*

(b) Less than £5000: 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

Officers are reminded that the use of a Selection Questionnaire in order to narrow a marketplace in a below EU spend threshold exercise is **forbidden** under the 2015 Public Contracts Regulations.

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3.2 Evaluation of Quotations

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

(a) 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

(b) Quotations shall be evaluated and awarded in accordance with criteria and weightings determined, and documented in an evaluation matrix, and must not be changed at any time during the process.

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. 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.

3.2.2 Evaluation Panel

(a) 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.

(b) 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.

(c) 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

(a) 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.

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

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

(d) 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.

(e) 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.

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

- i) 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
- ii) 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

However bidders Invited to an Interview session must NOT be informed, ahead of the session, of the content of the questions to be asked as this will simply result in pre-refined question responses which will make it difficult to distinguish the bidders.

- iii) 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.

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3.2.4 Moderation

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

3.2.5 Post Quotation Clarification

(a) Post Quotation Clarification is to be requested and returned via the Council's electronic opportunities portal. Importantly, 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.

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.

- (b) Evaluation scores can only be amended where specific clarification has been requested relating to the award criteria.
- (c) All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation Matrix.

3.2.6 Best and Final Offer (BAFO)

For below-EU Spend Threshold procurements only, these Contracts Procedure Rules facilitate officers employing a BAFO stage within a procurement exercise.

The purpose of the BAFO stage, is to enable the Commissioning / 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.

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.

Upon receipt of any number of BAFO's within a below-EU procurement exercise the Commissioning / Procuring officer will examine the contents of each BAFO.

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

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

Or any combination of these.

Where a BAFO is submitted Commissioning / 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.

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

What level of Procurement Activity 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)

£1 to £5000	£5001 to EU Spend Threshold	Above EU Spend Threshold
<p>Proof of 2 Written Quotations</p> <p>Client Officer Responsibility</p>	<p>Electronic Opportunities Portal</p> <p>Minimum of 3 electronic invitations</p> <p>Best and Final Offer (BAFO)</p> <p>Procurement Team</p> <p>Risk Based Request for Quotation</p>	<p>Electronic Opportunities Portal</p> <p>In line with Public Contract Regulations</p> <p>Procurement Team</p> <p>Formal Tender Exercise</p>

Local government audit committee briefing

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Find out more

This sector briefing is one of the ways that we support you and your organisation in an environment that is constantly changing and evolving.

It covers issues which may have an impact on your organisation, the Local Government sector, and the audits that we undertake.

The briefings are produced by our public sector audit specialists within EY's national Government and Public Sector (GPS) team, using our public sector knowledge, and EY's wider expertise across UK and international business.

The briefings bring together not only technical issues relevant to the Local Government sector but wider matters of potential interest to you and your organisation.

Links to where you can find out more on any of the articles featured can be found at the end of the briefing.

We hope that you find the briefing informative and should this raise any issues that you would like to discuss further please contact your local audit team.



Government and economic news

EY Item Club

The latest EY Item Club forecast (Autumn 2016) focuses on the United Kingdom's decision to leave the European Union and highlights that it believes the relatively small impact on the economy to date may be deceptive. The Sterling's performance could be an indication that troubles lie ahead.

At the moment, growth in the economy is being driven entirely by the consumer, supported by rising employment and real wages, as well as ultra-low interest rates. However, sterling's devaluation will push inflation up to 2.6% temporarily next year. With average earnings still subdued, which will slow the consumer. In the meantime, many firms have put investment and recruitment on hold whilst they assess the likely impact of the Article 50 negotiations on their business and consider their long-term options.

Policy uncertainty is feeding through into lower levels of business confidence which we expect to translate into lower investment in 2017. This together with a squeeze on margins from input cost inflation and a tightening labour market in some areas is leading to investment projects that are seen as marginal either being cancelled or delayed, with some of this capital being diverted to other geographies.

Now is the time to update strategies and associated business plans to reflect the slowing macro-environment and emerging policy outlook. Slowing growth and rising inflation together with a depreciating currency which could negatively impact the economy.

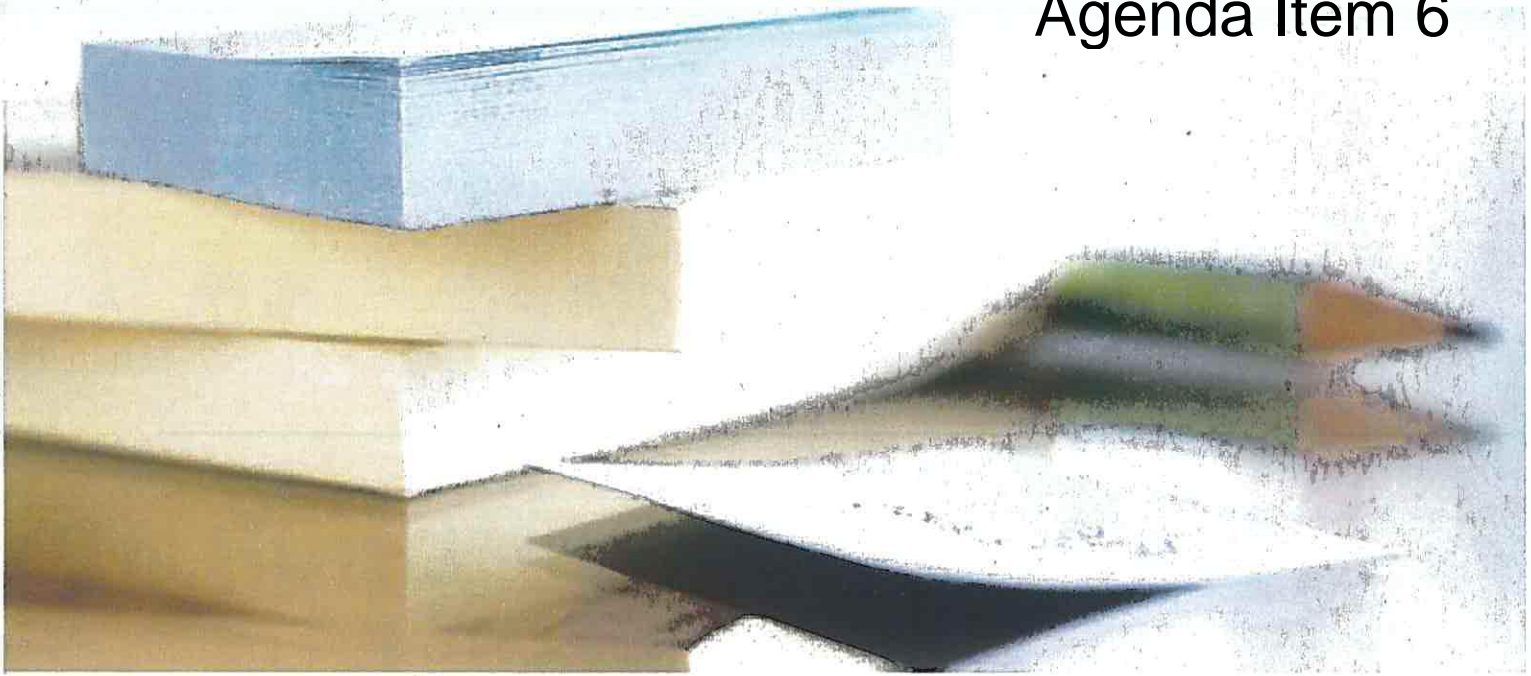
Sustainability and transformation plans

The NHS Planning Guidance issued in December 2015 included the requirement for Sustainability and Transformation Plans (STPs). NHS organisations were asked to work together to come up with a 5-year plan for their area for all areas of NHS spending.

A named individual has been identified to lead each STP. In most cases this is from CCGs, NHS Trusts and Foundations but there are a smaller number from local government bodies.

These STPs have now been delivered and are designed to articulate how individual organisations will play their part in delivering their locally agreed STP objectives, including sustainable financial balance across the health economy.

From April 2017, access to NHS transformation funding will be linked to effective delivery of the STP. STPs represent a shift in focus from the role of competition within the health system to one of collaboration – referred to as 'place-based planning'. NHS organisations are telling us that the changing needs of their populations are best met through integrated models of care, with the delivery of care being best met by different areas of the NHS working in a co-ordinated way. The King's Fund has argued that a place based approach to planning and delivering health and social care services is the right approach – and that this should also include collaborating with other services and sectors outside the NHS – with the aim of improving the health and wellbeing of local populations.



Development and delivery of STPs is a complex task, with large footprints, involving many different organisations, in an already stretched environment in terms of finances and capacity. There are further challenges with the need to address weaknesses in NHS incentives to work together and to avoid organisations focussing on individual goals rather than the effective implementation of STP objectives – for example, NHS Trusts are closely monitored on their own performance targets.

The STPs have been delivered in a relatively short timeframe and propose major changes to services. With the growing financial challenges in the system, the STPs are required to show how they will bring the NHS back into financial balance. Given the short timeframes, the submitted plans will need further development and engagement before they can be effectively implemented.

Four of the STPs have been published early and these demonstrate the significance of the changes being considered under these plans, including reducing the number of acute hospitals and the consolidation of services. Such changes are likely to lead to public and political opposition.

The challenge for STP partners will be to move from the planning phase to implementation in order to realise the objectives agreed.

Treasury confirms public sector pay offs to be capped at £95,000

The Treasury have confirmed that public sector exit packages will be capped at £95,000. The announcement follows a consultation period which heard replies from over 350 interested parties. The changes will apply to the majority of the five million public sector workers. Reflecting on the announcement the Treasury noted that the reduction in exit packages across the public sector would result in significant savings but would still offer a comparable and competitive settlement process similar to that in the private sector.

The proposals include the following:

- ▶ A cap on the salary level at which exit packages can be calculated. It is likely that this will fall in line with the current NHS cap of £80,000
- ▶ The tariff for calculating exit packages will be based on three weeks' pay per year of service with a maximum of 15 months being the cap
- ▶ A clawback proposal would also come into effect which would mean that anyone returning to a public service post soon after leaving with an exit package would be required to repay their redundancy payment



Pension investment schemes

There is a proposal to replace the Local Government Pension Scheme 2009 with new draft regulations as set out below:

The two main areas of reform are:

- ▶ A package of reforms that propose to remove some of the existing prescribed means of securing a diversified investment strategy and instead place the onus on authorities to determine the balance of their investments and take account of risk
- ▶ The introduction of safeguards to ensure that the more flexible legislation proposed is used appropriately and that the guidance on pooling assets is adhered to. This includes a suggested power to allow the Secretary of State to intervene in the investment function of an administering authority when necessary

Revaluation of business rates

The next revaluation of all properties for business rates will take effect from 1 April 2017. From next April, businesses will benefit from the biggest ever cut in business rates in England-worth £6.7bn over the next five years. £3.4bn worth of transitional relief will be available to provide support for the changes. By 2020 councils will be able to keep 100% of all local taxes to fund local services. Invoices will be issued by councils, and the valuations carried out by the VOA, as is currently done, to avoid conflict of interest.

The small business rate multiplier is expected to fall from April 2017 by 1.7p to 46.7p, the standard rate multiplier is also expected to fall by 1.7p to 48.0p.

Schools no longer required to convert to academies

The government will no longer pursue a bill making it compulsory for all schools to convert to academies after protest from Councils, the bill will now only encourage converting.

The original plans required all schools to have converted, or have plans in place to do so by 2022. The announcement coincides with draft plans to introduce more grammar schools in England, reversing the 1998 ban on new grammar schools. And proposals suggesting more schools will be allowed to select pupils based on academic ability which is under consultation until mid-December.

In addition a bill on technical and further education has been published with the aim of boosting the countries productivity by addressing skills shortages by providing high quality technical education. This stems from the independent panel chaired by Lord Sainsbury, which undertook a review of the post-16 skills system and advised Government on measures to improve technical education in England, this led to the Post-16 Skills Plan published in July 2016, which set out the plan to replace thousands of courses with 15 routes into technical employment.



Public sector borrowing

Public sector borrowing for August has decreased by £0.9bn to £10.5bn compared with the same month last year. This is due largely to a decrease in central government net borrowing of £0.4bn as well as a fall in local government borrowing of £0.2bn.

Public sector net debt at the end of August was £1,621.5bn which is equivalent to 83.6% of UK GDP. This is an increase of £52bn compared with August 2015.

The latest figures come 2 months after the vote to leave the European Union in June.

The Emergency Services Network

In 2011 the Government set up the Emergency Services Mobile Communications Programme to look at options to replace the current provider, Airwave Solutions Limited, for communications between personnel in the field and control rooms. The current contract is set to expire in 2019 and the objective was to replace the current service with one that:

- ▶ Makes high speed data easily available to the emergency services
- ▶ Provides more flexibility and takes advantage of new technologies as they emerge
- ▶ Costs less

The chosen option to replace the Airwave service and meet the three objectives is the Emergency Services Network (ESN). The provision of this service has been contracted out to three main providers Kellogg Brown and Root, Motorola Solution and EE Ltd.

The plan is emergency services will start moving to this new network in September 2017 and the process will be complete by December 2019.

It is estimated to cost £1.2bn from April 2015 to March 2020. After this date the ESN is expected to save money compared to Airwave, the current provider.

Barclays changes LOBO loans to fixed rate loans

Following a period of public scrutiny Barclays has changed its Lender Option Borrower Option (LOBO) Loans to Councils and Local Authorities to a fixed rate basis. The LOBO's had initially been offered at lower rates than the other main source of public sector funding the Public Works Loan Board (PWLB) however Barclays always retained the right to adjust the interest rate. This had come under scrutiny and it was argued didn't offer value for money for taxpayers. A series of objections by local electors have been made to the 2015-16 accounts of 24 local authorities that have taken out LOBO loans. The objections predominantly argued that the decision to take out LOBO loans was irrational and unreasonable, and thereby unlawful. Appointed auditors are currently considering these objections under the legal framework for objections contained in the Local Audit and Accountability Act 2014.

Under the changes Barclays has stated that over 100 local authorities and housing associations will benefit from the change. It will also give such bodies much more certainty over their finances in the future as it will remove an element of uncertainty attached with the nature of the loans by locking the loans in at a fixed rate for the duration of the loans. Barclays said that clients impacted had been notified of the change in June 2016.



Accounting, auditing and governance

PSAA as appointing person

In July 2016, the Secretary of State for Communities and Local Government specified PSAA as an appointing person under regulation three of the Local Audit (Appointing Person) Regulations 2015. This means that PSAA can make auditor appointments for audits of the accounts from 2018/19 of principal authorities that choose to opt into its arrangements.

Appointments for 2018/19 must be made by 31 December 2017. Details of the scheme as well as a timetable will be available soon.

Governing culture: practical considerations for the board and its committees

Corporate culture has been a hot topic for many years now and we are finding Boards and Audit Committees are starting to question more and more how they can ensure proper oversight. The EY Corporate Governance team have prepared a report that summarises the findings of the recent EY and FT board survey on culture and their own work at individual organisations.

We would define culture as the collective values and beliefs that exist in an organisation, or parts of an organisation, that inform and influence behaviours, actions and decision making. Culture can then be split into four organisational pillars:

- ▶ Political architecture: where does power lie and how is it used?
- ▶ Performance architecture: how do economic and performance objectives drive behaviour?
- ▶ Social architecture: what values govern relationships and what behaviours do these drive?
- ▶ Operational architecture: how do organisational frameworks, systems and processes affect behaviour?

Audit committees have a unique role to play in the governance of culture, which can directly affect internal control processes, risk management and the integrity of the financial statements. The Corporate Governance team included the following key messages for the audit committee:

- ▶ The audit committee should understand how culture can impact the effectiveness of risk mitigation strategies and support decision making throughout the company in line with the risk appetite determined by the board
- ▶ The committee should consider the cultural context for performance and results and the integrity of the financial statements
- ▶ Data analytics can help the committee create a picture of culture throughout the company, including across international locations. This data should form part of the overall analysis that is used to drive further assurance and oversight efforts
- ▶ The committee should be aware of cultural factors that can influence the relationship with the external auditor. It should use internal audit as a resource for monitoring and championing the desired culture throughout the organisation

If you have any questions on culture or corporate governance then please speak to your external audit team who will be able to provide information on the various pieces of work we have done, and could do, for your organisation.



Regulation news

Gender Pay Gap

Subject to the approval by Parliament the regulations for mandatory reporting on the gender pay gap will come into force during October 2016. However, employers will have around 18 months from commencement to publish the required information for the first time.

Employers with 250 or more employees will fall within the scope of the regulations.

Pay

The regulations will require employers to publish their overall mean and median gender pay gaps as they are complementary indicators. As well as giving employers a better understanding of any pay gaps identified, this will facilitate comparisons with national and international figures.

Bonus

Employers within scope will need to publish the difference between the mean bonus payments paid to men and women (regulation 6). The mean takes into account the full distribution of bonuses paid by an employer. Only those employees who receive 10 bonuses should be included in the calculation. Employers will also be required to publish the proportion of male and female employees that received a bonus.

Salary Quartiles

Employers will be required to report on the number of men and women in each quartile of their pay distribution (regulation 7). Quartiles split into four equal groups, where each group contains a quarter of the data. Employers will calculate their own salary quartiles based on their overall pay range. The objective is to identify the numbers of women and men in each quarter by the overall pay distribution. This is straightforward to produce and will help employers consider where women are concentrated in terms of their remuneration, and if there are any blockages to their progression.

Impact

This is not yet a disclosure requirement but is something that could emerge in the future.

Agenda Item 6



Key questions for the audit committee

What questions should the Audit Committee be asking itself?

What actions are being taken to consider the impact of the UK's decision to leave the European Union?

Do we have appropriate governance arrangements in place to facilitate the delivery of the STP?

Are we ready for the changes to exit package calculations?

If you are an administering authority has the impact of the proposed changes to the new pension investment scheme been considered and how the local authority will go about determining the value of their own investment?

Did your local authority have a Barclays LOBO and if so have the impact of the changes made by Barclays been considered by your organisation?

Has the local authority got a plan in place to appoint an external auditor before 31 December 2017?

How thoroughly has the committee discussed the impact of culture on risk, risk management and the internal control environment?

Are there systems in place to be able to calculate the gender pay gap, ensuring your organisation is prepared if this does become a requirement?



Find out more

EY Item Club

<http://www.ey.com/uk/en/issues/business-environment/financial-markets-and-economy/item-forecast-headlines-and-projections>

Sustainability and transformation plans

<https://www.england.nhs.uk/wp-content/uploads/2016/02/stp-footprints-march-2016.pdf>

<https://www.kingsfund.org.uk/projects/sustainability-and-transformation-plans>

Exit packages

<http://www.publicfinance.co.uk/news/2016/09/treasury-confirms-public-sector-pay-offs-be-capped-ps95k>

Pension investment schemes

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479642/Consultation_on_investment_reform.pdf

Revaluation of business rates

<https://www.gov.uk/government/news/government-promises-fairer-bills-for-business-across-the-country>

Schools conversion to academies dropped

<http://www.bbc.co.uk/news/education-37191282>

and

<https://www.gov.uk/government/collections/technical-and-further-education-bill>

Public sector borrowing

<http://www.publicfinance.co.uk/news/2016/09/public-sector-borrowing-falls-august>

The Emergency Services Network

<https://www.nao.org.uk/wp-content/uploads/2016/09/Upgrading-emergency-service-communications-the-Emergency-services-Network.pdf>

Barclays changes LOBO loans to fixed rate loans

<http://www.publicfinance.co.uk/news/2016/09/barclays-ditches-lobo-loans>

PSAA as appointing person

<http://www.psa.co.uk/2016/08/news-release-psaa-specified-as-appointing-person/>

Governing culture: practical considerations for the board and its committees

<http://www.ey.com/uk/en/issues/governance-and-reporting/corporate-governance/ey-governing-culture-practical-considerations-for-the-board-and-its-committees>

Gender Pay Gap

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504398/GPG_consultation_08.pdf

Agenda Item 6

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About EY

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Ernst & Young

Report to: Audit and Governance Committee **Date of Meeting:** 7 December 2016

Subject: Vexatious or Unfocussed Complaints & Data Requests **Wards Affected:** All

Report of: Head of Regulation and Compliance

Is this a Key Decision? No **Is it included in the Forward Plan?** No
Exempt/Confidential No

Purpose/Summary

To provide Members with a proposed policy and procedure about the Vexatious or Unfocussed Complaints and Data Requests.

Recommendation(s)

- 1 To consider the contents of the report and to make any appropriate recommendations or amendments.
- 2 To recommend the draft policy to Council for consideration.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		x	
2	Jobs and Prosperity		x	
3	Environmental Sustainability		x	
4	Health and Well-Being		x	
5	Children and Young People		x	
6	Creating Safe Communities		x	
7	Creating Inclusive Communities		x	
8	Improving the Quality of Council	x		

Agenda Item 7

	Services and Strengthening Local Democracy			
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Reasons for the Recommendation:

To allow members to consider the draft policy and procedure for this sometimes difficult area of work.

Alternative Options Considered and Rejected:

None

What will it cost and how will it be financed?

(A) Revenue Costs

Nil

(B) Capital Costs

Nil

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial Nil
Legal Having such a policy which it is anticipated will be published on the Council's transparency pages will stand the authority in good stead when it comes to dealing with individual cases. This approach is recommended by the Local Government Ombudsman's office and the Information Commissioner.
Human Resources
Equality 1. No Equality Implication <input type="checkbox"/>
2. Equality Implications identified and mitigated <input type="checkbox"/>
3. Equality Implication identified and risk remains <input type="checkbox"/>

Impact of the Proposals on Service Delivery:

From time to time members of the public can become vexatious or unfocussed complainants or in their data requests. This can be very difficult for officers to deal with and very time consuming.

The proposed policy and procedure if agreed will give officers a framework against which to consider dealing with such complainants and ensure that they are dealt with consistently and in a fair and proportionate manner.

What consultations have taken place on the proposals and when?

The Head of Regulation and Compliance is the author of the report (LD 3592/16)

The Head of Corporate Resources (FD4309/16) has been consulted and notes the report indicates no direct financial implications for the authority.

Strategic Leadership Board considered the item in July 2016 and concurred with the draft document.

Implementation Date for the Decision

Following consideration at Council.

Contact Officer: Jill Coule

Tel: 0151 934 2031

Email: jill.coule@sefton.gov.uk

Background Papers:

There are no background papers available for inspection

Agenda Item 7

1. Introduction

- 1.1 From time to time complainants, members of the public can act in a way that makes it impossible for officers to reach a resolution on their complaints or data requests. Efforts by officers to resolve such matters can also take up a disproportionate amount of officer time when resources are increasingly scarce. Complainants and members of the public falling into this category are a very small proportion of those engaged in the vast amount of correspondence exchanged between the Council and members of the public each year.
- 1.2 The attached draft policy and procedure document aims to establish a set of principles for both staff and complainants to either resolve difficulties or for the Council to garner sufficient evidence to be able to cease responding to individual's correspondence.
- 1.3 Through the introduction of the new I-Casework system it will be possible to monitor the use and application of the policy and it is likely that next year it will be possible to report back to members on its use.
- 1.4 If approved, senior managers in the Council will be tasked with ensuring that those that deal with complaints and data requests are acquainted with and understand the policy. It is proposed that the documentation will be added to the Council's transparency pages and appropriate links made on the Council's website to ensure that the documentation is accessible to all.
- 1.5 Having such a published statement is recommended as good practice by both the Local Government Ombudsman's office and the Information Commissioner's Office.

Sefton Council

**Vexatious or Unfocussed
Complaints and Data Requests**

Policy & Procedures

June 2016

Summary Sheet

Document Information

Protective marking (Unclassified / Restricted Circulation / Confidential)	Unclassified
Ref	Vexatious or unfocused complaints policy and procedure v1.0
Document purpose	Legal Obligations and Good Practice in Council use in dealing with difficult, vexatious or unfocused citizen complaints.
Document status (Draft / Active)	Draft
Partners (If applicable)	N/A
Date document came into force	TBC
Date of next review	Twelve month basis as part of Annual Information Governance statement taken to Information Management Group
Owner (Service Area)	Sefton Council – Business Intelligence & Performance Team
Location of original (Owner job title / contact details)	Data Protection Officer – as above
Authorised by (Committee/Cabinet)	Audit & Governance Committee TBA Council approval TBA

Document History

Version	Date	Author	Notes on revisions
1	April 2016	Ben Heal – Data Protection Officer	
2	April 2016	Ben Heal – Data Protection Officer	Incorporation of comments from colleagues
3	May 2016	Ben Heal – Data Protection Officer	Incorporation of comments from colleagues
4	June 2016	Catherine Larkin – Data Protection Officer	Incorporation of comments from colleagues

Introduction

This policy and procedure describes how Sefton Council applies the Local Government Ombudsman and Information Commissioner's guidance on citizens who the Council perceive as vexatious or unfocused complainants in relation to specific issues. Where the complaints relate to data sharing this document has been prepared in terms of the Council's obligations as a "data controller" under the Data Protection Act 1998 and the Freedom of Information Act 2000.

The Council consistently has a small number of complainants who act in a vexatious or unfocused way which makes resolution of their complaints or data enquiries impossible, while taking up a disproportionate amount of Council resources.

The Policy sets out a set of principles and procedures for both staff and complainants in an attempt to either resolve the difficulties encountered or gain sufficient evidence to cease responding to the complaints or data access request by means of defining them as vexatious. It aids in assessment, monitoring and processing of the difficulties and attempts to resolve them.

Organising Principles

The Council recognises that a small minority of complainants and data access seekers cannot work within the Council's usual procedures. Therefore there needs to be an equitable 'due process' offering equivalent rights to either facilitate resolution of the issues raised or where this is not possible conclude ongoing contact with the complainant over the specific concerns.

There is a consistent need to obtain clarity and focus on complaints and enquiries. This is applicable to both complainant and Council.

The Council has an obligation to protect its staff and resources from the complainant's unjustifiable actions.

The formalised assessment process is an opportunity to verify the Council has listened to the complainant, and evaluated its options and rationale when responding. It should evidence a review by senior Departmental and Corporate Council managers of the circumstance, context, and sufficiency of communication with the complainant.

The complainant should not be under or over serviced by the Council in regard to the complaint or data access sought.

Anticipated Outcomes

A formalised assessment of the issues will be undertaken. This should be overseen by senior managers from the relevant Council Department, the Senior Information Risk Officer, and the Corporate Information Management & Governance Executive Group. The findings will be recorded and shared with the complainant.

Potentially sufficient agreement and focus have been created to enable a Council response to the applicant's request.

Potentially the Council may eventually decide to protect its resources and staff by refusing to deal with the set of issues raised by the complainant as they can evidence they are vexatious in nature.

An overview of the process is outlined in Appendix 1.

Definitions

Unfocused

Where the complainant's issues are either too vague, imprecise as to time, place or personnel or constantly shifting as to what is sought to be resolved.

Vexatious

The regulatory bodies – the Local Government Ombudsman and the Information Commissioner's Office - have itemised what they consider vexatious. While not exhaustive the examples below illustrate the variety of behaviours to which the Council will respond to protect its staff and resources:

- Persistent complaining over the same issue. Persistence will be defined as the same or similar complaint made, irrespective of to whom in the Council, on a number of occasions. Persistently seeking an outcome that the Council has already explained is unrealistic for policy, legal or other valid reasons.
- Complaining about or challenging an issue based on a historic and/or irreversible decision or incident.
- Making persistent and unreasonable demands on Council staff after the unreasonableness has been explained. An example would be a complainant who insists on immediate responses or sets the Council unreasonable deadlines.
- Taking a 'scatter-gun' approach to their complaints, for example within the Council or using MPs, elected members, or regulatory bodies.
- Refusing to specify the grounds of their complaint despite offers of assistance.
- Refusing to cooperate with the Council's investigation of the complaint, insisting on their demands being met without such an investigation.
- Refusing to accept that issues are not within the power of the Council to investigate, change or influence. An example would be a problem caused by the private sector rather than the Council.
- Insisting that the complaint be dealt with in ways other than the Council's complaints policy or equivalent. For example insisting there are no written records made of the complaint.
- Refusing to accept the outcome of the complaint or data access process after the Council's considered final response, repeatedly arguing the point, or denying that this was an adequate response.
- Insisting a minor variation in the original complaint means that it is a 'new' complaint requiring a new Council response.
- Where the complainant can be evidenced to be verbally or physical abusive, threatening or violent in their contact with the Council over the issue.
- Where the complainant keeps shifting the focus of the topic or relevant staff involved with the complaint.
- Where the complainant has been significantly partially or wholly untruthful in their complaint or data access request.

The Council's response to unfocussed or vexatious behaviours

Once sufficient evidence around seeming unfocused or vexatious behaviour is accrued by the relevant Council team/s the first step is take the issue with relevant evidence to the Corporate Information Management and Governance Executive Group. They will decide if the conditions are met to put one or other of the following two methods in place. Which method depends on the severity and longevity of the complainant's actions.

- Focussing and expectation agreement with complainant. Details provided below with a covering letter and template in Appendix 2.
- Where sufficient evidence already exists Council lawyers will be requested to draft a letter of vexatious status to the complainant. Template provided in Appendix 3.

A failure by the complainant to meet the focusing agreement requirements will lead to the vexatious status statement and be used as evidence of good will and intent by the Council to any subsequent regulator's investigation.

Focussing and expectation agreement with complainant

An agreement would be drawn up between the complainant and the Council. This will need to be visible to all parties and would ideally be signed.

The agreement should recognise that while the complainant has the same complainant rights as any other, there is a need for extra support to gain focus, clarity and structure. If these cannot be obtained the Council cannot resolve the complaint/s and will therefore not progress the complaint.

A central principle is the complainant should not be under or over serviced by the Council or its workforce.

The component elements of the agreement should be:

- Boundaries of relevant Council staff involvement
- Respective responsibilities of complainant and Council
- Forming realisable expectations with complainant
- Contact and authority structure for complainant
- Time frames, deadlines, key information required, communication methods, and closure steps
- List of options for action
- Mutual goals
- Signatures

Boundaries of Council staff involvement

There will be a single point of contact (SPOC) person for the complainant The SPOC will have a senior support supervisor for this specific case who overviews, reviews and supports the staff member.

Other organisation staff will keep to their specialist roles, but direct ALL communications relating to the complaint or data request via the SPOC. The SPOC may at times ask any Council staff to contact directly but the principle is that this is mainly the SPOC's decision. If the SPOC becomes unavailable the complainant will be informed of a replacement.

If the complainant complains about the SPOC, they will need to outline and evidence their complaint in writing, and send it to a specified senior manager. The senior manager will then communicate with the complainant as to whether they consider the complaint justified to the extent they replace the SPOC.

Respective responsibilities of complainant and Council

The complainant should:

- State their complaint in an organised manner without excessive or extraneous material. They should be signposted to advocacy services to support them to do this if necessary.
- Provide all required information in a timely and complete manner – not in dribs and drabs over time.
- Provide only factual and truthful material.
- Use the SPOC and not bring other organisational staff into responding to their complaint/s
- Refrain from personal remarks, offensive or threatening behaviour.

Council staff should:

- Respond via the SPOC in an accurate and timely and truthful manner.
- Unless agreed with the SPOC redirect all communications relating to the complaint back to the SPOC.
- Offer the complainant the same level of service as any other complainant.

Forming achievable expectations with complainant

A key function of the SPOC - with support from specialist staff - is to clarify WHAT the grounds for complaint are. Without this the complaint response cannot progress.

If the complainant subsequently compounds, confuses, or keeps adding complaints, they will explain this is not acceptable as it presents the Council with a shifting and unclear complaint.

If the complainant has further complaints these may await the outcome of the original complaint as this may answer all subsequent complaints.

It will be explained

- All further complaints around the same issue will not be considered until the initial one is completed
- The Council will not respond to a further complaint as this was outlined at the outset of the original complaint.
- It may be appropriate to bring complaints together at a later stage of the process.

Contact structure for complainant

Communications will be via

- Letter or email
- Phone calls
- In person interviews

The SPOC will be where the complainant is directed to go for ALL complaints – except a complaint about the SPOC. It will be explained while they may attempt to contact others in the organisation, including senior managers, they will only redirect them back to the SPOC.

Time frames, deadlines, key information required, communication methods and closure steps

The SPOC will outline in written form what these expectations are. They are clearly interdependent. For instance, until key information is acquired from the complainant, time frames and deadlines cannot be established. Given the SPOC may be contacting busy operational sites for information it is important to be realistic to the complainant about time scales. If they complain further about non-response they will be directed to the agreed time scales.

List of options for action by the Council

The Council may highlight a number of options for action including:

- To refuse to process complaints which are persistent, confused, and / or contain excessive or extraneous material after the Council's attempt to clarify them with complainant.
- Refusing to register and process further complaints about what it perceives as the same matter.
- Placing of limits on the number and duration of contacts per week or month.
- Offer restricted time slot for necessary calls.
- Limiting the complainant to one contact medium – letter, email, and phone.
- Requiring the complainant only contact one member of staff.
- Any personal contact takes place with a staff witness.

In brief, the implementation sequence for any of the above options starts with SPOC liaising with relevant service manager who will write to complainant outlining why their behaviour is of concern and what actions will follow if it does not cease.

Restrictions will be proportionate and appropriate and recognise individual circumstances and inform the complainant of their right to refer to the Ombudsman or the Information Commissioner.

If progress is impeded by the complainant's actions the matter will be returned to the Corporate Information Management and Governance Executive Group for decision whether to escalate to Vexatious status.

Mutual goals (mutual where possible with the complainant)

Where possible the Council is keen that the above are mutual goals and principles shared between the complainant and the Council. It is the obligation of the complainant to briefly and clearly state what they cannot agree with and why. The Council will decide if they can modify it accordingly.

The agreement and any complainant response to it will potentially be shared with any regulator such as the Ombudsman, Information Commissioner's Office and professional body to whom the complainant may turn. It should provide evidence of Council goodwill and openness while requesting structure and clarity from the complainant.

Signatures to agreement

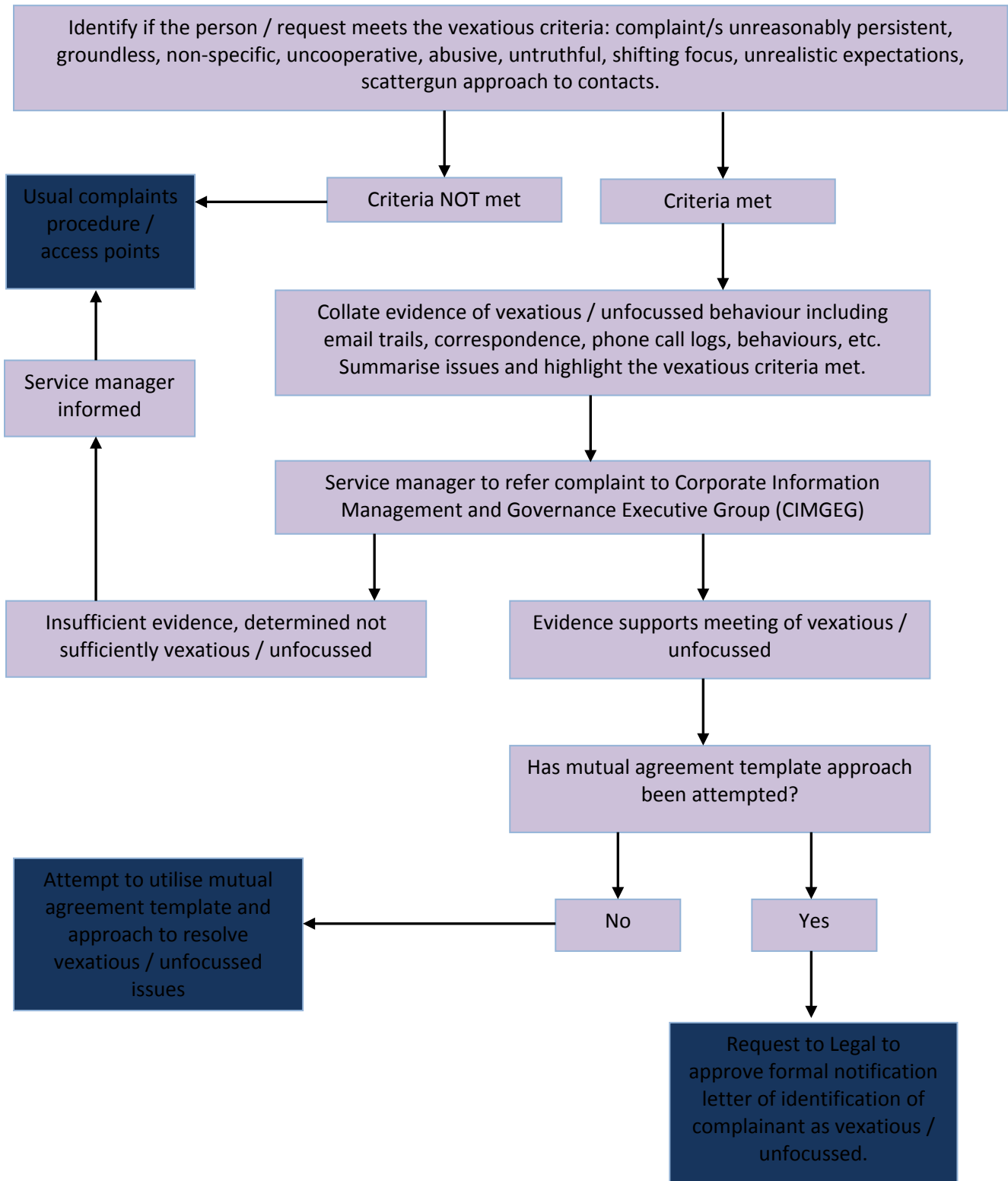
These will be sought where possible. If the complainant refuses to sign, it will be recorded for evidence to any regulatory body that they were offered the opportunity. It is acceptable for them to verbally agree to the agreement and the Council record such agreement.

DRAFT

Appendix 1

Background/Purpose

To ensure proportionate and appropriate response to citizen complaints when seemingly unfocused or compromising Council staff or resources.



Appendix 2 – Mutual Agreement Template

If it is decided that it might be possible for the complainant and Council to come to mutual agreement over a set of agreed components relating to their complaints/enquiries the following covering letter and agreement template should be used. The sections are described in more detail above. The following recognises while the complainant has the same complainant rights as any other, there is a need for extra support to gain focus, clarity and structure.

Covering letter to accompany Mutual Agreement Template

Re: Your Contact With Sefton MBC

I write with reference to your complaints to the Council/requests for information under the DPA /FOIA as detailed below:

- XXXX e.g email of 6 June 2016 addressed to XXX
- XXXX email of 10 June 2016 addressed to YYYY
- XXX
- XXXX

Your contact with the Council has been considered in line with the Council's policy on 'Vexatious or Unfocused Complaints and Data Requests' and to assist in resolving your complaints / requests, the Council consider it appropriate to enter into an agreement with you on how your contact with the Council will be managed in the future.

Please find enclosed a draft agreement for your consideration and if you are happy with the contents I shall be very grateful if you could sign a copy and return it to me at your earliest convenience. Alternatively, you could confirm your agreement via email to:

xxxxxxxxxxxxxx@sefton.gov.uk.

I trust you will view this as a positive development in your relationship with the Council which is advanced as a way in which your complaint / request can be appropriately resolved.

Yours sincerely

Mutual Agreement Template

Boundaries of Council staff involvement

The Council and complainant agree to work through a single point of contact in order to ensure consistency and appropriateness of contact.

Single Point of Contact Details

Add in contact details ...

Job title

Contact details

E-mail

Phone No

Address

Person to contact if you wish to complain about the single point of contact.

Add in contact details ...

Job title

Contact details

E-mail

Phone No

Address

Respective responsibilities of complainant and Council

Adjust the following to include complainant name and add / remove any criteria as necessary.

Complainant agrees to:

- *State my complaint in an organised manner without excessive or extraneous material*
- *Provide all required information in a timely and complete manner – not in dribs and drabs over time*
- *Provide only factual and truthful material*
- *Use the single point of contact and not contact other organisational staff regarding my complaint/s*
- *Refrain from personal remarks, offensive or threatening behaviour*

The Council agrees to:

- *Respond via the single point of contact in an accurate, timely, and truthful manner*
- *Unless agreed with the single point of contact, redirect all communications from the complainant back to the single point of contact.*
- *Offer the complainant the same level of service as any other complainant.*

Forming achievable expectations

Use this section to clarify what the complainant's key issues are and identify the grounds for the complaint.

The primary complaint is:

Contact structure for complainant

Outline the expected way that contact with the single point of contact will be made (letter, email, phone, in person, etc.)

Contact structure

Time frames, deadlines, key information required, communication methods and closure steps

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Protective Marking: **Unclassified**

Complete specific details relating to these areas that are realistic and specific. Particular effort should be made to closure steps and definition of when the complaint will be considered to be closed and no further action will be taken. These elements should be clear and unambiguous.

List of options for action

Where appropriate agree limitations to the actions to be taken by both parties when dealing with the complaint. These could include but are not limited to:

- To refuse to process complaints which are persistent confused and contain excessive or extraneous material after the agencies initial attempt to clarify them with complainant.*
- Refusing to register and process further complaints about what it perceives as the same matter.*
- Placing of limits on the number and duration of contacts per week or month.*
- Offer restricted time slot for necessary calls.*
- Limiting the complainant to one contact medium – letter, email, and phone.*
- Any personal contact takes place with a staff witness.*

Mutual goals

Where possible the Council are keen that the above are mutual goals and principles shared between the complainant and the Council. It is the obligation of the complainant to briefly and clearly state what they cannot agree with and why and the Council will decide if they can modify it accordingly.

The agreement and any complainant response to it will potentially be shared with any Council regulator such as the Ombudsman, Information Commissioner's Office and professional body to whom the complainant may turn. It should provide evidence of Council goodwill and openness while requesting structure and clarity from the complainant.

Signatures to agreement

	Signature	Date
<i>Complainant/s</i>	_____	_____
<i>Senior Information Risk Owner on behalf of Council's Corporate Information Management and Governance Executive Group</i>	_____	_____

Once completed the agreement should be copied to: Complainant/s, Senior Information Risk Officer and single point of contact.

Appendix 3 – Vexatious Status Letter

Template for letter of vexatious status to complainant – to be completed by Legal and approved by CIMGEG.

Re: Your Contact With Sefton MBC

I write in connection with your recent communications with Sefton Council which I consider to be vexatious. I will detail the action that we will take as a consequence of that decision.

I have reviewed the considerable amount / nature of communications and have summarised events in the attached document.

It is my decision that you should now be considered a vexatious complainant for the following reasons:

- You have made groundless complaints and claims against the Council and its officers
- You have made an unreasonable amount of contacts with the Council in relation to matters which have their origin in events of XXXXX
- You make the same complaints repeatedly
- You continually raise subsidiary issues / complaints
- Your complaints are often vague, not backed by evidence and / or difficult to comprehend
- You contact many officers within the Council
- You refuse to accept the outcome of the complaints process
- You refuse to accept documentary evidence
- Your repeated contacts with Council officers is placing unreasonable demands on staff time and resources
- You have threatened legal proceedings against the Council on a number of occasions but we have not been served with any court papers
- Your communication has included use of threats, intimidation or violence
- Your communication has included use of abusive, offensive or discriminatory language

Please note that in future Sefton Council will not reply to or acknowledge any further contact from you on any matter directly or indirectly related to the matters described above.

This decision will be reviewed by me in 6 months' time and you will be informed of the outcome of that review.

When making this decision I have considered the *Local Government Ombudsman's Guidance note on management of unreasonable complaint behaviour* issued in July 2014 and I consider this to be a just and proportionate response.

However, if you submit any further complaints not related directly or indirectly to matters referred to above those complaints will be considered on their merits according to the appropriate process.

Signed by relevant Senior Manager

Appendix 4

Background information from the Information Commissioner's Office and Local Government Ombudsman relating to vexatious requests.

Information Commissioner's Office

<https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

Local Government Ombudsman

www.lgo.org.uk/information-centre/reports/advice-and-guidance/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour

Report to: Audit and Governance Committee **Date of Meeting:** 7th December 2016

Subject: CCTV Policy Statement **Wards Affected:** All

Report of: Jill Coule
Head of Regulation and Compliance

Is this a Key Decision? No **Is it included in the Forward Plan?** No
Exempt/Confidential No

Purpose/Summary

To consider a Policy Statement for the use of the Sefton Closed Circuit Television System and to make a recommendation to the Full Council

Recommendation(s)

That the Full Council be recommended to approve the CCTV Policy Statement attached at Annex A

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity		✓	
3	Environmental Sustainability		✓	
4	Health and Well-Being	✓		
5	Children and Young People		✓	
6	Creating Safe Communities	✓		
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy		✓	

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Reasons for the Recommendation:

Operators of CCTV systems are encouraged by the Government to adopt a set of guiding principles so as to achieve a balance between public protection and individual privacy and to comply with statutory duties.

Alternative Options Considered and Rejected:

The alternative would be to not adopt the Policy and Codes of Practice which could lead to inappropriate use of CCTV systems.

What will it cost and how will it be financed?

[A] Revenue Costs – No additional costs

(B) Capital Costs – No additional costs

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial	
Legal : The legal implications are included within the report	
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact of the Proposals on Service Delivery:

Adoption of the Policy and Codes of Practice will ensure that the service is delivered in a compliant manner

What consultations have taken place on the proposals and when?

The Head of Corporate Resources (FD 4420/16) and Head of Regulation and Compliance (LD 3703/16) have been consulted and any comments have been incorporated into the report.

Implementation Date for the Decision

Immediately following the Committee Meeting.

Contact Officer: Peter Cowley, Senior Lawyer

Tel: 0151 934 2288

Email: peter.cowley@sefton.gov.uk

Background Papers:

There are no background papers available for inspection

- 1.0 Introduction/Background
- 1.1 Surveillance systems, specifically Closed Circuit Television Systems [CCTV], are used to monitor or record the activities of individuals or both. As such they process individuals' information – their personal data – and are therefore covered by the Data Protection Act 1998 (DPA).
- 1.2 Sefton Council uses CCTV systems in public spaces, within car parks and at several Council owned sites.
- 1.3 It is therefore essential that the Council has appropriate Policies and Codes of Practice in place, in relation to the use of CCTV, which ensure that it complies with the DPA and other relevant statutory obligations, including:
 - (a) Regulation of Investigatory Powers Act 2000 (RIPA) which governs the use of covert surveillance by public authorities.
 - (b) The Human Rights Act 1998.
 - (c) The Protection of Freedoms Act 2012 (POFA) . The POFA Code provides guidance on the appropriate and effective use of surveillance camera systems.
- 1.4 The use of CCTV and other forms of surveillance cameras is regulated by:
 - (a) the Information Commissioner's Office (ICO) in relation to data protection
 - (b) the Office of Surveillance Commissioners (OSC) in relation to the use of covert surveillance
 - (c) the Surveillance Camera Commissioners (SCC) in relation to operational requirements and technical standards.
- 1.5 On 4th July 2016 the Council was inspected by a Surveillance Inspector from the Office of Surveillance Commissioners. The Inspector was provided with a draft of

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the Council CCTV Policy Statement and noted that it was due to be approved by the Audit and Governance Committee.

- 1.6 The draft CCTV Policy Statement is attached .The Policy is intended to give clear guidelines on the Council's use of CCTV and the purposes for which it may be used.

The purpose of the Policy is to seek to achieve an appropriate balance between protecting the public [by deterring and detecting crime and anti-social behaviour] and protecting the privacy of individuals.

The Policy incorporates [in Clause 3.1] the "12 Guiding Principles" to be adopted by the operators of CCTV Systems. These originate from the Home Office's "Surveillance Camera Code Of Practice". The inclusion, in the Policy ,of these Guiding Principles will allow the Council to establish a clear rationale for any overt surveillance camera deployment in public places and to ensure its compliance with its legal duties under the legislation referred to in paragraph 1.3 above.

- 1.7 The Policy is designed to protect the Council and its staff from allegations of misuse of the CCTV System and to protect the public from any abuse of the system.

2.0 Recommendation

- 2.1 Attached to this report is the proposed "Sefton Council CCTV Policy Statement" for consideration by the Committee and ,subject thereto, for referral to the Full Council for approval.

Sefton Metropolitan Borough Council

CCTV POLICY STATEMENT

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1. Introduction

- 1.1 Sefton Council uses Closed Circuit Television (CCTV) systems in public spaces, within car parks and at several of Council owned sites.
- 1.2 This document along with individual systems Codes of Practice are designed to give clear guidelines on the Council's use of CCTV and to protect it and its CCTV operators from allegations of misuse of the system and to protect staff and the public from any abuse of the CCTV system.
- 1.3 This policy covers the purchase and use of CCTV equipment and the gathering, storage, use and disposal of visual data. This policy applies to all staff employed by Sefton Council and should be the standard expected from any external agencies or persons who operate CCTV systems on its behalf.
- 1.4 This document should be read in conjunction with the CCTV systems Code of Practice and Operational Manual. Failure to comply with these documents could lead to disciplinary action, which may lead to dismissal and in certain circumstances criminal proceedings against the individuals concerned.

2. Objectives of CCTV Systems

- 2.1 It is important that everyone and especially those charged with operating the CCTV systems on behalf of Sefton Council understand exactly why each of the systems has been introduced and what the cameras will and will not be used for.
- 2.2 Each CCTV system will have its own site or task specific objectives. These will include some or all of the following:
 - **Protecting areas and premises used by staff and the public;**
 - **Deterring and detecting crime and anti-social behaviour;**
 - **Assisting in the identification of offenders leading to their arrest and successful prosecution or other appropriate action;**
 - **Reducing violent or aggressive behaviour towards staff;**
 - **Reducing fear of crime, anti-social behaviour and aggression;**
 - **Protecting property and assets owned by Seftonarc Sefton Council;**
 - **Assisting in staff disciplinary, grievance, formal complaints and Health and Safety Investigations.**
- 2.3 The systems will not be used for any other purpose than those set out in this document without prior consultation with the senior manager responsible for CCTV – and where appropriate notification to staff and following consultation with the Trade Unions and also where appropriate, residents who live in the property. Any novel or non standard use of the CCTV cameras are to require the approval of the above manager.

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- 2.4** Cameras will not be used to monitor the progress of staff or individuals in the ordinary course of lawful business in the area under surveillance. Nor are managers permitted to use the cameras to observe staff working practices or to assist them in the day-to-day management of their staff.
- 2.5** Individuals will only be monitored if there is reasonable ground to suspect a serious criminal offence. In any case where CCTV has witnessed such incidents, (and officers wish to use footage as part of any investigation) officers should consult the heads of legal service, Human Resources and where appropriate Trades Unions.
Any requests to use CCTV other than for incidents that are historical will only be considered if RIPA, (Regulation of Investigatory Powers Act 2000) is applied. Without such authorisation CCTV will not be used under any circumstances.
- 2.6** **Since 1st November 2012, local authorities are required to obtain judicial approval from a justice of the peace, prior to using covert techniques, including covert surveillance. Also, from that date, the use of covert surveillance by local authorities is limited to the investigation of crimes which attract a 6 month or more custodial sentence, with the exception of offences relating to the under-age sale of alcohol and tobacco.**
- 2.7** Body worn cameras
1. The expectation is that the BWV device will only be used where there is an evidence gathering opportunity.
 2. Users should only commence recording as soon as they become aware that the encounter is likely to necessitate the need to gather evidence.
 3. On commencement of any recording the user should make a verbal announcement, where practicable, to indicate why the recording has been activated, the nature of the incident to which deployed or confirmation to those present that the incident is now being recorded using both video and audio.
 4. If the recording has commenced prior to arrival at the scene of an incident the user should, as soon as is practicable, announce to those persons present at the incident that recording is taking place and that actions and sounds are being recorded. Specific words for this announcement have not been prescribed in this guidance, but users should use straightforward speech that can be easily understood by those present, such as, "I am video recording you", "I am video recording this incident" or "everything you say and do is being recorded on video".
 5. In so far as is practicable, users should restrict recording to areas and persons necessary, in order to obtain evidence relevant to the incident and should attempt to minimise collateral intrusion to those not involved.
 6. There should always be a valid reason for the viewing of all captured body worn video.
 7. Any 'non-evidential' BWV footage recorded is only retained for 31 days in accordance with the ACPO guidelines and the Data Protection Act.
 8. BWV footage is restricted and cannot be disclosed to third parties without their express authority unless prescribed by law.

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9. Recorded data is 'Sefton Council Information' and it can be accessed on request in writing in accordance with Section 7 of the Data Protection Act 1998 and/or Section 8 of the Freedom of Information Act.
10. Staff operating BWV should be aware that an infringement of this protocol may be dealt with through the council's disciplinary procedure. Additionally, the recordings made on a device may be used to provide evidence in internal disciplinary proceedings relating to misconduct.

Dashcams

1. Although Sefton Council uses dashcams some vehicles they are not used to carry passengers. However, staff using any vehicles fitted with these devices should be made aware of their presence.
2. All data from dashcams will be managed in accordance with the general use of CCTV throughout this protocol.

3. Legislation

3.1 The Council's use of CCTV is subject to the following legislation:

3.1.1 The Data Protection Act 1998 (DPA).

3.1.2 The Human Rights Act 1998 (HRA).

3.1.3 The Freedom of Information Act 2000 (FOIA).

3.1.4 The Regulation of Investigatory Powers Act 2000 (RIPA).

3.1.5 The Protection of Freedoms Act 2012

Additionally, the Home Office has published the "Surveillance Camera Code of Practice" which sets out the 12 "Guiding Principles" to be adopted by CCTV system operators. These "Guiding Principles" are:-

1. Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.
2. The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.
3. There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.
4. There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.

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5. Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them.
6. No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged.
7. Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.
8. Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.
9. Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.
10. There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.
11. When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.
12. Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.

The Council adopts the 12 “Guiding Principles” as part of this Policy.

3.2 It is important that the operation of all Council run CCTV systems comply with all relevant legislation [including the above] and Codes of Practice. This is to ensure that staff running the CCTV systems, the public and the Council itself are protected from abuses of the CCTV systems. The Responsible Officer will be responsible for reviewing all CCTV documentation relating to their system annually (or as changes occur) and ensuring the information in those documents is up to date. The CCTV Manager who acts as the Single Point of Contact (SPOC) will assist in this process.

4. Responsibility

4.1 Heads of Service have overall responsibility for CCTV systems used within their departments. Close supervision rests with the Heads of Service. The Responsible Officer for the purposes of this Policy Statement is the Head of Security Services.

4.2 The Security Services Manager is also the SPOC/CCTV Manager and is responsible for ensuring all users are kept up to date on legislation and changes in procedures and will review Sefton Councils Policy and Codes of Practice documents annually, and maintain a central database of all documents relating to the Councils CCTV system.

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4.3 The CCTV Manager

Is responsible for:

- 4.3.1 The day-to-day operation of the CCTV system within their charge and the security and accountability of all equipment and media used by their system. This includes any system owned by the Council but which is in the possession of third parties such as those cameras deployed in shopping precincts, commercial properties and swimming pools.
- 4.3.2 Making sure that authorised staff using the CCTV system are properly trained in the use of the equipment and comply with the Code of Practice and policies and procedures. They are not to permit any other staff to operate the equipment or view images without authorisation.
- 4.3.3 Acting as the first point of contact for enquires, complaints and requests for evidence and as the liaison officer for all external and internal contacts.
- 4.3.4 The CCTV Manager may not hold the positions of Designated Officer and an Officer role for Safeguarding as set out in the Safeguarding Children and Vulnerable Adults Policy.

4.4 CCTV Staff Operating CCTV Systems

- 4.4.1 Staff operating CCTV systems are responsible for operating the equipment in accordance with requirements set out in current legislation, this policy document, guidelines, confidentiality certificates, Codes of Practice and local Operational Manuals.
- 4.4.2 They must ensure that their training is up to date.
- 4.4.3 They are responsible for bringing any faults or misuse of the equipment to the Responsible Officer's attention immediately.

4.5 CCTV in Third Party Occupied Buildings

- 4.5.1 A number of CCTV systems may exist in council owned buildings where the service is provisioned by another organisation. These organisations will appoint a responsible officer who is responsible for the CCTV systems. A 'letter of understanding' should be produced and signed by the third party responsible officer and the council's CCTV Manager and will clearly state the responsibilities and accountability on both parties.

5. Purchase and Deployment of CCTV Cameras

- 5.1 Sefton Council is committed to respecting people's rights to privacy and supports the individual's entitlement to go about their lawful business. This is a primary consideration in the operation of any CCTV system, although there will inevitably be some loss of privacy when CCTV cameras are installed.

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- 5.2 Therefore it is crucial that serious consideration is given to the necessity for cameras in a given location and their impact on the privacy of individuals using the areas where cameras are to be installed.
- 5.3 Cameras are not to be installed in such a way that they can look into private space such as houses. If cameras are required in these areas they must only be installed if they can be fitted with privacy zones, which block out private areas so that they cannot be viewed or recorded.
- 5.4 Covert cameras are not to be deployed into areas used by staff or the public. Cameras should be clearly visible and clearly signed.
- 5.5 Concealed and unsigned cameras within property may on rare occasions be deployed in areas of high security where there is no legitimate public access and where staff access is controlled and restricted. Staff who normally work in these areas should where appropriate be informed of the location of these cameras, their purpose and where the monitor is kept.
- 5.6 Sefton Council will not use CCTV cameras if there are less intrusive and more effective methods of dealing with the problem.
- 5.7 No individual department or service will be permitted to purchase or install CCTV cameras until a full Operational Assessment and Privacy Impact Assessment have been completed and presented to the CCTV Evaluation Panel for approval.
- 5.8.1 Before deciding on CCTV, departments will be required to look at less intrusive alternatives. Each alternative is to be documented in the documents in paragraph 5.7 above, along with the reasons for its unsuitability to resolve the issue.
- 5.9 If after looking at all the alternatives it is decided that CCTV is the only suitable solution a clear operational objective for the system and each camera must be identified and an assessment on the impact on privacy must be carried out. A record of these decisions must be retained for inspection and review every year. A copy of these documents should be sent to the CCTV Manager and will need to be presented to the Evaluation Panel before any purchase is authorised.
- 5.8 Authorisation for the purchase and installation of CCTV cameras must be approved by the Evaluation Panel who will consult the CCTV Manager. Proof where appropriate of consultation with staff, Trade Union representatives and other stake holders has taken place will also be required by the Evaluation Panel before a final recommendation is made.
- 5.9 How the system will be paid for and its annual revenue costs and how they will be met must also be identified.
- 5.10 The CCTV Manager will be available to give advice at each stage of the above process.
- 5.11 Once authorisation is given to purchase CCTV cameras, advice should be sought from the Council's Procurement Team to ensure that correct procedures are followed.
- 5.12 It is a requirement under the Information Commissioners Code of Practice and the National CCTV Strategy that any equipment purchased is fit for purpose and will meet the objectives set down for the scheme. There is also a clear requirement for all CCTV schemes to have

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an effective maintenance schedule and Code of Practice. Officer's purchasing new CCTV equipment need to ensure these requirements are met.

5.13 This organisation does not deploy 'dummy' cameras as these give a false sense of security. Neither are officers to purchase cameras that can monitor conversation or be used to talk to individuals as this is seen as an unnecessary invasion of privacy.

5.14 Once new cameras have been installed a copy of a map or building plan showing the location of the CCTV cameras should be sent to the CCTV Manager for inclusion in the central CCTV library.

6. Monitoring

6.1 CCTV monitors sited in reception areas are intended to provide live monitoring of reception areas by departments. It is the responsibility of the Responsible Officer in the departments concerned to ensure those observing the monitors are properly trained in their duties and responsibilities and that the ability to view the monitors is restricted to those authorised to see it.

6.2 Monitoring of other cameras where required will only be carried out by persons authorised by the Responsible Officer.

7. Viewing Images and the Provision of Evidence

7.1 The casual viewing or trawling of images is strictly forbidden. Viewings must only be undertaken for a specific, legitimate and documented purpose.

7.2 The provision of evidence or viewings will normally be requested either by the police, other enforcement agency or another department conducting an investigation into criminal activities, potential; disciplinary matters, complaints, grievance or health and safety issues.

7.3 Enforcement agencies such as the police have a legal requirement to 'seize' any relevant evidence when investigating a crime and the CCTV Manager must comply with their request. But the enforcement agencies are bound by the same rules as everyone else.

7.5 Enforcement agencies are not permitted to trawl the CCTV system on the off chance of detecting a crime or wrong doing. They are required to provide the CCTV Manager or operator acting on his/her behalf with suitable information to cover the council's responsibilities under s29(3) of the Data Protection Act.

7.6 The release of evidence or permission to view images may only be authorised by the CCTV Manager or duty Control Room Operator in his/her absence. Where an enforcement agency requests copies of an image, one copy is to be made but there is no requirement for the CCTV Manager or duty Control Room Operator acting on his/her behalf to retain or produce any further copies.

7.7 If the matter concerns a member of staff, there will be no automatic right to viewing or the release of images. Viewings will be permitted and images will only be released to a properly authorised investigating officer after they have submitted a formal request to the Departmental Director.

Where it is decided that CCTV images will be used as part of an investigation staff will be given a copy in order to mount a defence. Please note section 7.11

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- 7.8 The CCTV Manager or duty CCTV operator acting on his/her behalf will then hold the relevant footage on the computer's hard drive (but not copy it to disc) and then seek authority to release the images from the Head of Service. The Head of Corporate Resources and where appropriate the Head of Regulation and Compliance should also be consulted before the images are released to the Investigating Officer.
- 7.9 **This process should take place as quickly as reasonably possible** so that the investigation is not unnecessarily delayed. To ensure the images are not lost due to retention time, the Investigating Officer can formally ask the CCTV Manager to retain the images until the viewing/ release of evidence process has been completed.
- 7.10 Once authorised, arrangements will be made to enable the Investigating Officer to view the images and if necessary be issued with two copies of recorded material on suitable recording media. Note: Only the Investigating Officer is permitted to view the images at this stage.
- 7.11 The reason for the second disc is that if it is decided to use CCTV images in an employment related hearing the employee being investigated must be given a copy of the images to permit them and their representatives to mount a defence. If a decision is made not to use the images then the data will destroyed immediately. At the end of the hearing ALL copies of the images are to be collected by HR, held on file and destroyed once the appeals process and any Employment Tribunal processes have been completed.
- 7.12 Staff who are subject to disciplinary, complaints or grievance procedures have the right to request that footage be retained if they believe it will support their defence. The process will be exactly the same as that shown above for the Investigating Officer.
- 7.13 **Sefton Council will not permit viewings or release images to people being investigated by an enforcement agency or in an internal investigation, which may be handed over to an external agency such as the police.** The responsibility for investigating and disclosing images to those involved in the investigation are covered by the Police and Criminal Evidence Act (PACE) and the Evidence and Disclosure Act and the prosecuting authorities are required to follow the procedures set out in these Acts. It should be noted that other enforcement agencies will operate under other legislation but the use of and disclosure of the evidence rests with them.
- 7.14 It is critical that a full and detailed record is kept of all viewings of the systems and all instances when images are issued. This information must include:
- Date, time, camera number and location of the incident
 - The name of the authorising officer
 - The date time, name and contact details of the person viewing or removing images
 - The reason for the viewing/ issue of images
 - The person who released and the received the images signatures
 - Any media containing images should be uniquely marked and the number recorded for ease of identification

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8. Insurance Claims

- 8.1 CCTV involvement in insurance claims fall into two categories. First, incidents which may result in claims against Sefton Council and secondly claims involving third parties, normally traffic accidents.
- 8.2 CCTV cameras may be able to assist in incidents that could result in a claim against Sefton Council. When a report is received which may result in a claim, the officer responsible for dealing with the incident should consider whether CCTV covers the area. If so they should then ask the CCTV systems Responsible Officer to hold images for that period but this must be done within 28 days from the date of the incident. The officer dealing with the incident should then follow the procedures for viewing and obtaining evidence, which is set out in section 7 above.
- 8.3 If evidence is issued to the officer dealing with the incident, they become responsible for the security, safety and integrity of the images. All recorded media must be stored in a secure place with access limited only to those people involved in the subsequent claim. At the end of the waiting period or after any claim has been dealt with this officer will be responsible for the destruction of the recorded media by shredding and a record in the form of a signed memo to that effect will be kept for a period of 12 months.
- 8.4 Requests for assistance from CCTV cameras in third party claims are increasing especially with regard to traffic accidents. Often it is the person involved in the accident who will contact CCTV and ask either if we have any images or if they can come and view the images. Members of the public should be advised to make a 'subject access request' (SAR) through the normal corporate procedure. If the footage only contains images of the data subject this can be considered for disclosure. If the footage also involves images of third parties, the data subject should be provided with a written summary of what can be seen in the footage. If on receipt of this information the data subject or their insurance company feel a copy of the images would be useful in the investigation of their accident the data subject can then give consent to their insurance company to access the images on their behalf for the purposes of the investigation.
- 8.5 If the correspondence arrives within the recording period, the CCTV Manager or duty operator acting on his/her behalf should view the images. If the incident was not caught on camera the insurers or solicitor can be called and informed and the case can be closed. If the letter arrives after the recording period, there will be no relevant images and again the person requesting the images should be informed in writing.
- 8.6 If relevant images are found on the recorder, the insurance company/ solicitor should be informed and asked if they want a copy. (And include evidence they are acting on behalf of the subject). If they do, then they need to be informed that there will be a fee. The fee should be based on the amount of time spent by staff viewing, copying and processing the images based on the hourly salary rate rounded up to the nearest hour. It should also include post and packaging and the cost of the media supplied. This should then be sent as an invoice to the recipient. No charges will be raised against internal requests for assistance.
Please note that the maximum fee, (set by legislation) for *viewing* the footage is £10.
- 8.7 The images may then be copied and sent to the relevant person accompanied by two copies of a letter reminding them that the Council retains 'copyright' over the images, that they are responsible for the security and destruction of the images and that the images may not be used for any other purpose other than the one they were released for. The details of

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the media released should be included (i.e. media number) in the letter and they should be asked to sign one copy of the letter confirming they have received the images and accepting the conditions of release. A detailed record of all actions must be maintained. Failure to comply with the conditions of release may result in legal action being taken against the person who signed the acceptance letter.

9. Signage

- 9.1 All areas where CCTV is in use should be clearly signed to comply with the Data Protection Act. This is to warn people that they are about to enter an area covered by CCTV cameras or to remind them that they are still in an area covered by CCTV. The signs will also act as an additional deterrent. CCTV signs should not be displayed in areas, which do not have CCTV cameras.
- 9.2 Where 'covert' cameras have been authorised for deployment, signage will not normally be erected.
- 9.3 The signs should have a yellow background with all writing in clear black print. The sign should carry the CCTV camera and organisations logo. The information on the sign should explain why the CCTV cameras are there, who runs them and a contact number. The signs, position and the message needs to be big enough to enable people to easily read the information on it. For pedestrians the sign should be A4 size and for vehicle access A3 size

10. Requests for Information

- 10.1 Under the Data Protection Act and the Freedom of Information Act members of the public and other organisations have the right to ask to see data held by local authorities and other public bodies. This data includes visual images captured by CCTV. Any such request should be directed to:

information@sefton.gov.uk

There are certain circumstances when it will not be possible to provide images from CCTV - for example, when the images form part of a criminal investigation. Advice on these exemptions can be obtained from the Information Governance Team. In all instances where Subject Access Requests and Freedom of Information requests are received, they should be passed onto the Information Governance Team for logging and validating, before CCTV images are released.

- 10.2 In certain circumstances a summary of events will be provided to the requester so they can make a judgement on whether to instruct their insurance provider/solicitor for the full record.

11. Recording Systems

- 11.1 All staff required to operate CCTV equipment are to receive training in the use of the equipment and must conform to this policy document and their systems Code of Practice at all times. Staff who operate the recorders will be required to sign a 'confidentiality statement', which prohibits them from making any material available for purposes other than those stated in the Code of Practice. Any other staff having access to the equipment will also sign a confidentiality statement. Once signed, the confidentiality statement should be placed in the individual's personnel file.
- 11.2 Except for evidential purposes images will not be copied in whole or in part.

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- 11.3 Recorded material will not be sold or used for commercial purposes or the provision of entertainment. Images provided to the police or other enforcement agencies or for internal investigations shall at no time be used for anything other than the purposes for which they were originally released.
- 11.4 Recording equipment and recording media will be kept in a secure location and no access will be granted to unauthorised staff.
- 11.5 All images will remain the property and copyright of Sefton Council.
- 11.6 Each new recording media must be clearly marked with a unique reference number in indelible ink before it is brought into operation.
- 11.7 Each use of media will be documented. Unused media or media awaiting issue will be held in a secure cabinet in such a way that completeness of the archive is immediately apparent. Images will be retained for a period of 30 days. The CCTV register will be stored in a secure place.
- 11.8 All media will be disposed of securely in line with the council's Corporate Retention and Disposal Schedule
- 11.9 All recording protocol should be an 'open' protocol. This enables the Police and other agencies to view evidence on their own systems without having to preload operating software. This is important because most police computers are unable to download unauthorised software, which means they will be unable to use the CCTV images for their investigations.

12. Disciplinary Offences and Security

- 12.1 Tampering with or misuse of cameras, monitoring or recording equipment, images or recorded data by staff may be regarded as misconduct/gross misconduct and could lead to disciplinary action, which may result in dismissal or criminal prosecution.
- 12.2 Any breach of this policy document or the CCTV Code of Practice will be regarded as a serious matter. Staff who are in breach of this instructions will be dealt with according to the Councils disciplinary procedures.
- 12.3 The responsibility for guaranteeing the security and proper use of the system will rest with the Responsible Officer of the system concerned. These officers will, in the first instance, investigate all breaches or allegations of breaches of security or misuse and will report his/her findings their Service Manager or Head of Service.

13. Statistics

- 13.1 CCTV installation like any other purchase by a public body is spending public money and this needs to be justified. CCTV systems are required is to show how effective the cameras are in dealing with the objectives set out for them.
- 13.2 The Responsible Officer will be required to submit an annual set of statistics showing the effectiveness of their systems to their Head of Service with a copy being sent to the Service Manager. The statistics will cover the previous financial year (1st April – 31st March).

14. Inspections/ Visits

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14.1 All CCTV system may be subject to inspections or visits by a member of the Information Commissioners Office or the Regulation of Investigatory Powers Commissioner. In addition, systems may also be subject to visits/ inspections by members of the organisation and the CCTV Manager.

14.2 These visits/ inspections are designed purely to ensure that the systems are being run in accordance with current legislation, this policy guideline and their own Codes of Practice and to offer advice for improvement where required.

15. Health and Safety

15.1 The Responsible Officer is to ensure that staff are made aware of and comply with all Sefton Councils policies on health and safety. In particular they are to be aware of policies relating to working with electrical equipment, VDU Regulations.

16. Complaints

16.1 Complaints about the operation of a CCTV system should be addressed initially to the CCTV Manager. Complaints will be dealt with in accordance with Sefton Council's complaints procedure. Details of how to complain can be found at :- www.sefton.gov.uk/your-council/consultations,-complaints-feedback.aspx

17. Further Advice/ Information

17.1 Further advice on CCTV related matters may be obtained from the individuals and organisations shown below:

Operations Manager
Seftonarc
Sefton Council
209 Linacre Lane
Bootle
L20 6AD

Data Protection Officer
Sefton Council
7th Floor
Merton House, Stanley Road
Bootle
L20 3UU

Head of Security Services
Seftonarc
Sefton Council
209 Linacre Lane
Bootle
L20 6AD

Security Services Manager
Seftonarc
Sefton Council
209 Linacre Lane
Bootle
L20 6AD

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Report to: Audit & Governance Committee **Date of Meeting:** 7 December 2016

Subject: Risk and Audit Service Performance Report

Report of: Chief Internal Auditor **Wards Affected:** All

Is this a Key Decision? No **Is it included in the Forward Plan?** No

Exempt/Confidential No

Purpose/Summary

This report details the performance and activities of the Risk and Audit Service in the period 1 September – 23 November 2016.

Recommendation(s)

Members are requested to:

- (i) Note the progress in the delivery of the 2016/17 Internal Audit Plan and the activity undertaken for the period 1 September 2016 to 23 November 2016.
- (ii) Approve the Anti-Fraud, Bribery and Corruption Policy
- (iii) Note that the Council's key Health and Safety policies have been reviewed in conjunction with the Health and Safety Committee
- (iv) Note that the insurance renewal has been completed
- (v) Note the progress made in developing the Council's emergency planning arrangements.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	✓		
2	Jobs and Prosperity	✓		
3	Environmental Sustainability	✓		
4	Health and Well-Being	✓		
5	Children and Young People	✓		
6	Creating Safe Communities	✓		
7	Creating Inclusive Communities	✓		
8	Improving the Quality of Council Services and Strengthening Local Democracy	✓		

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Reasons for the Recommendation:

Approval of the recommendations will help in strengthening the Council's approach to fraud and corruption, and will facilitate the continued provision of a comprehensive Risk and Audit Service.

What will it cost and how will it be financed?

There are no financial costs associated with this report.

(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 cost implications arising from this report.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal None
Human Resources None
Equality 1. No Equality Implication <input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated <input type="checkbox"/>
3. Equality Implication identified and risk remains <input type="checkbox"/>

Impact on Service Delivery:

What consultations have taken place on the proposals and when?

The Head of Corporate Resources was consulted and has agreed the report (FD 4408/16).

The Head of Regulation and Compliance was consulted and has no comments to add to the report (LD 3691/16).

Are there any other options available for consideration?

No

Implementation Date for the Decision

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Immediately following the Committee

Contact Officer: Laura A. Williams, Chief Internal Auditor
Tel: 0151 934 4051
Email: Laura.Williams@sefton.gov.uk

Background Papers:

The following papers are available for inspection by contacting the above officer:

Internal Audit Plan 2016/17 (as approved by this Committee on 21 September 2016)
Insurance Plan 2016/17
Health and Safety Plan 2016/17
Risk and Resilience Plan 2016/17

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1. Introduction/Background

1.1 The Risk and Audit Service is managed by the Chief Internal Auditor, who reports to the Head of Corporate Resources.

1.2 The objective of the Service is to improve the control environment and reduce the likelihood and impact of risks to the Council.

1.3 In delivering this objective, the Service encapsulates the following teams:

- Internal Audit
- Health and Safety
- Insurance
- Risk and Resilience

1.4 This report summarises the main aspects of the performance of the Service during the period 1 September – 23 November 2016, and gives members a detailed overview of the following areas:

- Internal Audit:
 - work undertaken in the period, including a summary of work and an outline of the high priority recommendations made.
 - performance against Key Performance Indicators
 - anti-fraud update, including the revised Anti-Fraud, Bribery and Corruption Policy for approval
 - developments relating to this part of the Service.
- Health and Safety, Insurance and Risk and Resilience:
 - work undertaken in the period, with key data provided
 - developments relating to these parts of the Service.

The report concludes by looking ahead to the forthcoming activities being undertaken by the service.

Risk and Audit Service: Performance Report

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Audit and Governance Committee
7 December 2016

Laura A. Williams MA CPFA
Chief Internal Auditor
Risk and Audit Service
Corporate Resources
Magdalen House
30 Trinity Road
Bootle
L20 3NJ

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1. Executive Summary

- 1.1 This report summarises the performance and activity of the Risk and Audit Service for the period 1 September – 23 November 2016.
- 1.2 The report covers each of the areas of the service:
- Internal Audit
 - Health and Safety
 - Insurance
 - Risk and Resilience.
- 1.3 The report highlights the following key points:
- It has been 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 Council's Anti-Fraud, Bribery and Corruption Policy has been reviewed and is presented for approval.
 - 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, who reports to the Head of Corporate Resources.
- 2.2 The objective of the Service is *“to improve the control environment and reduce the likelihood and impact of risks to the Council.”*
- 2.3 In delivering this objective, 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. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.” (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.
- 2.4 This report summarises the main aspects of the performance of the Service for the period 1 September – 23 November 2016, 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 and Risk and Resilience:
 - 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

During the period 1 September – 23 November 2016, 8 audits were completed, in accordance with the Internal Audit Plan 2016/17, as approved by this Committee on 21 September 2016. These can be summarised as:

Audit Title	Audit Opinion	Recommendations		
		High	Medium	Low
Corporate Procurement	Moderate	6	7	1
Carbon Reduction Commitment Energy Efficiency Scheme	Minor	0	0	1
Changes to Staff (Pay Awards) – Schools	Very Good	0	1	0
Singleview	Assurance was provided in the “Delivery” stage of the project			
Disabled Facilities Grant 2015/16	Certification Provided			
Expanded Troubled Families February 2016 – September 2016	Certification Provided			
Liverpool City Region Sustainable Enhancements Package	Certification Provided			
Liverpool City Region M58 Junction Improvements 2016/17	Certification Provided			

A significant piece of audit work was conducted on Corporate Procurement. This was at the request of the external auditor, so as to assist them in formulating their Value for Money Conclusion for 2015/16. As this piece of work was additional to the Audit Plan agreed by this Committee, this has had a negative impact on the Key Performance Indicator relating to percentage of the Internal Audit Plan completed, but has added significant value in providing recommendations for the organisation so as to strengthen internal control in the Corporate Procurement system. It should be noted that the findings and associated recommendations relate to the whole system of procurement, comprising departments, Heads of Service and the Corporate Procurement Team.

There were 6 high priority recommendations made, and these related to:

- Uploading completed procurement sourcing risk assessments on to the Chest.
- Seeking approval from Cabinet for every procurement exercise through the submission of a report, also reporting any significant changes to procurement exercises to Cabinet.
- Further clarification of the next steps in relation to the Provision of Banking Services and Merchant Acquiring Services.
- Ensuring that information is recorded accurately and consistently in respect of the compilation of documentation relating to procurement exercises.
- Ensuring that appropriate pre-approval is obtained prior to undertaking a procurement exercise, and that any pre-approval includes relevant contract information detail e.g. title, expected value.
- Ensuring that the quality evaluation is undertaken by two officers from the client department who have the appropriate technical knowledge.

Assurances have been received that the recommendations will be implemented within a reasonable timescale, and further internal audit work will be undertaken to follow up on the implementation of the recommendations. This Committee will be kept fully informed of progress made. In addition, Internal Audit has provided detailed comments on the revised Contract Procedure Rules, incorporating themes from the recommendations made in the Internal Audit report.

The following additional pieces of work were completed in the period:

Audit Title	Scope/Findings
Advice and Consultancy	Advice has been provided in respect of the following: <ul style="list-style-type: none"> • Removal of cheques • Leisure Budget Reconciliation • Sale of Asset • Procurement • My View Testing
Follow up: Changes to Staff (Pay Awards) (Schools)	One recommendation was made in the original audit – this was found to have been implemented.

3.2 Key Performance Indicators

Description and Purpose	Target	Actual	Variance and Explanation
<p>Percentage of the Internal Audit Plan 2016/17 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>	<p>60% (to 23/11/16) See graph below</p>	<p>53% (to 23/11/16) See graph below</p>	<p>-7% Significant resources were allocated to unplanned work most notably the Corporate Procurement Audit. In order to recoup time spent on this, the audit scope may have to be reduced on some of the remaining areas of the Internal Audit Plan, so as to complete the Plan and provide robust and comprehensive assurance.</p>
<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>	<p>100%</p>	<p>94%</p>	<p>-6% Some “Adequate” responses were received. Eight individual questions were answered as “adequate”, from a total of 142 answered.</p>
<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>	<p>100%</p>	<p>100%</p>	<p>No variance</p>

3.3 Anti-Fraud

The following anti-fraud work has been undertaken during the period:

- All of the required data uploads were submitted to via the National Fraud Initiative (NFI) web facility operated by the Cabinet Office by the required deadline. A further upload will be submitted in respect of Council Tax (Single Person Discount) and Electoral Register data at the end of November 2016. Once the uploaded data has been matched to other data sources by the Cabinet Office, a series of data match reports will be released for review by the Council. These reports will be accessible through the NFI web facility.
- The Council's Anti-Fraud, Bribery and Corruption Policy was reviewed and is attached to this report at Appendix A. The policy is prefaced with a statement outlining the Council's commitment to the protection of public funds. The policy details the Council's strategy and approach regarding fraud, bribery and corruption and focuses predominantly on four main areas: Deterrence, Prevention, Detection and Investigation.

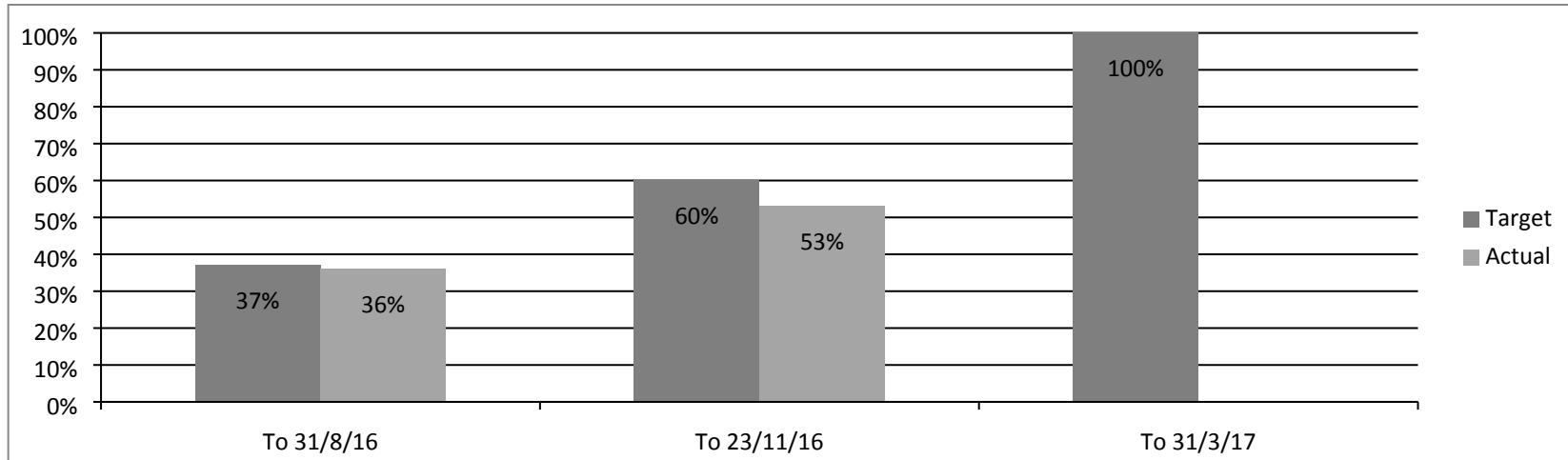


Figure 1: Percentage of the Internal Audit Plan 2016/17 Completed (profiled to coincide with the Audit and Governance Committee reporting dates)

3.4 Developments

The Service has undertaken a review of its working practices, so as to ensure that these are fit for purpose and support efficient and effective working. This has led, in particular, to two key changes to the Internal Audit Report, which will allow clearer assurance to be provided to officers and members.

Firstly, the amendment to the recommendation priority levels from Critical/High/Medium to High/Medium/Low. This leads to a clearer classification of recommendations and should assist managers in formulating plans to implement these. The priority levels are defined as:

HIGH	MEDIUM	LOW
A matter that is fundamental to the system under review. The recommendation should be addressed as a matter of urgency.	A matter that is significant to the system under review.	A matter that requires attention and would improve the system under review.

Secondly, an audit opinion which reflects the risk to the organisation presented by the findings in the report has been implemented. This opinion is based upon an assessment of the impact of the risks to the Council if the risks identified in the report were to materialise, and the likelihood of materialisation. This makes the report clearer to for officers and members, and helps to place the risks identified within a single audit report within an organisational context. The opinions are explained as:

LEVEL	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.

4. Health and Safety: Performance Update

4.1 Work Completed

During the period, the following key pieces of work/projects have been undertaken:

- The first round of Health and Safety subcommittee meetings (in their reconfigured form) has taken place. Engagement with Departments and Trade Unions has been positive. The key matters raised were then discussed at the Corporate Health and Safety Committee, which was held in October. This has resulted in a number of actions to develop the corporate approach to a number of key health and safety matters.
- The Council's Stress Policy has been revised and endorsed by the Corporate Health and Safety Committee, Cabinet Member and Chief Executive. The Corporate Health and Safety Committee agreed to set up a working group to review how the policy should be implemented and how to secure engagement. A workshop on work-related stress in schools was held on 9th November. The event was a great success and has helped to "kick start" the pilot exercise the Council is engaged in with the Health and Safety Executive to look at ways of managing and reducing stress in schools.
- The Council's Corporate Health and Safety Policy has also been revised and endorsed by the Corporate Health and Safety Committee, Cabinet Member and Chief Executive.
- An agreement has been developed to work with an outside training provider in order to improve and expand the health and safety services offer to schools.

4.2 Key Incident Data

The data below relates to the period 1 September 2016 to 23 November 2016:

Number of incidents reported to the Health and Safety Executive under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013)	2
Number of substantial complaints (those which have warranted investigation)	2

4.3 Developments

- The Health and Safety Team is continuing to develop its role and profile in order to have a greater corporate influence by being consulted as a matter of course in key decisions and strategies that have health and safety implications.
- There is a newly convened group of Health and Safety managers from each of the Councils comprising the Liverpool City Region. Sefton hosted one of the meetings which generated some useful discussion regarding closer working and sharing of good practice.
- The Health and Safety Team is to support a water safety working group to review the Council's Legionella Management Plan and to monitor its effectiveness in controlling the risk of legionella in Council buildings or those occupied by Council staff.

5. Insurance: Performance Update

5.1 Work Completed

During the period, the following key pieces of work/projects have been undertaken:

- The Authority's insurance contract was renewed on 29th September 2016. Premiums secured were broadly in line with the previous year. However, due to increases in sums insured and exposure, premiums for the Material Damage and Professional Indemnity policies rose slightly. There was also a small increase in the premium for the Engineering policy, which was due to an increase in the Retail Prices Index.
- Sefton was one of the first Councils to undertake insurance renewal since the Insurance Act 2015 came into force on 12 August 2016. The Act places a greater onus on the Authority to disclose to its insurers a fair presentation of its risk, which discloses every material circumstance in a clear and accessible way after carrying out reasonable searches on what is known or ought to have been known. The involvement of Departments in providing the relevant information was invaluable in enabling the renewal process to comply with the Act, and feedback received from the Council's insurance brokers has been very positive.
- The first night of this year's Southport Air Show had to be cancelled due to projected high winds, and there has been liaison with the Tourism service so as to obtain relevant details to support the insurance claim.

5.2 Key Claims Data

This data relates to the period since the last update (1 August to 31 October 2016):

Category	Number of claims received	Total reserve on claims received (£)	Number of insurance claims paid out	Amount paid out in insurance claims (£) (not necessarily related to claims received in this period)
Public Liability	71	315,995	27	114,037
Employer's Liability	4	72,085	3	34,682
Motor Vehicle	29	38,870	13	7,608

5.3 Developments

- Work continues to formalise the contract management arrangements with the insurance provider and claims handlers, so as to strengthen the relationship and to ensure the maximisation of benefits to the Council.
- A number of areas for improvement have been identified in relation to insurance claim processes and reporting on claims in some service areas. Discussions are to commence with relevant officers in order to streamline the process so as to become more efficient.
- Work will soon commence to renew the Service Level Agreement for insurance for Sefton schools for 2017/18. The Council is able to offer a favourable package for schools, and it is hoped that this will lead to a high level of take up.

6. Risk and Resilience: Performance Update

6.1 Work Completed

During the period, the following key pieces of work/projects have been undertaken:

- The Rest Centre Plan is nearing completion, following a modelling exercise for each site over the summer. Walkthrough sessions will be held with the team of volunteers so as to ensure they are prepared if the sites have to be mobilised in the event of a major incident.
- The awareness session held by Merseyside Resilience Forum on 9 September 2016 was very successful, and is to become an annual event. The team provided significant support to the event and Sefton Council officers attended.
- The team has participated in two exercises to increase awareness and readiness for dealing with emergencies: Operation Cygnus – a national exercise relating to a pandemic of influenza, and Operation Ferranti – a regional exercise relating to a power outage. Both exercises proved extremely useful in informing Sefton’s planned responses to such emergencies.
- Following a large fire at a scrap metal yard at Bootle Docks over the weekend of 21-23 October 2016, the Council was contacted to support the emergency services’ response. The Emergency Duty Co-ordinator (EDC) attended two multi agency “Tactical Command” meetings during the incident. The main support required related to warning and informing nearby residents and Wirral and Liverpool Councils of the potential for them to be affected by the smoke plume. It transpired that the wind direction blew the plume out to sea. An internal debrief was held to capture good practice and identify lessons for the future. A multi-agency debrief was then held to consider the overall collaborative approach to the response. Feedback confirms that the response was successful.

6.2 Developments

- Considerable work has been undertaken to develop the Council's risk management arrangements. An updated Corporate Risk Register and Risk Management Handbook are presented to this Committee as separate items for approval. The team will then continue to support the Council in its risk management activities, and develop the robustness of this approach further over the medium term.

7. Looking Ahead

- 7.1 The last report to this Committee discussed the process of development and transformation of the Service, and highlighted a number of key strands to the Development Plan in place. Progress in the completion of the Development Plan is positive, with a continued focus on striving for excellence.
- 7.2 Over the next period, the section will focus on a number of key projects as part of this journey:
- Compilation of the Internal Audit Plan 2017/18 for presentation to this Committee in March 2017. This will involve extensive engagement with Senior Officers and will aim to provide a comprehensive assurance on the key risks facing the Council. This will be particularly pertinent given the significantly changing risk profile of the Council, and the focus will be on ensuring that Internal Audit adds value as part of the transformation process.
 - The assessment of the Council's corporate governance arrangements against the CIPFA/SOLACE "Delivering Good Governance in Local Government" framework, so as to inform the Annual Governance Statement 2016/17.
 - Development of a number of strategies for raising the profile of the section, including holding a Risk Conference. This will provide an opportunity to engage with Senior Leadership Board members, so as to provide impetus to projects being taken forward by the Service.

8. Conclusions

- 8.1 Internal Audit has made positive progress in the completion of the Internal Audit Plan 2016/17 in the period, being very close to meeting the performance indicator. 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. In order to recoup time spent on the unplanned work on Corporate Procurement, the audit scope may have to be reduced on some of the remaining areas of the Internal Audit Plan, so as to complete the Plan and provide robust and comprehensive assurance.
- 8.2 The Service has revised the Council's Anti-Fraud, Bribery and Corruption Policy, so as to align it with best practice and Members are asked to approve this.
- 8.3 Health and Safety has been involved in reviewing key corporate Health and Safety policies, in conjunction with the Corporate Health and Safety Committee. Key incident data shows a positive picture in terms of the Council's Health and Safety record, with very few incidents having been reported to the Health and Safety Executive.
- 8.4 The Insurance Team has completed the insurance renewal effectively and has complied with the Insurance Act 2015 in so doing.
- 8.5 The Risk and Resilience Team is using experience from real and hypothetical incidents to inform and strengthen the Council's emergency planning arrangements.

Appendix A



Anti-Fraud, Bribery & Corruption Policy

October 2016

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Version Control

Owner:	Internal Audit
Date Approved:	Presented to Audit and Governance Committee for approval 7 December 2016
Date Implemented:	Immediately following approval
Version Number:	2.0
Next Review Due:	October 2017

Change History	
Date	Change Details
26/10/16	Full Review of Policy

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Anti-Fraud, Bribery and Corruption Statement

Sefton Council is committed to the protection of public funds and has a 'zero tolerance' policy towards fraud, bribery and corruption.

We aim to minimise the risk of fraud, bribery and corruption through an integrated approach which includes deterrence, prevention, detection and investigation of incidences.

Where fraud, bribery or corruption is identified, whether from internal or external sources, appropriate action will be taken as necessary. This may include disciplinary and/or legal action.

The Council's framework for managing the risk of fraud includes a commitment to:

- maintain an anti-fraud culture across the organisation
- minimise opportunities for fraud, bribery and corruption through effective systems, procedures and controls
- maintain effective systems and procedures for the detection of fraud, corruption and bribery
- investigate confirmed reports of fraud, bribery and corruption in an appropriate manner
- report incidents of fraud, bribery and corruption to the appropriate authorities as appropriate
- ensure staff are aware of the risks of fraud, bribery and corruption and their obligations
- impose sanctions and recovering losses where fraud, bribery and corruption is identified

I urge all employees, members, contractors, partners and members of the public to assist the Council in tackling fraud, bribery and corruption in order to ensure that financial resources are utilised in the areas where they are needed most.



Margaret Carney

Chief Executive

1. Foreword

- 1.1 As with many other public bodies, the Council has an obligation to maintain high standards in order to protect the funds and assets it is entrusted with. Sefton Council is committed to ensuring that its affairs are conducted with honesty, openness and integrity. To this end, effective governance, risk management and internal control systems are central in maintaining public confidence and ensuring that the public purse is adequately protected.
- 1.2 This policy sets out the Council's approach in managing the risk of fraud, bribery and corruption both internally and externally and applies to all individuals who work for the Council i.e. employees, members and those who have dealings with the council e.g. partners, suppliers, contractors, service users, customers.
- 1.3 The policy includes details of the Council's strategy in deterring, preventing, detecting and investigating fraud, bribery and corruption. It also provides guidance on how any individual can report suspected fraudulent or corrupt activity in confidence.
- 1.4 Schools should maintain their own Anti-Fraud, Bribery and Corruption Policy. In this respect, schools may adopt the Council's policy through their respective governing bodies and amend it as applicable for their own purposes.

2. Definitions

- 2.1 **Fraud** is "the intentional distortions of financial statements or other records which are carried out to conceal the misappropriation of assets or otherwise for gain"
- 2.2 The Fraud Act 2006 identifies 3 categories of fraud:
 - False Representation
 - Failure to Disclose Information
 - Abuse of Position
- 2.3 **Bribery** is "the offering, promising, giving, soliciting, agreement to accept or acceptance of a financial or other advantage which may induce or reward a person to perform improperly a relevant function under the Bribery Act 2010".
- 2.4 **Corruption** can be committed in a number of ways and can be defined as "the abuse of entrusted power for private gain".
- 2.5 Further explanation of Fraud, Bribery and Corruption is provided at Appendix 1.

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3. Expected Behaviour

Employees and Members

- 3.1 All members and employees are required to demonstrate the highest standards of honesty, openness and integrity at all times. This includes compliance with the provisions of the Employee and Members Codes of Conduct which set out expected behaviour requirements including the declaration of:
- Additional employment,
 - Personal/pecuniary interests
 - Gifts, hospitality and favours
- 3.2 The Code of Conduct for Members is based on the Nolan Committee's 7 principles of Public Life which include Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. Further explanation of these principles is provided in Appendix 2.
- 3.3 Employees who are members of professional bodies will also be guided in accordance with their body's own standards of behaviour.

The Public and Other External Parties

- 3.4 Members of the public, partners, suppliers, contractors and any other external parties who have dealings with the Council, are also expected to act with integrity and honesty in any dealings they have with the Council.

4. Deterrence Mechanisms

- 4.1 The Council will employ a variety of measures to deter potential fraudsters from committing or attempting fraudulent or corrupt acts including bribery, whether they are internal or external to the Council.
- 4.2 These include;
- Publicising that the Council is firmly set against fraud, bribery and corruption e.g. clauses in contracts, benefit claim forms, publications, committee reports, website etc.
 - Where applicable claim/application forms will inform service users that their data will be shared in order to prevent and detect fraud and include details of the ability to prosecute as applicable.
 - Acting firmly and decisively when fraud, bribery and corruption are suspected, also taking appropriate action where the case is proven e.g. termination of contracts, dismissal and prosecution.
 - The operation and advertising of a Council Tax fraud hotline.

- The operation and advertising of confidential reporting (“whistleblowing”) and complaints procedures.
- Reporting details of detective and investigative fraud work to the Audit and Governance.
- Potential press coverage of criminal proceedings resulting in a successful prosecution.
- Taking action to effect the maximum recoveries for the Council e.g. through agreement, court action, penalties, insurance and any other appropriate methods.

5. Prevention

Governance, Risk Management and Internal Control

- 5.1 Governance can be described as “the systems and processes, the cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities”.
- 5.2 The Council’s governance arrangements seek to minimise the risk of fraud, bribery and corruption through effective leadership and management and development of a culture of openness and transparency. The Council’s rules, policies and procedures are also integral part of the system of governance and risk management. These are set out in Appendix 3. Whilst the list is not exhaustive it serves to demonstrate the wide range of measures that have been established.
- 5.3 There are a number of roles which are integral to the promotion of a culture which seeks to minimise instances of fraud, bribery and corruption and maintain adequate risk management and internal control arrangements, as follows:
- Audit and Governance Committee
 - Section 151 Officer
 - Monitoring Officer
 - Chief Internal Auditor
 - Internal Audit
 - Other Teams
 - Management
 - External Audit
- 5.4 Further details of these roles and their responsibilities in relation to the minimisation of fraud, bribery and corruption are detailed in Appendix 4.

Fraud Alerts

- 5.5 Internal Audit receives fraud warnings from other organisations, most notably fraud bulletins provided by the National Anti-Fraud Network. On receipt of these bulletins, the appropriate personnel are notified and action taken as appropriate to detected and prevent any potential instances.

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- 5.6 Where necessary the alert may require wider notification to the whole council and possibly the general public. In these instances, an alert will be published as necessary on the Council's Intranet and/or website as appropriate.

6. Detection

Internal Reporting

- 6.1 The Council encourages its employees to report concerns about fraud, bribery and corruption. Normally such reports will be made via the employee's line manager but, if necessary, there are alternative routes available, including:
- Chief Executive
 - Head of Regulation and Compliance (Monitoring Officer)
 - Head of Corporate Resources
 - Heads of Service
 - Chief Internal Auditor
- 6.2 Employees must feel free to report their concerns without fear of intimidation. The Council has a Whistleblowing Policy which has been introduced to reassure individuals that it is safe and acceptable to raise any concern about malpractice at an early stage in the certainty that it will be treated and investigated with the utmost confidentiality. The policy also provides assurances that there will be protection from reprisals if the concern has been raised in good faith. However, it should be emphasised that abusing this process by raising unfounded, malicious allegations will be treated as a serious disciplinary matter. The policy applies to all individuals who work for the Council; whether full-time or part-time, employed through an agency or as a volunteer.

External Referrals

- 6.3 The public or any parties which the Council deals with can raise concerns by submitting details of the concern via the Council's electronic Whistleblowing Referral Form through the **Report-IT** option on the Council's website. Various methods of reporting Council Tax fraud are also available including on-line forms, telephone and post. These are detailed on the Council's website in the Benefit and Council Tax Fraud section within the Advice & Benefits option on the homepage.
- 6.4 As of 1st October 2015, responsibility for the investigation of Housing Benefit fraud transferred to the Department for Work and Pensions. Contact details are also available on the Sefton Council website.
- 6.5 The Council has systems for administering complaints which are directed via the relevant route according to the nature of the complaint. This includes specific complaints against members, social care, schools and consultations. Further information is available on the Council's website.
- 6.6 Complaints may also be submitted to the Local Government Ombudsman.

Member Complaints

- 6.7 Complaints made against members should be made using the member complaint form on the Council's website in the "Consultations, complaints and feedback" section.

- 6.8 If a member is approached or advised of a concern regarding fraud, bribery or corruption, the member should follow the outlined in the **Internal Reporting Section** of this policy.

Data Matching/Sharing

- 6.9 The Council provides data to the Government's Cabinet Office for matching to other data sources as part of the National Fraud Initiative. This may identify anomalies which may be indicators of fraud or error e.g. Council Tax, Payments to Care Homes. Periodically, information is also obtained from credit reference agencies to provide additional information which assists in the detection of fraud e.g. Council Tax.

7. Investigation

- 7.1 The Council will conduct investigations as appropriate in accordance with the law and internal policy requirements.
- 7.2 Any incidents involving employees will be dealt with in accordance with the **Employee Disciplinary Procedures and Guidelines**. Reports of incidents involving elected members will be dealt with in accordance with the **Member Complaints Procedure**.
- 7.3 The Council seeks to ensure that there is consistent treatment of any matters referred and that all investigations are carried out thoroughly by suitably qualified and experienced officers.
- 7.4 If there is a suspicion of criminal activity, the investigators may contact the police and seek advice regardless of whether it involves an employee, member or individual external to the Council. Internal investigation will progress alongside any criminal investigations conducted by the police.
- 7.5 Options for redress may include recovery of monies and/or assets through various means available to Council and where a fraud has been committed by contractor, termination of the contract.

8. Training and Awareness

- 8.1 The Council recognises that the continuing success of its Anti-Fraud, Bribery and Corruption Policy and its general credibility will depend largely on the effectiveness of programmed training, communication and responsiveness of officers throughout the organisation.
- 8.2 Communication of this Policy will be included in induction training, both for elected Members and new employees of the Council.
- 8.3 Awareness will be raised by publishing this Policy on the Council's intranet and internet sites.
- 8.4 Sefton Council staff have also been requested to take extreme care in terms of their online activity, particularly where they receive suspicious or unsolicited emails.

Fraud, Bribery and Corruption – Definitions

Fraud - is “the intentional distortions of financial statements or other records which are carried out to conceal the misappropriation of assets or otherwise for gain”

The Fraud Act 2006 identifies 3 categories of fraud:

- False Representation
- Failure to Disclose Information
- Abuse of Position

False Representation – a person dishonestly makes a false representation in order to make a gain for themselves (or others) or to cause loss to another person. A representation is false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading.

Example: Where an individual falsely claims to be the only adult liable for payment of Council Tax in the property in order to be eligible for Single Person Discount.

Failure to Disclose Information – a person fails to disclose to another person, information which they are under a legal duty to disclose in order to make a gain for themselves (or others) or to cause loss to another person.

Example: Where an individual fails to disclose all relevant financial interests in order to qualify for a benefit.

Abuse of Position – a person occupies a position in which they are expected to safeguard, or not act against, the financial interests of another person and then dishonestly abuses that position in order to make a gain for themselves (or others) or to cause loss to another person.

Example: Where a staff member procures goods and services through the Council’s accounts for their own benefit.

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

The Bribery Act 2010 defines bribery in four categories:

- Making a Bribe
- Accepting a Bribe
- Bribery of Foreign Public Officials
- Failure to Prevent a Bribe

Example: Where a staff member involved in the award of contracts receives a personal payment from a supplier/contractor for the award of the contract.

Making a Bribe – “Financial or other advantage” to another individual in exchange for “improperly” performing a “relevant function or activity”.

Accepting a Bribe - Requesting, accepting or agreeing to accept “financial or other advantage”, in exchange for improperly performing such a function or activity.

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Appendix 1

Bribery of Foreign Public Officials - A person will be guilty of this offence if they promise, offer or give a financial or other advantage to a foreign public official, either directly or through a third party, where such an advantage is not legitimately due.

Failure to Prevent a Bribe – Failure by a commercial organisation, to prevent a bribe being paid for or on its behalf. It will be a defence if the organisation has “adequate procedures” in place to prevent bribery.

Employees convicted under the Act can face a maximum penalty of ten years imprisonment and / or a large fine

Corruption is the abuse of power for private gain can be committed in a number of ways including through bribery.

Example: Where an officer in a position of power uses their authority to make a decision which benefits them or an associate e.g. planning application approval despite legitimate objections.

Nolan Committee – 7 Principles of Public Life

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

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

Leadership

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

Key Roles and Responsibilities in Minimising the Risk of Fraud, Bribery and Corruption

Audit and Governance Committee

The role of the Committee includes consideration of the Council's internal control systems, risk management and corporate governance issues. The committee also monitors Council policy on whistle-blowing, fraud, bribery, corruption, money laundering and the Council's complaints process and reviews as necessary.

Section 151 Officer

The Council has appointed an officer with the statutory responsibility under Section 151 of the Local Government Act 1972 "to ensure the proper arrangements of the Council's financial affairs".

Monitoring Officer

The Council has appointed an officer with the statutory responsibilities under Section 5 of the Local Government and Housing Act 1989. The Monitoring Officer's duties include ensuring that the Council acts within the law, promotion of high standards of conduct amongst members, conducting investigations where required and maintenance and operation of the Confidential Reporting ("Whistleblowing") Policy.

Chief Internal Auditor

The Head of Risk and Audit Services in their role of Chief Internal Auditor is responsible for giving an objective and evidence based opinion on all aspects of governance, risk management and internal control. This includes controls relating to the prevention and detection of fraud and corruption.

Internal Audit

Section 5 of the Accounts and Audit Regulations 2015 states "a relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance". To this end the Internal Audit Section independently examines, evaluates and reports on the adequacy and effectiveness of these processes.

Other Teams

Within the Council there are a number of teams who have a duty to prevent, detect and investigate instances of fraud e.g. Council Tax.

Management

It is the responsibility of all its managers to establish and maintain sound systems of internal control and to ensure that the Council's resources are properly applied on the activities intended. This includes responsibility for the prevention and detection of fraud, bribery and corruption.

External Audit

Part of the remit of the External Auditors is to ensure that the Council has adequate arrangements in place in relation to the prevention and detection of fraud and corruption.

Rules, Policies and Procedures

The Council's main rules and procedures aimed at preventing fraud, bribery and corruption are as follows:

- Financial Procedure Rules
- Procurement Rules
- Code of Conduct for Members
- Employee Code of Conduct
- Code of Conduct for Members and Officers Dealing with Planning Matters (set out in the Constitution)
- Effective Recruitment and Selection Procedures
- Procurement Procedures
- Confidential Reporting (“Whistleblowing”) Policy
- Complaints Procedures
- Disciplinary Procedures

Agenda Item 10

Report to: Audit & Governance Committee **Date of Meeting:** 7 December 2016

Subject: Corporate Risk Management

Report of: Chief Internal Auditor **Wards Affected:** All

Is this a Key Decision? No **Is it included in the Forward Plan?** No

Exempt/Confidential No

Purpose/Summary

This report details the refreshed approach to Corporate Risk Management and seeks the Committee's approval of the Corporate Risk Management Handbook and asks members to review and note the Corporate Risk Register.

Recommendation(s)

Members are requested to:

- (i) Approve the Corporate Risk Management Handbook and the arrangements captured in the document for embedding robust risk management in the organisation.
- (ii) Note the Corporate Risk Register.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	✓		
2	Jobs and Prosperity	✓		
3	Environmental Sustainability	✓		
4	Health and Well-Being	✓		
5	Children and Young People	✓		
6	Creating Safe Communities	✓		
7	Creating Inclusive Communities	✓		
8	Improving the Quality of Council Services and Strengthening Local Democracy	✓		

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Reasons for the Recommendation:

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

What will it cost and how will it be financed?

There are no financial costs associated with this report.

(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 cost implications arising from this report.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal None	
Human Resources None	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

What consultations have taken place on the proposals and when?

The Head of Corporate Resources was consulted and has agreed the report (FD 4409/16).

The Head of Regulation and Compliance was consulted and comments have been incorporated into the report (LD 4409/16).

Are there any other options available for consideration?

No

Implementation Date for the Decision

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Immediately following the Committee

Contact Officer: Laura A. Williams, Chief Internal Auditor
Tel: 0151 934 4051
Email: Laura.Williams@sefton.gov.uk

Background Papers:

None

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1. Introduction/Background

- 1.1 Risk Management is defined as 'systematic application of principles, approach & processes to the task of identifying and assessing the risk and the planning and implementing of risk responses'.
- 1.2 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 scope to develop a more integrated risk management approach. This report seeks to initiate the process of formalising a system of robust Corporate Risk Management, and embedding this into the organisation.
- 1.3 The Risk and Audit Service has reviewed the arrangements in place and this report proposes that a fresh approach, which will maximise the effectiveness of risk management processes in assisting the Council in meeting its objectives, is implemented. Members of the Committee are asked to provide their endorsement of the approach.
- 1.4 This report suggests two key areas of the system of Corporate Risk Management:
 - Appendix A - Corporate Risk Management Handbook – this sets out the process for formalising risk management activity across the Council, giving guidance for officers and members in their roles and responsibilities. This also shows the expected development of the system over the medium term, so as to embed the system of risk management in the Council's business, and maximise the benefits of this in the achievement of objectives. Members of this Committee are asked to note in particular their own role as detailed in Annex A (Roles & Responsibilities) of the Handbook.

The Handbook has been refreshed so as to reflect best practice, and is presented for approval. The Handbook will be subject to an annual review, and will be presented to Committee for annual approval.

- Appendix B - Corporate Risk Register – this has been reviewed by senior officers so as to ensure that this reflects the most significant risks facing the Council, and shows how the Council is managing these. This should give members assurance that there is a robust corporate approach to the management of the most significant threats to the achievement of the Council's objectives. It is the intention to provide an updated Corporate Risk Register to every meeting of the Audit and Governance Committee from now on.



Corporate Risk Management Handbook

Risk and Audit Service
December 2016

Risk Management Handbook

Page	CONTENTS
3	Introduction
4	Risk Definition, Benefits of Risk Management
5 - 8	Risk Management Process <ul style="list-style-type: none"> • Definition • Risk Identification <i>(see also P10 below)</i> • Trigger & Result • Risk Ownership • Risk Assessment - Scoring • Risk Evaluation Scoring Matrix
8	The Risk Management Model (diagram)
9	Identifying Risks (Key Points), Mitigating the Risk (the 4 'T's), Potential Risk Areas
10	Prioritising work (diagram), Response & Assurance
11	Action Planning, Risk Monitoring, Risk Reporting, Annual Assurance
12	Risk Management in other business processes
13	Where to record and escalate a risk (diagram)
14 - 15	Completing the Risk Implications on Committee & Executive Reports
16 - 23	Annex A <ul style="list-style-type: none"> - Risk Management Strategy - Risk Management Policy Statement - Roles & Responsibilities
Page 24	Annex B <ul style="list-style-type: none"> - The Risk Assessment Form (template)

1 Introduction

As '**One Council**' we aim to make Sefton a great place to be.

Our vision focuses on 6 key priorities:-

- Economy
- Environment
- The Most Vulnerable
- Health and Wellbeing
- Resilient Communities
- Reshaping the Council

We need to make sure that risk, that prevents or compromises the achievement of our aims and objectives are managed and adequately monitored.

We need to understand the positive and negative aspects of risk as there is potential for events to create opportunities as well as threatening success.

This approach is a fundamental element of the Council's Code of Corporate Governance and forms part of the Annual Governance Statement.

The system of internal control is a significant part of that (Governance) framework and is designed to manage risk to a reasonable level. Whilst it is recognised that it cannot eliminate all risk of failure to achieve policies, aims and objectives, it can therefore only provide reasonable assurance of effectiveness.

On an ongoing basis, the system of internal control is designed to identify and prioritise the risks to the achievement of the Council's policies, aims and objectives, to evaluate the likelihood and potential impact of those risks being realised, and to manage them efficiently, effectively and economically.

The Annual Governance Statement submitted to the Audit and Governance Committee will include a review of the effectiveness of the risk management process.

Risk Definition

'Factors, events or circumstances that could prevent or negatively impact on the achievement of the Councils strategic and service plan objectives'

Risk could lead to the Council encountering significant or serious legal, reputation and financial harm. The possibility of 'risk' needs to be integral in all planning and decision making and be considered as an integral part of all performance management.

In addition, the performance of strategic partnerships, key suppliers, schools and major projects are important elements that effect the achievement of Sefton's strategic targets.

Considering the risk profile and changes to scoring enables those that are high or very high to be identified so that they can be escalated and included in Sefton's Corporate Risk Register. Risks that have factors which lead to a score increase can also be identified before they become 'high' so that action plans can be implemented appropriately.

Inherent risk is the score of the actual risk prior to controls; residual risk is the level of risk left once the controls are implemented. The controls must be sufficiently effective so that the residual score is less in value than the inherent score and monitored to ensure that they are effective and have associated action plans to evidence risk management.

Risk Management arrangements will be periodically reviewed based upon the severity of the risk together with an annual review of the strategy and process.

Benefits of Risk Management

- Alerts Councillors and officers as to the key risks that may threaten achievement of the Council's plans
- Enable risk mitigation and management
- Provide appropriate assurance to Councillors, relevant Committees and officers as to the adequacy of arrangements and enhance awareness of risks and appropriate approach.
- Demonstrates accountability to regulatory bodies
- Create focus towards objectives
- Help inform and manage change
- Give flexibility in responding to issues
- Support innovation
- Improve transparency and justify decisions
- Inform the budget and MTFP process
- Identify the appropriate level of controls
- Share knowledge in controls
- Protect reputations

Risk Management Process

Definition

The term 'Risk Management' refers to the 'systematic application of principles, approach & processes to the task of identifying and assessing the risk and the planning and implementing of risk responses'.

Risk Identification

Officers should devote sufficient time to identifying risk, as this is the more complex area of risk management. Internal and external factors that will impact on the achievement of the Council's objectives need to be considered. Once the risk is identified then a structured process can be implemented to ensure that the risk is fully evaluated and appropriately managed.

Trigger and Result

Identifying the triggers and the results of risk add context and an understanding of the dynamics of that risk. This aids the flow to appropriate controls and mitigating actions that can be implemented to prevent the risk occurring, mitigate the impacts or support speedy recovery. Identifying the result creates the understanding of the impacts should the risk be realised.

Risk Ownership

The effective management of risk requires that each risk should have a named owner. Ownership should be vested at individual officer level (post title) and not at team level.

Risk Assessment – Scoring

Risks will be evaluated in accordance with a 5x5 scoring matrix, which is an industry standard approach. The Risk Register template (*Annex B*) should be completed in line with the scoring below.

Select a score from **Likelihood** and a score from **Impact** and then multiply them together. This means that the impact is multiplied by the probability; the worst case scenario would be a catastrophic impact (score 5) multiplied by a very high probability that it will happen (score 5) giving a total score of 25.

Likelihood	Score	Description
Probable	5	The event will occur in most circumstances
Possible	4	The event will probably occur at least once
Unlikely	3	The event might occur at sometime
Rare	2	The event is not expected to occur
Negligible	1	The event may only occur in exceptional circumstances

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IMPACT	Description	SYMPTOMS (applicable in isolation or collectively)
Catastrophic 5	Total failure of systems and services	<ul style="list-style-type: none"> • Total system dysfunction • Total shutdown of services • Financial loss in excess of £1 million • Officers/Members resignation / removal • Fatality
Significant 4	Disruption of all service areas	<ul style="list-style-type: none"> • All operational areas of an area affected • Financial loss up to £1m • Sustained adverse publicity in national media • Member Dissatisfaction • Significant Injury
Moderate 3	Disruption of several operational areas	<ul style="list-style-type: none"> • Disruption of a number of operational areas • Financial loss up to £100K • Significant adverse publicity in national media • Injury – lost time • Injury – Compensation claims
Minor 2	Some disruption but can be managed	<ul style="list-style-type: none"> • Some service disruption but manageable through altered operational routines • Financial loss up to £40k • Significant adverse publicity in local media • Minor injury – no time lost
Insignificant 1	No real interruption to service	<ul style="list-style-type: none"> • No interruption to services • Minor industrial protest • Financial loss up to £20k • Minor adverse local publicity • Incident – no lost time

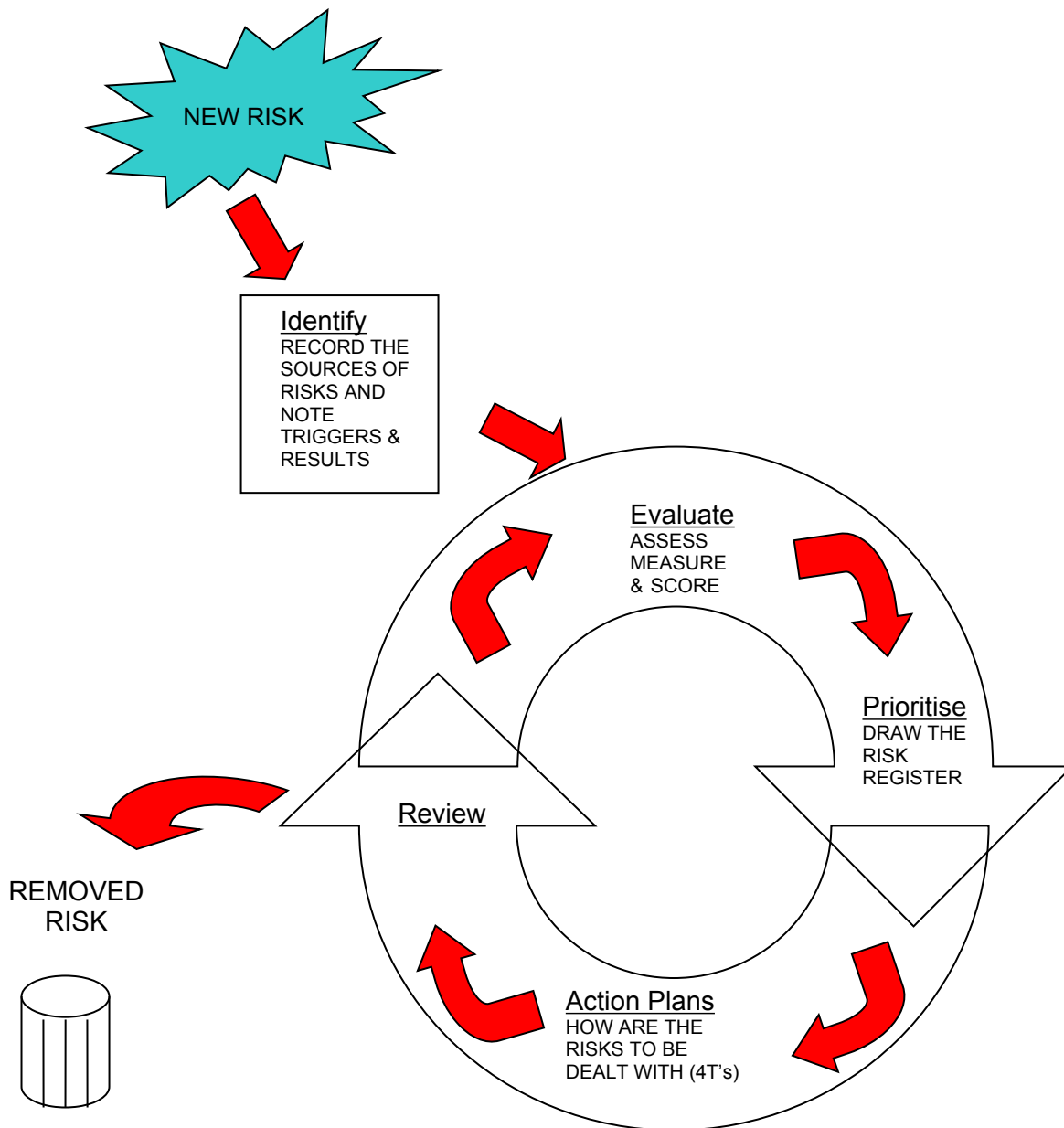


Risk Evaluation Scoring Matrix

		LIKELIHOOD				
		Negligible 1	Rare 2	Unlikely 3	Possible 4	Probable 5
IMPACT	Catastrophic 5	5	10	15	20	25
	Significant 4	4	8	12	16	20
	Moderate 3	3	6	9	12	15
	Minor 2	2	4	6	8	10
	Insignificant 1	1	2	3	4	5

Consideration of risk scores assists management in prioritising resources to mitigate risk.

The Risk Management Model



Identifying Risks

Key Points

- Keep it simple
- Prioritise the risks
- Consider external and internal factors including risk shifting across services
- Consider tried and tested methods and best practice
- Ensure there is a clear link between objectives and risks
- Revisit regularly to ensure the insignificant risks stay that way
- Ensure that responsibilities for risk management are delegated to named individuals

Mitigating the Risk (the 4 'T's)

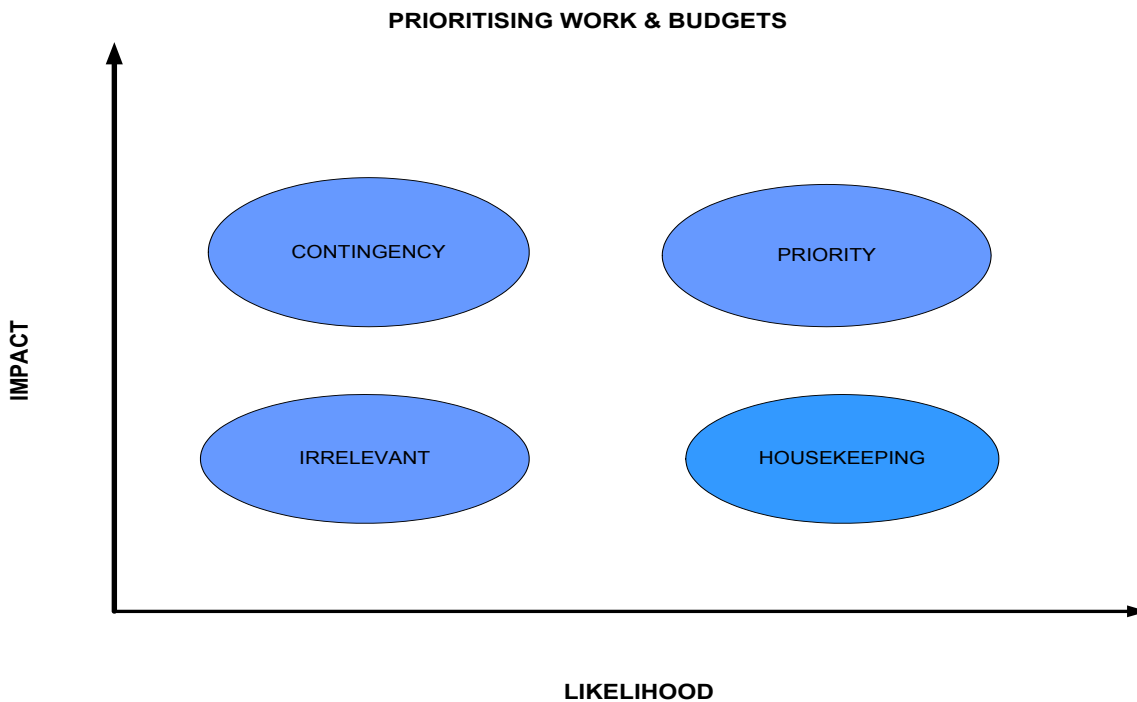
Key controls in place and known to be operating effectively should be identified. The following options illustrate how risks can be mitigated:

- **Terminate** - can you put measures in place to end the risk?
- **Treat** - can you mitigate the risk? the checks and balances which are built into our everyday business processes (the main type of mitigation)
- **Tolerate** - can you accept the risk?
- **Transfer** - can you transfer the risk? (E.g. Insurance)

Potential Risk Areas – (example, not exhaustive)

- Managing change
- Reputation damage
- Legal compliance
- Government policy
- Health and safety
- Integrity of staff
- Fraud
- Security of funding
- Debt management
- Disaster recovery
- Funding availability
- Physical disasters
- Data integrity
- Stakeholder pressure
- IT failure
- Treasury management
- E- commerce
- Staff retention
- Financial external regulators
- Ethics / culture
- Operational

Evaluation - resource allocation / prioritisation



The diagram above illustrates how resource allocation should be viewed in terms of the risk evaluation mechanism. Clearly, high impact / high likelihood risks require resources to be allocated to mitigate risk as a priority.

Response & Assurance

Response

- Identify how each risk is to be dealt with
- Ensure this reduce the level of risk
- Assess whether the control is cost effective and does not exceed the cost of the risk being realised
- Create an action plan with a named owner
- Ensure action plan is managed
- Don't stifle with control

Assurances

- Is the assurance acceptable
 - Are there are effective controls in place
 - How are the controls tested
 - Is there an auditable trail to demonstrate risk management
- Please see (*Annex A*) for full reporting relationships and processes.

Action Planning

In determining the mitigation required to manage a risk, regard must be had to the proportionality of the cost of the mitigation to the cost impact if the risk occurs, i.e. it would make no sense if the cost of control exceeded the cost of impact.

If the risk score is deemed to require adjustment, i.e. reduction or increase, actions should be designed accordingly which must be assigned to a named owner and an achievable specified target date for completion set. It is unacceptable to set a target date of “ongoing” as this does not facilitate the effective management of action delivery.

Risk Monitoring

Risk registers should be monitored on at least a quarterly basis at all levels of management, i.e. SLB, service, division, etc. to ascertain:

- If all key risks are included
- If new controls need to be put in place
- If any risks can be closed
- The progress in implementing agreed actions.
- If residual risk scores should be rescored, e.g. to reflect completed actions

Managers should have regard to potential risk at all times and should use the risk management approach to help them analyse and manage such risks at the point they are identified. Managers should not wait for the next formal quarterly review.

Risk Reporting

Where issues are identified in undertaking action to mitigate risk, or where the risk has reduced, then the risk owner should consider either escalating a risk upwards (e.g. from service area risk to corporate risk register) or downscaling the risk (e.g. from corporate risk register to service area risk register).

On a quarterly basis the Audit and Governance Committee will receive a report on the Corporate Risk Register so as to support the Committee in delivering its responsibilities in respect of risk management

Annual Assurance

The Chief Executive, Executive Directors and Heads of Service will provide annual assurance in respect of the development, maintenance and operation of effective control systems for risks under their control. This will provide a key assurance source for the Annual Governance Statement which is prepared by the Council as part of the annual Statement of Accounts.

Risk Management in other Business Processes

The risk management processes defined in other business processes should be complied with. Other business processes include:

Councillors' Decision Making

- Risk associated with proposals must be considered and be included with the standard reporting procedures for Committee.

Service Planning

- Senior managers must consider the risks to achieving their service plans and ensure that these are recorded in the Service level Risk Register.
- Growth and saving proposals should include a risk assessment
- Reports requesting approval of annual and medium term plans will include risk assessment.

Business Continuity

- The Civil Contingencies Act 2004 places a statutory responsibility on the local authority to establish a system of Business Continuity Management to ensure that critical services continue to be delivered at a time of disruption.

Project Management

- Risk and issue management is a key part of effective Project Management and should be recorded throughout the life time of the project, and link to service and corporate risk registers.

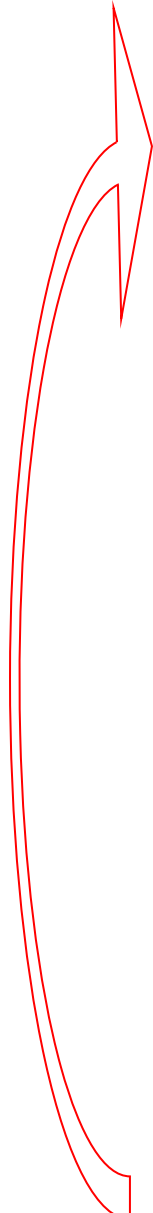
Risk Management Awareness

- The Council is committed to ensuring that all members, officers and partners (where appropriate) have adequate knowledge of the Council's Risk Management approach and this will be delivered through workshop, briefings and internal communication channels.



Where to record and escalate a risk

Identify Risks			
Assess Each Risk			
Evaluate Each Risk			
Low Risks	Medium Risks	High Risks	Very High
Record in Section Plan	Record In Service Level Risk Register	Record in Corporate Risk Register	Record on Corporate Risk Register
	Create Action Plan	Immediate Action Plan	Immediate Action plan
	Report to relevant DMT	Report to the Chief Exec and SLB	Report to th Chief Exec and SLB
	Allocate an Owner	Allocate an Owner (HOS)	Allocate an Owner (HOS)
Consider the risk	Treat the risk	Treat the risk	Treat the risk
	Report to HOS	Report to SLB	Report to SLB
Monitor and review annually	Monitor and review quarterly/ half yearly	Liaise with Champion Review Quarterly	Liaise with Champion Review Monthly
Review the residual risk	Review the residual risk	Review the residual risk	Review the residual risk
Re-assess	Re-assess	Re-assess	Re-assess



Completing the “Risk Implications” requirements for Committee & Executive Reports

1. Reports dealing with Key Decisions contained in the Forward Plan

A Key Decision is defined as follows:

- Any executive decision which is not in the Annual Revenue Budget or 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

- Any decision where the outcome will have a significant impact on a significant number of people living or working in two or more Wards.
 - *Such reports would require a risk assessment exercise to have been carried out prior to the report being written.*
 - *The associated risks would need to have been identified and scored according to the prescribed process.*
 - *Mitigating controls should be identified and a ‘net risk’ score assigned.*
- Any risks above low priority should be set out within the body of the report along with any proposed controls to further mitigate the risks.
- The ‘Risk Implications’ comment should refer to the section of the report dealing with risks.

2. Other Committee and Executive Reports

Reports for decision should contain a comment in respect of risk implications. A number of possible scenarios might apply

- A full risk assessment has been carried out
The exercise should be referred to in the body of the report. The ‘Risk Implications’ comment should refer to the appropriate section of the report.
- No specific risk assessment has been carried out, but the risks associated with the report are already being addressed as part of the Service Level approach to risk management
The main body of the report should state this, along with the main risks, control measures and proposed new controls. The ‘Risk Implications’ comment should refer to the Service Risk Management process.
- The risks are not, or only partially addressed, either separately or as part of the Service Level approach.
The ‘Risk Implications’ comment should state this. It should list the potential key risks, and should state that a separate exercise will be undertaken and reported to the relevant Cabinet Member.

Risk Management Handbook

Reports for information or decision where there are no risk implications should include the phrase *No risks have been identified* within the 'Risk Implications' comment.

Examples to assist when completing the 'Risk Implications' requirements on Committee Reports

Having completed your risk evaluation, the following standard phrases may assist you with describing the outcome of your risk assessments (choose the most appropriate statement):-

- 1) A risk assessment has been undertaken; the identified risks have been scored in accordance with the process. Mitigating controls have been identified. The details are referred to in the main body of this report.*
- 2) A risk assessment has been undertaken; the identified risks have been scored in accordance with the process. Mitigating controls have been identified. The residual risk has been entered to the Service / Corporate Risk Register (delete as appropriate). The details are referred to in the main body of this report.*
- 3) A Risk Assessment has been undertaken. The most significant risk is in not meeting the required outcomes of this report. This is referred to in the main body of the report.*
- 4) No specific risk assessment has been carried out, but the risks associated with the report are already being addressed as part of the Departmental approach to risk management.*
- 5) The risks are not, or only partially addressed, either separately or as part of the Departmental approach.*

Annex A

The Risk Management Strategy

The Risk Management Policy

Roles and Responsibilities

Risk Management Strategy

1. The aim of this strategy is to ensure that within Sefton, risks are identified and managed effectively and are aligned with the ISO 31000.2009 standards.
2. Risk Management is to be an integral part of the planning and decision-making processes of the Council.
3. The Strategy is intended to ensure that Risk Management is embedded in the overall planning process.
4. As Risk Management is integral to the planning and decision making processes, risks will be identified by all levels of management and staff to ensure that the process reflects both a top down and bottom up approach.
5. The process will be driven by a framework of monitoring, review and reporting both internally and by External Audit.
6. Whilst the process of risk management is routinely undertaken within the Council in a number of areas, both at a strategic level (e.g. Management Assurance Framework) and operationally (e.g. procurement 'Risk Assessment' system), it is recognised that there is scope to develop a more integrated risk management approach that facilitates provision of a clear 'golden thread' that links overarching strategic objectives (as per One Council objectives) with Service Area objectives and then to specific (section based) operational activities. As such, the 'Three Tier' approach ensures that :-
 - All activity throughout the Council is focussed towards supporting strategic objectives, and management are better able to allocate resources efficiently (potential to generate savings).
 - There is a clear alignment between management accountability and responsibility (e.g. The Chief Executive / SLB should only be concerned with the most significant risks).
 - All staff, at all levels, operate with a greater understanding of how their role is valuable to the Council, and the importance of risk mitigation in the fulfilment of their duties (i.e. a fully embedded risk management approach).
7. In order to move towards a more formal, integrated, embedded approach, and recognising that such fundamental changes in approach & mind-set cannot be achieved 'overnight', this strategy sets out a plan to bring together and develop existing risk management practices :-

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2017 - The Corporate Risk Register and Service Area Risk Registers are reviewed / moderated with reference to existing performance management systems (Management Assurance Framework) to ensure continuity and that there are clear links between risks that are corporate (managed by The Chief Executive / SLB) and risks that are service area (managed by Heads of Service)

2018 - The Service Area Risk Registers and Section (Operational) Risk Registers are reviewed / moderated (where sectional risk registers are already in place), and where required, sectional risk registers are created

8. In tandem with the above developments, it is important that an according level of training is provided, initially at senior management level, and then cascading down to other managers.



Risk Management Policy

1. Introduction

This policy defines how Sefton will implement the effective management of risks and opportunities.

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.

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.

Risks have always been managed but it is necessary to formalise this process and to make it transparent, as prescribed by 'Delivering Corporate Governance in Local Government' (CIPFA, 2016).

The Chief Executive and SLB have the responsibility for promoting the strategy throughout the Authority. The Head of Corporate Resources is the designated risk champion.

2. Objectives of the Risk Management Strategy

- 1) To embed risk management into the culture and operations of the Council.
- 2) To promote risk management as an integral element of business planning & decision making and performance management.
- 3) To maintain an effective process of key risks identification, analysis and control.
- 4) To manage risk in accordance with best practice.
- 5) To anticipate and respond to changing requirements whether political, economic, social, technological, legislative or environmental (PESTLE)
- 6) To ensure that there is clear accountability for both the ownership and cost of risk and the tools used to effectively reduce risk.
- 7) To improve governance and raise awareness of the need for risk management by all those connected with the Council's delivery of services.

Agenda Item 10

- 8) To increase organisational resilience.
- 9) To improve stakeholder confidence and trust
- 10) To reduce the overall cost of risk

The Council aims to achieve these objectives by:

- 1) Establishing clear roles, responsibilities and reporting lines within the Council for Risk Management.
- 2) Developing a common approach to the identification and analysis of risk and evaluating the most cost effective method of treating each significant risk identified.
- 3) Developing a framework for allocating resources to identified priority risk areas.
- 4) Reinforcing the importance of effective risk management through training and providing opportunities for shared learning.
- 5) Incorporating risk management considerations into the Council's decision-making, business planning and performance management processes.
- 6) Monitoring risk management and internal control arrangements on a regular basis.
- 7) Reporting to Members and stakeholders on the effectiveness of the strategy.



Key Member roles and Responsibilities

All Elected Members are responsible for governing the delivery of services to the local community. Members have a responsibility to understand the strategic risks that the Council face and will be made aware of how these risks are being managed through the annual strategic and service planning process.

Members should not seek to avoid, or delegate this overall responsibility, as it is key to their stewardship responsibilities.

Members' Key Responsibilities

Cabinet Member with Corporate Services portfolio will be the Council's Member Champion for Corporate Risk Management.

Cabinet

- Approve the risk management strategy and policy
- Monitor the Council's risk management and internal control arrangements through the Audit and Governance Committee.

Cabinet Members with Portfolio Responsibility

- Will work with Heads of Service to ensure effective Risk Management, by developing action plans for the key risks and establishing relevant PI's to measure their performance through the performance management framework.

Audit and Governance Committee

- Will approve the Annual Governance Statement that reflects the effectiveness of the Council's risk management process.
- Will review the effectiveness of the Council's risk management framework, and ensure that it is fit for purpose.

Overview & Scrutiny Committee

- Will review the strategic performance and associated risks of partners, through the powers of the Local Government and Public Involvement in Health Act 2007, and will hold partners to account where appropriate.

Key Officer Roles and Responsibilities

Chief Executive and the Strategic Leadership Board

The Chief Executive and the Strategic Leadership Board play key roles in promoting and embedding risk management within the Authority.

They will:

- Support and promote risk management throughout the Council
- Identify and assess strategic risks on a regular basis

The individual Heads of Service will be responsible for developing relevant action plans for key risks and establishing KPI's to measure their performance.

Head of Corporate Resources

- Will be the lead officer for the Council on Risk Management.
- Maintain an effective corporate risk strategy and policy and, through the Chief Internal Auditor, report to Audit & Governance Committee on the adequacy of the risk management arrangements.

Heads of Service

HOS will demonstrate commitment to risk management by:

- Incorporating the risk management process into service planning processes
- Prepare, review and refresh service risk registers
- Encouraging staff to be innovative and to recognise their achievements.
- Encouraging staff to be open and honest in identifying risks or missed opportunities.
- Ensuring that the risk management process is part of all major projects, partnerships and change management initiatives.
- Regularly monitor and review actions plans and associated KPI's to reduce or control the significant risks.

Managers

- Need to understand their role in the risk management process
- Understand risk management and the benefits in order to achieve their objectives.
- Understand how to evaluate risks and when to accept the right risks in order to pursue an opportunity.
- Maintain sound systems of internal control.

All Employees

- Have responsibility for identifying opportunities as well as risks in their day-to-day duties and take advantage of opportunities or limit the likelihood and impact of risks.

Risk Management Coordinator - Chief Internal Auditor

- Co-ordinate and promote the adoption of the risk management processes across the Council
- Challenge risk identification and evaluation

- Annually review the risk management strategy

Risk Mitigation Manager

- Manage the 'Risk Management Strategy' to facilitate evolution of the risk management function to a fully embedded system.
- Co-ordinate and maintain the central record of the Corporate Risk Register
- Will attend Service Management Meetings to support the revision of service risk registers and escalated risks on the Corporate Risk Register.

Risk and Audit Service

Internal audit's role is to provide assurance to officers and Members on the effectiveness of controls. Internal Audit reflects on the results of the corporate and departmental risk analysis when developing the annual audit plan.

Annex B

Risk Register Template



<i>(name service)</i> Risk Register								Date to SLT	Date to A&G comm.	Review date				
Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions		
Ref	Risk Desc	Trigger	Result	Owner	probability	Impact	Score		probability	Impact	Score	Action Plans	owner	Target date
1														
2														
3														
4														
5														

Owner Initials and Name

Agenda Item 10

Sefton Council



www.sefton.gov.uk

CORPORATE RISK REGISTER

Audit and Governance Committee 7/12/16

Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions				
Risk No.	Risk Description	Trigger	Result	Owner	Probability	Impact	Score		Probability	Impact	Residual Score	Actions	Action Owner	Target Date	Revised Target Date	Action Status
A. CUSTOMER PERSPECTIVE																
A1	Lack of capacity to fully resource the demand for services in respect of children and adults.	1. Significant increase in the numbers of children and adults requiring services. 2. Increased demand for services arising from increased financial and social pressure on individuals, families and communities. 3. Increasing demographic pressures regarding adults with complex needs creates continued pressure on the care budget. 4. The Council does not have appropriate staff resources with the right skills and experiences to deliver Council priorities. 5. Sudden increase in population in one area due to large building development. 6. National / Local tragedy. 7. Budgetary pressures and reducing finances. 8. Impact of revised CQC regulatory and inspection regime. 9. Lack of 'affordable' Adult Care Home Placements (i.e. Homes which do not levy a top-up). 10. Impact of Minimum Wage / Living Wage. 11. Better Care Fund, health and social care integration by 2020,	1. Inability to cope with demand and increased safeguarding risk. 2. Client dissatisfaction, complaints. 3. Reputational damage to the Council. 4. Regulatory criticism. 5. More Providers potentially not meeting required standards, thus resulting in restrictions on supply of services. 6. Additional budgetary impact on the Council. 7. Additional budgetary impact on the Council / Potential for Provider Failure. Care Home closure have already arisen and we have a number of homes rated as inadequate. Seeing an increase of third party top ups being applied leading to unmanaged cost increase. Care sector unable to recruit staff and sustain delivery. Reduced ASC budget due to assumed transfer of BCF funding not being provided by health leading to a £6m shortfall in ASC budget	DSCH	4	4	16	1. Regular audits of assessment processes and the use of trend data to identify children's needs at the earliest stage. 2. Other safeguarding measures in place to identify service users and close liaison between multi agency partners to help manage any unanticipated increase in need. 3. Linkage with Business Planning process with Council commitment to protecting the vulnerable. 4. Placements Strategy / Turning the Tap Commissioning approach. 5. Identification of resources requirements within budgetary process and/or when significant need arises. 6. Application of Council Permanence Policy (Children's services) 7. Ongoing review of services to be commissioned with considerations of budgetary position. 8. Regular communication with CQC / Monitoring of Services / Maintaining market oversight information. 9. Market oversight and assessment of demand and supply. Review of Market position statement and development of market facilitation strategy. 10. Joint working with other Local Authority Finance Departments to fully assess potential impacts / Understanding of potential impacts on individual providers / Reviewing of Services with potential to re-negotiate and re-commission contracts. 11. Independent Inspection / Regulation (Ofsted) Performance management of the budget, utilising underspends to resource shortfall.	3	4	12	1. Embed and extend the audit process 2. Multi-agency panels enable commissioners of services to consider and plan to meet needs jointly and agree funding. 3. Utilise information from Joint Strategic Needs Assessment (JSNA) to target services in Adult Social Care and Children's Services and inform commissioning. 4. Implementation of Eligibility Criteria for Children's Social Work services. 5. Maintain communications with CQC / Monitoring contracts. Instigate a quality review and work with those providers that require support to improve service delivery. 6. Maintain market oversight / Analysis work relating to the cost-of-care / Liverpool City Region & Health joint working on monitoring quality and performance of services. 7. Forecasting work in conjunction with other Local Authorities / Understanding of the cost of care / Service review exercises. 8. Ensure regular review of budget and implement actions to mitigate against overspends. Particularly relevant for managing the impact of BCF shortfall. Implementation of Ofsted Improvement Plan (27th June 2016)	HoCSC DSCH DSCH DSCH HoCSBI HoCSBI HoCSBI HoASC DSCH	Feb-17 TBC TBC TBC TBC TBC TBC monthly ongoing		

CORPORATE RISK REGISTER

Audit and Governance Committee 7/12/16

Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions				
Risk No.	Risk Description	Trigger	Result	Owner	Probability	Impact	Score		Probability	Impact	Residual Score	Actions	Action Owner	Target Date	Revised Target Date	Action Status
A2	Failure of the Council's arrangements for safeguarding vulnerable children and adults.	1. Insufficient skilled and experienced staff in Social Care. 2. Instability of social care workforce. 3. Quality Assurance processes fail to identify poor practice. 4. Volume of work exceeds staff capacity. 5. Information not shared effectively between different parts of the safeguarding system. 6. Poor case recording and record sharing. 7. Safer Recruitment procedures not consistently implemented. 8. Inadequate file retention in respect of Goddard Enquiry requirements. 9. Significant data breach 10. National event / tragedy. 11. Historical or current Child Sexual Exploitation case within the Borough.	1. Increased or significant harm to a child or an adult receiving services from the Council and/or harm not mitigated. 2. Reputational damage to Council. 3. Regulatory Criticism. 4. Negative impact upon workforce and ability to recruit. 5. Financial claims against the Council.	DSCH	4	4	16	1. Multi-agency Safeguarding Boards. 2. Safeguarding Procedures, monitored during on-going supervision, and via service quality monitoring arrangements including case file audits and audits undertaken by LCSB/SAB/ASC. 3. Adults Safeguarding Practice Guidance and Procedures in place for Partners and reviewed regularly and are now in the process of being updated as a result of an action identified in the Adults Safeguarding Peer Review. 4. Regular sharing of information with regulating bodies/ NWADASS Sector Led Improvement Peer Review Team, including regulator reviews across Social Care Services. 5. Skilled and experienced safeguarding leads & their managers. 6. Comprehensive and robust recruitment and training and development policies for staff, including safer employment practices and arrangements for induction and ongoing development including case recording. 7. Continuous process of updating practice and procedures, linking to local and national trends, including learning from local and national reviews such as Serious Case Reviews/Safeguarding Adult Reviews. 8. Health and Wellbeing Strategy includes commitment from partners to safeguarding children and young people. 9. Multi agency Safeguarding Adults Board and subgroups in place. 10. Adult and Children's Safeguarding training strategy. 11. Complaints process informs practice. 12. Children's Social Care Performance Management system. 13. Robust challenge and partnership engagement through the LSCB / Annual Report of the LSCB. 14. Multi Agency Child Sexual Exploitation (MACSE) Panel meets fortnightly to discuss all children and young people considered to be at risk of or experiencing child sexual abuse. 15. Referrals of child protection concerns via the Multi Agency Safeguarding Hub (MASH) and Multi Agency Children Sexual Exploitation (MACSE) Safeguarding plans as appropriate. 16. LSCB Child Sexual Exploitation Partnership Pathway to co-ordinate multi-agency work to identify child sexual exploitation and awareness raising of Pathway across the Borough. 17. Co-ordination of Child Sexual Exploitation (CSE) intelligence by CSE Business Officer Analyst.	3	4	12	New chair recruited following resignation of previous chair. Liverpool City Region Safeguarding Adults Board under development. Quality reviews of case files commenced for adults bringing them in line with good practice progress will be monitored to ensure findings are fed into service development	TW	Apr-17		

CORPORATE RISK REGISTER

Audit and Governance Committee 7/12/16

Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions				
Risk No.	Risk Description	Trigger	Result	Owner	Probability	Impact	Score		Probability	Impact	Residual Score	Actions	Action Owner	Target Date	Revised Target Date	Action Status
								18. Implementation of Information Asset management policies and procedures. 19. Targeted resource within ASC relating to Safeguarding Adults. 20. Independent Inspection / Regulation (Ofsted)				Implementation of Ofsted Improvement Plan (27th June 2016)	DSCH	Ongoing		
A3	The quality, responsiveness, standard and outcomes of outsourced services fails to meet Sefton Council requirements and contract compliance.	1. Contractor resources available to support SMBC are reduced as contractor expands its customer base. 2. Failure to manage contractor service delivery to SMBC. 3. Lack of contractor expertise in technical requirements. 4. Significant ICT failure or outage (i.e. loss of primary data centre, sustained unavailability of systems.) 5. Non-compliance with Government and industry standards	1. Support services to SMBC are not provide in a timely, accurate and professional manner. 2. Inaccurate & late submissions Government returns - penalties and loss of subsidy to Council. 3. Service failures 4. Services need to revert to non-ICT delivery methods; may not have access to key data. 5. Potential for financial penalties and suspension of key services	HoCS	4	4	16	1. Contract requirement in place relating to overall Governance - formal work groups and contract monitoring via monthly performance reporting. 2. Programme Management arrangements in place to monitor and move forward work streams. 3. SMBC performance management arrangements. 4. Contractor performance management team. 5. Contractor contact in place and regularly reviewed in detail. 6. Failures and incidents reported and escalated when required. 7. Any issues etc. reported from Council Services, Stakeholders, Public & Elected Members are reviewed and escalated for action when required.	3	4	12	1. Ongoing monitoring of compliance and performance. 2. Monitoring of commissioning of contractor to implement second data centre for business continuity and disaster recovery. 3. Monitoring via ICT Working Group, Joint Project Board and FISOB	CFO CFO CFO CFO	Ongoing Ongoing Ongoing Ongoing		
A4	Failure to deliver in respect of the integration agenda (Better Care Fund).	1 Failure to operate in accordance with Section 75 agreement. 2 Failure to achieve performance targets.	Financial / reputational loss arising from ineffective working practice, and potential legal challenges. Loss of BCF funding	DSCH DSCH	4	4		1 Governance arrangements established via the Health & Well Being Board. 2 Budget monitoring and reporting in accordance with governance framework.	3	3	9	Ongoing monitoring via the Health & Well Being Board.	DSCH	Ongoing		

CORPORATE RISK REGISTER

Audit and Governance Committee 7/12/16

Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions				
Risk No.	Risk Description	Trigger	Result	Owner	Probability	Impact	Score		Probability	Impact	Residual Score	Actions	Action Owner	Target Date	Revised Target Date	Actual Status
A5	Failure to transform Council services.	<p>1. Lack of leadership, innovation, capacity and financial investment to transform services.</p> <p>2. Failure to develop a prioritised range of initiatives to the Council's improvement and efficiencies agenda.</p> <p>3. Ineffective monitoring of implementation of change.</p> <p>4. Council culture does not facilitate the required speed of change to deliver change.</p> <p>5. Transformation projects do not align with the strategic direction and objectives of the Council.</p>	<p>1. The Council is unable to develop and deliver agreed prioritised change initiatives which will impact on the delivery of approved savings and fails to meet statutory responsibilities or budget targets.</p> <p>2. Adverse effect on delivery of outcomes for communities.</p> <p>3. Adverse reputational impact upon the Council.</p> <p>4. Intended benefits from project initiation are not realised.</p>	HoSS	3	4	12	<p>1. Council and partners to agree a Vision Outcomes Framework</p> <p>2. Consistent Change & Project Management techniques overseen by Project Boards.</p> <p>3. Project Governance including quality assurance processes and maintenance of Project Risk Registers.</p> <p>4. Effective communication plans and reporting of Transformation projects to Boards, SLB / Cabinet Members/ Cabinet within existing Council decision making frameworks</p> <p>5. Benefits realisation is effectively tracked through the life of each project.</p> <p>6. Post Implementation Reviews are undertaken</p> <p>7. Clear ownership in the delivery of change</p>	3	3	9	<p>The Council has led on developing a new and exciting vision for the future of the borough. Working closely with partners, businesses, private sector organisations, the voluntary, community and faith sector and the wider Sefton community, the aim is to focus on what is important and to be ambitious for the borough and its communities in the future. 17th November 2016 Council will consider the Vision and Outcomes Framework will guide long term planning - helping to collectively stimulate growth, prosperity, set new expectation levels and to help focus on what is important for Sefton.</p> <p>Alongside this the Council is developing a major change programme to enable the Council to be sustainable and fit for the future. Underpinning this the Council will implement a Performance framework.</p> <p>2. Communications Framework to be updated once Vision Outcomes Framework has been considered by Council.</p> <p>3. Embed quality assurance and performance culture across Council.</p> <p>4. Continue to embed One Council .</p>	HoSS & Head of Comm Supp	Nov-16		In progress
A6	Failure to manage sufficient fuel stocks to enable normal fleet operation and also to operate in emergency situations	Diesel stocks reduce to a level whereby standard fleet operation is not possible.	Council unable to undertake a number of functions including street cleansing, refuse collection, recycling, coastal protection.	HoLSP	4	4	16	<p>Management of fuel stock via automated and manual control mechanisms and systems</p> <p>Implementation of storage facilities to allow for continued fleet operation in the event of fuel shortages/rationing.</p> <p>Manage fuel delivery and storage system to provide enough fuel for 1 months operation of the Council fleet in emergency situations.</p>	2	3	6	<p>Expand existing storage and fuel management systems at Hawthorne Road Depot to provide a capacity of 45,000 litres</p> <p>Install new fuel storage system at Formby Bypass Depot to provide a capacity of 20,000 litres.</p> <p>60,000 litres of fuel would be required to deliver all frontline services for 1 month. This can be achieved via the storage and operational practices detailed above.</p>	HoLSP	May-17		
A7	Loss or suspension of vehicle fleet 'Operators Licence'	Operators Licence suspended or revoked following random vehicle check by VOSA	The whole Council vehicle fleet would be unable to operate. Hire vehicles could also not be obtained as there would be no Operators Licence in place. Council services would suffer severe disruption.	HoLSP	4	4	16	Ensure that the vehicle fleet is maintained to the required standards in terms of frequency	2	2	4	Council HGV fleet maintained on a six weekly programme in accordance with all DVLA and VOSA requirements.	HoLSP	Ongoing		

CORPORATE RISK REGISTER

Audit and Governance Committee 7/12/16

Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions				
Risk No.	Risk Description	Trigger	Result	Owner	Probability	Impact	Score		Probability	Impact	Residual Score	Actions	Action Owner	Target Date	Revised Target Date	Action Status
		Operators Licence suspended or revoked following major accident or incident involving a Council vehicle following which it is proved that the vehicle was defective or unroadworthy.						Ensure that the Councils vehicle maintenance section is suitably qualified and experienced to deliver necessary outputs.				Maintain ongoing accreditation and inspection regimes by VOSA.	HoLSP	Ongoing		
								Achieve and maintain the highest 'green' category of accreditation by VOSA and DVLA.					HoLSP	Ongoing		
A8	Failure to monitor, secure and protect Council facilities and Schools from intruders, damage, theft or fire	Fire alarm triggered at Council facility and not acted upon.	Severe damage to, or total loss of facility. Service disruption. Loss of reputation.	HoLSP	4	5	20	Continuous 24 hour operation of BS5979 Alarm Receiving Centre	2	2	4	Maintain accreditations from a variety of national bodies.	HoLSP	Ongoing		
		Council facilities not protected by suitable alarm systems.	Increased insurance premiums. Lack of insurance cover. Risk to facility and reputation.	HoLSP				Mobile Patrol Service able to respond to any incident 24 hours a day				Ensure that all systems at any Council facility meet the necessary standards to provide the maximum level of protection.	HoLSP	Ongoing		
A9	Failure to meet partner expectations - greater role as facilitator and enable rather than direct delivery	1. Significant increase in partners requiring services.	1. Inability to cope with demand and increased risk or poor service delivery.	HoH&R	4	4	16	1. Key account management of partners.	3	4	12					
		2. The Council does not have appropriate staff resources with the right skills and experiences to deliver Council priorities.	2. Partner dissatisfaction, complaints.					2. Skilled and experienced staff								
			3. Reputational damage to the Council.													
B. FINANCIAL & RESOURCES																
B1	Inability to deliver the planned savings and efficiency targets within the two year financial plan.	1. Failure to deliver the two-year plan and achieve required efficiency savings and service transformation. 2. Assumptions in existing two-year Plan regarding the wider economic situation are inaccurate. 3. Organisation not sufficiently aligned to face challenges.	1. The Council is unable to achieve required savings and fails to meet statutory responsibilities or budget targets. 2. Need for reactive in year savings. 3. Adverse effect on the delivery of outcomes. 4. Adverse impact on the Councils reserve position	CE /CFO	5	4	20	1. Robust service planning; priorities cascaded through management teams and through appraisal process. 2. Strategy in place to communicate vision and plan throughout the Council. 3. Effective Performance Management arrangements. 4. Governance Framework to manage Transformation agenda.	4	1	4	Regular budget Monitoring and Reporting is undertaken, to both Senior Leadership Board and Council.	CE/CFO	Ongoing		

CORPORATE RISK REGISTER

Audit and Governance Committee 7/12/16

Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions					
Risk No.	Risk Description	Trigger	Result	Owner	Probability	Impact	Score		Probability	Impact	Residual Score	Actions	Action Owner	Target Date	Revised Target Date	Action Status	
								5. Rigorous Risk Management discipline embedded in all transformation programmes / projects, with escalation process to SLB/ Chief Executive. 6. Integrated performance and resource reporting monitoring of progress against savings targets. 7. Regular meetings with the s.151 officer, Overview and Scrutiny, Cabinet and SLB to track exceptions and identify remedial actions. 8. Effective treasury management in place plus ongoing tracking of national and international economic factors and Government policy. 9. Prudent use of reserves for minor deviations.									
B2	Ongoing reductions in budget risk the sustainability of the council and the ability to deliver a secure and robust Budget plan over the next five years.	1. Failure to have clear political direction, vision, priorities and outcomes of the Council's Strategic Plans. 2. Failure to plan effectively to achieve necessary efficiency savings and service transformation. 3. Failure to identify sufficient additional savings in addition to existing plans, in light of CSR. 4. Worsening Pension Fund deficit. 5. Legislative changes add unforeseen pressures to Council financial position.	1. The Council lacks clear direction for resource use and either over-spends, requiring the need for reactive savings during the life of the plan. 2. The Council spends limited resources unwisely, to the detriment of local communities. 3. The Council level of reserves falls below acceptable levels.	CE / CFO	5	4	20	1. Robust political leadership, strong vision, clear priorities and policies, developed through councillor engagement. 2. Robust engagement with members of SLB and Councillors through the Budget Planning process timetable, to ensure greater cross-organisational challenge and development of options. 3. Full consultation with public, partners and businesses during planning process, including thorough use of data research and business intelligence to inform the planning process. 4. Stronger links with service planning across the Council seeking to transform large areas of spend. 5. Budget / Business Planning process requires early identification of possible impacts of legislative changes, as details emerge.	4	3	12	1. Impact of relevant financial factors and pressures reflected in ongoing review of the Medium Term Financial Plan	CE / CFO	Ongoing			
B3	Failure to contribute towards economic growth reduces Council income (Council Tax and Business Rates), community wellbeing, resilience and prosperity.	1. Poor local economic performance, leading to falling investment and rising unemployment. 2. Slow national economic recovery 3. Reduced relocation of / disinvestment by companies within the borough. 4. Determination of the local business rate.	1. Increased business failures. 2. Reduced business start ups in the borough. 3. Increased unemployment. 4. Lost investment to the borough.	CE/HoIIE	4	4	16	1. Quality of, and access to, Business Support Services in Merseyside, with priority to (re-)investment, exporting and job growth. 2. Regular monitoring of economic data for warning signs. 3. Analysis of informal information from partners and business community. 4. Priority to job-rich sectors in line with the LCR Single Growth Strategy.	4	3	12	1. Monitoring the impact of the Key Controls identified in the Risk Register, and taking corrective action as necessary 2. Complete the Economic Assessment and implement the Economic Strategy for Sefton.	CE/HoIIE	Quarterly		Jun-17	

CORPORATE RISK REGISTER

Audit and Governance Committee 7/12/16

Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions				
Risk No.	Risk Description	Trigger	Result	Owner	Probability	Impact	Score		Probability	Impact	Residual Score	Actions	Action Owner	Target Date	Revised Target Date	Action Status
		5. Council appetite for promoting acceptable economic growth. 6. Impact of Brexit					12	5. Engagement of members with Sefton's economic performance. 6. Sefton's influence over LCR resources including Single Investment Fund 7. Growth Programme to co-ordinate Council activity on growth. 8. Income maximisation plan for business rates 9. Mechanisms to capture social value of all investment and development 10. Action to divert workless residents from high-cost services and towards employment & learning, that will increase personal resilience in the long-term			9					
B4	The Council does not achieve best value from its commissioning, procurement and contracts.	1. Ineffective procurement processes. 2. Lack of awareness of procurement processes across the Council. 3. Ineffective contract management.	1. Poor value for money. 2. Legal challenge. 3. Wasted time and effort in contractual dispute.	HoComm Supp & BI	4	3	12	1. Council Contract Procedure Rules (CPR) 2. Awareness training on CPR provided to Management teams in 2014/15 3. Effective contract management processes are in place	3	3	9	1. A full review is being undertaken of Procurement Process, Rules and Guidance with changes to CPR reported to Audit & Governance Committee 2. The Council's CPR, commissioning and procurement processes, and staff training will be kept under review to ensure that commissioning and procurement are as effective as resources allow.	HoComm Supp & BI	Dec-16 Ongoing		
B5	Fraud / Irregularity / Staff Misconduct	4. Attempts to defraud the Council.	4. Financial / reputational / legal costs.	HoCR	5	3	15	1 Regular update & dissemination of relevant policy & procedure 2 Internal Audit	4	3	12	1. Regular review of policy 1. Delivery of audit plan & investigatory review	HoCR CIA	Ongoing Ongoing		
C. SYSTEMS AND PROCESSES																
C1	Non-compliance with legislative and regulatory requirements.	1. Staff unaware of changes to legislative /regulatory requirements. 2. Lack of staff training. 3. Lack of management review. 4. Information management / data protection / FOI	1. Adverse reports from regulators. 2. Criminal or civil action against the Council. 3. Reputational Damage. 4. Financial Penalties.	HoRC	3	4	12	1. Legal Services robust and up to date with appropriate legislation. 2. Senior Managers brief SLB / members on legislative changes. 3. Monitoring Officer role. 4. Code of Corporate Governance. 5. Community / equality Impact assessments required for budget decisions. 6. Constitutional delegation to Committees and SLB.	2	3	6	1. Code of Corporate Governance to be re-written and agreed by the Audit and Governance Committee.	CIA /HoRC	Ongoing		

CORPORATE RISK REGISTER

Audit and Governance Committee 7/12/16

Details of Risk					Inherent Risk			Key Controls	Residual Risk			Actions				
Risk No.	Risk Description	Trigger	Result	Owner	Probability	Impact	Score		Probability	Impact	Residual Score	Actions	Action Owner	Target Date	Revised Target Date	Action Status
								7. H&S policy and processes. 8. Legal clearance on all published member decisions. 9. Adhoc training for members on specific legislation. 10. Membership of NW Legal Consortium with access to relevant professional training. 11. Development of appropriate courses with the Learning and Development Unit.								

Report to: Audit & Governance Committee **Date of Meeting:** 7 December 2016

Subject: Treasury Management 2016/17 – Position to October 2016

Report of: Head of Corporate Finance & Information Services

Wards Affected: All

Is this a Key Decision? No

Is it included in the Forward Plan? No

Exempt/Confidential No

Purpose/Summary

To inform members of Treasury Management Activities undertaken to 31 October 2016.

Recommendation(s)

Audit & Governance is requested to note the Treasury Management update to 31 October 2016.

How does the decision contribute to the Council’s Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities		√	
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

Reasons for the Recommendation:

To ensure that Audit & Governance are fully appraised of treasury activity undertaken to 31 October 2016.

What will it cost and how will it be financed?

(A) Revenue Costs

The financial position on the external investments to the end of October indicates a shortfall of £8k compared to the proportion of the budget to date. If current market conditions prevail a small under-recovery of around £12k will be experienced.

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(B) Capital Costs

None.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	The Council has a statutory duty to review its Treasury Management activities from time to time during the financial year. The CIPFA Treasury Management Code of Practice recommends that regular reports are prepared and considered on the implementation of treasury management policies; on the effects of decisions taken and transactions executed in pursuance of those policies
Human Resources	None
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

None.

What consultations have taken place on the proposals and when?

The Chief Finance Officer has been involved in the preparation of this report. (FD 4399/16))

The Head of Regulation & Compliance has been consulted and has no comments on the report (LD3682/16)

Are there any other options available for consideration?

None.

Implementation Date for the Decision

Immediately following the Committee Meeting.

Contact Officer: Thomas Walmsley

Tel: 0151 934 4042

Email: Thomas.Walmsley@sefton.gov.uk

Background Papers:

None.

1 BACKGROUND TO THE REPORT

- 1.1 The Treasury Management Policy and Strategy document for 2016/17 (approved by Council on 3 March 2016) included a requirement for regular updates to be provided to the Audit & Governance Committee on the investment activity of the Authority. This report is the second of such reports for the year and presents relevant Treasury Management information for the period ending 31 October 2016.
- 1.2 The report includes information on the investments held / entered into during the period and the interest rates obtained (with a comparison of performance against a standard benchmark figure). In addition, the report highlights whether there has been any variance from the Treasury Management Policy Strategy and the Prudential Indicators (the operational boundaries within which the Council aims to work).

2 INVESTMENTS HELD

Investments held at the end of October 2016 comprise the following:

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Overnight Deposits

Institution	Deposit £m	Rate %	Maturity	On Current Counterparty	
				List?	Rating
Federated	5.460	0.33	n/a	Yes	AAA
Invesco	4.450	0.35	n/a	Yes	AAA
Standard Life	5.230	0.35	n/a	Yes	AAA
BNP Paribas	5.460	0.38	n/a	Yes	AAA
Total	20.600				

Call Accounts

Bank of Scotland	5.000	0.60	175 day notice	Yes	A+
Santander	2.000	0.65	95 day notice	Yes	A
Santander	2.000	0.80	120 day notice	Yes	A
Total	9.000				

Fixed Term Deposits

Commonwealth Bank of Australia	5.000	0.82	27/01/2017	Yes	AA-
Heleba	5.000	0.84	05/01/2017	Yes	A+
Barclays	5.000	0.42	21/03/2017	Yes	A
Goldman-Sachs	5.000	0.74	06/12/2016	Yes	A
Total	20.000				

Other

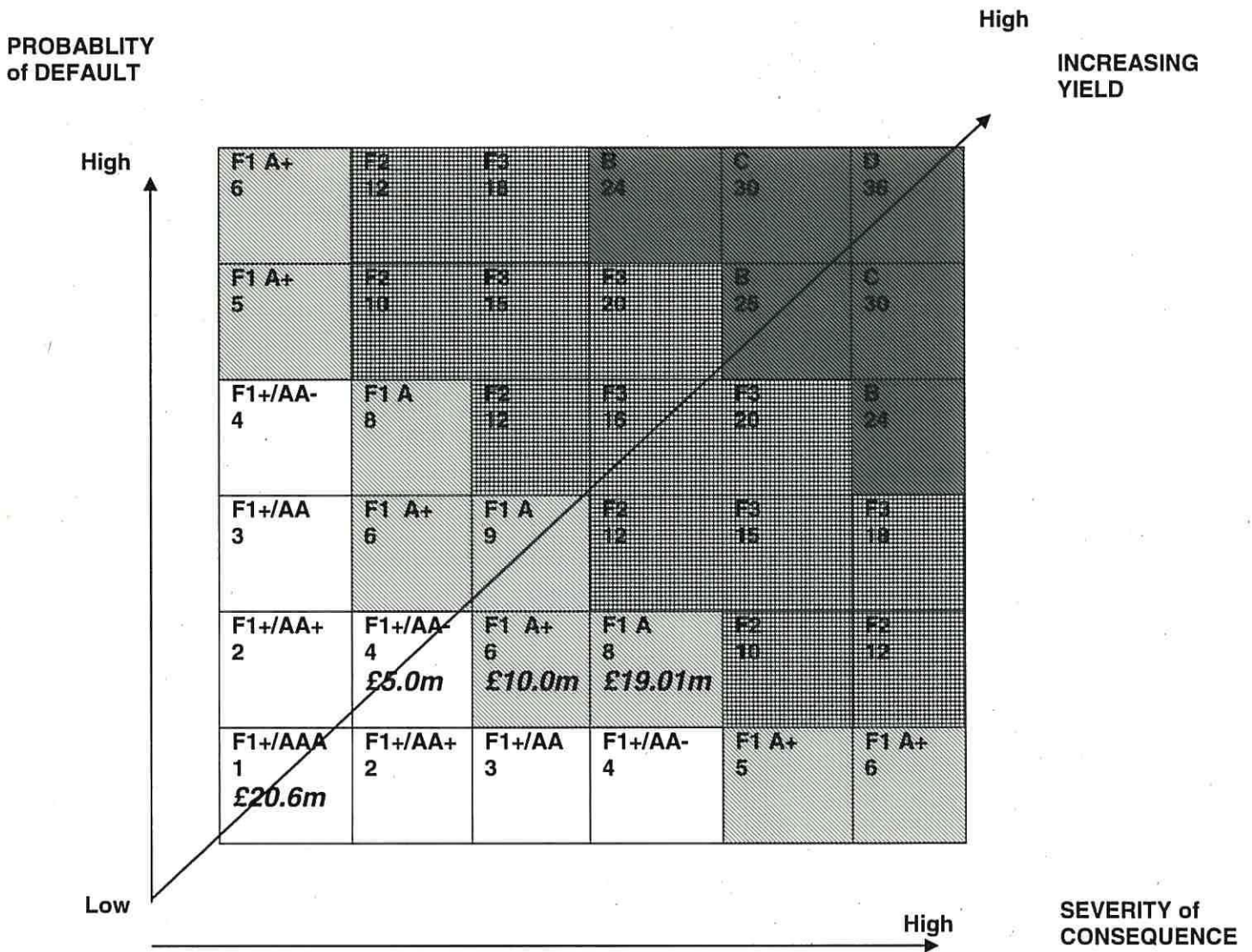
The Funding Circle	0.010	-	n/a	n/a	n/a
CCLA	5.000	5.19	n/a	Yes	n/a
Total	5.010				

- 2.1 All of the investments made since April 2016 have been with organisations on the current counterparty list. The maximum level of investment permitted in the Treasury Management Strategy in any one institution, or banking group, is currently £25m. Whilst the maximum should be retained, in case economic conditions change, a day to day operational maximum of 10% of the total portfolio is currently being imposed. This will spread the risk of investments 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.
- 2.2 The Council will only invest in institutions that hold a minimum Fitch rating of A- for banking institutions, or Aaa/Mr1+ 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.
- 2.3 A sum of £10,000 has been placed with the Funding Circle, a body that helps businesses access funding at a lower interest rate than is charged commercially by bidding for funding. Interest of around 6% will be earned from funding that has

been placed on loan to businesses. However, at the end of October 2016, total lending is £2k to two separate businesses. Given the lack of success with placing loans it has been decided to withdraw the balance of funding not placed with businesses.

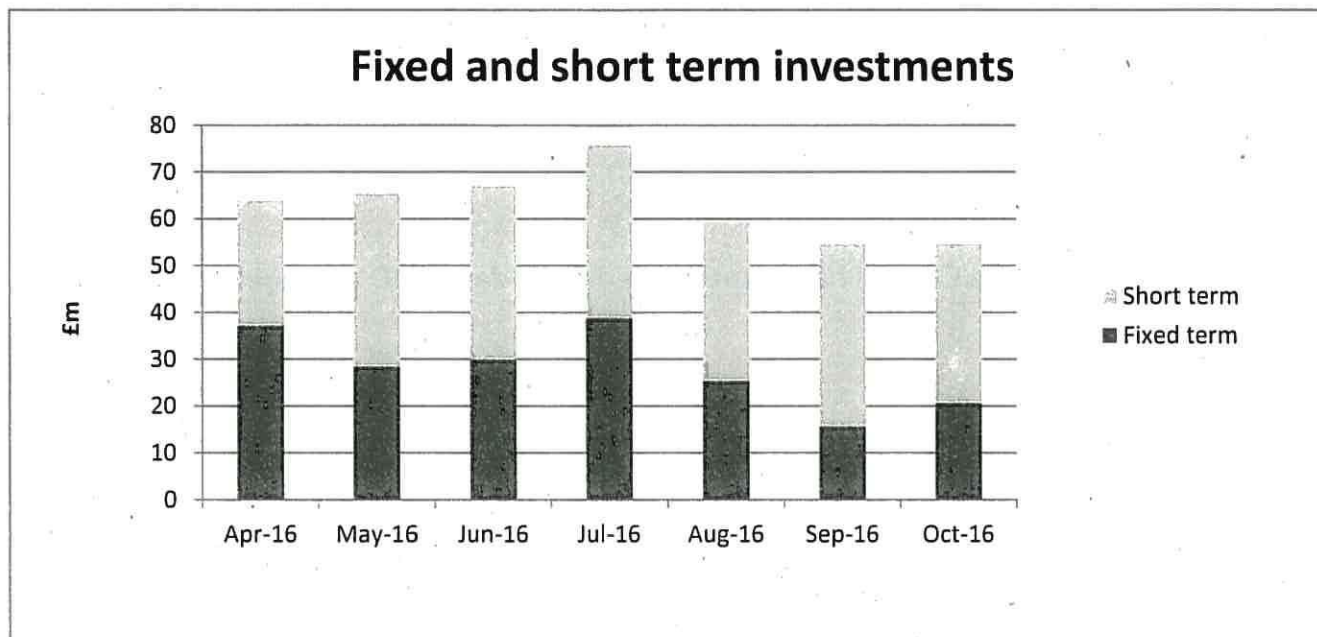
- 2.4 An investment has been made with the Church, Charities and Local Authority Investment Fund (CCLA) in June 2014. CCLA invest in commercial property which is rented out to enterprises as retail units, warehousing, and offices. The majority of properties owned are in the south of the country where the market is currently 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 5%. This is seen as a long term investment with the potential for capital growth of the investment as property prices potentially increase. However, when the investment is made fees are deducted from the initial investment hence in the first year any income received covers these fees.
- 2.5 The matrix shows how the Council has set its risk appetite by being risk averse and putting security and liquidity before yield.

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SEFTON RISK TOLERANCE	4		INVESTED
LOW RISK	1 - 4	Investment Grade	£25.6m
LOW - MEDIUM RISK	5 - 9	Investment Grade	£29.01m
MEDIUM RISK	10 - 20	Investment Grade	Nil
HIGH RISK	21 - 36	Speculative Grade	Nil

2.6 The ratio of overnight deposits (i.e. short term) to fixed term investments is illustrated below:



2.7 In September one additional fixed term investment was placed with Barclays Bank for £5m

2.8 SECTOR, our Treasury Advisors, have supplied the interest rate forecast below:

Date	Now	Jun 17	Dec 17	Jun 18	Dec 18	Jun 19	Dec 19
Rate %	0.25	0.25	0.25	0.25	0.25	0.50	0.75

SECTOR's advice is that yields are still at historic lows with most value in terms of borrowing being at the 40 to 50 year range. Any borrowing undertaken must also take account of the cost of carry which is the difference between borrowing and investing rates, especially as the forecast bank rate will not start to rise until June 2019 and investment returns will remain low. Hence there is little hope of substantially improving returns in the foreseeable future.

3 INTEREST EARNED

3.1 The actual performance of investments against the profiled budget for the period to 31 October 2016 is shown below:

2016/17 Investment Income

	Budget '000s	Actual '000s	Variance '000s
To Oct 2016	381	373	8

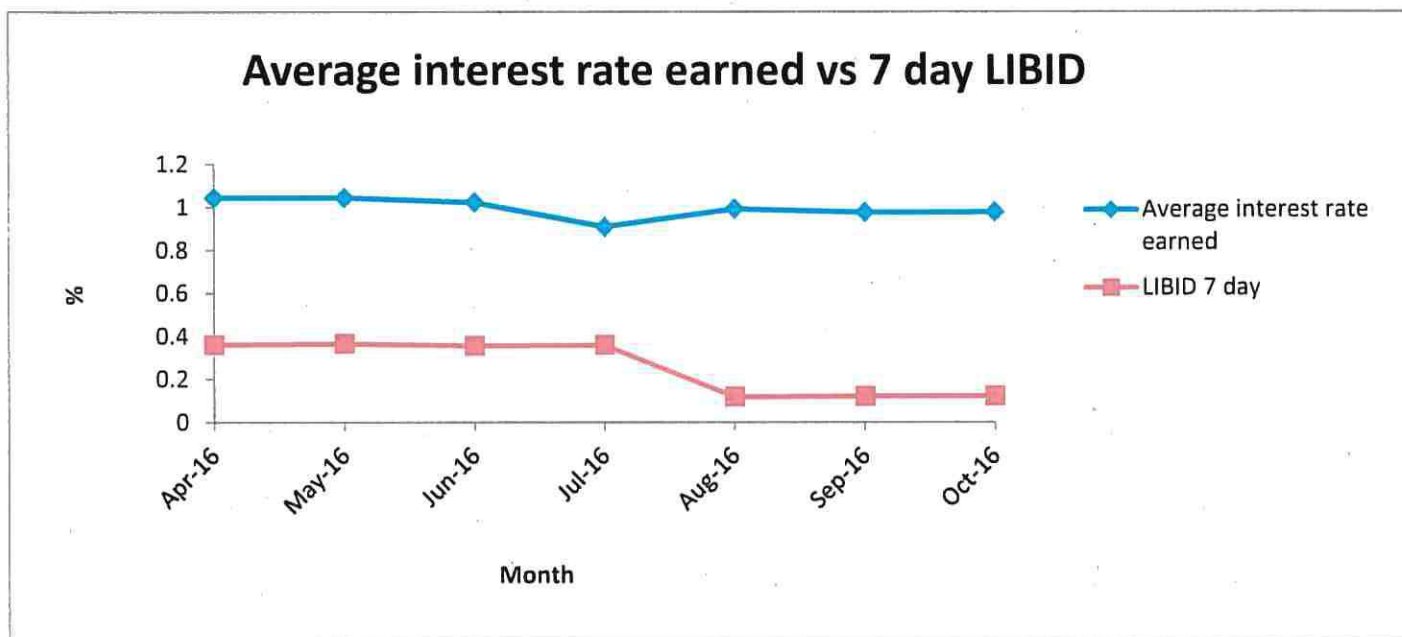
3.2 The budgeted investment return for the financial year 2016/17 is £0.595m. This figure assumes the income from investments already in place at 1st April 2016

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and new returns based upon Bank of England's Base Rate projection as supplied by Sector, our treasury consultants.

- 3.3 The investment income achieved to 31 October is £0.373m, which compares to a budgeted investment return for the seven months of £0.381m. This represents a small under-recovery for the year to date.

Despite this, the Council has outperformed the 7 day LIBID average as follows:



4 PRUDENTIAL INDICATOR MONITORING

- 4.1 Prudential indicators are an integral component of measuring how prudently a Council is acting with regard to its finances. They were introduced into all local authorities (by CIPFA) following the Local Government Act 2003. A number of measures/limits/parameters including capital financing, external debt, impact on council tax, and treasury management are set prior to the start of the year and are monitored on a monthly basis.

- 4.2 As at October 2016 none of the prudential indicators have been breached.

5 MEMBERS TRAINING

It is intended to organise the annual Treasury Management training for Members on 22 March 2017. This will be provided by Council Officers and its Treasury Management Advisors. Provision of appropriate training for members of Audit and Governance committee is an integral part of the CIPFA code and as such a

comprehensive session will be developed as part of the ongoing knowledge and skills programme for Members

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Report to: Audit and Governance Committee **Date of Meeting:** 7th December 2016

Subject: Revenue Service –
Write off of irrecoverable debts with balances over £10,000

Report of: Head of Corporate Resources

Wards Affected: All Wards

Is this a Key Decision? No

Is it included in the Forward Plan? No

Exempt/Confidential: No - but the Appendices to the report are NOT FOR PUBLICATION by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. The Public Interest Test has been applied and favours the information being treated as exempt

Exempt Appendices:

- Appendix 1 – NNDR accounts over £10,000
- Appendix 2 – Sundry Debt accounts over £10,000
- Appendix 3 – Council Tax accounts over £10,000

Purpose/Summary

As outlined within the Council’s constitution, all outstanding debts over £10,000 cannot be written off without Member approval.

This report requests the authorisation of the Audit & Governance Committee to write off the debts listed in Appendices 1, 2, and 3 to this report.

Recommendation

To approve the write off of all individual debts detailed in the appendices to this report. The total amount for write off is £226,385.88.

How does the decision contribute to the Council’s Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity		✓	
3	Environmental Sustainability		✓	
4	Health and Well-Being		✓	
5	Children and Young People		✓	
6	Creating Safe Communities		✓	
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy		✓	

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Reasons for the Recommendation:

The individual debts detailed in Appendices 1 to 3 have all been assessed on an individual basis as all means of recovery have been exhausted. These debts are now considered to be irrecoverable and are recommended for write off.

Approval will ensure uncollectable debt is removed from the system.

What will it cost and how will it be financed?

(A) Revenue Costs

The amounts proposed for write off are within the provisions set aside for doubtful debts and the Council will write off these debts against these provisions.

(B) Capital Costs

N/A

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	None
Human Resources	None
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

None

What consultations have taken place on the proposals and when?

The Head of Corporate Resources is the author of the report (FD 4394/16).

Head of Regulation and Compliance has been consulted and has no comments on the report. (LD 3677/16).

Are there any other options available for consideration?

Not to write off the debt.

Implementation Date for the Decision

Immediately following the close of the meeting.

Contact Officer: Stephan Van Arendsen, Head of Corporate Resources

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Contact Officer: Christine Finnigan, Partnership & Local Taxation Manager

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Email: christine.finnigan@sefton.gov.uk

Background Papers:

There are no background papers available for inspection.

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1. Introduction/Background

1.1 The Council collected over £249.6m during 2015/16 which included:

- £124.2m in Council Tax;
- £71.9m in Business Rates; and
- £43.5m Sundry Income

For 2016/17 the forecast for collectible debits i.e. billed amounts is £254m. This comprises of

- £135.3m – Council Tax;
- £74.7m - Business Rates; and
- £44m – Sundry Income

1.2 All debts, taxes and rates are actively pursued and in most instances are collected with little difficulty. As a result debts are monitored to ensure they are collected in the most efficient and economical manner and are only written off where all means of recovery have been exhausted. This report will provide members with details of those sums that are over £10,000 in value and need to be written off as a result of these processes having been completed.

2. Recovery Procedures Undertaken

2.1 For those sums where a payment is outstanding the following recovery actions are undertaken:-

- Bill / Invoice sent.
- Reminder sent.
- Final Notice sent.
- Summons sent.
- Liability Order granted at Magistrates Court for Council Tax and NNDR.
- Wherever possible Attachment of Earnings or an Attachment of Benefit is set up for Council Tax.
- Telephone debt chasing to make arrangements to pay.
- Home visits are made to make arrangements to pay.
- 14 Day Warning Letter / Letter before action sent.
- Cases referred to Enforcement Agents / Debt Collectors.
- Charging Orders and Land Charges put against the property if appropriate.
- Committal action taken on Council Tax debts including surgeries at both One Stop shops.
- Statutory Demands issued for Bankruptcy proceedings.

2.2 If a debtor is having difficulty making the payment, special arrangements are used to effect recovery and this may mean extending the period of time to collect the debt. Only when all options have been explored would a debt be considered for write off.

2.3 There are a number of key reasons why a debt is put forward for write off. These include:

- The debt is uneconomical to collect i.e. the cost of collection.
- The debtor cannot be found despite all reasonable attempts to trace the debtor. The Revenue Service has access to Experian's database which is used for tracing

absconded debtors. Each case is checked against the system before a decision is taken to put forward the debt for write off.

- The debtor is deceased and there is no likely settlement from the estate or next of kin.
- Organisational insolvency and personal bankruptcy where there are no assets to claim against and there is no/limited likelihood of settlement.

3. Approach to Debt Write off

- 3.1 The amounts proposed for write off within this report are within the provisions set aside for doubtful debts. The Council has made provision for writing off bad debts and these debts will be charged against these provisions.
- 3.2 All debtor accounts have been provided to the Partnership Team Assurance Officers for scrutiny and to ensure that all necessary steps were taken prior to submission for write off. All accounts have been reviewed by the Team.
- 3.3 Whenever an amount is written off it is possible that further sums may be recovered in due course as new information is obtained. This would happen in the following instances:
- Where a new address is found for an absconded debtor attempts will be made to recover any outstanding sums.
 - Whenever a firm or individual goes into bankruptcy, liquidation, receivership etc., the Council's interest is registered with the Receiver, Liquidator etc. and the receiver may pay a dividend to creditors; and
 - Companies that have ceased trading but have not entered into insolvency may restart their business.
- 3.4 Following approval and the write off for individual debts, the Revenues Manager will provide a reconciliation statement identifying any discrepancies that have arisen and reasons for discrepancies. Schedules of balances actually written off will accompany the statement and be submitted to Financial Management for evidence and monitoring debt provision.

4. Councils constitution:

- 4.1 Within the Council's financial regulations debts for any single item or group of items up to £10,000 are submitted for approval to the Chief Finance Officer in conjunction with the Head of Regulation and Compliance and the relevant Strategic and/or Service Director.
- 4.2 Individual debts above this level (£10,000) require the approval of Audit & Governance Committee.

5. Debts of over £10,000 Identified for Write-Off

- 5.1 11 individual accounts with balances over £10,000 and totalling £226,385.88 have been identified for write off.

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5.2 These can be summarised as follows:

All Debts		
Write Offs Over £10k		
Write Off Reason	No of Cases	Amount for Write Off
Ceased Trading No Assets	4	£77,317.00
Gone No Trace	2	£23,438.96
Legal Department Recommendation	3	£46,154.52
Liquidation	1	£68,282.58
Unable To Collect	1	£11,192.82
Totals	11	£226,385.88
Breakdown into annual debt:		
2001		£240.44
2004		£148.74
2005		£879.11
2006		£1,535.75
2007		£2,313.79
2008		£2,468.21
2009		£2,187.22
2010		£2,849.26
2011		£2,604.28
2012		£22,500.09
2013		£21,783.16
2014		£24,395.86
2015		£120,274.47
2016		£22,205.50
Total		£226,385.88

5.3 These debts can be broken down into separate revenue types as follows:-

NNDR		
Write Offs Over £10k		
Write Off Reason	No of Cases	Amount for Write Off
Ceased Trading No Assets	4	£77,317.00
Gone No Trace	1	£12,415.70
Liquidation	1	£68,282.58
Totals	6	£158,015.28
Breakdown into annual debt:		
2014		£16,639.11
2015		£119,179.47
2016		£22,196.70
Total		£158,015.28

Write Offs Over £10k		
Write Off Reason	No of Cases	Amount for Write Off
Legal Department Recommendation	3	£46,154.52
Totals	3	£46,154.52
Breakdown into annual debt:		
2012		£20,284.19
2013		£19,188.47
2014		£6,681.86
Total		£46,154.52

Council Tax		
Write Offs Over £10k		
Write Off Reason	No of Cases	Amount for Write Off
Gone No Trace	1	£11,023.26
Unable To Collect	1	£11,192.82
Totals	2	£22,216.08
Breakdown into annual debt:		
2001		£240.44
2004		£148.74
2005		£879.11
2006		£1,535.75
2007		£2,313.79
2008		£2,468.21
2009		£2,187.22
2010		£2,849.26
2011		£2,604.28
2012		£2,215.90
2013		£2,594.69
2014		£1,074.89
2015		£1,095.00
2016		£8.80
Total		£22,216.08

5.4 Whilst the Council seeks to limit the level of debt that is written off, every effort is made to ensure that collection levels remain high. The table below shows the percentage collection rates for both Council tax and NNDR. As reported to various council committees these collection rates are upper quartile when compared to all local authorities nationally.

Council Tax			NNDR	
Year	Collection Rate		Year	Collection Rate
2001	96.20%			
2004	95.60%			
2005	96.10%			

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2006	96.40%			
2007	96.40%			
2008	96.40%			
2009	96.70%			
2010	96.70%			
2011	97.10%			
2012	97.30%			
2013	96.20%			
2014	96.30%		2014	98.40%
2015	96.20%		2015	99.30%
2016	Currently 67.78% Target @ 31/3/17 96.40%		2016	Currently 67.99% Target @ 31/3/17 98.50%

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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