

# Audit and Governance Committee

9 September 2020



Working in partnership with **Eastbourne Homes**

Time: 6.00 pm

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**Instructions for members of the Committee and Officers to join the meeting have been circulated separately.**

## Membership:

**Councillor Dean Sabri (Chairman); Councillors Robin Maxted (Deputy-Chair) Helen Burton, Sammy Choudhury, Paul Metcalfe, Md. Harun Miah, Amanda Morris and Barry Taylor**

**Quorum: 2**

*Published: Tuesday, 1 September 2020*

## Agenda

- 1 Apologies for absence/declaration of substitute members**
- 2 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.**
- 3 Minutes** (Pages 5 - 10)  
To confirm the minutes of the last meeting of the Committee, held on 4 March 2020.
- 4 Questions by members of the public**  
On matters not already included on the agenda and for which prior written notice has been given (total time allowed 15 minutes).
- 5 Urgent items of business.**

The Chairman to notify the Committee of any items of urgent business to be added to the agenda.

**6 Right to address the meeting/order of business.**

The Chairman to report any requests received to address the Committee from a member of the public or from a Councillor in respect of an item listed below and to invite the Committee to consider taking such items at the commencement of the meeting.

**7 External Audit Report 2018/19 (To Follow)**

**8 Annual Treasury Management Report (Pages 11 - 28)**

Report of the Chief Finance Officer.

**9 Covert Surveillance Policies Report (Pages 29 - 50)**

Report of the Assistant Director of Legal and Democratic Services.

**10 Internal Audit Annual Report 2019-2020 (Pages 51 - 62)**

Report of the Chief Internal Auditor.

**11 Annual Governance Statement Report (Pages 63 - 90)**

Report of the Chief Internal Auditor.

**12 Internal Audit and Counter Fraud Quarterly Report (Pages 91 - 102)**

Report of the Chief Internal Auditor.

**13 Review of Risk Management Report (Pages 103 - 128)**

Report of the Chief Internal Auditor.

**14 Strategic Risk Register Report (Pages 129 - 144)**

Report of the Chief Internal Auditor.

**15 Date of next meeting**

## **Information for the public**

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**Public Participation:** Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to submit a speech on a matter which is listed on the agenda if applicable. Where speeches are normally allowed at a Committee, live public

speaking has temporarily been suspended for remote meetings. However, it remains possible to submit speeches which will be read out to the Committee by an Officer.

## Information for Councillors

**Disclosure of interests:** Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

**Other participation:** Please contact Democratic Services for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

## Democratic Services

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

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## **Audit and Governance Committee**

**Minutes of meeting held in Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG on 4 March 2020 at 6.00 pm**

### **Present:**

Councillors Robin Maxted (Deputy Chair, in the Chair) Sammy Choudhury, Paul Metcalfe and Barry Taylor and Candy Vaughan (as substitute for Md, Harun Miah)

### **Officers in attendance:**

Oliver Dixon (Senior Lawyer and Data Protection Officer), Homira Javadi (Chief Finance Officer), Ola Owolabi (Deputy Chief Finance Officer (Corporate Finance)), Jackie Humphrey (Chief Internal Auditor) and Elaine Roberts (Committee Officer)

**Also in attendance:** Councillor Robert Smart (Shadow Cabinet Member)

### **22 Minutes**

The minutes of the meeting held on 18 September 2019 were submitted and approved and the Chair was authorised to sign them as an accurate record.

### **23 Apologies for absence/declaration of substitute members**

Apologies were received from Councillor Sabri, Chair; Councillor Burton, and Councillor Miah.

Deputy Chair, Councillor Maxted, acted as Chair for the meeting. Councillor Vaughan attended as substitute for Councillor Miah.

### **24 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.**

There were none.

### **25 Questions by members of the public.**

None received.

### **26 Urgent items of business.**

There were none.

**27 Right to address the meeting/order of business.**

A request was received from Councillor Smart regarding Item 7 on the agenda. Following an invitation from the Chair to address the Committee, Councillor Smart spoke and voiced his concerns about the delay in the publishing of the External Audit of Accounts, and specifically, the lack of apparent progress, the potential for impact on next budget planning, and that there was no personal representation from the external auditors at the meeting.

The Chair thanked Councillor Smart for his comments and it was agreed to move to the next item on the agenda: an update report from the Chief Finance Officer regarding the External Audit.

**28 External Audit of the 2018/19 Statement of Accounts**

Homira Javadi, Chief Finance Officer, gave a verbal presentation, to provide background and context, and presented the main report, to update the Committee in respect of the delay in issuing the final and audited Statement of Accounts for the 2018/19 year and to explain the technical issues experienced.

Questions and comments from members followed. Points and topics discussed included:

- The role of the Public Sector Audit Appointments Ltd (PSAA) and its responsibilities were clarified, including its appointment of external auditors to every council on a five year contract and the setting of fees.
- That as the appointment of Deloitte as our external auditor had been made by the PSAA, there consequently was no direct contract between the Council and Deloitte.
- The Chief Finance Officer confirmed that the Council had provided all the information requested to the External Auditors, in appropriate formats, including the draft accounts for Investment Company Eastbourne (ICE).
- That Deloitte had stated it does not have the resources currently available to review the information provided by the Council.
- It was recognised that many councils have experienced similar issues in the processing of the external audit: 40% of councils had not published their accounts as at July 2019.
- That the Finance Team had made it clear on several occasions, to both Deloitte and PSAA, of the unacceptability of the situation.
- That the East Sussex Finance Officers Association (ESFOA) had called in the PSAA to collectively lodge their grievances.
- The Chief Finance Officer confirmed that, due to the Council's own internal auditing being up to date, there would be minimal risk of impact from the External Audit delay on financial planning activity. The Chief Finance Officer also confirmed that the 2019/20 timetable had already been shared with Deloitte with a request that they commit to the timetable to avoid future delays.

The Chair thanked the Chief Finance Officer for a comprehensive and enlightening presentation.

**Resolved (unanimous):** The Committee agreed that a letter should be sent from the Chair to Public Sector Audit Appointments Ltd (PSAA) outlining the serious concerns of the Audit and Governance Committee.

**Resolved (unanimous):** That the Committee instruct the Chief Finance Officer to request that Deloitte makes a presentation in person at the next meeting of the Audit and Governance Committee.

## **29 Annual report on the use and governance of covert surveillance powers**

Oliver Dixon, Senior Lawyer and RIPA Monitoring Officer, presented the report and the Committee considered the overview of the Council's use of covert surveillance powers in 2019/20 and also considered the recent external inspection report of surveillance governance arrangements.

Two points of action in response to report recommendations were highlighted: The need to amend the Council's RIPA Policy to include provision, in particular, for the use of Covert Human Intelligence Sources (CHIS) where appropriate; and to make arrangements for Officer training on the management and use of CHIS in line with the amended policy.

The RIPA Monitoring Officer informed the Committee that he would bring the amended policy to the next meeting (currently scheduled for July 2020) for consideration and approval.

The Chair thanked the RIPA Monitoring Officer and congratulated the Council for the Inspector's positive comments on the standard of its RIPA documentation.

**Resolved (unanimous):**

1. To note the Council's use of covert surveillance powers during 2019/20
2. To note the findings of the Investigatory Powers Commissioner's Office inspection conducted in 2019.

## **30 Internal Audit Report for the first three quarters of the financial year 2019-20**

Jackie Humphrey, Chief Internal Auditor, presented the report and the Committee considered the summary of activities of Internal Audit and Counter Fraud for the first three quarters of the financial year: 1<sup>st</sup> April to 31<sup>st</sup> December 2019.

The Chair invited comments and queries from Committee Members.

It was clarified that auditor training requirements had led to slight delays, but that work was already underway to ensure next year's deadlines; the issue

with IT noted in the report has been resolved; and the Chief Internal Auditor explained how considerations were taken to ensure appropriate balance of resources.

The Chair thanked the Chief Internal Officer for the report.

**Resolved (unanimous):** that the report be noted.

### 31 Draft Internal Audit Plan for 2020/2021

Jackie Humphrey, Chief Internal Auditor, presented the report outlining the Draft Internal Audit Plan for 2020/21 and the Committee considered the proposed plan.

The proposal presented a new, more flexible approach, to help better meet the needs of senior management and add value, whilst ensuring adequate breadth of cover to the work carried out. Officers would provide quarterly reports to the Committee.

It was noted that plans have been considered to invest in Financial Investigator training, to improve in-house capabilities and also provide a potential revenue stream as a service to other local authorities. A report would be made to the Committee at a later date.

The Chair thanked Jackie Humphrey for the presentation of an innovative plan and the Committee congratulated the team on its work.

**Resolved (unanimous):** That the report be noted and the proposed plan was agreed.

### 32 Strategic Risk Register Quarterly Review

Jackie Humphrey, Chief Internal Auditor, presented the report and the Committee considered the outcomes of the quarterly review of the Strategic Risk Register by the Corporate Management Team.

Two areas of risk were highlighted for explanation: that the previous increase risk value due to Brexit had been left in place, due to the ongoing lack of clarity on likely impacts; and that the Coronavirus score will be increased if and when it becomes classed as pandemic.

The Chair thanked Jackie Humphrey and the team for its work.

**Resolved (unanimous):** That the update to the Strategic Risk Register be noted.



**33 Date of next meeting**

Wednesday 8<sup>th</sup> July, 6pm, Court Room, Eastbourne Town Hall.

The meeting ended at 7.32 pm

Councillor Maxted

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# Agenda Item 8

<b>Report to:</b>	<b>Audit and Governance Committee</b>
<b>Date:</b>	<b>9 September 2020</b>
<b>Title:</b>	<b>Treasury Management Annual Report 2019/20</b>
<b>Report of:</b>	<b>Chief Finance Officer</b>
<b>Cabinet member:</b>	<b>Councillor Stephen Holt, Cabinet Member for Finance</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	To report on the activities and performance of the Treasury Management service during 2019/20
<b>Decision type:</b>	Budget and Policy Framework
<b>Officer recommendation(s):</b>	(1) To note the annual Treasury Management report for 2019/20. (2) To note the 2019/20 prudential and treasury indicators.
<b>Reasons for recommendations:</b>	Requirement of CIPFA Treasury Management in the Public Sector Code of Practice (the Code) and this has to be reported to Full Council.
<b>Contact Officer:</b>	Name: Ola Owolabi Post title: Deputy Chief Finance Officer E-mail: ola.owolabi@lewes-eastbourne.gov.uk Telephone number: 01323 415083

## **1 Introduction**

- 1.1 This Council is required through regulations issued under the Local Government Act 2003 to produce an annual treasury report reviewing treasury management activities and the actual prudential and treasury indicators for 2019/20. This report meets the requirements of both the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).
- 1.2 During 2019/20 the minimum reporting requirements were that the full Council should receive the following reports:
- an annual treasury strategy in advance of the year (Council 06 February 2019)
  - a mid year (minimum) treasury briefing (Council 05 February 2020)
  - an annual report following the year describing the activity compared to the strategy (this report).

- 1.3 In addition Treasury Management updates are included in the quarterly performance management reports, considered by both the Cabinet and Scrutiny Committee. Recent changes in the regulatory environment place a much greater onus on Members for the review and scrutiny of treasury management policy and activities. This report is important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the Council's policies previously approved by members. This report will be considered by the Cabinet at the 16<sup>th</sup> September 2020 meeting.
- 1.4 This Council also confirms that it has complied with the requirement under the Code to give prior scrutiny to all of the above treasury management reports by the Audit & Governance Committee before they were reported to the full Council. Member training on treasury management issues was undertaken on 22 January 2020, Court Room, Town Hall, Eastbourne. This is to support Members' scrutiny role and further training is expected to take place in 2020-21.
- 1.5 This report summarises:
- Capital activity during the year;
  - Impact of this activity on the Council's underlying indebtedness (the Capital Financing Requirement (CFR));
  - Reporting of the required prudential and treasury indicators and changes to be approved;
  - Overall treasury position identifying how the Council has borrowed in relation to this indebtedness, and the impact on investment balances;
  - Summary of interest rate movements in the year;
  - Debt activity and investment activity.
  - Economic and Interest Rates

## **2.0 The Council's Capital Expenditure and Financing 2019/20**

- 2.1 The Council undertakes capital expenditure on long-term assets. These activities may either be:
- Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc.), which has no resultant impact on the Council's borrowing need; or
  - If insufficient financing is available, or a decision is taken not to apply resources, the capital expenditure will give rise to a borrowing need.

2.2 The actual capital expenditure forms one of the required prudential indicators. The table below shows the actual capital expenditure and how this was financed.

	2018/19 Actual £m	2019/20 Revised Estimate £m	2019/20 Actual £m
Non-HRA capital expenditure	35.8	14.6	14.3
HRA capital expenditure	4.7	6.5	4.5
Commercial Activities/nonfinancial investments	4.0	19.0	15.0
<b>Total capital expenditure</b>	<b>44.5</b>	<b>40.01</b>	<b>33.8</b>
Resourced by:			
• Capital receipts	7.8	3.0	3.6
• Capital grants & external funding	3.8	3.1	2.6
• Capital Reserves	4.2	5.2	4.2
• Revenue	0.5	1.1	0.5
<b>Use of internal balances/ borrowing</b>	<b>28.2</b>	<b>27.7</b>	<b>23.4</b>

### 3.0 The Council's overall borrowing need

3.1 The Capital Financing Requirement (CFR) represents the Council's total underlying need to borrow to finance capital expenditure, i.e. capital expenditure that has not been resourced from capital receipts, capital grants and contributions or the use of reserves. Some of this borrowing is from the internal use of cash balances.

3.2 Part of the Council's treasury activities is to address the funding requirements for this borrowing need. Depending on the capital expenditure programme, the treasury service organises the Council's cash position to ensure sufficient cash is available to meet the capital plans and cash flow requirements. This may be sourced through borrowing from external bodies (such as the Government, through the Public Works Loan Board [PWLb] or the money markets), or utilising temporary cash resources within the Council.

3.3 **Reducing the CFR** – the Council's (non HRA) underlying borrowing need (CFR) is not allowed to rise indefinitely. Statutory controls are in place to ensure that capital assets are broadly charged to revenue over the life of the asset. The Council is required to make an annual revenue charge, called the Minimum Revenue Provision (MRP), to reduce the CFR. This is effectively a repayment of the non-Housing Revenue Account (HRA) borrowing need (there is no statutory requirement to reduce the HRA CFR). This differs from the treasury management arrangements which ensure that cash is available to meet capital commitments. External debt can also be borrowed or repaid at any time, but this does not change the CFR. The total CFR can also be reduced by:

- the application of additional capital financing resources (such as unapplied

capital receipts); or

- charging more than the statutory revenue charge (MRP) each year through a Voluntary Revenue Provision (VRP).

3.4 The Council's 2019/20 MRP Policy (as required by CLG Guidance) was approved as part of the Treasury Management Strategy Report for 2019/20 on 6 February 2019. The Council's CFR for the year is shown below, and represents a key prudential indicator. The figures include a credit sales agreement on the balance sheet, which increases the Council's borrowing need, the CFR.

CFR	31 March 2019 Actual £m	31 March 2020 Revised Estimate £m	31 March 2020 Actual £m
Opening balance	122.6	149.9	149.9
Add unfinanced capital expenditure (per table 2.0)	28.2	27.7	23.4
Less MRP	(0.9)	(0.6)	(0.5)
Closing balance	<b>149.9</b>	<b>177.0</b>	<b>172.8</b>

3.5 Minimum Revenue Provision (MRP) - A consultant was commissioned to review the Council MRP, which resulted in a revision to the MRP methodology recommendation. The current methodology for borrowing incurred before 1 April 2008 is based on using an equal instalment method and other appropriate options. The alternative now proposed was an annuity method.

3.6 Under this revised methodology, MRP will be lower in the early years and increases over time. This is considered a prudent approach as it reflects the time value of money (i.e. the impact of inflation) as well as providing a charge that is better matched to how the benefits of the asset financed by borrowing are consumed over its useful life. That is, a method that reflects the fact that asset deterioration is slower in the early years of an asset and accelerates towards the latter years. The revised MRP Policy Statement therefore reflects this change in policy introduced during 2019/20.

3.7 The borrowing activity is constrained by prudential indicators for net borrowing and the CFR, and by the Authorised Limit.

**Net borrowing and the CFR** - in order to ensure that borrowing levels are prudent over the medium term, the Council's external borrowing net of investments, must only be for a capital purpose. This essentially means that the Council is not borrowing to support revenue expenditure. Net borrowing should not therefore, except in the short term, have exceeded the CFR for 2018/19 plus the expected changes to the CFR over 2019/20 and 2020/21. This indicator allows the Council some flexibility to borrow in advance of its immediate capital need in 2019/20. The table below highlights the Council's net borrowing position against the CFR. The Council has complied with this prudential indicator.

	31 March 2019 Actual £m	31 March 2020 Revised Estimate £m	31 March 2020 Actual £m
Net borrowing position	123.6	151.3	162.2
CFR	149.9	177.0	172.8

3.8 **The Authorised limit** - the Authorised limit is the “affordable borrowing limit” required by s3 of the Local Government Act 2003. The Council does not have the power to borrow above this level. The table below demonstrates that during 2019/20 the Council has maintained gross borrowing within its Authorised limit.

**The operational boundary** – the operational boundary is the expected borrowing position of the Council during the year. Periods where the actual position is either below or over the boundary is acceptable subject to the Authorised limit not being breached.

**Actual financing costs as a proportion of net revenue stream** - this indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream.

Descriptions	2019/20
Authorised limit	£202.7m
Maximum gross borrowing position	£168.0m
Operational boundary	£187.1 m
Average gross borrowing position	£143.0m
Financing costs as a proportion of net revenue stream:	
Non HRA	10.8%
HRA	14.1%

#### 4.0 **Treasury Position as at 31 March 2019**

4.1 The Council’s debt and investment position is organised by staff within Financial Services in order to ensure adequate liquidity for revenue and capital activities, security for investments and to manage risks within all treasury management activities.

4.2 Procedures and controls to achieve these objectives are well established both through Member reporting detailed in the summary, and through officer activity detailed in the Council’s Treasury Management Practices. At the beginning and the end of 2019/20 the Council’s treasury position was as follows:

<b>TABLE 1</b>	<b>31 March 2019 Principal</b>	<b>Rate/ Return</b>	<b>31 March 2020 Principal</b>	<b>Rate/ Return</b>
Fixed rate funding:				
-PWLB	£87.1m		£125.7m	
-Market	£36.5m		£36.5m	
- Serco Paisa	£0.0m		£0.0m	
<b>Total debt</b>	<b>£123.6m</b>	<b>2.74%</b>	<b>£162.2m</b>	<b>2.52%</b>
CFR	£149.9m		£172.8m	
Over/ (under) borrowing	(£26.3m)		(£10.6m)	
<b>Total investments (excl. cash)</b>	<b>£0m</b>		<b>£0m</b>	

The Council held cash balances of £3.2m in a current account on which interest of 0.65% was being earned until the March base rate change.

4.3 The maturity structure of the debt portfolio excluding Serco Paisa was as follows:

	<b>31 March 2019 Actual £m</b>	<b>31 March 2020 Original limits £m</b>	<b>31 March 2020 Actual £m</b>
Under 12 months	28.1	20.0	37.71
12 months and within 24 months	-	4.0	5.21
24 months and within 5 years	18.3	22.0	10.74
5 years and within 10 years	-	2.1	13.98
10 years and above	77.2	103.2	94.52

The exposure to fixed and variable rates (including Serco Paisa) was as follows:

	<b>31 March 2019 Actual £m</b>	<b>31 March 2020 Original limits £m</b>	<b>31 March 2020 Actual £m</b>
Principal - Debt Fixed rate	123.6	151.3	162.1
Principal – Investments Variable rate	0	N/a	0



## **5.0 The Strategy for 2019/20**

- 5.1 Investment returns remained low during 2019/20. The expectation for interest rates within the treasury management strategy for 2019/20 was that Bank Rate would stay at 0.75% during 2019/20 as it was not expected that the MPC would be able to deliver on an increase in Bank Rate until the Brexit issue was finally settled. However, there was an expectation that Bank Rate would rise after that issue was settled, but would only rise to 1.0% during 2020. Shorter term investment interest rates were fairly flat during most of the year until the two cuts in Bank Rate in March 2020 caused investment rates to fall sharply.
- 5.2 The Council does not have sufficient cash balances to be able to place deposits for more than a month so as to earn higher rates from longer deposits. While the Council has taken a cautious approach to investing, it is also fully appreciative of changes to regulatory requirements for financial institutions in terms of additional capital and liquidity that came about in the aftermath of the financial crisis. These requirements have provided a far stronger basis for financial institutions, with annual stress tests by regulators evidencing how institutions are now far more able to cope with extreme stressed market and economic conditions.
- 5.3 Investment balances have been kept to a minimum through the agreed strategy of using reserves and balances to support internal borrowing, rather than borrowing externally from the financial markets. External borrowing would have incurred an additional cost, due to the differential between borrowing and investment rates as illustrated in the charts shown below. Such an approach has also provided benefits in terms of reducing the counterparty risk exposure, by having fewer investments placed in the financial markets.
- 5.4 During 2019-20, the Council maintained an under-borrowed position. This meant that the capital borrowing need, (the Capital Financing Requirement), was not fully funded with loan debt, as cash supporting the Council's reserves, balances and cash flow was used as an interim measure. This strategy was prudent as investment returns were low and minimising counterparty risk on placing investments also needed to be considered.
- 5.5 A cost of carry remained during the year on any new long-term borrowing that was not immediately used to finance capital expenditure, as it would have caused a temporary increase in cash balances; this would have incurred a revenue cost – the difference between (higher) borrowing costs and (lower) investment returns. The policy of avoiding new borrowing by running down spare cash balances, has served well over the last few years. However, this was kept under review to avoid incurring higher borrowing costs in the future when this Council may not be able to avoid new borrowing to finance capital expenditure and/or the refinancing of maturing debt.
- 5.6 Against this background and the risks within the economic forecast, caution was adopted with the treasury operations. The Chief Finance Officer, therefore monitored interest rates in financial markets and adopted a pragmatic strategy based upon the following principles to manage interest rate risks. If it had been felt that there was a significant risk of a sharp FALL in long and short term rates, (e.g. due to a marked increase of risks around relapse into recession or of risks of

deflation), then long term borrowings would have been postponed, and potential rescheduling from fixed rate funding into short term borrowing would have been considered.

- 5.7 Interest rate forecasts expected only gradual rises in medium and longer term fixed borrowing rates during 2019/20 and the two subsequent financial years. Variable, or short-term rates, were expected to be the cheaper form of borrowing over the period.

Link Asset Services Interest Rate View 31.3.20								
	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22
Bank Rate View	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
3 Month LIBID	0.45	0.40	0.35	0.30	0.30	0.30	0.30	0.30
6 Month LIBID	0.60	0.55	0.50	0.45	0.40	0.40	0.40	0.40
12 Month LIBID	0.75	0.70	0.65	0.60	0.55	0.55	0.55	0.55
5yr PWLB Rate	1.90	1.90	1.90	2.00	2.00	2.00	2.10	2.10
10yr PWLB Rate	2.10	2.10	2.10	2.20	2.20	2.20	2.30	2.30
25yr PWLB Rate	2.50	2.50	2.50	2.60	2.60	2.60	2.70	2.70
50yr PWLB Rate	2.30	2.30	2.30	2.40	2.40	2.40	2.50	2.50

- 5.8 In this scenario, the treasury strategy was to postpone borrowing to avoid the cost of holding higher levels of investments and to reduce counterparty risk. Since PWLB rates peaked during October 2018, most PWLB rates have been on a general upward trend.

## 6.0 Borrowing Outturn for 2019/20

### 6.1 Treasury Borrowing.

**Borrowing** – The Council has not borrowed more than, or in advance of its needs, purely in order to profit from the investment of the extra sums borrowed. New loans totalling £41m were drawn down from PWLB in 2019/20 to fund the net unfinanced capital expenditure and to replace maturing loans. Interest rates for PWLB borrowing was between 1.59% and 2.21% compared with a budget assumption of 2.8%. Various temporary loans were taken to cover cash flow requirements. All loans drawn were for fixed rate and are detailed in Appendix A.

In taking this decision, the Council carefully considered achieving best value, the risk of having to borrow at higher rates at a later date, the carrying cost of the difference between interest paid on such debt and interest received from investing funds which would be surplus until used, and that the Council could ensure the security of such funds placed on temporary investment.

**Rescheduling** – no debt rescheduling was carried out during the year as there was no financial benefit to the Council.

**Repayment** – £0m of long term PWLB debt was repaid at maturity on 19 June 2018 and £2.5m was an instalment repayment for the repayment (EIP) loans.

Various temporary loans were repaid during the year, see Appendix A.

**Summary of debt transactions** – the overall position of the debt activity resulted in a fall in the average interest rate by 0.2%, representing a saving to the General Fund.

## 7.0 **Interest Rates in 2019/20**

7.1 The tight monetary conditions following the financial crisis continued through 2019/20 with little material movement in the shorter term deposit rates.

7.2 Bank Rate remained at 0.75% until 11 March 2020 when it was reduced to 0.25%, which was followed with a further reduction on 19 March 2020 to 0.10%. Investment rates remained very low. With many financial institutions failing to meet the Council's investment criteria, the opportunities for investment returns were limited. The investment rates at the beginning, average and end of the year are provided below.

Investment Term	Interest Rate March 2019	Average Rate	Interest rate April 2020
Overnight	0.55%	0.72%	0.10%
1 Month	0.70%	0.56%	0.11%
3 Months	0.80%	0.63%	0.26%
6 Months	0.80%	0.70%	0.31%
12 Months	0.95%	0.80%	0.39%

The PWLB rates (including the 0.2% reduction for Certainty Rate) at the beginning, average and end of the year are provided below.

Term	Interest Rate March 2019	Average Rate	Interest rate April 2020
1 Year	1.46%	1.83%	1.90%
5 Years	1.52%	1.77%	1.95%
10 Years	1.84%	2.00%	2.14%
25 Years	2.41%	2.56%	2.65%
50 Years	2.24%	2.40%	2.39%

## 8.0 **Investment Outturn for 2019/20**

8.1 **Investment Policy** – the Council's investment policy is governed by MHCLG guidance, which was been implemented in the annual investment strategy approved by the Council on 06 February 2019. This policy sets out the approach for choosing investment counterparties, and is based on credit ratings provided by the three main credit rating agencies supplemented by additional market data (such as rating outlooks, credit default swaps, bank share prices etc.).

8.2 The investment activity during the year conformed to the approved strategy, and the Council had no liquidity difficulties.

8.3 **Resources** – the Council’s longer term cash balances comprise, primarily, revenue and capital resources, although these will be influenced by cash flow considerations. The Council’s core cash resources comprised as follows, and met the expectations of the budget:

<b>Balance Sheet Resources</b>	<b>31 March 2019 (Restated) £m</b>	<b>31 March 2020 £m</b>
Balances	5.55	2.03
Earmarked reserves	5.29	6.86
HRA	5.95	5.88
Major Repairs Reserve	1.06	1.15
Capital Grants & Contributions	2.60	1.95
Usable capital receipts	7.55	6.26
<b>Total</b>	<b>28.00</b>	<b>24.13</b>

8.4 **Investments held by the Council** - the Council maintained an average balance of £6.4m of internally managed funds. The internally managed funds earned an average rate of return of 0.6%. The comparable performance indicator is the average 7-day LIBID rate, which was 0.53%. This excludes the Council’s investment with Lloyds Bank of £1m for 5 years, (matured January 2019) at 3.03% which supported the Local Authority Mortgages Scheme (LAMS).

## 9.0 The Economy and Interest Rates Forecast

9.1 The Council’s treasury advisor, Link, provides the following forecast as at March 2020:

<b>Link Asset Services Interest Rate View 31.3.20</b>								
	<b>Jun-20</b>	<b>Sep-20</b>	<b>Dec-20</b>	<b>Mar-21</b>	<b>Jun-21</b>	<b>Sep-21</b>	<b>Dec-21</b>	<b>Mar-22</b>
<b>Bank Rate View</b>	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
<b>3 Month LIBID</b>	0.45	0.40	0.35	0.30	0.30	0.30	0.30	0.30
<b>6 Month LIBID</b>	0.60	0.55	0.50	0.45	0.40	0.40	0.40	0.40
<b>12 Month LIBID</b>	0.75	0.70	0.65	0.60	0.55	0.55	0.55	0.55
<b>5yr PWLB Rate</b>	1.90	1.90	1.90	2.00	2.00	2.00	2.10	2.10
<b>10yr PWLB Rate</b>	2.10	2.10	2.10	2.20	2.20	2.20	2.30	2.30
<b>25yr PWLB Rate</b>	2.50	2.50	2.50	2.60	2.60	2.60	2.70	2.70
<b>50yr PWLB Rate</b>	2.30	2.30	2.30	2.40	2.40	2.40	2.50	2.50

The Link central forecast is for the Bank Rate to increase to 1.00% in quarter 1 of 2020. The Economy and Interest Rates Forecast is attached as Appendix B.

## 10.0 Executive Summary and Conclusion

10.1 During 2019/20, the Council complied with its legislative and regulatory requirements. The key actual prudential and treasury indicators detailing the impact of capital expenditure activities during the year, with comparators, are as follows:

Actual prudential and treasury indicators	2018/19 Actual £m	2019/20 Revised Estimate £m	2019/20 Actual £m
Actual capital expenditure	43.6	40.1	33.8
Total Capital Financing Requirement:			
• Non-HRA	107.3	134.4	130.2
• HRA			
• Total	<u>42.6</u>	<u>42.6</u>	<u>42.6</u>
	149.9	177.0	172.8
Net borrowing	123.6		162.2
External debt	123.6		162.2
Investments (all under 1 year)	-		-

10.2 Other prudential and treasury indicators are to be found in the main body of this report. The Chief Finance Officer also confirms that borrowing was only undertaken for a capital purpose and the statutory borrowing limit (the Authorised limit), was not breached. The financial year 2019/20 continued the challenging environment of previous years; low investment returns and continuing counterparty risk continued.

## 11 Corporate plan and council policies

11.1 The priority themes were considered as part of the overall Capital Programme which forms part of the Treasury Management Strategy.

## 12 Financial appraisal

12.1 Financial appraisals were considered as part of the overall Capital Programme which forms part of the Treasury Management Strategy.

## 13 Legal implications

13.1 Comment from the Legal Services Team is not necessary for this routine monitoring report.

## 14 Risk management implications

14.1 Risks relating to the timing of borrowing and terms of borrowing are considered and advice is provided by Link. Risk management is considered for each of the schemes within the Capital Programme.

## 15 Equality analysis

15.1 Equality issues are considered

## **16 Appendices**

- 16.1
- Appendix A – Temporary loans taken during 2019/20.
  - Appendix B - The Economy and Interest Rates

## **17 Background papers**

The Background Papers used in compiling this report were as follows:

CIPFA Treasury Management in the Public Services code of Practice (the Code)  
Cross-sectorial Guidance Notes  
CIPFA Prudential Code  
Treasury Management Strategy and Treasury Management Practices adopted by the Council on 18 May 2010.  
Link Asset Services Citywatch and interest rate forecasts

**Treasury Management Annual Report 2019/20**  
**Appendix A**

**Temporary loans taken during 2019/20**

<b>Lender - Temp Debt</b>	<b>£m</b>	<b>Start Date</b>	<b>End Date</b>	<b>Rate</b>
North Yorkshire CC	5.0	18/04/2019	15/07/2019	0.82%
Cherwell DC	3.0	20/05/2019	17/02/2020	0.84%
Worcester CC	5.0	23/05/2019	23/09/2019	0.80%
Cambridge CC	3.0	22/11/2019	27/02/2020	0.75%
Oxfordshire CC	3.0	25/11/2019	26/05/2020	0.87%
GLA Fund for LTL London	9.0	19/12/2019	19/06/2020	0.90%
North Yorkshire CC	5.0	24/02/2020	24/11/2020	1.00%
East Riding of Yorkshire Pension Fund	10.0	16/03/2020	07/07/2020	0.95%

**Long Term Loans taken during 2019/20**

<b>Lender - Long Term Debt</b>	<b>£m</b>	<b>Start Date</b>	<b>End Date</b>	<b>Rate</b>
PWLB EIP	4.0	18/04/2019	24/09/2033	1.87%
PWLB EIP	4.0	26/04/2019	24/09/2033	1.84%
PWLB EIP	4.0	10/05/2019	24/09/2033	1.77%
PWLB EIP	4.0	17/05/2019	24/09/2033	1.71%
PWLB EIP	4.0	28/05/2019	24/09/2033	1.66%
PWLB Maturity	4.0	30/05/2019	24/09/2059	2.21%
PWLB Maturity	3.0	25/07/2019	24/09/2058	2.06%
PWLB Maturity	2.0	16/08/2019	24/09/2060	1.83%
PWLB Maturity	2.0	28/08/2019	24/09/2061	1.86%
PWLB Maturity	2.0	30/08/2019	24/09/2057	1.77%
PWLB Maturity	4.0	05/09/2019	24/09/2068	1.59%
PWLB Maturity	2.0	26/09/2019	24/03/2065	1.66%
PWLB Maturity	2.0	01/10/2019	24/03/2066	1.62%

Maturity loans – repayment is due in full at maturity.

EIP loans – loans are repaid over the term of the loan in equal instalments paid half yearly.

The long term borrowing interest rates vary between 1.59% and 2.21% compared with a budget assumption of borrowing at an interest rate of 2.8%.

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## Treasury Management Annual Report 2019/20

### Appendix B

#### The Economy and Interest Rates

UK. Brexit. The main issue in 2019 was the repeated battles in the House of Commons to agree on one way forward for the UK over the issue of Brexit. This resulted in the resignation of Theresa May as the leader of the Conservative minority Government and the election of Boris Johnson as the new leader, on a platform of taking the UK out of the EU on 31 October 2019. The House of Commons duly frustrated that renewed effort and so a general election in December settled the matter once and for all by a decisive victory for the Conservative Party: that then enabled the UK to leave the EU on 31 January 2020. However, this still leaves much uncertainty as to whether there will be a reasonable trade deal achieved by the target deadline of the end of 2020. It is also unclear as to whether the coronavirus outbreak may yet impact on this deadline; however, the second and third rounds of negotiations have already had to be cancelled due to the virus.

Economic growth in 2019 has been very volatile with quarter 1 unexpectedly strong at 0.5%, quarter 2 down at -0.2%, quarter 3 bouncing back up to +0.5% and quarter 4 flat at 0.0%, +1.1% y/y. 2020 started with optimistic business surveys pointing to an upswing in growth after the ending of political uncertainty as a result of the decisive result of the general election in December settled the Brexit issue. However, the three monthly GDP statistics in January were disappointing, being stuck at 0.0% growth. Since then, the whole world has changed as a result of the coronavirus outbreak. It now looks likely that the closedown of whole sections of the economy will result in a fall in GDP of at least 15% in quarter two. What is uncertain, however, is the extent of the damage that will be done to businesses by the end of the lock down period, when the end of the lock down will occur, whether there could be a second wave of the outbreak, how soon a vaccine will be created and then how quickly it can be administered to the population. This leaves huge uncertainties as to how quickly the economy will recover.

After the Monetary Policy Committee raised Bank Rate from 0.5% to 0.75% in August 2018, Brexit uncertainty caused the MPC to sit on its hands and to do nothing until March 2020; at this point it was abundantly clear that the coronavirus outbreak posed a huge threat to the economy of the UK. Two emergency cuts in Bank Rate from 0.75% occurred in March, first to 0.25% and then to 0.10%. These cuts were accompanied by an increase in quantitative easing (QE), essentially the purchases of gilts (mainly) by the Bank of England of £200bn.

The Government and the Bank were also very concerned to stop people losing their jobs during this lock down period. Accordingly, the Government introduced various schemes to subsidise both employed and self-employed jobs for three months while the country is locked down. It also put in place a raft of other measures to help businesses access loans from their banks, (with the Government providing guarantees to the banks against losses), to tide them over the lock down period when some firms may have little or no income. However, at the time of writing, this leaves open a question as to whether some firms will be solvent, even if they take out such loans, and some may also choose to close as there is, and will be, insufficient demand for their services.

At the time of writing, this is a rapidly evolving situation so there may be further measures to come from the Bank and the Government in April and beyond. The measures to support

jobs and businesses already taken by the Government will result in a huge increase in the annual budget deficit in 2020/21 from 2%, to nearly 11%. The ratio of debt to GDP is also likely to increase from 80% to around 105%. In the Budget in March, the Government also announced a large increase in spending on infrastructure; this will also help the economy to recover once the lock down is ended. Provided the coronavirus outbreak is brought under control relatively swiftly, and the lock down is eased, then it is hoped that there would be a sharp recovery, but one that would take a prolonged time to fully recover previous lost momentum.

Inflation has posed little concern for the MPC during the last year, being mainly between 1.5 – 2.0%. It is also not going to be an issue for the near future as the world economy will be heading into a recession which is already causing a glut in the supply of oil which has fallen sharply in price. Other prices will also be under downward pressure while wage inflation has also been on a downward path over the last half year and is likely to continue that trend in the current environment. While inflation could even turn negative in the Eurozone, this is currently not likely in the UK.

Employment had been growing healthily through the last year but it is obviously heading for a big hit in March – April 2020. The good news over the last year is that wage inflation has been significantly higher than CPI inflation which means that consumer real spending power had been increasing and so will have provided support to GDP growth. However, while people cannot leave their homes to do non-food shopping, retail sales will also take a big hit.

USA. Growth in quarter 1 of 2019 was strong at 3.1% but growth fell back to 2.0% in quarter 2 and 2.1% in quarters 3 and 4. The slowdown in economic growth resulted in the Fed cutting rates from 2.25-2.50% by 0.25% in each of July, September and October. Once coronavirus started to impact the US in a big way, the Fed took decisive action by cutting rates twice by 0.50%, and then 1.00%, in March, all the way down to 0.00 – 0.25%. Near the end of March, Congress agreed a \$2trn stimulus package (worth about 10% of GDP) and new lending facilities announced by the Fed which could channel up to \$6trn in temporary financing to consumers and firms over the coming months. Nearly half of the first figure is made up of permanent fiscal transfers to households and firms, including cash payments of \$1,200 to individuals.

The loans for small businesses, which convert into grants if firms use them to maintain their payroll, will cost \$367bn and 100% of the cost of lost wages for four months will also be covered. In addition there will be \$500bn of funding from the Treasury's Exchange Stabilization Fund which will provide loans for hard-hit industries, including \$50bn for airlines.

However, all this will not stop the US falling into a sharp recession in quarter 2 of 2020; some estimates are that growth could fall by as much as 40%. The first two weeks in March of initial jobless claims have already hit a total of 10 million and look headed for a total of 15 million by the end of March.

EUROZONE. The annual rate of GDP growth has been steadily falling, from 1.8% in 2018 to only 0.9% y/y in quarter 4 in 2019. The European Central Bank (ECB) ended its programme of quantitative easing purchases of debt in December 2018, which meant that the central banks in the US, UK and EU had all ended the phase of post financial crisis expansion of liquidity supporting world financial markets by purchases of debt. However,

the downturn in EZ growth, together with inflation falling well under the upper limit of its target range of 0 to 2%, (but it aims to keep it near to 2%), prompted the ECB to take new measures to stimulate growth.

At its March 2019 meeting it announced a third round of TLTROs; this provided banks with cheap two year maturity borrowing every three months from September 2019 until March 2021. However, since then, the downturn in EZ and world growth has gathered momentum so at its meeting in September 2019, it cut its deposit rate further into negative territory, from -0.4% to -0.5% and announced a resumption of quantitative easing purchases of debt to start in November at €20bn per month, a relatively small amount, plus more TLTRO measures. Once coronavirus started having a major impact in Europe, the ECB took action in March 2020 to expand its QE operations and other measures to help promote expansion of credit and economic growth. What is currently missing is a coordinated EU response of fiscal action by all national governments to protect jobs, support businesses directly and promote economic growth by expanding government expenditure on e.g. infrastructure; action is therefore likely to be patchy.

CHINA. Economic growth has been weakening over successive years, despite repeated rounds of central bank stimulus; medium-term risks have also been increasing. The major feature of 2019 was the trade war with the US. However, this has been eclipsed by being the first country to be hit by the coronavirus outbreak; this resulted in a lock down of the country and a major contraction of economic activity in February-March 2020. While it appears that China has put a lid on the virus by the end of March, these are still early days to be confident and it is clear that the economy is going to take some time to recover its previous rate of growth. Ongoing economic issues remain, in needing to make major progress to eliminate excess industrial capacity and to switch investment from property construction and infrastructure to consumer goods production. It also needs to address the level of non-performing loans in the banking and credit systems.

JAPAN has been struggling to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy. It appears to have missed much of the domestic impact from coronavirus in 2019-20 but the virus is at an early stage there.

WORLD GROWTH. The trade war between the US and China on tariffs was a major concern to financial markets and was depressing worldwide growth during 2019, as any downturn in China would spill over into impacting countries supplying raw materials to China. Concerns were particularly focused on the synchronised general weakening of growth in the major economies of the world. These concerns resulted in government bond yields in the developed world falling significantly during 2019. In 2020, coronavirus is the big issue which is going to sweep around the world and have a major impact in causing a world recession in growth in 2020.

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<b>Report to:</b>	<b>Audit and Governance Committee</b>
<b>Date:</b>	<b>9 September 2020</b>
<b>Title:</b>	<b>Covert Surveillance Policies</b>
<b>Report of:</b>	<b>Assistant Director of Legal and Democratic Services</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To seek approval of proposed covert surveillance policy changes</b>
<b>Officer recommendation(s):</b>	<b>(1) That the Committee approve–</b> <b>a) Lewes and Eastbourne Councils’ policy on the use of covert surveillance and/or covert human intelligence sources, as set out in Appendix 1; and</b> <b>b) the Councils’ policy on the acquisition of communications data, as set out in Appendix 2.</b> <b>(2) That the Committee grant delegated authority to each of the Chief Finance Officer and the Assistant Director of Legal and Democratic Services to implement the above policies.</b>
<b>Reasons for recommendations:</b>	<b>The Committee’s role includes oversight of the Council’s surveillance governance arrangements.</b>
<b>Contact Officer(s):</b>	<b>Name: Oliver Dixon</b> <b>Post title: Senior Lawyer and RIPA Monitoring Officer</b> <b>E-mail: <a href="mailto:oliver.dixon@lewes-eastbourne.gov.uk">oliver.dixon@lewes-eastbourne.gov.uk</a></b> <b>Telephone number: (01323) 415881</b>

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## **1 Introduction**

- 1.1 At its meeting on 4 March 2019, the Audit and Governance Committee noted the Investigatory Powers Commissioner’s Office (IPCO) recommendations to Lewes and Eastbourne Councils, arising from its inspection in December 2019.
- 1.2 The recommendations included the need for (a) certain changes to the councils’ covert surveillance policy; and (b) provision to be made for the lawful acquisition of communications data for investigative purposes.
- 1.3 Today’s report seeks approval of an updated covert surveillance policy and, for the first time, a policy on the acquisition of communications data.

## **2 Proposed amendments to Covert Surveillance Policy**

- 2.1 IPCO recommended that Eastbourne Borough Council's Covert Surveillance Policy provides guidance on the use of a Covert Human Intelligence Source ('CHIS' – see definition in 2.2. below), including arrangements for the appointment of persons fulfilling the role of 'handler' and 'controller' if and when a CHIS is deployed. IPCO further recommended that the policy explains how the role of CHIS differs from a person volunteering information to the Council.
- 2.2 A CHIS is someone (the source) who establishes a personal relationship with a person (the suspect) for the covert purpose of obtaining intelligence or disclosing information relating to the behaviour of the suspect. Eastbourne Borough Council may use a CHIS only for the purpose of preventing or detecting crime or for preventing disorder.
- 2.3 Accordingly, the amended policy at Appendix 1 of this report sets out the way in which the Council should manage the deployment of a CHIS (see paragraphs 12-14) and its procedure for reviewing and renewing a CHIS authorisation (see paragraphs 16-18). The distinction between a CHIS and a member of public merely volunteering information to the Council is explained at Appendix 2(b) of the policy.
- 2.4 In response to a further IPCO recommendation, the amended policy also provides for the processing of confidential information obtained from surveillance (see paragraphs 19-23).

## **3 Proposed Communications Data Acquisition Policy**

- 3.1 IPCO recommended that Lewes and Eastbourne Councils include in their Covert Surveillance Policy their stance on the use of communications data for investigative purposes, as permitted under the Investigatory Powers Act 2016. Due to the different statutory framework applicable to the two regimes (i.e. the Regulation of Investigatory Powers Act 2000 for directed surveillance and CHIS; and the Investigatory Powers Act 2016 for the acquisition of communications data, officers considered it more appropriate to draw up separate policies.
- 3.2 Accordingly, the Councils' proposed separate policy on the acquisition of communications data is set out in Appendix 2 of this report. The policy sets out the type of data the Councils may lawfully acquire when seeking to prevent or detect serious crime, and authorisation procedures.
- 3.3 To date, Lewes and Eastbourne Councils have not needed to use its data communications acquisition powers for investigative purposes. However, it is considered good practice to maintain a policy and procedure for doing so, should the need arise.

## **4 Alignment of policies**

- 4.1 In keeping with the Councils' approach to corporate policies, the two policies referred to in this report are aligned across Lewes and Eastbourne Councils. This helps to ensure consistent controls and implementation for both locations.

- 4.2 An equivalent report is to be considered by Lewes District Council's Audit and Standards Committee on 14 September 2020. In the event that the Audit and Governance Committee approve the two policies but subject to certain amendments, these variations will be put to the Audit and Standards Committee by way of a verbal update. Should the Lewes committee propose any amendments of its own, the report author will consult the Audit and Governance Committee chair as to next steps.

## **5 Policy Review**

- 5.1 Under the proposed Covert Surveillance Policy, there is no change to the requirement that the Councils' Audit committees receive an annual report on its implementation (see Appendix 1, paragraph 27). Officers will ensure that a suitable report is brought to both committees at the appropriate time each year.
- 5.2 The proposed policy on data communications acquisition contains an equivalent requirement (see Appendix 2, paragraphs 8.1 to 8.3)

## **6 Financial appraisal**

- 6.1 The cost of implementing the two policies referred to in this report will be met from existing service budgets.

## **7 Legal implications**

- 7.1 The Councils are strongly advised to adopt IPCO's recommendations, so as to improve compliance with surveillance legislation and supporting codes of practice. Doing so reduces the Councils' exposure to risk of evidence from surveillance being ruled inadmissible, and the risk of civil claims from individuals in connection with their right to respect for their private and family life.

*Lawyer consulted 19.08.20*

*Legal ref: 005383-JOINT-OD*

## **8 Risk management implications**

- 8.1 The Councils' arrangements for the management of covert surveillance, in terms of policies, procedures and designated roles (e.g. RIPA MO and RIPA authorising officers) should ensure that activity is fully compliant with surveillance and human rights legislation. Member oversight is provided in the way mentioned at 5.1 and 5.2 above, enabling a check on officers' use of surveillance powers over the previous year.

## **9 Equality analysis**

- 9.1 There are no equality issues associated with this report.

## 10 Appendices

- Appendix 1 – Proposed Policy on the Use of Covert Surveillance and/or Covert Human Intelligence Sources
- Appendix 2 – Proposed Policy on the Acquisition of Communications Data

## 11 Background papers

The background papers used in compiling this report were as follows:

- The Regulation of Investigatory Powers Act 2000:  
<http://www.legislation.gov.uk/ukpga/2000/23/contents>
- Home Office Code of Practice on Covert Surveillance and Property Interference (August 2018):  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/742041/201800802\\_CSPI\\_code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf)
- Home Office Code of Practice on Covert Human Intelligence Sources (August 2018):  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/742042/20180802\\_CHIS\\_code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/20180802_CHIS_code.pdf)
- The Investigatory Powers Act 2016:  
<https://www.legislation.gov.uk/ukpga/2016/25/contents>
- Communications Data Code of Practice (November 2018):  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/822817/Communications\\_Data\\_Code\\_of\\_Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822817/Communications_Data_Code_of_Practice.pdf)



# STRONGER together



Lewes District Council



Working in partnership with Eastbourne Homes

<b>Document name:</b>	Policy on use of covert surveillance and/or covert human intelligence sources
<b>Document type:</b>	Policy

<b>Authority(ies) covered:</b>	Aligned
<b>Responsible (Executive Lead):</b>	Councillor Zoe Nicholson, Leader of LDC; Cllr David Tutt, Leader of EBC
<b>Accountable (Operational Lead):</b>	Catherine Knight Assistant Director of legal and Democratic Services
<b>Version (e.g. first draft, final report):</b>	Amended policy
<b>Approved by:</b>	Audit and Governance Committee (EBC) Audit and Standards Committee (LDC) <i>Approval pending</i>
<b>Date of publication:</b>	[TBC]
<b>Revision due:</b>	[TBC]
<b>Final Equality and Fairness Analysis (EaFA) report approved by:</b>	Not applicable
<b>Date final EaFA report approved:</b>	Not applicable

## Contents

1. Introduction
2. Procedure
3. Management of CHIS
4. Review and renewal of a CHIS authorisation
5. Processing of confidential information obtained from surveillance
6. Training and policy review
7. Conclusion
8. Appendices

### Introduction

1. The Human Rights Act 1998 gave effect in UK law to the rights set out in the European Convention on Human Rights (ECHR). Some of these rights are absolute, while others are qualified, meaning that it is permissible for the state to interfere with those rights if certain conditions are satisfied. Amongst the qualified rights is a person's right to respect for their private and family life, home and correspondence, as provided for by Article 8 of the ECHR. It is Article 8 that is most likely to be engaged when public authorities seek to obtain private information about a person by means of covert surveillance. Article 6 of the ECHR, the right to a fair trial, is also relevant where a prosecution follows the use of covert techniques.
2. Part 2 of the Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory framework under which covert surveillance and/or use of covert human intelligence source (CHIS) can be authorised and conducted compatibly with the ECHR.
3. As part of their investigation activities to prevent and detect certain criminal offences, the Councils may need to undertake covert surveillance of individuals to gather evidence of illegal activity. They may also need to deploy a covert human intelligence source ('CHIS').
4. For the purposes of this policy, covert surveillance is taken to mean 'directed surveillance' which has a specific definition under section 26 of RIPA and is set out in full at Appendix 1.
5. The definition of a CHIS is set out in Appendix 2(a) of this policy. The distinction between a CHIS and a member of public merely volunteering information to the Council is explained at Appendix 2(b).
6. The use of social media as an intelligence gathering and/or investigations tool and, separately, the acquisition of communications data, are subject to their own respective policy statements; these are available as stand-alone documents on the Councils' website.

## Procedure

7. All physical or on-line covert surveillance (irrespective of whether its use falls within the ambit of the Regulation of Investigatory Powers Act 2000) and any use of a CHIS shall be undertaken in accordance with the procedures set out in this policy statement<sup>1</sup>.
8. The Councils shall ensure that covert surveillance and/or the use of CHIS is only undertaken where it complies fully with all applicable laws, in particular the:
  - Human Rights Act 1998 (incorporating the fundamental rights and freedoms contained in articles 2 to 14 of the European Convention on Human Rights)
  - Regulation of Investigatory Powers Act 2000 ('RIPA')
  - Protection of Freedoms Act 2012
  - General Data Protection Regulation
  - Data Protection Act 2018
9. The Councils shall, in addition, have due regard to all official guidance and codes of practice, particularly those issued by the Home Office, the Investigatory Powers Commissioner's Office and the Information Commissioner's Office. Of these, the most significant are:
  - Covert Surveillance and Property Interference – Code of Practice (Home Office, August 2018)
  - Covert Human Intelligence Sources – Revised Code of Practice (Home Office, August 2018)
10. In particular, the following guiding principles shall form the basis of all covert surveillance and CHIS activity undertaken by the Councils:
  - (i) Covert surveillance and/or the use of CHIS shall only be undertaken where it is absolutely necessary and only for the purpose of preventing or detecting a criminal offence.
  - (ii) Covert surveillance and/or the use of CHIS shall only be undertaken where it is proportionate to do so and in a manner that is proportionate.
  - (iii) No monitoring of social network sites for investigation purposes shall take place without considering whether such monitoring constitutes directed surveillance; nor, where it is considered to be so, without obtaining the requisite prior authorisation and approval.
  - (iv) Adequate regard shall be had to the rights and freedoms of those who are not the target of the covert surveillance.

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<sup>1</sup> Except that, as stated in paragraph 9(vi), judicial approval is required only in relation to directed surveillance regulated by RIPA and the use of a CHIS.

## Appendix 1

- (v) All authorisations to carry out covert surveillance and/or to use CHIS shall be granted by appropriately trained and designated authorising officers.
  - (vi) Directed surveillance and/or the use of CHIS shall only be undertaken after obtaining the approval of a justice of the peace (a magistrate or district judge).
11. With this mind, the Councils have adopted a policy of not normally conducting covert surveillance and/or using CHIS but of doing so only as a last resort, where all other investigative options have been deemed insufficient. Whilst each situation will be considered on its own merits and all relevant factors will be taken into account, covert surveillance and/or the use of CHIS will be considered only where deemed a proportionate response of last resort.

### **Management of CHIS**

12. Where the Councils have obtained the necessary authorisation and approval for the use of a CHIS, it will ensure that arrangements are in place for the proper oversight and management of the source, including appointing individual officers to act as 'controller' and 'handler' for each one. The Senior Responsible Officer for RIPA will determine on a case by case basis which officers will assume these roles for each deployment of a CHIS.
13. The 'controller' will normally be responsible for the management and supervision of the 'handler' and general oversight of the use of the CHIS. In addition, the controller should maintain an audit of case work sufficient to ensure that the use or conduct of the CHIS remains within the parameters of the extant authorisation.
14. The 'handler' will have day to day responsibility for:
- dealing with the CHIS on behalf of the council
  - directing the day to day activities of the CHIS;
  - recording the information supplied by the CHIS; and
  - monitoring the CHIS's security and welfare.
15. The handler of a CHIS will usually be of a rank or position below that of the authorising officer.

### **Review and Renewal of a CHIS Authorisation**

16. The authorising officer who grants an authorisation should (i) consider subsequent renewals of that authorisation and any related security and welfare issue, and (ii) stipulate the frequency of formal reviews to be undertaken with the controller and handler.
17. Where the nature or extent of intrusion into the private or family life of any person becomes greater than that anticipated in the original authorisation, the authorising officer should immediately review the authorisation and reconsider the proportionality of the operation. This should be highlighted at the next renewal (if applicable).

18. Any proposed changes to the nature of the CHIS operation (i.e. the activities involved) should immediately be brought to the attention of the authorising officer. The authorising officer should consider whether the proposed changes are within the scope of the existing authorisation and whether they are proportionate (bearing in mind any extra interference with private or family life or collateral intrusion), before approving or rejecting them. Any such changes should be highlighted at the next renewal (if applicable).

### **Processing of Confidential Information Obtained from Surveillance**

19. Surveillance activity may result in the collection of evidence which the subject of the investigation or operation would consider confidential. Particular care must be exercised in cases where the subject might reasonably assume a high degree of confidentiality. The four categories of information that demand very careful handling are as follows:
  - (i) material containing information that is legally privileged;
  - (ii) confidential journalistic material or where material identifies a journalist's source;
  - (iii) material containing confidential personal information; and
  - (iv) communications between a Member of Parliament and another person on constituency business.
20. The scope of material containing information that would be deemed legally privileged is set out in Appendix 3 of this policy statement.
21. The acquisition of material subject to legal privilege is particularly sensitive and may give rise to issues under Article 6 (right to a fair trial) ECHR as well as engaging Article 8 (right to respect for family and private life). The Councils must therefore apply additional safeguards if it anticipates obtaining information of this type (intentionally or in error) during covert surveillance. The safeguards should provide for three different circumstances where legally privileged items will or may be obtained, namely–
  - (i) where privileged material is intentionally sought;
  - (ii) where privileged material is likely to be obtained; and
  - (iii) where the purpose or one of the purposes is to obtain items that, if they were not generated or held with the intention of furthering a criminal purpose, would be subject to privilege.
22. Where a council investigating officer anticipates the occurrence of any of the circumstances at paragraph 19 above, he/she must consult the RIPA Monitoring Officer before submitting an application for authorisation. The RIPA MO will have regard to relevant legislation and codes of practice in advising on the appropriate safeguards that would be required before the covert surveillance may lawfully proceed, assuming the necessary council authorisation and judicial approval required by RIPA were already in place.
23. Directed surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material may be authorised only by the Councils' Chief Executive or (in their absence) the person acting in that role. This authorisation level is set at a more senior level than that required for other surveillance activity, reflecting the sensitive nature of such information.

## **Training and Policy Review**

24. All Council officers undertaking or authorising covert surveillance and/or using CHIS shall be appropriately trained to ensure that they understand their legal and moral obligations.
25. Periodic audits shall be carried out to ensure that officers are complying with this policy.
26. The Senior Responsible Officer for RIPA (currently the Assistant Director of Legal and Democratic Services) shall review this policy at least once a year in the light of the latest legal developments and changes to official guidance and codes of practice.
27. The operation of this policy shall be overseen by the Audit & Standards Committee and Audit & Governance Committee by receiving reports every 12 months on this policy and its implementation, and on any RIPA activity conducted during the preceding 12-month period.

## **Conclusion**

28. All citizens will reap the benefits of this policy, through effective enforcement of criminal and regulatory legislation and the protection that it provides.
29. Adherence to this policy will minimise intrusion into citizens' lives and guard against any legal challenge to the Councils' covert surveillance and CHIS activities.
30. Any questions relating to this policy should be addressed to:

Catherine Knight, Assistant Director of Legal & Democratic Services and RIPA Senior Responsible Officer

Oliver Dixon, Senior Lawyer and RIPA Monitoring Officer

## **Appendices**

- |                |                                                                                 |
|----------------|---------------------------------------------------------------------------------|
| Appendix 1:    | Definition of directed surveillance                                             |
| Appendix 2(a): | Definition of a CHIS                                                            |
| Appendix 2(b): | Distinction between a CHIS and a person volunteering information to the council |
| Appendix 3:    | Description of information to be treated as legally privileged                  |

## **Appendix 1 – Definition of Directed Surveillance**

Surveillance is ‘directed’ if undertaken–

- (i) in a manner that is covert but not ‘intrusive’ – see note 1 below;
- (ii) for the purposes of a specific investigation or a specific operation;
- (iii) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation);
- (iv) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance.

### Note 1

For the purposes of RIPA, ‘intrusive’ surveillance is covert surveillance that–

- (a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- (b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

### Note 2

Local authorities are not permitted to carry out ‘intrusive’ surveillance.

### Note 3

For local authorities, directed surveillance is amenable to authorisation under RIPA only where its purpose is the prevention or detection of a criminal offence that is punishable by a maximum term of at least six months’ imprisonment; or is related to the underage sale of alcohol and tobacco or nicotine inhaling products.

## **Appendix 2(a) – Definition of a Covert Human Intelligence Source (CHIS)**

Under the Regulation of Investigatory Powers Act 2000 Act, a person is a CHIS if:

- (1) they establish or maintain a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (2) or (3) below;
- (2) they covertly use such a relationship to obtain information or to provide access to any information to another person; or
- (3) they covertly disclose information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

In relation to paragraph (1) above, a relationship is established or maintained for a covert purpose if and only if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

In relation to paragraphs (2) and (3) above, a relationship is used covertly, and information obtained is disclosed covertly, if and only if the relationship is used or the information is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

## **Appendix 2(b) – Distinguishing between a CHIS and a member of the public volunteering information to the Council**

The key feature of a CHIS is the establishing and maintaining of a relationship with another person for a covert purpose.

In many cases involving information sourced from individuals, a relationship will **not** have been established or maintained for a covert purpose. A resident or someone who works in or visits the district or borough ('the source') may simply volunteer or provide information that they have observed or acquired other than through a relationship, without being induced, asked, or tasked by the Councils. In these circumstances, the source is not a CHIS for the purposes of RIPA and no authorisation under RIPA is required.

The Councils provide a confidential telephone and online facility to report suspected fraud. Even if the person using this facility is involved in the activities they are reporting, they would not be considered a CHIS as the information is not being disclosed on the basis of a relationship which was established or maintained for that covert purpose. However, should the person be asked to maintain their relationship with others involved and to continue to supply information (or it is otherwise envisaged that they will do so), an authorisation for the use or conduct of a CHIS may be appropriate.



**Appendix 3 – Description of information to be treated as legally privileged**

- (1) Communications between a professional legal adviser and—
  - (a) his client, or
  - (b) any person representing his client,  
which are made in connection with the giving of legal advice to the client.
  
- (2) Communications—
  - (a) between a professional legal adviser and his client or any person representing his client, or
  - (b) between a professional legal adviser or his client or any such representative and any other person,  
which are made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
  
- (3) Items enclosed with or referred to in communications of the kind mentioned in (1) or (2) above and made—
  - (a) in connection with the giving of legal advice, or
  - (b) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.

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# STRONGER together



Lewes District Council



Working in partnership with Eastbourne Homes

<b>Document name:</b>	Policy on the Acquisition of Communications Data under Part 3 of the Investigatory Powers Act 2016
<b>Document type:</b>	Policy

<b>Authority(ies) covered:</b>	Aligned
<b>Responsible (Executive Lead):</b>	Councillor Zoe Nicholson, Leader of LDC; Cllr David Tutt, Leader of EBC
<b>Accountable (Operational Lead):</b>	Catherine Knight Assistant Director of Legal and Democratic Services
<b>Version (e.g. first draft, final report):</b>	Draft for approval
<b>Approved by:</b>	Awaiting approval by: Audit and Standards Committee (LDC); Audit and Governance Committee (EBC).
<b>Date of publication:</b>	[TBC]
<b>Revision due:</b>	[TBC]
<b>Final Equality and Fairness Analysis (EaFA) report approved by:</b>	Not applicable
<b>Date final EaFA report approved:</b>	Not applicable

## Contents

1. Introduction
2. Communications Data
3. Extent of Data Acquisition Powers
4. Roles in Applying for and Granting Authorisation
5. Procedure for Applying for Authorisation
6. Training for Officers in Designated Roles
7. Keeping of Records
8. Policy Review and Member Oversight

### 1. Introduction

- 1.1 Part 3 of the Investigatory Powers Act 2016 ('the Act') permits certain public bodies to acquire specified types of communications data in limited circumstances, subject to prior authorisation granted in accordance with the Act. Part 3 applies principally to the police and central government departments and agencies, including defence, security and intelligence bodies. The power it grants to local authorities is less extensive, limiting the acquisition of data to cases involving the prevention or detection of serious crime (see further at 3.2).
- 1.2 The communications data which, in defined circumstances, local authorities are permitted to obtain under the Act is known as 'entity data' and 'events data'. Their scope is explained in section 2 below but, in brief, data of this nature can identify who a suspected offender has been in communication with via their telephone or e-mail, as well as where that communication was made or received. The data may therefore be of real investigative benefit.
- 1.3 The legal framework for this policy is the Act and statutory guidance contained in the Home Office Code of Practice on Communications Data (November 2018).

### 2. Communications data

- 2.1 In the Act and this policy, the term 'communications data' means 'entity data' and 'events data' and includes the 'who', 'when', 'where', and 'how' of a communication but not the content i.e. what was said or written.
- 2.2 **Entity data** means any data which—
  - (a) is about—
    - (i) an entity (a person or thing such as a phone, tablet or computer),

## Appendix 2

- (ii) an association between a telecommunications service and an entity, or
    - (iii) an association between any part of a telecommunication system and an entity,
  - (b) consists of, or includes, data which identifies or describes the entity (whether or not by reference to the entity's location), and
  - (c) is not events data.
- 2.3 Entity data covers information about a person or thing, and about links between a telecommunications system and a person or thing that identifies or describes the person or thing. This means that individual communication devices such as phones, tablets and computers are entities. The links between a person and their phone are therefore entity data but the fact of or information about communications between devices on a network at a specific time and for a specified duration would be events data.
- 2.4 Examples of entity data include:
- Subscriber checks' such as "who is the subscriber of phone number 01234 567 890?", "who is the account holder of e-mail account [example@example.co.uk](mailto:example@example.co.uk)?" or "who is entitled to post to web space [www.example.co.uk](http://www.example.co.uk)?"
  - subscribers' or account holders' account information, including names and addresses for installation, and billing including payment method(s), details of payments;
  - information about the connection, disconnection and reconnection of services to which the subscriber or account holder is allocated or has subscribed (or may have subscribed) including conference calling, call messaging, call waiting and call barring telecommunications services;
  - information about apparatus or devices used by, or made available to, the subscriber or account holder, including the manufacturer, model, serial numbers and apparatus codes; and information about selection of preferential numbers or discount calls.
- 2.5 **Events data** is more intrusive means any data which identifies or describes an event (whether or not by reference to its location) on, in or by means of a telecommunication system where the event consists of one or more entities engaging in a specific activity at a specific time.
- 2.6 Events data includes the way in which, and by what method, a person or thing communicates with another person or thing. It excludes anything within a communication including text, audio and video that reveals the meaning, other than inferred meaning, of the communication.

## Appendix 2

2.7 Events data can also include the time and duration of a communication, the telephone number or email address of the originator and recipient, and the location of the device from which the communication was made. It covers electronic communications including internet access, internet telephony, instant messaging and the use of applications.

2.8 Examples of events data include, but are not limited to:

- information tracing the origin or destination of a communication that is, or has been, in transmission (including incoming call records);
- information identifying the location of apparatus when a communication is, has been or may be made or received (such as the location of a mobile phone);
- information identifying the sender or recipient (including copy recipients) of a communication from data comprised in or attached to the communication;
- routing information identifying apparatus through which a communication is or has been transmitted (for example, file transfer logs and e-mail headers – to the extent that content of a communication, such as the subject line of an e-mail, is not disclosed)
- itemised telephone call records (numbers called);
- itemised internet connection records;
- itemised timing and duration of service usage (calls and/or connections);
- information about amounts of data downloaded and/or uploaded;
- information about the use made of services which the user is allocated or has subscribed to (or may have subscribed to) including conference calling, call messaging, call waiting and call barring telecommunications services.

### 3. Extent of data acquisition powers

3.1 The Council's acquisition of communications data under Part 3 of the Act will be a justifiable interference with an individual's human rights under Article 8 (the right to respect for privacy and family life) and, in certain circumstances, Article 10 (right to freedom of expression) of the European Convention on

Human Rights **only** if the conduct being authorised or required to take place is:

- (i) **necessary** for the purposes of a specific investigation or operation – see further at 3.2; and
- (ii) **proportionate** – see further at 3.4.

3.2 When applying for authorisation to acquire communications data, the Council must believe the acquisition is necessary for the purpose of the **prevention or detection of serious crime**.

3.3 'Serious crime' means:

- an offence for which an adult is capable of being sentenced to one year or more in prison;
- any offence involving violence, resulting in a substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal;
- any offence committed by a body corporate;
- any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person's privacy.

3.4 The Council must also believe the acquisition to be proportionate to what is sought to be achieved by obtaining the specified communications data – that the conduct is no more than is required in the circumstances.

3.5 The Council has no power to obtain the **content** of a communication.

#### 4. Roles in applying for and granting authorisation

4.1 Acquisition of communications data under the Act involves four roles:

- the applicant – see 4.2;
- the single point of contact ('SPoC') – see 4.3;
- the Senior Responsible Officer – see 4.4;
- the authorising individual – see 4.5.

4.2 The **applicant** is a Council officer involved in conducting or assisting an investigation or operation who makes an application in writing or electronically for the acquisition of communications data. For this specialised function, the role would normally be reserved to a counter-fraud officer but the Chief Finance Officer may – where he/she considered it appropriate – authorise a named and suitably qualified officer from a different specialism to make an application.

4.3 The **SPoC** is an individual trained to facilitate the lawful acquisition of communications data and effective co-operation between the body applying

for authorisation (the Council) and the body with statutory power to grant the authorisation (the Office for Communications Data Authorisations – ‘OCDA’ – who act on behalf of the Investigatory Powers Commissioner – ‘IPC’). In respect of local authorities, the SPoC role is performed by the National Anti-Fraud Network (‘NAFN’) – see further at 5.2.

- 4.4 The **Senior Responsible Officer** (‘SRO’) must be a member of the corporate management team. The designated SRO for Lewes and Eastbourne Councils is the Assistant Director for Legal and Democratic Services, which is consistent with that role’s SRO functions for RIPA matters.

The SRO is responsible for:

- the integrity of the process in place within the Council to acquire communications data;
- compliance with Part 3 of the Act and with the Home Office code of practice on communications data;
- oversight of the reporting of errors to the (‘IPC’) and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- ensuring the overall quality of applications submitted to the Council’s SPoC;
- engagement with the IPC’s inspectors when they conduct their inspections; and
- where necessary, oversight of the implementation of post-inspection action plans approved by the IPC.

- 4.5 For local authorities, the **authorising individual** is OCDA, acting on behalf of the IPC.

#### 5. Procedure for applying for authorisation to acquire communications data

- 5.1 The procedure adopted by the Council in applying for an authorisation and in implementing any authorisation granted must comply with the Act and the Home Office Code of Practice, which include the measures set out in 5.2 to 5.6 below.
- 5.2 The Council must use NAFN’s SPoC services for any application it wishes to submit for authorisation. Following SPoC evaluation, authorisation to proceed may only be provided by OCDA.
- 5.3 Council applicants are required to consult a NAFN SPoC throughout the application process. The accredited SPoCs at NAFN will scrutinise the applications independently and will provide advice to the Council, ensuring it acts in an informed and lawful manner.



## Appendix 2

- 5.4 In addition to involving the NAFN SPoC, the Council must ensure that someone – “the verifying officer” – of at least the rank of the Council’s SRO is aware the application is being made before it is submitted to an authorising officer in OCDA. For Lewes and Eastbourne Councils, the verifying officer is the Chief Finance Officer, and this nomination will be notified to NAFN.
- 5.5 NAFN is responsible for submitting the application to OCDA on behalf of the Council.
- 5.6 The Council may not make an application that requires the processing or disclosure of internet connection records for any purpose.
- 5.7 The Council must cease any and all authorised acquisition of communications data as soon as the OCDA authorisation is cancelled or at the expiry of one month following the date of authorisation (whichever is sooner).
6. Training for officers with designated roles
  - 6.1 The Council must provide an adequate level of initial and refresher training to relevant officers to enable them to perform the role of applicant (see 4.2 above), SRO (see 4.4 above) or verifying officer (see 5.4 above), as applicable.
  - 6.2 The Council may enter into formal or informal partnership arrangements with other local authorities for the purpose of procuring region-wide training, in the interests of efficiency and effectiveness.
7. Records to be kept
  - 7.1 The Council must keep records of the appropriate matters set out in Chapter 24 of the Home Office Code of Practice, including the number of applications it submits to the SPoC for the acquisition of communications data.
  - 7.2 Under Chapter 24, the Council’s SPoC has record keeping responsibilities of its own, for example recording how many applications it forwards to OCDA for authorisation and, of these, the number granted and declined.
8. Policy review and member oversight
  - 8.1 The first version and any substantive review of this policy must be approved by the Audit and Governance Committee (in respect of EBC) or the Audit and Standards Committee (in respect of LDC).
  - 8.2 Minor or purely technical amendments to the policy may be implemented by the SRO under delegated powers.

## Appendix 2

- 8.3 A report on any use the Council makes of its data communications acquisition powers will be submitted annually to the A & G Committee or A & S Committee as applicable.
- 8.4 At national level, the Investigatory Powers Commissioner (IPC) provides comprehensive oversight of the use of the powers contained within the Act and adherence to the practices and processes described by the Home Office Code of Practice.
- 8.5 The IPC ensures compliance with the law by inspecting public authorities and investigating any issue which they believe warrants further independent scrutiny. The Council will engage and co-operate in full with any IPC inspection or scrutiny into the Council's proper or improper exercise of powers under the Act. Further, the Council will promptly act on any IPC recommendations for policy and procedural improvement or rectification.

DRAFT

<b>Report to</b>	<b>AUDIT AND GOVERNANCE COMMITTEE</b>
<b>Date:</b>	<b>9th September 2020</b>
<b>Title:</b>	<b>Internal Audit Report for the financial year 2019-2020.</b>
<b>Report Of:</b>	<b>Chief Internal Auditor</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To provide a summary of the activities of Internal Audit and Counter Fraud for the year 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020.</b>
<b>Officer recommendation(s):</b>	<b>That the information in this report be noted and members identify any further information requirements.</b>
<b>Reasons for recommendations:</b>	<b>The remit of the Audit and Governance Committee includes the duties to agree an Annual Audit Plan and keep it under review, and to keep under review the probity and effectiveness of internal controls, both financial and operational, including the Council's arrangements for identifying and managing risk.</b>
<b>Contact:</b>	<b>Jackie Humphrey, Chief Internal Auditor, Telephone 01323 415925 or internally on extension 5925. E-mail address jackie.humphrey@lewes-eastbourne.gov.uk</b>

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## **1.0 Introduction**

- 1.1 The work of Internal Audit is reported on a quarterly basis to demonstrate work carried out compared to the annual plan and to report on the findings of audit reports issued since the previous meeting of the committee. The annual audit plan for 2018/19 was agreed by the Audit and Governance Committee in March 2019.
- 1.2 The quarterly reports also summarise the work of the Counter Fraud team and the savings identified in the quarter.
- 1.3 This report summarises the work carried out by Internal Audit and Counter Fraud across the financial year 2019-20 and includes the Chief Internal Auditor's opinion on the control environment which is based on the outcomes of this work.

## **2.0 Review of work carried out by Internal Audit in the financial year 2019-2020.**

- 2.1 A list of all the audit reports issued in final from 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020 is as follows:

Benefits and CTR (18/19)	Substantial Assurance
Cash and Bank (18/19)	Substantial Assurance
Council Tax (18/19)	Substantial Assurance
Main Accounting (18/19)	Substantial Assurance
NNDR (18/19)	Substantial Assurance
Treasury Management (18/19)	Substantial Assurance
Creditors (18/19)	Partial Assurance
Housing Rents (18/19)	Partial Assurance
Payroll (18/19)	Substantial Assurance
IT (18/19)	Partial Assurance
Debtors (18/19)	Substantial Assurance
Internet and Telephone Payments	Partial Assurance
HR – Recruitment	Substantial Assurance
HR – Apprenticeships and staff retention	Substantial Assurance
Project Management	Substantial Assurance
Partnerships	Substantial Assurance
RIPA	Substantial Assurance

#### Levels of Assurance - Key

Assurance Level	Description
Full Assurance	Full assurance that the controls reduce the risk to an acceptable level.
Substantial Assurance	Significant assurance that the controls reduce the level of risk, but there are some reservations; most risks are adequately managed, for others there are minor issues that need to be addressed by management.
Partial Assurance	Partial assurance that the controls reduce the level of risk. Only some of the risks are adequately managed; for others there are significant issues that need to be addressed by management.
Minimal Assurance	Little assurance that the controls reduce the level of risk to an acceptable level; the level of risk remains high and immediate action is required by management.
No Assurance	No assurance can be given. The reasons will be explained thoroughly in the report.

- 2.2 Appendix A is the list of all reports issued in final during the year which were given an assurance level below “Substantial”. This list includes brief bullet points of the issues highlighted in the reviews which informed the assurance level given.
- 2.3 The committee is reminded that these are the assurance levels that were given at the time the final report was issued and do not reflect recommendations that have been addressed. In order to clarify this a column has been added to show the assurance level given in the latest follow up carried out.
- 2.4 The work of carrying out the 18/19 annual audits was hindered by training two new members of staff. However, all reviews had been completed by November. From

January 2020 work began on the annual audits for 19/20 and these should be completed in a more timely manner.

- 2.5 The scope of the annual audits for 19/20 has also been reviewed as they have not changed for some years. It is important that the working programmes for each audit are up to date and relevant to the work being audited as well as ensuring that controls are in place and working correctly.
- 2.6 At the time of writing, work is still ongoing on the project to review the work that feeds into the Housing Subsidy claim. The aim is to improve the work at the point of input so that fewer errors are made which will enable the subsidy claim to be completed in a more timely manner.
- 2.7 During the financial year one member of staff had an absence of 10 weeks and another member of staff transferred to the Finance section at the beginning of December. This vacancy was not filled at the time as it coincided with the absence of another member of staff and when work was being carried out on the annual reviews for 19/20 so it was not possible to provide training. The recruitment process began in March but was put on hold before interviewing took place as the Covid-19 lockdown was put in place.
- 2.8 The Covid-19 lockdown came into effect at the end of March 2020 and so had little effect on the work carried out in 19/20. Further information on how this has affected the work of the section will be given when the work carried out in 20/21 is reported to the next meeting of the committee.
- 2.8 The table below shows the work carried out by the Internal Audit team by percentage across the main areas services. The style of reporting of our work has changed so that it now reflects that the work is changeable and that the team are flexible and more responsive to requests for work which are made throughout the year.

<b>Area</b>	<b>% of days on audits</b>	<b>% of days on advice/consultancy etc</b>	<b>% of total audit time</b>
<b>Annual audits</b>	49.70	0	47.62
<b>Claims</b>	28.48	0	27.29
<b>Corporate Services</b>	11.22	65.3	13.05
<b>Regeneration and Planning</b>	6.05	1.05	6.33
<b>Service Delivery</b>	4.02	18.28	4.79
<b>Tourism and Enterprise</b>	0.53	9.65	0.92
<b>TOTAL</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>% of total audit time</b>	<b>95.86</b>	<b>4.14</b>	<b>100</b>

### 3.0 Counter Fraud

- 3.1. During the year the team lost an experienced criminal investigator who joined Homes First in September. The successful applicant for the post has 30 years' experience with the police and they joined the team in November.

The Fraud and Audit Liaison Officer has completed her studies for the Accredited Counter Fraud Specialist qualification which will further enable the team to expand joint corporate projects in new and emerging areas.

- 3.2 The team continue to work closely with colleagues in Homes First and Legal. There are currently six ongoing sublet/abandonment tenancy cases at various stages. Five properties have been returned during this financial year with a net preventative saving to the authority of £465,000 (based on NFI estimate of £93,000.00 valuation for each returned property). 24 cases were closed down in this period with no further action. A joint working project has also begun which is to include the team within the process for tenancy successions in order to verify any applications received. As part of the team's involvement, Homes First will now arrange for an application form to be completed to help prevent a false or fraudulent claim. Three cases are currently under review.
- 3.3 Right To Buy applications have decreased within this year which is unsurprising with the current financial uncertainty and, latterly, Covid-19. 39 cases were checked to prevent and detect fraud and protect each authority against money laundering. Of these applications, 21 were withdrawn after intervention by the team, resulting in a preventative saving of £1,600,000 to the authority.
- 3.4 A joint working campaign has begun with Homes First and Business Planning and Performance to develop a series of publicity articles via community posters, social media and local press to raise the awareness of social fraud. A fraud awareness poster has been designed and circulated throughout council noticeboards across Eastbourne and Lewes in early January 2020, with a plan to include further publicity within quarterly rent statements to all tenants shortly.
- 3.5 Work has also been undertaken with Homes First, looking at a number of potentially fraudulent homeless presentations as well as the implementation of using the National Anti-Fraud Network facilities for credit checks for all new applications as a preventative measure. Four cases have already been investigated with one temporary accommodation placement and two homeless applications withdrawn with an estimated saving of £27,240 to the authority (based on an average B&B placement cost).
- 3.6 The detailed review of Council Tax Exemptions and Disregards has now finished. This involved looking at areas of weakness where reviews have not been completed for some time. Along with other referrals 83 cases have been investigated, of which 65 were found to be incorrect which has resulted in a net income of £64, 000 generated for collection. The team have now completed an exercise reviewing Council Tax Reduction (CTR) applications which have not been re-assessed for over two years; 109 cases have now been closed down with a net generator of £64,000 to the authority and a preventative saving of £16,000 for weekly incorrect reduction (WIB).
- 3.7 Due to other commitments the team have not been able to undertake a great deal of work on NNDR, with only two cases investigated with a net saving of £2896. However, with the Government funding to support businesses through Covid-19 it is expected the team will support colleagues

within the Business Rates team to verify and investigate high risk applications.

- 3.8 The team have worked closely with the Department for Work and Pensions (DWP) and the benefit section of the council. Due to resource restrictions and training needs the DWP have been unable to complete the same volume of cases as in previous years. This has resulted in the closure of 82 cases with an increase in recoverable Housing Benefit of £71,000 and a preventative saving of £43k. Joint working with the Case Management team has also increased the volume of referrals; there are around 100 outstanding cases with the DWP to consider.
- 3.9 Work for the National Fraud Initiative is nearly complete on the 2018/19 extract using a test sample of 10% of cases, this has been brought about due to the limited results found in previous activities – 1189 cases have been cleared so far with 15 awaiting further investigation with a current value of £18k found in errors (Housing Benefit).
- 3.10 The team take an active role in supporting colleagues in other organisations to prevent fraud and tackle criminal activity. In this period the team have dealt with 64 Data Protection Act requests from the Police and other authorities. In addition 11 Houses of Multiple Occupation verification checks were completed in the 4<sup>th</sup> quarter.
- 3.11 Appendix B shows the savings identified by the Counter Fraud team during the financial year.

#### **4.0 Managing the Risk of Fraud and Corruption**

4.1. Cipfa suggests it is good practice to make a statement on the adequacy of an authority's counter fraud arrangements in the annual governance report. Cipfa has published a Code of Practice on Managing the Risk of Fraud and Corruption which contains five principles:

- Acknowledge responsibility
  - Identify risks
  - Develop a strategy
  - Provide resources
  - Take action

4.2. Having considered all the principles the Chief Internal Auditor is satisfied that the Council meets these by having fully resourced Counter-Fraud and Audit teams who review the risks across the authority and direct their work as appropriate. It is therefore considered that the organisation has adopted a response that is appropriate for its fraud and corruption risks and commits to maintain its vigilance to tackle fraud and uphold its zero tolerance policy.

#### **5.0 Annual Governance Statement and Opinion of the Chief Internal Auditor**

5.1 The work referred to in this report has been used as the basis for the opinion of

the overall effectiveness and adequacy of the internal control environment along with other ad hoc work undertaken by the auditors.

- 5.2 Owing to training new auditors to carry out annual audits and with one auditor leaving the team in December, the breadth of audit coverage was limited and the full audit plan was not completed.
- 5.3 During the year it was noted over several audits that documents/data are not being deleted/stored in accordance with the Retention and Disposal Schedule. In carrying out the Housing Rents annual review it was noted that there were issues in obtaining reports from the Housing software. Both of these issues are addressed in the Annual Governance Statement and the covering report.
- 5.4 Considering the findings, and caveated by 5.2 and 5.3 above, it is the opinion of the Internal Chief Internal Auditor that internal controls in processes and IT systems, which were audited, across the authority were found to be generally sound.
- 5.5 This opinion feeds into the Annual Governance Statement which will be reported to the next meeting of this committee.

## **6.0 Conforming with the Public Sector Internal Audit Standards**

- 6.1 The Public Sector Internal Audit Standards came into effect from 1<sup>st</sup> April 2013 and the work of the Internal Audit section is assessed for compliance against these standards annually.
- 6.2 A checklist for compliance has been completed and it is found that the Internal Audit function is “generally conforming” to the standards. Conformance remains at about 99% of the points listed in the standards.
- 6.3 There are two areas of only partial compliance. These are where the Audit Manager’s annual appraisal is expected to have the input of the Chief Executive and the Chair of the Audit Committee. It has been agreed that although these two posts are not specifically asked to contribute they are both able to give feedback on the work of the Manager throughout the year through various meetings.
- 6.4 It is the opinion of the Internal Audit Manager that the Council’s Internal Audit Service generally conforms with the Public Sector Internal Audit Standards (PSIAS) which came into effect from 1 April 2013.
- 6.5 The standards require an external review to be carried out at least every five years. A review of the audit function was carried out as a peer review by other members of the Sussex Audit Group in 2016. The results of this review were fully reported to the Audit and Governance Committee at the September 16 meeting. The report from the reviewers stated that the audit function at Eastbourne generally conforms with the standards.
- 6.6. The Internal Audit team has maintained its independence throughout 2019/20 in accordance with the Audit Charter.



## **7.0 Financial appraisal**

7.1 There are no financial implications arising from this report.

## **8.0 Legal implications**

8.1 This report demonstrates compliance with regulation 5 of The Accounts and Audit Regulations 2015, which requires Eastbourne Borough Council to 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.

*Lawyer consulted 06.08.20*

*Legal ref: 0099415-EBC-OD*

## **9.0 Risk management implications**

9.1 If the Council does not have an effective risk management framework that is subject to proper oversight by Councillors it will not be able to demonstrate that it has in place adequate means to safeguard Council assets and services, and it could be subject to criticism from the Council's external auditor or the public.

## **10.0 Equality analysis**

10.1 An equalities impact assessment is not considered necessary because the report is for information only and involves no key decisions.

## **11.0 Appendices**

Appendix A – Reports issued with assurance levels below “Substantial”  
Appendix B – Counter Fraud work and savings.

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## **12.0 Background papers**

Audit reports issued throughout the year.  
Self assessment against Public Sector Internal Audit Standards

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**APPENDIX A****Reasons for original assurance levels given (below Substantial)**

N.B. The issues noted here may have been addressed since the original report was issued.

<b>AUDIT REVIEW</b>	<b>ASSURANCE LEVEL</b>	<b>ISSUES NOTED</b>	<b>Level at follow up</b>
Creditors (18/19)	Partial	<ul style="list-style-type: none"> <li>• Knowledge transfer issues – audit carried out at time of change in the Finance section</li> <li>• Authorisation levels – list and Cafi require updating</li> <li>• Purchase orders not being raised at time goods and services are ordered</li> <li>• Too many staff with access to set up new creditors</li> <li>• Evidence of checks made on requests to change bank account details not being retained.</li> </ul>	19-20 review will act as the follow up
Housing Rents (18/19)	Partial	<ul style="list-style-type: none"> <li>• Evidence of checks and authorisation of write offs of debts not systematically retained</li> </ul>	19-20 review will act as the follow up
IT (18/19)	Partial	<ul style="list-style-type: none"> <li>• Some staff set up as Systems Administrators are also staff using Finance Systems</li> <li>• Some password parameters do not require a mix of alpha and numeric characters</li> <li>• PSN Code of Connection Certificate had not been obtained</li> <li>• Joint Disaster Recovery Strategy and Plan needs to be adopted and tested</li> <li>• IT need to address issues highlighted in an IT Health Check carried out by an external company</li> </ul>	19-20 review will act as the follow up
Internet/Telephone Payments	Partial	<ul style="list-style-type: none"> <li>• Some staff had their mobile phones on the desk.</li> <li>• The web pages for making payments is not clear enough about which authority the payment is being made to.</li> <li>• Documents are being retained beyond the timescale laid down in the Retention and Disposal Schedule.</li> </ul>	Was due in April – delayed owing to Covid-19

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## EASTBOURNE COUNTER FRAUD SAVINGS

	QUARTER ONE		QUARTER TWO		QUARTER THREE		QUARTER FOUR		YEAR TOTAL	
	Income	Savings	Income	Savings	Income	Savings	Income	Savings	Income	Savings
<b>Tenancy Housing</b>										
Recovery of council properties	£0.00	£186,000.00		£93,000.00		£186,000.00			£0.00	£465,000.00
RTB value saved through intervention	£0.00	£504,800.00		£408,300.00		£154,000.00		£555,300.00	£0.00	£1,622,400.00
Housing intervention/fraud				£3,240.00				£24,000.00	£0.00	£27,240.00
<b>Revenues</b>										
NNDR	£0.00	£0.00	£2,896.90	£2,896.90					£2,896.90	£2,896.90
Council Tax	£4,933.88		£38,104.77		£8,260.86		£12,918.09		£64,217.60	£0.00
Value of ongoing CT increase per week	£1,615.04		£1,398.16		£252.98		£334.48		£3,600.66	£0.00
Council Tax Penalties					£210.00				£210.00	£0.00
<b>CTR &amp; Housing Benefit</b>										
SPOC Cases			£12,176.70						£12,176.70	£0.00
Council Tax Reduction	£1,044.35		£36,241.01		£23,134.75		£3,590.11		£64,010.22	£0.00
CTR weekly incorrect benefit (WIB)		£7,455.04		£551.92		£5,509.44		£2,507.52	£0.00	£16,023.92
Housing Benefit	£10,653.55		£5,950.87		£9,120.07		£33,245.64		£58,970.13	£0.00
HB weekly incorrect benefit (WIB)		£11,606.40		£252.13		£11,128.32		£20,442.56	£0.00	£43,429.41
Income from Adpen collection	£1,714.26								£1,714.26	£0.00
<b>NFI</b>										
Number of open matches									£0.00	£0.00
Number of closed matches									£0.00	£0.00
Awaiting Processing									£0.00	£0.00
Overpayments identified	£4,424.24				£13,639.11				£18,063.35	£0.00
Weekly incorrect benefit identified									£0.00	£0.00
<b>OTHER INVESTIGATIONS</b>										
Procurement									£0.00	£0.00
Internal									£0.00	£0.00
DPA									£0.00	£0.00
Income from court costs									£0.00	£0.00
<b>TOTALS</b>	<b>£24,385.32</b>	<b>£709,861.44</b>	<b>£96,768.41</b>	<b>£508,240.95</b>	<b>£54,617.77</b>	<b>£356,637.76</b>	<b>£50,088.32</b>	<b>£602,250.08</b>	<b>£225,859.82</b>	<b>£2,176,990.23</b>

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<b>Report to:</b>	<b>Audit and Governance Committee</b>
<b>Date:</b>	<b>9<sup>th</sup> September 2020</b>
<b>Title:</b>	<b>Annual Governance Statement</b>
<b>Report of:</b>	<b>Chief Internal Auditor</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To seek Councillors' approval of the Annual Governance Statement.</b>
<b>Officer recommendation(s):</b>	<b>To comment on and approve the draft Annual Governance Statement</b>
<b>Reasons for recommendations:</b>	<b>To meet the Council's legal requirement to produce an Annual Governance Statement.</b>
<b>Contact Officer(s):</b>	<b>Name: Jackie Humphrey Post title: Chief Internal Auditor E-mail: Jackie.humphrey@lewes-eastbourne.gov.uk Telephone number: 01323 415925</b>

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## **1 Introduction**

1.1 Corporate governance involves everyone in local government. Two definitions are:

“Ensuring the organisation is doing the right things, in the right way, for the right people, in an open, honest, inclusive and timely manner” – Audit Commission.

“How the local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, and 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.” – CIPFA/SOLACE

1.2 The Council has a legal requirement to produce an Annual Governance Statement each year in accordance with the Accounts and Audit Regulations, 2015. The statement accompanies the Statutory Statement of Accounts once adopted.

1.3 The Audit and Standards Committee is tasked with overseeing the risk management, internal control and reporting to the Council. A key component of this work is to approve the Annual Governance Statement.

## **2 Governance Framework**

- 2.1 The Annual Governance Statement is the report produced at the end of the year on the control environment of the Council. However this is just the end product of the framework of governance operating within the authority throughout the year.
- 2.2 Appendix 1 shows the framework for gathering the assurances and how this is affected by, and affects, the relationship with partners, stakeholders and the community. Following this framework should ensure that the Council meets the principles of corporate governance.
- 2.3 Use of this framework also allows the Council to demonstrate how its assurance gathering process links the strategic objectives and statutory requirements of the authority and how these objectives are to be delivered.
- 2.4 Appendix 2 shows a timetable for the gathering of assurances to produce the Annual Governance Statement. Certain elements are ongoing throughout the year whereas others are specifically produced at the year-end in order to feed directly into the Annual Governance Statement.
- 2.5 It is important to have a defined timeline for the gathering of information on assurance as there is a deadline for the publication of the Statement of Accounts alongside of which the Annual Governance Statement must be published.
- 2.6 Appendix 3 shows the areas covered by the Managers' Assurance Statement which includes coverage of the Bribery Act, Safeguarding, RIPA and frauds over £10k as well as items of general governance. The statements are intended to cover the operational, project and partnership responsibilities of Heads of Service. These can also be used to highlight concerns and actions required to improve governance throughout the Council.
- 2.7 These statements are completed by Directors, Assistant Directors and Heads of Service. The comments made on the statements are considered for inclusion in the Annual Governance Statement.

## **3 Content of the Annual Governance Statement**

- 3.1 The Annual Governance Statement is a document that provides a structure in which to consider the Council's governance arrangements and their effectiveness. This ensures that major control issues are identified and action taken to address these issues.
- 3.2 There are essentially three parts to the statement:
- A statement of responsibility and purpose
  - A description of the components of the governance framework that exist in the Council
  - The resulting issues and actions arising from those arrangements
- 3.3 The Annual Governance Statement also carries a statement on the adequacy of



the Authority's counter fraud arrangements.

#### **4 The 2019-2020 review**

4.1 One of the sources of assurance for the Annual Governance Statement should come from Senior Managers responsible for the operation, management and monitoring of controls within their area of responsibility. The Managers' Assurance Statement is intended to collect this assurance by covering operational, project and partnership responsibilities as well as the Bribery Act, Safeguarding, RIPA and frauds over £10k. The senior manager can highlight concerns and the necessary actions required to improve governance. Assurance statements are sent out to Directors, Assistant Directors and Heads of Service. Once completed their contents are used to inform the governance statement.

4.2 Document retention was also raised in several statements. The work of Internal Audit throughout the year also noted issues with retention of documents. Corporate Management Team considered this and acknowledged that there is an issue both in the culture of the authority and a more technical issue of how to destroy old records. However a project group has been set up to look at document retention and disposal and through this project the council is addressing the issue of document retention in the following areas:

- Documents saved in personal/team folders.
- Documents saved in IT systems (eg. Cx housing management system).
- Documents saved in emails.
- Physical, paper documents stored in council buildings.

The project is one that has been able to progress during the Covid-19 pandemic and the project team will be presenting an update to the project board in August 2020. The cultural/ways of working aspect to document retention is being considered by the project and proposals for how this can be managed will also be considered by the project board. It was therefore agreed that this does not currently constitute a significant issue and should just be noted in the body of the Annual Governance Statement.

4.3 Concerns over the demand on Finance outweighing the capacity of the team were also raised, with some Heads of Service feeling that there was no clear, direct access to an Accountant. This was discussed by the Corporate Management Team and it was agreed that this was an issue but that it was not considered to be a significant governance issue and therefore should just be mentioned in the body of the Annual Governance Statement.

4.4 Last year issues around the new housing software were raised by several respondents and it was agreed that this did constitute a significant governance issue and was reported as such. During the financial year much work has been undertaken to improve the system and the relationship with the provider. A new contract has been agreed and with this an improvement plan put in place that

runs until September. However the Corporate Management Team agreed that until all the issue have been addressed this should remain as a significant governance issue and it is shown in the Annual Governance Statement as such.

- 4.5 Finally, both CIPFA and Deloitte are expecting mention of the impact of the response to the Covid-19 pandemic to be mentioned in the Annual Governance Statement. As lockdown only come into effect in the last week of March the impacts were not felt in that financial year. However, a section has been added to note the councils' response to the pandemic and to flag up the main financial risk due to the depleted income and acknowledgement that government is unlikely to reimburse the councils for the full cost of the response. This will be developed in more detail in the Annual Governance Statement for 2020-21.

## **5. Managing the Risk of Fraud and Corruption**

- 5.1 The Cipfa Code of Practice on Managing the Risk of Fraud and guidance suggests it is good practice to make a statement on the adequacy of an authority's counter fraud arrangements in the annual governance statement.

This code contains five principles:

- Acknowledge responsibility
- Identify risks
- Develop a strategy
- Provide resources
- Take action

The Chief Internal Auditor is satisfied that the Council meets these principles by having a Counter-Fraud and Audit team who review risks across the authority and direct their work as appropriate. It is therefore considered that the organisation has adopted a response that is appropriate for its fraud and corruption risks and commits to maintain its vigilance to tackle fraud and uphold its zero tolerance.

## **6 Financial appraisal**

- 6.1 There are no financial implications arising from this report.

## **7 Legal implications**

- 7.1 This report demonstrates compliance with regulation 6 of The Accounts and Audit Regulations 2015. Regulation 6 requires the Council, in reviewing its system of internal control, to prepare an annual governance statement and secure its approval by resolution of the appropriate committee; in the case of EBC, this is the Audit and Governance Committee.

*Lawyer consulted 06.08.20*

*Legal ref: 009420-EBC-OD*

## **8 Risk management implications**

- 8.1 Failure to produce an Annual Governance Statement, and to maintain proper assurance arrangements to support its production, can reduce the likelihood of the Council meeting its objectives, and attract criticism from the Council's stakeholders and the Council's external auditor. The Audit and Governance Committee review of the Annual Governance Statement significantly reduces these risks.

## **9 Equality analysis**

- 9.1 A detailed Equality analysis is not required for this report.

## **10 Appendices**

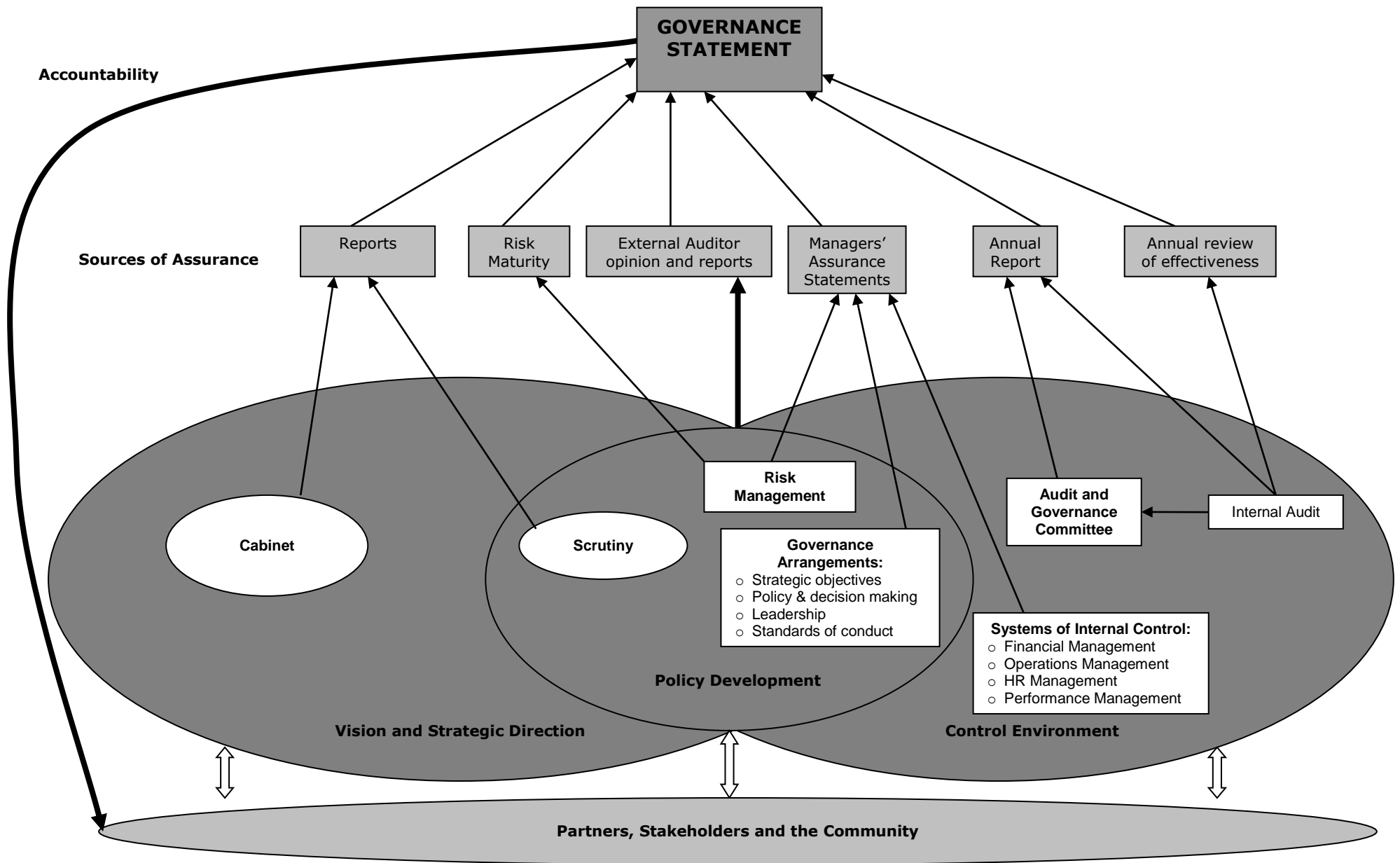
- Appendix 1 – Governance Framework
- Appendix 2 – Annual Governance Statement Timetable
- Appendix 3 – Managers' Assurance Statement
- Appendix 3 – Annual Governance Statement

## **11 Background papers**

- 11.1 Internal Audit Report for the financial year 2019-2020.

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# APPENDIX 1



**APPENDIX 1**

## Appendix 2

### ANNUAL GOVERNANCE STATEMENT TIMETABLE

<b>Deadline</b>	<b>Responsibility</b>	<b>Action</b>
Throughout year		1/4ly updates of the Strategic Risk Register
	Internal Audit Manager	Internal Audit reports
	BDO	External Audit reports
	All Managers	Management reports
		Other sources of assurance
April/May	All Managers	Managers Assurance Statements completed (to include RIPA statement)
	Chief Finance Officer	Preparation of the Annual Governance Statement
	CMT	Annual Governance Statement considered
June/July	Internal Audit Manager	Internal Audit Annual report presented to Audit Committee
	Internal Audit Manager	Internal Audit Annual report presented to Audit Committee
	Chief Finance Officer, Leader and Chief Executive	Annual Governance Statement signed by Leader and Chief Executive
	Audit Committee	Annual Governance Statement published

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**APPENDIX 3 – Managers’ Assurance Statement and Governance Statement for the Corporate Management Team.**

<b>Governance Responsibility</b>	<b>Demonstrated by:</b>
Services are planned and managed to implement the priorities of Eastbourne Borough Council.	<ul style="list-style-type: none"> <li>• Service plan aligned to the Council’s priorities</li> <li>• Plans in place to monitor the quality of service to users and seek continuous improvements</li> <li>• Making best use of resources to ensure excellent service and value for money is achieved</li> <li>• Dealing effectively with any failures in service delivery.</li> </ul>
There are good working relationships with Members and officers responsibilities are clearly defined.	<ul style="list-style-type: none"> <li>• Statutory Officers have clearly defined scope and status to fulfil their roles</li> <li>• Delegated powers are clearly defined and understood</li> <li>• Member/officer protocol operates effectively in practice</li> <li>• Partnership governance arrangements are clearly defined and appropriate</li> </ul>
The values of good governance are demonstrated and high standards of conduct and behaviour.	<ul style="list-style-type: none"> <li>• Effective communication to all staff of the code of conduct, standing orders, Financial Procedure Rules, Contract Procedure Rules and Anti Fraud and Corruption Policy</li> <li>• Effective performance management of staff and regular appraisals</li> <li>• The Council’s values are understood and promoted</li> </ul>
Management decision making and advice to Members are well founded and involve consideration of professional advice and identified risks.	<ul style="list-style-type: none"> <li>• Effective arrangements to ensure data quality (complete, accurate, timely and secure)</li> <li>• The internal control framework operates effectively</li> <li>• Professional advice is obtained where appropriate and is recorded</li> <li>• Risk management operates effectively in strategic, project and operational areas</li> <li>• Decisions made are in accordance with delegated powers and the Council’s constitution</li> <li>• Arrangements are in place to obtain assurance on the management of key risks</li> </ul>

**APPENDIX 3 – Managers’ Assurance Statement and Governance Statement for the Corporate Management Team.**

<p>The capacity and capability of officers has been developed to ensure effective performance.</p>	<ul style="list-style-type: none"> <li>• Training and development of staff</li> <li>• Workforce planning to ensure there are adequate staffing levels</li> <li>• Statutory officers have sufficient resources to fulfil their role</li> </ul>
<p>Robust public accountability is ensured by engaging with local people and stakeholders</p>	<ul style="list-style-type: none"> <li>• Arrangements to communicate with relevant sections of the community</li> <li>• Undertaking effective consultation with public and other stakeholders</li> <li>• Consultation with staff and engagement in decision making is undertaken</li> </ul>
<p>Adequate processes have been put in place for the safeguarding of children and vulnerable adults.</p>	
<p>Adequate action has been taken to ensure compliance with the requirements of the Bribery Act.</p>	<ul style="list-style-type: none"> <li>• Proportionate procedures have been put in place to prevent bribery</li> <li>• The risks of bribery have been assessed and added to the departmental risk register</li> <li>• Procedures and risks are regularly monitored and reviewed.</li> </ul>
<p>Are you satisfied that documents are held and disposed of in accordance with data protection requirements and the Councils' Retention and Disposal Schedule?</p>	
<p>Has any external review been carried out in your department?</p>	
<p>Have you had reason for using/considering using surveillance which would fall under RIPA?</p>	
<p>Have you used or considered using covert/directed surveillance either under RIPA or outside it?</p>	
<p>Are you aware of any frauds over £10k that have not already been informed to the Internal Audit section.</p>	

## **Annual Governance Statement**

### **Scope of responsibility**

Eastbourne Borough Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.

In discharging this overall responsibility, the council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, which includes arrangements for the management of risk.

Eastbourne Borough Council has approved and adopted a Local Code of Corporate Governance, which is consistent with the principles of the CIPFA/SOLACE Framework *Delivering Good Governance in Local Government*. A copy of the code is available on the website ([www.lewes-eastbourne.gov.uk/access-to-information/financial-information/corporate-governance](http://www.lewes-eastbourne.gov.uk/access-to-information/financial-information/corporate-governance) )

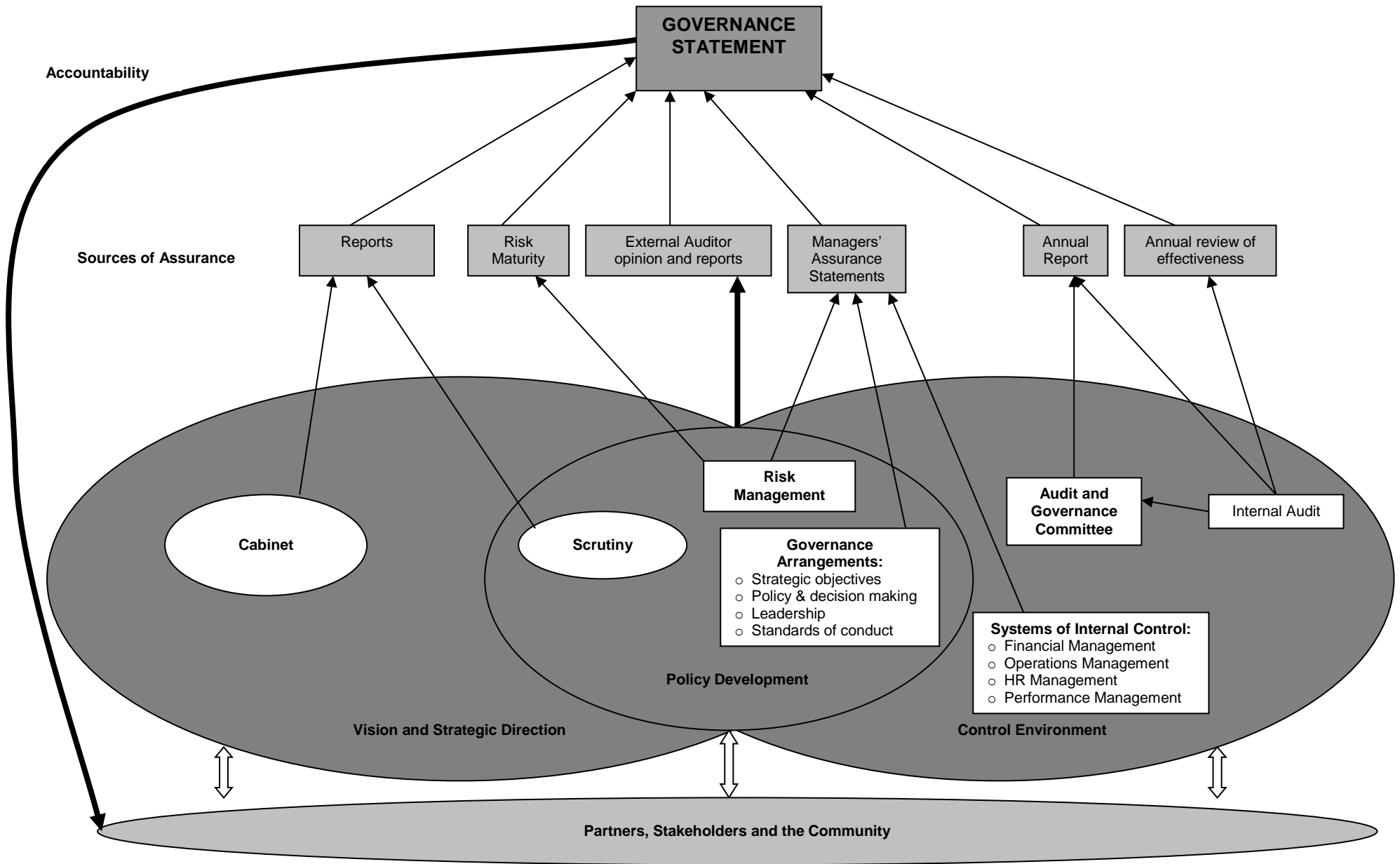
This statement explains how the council has complied with the code and also meets the requirements of Part 2, 6(1) of the Accounts and Audit Regulations 2015 which requires all relevant bodies to prepare an annual governance statement.

### **The purpose of the governance framework**

The governance framework comprises the systems and processes, and culture and values, by which the authority is directed and controlled and its activities through which it is accountable to, engages with and leads its communities. It enables the authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate services and value for money.

The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process 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 governance framework has been in place at the council for the year ended 31 March 2020 and up to the date of approval of the Annual Accounts.



## THE GOVERNANCE FRAMEWORK

The diagram of the governance framework at Eastbourne Borough Council demonstrates how the information concerning the needs, requirements and views of partners, stakeholders and the community are used in decision making processes across the authority and eventually feeds into the Annual Governance Statement as part of our accountability to the community.

Key elements of the systems and processes that comprise the authority's governance arrangements are described below.

A meeting of the Full Council approved the new Corporate Plan for 2016-20 on 11 May 2016. A new plan for 2020-24 was approved by Full Council on 19<sup>th</sup> February 2020. Consultation took place with targeted stakeholders. The Corporate Plan is considered to be a dynamic document and therefore subject to annual review and refresh. The plan sets out the priority themes for the next four years which have been underlined by the underlying vision of achieving a zero carbon town by 2020.

The Constitution is the fundamental basis of the council's governance arrangements. The Constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to the people it serves. Some of the content of the constitution is required by law and other content is for the council itself to determine. There is also a raft of legislation which is reflected in the constitution e.g. Access to Information. The constitution also details the responsibility for functions and roles across the council including Council, Cabinet and committees (see "The Modernised Political Structure – How It Works" diagram). It also contains a Scheme of Delegation which allows officers to take decisions on behalf of the council. The responsibilities of each officer are clearly documented.

Standards of behaviour and conduct of Members and staff are laid down in relevant sections of the constitution. Other relevant policies include the Anti Fraud and Corruption Policy (containing sections on Whistleblowing and the Bribery Act), disciplinary and grievance procedures and the Dignity at Work Policy. The Monitoring Officer and the Standards Panel have responsibility for considering complaints against Members. All policies and guidance are available to staff and Members on the council's intranet.

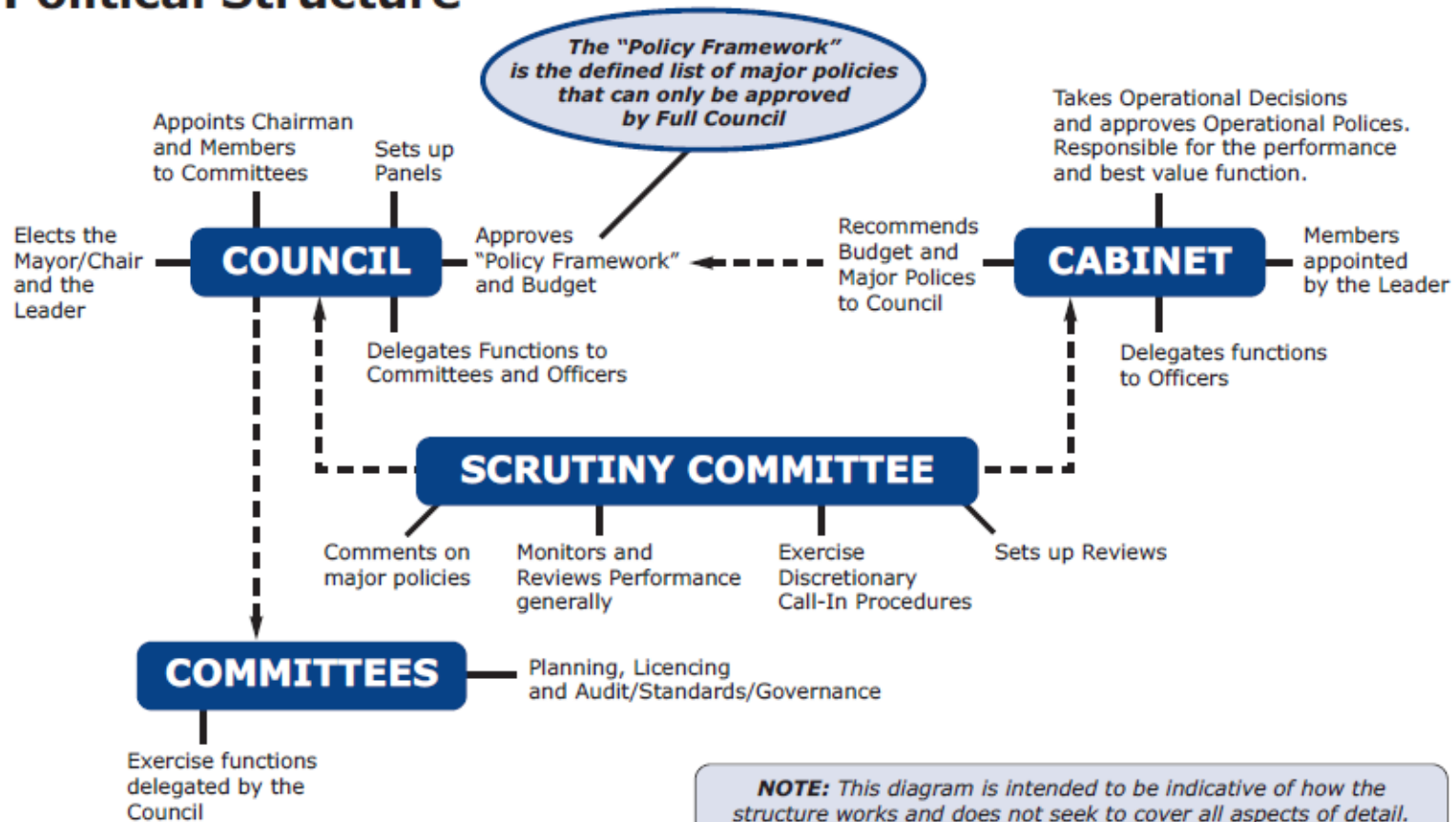
All aspects of the decision making framework, including schemes of delegation, are contained in detail in the council's constitution and summarised in the articles of the constitution. The content of this document is specifically ratified each year by the annual meeting of the Council. Any proposed changes to the council's constitutional rules and delegations can be considered at any time, drafted, and put to the next available Council meeting for decision. Different elements of the constitution are owned by the Monitoring Officer and the Section 151 Officer as relevant. The Constitution is published in full on the council's website.

The council holds a Risk Management Strategy which sets out the way in which risks are to be identified, scored and recorded. The Strategic Risk Register is reviewed by the Corporate Management team quarterly.

The terms of reference for the Audit and Governance Committee include the requirement to review the effectiveness of the council's arrangements for identifying and managing risks, internal control environment and corporate governance arrangements.

# How it Works...

## The Modernised Political Structure



The council holds an Anti-Fraud and Corruption Policy which contains sections on Whistleblowing, Anti Money Laundering and the Bribery Act. The council has a Counter Fraud team which proactively seeks out cases of fraud across all areas of the authority. The council also participates in the biennial National Fraud Initiative programme which seeks to identify fraud by matching data with other authorities and agencies. An overview of these areas is set out in the terms of reference for the Audit and Governance Committee.

The Chief Finance Officer and s.151 Officer role is a member of the council's Corporate Management Team. In this position the Chief Finance Officer and s.151 Officer has input into developing and implementing strategies and advising on financial resources. The Chief Finance Officer and s.151 Officer is responsible for developing the authority's financial strategies and will consider business decisions in line with these. The Chief Finance Officer and s.151 Officer manages the Finance and Internal Audit teams and is a suitably qualified accountant. The council therefore conforms with the governance arrangements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government.

The council holds Financial Procedure Rules and monthly budget monitoring meetings are held by Finance staff with managers responsible for budgets. Financial performance is reported regularly to Members.

The Chief Internal Auditor proposes a risk-based audit plan for the year which is discussed with, and agreed by, the Corporate Management Team and the Audit and Governance Committee. It is ensured that the scope of the plan is sufficient to allow the Chief Internal Auditor to be able to use the evidence gained during the year to base the opinion of the control environment upon at the end of the year. Each audit review carried out during the year is given an assurance rating based on the risks and controls in operation in that area. Each of these is taken into consideration when the annual report of the work of Internal Audit is written and feeds into the overall opinion of the control environment operating at the authority.

The Chief Internal Auditor undertakes an annual review of the Internal Audit function which assesses the function against the Public Sector Internal Audit Standards. The results of this self-assessment, and any non-conformity with the standards, are reported to the Audit and Governance Committee.

The role of Monitoring Officer sits with the post of Assistant Director for Corporate Governance. As monitoring officer, the post has appropriate autonomy and/or a direct reporting line to the Chief Executive. The function is also supported by a designated deputy and a network of officers trained in investigative procedures. Reporting line to members is to a specifically constituted Standards Sub Committee which in turn reports to the council's Audit and Governance Committee.

The council has established an Audit and Governance Committee. The committee generally conforms to the best practice identified in CIPFA's "Audit



Committees – Practical Guidance for Local Authorities”. Its terms of reference include:

- To receive reports on and to monitor the operation of the council's constitution;
- Have an overview on the council's whistleblowing policy;
- Deal with audit or ethical standards issues which may arise;
- Carry out independent scrutiny and examination of the council's processes, procedures and practices with a view to providing governance arrangements and risk and financial management;
- Meet the requirements of the Audit and Account Regulations Act 2015;
- Consider reports from the external auditors;
- To make recommendations to Council, the Cabinet or Scrutiny as appropriate with a view to improving the effectiveness, accountability and transparency of the decision making process and the council's governance arrangements;
- Promoting and maintaining high standards of conduct within the council and monitoring the operations of the council's codes of conduct and registers of interest.

The council holds a Whistleblowing Policy which forms part of the Anti-Fraud and Corruption Policy. This clearly sets out how concerns raised should be handled, recorded and reported. The authority also has a Comments, Compliments and Complaints procedure. The public may contact the council with a complaint via telephone, email, letter or online. A page on the website clearly explains the process. Complaints are managed and monitored using performance management software. Similarly the public can make complaints about Councillors. Information on how to do so can also be found on the website. These complaints are handled by the Monitoring Officer.

When there is a change of administration or a raft of new Councillors then a general induction programme is organised. Annually the leaders of the parties will discuss with members any specific training or development needs. Human Resources will then put together a programme of training events for Members to attend. There are also statutory updates. Senior officers have annual appraisals at which any training and development needs are identified. Some of this may be necessary CPD (continuing professional development) required for professional memberships.

Annual bespoke consultation is designed each year alongside the Corporate Plan, budget and service planning processes jointly owned by senior management and Scrutiny. This consultation uses a variety of methods including social media, online surveys, presentations to groups and open public sessions to test the proposed priority projects in the annual refresh of the Corporate Plan.

## **REVIEW OF EFFECTIVENESS**

The council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the senior managers within the authority who have responsibility for the development and maintenance of the governance environment, the head of Internal Audit's annual report, and also by comments made by the external auditors and other review agencies and inspectorates.

The process that has been applied in maintaining and reviewing the effectiveness of the governance framework includes the following elements:

### **Internal Audit and Counter Fraud**

The council's Internal Audit section is an independent assurance function that reports on the adequacy of the whole system of internal control across the authority.

From July 2017 this service has been provided by a shared service between Eastbourne Borough Council and Lewes District Council.

The Chief Internal Auditor carries out an annual self-assessment of the Audit function and states that the section generally conforms with the Public Sector Internal Audit Standards (PSIAS). During the financial year 2016-17 an external peer review has been carried out and this also concluded that the work of the section generally conforms to the standards. This was reported to the Audit and Governance Committee.

Quarterly and annual reports on the work carried out by the Internal Audit function are considered by both the Corporate Management Team and the Audit and Governance Committee. The "audit opinion" of the control environment, including IT governance, given in the annual report feeds into the Annual Governance Statement.

The opinion of the Chief Internal Auditor, as noted in the annual report on the work of Audit, was that the internal controls in processes and IT systems across the authority were generally found to be sound. This must be caveated by noting that it has not been possible to carry out a full annual review of IT as the team has been too busy carrying out Covid related work. However a light touch review, which did not include testing, was undertaken. Full testing will be carried out at the next annual review. During the year Internal Audit also noted that it appears that data/documents are being retained beyond the time limits as set down in the Retention and Disposal Schedule.

The council has a strong counter fraud culture that is supported by Councillors and officers. The Counter Fraud team works closely with officers in other departments to prevent, detect and investigate fraud, particularly in the areas of housing tenancy fraud, Council Tax fraud and Right to Buy fraud. The outcome of this work helps to inform the opinion of the control environment. The council

works closely with the national Single Fraud Investigation Service (SFIS) in the Department of Work and Pensions to ensure an effective response to cases of Housing Benefit fraud.

The Strategic Risk Register has been adopted by the Audit and Governance Committee. The register is reviewed quarterly by the Chief Internal Auditor and the Corporate Management Team and any changes are reported to the Audit and Governance Committee.

### **Managing the Risk of Fraud and Corruption**

The CIPFA Code of Practice on Managing the Risk of Fraud and guidance suggests it is good practice to make a statement on the adequacy of an authority's counter fraud arrangements in the annual governance statement.

This code contains five principles:

- Acknowledge responsibility
- Identify risks
- Develop a strategy
- Provide resources
- Take action

The Chief Internal Auditor is satisfied that the council meets these principles by having a Counter-Fraud and Audit team who review risks across the authority and direct their work as appropriate. It is therefore considered that the organisation has adopted a response that is appropriate for its fraud and corruption risks and commits to maintain its vigilance to tackle fraud and uphold its zero tolerance.

### **Corporate Management Team**

The roles of this team are to provide strategic management and planning, oversee priority and budget setting, service planning and performance management. The team provides organisational leadership, engages with Cabinet on strategic issues/direction and, in partnership with members, develops relationships with key stakeholders.

Individual members of the team are responsible for the performance of their relevant department/service area, progress of their relevant portfolio themes and liaison with portfolio holding members.

The Corporate Management Team gives consideration to the Internal Audit Plan, Strategic Risk Register and Annual Governance Statement.

Consideration was given by the Corporate Management Team to any significant non-delivery of strategic objectives, potential exposure to loss through fraud, corruption or error and litigation through non-compliance. No instances were identified as significant governance issues.

## **Audit and Governance Committee**

The Audit and Governance Committee is responsible, amongst other things, to carry out independent scrutiny and examination of the council's financial and non-financial processes, procedures and practices to the extent that they affect the council's control environment and exposure to risk. This is with a view to providing assurance on the adequacy and effectiveness of internal controls, risk, financial and performance management, fraud detection and prevention and the work of Internal Audit.

The Audit and Governance Committee reviews reports submitted by the Chief Internal Auditor including the Annual Governance Statement, Internal Audit provision, all internal audits and the Strategic Risk Register. It also considers the annual financial statements including the Annual Governance Statement in July.

## **Scrutiny Committee**

The Scrutiny Committee meets to review the delivery of services as a result of previous council decisions, the performance of existing policies and strategies, the submission of performance indicators and recommend appropriate courses of action to the Council or Cabinet.

The Scrutiny Committee reviews the delivery of services and performance and supports the work of the Cabinet and the Council as a whole. It allows Councillors outside the Cabinet and members of the public to have a greater say in council matters by investigating issues of local concern. It also acts as the council's Crime and Disorder Committee to look at the formulation and implementation of the Crime and Disorder strategies.

## **Cabinet**

The Cabinet is responsible for most day-to-day decisions of the council. The Cabinet is made up of the Leader of the Council and 5 Councillors from the majority political group. Each member is assigned portfolios identifying areas of responsibility for which they provide a political lead at Cabinet meetings and for working in consultation with officers.

The Shadow Cabinet is made up of 7 members of the Opposition with each member similarly being assigned portfolios.

Cabinet can consider the External Auditor's Annual Audit and Inspection Letter and other commissioned audit reports. It also sponsors and recommends adoption of the accounts.

## **External Reviews**

The external auditor's Annual Audit Letter and other commissioned audit reports are presented to, and considered by, the Audit and Governance Committee.

Reviews carried out by external agencies, e.g. APP; Benefit Performance Review; RIPA inspection, which impact on the governance framework are taken into consideration when preparing the Annual Governance Statement.

In December 2019 the Investigatory Powers Commissioner's Office carried out an inspection of the governance arrangements for covert surveillance activity. No major areas of non-compliance were identified but it was recommended that covert surveillance policies be expanded to encompass powers to use a Covert Human Intelligence Source (CHIS) and to acquire communications data.

In October 2019 a consultant from Zurich (Insurance Group) conducted a review of the council's risk management framework. The priority areas in need of improvement included:

- align risk strategy framework across both councils and relaunch
- run CMT and Member risk awareness sessions
- raise profile of risk management generally across the authorities
- more proactive risk identification and horizon scanning through all levels
- clearer understanding of acceptable risk appetite.

Work to address these areas began but was postponed owing to the Covid-19 lockdown. These actions will be addressed in the financial year 2020-21.

### **Eastbourne Homes Ltd**

Governance arrangements at Eastbourne Homes Ltd (EHL) are also considered. Reviews are carried out and reports written by the internal and external auditors engaged by EHL which are reported to their own Audit and Risk Committee and Board. Currently EHL engages the council's Internal Audit section to carry out their internal audit reviews. At the end of year the Audit and Risk Committee of EHL have a minuted disclaimer concerning fraud and corruption.

### **Managers' Assurance Statements**

One of the sources of assurance for the Annual Governance Statement should come from Senior Managers responsible for the operation, management and monitoring of controls within their area of responsibility. The Managers' Assurance Statement is intended to collect this assurance by covering operational, project and partnership responsibilities as well as the Bribery Act, Safeguarding, RIPA and frauds over £10k. The senior manager can highlight concerns and the necessary actions required to improve governance. Assurance statements are sent out to Directors and Assistant Directors and Heads of Service. Once completed their contents are used to inform the governance statement.

A review of the returned Managers' Assurance Statements revealed three main topics which were repeated across several statements. These were document retention; the demand on, and capacity of the Finance team; issues around the Scheme of Delegation, and the effects of the response to Covid-19. As the lockdown response to Covid-19 only came into effect on 23<sup>rd</sup> March 2020 this did not have much effect on the financial year 2019-20. However, the implications

were recognised at the time and have been evaluated further since. This is discussed further below.

Taking into account the responses from the Managers' Assurance Statements and the awareness of issues across the authority that the Internal Audit Team are aware of, the following items were discussed by CMT to consider whether they should be noted as significant governance issues or just noted in the body of the Annual Governance Statement.

Document retention      this issue was raised in several statements. The work of Internal Audit throughout the year also noted issues with retention of documents. Corporate Management Team considered this and acknowledged that there is an issue both in the culture of the authority and a more technical issue of how to destroy old records. However a project group has been set up to look at document retention and disposal and through this project the council is addressing the issue of document retention in the following areas:

- Documents saved in personal/team folders.
- Documents saved in IT systems (eg. Cx housing management system).
- Documents saved in emails.
- Physical, paper documents stored in council buildings.

The project is one that has been able to progress during the Covid-19 pandemic and the project team will be presenting an update to the project board in August 2020. The cultural/ways of working aspect to document retention is being considered by the project and proposals for how this can be managed will also be considered by the project board.

Finance team              concerns over the demand on Finance outweighing the capacity of the team were also raised, with some Heads of Service feeling that there was no clear, direct access to an Accountant. This was discussed by the Corporate Management Team and it was agreed that this was an issue but that it was not considered to be a significant governance issue and therefore should just be mentioned in the body of the Annual Governance Statement.

Housing software        Last year issues around the new housing software were raised by several respondents and it was agreed that this did constitute a significant governance issue and was reported as such. During the financial year much work has been undertaken to improve the system and

the relationship with the provider. A new contract has been agreed and, with this, an improvement plan put in place that runs until September. However the Corporate Management Team agreed that until all the issues have been addressed this should remain as a significant governance issue and it is shown in the Annual Governance Statement as such.

## **Covid-19 Pandemic**

When lockdown began at the end of March 2020 the council had to act swiftly to be able to continue to provide the statutory services to the public whilst closing the contact centre and having the majority of staff change to working from home. Significant pieces of work were undertaken to ensure staff were set up to work from home as soon as possible, to ensure that as many services as possible were available on-line and to set up staff and members to be able to have virtual meetings through software. The response has given assurance that the council can cope with rapid and substantial changes within a short period of time.

Initially priorities changed to dealing with the immediate responses. These included dealing with increased benefit claims, handling and distributing government grants, welfare calls to tenants and provision of food parcels. Key functions and systems have been maintained partially aided by redeployment of staff.

Currently it appears that central government will not cover the full cost of the pandemic to the council. Loss of income from Tourism and Events is unlikely to be considered at all by government. The council is in discussion with government to arrange for reasonable costs to be covered.

The loss of income from Business Rates and Tourism and Events in particular, but also from other areas of income, e.g. commercial rents and land charges, will clearly have a significant impact on the finances of the council and its ability to complete projects in the medium and longer term.

The Coronavirus Act (2020) allows authorities to conduct meetings and take decisions in ways other than face to face. The council reviewed committee meetings and initially held those where decisions needed to be made and postponing others. Virtual meetings were gradually implemented to enable committee meetings to be held.

The council has been hugely impacted by the response to the Covid-19 pandemic. The risks around this will affect the council in 2020-21 and these will be reviewed in more details in the Annual Governance Statement for that year.

## SIGNIFICANT GOVERNANCE ISSUES 2019/2020

NB – the following issue was noted in the Annual Governance Statement last year. It is still considered outstanding so it is shown again as a significant governance issue for 2019/20. The issue and the action have been updated to reflect progress changes within the financial year.

Area	Issue	Action
Housing software	<p>A new housing system was implemented in December 2018 which has not met the outcomes expected. These outcomes were critical in delivering greater efficiencies and improved financial reporting.</p> <p>There have been ongoing issues with Transformation and ICT staff resources being diverted to identify and rectify/mitigate issues.</p> <p>There have been ongoing issues requiring additional Finance officers to be allocated to support housing system in order to resolve reporting problems.</p> <p>Knock on effects mean that the statutory deadline for completion of the annual accounts was missed.</p>	<p>The issues have been monitored and mitigating actions which were put in place previously had to be reassessed and additional steps were taken.</p> <p>A conversation is ongoing with the supplier to rectify the issues. A new contract has been negotiated and an action plan agreed which will be monitored.</p> <p>A post implementation review which was expected to be carried out in 2019/20 will now be carried out by Internal Audit later in 2020/2021.</p>



**STATEMENT**

We have been advised on the implications of the result of the review of effectiveness of the governance framework by the Audit and Governance Committee and that, subject to the actions identified above, the arrangements continue to be regarded as fit for purpose in accordance with the governance framework.

Signed on behalf of Eastbourne Borough Council:

.....  
Leading Member

.....  
Chief Executive

Date:

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<b>Report to</b>	<b>AUDIT AND GOVERNANCE COMMITTEE</b>
<b>Date:</b>	<b>9<sup>th</sup> September 2020</b>
<b>Title:</b>	<b>Internal Audit and Counter Fraud Report for the first quarter of the financial year 2020-2021 to the end of June 2020.</b>
<b>Report Of:</b>	<b>Chief Internal Auditor</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To provide a summary of the activities of Internal Audit and Counter Fraud for the first quarter of the financial year - 1<sup>st</sup> April 2020 to 30<sup>th</sup> June 2020.</b>
<b>Officer recommendation(s):</b>	<b>That the information in this report be noted and members identify any further information requirements.</b>
<b>Reasons for recommendations:</b>	<b>The remit of the Audit and Governance Committee includes the duties to agree an Annual Audit Plan and keep it under review, and to keep under review the probity and effectiveness of internal controls, both financial and operational, including the Council's arrangements for identifying and managing risk.</b>
<b>Contact:</b>	<b>Jackie Humphrey, Chief Internal Auditor, Telephone 01323 415925 or internally on extension 5925. E-mail address <a href="mailto:jackie.humphrey@lewes-eastbourne.gov.uk">jackie.humphrey@lewes-eastbourne.gov.uk</a></b>

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## **1.0 Introduction**

- 1.1 The quarterly report includes a review of work undertaken by Internal Audit and Counter Fraud. At the end of the financial year the Chief Internal Auditor will state their opinion of the control environment of the authority based on this work.
- 1.2 In March 2019 the Audit and Governance Committee agreed the first annual audit plan to cover work across the two authorities.
- 1.3 As the majority of service areas now provide services to both authorities the results of work carried out by Internal Audit and Counter Fraud will be reported to both committees. However, when any findings relate specifically to one authority then this will be reported to the appropriate council's committee only.

## **2.0 The effect of the response to the Covid-19 pandemic on the work of the Audit and Counter Fraud teams.**

- 2.1 Both teams have continued to work throughout the lockdown. As an initial response to some areas with increased demand or with new areas of work, there was a request to redeploy staff to these areas if their usual work was deemed non-essential. As, in the short term, we could deem the work of both teams as non-essential, some staff were redeployed either full time or part time. Work undertaken by members of the teams have included providing cover at the crematorium, processing benefit claims, acting as a Customer Adviser and undertaking welfare telephone calls. However, it was flagged early on that, whilst willing to help other departments, this was something that the teams could not continue longer term as our own work would begin to take priority. Currently no members of the team are carrying out work for other departments.
- 2.2 One member of staff from the Counter Fraud team caught the virus and was hospitalised for a short time. They have now recovered and on a phased return to work.
- 2.3 Whilst the work of the teams has clearly been affected by the loss of resources, it does not seem to have had a material impact. Internal Audit have been able to continue, and almost complete, the work on the annual audit reviews and now no staff are redeployed work is underway in carrying out audit reviews on the audit plan. Counter Fraud have started to pick up on potentially fraudulent claims made for Hardship Grants and some of the work the team have carried out for other sections is actually helping to highlight areas that they can look at during the financial year.
- 2.4 At the beginning of the response to Covid-19 the Chief Internal Auditor emailed all managers across the authorities to remind them that Audit and Counter Fraud were still working and that they were available to offer advice and assistance to anyone who was facing putting new controls in place or having to relax or change controls because of the changed ways of working. A handful of responses were received and advice given.
- 2.5 The Chief Finance Officer also tasked the Chief Internal Auditor to look at the controls being put in place for Hardship Grants, Business Rate Grants and the provision of food parcels. Relevant managers were contacted and information obtained and it appeared as though controls were put in place as much as possible. However, there was a push nationally to ensure that grants were paid as speedily as possible and this meant that checks were not as thorough as would normally be the case. There is clearly a larger piece of work that needs to be carried out by Audit and Counter Fraud to review the grants that were issued and to try to identify any fraudulent claims.
- 2.6 When the Internal Audit plan was proposed for 2020-21 it was based on a percentage split of the audit days in line with the departments. Whilst individual audits were proposed it was stated that the new plan gave more flexibility to carry out any work that arose during the year rather than be tied strictly to a set list of audit reviews. This change of approach has proved to be very timely and means that the team can now focus on the areas of work that have been most affected by increased workloads during this time, with Audit checking that the controls

remained in place and working. The only negative effect on the plan is that time was set aside for Tourism and Enterprise, however as it appears that there will be little or no business in this department for some time, then some of that time allocation will be used in other areas.

- 2.7 Clearly the council is affected by loss of income during the lockdown and it is important to ensure that all income that is actually due is received. The audit plan for 2020-21 included a review of how arrears collection is handled across all departments and this is the first audit from the plan that is being carried out, in the hope that this will help to increase income into the council.

### 3.0 Review of the work of Internal Audit carried out in the first quarter of 2020-2021.

- 3.1 A list of all the audit reports issued in final from 1<sup>st</sup> April 2020 to 30<sup>th</sup> June 2020 is as follows:

Benefits and CTR – Eastbourne (19/20)	Substantial Assurance
Main Accounting (19/20)	Partial Assurance
Treasury Management (19/20)	Substantial Assurance

*NB. These are the Assurance Levels given at the time of the initial report and do not reflect findings at follow up.*

- 3.2 Below are the descriptions of the levels of assurance referred to above.

Assurance Level	Description
Full Assurance	Full assurance that the controls reduce the risk to an acceptable level.
Substantial Assurance	Significant assurance that the controls reduce the level of risk, but there are some reservations; most risks are adequately managed, for others there are minor issues that need to be addressed by management.
Partial Assurance	Partial assurance that the controls reduce the level of risk. Only some of the risks are adequately managed; for others there are significant issues that need to be addressed by management.
Minimal Assurance	Little assurance that the controls reduce the level of risk to an acceptable level; the level of risk remains high and immediate action is required by management.
No Assurance	No assurance can be given. The reasons will be explained thoroughly in the report.

- 3.3 During this period the following draft reports have been issued and will be reported in future reports once agreed by the relevant manager.

Debtors (19/20)

Payroll (19/20)  
Cash and Bank (19/20)  
Council Tax (19/20)  
NNDR (Business Rates) (19/20)

- 3.4 Appendix A is the list of all reports issued in final during the year which were given an assurance level below “Substantial”. This list includes brief bullet points of the issues highlighted in the reviews which informed the assurance level given.
- 3.5 In the audit plan for 2020/21 it was proposed to have a list of audits to be carried out which reflected the size of the departments as a percentage of the councils. In this way, when the teams are tasked with pieces of work, these can be carried out within the allocation for the area. A planned audit may have to be dropped but the breadth of coverage would be maintained. It would be ensured that a lower risk audit was dropped if this were to be the case.
- 3.6 The table below shows the work carried out by the Internal Audit team in the first quarter of the year by percentage across the main areas services compared to that planned for the whole. It should be noted that the figures will be skewed as few audits (other than the annual audits) have been undertaken at this point in the year

Area	Planned	Actual
Regeneration	12%	0%
Tourism and Enterprise	9%	0%
Service Delivery	37%	64%
Corporate Services	42%	36%

#### 4.0 Counter Fraud

- 4.1 This is the first quarterly report since the global Covid-19 pandemic. The Counter Fraud Team work has been directly affected like many other areas during this period, with the team responding to the councils’ key priorities by undertaking additional work with welfare contact calls, crematorium, housing needs, housing benefits and customer contact queries.
- 4.2 Despite periods of redeployment, the team have taken a flexible and creative approach in dealing with the existing and new fraud investigations under government guidelines and restrictions. Cases have continued to be built and monitored during the lockdown period, with the team responding to new and emerging fraud risks following the release of Covid-19 support packages to businesses and individuals.
- 4.3 The team continues to target the high risk and value areas of tenancy housing while also undertaking other exercises as detailed below. However the response to Covid-19 has had an impact and this is explained in more detail under each sub section.
- 4.4 Housing Tenancy – The team continue to work closely with colleagues in Homes First and Legal, with 11 ongoing sublet/abandonment tenancy cases at various

stages. Three have been found to be false tenancy applications and five others have been closed with no further action.

- 4.5 Right to Buy – There was reduction in RTB applications in the beginning of the quarter which is unsurprising with the current financial uncertainty and Covid-19. 12 cases are currently being checked to prevent and detect fraud and protect the authority against money laundering. Six cases were withdrawn during this period after intervention by the team resulting in a preventative saving of £480,920 to the authority.
- 4.6 Tenancy fraud awareness – a joint working campaign with Homes First to develop a series of publicity articles via community posters, social media and local press to raise the awareness of social fraud with the public has been put on hold.
- 4.7 Housing Options – Access for Homes First caseworkers and specialists to use HM Land Registry and the National Anti-Fraud Network facilities for credit checks has been rolled out to help verify applications and prevent fraud. Planned work on Housing Allocations and Applications has been put on hold due to other work commitments.
- 4.8 NNDR – Following on from the government’s announcement to support businesses with large scale grants, the team are working closely with the revenues specialists to prevent and investigate fraudulent applications. The Counter Fraud Team are already working on a number of cases and will now look more closely at 60 applications verified by the council’s Ascendant system. Upon completion of this review, additional checks may be made where fraud or error has been highlighted.
- 4.9 Council Tax – 14 cases have been closed during this period with 11 resulting in a change in liability with a £12,164.35 recoverable saving. The planned work on Council Tax Exemptions and Disregards has been put on hold due to other work commitments.
- 4.10 Council Tax Reduction – Seven cases have been closed down in this period with no further action taken. This has generated a recoverable income of £1462.65 and a preventative saving of £5136.64. Due to other work commitments, the team have limited capacity to undertake investigations in this area and will therefore undertake further fraud awareness training to the caseworkers to help prevent and detect fraud.
- 4.11 Housing Benefit – The team continue to work closely with the Department for Work and Pensions (DWP) and our colleagues in the benefit section. Due to resources restrictions and pressing need to assess Universal Credit applications, the DWP have limited their capacity to investigate possible Housing Benefit fraud. However, 21 cases have been closed in this period with an increase in recoverable Housing Benefit of £22,938.42 and a preventative saving of £7.5k.
- 4.12 Housing debtors – The team have commenced a project to look at debt avoidance where loans have been made to assist with securing housing and have remained outstanding following existing methods of contact.
- 4.13 National Fraud Initiative – No further work has been taken on the 2018/19

exercise following limited results from 10% of test checking. The next data set exercise for 2019/20 is due to be extracted at the end of this year.

4.14 Data Protection Requests (DPA) – the team take an active role in supporting colleagues in other organisations to prevent fraud and tackle criminal activity. In this period we have dealt with 12 DPA requests from the Police and other authorities.

4.15 A table showing the savings made by the Counter Fraud team in the first quarter of the year 2020-2021 can be found at Appendix B.

## **5.0 Financial appraisal**

5.1 There are no financial implications relating to expenditure arising from this report.

Details of savings generated by the Counter Fraud team are included in Appendix B.

## **6.0 Legal implications**

6.1 This report demonstrates compliance with regulation 5 of The Accounts and Audit Regulations 2015, which requires Eastbourne Borough Council to 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.

*Lawyer consulted 06.08.20*

*Legal ref: 009413-EDC-OD*

## **7.0 Risk management implications**

7.1 If the Council does not have an effective governance framework that is subject to proper oversight by Councillors it will not be able to demonstrate that it has in place adequate means to safeguard Council assets and services, and it could be subject to criticism from the Council's external auditor or the public.

## **8.0 Equality analysis**

8.1 An equalities impact assessment is not considered necessary because the report is for information only and involves no key decisions.

## **9.0 Appendices**

Appendix A – list of all reports issued in final during the year which were given an assurance level below “Substantial” with any issues highlighted in the reviews which informed the assurance level given.

Appendix B – Counter Fraud work and savings.



## **10.0 Background papers**

10.1 Audit reports issued throughout the year.

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**APPENDIX A****Reasons for original assurance levels given (below Substantial)**

N.B. The issues noted here may have been addressed since the original report was issued.

<b>AUDIT REVIEW</b>	<b>ASSURANCE LEVEL</b>	<b>ISSUES NOTED</b>	<b>Level at follow up</b>
Main Accounting (19/20)	Partial	<ul style="list-style-type: none"><li>• Budget holders indicated they would like more training.</li><li>• Written procedures have not been updated to reflect shared service.</li><li>• Cafi does not reflect the current organisation structure.</li><li>• Recharges between councils are not carried out on a regular monthly basis.</li><li>• Regular reconciliations between the general ledger and feeder files (e.g. rents, council tax etc) are not being carried out.</li></ul>	

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## EASTBOURNE COUNTER FRAUD SAVINGS

	QUARTER ONE		QUARTER TWO		QUARTER THREE		QUARTER FOUR		YEAR TOTAL	
	Income	Savings	Income	Savings	Income	Savings	Income	Savings	Income	Savings
<b>Tenancy Housing</b>										
Recovery of council properties									£0.00	£0.00
RTB value saved through intervention		£480,920.00							£0.00	£480,920.00
Housing intervention/fraud									£0.00	£0.00
<b>Revenues</b>										
NNDR									£0.00	£0.00
Council Tax	£11,866.42								£11,866.42	£0.00
Value of ongoing CT increase per week	£297.93								£297.93	£0.00
Council Tax Penalties									£0.00	£0.00
<b>CTR &amp; Housing Benefit</b>										
SPOC Cases									£0.00	£0.00
Council Tax Reduction	£1,462.65								£1,462.65	£0.00
CTR weekly incorrect benefit (WIB)		£5,136.64							£0.00	£5,136.64
Housing Benefit	£22,938.42								£22,938.42	£0.00
HB weekly incorrect benefit (WIB)		£7,462.40							£0.00	£7,462.40
Income from Adpen collection	£1,107.85								£1,107.85	£0.00
<b>NFI</b>										
Number of open matches									£0.00	£0.00
Number of closed matches									£0.00	£0.00
Awaiting Processing									£0.00	£0.00
Overpayments identified									£0.00	£0.00
Weekly incorrect benefit identified									£0.00	£0.00
<b>OTHER INVESTIGATIONS</b>										
Procurement									£0.00	£0.00
Internal									£0.00	£0.00
DPA									£0.00	£0.00
Income from court costs									£0.00	£0.00
<b>TOTALS</b>	<b>£37,673.27</b>	<b>£493,519.04</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£0.00</b>	<b>£37,673.27</b>	<b>£493,519.04</b>

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<b>Report to:</b>	<b>Audit and Governance Committee</b>
<b>Date:</b>	<b>9th September 2020</b>
<b>Title:</b>	<b>Review of Risk Management</b>
<b>Report of:</b>	<b>Chief Internal Auditor</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To report to committee on the plan to address risk management practices.</b> <b>To present the updated Risk Management Policy for approval.</b>
<b>Officer recommendation(s):</b>	<b>To consider and comment on the proposed actions in Appendix A</b> <b>To consider and adopt the updated Risk Management Policy</b>
<b>Reasons for recommendations:</b>	<b>The council is committed to having appropriate risk management processes in place and ensuring these are embedded across the authority.</b>
<b>Contact Officer(s):</b>	<b>Name: Jackie Humphrey</b> <b>Post title: Chief Internal Auditor</b> <b>E-mail: Jackie.humphrey@lewes-eastbourne.gov.uk</b> <b>Telephone number: 01323 415925</b>

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## **1 Introduction**

- 1.1 A new contract with Zurich, to provide insurance for the council, began in April 2019. As part of this contract the council was offered a free review of the effectiveness of the risk management arrangements. This was considered a timely offer as the risk management policies for both Eastbourne and Lewes needed to be aligned and the process as a whole was in need of review. Zurich were therefore requested to undertake the review.

## **2 Situation at the time of the Zurich review**

- 2.1 The council has a strategic risk register which is reviewed quarterly by the Corporate Management Team (CMT) with any changes made being reported to this committee.
- 2.2 Projects are managed on a piece of software, called Pentana Performance, within a framework which includes maintaining a risk register.

2.3 In the past, service level risk registers were included as part of the Service and Financial Planning forms and so were completed annually. A few years ago these were taken out of the Service and Financial Planning documents and were put onto Pentana Performance (then called Covalent). Managers were asked to keep these up to date, preferably quarterly but at least annually. However, although there were pockets of good practice, the majority of risk registers were not kept up to date and eventually they were removed from Pentana altogether. It is therefore probable that service areas no longer maintain risk registers other than for projects or the Health and Safety risk registers. This does not mean that risks are not being managed but they are not being recorded.

### **3 The risks of not having an embedded risk management framework.**

3.1 An embedded risk management framework is important as it aids safeguarding the council financially, legally, politically and reputationally.

3.2 If risk registers are not held at a service level then these risks may not be identified or managed to reduce likelihood or impact. The identification of risk allows planning and preparation. Recording risks in one place can also help to identify how risks impact on one another.

3.3 There should also be a link between service level and strategic risk registers as each should inform the other. If they do not then it is possible that risks at the strategic level will not be managed at the service level and emerging risks may be missed from the strategic risk level.

### **4 The review by Zurich**

4.1 Documents relevant to risk management were sent to Zurich, these included the risk management policy and the strategic risk register. A representative of Zurich came to the offices in October 2019 and undertook face to face interviews and some by phone. Those interviewed were: Corporate Performance Specialist, Head of Business Planning and Performance, Chief Finance Officer, Performance and Programmes Lead and the Chief Internal Auditor.

4.2 The review looked at six categories:

- leadership and management
- strategy and policy
- people and training
- processes and tools
- risk handling and assurance
- partnership, shared risk and projects.

The results of the review were used to create a score for these categories from 1 – 5 and showed these on a diagram.





**KEY**

- Level 1 – Engaging
- Level 2 – Happening
- Level 3 – Working
- Level 4 – Embedded
- Level 5 – Driving

4.3 The report from Zurich highlighted six areas for improvement:

- appoint acknowledged risk management “owner” to lead the process
- align risk strategy framework across both councils and relaunch
- run CMT and Member risk awareness sessions
- raise profile of risk management generally across the authorities
- more proactive risk identification and horizon scanning through all levels
- clearer understanding of acceptable risk appetite.

4.4 From these main points, 13 recommendations were made. A summary of the findings is shown below:

4.5 Leadership and management      The importance of risk management is understood at senior level. Changes, both political and internal, indicate it would be beneficial to facilitate training and awareness. Due to time constraints and other priorities it was felt that CMT did not always drive risk management downwards. The risk appetites of the two councils differ.

4.6 Strategy and policy      Documentation is fragmented and does not reflect the current joint working arrangements. There are currently two separate strategies with plans in place to rewrite into one strategy across both

authorities. The revised framework should emphasise the importance of escalation and wider communication.

- 4.7 Processes and tools The Pentana system is used to record risks and produce reports. It is possible that the reporting function could be used more effectively (perhaps to wider stakeholders). The cessation of the service level risk registers on the system has left a gap where it seems Heads of Service are not recording risks outside of projects.
- 4.8 Risk handling and assurance The strategic risk registers (SRRs) are high level and there is a possibility that risks are not identified or escalated where necessary. Managers lower than CMT level do not have sight of the SSRs so may be unaware of the high level risks that impact their area. Risk consideration in Theme Plans may have become a box ticking exercise and it is possible that risk based decisions are not offered enough objective challenge.
- 4.9 People and training Staff have reasonably good levels of knowledge. There is no formal training programme in place and it is not felt that one would be beneficial. The culture across the authorities is more open and honest than previously and people would not be deterred from talking about risk.
- 4.10 Partnerships, shared risks and projects Whilst interviewees provided some level of assurance that risks were well understood and managed, particularly within projects, it was clear that a structured framework and methodology for managing and reporting risks in contracts and partnerships was not consistently in place.

## **5 Actions**

- 5.1 A report on the recommendations made by Zurich was taken to the CMT for discussion and to agree responses to the recommendations.
- 5.2 Appendix A shows the recommendations made by Zurich, the comments from CMT and the proposed actions, owners and timescales for implementing these.
- 5.3 The committee is asked to consider and comment on the proposed actions.

## **6 Risk Management Policy**

- 6.1 Before the majority of the actions listed on the appendix can be undertaken it is important to ensure that there is an adequate and up to date policy in place. Therefore the existing policies of Eastbourne Borough and Lewes have been aligned and updated and one new policy covering both authorities has been produced. The updated Risk Management Policy is attached to this report as Appendix B.
- 6.2 Councils are required to have a sound system of internal control and this includes risk management. Adopting proportionate risk management procedures will enable the authority to demonstrate that full consideration has been given to risks which could affect service delivery and achievement of strategic aims and objectives.
- 6.3 The Risk Management Policy lays down the framework for the identifying, recording and monitoring of risks. It also sets out roles and responsibilities and the arrangements for identifying, evaluating, controlling and monitoring of those risks.
- 6.4 The risks will be recorded at service area level and the risk assessments will be held on performance software. At this level the risks should be regularly reviewed at departmental team meetings.
- 6.5 Any risks with a high risk score remaining after mitigating actions have been taken (residual risk score) will be reported on to Corporate Management Team to be considered quarterly as part of the review of the strategic risk register.
- 6.6 Once the updated policy is agreed and adopted it will be published on the intranet and all staff will be made aware that it has been updated and published. Following this the actions listed in the action plan will be undertaken which will mainly involve ensuring that adequate training is given to staff and members.
- 6.7 Once adequate training has taken place the Internal Audit team will ensure that they request the risk register for every area audited and ensure that it is set up and adequate. The Chief Internal Auditor will also ensure that consideration is given to service area risks when the strategic risk register is discussed by the Corporate Management Team.
- 6.8 The committee are asked to consider and adopt the attached Risk Management Policy.

## **7 Financial appraisal**

- 7.1 There are no financial implications arising from this report.

## **8 Legal implications**

- 8.1 This report demonstrates compliance with regulation 3 of The Accounts and Audit Regulations 2015, which requires the Council to operate a sound system of internal control, including effective arrangements for the management of risk.

*Lawyer consulted 28.07.20.  
Legal ref: 009397-EBC-OD*

**9 Risk management implications**

9.1 If the Council does not have an effective risk management framework that is subject to proper oversight by Councillors it will not be able to demonstrate that it has in place adequate means to safeguard Council assets and services, and it could be subject to criticism from the Council's external auditor or the public.

**10 Equality analysis**

10.1 An equalities impact assessment is not considered necessary because the report is for information only and involves no key decisions.

**11 Appendices**

- Action Plan – Appendix A
- Risk Management Policy – Appendix B

**12 Background papers**

None

**APPENDIX A – Recommendations and Action Plan**

<b>ZURICH RECOMMENDATION</b>	<b>CMT DECISION</b>	<b>Action/Owner/Timescale</b>
Allocate resource to risk ownership who will own and champion the process.	Chief Internal Auditor to co-ordinate and Corporate Management Team to manage.	This information to be included in the risk management policy CIA July <b>COMPLETED</b>
Develop a clearer understanding of the councils' risk appetites (which may differ). Comparison of the two would affect risk identification and treatment.	The risk appetite will be different from issue to issue. It was therefore agreed not to have one overall risk appetite.	No Action required
Hold facilitated workshops for CMT and Members to refresh understanding of roles and responsibilities.	Agreed. Once the new risk management policy is written and adopted, training will be arranged.	Zurich to be contacted to arrange training once the policy is agreed CIA September
Update the current strategies into one document aligned across both authorities, with any necessary supporting framework and processes.	Agreed. To be reviewed, updated and aligned.	Policy to be updated and taken to committee CIA July <b>COMPLETED</b>
<p>Consider whether current systems could be integrated further, or if processes could be more automated.</p> <p><i>(In the body of the report this is phrased as "consider the reporting opportunities of the Pentana system".</i></p> <p><i>The Corporate Performance Specialist also explained that Pentana's reporting capacity has the capacity to be used by the wider stakeholder groups (for example external consultants) who work closely with the councils to deliver the projects / priorities / etc.)</i></p>	All risk assessments to be put back onto Pentana Performance.	Liaise with Business Planning and Performance to reinstate risk registers – to be arranged once training has been given. CIA December

ZURICH RECOMMENDATION	CMT DECISION	Action/Owner/Timescale
Ensure key service risks are being captured, documented and escalated.	Operational and service level risks to be recorded on one risk assessment for each service area. Service level risk registers to be reviewed six monthly at CMT with Directors/Asst Directors responsible for the service level risk registers.	To be put in place once policy is adopted and training has been given CIA to co-ordinate and CMT to manage December
Implement a forum for risk discussion at service level.	Service level risk registers to be discussed at Departmental Management Team meetings.	To be put in place once policy is adopted and training has been given Directors/Asst Directors/Heads of Service December
Interactive training workshops across all levels.	Agreed. Once the new risk management policy is written and adopted, training will be arranged.	Zurich to be contacted to arrange training CIA September
Risk management refresher training for Members (especially newer ones).	Agreed. Once the new risk management policy is written and adopted, training will be arranged.	Zurich to be contacted to arrange training CIA September
Contract risk management training and awareness, with a view to identifying strategically important contracts and associated risks.	Agreed. Once the new risk management policy is written and adopted, training will be arranged.	Zurich to be contacted to arrange training CIA September
Robust and consistent governance framework including entrance and exit strategies.	Agreed – To be mentioned in the risk management policy.	To be included in the risk management policy CIA July <b>COMPLETED</b>

<b>In discussion with the CFO the following is also recommended.</b>		
Audit to view service level risk registers for every audit review undertaken.	Agreed – as part of every audit the auditors will request a copy of the service areas risk register.	The Internal Audit team have been informed to pick this up again once service areas have been told that they need to produce risk registers. <b>This has already commenced.</b>
CMT to allocate a reasonable sized slot on one agenda to fully consider risk and governance.	Agreed	Slot on CMT to be organised once the policy has been adopted CIA September
CIA to carry out a follow up of progress against agreed actions.	Agreed –To be reviewed monthly	To be carried out on a monthly basis and reported to CMT quarterly.

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# STRONGER together



Lewes District Council



Working in partnership with **Eastbourne Homes**

# RISK MANAGEMENT POLICY

Title	Risk Management Policy
Version	5
Date	September 2020
Approved By	
Next Review	
Author	Chief Internal Auditor

## CONTENTS

1.	Purpose	<a href="#">3</a>
2.	Introduction	<a href="#">3</a>
3.	Risk Management Aims and Objectives	<a href="#">3</a>
4.	Risk Appetite and Financing	<a href="#">4</a>
5.	Roles and Responsibilities	<a href="#">5</a>
6.	Risk Management Arrangements	<a href="#">7</a>
	6.1 Risk Identification	<a href="#">7</a>
	6.2 Risk Categories	<a href="#">8</a>
	6.3 Risk Evaluation and Scoring	<a href="#">9</a>
	6.4 Risk Control	<a href="#">12</a>
	6.5 Risk Monitoring and Reporting	<a href="#">13</a>
7.	Embedding Risk Management within the Organisation	<a href="#">14</a>
8.	Updating the Strategy	<a href="#">15</a>

## **1. PURPOSE**

Lewes District and Eastbourne Borough councils are committed to adopting best practice in the management of risk to ensure that identified risks are managed to acceptable levels.

Adopting proportionate risk management procedures will enable the authorities to demonstrate that full consideration has been given to risks which could affect service delivery and the achievement of strategic aims and objectives.

The responsibility for managing risks lies with all officers and members of the councils and this policy explains these responsibilities.

This policy lays down the framework for identifying, recording and monitoring risks across the authorities.

## **2. INTRODUCTION**

Risk management is the identification, evaluation and cost effective control of risks to ensure that they are either eliminated or reduced to an acceptable level. Systems are then put in place to track and report upon existing and emerging risks that could cause damage to the councils or their stakeholders.

Managing risk effectively will help the authorities achieve their corporate objectives and protect their assets and resources against risk in the most efficient way.

The identification of risks also allows informed business decisions to be made by members and officers and it is therefore important that risks are noted in all reports to committees.

Risk management has a strong link with corporate governance as it is a vital element in the internal control environment. As well as following the procedures laid down in this document, Directors, Assistant Directors and Heads of Service are required annually to complete a Manager's Assurance Statement. These statements are intended to cover the operational, project and partnership responsibilities. They can also be used to highlight concerns and actions required to improve governance across both authorities.

## **3. RISK MANAGEMENT AIMS AND OBJECTIVES**

The purpose of this policy is to formally set out how the councils' managers and elected members are to manage risk.

The objectives of this risk management policy are to:

- integrate risk management into the culture of the councils
- manage risk in accordance with best practice
- anticipate and respond to changing social, political, environmental and legislative requirements

- assist in achieving the councils' corporate aims and objectives
- maximise opportunities and encourage innovation through reassurance on the management of potential risks
- prevent or minimise potential loss, disruption, damage and injury and reduce the cost of risk, thereby maximising resources
- raise awareness of the need for risk management by all those connected with the councils' delivery of services and objectives

These objectives will be achieved by:

- considering risk appetite and financing
- establishing clear roles, responsibilities and reporting lines for risk management within the councils
- establishing a regular agenda item on the Corporate Management Team agenda to discuss and update the Strategic Risk Registers
- incorporating risk management arrangements for the identification, mitigation, monitoring and reporting of risks into the councils' management and decision making processes
- providing risk management training and awareness sessions for council officers and members
- effective communication with, and the active involvement of, council officers and members
- annual review of this risk management policy

#### **4. RISK APPETITE AND FINANCING**

##### Risk Appetite

An organisation's risk appetite is the level of risk that it is prepared to tolerate without putting in place further risk mitigation. Mitigation relates to the actions taken to control the risk by reducing the impact or the likelihood. Risk management at operational levels should not be overwhelmed by relatively minor operational risks. However it is also acknowledged that some high risks will remain high no matter what mitigating actions are taken, or that there are no mitigating actions that can be taken.

The councils have agreed not to set one prescriptive risk appetite. Lewes District and Eastbourne Borough councils are two separate and distinctive organisations and one risk appetite would not be appropriate. It is also considered that the risk appetite will vary depending on the circumstances of each individual risk. Therefore a more flexible approach will be followed, allowing risks to be judged on their own merits and allowing informed decisions to be made in respect of each risk.

### Risk Financing

The total cost of risk includes the costs of putting a risk management framework in place and keeping it under review, the cost of officers carrying out the risk management processes, the cost of control actions that are put in place, and finally the cost of risks occurring.

The cost of the councils' risk management framework is included within the budget framework. The cost of control actions to be put in place will be covered either from existing budgets or, where this is not possible, by a growth bid through the Service and Financial Planning process or through a report to Cabinet.

Risks should be identified and evaluated as early as possible in any project or policy decision so that the costs of managing the risk can be included in the overall project funding.

Risk financing can be retained, i.e. self-funded, or transferred. The transfer of risk financing is carried out either through the outsourcing of operations or through the purchase of insurance.

The councils' insurance cover is provided by Zurich Municipal via a block policy. The current approach to agreeing premiums shows a low risk appetite, reducing as far as possible the risk of uncertainty.

## **5. ROLES AND RESPONSIBILITIES**

Overall the risk management process will be overseen by the Chief Internal Auditor but managed by the Corporate Management Team.

### Cabinets

- review the risk management implications of all Cabinet decisions

### Audit and Risk Committee (Lewes) and Audit and Governance Committee (Eastbourne)

- approve the council's risk management arrangements through its Risk Management Policy
- consider the effectiveness of the authority's risk management arrangements
- review the council's strategic risks

### Corporate Management Team

- review the implementation of the risk management framework, policy and process
- agree the councils' strategic risks
- monitor progress on managing risks

- oversee development of the Risk Management Policy
- oversee development of the Annual Governance Statement

#### Internal Audit

- use a risk based approach to inform the Internal Audit Plan utilising the Strategic Risk Register as well as its own assessment. This will be carried out annually and reviewed quarterly
- carry out independent reviews to assess the effectiveness of risk management and make appropriate recommendations

#### Directors/Assistant Directors/Heads of Service

- ensure that a risk register is in place for their service area and this is regularly reviewed
- ensure that risks are discussed at each Departmental Management Team meeting

#### Managers

- ensure that risk is managed in their area of work in accordance with the Risk Management Policy
- promote understanding and good practice amongst their staff
- identify and assess emerging risks in their service areas
- ensure that every risk identified has an appropriate Risk Owner

#### Risk Owners

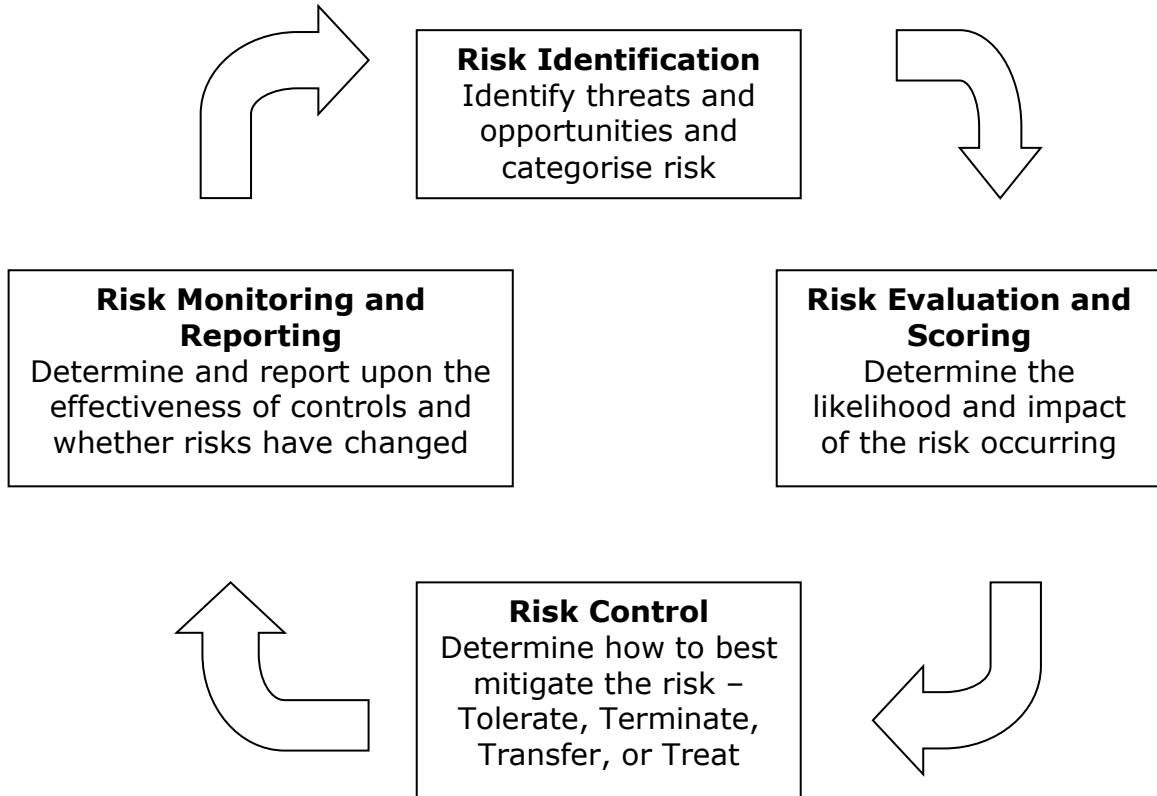
- evaluate emerging risks
- identify and implement mitigation where necessary
- monitor effectiveness of the mitigation
- maintain and review an accurate risk register for their risks

#### All Members and Employees

- understand that risk management and risk awareness are part of the councils' culture
- understand their accountability for individual risks
- report promptly to managers any emerging risks or failures in existing controls
- assist in the identification and evaluation of risks and opportunities
- implement any mitigating actions assigned
- comply with control processes introduced

## 6. RISK MANAGEMENT ARRANGEMENTS

To manage risks effectively, they need to be systematically identified, evaluated, controlled and monitored. The four stages in the risk management cycle are illustrated in the diagram below:



### 6.1 Risk Identification

Any process of risk identification must be carried out in a systematic manner to ensure that all risks to the councils' objectives are identified. It must therefore be integrated into the councils' business processes and holistic in its approach.

For every risk identified, a risk owner will be appointed who will be responsible for the remainder of the risk management process, i.e. evaluation, mitigation, monitoring and reporting of that risk. All risks should be assigned to an individual rather than a group.

#### Operational Risks

The Corporate Management Team decided that only risks at departmental and strategic level need be managed within the Risk Management Policy. However, an understanding of all the operational risks will be necessary in order to better inform the departmental risk registers. Therefore, whilst not necessary under this policy, managers may decide to retain their own operational risk register.

### Departmental (Service Area) Risks

Departmental (Service Area) risk registers will be maintained by Heads of Service/Directors by way of their departmental management teams. These registers will identify the threats and opportunities that could influence the service area's ability to achieve its overall objectives. These will also be considered quarterly by the Corporate Management Team.

### Strategic Risks

The Strategic Risk Register will be considered at Corporate Management Team at least quarterly. They will review the strategic risk registers, assess any new high level risks reported to them and, where appropriate, include them in the strategic risk register.

### Project Risks

A project is defined as "A unique process, that has a beginning and an end, which is carried out to achieve a particular purpose, to a set quality, within given constraints of time, cost and resources."

All projects thus defined within the councils are managed under project management methodology. As such a risk register and action plan is developed at the beginning of each major project.

As part of the consideration of risks for a project, entrance and exit strategies must be considered and put in place.

For further information please refer to the Project Management Toolkit.

### Partnerships

When entering into a partnership, entrance and exit strategies must be considered and put in place. Risks must be considered and recorded and regularly reviewed throughout the duration of the partnership.

### Contracts

When outsourcing work via a contract it must be remembered that all risks are not outsourced with the contract. Some risks will remain, particularly around the possible failure of the contract.

Individual risk registers can be maintained for all large contracts and/or the major risk/s must be included in the service level risk register.

Consideration must be given to an exit strategy should the contractor suddenly not be able to provide the service.

## **6.2 Risk Categories**

When risks have been identified, they will fall into one of four main categories. These are:



<b>Strategic Risks</b>	Risks that may prevent or delay the councils meeting their strategic objectives;
<b>Departmental Risks</b>	Risks that may prevent or delay the department meeting its strategic objectives;
<b>Operational Risks</b>	Risks that officers face when working to meet their service objectives;
<b>Project Risks</b>	Risks that may prevent or delay a project meeting its objectives.

These categories are then further subdivided into:

<b>Political</b>	Risks associated with achievement of central or local policy/ manifesto commitments.
<b>Customer</b>	Risks that could affect the councils' ability to meet their customers' requirements and expectations.
<b>Reputation</b>	Risks that relate to the councils' image, credibility or reputation.
<b>Financial</b>	Risks that relate to losing monetary resources or incurring unacceptable liabilities.
<b>People</b>	Risks that could affect staff, customers and other individual stakeholders.
<b>Environment and Sustainability</b>	Risks that could adversely impact the local environment or the local economy.
<b>Regulatory</b>	Risks associated with the regulatory (or legal) environment.

### 6.3 Risk Evaluation and Scoring

#### Original Risk Score

When risks have been identified, they will be scored according to the likelihood of the risk occurring and the impact caused by the consequences of the risk occurring.

The judgement on the likelihood and impact of the risk occurring should be made by those with experience in the relevant service area.

The numerical values of the likelihood and impact are then multiplied together. This facilitates targeting of risk mitigation by ranking the risks. Two risk scores need to be assessed. The first is the "original risk score". This is the risk to the councils if no mitigating action is taken.

It is important that all risk registers use the same methodology to calculate the risk score in order to allow comparison and facilitate understanding of the risk levels.

### Scoring – Likelihood and Impact

#### **Likelihood**

The following indicators will be used to assess the likelihood, or probability, of the risk occurring.

<b>Score</b>	<b>Likelihood</b>	<b>Probability</b>
1	Rare	< 10%
2	Unlikely	c 25%
3	Possible	c 50%
4	Likely	c 75%
5	Almost certain	> 95%

## Impact

The following table will be used to determine the impact score.

Risk Score	1	2	3	4	5
	MINOR	MODERATE	SIGNIFICANT	MAJOR	CRITICAL
<b>Political</b>	Delay in delivery of one area of councils' objectives.	Delay in delivery of one or more of the councils' objectives. Delay in meeting a Govt policy.	Major delay in meeting a larger area of the councils' objectives. Delays in meeting Govt policies.	Failure and delays in meeting one or more of the councils' objectives. Significant delay or failure to meet Govt policies.	Failure to deliver local and national government policies.
<b>Customer Satisfaction</b>	Short term, minor service problem. Impact limited to a few customers. Unlikely to cause adverse publicity.	Short term service problem. Impact number of customers. Some adverse local publicity, needs careful PR.	Short to medium term disruption, impact many customers in one group/area. Adverse publicity in local media. Possible damage to credibility.	Long term disruption in one area or med term disruption to wider area affects many customers. Major adverse local publicity, major loss of credibility.	Major disruption with impact on widespread groups. Significant adverse publicity in national media..
<b>Financial</b>	Minor financial loss – accommodated within service area budget	Moderate financial loss – accommodated within divisional budget	Significant financial loss – accommodated within councils' overall budget	Major financial loss - major impact on councils' financial plan	Severe financial loss – critical impact on councils' financial plan, resources unlikely to be available
<b>People</b>	Staff dissatisfaction in localised area.	Dissatisfaction disrupts localised service.	Significant dissatisfaction and disruption to one or more service area.	Short/medium term dissatisfaction and disruption to large area of councils' services.	Long term, widespread dissatisfaction and disruption to councils' services.
<b>Environment &amp; Sustainability</b>	No lasting detrimental effect	Short term, localised detrimental effect	Serious short-medium term effect that requires remedial action	Long term detrimental impact	Extensive, long term detrimental impact
<b>Regulation</b>	Breaches of local procedures/ standards. Internal only.	Possible complaints or litigation. Breaches of regulations or standards.	High potential for complaint, litigation possible. Breaches of law punishable by fines or imprisonment.	Litigation likely & may be difficult to defend. Breaches of law punishable by fines or imprisonment.	Litigation certain & difficult to defend. Breaches of law punishable by imprisonment.

### Gross Risk Score

Once the likelihood and impact scores have been assessed the risk level itself is then calculated by multiplying the scores.

i.e. likelihood x impact = gross risk score

### **6.4 Risk Control/Mitigating Actions**

Once the original risk score has been calculated, consideration needs to be given to the actions that can be taken to mitigate the risk. The likelihood and impact must then be reassessed taking into account the mitigations and new scores evaluated. This is the “residual risk” – the risk remaining after the mitigating actions have been put in place.

When considering the mitigating actions to be taken for identified risks consideration should be given to comparing the cost of mitigation to the cost of exposure.

All risks should be considered for levels of mitigation dependent upon their own, or aggregated merits.

Having identified, analysed and evaluated the risks, it must be decided what actions will be taken to mitigate the risk to an acceptable level. Mitigation is the action taken to control the risk by reducing the impact and/or reducing the likelihood.

There are four options available.

#### Tolerate the Risk

For some risks, for instance low scoring risks, it may be acceptable to do nothing and accept the risk. These risks should still be monitored to ensure that if the level of risk rises and becomes unacceptable, appropriate action is taken.

#### Treat the Risk

In most cases it will be possible to put controls in place that will reduce the likelihood of the risk occurring and/or reduce the severity of the consequences should the risk occur. Managers must judge which controls are most appropriate and cost effective. After controls have been put in place, the risks should always be re-evaluated to determine that the residual risk is acceptable.

#### Transfer the Risk

This involves transferring liability for the consequences of an event to another body. This can be done through transferring liability to another service provider through contractual arrangements for service delivery, or transferring some or all of the financial risk to an external insurance company. **NB** it is usually only possible to transfer responsibility for risk control and the financial impact, not the underlying risk itself.

## Termination

This is when it is decided not to undertake an activity or service because the risk is too great. This usually occurs where risk treatment or transfer is not appropriate.

The aim of these actions (other than tolerate) should reduce the risk by lowering the scores of the likelihood and/or impact. Once identified the overall risk score can be calculated in the same way as the original risk score.

## **6.5 Risk Monitoring and Reporting**

### Risk Registers

All risks will be logged on Pentana Performance.

There will be separate registers for departmental (service area) risks, strategic risks and project risks.

The risk registers will contain the following information:

- the description of the risk
- the risk score before mitigation (original risk score)
- the mitigating action to be taken and, where appropriate, contingent action should the risk occur
- the responsible officer
- the anticipated risk score after mitigation (residual risk)

Risk registers will be updated regularly, e.g. at least quarterly for departmental (service area) and strategic risks and at appropriate intervals for projects dependant upon the timescale of the project.

Guidance on completing risk registers and carrying out regular updates can be obtained from the Performance Specialist in Business Planning and Performance.

### Risk Monitoring

Risk monitoring and review is an essential and integral part of the risk management process.

When monitoring risks, risk owners will consider the following:

- is the risk still relevant?
- are the controls still in place and operating effectively?
- after reviewing the risk, what has happened to the risk score?
- if the risk score is increasing do I need to devise more controls or think of other ways of mitigating the risk?
- if the risk is decreasing can I relax some existing controls?

Risks should be reviewed at least quarterly and updates recorded on Pentana Performance. Guidance on carrying out regular updates can be obtained from the Performance Specialist in Business Planning and Performance.

Departmental (service area) risks will be reviewed and monitored as a standing item on Departmental Management Team meeting agendas. Project risks will be reviewed at each project team meeting.

Strategic Risks will be reviewed by the risk owners and the Corporate Management Team quarterly.

### Risk Reporting

Reports on key risks will contain the following information:

- description of the risks
- their impact and likelihood scores
- changes to the risk score since the last reporting period and how these have been achieved
- any significant control failures or weaknesses that have occurred in the reporting period along with action plans to address them
- any new or emerging risks
- further explanations must be given where residual risks remain high risk

### Departmental (Service Area) Risks

Risks with a residual high risk score will be reported to the Corporate Management Team by relevant Heads of Service/Directors and form part of their onward reporting to the relevant Audit Committee.

### Major Project Risks

Each major project must have a project risks register written at the start of the project. Monitoring reports will be presented to each project board meeting.

### Strategic Risks

All strategic risk reviews are reported to the Corporate Management Team and the audit committees quarterly.

## **7. EMBEDDING RISK MANAGEMENT WITHIN THE ORGANISATIONS**

In order to be effective, risk management must be embedded in the operations of an organisation and form part of the culture of that organisation.

Risk management training and awareness sessions will be delivered to members and officers of the councils.

All senior managers will, in addition to being responsible for managing their risks, be accountable for embedding the process into their areas of responsibility and for promoting understanding and good practice amongst their staff.

Formal risk management processes will form part of the management of all major projects and in the consideration of entering into any new partnership arrangements. The risks inherent in such projects will be clearly defined, managed and reported.

All reports to Council, Cabinet and Committees will include an assessment and analysis of the risks associated with the requested decision.

## **8. UPDATING THE STRATEGY**

This strategy will be reviewed and updated annually.

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<b>Report to:</b>	<b>Audit and Governance Committee</b>
<b>Date:</b>	<b>9<sup>th</sup> September 2020</b>
<b>Title:</b>	<b>Strategic Risk Register Quarterly Review</b>
<b>Report of:</b>	<b>Chief Internal Auditor</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To report to Committee the outcomes of the quarterly review of the register by Corporate Management Team.</b>
<b>Officer recommendation(s):</b>	<b>To receive and note the update to the Strategic Risk Register</b>
<b>Reasons for recommendations:</b>	<b>The Council is committed to proper risk management and to regularly updating the committee with regard to the Strategic Risk Register.</b>
<b>Contact Officer(s):</b>	<b>Name: Jackie Humphrey Post title: Chief Internal Auditor E-mail: Jackie.humphrey@lewes-eastbourne.gov.uk Telephone number: 01323 415925</b>

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## **1 Introduction**

- 1.1 The Strategic Risk Register is a high level document that records the key risks facing the council: those risks that would prevent the authority from achieving its overall strategies and objectives.
- 1.2 Maintaining the Strategic Risk Register is a vital part of the governance arrangements of the authority and, as such, it is overseen by the Corporate Management Team who review it on a quarterly basis.
- 1.3 The risk register shows the risk, a description of the risk, the risk score if no action is taken (original risk score), the internal controls put in place to mitigate the risk and the risk score after these controls are in place (current risk score).
- 1.4 The risk register is brought to the committee when any changes have been made to it following review by the Corporate Management Team.

## **2 Background to April 2020 Review**

- 2.1 When the strategic risk registers were reviewed in February it was agreed to update the risk "Council materially impacted by the medium to long term effects of an event under the Civil Contingencies Act" by the addition of a point in the

description. The following point was added:

“Work adversely affected by reduced staff numbers due to the effects of pandemic virus”.

- 2.2 At that time Covid-19 had only just been named and had not been officially designated as pandemic. It was therefore decided not to raise the risk level at that time but to keep it under review.
- 2.3 The situation has changed dramatically and quickly since that report and the councils are now working in a completely changed environment. New pieces of work have been undertaken to deliver relief granted by the government as well as addressing perceived gaps in the voluntary sector. On top of this the councils are dealing with an exceptional increase in benefit applications and customer contacts. This has all happened alongside a sudden and unprecedented adjustment in the ways of working.
- 2.4 It is clear that, with the speed and extent of the changes to the ways of working, there would be an impact on processes and on the controls operating within those processes.

### **3. Report to Corporate Management Team**

- 3.1 A report was taken to the Corporate Management Team in April to report on the risks to the council as a result of the measures taken in response to the Covid-19 pandemic. The following areas were covered.
- 3.2 Ceased/relaxed controls – with the sudden change in ways of working it was clear that some controls may be relaxed or cease. An email was sent to all managers stating that the Internal Audit and Counter Fraud teams were still available to give advice on controls and to request that any changes to controls be reported to Internal Audit. Some requests for advice were received and dealt with and some changes in controls were reported. These areas have been noted and checks will be undertaken by Internal Audit and Counter Fraud on the work carried out during this period.
- 3.3 New areas of work – it was noted that new areas of work had been undertaken. These included the Business Rate Relief, Relief Grants, Hardship Grants and the packing and delivery of food parcels. Some initial investigations were undertaken and it appears that adequate controls had been put in place. However further checks will be undertaken by Internal Audit and Counter Fraud on the work carried out during this period at a later date.
- 3.4 General control risks – it was pointed out that with staff working outside of the office environment and with increased pressure to perform processes (especially the new ones) quickly there could be a tendency for individuals to relax controls. There is also the risk of redeployed staff not being aware of certain controls within the work they are being asked to carry out. Once again, further checks will be undertaken by Internal Audit and Counter Fraud on the work carried out during this period at a later date.

- 3.5 Financial Risks – the council are losing Business Rate income as well as income from theatres, events, conferences, catering, car parks etc. On top of this the latest plans for making savings cannot be progressed and so significant targets cannot be met. This is likely to have a significant impact on the finances of the council going forward.
- 3.6 Health and Safety Risks – there are clear risks for the staff who are still in contact with the public. However, there may be hidden risks with the staff who are working from home. These could be suffering mentally from being in lockdown but also are likely to be working whilst sitting at tables and on chairs that are not designed for sitting on/at for long periods. This could build up physical issues which will impact on sickness levels at a later date.
- 3.7 Other risks – there are a range of other risks that have been highlighted such as issues taking payments for some licences over the phone, increased fly-tipping, payments to contractors and the reputation risk to the council (for example, negative feedback about the speed of arranging relief grants).
- 3.8 The report to the Corporate Management Team therefore recommended that, as the council is currently in uncharted territory, the fuller implications of the risks cannot be properly measured and so the following changes to risk levels are suggested, bringing relevant risk scores to the highest level until a better idea can be gained of possible outcomes.

<b>Risk</b>	Changes to the economic environment makes the council economically less sustainable.
<b>Last risk score</b>	Likelihood 5, Impact 5.
<b>Reason for change</b>	It is clear that the economy is going to be affected and it is not yet clear whether local authorities will be sufficiently funded to cover the impact of reduced income.
<b>Suggested risk score</b>	This is already at the highest risk level so cannot be raised.

<b>Risk</b>	Unforeseen socio-economic and/or demographic shifts creating significant changes of demands and expectations.
<b>Last risk score</b>	Likelihood 3, Impact 3
<b>Reason for change</b>	It cannot be known yet the full impact of the pandemic but there has already been a jump in benefit applications and there could be increased homelessness and demand for council homes.
<b>Suggested risk score</b>	Likelihood 5, Impact 5.

<b>Risk</b>	Council prevented from delivering services for a prolonged period of time.
<b>Last risk score</b>	Likelihood 2, Impact 4
<b>Reason for change</b>	Whilst there has been no prevention of delivery it has become more difficult.
<b>Suggested risk score</b>	Likelihood be raised to at least 3.

<b>Risk</b>	Council materially impacted by the medium to long term effect of an event under the Civil Contingencies Act
<b>Last risk score</b>	Likelihood 3, Impact 3.
<b>Reason for change</b>	There are already signs that the lack of income and not being able to make the saving intended will have a significant impact.
<b>Suggested risk score</b>	Likelihood 5, Impact 5.

<b>Risk</b>	Commercial enterprises that are fully controlled by the authority do not deliver financial expectations or do not meet governance requirements.
<b>Last risk score</b>	Likelihood 5, Impact 3.
<b>Reason for change</b>	The long terms effects of the current pandemic on companies cannot be currently judged
<b>Suggested risk score</b>	Likelihood 5, Impact 5.

3.9 All of these risk levels will be reviewed as time goes on once there is a better idea of just how the councils will be affected by the current situation.

#### 4. Decision by Corporate Management Team

4.1 At the meeting the Corporate Management Team agreed with the suggested risk scores with the exception of the risk “Council prevented from delivering services for a prolonged period of time” where it was agreed to raise the Likelihood score to 4.

4.2 Corporate Management Team also asked for the following footnote to be added to the Strategic Risk Register to refer to all of the risks listed at 3.8 above.

“These scores reflect the current situation regarding the Coronavirus Pandemic and the uncertainty in respect of its full impact and timeline. Mitigations that have been put in place include:

- ensuring that the council, as part of a regional network of partners, is able to undertake its civil contingencies duties in response to the national emergency
- the creative redeployment of staff and resources to enable sufficient

capacity to respond to the needs of the community and maintain priority services in line with a robust business continuity focused approach

- maintaining an accurate record of all business impacts and cost implications attributable to the current situation and providing ongoing information to the Government to assist the process of reimbursements
- keeping the strategic risks under constant review and modification in response to the ongoing national and local situation

In stating all of the above, it must be noted that the council’s ability to maintain and implement mitigating actions and future recovery is very heavily dependent on the degree to which Central Government is able to compensate Local Government financial impacts relating to increased costs and income loss arising from the full extent of the Covid-19 national emergency.”

4.3 Finally, it was also requested that a new risk be added to the risk register and this is shown below and appears on the attached risk register as SR\_011.

<b>Risk</b>	Judicial challenge of decision-making is heightened as a consequence of increased reliance on use of officer delegated powers
<b>Description</b>	<p>There is scope for the public audience, members of whom may be directly or indirectly affected by Council decisions, to increase once they can routinely hear (and see) meetings from the comfort of their homes. So, the number of people who may be in a position to mount a challenge may similarly increase.</p> <p>There is potential for successful challenges where lapses in IT connectivity may mean that decisions are made where members have not heard and taken into account all relevant information and/or where key public or other participants have not been able to participate in the meeting due to technology failure.</p> <p>The officer resource needed to defend the councils against this type of challenge will be significant</p>
<b>Original risk score</b>	Likelihood 4, Impact 4.
<b>Mitigating Actions</b>	<p>Use of delegated powers to be adequately recorded.</p> <p>Work closely with IT to ensure that technological issues are kept to a minimum.</p> <p>Issue minutes of meetings as soon as practicable.</p>
<b>Current risk score</b>	Likelihood 4, Impact 4.

## **5 August 2020 review**

- 5.1 The updated risk register was taken back to the Corporate Management Team in August to reconsider the scoring of the risks. It was agreed that no scores required updating at this point.

## **6. Financial appraisal**

- 6.1 There are no financial implications arising from this report.

## **7. Legal implications**

- 7.1 This report demonstrates compliance with regulation 3 of The Accounts and Audit Regulations 2015, which requires the Council to operate a sound system of internal control, including effective arrangements for the management of risk.

*Lawyer consulted 06.08.20*

*Legal ref: 009434-LDC-CK*

## **8. Risk management implications**

- 8.1 If the Council does not have an effective risk management framework that is subject to proper oversight by Councillors it will not be able to demonstrate that it has in place adequate means to safeguard Council assets and services, and it could be subject to criticism from the Council's external auditor or the public.

## **9. Equality analysis**

- 9.1 An equalities impact assessment is not considered necessary because the report is for information only and involves no key decisions.

## **10. Appendices**

- Strategic Risk Register

## **11. Background papers**

None

APPENDIX A

# Strategic Risk Register Position Table (Eastbourne)



**Report Type:** Risks Report  
**Generated on:** April 2020

<b>Code &amp; Title</b>	SR_000 Strategic Risk Register (Eastbourne)
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<b>Current Risk Matrix</b>		<table border="0"> <tr> <td><b>LIKELIHOOD</b></td> <td><b>IMPACT</b></td> </tr> <tr> <td>1 - Unlikely</td> <td>1 - Minor</td> </tr> <tr> <td>2 - Possible</td> <td>2 - Moderate</td> </tr> <tr> <td>3 - Likely</td> <td>3 - Significant</td> </tr> <tr> <td>4 - Highly Likely</td> <td>4 - Major</td> </tr> <tr> <td>5 - Almost Certain</td> <td>5 - Critical</td> </tr> </table>	<b>LIKELIHOOD</b>	<b>IMPACT</b>	1 - Unlikely	1 - Minor	2 - Possible	2 - Moderate	3 - Likely	3 - Significant	4 - Highly Likely	4 - Major	5 - Almost Certain	5 - Critical
	<b>LIKELIHOOD</b>	<b>IMPACT</b>												
	1 - Unlikely	1 - Minor												
2 - Possible	2 - Moderate													
3 - Likely	3 - Significant													
4 - Highly Likely	4 - Major													
5 - Almost Certain	5 - Critical													
	The numbers relate to the amount of risks currently positioned in each box.													

# Strategic Risk Register (Eastbourne)



Report Type: Risks Report

Generated on: April 2020

Page 136

Code	Title	Description	Likelihood	Impact	Original Risk Score	Internal Controls	Risk Owner	Likelihood	Impact	Current Risk Score	Traffic Light	Next Review Date
SR_001	No political and partnership continuity/consensus with regard to organisational objectives	Sudden changes of political objectives at either national or local level renders the organisation, its current corporate plan and Medium Term Financial Strategy unfit for purpose.	3	4	12	<p><u>Reduces Likelihood</u></p> <p>1. Create inclusive governance structures which rely on sound evidence for decision making.</p> <p><u>Reduces Impact</u></p> <p>2. Annual review of corporate plan and Medium Term Financial Strategy</p> <p>3. Creating an organisational architecture that can respond to changes in the environment.</p>	Chief Executive	2	3	6	Amber	Nov-2020
SR_002	Changes to the economic environment makes the Council economically less sustainable	<p>1. Economic development of the town suffers.</p> <p>2. Council objectives cannot be met.</p>	5	5	25	<p><u>Reduces Impact</u></p> <p>1. Robust Medium Term Financial Strategy reviewed annually and monitored quarterly. Refreshed in line with macro economic environment triennially.</p> <p>2. Creating an organisational architecture that can respond to changes in the</p>	Chief Finance Officer	5	5	25	Red	Nov-2020



Code	Title	Description	Likelihood	Impact	Original Risk Score	Internal Controls	Risk Owner	Likelihood	Impact	Current Risk Score	Traffic Light	Next Review Date
						environment.						
SR_003	Unforeseen socio-economic and/or demographic shifts creating significant changes of demands and expectations.	<p>1. Unsustainable demand on services.</p> <p>2. Service failure.</p> <p>3. Council structure unsustainable and not fit for purpose.</p> <p>4. Heightened likelihood of fraud.</p>	3	4	12	<p><u>Reduces Impact</u></p> <p>1. Grounding significant corporate decisions based on up to date, robust, evidence base. (e.g. Census; Corporate Plan Place Surveys; East Sussex in Figures data modelling).</p> <p>2. Ensuring community and interest group engagement in policy development (e.g. Neighbourhood Management Schemes; Corporate Consultation Programme)</p>	Director of Service Delivery	5	5	25	Red	Nov-2020
SR_004	The employment market provides unsustainable employment base for the needs of the organisation	Employment market unable to fulfil recruitment and retention requirements of the Council resulting in a decline in performance standards and an increase in service costs.	4	4	16	<p><u>Reduces Likelihood</u></p> <p>1. Changes undertaken to increase non-financial attractiveness of EBC to current and future staff.</p> <p>2. Appropriate reward and recognition policies reviewed on a regular basis.</p> <p><u>Reduces Likelihood and Impact</u></p> <p>3. Review of organisation delivery models to better manage the blend of direct labour provision. Pursuit of</p>	Asst Dir of HR and Transformation	3	2	6	Amber	Nov-2020

Code	Title	Description	Likelihood	Impact	Original Risk Score	Internal Controls	Risk Owner	Likelihood	Impact	Current Risk Score	Traffic Light	Next Review Date
						mutually beneficial shared service arrangements.						
SR_005	Not being able to sustain a culture that supports organisational objectives and future development.	<ul style="list-style-type: none"> <li>1. Decline in performance.</li> <li>2. Higher turnover of staff.</li> <li>3. Decline in morale.</li> <li>4. Increase in absenteeism.</li> <li>5. Service failure</li> <li>6. Increased possibility of fraud.</li> </ul>	4	4	16	<u>Reduces Likelihood</u> 1. Deliver a fit for purpose organisational culture.  2. Continue to develop our performance management capability to ensure early intervention where service and/or cultural issues arise.  3. Continue to develop communications through ongoing interactions with staff.	Asst Dir of HR and Transformation	3	4	12	Amber	Nov-2020
SR_006	Council prevented from delivering services for a prolonged period of time.	<ul style="list-style-type: none"> <li>1. Denial of access to property</li> <li>2. Denial of access to technology/information</li> <li>3. Denial of access to people</li> </ul>	3	5	15	<u>Reduces Likelihood</u> 1. Adoption of best practice IT and Asset Management policies and procedures.  <u>Reduces Likelihood and Impact</u> 2. Joint Transformation programme has created a more flexible, less locationally dependent service architecture.  <u>Reduces Impact</u> 3. Regularly reviewed and	Chief Executive	4	4	16	Red	Nov-2020

Code	Title	Description	Likelihood	Impact	Original Risk Score	Internal Controls	Risk Owner	Likelihood	Impact	Current Risk Score	Traffic Light	Next Review Date
						tested Business Continuity Plans.  4. Regularly reviewed and tested Disaster Recovery Plan.						
SR_007	Council materially impacted by the medium to long term effects of an event under the Civil Contingencies Act	1. Service profile of the Council changes materially as a result of the impact of the event. 2. Cost profile of the Council changes materially as a result of the impact of the event. 3. Work adversely affected by reduced staff numbers due to effects of pandemic virus.	3	5	15	<u>Reduces Likelihood and Impact</u> 1. Working in partnership with other public bodies.  2. Robust emergency planning and use of Council's emergency powers.  <u>Reduces Impact</u> 3. Ongoing and robust risk profiling of local area (demographic and geographic).  4. Review budget and reserves in light of risk profile.	Asst Dir for Corporate Governance	5	5	25	Red	Nov-2020
SR_008	Failure to meet regulatory or legal requirements	1. Trust and confidence in the Council is negatively impacted. 2. Deterioration of financial position as a result of regulatory intervention/penalties.	3	4	12	<u>Reduces Likelihood</u> 1. Developing, maintaining and monitoring robust governance framework for the Council.  2. Building relationships with regulatory bodies.  3. Develop our Performance	Asst Dir Legal and Democratic Services	2	4	8	Amber	Nov-2020

Code	Title	Description	Likelihood	Impact	Original Risk Score	Internal Controls	Risk Owner	Likelihood	Impact	Current Risk Score	Traffic Light	Next Review Date
		3. Deterioration of service performance as a result of regulatory intervention/penalties				<p>Management capability to ensure early intervention where service and/or cultural issues arise.</p> <p>4. Take forward the recommendations of the CIPFA Asset Management report to ensure we meet regulatory/legal requirements regarding the management of property.</p> <p>5. Ensure there is full understanding the impact of new legislation.</p> <p>6. All managers are required to abide by the Council's procurement rules.</p> <p>7. Ensure that fire risk regulations are adhered to and that Fire Risk Assessments are regularly reviewed.</p>						
SR_009	Commercial enterprises that are fully controlled by the authority do not deliver financial	<p>1. Unfamiliar activity with staff inexperienced in this area</p> <p>2. Council finances affected if projects do</p>	3	4	12	<p><u>Reduces Likelihood</u></p> <p>1. Hire suitably qualified/experienced staff to give legal and specialist support.</p> <p>2. Appoint Head of</p>	Dir of Regeneration and Planning	5	5	25	Red	Nov-2020

Code	Title	Description	Likelihood	Impact	Original Risk Score	Internal Controls	Risk Owner	Likelihood	Impact	Current Risk Score	Traffic Light	Next Review Date
	expectations or do not meet governance requirements.	not meet financial expectations. 3. Reputational damage if governance procedures are inadequate. 4. Failure to abide by company law.				Commercial Activities.  3. Ensure that projects meet core principles. 4. Up or re-skill staff to maximise commercial opportunities. 5. Ensure governance processes are set up and adhered to.	And  Dir of Tourism and Enterprise					
SR_010	The Council suffers a personal data breach by inadequate handling of data or by an IT incident	1. Trust and confidence in the Council is negatively impacted. 2. Deterioration of financial position as a result of regulatory intervention/penalties 3. Deterioration of service performance as a result of regulatory intervention/penalties 4. Increased probability of compensation claims by persons affected	3	4	12	<u>Reduces Likelihood</u> 1. Ongoing corporate training for data protection. 2. Ensure all staff complete the e-learning Data Protection course. 3. Ensure that the Data Protection Policy is regularly reviewed. 4. Ensure the Data Protection Officer is afforded the resources to discharge their statutory functions. 5. Ensure that managers regularly remind staff of their responsibilities under data	Asst Dir Legal and Democratic Services	2	4	8	Amber	Nov-2020

Code	Title	Description	Likelihood	Impact	Original Risk Score	Internal Controls	Risk Owner	Likelihood	Impact	Current Risk Score	Traffic Light	Next Review Date
		by a personal data breach.				<p>protection, including personal data breach reporting arrangements.</p> <p>6. Ensure the suite of IT policies is kept up to date.</p> <p>7. Ensure that IT security is in place and regularly tested.</p> <p><u>Reduces Impact</u></p> <p>1. Incident management procedures to mitigate loss or breach of data are in place.</p>						
SR_011	Judicial challenge of decision-making is heightened as a consequence of increased reliance on use of officer delegated powers	<p>1. There is scope for the public audience, members of whom may be directly or indirectly affected by Council decisions, to increase once they can routinely hear (and see) meetings from the comfort of their homes. So, the number of people who may be in a position to mount a challenge may similarly increase.</p> <p>2. There is potential</p>	4	4	16	<p><u>Reduces Likelihood</u></p> <p>1. Work closely with IT to ensure that technological issues are kept to a minimum.</p> <p><u>Reduces Impact</u></p> <p>1. Use of delegated powers to be adequately recorded.</p> <p>2. Issue minutes of meetings as soon as practicable.</p>	Asst Dir Legal and Democratic Services	4	4	16	Red	Nov-2020

Code	Title	Description	Likelihood	Impact	Original Risk Score	Internal Controls	Risk Owner	Likelihood	Impact	Current Risk Score	Traffic Light	Next Review Date
		<p>for successful challenges where lapses in IT connectivity may mean that decisions are made where members have not heard and taken into account all relevant information and/or where key public or other participants have not been able to participate in the meeting due to technology failure.</p> <p>3. The officer resource needed to defend the councils against this type of challenge will be significant</p>										

**COVID-19**

These scores reflect the current situation regarding the Coronavirus Pandemic and the uncertainty in respect of its full impact and timeline.

Mitigations that have been put in place include:

- ensuring that the council, as part of a regional network of partners, is able to undertake its civil contingencies duties in response to the national emergency

- the creative redeployment of staff and resources to enable sufficient capacity to respond to the needs of the community and maintain priority services in line with a robust business continuity focused approach
- maintaining an accurate record of all business impacts and cost implications attributable to the current situation and providing ongoing information to the Government to assist the process of reimbursements
- keeping the strategic risks under constant review and modification in response to the ongoing national and local situation

In stating all of the above, it must be noted that the council's ability to maintain and implement mitigating actions and future recovery is very heavily dependent on the degree to which Central Government is able to compensate Local Government financial impacts relating to increased costs and income loss arising from the full extent of the Covid-19 national emergency.”